

Republic of Moldova, as a candidate country for accession to the European Union, has reaffirmed its strong commitment to advancing along the path of European integration by consolidating the necessary reforms to align with the standards of the European Union. An essential component of this process is respecting human rights, including reforming the penitentiary system. Although there have been some progressions and national legislation provides a general framework, the reality in Moldovan prisons, marked by overcrowding, inhumane conditions, and lack of adequate access to medical care, poses a major challenge. Therefore, structural reforms are essential for protecting human rights and advancing the EU accession process.

The European Commission has noted that the Government has allowed national human rights defenders to monitor conditions within prisons independently.¹

For the first time, Promo-LEX was the first and only non-governmental organization granted access by the Ministry of Justice to inspect Moldovan prisons. The organization visited seven penitentiaries and evaluated the spaces of each cell in Penitentiary No.13, subsequently developing two reports with specific recommendations and a passport named EVA-PASS (abbreviation for Evaluation Passport). Some of these recommendations are already being implemented by the authorities, which I will mention as we proceed.

⇒ Healthcare

Healthcare services in prisons have consistently been under the scrutiny of regional and international human rights protection mechanisms. Recommendations to improve inmates' access to medical, mental health, and psychosocial services have previously been addressed to the Government by United Nations bodies, particularly during the second and third cycles of the Universal Periodic Review, as well as by UN treaty bodies such as the UN Committee Against Torture and the UN Human Rights Committee. These concerns are reiterated by European Union bodies and, of course, by the European Court of Human Rights, the Committee of Ministers, and the European Committee for the Prevention of Torture.

The UN Committee Against Torture has expressed concern over the insufficiency of medical care in Moldovan prisons:

- Unqualified staff
- Lack of free access to private medical services or external specialists
- Unaddressed needs of inmates with disabilities or mental health issues

They recommended transferring the responsibility for penitentiary medical services from the Ministry of Justice to the Ministry of Health and improving healthcare quality by hiring qualified staff and providing appropriate training.

In July 2023, the UN Human Rights Committee highlighted similar concerns:

- A shortage of medical staff
- The quality of medical care for inmates
- The lack of independence of medical personnel from prison administration

¹ **Source:** European Commission Moldova Report 2023 (SWD(2023)698)

Link to report: https://neighbourhood-enlargement.ec.europa.eu/document/download/d8ef3ca9-2191-46e7-b9b8-946363f6db91_en?filename=SWD_2023_698%20Moldova%20report.pdf

The challenges related to medical care in Moldovan prisons, highlighted by these international bodies, were thoroughly documented by Promo-LEX and the European Prison Litigation Network in relation to the case *Cosovan v. Moldova*. This case, ruled by the European Court of Human Rights (ECHR) on 22 March 2022, underscored systemic deficiencies in penitentiary medical care, leading to increased oversight by the Committee of Ministers.

Subsequently, the Committee of Ministers decided to monitor the implementation of this ruling separately from the group of cases related to the material conditions of detention under an enhanced supervision procedure. This decision emphasizes the systemic and structural challenges in penitentiary medical care. Among the identified issues are:

- Lack of access to adequate medical care in detention, including specialized medical services.
- Absence of accreditation for penitentiary hospitals.
- Shortage of medical specialists.
- Logistical and financial constraints that hinder inmates' access to civilian hospitals.
- Lack of independence of penitentiary doctors from prison administration.

In December 2023, the Committee of Ministers emphasized the necessity for the Republic of Moldova to improve the medical assistance system in prisons, recommending the transfer of medical services under the supervision of the Ministry of Health and urgently addressing the staff deficit.

Currently, the Government, with the support of the Council of Europe, is developing a concept for reforming medical services within the penitentiary system. These major changes are still in the early stages, and the form they will take, along with the challenges and successes that will follow, are yet to be defined.

It is important to note that ensuring medical guarantees in prisons depends on the independence of medical personnel. Although the state cites high costs for transferring medical services from the Ministry of Justice to the Ministry of Health, this step can ensure the necessary independence.

⇒ Violence and Criminal Subculture

The lack of independence of doctors from prison administration has severe consequences for the reporting of violent acts and the prevention of the consolidation of criminal subcultures within prisons. Analyses show that, although there are cases of abuse against inmates, medical staff only record inmates' explanations regarding the origin of their injuries (e.g., "hit a branch," "fell off the bed"). There have been cases where severe injuries were neither recorded nor reported to the competent authorities, preventing the investigation and sanctioning of abuses. Informal hierarchies among inmates remain a primary source of violence in prisons. When acts of violence and abuse are not properly reported or investigated, these informal hierarchies strengthen, allowing criminal groups to exert control and influence over other inmates.

By documenting and promptly and objectively reporting incidents through independent doctors, the influence of criminal subcultures can be limited. Thus, ensuring the independence of medical personnel is essential not only for preventing torture and inhumane treatment but also for combating violence and criminal subcultures within prisons.

Following the visits to the seven Moldovan penitentiaries and thanks to the authorities' openness towards civil society, as mentioned in the first part of my speech, we promoted important recommendations included in the report and successfully advocated for their implementation.

Continuing our efforts to improve prison conditions, Promo-LEX, for the first time, conducted an evaluation of the national mechanism for identifying, registering, reporting, and examining ill-treatment, having access to the seven visited penitentiaries. Through this evaluation, we aimed to support the authorities in identifying the causes that reduce the efficiency of this essential mechanism. Following the implementation of our methodology, we developed a detailed report that assessed the current situation and the mechanism's effectiveness, formulating specific recommendations. Some of these recommendations have already been implemented or are in the project phase, while others are in the process of approval.

Analysis of the collected data revealed a significant discrepancy between the number of bodily injury cases committed in prisons and the number reported and investigated—a situation we refer to as the "dark figure" of potential ill-treatment cases in the penitentiary system. Unfortunately, a large portion of these cases are not properly reported, and others, even if they reach the prosecutor's office, are not registered and investigated.

To significantly reduce this "dark figure," it was essential to identify the causes generating it, which allowed us to formulate concrete recommendations. One of these recommendations has aimed to eliminate the need to fill numerous paper-based registers to reduce the overburdening of prison staff and eliminate arbitrariness in recording acts of violence and bodily injuries. Thus, we convinced the authorities to create a working group to develop a digital mechanism for recording and reporting bodily injuries to the prosecutor's office. This mechanism has already been developed and is currently in the pilot phase within the prisons.

⇒ The Difference Between the Official Declared and the Real Capacity of Penitentiaries

A key aspect identified during these visits was the substantial discrepancy between the officially declared capacity and the real detention capacity of the prisons. Authorities use a generalized method that does not reflect the reality of the individual spaces occupied by inmates, leading to exaggerated estimates of actual capacity and potentially hiding real overcrowding issues. To avoid such situations and accusations of concealing problems, transparency in the methodology for calculating the minimum detention capacity is essential.

In 2023, Promo-LEX conducted an evaluation of detention spaces in Penitentiary No.13 – Chişinău, acting in accordance with the commitment to consider and understand on-site realities. The results of this evaluation were included in the **Evaluation Passport (EVA-PASS)** report. Each cell in P13 was visited and evaluated as part of the assessment process, totaling 175 cells. Data were collected by the monitoring team, accompanied by an architecture expert. The experts contributed to assessing the conditions in detention facilities, considering architectural and spatial aspects. Monitors completed a separate checklist for each space, filling out data collected in real-time and technical measurements.

EVA-PASS (Evaluation Passport) contains information about the living space, acceptable number of detainees in the cell, distances between walls and height, window size, and other information related to detention facilities.

On the date of the assessment visit, the number of prisoners was 750, a figure that significantly exceeds the official capacity of 570 places. Compared to international standards, which require adequate living space for each detainee, the situation worsens, allowing for a sufficient capacity of only 377 places. The overcrowding rate in Prison No. 13 is 98.9% compared to internationally recognized optimal conditions. The problem of calculating detention capacity affects all prisons in the system, not just Penitentiary No.13, as the current procedure standardizes the calculation method at the national level.

Following the recommendations formulated by Promo-LEX after evaluating Penitentiary No.13, a Working Group was established, composed of representatives from the National Administration of Penitentiaries and Promo-LEX. This group developed a new methodology for calculating the minimum detention capacity in penitentiary institutions. The methodology project was completed and submitted to the Ministry of Justice. The methodology includes future involvement of civil society to replicate this exercise pioneered by Promo-LEX.

We hope that the draft developed together with the National Administration of Penitentiaries will be maintained in the agreed-upon form and that the Ministry of Justice will approve a version as close as possible to the draft developed by Promo-LEX with the National Administration of Penitentiaries.

According to existing data, penitentiaries already have a high degree of overcrowding. After recalculating the real capacity based on the new methodology, the overcrowding rate will be considerably higher, reflecting the real situation. Only through a fair and transparent evaluation of the real detention capacity can we adopt the necessary measures to remedy overcrowding issues and ensure the respect of detainees' rights.

Conclusion:

In light of the formulated recommendations and our international commitments, it is essential to focus on improving the Moldovan penitentiary system in multiple aspects. Reforming medical services, properly managing detention capacity, and combating violence and criminal subcultures are crucial steps towards respecting human rights and aligning with European Union standards. By adopting and implementing these structural reforms, the Republic of Moldova will demonstrate a firm commitment to respecting fundamental rights and improving detention conditions. These actions are not only a moral obligation but also a crucial condition for our progress in the EU accession process.