



REPORT

**ON THE OBSERVANCE OF HUMAN
RIGHTS AND FREEDOMS
IN THE REPUBLIC OF MOLDOVA
IN 2018**

CHISINAU, 2019

TORTURE PREVENTION

5.1. Summary of prevention activities

In 2018, torture prevention continued to be a priority for the Ombudsman's institution. More than 60 preventive visits were carried out in the places of deprivation of liberty.

80% of visits were focused on monitoring the situation of people detained and in police custody. Thanks to the institutional support provided to the Office of the People's Advocate by the Soros-Moldova Foundation within the Project „Retention and Detention Management in the Police Inspectorates of the Republic of Moldova”, the team of the Prevention of Torture Department monitored all territorial subdivisions of the General Police Inspectorate (38 police inspectorates) with / without preventive detention isolators¹⁷². The final conclusions of the monitoring process will be reflected in the Ombudsman's special report on the situation of people detained and in custody of the police. The summary of the observations is described in the relevant subchapter.

Therefore, deriving from the conclusions of the Special Report of the People's Advocate on the results of the ex officio investigation of the case of death in state custody of the citizen Andrei Braguta / 2017¹⁷³, the Ombudsman proposed to carry out a wide-ranging monitoring of the decision-making process for detention; detention of the person by the police; the transportation and escorting of the detained person, as well as the mechanism of detention of detained persons. The Office of the People's Advocate attempted to observe the stages of the deprivation of liberty of the detained person from the first contact with the police employee until his placement in the penitentiary institution, disregarding the activity of monitoring the conditions of preventive detention. In this way, the Ombudsman monitored the mechanism for the implementation of the obligations assumed by the General Police Inspectorate following the „anti-torture reform”¹⁷⁴.

Summary of an ongoing investigation: „The Braguta / 2017 case outlined systemic issues with regard to ensuring the fundamental rights and freedoms of people, especially with disabilities in police custody. From the moment of the detention of the first by the police officers until his placement in the penitentiary institutions, total / partial violations of minimum safeguards against ill-treatment (CPT rules) and violation of human dignity took

¹⁷² The Grant Contract number 14856 of 02.04.2018 signed between the Office of the People's Advocate and the Soros Foundation-Moldova;

¹⁷³ Special report on the results of the ex officio investigation of the death case in state custody of the citizen Andrei Braguta, <http://ombudsman.md/rapoarte/tematice/>;

¹⁷⁴ Action plan on reducing ill-treatment, abuse and discrimination against persons in police custody for 2017-2020 (further anti-torture reform);

place. The indifference or negligence / human factor (of the police employees), the series of interrupted reforms, the failure in institutional communication between the criminal and the civil system; non-documenting and non-reporting torture acts; the lack of clear internal regulations regarding the intervention in exceptional situations, the detention of persons with disabilities or disturbances, the non-observance of the detention procedure (Article 167 of the Code of Criminal Procedure); lack of supervision, the impossibility of managing behavioral crises, etc. are only a few subjective elements of this vicious process that led to a tragic end - the death of the victim. The systemic problems and the degree of involvement of the authorities in this case have been repeatedly exposed by the Ombudsman's Office". In the opinion of the People's Advocate, his remarks in the Braguta / 2017 Report continue to persist in the civil and closed system. The authorities are not yet able to fully ensure the safety and security of the person in custody.

Regarding the situation in penitentiary institutions, the People's Advocate pursued the process of implementing the recommendations on immediate return to rights, improving behavior towards prisoners, improving conditions of detention and preventing torture. In general, the monitored penitentiary institutions have accepted the Ombudsman's recommendations and have responded in due time to the acts of reaction. The People's Advocate appreciates the opening of the National Administration of Penitentiaries and territorial subdivisions in order to prevent torture in the penitentiary system. In this regard, the Ombudsman reaffirms that the penitentiary authorities are to finalize their criminal-law policies, actively continue the process of ensuring minimum conditions of detention in all penitentiary institutions, and adopt standard operational procedures on escort, placement in detention, the application of special means, reporting, evidence, conflict prevention and management, extreme situations, etc. At the moment, there exist only general provisions.

As an accessory intervener in civil cases in relation to the finding of violation of Article 3 ECHR (detention in inhuman conditions), the People's Advocate participated in three such cases. Following *amicus curiae*, the courts have upheld the claims of torture victims' worth over 140 thousand MDL. At the same time, the People's Advocate's visit reports to penitentiary institutions (especially P13 Chisinau) were overwhelmed by the detainees and their representatives, as probation support. In the same vein, the Peoples Advocate recalls that his mandate is one of prevention, promotion and protection, rather than „finding". Consequently, the task of finding the inadequate conditions of detention lies with the medical services in accordance with the provisions of Articles 233 of the Execution Code of the Republic of Moldova.

In July 2018, the Office of the People's Advocate reanimated the process of information on cases of death, suicide / attempts, abuses, injuries or litigation in psychiatric institutions and temporary placement centers for people with disabilities (ex-psycho-neurological hospitals). Thus, between September and December 2018, the Office of the People's Advocate (OPA) received more than 50 informative notes on injuries; violence among patients; patient abuse; application of special contentious and medicinal means, etc. This process allowed the Ombudsman to create an opinion on the situation / impediments in psychiatric institutions. And psychiatric institutions have become aware of the need to record and report ill-treatment. We recall that the degree of compliance with the anti-torture guarantees lies with the law enforcement bodies.

It is the duty of the State to systematically supervise the rules, instructions, interrogation practices and provisions on the guarding and treatment of persons apprehended, arrested or imprisoned in any form on any territory under its jurisdiction in order to avoid any case of torture. (*Article 11 of the UN Convention against Torture and Inhuman or Degrading Treatment or Punishment*).

The situation of aliens in public custody has been seen by the Ombudsman's Institution. During the monitoring period, five preventive visits and three further documentations were made at the Center for Temporary Placement of Aliens within the Migration and Asylum Bureau of the Ministry of Internal Affairs.

On September 25 and October 31, 2018, the employees of the Prevention of Torture Directorate assisted the representatives of the Parliamentary Commission on Human Rights and Inter-Ethnic Relations during two monitoring visits at Cahul Penitentiary Number 5, Penitentiary Number 1 of Taraclia, Penitentiary Number 4 and Number 15 from Cricova. Deputies are convinced that there are overcrowding in penitentiaries, insufficient prison staff, especially medical qualified; lack of jobs for inmates / low wages, and the efforts of the penitentiary institutions in this respect.

For the first time, the Office of the People's Advocate has founded the Anti-Torture Student Forum. In the competition, five law students from the competition were selected within the USM (State University of Moldova), ULIM (Free International University of Moldova), USARB (State University „Alecu Russo” from Balti) and one student from the State Medical University „N. Testemiteanu” as members of the Anti-Torture Students Forum. The mission of the Forum is to identify potential lawyers to contribute to the

prevention of torture and ill-treatment in Moldova¹⁷⁵. With the support of the Torture Prevention Directorate, three study visits were carried out in penitentiary institutions and two public lectures at the Faculty of Law for 140 students. Prevention through experience transfer will continue throughout 2019.

The „training” prevention activity aimed at training professional skills in the field of prevention of torture and ill-treatment in the process of accomplishing the tasks and duties of over 300 employees of the penitentiary system, the police. For the first time, 19 heads of penitentiaries and heads of National Penitentiary Administration (NPA) leadership were initiated by the Office of the People's Advocate (OPA) trainers on the Nelson Mandela Rules¹⁷⁶. The Ombudsman reaffirms the fruitful collaboration with the National Penitentiary Administration Training Center as a key institution in continuing vocational training and education in the penitentiary field. Here too, the People's Advocate reminds the authorities of the positive obligations set out in Article 10 of the Anti-Torture Convention and recommends strengthening the Training Center's potential in training penitentiary workers on distinct fields, increasing investment to create training conditions (laboratories, improvised cells, training sessions and applications, etc.), contracting external trainers, etc. The same recommendations refer to the Ministry of the Interior and the Ministry of Health, Labor and Social Protection for the institutions providing custody of beneficiaries and patients. The Ombudsman supports the comments of the Anti-Torture Committee that effective and necessary training can prevent torture in the closed system. Additionally, the People's Advocate sustains the Ministry of Justice (MJ) / National Penitentiary Administration (NPA), Ministry of Internal Affairs (MIA) / General Police inspectorate (GPI), MSMPS/ANAS must develop standard operating procedures based on international rules for employees in the system so that they have a practical mechanism for applying general rules. A training can only be effective when the trained employee receives clear and substantiated answers in a service / operational protocol (the job description is not considered). It is insufficient to resubmit only international standards. During the training period, the Office of the People's Advocate (OPA) trainers did not notice at trainees, tendencies towards torture against custodians. Rather, the latter have invoked the lack of mechanisms to protect against abuses by retained, detained and beneficiaries or patients.

Annually, the Office of the People's Advocate (OPA) carries out awareness-raising campaigns to prevent the phenomenon of torture and ill-treatment in Moldova. On June 26,

¹⁷⁵ <http://ombudsman.md/news/forumului-studentilor-antitortura-a-fost-constituit/>

¹⁷⁶ [http://ombudsman.md/news/180-de-angajati-ai-sistemului-penitenciar-instruiti-in-prevenirea-torturii-si-relelor-tratamente-in-sistemul-penitenciar/;](http://ombudsman.md/news/180-de-angajati-ai-sistemului-penitenciar-instruiti-in-prevenirea-torturii-si-relelor-tratamente-in-sistemul-penitenciar/)

2018, the International Day for the Support of Victims of Torture, in the square of the Arc de Triumph, the commemoration of victims of torture and solidarity was organized. The activity was attended by National Penitentiary Administration (NPA) and General Police Inspectorate (GPI) representatives. The end of the campaign aimed at transmitting 19 „Torture Prevention” information panels for NPA penitentiary institutions. Similarly, NPA employees have been actively involved in the awareness campaign „*I Do not Apply 166*”¹⁷⁷.

In order to strengthen the associative sector effort in the field of torture prevention, on request, training, mentoring and assistance was provided to the representatives of the Civic Platform for the Prevention of Torture in the Transnistrian Region and to the Regional NGO Network for the Prevention of Torture. In particular, prevention, expertise and documentation activities have been organized in cases of particular social importance in the field, at the Promo-LEX Association, Amnesty-International, Law Center of Lawyers and the Institute for Human Rights in Moldova. In this way, the Ombudsman is opening his doors to strengthening the joint effort to prevent torture.

Throughout the monitoring period, the employees of the Directorate organized, assisted 15 meetings and coordinated 21 Council Monitoring visits to prevent torture. A report on the work of the Council for the Prevention of Torture will be presented separately in the second quarter of 2019. No overlap visits or parallel visits have taken place within the mandate of the Torture Prevention Board and the Torture Prevention Directorate (DpT and CpPT).

Obstructing prevention work:

According to paragraph (1) and paragraph (2) of Article 3 of the Law on the People's Advocate (Ombudsman), number 52 of 03.04.2014, „The People's Advocate Institution is autonomous and independent of any public authority, legal person, irrespective of the type of property and legal form of organization, and to any person with responsibility at all levels. **No one can force the People's Advocate to obey his instructions or provisions.**” In accordance with paragraph (1) of Article 59¹ of the Constitution of the Republic of Moldova, the People's Advocate ensures the promotion and protection of human rights and fundamental freedoms. In accordance with the provisions of paragraph (6) of Article 59¹ of the Constitution of the Republic of Moldova and paragraph (4) of Article 3 of the Law number 52 / 2014, the interference in the work of the People's Advocate Institution, the

¹⁷⁷ [http://ombudsman.md/news/lectie-publica-in-domeniul-drepturilor-omului-pentru-angajatii-sistemului-penitenciar/;](http://ombudsman.md/news/lectie-publica-in-domeniul-drepturilor-omului-pentru-angajatii-sistemului-penitenciar/)

deliberate ignorance by the persons responsible at all levels of the People's Advocate complaints and recommendations, as well as the impediment under any form of its activity, entail liability under the law. **Officials of the Office of the People's Advocate (OPA) have free access to places of detention and unlimited access to any information regarding the treatment and conditions of detention of persons deprived of their liberty.**

In 2018, actions to obstruct the access of the Office of the People's Advocate (OPA) staff to places of detention took place. On July 20, 2018, employees of the Anenii Noi Police Inspectorate restricted the access of employees of the Torture Prevention Directorate to the Isolator.

... excerpt from the talks with the service officer: the head of the inspectorate told you to go and serve some coffee, then go back in about 2 hours and he will personally lead you to the isolator."

At the request of the People's Advocate, the General Police Inspectorate sanctioned disciplinary the police employees (Chief of the Anenii Noi Police Inspectorate, V. Codreanu and L. Raneta - the service officer).

On September 6, 2018, the Director of the Penitentiary 13 - Chisinau I. Pantea obstructed the access of the Office of the People's Advocate (OPA) to the prevented V. Platon (cell 07), thus preventing the investigation of the alleged maltreatment by DDS collaborators „Pantera”, especially the conduct of the confidential meeting.

Extract from the discussions with the Director of the Penitentiary Number 13: *„...I do not allow you to Platon because he has many activities. If I'm going to let you get in, he'll have trouble”*. In a few minutes, the Office of the People's Advocate (OPA) once again reminded about insuring the access to the prisoner, at what Pantea commented *„ ... at the moment Platon is in the walks court for 2 hours, I do not allow you, come tomorrow, but you call me early and I'll tell you when he's ready, but today I do not allow”*. He repeated the last phrase several times. He also showed a video from the room in the walk yard, where a person walks, who, according to Pineta, is „Platon”... *„he is walking now, with him it's all ok, no, no ... I do not allow you”*.

Summary of the operational situation in the penitentiary system of 03.09.2018, P13 reported: *„...on 03.09.2018 the **Penitentiary number 13** at 06:10 p.m., on the detainee*

Platon V., by the collaborators of the DDS „Pantera”, the **physical force** was applied by immobilizing the hands behind. Reason: Following the meeting with his lawyers, the detainee has had an aggressive behavior, refusing to be escorted to the cell. The detainee was under medical examination; body injuries were not detected. In this case, materials have been prepared according to Article 273 of the Code of Criminal Procedure and the Chisinau Prosecutor's Office the Center office was notified”.

At the request of the People's Advocate, NPA started a job investigation. Mister Pantea Igor was „*strictly cautioned*”. In spite of this, the Office of the People's Advocate (OPA) had no access to the prisoner until now. The access of the Ombudsman, as well as of the defenders to the defendants (especially P13), is tedious. Several lawyers complained to the People's Advocate about hindering professional defense activity of clients by the administration of the P13-Chisinau from engaging in professional defense work on various ungrounded grounds. Advocates' aggression in the penitentiary is a serious trend. NPA did not react promptly to the relevant complaints. And the defenders, compared to the accusers, are still deprived of the right to defend their clients¹⁷⁸. The UAM approach was also rejected.

Additionally, the members of the Torture Prevention Council informed about the lack of information to prison staff and police on the relevant mandate.

Access to Transnistrian Liberty Deprivation Areas continues to be restricted to the Office of the Ombudsman. Although, he received complaints about allegations of ill-treatment, the People's Advocate was denied access to privative places. The *de facto* administration has mentioned that the rights of the defendants are respected, avoiding any form of discussion for this purpose. The dialogue on preventing torture remains tense. Restricting access to detention facilities in the Transnistrian region is a serious impediment to torture prevention activity.

... First of all, I urge you, within the framework of our interaction, including official correspondence, to refrain from using incorrect terminology and geographic terminology, unfounded accusations and propaganda clichés regarding the human rights situation in Transnistria (*V. Kosinsky, Commissioner*).

¹⁷⁸ Article 66, paragraph 2, 68 paragraph 2 of the Code of Civil procedure; Article 213 paragraph 5 of the Enforcement Code, Article 53 of the Law 1260/2002 on Advocacy; Article 6 ECHR; Recommendation number (2000) 21 of the Committee of Ministers on the freedom to pursue the profession of lawyer, etc.

5.2. Recommendations of the European Committee for the Prevention of Torture, 2018

From June 05 to 11, 2018, the European Committee for the Prevention of Torture (*further CPT*) carried out a follow-up visit „required by certain circumstances”¹⁷⁹. The delegation visited the Penitentiary Number 13 Chisinau (P13), Penitentiary Number 10 Goian (P10) and Penitentiary Number 6 Soroca (P6). The report was presented on December 13, 2018.

The CPT has noted with deep concern that Moldova has made little or no progress in the areas identified in previous reports. These include, in particular, overcrowding, the predominant informal hierarchy between detainees and interpersonal violence, the quality of medical care, poor conditions of detention for adults (including those prevented) and the lack of prison staff (Penitentiaries Number 13 and Number 6). At Penitentiary Number 10, the delegation received several complaints about the physical maltreatment of minors detained by prison staff. The CPT urged the Government to take concrete steps to respond to the recommendations made in the 2018 and earlier reports.

As a result of the absence of a general practitioner's to P6, the CPT issued an Immediate Notice to the Government of the Republic of Moldova requesting it to step up efforts to urgently recruit at least one general practitioner in the penitentiary:

The committee was amazed that in a population of over 800 detainees, for over a year, the institution did not have a doctor. A team of four feldsher tried to meet the prisoners' health needs.

By the letter of the Government of September 28, 2018, he would have informed the CPT delegation of the impediments of recruiting a doctor / doctors to P6. Against this background, we note that there is no information in the NPA balance sheet report for 2018 on the employment of general practitioner (full unit) at P6¹⁸⁰.

In the table below, we will present the summary of CPT recommendations as follows:

Penitentiary number 6 Soroca:	
CPT/2018	NPA/2018

¹⁷⁹ <https://www.ecoi.net/en/countries/republic-of-moldova/>;

¹⁸⁰ <http://anp.gov.md/randomrapoarte-de-bilant-simestriale-anualerapoarte-de-bilant-simestriale-anualerapoarte-de-bilant>;

Extract from the CPT Report, 2018:

1. Make an effort to hire a full-time doctor at P6 or contract the relevant services at the civil hospital in Sorooca;
2. Make an effort to hire a part-time psychiatrist;
3. Increase the number of doctors and nurses / feldsher in the penitentiary;
4. Repair / renovate the dental office;
5. Ensure the proper storage / keeping of medicines, in particular to destroy expired medicines;
6. Procure medical equipment for rescue and resuscitation (defibrillator and oxygen) as well as instruct medical personnel on their use in the field;
7. Allow detainees to contact healthcare services confidentially, for example by means of letter boxes;
8. Ensure that health care professionals do not use drug screening for disciplinary purposes;
9. Perform an assessment of the functionality of Sector 1 at Sorooca Prison, or set up similar housing units in P6;
10. Ensure the fact that the detainees (including minors) who are at risk of abuse by inmates and those who do not (or no longer) want to be

Extract from the Annual Balance Sheet Report, 2018:

1. On August 07, 2018, NPA Penitentiary Inspection Directorate carried out an inspection in P6, in order to elucidate all the issues addressed in 131 petitions from detainees. The petitioners claimed the incorrectness of applying disciplinary sanctions; abuses by the P6 administration; non-compliance with the confidentiality of mail; poor conditions of detention; poor healthcare; restricted access to drinking water and limiting access to the bathroom; including working conditions of convicts, etc. (*The inspection team has accumulated and perfected material on 380 pages: finding notes, photo images, employee staff reports, etc. These were presented to the NPA management*).
2. On June 12, 2018, the NPA organized a P6 needs assessment session, within the support of the CoE Program within the project „Promoting a Criminal Justice System Based on the Observation of Human Rights in the Republic of Moldova”;
3. The reparation of the disciplinary isolator was completed; several barracks sector being reconstructed

<p>part of the criminal subculture receive the full support of the board, including if so requested, in secure units;</p> <ol style="list-style-type: none"> 11. End the practices of delegating the authority of informal leaders / other detainees using them to maintain order among the population; 12. Stop employing detainees to perform key administrative tasks or prison management tasks (such as keeping individual records of detainees); 13. Deprive informal leaders and their circles of privileges that other categories of detainees do not enjoy, including in terms of living conditions; 14. Assessing their individual needs; 15. To significantly increase the number of prison staff (guard and surveillance); 16. Remove the 24-hour shift services for employees; 17. To give high priority to the development and training of prison staff, including continuous; 18. Provide opportunities for engagement and employment of detainees according to their professional vocation; 19. Ensure that the disciplinary punishment of detainees does not lead to a complete ban on family 	<p>in cell-type residential sections;</p> <ol style="list-style-type: none"> 4. The mandatory radiological examination of all detainees at the entrance to the penitentiary system is performed; 5. There were 2 medical assistants employed. 6. Resources have been allocated to repair the Medical Section;
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<p>contacts and that any restrictions on family contacts are applied as a form of disciplinary punishment only when the offense relates to such contacts;</p> <p>20. Revision of the approach to persons who cause their bodily harm (recommendation for the whole penitentiary system)</p>	
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Penitentiary number 10 Goian:

CPT/2018	NPA/2018
<p><i>Extract from the CPT Report, 2018:</i></p> <ol style="list-style-type: none"> 1. Repair all sanitary facilities; 2. To inform the CPT of the completion of the construction of the new detention facility 3. Abolish the practice (change the legislation) of the placement of minors in the insulator as a disciplinary sanction, according to Article 45, 2 of the Nelson Mandela Rules - the disciplinary sanction cannot be imposed on minors; 	<p><i>Extract from the Annual Balance Sheet Report, 2018:</i></p> <ol style="list-style-type: none"> 1. The reconstruction works on the object „Penitentiary Number 10 – Goian” are carried out in proportion of 93.67%. 2. For the year 2019, 4 million MDL are allocated to complete the objective; 3. On June 12, 2018, NPA organized a P10 needs assessment session within the support of the CoE Program within the project „Promoting a Criminal Justice System Based on the Observation of Human Rights in the Republic of Moldova”; 4. 108 minor detainees in P5, P7, P10, P11, P13 and P17 underwent general / lyceum training;

	<ol style="list-style-type: none"> 5. There have been works of capital repair of 2 spaces designed for disciplinary isolation; 6. The mandatory radiological examination of all detainees at the entrance to the penitentiary system is performed; 7. The draft of the new Enforcement (Execution) Code provides for the reduction of the maximum limit of disciplinary isolation of minors to 1 day. That sanction will be exceptional.
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Penitentiary Number 13 Chisinau:

CPT/2018	NPA/2018
<p style="text-align: center;"><i>Extract from the CPT Report, 2018:</i></p> <ol style="list-style-type: none"> 1. Increase the number of doctors and medical assistants / feldsher in the institution; 2. Procure medical equipment for rescue and resuscitation (defibrillator and oxygen) as well as instruct medical personnel on their use in the field; 3. Allow detainees to contact healthcare services confidentially, for example by means of letter boxes; 4. Ensure that health care professionals do not use screening 	<p style="text-align: center;"><i>Extract from the Annual Balance Sheet Report, 2018:</i></p> <ol style="list-style-type: none"> 1. Work has been carried out to improve the conditions of detention; 2. Every year, actions are planned for repairing, arranging and endowing with inventory objects of the living spaces; 3. The Psychosocial Program for Older Persons and Physical Disabilities was piloted; 4. 32 cells were repaired capital; 5. In 17 rooms, current repairs were carried out; 6. The mandatory radiological examination of all detainees at the

<p>for drug use for disciplinary purposes;</p> <ol style="list-style-type: none"> 5. Eliminate 24-hour shift services for employees; 6. Improve the conditions of detention; 7. Reduce the occupancy of cells to provide at least 4m² of living space per person in multiple occupancy cells (not including the space taken up by toilets in cells); 8. All cells must be sufficiently ventilated and kept in proper repair and hygiene; 9. Use of people which do not allow access to natural light due to their structure is to be stopped; 10. As soon as the Chisinau Penitentiary (new) is built and put into operation, P13 activity is to be stopped; 11. Stopping cells with a capacity of less than 6m², or widening them (if possible); 12. Ensure that the disciplinary punishment of detainees does not lead to the complete banning of family contacts and that any restrictions on contact with the family as a form of disciplinary punishment apply only when the offense relates to such contacts; 13. Revision of the approach to persons who cause personal injuries to 	<p>entrance to the penitentiary system is performed;</p> <ol style="list-style-type: none"> 7. Following the penitentiary inspection, it was found inadmissible to place detainees in the disciplinary isolator cell on the grounds that it did not meet health standards. Its sealing was recommended; 8. It is impossible to extend the spaces in the cells of the disciplinary isolator, as it involves the intervention in the structure of resilience of the building, which is risky due to the age of the penitentiary institution.
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themselves (recommendation for the whole penitentiary system);	
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The CPT suggested that the medical examination of an inmate must contain:

- a full account of the objective medical results based on a thorough examination (preferably supported by photographs of any traumatic lesions);
- an account of the person's statements that are relevant to the medical examination (including a description of his / her state of health and any allegations of ill-treatment);
- the doctors' observations on the above, in conjunction with allegations of ill-treatment and objective medical findings;
- the results of the additional examinations carried out;
- the detailed conclusions of the specialized consultations;
- a description of the treatment accorded and of any other subsequent procedures.

In addition, the results of each medical examination, physician's conclusions should be made available to detainees and their defenders.

RECOMMENDATION: The People's Advocate recommends NPA and GPI to implement correctly and according to the CPT's suggestions the content of medical examinations in particular in the part of allegations of ill-treatment in detention or at retention. NPA will integrate the CPT's recommendations throughout the penitentiary system as specific to its subdivisions.

5.3. CPT rules on the transfer of persons deprived of their liberty, 2018

On June 26, 2018, the Secretariat of the European Committee for the Prevention of Torture published the CPT Rules on the transfer of persons deprived of their liberty¹⁸¹.

The CPT argues that whatever the reason for transferring (escorting) of the persons deprived of their liberty from a place of detention to another place (e.g. from a police station to a prison, from a prison in another prison, from a court or hospital or immigration detention center) - transport should always be done in a safe, human and secure manner.

According to the CPT:

¹⁸¹ <https://www.coe.int/en/web/cpt/-/cpt-factsheet-on-transport-of-detainees?fbclid=IwAR2mBAjpasdVhCGfXFDkZwV5Ae-LAPMMg5RjsRpFzrAwoT0aIfLkzIZgVU;>

- Vehicles with individual cabins measuring less than 0.6 m² should not be used for the transport of a person, irrespective of their duration. Individual cabins with a surface area of 0.6 m² may be considered acceptable for short distance journeys, however, for long distance journeys, this area should be much larger;
- In the case of the transport of several persons over short distances, the space per person must be greater than 0,4 m² and for large distances greater than 0,6 m² per person;
- The compartments or cabins used for the transport of detainees should be of reasonable height, equipped with adequate banquetts or resting chairs; be clean, be sufficiently airy, ventilated and properly heated;
- During the short trips, prisoners are to receive drinking water;
- During long journeys, prisoners are to receive drinking water and food at appropriate intervals;
- For long journeys, detainees should have access to sanitary facilities or meet physiological needs under conditions that offer sufficient privacy, hygiene and dignity. Regular stops are recommended;
- Detainees assembled before a court after a long trip should be placed under conditions that ensure respect for their dignity;
- Detainees are to be transported in vehicles duly designed for that purpose, taking into account all relevant safety requirements to protect prisoners;
- The number of detained prisoners must not exceed the capacity of the vehicles used for this purpose;
- Detainees should not stand on a trip due to lack of seating;
- Detainees should not remain inside the truck during transport if it is in breach of safety rules;
- All vehicles must be equipped with appropriate safety devices (e.g. seat belts) and escorts communication devices;
- Secure cabinets / cabs doors must be equipped with a device which, in an emergency, automatically (and / or quickly) unlocks the doors;
- Measures must be taken to prevent violence, intimidation or thefts of detainees against other passengers;
- Applying the handcuffs / body straps to detainees during transport should be used only when the risk assessment in an individual case justifies this. And when the use of these means is considered to be absolutely necessary, it should be done in such a way as to minimize any risk of harm to the detained person;

- Handcuffs should not be used when prisoners are locked inside secure cabs / compartments / cabin;
- Immobilizing the hands behind the detainees during transportation should be avoided to prevent discomfort or injury / trauma;
- Practice using devices blocking the view during transport should be removed;
- The means of transport used to transport or take detainees from a hospital should consider their medical condition;
- The confidentiality of medical data must be respected during transfers of detainees;
- Any practice of segregating HIV-positive detainees should be discontinued.

RECOMMENDATION: By listing the above-mentioned Rules, the People's Advocate recommends NPA and GPI to adapt their internal rules on the transportation, escorting of persons held in accordance with international standards in the context of the implementation of the initiated reforms. In the course of time, the Ombudsman's Office will monitor the conditions of transportation of detainees in order to comply with the criteria highlighted.

5.4. Case law of the ECtHR in cases pronounced in 2018 (Article 3, 13)

Decision	Claims of the Claimant	Findings of the Court	The damage
Mereuta against Moldova ¹⁸² Application number 64401/11	The complainant alleged the lack of effective investigations by omitting the suspect's accusation by the State authorities	The positive obligation set out in Article 3 requires States to establish a legal framework, in particular effective criminal law provisions designed to prevent and punish the commission of crimes against personal integrity caused by private	The Court awarded the applicant EUR 7500 for non-pecuniary damage.

¹⁸² <http://agent.gov.md/wp-content/uploads/2018/07/Mereuta-v.-MDA-ROM-def.pdf>

		<p>individuals. The Court considered that the investigation into the applicant's allegations of ill-treatment was not sufficient or sufficiently effective.</p>	
<p>Goriunov against Moldova¹⁸³ Application number 14466/12</p>	<p>The applicant alleged, in particular, that during a five-month period he was subjected to inhuman and degrading treatment, contrary to Article 3 of the Convention, as a result of his handcuffing each time he moved outside his cell.</p>	<p>In the present case, the Court noted that the application of sanction in the form of reprimand and handcuffing is illegal, and is not provided for by the Penalty Execution Statute for convicts. Similarly, the Court concluded that the applicant had been sanctioned by permanent handcuff when out of the cell in the absence of any allegations or evidence that he constituted a health or safety risk, apparently a punitive and preventive measure, and on the</p>	<p>The Court awarded the applicant EUR 4500 in respect of non-pecuniary damage and EUR 650 in respect of costs and expenses.</p>

¹⁸³ <http://agent.gov.md/wp-content/uploads/2018/09/CASE-OF-GORIUNOV-v.-THE-REPUBLIC-OF-MOLDOVA-ROM.pdf>

		<p>basis of an ordinance which extended the limits of the legal provision allowing such a measure. Therefore, the daily appearance of the applicant in handcuffs in front of other detainees was detrimental to his human dignity, which made him feel unjustly and disproportionately punished.</p>	
<p>Goremachin against Moldova¹⁸⁴ Application number 30921/10</p>	<p>The applicant including complained about detention under inhuman conditions in the Department of Operational Services of the Ministry of Internal Affairs during 2009, at the Penitentiary Number 13 in Chisinau and in Penitentiary Number 11 in Balti</p>	<p>The Court found unanimously the violation of Article 3 of the Convention, noting that the Balti Prosecutor's Office found the inhuman conditions of detention in the Penitentiary number 11. Concerning the conditions of detention in Penitentiary number 13, the Court recalled that it found in numerous</p>	<p>The Court awarded the applicant EUR 15,000 in respect of non-pecuniary damage and EUR 1,500 in respect of costs and expenses.</p>

¹⁸⁴ <http://agent.gov.md/wp-content/uploads/2018/07/GOREMICHIN-v.-MDA-ROM.pdf>

		<p>judgments that it was contrary to Article 3 of the Convention. Accordingly, the Court considered that the <i>level</i> of suffering <i>inherent</i> in detention had been <i>exceeded</i> and reached the level of severity required by Article 3 of the Convention.</p>	
<p>Botnari against Moldova¹⁸⁵ Application number 74441/14</p>	<p>The applicant claimed detention in poor conditions from Penitentiary Number 13 Chisinau, as well as the lack of qualified medical assistance prescribed to the applicant.</p> <p>According to the applicant, she was detained in a cell in the basement under poor detention conditions. Subsequently, she was transferred to Penitentiary number 13, where she was</p>	<p>The Court unanimously found the violation of Article 3 of the Convention with regard to detention conditions, noting that overcrowding was confirmed by Government information on the size and occupation of cells. Moreover, the poor quality of diet, passive smoking has increased the applicant's suffering, which has exceeded</p>	<p>The Court awarded her EUR 10,000 for non-pecuniary damage and EUR 1,500 for costs and expenses.</p>

¹⁸⁵ [https://hudoc.echr.coe.int/eng#{"itemid":\["001-183370"\]}](https://hudoc.echr.coe.int/eng#{)

	<p>detained in the cell with 16 other detainees, subjected to passive smoking; the cell was infected and the diet of poor quality.</p> <p>During detention at the Department, medical treatment was interrupted and the administration refused to transfer her to the hospital. After transferring to the Penitentiary, she was not provided with medical assistance corresponding to her condition.</p>	<p>the minimum level inherent in detention. In the absence of evidence that the Government would have made significant improvements in Penitentiary number 13 in the recent years, the Court has held that there is no reason to depart from the conclusions reached in previous judgments.</p> <p>Also unanimously, the Court found the violation of Article 3 of the Convention, concerning the refusal of medical treatment.</p>	
<p>Ceaicovschi against Moldova¹⁸⁶ Application number 37725/15</p>	<p>The applicant alleged that he was detained for lack of sufficient and irrelevant reasons, but also for refusing hospitalization in case of serious illness</p>	<p>The Court considered, inter alia, that the refusal of the prison administration to comply with prescriptions of doctors for a period of over 7 months had subjected the</p>	<p>The Court awarded the applicant EUR 10,000 in respect of non-pecuniary damage and EUR 4,000 in respect of costs and expenses.</p>

¹⁸⁶ <http://agent.gov.md/wp-content/uploads/2018/07/Ceaicovschi-v.-MDA-ROM-1.pdf>

		applicant to severe pain and suffering, which was inhuman and degrading treatment within the meaning of Article 3 of the Convention.	
<p>Miron against Moldova¹⁸⁷</p> <p>Application number 74497/13</p>	<p>Before the Court, the applicant claimed inadequate prison conditions in Prison Number 13 of Chisinau for a period of more than 3 years.</p> <p>According to the applicant, he was detained in cells with poor illumination, wet walls and with five other detainees in a 6 square meters. Because of the overpopulation, the applicant had to divide the bed with a detainee, sleeping in turn. During detention he did not receive bed linen or clothing. Several detainees were diagnosed with</p>	<p>The Court recalls that it found the conditions of detention in Penitentiary number 13 being contrary to Article 3 of the Convention in numerous judgments (see, among the recent cases, Hadji v. Moldova, applications number 32844/07 and 41378/07, § 20, February 14, 2012, Silvestru v. Moldova, application number 28173/10, January 13, 2015 and Pesaroglu v. Moldova, application number 21061/11, March 3, 2015). The Court therefore</p>	<p>The Court awarded the applicant EUR 10,000 in respect of non-pecuniary damage and EUR 1,000 in respect of costs and expenses.</p>

¹⁸⁷ [https://hudoc.echr.coe.int/eng#{"itemid":\["001-186017"\]}](https://hudoc.echr.coe.int/eng#{)

	<p>tuberculosis or HIV and had open wounds, etc.</p>	<p>considered that the difficulties suffered by the applicant during his detention in the Penitentiary number 13 has exceeded the inevitable level of difficulties inherent in detention and has reached the threshold of gravity provided for in Article 3 of the Convention.</p> <p>Consequently, there has been a violation of Article 3 of the Convention.</p> <p>The Court also found violation of Article 13 as a result of the lack of an effective remedy at national level regarding detention conditions in the Penitentiary number 13.</p>	
<p>Secieru against Moldova¹⁸⁸ Application number 20546/16</p>	<p>Before the Court, the applicant complained about the detention under inhuman conditions</p>	<p>The Court unanimously found violation of Article 5 § 3 of the Convention, noting</p>	<p>The Court also unanimously found the violation of Article 3 of the Convention for the</p>

¹⁸⁸ <http://agent.gov.md/wp-content/uploads/2018/11/SECRIERU-v.-MDA-ROM.pdf>

	<p>and the reasonableness of his detention.</p> <p>During the period of detention, the applicant was detained in Penitentiary number 13, according to him the cell was overpopulated, equipped with a toilet that was not properly separated, the diet was insufficient and of poor quality etc.</p>	<p>that the basic argument invoked by the prosecutor requesting the applicant's arrest was that he had escaped the investigation into the Russian Federation. The complainant responded to this allegation that he did not know about the criminal investigation against him and the fact that the authorities are looking for him.</p> <p>The Court noted that the national courts also raised other reasons such as the risk of the applicant's interference in the conduct of the investigation and the influence over the witnesses. However, the absence of any substantiation, the lack of complexity of the case and the limited degree of</p>	<p>poor detention conditions in Penitentiary number 13.</p> <p>The Court awarded the applicant EUR 3,000 as non-pecuniary damage and 1,500 for costs and expenses.</p>
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		seriousness of the act imputed to the applicant cannot be regarded as relevant and sufficient.	
Cotet against Moldova ¹⁸⁹ Application number 72238/14	Before the Court, the applicant alleged that he was detained in inhuman and degrading conditions for a period of 4 months in 2014 in the Penitentiary number 13 Chisinau	The Court found violation of Article 3 of the Convention due to inhuman and degrading conditions in the Penitentiary number 13 Chisinau	The Court awarded the applicant EUR 4,000 in respect of non-pecuniary damage and EUR 2,000 in respect of costs and expenses.
O.R. and L.R vs Moldova ¹⁹⁰ Application number 24129/11	Before the Court, the applicants complained under Article 3 of the Convention that they had been subjected to inhuman and degrading treatment by police officers and impunity as a result of the failure to initiate criminal proceedings against him under the law.	The Court concluded that due to the delayed and superficial internal investigation, together with the failure to initiate the appropriate criminal investigation more than 9 months after the information on the alleged illegality became known to the authorities, the investigation of the applicants'	The court found the violation of Article 3 of the Convention and awarded the applicants EUR 16,500 in respect of non-pecuniary damage and EUR 1500 for costs and expenses.

¹⁸⁹ [https://hudoc.echr.coe.int/eng#{"itemid":\["001-187201"\]}](https://hudoc.echr.coe.int/eng#{)

¹⁹⁰ [https://hudoc.echr.coe.int/eng#{"itemid":\["001-187481"\]}](https://hudoc.echr.coe.int/eng#{)

	<p>allegations was not effective.</p> <p>The Court also noted that, in accordance with national law, the omission to initiate criminal proceedings limits the subsequent effectiveness of the admissibility of evidence before the court.</p> <p>In the Court's view, the State's leniency in the treatment of police officers charged with very serious crimes is incompatible with the aim of preventing future examples of ill-treatment by the police.</p>	
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RECOMMENDATION: The People's Advocate recommends the Government of the Republic of Moldova to enforce the judgments of the European Court. It is also recommended to apply the Court's conclusions in public policies on the reform of the judiciary and the penitentiary and police systems.

5.5. Summary of the situation in the places of deprivation of liberty.

At the time of drafting the Report, the Government of the Republic of Moldova did not respond to requests from the UN Committee Against Torture in 2017¹⁹¹:

... The Government is to report by **December 6, 2018** on clause 16 (c) of the concludent Observations on the National Prevention Mechanism, clause 9 on the provision of fundamental legal guarantees to persons deprived of their liberty and 14 (i) on the death of Andrei Braguta, clause 33 CAT/C/MDA/3

The Ombudsman is fully convinced that the Moldovan authorities will not ignore the Geneva Committee's requests and will strongly advocate this important exercise in preventing torture.

In this way, the People's Advocate supports and encourages the Government to make continuous efforts to improve the material conditions of detention in the 19 penitentiaries, 21 police isolators, 3 psychiatric hospitals, the isolator of the National Anti-Corruption Center and the 7 temporary placement centers for persons with disabilities, etc., as well as to ensure full guarantees against the custodial persons. In addition, **the Ombudsman concludes that the situation in the detention system can progress in the face of a clear, responsible and conscious political will. The new legislative forum is to take responsibility for the continuity of reforms initiated by NPA and GPI.**

Following his remarks, the People's Advocate noted minor progress. However, in general, the situation in places of detention remains worrying (inadequate detention conditions, lack of personal space, overcrowding, shortages of sleeping areas, limited access to light and clean air, lack of privacy during the use of sanitary facilities, etc.).

The Ombudsman found in many individual cases that the penitentiary authorities failed to implement the standards implementation processes laid down in Articles 2 and 3 of the ECHR.

5.5.1. Penitentiary Institutions

Article 3 ECHR requires the State to ensure that the person is detained under conditions that are compatible with the respect for his human dignity, that the mode and method of execution of the punishment do not cause the person suffering or pain of an intensity exceeding the level of suffering inherent to detention and, having regard to the requirements of detention, the health and integrity of the person is adequately ensured, inter alia, by the provision of the necessary medical assistance. When assessing the conditions of

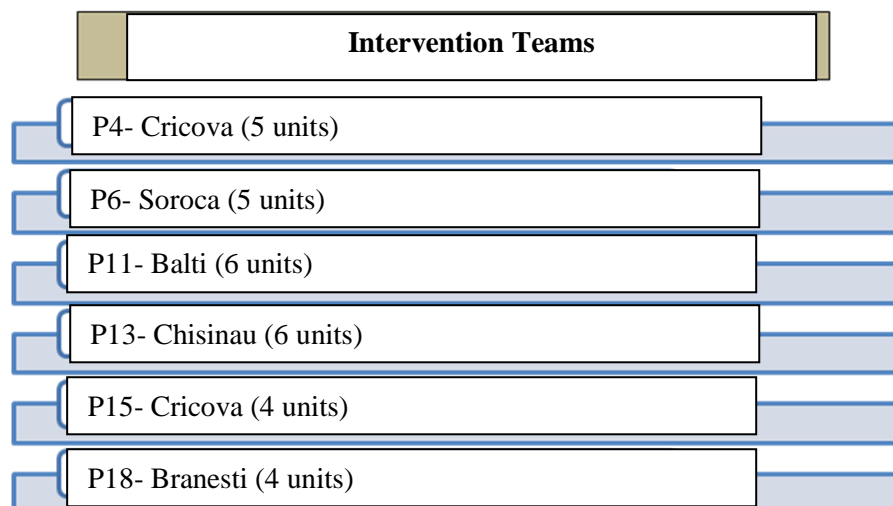
¹⁹¹ https://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/countries.aspx?CountryCode=MDA&Lang=RU, point 33 CAT/C/MDA/3.

detention, consideration should be given to the cumulative effects of these conditions and the duration of detention.

Virtually all penitentiaries are of an old, Soviet organization and unadjusted to the detention of man as such. Large spaces (barracks) influence both prisoners' compliance with detention regime, their health and their ability to participate in re-socialization programs. More than 80% of convicts spend time in institutions due to lack of jobs and other forms of occupation. In their own right, prisons do not have / have limited occupational domains specific to and useful to detained persons. The aspect of „resocialization” is reduced to the process of recording written documentation, rather than a succession of actions in the given field.

At the moment, the detention of persons can be qualified as detention to the detriment of Article 3 of the Convention and the European case law. These findings have been repeatedly drawn up by the UN Committee Against Torture (2014, 2017), the European Committee for the Prevention of Torture (2015, 2018), the People's Advocate (2002 - 2018) and the Torture Prevention Board (2017 - 2018).

On May 16, 2018 Law 300/2017 entered into force on the penitentiary administration system. On the same day, Government Decision 437/2018 on the organization and functioning of NPA was approved. The new regulations aimed at establishing an efficient model of penitentiary system administration, strengthening the institutional framework, developing operational capacity, including motivating penitentiary staff. NPA has liquidated the Technical and Material Supply Center and the Guard, Supervision and Escort Division, and has created the Intervention Team (35 units) with the conflict resolution mission as follows:

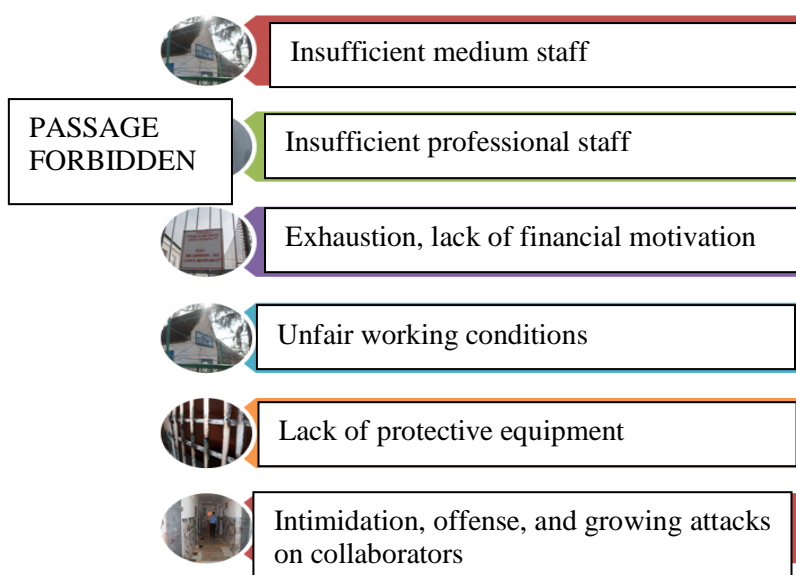


as well as 125 units with the title of:

Escort teams:			
P1 (4 units)	P2 (5 units)	P3 (5 units)	P4 (6 units)
P6 (5 units)	P7 (5 units)	P9 (5 units)	P11 (12 units)
P13 (36 units)	P15 (5 units)	P16 (12 units)	P17 (5 units)
	P18 (8 units)		

Summarizing the impediments and problems in the activity of the penitentiary institutions, we state the following:

Block I: Human resources:



On average, between 7-12 positions were vacant in penitentiary institutions, out of the limits set for the staffing. According to their annual reports, the penitentiary administrations said that they dealt with the exodus of employees in the system. However, there are reservations about the level of employee training, the lack of professionals in areas other than supervision and guarding. Compared to the number of custodians, the number of employees is reduced to 50-60%. The relatively small number of employees is obviously diminishing from efficiency and effectiveness, as well as the quality of the criminal-law act and the prison mission as such. This imbalance shows that the closed system remains on the verge of a „compromise” with the detainees. In fact, the system will not resist possible riots or disobedience, etc.

Investments in human resources (especially skilled) must be a priority for the NPA.

On December 31, 2018, the penitentiary system's enrollment scheme presents:








Number of employees:	Number of inmates:
P1 Taraclia 134 state units, Effective: 120 units	P1 Taraclia: Ceiling: 336 inmates. Are present: 334 inmates
P2 Lipcani: 113 state units, Effective: 103 units	P2 Lipcani: Ceiling: 286 inmates. Are present 290 inmates
P3 Leova: 129 state units, Effective: 112	P3 Leova: Ceiling: 307 inmates. Are present: 301 inmates
P4 Cricova: 119 state units, Effective: 102	P4 Cricova: Ceiling: 713 inmates. Are present: 760 inmates
P5 Cahul: 159 state units, Effective: 142	P5 Cahul: Ceiling: 170 inmates. Are present: 218 inmates
P6 Soroca: 203 state units, Effective: 195	P6 Soroca: Ceiling: 693 inmates. Are present: 775 inmates
P7 Rusca: 108 state units, Effective: 99	P7 Rusca: Ceiling: 231 inmates. Are present: 303 inmates
P8 Bender: 98 state units, Effective: 88	P8 Bender: Ceiling: 279 inmates. Are present: 144 inmates
P9 Pruncul: 146 state units, Effective: 130	P9 Pruncul: Are present: 567 inmates
P10 Goian: 73 state units, Effective: 70	P10 Goian: Are present: 30 inmates
P11 Balti: 183 state units,	P11 Balti: Ceiling: 258 inmates.

Effective: 179	Are present: 448 inmates
P12 Bender: 87 state units, Effective: 85	P12 Bender: Ceiling: 261 inmates.
P13 Chisinau: 258 state units, Effective 245	P13 Chisinau: Ceiling: 570 inmates. Are present: 1000 inmates
P15 Cricova: 153 state units, Effective: 136	P15 Cricova: Ceiling: 470 inmates. Are present: 566 inmates
P16 Pruncul: 204 state units, Effective: 189	P16 Pruncul: 1695 inmates registered in 2018
P17 Rezina: 236 state units, Effective: 223	P17 Rezina: Ceiling: 510 inmates. Are present: 350 inmates
P18 Branesti: 175 state units, Effective: 165	P18 Branesti: Ceiling: 652 inmates. Are present 653 inmates

Another impediment envisioned by the penitentiary system staff is the lack / ineffectiveness of the mechanisms for accountability of detainees for i) the attack on collaborators (18 growing cases) ii) the destruction of goods, iii) violence or other forms of ill-treatment, iiiii) sexual abuse, iiiii) offense / humiliation of employees (especially women), etc. The criminal offense of attacking a collaborator is reduced to a fine, either a small-term prison. This encourages detainees to continue their illicit actions and the employee has to bear them. In 2018 only 113 portable video cameras were purchased, relatively small number compared to the number of employees.

RECOMMENDATION: NPA / Government / Office of the Prosecutor General should identify a solution to this. The CAT / CPT expressly states the Republic of Moldova to ensure a favorable working climate as well as employee protection mechanisms.

Block II: Accountability of detainees:

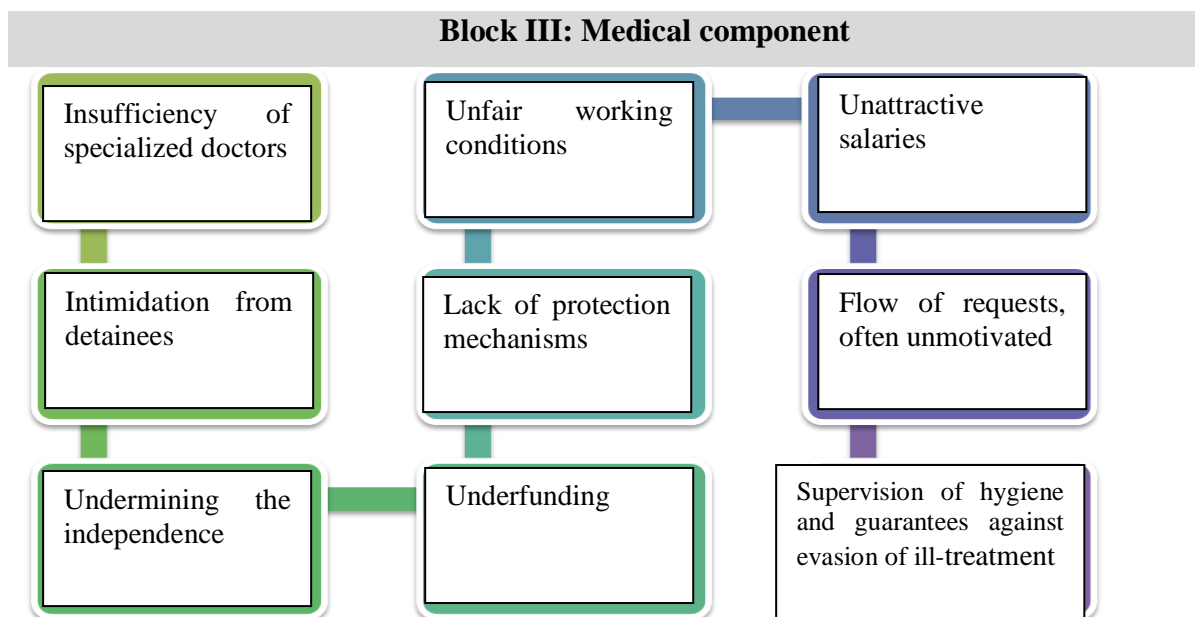
					
Insufficient mechanisms for accountability of detainees for deliberate damage to goods in the cell	Civil liability does not cover the costs of damages incurred. Additional unplanned actions for administration	Detainees blackmail employees with complaints in case of refusal to meet the unforeseen needs of the Execution Status	Sanctions for attacking the collaborators are not effective. Rather, the detainees know that they will not be punished, respectively the aggression continues	Employees do not have legal forms of protection. Rather, they will have to resign	Employees refuse to apply special means to their detriment, in order not to be targeted in any investigation. Failure to prevent riots.
					

At the same time, the penitentiary authority is liable to ensure the safety and security of the persons in custody. In 2018 there were 790 cases of body injuries, 779 protest actions (hunger strike) and 612 cases of auto-offense. Employees applied physical force and special means in 354 cases (rising by 2017). The causes of these negative trends are the dysfunctions of the penitentiary system, frequent acts of violence and intimidation between detainees, the presence of the informal hierarchy, the low rate of criminal cases initiated, etc.

The Ombudsman finds that the preventive measures necessary to ensure the physical, mental integrity and safety of the prisoners in custody of the penitentiary institutions are faulty and the efforts of the prison staff for this purpose are insufficient and in disagreement with the obligations of the Articles 2 and 3 of the ECHR.

RECOMMENDATION: NPA must urgently step up efforts to prevent and repress the acts of violence and intimidation among detainees, paying particular attention to the causes and origins of the phenomenon; to take the necessary steps to ensure that prison staff are no longer based on the informal hierarchy of detainees in order to maintain order and security and to take the necessary measures to ensure that the right of detainees to make complaints is effective, these complaints do not cause pressure from the penitentiary staff; to initiate an in-depth examination of the staff, in particular the security service, and to review the number of staff units of the penitentiary institution in order to extend it and ensure the appropriate number of surveillance staff; to undertake measures to train prison staff in security and safety, including the concept of dynamic security, enforcement of force and means of coercion and confrontation of violent detainees, taking into account preventive and neutralization techniques, such as negotiation and mediation.

RECOMMENDATION: NPA is to develop and approve the program for the reduction of the violence in the penitentiary environment established by NPA Order number 82 of June 14, 2018. Similarly, NPA is to plan training activities for the employees of the security sections, penitentiary and social reintegration.



In 2018, talks on the status and model of the medical system of penitentiaries have become more prominent. CAT / CPT recommended to the Government the transfer of medical units subordinated to NPA under the Ministry of Health with the title of a solution against the dysfunctional health services in the penitentiary system.

CAT pointed to the following:

- 1) the medical staff is not independent of the penitentiary authorities in the exercise of their professional duties;
- 2) the qualification of medical staff is insufficient;
- 3) healthcare in places of detention is different in terms of accessibility, availability and quality, respectively, is not equivalent to that available in the community;
- 4) the quality of assistance is not systematically verified by the Ministry of Health, Labor and Social Protection or other relevant authorities;
- 5) medicine in places of detention is not addressed by the Ministry of Health (MSMPS) and does not reflect in state health policies and strategies;
- 6) the reorganization of the health system has been included as a priority action of the Strategy for the development of the penitentiary administration system for the years

2016 - 2020, but there are considerable arrears in the implementation of activities related to the medical field due to the complexity of the impact on the criminal enforcement system.

In conclusion, CAT recommended the Republic of Moldova:

- Transferring the medical services management function from the penitentiary administration system within the National Penitentiary Administration to the Ministry of Health, Labor and Social Protection;
- ensuring the subordination of penitentiary hospitals and medical services to the Ministry of Health, Labor and Social Protection;
- taking measures to reduce overcrowding of medical units;
- improving the material conditions, including by repairing patients' salons and equipping them with the necessary equipment;
- ensuring sufficient food and availability of medicines;
- development of individual treatment plans and appropriate medication for detainees suffering from psycho-neurological disorders, including antipsychotic preparations.

Thus, in order to improve the medical services provided to detained persons and to ensure the independence of the medical staff providing care to the custodial persons, NPA proposed the following reorganization options:

- 1) the transfer of the competencies for granting medical assistance to the persons detained from the Ministry of Justice to the Ministry of Health, Labor and Social Protection;
- 2) creation of a separate medical subdivision (with legal person status) within the penitentiary administration system subordinated to the Director of the National Administration of Penitentiaries - Directorate of Penitentiary Medical Assistance;
- 3) creation of a public authority within the penitentiary administration system, directly subordinated to the Ministry of Justice - National Inspectorate for Penitentiary Health;
- 4) the establishment of a public medical and sanitary institution subordinated to the Ministry of Justice, which will not be part of the penitentiary administration system - Public Medical Sanitary Institution „Penitentiary Medical Center”.

At the moment, NPA is in the process of discussing in order to identify the optimal model. MSMPs opt for creating a subdivision subordinated to the Ministry of Justice, to be accomplished in several stages. At the end of 2018, NPA proposed to the Ministry of Justice the draft Government Decision on the creation of the Medical Assistance Division for Persons in Penitentiaries, the draft Statements of Proposed States on Medical Services and the Guidance Unit.

Through the NPA Order number 140 of 06.08.2018 on the organization of the self-assessment process of medical services within the penitentiary system, the accreditation procedure of the medical units was initiated. All penitentiaries have begun refurbishing medical facilities for accreditation.

The Ombudsman received information that in some prison it was necessary to evacuate the detainees from the cells and transfer them under overpopulation conditions to create conditions for the accreditation tasks. According to the data, 1.5 million lei were allocated for the purchase of construction materials for the repair of the medical units. The financial means are insufficient and the heads of penitentiaries have had to request the support of the local economic agents to continue the repairs.

With the accreditation of medical departments, it will be possible to contract the National Pay Office of Medical insurance and provide medical assistance to prisoners on the basis of a medical assistance policy. With the support of the Council of Europe, the NPA will review the Regulation on the organization of care for detainees, which will include the organization of psychiatric care in the penitentiary administration. In this regard, a working group has been created.

On September 6, 2018, NPA Order number 169 was issued on the efficiency of medical documentation of bodily injuries in the penitentiary system. The designated personnel responsible for documenting bodily injuries received training during the training courses, which are held annually at the NPA Training Center. All medical examinations are to be performed without the presence of any other medical personnel, subject to confidentiality. The People's Advocate examined the issue of completing the record of bodily injury in his investigations. Respectively, it was found that the employees of the medical service did not always complete correctly and completely, and they recorded the relevant data, including ensuring the reporting of the prosecutor's offices. The „anti-torture” register is not found in institutions. And doctors claim that medical examination sheets are placed in the medical record of the newly arrived prisoner. The medical examination sheets and the annex report contain information only for detainees arriving in the penitentiary and

not at all for detainees in the penitentiary. We recall that antitrust guarantees also include detention itself.

NPA ensures that all newly arrived detainees in penitentiary institutions are placed in quarantine cells, where they are undergoing a complex medical checkup, afterwards they are recorded in the medical card of the convict. In preventive detention isolators, HIV testing is proposed for all newly arrived detainees. Screening for TB (tuberculosis) is mandatory in all preventive detention isolators, and in prisons with the mobile radiograph 2 times / year. Viral hepatitis testing is also performed on medical advice. For the year 2019, it is expected to purchase rapid tests for viral hepatitis C from budget sources. In 2018, radiological tubes, medicines, para-pharmaceutical products, consumables and dental materials for medical services in prisons were purchased. And, with the support of the Council of Europe, a batch of medical equipment will be procured, which will include the defibrillator and Ambu balloon.

The Ombudsman found that the prison authorities, contrary to Articles 2 and 3 of the ECHR, did not provide comprehensive evidence of the state of health of the person deprived of liberty and treatment delivered during detention; diagnosis and medical care are not prompt and appropriate (*for example: the Cosovan case, etc.*).

RECOMMENDATION: The penitentiary authorities must provide the prisoner with the appropriate treatment for the health condition with which he was diagnosed and who was prescribed by a competent physician, and in the event of disagreements with regard to the treatment required to adequately ensure the prisoner's health, it could be necessary for the penitentiary authorities, in order to comply with the positive obligations laid down in Article 3 ECHR, to obtain additional recommendations from a specialist / expert; to ensure the medical check-up / examination of all detainees upon arrival in the penitentiary, paying particular attention to: signs of serious mental illness; suicide risk factors; history and signs of alcohol or drug addiction and symptoms of abstinence; contagious diseases; mental or physical disabilities; to ensure the medical check-up / examination of detainees without undue delays and to take immediate measures to protect the health of detainees.

Beyond the mission of providing care to detainees, medical services or doctors are responsible for regularly checking: a) the quantity, quality, preparation and serving of food; b) the sanitary-hygienic state of the rooms and the territory of the penitentiary; c) the condition and cleanliness of the clothing, the litter of condemned persons, their season's correspondence. Subsequently, the director of the penitentiary is obliged to take note of the report and the recommendations of the doctor and of the medical service and to take the

necessary measures as a matter of urgency. If the head of the penitentiary believes that compliance with recommendations is impossible or unacceptable within the penitentiary, he or she shall submit a report to the National Penitentiary Administration, enclosing the opinion of the doctor or the medical service.

The Ombudsman's Institution, taking into account the determinants of the functions of the penitentiary institutions specified in paragraph (1) of Article 11 and letter a) paragraph (2) Article 13 of the Law on Penitentiary Administration System, number 300 of 21.12.2017, cannot fail to admit that some repeatedly identified deficiencies, such as overcrowding, originated in a chronic, systemic malfunction, and are not attributable solely to the penitentiary administration. At the same time, the content of the reports drawn up by medical staff in the process of engaging in preventive and social care responsibilities and the fulfillment of the obligations under Article 233 of the Code of Conduct would result in circumvention by the staff of the medical service of the applicable rules and standards in the matter. In this regard, the staff of the medical service formulate findings, conclusions and recommendations, abstract, unpredictable and improper (*for example: „satisfactory condition”, „general cleanliness”, „relatively-satisfactory condition”, „requires ventilation”, etc.*). As a result, the staff of the medical service essentially established and developed practices contrary to the recommendations of the People's Advocate, the CAT, the CPT and the requirements of domestic law.

„The burden of medical care in penitentiary institutions should not be limited to the treatment of sick patients. They should be responsible for preventive and social medical care, and insubordination, overcrowding, prolonged isolation and inactivity may require either medical assistance to a detainee or a general medical action of the responsible authority.

RECOMMENDATION: The People's Advocate argues that NPA is to approve a clear and unitary operational procedure for doctor's / healthcare professionals in accordance with the recommendations of the relevant actors regarding the identification and reporting of the sanitary-hygienic situation in all housing, serving, bathrooms, canteens, medical departments, and so on. Doctor's reports are to be thoroughly and seriously analyzed by the penitentiary directors.

A medical service in the penitentiary must be able to provide medical treatment and medical assistance, as well as diets, psychotherapy, rehabilitation or other special care required under conditions comparable to those provided to patients in the community. At

present, penitentiary institutions cannot provide a special diet or diet based on cultural, medical or religious reasons (*NPA Response number 5/1-1652*).

The food regime / special diets are one of the main components of preventive health care to be provided to prisoners with special needs due to health problems, to those who favor a special diet such as vegetarians or those who have special requirements prefigured by religious reasons. Taking into account the synthesis of World Health Organization research, food can have a negative or positive impact on the physical integrity and psychological integrity of the detainee, as well as a causal link between food and the criminogenic forms of the prisoner's conduct.

Prison services do not provide food regimes / special diets for detainees (e.g. P6, P17, etc.) and associate special food regimes / special diets with additional food ration.

The Ombudsman found that the medical, organizational and administrative measures necessary to ensure the physical, mental and welfare of the detainees by ensuring that detainees receive nutrition and sufficient amount of nutrition to maintain their health and strength, of a very good quality, well cooked and served as well as in accordance with a special diet or diet based on cultural, medical or religious reasons, are inadequately performed contrary to Articles 2 and 3 of the ECHR.

RECOMMENDATION: The penitentiary authorities must ensure that diagnosis and medical care for prisoners are prompt and appropriate, and the lack of nutrition provision in accordance with quantitative and qualitative nutritional indices and specific health claims may endanger the health of the person; to promptly undertake the necessary measures to identify and keep a comprehensive record of detainees with special needs in favor of a food regime / special diet due to health disorders, those who have special dietary preferences such as vegetarians or those who have a need special prefigured by religious reasons; the food regime / diet cannot be equated with additional food ration;

These measures necessarily require the compilation of complete, objective and detailed medical reports / reports that would reflect diet, food restrictions and food ration in each case, with the attachment to the medical file.

In 2018, 194 cases of involvement in trafficking and drug use in prisons were documented. Out of 104 documented detainees, 35 drug use was confirmed. Drugs penetrate through guard over buildings guarded, parcels, or are brought by civilians at meetings, says NPA. At the same time, 485 detainees are beneficiaries of the Methadone Therapy Program. In 2018, another 40 new beneficiaries were included.

During his visits, the Ombudsman received allegations of refusing to grant substitution pharmacological treatment and tolerance of illegal drug trafficking, particularly among substitute therapy recipients. For data protection, we will not publish the names of the interviewees.

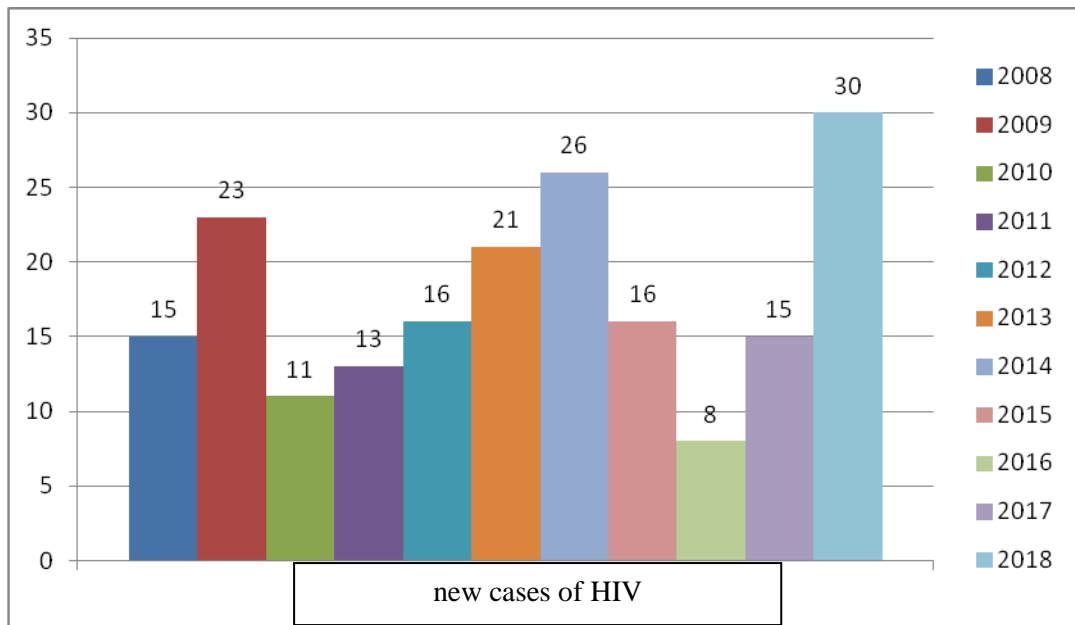
The Ombudsman has estimated that the refusal to grant opioid addiction substitution pharmacological treatment to a person in custody of the penitentiary institution may constitute a violation of Article 3 ECHR. At the same time, the guidelines formulated by the World Health Organization suggest that „the significant and major risk that methadone represents is overdose, which can be fatal. Research results indicate that the most prominent risk of overdose is at the initial stage of methadone replacement therapy.”

In the light of the extremely important nature of the protection afforded by Article 2 of the ECHR in respect of the right to life, that the person in the custody of the state is in a vulnerable position and the authorities have the task of protecting it.

The People's Advocate draws attention to the fact that the uncontrolled use of illegal drugs in prisons combined with methadone pharmacological treatment could cause overdose, which may be fatal, requiring the adoption of preventive and decisive measures to prevent such consequences.

RECOMMENDATION: Penitentiary authorities must take decisive and effective measures to prevent and mitigate, traffic, consumption and uncontrolled proliferation of psychotropic or narcotic substances, precursors, ethnobotanics, analogues and other illegal substances in penitentiary institutions, and pay more attention to the assessment of the state of health and processes of establishing and administering the optimal individual dose in cases involving methadone pharmacological treatment of opiate addiction.

On December 31, 2018, 130 HIV patients are reported to be at the record of the penitentiary administration system, of which 30 new cases and 7 reconfirmed cases or transfers from other states. 139 detainees have received antiretroviral treatment during the year. According to the Order of the Ministry of Justice number 46 of 15.01.2018 on the implementation of the National Program for Prevention and Control of HIV / AIDS and ITS in the penitentiary system for the years 2016-2020, the actions requiring budgeting were financed in a proportion of 30%, so it was possible to carry out the actions and fulfill the commitment to the Global Fund. At present, in 13 penitentiaries (including criminal prosecution isolators), pharmacological treatment is carried out with methadone. The number of HIV positive prisoners is rising.

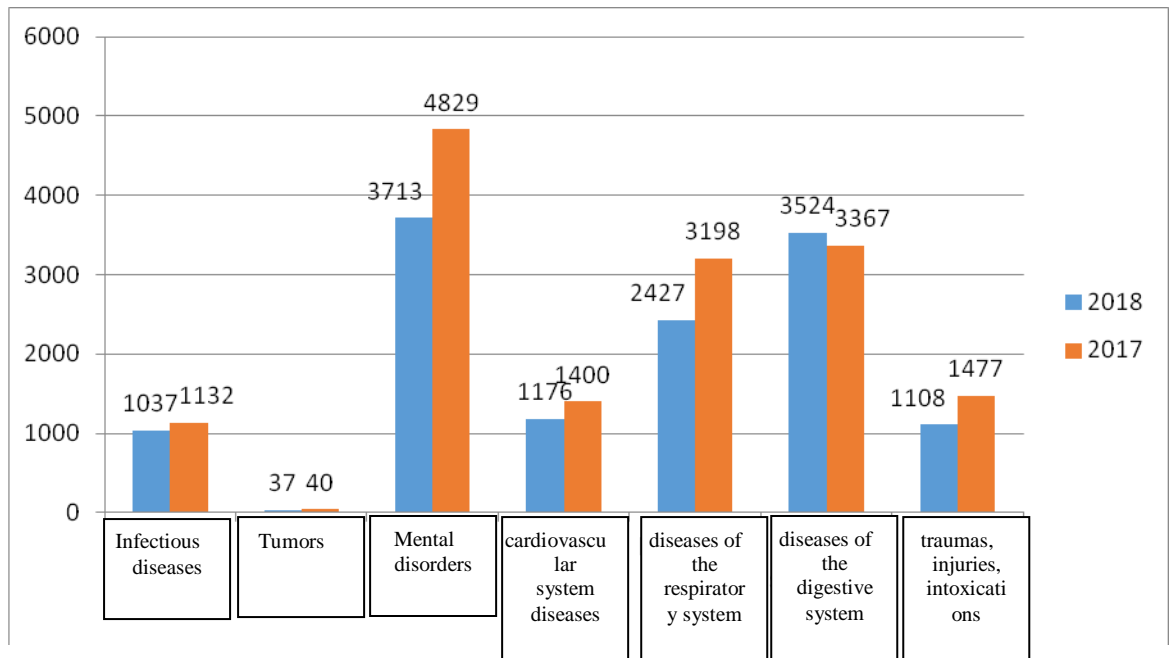


Despite the degree of assistance to HIV patients, the Ombudsman has registered complaints about the placement of patients in the isolators in the basement of penitentiary institutions. Under this conditions, the disease progresses and will not be minimized.

RECOMMENDATION: To avoid placing HIV patients (other infectious diseases) in the basement of isolators in penitentiary institutions.

In 2018, 28 detainees died in the penitentiary system, of which 6 were by suicides. In all cases of death, the Ombudsman was noticed ex officio. In three cases there were suspicions about death under dubious circumstances. Thus, at the Ombudsman's inquiries, criminal cases were initiated on the basis of Article 145 of the Criminal Code (murder), Article 213 of the Criminal Code (negligence of doctors in the civil hospital) and Article 150 of the Criminal Code (suicide determination). Please note that prosecutors have been reserved in collaboration with the Ombudsman Institution to investigate the causes of death in custody of the State.

According to statistical data, is found that general morbidity is 13017 cases decreasing by 34.1% (2017-19754 cases). In the structure of morbidity mental and behavioral disorders are at the forefront. The second place is classified as diseases of the digestive system, and third place the pathologies of the respiratory system as follows:



The People's Advocate noted that the courts continue to issue arrest warrants, despite the restriction of placing persons with serious illnesses under preventive arrest (Article 176 of the Code of Criminal Procedure). And, the NPA, based on Order 331/2006, tolerates prisoners' detention in penitentiary conditions until their state of health becomes acute, so that their health is impossible to restore. The Ombudsman reveals several practices of the institutions, such as the NAC (national anti-corruption center) and the GPI, which apply differently the mechanism of providing care to prisoners / preventives. For example, the NAC immediately handed over the detainee to the Holy Trinity Hospital in Chisinau without waiting for the prosecutors' permission. In some cases, the NAC alerts prosecutors to take responsibility in the event of a worsening of the custodian's health. Territorial Police Inspectorates call civilian medical services or resign the detainees to the NPA. As a consequence, the patient is detained on the basis of an arrest warrant, and to be released he follows a number of commissions and courts, which instead of prioritizing the right to life are consumed on formal and bureaucratic procedures. A detainee with a disease deserves the same treatment and the right to be released from detention when the disease can be prevented and not at the final stage. Judges and prosecutors need to realize that when there is a clear risk of losing life in detention, they shall apply alternative measures to arrest. Penitentiaries will assure the execution of the judiciary in their capacity as executive bodies. However, the healthcare of individuals targeted in criminal investigations is effective outside the closed system. Priority is human life.

On September 26, 2017, Serghei Cosovan (46 years old) was placed under preventive arrest. From that time, he is in P16 (penitentiary hospital) with the diagnosis of hepatic cirrhosis of viral etiology HCV in the active phase, etc. The period in which the detainee was located in this penitentiary led to the aggravation of the disease. Although at the stage of detention - his state of health could be rectified within a specialized civilian hospital. Judges have repeatedly refused to change the preventive measure. And, NPA included the patient in the list of diseases liable to release. Exit from detention will only be possible after a final decision has been reached on his criminal case. His release cannot be achieved because such a condition is not provided for in Order 331. The Ministry of Justice refused to initiate discussions on amending the Order 331.

On October 10, 2018, the Council for the Prevention and Elimination of Discrimination and Equality Issue issued the decision number 03/1307. CPEDAIE (Council for the Prevention and Elimination of Discrimination and Equality Issue) has found that there is a difference in treatment between preventive arrested persons and convicted persons as regards the possibility of benefiting from protection measures applicable to convicted persons suffering from serious illness. The Council recommended that the Ministry of Justice institute without delay a mechanism for the release from the application of the preventive measure in the form of arrest and the execution of the punishment, applicable to all detainees, regardless of the person's procedural status and the moment when the disease is counteracted. The Ombudsman accepted the „Promo-LEX” proposal to amend the Order 331 by assimilating the Russian Federation regulations. For the moment, the Ministry of Justice did not notice the opportunity of these proposals. However, the People's Advocate concludes that delaying this process is inadmissible.

At the NPA special medical committee 12 patients were presented for disease release from the punishment atonement. The case file was filed with 12 persons, 6 detainees were released, 2 were deceased, 2 pending the decision.

RECOMMENDATION: The Ministry of Justice is due to institute without delay a mechanism for the release of the preventive measure in the form of arrest and the execution of the punishment, applicable to all detainees, regardless of the person's procedural status and the moment when the disease is counteracted. Revision of Order Number 331 is imperative. Placement in detention of prevented patients with serious illness should be

avoided. NPA shall facilitate access to medical committees that decide on the release of the person.

On December 31, 2018, 6,990 persons were detained in the penitentiary administration system, compared to 7635 persons who were detained in 2017. Thus, there is a decrease in the number of detainees by 645 persons, representing a decrease of 8, 45%.

The total number of persons deprived of their liberty on 31.12.2018 is constituted by: convicted - 5725 (2017-6294) representing a decrease of 9.04%, prevented - 1261 (2017-1337), which represents a decrease of 5.97%; arrested contraventions - 4 (2017-4); women - 448 (2017-491) representing a decrease of 8.76%; minors (boys / girls) - 67/4 (2017 - 69 / 1), representing an increase of 1.43%; former public servants - 80 (2017-108) representing a decrease of 25.93%; sentenced to life imprisonment - 121 (2017-123), which represents a decrease of 1.63%.

In 2018, 3234 persons (2017-4516) arrived in the prisons administration system, which represents a decrease of 28.39%, and were released - 3773 persons (2017-4129), representing a decrease by 8.62%, of which: after the expiration of the penalty term - 1127 persons (2017-1189), which represents a decrease of 5.21%; with the replacement of the unexecuted part of the punishment with a milder punishment - 309 persons (2017-21) representing an increase of 85.97%; released on probation before term - 609 persons (2017-356), which represents an increase of 18 71.07%; released on amnesty - 45 persons (2017-275), which represents a decrease of 83.64%; pardoned - 2 people (2017-0), which represents an increase of 2 persons; on the grounds of illness - 7 persons (2017-1), representing an increase of 6 persons; other reasons - 37 persons (2017-31), representing an increase of 19.35%; prevented released - 1465 people (2017-2015), representing a decrease of 27.3%; after execution of the contraventional arrest - 172 persons (2017-241), representing a decrease of 28.63%, and deceased - 28 persons (2017-42), representing a decrease by 33.33%.

In order to improve the conditions of detention (including according to the CPT Recommendations), there have been carried out works to improve the conditions of detention in Penitentiaries number 2 - Lipcani, number 3 - Leova, number 5 - Cahul, number 6 - Soroca, number 8 - Bender, number 9 - Pruncul, number 10 - Goian, number 12 - Bender, number 13 - Chisinau, number 15 - and number 17 - Rezina. At P15, 16 cells were blocked, and in P13 was to stop the activity of the cells in the disciplinary insulator. P-12 has performed repairs of 9 cells, and at P17 all cells are overpopulated with improper conditions and only 2 cells have good conditions. P13 has succeeded in renovating 40 cells

out of 170. At P4 there have been actions to enlarge quarantine room space. As a result of the activity of the Penitentiary Inspection Department, the canteens and the situation of the cells in the penitentiaries were assessed. The Directorate received over 350 petitions with complainants on health care, material living conditions, assurance of the right to life and physical integrity, health conditions and hygiene conditions.

The Office of the Ombudsman has received a greater number of requests with similar allegations. Part of the requests constituted the request to carry out documentary visits in the cell for the initiation of civil cases for detention contrary to Article 3 ECHR.

Summary of applications

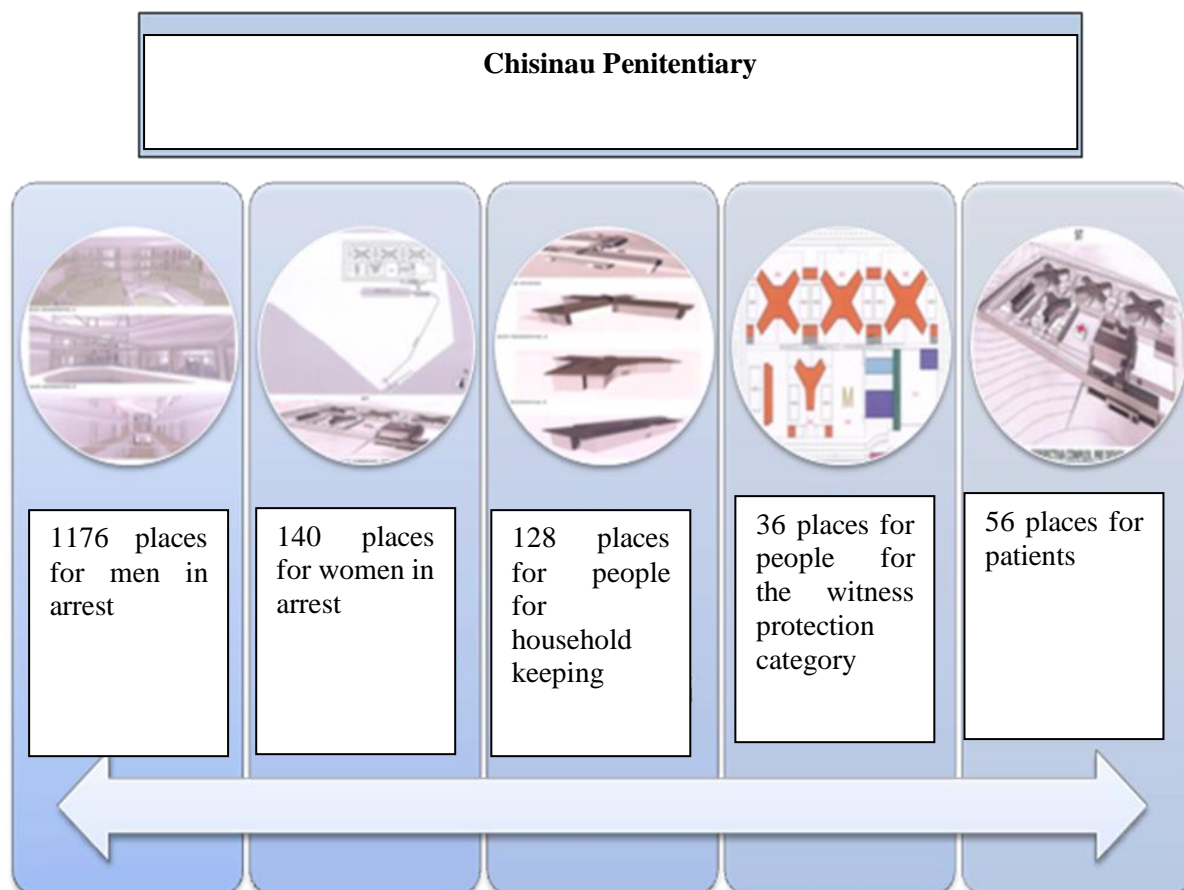
	The right claimed	Explanations
r	Poor detention conditions (P13)	Detainees under protection regime, hunger strikes, or HIV are placed in cold half-basement cells with increased humidity, non-functional sanitary system, ventilation does not work, non - insurance with bed linen, parasitic insects, opaque lighting, mold, etc.
	Right to health	The roentgen devices do not work, either lacking a roentgenologist, lack of specialist doctors, inadequate or delayed medical care; lack of medical assistance; long retention in preventive arrest with acute illness
	Right to food	Inappropriate nutrition, lack of dietary food; non-observance of meals for escorted detainees, the prevented during the escort and decision to apply the preventive measure do not receive food ration.
	The right to external communication	Limiting the ability to make a phone call to relatives in case of transfer; Missing meetings for disciplinary sanctions; delaying the process of challenging disciplinary sanctions; refusal to interview for spouse prisoners who are in

	<p>Right to defense</p> <p>The Right to Physical and Mental Integrity</p> <p>The right to conditional release</p>	<p>different penitentiaries</p> <p>Limited access to case materials; Limited access to lawyers and defense training; limiting the length of meetings with the lawyer (1-2 hours); Lawyers do not have access to client cells; Lawyers cannot take pictures of the place of detention for specific civil action.</p> <p>Maltreatment among detainees</p> <p>The out-of-court procedure is inappropriate and detrimental to the purpose of Article 91 of the Criminal Code. The penitentiary has no power to release before the deadline, respectively the institution may participate as an intervener. Practically, the penitentiary claims the rejection of the request for release, although its role is to prepare and stimulate release from penitentiary and not vice versa.</p>
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Priorities for 2019

According to the Law on the State Budget for 2019, 5 penitentiaries are to be rebuilt next year. To this end, the law provides for spending over 209 million MDL, allocated to the Ministry of Justice under the „Penitentiary System” program. Of the total amount, almost 40 million MDL are provided for the construction of the Balti municipality Arrest House; 2,1 million MDL - Penitentiary number 3 in the Leova city; 4.2 million MDL - finishing the repair at P10 - Goian and 3 million MDL for the renovation of the guarded perimeter at P7 - Rusca. More than half of the total amount - about 160 million MDL, will be spent on the project „Construction of the Chisinau penitentiary”. Of this amount, 14.5 million are money from the national budget, and over 145 million MDL come from external resources. For the same project, 139.6 million MDL were allocated in 2018. According to the draft of the new Chisinau penitentiary, it will consist of five separate functional compartments. The institution will have a residential block, one for transfer, one for securing secondary health services, and the entry and administrative area. Also, two parking lots will be built, one for

the employees of the institution and another for the visitors. The future prison will be located at the entrance to the Bubuieci village, on a 36-hectare plot. Its value exceeds 52 million Euros.



Council Recommendations on Torture Prevention, 2018

Reports available at: www.ombudsman.md

The penitentiary institution	Recommendations	Recommendations implemented
P13 Visit 04.01.2018	P13: recommendations 17	0
P2 Visit 24.04.2018	P2: recommendations 16	16
P15 Visit 18.05.2018	NPA: recommendations 8 P15: recommendations 18	0
P4 Visit 18.07.2018	NPA: recommendations 14	14 12

	P4: recommendations	12	
P1 Visit 20.08.2018	NPA: recommendations	11	11
	P1: recommendations	11	11
P15 18.12.2018	NPA: recommendations	13	0
	P15: recommendations	16	
	MJ: recommendations	2	
	PG: recommendations	1	

5.5.2. The police

The Police is a specialized state institution under the subordination of the Ministry of Internal Affairs, which has the mission of defending the fundamental rights and freedoms of the person by maintaining, securing and restoring public order and security, preventing, investigating and detecting crimes and contraventions¹⁹². In the process of performing service duties, police officers are empowered by law to apply to persons suspected of committing offenses or administrative contraventions procedural coercive measures which may limit certain freedoms (the right to individual freedom, the right to personal safety, etc.).

In 2018, employees of the Torture Prevention Directorate carried out 36 monitoring visits to Provisional Detention Isolators (IDPs) within the General Police Inspectorate (GPI) Territorial Inspectorates. As I mentioned, the Ombudsman proposed to carry out a wide-ranging monitoring of the decision-making process for detention application; detention of the person by the police; the transportation and escorting of the detained person, as well as the mechanism of placing in detention of detained persons. The Office of the People's Advocate has tried to observe the stages of the deprivation of liberty of the detained person from the first contact with the police employee until his placement in the penitentiary institution, disregarding the activity of monitoring the conditions of preventive detention. In this way, the Ombudsman monitored the mechanism for the implementation of the obligations assumed by the GPI following the „anti-torture reform”.

On March 30, 2018, thanks to the support of Soros Foundation-Moldova, 3 standard operating procedures were developed and approved:

¹⁹² Law number 320 of 27.12.2012 on police activity and police status.

The standard operating procedure for the placement of the detained person in the preventive detention facility (*Order of the GPI number 193/2018*)

The standard operating procedure for escorting and transporting the person deprived of its liberty (*Order of the GPI number 194/2018*)

The standard operating procedure for retaining (*Order of the GPI number 195/2018*)

Operating procedures are to fill in several gaps in the process of apprehending, escorting and detaining the detainees. But on the territory, these procedures were perceived differently. Most territorial Police Inspectorate have accepted them as information. Similarly, the visiting team found the following:

- The Code of Criminal Procedure contains general provisions on the trial, stages and detention procedure. However, for police officers, these procedures must be found in clear, explicit instructions, so that no derogations and deviations are allowed;
- CPT safeguards on the rights of the detained person (notification, access to the defense and examination by a doctor) are largely met by necessity title and less of the content. De facto, the detainee signs all the documents presented / refused, but the essence of detention, rights, etc. are passed to the defense.
- The MIA / GPI have no clear procedures on the procedure and detention process.
- Territorial Police Inspectorates carry out detention in a different way (procedural acts) while maintaining customary traditions;
- Territorial Police Inspectorates do not have standardized and up-to-date reports. Each territorial PI has its own minutes;
- The rate of detentions is relatively small compared to 3 years ago;
- The period of detention in IDP is less than 24 hours. Territorial PIs escort detainees at IUP within the Prisons;
- The PI escorts the prevention;
- IDP do not meet the minimum standards of detention;
- 10 IDPs are in general repair, meanwhile, PI premises are deplorable, thus creating an imbalance between police officers and detainees;
- Territorial PIs do not know / do not have / clear procedures for detaining minors, people with disabilities (especially intellectual, deaf-mute, etc.).

- Territorial PIs lack interpreters (especially from / in mimic-gestural language);
- Territorial PIs do not have sufficient staff (escort, guard and supervision), especially hired doctors, which influences the assurances provided by the European Anti-Torture Convention;
- Territorial PIs, partly have adequate means of transport for quality escort. Even if to some PIs have been assigned transport means (minibus type), they appear to be inadequate (narrow spaces for the seated person); they also do not have room for storing personal belongings;
- Most interviewees reported that they did not understand the reasons for the arrest and that the detention procedure had not been followed:

S Case (IUP Rezina/ 38 years)

- „, on ... at around 9.00 pm, while I was visiting my aunt, I was detained by Police Inspectorate officers.... The police officers put me down and then put on me the handcuffs and they got me in the car they came with. Along the way, until reaching the police inspectorate, I was threatened with the pistol by the police officers from the vehicle.” – „,when we got to the police inspectorate there we were expected by the criminal prosecution officer and the state-guaranteed lawyer”. - „, the state-guaranteed lawyer did not get involved in the minutes of detention, he signed it and left.” - „, the rights and obligations were brought to our attention by the criminal prosecution officer in common with the lawyer.” - „, the policeman has been brought to our attention and the right to silence and not to confess against oneself.”- „, relatives were informed of the detention by the police officers who detained me while we went to the police inspectorate. My brother working at the gas station was informed. - „, the medical examination was carried out by the feldsher of the institution in the guard unit. This examination was more superficial. - „, between 09.00 p.m. and 11.30 p.m. until I was placed in the Provisional detention facility of the Police Inspectorate ..., I was repeatedly assaulted and threatened with the gun by police officers who have transferred me to the police inspectorate dressed in civilian. - the prosecutor who ordered the forensic expertise was notified on the incident. The case is being investigated by the Prosecutor's Office ... who shall expose.

R. case (IUP Rezina/ 27 years)

- „,on ..., the sector police officer presented himself and told us that we needed to go to the Police Inspectorate..., to sign some documents (previously I beat the concubine).”

- „, at the police inspectorate we arrived at 02.00 p.m. until 02.40 p.m. I waited in the corridor near the door of the criminal prosecution officer until the lawyer guaranteed by the state came. The lawyer's actions were superficial, with no objections to my detention.”- „, our rights and obligations have been brought to our attention by the lawyer.” - „, my relatives were not informed of my detention.” - „, the right to silence and not confess against oneself was not brought to our attention by the employees of the inspectorate.”- „, approximately at 03.20 p.m. the retention report was finished.” - „, the medical examination was performed by the feldsher of the institution in the medical cabinet, after which I was placed in the IDP for 3 days.”

I. Case (IUP Cahul/ 17 years)

- On2018, approximately at around 2.00 p.m. the Sector Police of... came home and told me, „You got your identity card and come with us to the police. At home there was no one of the mature relatives, only the younger brother, the mother was gone to...”. From the minor's words, she knew the policemen visually, although none of them showed up. She was transported to the Police Inspectorate.... Approximately at 04:30 p.m. the minor was placed in the Provisional detention isolator of the Police Inspectorate...-„, I know why I was detained. I was given 2 years of probation. I did not present myself, and the Probation Office filed a lawsuit before the court, after which I was sentenced to 1.5 years in prison. That's what the policeman explained to me”. – „From the moment we reached the Police Inspectorate .., the service officer was told – „Do not let this girl go out”, after which they phoned someone and called Mr. ... Movileanu”. - „, The rights and obligations were explained to us by Mr. .. Movileanu (policeman) during preparation of the detention minutes.” „They gave me 4 sheets and a sheet of rights and obligations and they told me to first sign them, then I will read them”.- „, The lawyer guaranteed by the State was present during the drawing up of the minutes”.- The teacher or the psychologist during the detention and the drawing up of the detention minutes was not present.- „They explained to me that I can call my relatives. I did not want to call anyone. Then V. Movileanu called himself from his personal phone to my aunt's”. – „I was examined by the doctor from the Isolator the next day on ...2018”.

D. Case (IUP Cahul)

-„I was detained this year. When they came to detain me, I was alone at home in C village.... I do not remember the date of detention I know it was on a Saturday. I asked why

they detain me - to which they answered „You know why””.- „During the detention I was hit with „dubinka” (rubber stick). On this case, I wrote a complaint to the prosecutor's office. At the moment the complaint is being examined”.- „I was brought to the Police Inspectorate. and I slept for a night in the provisional detention isolator, and then they let me go home. They have not granted me any lawyer, my rights and obligations have not been explained to me by them”.- „The following Saturday they came, gave me some papers, then they brought me to Chisinau at... for carrying out the forensic expertise, where I staid 1 month. The lawyer was only at the Hospital”.- „From .. the police officers came in, took me and brought me to Penitentiary Number 5 Cahul”.- „I was not allowed to call and tell my relatives that I am jailed, neither at the police nor in the penitentiary”.- „The doctor examined me in the inspectorate and in the penitentiary”.

V. Case (IUP Cahul)

- „2 weeks ago I was at home with my friends (we were 3) when eight police officers approached, they told us to get in the car and took us to different police inspectorates. I was taken to the Police Inspectorate...”- „All those 8 police officers took my car and I do not know nothing about it”. – „The retention minutes was written to me in the Police inspectorate The State Attorney participated.” - „Rights and obligations have not been brought to my attention”.- „I signed some papers there, but I do not remember what”. – „I was not allowed to call my relatives and let them know I was detained”.

V. Case (IUP Balti/ 21 years)

- on2018 I was detained at N... at work in the field, people dressed in civilian came who presented themselves as criminal police and took me to the inspectorate in...., they said I had something to sign. Then they took me to court in Ungheni. At the inspectorate they detained me for 72 hours. The lawyer participated in the drawing up of the minutes of detention. The rights and obligations have not been explained to me but I have signed some sheets. The right to silence was not brought to my attention, but the lawyer started to talk with me and told me that „you see how you are going to do it ... the punishment is softer if you admit it”. When I walked into the isolator, the doctor examined me. Also at the inspectorate I was allowed to call.

Three rights of persons detained by the police are considered by the CPT to be of particular importance: the right of the person concerned to notify his detention to a third party of his choice

(a family member, a friend, the counselor), the right to access a lawyer and the right to request medical examination by a doctor chosen by him (in addition to any medical examination carried out by a doctor called by the police authorities).¹⁹³ In the CPT's view, these rights are three fundamental safeguards against the ill-treatment of detainees, which must be applied from the beginning of the deprivation of liberty, regardless of how it is described in the legal system in question (arrest, etc.)

The persons in custody of the police should in particular be informed without any delay of all their rights, including those referred to in paragraph 36. Furthermore, any possibility for the authorities to delay the exercise of one or other of the above rights in order to protect the interests of justice must be clearly defined and its strict application limited in time. In particular, the right to have access to a lawyer and to require medical examination by a doctor other than that brought by the police, the systems by which, exceptionally, lawyers and doctors can be chosen from pre-established lists made with organizations relevant professional, should cease any delay in the exercise of these rights.

The access to a lawyer of persons in police custody should include the right to contact and to be visited by a lawyer (in both cases the confidentiality of the talks must be ensured) and, in principle, the right of the person concerned to be present at the interrogation.

As regards the medical examination of persons in police custody, this should be done outside the hearings, and preferably not in front of police officers. Further, the results of each examination, the relevant statements of the detainee and the doctor's conclusions should be formally registered by the doctor and made available to the detainee and his lawyer.

Concerning the questioning process, the CPT considers that there should be clear rules or principles on how interrogation is conducted by the police. These should include, inter alia, the following issues: informing the detainee of the identity (name and / or number) of those present at the interrogation, the length of the interrogation allowed, intervals between interrogations and interruptions during interrogation, interrogation could take place if the detainee is asked to stand up during questioning, questioning people under the influence of drugs, alcohol, etc. The systematic recording of the time at which the interrogation begins and ends must be requested, of any request made by the detainee during the interrogation and of the persons present during each interrogation.

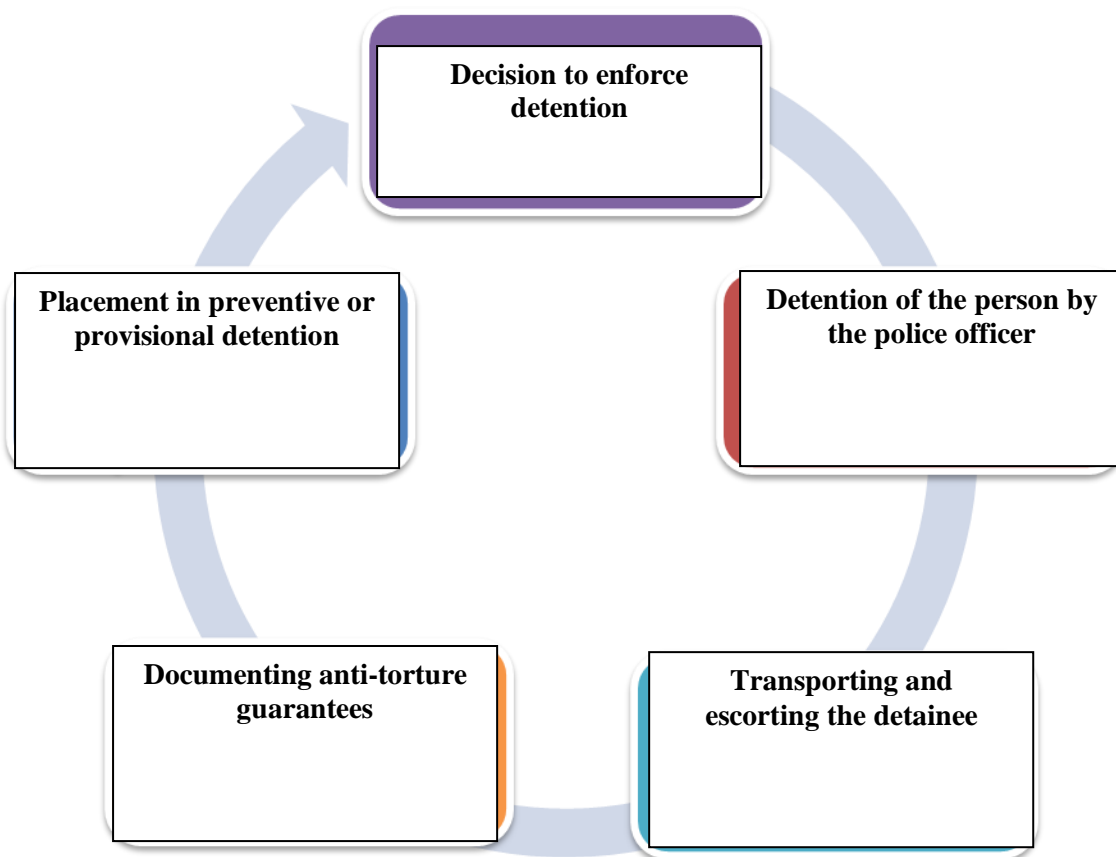
¹⁹³This right was later reworded as follows: the right to have access to a doctor, including examination, if the detained person wishes this, by a doctor of her choice (in addition to medical examination by the doctor requested by the police authorities).

The CPT emphasizes that electronic recording of police interrogations is another useful measure of security against ill-treatment of detainees (and a significant advantage for the police).

The CPT considers that the fundamental protection afforded to the persons in police custody would be strengthened (and the work of police officers could be relieved) if a single complete record of detention would exist for each detainee in which all aspects of detention would be recorded, and the measures taken against them (when he was deprived of his liberty and the reason why this measure was taken, when his rights, signs of injury, mental illness, etc. were raised, when he was visited and contacted by relatives, consultees and lawyers, when he was offered food, when he was interrogated, when he was transferred or released, etc.). For various reasons (for example, objects in the possession of the person, the fact of quoting, calling and giving up rights), the signature of the detainee must be obtained and, if necessary, the absence of a signature must be explained. Further, the inmate's attorney must have access to such a detention file.

The existence of an independent mechanism for examining complaints about the treatment of time spent in police custody is an essential safety measure.

The first contact with the police is a pretty sensitive element. The police worker's professionalism prevents the escalation of incidents when the person is deprived of liberty. It is vital for the detained persons to understand the reasons for deprivation of freedom of movement, duration, place of escort, notification of relatives / close persons and safeguards against abuse. A detention process involves at least five steps, listed below:



In 2018, 7496 people were detained, of which 155 were women and 105 minors. In total, 6289 persons were placed in the preventive detention isolators, of which only 2242 in the Chisinau Isolator.

RECOMMENDATION: The GPI (General Police inspectorate) is to apply the 3 standard operating procedures in practice and to adapt mechanisms to ensure the rights and freedoms of the person during detaining. The procedure and detention process should be uniform. The GPI territorial subdivisions should avoid the formal drawing up of documents. Similarly, the practice of de facto and de jure detention should be regulated so that the retention period does not exceed 3 hours.

Applying CPT „anti-torture” guarantees, *de facto*

Notification of arrest	Medical examination	Access to lawyer
<ul style="list-style-type: none"> - The criminal prosecution officer - The Guard Officer - The detainee personally personifies the relatives - Note in Minutes - Refusal to notify - Mobile phone - Unit of guard - Work phone - The detainee's phone - Formality procedure 	<ul style="list-style-type: none"> - Entry / exist from the isolator; - In the Feldsher cabinet / in the hall / office of the Criminal Investigation Officer (OUP) - Only if he alleges allegations of ill-treatment - 112 service - Center of Legal Medicine - Just one time - If there are visible body injuries - Formality procedure 	<ul style="list-style-type: none"> - List of public advocates - Service lawyers - Generally, public lawyers do not dispute the process of retention / presumption of innocence - Attorneys do not appear in the night and weekends - The Police Inspectorate provides transportation to the attorneys round-trip - Good connotation with lawyers in the territory - Formality procedure

Police custody is, in principle, of a relatively short duration. Consequently, the physical conditions of detention in police custody may not be as good as those in other places of detention where people can be detained for longer periods. However, some basic material conditions must be met.

All police cells must be reasonably sized for the number of people they are housed, adequate illumination (for example: sufficient to read, except for sleeping periods) and ventilation. It would be preferable for cells to have natural light. Then the cells should be equipped with rest facilities (e.g. a fixed chair or a bench) and persons obliged to stay overnight in custody must be provided with mattresses and clean beds.

Persons in custody should be allowed to meet their natural needs at the desired time under decent and clean conditions, be given adequate washing conditions. They should be given food at the right time, including at least a full meal (for example: something more substantial than a sandwich) in every day.¹⁹⁴

¹⁹⁴ Council for the Prevention of Torture (CPT) states that persons held in police custody for 24 hours or more should be offered, as far as possible, daily outdoor exercise.

The question as to what a reasonable size of a police cell means (or other type of dwelling for the detainee / prisoner) is a difficult issue. When making such an analysis, many factors have to be taken into account. In any case, CPT delegations feel the need for general principles in the field. The following dimensioning (seen as a desirable level rather than a minimum standard) is commonly used when analyzing a single-person police station cell for more than a few hours: 7 m² having at least 2 m between the walls and 2.5 m between the floor and ceiling.

Retention of up to 72 hours as a procedural coercive measure shall be ensured in provisional detention facilities, with the exception of the detention of militaries carried out in the garrison or in the military command of the garrison, respecting the fundamental human rights and freedoms and the appropriate conditions of detention¹⁹⁵.

At the same time, the rules of the Enforcement Code stipulate that the persons against whom the preventive arrest was applied¹⁹⁶ or applied the sanction of the contravention arrest,¹⁹⁷ are to be detained in penitentiaries. Thus, it is welcomed the fact of holding in separate spaces in prisons of the persons punished with administrative arrest, given that most people detained after the events of April 7, 2009, who were subjected to ill-treatment, served their administrative punishment in the isolators within the police commissariats.

However, the continued detention in the provisional detention isolators remains actual of the Police Inspectorates of the persons to whom the pre-trial detention was applied on small terms until their transfer to the penitentiary or the arrested persons are transferred from the penitentiaries to the IDP for later being present at court hearings. Under these circumstances, the issue of the constitutionality of the status of the respective places of detention is still unresolved in terms of the normative framework, which, in principle, exists in all District Police Inspectorates.

Only when legalizing the activity of temporary detention isolators and adopting clear placement rules, transferring detained and arrested persons and transparent rules for the conduct of criminal investigations will make it possible to exclude deviations from the rules of the Execution Code.

The first initiative of State Custody Reform started with the Concept of Reforming the Penitentiary System and the Action Plan for 2004-2020 for the Concept of Reforming the Penitentiary System, approved by the Government Decision number 1624 of 31.12.2003, where the construction of the 8 arrest houses was planned. In 2009-2010 these actions were

¹⁹⁵ Enforcement Code Article 175¹.

¹⁹⁶ Preventive arrest is provided by penitentiaries – Article 175 paragraph (9) of the Enforcement Code.

¹⁹⁷ Execution of the sanction of the contravention arrest is ensured by the penitentiaries – Article 313 paragraph (3) of the Enforcement Code.

stopped, one of the main causes being that the edifices to be built needed additional expenses, for which no funds were provided in the state budget in that period.

Isolation repair works started after the adoption of the Government Decision number 511 of 22.06.2010, which allocated 2 200 000 MDL for the repair of 30 provisional detention isolators within the police commissariats.

On December 12, 2016, the Government of the Republic of Moldova and the European Commission signed the Financing Agreement on Police Reform. The policy matrix on the implementation of Budget Support for Police Reform foresees among the objectives set also the reduction of ill-treatment, abuse and discrimination towards the persons in custody of the Police. According to the provisions of the Policy Matrix implementation of budget support for police reform for the years 2017-2020, during the target period, by the police are to be renovated at least 15 provisional detention isolators according to international standards. At least 100 temporary detention cells are to be renovated, at least 25 specialized units have been purchased for the transport of detainees, trained at least 250 police officers on human rights.

Therefore 14 IDPs have been proposed for modernization (*IDP Edinet, Riscani, Balti, Singerei, Ungheni, Chisinau, Criuleni, Hincesti, Anenii Noi, Causeni, Cimislia, Cahul, Comrat*).

According to its findings, in most cases, the premises of the provisional detention facility are still located in the basement of the Police Inspectorate. Therefore, they will never be able to provide detention conditions adapted to the detention of persons placed in provisional detention.

If we compare the material conditions of detention within the IDP in the years 2010-2018, we see a significant improvement in material detention conditions, but not to the extent of complying with international standards. Still substantial material conditions persist; poor cell condition, lack of mattresses, cloths and hygiene items; eating only 2 times / day; lack of feldsher; formal medical examination; lack of privacy in the sanitary block; insufficient artificial and natural light, penetrating odor, moisture; detention over 72 hours.

In the course of time, due to the effects of the reform initiated, the activity of 17 preventive detention isolators was stopped. According to up-to-date data, there are currently 96 detention facilities with a capacity of 242 people. 15 isolators are to be refurbished by 2022, of which 2 isolators include criteria for the detention of people with disabilities.

Generally, the Police Inspectorates observed the minimum detention period (24 hours) of the detainees. They escorted promptly at the receipt of arrest warrants, preventive

measures to the isolators of criminal prosecution. Thus they avoided the practice of keeping them strictly for 72 hours. However, this system has created inconveniences for prosecutors and investigative / prosecution officers who either have to go whenever it requires the interest of inquiries to the Criminal Investigation Isolator or to escort them back to the Police Inspectorate. Moreover, the Police Inspectorate that do not have isolators have been forced to maintain for hours (undocumented) the detained in the hall, in their offices or in the guard unit (chair). At this time, people could not leave the Police Inspectorate, but they were not detained as such. Such practices continue. The situation becomes more difficult when there are a number of witnesses, minors, etc. Everyone is kept in the hall of the institution without an official status. We assume that the GPI subdivisions must be equipped with retention chambers within the Police Inspectorate (except basements) equipped with furniture, drinking water and protection system. It is inadmissible to detain the person in the area reserved for the Guard Unit. Moreover, police employees must avoid keeping people in the Police Inspectorate without any procedural status. At the same time, all persons entering and leaving the Police Inspectorate are to be registered in the access register, with mandatory indication of the time of entry and the name of the employee concerned. Visitors can only find a minimum in the police premises.

Detention over 72 hours in preventive detention isolators is actual. The Ombudsman noticed that the persons were in the Briceni Isolation of the Police Inspectorate (1 person for 6 days and the other for 9 days) over 3 days; Soroca PI (2 persons with arrest warrant), Basarabasca PI (1 person for 4 days); Cahul PI (2-3 months). Among the reasons for staying over 72 hours is the lack of identity papers, in particular, **placement is maintained at the request of prosecutors or judges. Ombudsman emphasizes that such practices are to be abolished immediately. The prosecution and judicial authorities are obliged to respect the law, not to violate it. The detention in police isolators cannot exceed 72 hours, this rule is imperative and is to be respected. No act can exceed the fundamental safeguards.**

Subsequently, the People's Advocate observed the tendency of the GPI Subdivisions to escort the preventives from the penitentiary to the isolator, from the isolator to the court, etc. It seems that NPA is not against this fact, but on the contrary, it benefits from both the staff crisis and the poor quality of the means of transport. The GPI received 20 modern transport units, another 5 being purchased. At the same time, NPA does not have a sufficient car transport base to ensure full escorting needs. In its explanation, the GPI noted that the Law 320/2012 explicitly provides for the mission of escorting persons by the GPI, and NPA can escort only those persons in respect of whom the sentence has not become final.

Analyzing the regulatory spectrum, we observe that Article 21, Letter k) of the Law 320/2012 on police activity and police status expressly states that **police ensure the detention of detainees in detention facilities and their escort**. Therefore, the police's attributions are expressly limited to the detention of the detainees (72 hours) and the escorting of the detainees (to the criminal prosecution isolator). Moreover, the police attribution ceases as soon as the „detained” quality has changed to the „prevented / detained - by arrest warrant” or to his transfer to penitentiary custody. Subsequently, the mission of the penitentiary administration (Government Decision 437/2018), which performs the escort functions of **the convicts, the defendants and the offenders (including from abroad)**. Therefore, there is no legislative barrier to the malfunctioning of this process.

On December 12, 2018, the Law 219/2018 on the General Carabineers Inspectorate entered into force. The new institution replaces the Department of Carabineer Troops within the Ministry of the Interior and is invested with police functions. And in the event of war, it exercises the powers of the Armed Forces. The attributions of identifying, detecting of contravention facts / criminal offenses, in particular retention of persons, is a know-how for this entity. Formed on the old structure with the potential of young people incorporated in the military service (18-20 years), IGC will carry out detention of people, specific to some professionals (officials with special status). The institution of detention in Moldova is quite sensitive. Thus, IGC will invest enormously in increasing and strengthening the potential of carabineers to carry out the detention process and detention procedure. At the same time, the legislator should establish the mechanism of interaction between the carabineer and the police / criminal prosecution officer in the process of detaining people. At the moment, the Law 219 does not contain such provisions. Similarly, the IGC is to conduct training sessions for carabineers, in particular on the prevention of torture and ill-treatment.

5.5.3. Public Custody of Aliens

In 2018, the People's Advocate carried out five monitoring visits at the Center for Temporary Placement of Aliens (3 to the Torture Prevention Council and 2 to the Prevention of Torture Directorate). CPTS capacity is 138 beds. In the middle, 100 foreigners are detained. Placement takes place only through the conclusion of the courts. And, release can also take place through the Migration and Asylum Bureau's decision.

Generally, the material conditions are good. The doors of the chambers are loosened and closed by an electronic system by the supervisors, which in fact implies a similar

detention to the penitentiary institution. The Ombudsman has received allegations of ill-treatment, which have been partially confirmed. For fear of persecution, aliens could not realize their right to defense.

The most serious issue concerns the keeping in custody of asylum seekers (aliens who have filed asylum applications with the CPTS). National and international regulations prohibit the detention of asylum seekers. At the same time, the Migration and Asylum Bureau has argued that asylum seekers actually prevent the return decision, etc. or use it as a means of defending and delaying. Although the custody term cannot exceed 6 months, cases of aliens have been recorded over this term. The BMA avoids applying alternatives to the public detention of aliens.

Similarly, during the visits, the Ombudsman was informed about the detention of a foreign minor with adults. At the time of developing the authorities did not identify a solution to transfer the minor from detention.

The People's Advocate received complaints about the failure to draw up the minutes of detention of foreigners at the border; failure to communicate reasons / insufficient communication about detention, including foreigners' rights; initiating files for illegal crossing despite the request / proposal for protection; foreign detainees are held for long periods in office chairs, on the hallway in the BMA offices until the adoption of the placement solution; etc.

The issue of forced returns will be the subject of monitoring in 2019.

RECOMMENDATION: Courts will supervise the legality of aliens' detention for 6 months (their own placements conclusions). The BMA is about to release the juvenile from custody. The BMA is encouraged to apply alternatives to foreign public detention.

5.6. Local Commissions for Monitoring Places of Detention

In order to ensure the observance of human rights through the adoption of the Law on Civil Control on the Observance of Human Rights in Institutions Enforcing the Detention of Persons Number 235 of 13.11.2008, in each level-two administrative-territorial unit, monitoring committees were set up to monitor the conditions of detention of the detainees and treatment applied to them.

According to the Law number 235, each monitoring committee is to be composed of 7 members on a two-year mandate, representatives of civil society. The nominal composition of the monitoring committee is approved by the decision of the appropriate local council. The quality of member of the monitoring committee can be held by a person who has reached the age of 25, has a worthy behavior in society, has no criminal record and has been

proposed in that capacity by a public association that has been active for at least 5 years, one of its statutory purposes being the protection of human rights. If the public associations do not submit candidates for membership as a member of the monitoring committee, they are proposed by the local council, after prior consultation of the Office of the People's Advocate.

At the same time, the legislation in force clearly establishes that members of the monitoring committees may not be members the persons holding public dignity, civil servants, judges, prosecutors, workers of the national defense bodies, of state security and public order, lawyers, notaries and mediators.

The Commission for the monitoring of places of detention has the following rights:

- a) to assess the detainee's detention conditions and the treatment applied to them;
- b) to have unrestricted access to any sector of the institution that ensures the detention of persons, except for security purposes, at any time of the visit and without prior approval, subject to compliance with the security rules and the regime in the institution;
- c) to request from the administration of the detention facility as well as from the public administration authorities all the information it deems necessary for monitoring, except for information constituting state secret;
- d) to talk with detainees, only with their consent, without witnesses or under the visual supervision of the administration if the security conditions require it;
- e) to refer and send demarches to state authorities to carry out monitoring tasks on the observance of human rights in the institution that ensures people's detention;
- f) to receive complaints about the observance of human rights in the institution that ensures the detention of persons both from detainees and their relatives, as well as from other natural or legal persons;
- g) at the request of the court or the administration of the institution that ensures the detention of the persons, to present their views on the possibility of conditional release of the prisoner in advance, on the replacement of the unexecuted part of the punishment with a milder punishment, on the release of the punishment of minors, punishment due to the change in the situation, the release of punishment due to the change in the situation, the release from punishment of seriously ill persons, the application of the amnesty act, and, at the request of the President of the Republic of Moldova, the possibility of applying the pardon act.

The Monitoring Committee has the task of verifying and supervising the conditions of detention and the manner in which detainees are dealt with in the institution that detains the

persons within the administrative-territorial unit in which the commission was established and its conclusions are expressed in a report on the facts found.

In July 2018, the Office of the People's Advocate conducted a questionnaire that reported the situation as follows:

Local public administration II	Situation up to 2018	The situation in 2018
Anenii Noi District Council		At level of second-level administrative unit there is no local commission for the monitoring of detention institutions.
Basarabasca District Council	Committee established by the decision of the Basarabasca district council number 02/17 of 12.04.2013	
Briceni District Council		The committee was not created
Cahul District Council	Committee established by decision of the Cahul District Council number 01/07-IV of 22.03.2016	
Cantemir District Council		There are no detention facilities
Calarasi District Council	Committee established by decision of the Calarasi District Council number 03/05 of 04.05.2012	In the process of reviewing the composition of the committee
Causeni district council	Local Commission established by decision of the Causeni District Council number 11/9 of 22.12.2009 (repealed) and by the decision number 8/18 of 09.12.2011 the district commission was established	The Commission is not working (it activated during 2012)
Cimislia District Council		The committee was not created due to lack of places of detention
Criuleni District Council		The Council did not need to set up the monitoring committee.
Donduseni District Council		The committee was not created due to lack of places of detention
Drochia District Council		The committee was not created
Dubasari District Council		The committee was not created

Edinet District Council		
Falesti District Council		The committee was not created due to lack of places of detention
Floresti District Council		The committee was not created due to lack of places of detention
Glodeni District Council		
Hincesti District Council		The committee was not created because of the lack of those interested
Ialoveni District Council		The committee was not created due to lack of places of detention
Leova District Council	The local committee was created on the basis of the decision of the District council number .4.2 of 06.08.2009 03.08.2011 – changes in committee composition	Decision to set up in 2018 (draft)
Nisporeni District Council	The committee was created on the basis of the decision of the District council number 3/18 of 21.05.2009	The committee has ceased its activity due to the lack of institutions for the detention of persons
Ocnita District Council		
Orhei District Council		It was not established
Rezina District Council		
Riscani District Council		The committee was not created due to lack of places of detention
Singerei District Council		The committee was not created due to lack of places of detention
Soroca District Council	The committee was created on the basis of the decision of the Soroca District council number 10/11 of 16.08.2016	
Straseni District Council		The committee was not created due to lack of places of detention
Soldanesti District Council	A new committee was created	
Stefan Voda District Council		
Taraclia District Council	The committee was established by decision of	

	Taraclia District Council number 2/5 of 06.04.2016	
Telenesti District Council	Telenesti District Council approved the composition of the commission by the Decisions number 4/2 of 15.07.2009 and number 6/14 of 23.08.2011 (with mandate for 2011-2013)	
Ungheni District Council		The committee was not created due to lack of places of detention
Chisinau Municipality Council		It was not established
Balti Municipality Council	It worked between 2012 and 2014	Since 2015, the commission has not been created due to lack of those interested
Comrat Municipal Council		There are not reasons for the committee's formation because they do not have places of detention.

RECOMMENDATION: The Government is to decide on the need for local monitoring commissions or to modify the legal framework on the attractiveness of this mandate.