

***MOLDOVAN HELSINKI COMMITTEE
FOR HUMAN RIGHTS***

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REPORT
**REPORT ON THE DOCUMENTATION VISITS TO THE TRIAL
CENTRES OF THE POLICE STATIONS OF THE REPUBLIC IN
2002**

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ABOUT MOLDOVAN HELSINKI COMMITTEE FOR HUMAN RIGHTS

Moldovan Helsinki Committee for human rights is independent, non-for-profit human rights organizations founded by a group of human rights activists in Tiraspol, Transdnistria region of the Republic of Moldova in 1992 in the wake of dissolution of the Soviet Union.

Moldovan Helsinki Committee monitors the respect for human rights obligations undertaken by the Republic of Moldova before OSCE, United Nations, Council of Europe. It advocates for respect, protection and promotion of human rights values through providing independent expertise of human rights legal and practices compliance, public interest advocating and litigation, raising awareness of specific groups and general public of the serious human rights concerns guided by understanding of universal superior values of individual freedoms, social justice, equity and nondiscrimination.

Moldovan Helsinki Committee is a full member of the International Helsinki Federation for Human Rights (Vienna).

Moldovan Helsinki Committee comprehensive subject based and overall reports on the respect of human rights in the Republic of Moldova are known as good and professionally prepared information, solicited and relied by many specialized entities, including those of the Council of Europe, as for instance, the Council of Europe High Commissioner for Human Rights (<http://www.commissioner.coe.int/documents/translsanshighlights.doc>), European Committee on Prevention of Torture (<http://www.cpt.coe.int/fr/rappports/inf2000-20fr.htm>), PACE Monitoring Committee on the observance of obligations by the Republic of Moldova.

The web site of the Committee: <http://chdom.ngo.moldnet.md>.

OBJECTIVES AND SUMMARY

One of the Helsinki Committee for Human Rights fields of activity are the documentation visits in institutions and regions, undergone mostly on the ground of the complaints and of the information received from the population about the infringements of human rights by some office workers or state agents. The given report is based on the collected information after the institutional visits to a number of trial centres of the Police Stations of the Republic of Moldova.

The visited Police Stations are enlisted as follows: PS Bălți, PS Soroca, PS Florești, PS Edineț, PS Lăpușna, PS Hîncești, PS Orhei, PSs Rașcani of Chisinau city, PS Centru of Chișinău city, PS Botanica of Chișinău city, PS Cahul, PS Ceadr Lunga, PS Comrat, PS Telenești, PS Călărași, PS Ungheni, PS Nisporeni, PS Căușeni, PS Ștefan-Vodă, PS Căinari and PS Tighina.

This report aims to analyse conditions of detention, documented in the trial centres of the visited Police Stations, to compare them and to appraise the situation under the general principles of human rights. The report is based on the full data, collected during each documentation visit of the workshop, in order to describe all the possible aspects of major importance for an estimation of the real possibilities of detainees to dispose their rights, such as access to justice, protection against torture and inhuman treatment, right to defence, right to a healthy environment of detention etc. The most of rights are neglected during the arrest or restraint of the person at the trial centre, and the conditions of detention violate the person's right to protection against inhuman treatment. The final chapter of this report contains Committee's recommendations issuing from the present material conditions of these trial centres and the level at which the detainees' rights are respected in these institutions.

The analyses and description of earlier similar situations can be found directly on <http://chdom.ngo.moldnet.md> – the web cite of the Helsinki Committee for Human Rights in the Republic of Moldova. Additional relevant information on this topic may be found in other Committee's reports.

The information in this report reflects only the attitude of Helsinki Committee for Human Rights.

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CATEGORIES OF DETAINEES IN THE TRIAL CENTRES

1.1. Arrest procedure and first interrogatory

During the documentation visit many of the detainees alleged that they have been arrested at home without knowing the motive and having doubts that the persons who arrested him were real police officers, as they didn't wear uniform and hadn't identified themselves.

Although according to the Penal Procedure Code the arrested person has the right to acknowledge with all his (her) legal rights before undertaking any procedural actions with his (her) participation, though this is not carried into practice. The police officers consider that this procedure is useful, as the arrested know their rights very well, whether the person is arrested on a penal, or an administrative file, whether the persons had been convicted earlier, or not. The violation of the conditions of arrested endangers the right of the arrested to defence and justice.

Every suspected person has the right to a lawyer. If the lawyer is not present at the arrest, he must assist at the cross-examination and other investigation procedures with the participation of the restrained. In fact the Police Stations don't read the rights of the arrested and either don't have a list of lawyers under their mandate who would assure the participation of the office attorney. In the Police Stations, which have such a list, the role of the office lawyer reduces to signing the statements of the case.

Consequently, other rights of the arrested person are infringed:

- right to complaint and request;
- to challenge the court on the legacy of arrest or detention;
- to be protected from torture and ill-treatments;
- to urge the reparation of the prejudice caused by the legal bodies etc.

It is clear that the person won't be able to dispose of all his (her) rights without any legal assistance, as the person doesn't know how to apply them. Therefore any person must be informed by the police officers about his (her rights).

Special attention has to be paid to the methods of investigation, used by the Police Stations. As example, the arrested person is examined as witness, and then is declared suspected and moved to the trial centre. The person is informed on the penal responsibility he (she) cares in cases of false witness and so is urged to reveal information on the circumstances of investigation interest. Lately these evidences are used in the penal file, and the restrained person, interrogated as witness, becomes accused, sometimes on his own statements. Even here we can see that the police prefers to come from the suspect to proofs, and not viceversa. In such situations the Court violates the right of the person to non self-incrimination. An another serious violation is the application of physical force and psychological pressure on the restrained in order to receive confessions or recognition of the incriminated penal clause. The application of physical force was registered repeatedly during the documentation visits to the trial centres and working on separate cases when the persons have denounced ill treatment being under police custody. In its reports addressed to the Government of the Republic of Moldova the European Committee for the Prevention of Torture (CPT) each time calls attention to these infringements in places of detention and recommends measures

to prevent abuses under police custody. One of these measures is the impartial investigation of the persons, complaining about force abuse and the punishment of the offenders.

Another major failure for the victims of police abuse is the lack of medical assistance in the trial centres. Before transferring the person to the trial centre, in the statement of arrest should be indicated the physical stage of the restrained. The procedure should be repeated at relief. If he (she) has bruises or scars, these should be described minutely by a qualified independent doctor, which presumes that the doctor is not under the subordination of the Ministry of Internal Affairs and has no rank. The independence of the medical staff of the Police Station is an effective guarantee to prevent illegal and unjustified police abuse on the suspect.

1.2 Persons arrested for identification and detoxication

Persons arrested for identification

Beside the cells of the remand centre, the Police Stations have a small room 2x2 sq.m., where are detained the persons, brought by the police for identification. There are almost the same conditions in all the Police Stations: there is a wooden bench, the room is of iron bars or built of cement, painted or whitewashed years ago, with a metal or a bar door. The person brought for identification is kept in such conditions. It is unclear why should an unidentified person be subject to such humiliation. In the most of the Police Stations the monitoring group of Helsinki Committee has mentioned that sometimes drunk people are also kept in those cells. The police can restrain a person for identification up to 3 hours and a drunk person is arrested in order to punish him for alcohol abuse.

There is no evidence of the persons maintained in this room and their delivery to the Police Station is not documented in any registry. If a person were restrained for more than 3 hours it would be hard to begin any suit in the absence of evidences on illegal restraint. This same practice follows the Soviet one, when the evidence is kept only in the remand centre for the restrained under a 72 hours arrest, a mandate or an administrative arrest. Although the infringements can be subject to an examination in court and there will be witnesses of the moment of arrest, bringing to the Police Station and relief. The European Court itself accepts the written statements, signed by the witness, which describe the illegal application of forces, thus violating art. 5 of the European Convention.

Persons arrested for detoxication

Almost in all the remand centres of the Police Stations there are detained persons charged with penal and administrative briefs. But in some trial centres, for example in the Police Station of Balti city, there are cells where are detained the persons, brought intoxicated, who haven't committed any crime.

From the discussions held with the administration of the trial centre of Balti city resulted that the detention of the worse of drink persons is considered necessary and primarily helpful to

the persons, brought and detained in the cell, as they can recover from drunkenness and go home sober and “healthy”. The motive for detention, cited by the employees of the trial centre, is very interesting – to defend the interests and the rights of the intoxicated person. And the only method found by the legal bodies was to deprive of freedom, after which the person has to pay 7,20 MDL for staying locked for 24 hours in a cell, without any minimum conditions as: a bed, bed clothes, food, medications, water etc. We found out that there had been lethal cases, when the drunk person had been locked in the cell, and then have been found suffocated. It wasn't clearly explained the rationality of this method, used by the legal bodies in order to detoxicate people. There must be no logical explanation, but an outlived Soviet practice, when the drunk were “hunted” in the streets and brought to “vytrezvilka” (sobering-up stations) and the employer and the family were informed about that fact. According to the Soviet regime, the method aims to make the people to correct their “immoral” behaviour. Nowadays such a practice doesn't follow any real goal for the society's benefit, on the contrary, it endangers the well-being of the restrained person and of the society, to which they return after staying in the anti-sanitary conditions and detention misery. The maladies and diseases howling in the trial centres are spread outside by the detainees, when they return to family and kids.

1.3 Persons under administrative arrest

A particular category of detainees is the administrative arrested persons, who are brought to the pre-trial centres under a court warrant. Frequently the police bodies don't wait for the enforcement of the warrant and detain the persons immediately after the decision was issued in the court. Obviously, this practice abridges the person of the access to justice, as being detained in the trial centre and having only 15 days to challenge the verdict, as it is more difficult to benefit of legal assistance or to file a request and to send it. So, the term for appeal expires and the person will execute the full institutional time.

This category of persons can be divided into two subcategories on the ground of the administrative arrest:

- persons charged with administrative arrest under the court verdict;
- persons, who's administrative sanction – the fine – was changed by the court or the police body to administrative arrest for the fail of payment.

There are fewer cases of applying the administrative arrest as direct sanction, than the cases of changing the fail of fine payment to administrative arrest. The last one has a larger application, moreover, for some Police Stations this is the permanent source of filling in the rank of administrative arrested in the trial and remand centres. In many cases monitored by Helsinki Committee, the persons were not informed about the decision of applying an administrative penalty as the administrative procedure doesn't provide the obligation of citing the offender in any case of examining the administrative documents. Only some contraventions state the obligative presence of both parts, therefore the decision is presented to the contravener with delay or its copy isn't delivered at all. When warning for commitment of administrative contravention the sectorial police officer doesn't bother to acknowledge the appropriate person, thereagainst the mandate on collecting the fines are taken into account immediately. Talking about the court's fail to notice about the decision on the administrative documents, we draw attention to the violation of the person's right to access to justice, as without acknowledging of the existence of a warrant on him (her), he

(she) can't challenge it in case if he (she) doesn't agree on the judge's decision. Under the enforced mandate the offender must pay the penalty to the state budget.

Such an enforced decision deludes some categories of citizens to a difficult situation thereof the limited financial means. There were cases when the people didn't have money to buy bread and, consequently, couldn't carry the penalty of 18 MDL. The police officer has replaced the fine with administrative arrest and at relief he had to pay off the maintenance in the centre, which can also be substituted with administrative arrest whether it is not honoured. Such a scheme, applied by the trial centres violates human rights. The state must take off the expenditures on citizens' detention in the penitentiary institutions and wouldn't make of it an income to the budget. It is also ironic that the conditions of detention in the trial centre supplement the applied sanction – the arrest, and in several cases is the main punishment (for minors, females and sick).

The amount to be paid at relief differs from one institution to another. For example, in the remand centre No. 3 of Chisinau city the administrative prisoners take up 5,4 MDL per day. For 10 days of detention the person will pay 54 MDL, for 30 days – 162 MDL. Failure to foot the maintenance bill is a motive for incarceration (a new administrative arrest is applied) for a period of an ascribed number of days divided to the debited amount.

There are cases when the administrative arrest is applied under the administrative documents of opposing resistance to the policemen (which proves to be false in 70% of cases), that allows the investigator to have the contravener at his disposal, thereby working on the trial brief, which he investigates as suspect. Obviously, this method is a violation of the penal procedure and misconduct by law enforcement officials, but is still used in some Police Stations.

Cleanliness and order in some trial centres are maintained by the administrative prisoners, which are taken out from the cells to sweep out and wash the floors, to serve the food for detainees. Evidently, the work is not compulsory for administrative detainees, as they get the proposal because it's the only way to get out of the cells and breathe some fresh air. On the other side the trial centres count only on the work of the administrative prisoners to clean out, as there are no other people to do this job. Thereunder the administrative prisoners are subject to volunteer-compulsory works.

1.4 Persons on remand detention up to 72 hours and arrested under the mandate

The general problem, noticed in all the trial centres of the Police Stations, in some more obvious and less in others, is the person's access to justice on remand detention up to 72 hours. On unknown grounds the arrestee is refused the right to appeal on the mandate of arrest to 72 hours by failing to allow a lawyer's consultation and to receive a pen and a paper. After those 72 hours the investigator is obliged to relieve the person or to approach for arrest application, and so the person appears in court totally unprepared for his own defence. If the arrested person knows his rights and insists on them in front of the penal investigator, then he benefits of them and may prepare his defence together with the chosen lawyer. In the other cases the inquiry procedures are run by office attorneys, which don't participate, if

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present, or may come later and sign the statements of the case without even reading the content.

Another problem is the lack of medical assistance when bringing the person to the Police Station and during his detention in the remand centre, except the urgent cases when the ambulance is called. When a restrained person is brought to the Station there is filed the statement of the arrest, but the document doesn't mention about the physical condition of the person at the time of his arrival to the Police Station. The only filled registry keeps the evidence on the detainees of the trial centre, nevertheless the time, spent at the Police Station, which obviously differs in any case. A person's stay in one of the offices of the Police Station can be longer than his stay at the trial centre, and evidently the investigation procedures impose that. This omission disregards the persons brought to the Police Stations and relieved later, on whom neither of the preventive methods were applied as they can get any evidence, but witnesses, who would confirm their illegal restraint. This action of restraint is a measure of depriving of freedom, even if the statement of the case wasn't filed.

Some of the Police Stations apply arrest for a term up to several days without giving the person the status of restrained or suspect, and the police officers allege that they have undertaken the appropriate investigations in order to state the truth. The investigation procedures must be done and the crime should be revealed, but not by illegal means and procedure misconduct, as therefore the legal authority doesn't differ from the investigated people, who have committed crimes.

The warrant of arrest is issued for a 30 days period and might be dragged out on the ground of a request at least three days before the expiry of the first term. There are cases when there is no approach to the court but the person is still detained in the trial centre under no legal condition.

2. CONDITIONS OF DETENTION IN THE TRIAL CENTRES

2.1. Detainees' maintenance in the trial centres

From the moment of a person's arrest and distribution to trial or remand centres, the state, whose representatives have made the arrest, is responsible for detainees' maintenance. The conditions of detention, the alimentation and the sanitary conditions must be supplied by the state budget in order to prevent the prejudices to his honour and dignity, or inhuman treatment.

After the visits to the trial and remand centres we can assert that the conditions of detention are unsatisfying as they infringe the right of not being exposed to ill treatments. Beside their depriving of freedom, the detainees miscarry the minimum for living in the centre: fresh water, healthy food, medical assistance, personal hygiene, good sanitary conditions in the cells and other premises accessed by the detainees (bathroom, WC, walk ground). After visiting some of the trial centres one may have the feeling that the suspect is punished for committing a crime by the misery conditions of detention. The Court hasn't taken a decision on the person's guilt yet, but he (she) is already punished by failure to take a bath, to drink fresh water or to eat healthy food. For example, in the trial centre of the Police Station of Soroca town at the time of the visit there was detained alone a 14-year old minor. That child was depressed due to the conditions of detention, applied for a petty lacerny. The police officers assume this is efficient for preventing this same minor, for example, to commit other crimes. But actually this is a very wrong opinion. In particular, the minors who have been punished in such a manner for their behavior can become mad and more hostile to the society than they had been before the detention. And the Stalinist opinion that detention make the person more obedient is wrong, and must be omitted when deciding the application of restraint or arrest.

2.1.1 Distribution to cells

Each person, brought to the trial centre, is distributed to a cell, and this action must be undergone according to some criteria: under age must be placed separately from the adults, administrative arrestees are separated from the penal ones, the same is applicable for female detainees.

In some trial centres 14-16 years old minors are detained in the same cell with the adults. The administration of the Police Centre claims that there is no enough space and cells to place them separately. This is an ungrounded argument specially as the minor from the trial centre of the Police Senter Stefan-Voda was followed for a theft committed in Soroca, but his adult inmate has penal antecedentes and serves his regular institutional time, and moreover he is much older than the boy. Such a combination of detainees' placement is a violation of the standards of detention in the trial centres.

2.1.2 Sanitary conditions in the places of detention

The two wings of the isolation wards are connected by corridors. At the heading or ends of the corridors there are the bathrooms, the WC, the kitchen and an entryway to the ground where the detainees have a daily walk.

The odor of smoke, mould and excrements are felt from the entrance. The walls were whitewashed or painted many years ago and there was no any cosmetic reparation during the last time. In the trial centre of Soroca town there was water on the floor. Maybe a pipe has broken or the water came from the outside through sewerage.

The wooden or concrete beds are situated at a half a meter from the entry. The closet improvised near the door consists of a ferry or a pail covered with a lit. Near the WC there are a lot of plastic bottles, used by the detainees for personal hygiene. In some cells this corner is used for hanging the laundry, which is possibly washed from these bottles. The improvised WC doesn't offer any intimacy. The bench occupies practically the whole surface of the cell. The detainees' staff – blankets or clothes lay on the bench. The isolation ward doesn't provide any mattresses or pillows and they have to ask their relatives to bring those things. The corrective administration doesn't put any restrictions on these things. Across the door there is an improvised window consisted in an improved holey iron plaque, more to forbid the aeration than to freshen it. Above the door there is an orifice through which penetrates the lamp light and air from the ventilation system.

The ventilation system is as old as the building of the isolation ward. When functioning it makes more noise than efficiency. The cells have different sizes but the same sanitary conditions.

All the trial centers have a bath but the showers donnot function and the pipes are rusty. Only the isolation ward of Comrat town had a boiler and the detainees could have hot water to have a bath. Other isolation wards send the detainees once in 10 days to the nearest prison to have a bath and a better alimentation than in the ward.

The situation of the WC is critique. These premises don't correspond at all to the sanitary standards. These places, as well as the entire isolation wards are a real source of infection for the region where these are dislocated.

2.1.3 Alimony

The alimentation in the isolation wards is poor as content and quality. In spite of the approved governmental Decision¹ for detainees' supply with food, the situation in this chapter isn't satisfactory.

The food is practically not eatable. Water, salt, potatoes, cabbage, tea, bread, sugar – these are the produces for detainees but in all the isolation wards. Some of them provide only bread and water. Meat and fish is not present in the alimentation menu of the detainees for a long time.

¹ Government Decision No. 246 from May 13, 1993, Attachment No. 3

Expenses on the detainees' alimony differ from an isolation ward to another, as well as the detainees' payments for alimentary products and maintenance. The amount varies from 3,6 MDL per detainee in Ceadir-Lunga to 11, 4 MDL in Stefan-Voda. Although the same Government Decision No. 246 from May 13, 1993 by Attachment No. 3 defines the standard for the menu of a detainee, it varies from one isolation ward to another.

The allocations of financial resources for detainees' maintenance in the isolation wards are made from the republican or local budget. In other isolation wards the administrative detainees have to pay at relief the amount for each day of detention. Therefore in the remand centre No. 3 of Chisinau city the administrative arrestees pay 5,40 MDL per day. If they fail the payment the amount is changed in detention again. Below are indicated the costs honored by Police Stations (local or county authorities) for detainees maintenance per day:

Isolation ward of **Floresti town** - 7 MDL per day, including a meal per day (free tax for detainees);

Isolation ward of **Soroca town** – 7 MDL per day, allocated from the county fund and 10 MDL for maintenance for 24 hours per person (free tax for detainees);

Isolation ward of **Balti city** – 4,5 MDL per day, including three meals per day (consisting of breakfast – tea, bread; lunch – tea, cereals, bread; dinner – tea, bread);

- 7,20 MDL per day for detoxication detention (obligatory paid by the person)

Isolation ward of **Cahul city** – 3,80 MDL per day, including three meals per day (tax free for detainees) is allocated by the republican fund;

Isolation ward of **Ceadir Lunga city** – 3,60 MDL per day, including three meals per day (paid by the detainees the staff of the isolation ward would apply administrative arrest if they fail to pay);

Isolation ward of **Ungheni city** – 3,60 MDL per day, including three meals per day (paid by detainees);

Isolation ward of **Hincesti city** – 4,5 MDL per day, including three meals per day (tax free for detainees);

Isolation ward of **Căuşeni town** – two meals per day;

Isolation ward of **Telenesti** – 1 MDL for bread, one meal per day (tax free for detainees) is allocated from the local budget, other amounts are paid by charity funds;

Isolation ward of **Stefan Voda** – 11,40 MDL per day, including three meals per day (paid by the detainees);

Isolation ward of **Edinet town** - 7,55 MDL per day, from the county budget;

Isolation ward of **Orhei town** - 4, 50 MDL per day.

2.1.4 Maladies prophylaxis and the access to medical care

All the isolation wards face the same situation, only emergency medical care is provided to the detainees of the remand center. The staff told us that the ambulance is called only in emergency cases and each provides the necessary care for the detainee and brings him to the medical unit. These cases are rare, only or when a detainee mutilates himself and the policemen have to call for medical service. When a detainee is maltreated by the correctional staff there are few chances for an ambulance call or at least a doctor to help the victim. This

tactic is applied by the police bodies in order to make the victim have no proofs of abuse, which could be a motive for a penal investigation of the circumstances.

If the detainee has a weak state of health he would follow the treatment under the prescriptions of the doctor if he has bought the medications. The medications are kept by the correctional staff and are issued when the detainee asks for. The pills are kept in plastic bags without any inscription on their name, validity term or prescriptions.

The detainee risks to get scabies or get sick because of the insects carrying infections: lice, flats, bugs, rats (mice). The payments for disinfection are carried by the detainees. If the relatives bring appropriate solutions then the prophylaxis is undertaken, but practically gives no result due to its impermanent character.

2.2 Contacts with outside

2.2.1 Letters delivery, filing complaints

As the detainees of the remand center are allowed to file complaints and requests to the appropriate bodies it was mentioned in a number of isolation wards the administration forbids the access to pens and paper. There were depicted cases when the staff restrained the letters as they have considered that those were not addressed to the competent bodies. And this is a violation. Although previously the detainees' letters were censored and registered by the correctional staff before delivery, recently the legislation has limited the categories of addresses whose correspondence is not censored. And the staff has no right to decide whether the correspondence is addressed to the right person. It would be a possibility to give the detainee an advice to address the letter to the competent body.

2.2.2 Meetings with relatives

Each isolation ward has a program when the detainees can meet their relatives. This program mostly depends on the conditions of detention in the given isolation ward. In the wards where the food is of low quality the meetings and transmission of packages is allowed more often than states the regulation. But this doesn't improve the situation of some detainees as their relatives can't come to visit them or send them food and financial means, thus making them to endure hunger. Such a situation has happened in 1999-2000 in the remand centre of Calarasi town, where the detainees were not fed and their only source to survive were the packages from the relatives.

2.2.3 Access to a lawyer

The detainees' access to a lawyer is limited. As that was mentioned above, this happens at different stages of the investigation when the person is involved as suspect.

But this right is reciprocal – the lawyer’s access to his client, which is also restricted by the investigation bodies. Hereby we should mention the Recommendation No. (2000) 21 of the Chamber of Ministers to the states-members of the European Council on the freedom of professing advocacy.²

Extract: „... 5. The lawyers would have access to their clients, including access specially to the deprived persons in order to offer them confidential consultations and represent their clients according to the established international standards.

3. The Governments of the states-members must provide, where adequate, the effective access to justice, to assure the access to legal service for the poor, and specially to the deprived persons....”

When it states about the right to access to a lawyer it has to be guaranteed from the very beginning of the detention to the persons suspected of committing a crime (see par. 35 of the CPT Report on visit in 1998 (CPT/inf. (2000) 20 and par. 12 of the Moldavian authorities’ response (CPT /inf. (2000) 21), as well as during the interrogatories. Even if the application of this decision has improved slightly till 1998 the practice is still unsatisfactory. The delegation of the CPT still faced the detainees complaining on fail to benefit of access to a lawyer before the pre-trial audience. The judges and the prosecutors claim that frequently the police don’t let the suspect person to receive a legal consultation from the beginning of his institutional time.

Therefore, the CPT has recommended assuring the right to access to a lawyer that has to be disposed entirely and effectively in practice from the very beginning of detention. The restrained persons must be able to see the lawyer under conditions that would entirely guarantee the confidential character of discussion. Moreover, giving the conclusions on the visited isolation wards we should mention that the detainees had to be able to have a confidential correspondence with their lawyer.

The recent Code on Administrative Contravention doesn’t provide administratively restrained persons the right to access a lawyer. This right is recognized under the art. 254 of the Code only from the moment when the person is charged with an administrative contravention and appears in court at the first trial audience. It is obvious that the Draft Code presented to the CPT doesn’t provide more information under this clause. The CPT has recommended in the Code on Administrative Contravention provisions of the instant right to access a lawyer to any person, in the same conditions as the penal suspects.

These recommendations prove once again that access to justice must be a guarantee for fair and legal investigation procedures, of the charges and respect of the presumption of not-guiltiness.

² Adopted by the Chamber of Ministers on October 25, 2000 on the 727-th meeting of the vice-Ministers.

3. CONCLUSIONS

Violation of the right to be not subjected to the cruel and inhuman treatment through low material and financial allocations

The ill-treatment can have many forms. Overcrowding of the isolation cells is one of them. The application of unjustified restraint and arrest may generate overcrowding and inhuman and cruel conditions in the trial and remand centres.

CPT has concluded that the effects of overcrowding in the Republic of Moldova had led to inhuman and degrading conditions of detention. Any time when there are too many restrained all the services and activities would be prejudice; all the indices of life would decrease sharply. Moreover, the level of overpopulation itself is inhuman and cruel from the physical point of view.

The CPT Report adds his serious concern that in the Republic of Moldova overcrowding combines with a low regime of activities, inappropriate access to the bath/closet and low food quality in the same institution. The cumulative effect of these conditions has a negative influence on the detainees of the isolation wards of the republic.

Inappropriate medical care can lead rapidly to situations similar to “inhuman and degrading treatment”

The medical service has a potentially important role in preventing ill treatments and torture. Moreover, it is designed to have a positive impact on the entire life quality and the institution where it is undergoing³. A medical service in the detention center at least must be able to provide the detainee the possibility to follow the appropriate medical treatment and to benefit of medical care if getting ill during the detention. The alimentation is a part of the obligations to assure medical care for detainees during their institutional time.

The allocations for medical service are not provided for trial centers and no doctor is included in the staff statute of the Police station. If the situation won't change then the infection process would run out of control and would become irreversible.

The conditions of detention are inadequate and would constitute favorable ground for infections' transmission⁴

We cannot omit the fact that the condition of detention for the detainees in the trial centres, the lack of any medical care can lead to spread of infections, especially: hepatitis, AIDS, tuberculosis, dermatological infections, both among the detainees and the correctional staff. Medical care should be assured in the trial centres as a lot of persons are relieved at the stage of penal investigation as are considered not guilty for committing the crime. Therefore, the diseases caught in the isolation and uncontrolled by the medical staff could be transmitted to the relatives, the family, children and other persons having contacts with the detainee at relief.

³ 3-rd General Report [CPT/Inf (93) 12], par. 30.

⁴ Ibid, par. 112

Alimentation insufficiency is an inhuman treatment of the detainees

Alimentation insufficiency and the reduced alimentary ratio (quantity, quality, preparation and distribution of food) combined with the lack of hygiene products (cleaning of clothes and blankets, access to fresh water, sanitary installations) as well as heating, lightening and ventilation of cells⁵ leads to conclusions of applying inhuman treatment to the detainees of the Republic of Moldova. De facto, under the given conditions each detainee is a victim of violation of the right of being no subject to cruel treatments. Allocation of only 3,60 MDL per day is actually an inhuman treatment undermining detainees' health, condemn to slow death. And this is a violation of right to life of a detainee. Therefore, at least the strict supervision of different standards for regulated daily menus⁶.

⁵ Ibid, par. 53

⁶ Report addressed to the Republic of Moldova on the visit of the European Committee for the Prevention of Torture or inhuman and cruel punishment or treatment (CPT) from October 11 - 21, 1998, par. 116.

4. RECOMMENDATIONS

Helsinki Committee for Human Rights recommend the relevant public authorities, and particularly the Parliament of the Republic of Moldova, the relevant ministries, to undertake urgent measures in order to prevent inhuman conditions in the isolation wards:

- *Arranging an appropriate budget, which would correspond to the real needs of detainees' maintenance in the isolation wards* in order to provide healthy alimentation, respecting the regulations on the daily menus and allocation for each detainee of the real minimum for survival;

- to design in every Police Station *at least one medical unit that would assure the detainees' access to medical care*, to provide sufficient supply with medications.

- *to improve the hygiene conditions, to supply electricity, heat and current water* allocating the necessary means for their maintenance;

- *the right to access a lawyer* must be disposed entirely and efficiently from the very beginning of the detention;

- *to provide unlimited and unconditional access of the lawyer* to the restrained person immediately from the moment of his arrest;

- *to place the administrative detainees separately from the penal ones;*

- *to forbid any investigation procedure on the administrative or penal restrained person in the absence of a chosen or named lawyer* and without a medical examination of the person at the moment of his arrival/relief to/from the remand centre;

- The liquidation of detoxication (sobering-up) stations in the Republic;

- *to introduce compulsory medical examination for all the persons restrained de facto and de jure* at the Police Stations, including the medical conclusions on the physical estate of the person in the statement of restrain;

- to introduce a medical unit in the staff of the isolation wards of Police Stations.;

Ignorance of the vital needs of the detainees in the isolation wards and remand centres of the Republic of Moldova would have an adverse effect on the entire civil society by population contamination with tuberculosis, hepatitis, and diminish of the society's capacities by exposing to physical and psychical degradation of a major part of the society.