

COMMUNICATION

in accordance with Rule 9.2 of the Rules of the Committee of Ministers for the supervision of the execution of judgments and the terms of friendly settlements

Group of cases: I.D. v. the Republic of Moldova (no. 47203/06)

Submitted on: April 27, 2021

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About the group of cases

1. This group of cases concerns violations of Articles 3 and 13 of the Convention for the Protection of Human Rights and Fundamental Freedoms on account of poor material conditions of detention in establishments under the authority of the Ministries of Internal Affairs and Justice and the lack of access to adequate medical care (including specialized medical treatment) in these facilities and the detention facility of the National Anticorruption Centre, together with the absence of effective domestic remedies in both respects.
2. The European Court for Human Rights indicated under Article 46 that the authorities should, without delay, put in place an effective preventive and compensatory remedy, or a combination of remedies, in respect of inadequate conditions of detention.
3. Other violations found by the Court concern repeated force-feeding of the applicant (Article 3); censorship by the prison authorities of the applicants' correspondence, failure to ensure acceptable conditions for meetings with family members, lack of reasonable clarity as to the scope and manner of the exercise of discretion by the prison authorities as regards the authorization of family visits (Article 8); failure to comply, promptly, with the Court's indications under its Rule 39 to keep the applicant in a specialized medical institution (Article 34).

The decision of the of CM on the I.D. group v. the Republic of Moldova (Application No. 47203/06)

4. On 1377th meeting, 4 June 2020 (DH), as regards to General Measures, CM:
 - noted with interest the detailed information provided by the authorities and underlined the importance of ensuring that domestic remedies comply with the Convention requirements;
 - invited the authorities to complete the revision of the system of reduction of sentences as a compensatory remedy without delay, strongly encouraged them to closely cooperate with the Secretariat in this reform process and to keep the Committee of Ministers informed of all developments in a timely manner;
 - pending that revision process urged the authorities to take all necessary measures to avoid an influx of new manifestly well-founded applications to the European Court and stressed, in this context, that the amounts of monetary compensation awarded at domestic level must not be unreasonably low in comparison with the awards made by the European Court;
 - invited further the authorities to ensure that the three-month statutory time-limit for examination of detainees' complaints is complied with;
5. Recalling that combating overcrowding and improving material conditions of detention are vital also to ensure a proper functioning of the domestic remedies, strongly encouraged the authorities to maintain their efforts to achieve further progress in these areas;
6. Invited the authorities to provide, by 31 March 2021, information also on the following issues:
 - application in practice of the preventive remedy;
 - alternative measures to ease poor conditions of detention;
 - measures taken to further improve medical care in detention facilities;
 - practice of the investigating bodies and courts when examining requests by remand detainees for family visits;
7. As regards the violations of Article 8 on account of censorship of correspondence and of Article 34 on account of failure to comply, in a timely manner, with the Court's indications

under Rule 39, considered that the general measures taken appear capable of preventing similar violations and therefore closed the supervision of these aspects;

8. Decided to resume their examination of these cases at one of their Human Rights meetings in 2021.

The object of the submission

9. By this submission, we would like to stress the attention of the Committee about general measures indicated by the Committee such as:
 - application in practice of the preventive remedy;
 - alternative measures to ease poor conditions of detention;
 - measures taken to further improve medical care in detention facilities;
10. The undersigned association would like to pay special attention to the application of the national legislation introducing preventive and compensatory remedies to challenge conditions of detention medical assistance in penitentiaries, and lack of medical assistance in the national prisons.

ABOUT PROMO-LEX

11. Promo-LEX Association¹ is a non-governmental, not-for-profit and politically independent human rights and advocacy organization established in 2002 and registered with the Ministry of Justice of the Republic of Moldova on July 19, 2002.
12. Promo-LEX's Mission is to advance democracy in the Republic of Moldova through promoting and defending human rights and strengthening civil society. Promo-LEX does its work through two Programs: Human Rights Program and Monitoring Democratic Processes Program.

GENERAL MEASURES: DOMESTIC REMEDY TO CHALLENGE POOR CONDITIONS OF DETENTION

Introduction of the prevention and compensatory mechanism in the Republic of Moldova

13. As a result of the [Shishanov v. Moldova](#) judgment (11353/06, September 15 2015, §188), the Parliament of the Republic of Moldova adopted two laws (Nos 163² and 272³), adopting, among others, a remedy for complaints about detention conditions. These two laws were published on October 20, 2017 and December 12, 2018 respectively, and the provisions as to the new compensatory remedy entered into force on January 1, 2019.
14. According to the new remedy, a) the procedure is administered by a judge who should provide the necessary guarantees of independence and impartiality and all the other guarantees associated with judicial proceeding; b) the burden of proof on the detainee should not be excessive; the judge was required, in order to assess the conditions of detention, to take account of the principles laid down by the Court; c) the judge is allowed to examine the case in a three-month time limit, and the judges had to ensure strict adherence to this term and, where circumstances demanded a special analysis, they had to examine a case even in a shorter timeframe (see [Atanasov and Apostolov v. Bulgaria](#) (dec.), 65540/16 and 22368/17, June 27, 2017, Note 209).
15. We reiterate that, as to the *preventive aspect* of the remedy, the judge could have the remedy of the situation for the Prison institution for 15 days; after this period, the Prison service had to inform the judge of the concrete measures taken.
16. As to the *compensatory aspect* of the remedy, the new provisions could be summarized as follows: For offenders, the forms of compensation were: (i) reduction of punishment, based on a day-to-day exemption for ten days of imprisonment under precarious conditions; (ii) where such remedy did not provide sufficient compensation or where detention under such

¹www.promolex.md

² [Law no. 163](#), of 20-07-2017

³ [Law no. 272](#), of 29-11-2018

conditions lasted less than ten days, a pecuniary compensation of up to 100 Moldovan lei (approximately EUR 5.00 as to January 1 2021) for each day detention in precarious conditions should be provided.

Main concerns

17. Promo-LEX acknowledged the statistical data presented by the Government.
18. However, in the previous communication of the Promo-LEX submitted in accordance with Rule 9.2 of the Rules of the Committee of Ministers, Promo-LEX raised several concerns in relation to the new compensatory mechanism, which are related to:
 - *The capacity of the investigative judges to apply the new preventive and compensatory remedy;*
 - *Risks of misinterpretation of the provisions of laws Nos 163 and 272;*
 - *A Non-uniform interpretation concerning the pecuniary compensations;*
19. Based on the information collected by Promo-LEX organization from June 2020 to March 2021, we will refer to the the main concerns in relation to the national judicial practice on the application of the prevention and compensatory mechanism.

The actual judicial practice on the application of the new preventive and compensatory remedy is not efficient in relation to the examination of the cases in the terms provided by law, improvement of the detention conditions in a term of 15 days, the amount of the pecuniary compensation and the possibility to recover the material damage and cost of the legal services
20. The Government referred that the length of examination of requests challenging alleged poor conditions of detention differs and depends on the workload of first-instance courts. While the vast majority of courts abide by the legal term of three months for the examination of such requests, it can sometimes - in exceptional circumstances - take the national courts to examine this type of cases between 4 and 6 months, e.g. for the courts of law with jurisdiction over several prisons. However, the Government didn't include a specific statistic in this respect.
21. As we indicated in the previous submissions, the workload of the investigative judges has increased insignificantly in the past years, in computation with other judges, part of the national judiciary system. The workload of the investigative judges varies significantly across the system. We agree that the 3 months term provided by law is respected in the vast majority of the national Courts, but not in the Chisinau and Balti Courts.⁴). The workload is more prominent for the investigative judges from Chisinau and Balti (up to 5000 cases and materials examined by a judge, without the cases provided by the new preventive and compensatory remedy). In these circumstances, should also be considerate that in under the competence of the Chisinau judges are the Prison nr. 13, as well other four prisons).
22. During the monitoring period, Promo-LEX assisted and provided direct and indirect representation in 13 cases related to the application of the compensatory mechanism. In this respect, out of the total number final decisions were issued just in 2 out of the total number of cases, despite according to the legislation, the investigative judges have to examine the cases in a period not less than three months. In the rest of the 11 cases, the court examinations proceedings are still pending in the front of the investigative judges (in 5 out of 10, applications submitted in May 2019 are still pending). According to Promo-LEX data, the 90 % of the Court hearings were postponed because the legal representatives of the prisons in the Court did not provide the Prison Report on the conditions of detentions, which is not mandatory for the examination and due to the COVID 10 crisis (for 2020 – 2021 Court hearings). However, in practice, the Investigative Judges refused to continue the case examination if the prison administration did not provide the report.
23. The findings mentioned above reconfirmed our concerns mentioned in the last communication on the ID group of cases, related to the observance of 3 months' term

⁴ Report of the National Agency for Court Administration, for 2018, available here: <https://aaij.justice.md/en-tech/report-type/rapoarte-statistic>

provided by law. Based on the real workload on the investigative judges, especially in Chisinau and Balti, the terms of examination (3 months) provided by the new preventive and compensatory remedy were not respected in the majority of cases.

24. Another concern mentioned in the previous report was related to the capacity of the prison administration to improve the conditions of detention of a detainee in a period of 15 days. The practice showed, even the detainees used the compensatory mechanism, the national prison administrations, as well the administration of the prisons did not improve the conditions of detentions of the prisoners, in any of the possible aspects or standards provided by the CPT. The Government didn't refer to the implementation of these important legal provisions in the revised action report.
25. As to the pecuniary compensation, according to the new mechanism, a pecuniary compensation of up to 100 Moldovan lei (approximately EUR 5.00 as to January 1 2021) for each day of detention in precarious conditions should be provided. Out of the total number assisted by Promo-LEX, in 7 cases the national Courts granted just 50 Moldovan lei (approximately EUR 2,55) for each day of detention in poor condition of detention and in one case, the investigative judge recommended to the applicant to file a civil action
26. As to the material damage, in two cases where Promo-LEX asked for the material damage and the compensation of the legal assistance, the Court refused the request on this side and granted just the moral damage to the detainees.
27. In this respect, according to the ECtHR practice, the amount of moral damage granted depends on the seriousness of the violation of the ECHR and the effect of this violation on the applicant, but also other circumstances (e.g. age and health the applicant, the stake for the applicant, etc.). When establishing the amount of moral damage, the ECtHR takes into account the level of living (income) of the State concerned.
28. It is necessary to mention that, the ECtHR asks for moral damages awarded at the national level for the violation of the ECHR to be comparable to those granted by the ECtHR in similar cases (*see Ciorap no. 2 c. Moldova, 2010*).
29. However, the compensation provided by law and decided by the national Courts in the cases of poor conditions of detention does not correspond to the principles mentioned above established by the ECtHR, to the reference to the Moldavian cases also. As a consequence of the above mentioned, the detainees using the mechanism may be further considered as having the status of victims of the violation of art. 3 of the ECHR.

GENERAL MEASURES: OVERCROWDING IN THE PRISON ESTABLISHMENTS

Current situation

30. Currently, the prison system consists of the National Prison Administration, 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 system⁵.
31. According to the situation as of April 1 2021, the detention ceiling was of 6,735 places. As of this date, the penitentiary institutions held 6443⁶, persons, compared to 6632 persons at the situation of January 1, 2020⁷.
32. 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 166,5 prisoners to 100,000 inhabitants⁸, which largely exceeds the European average, by about 63 prisoners to 100,000 inhabitants.

⁵ Information provided by the National Prison Administration, available here: <http://www.anp.gov.md/>

⁶ <https://drive.google.com/file/d/1-0XbNOGmdy3CAqXzUFbUXOEaGWC6aPh6/view>

⁷, Statistic information available here:

https://drive.google.com/file/d/12j_EeNysZplUF7vDiA6RG9eu5uSqB7XG/view

⁸ SPACE report

33. The implementation of the preventive and compensatory mechanism, in correlation with lack of the specific policies and visions in relation to the implementation of the alternatives to incarceration and well, systemic reform of the penal policy, showed that the preventive and compensatory mechanism had a limited impact to the systemic problem of overcrowding in the Moldavian prisons.
34. The obsolete infrastructure unadapted to the system of cells does not allow to separate prisoners in small sectors, and the insufficient number of custodial staff, lead to continued violence and subculture in penitentiaries. The European Committee for the Prevention of Torture (CPT) criticized the phenomenon of bullying and ill-treatment of some categories of prisoners intensively. In addition, the unofficial hierarchy, ruled by its own rules and its interaction with criminal groups outside the penitentiary system threatens the safety of the entire society.
35. Overcrowding is caused by the fact that the national legislation does not provide for alternative means of punishment Alternatives to imprisonment proved to be much more efficient for the offenders with a medium to low risk. In most of the European countries, various forms of execution of sentence are implemented, such as the execution of the full or partial term in the open penitentiaries, in treatment centres, at home with or without the electronic monitoring and in the community under special conditions. Besides the long period of imprisonments, the overcrowding is caused by the reduced number of conditionally released persons.
36. At to the infrastructure of the national prisons, it didn't improve substantially during the reporting period, except the capital modernization of some Leova and Balti prison facilities, as it was mentioned by the Government. Also, no substantial refurbishment had reportedly been carried out in the establishment for decades, and the prison as a whole had a decrepit and run-down appearance. The general conditions of detention in the establishment could well be characterized as degrading. The vast majority of the prisoners stay in very cramped conditions in large-capacity dormitories, which inevitably meant a lack of privacy for inmates in their everyday lives. Usually, in national prisons, a few bigger dormitories comprised separate multi-occupancy rooms (some of which had no door), while most of them were simply divided into small living areas in a makeshift manner (usually by blankets or garment sheets). It is evident that most of the prisoners do not enjoy sufficient leaving space, and in some units space provided was far below the established standard of 4 m2 per inmate.
37. According to the CPT report⁹, to the Government of the Republic of Moldova on the visit to the Republic of Moldova carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 28 January to 7 February 2020, the problem of inter-prisoner violence and intimidation among the adult male inmate population remained as acute as ever and was, as in the past, largely linked to the well-established informal hierarchies in the country's prison system. Although inmates were regularly found with injuries indicative of inter-prisoner violence, these cases remained unreported, due to the climate of fear and intimidation by inmates at the top of the informal prison hierarchy, as well as a general lack of trust in the staff's ability to guarantee prisoner safety. In the CPT's view, the continuing failure of Moldovan authorities to ensure a safe and secure environment for prisoners is directly linked to a number of factors, notably the chronic shortage of custodial staff, reliance on informal prisoner leaders to keep control over the inmate population and the existence of large-capacity dormitories. At the same time, there is no proper risk and needs assessment of prisoners upon admission, nor a classification of inmates to identify in which prison, block or cell prisoners should be placed. As regards more particularly prisoners considered to be "untouchable" by the informal hierarchy, they continued to live in a state of constant fear and humiliation. As already stressed in the past,

⁹ <https://rm.coe.int/16809f8fa8>

the CPT considers that their situation could be considered to constitute a continuing violation of Article 3 of the European Convention on Human Rights.

38. According to the same report, despite some improvements to the material conditions at Chişinău Prison, overall, the conditions of detention in the establishment remained unsatisfactory, including in terms of state of repair, hygiene, ventilation and access to natural light, as well as overcrowding in some cells. On a more positive note, material conditions at Cahul and Taraclia prisons were on the whole satisfactory. However, in all three prisons, the delegation came across cases of uneven distribution of inmates between cells; indeed, this was an indicator of a strong informal prison hierarchy at the establishments visited. The CPT recommends, inter alia, that inmates be evenly distributed in cells, the objective being to offer at least 4 m² of living space per prisoner in multiple-occupancy cells.
39. According to the last reports of the National Preventive Mechanism and the Ombudsman office, in prison nr. 13, it remained the case that many cells were in a poor state of repair and hygiene and had insufficient ventilation, in addition to being severely overcrowded (the living space per prisoner in some cases is less than 2 m²). Further, access to natural light was limited in a large number of cells, due to the small size of cell windows. Moreover, one of the prison's quarantine cells (in which prisoners could spend up to 15 days) had no access to natural light, with the two existing windows opening onto a dark corridor.
40. In relation to other national prisons, the NPM noted striking differences in conditions of detention between different accommodation areas. For example, while many inmates were held in seriously overcrowded cells/dormitories (between 2 and 2.5 m² of living space per prisoner), certain privileged prisoners lived in spacious rooms (with up to 9 m² of living space per person). A similar situation was observed in the infirmary of the prison health-care units. Yet the most remarkable difference lay in the furnishing of some of the rooms. While the majority of inmates had to sleep in cramped rooms equipped with old narrow bunk beds and a few old cupboards, a number of prisoners' rooms offered conditions which could be described as bordering on the luxurious: the room equipment included divan beds, kitchenettes, multi-drawer fridges, aquaria, carpets on the floor, large TV sets with floor-standing loudspeakers, leather armchairs, and suspended ceilings. Such photo and video footages started to appear after the arrest of one of the actual deputy directors of the national prison administration, which was declared by mass-media sources as a person who protected the criminal subculture in the prisons¹⁰.

The construction of the new prison

41. For several years now, there have been plans to replace the existing prison with a new remand facility near Chişinău. According to the information provided by the authorities, the construction of the new establishment, which had been repeatedly postponed in the past, was now planned to start by the end of 2018 and its opening was envisaged for the end of 2021.
42. According to the provisions of the Agreement between the Government of Republic of Moldova and CEB, the construction works had to be completed on December 31, 2017, and the final inauguration of the penitentiary was planned for June 30, 2018. At the request of the Ministry of Finance from January 2019, the CEB has extended the project implementation deadline until December 31, 2022.
43. According to recent declarations of the former director of the special unit responsible for the construction of the new prison, the further actions related to the construction of the new prison are blocked by the representatives of the Ministry of Justice¹¹.

¹⁰ <https://tv8.md/2021/04/01/video-lux-in-detentie-oamenii-legii-au-facut-publice-imagini-cu-conditiile-din-celula-hotului-in-lege-machena/>

¹¹ <https://www.zdg.md/importante/blocaj-interese-si-acuzatii-de-coruptie-in-procesul-de-constructie-a-noului-penitenciar-din-chisinau/>

44. According to the information provided by the Penitentiary Construction Project Implementation Unit Chisinau, so far, about 34.6 million lei have been spent. Thus, about 13 million lei were spent from the loan account, and another 5 million lei, from the grant account offered by CEB. At the same time, almost 15 million lei was the contribution from the state budget, of which about 10 million were allocated for the payment of the salary for the staff of the Unit.

GENERAL MEASURES: MEDICAL ASSISTANCE IN PRISON ESTABLISHMENTS

Medical Assistance in Prisons

45. According to the last report¹² of the National Preventive Mechanism as a result of the monitoring visit in the only prison hospital nr. 16 held during the period of 22 – 23 July, the following conclusions were drafted:
46. The prison hospital does not comply with the national standards of a medical institution, does not have a health authorization for operation, does not have accreditation for the provision of medical services;
47. The prisoners' right to health is violated due to inadequate treatment, lack of medical staff and non-compliance with national treatment protocols and standards;
48. In the prison nr. 16 there is a lack of medical staff, in the staff states there are no nurse positions, these functions are performed by the detainees. Most medical workers agree to work due to military-grade incentives, which results in higher monthly incomes and faster retirement.
49. Doctors in penitentiaries, work in the penitentiary system immediately after graduating. Most of them have no experience in the civilian system and are not trained to provide specialized services in detention environments.
50. There is no training method regarding penitentiary medicine in the educational institutions of the Republic of Moldova. The categories of qualifications are made within the USMF "N.Testemițanu", College of Medicine.
51. Detainees do not have the status of the insured person. They do not benefit from the volume of services similar to the general population and services provided in most National Programs (diabetes, cardiovascular disease, cancer, etc.).
52. The quality of the medical services provided is not verified by the institutions authorized by the Ministry of Health and Social Protection.
53. The medical facilities are insufficient and require major repairs, the blocks are not adapted for medical institutions. They do not comply with the requirements of the Sanitary Regulation regarding the hygiene conditions for the medical service providers, approved by the GD no.663 from July 23 2010.
54. The medical assistance services provided to women need improvement, including by creating women's salons in all medical departments and identifying the location of the gynaecological office.
55. Medical departments are not accommodated for persons with disabilities, which limits access to services and adequate conditions of detention.
56. The medical protocols applied by doctors are a mixture of national norms in the civil system (of the Ministry of Health) and those developed for the penitentiary system by the Ministry of Justice, taking into account the specificity of the medical assistance in penitentiaries.
57. There is no close collaboration between prisons and public health systems.
58. When transferring the patient from a health-care unit outside the penitentiary, which is not available in the penitentiary, it is necessary to organize an escort. This transfer procedure involves a long series of bureaucratic procedures, thus delaying the timely provision of medical care, during the treatment period recommended by the standards in the civil hospital.

¹² <http://ombudsman.md/wp-content/uploads/2020/02/P-16-Pruncul.pdf>

59. Gaps in the exchange of electronic information between the medical services and the hospital, as well as in the information transmission system for the released prisoners.
60. The incidence by tuberculosis in the penitentiary system is 16 times higher, and the risk of tuberculosis disease remains 17 times higher than in the civil system, which indicates the reservations in the actions taken to control tuberculosis. The success rate of the treatment of sensitive tuberculosis has reached the WHO target - 85%. The under-reporting at the national level of cases with tuberculosis is 13%.
61. The prison system has a Tuberculosis Control Plan for the years 2018-2020, and the Penitentiary no. Sixteen of an internal Plan for tuberculosis infection control for the years 2018-2021 with a series of activities and monitoring indicators. Following the analysis, it can be concluded that several activities provided in the mentioned plans remain more declarative, at the paper level, and the monitoring indicators are not analyzed. It is recommended to prepare periodic reports (quarterly, annually) of progress reports, analyze them and, if necessary, revise the planned actions, as the case may be.
62. Interruptions were observed in performing the radiological examination for tuberculosis with prophylactic purpose, which led to increased incidence through tuberculosis, but also to the exposure of persons to a higher risk of illness. It is recommended to provide a radiological examination for tuberculosis with prophylactic purpose in accordance with national and international provisions (2 times a year).
63. According to CPT, Health-care staffing resources in all three prisons visited were inadequate and the CPT recommends that the vacancies be filled and that the number of nursing staff at Chişinău Prison be increased.
64. Recommendations are also made as regards proper recording of injuries and confidentiality of medical examinations. At Chişinău and Taraclia prisons, the delegation encountered a number of prisoners who appeared to have mental health problems or thoughts of self-harm, including suicide, and who had been held in conditions akin to solitary confinement for months or even years on end.
65. The Committee recommended that all prisoners with mental health problems held at Chişinău and Taraclia prisons be thoroughly assessed by a psychiatrist. Where appropriate, they should be transferred, cared for and treated in a suitable environment with sufficient qualified staff to provide them with the necessary assistance.

COVID 19 in Prisons

66. According to the information published by the Office of the People's Advocate regarding the situation of COVID-19 in the places of detention, the first case of infection in the penitentiary system is that of a convicted person extradited from Ukraine. The person was detected with COVID-19 on April 22, 2020, at Penitentiary no. 13 Chisinau (with the status of a criminal prosecution isolator). The detainee was transferred from the police to the penitentiary. The detainee was tested positive due to the testing procedures made at the COVID-19 Center in Chisinau.
67. Also, according to a monitoring report published by the Promo-LEX¹³, the following findings were made:
68. Following the registration of the first case of COVID-19 infection, NAP initiated at the institutional level biological sampling for testing at COVID-19 of all individuals deprived of freedom who have been in contact with the confirmed case and show symptoms related to infection with COVID-19 disease.
69. On November 27 2020, 68 detainees were confirmed with COVID-19 infection, most of them treated in Penitentiary no. 16. Most cases of infection among detainees were recorded in Penitentiary no. 13 Chisinau - 24 cases and Penitentiary no. 17 Rezina - 31 cases.

¹³ https://promolex.md/wp-content/uploads/2021/03/Raport-Mmonitorizare-1_-Covid-19-%C3%AEn-penitenciare.pdf

70. A large number of cases of infection, compared to the number of people detained infected, was among the employees of the penitentiary administration system. A total of 203 cases were registered on November 27, 2020. Among the NAP employees were also registered two cases of death. In total, in the penitentiary administration system, until November 27, 2020, were performed 222 tests.
71. In general, the prison administration system and the medical services reacted promptly to the risk of COVID-19 infection, and a series of action plans were developed and implemented shortly at the national and institutional level. The National Administration of Penitentiaries took institutional measures in March 2020.
72. The existing systemic problems in the penitentiaries were outlined by the COVID 19 pandemic. In particular, the issue of medical staff, cooperation and low involvement of the Ministry of Health and Social Protection in the problems of prison health. Thus, this population is not in the national public health priorities, being ignored international recommendations, and the Medical Directorate of the ANP has human resources and insufficient financial resources for the complex management of the situation.
73. The normative framework in the field of health in penitentiaries is outdated, has obsolete provisions and refer to contradictory international standards, including on the management of infectious diseases (tuberculosis, HIV / AIDS, viral hepatitis and, of course, COVID-19). The MoJ / NAP delays the approval of the revised draft documents.
74. The provision of staff and detainees with PPE was achieved by redistributing resources available and external donors' support. There is no increase in the budget approved by reference to separate resources for the control of COVID-19. Thus, there is a risk of failure to perform other planned activities.
75. There is no calculation methodology and approved rules for insuring detainees and staff penitentiary with detergents for hand hygiene, disinfectants and personal protective equipment. Thus, the insurance with these consumables is done chaotically, depending on the resources available or donations, being unsustainable for long term planning.
76. Within the NAP, there is no epidemiologist position, hygienist, or other field of public health. The sanitary-hygienic regulation for the penitentiary administration system does not imply the involvement of the National Public Health Agency.
77. Performance indicators with financial remuneration or other motivation systems for medical staff in prisons involved in providing medical care to persons with COVID-19, similar to the one existing for medical employees in the medical institutions within the public sector, were not implemented within NAP.
78. The authorities of the Republic of Moldova have not applied measures to release certain people from detention groups of vulnerable detainees (such as detainees with pre-existing illnesses, detainees over 60 years of age etc.) to reduce the overcrowding of penitentiary institutions and, respectively, the risks associated with COVID-19.
79. A relatively large number of infections are registered among the employees of the penitentiary system (203 cases on November 27 2020). On November 27 2020, 68 detainees were confirmed with COVID-19 infection, most of them being treated in Penitentiary no. 16.
80. Even though the management and direction of patient flow between institutions, there are no provisions regarding the cooperation with the NAP and the measures to be taken in penitentiary institutions and other places of detention (e.g. detention facilities preventive measures of the police).
81. Information materials adapted to the meaning for the training of detainees are available in limited numbers.
82. The penitentiary population in the Republic of Moldova decreased insignificantly during the pandemic of COVID-19.

We call the Committee of Ministers to continue the supervision in the case of I.D. v. Republic of Moldova and other relevant cases and recommend the Moldovan national authorities the following:

Implementation of the preventive and compensatory mechanism:

1. The Government to provide statistics to the Committee of Minister's data as to the application in practice of the newly adopted preventive and compensatory remedy;
2. The Supreme Council of Magistracy to ensure that the Investigative Judges respect the terms set by law for examining the cases related to the application of the preventive and compensatory mechanism;
3. Ensure that the practice of the application by the investigative judges of the new remedy is effective and the pecuniary compensation (moral and material) provided to the detainees is equitable and following the ECtHR standards;

Improvement of the detention conditions:

4. The Government should bring prison conditions in line with the Standard Minimum Rules for the Treatment of Prisoners and the United Nations Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders (Bangkok Rules), (CAT/C/AUS/CO/4-5, CAT/C/UKR/CO/6, CAT/C/LUT/CO/3);
5. The Government and the Parliament should take concrete steps to improve conditions in prisons and detention facilities in line with the Convention against Torture and the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules)., Article 16 of UNCAT and Article 3 of the European Convention on Human Rights. 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. Taking due account of basics principles enunciated in appendix to the Recommendation no. R (99) 22, according to which *“the extension of the prison estate should rather be an exceptional measure, as it is generally unlikely to offer a lasting solution to the problem of overcrowding”*, the authorities' response to the structural problem of poor prison conditions should be firmly oriented towards reducing the numbers of persons imprisoned.
6. The National Prison Administration should implement the recommendations given by the CPT after its last visits during the period of 2015 – 2020, like reducing the levels of violence and reducing the overcrowding in cells;
7. The Government should ensure living space under existing international norms;
8. The Government should improve the quality and quantity of food and water provided to detainee;

The construction of the new prison:

9. Until the new prison is constructed, the Government should reduce overcrowding, particularly through the wider application of non-custodial measures as an alternative to imprisonment, in the light of the United Nations Standard Minimum Rules for Non-custodial Measures (Tokyo Rules);
10. The Ministry of Justice to provide a detailed timetable for the construction of the new prison in Chişinău and information on its general layout (overall capacity; size and design of accommodation cells; facilities for out-of-cell association activities, including areas for educational and vocational training, workshops, facilities for outdoor exercise and sport, etc.)

Medical care in the prison:

11. The Ministry of Justice and the Ministry of Health, Labor and Social Protection should follow the recommendations given by UN Committee for Prevention of Torture and the recommendations made under the UPR and develop a public policy ensuring the transfer of health workers subordinated to the National Prison Administration under the subordination of the Ministry of Health;
12. The Government should provide appropriate and effective medical care of prisoners and detained persons, including adequate medicines;
13. The Government should ensure the recruitment of qualified medical personnel;
14. The Government should increase the budget allocated for health care in penitentiary institutions, including by developing the capacities and the infrastructure of the Pruncul Prison Hospital – P 16;
15. The Government should urgently elaborate and put in practice specific medical protocols for prevention and treatment of COVID 19 and other potentially infectious diseases in the prison system;
16. The Government and parliament should take prompt action to reduce the prison population in conditions allowing effective implementation in detention of the preventive measures required by WHO.

Following the above mentioned, we request the case to be included in every session of the Committee of Ministers until it is executed in full.