

# FINAL DOCUMENT

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**Place:** Chisinau city

The participants at the Workshop „Access to justice and torture phenomenon in places of detention” from October 18, 2002, and Helsinki Committee for Human Rights in Moldova,

Taking into account the European Convention on Human Rights and Fundamental Freedoms, the European Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, ratified by Republic of Moldova,

Ruled by adjudgements of the European Committee against Torture and recommendations addressed to Government, in order to fulfill the assumed obligations of the Republic of Moldova, under the European Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,

Conceiving that torture prevention in a democratic society is a state priority, as well as for the entire community of the Republic of Moldova,

Reconfirming its loyalty to honoring human rights and fundamental freedoms on the territory of the Republic of Moldova and establishment of a constitutional state,

Giving consideration that Criminal Procedure and Administrative Law have shortfalls in torture prevention and access to justice,

Have agreed on the following:

***1. Effective provision of access to justice for detainees from penitentiary institutions and other establishments of imprisonment, through:***

- Providing lawyers' unlimited and unconditional access to the detained person, immediately after his arrest;
- Developing Lawyers' Information Centre, which will stock the information on each case of restraint, or arrest, thus providing the lawyer updated information on client's place of detention;

- Informing relatives, or other persons (according to detainee's indications), on the fact of detention, immediately after applying a sanction;
- Interdiction of any investigative measures application on the arrested person under administrative or criminal clause, in absence of elected, or appointed lawyer, and before his/her medical inspection at the time of his/her release from remand centres;
- Amendment to art 193. (4) of the Penal Procedure Code by text "in case when suspect, accused complains about torture application, his criminal trial will be interrupted until his medico-legal examination, which would establish his ability to take part at investigation";
- Definition of "reasonable term" during the criminal trial and investigation in Court, in order to prevent cases of unreasonable trial delay and person's detention on uncertain, or excessively long term;
- Lawful interdiction of correspondence censorship of arrested person and detainee, that would guarantee observation of human rights to private life and correspondence without censorship;
- Development of modern investigation methods, the application of which would result in collecting file proofs from other sources, than self-confessed liability by the suspect, thus reducing the amount of cases of groundless application of physical power and abuse of official position by police officers;
- Granting any person the right to lodge a complaint to Constitutional Court;
- Provision of free and confidential meetings for lawyers and their clients, at special marked places for meetings of Police Stations, isolation wards and penitentiary establishments;
- Development of guide manuals about specific police bodies' infringements;
- Provision of fair payment for lawyers on the appointed criminal cases (according to art. 44 of PPC);
- Development of Specialized Prosecutor's Office on supervision of Law observance in penitentiary institutions and proselytizing civil society to this activity;

- The Court should issue decisions on witnesses attraction to the case, based only on petitions of the trial parts, thus providing impartiality of the Court during file examination;
- Supplementation of the new Criminal Code by the clause "Torture", in the following statement: "Torture is any act, by means of which a person is deliberately hurt or is caused deep sufferings, physical or mental, specially for receiving from the person or a third part, information or confession, in order to incur punishment for actions, done by the given person or a third part, or are suspected of having done, for intimidation or pressure on a third part, or from other reasons, based on any discrimination form, in cases when hurt or suffer are caused by a state officer, or other person, acting at official level, or by instigation, or public or tacit agree of such officials.
- Provision of effective access to justice for military detainees;
- Exception of the right of opening criminal cases on competence of police bodies, giving exclusive competence to organs of the Prosecutor's Office;
- Improvement of the reporting system and policemen activity estimation in order to prevent application of unreasonable violence and falsification of investigation results.

***2. Providing access to medical services for prisoners of penitentiary institutions and other places of detention by means of:***

- Introductions of changes in the Law on control and prevention of alcohol abuse, illegal usage of drugs and other psychotropic substances, inasmuch that people would be treated in institutions, accountable to Ministry of Health;
- Liquidation of detoxification centers in republic;
- Non-discrimination of HIV persons;
- Introduction of obligatory medical expertise for all legally and practically arrested persons at Police Stations, indicating medical conclusions on the physical condition of the person in the arrest report;
- Implementation of a medical staff unit at Police Stations' prisons;
- Development of a Management Committee, consisting of representatives from the Department of Penitentiary Institutions, Ministry of Health and

community, cooperating in order to provide access to medical services for detainees;

- Provision by institutions, accountable to Ministry of Health, of real possibility for every detainee to ask for specialized medical care, first-aid and acute hospital assistance should be free of charge;

***3. Provision of free access to penitentiary institutions for Non-Governmental Organizations by means of:***

- Free access of Non-Governmental Organizations for monitoring places of detention, including remand-centers, as well as observing policemen activity;
- Proposing to the European Committee against Torture to establish his filial branch in Moldova;
- Initiation of a Coordination Centre for measures and activity to prevent torture and ill-treatment, and development of a scenario with participation of Non-Governmental Organizations for Human Rights;

***4. Changes in legislation on arrest by means of:***

- Adoption of a Law, which includes all the elements of detention, applicable for proceeding and carrying punishment, and indicates the concrete status of the detainee in order to prevent torture;
- Specification in the Criminal Procedure Code and Law on Police of the motives, according to which police bodies may apply physical force;
- Review of legislation on disciplinary arrest, applicable for militaries in order to provide the right to freedom and security of the person to this category;
- Full regulation in the Penal Procedure Code of all the circumstances and forms of detention;
- Creation of the position of independent expert-criminologist;
- Specification of all the rights of the arrested person, enlisting them in the Criminal Procedure Code and Administrative Code;
- Development of an Ethics Code for each category of state officers;

***5. Improvement of situation in the penitentiary system through:***

- Melioration of detention conditions in order to reduce the number of detainees in cells,
- Accreditation of places of detention before their commission,
- Transfer to the system of detaining people in boarding house type institutions;
- Improvement of working conditions for staff of the penitentiary system by increasing salaries;

***6. Methods of rendering the enlisted proposals:***

- Development of some changes in Laws, subsequent from the exposed proposals, in order to compulsorily reflect the mentioned problems in the legislation;
- Establishment of collaboration with public and state institutions in order to find the possible answers.