REPUBLIC OF MOLDOVA

SUGGESTED LIST OF ISSUES RELATING TO THE LEGAL SAFEGUARDS FOR PERSONS IN DETENTION AND FOR VICTIMS OF DOMESTIC VIOLENCE

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The World Organisation Against Torture (OMCT) is the main global coalition of NGOs fighting torture and ill-treatment, with 200 members in more than 90 countries. Its international secretariat is based in Geneva, Switzerland.

Promo-LEX Association is a non-governmental organization that aims to advance democracy in the Republic of Moldova, including in the Transnistrian region, by promoting and defending human rights, monitoring the democratic processes, and strengthening civil society.

A. EXECUTIVE SUMMARY

1. Moldova ratified the Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment ("CAT") on December 28, 1995. As a State party to CAT, Moldova has an obligation to ensure that no person is subjected to torture or to cruel, inhuman or degrading treatment or punishment. This duty extends to prohibiting, preventing, investigating, and providing redress for torture and ill-treatment (Article 14). Moldova also has an obligation under CAT to prevent acts of torture in its territory (Article 2), prosecute cases (Article 7), and to ensure a prompt and impartial investigation of alleged acts of torture by competent authorities (Articles 12 and 14). This report addresses Moldova's compliance with CAT, addressing matters in the Committee against Torture's ("the Committee") 2017 Concluding Observations with regard to the respect of the right of detainees to request and receive a medical examination conducted in confidentiality by an independent doctor; the guarantees the adequate health care in the penitentiary system; the exceptional use of pretrial detention in accordance with international standards; the access to an independent and effective complaints mechanism regarding torture and ill-treatment by law enforcement officials; the effective and impartially investigation of Mr. Braguta's death;
2. Despite the Committee against Torture's Concluding Observations in 2017, calling for the Republic of Moldova to improve health care in penitentiary facilities and to transfer the responsibility for penitentiary medical units from the Department of Penitentiary Institutions to the Ministry of Health, Labour and Social Protection, one of the most serious problem in the penitentiary system has not been solved even today. Penitentiary no.16-Pruncul, which has the status of a hospital subordinated to the National Administration of Penitentiaries of the Ministry of Justice, until now does not have a health authorization and medical services are not accredited in accordance with national standards, and the provision of medical services in this institution are outside of the law. According to the 2018 SPACE Report, Moldova had the second-highest mortality rate per 100 000 inmates in the Europe. According to the Moldovan authorities, for 2019, the detainee's mortality was 36 cases, an increase of 19.44% compared to 2018 (29 cases).
3. With the spread of COVID-19 in the Republic of Moldova, the situation is particularly acute for women who are facing an increased risk of domestic violence. During this period, the number of calls increased by over 30%.
4. In light of these findings, this report concludes that the Republic of Moldova fails to uphold its obligations under the Convention Against Torture.

B. THE AREAS OF CONCERN

I. Republic of Moldova has failed to provide persons deprived of their liberty in the police isolators with all fundamental legal safeguards from the outset of their detention.

5. In its 2017 Concluding Observations, the Committee expressed concern about the fact that the detention registers are not kept up-to-date, and that information concerning the application and duration of special measures against persons deprived of their liberty, including during transport, is not consistently recorded (Concluding Observations Paragraph 8 (c); 9 (c)). The Committee recommended that the Republic of Moldova should ensure the right of detainees to have information concerning their detention, in line with the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment.
6. Despite the recommendation of the Committee, the problem of improper completion of detention registers still exists. As a result of visiting the police isolators ("PI") on 21 of December 2019, the Council for the Prevention of Torture (CpPT)[1]have reported that:
    * There were deletions in the register of apprehended people, the time of the actual apprehension/bringing at the inspectorate/of release/of escorting to the pretrial detention facility (if detained for 72 hours) was not always recorded.
    * This type of registers do not always contain information on where the persons was escorted to (in case of 72-hour detentions).
    * There is no separate Register on apprehended people in Riscani PI, these being recorded alongside visitors in the Visitors' Register. Therefore, there are reasonable doubts about the calculation and observance of the apprehension duration.
    * The Registers of Apprehended Persons and the Registers on the Use of Physical Force and Special Means are not being filled out correctly. The are no Registers on the Use of Physical Force and Special Means in some PIs.
    * There are no medical check-ups after having used special means. None of the PIs has the Register on incidents encountered by the police officers (upon apprehension/use of physical force/detention in the PI). The Registers on the Receipt and Filing of Complaints, Statements or Other Information on Allegations of Inhuman or Degrading Treatment are either not consistent, or completely missing in some IPs.[2]

    Suggested questions for the Government of Republic of Moldova:

    * *What measures were taken to address the violations and issues found by the Council for the Prevention of Torture and People's Advocate Office during the visits to police inspectorate in 2019 and 2020?*

II. Republic of Moldova did not assure the respect of the right of detainees to request and receive a medical examination conducted in confidentiality by an independent doctor within 24 hours of their arrival in a place of detention (Concluding Observations Paragraph 8 (b) and 9 (b)).

7. In its 2017 Concluding Observations, the Committee expressed concern about the fact that arrested persons do not always receive medical examinations promptly upon deprivation of liberty, with such examinations often not conducted until the second day after arrival in so-called police isolators, and that in some cases the examinations are carried out by paramedics and may amount only to asking the person about his or her state of health. In particular, the Committee recommended that the Republic of Moldova should ensure: the right of detainees to request and receive a medical examination conducted in confidentiality by an independent doctor within 24 hours of their arrival in a place of detention.[3]

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[1] The Council for the Prevention of Torture (CpPT) was established on 24 October 2016 in line with the Law No 52 of 2014 on the People's Advocate (Ombudsperson). The CpPT pursues the goal to protect people against torture and other punishments or cruel inhuman or degrading treatments, as national preventive mechanism against torture, in compliance with the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (UN OI5 CAT).

[2] Report on the Monitoring Visits to Police Inspectorates of the Chisinau Municipality Police Division on 21 December 2019 http://ombudsman.md/wp-content/uploads/2020/01/IP-DP-m.Chisinau.pdf

[3] Committee Against Torture, *Concluding observations on the sixth periodic report on Bulgaria, adopted by the Committee at its 1607th meeting* (15 December 2017), U.N. Doc.CAT/C/MDA/CO/3, p. 6

8. These problems continue to exist today. This is confirmed by the Special Report of Ombudsman about the *"situation of person apprehended and held in Police custody"*(2019).[4] The CpPT found the same issues on a monitoring visit on 21 December 2019. The CpPT found that still no medical check-ups are performed upon arrival and departure of apprehended persons after 5 p.m. and on days off. As such, of 717 persons who stayed in the pretrial detention facility (PDF) in 2020, only 597 underwent medical check-up upon arrival. The recommendation to ensure that all people coming in and leaving the pretrial detention facility are subject to medical check-ups continues to be unsatisfactorily implemented; medical check-up confidentiality is not observed. Police representatives continue to partake in the distribution of medicines to the apprehended persons, disregarding thus GPI Order 444 of 15 November 2019 Approving the Standard Operating Procedures on the Mechanism of Healthcare Support for Apprehended and Temporarily Detained Persons, as neither the healthcare staff, nor the PDF management were aware of it.
9. The visits made in June 2020[5], proved that the situation of detainees in Chisinau PDF worsened during the COVID-19 pandemic because of the fundamental safeguards mentioned in the previous CpPT reports of 2017, 2018, 2019 continuing to be violated:
    * as there is no healthcare staff on the premises after 5 p.m. and on weekends, medical check-ups are not made and necessary measures are thus not taken.
    * police officers continue to be the ones to distribute medicines.
    * no records are kept of the medicines received from relatives or brought at once by the apprehended person. Therefore, there are cases where the supply of vital medicines is interrupted, such as of medicines needed for the antiretroviral therapy.
    * The practice of establishing medical records for every detainee was not established, and the need of continuous treatment is neither recorded, nor monitored, despite previous recommendations made by the CpPT and despite the GPI Order No 444.[6]
10. During the monitoring visit, the CpPT also looked into the prevention of COVID-19 spreading in the PDF under the Chisinau Municipality Police Division, which resulted in alarming findings:
    * The detainees have no access to information on COVID-19, and no access to the necessary protection measures and consumables.
    * The PDF staff is not sufficiently trained on safety measures at the workplace during the COVID-19 pandemic, and no clear procedures are in place regarding the use of protection equipment and waste management.
    * Detainees' access to protection equipment and disinfectant is not ensured. The people apprehended/detained were not given masks, not even when there were more of them in a cell or when they left the cell/went to court. Some detainees wore their own masks which, being disposable items, were worn perfunctorily, not kept properly, used multiple times. People staying in the Chisinau PDF had no access to new masks (unless they had their own that they brought along)[7].

Suggested questions for the Government of Republic of Moldova:

* *What measures were taken to implement the recent recommendations (2019-2020) made by the Council for the Prevention of Torture and the Ombudsperson in their reports on healthcare in detention facilities?*
* *What measures were taken to develop standard institutional procedures to prevent and control COVID-19 among people staying in detention facilities, including prevention and awareness-raising measures in line with international standards?*

[4] http://ombudsman.md/wp-content/uploads/2019/09/Raport-Situatia-persoanelor-retinute-EN-Web-1.pdf

[5] http://ombudsman.md/wp-content/uploads/2020/06/Raportul-CPT-vizita-la-IDP-Chi%C8%99in%C4%83u-la-09.06.2020-1.pdf

[6] Standard Operating Procedures on the Mechanism of Healthcare Support for Apprehended and Temporarily Detained Persons, which details the process and conditions of healthcare support for apprehended and temporarily detained persons, meant to ensure that the fundametal right to health is observed, as well as that the mandatory medicines are supplied to the healthcare office of the PDF. http://politia.md/sites/default/files/raport_de_progres_sdp_in_anul_2019.pdf

[7] Report on the Monitoring Visit focused on the fundamental safeguards for apprehended persons during the COVID-19 pandemic, at the pretrial detention facility under the Chisinau Municipality Police Division, on 09 December 2020 http://ombudsman.md/wp-content/uploads/2020/06/Raportul-CPT-vizita-la-IDP-Chi%C8%99in%C4%83u-la-09.06.2020-1.pdf

III. Republic of Moldova fails to guarantee sufficient and adequate health care in the penitentiary system. The lack of independent medical staff in the penitentiary system is still a problem (Concluding Observations Paragraph 19)

11. In its 2017 Concluding Observations, the Committee expressed concern at reports that health care in penitentiary facilities is insufficient and that unqualified staff provide medical services to inmates. The Committee is also concerned at reports concerning particularly poor material conditions, the inadequate quality of medical services (Penitentiary No. 16), and at the fact that medical staff in the penitentiary system are not independent of the prison management. In particular, the Committee recommended that the Republic of Moldova should improve health care in penitentiary facilities.[8]
12. One of the most severe problems continues to be the way healthcare is set up in the penitentiary system, as it does not have the capacity to provide medical treatment and care, including diets, psychotherapy, rehabilitation and other types of special care needed in conditions comparable to those available in the community.[9]
13. On 22 and 23 July 2019, members of the Council for the Prevention of Torture, alongside healthcare experts, went on a two-day monitoring visit to the 'Pruncul' Penitentiary No 16 (penitentiary institution with hospital status, subordinated to the National Penitentiary Administration under the Ministry of Justice), as a result of which, one of the most comprehensive reports on healthcare in the penitentiary system was developed. [10] It was found that P16 does not have a sanitary authorisation at present, and that the healthcare services are not accredited in line with national standards. Therefore, healthcare services are provided in this institution outside the legal provisions in force. The healthcare staff in the penitentiary institution is subordinated to the Head of the penitentiary, meaning in a dual loyalty situation in making healthcare-related decisions. So, in making healthcare decisions, priority is given to the official/unofficial position of the penitentiary administration and not to patient's interest. The Head of Penitentiary No 16 is not a doctor, but a person without medical education and training in health facility management, who sees a person in the penitentiary hospital first as a detainee, not as a patient.
14. According to the 2019 Activity Report of the National Penitentiary Administration, the mortality among detainees is 36 cases, an increase of 19.44% compared to 2018 (29 cases).
15. Release of detainees due to health issues, under Ministry of Justice Order No 331 of 6 September 2006[11] does not take place efficiently. Because of this, detainees pass away in the time that it takes for their applications to be reviewed. The provisions of this order do not apply to severely ill pretrial detainees, which also leads to deaths among them. The Equality Council also looked into this issue (following a notification filed by Promo-LEX Association)[12], and it found differentiated treatment applied to pretrial detainees and to convicted prisoners with severe illnesses.
    * In the first 6 months of 2019, 17 people passed away in detention (of which 16 convicted and 1 pretrial detainee), and in 2018 – 28 people passed away (23 – convicted and 5 pretrial detainees). Of the total number of the deceased, 17.8% were pretrial detainees (2018), and 5.9% (6 months of 2019). Of the 6 pretrial detainees who passed away in the aforementioned period, 4 died in the criminal prosecution detention facility.[13]
16. The Ombudsperson found that the courts continue to issue arrest warrants despite the prohibition to put people with severe illnesses in pretrial detention (Article 176 of the CPC).[14]

    Suggested questions for the Government of Republic of Moldova:
    * *How many of the recommendations made by the Council for the Prevention of Torture in its Report on the Monitoring Visit to 'Pruncul' Penitentiary No 16 on 22 and 23 July 2019 were implemented?*[15]

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[8] Committee Against Torture*, Concluding observations on the sixth periodic report on Bulgaria, adopted by the Committee at its 1607th meeting* (15 December 2017), U.N. Doc.CAT/C/MDA/CO/3, p. 6

[9] http://ombudsman.md/wp-content/uploads/2020/02/Raport_OAP_Prevenirea_Torturii_2018.pdf
http://ombudsman.md/wp-content/uploads/2020/02/P-16-Pruncul.pdf

[11] https://www.legis.md/cautare/getResults?doc_id=38904&lang=ro

[12] https://promolex.md/13813-persoanele-arestate-preventiv-sunt-discriminate-in-realizarea-dreptului-sau-la-ingrijiri-medicale/?print=print&lang=ro

[13] http://ombudsman.md/wp-content/uploads/2020/02/P-16-Pruncul.pdf

[14] http://ombudsman.md/wp-content/uploads/2020/02/Raport_OAP_Prevenirea_Torturii_2018.pdf

[15] http://ombudsman.md/wp-content/uploads/2020/02/P-16-Pruncul.pdf

* *What measures were taken to implement the Decision of the Council on the Prevention and Elimination of Discrimination and Ensuring Equality (CPEDEE) of 10 October 2018, which recommended the Ministry of Justice to set up immediately a mechanism of release of severely ill people from pretrial detention?*[16]

IV. Republic of Moldova should ensure, in law and in practice, that every person has access to an independent and effective complaints mechanism regarding torture and ill-treatment by law enforcement officials that will investigate and respond promptly, and make this complaints mechanism publicly known (Concluding Observations Paragraph 14 (f)).

17. In its 2017 the Committee was gravely concerned at reports that most cases of torture and cruel, inhuman and degrading treatment in the context of criminal investigations are attributed to police officers and law enforcement personnel during the arrest and the preliminary investigation period, and that law enforcement personnel induce violence among inmates in order to punish or elicit cooperation from targeted detainees. The Committee was also concerned about the low rate of criminal investigations into allegations of torture and ill-treatment during pretrial detention under article 166 (1) of the Criminal Code, amounting to less than 20 per cent of cases, and the very low number of convictions of perpetrators.
18. Despite the periodic amendments to the regulatory framework, its practical enforcement does not progress, while the issue of reporting, notifying, investigating cases of ill-treatment of apprehended or detained people remains unresolved. Several national human rights institutions hold the same opinion. According to the 2019 Ombudsperson's Report[17] and to the 2018 Annual Report of the Ministry of Justice[18], there is no clear system to protect people denouncing acts of torture.
19. According to the Annual Report of the GPO, 635 notifications regarding Article 166[1](1), (2) (inhuman and degrading treatment), and 26 notifications regarding Article 166[1](3), (4) (torture) were filed in 2018. The GPO reported that the number of allegations of inhuman and degrading treatment increased by 66 cases compared to 2017. Of the total number of filed notifications, criminal prosecution was initiated in 78 cases under 166[1](1), (2) (inhuman and degrading treatment), and 2 cases under Article 166[1](3), (4) (torture). Only one criminal case related to acts of torture reached court, thanks to prosecutors' work.[19]
20. The Ombudsperon's Office also found issues with regards to *reporting torture injuries and allegations by detainees in penitentiaries.* According to the rationales laid down in Article 232(3) of the Enforcement Code, the doctor who performs the medical check-up has the obligation to write down in the medical records any signs of violence, cruel inhuman or degrading treatment or of other ill-treatment or violence/aggression, the statements of the prisoner on the matter, and to announce immediately the head of the penitentiary facility about it, who is to notify the prosecutor and the Ombudsperson or Children's Ombudsperson where juveniles are concerned. Also, according to Item 12 of the Order No 77/ 572/408/639-o/197/1589 Approving the *Regulation on the Procedure of Identification, Recording and Reporting of Torture, Inhuman and Degrading Treatment Allegations,* health staff have the obligation to make the prosecutor aware of complaints, statements or other information on alleged acts of torture inhuman and degrading treatment immediately and no later than 24 hours, regardless of whether they announced the head of the penitentiary facility or not.[20]

Suggested questions for the Government of Republic of Moldova:

* *What measures were taken to address the inconsistencies between the organic rule in Article 232(3) of the Enforcement Code and an institutional order, Order No 77/572, with regards to who is responsible of reporting instance of ill-treatment?*
* *What measures were taken to develop an efficient system to protect people denouncing torture? What deadline was set for this task?*

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[16] https://promolex.md/wp-content/uploads/2018/11/Decizia_Consiliu_discrimin_CosovanCauza129.18.pdf

[17] Report on the observance of human rights and freedoms in the Republic of Moldova in 2019 http://ombudsman.md/wp-content/uploads/2020/03/RAPORTUL2019-FINAL.pdf

[18] 2018 Annual Report of the Ministry of Justice http://www.justice.gov.md/public/files/directia_analiza_monitorizare_si_evaluare_a_politicilor/Raport_de_activitate_al_Ministerului_Justiiei_pentru_anul_2018.pdf

[19] 2018 Annual Report of the GPOhttp://www.procuratura.md/file/2019-03-05_Raportul%20Public%20activitatea%20Procuraturii%20Generale%20anul%202018.pdf

[20] MJ Order No 572 of 31 December 2013 Approving the Regulation on the Procedure of Identification, Recording and Reporting of Torture, Inhuman and Degrading Treatment Allegations https://www.legis.md/cautare/getResults?doc_id=38969&lang=ro

V. Republic of Moldova failed to investigate effectively and impartially Mr. Braguta's death, in order to prosecute the perpetrators (Concluding Observations Paragraph 14 (i)).

21. The Office of the General Prosecutor initiated three criminal cases:

* art. 166/1 al 4(torture which caused death) and art. 152 (medium body injuries) against three police officers and four detainees. The case was submitted to the Court. The case is examined in the Court. Because the case is complicated, at the request of victim's lawyers, additional medico-legal expertise have been ordered. The results of the complementary expertise were presented on 3 of May 2019. Due to the omission to provide clear answers to all the questions formulated by the parties, an additional request for clarification was filled to the medical experts. A court decision has not been issued.
* Art. 166/1 al. 4 and art. 166/2 against 13 police officers, General Police Detention Center – The case was submitted to the Court; The case is examined in the Court. Due to the behaviour of the accused police officers and their lawyer, the examination of the case is slow (more than 40 court hearings have been organized on the case) A Court decision has not been issued.
* Art. 213 (Violation by Negligence of Medical Assistance Rules and Methods) against 15 medical workers – The case was submitted to the Court; The case is examined in the Court. A Court decision has not been issued. 2 cases are still examined in the Courts of the first instance and one in the appellate court (in this case, 2 judges (out of 3) of the Court of first instance, said in that in the case of Mr. Braguta it was not torture). One judge, submitted a separate opinion on the case.
* Two disciplinary procedures were initiated concerning the prosecutor who requested the arrest and the judge who applied the arrest. The prosecutor and the judge were fired. They contested the decisions in the national Courts and the Constitutional Court. The National Courts and the Constitutional Court dismissed their requests.
* Two disciplinary procedures were initiated in respect to the lawyer who provided free legal aid and the lawyer contracted by the family, based on the quality of the legal services provided by them. One lawyer was fired. He contested the decision of the Disciplinary Commission of the bar in the national Court. In April, the Court of appeal annulled the decision of the Disciplinary Commission, and he was re-established in the legal profession.

22. The above case – and similar cases of the same nature – point at the following severe issues within the police custody and justice system which have not been properly addressed until now:
    * A deep vulnerability of the police custody facilities to cases of unreported torture and ill-treatment;
    * Total inability and lack of protocols in dealing with people with mental health issues / mental disabilities getting into police custody;
    * Inciting violence among inmates by police officers to achieve desired outcomes of "punishing" targeted detainees or of obtaining "cooperation" from the targeted detainees – this approach seems to come as a more sophisticated way of inducing violence/torture towards targeted detainees without directly applying it by police;
    * Inadequate mental health services;
    * Negligence in referral to specialist medical treatment;
    * Lack of training of police staff, prosecutors, judges, prison staff regarding the methods of interaction with persons with mental disabilities;
    * The existence of parallel medical systems (Prison hospital no. 16 is not accredited by the Ministry of Heath as a medical institution);
    * Failure of healthcare staff from police custody institutions to report torture/ill-treatment cases and provide necessary healthcare to detainees;
    * Failure of the staff of the prisons and preventive detention facilities to report torture/ill-treatment cases and provide essential healthcare to detainees;
    * Failure of the torture reporting mechanism established by the Joint Order in 2013 to serve its purpose, as no one – neither police officers, nor healthcare staff who witnessed Mr. Braguta's condition and injuries, nor anybody else who saw Mr. Braguta during almost 10 days – reported this clear case of alleged ill-treatment to the Anti-Torture Section at the General Prosecutor's Office.

Suggested questions for the Government of Republic of Moldova:

* *Have been the perpetrators in the Braguta case prosecuted?*
* *Did the Government address the systemic problems which led to torture and death of Mr. Braguta?*

VI. Republic of Moldova fails to solve the problem of overcrowding, inadequate material conditions in all pretrial detention facilities ((Concluding Observation Paragraph 11 (c), 17, 18).

23. Currently, the prison system consists of the Department of Penitentiary Institutions, 19 prisons, including two prisons with suspended activity, 4 specialized institutions (Guard, Surveillance and Escort Troops Division, Training Center, Special Intervention Team, Center for Technical and Material Supply) and nine state enterprises of the penitentiary system[21].
24. According to the situation as of April 1 2020, the detention ceiling was of 6,735 places. As of this date, the penitentiary institutions held 6632[22], persons, compared to 7115 persons on January 1, 2019[23].
25. Despite all the efforts to humanize the criminal legislation regarding the decrease in sentences, the rate of the population imprisoned in the Republic of Moldova in 2019 constituted 197 prisoners to 100,000 inhabitants, which significantly exceeds the European average, by about 140 prisoners.
26. Also, in the context of COVID 19 Pandemic, it should be mentioned that the medical prison system is not capable of providing medical assistance in the severe forms of COVID (Prison nr. 16 Hospital is equipped with just one old generation ventilator and according to the information provided by the medical staff of the prison, the ventilator is broken). Also, no medical protocols of interaction were elaborated to collaborate in case of COVID 19 cases with the civilian medical system. In other words, Moldova is obviously unprepared to handle an outbreak of COVID-19 in prison.
27. In this regard, it should be noted that the prison system is particularly vulnerable to the epidemic. On 23 March, WHO/Europe office warned in its interim guidance that "*people deprived of their liberty (…) are likely to be more vulnerable to the coronavirus disease (COVID-19) outbreak than the general population because of the confined conditions in which they live together for prolonged periods of time. Moreover, experience shows that prisons, jails and similar settings where people are gathered in close proximity may act as a source of infection, amplification and spread of infectious diseases within and beyond prisons"*[24]. It therefore stressed that "*the risk of rapidly increasing transmission of the disease within prisons or other places of detention is likely to have an amplifying effect on the epidemic, swiftly multiplying the number of people affected*". In other words, "*efforts to control COVID-19 in the community are likely to fail if strong (…) measures are not carried out in prisons as well*"[25].
28. In view of the very poor state of health of a significant part of the prison population, such an outbreak would be likely to overburden the penitentiary health system. Beyond the system's capacity to manage COVID-19 patients, it is the care of pathologies usually encountered in prison that is threatened in the context of the pandemic.
29. There is a strong consensus among the relevant bodies of international organizations[26] that a significant reduction in the prison population is the only way to ensure an adequate level of prevention of COVID-19 in detention. From this point of view, unlike other states, the Moldovan authorities have not taken urgent measures to reduce the number of detainees.

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[21] Information provided by the National Prison Administration, available here: http://www.anp.gov.md/

[22] https://drive.google.com/file/d/1dAzhP28gZ0cZl5xRx_fdM4dqvK0YMAdP/view

[23], Statistic information available here: https://drive.google.com/file/d/12j_EeNysZpIUF7vDiA6RG9eu5uSqB7XG/view

[24] WHO/Europe, *Interim guidance on Preparedness, prevention and control of COVID-19 in prisons and other places of detention,* published on 23 March 2020.

[25] Ibid.

[26] Council of Europe's Committee for the Prevention of Torture (CPT), Statement of principles relating to the treatment of persons deprived of their liberty in the context of the coronavirus disease (COVID-19) pandemic, 20 March 2020; UNAIDS, *Rights in the time of COVID-19 — Lessons from HIV for an effective, community-led response*, published on 20 March 2020 UN Human Rights Office and WHO, interim guidance paper - *COVID 19: Focus on persons deprived of their liberty*, 27 March 2020; UN Subcommittee on Prevention of Torture (SPT), *Advice to States Parties and National Preventive Mechanisms relating to the Coronavirus Pandemic, adopted on 25 March 2020 ; UNODOC, Position paper: COVID-19 preparedness and responses in prisons, published on 31 March 2020;* CoE Commissioner for Human Rights*, COVID-19 pandemic: urgent steps are needed to protect the rights of prisoners in Europe,* 6 April 2020.

Suggested questions for the Government of Republic of Moldova:

* *What actions have been undertaken by the Government in order to solve the problem of overcrowding, inadequate material conditions in all pretrial detention facilities?*
* *Is the medical prison system capable of providing medical assistance in the severe forms of COVID 19?*

VII. Domestic Violence (Concluding Observations Paragraph 23 and 24)

30. During its review of Republic of Moldova in 2017, the Committee expressed concern about the failing of the Republic of Moldova to implement *Recommendation 24 (c)* of the Committee to ensure that victims of domestic violence benefit from protection, including protection orders, by enforcing such orders promptly and effectively.

Inconsistent enforcement of emergency protective orders

31. On 15 March 2017, the national domestic violence protection mechanism was supplemented with the establishment, by police, of an emergency protective order that forces the perpetrators to leave home and not come close to the victim for up to 10 days. The emergency protective order is issued on the basis of findings following the filling out of a risk identification and assessment questionnaire. Practice shows, though, that police officers do not always have this questionnaire filled out, which is why emergency protective orders are not issued, leaving thus the victims unprotected.

Suggested questions for the Government of Republic of Moldova:

* *What did the government undertake to ensure that police officers perform risk assessments in all notified cases of domestic violence?*

Violation of the issuance deadline and enforcement of the protective orders

32. Most of the times, when the application for protective order for domestic violence victims is recorded on Friday, the court does not observe the 24 hours term for case examination and sets a court hearing for Monday. However, the law provides that the protective order is to be provided immediately with the police being in charge of overseeing its enforcement. However, if the police officer does not attend the court hearing, the copy of the protective order is sent by post or courier, which means that the victim is exposed to danger for a few days.

Suggested questions for the Government of Republic of Moldova:

* *What did the government undertake to ensure that the protective order issuance term is not violated and that they are enforced immediately?*

Inadequate free state-guaranteed legal aid to victims of violence

33. Law No 45 provides for the right of domestic violence victims to free primary and qualified legal aid. Qualified legal aid may be requested by victims of domestic violence, regardless of their income, at any stage of the criminal proceedings, and prior to the initiation of the proceedings in civil cases. The Report on monitoring court proceedings in cases of domestic violence[27] shows that in about 20% of civil cases on the application of protective measures subjected to monitoring, domestic violence victims were not offered state-guaranteed legal aid. In some cases, ex officio lawyers were requested but they did not show up, or if they showed up, they asked to postpone the hearing because they had to participate in other lawsuits. At the same time, in around 55% of cases with appointed lawyers, their performance was inappropriate. In criminal cases on domestic violence, most of defendants availed of legal assistance, while only 7% of victims had access to legal aid.

Suggested questions for the Government of Republic of Moldova:

* *What did the government undertake to ensure that domestic violence victims have access to quality state-guaranteed legal aid?*

Underfunded shelters for victims

34. According to a Report on costing of domestic violence and violence against women in Moldova[28] more than 60% of costs of services provided to victims of domestic violence and violence against women are covered by civil society organisations that offer specialised assistance tailored to the victim's needs[29]. The NGO sector oversees

[27] http://cdf.md/files/resources/135/CDF_Monitorizare_web_EN%20(1).pdf

[28] http://cdf.md/files/resources/114/Raport%20UN%20-%20EN.pdf

[29] According to data of the National Coalition "Life without violence" there are 10 NGOs working with victims of gender based and sexual violence (day-care centre Stimul, day-care centre Honour and Rights of Women, day-care center Women's Law Center, day-care centre and hot line La Strada, day-care centre Memoria, day-care centre Promo-LEX, national shelter Casa Marioarei, two day-care centres in Gagauzia and one

the legal counselling, representation, emergency hotline service, psychological counselling and shelter, and capacity building of front-line professionals. Other service providers, public institutions, maternal centres, provide services to women in a vulnerable situation and their children, not necessarily victims of violence against women[30].

Suggested questions for the Government of Republic of Moldova:

* *What did the government undertake to ensure the funding of services that domestic violence victims need?*

35. Republic of Moldova failed to implement *Recommendation 24 (f):* to compile statistical data, disaggregated by age and ethnicity of the victims and their relationship to the perpetrator, regarding domestic and other forms of gender-based violence, including marital rape, as well as on the number of complaints, investigations, prosecutions, convictions of perpetrators and sentences handed down.

Domestic Violence During the COVID-19 Pandemic

36. COVID-19 is a severe public health threat at the global level. To decrease the risks of mass contamination, a state of emergency was declared in the Republic of Moldova, based on a Parliamentary decision[31] for the period between 17 March and 15 May 2020. Later, a state of public health emergency was declared in the country, from 16 May to 15 July 2020. On 26 June 2020, the Extraordinary National Commission for Public Health decided to extend the state of public health emergency on the whole territory of the Republic of Moldova until 15 July 2020, with the possibility to extend it again depending on the evolution of the epidemiological situation[32].
37. The situation of women living with violent partners or relatives has worsened during the pandemic period, both globally and nationally. Due to the containment, many victims of domestic violence were, and still are in a difficult situation. They had to stay in isolation together with the perpetrators, without any possibility to seek help. Since the establishment of the state of emergency due to COVID-19 and until 31 May 2020, a total of 390 calls were made to the Women and Girls' Trust Line, of which 247 calls referred to domestic violence. The number of calls increased by more than 30%. Calls from urban area, including Chisinau municipality, exceed by 35% the number of calls from the rural area. Before the difference was about 6%[33].
38. At the same time, according to official data of the General Police Inspectorate, 5157 (self-)notifications of domestic violence were made during the first 5 months of 2020, compared with 5032 - made during the similar period of 2019. According to the same source, during the same period: 1898 emergency restraining orders were issued (compared with 1738 in 2019) and 248 protection orders were supervised (compared with 243 in 2019). During the emergency period, placement shelters for victims of domestic violence did not offer placement to any new beneficiaries in order to avoid the risk of infecting with COVID-19 the already placed victims and the members of staff. The Government did not take any measures to provide placement to victims, leaving it to NGOs to find solutions. However, though the police and courts established protection measures for victims of violence, the cases of violence were not solved by the local multi-disciplinary teams.

Suggested questions for the Government of Republic of Moldova:

* *What did the government undertake to ensure the temporary placement of women and children victims of domestic violence during the COVID-19 pandemic? What did the government undertake to ensure that the local multi-disciplinary teams are operational during the COVID-19 pandemic?*

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rehabilitation shelter for victims of domestic violence from Drochia, funded from the state budget and an assistance centre for victims funded from the state budget directly.

[30] Maternal centers from Hincesti, Cahul, Causeni, Balti, Anenii Noi, Drochia provide services to a large group of women and their children in vulnerable situation and potential victims and are funded from the state budget through local public authorities.

[31] *Parliament Decision No 55 of 17.03.2020* ***declaring the State of Emergency****, published in the Official Gazette No 86 Article 96 on 17.03.2020;*

[32] Press release published on the website of the Ministry of Health, Labour and Social Protection, available on https://msmps.gov.md/comunicare/stare-de-urgenta-in-sanatate-publica-este-prelungita-pana-la-15-iulie-2020/ accessed on 03.07.2020.

[33] https://agora.md/stiri/72463/la-strada-In-izolare-femeile-au-suportat-forme-grave-de-violenta-psihologica-in-familie