



REFERENCE:GH/fup-131

15 April 2021

Excellency,

In my capacity as Special Rapporteur for Follow-up to Concluding Observations of the Human Rights Committee, I have the honour to refer to the follow-up to the recommendations contained in paragraphs 10, 24 and 28 of the concluding observations on the report submitted by the Republic of Moldova ([CCPR/C/MDA/CO/3](#)), adopted by the Committee at its 118th session in October 2016.

On 5 September 2018, the Committee received the reply of the State party. At its 131st session (1 - 26 March 2021), the Committee evaluated this information. The assessment of the Committee and the additional information requested from the State party are reflected in the Addendum 4 ([CCPR/C/131/2/Add.4](#)) to the Report on follow-up to concluding observations (see [CCPR/C/131/2](#)). I hereby include a copy of the Addendum 4 (advance unedited version).

The Committee considered that the recommendations selected for the follow-up procedure have not been fully implemented and decided to request additional information on their implementation. Given that the State party accepted the simplified reporting procedure (LOIPR), the requests for additional information will be included, as appropriate, in the list of issues prior to submission of the fourth periodic report of the State party.

The Committee looks forward to pursuing its constructive dialogue with the State party on the implementation of the Covenant.

Please accept, Excellency, the assurances of my highest consideration.

Marcia V.J. KRAN

Special Rapporteur for Follow-up to Concluding Observations
Human Rights Committee

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Report on follow-up to the concluding observations of the Human Rights Committee*

Addendum

Evaluation of the information on follow-up to the concluding observations on the Republic of Moldova

Concluding observations (118th session): [CCPR/C/MDA/CO/3](#), 31 October 2016

Follow-up paragraphs: 10, 24 and 28

Follow-up reply: [CCPR/C/MDA/CO/3/Add.1](#), received 5 September 2018

Committee's evaluation: Additional information required on paragraphs 10[A][B], 24 [B][C] and 28[B]

Paragraph 10: National human rights framework

The State party should:

- (a) **Adopt promptly a new national human rights action plan on the basis of consultations with all relevant stakeholders;**
- (b) **Allocate sufficient human and financial resources to ensure the effective implementation of the former and new plans;**
- (c) **Ensure that the implementation of the former and new plans is reviewed and evaluated regularly.**

Summary of State party's reply

(a) A new National Human Rights Action Plan for the period 2018–2022 was approved by Parliament on 24 May 2018. The Plan was drafted by a working group comprising members of civil society, foreign partners, donor organizations and representatives of the public authorities. The draft was based on recommendations from the universal periodic review and from the United Nations treaty bodies, as well as inputs from the Council of Europe, the Organization for Security and Cooperation in Europe and other international organizations. It also took into account the Sustainable Development Goals. The draft was subject to extensive public consultation, reviewed by the Council of Europe and examined by various Parliamentary standing committees.

A draft act to establish a national mechanism for coordination, monitoring and evaluation of the implementation of human rights policy documents is currently being promoted by the Ministry of Justice and is pending government examination. According to the draft, the coordination mechanism will include a national human rights council, local Council structures, and a permanent secretariat for human rights within the State Chancellery. The parliamentary decision approving the new National Human Rights Action Plan also outlined that the national human rights council will report annually to Parliament on the level of implementation of the Plan.

Committee's evaluation

[A] (a): The Committee welcomes the State party's adoption of the new National Human Rights Action Plan, in consultation with stakeholders, and requests additional information about the specific contents of the Plan.

[B] (b) and (c): The Committee welcomes the requirement in the relevant draft act for the national human rights council to report annually to Parliament on the implementation of the National Human Rights Action Plan. The Committee requests more specific

* Adopted by the Committee at its 131st session (1-26 March 2021).



information on: (i) the human and financial resources that have been made available to ensure the effective implementation of the Plan; (ii) the contents and legislative status of the draft act establishing a national monitoring mechanism; (iii) how Parliament monitors and evaluates the effective implementation of the Plan; and (iv) whether any other oversight mechanisms are in place. The Committee requests any available monitoring and evaluation data on the implementation of the Plan that is relevant to the reporting period.

Paragraph 24: Abuse and ill-treatment in residential institutions and psychiatric hospitals

The State party should take urgent action to:

(a) Revise its laws and practices on forced detention on the grounds of mental or intellectual disability, with a view to ensuring that detention is applied, if at all, as a measure of last resort and for the shortest appropriate period of time, and that the existence of a disability shall never in itself justify a deprivation of liberty;

(b) Promote psychiatric care aimed at preserving the dignity of patients, both adults and minors, and ensure that non-consensual use of psychiatric treatment is generally prohibited and applied, if at all, in exceptional cases as a measure of last resort where absolutely necessary for the benefit of the person concerned, provided that he or she is unable to give consent, for the shortest possible time and without any long-term impact;

(c) Protect persons with disabilities from further abuse and ill-treatment, including by adopting a comprehensive, effective and independent monitoring system in all residential institutions and psychiatric hospitals;

(d) Conduct prompt, impartial and thorough investigations into all allegations of abuse and ill-treatment by persons with disabilities, hold the perpetrators to account and provide effective remedies to victims;

(e) Ensure that women with disabilities are able to enjoy their right to sexual and reproductive health, including by repealing legislation that allows for the non-consensual termination of pregnancy.

Summary of State party's reply

(a) and (b) In 2017, 16 acts were amended to reform the legal status of adults and minors with disabilities and organize measures to protect them, including Law No. 1402 on mental health, which was amended to restrict cases where patients can be hospitalized for inpatient psychiatric treatment without their free consent. Moreover, in 2017, a working group was established to propose amendments to the Criminal Procedure Code for cases where the mental health status of an accused is questioned, and to define procedures for forced placement in psychiatric institutions. According to the draft amendments, forced placement can be applied only if there is a direct social danger or risk of serious injury to the person's health if they are not given psychiatric assistance; a medical or forensic finding (on mental health status) must be made not later than 12 hours from the moment of detention; and the total period of forced placement may not exceed 12 months, based on renewable orders of not more than 30 days at a time.

(c) For the purpose of preventing cases of violence and ill-treatment, video surveillance cameras have been installed in most social care institutions for several years.

(d) In November 2016, a framework regulation on the organization and functioning of psychoneurological institutions for adults with mental disabilities was approved. Pursuant to the regulation, all such institutions are required to provide protection to beneficiaries against violence, neglect and exploitation, and must have an efficient system for receiving, recording and settling complaints. For this purpose, all residential institutions have postboxes installed and special boxes for filing complaints. Many of the beneficiaries of residential social care institutions for adults also have access to mobile telephones that allow them to report any complaints.



(e) The National Programme on Sexual and Reproductive Health and Rights for the years 2018–2022 was approved in 2018. Furthermore, a health code, which includes a chapter on mental health, is currently being drafted. In 2017, 30 youth-friendly health centres were equipped with gynaecological equipment adapted to girls and women with locomotor disabilities to ensure their access to sexual and reproductive health services. In 2016/17, the “All Equal, All Healthy” project, designed to empower women and girls with disabilities in the Republic of Moldova to exercise their sexual and family reproductive rights, was implemented with the aim of raising awareness and empowering women and girls with disabilities to exercise these rights and make informed decisions about their own sexuality.

Committee’s evaluation

[B]: (a) and (b)

(a) The Committee welcomes the changes that have been made to the legal framework on forced detention on the grounds of mental or intellectual disability. Nevertheless, it requests further information about the specific details of the draft amendments to the Criminal Procedure Code, including the provisions that outline direct social danger and risk of serious injury to the person’s health as grounds for forced detention among those with mental or intellectual disabilities and whether such provisions only allow for such situations as a measure of last resort. It also requests information on how the State party ensures that forced detention on the grounds of mental or intellectual disability is for the shortest possible time, given the draft amendments allow for such situations to continue for up to 12 months.

(b) The Committee welcomes the formation of a working group to propose amendments to the Criminal Procedure Code and legal revisions, as discussed above. Nevertheless, it requests further information on the level of effectiveness of the implementation of the relevant legal provisions and on any broader steps being taken to promote psychiatric care that is based upon human dignity. The Committee also requests information about how the State party ensures that there are no long-term impacts from forced detention on the grounds of mental or intellectual disability.

[C]: (c), (d) and (e)

(c) The Committee regrets the lack of information on an independent monitoring system for residential institutions and psychiatric hospitals, and reiterates its recommendation. While noting the existence of video surveillance, the Committee requests information on additional measures taken to develop a more comprehensive and independent monitoring system.

(d) While noting the efforts to install mechanisms for individuals in residential institutions and psychiatric hospitals to make complaints, the Committee regrets the lack of information on investigations made into allegations of abuse and ill-treatment of persons with disabilities. It reiterates its recommendations and requests information on all allegations of abuse and ill-treatment of persons with disabilities within the reporting period, including the number of complaints, investigations and prosecutions, and the penalties awarded for such crimes and the reparations made to victims.

(e) The Committee regrets that the State party has not repealed the legislation allowing for non-consensual termination of pregnancy, and reiterates its recommendation. It requests further information on: (i) the measures included for women with disabilities in the National Programme on Sexual and Reproductive Health and Rights; (ii) the current status of the draft health code and what measures it includes to address the specific needs of women with disabilities; and (iii) the geographical coverage and substantive impact of the youth-friendly health centres and the “All Equal, All Healthy” project.

Paragraph 28: Conditions of detention

The State party should take concrete steps to improve conditions in prisons and detention facilities in line with the Covenant and the United Nations Standard



Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules). In that regard, the State party should consider not only the construction of new prison facilities, but also the wider application of alternative non-custodial sentences, such as electronic monitoring, parole and community service.

Summary of State party's reply

The State party acknowledges that penitentiaries in the State currently fulfil the objective of isolating detainees from society, and do not foster social change in behaviour or provide decent human rights standards for the inmates. Although the detention limit and capacity of detention facilities was revised in 2017, about half of total detainees are still detained in overcrowded conditions. In 2017, a range of capital works and repairs were carried out, including substantial work to improve detention conditions at Soroca prison, and construct new facilities. Additional capital investment projects have also been initiated.

Approximately 3.5 million Moldovan lei are allocated annually to cover medical services contracted by the Ministry of Health, Labour and Social Protection and the purchase of medicines, as well as other medical costs. In 2017, a total of 3,231,308 lei was spent on drugs that were distributed in the penitentiary institutions according to needs. The daily amount spent per inmate is 13.99 lei for food and 2.26 lei for health-care services. A mandatory radiological examination is carried out on all prisoners upon entry to the penitentiary system to identify inmates suffering from tuberculosis. 70 tuberculosis cases were registered in the penitentiary system in 2017, compared to 109 in 2016 and 99 in 2015.

During the last few years, the State party has been committed to intensively promoting alternative measures to detention, with a particular focus on community involvement in the social reintegration of detainees. Attention was paid to increasing the capacity of probation services to carry out psychosocial assessment and social reintegration and to prevent recidivism. Furthermore, a regulation on the electronic monitoring of persons convicted of offences was approved in 2016, and extended to preventive measures in 2017. The number of electronically monitored probation subjects has increased from an average of 10 people in 2017 to 66 during the first half of 2018.

Law No. 163/2017 humanized criminal penalties, and a new provision for conditional suspension of sentences has been introduced. This has allowed for better individualization of punishment, especially in cases of extraordinary mitigating circumstances. This tool is very useful in reducing rates of recidivism. The conditional release mechanism has been simplified, which has encouraged detainees to participate in activities aimed at reducing crime such as cognitive programmes. Early release can be adjusted to individual needs by applying additional conditions. As a result, the number of detainees released before term has increased from 420 persons in June 2017 to 502 in June 2018. Significant progress was made in the application of unpaid community work as an alternative measure to detention, or fines, for example, for drink driving offences. The number of people sentenced to unpaid community work increased from 701 in June 2017 to 1,052 in June 2018.

Committee's evaluation

[B]: The Committee welcomes the various steps taken by the State party to improve conditions in prisons and detention facilities. It requests further information on: (i) the substantial impact of current capital investment projects on levels of overcrowding during the reporting period; (ii) whether measures taken to address inter-prisoner violence have proved effective; (iii) whether the resources dedicated to the health of detainees are adequate to meet all needs and whether the resources mentioned have increased within the reporting period; and (iv) whether the measures taken to improve detention facilities have included an improvement in hygiene facilities.

The Committee welcomes notable steps taken to ensure wider application of alternative non-custodial sentences. It requires further information on the specific measures that have been implemented to increase the capacity of the probation services. It also requests additional information on the substantive impact that measures to increase non-custodial alternatives to detention, including increased electronic monitoring, community service work and suspended sentencing, have had on rates of detention and recidivism. Moreover,



it requests information on the specific provisions within Law No. 163/2017 that have revised the legal framework on the application of criminal penalties.

Recommended action: A letter should be sent informing the State party of the discontinuation of the follow-up procedure. The information requested should be addressed in the State party's next periodic report.

Next periodic report due: 2024 (country review in 2025, in accordance with the predictable review cycle. See www.ohchr.org/EN/HRBodies/CCPR/Pages/PredictableReviewCycle.aspx).
