

INDEX ON TORTURE. MAIN DEVELOPMENTS IN 2023 MOLDOVA

I. Background Information on the Penal System of the Republic of Moldova

The Republic of Moldova operates 17 penal institutions, including one facility for female prisoners and one facility for juvenile offenders. These institutions have inherited the Soviet infrastructure and are not adapted to standards that comply with human rights. Both international and domestic organizations have frequently criticized the penitentiary infrastructure, calling for urgent measures to eliminate, reconstruct, or revise the conditions of detention.

In 2023, the Moldovan penal system housed 4,726 convicts, including 252 women and 4,474 men (among them, 29 juveniles). Additionally, the penal system held 325 individuals in pre-trial detention, including 18 women and 307 men (among them, 7 juveniles); five were detained for administrative offenses (all men). The cost of keeping one person in detention per day (excluding capital investments and external sources) for the first six months of 2023 amounted to 324.4 lei (17 EUR).

A total of 799,386.30 thousand lei was spent on the operation of the penal system in 2023.

II. Improvements in the Penal System of the Republic of Moldova

In 2023, discussions were held on the concept of phased imprisonment. This concept represents a new approach to organizing the process of serving a prison sentence. It is based on the individualization of security and rehabilitation measures, with adjustments depending on the progress or regression shown by the convict in changes of their criminal behavior. It also involves a phased adaptation to living conditions outside prison through taking on one's own responsibility and providing increasing levels of autonomy as the convict progresses in serving their sentence.

Measures were taken to improve identification, registration, and reporting of alleged cases of ill-treatment, torture, and cruel or degrading treatment.

Specifically, in the area of reporting torture and cruel or degrading treatment, one issue discussed throughout 2023 was the implementation of an Electronic Register of Cases of Injuries, Use of Physical Force, Special Means, and/or Firearms, or Suspected Cases of Ill-Treatment in the Penal Administration System. The Regulation for the Electronic Register of Cases of Injuries, Use of Physical Force, Special Means, and/or Firearms or Suspected Cases of Ill-Treatment was approved.

The management team of the National Administration of Penitentiary Institutions participated in a workshop "Ensuring the Effective Implementation of State Obligations to Identify, Register, and Report Alleged Cases of Ill-Treatment" organized by the Promo-LEX Association. This event aimed to train the staff of the National Administration of Penitentiary Institutions on the state's obligations to identify, register, and report cases of torture and cruel or degrading treatment, as well as to effectively implement a mechanism for preventing and combating torture and ill-treatment within the penitentiary system.

An important step in minimizing cases of torture and inhuman or degrading treatment was the transfer of juvenile pre-trial detainees, previously held together with adults, to a special center designed exclusively for juvenile detention. This measure prevented or reduced the potential formation of a criminal

subculture among juveniles who, while being in contact with adult detainees, could create and enhance criminal hierarchies and engage in activities contrary to the goals of imprisonment as punishment.

The authorities developed regulations aimed at simplifying the medical examination procedure for seriously ill prisoners. This regulation is necessary as a basis for release from serving a sentence or for substituting or canceling pre-trial detention. Previously, before the relevant European Court of Human Rights ruling (*Cosovan v. the Republic of Moldova*), release due to serious illness was not applied to individuals in pre-trial detention.

III. Issues in the Penal System of the Republic of Moldova

The penal system in the Republic of Moldova continues to face a staffing crisis, with 376 positions currently unfilled. Specific vacancies include 59 positions in Penitentiary No. 13, 18 in Penitentiary No. 16, 18 in Penitentiary No. 9, 28 in Penitentiary No. 4, and 21 in Penitentiary No. 15. The staffing crisis becomes particularly acute during nighttime shifts, with only five staff members on duty to guard nearly 800 prisoners in some facilities. This shortage of personnel can have significant consequences for prison safety. Firstly, understaffing can lead to overburdened staff who must manage a large number of inmates. This can undermine their ability to effectively control inmate behavior, increasing the risk of incidents, conflicts, and even escape attempts. Secondly, understaffing can impact the quality and proper implementation of rehabilitation and social reintegration programs. In a functional penal system, staff should provide support and oversee educational and vocational training programs. Without enough staff, these programs cannot be properly implemented, affecting the chances of successful reintegration of prisoners after release. Furthermore, understaffing can foster the development of a criminal subculture, allowing it to dominate among the whole inmate population. It is essential to ensure a sufficient number of qualified staff in the penal system to prevent torture and cruel or degrading treatment. Their absence can make it impossible to adequately respond to conflicts between inmates.

In 2023, the Promo-LEX Association conducted an evaluation of the largest correctional facility in Moldova, Prison No. 13 in Chisinau, to assess its compliance with international and domestic standards. The evaluation process included 175 detention sites, including regular inmate cells, the infirmary, disciplinary isolation cells, cells for inmates involved in managing domestic issues, and suspended cells. The monitoring team created an assessment sheet for each cell to compare existing parameters with international standards. The evaluation conducted by Promo-LEX is a key element in promoting fair criminal justice and compliance with Moldova's international obligations. The evaluation revealed that the number of inmates reached 750, exceeding the officially established national capacity of 570. After a thorough analysis, it was concluded that the facility could adequately accommodate only 377 inmates. This discrepancy indicates an overcrowding level of 98.9% relative to conditions recognized as internationally acceptable. Moreover, even in the context of current domestic standards, which establish an effective capacity of 479, the overcrowding level reaches 56.58%. This discrepancy underscores the urgent need for measures to change the conditions of detention.

IV. Cases of Violence in the Penal System

In 2023, a suspicious death occurred in Prison No. 9, prompting the deceased's relatives to contact the media to draw attention to the investigation. According to the relatives, the inmate frequently requested money transfers, which were extorted by other inmates. They claim this scheme has been operating for a long time without anyone's intervention. Inmates are intimidated and threatened, and their relatives, concerned for their loved ones, transfer the money, hoping these are isolated incidents that will not happen again. When the relatives failed to deliver the requested amount, the inmate was found dead in his cell. While authorities intended to record the incident as a suicide, the relatives firmly believe he was either driven to suicide or subjected to aggression. A criminal investigation is currently underway.

It is important to note that in Moldova, torture is used within the context of a criminal subculture, which is tolerated and goes unpunished by the authorities, with career criminals assuming the right to physically and verbally attack inmates, force them into gambling, or involve them in criminal activities. Urgent and decisive measures are needed to eliminate the criminal subculture, ensuring a safe, fair, and rehabilitation-oriented prison environment. Despite the Human Rights Ombudsman's Office receiving daily reports of incidents indicating inhumane treatment of inmates, only 112 investigations were initiated in the penal system in 2023. This reflects a systematic practice of cover-ups and underestimation of the issues, indicating indifference or unwillingness by the authorities to address the severity of the situation. The relatively small number of investigations compared to the daily reports obscures the scale of the problems in the penal system. The authorities, with their superficial and inconsistent approach, seem to view these incidents as isolated anomalies, ignoring the deeply rooted criminal subculture that significantly impacts inmates' safety and rights.

In practice, physical force and "special means" are more commonly used in cases of conflicts than "amicable settlements." There were 293 recorded cases of the use of special means and physical force. The use of excessive force and special means instead of dialogue and negotiation undermines the fundamental principles of respect for human dignity and personal autonomy. Moreover, imposing restrictions on inmates without proper oversight of the administration's actions can lead to abuse and ill-treatment. To build a functional penal system that aligns with international human rights standards, it is crucial to implement reforms aimed at promoting humane, fair, and equitable treatment of all individuals in government's custody. These measures should focus on preventing abuse and ensuring transparency and accountability in Moldova's penal institutions.

V. Inadequate Medical Care in Prisons as a Source of Acts of Torture, Cruel or Degrading Treatment

Moldova's penal system continues to face significant shortcomings in providing medical care to inmates. There is a lack of access to medical care through the National Medical Insurance Company and insufficient medical services, which together have led to violations of inmates' rights to treatment and health monitoring. A significant proportion of inmates suffer from chronic diseases and require complex medical care. In 2021, there were 16,498 registered sick inmates, in 2022 there were 15,321, and in 2023, 14,957. Additionally, due to the shortage of medical personnel and their qualifications in the penal institutions, preventive measures, screenings, and outpatient consultations are inadequate.

In 2022, 23 deaths were registered, and by September 1, 2023, 24 deaths were recorded in the Moldovan penal system.

One of the conditions hindering the development of medical care is that there are two parallel healthcare systems:

- the accredited civilian sector healthcare system (under the jurisdiction of the Ministry of Health of the Republic of Moldova);
- the penal sector healthcare system (under the jurisdiction of the Ministry of Justice of the Republic of Moldova).

The division between the medical systems reaches its peak during the accreditation process of infirmaries in the penal institutions, along with delays in annual evaluations, highlighting the need for specific and consistent measures to ensure compliance with appropriate standards in the provision of medical care. Accreditation should be a rigorous process, and annual evaluations must be conducted consistently to maintain and improve the quality of medical services.

It is crucial to address these structural issues and implement reforms aimed at ensuring proper and effective medical care within the penal environment. Transferring medical services to the Ministry of Health, strengthening the accreditation process, and ensuring continuous evaluation are critical steps to guarantee inmates' rights and appropriate treatment.

Another significant problem in providing medical care in the penal environment is the lack of independence of the medical personnel. They are often subordinated to the correctional institutions' management, which may undermine their freedom to make decisions regarding inmate treatment. This financial dependence and direct contractual relationship with the prison director may contribute to the concealment of cases of torture or ill-treatment.

VI. Inadequate Punishment for Torture and Cruel or Degrading Treatment

In 2023, 54 specialized prosecutors monitored the compliance with the prohibition of torture and cruel or degrading treatment. This number is insufficient compared to the current reality, which indicates a frequent occurrence of violence. It should be noted that the insufficient number of specialized prosecutors also affects the scope of prosecutorial activities. In 2023, the prosecution authorities registered only one case of torture, and even in this instance, the investigation was closed.

The neglect of torture cases leads to missed opportunities for law enforcement to conduct fair investigations and prevent the spread of this phenomenon.