

RESEARCH STUDY

**"The torture and ill-treatment of children
in the context of juvenile justice:
prevalence, impact, prevention, detection
assistance and accountability"**



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The opinions expressed in this report belong to the authors and do not necessarily reflect the view of the donor.

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EXECUTIVE SUMMARY

Chapter 1 *The legal framework and current procedures for the prevention and detection of torture and ill-treatment, defense of human rights, victims' assistance and compensation* provides an overview of the current legal framework and procedures, an analysis of administrative standards and procedures related to human resources, particularly the specific requirements of employment in the penitentiary system and the structure of the Ministry of Internal Affairs. The research examined over 40 indicators concerning torture and ill treatment in current Moldovan law. The analysis of current administrative standards and human resources procedures was conducted in a series of interviews with specialists from the division, within the confines of current law.

Chapter 2 *(Official statistics regarding the complaints on torture and ill-treatment or potential torture and ill-treatment)* contains official data for 2009 – 2012 (6 months) provided by the following institutions: the General Prosecutor's Office, the Ministry of Internal Affairs, the Ministry of Justice and the Ombudsmen Institution (*The Center for Human Rights of Moldova*). The greatest number of complaints are submitted to the Prosecutor's office, by alleged victims or their parents, by lawyers, and, occasionally by paramedics (feldshers¹) or social workers. Most of complaints refer to "beatings" (a few to "degrading treatment"), and refer to actions committed within police stations and in the street, by employees of the Ministry of Internal Affairs (especially, the criminal police) or carabinieri², with the purpose of obtaining information or statements, or punishing the victim for committing a crime or an alleged crime. The study highlighted that the prosecution refused to initiate a criminal investigation in the case of most of the complaints.

Chapter 3 *(Subjects of torture)*

For the purposes of this report at least 10 professionals from each target group were interviewed, from different institutions, with varying degrees of work experience, as well as 42 juveniles from various places from detention.

The Opinion of lawyers on Torture differs depending on their degree of training and experience in providing assistance to victims of torture. The lawyers involved stated, "*The dimensions of torture are larger and more severe than is commonly thought or presented to the public*". The other lawyers were unaware of the existence of cases of torture.

The Opinion of Prosecutors: current law only partially complies with international legal standards, which Moldova is bound to uphold. Moldovan authorities do not provide children with sufficient protection in the course of criminal prosecution, trial or during rehabilitation, "*there are no special placement centers, supported by medical professionals, psychiatrists, psychologists, tutors, social workers, to protect children from potential ill-treatment. Also, there are no special programs for children who are party to an investigation which serve to avoid their re-victimization...³*".

The Opinion of Judges: judges acknowledge the existence of torture, but consider that they can make only a tangential contribution to combating and preventing torture and ill treatment. This task can only be accom-

⁶ <http://www.unicef.org/violencestudy/>

⁶ <http://www.unicef.org/violencestudy/>

⁶ <http://www.unicef.org/violencestudy/>

plished by applying new legislation; continuously raising requirements for legal practice and performance; the correct reading of the law; and not discriminating against any parties or the participants in the process.

The Opinion of Staff of the Ministry of Internal Affairs: police officers who were interviewed were reluctant to offer a perspective on torture and ill treatment. With reference to current Law; they stated that they were unaware of any use of torture by any of their colleagues. At the same time, they stated that there are frequent altercations between staff and detained children. Those who said that they were aware of cases of “beatings”, claim that each case is reported. All those interviewed denied that torture or ill treatment was used within the institutions they work in, but they did, however, recognize the existence of ill treatment.

The Opinion of Staff from the Department of Penitentiary Institutions of the Ministry of Justice: torture is sporadic, but it is decreasing and is not used in prisons. Children who are brought to the penitentiary have already been already convicted, while those who are in detention are examined by a medical doctor or paramedic on return, from court or other prosecutorial actions. Children are still subjected to torture and ill treatment, in particular, in police offices, to obtain statements about alleged crimes. Two prison officers said that minors make claims of torture, in order to evade prosecution and to impede ongoing investigation of criminal cases opened against them.

STATEMENTS OF CHILDREN CLAIMING TO HAVE BEEN TORTURED OR ILL-TREATED

Most children (69%) who claim to have been ill-treated said that they were beaten, which is statistically the most common allegation according to official figures (General Prosecutor’s Office, Ministry of Internal Affairs), while 31% of the respondents denied this or refused to respond. Most have not filed complaints (76%) for various reasons, among them a distrust of law enforcement and a fear of reprisals, namely torture or ill-treatment. Others filed a complaint personally, through lawyers or relatives (mother, grandmother), who have noticed visible signs of ill-treatment on their bodies. Children often stated that they were not supported by prosecutors, or were advised to drop the case or were even intimidated. Many had not been given any legal or psychological assistance. Most of them declared that they were barely assisted by the lawyers appointed for their defense, the latter often omitting even an explanation of their basic procedural guarantees and rights.

The high rate of beatings to the head (cranio-cerebral trauma) is quite alarming, which reflects the serious nature of the injuries which were inflicted, which also tend not to leave visible traces. No minor confirmed being consulted by a paramedic or medical doctor, followed by a subsequent investigation, to assess the diagnosis, during a legal investigation of torture. As a result, there have been traces of multiple methods of torture which have been ignored, as the traces of abuse are not visible. They are not been listed in any medical-legal reports; and nobody was charged, despite the physical and mental effects on the health of the victim. In two cases of “phone” torture the children now suffer from deafness, but were not examined or receiving adequate treatment.

One aspect refers to the period immediately after the trauma is suffered, and is manifested by acute post-traumatic symptoms (headache, dizziness, nausea, soft tissue contusion, pains in different parts of the body), as a possible result of blows which have been inflicted. After an analysis of the data, we can discern that almost a third of children suffered cranio-cerebral and cervical trauma, with a high risk of complications.

In terms of *psychological torture*, almost three quarters of the children surveyed say that they were threatened with prolonged detention, with even more severe beatings and even murder, actions that could represent a major source of traumatic stress. The humiliation they have been subjected to has deeply destructive effects on their personality, which intensifies the impact of physical torture and ill treatment. The high rate of depression and anxiety confirms that these children have undergone major traumatic events, besides being held in disastrous detention conditions: over-crowding, poor quality and inadequate provision of food, unsanitary conditions, subject to cold, insufficient light and poor ventilation etc.

The consequences of the traumatic events are evident both in terms of their physical and impact, with adverse effects on numerous areas of their lives: physical health, emotional and social condition, education, and family ties etc., a fact that considerably decreases their social adaptability.

The provision of medical and psycho-social assistance for children in detention was assessed based on the following aspects: 1) Access to health service, quality and equivalence of the medical assistance, prevention measures; 2) Labor conditions and professional autonomy of medical professionals, psychologists, social workers; 3) Documentation of the consequences of torture and various forms of violence. The responses received from 62 persons (minors) and 14 staff (medical doctors, paramedics, psychologists, social workers and tutors) shows that there are several problems and shortcomings to all three aspects of assistance, which requires a serious inter-disciplinary approach, involving the Ministry of Health and the Ministry of Education. It also requires attracting new investment and new partners. Access to services is non-transparent, poorly documented, often at the discretion of the guards. The range of medical services is limited by financial resources, poor equipment, low numbers of personnel, poor training in the field of assistance and documentation of minors who have suffered various forms of violence. The conclusion of the study is that none of the children were examined to identifying any traces or consequences of ill treatment. The study concludes that the problem of identifying the consequences of torture and other forms of violence has not been properly examined, nor has any assistance been rendered to children in detention. The lack of autonomy is a serious impediment to carrying out professional responsibilities towards patients and in strengthening their role in the prevention of torture.

Chapter 4 (An Analysis of the legal framework and the current anti torture mechanisms)

An Analysis of the effectiveness, of official investigations and their outcome: of the low number of cases that have been prosecuted in court (the majority of cases were stopped), only two people were sentenced: one subject to a criminal fine, and the second person – was given a suspended sentence. The other cases examined by judicial court resulted in acquittals. As a result, the national courts have had no effect on the prevention of torture and ill treatment.

An Analysis of the effectiveness of the existing mechanisms against torture and ill treatment. Forty two children were interviewed, and the results reveal the alarming inefficiency of the existing mechanisms, starting from the moment a complaint is filed (either personally, through a lawyer or relatives), until the penalty phase. A range of issues were raised which related to competence, professionalism and professional ethics of staff from all the institutions involved: prosecutors, medical-legal experts, paramedics, judges, and lawyers, many of whom do not have the training required, or show a lack of fairness and respect for professional ethics or human rights. As many as 76% of the children who were interviewed who have not filed a complaint stated that the main reasons were as follows: a) distrust of the justice system; b) fear of being repeatedly mistreated and weak protections offered by law enforcement authorities; c) a lack of information about the right to file a complaint, and the right to contest the lack of action on the part of the prosecution; d) the lack of financial resources to pay a lawyer; e) Pressure from parents not to file a complaint, in order to avoid any repercussions.

Official subjects (employees of the Ministry of Internal Affairs, the Department of Penitentiary Institutions, prosecutors, lawyers, judges) on the nature of law, current mechanisms against torture and ill treatment, and their effectiveness or practical problems:

Opinion of the employees of the Ministry of Internal Affairs: 90% of the respondents stated that current legislation is effective, but more explanations are necessary on current legislation, including orders and decisions from the Ministry of Internal Affairs. Half of those interviewed said that the current law is sufficient and clear, but the statements of witnesses and alleged victims are assessed differently by courts. It was stated that weak sanctions applied by judges encourage the perpetration of other crimes. Many employees are not familiar with current legislation or its limits. The need for professionalism was reiterated together with training on how to apply the law, especially in the wake of new amendments that entered into force in 2012.

The Opinion of Staff of the Department of Penitentiary Institutions: all those interviewed demonstrated an awareness of the Statute on Execution of Sentence of Convicted persons, the Execution Code and the Regulations of the Penitentiary Institution and other relevant acts. As to training, there is an initial 3-week course,

provided by the Department of Penitentiary Institutions. However, the course does not provide information about torture, ill treatment or excessive use of force; or the ECHR Decisions against Moldova, which have not been properly studied. 23% of employees stated that they have taken training courses organized by other institutions and NGOs; in particular the Institute for Penal Reforms and NORLAM, but all employees said there were gaps in their training while working with children.

The Opinion of Prosecutors: the system of justice is inefficient, and requires improvements, including departmental level changes. It is necessary to amend the provisions of the Criminal Code, so that it stipulates a definition of an individual crime that covers the full range of severe forms of ill treatment, and the classification of the act of torture as well, in accordance with the gravity attributed by these provisions under international law. Such an amendment would equate to an official statement, from the highest political level, which would send a signal of “zero tolerance” towards acts of torture and other forms of ill treatment. Any security measures provided by the Law on protection of witnesses and other participants in the criminal justice no.105 of May 16, 2008, in cases of torture, should be administered and enforced by another institution other than the Ministry of Internal Affairs.

The Opinion of Lawyers: the current justice system is adequate, however existing law remains ineffective due to numerous impediments: a) lack of legal deadlines, with which the prosecution has to comply in pursuing a complaint of torture⁴; b) the lack of effective measures to protect the victim; c) a lack of professionalism in collecting evidence; d) superficial medical examinations and a lack of forensic expertise; e) the lack of collaboration between the law enforcement authorities and the victims’ lawyers during the evidence collection, and a lack of knowledge on the part of the victim;

Judges’ opinion: the prevention of torture and ill treatment is possible through the existing justice system and the proper application of legal provisions. Legislation should provide a separate chapter regarding the investigation of torture cases, with reference to mechanisms for victims’ protection, rehabilitation, psychological assistance and documentation, by including the standards set out by the Istanbul Protocol. Reforms are also necessary to ensure the autonomy of the medical professionals within the places of detention, all the medical staff from the Ministry of Internal Affairs and the Ministry of Justice, to the Ministry of Health. Legal provisions especially those related to the obligation to report cases of torture and ill treatment need improvement.

Chapter 5 (An Analysis of torture and ill-treatment effect on children, based on the experience of the Rehabilitation Center of Torture Victims Memoria) Over 95% of those assisted have been subjected to **physical torture**, followed by blows to multiple parts of the body (especially the head and ears), torture by suspension named “swallow”⁵, electrocution, crushing of nails with pliers or introduction of needles under nails, along with: the lack of appropriate sleeping conditions, lack of hygiene facilities, limited access to medical assistance, lack of drinking water or contaminated water, the lack of food for up to 72 hours etc. **Psychological torture** comprised: threats (with severe beatings, longer detention, murder etc.) and humiliation under different forms (from insults, obscene words and verbal harassment to the forced removal of clothes, threats with rape etc.).

The physical consequences included: a) cranio-cerebral trauma, with belated consequences (encephalopathy, convulsion, etc.); b) post-traumatic otitis with deafness, with severe prognosis till surgery or hearing devices; c) spine trauma (with post-trauma discopathy and radiculopathy with persistent pain); d) fractures; e) contusion of soft tissues or internal organs, especially the kidneys, resulting in nephropathy; f) chronic pyelonephritis and other maladies that seriously affected the patients’ health.

Psychological consequences mostly refer to post-traumatic stress (PTSD), accompanied with anxiety and depressions, alongside with: disturbing memories of traumatic events; sleep disorders (frequent insomnia, nightmare), especially in the acute period after the ill-treatment. They display an excessive nervousness, which persists for a long time after the trauma, often leading to the deterioration of relationships with other people, including family members. **Social consequences:** disturbance of the educational process; difficulties of social and professional integration upon release; an increased risk of social exclusion; deterioration of social relationships,

⁶ <http://www.unicef.org/violencestudy/>

⁶ <http://www.unicef.org/violencestudy/>

including the family relations etc. Overall, all these consequences intensify social withdrawal of this category of minors, enhancing risks for delinquent behavior or membership in a criminal group, as they may feel rejected by the rest of society.

INTRODUCTION. NATIONAL AND INTERNATIONAL CONTEXT

In recent years, the problem of violence against children in detention has come to the fore, being recognized as a serious breach of the rights of the child, but unfortunately, these issues are still frequently ignored and remain insufficiently studied. Many NGOs have noted this and sought to highlight the issue, and bring it to the attention of the international community.

In 2002, the UN General Assembly advised the Secretary-General to carry out in-depth research on the problem of violence against children, as a result of a recommendation from the Committee on the Rights of the Child.

In 2006, UN produced the first “World Report on Violence against Children”⁶, drafted by the international expert **Paulo Sergio Pinheiro**⁷. The report contained a comprehensive analysis of the nature, extent, and causes of violence against children, in families, schools or other educational structures, in work settings, the community, in care and justice systems, as well as calling for urgent measures and strategies to prevent and respond to all forms of violence against them.

The report identified the fact that minors in care or custody in the institutions of justice are frequently exposed to a higher risk of violence than almost all other children. In the context of detention, violence against children can take many forms, including torture, beatings, forced isolation, use of restrictions, rape or sexual abuse, harassment, humiliation and self-mutilation. These actions may be committed by confined adults, prison staff, police, and may include unreasonable disciplinary measures, severe convictions, violent and inhumane actions, such as corporal punishment or even death penalty, sometimes masked by suicides.

In order to ensure the recommendations are efficiently monitored, a Special Representative of the UN Secretary-General on violence against children (SRSG)⁸, **Marta Santos Pais**, was appointed in 2009, for an initial period of three years.

The role of the Special Representative of the UN Secretary-General is to advocate internationally to prevent and eliminate all forms of violence against children, by mobilizing assistance between political actors and other institutions, to focus attention on the issue and galvanize the international community to act. SRSG seeks to promote mutual assistance, through international, regional and national venues, by identifying and exchanging best practices and experiences among regions, fields and institutions, by organizing missions and promoting thematic research and reports.

The Special Representative of the UN Secretary-General, UNODC (United Nations Office on Drugs and Crime) and OHCHR (Office of the United Nations High Commissioner for Human Rights) convened a group of international experts, in Vienna in January 2012, to discuss prevention and responses to violence against children within juvenile justice systems.

In addition to other activities, UNICEF currently supports extensive research activities on torture and ill treatment against children in the context of juvenile justice in Armenia, Azerbaijan, Georgia, Kazakhstan, Kyrgyzstan, Ukraine, Tajikistan and Moldova, including this project. In this context, in the Republic of Moldova, research is carried out as part of an agreement signed in May 2012 by the Center for Human Rights from Moldova, in co-

⁶ <http://www.unicef.org/violencestudy/>

⁷ International expert Paulo Sergio Pinheiro, in 2003 has been appointed as an independent expert, with the rank of Assistant Secretary-General, to prepare an in-depth study into the global phenomenon of violence against children, which was presented to the General Assembly in 2006.

⁸ <http://srsg.violenceagainstchildren.org/>

operation with the Rehabilitation Center of Torture Victims Memoria (RCTV Memoria), as a means to strengthen monitoring and involvement in the prevention of ill-treatment of the children in detention.

The study will be used to increase awareness, and to promote policies and programs for children in detention, both at national and regional level.

METHODOLOGY OF THE STUDY

For the Republic of Moldova, the methodology of the study was designed on the basis of recommendations from the UNICEF regional office, and which assisted all the participating countries in researching key local issues.

The research studied: torture, inhuman treatment and other forms of abuse against children in the context of juvenile justice, with respect to the prevalence of cases, impact, prevention, identification and assistance of victims, as well as the accountability of the state institutions.

The goal of the research: *conduct a deep analysis about the use of torture or other forms of abuse against children who are in the custody of the state institutions of the Republic of Moldova, to reach a set of conclusions and recommendations for the prevention and improvement of the situation.*

The target-groups⁹ interviewed during the study:

- 1) **62 children**, 3 distinct categories – (I) minors in preliminary arrest in Penitentiary no.13 from Chisinau, and the Penitentiaries from Balti and Cahul – 22 persons; (II) minors who are in detention within Penitentiary no.2 from Lipcani, boys - 20 people; and (III) 20 people who were assisted by RCTV Memoria, as victims, adolescents who were in custody or detention, where they have been subjected to various forms of torture and inhuman and/or degrading treatment.
- 2) **Professionals from different fields** who provide juvenile assistance. Employees of penitentiaries and police stations were interviewed: police officers, guardians, psychologists, social workers, medical professionals, as well as prosecutors, judges and lawyers. A total of 56 people from all professional groups.

The criteria by which the respondents have been included in the research process:

- ✓ Territorial coverage - the North, South and Center regions of the country have been included in the research;
- ✓ Institutional coverage – the police stations, preventive detention isolation wards and penitentiaries were included in the research;
- ✓ Children who have been or are still in the custody of state institutions, both in preliminary arrest and in detention. Selecting the number of equivalent groups in different institutions (there 20 children from 3 categories who were selected from different institutions);
- ✓ Professionals from different fields working in selected institutions: medical doctors, feldshers, psychologists, social workers, teachers, guardians, police officers, as well as lawyers, prosecutors and judges.

For the interviews, a special I questionnaires was prepared for each target-group, , in order to obtain a clearer image and more complete answers.

The questionnaires used to interview minors in detention emphasized both the methods of torture and the consequences, through the use of complementary and supplementary questions

The main areas examined by the research:

1. Analysis of the justice system and existing procedures for the prevention and identification of cases of torture and ill treatment, as well the defense, assistance for rehabilitation and any compensation of the injury caused to the victims.
2. Analysis and evaluation of the existing laws and mechanisms, as well as the factors that limit their effectiveness.
3. Collection of data relating to complaints of torture and ill treatment, or possible cases of torture and ill-treatment, which are under investigation, as well as the results of these investigations.

³⁴ Criminal Procedure Code, art.94 par.(2): It is considered an essential breach of the stipulations of the given code, when administering evidences, the infringement of constitutional rights and freedoms of the person or the provisions of the criminal procedural law by depriving participants of the process of these rights or the restriction of rights, which affected or could affect the authenticity of the obtained information, of the document or object..

4. A survey on the prevalence of torture and ill treatment,.
5. Analysis of the impact of torture and ill treatment of minors, based on the documentation and medical assistance, from experience provided by the RCTV Memoria.

The methodology for conducting the study comprised the following :

- 1) **Analysis of the problem** in both the current and evolving legal context, including an examination of relevant information from various sources, such as country reports, conclusions and recommendations of the experts and international and national institutions.
- 2) **Production of a Research Plan, including:**
 - ✓ Development of a system of organization, information, decision-making management and the specific methods and techniques for the implementation and management of the study in all the 5 identified areas.
 - ✓ Coverage and implementation of the study, with an outline of the specific working stages;
 - ✓ Conceptual selection of tools and resources involved in the production of the study, with a theoretical analysis of the expected results and the final document, in the form of a Country Report etc.

The conceptual design of a **Research Plan** in accordance with the recommendations, methodology, and tools that were presented to national experts at the "**Monitoring Torture and Ill-treatment in the Context of Juvenile Justice**" UNICEF Conference, Kiev, Ukraine, October 18-20, 2011.

- 3) **Production of a research draft:**
 - ✓ Planning and management of human, financial and logistics resources;
 - ✓ Obtaining approvals and possible cooperation agreements with the named and/or selected state institutions;
 - ✓ Determination of target- groups and the representative group of people involved in research;
 - ✓ Documentation on the topics of the study, with the selection of the tools and techniques of collection, analysis and interpretation of information/data;
 - ✓ Selection/improvement or creation of new working tools, depending on the established tasks;
 - ✓ Distribution and realization of tasks for each separate domain;
 - ✓ Timely outcome (in the terms of the elaboration of the Report), as well as in other material, human and financial resources;
 - ✓ Implementation, drafting and public roll out of the final product of the study – the Country Report.
- 4) **Organization of public debates** on the issue in question, with the involvement of relevant state institutions, for the preliminary presentation and final validation of the results and the final report of the study.

The final report contains a list of recommendations to overcome current problems which limit the effectiveness of existing mechanisms for the prevention, detection, assistance for victims of torture, violence or inhuman and/or degrading treatment and the accountability of the state institutions in this specific domain – the juvenile justice.

5) Experts and monitors involved in conducting and production of and the Report:

Ludmila Popovici, Executive Director RCTV Memoria, medical doctor, psychologist
 Dumitru Roman, Senior Consultant of ombudsman, Center for HR from Moldova
 Olga Vacarciuc, Senior Consultant of ombudsman, Center for HR from Moldova
 Tatiana CRESTENCO, Head of Child Protection, Center for HR from Moldova
 Ion GUZUN, Legal Resource Centre, Program Coordinator, lawyer-trainee
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 Svetlana Jugănar, social worker RCTV Memoria

CHAPTER 1. AN ANALYSIS OF LEGAL FRAMEWORK AND EXISTING PROCEDURES FOR THE PREVENTION AND DETECTION OF TORTURE AND ILL-TREATMENT, DEFENSE OF HUMAN RIGHTS, VICTIMS' ASSISTANCE AND COMPENSATION

1.1. LEGISLATIVE AND LEGAL FRAMEWORK FOR CHILD TORTURE AND ILL-TREATMENT

1.1.1. GENERAL LEGAL FRAMEWORK

The Republic of Moldova has ratified and acceded to international and regional instruments, which provide a series of legal and political obligations in the fight against torture, including the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, including the Optional Protocol, the International Covenant on Economic, Social and Cultural Rights, the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, including the optional protocol to Convention (OpCAT), the Convention on the Rights of the Child, the Convention for the Protection of Human Rights and Fundamental Freedoms, The European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, including Protocol 1 and 2 to this Convention.

The Convention for the Protection of Human Rights and Fundamental Freedoms, art.1 and 3, obliges each country to abide by a series of obligations, with the goal of preventing and addressing torture and other forms of ill-treatment, as well as obligations which force the state to refrain from committing certain acts that would lead to the breach of art.3 of the Convention.

In this context, the *Constitution of the Republic of Moldova*¹⁰ guarantees every person the right to physical and mental integrity and prohibits torture, cruel, inhuman or degrading treatment or punishment. The Supreme Law of the State does not allow these rights to be restricted¹¹. The prohibition of torture and inhuman or degrading treatment at constitutional level reflects a fundamental guarantee against the use of torture.

Among the general principles of the criminal process set out in the *Criminal Procedure Code*, include a respect for human rights, freedom, human dignity and individual security. Criminal procedure requires all participants in the criminal process to respect human rights, freedom and dignity:

- ✓ During the criminal process, no one should be subjected to torture or cruel, inhuman or degrading treatment;
- ✓ No one can be detained in humiliating conditions, cannot be forced to take part in procedural actions that infringe upon human dignity¹²;
- ✓ Any person who is detained or arrested has to be treated with respect ;
- ✓ No one should be physically or psychically ill-treated during the criminal process;
- ✓ Any actions or methods that could endanger an individual's life or health, are prohibited, regardless of whether the person gives consent;
- ✓ A detained or arrested person cannot be subjected to violence, threats or other methods that would affect their ability to make decisions or to express their views.¹³.

³⁴ Criminal Procedure Code, art.94 par.(2): It is considered an essential breach of the stipulations of the given code, when administering evidences, the infringement of constitutional rights and freedoms of the person or the provisions of the criminal procedural law by depriving participants of the process of these rights or the restriction of rights, which affected or could affect the authenticity of the obtained information, of the document or object..

³⁴ Criminal Procedure Code, art.94 par.(2): It is considered an essential breach of the stipulations of the given code, when administering evidences, the infringement of constitutional rights and freedoms of the person or the provisions of the criminal procedural law by depriving participants of the process of these rights or the restriction of rights, which affected or could affect the authenticity of the obtained information, of the document or object..

³⁴ Criminal Procedure Code, art.94 par.(2): It is considered an essential breach of the stipulations of the given code, when administering evidences, the infringement of constitutional rights and freedoms of the person or the provisions of the criminal procedural law by depriving participants of the process of these rights or the restriction of rights, which affected or could affect the authenticity of the obtained information, of the document or object..

³⁴ Criminal Procedure Code, art.94 par.(2): It is considered an essential breach of the stipulations of the given code, when administering evidences, the infringement of constitutional rights and freedoms of the person or the provisions of the criminal procedural law by de-

The principle of humane treatment is one of the core principles that govern the **Criminal Code**. According to the provisions of art.4 Criminal Code, the fundamental basis of the law is to uphold human dignity, and individual rights and freedoms. No one should be subjected to torture or cruel, inhuman and degrading treatment or punishment. In the same context, the aim of the law should not be to cause physical suffering or inflict injury to individual dignity and prohibits the use of torture, or cruel, inhuman or degrading treatment.¹⁴

Art. 309/1 from Criminal Code defines torture and establishes criminal liability for the use of torture¹⁵, but it is not specific about the notion of inhuman treatment and degrading treatment.

At the end of 2012, a new amendment was made to the criminal code - 166/1, which defines torture, inhuman or degrading treatment.

The legislation¹⁶ that regulates the execution of sentences, also determines correctional measures for detainees and safety and preventative measures, which aim to protect human rights, freedom, and offer detainees' assistance for rehabilitation.

According to the Statute on the execution of criminal sentences, the term "convicted" refers to an individual about whom a court has made a definitive judgment, sentenced to a criminal penalty, deprivation of liberty, regardless his/her age. Respectively, the term "convicted" is also applied to minors who have been sentenced to a custodial sentence.

All the convicted individuals have the same rights, freedoms and obligations of other citizens of Moldova, with the exceptions and restrictions provided by the Enforcement Code and by normative acts. These rights as stipulated by art.20-24 of the Constitution cannot be restricted.¹⁷

Every individual who is sentenced, including minors, has the right to defend his or her dignity, rights and freedoms under the law, including the right not to be subjected to torture or other inhuman or degrading treatment or punishment, and, regardless of consent, to be free from medical or scientific experiments that might endanger their life or health¹⁸. Moreover, right to life and physical and mental inviolability of a child is guaranteed by specific legislation. Therefore, in accordance with art.4 of the Law on the Rights of the Child, "no child can be subjected to torture, punishment or cruel, inhuman or degrading treatment"¹⁹.

priving participants of the process of these rights or the restriction of rights, which affected or could affect the authenticity of the obtained information, of the document or object..

³⁴ Criminal Procedure Code, art.94 par.(2): It is considered an essential breach of the stipulations of the given code, when administering evidences, the infringement of constitutional rights and freedoms of the person or the provisions of the criminal procedural law by depriving participants of the process of these rights or the restriction of rights, which affected or could affect the authenticity of the obtained information, of the document or object..

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In addition to the absolute prohibition of torture and ill treatment, legislation outlaws inhumane treatment, and requires all participants in the criminal process to uphold individual rights, freedoms and human dignity.²⁰.

According to art.4 of the Constitution, the constitutional provisions regarding the human rights and freedoms are interpreted and applied in accordance with the Universal Declaration of Human Rights, the Covenants and other treaties the Republic of Moldova has signed. Where there are differences between the international covenants/treaties on fundamental human rights to which Moldova has acceded and Moldova's laws, international law takes precedence.

As to Decision no.55 of 14.10.1999 "Regarding the interpretation of certain provision of article 4 of the Constitution of the Republic of Moldova", the Constitutional Court stated that *"the unanimous principles and norms of international law, the ratified international treaties and those to which the Republic of Moldova has adhered, are part of the legal framework of the Republic of Moldova, and become norms of its internal law. For the purposes of this interpretation, in the Republic of Moldova, domestic and international Law becomes a single whole, a unified framework. Therefore, normative acts also include international norms to which the Republic of Moldova is a party. Taking into account that, by interpreting the provisions of the European Convention, the ECHR jurisprudence is part of international treaty (soft law), and it has become part of the national legislation, as well"*²¹. In this context, in cases where there are discrepancies between the international treaties and conventions regarding fundamental human rights and the internal laws of the country, law enforcement agencies shall apply the rules of the international law. Constitutional provisions on the priority of international regulations regarding the human rights also has an effect on other internal laws or normative acts, regardless the date of their adoption. Furthermore, the international treaties take precedence over domestic law.

1.1.2. STANDARDS REGARDING THE USE OF FORCE AND OTHER RELATED ASPECTS

²² Employees of the Ministry of Internal Affairs and the Ministry of Justice are vested with the right to use force including firearms in the course of their duties.

The absence of a specific legal framework has led to a lack of strong controls over the use of force and has created conditions which could lead to abuse.

As a consequence a draft was produced to regulate *"the conditions and limit the use of physical force, special means and firearms, based on the provisions of international treaties"*²³. The draft law, on the application of physical force special means and firearms, was adopted in October 2012. In the meantime, the conditions, restrictions on the use of force and firearms are regulated by normative acts, internal regulations and in the Statute of execution of sentence by the convicted persons.

At present, there is no single category for the types of special means and rules under which they could be used across government. However, special means have been approved for use by the staff and carabinieri of the Ministry of Internal Affairs. In the penitentiary system, a list of special means and the rules to govern their application have been established.

³⁴ Criminal Procedure Code, art.94 par.(2): It is considered an essential breach of the stipulations of the given code, when administering evidences, the infringement of constitutional rights and freedoms of the person or the provisions of the criminal procedural law by depriving participants of the process of these rights or the restriction of rights, which affected or could affect the authenticity of the obtained information, of the document or object..

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Existing legislation prohibits the use of physical force and of special means against minors, when their age is known or obvious, except in cases when they commit assaults, including in groups or with the use of firearms or oppose armed resistance.

The police officers can use physical force and special means, including special fighting procedures, to stop criminal offences, to stop resistance against law enforcement. In turn, the employees of the penitentiary system can use physical force and special means to respond to failures to comply with legitimate requirements, to repel an attack on the penitentiary staff, prisoners and/or other persons, in cases in which detainees` participate in mass disorders, to release hostages, recapture buildings and means of transport, to recapture prisoners who have escaped from prison, to prevent escapes or other illegal actions that can cause damage to all involved or to the detainee itself.

The employees of penitentiary institutions are required to report each case of the use of physical force and special means to the authorities. Regardless of the situation and the injuries caused, they are required to draft a report, and send a copy together with all relevant materials, to the prosecutor.

Police are obliged to inform their superiors about any cases involving injury or death of citizens as a result of the use of physical force and special means. In cases in which force is used resulting in the death or physical injury of the person, the administration of that institution is required to notify the prosecutor.

Individuals invested with the right to use force and special means are entitled to use discretion in using force according to the circumstances, gravity and nature of action (or inaction). In all cases, when the use of the physical force and special means cannot be avoided, individuals concerned ought to strive to cause the minimum damage to human health, honor, dignity and property, and to ensure medical assistance to the victims.

The prison employees are entitled to use handcuffs in several cases: physical resistance to the prison staff, to the supervisors' team (guards) and in response to angry behavior – until the situation is stabilized; refusal to move under guard or to the disciplinary detention center, if there are grounds to suppose that they might escape; and for escort after detention of an escaped prisoner etc.

The current criminal legislation does not provide special regulations with respect of the use of handcuffs in relation to minors. When handcuffs are used the hands of the detainee have to be behind their back. After two hours, handcuffs must be taken off for 5-10 minutes; if necessary, they will be reapplied. Handcuffs will be taken off at mealtimes, for sleep, for physiological needs and for medical examination of the detainee, in case of sudden illness, after handing over the escorted persons, and in cases of danger for the life and health of the detainee (fire, flood, earthquake etc), in court or at the indication of persons who ordered the application of handcuffs, or direct superiors. The use of handcuffs is recorded in a register.

The subjects invested with the right to carry firearms can only use them in exceptional circumstances, in cases provided by legislation²⁴. As a rule, the law prohibits the use of firearms against minors, when their age is known or obvious, except of the cases when they commit group attacks, including armed violence, or maintain resistance. In case of injury or death as a result of use of a firearm, police officers are obliged to inform their direct superiors, so that the latter can notify the prosecutor. The abuse of power by the police officers in terms of the use of force, special means and firearms places them in jeopardy under the law.

In all cases of applications of firearms, prison staff are required to tell their superiors, and to undertake all necessary measures to ensure the safety of all individuals involved and to provide medical assistance to victims.

³⁴ Criminal Procedure Code, art.94 par.(2): It is considered an essential breach of the stipulations of the given code, when administering evidences, the infringement of constitutional rights and freedoms of the person or the provisions of the criminal procedural law by depriving participants of the process of these rights or the restriction of rights, which affected or could affect the authenticity of the obtained information, of the document or object..

Prison authorities are obliged to immediately inform the prosecutor about each case of use of firearm²⁵. The wrongful use of force by prison staff , or special means and firearms, is potentially subject to prosecution.

N.B. On December 14, 2012, Law no.218 on the use of physical force, special means and firearms, came into effect. The law establishes the grounds, conditions and limits (restrictions) for the use of physical force, special means and firearms, in order to consolidate the norms rules and laws on the effective use of force , . The subjects of law are entitled to use physical force, special means and firearms for self-defense, in case of extreme necessity or for arrest of persons under the conditions and in the cases provided by this law.

In accordance with the Law no.218, the use of physical force against minors must be avoided to the extent possible. The use special means and firearms against minors is prohibited, if their age is obvious or known, except for the cases when they attack the subject of the law or other person, including in group or when using firearms, in cases of resistance endangering human life and health, or if acts of this kind cannot be stopped by any other means.

In all cases of their use, the subjects must immediately inform their superiors . In case of injury or death of the person as a result of the use of physical force, special means and firearms – to inform the authorities personally or through their superiors, or, where appropriate, the prosecutor in whose area of jurisdiction the use of physical force, special means or firearms gun have taken place . The subjects of the law are not responsible for the material, moral, and physical damage caused to the delinquent in connection with the use of physical force, special means and firearms, if they have acted in strict accordance with the law.

The abuse of power concerning the use of physical force, special means and firearms, can lead, as appropriate, to disciplinary, civil or criminal liabilities. Within 3 months of the entry into force of Law no.218, the Government must develop a nomenclature of special means and types of firearms owned by the authorities and to adjust normative acts in accordance with this law.

In accordance with the provisions of art 175, par (9) of the Enforcement Code, preventive detention is ensured by penitentiaries, including the pre-trial detention units of the Department of Penitentiary Institutions of the Ministry of Justice. The manner and conditions of pre-trial detention facilities are set out in the Statute of the execution of criminal sentences by condemned persons.

As a rule, the detainees are kept in joint cells , in accordance with the main requirements of the detention regime on isolation, protection and continuous supervision of the detainees. The suspect can only be kept in the isolation area in exceptional cases, for the safety of the criminal investigation, the detainees' own security or the prevention of new offences, based on a specific decision by the head of the relevant prison zone,. However, these provisions do not apply to juvenile detainees, they are transferred to joint cells. In these cases, if there is a danger to life and health of the minor, they have the right to submit a request for a transfer to a place where there is no danger. In this case, the prison authorities are obliged to take urgent measures to transfer the prisoner to a safe place.

In accordance with current law , incarceration is one of the disciplinary sanctions that can be applied to the convicts, including minors, in the case of a breach of discipline breaches, such as presence in prohibited areas or at prohibited hours in certain areas of the penitentiary or the failure to return to the penitentiary; any disruption of prison social or educational programs; possession of money or purchase of goods and other assets in prohibited conditions; the violation of the rules of collective or individual hygiene; contact with the outside world except under regulated conditions; the use of assets provided by the prison administration unless regulated and provided by the law; the failure to comply with any responsibilities that the convicted person is obliged to take, or according to legislation and the internal regulations of the penitentiary, if they are likely to prejudice the security of the penitentiary.

³⁴ Criminal Procedure Code, art.94 par.(2): It is considered an essential breach of the stipulations of the given code, when administering evidences, the infringement of constitutional rights and freedoms of the person or the provisions of the criminal procedural law by depriving participants of the process of these rights or the restriction of rights, which affected or could affect the authenticity of the obtained information, of the document or object..

At present, incarceration (being placed in the isolation zone) may be applied to sentenced minors for a term of up to 7 days, which is in contradiction with international standards²⁶. The application and execution of disciplinary sanctions, including imprisonment, are expressly provided in the Enforcement Code and Statute on execution of sentences by convicted persons. Disciplinary action must be expressed in writing and given by the head of the penitentiary, taking into account the circumstances, the identity of the convict and his behavior. Applying disciplinary sanctions for a single breach of discipline is prohibited.

The decision to be sent to the disciplinary / isolation area must be communicated to the prisoner, under signature, by the people in charge of executing the sanction in question. Disciplinary sanctions such as incarceration are used only with the consent of a doctor, except in cases where the incarceration takes place for a prisoner's own personal security, or for the maintenance of order and security in the prison. If a medical doctor's (or paramedic) opinion does not consent, incarceration is postponed until the restoration of a prisoner's health.

The detainees are allowed to take a series of personal things to the isolation area: two changes of clothes, a towel, soap, toothpaste and toothbrush, periodicals, letters and telegrams. Certain items are prohibited: sharp objects, food (other than that prepared and served within the prison canteen), alcoholic beverages, or substances on the basis of alcohol, cigarettes, lighters, matches, household appliances, and consumer goods. When they are placed in incarceration, inmates are thoroughly searched. In addition, the inmates have no right to assembly, phone calls, receiving packages with supplies; they are not allowed to buy food or articles of basic necessity, or to practice sports. The prisoners will receive warm clothing only when taken to work and when the room temperature is lower than +18°. Bedclothes are provided only during sleep. Imprisoned minors benefit from daily walks for a minimum of 2 hours, and are examined by each day by paramedics or doctor.

The detainees, including minors, who suffer from mental illnesses or disabilities, are registered, and are treated in special medical institutions, under the strict medical supervision.

In the prisons' the clinical examination and supervision of detainees is performed by medical units to offer treatment and to determine their ability to work; to prescribe the outpatient and inpatient treatment, somatic and specialized treatment, as recommended under the guidelines of the Ministry of Health.

The Statute on the execution of sentences outlines how psychiatric care can be provided in penitentiaries. Prison authorities must inform a court about a person's transfer to a psychiatric section of the prison within three days of the decision to transfer them. Based on the decision of the court, the penitentiary shall ensure that the person is transferred and is provided assistance, and that this fact is communicated to their parent or guardian within three days. The type of care that a person receives in psychiatric institutions is regulated by the Criminal Code, the Enforcement Code, the Law on mental health and the other normative acts in force.

Every 6 months, prison authorities are required to send the court a report on the medical condition of the person subjected to forced medical treatment. Based on the medical report, the parent or guardian or the administration of penitentiary can submit a request to court, demanding the cessation of the use of coercive medical measures or their modification. Greater compliance with these regulations could result in fewer acts of torture or ill treatment.

1.1.3. MEASURES OF PROTECTION AGAINST ILL-TREATMENT DURING DETENTION AND INTERROGATION.

The law on children's rights establishes a set of guarantees in cases of juvenile justice. In accordance with the provisions of article 28 of the law, the state has a duty to protect the rights of a child to personal freedom. Thus, children are detained or arrested only as an exceptional measure, and only in cases provided by legislation. In cases of a child's detention or arrest, their parents or legal guardians have to be informed immediately. The detained or arrested children must be kept separate from adults and convicted children. Neither capi-

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tal punishment nor life imprisonment shall be applied for the crimes committed by individuals under 18. defense attorneys and teachers must be present at any legal hearings involving children. Criminal prosecution, hearings and judgments concerning minors are carried out in accordance with the common procedure, with any necessary caveats from the Criminal Procedure Code²⁷. At the same time, the legislation expressly imposes an obligation to expedite the prosecution and the hearing in juvenile cases.²⁸

In case of a juvenile detainee, the person carrying out the criminal investigation is obliged to immediately inform the prosecutor and the minor's parents or other legal representatives (tutors or advisers) – and this is recorded in a detainee register. If the minor has no legal representative, the prosecution or the court shall appoint ex officio a tutor as legal representative.

The Constitution guarantees every person the right to a defense. The Criminal Procedure Code requires the prosecution to ensure that each suspect, defendant or accused, including juveniles, have the opportunity to exercise the right to a defense by all means under the law. To ensure this constitutional guarantee, within one hour after detaining a person, the prosecution has to solicit the appointment of a duty lawyer to provide immediate legal assistance. The request for a duty lawyer has to be submitted in writing, including by fax or over the phone²⁹. The reasons for detention are provided immediately to the detainee, under the compulsory condition regarding the presence of a defense attorney or a duty lawyer, which provides legal aid. In case of detention, the suspect or the accused has the right to receive private legal advice from a defense attorney until the first hearing as suspect or accused. The prosecution is obliged to ensure adequate meeting conditions for the detainee and their defense attorney until the initial hearing. The suspect/accused is entitled to have private meetings with his defense attorney, without any limitation on their number or duration. If a suspect, the accused or the defendant is minor, the defense attorney must be in attendance³⁰.

Criminal law compels the prosecution and the authorities to guarantee all participants in the criminal process the ability to fully exercise their rights, the right to a qualified legal assistance for the accused guaranteed by the state.³¹

Disciplinary action may be taken against an investigator; if he does not provide the suspect with the opportunity to exercise their right to a defense or fails to fulfill their duties in accordance with the legislation.

In accordance with the Criminal Code, the right to defend a minor, suspect, defendant or accused can also be exercised by their parents or guardians, who are allowed to attend the criminal process from the detention or preliminary arrest or from the first hearing of a juvenile, who is not detained or arrested. When they enter the legal process, the minor's parents are given written notification on the rights and obligations stipulated of the Criminal Procedure Code³². The parents or guardians can be dismissed from the criminal process, and be re-

³⁴ Criminal Procedure Code, art.94 par.(2): It is considered an essential breach of the stipulations of the given code, when administering evidences, the infringement of constitutional rights and freedoms of the person or the provisions of the criminal procedural law by depriving participants of the process of these rights or the restriction of rights, which affected or could affect the authenticity of the obtained information, of the document or object..

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³⁴ Criminal Procedure Code, art.94 par.(2): It is considered an essential breach of the stipulations of the given code, when administering evidences, the infringement of constitutional rights and freedoms of the person or the provisions of the criminal procedural law by depriving participants of the process of these rights or the restriction of rights, which affected or could affect the authenticity of the obtained information, of the document or object..

³⁴ Criminal Procedure Code, art.94 par.(2): It is considered an essential breach of the stipulations of the given code, when administering evidences, the infringement of constitutional rights and freedoms of the person or the provisions of the criminal procedural law by de-

placed by another person, if possible, if there are grounds to consider that their actions are harmful to the interests of the juvenile.

The interrogation of a juvenile shall be carried out only in the presence of a defense attorney or a lawyer who provides legal state-guaranteed aid, immediately upon arrest or accusation, if a minor agrees to a hearing. A hearing is prohibited if a juvenile is tired, and or it is nighttime, except in cases that cannot be delayed, and is recorded in the minutes of the hearing³³.

The law does not provide a separate procedure for questioning juveniles, in these cases the general provisions of the Criminal Procedure Code apply, with regard to the questioning of a suspect, defendant or accused. At the same time, the law stipulates that juvenile interrogation cannot last more than 2 consecutive hours without interruption, and cannot exceed four hours per day, in the presence of a defense attorney, teacher or psychologist.

With the consent of the prosecution, a teacher or psychologist is entitled to ask questions, and at the end of the hearing, to review the minutes or, where appropriate, the written statements of the juvenile and to verify in writing the accuracy of the record. These rights have to be explained to a teacher or psychologist before the minor's hearing, with any necessary notes in the minutes.

The legal representative has the right to take part in all relevant judicial proceedings. The juveniles' parents or legal representatives also have a right to take part in the hearings. Information produced by threats of violence, coercive measures or other basic breaches of the provisions of the criminal code are inadmissible as evidence³⁴.

There are preventative measures that are expressly provided by art.175 of the Criminal Procedure Code, these include the following obligations and provisions: the obligation not to leave the city; the obligation not to leave the country; personal surety; the transfer of a juvenile under supervision; provisional release from custody; temporary release on bail; house arrest; preliminary arrest. These measures aim to guarantee the criminal process and or prevent the suspect or defendant from hiding from prosecution or trial.

The prosecution has to establish that each minor has parental supervision (custody), to ensure that they appear, upon request, before a criminal prosecutor, and to guarantee they do not seek to flee or evade justice or commit other crimes. The prosecutor or the court shall establish who will take responsibility for the juvenile, until they are transferred into custody. The juvenile is transferred under supervision, and this can only be carried out only with the written request of the parents, tutor, guardian or another trusted person, who understands the case and accepts their obligations, a fact which is recorded in the minutes. If the minor's supervisor breaches their obligations, they may be subject to a penalty by the court.

A juvenile can only be arrested in exceptional cases, in the case of grave offences, or exceptional crimes. The prosecutor, the parents, or guardians of the juvenile must be informed immediately about their detention or preliminary arrest. Juvenile detention is governed by the general procedures for detention; it cannot exceed 24 hours. After which, a detainee has to be brought in front of a judge, so that the charges can be read and, where appropriate, the minor can be released. The charges have to be submitted at least 3 hours before the initial detention period expires. Within 24 hours, the prosecutor must issue an order to release the detained person, or, where appropriate, to submit a claim for preventive measures to the judge.

priving participants of the process of these rights or the restriction of rights, which affected or could affect the authenticity of the obtained information, of the document or object..

³⁴ Criminal Procedure Code, art.94 par.(2): It is considered an essential breach of the stipulations of the given code, when administering evidences, the infringement of constitutional rights and freedoms of the person or the provisions of the criminal procedural law by depriving participants of the process of these rights or the restriction of rights, which affected or could affect the authenticity of the obtained information, of the document or object..

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Preventive detention begins from the moment of arrest. Preliminary detention of juveniles can only be extended up for a period up to 4 months. A petition regarding the extension of the preliminary detention must be submitted by the prosecutor, and is subject to court approval³⁵.

1.1.4. LEGAL STANDARDS RELATED TO CHILDREN IN DETENTION

Defendants under 18, who are convicted, are sent to juvenile prisons. According to Moldovan law, convicts under 18, can serve their sentence in separate sections of adult prisons, but under juvenile prison conditions, separate from adult detainees.

Juvenile defendants are admitted according to general procedure. They are met by the duty officer, *special records services staff*, medical unit employees and a security officer. Medical service have to examine each detainee to identify any physical injuries or other signs of violence. If a detainee has physical injuries, they must be examined by a paramedic, with further medical assistance, if necessary. Or, the detainee can be transferred to the medical section of the prison. If a detainee needs urgent treatment in a hospital, he will be given immediate medical assistance³⁶, and, then based on the medical report, they will be transported to hospital.

A paramedic or doctor who conducts a medical examination is required to report any signs of torture, cruel, inhuman or degrading treatment or other ill treatment, to the prosecutor and ombudsman office, as well as to record the information and the statements of the convict in the medical records³⁷.

Any signs of physical injuries on new detainees in the prison must be sent to the Department of Penitentiary Institutions and the Prosecutor's Office, in writing as soon as possible. The prison administration has to notify the family immediately about any signs of torture or mistreatment.

In cases when a convicted person has been subjected to torture, cruel, inhuman or degrading treatment or other ill treatment, they have the right to ask to be examined, at their own expense, in the detention facility, by a medical professional out of the prison system, or by a forensic doctor. The conclusions of external doctors have to be recorded in the detainees medical record; and once the prisoner has been apprised of its contents and signed the form, it is attached to their medical record.

Prisoners and prison staff have to treat each other with mutual respect, offer humane treatment, and comply with legislation. It is illegal to mistreat detainees, or to establish any relationships with them or their relatives, or to seek to derive any benefit from their services. Prison staff who search for personal effects must show consideration towards the detainees and respect their property. At the same time, each prisoner is guaranteed the right to a defense, and humane treatment, including the right not to be subjected to torture or to any cruel, inhuman or degrading treatment or punishment³⁸.

Although current legislation does not expressly prohibit psychological violence and the humiliation of convicts, including minors, prison staff is obliged to show consideration to the detainees, to observe the rules of professional ethics, to have a humane attitude towards detainees, to be respectful and not to insult their dignity. Prison staff may be on a first-name basis, with a prison without harming their dignity.

Each convict has the right to address petitions (requests, complaints, suggestions) to prison authorities and other institutions and organizations, including international ones. Moldovan law protects this right. The detainee's correspondence with their lawyer, or other authorities cannot be censored, and the prison has to send the mail within 24 hours of it being received.

³⁵ Criminal Procedure Code, art.186

³⁶ Statute of execution of sentence by the convicted persons, p.26

³⁷ According to the recent changes in the Enforcement Code, through Law nr 252 from 8.11.2012, the arrested person is obligatory examined by a doctor at admission and releasing from place of detention, as well as at request.

³⁸ Enforcement Code, art.169

Any statement, complaint or other circumstances that give grounds to assume that the person has been subjected to acts of torture, inhuman or degrading treatment, has to be investigated by the prosecutor, in separate proceedings³⁹. The burden of proof rests with prison authorities to prove that torture or other cruel, inhuman or degrading treatment was not used. Officials found guilty of using torture are subject to a range of sanctions, from temporary suspension to criminal prosecution⁴⁰. If there are sufficient grounds to consider that the injured party, witness or other person participating in the process, as well as their family members or close relatives could be subject to violence, damage or destruction of property or other illegal acts, the prosecution and the court are obliged to take measures to protect the individuals safety, and to identify and punish those responsible⁴¹.

Investigations into allegations of torture are carried out according to the provisions of the Criminal Procedure Code, in cases where the victim is a juvenile; their rights are exercised by their parents or guardians⁴². If a juvenile's rights are transgressed, they can be recognized as an injured party even without their consent⁴³. If a minor is the victim or a witness, a court can examine their statements in a closed session.

There is a prosecutor in each region in Moldova responsible for investigating cases of torture, inhuman and degrading treatments. The role of the prosecutor is to examine complaints of false testimony, torture, and abuse of power, violence, or actions to inhuman punishment. Prosecutors who are responsible for investigating cases of torture, inhuman and degrading treatment are regionally autonomous, within the structure Ministry of Internal Affairs, so as to ensure their independence.

Within the General Prosecutor's Office there is a special department charged with the fight against torture, which coordinates national activity. This division is in charge of preventing and combating torture, registering and examining complaints, and establishing causes and conditions, which "contribute" to torture. The Department verifies compliance with legislation in criminal prosecutions and examines infringements, sets standards on investigating these cases, and undertakes actions to eliminate cases of torture and provides practical and methodological assistance to prosecutors of territorial prosecution offices etc.

The legislation in force guarantees each person the right to professional legal assistance⁴⁴. Legal assistance is guaranteed and is also provided regardless of ability to pay. But the law does not provide clear rules on the granting legal assistance to people who have been convicted.

As a rule, institutions including juvenile detention facilities can be visited only with the authorization of either prison administrators or others officials, or based on court approval. In cases of preventive detention - cumulatively: with the consent of certain listed people and based on the decision of the prosecution or the judicial court. In each case, authorization from the head of the prison is necessary. Senior political officials such as the Prime Minister and President don't require express permission to visit detention facilities.

1.1.5. CRIMINALIZATION OF TORTURE AND ILL-TREATMENT

In November 2012, Parliament adopted a draft law to address some gaps on the eradication of torture and other cruel, inhuman, or degrading treatment⁴⁵. At the current time new regulations have not come into force, so it is important to refer to current law.

The Criminal Code establishes criminal liability for torture, as defined in article 309¹: Torture is punishable by imprisonment from 2 to 5 years, along with the loss of any right to hold certain positions or to exercise a cer-

³⁹ Criminal Procedure Code, art.298, Complaints against the actions and inactions of the criminal prosecution authority and of the authority carrying out operative investigation activity.

⁴⁰ Criminal Procedure Code, art.200, Suspension.

⁴¹ Criminal Procedure Code, art.215, The obligation of the criminal prosecution authority and the judicial court to take measures to ensure the security of participants in the proceedings and other persons; Law no.105-XVI of 16.05.2008 on the protection of witnesses and other participants in criminal proceedings.

⁴² Criminal Procedure Code, art.58 par.(10)

⁴³ Criminal Procedure Code, art.59 par.(1)

⁴⁴ Execution Code of the Republic of Moldova, art.169

⁴⁵ Law for amending and supplementing of certain acts no. 252 of 08.11.2012, effective from 21.12.2012.

tain rights for up to 5 years. Organizing or instigating torture is punishable with imprisonment from 3 to 8 years, with a corresponding loss of rights for a period of up to 5 years. In addition, article 309/1 of the Criminal Code refers to aggravating circumstances: *deliberately committed upon a juvenile, a pregnant woman or a person, taking advantage of a known or apparent helplessness of the victim, which is due to age, illness, physical or mental disability or any other factor; actions committed by two or more persons; actions committed with the use of special tools of torture or other objects adapted for this purpose; actions committed by high government officials. These actions are punishable by imprisonment from 5 to 10 years, with a loss of certain rights for a period of 2 to 5 years.*

Under current law the organization or instigation of torture and the presence of aggravating circumstances are considered more serious crimes than the act of torture in themselves.⁴⁶

Torture is framed in the Criminal Code as a criminal act in chapter "Offences against justice", with terms of 5 and, 15 years respectively in the case of organization of acts or torture or the presence of aggravating circumstances. At the end of this period, the convict is released from criminal liability. At the same time, with respect to delinquents,⁴⁷ a suspended sentence may be given.⁴⁸

The Criminal Code also addresses acts of torture or inhuman treatment committed during armed conflicts pursuant to article 137, which carries more severe punishment⁴⁹. Any methods of torture or inhuman treatment designed to cause premeditated serious and severe injuries to the health of wounded, the sick, prisoners, civilians, members of the civil sanitary personnel of the Red Cross and similar organizations, wrecked persons, or other persons subjected to the medical, biological experiences unjustified by medical treatment, shall be punished by imprisonment for 8 to 15 years. Torture, mutilation, extermination or execution without a trial of the persons mentioned above shall be punished with imprisonment of 16 to 20 years or to life imprisonment.

Criminal law provides for ill treatment, other than torture, for illegal detention or arrest – article 308, coercion to produce statements – article 309, abuse of power or exceeding duties – article 328. The difference between these offences and the offence of torture is in the degree of injury, which is caused injuries and the motive for the crime.

⁴⁶ The Criminal Code of the Republic of Moldova, article. 16, Classification of offences: "(1) depending on the nature and extent of injury, offences provided by this Code are classified into the following categories: minor, less grave, grave, very grave and especially grave. (2) Minor offenses are considered as acts for which the law stipulates a maximum sentence of imprisonment up to 2 years inclusive. (3) Less grave offences are considered as acts for which the law stipulates a maximum sentence of imprisonment up to 5 years inclusive. (4) Grave offences are considered as acts for which the law stipulates a maximum sentence of imprisonment up to 12 years inclusive. (5) Very grave offences are considered as acts for which the law stipulates a maximum sentence of imprisonment exceeding 12 years. (6) Especially grave offences are considered as acts for which the law stipulates an imprisonment for life sentence."

⁴⁷ Criminal Code, art.59: "In respect of a person under accusation for committing a minor or less grave offence, in case of confession or safe conduct, the criminal prosecution may be conditionally suspended, with the subsequent release of criminal liability in accordance with the criminal procedure, if the rehabilitation of that person is possible without applying a criminal penalty".

⁴⁸ Criminal Code, art.90, Conviction with a suspended respite of a sentence: "(1) If, in establishing the penalty by imprisonment for a term not exceeding 5 years for premeditated crimes and not more than 7 years for reckless crimes, and taking into account the circumstances of the case and the character of the culpable person, the judicial court will come to the conclusion that it is not reasonable for it to execute the punishment; it may provide a suspended respite of a sentence, indicating the reasons for the decision of the suspended respite of a sentence and the probation period. In this case, the judicial court disposes the non-execution of the applied penalty if, during the term of probation, the sentenced person shall not commit a new offence, showing an exemplary behavior and honest job. The verification of the behavior of the person with a suspended respite of a sentence shall be carried out by the competent authorities, the verification of the behavior of the military personnel – by the military command. (2) The probation period shall be determined by the judicial court within 1 to 5 years".

⁴⁹ Criminal Code, art.137: 1) Subjecting, by any method, to torture or inhumane treatment to cause premeditated serious and severe injuries of the health of the wounded, sick people, prisoners, civilians, members of the civil sanitary personnel of the Red Cross and similar organizations, wrecked persons, or other persons subjected to the medical, biological or experiences that are not justified by a medical treatment for their benefit, shall be punished with imprisonment from 8 to 15 years. (2) Application on the persons referred to in para (1) of any of the following facts: a) coercion to perform military service in the armed forces of the adversary; b) taking hostages; c) deportation; d) dislocation or coercion of freedom without legal basis; e) condemnation by an illegally established court without prior trial and without legal fundamental guarantees provided by law shall be punished with imprisonment from 12 to 20 years. (3) Torture, mutilation, extermination or execution without a trial of the persons referred to in para (1) shall be punished with imprisonment of 16 to 20 years or to life imprisonment.

Illegal premeditated detention by criminal prosecutors shall be punished with imprisonment of up to 2 years, with the loss of rights to occupy certain positions of up to 5 years. Illegal premeditated arrest by a judge shall be punished with imprisonment of up to 3 years, with corresponding loss of rights for up to 5 years. If serious consequences are implied, these actions are punishable by imprisonment from 3 to 7 years.

Coercion, by means of threats or other illegal acts, to make false statements during interrogation, the coercion of an expert to bare false witness, or of a translator or interpreter to make a false interpretation by prosecutors, are punishable by imprisonment of up to 3 years. The same action accompanied with: the application of violence; cruel, inhuman or degrading treatment or punishment; obtaining a false confession, shall be punished with imprisonment from 3 to 8 years.

The commission of acts that exceed the law by a public servant shall be punished by a fine in the amount of 150 to 400 conventional units or by imprisonment of up to 3 years, if it causes considerable damage to the public interest. If these acts are committed using violence; the use of a firearm; torture or acts that humiliates the dignity of the injured party, they shall be punished with imprisonment from 2 to 6 years. The same acts: committed by a public servant; committed in the interest of an organized criminal group or criminal organization; resulting in serious consequences, shall be punished with imprisonment from 6 to 10 years⁵⁰.

Moldovan law also establishes criminal liability for participation in a crime, whether an individual is the author, organizer, instigator or accomplice. Articles 41-49 of the Criminal Code imposes the forms of participation – simple, complex participation, organized criminal group or criminal organization, defining the criteria for each of the forms of participation, individual liability of the members of the group and the specific conditions for criminal liability for aiding the offence. In addition, torture is referred to in several articles of the Criminal Code as an aggravating circumstance⁵¹.

N.B. On 21.12.2012, the new amendments⁵² to the Criminal Code came into force. The main objective of the new regulations is to ensure national legislation complies with the Convention against torture and other cruel, inhuman or degrading treatment or punishment. In this context, the new regulations provide for criminalization, as separate offences, not only the offence of torture, but also cruel, inhuman or degrading treatment or punishment; This carries the loss of rights to occupy certain positions or to exercise a certain authorities for up to 15 years (if compared to 5 years, in the previous version of art.65 of the Criminal Code); the exclusion of the possibility to impose a milder punishment than that provided by the law, and the suspended respite of the sentence for the persons who have committed acts of torture, inhuman or degrading treatment.

1.1.6. INJURY COMPENSATION

Every person has the right to defend their rights, freedoms and dignity, if they are harmed or illegitimately proscribed as a result of criminal proceedings. The law covers the right to redress against injury to rights, freedoms and human dignity which result from the criminal process⁵³. A person who has been subjected to acts of torture has two options to seek compensation: initiation of a civil action in the criminal procedure and initiation of an action in the civil procedure.

Initiation of a civil action in the criminal procedure

⁵⁰ Art 309/1 Criminal Code of RM, excluded later by changes from the Law 252 from 08.11.2012

⁵¹ Art.151 – grave deliberate injury of physical integrity and health; art.152 – deliberate injury of physical integrity and health; art.165 – human beings traffics; art.171 – rape; art.172 – sexual violent actions; art.188 – robbery; art.189 – blackmail

⁵³ Criminal Procedure Code, art.10

⁵³ Criminal Procedure Code, art.10

A civil action in criminal proceedings can be initiated at the request of the victim . A civil action may also be initiated by the prosecutor, in cases where individuals cannot defend their interests⁵⁴. Victims of crime, may initiate a civil action to claim compensation for lost income as a result of criminal acts. They can also claim financial compensation.

Financial damages can be awarded for treatment and care; burial expenses; and to pay out insurance awards, indemnities and pensions. In assessing damages the court shall take into account the physical suffering in awarding damages, aesthetic prejudice, depression, and loss of reputation, or mental suffering as a result of the crime.

If a criminal case has not been filed, or a civil case remains unresolved, an individual has the right to submit a civil action. If a civil action has been initiated and rejected in civil court, the victim does not have the right to submit the same action in the criminal process.⁵⁵ Legal costs are paid by the convicted person or by the state

⁵⁶.

In the event of the death of the actual victim, the right to file a civil action in criminal proceedings passes to their successors, or closest relatives. The power to recognize or adjudicate between legal successors is held by the prosecutor, or where appropriate by the court, and they have the right to attend criminal proceedings instead of the injured party or the civil party, and they assume the victim's rights.⁵⁷.

Initiation of an action in the civil procedure

Petitions for compensation of psychological or physical injuries may be submitted to the court according to the law on reparation of damage caused by the illicit actions of the authorities.

Thus, in the course of a criminal process, victims who have been subjected to material or moral injury, in the course of a criminal investigation, are entitled to fair compensation in accordance with the provisions of the law which regulates cases, processes and state liability and for damages resulting from a prosecution or courts action. A claim has to be submitted within 3 years of the alleged offense. An action for compensation of damage may be initiated in judicial court to sue the state, which, in these cases, is represented by the Ministry of Finance. This action is exempted from paying state fees. Moldovan law states the actions and conditions, which can cause reparable material and moral injuries⁵⁸. The Moldovan respective institution responsible for the specific crimes, are naturally also liable to pay full compensation including expenses for the treatment of the person⁵⁹.

The victim can ask for full damages according to the law, damages shall be considered as all expenses spent by the victim to restore their rights, loss or damage to property (actual damage), as well as lost income⁶⁰. In the case of damage to health, or illegal imprisonment, the victim may claim financial compensation for non-material damage, established on the basis of assessment in accordance with the principles of equity⁶¹.

People, who have submitted petitions for damages are exempt from paying state fees⁶². In civil proceedings, the burden of proof lies with the alleged victim⁶³. Thus, the complainant must prove the circumstances and the basis of its claims and objections. Payment of compensation falls on the perpetrator for the injured person's salary or lost income due to the loss of work or health, as well as the costs incurred in connection with the in-

⁵⁴ Criminal Procedure Code, art.219, art.221 par.(4)

⁵⁵ Art.221 par.(5) Criminal Procedure Code

⁵⁶ Art.229 par.(1) Criminal Procedure Code

⁵⁷ Art.81, Criminal Procedure Code

⁵⁸ Art.3 par.(2) Law on reparation of damage caused by illegal actions of prosecution authorities, the Prosecutor's Office and the judicial courts no.1545 of 25.02.1998.

⁵⁹ Art.7 let.(f) Law on reparation of damage caused by illegal actions of prosecution authorities, the Prosecutor's Office and the judicial courts no.1545 of 25.02.1998.

⁶⁰ Art.14 par.(2) Civil Code

⁶¹ Art.616 Civil Code

⁶² Art 85, par.(1) let. a) Civil Procedure Code

⁶³ Art.118 par.(1) Civil Procedure Code

jury - treatment, additional food, prosthetic repair, care, purchase of a special vehicle, for professional retraining, etc.⁶⁴

Every adult has the right to exercise their rights in the criminal courts except those who are under the age of 14 years⁶⁵. An injured party under 18 has limited capacity to exercise their rights.. Thus, a minor aged between 14 and 18 years, cannot withdraw an action brought on their behalf reach an agreement with a suspect, accused, or the defendant; to recognize a civil action; drop a civil action; or to withdraw a complaint filed in his interests. The legal of the injured party shall be established at the time of the criminal process. The prosecution or the court shall recognize the legal ability of the person, if they have reached majority age or, where appropriate, the age of 14. Respectively, a juvenile victim of torture may address the prosecution with respect to a criminal offence only after reaching the age of 14 years.

Many countries are undertaking efforts to ensure compliance with international law on human rights. Moldova accepted a large body of international law into their domestic law and policy. As a result, in recent years, Moldova has passed many amendments, to ensure compliance with international principles, including a segment on the prevention of torture, inhuman and degrading treatment or punishment.

A comparison between Moldovan law and International norms can be a useful indicator of progress on human rights. At the same time, some aspects related to the protection of juveniles in detention clearly require additionally regulation or compliance with international norms.

In this context, it is significant to amend the law on disciplinary and stimulating measures applied to children in detention, and to exclude solitary confinement. It is necessary to revise the procedure for the submission of complaints by children, and the procedure for offering state legal assistance the human rights of each child is respected in judicial proceedings.

1.2. ADMINISTRATIVE STANDARDS AND PROCEDURES RELATED TO THE HUMAN RESOURCES

This study also attempts to address administrative issues, standards and procedures within the Ministry of Internal Affairs and the Department of Penitentiary Institutions, who is in charge of investigating cases involving minors, if concern for the rights of children is a factor in hiring and promotion, and if there is training and development on the rights of the child.

The legislation in force does not contain separate regulations specifically dealing with personnel regarding the investigation of juvenile cases. All prosecutors, w conduct criminal cases and have the same authority. The general provisions for appointing criminal prosecutors and other personnel assignments are expressly stipulated in Moldovan Law⁶⁶.

Raising professionalism is an individual obligation of each and every the criminal prosecutor; their attitude towards education and training should be taken into account in terms of meeting their duties, motivation and promotion⁶⁷. The appropriate level of training is provided by a series of criminal investigation centers for successive grades and specialized institutions and training centers. There is a system of lifelong professional training for criminal prosecutors.

There is a Juveniles` Section within the Ministry of Internal Affairs, which ensures the organization, management, supervision and control of the work of the juvenile inspectors within the territorial police subdivisions, in order to carry out prevention measures, to abate conditions that breed economic offences, violent actions in the area of domestic relations, juvenile delinquency, to provide assistance in the prevention of abusive consumption of alcohol, illegal use of drugs and other psychotropic substances, street crime and other socially dangerous phenomena.

⁶⁴ Art.1418 Civil Code

⁶⁵ Art.75 par.(2) p.2) Criminal Procedure Code

⁶⁶ Law on the status of criminal prosecution officer, chapter IV "Service in the criminal prosecution authority"

⁶⁷ Art.29 Law on the status of criminal prosecution officer no.333 of 10.11.2006

The selection and hiring process of juvenile inspectors needs to draw from a pool of candidates with a relevant background, including: higher education and or experience in teaching, psychology, or social services. Candidates are not psychologically tested for their attitudes towards children, or their desire/willingness to offer assistance and guidance in crisis situations.

Promotion should be based on merit and professional qualities, and be subject to successful evaluations. Evaluations should consist of a professional assessment including personal qualities, education, physical training and the ability to work with other people. Currently respect for juvenile rights is not a distinct criteria for advancement.

However, there are staff in the Ministry of Internal Affairs with relevant professional experience in juvenile rights and the prevention of torture.

Prison employees in Moldova need to pass an exam, and a series of personality and intelligence tests, but experience of working with children is not required.

Employees are required to attend training sessions which are organized by the Department of Penitentiary Institutions. The department also conducts training for instructors in human rights in prison. Training programs and thematic training includes topics related to ensuring respect for the rights of the child, and preventing and combating torture.

In accordance with the Standard Minimum Rules of the United Nations in the Administration of Juvenile Justice (the Beijing Rules), and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty, which provide guidance on juvenile justice, all personnel, including staff dealing with detained children, should receive special training.

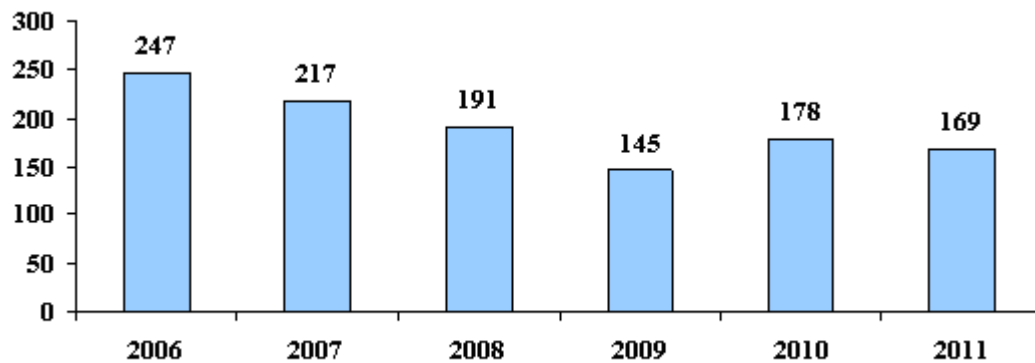
The Ministry of Internal Affairs and the Department of Penitentiary Institutions should focus on the creation of a body of professionals, able to act in all circumstances to take the best interests of the child into account, and protect their dignity and welfare. It is also necessary to strengthen existing mechanisms for redress for victims of torture and to ensure fair and adequate compensation, including rehabilitation as required by Article 14 of the Convention against Torture.

CHAPTER 2. OFFICIAL STATISTICS REGARDING THE COMPLAINTS ON TORTURE AND ILL-TREATMENT OR POTENTIAL TORTURE AND ILL-TREATMENT

According to data published by the National Bureau of Statistics, juvenile offenses represented 3,6% of the total number of crimes, down from 4,0% from 2010. In 2011, minors, (), committed 1262 crimes, compared with 2087 in 2006. The data for 2006 – 2011 is shown below.

Crimes committed by juveniles	2006	2007	2008	2009	2010	2011
Girls	206	134	145	120	173	150
Boys	1881	1681	1409	1023	1185	1112
Total	2087	1770	1502	1143	1358	1262

Thefts are the most common offences committed by minors, 70%, followed by robberies – 7,2% and hooliganism – 3,6%. In 2011, for every 100 thousand people aged up to 18 years there were 169 offences committed by minors, compared with 247, in 2006.



Rate of crimes at 100 thousand people aged up to 18 years, between 2006-2011

According to statistical data published by the Department of Penitentiary Institutions (DPI), as of July 01, 2012⁶⁸, there were 31 minors detained within penitentiary institutions (including the isolation wards), compared to 42 minors for the same period in 2011.

Table regarding the evolution of number of detained minors

	IN REALITY		+ - pers.	+ - %
	on 01.07.12	on 01.07.2011		
15 YEARS OLD	-	-	-	-
16 YEARS OLD	3	4	- 1	- 25%
17 YEARS OLD	13	9	+4	+44.4%
18 YEARS OLD	15	29	-14	-48.2%
Total	31	42	-11	-26.19%

This data has been validated by both the General Prosecutor's Office⁶⁹ and the Ministry of Internal Affairs and the Ministry of Justice of the Republic of Moldova/Department of Penitentiary Institutions.

The study was originally going to include data relating to children who were placed in special institutions for behavioral issues, within the Ministry of Education. But, the only institution, Solonet, in Soroca, a boarding school with children with behavioral issues has been closed down. So the study does not contain data referring to this category of children.

According to the methodology, the study shall provide data on the complaints received by the Center for Human Rights from Moldova.

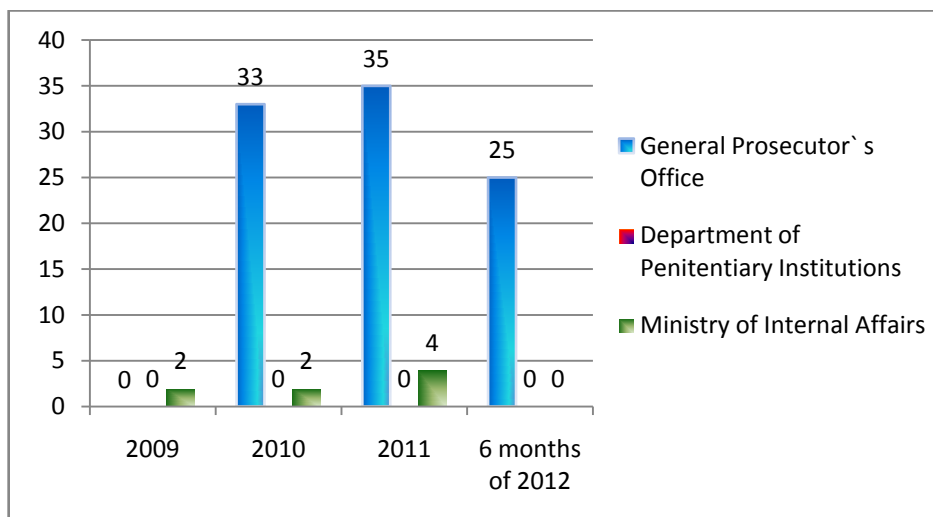
The Center registered 3 complaints about the use of torture and ill treatment of children: 2 cases in 2009 and one in 2011. The cases from 2009 were sent to the Military Prosecutor, while the case from 2011 was sent to the General Prosecutor's Office. All three cases essentially involved "beatings". In all three cases, the victims raised the complaint, 17-years old males, two Moldovan citizens and a person of Russian nationality. Two complaints described actions that took place in police facilities, by employees of the Ministry of Internal Affairs.

⁶⁸ Information regarding the number of persons deprived of liberty in the penitentiaries of the Republic of Moldova on July 01, 2012 - http://penitenciar.gov.md/upload/statistica_01.07.2012_30_16.doc, accessed on 01.11.2012

⁶⁹ For the execution of the Parliamentary Decision on the adoption of the structure of the General Prosecutor's office no.77 of 04.05.2010, there has been emitted the disposal of the General Prosecutor no.365-p from May 24, 2010 regarding the internal organization of the General Prosecutor's Office, being created the Department for the fight against torture that coordinates and monitors this activity segment at republican level. <http://www.procuratura.md/md/com/1211/1/3509/>; <http://www.procuratura.md/md/com/1211/1/4124/> At the same time, as per the disposal of the General Prosecutor, in all local territorial and specialized prosecution offices there has been appointed a prosecutor in charge of the investigation of cases of torture, inhuman and degrading treatment <http://www.procuratura.md/md/news/1211/1/3675/>

fairs, including carabinieri, in the course of an arrest. The other complaint referred to actions committed within a prison, by staff of the Department of Penitentiary Institutions, which involved intimidation or discrimination against the victim.

From 2009 – the first 6 months of 2012, there were no recorded complaints from juvenile detainees regarding the use of torture by prison staff. For these reasons, we shall focus on the statistics provided by the General Prosecutor's Office and the Ministry of Internal Affairs.



From 2009 – first 6 months of 2012, the Ministry of Internal Affairs registered 8 complaints regarding the use of torture and ill-treatment by the police, 2 of them in year 2009, 2, in 2010, 4 in 2011 and none in the first half of year 2012.

For the same reference period, the General Prosecutor's Office examined 93⁷⁰ complaints. In 2010⁷¹, there were 33 complaints, in 2011, 35 complaints; while in the first 6 months of 2012 there were 25 registered complaints. The General Prosecutor's Office has not provided data for year 2009.

All complaints sent to the Ministry of Internal Affairs referred to "beatings" as the complaint. Beatings also constitutes the largest number of the complaints examined by the Prosecutor's General Office.

Table 1: Distribution of complaints depending on their nature

Nature of complaint	2009		2010		2011		6 months, 2012	
	MIA	GP	MIA	GP	MIA	GP	MIA	GP
Beating	2	-	2	30	4	30	0	21
Hanging	0	-	0	0	0	0	0	0
Asphyxiation	0	-	0	0	0	0	0	0
Sexual abuse	0	-	0	0	0	0	0	0
Degrading treatment	0	-	0	3	0	5	0	3
Use of electric shocks	0	-	0	0	0	0	0	1
Others	0	-	0	0	0	0	0	0

Of the total number of complaints addressed to the prosecutor in 2010, 30 complaints were recorded as "beatings", with another 3 complaints – of "degrading treatment"; in 2011, of the total number of complaints, 30 recorded "beatings", while 5 referred to "degrading treatment"; in the first 6 months of 2012, there were

⁷⁰ All applications examined by the General Prosecutor office refer both to acts committed by police officers as well as by employees of the prisons.

⁷¹ There is no information provided for year 2009

21 complaints listed as “beatings”, with 3 of “degrading treatment” and 1 complaint of the “use of electric shock”.

The majority of the complaints of torture and ill treatment are made by the victim or their parents, as shown in the table below:

Table 2: Distribution of complaints depending on the identity of applicant

Identity of applicant	2009		2010		2011		6 months, 2012	
	MIA	GP	MIA	GP	MIA	GP	MIA	GP
Victim	0	-	1	19	2	15	0	14
Parent	2	-	1	13	2	18	0	8
Lawyer of victim	0	-	0	0	0	0	0	2
Social worker	0	-	0	0	0	0	0	0
Health workers	0	-	0	0	0	0	0	1
Witness	0	-	0	1	0	2	0	0

Only three complaints were submitted to the prosecutor, by a witness, one in 2010, and 2, in 2011. It’s worth noting that health and social workers have only played a small role in reporting acts of torture and ill treatment. In the first 6 months of 2012, only 1 complaint was made by the health workers to the General Prosecutor Office, while the social workers have not submitted any reports. It is obvious that measures to improve the cooperation between the Ministry of Health and Internal Affairs, including in cases of torture, has been ineffective,

Most of the complaints refer only to males. Of the total number of the complaints in 2010 and 2011 to the prosecutor only 3 referred to women, and only 1 in the first 6 months of 2012.

Table 3: Distribution of complaints based on gender aspect of the alleged victims

Number of alleged victims based on gender aspect	2009		2010		2011		6 months, 2012	
	MIA	GP	MIA	GP	MIA	GP	MIA	GP
Male	2	-	2	32	4	34	0	29
Female	0	-	0	3	0	3	0	1

The total number of the complaints does not equal the number of alleged victims, which is larger, as some complaints refer to more than one person.

According to the data ethnic background does not appear to be a significant factor that determines the use of torture or ill treatment against a certain ethnicity.

Table 4: Distribution of complaints based on the ethnical origin of the alleged victims

Ethnical origin of the alleged victims	2009		2010		2011		6 months, 2012	
	MIA	GP	MIA	GP	MIA	GP	MIA	GP
Moldovan	2	-	2	30	4	33	0	27
Russian	0	-	0	1	0	2	0	0
Ukrainian	0	-	0	1	0	2	0	3
Bulgarian	0	-	0	0	0	0	0	0
Gagauz	0	-	0	1	0	0	0	0
Rrom	0	-	0	2	0	0	0	0
Other ethnical origin	0	-	0	0	0	0	0	0

Most of the complaints relate to “Moldovan citizens”. All complaints submitted both to the Ministry of Internal Affairs and the General Prosecutor’s Office refer to ethnic “Moldovans”. A small number of the appeals examined by the General Prosecutor’s Office refers to other ethnic groups: “Russians” – 1 complaint in 2010 and 2, in 2011; “Ukrainians” – 1 complaint in 2010, 2, in 2011 and 3 complaints in 2012; “Bulgarians” – no com-

plaints in the reference period; “Gagauz” – 1 complaint in 2010; “Roms” – 2 complaints in 2010. There were no complaints from other ethnic groups.

Based on official data we are unable to determine where most alleged crimes of torture and ill treatment were committed. The total number of complaints shows that, in 4 cases, the acts took place in police commissariats, 3 cases occurred in the district police stations and in 2 cases the alleged abuses took place in the street.

Table 5: Distribution of complaints based on the place where the described actions took place (MIA data)

Location, where the described actions took place (MIA data)	2009	2010	2011	6 months, 2012
In police stations	2	1	1	0
In isolation wards of temporary detention	0	0	0	0
In police facilities	0	1	2	0
In the street	1	0	1	0
In the victim`s home	0	0	0	0

In the same context, it should be noted that the General Prosecutor's Office provides a pretty clear picture of the place where the most common abuses relating to torture and ill treatment are committed.

Table 6: Distribution of complaints based on the place where the described actions took place (GP data)

Location, where the described actions took place (GP data)	2009	2010	2011	6 months, 2012
In police stations	-	12	14	9
In isolation wards of temporary detention	-	1	0	0
In police facilities	-	8	11	10
In the street	-	11	10	4
In penitentiary institutions	-	0	0	1
In psychiatric institutions	-	0	0	0
In the victim`s home	-	1	0	1

According to statistics, most abuses are committed in police stations. This conclusion is based on 12 complaints examined by the General Prosecutor`s Office in 2010, 14 complaints in 2011 and 9 complaints in the first 6 months of 2012.

The police facilities are the next most common location where acts of torture and ill treatment occur. In 2010, there were 8 complaints to the General Prosecutor`s Office; in 2011, there were 11 complaints, and 10, in the first 6 months of 2012.

Complaints concerning abuses committed in the streets are also significant. In 2010, there were 11 complaints of abuses committed in the street, in 2011 – 10 complaints, and in the first 6 months of year 2012 – 4 complaints. Only one case recorded torture and ill treatment within the isolation area and in prisons as well. There were 2 cases of abuses committed in the victim`s home.

Table 7: Distribution of complaints based on the context in which torture and ill treatment was committed

Context and purpose	2009		2010		2011		6 months, 2012	
	MIA	GP	MIA	GP	MIA	GP	MIA	GP
With the purpose of punishing the victim for committing an act or an alleged act	2	-	1	15	3	14	0	8
During interrogation, with the purpose of obtaining information or	0	-	2	13	2	15	0	14

confessions								
With the purpose of intimidation or discrimination	0	-	0	1	0	4	0	2
With the purpose of demonstrating supremacy or superiority	0	-	0	2	0	0	0	0
Excessive use of force during detention	1	-	0	2	0	2	0	1

Most of the alleged victims were subjected to torture and ill treatment “during interrogation with the purpose of obtaining information or confessions”, and “with the purpose of punishing the victim for committing an alleged act”. This conclusion comes as a result of a large number of complaints, based on the two indicators mentioned in the table.

There were also other complaints which were examined namely complaints regarding the use of torture and ill treatment “with the purpose of intimidation or discrimination”, or “with the purpose of demonstrating supremacy or superiority” and “excessive use of force during detention”. The rate of these abuses is lower in comparison with the first two indicators.

Another aspect included in the analysis of official data refers to the subjects charged with acts of torture and ill treatment. Although there were few complaints referred to the Ministry of Internal Affairs, we should note that the acts of torture and ill-treatment were committed by the criminal police of the Ministry of Internal Affairs (1 complaint in 2009, 2 complaints in 2010, and 2 complaints in 2011) and by other employees of the Ministry of Internal Affairs, including carabinieri (2 complaints in 2011).

Table 8: Distribution of complaints based on the subject charged with acts of torture and ill treatment (MIA data)

Subjects charged with acts of torture and ill-treatment	2009	2010	2011	6 months, 2012
<i>Criminal investigation officers of the MIA</i>	0	0	0	0
<i>Criminal police officers of the Ministry of Internal Affairs</i>	1	2	2	0
<i>Employees of the Police Squad of Special Purpose “Fulger”</i>	0	0	0	0
<i>Other employees of the Ministry of Internal Affairs, including carabinieri</i>	0	0	2	0
<i>Actions committed by other persons with public, official and liability position</i>	0	0	0	0

This trend is highlighted by the data provided by the General Prosecutor's Office, as per the table below.

Table 9: Distribution of complaints based on the subject charged with acts of torture and ill treatment (GP data)

Subjects charged with acts of torture and ill-treatment	2009	2010	2011	6 months, 2012
<i>Criminal investigation officers</i>	-	0	1	0
<i>Criminal police officers of the Ministry of Internal Affairs</i>	-	15	18	8
<i>Collaborators of Special Battalion “Fulger”</i>	-	0	0	0
<i>Other collaborators of the Ministry of Internal Affairs, including carabinieri</i>	-	16	15	16
<i>Collaborators of DDS “Pantera” of the Department of Penitentiary Institutions</i>	-	0	0	0
<i>Other collaborators of the Department of Penitentiary Institutions</i>	-	0	0	1

<i>Prosecutors</i>	-	0	0	0
<i>Actions committed by other persons with public liability position</i>	-	2	1	0

Acts of torture and ill treatment are mostly committed by criminal police officers of the Ministry of Internal Affairs and by other staff of the Ministry of Internal Affairs, including carabinieri.

In 2011, one case was attributed to criminal investigation officers; one case includes other staff of the Department of Penitentiary Institutions in the first 6 months of 2012; 2 cases in 2010 and 1, in 2011.

Results of the investigation of complaints on torture

Taking into account the authority given to the General Prosecution's Office and to prosecutors by the Criminal Procedure Code of the Republic of Moldova, data was requested regarding the investigation of complaints of torture, as per table below.

Table 10: Results of the investigation of complaints on torture made by prosecutors

Results of the investigation of complaints on torture		2009	2010	2011	6 months, 2012
Total number of examined petitions		-	33	35	25
Disposals of refusal in the commencement of the criminal prosecution	Total	-	25	32	20
	<i>Due to the absence of the fact or elements of the act of crime</i>	-	25	32	20
	<i>Other reasons</i>	-	0	0	0
Number of initiated investigations for criminal prosecution		-	8	3	5
Canceled criminal cases	Total	-	0	3	1
	<i>Due to the absence of the fact or elements of the act of crime</i>	-	0	3	1
	<i>Other reasons</i>	-	0	0	0
Suspended criminal cases	Total	-	0	0	0
	<i>Due to non-identification of the delinquent</i>	-	0	0	0
Pending criminal cases at the end of the year		-	4	2	4
Criminal cases transmitted to judicial court	<i>Number of cases</i>	-	3	5	1
	<i>Number of accused persons</i>	-	4	8	1
Total number of files examined by the judicial court	<i>Number of files</i>	-	1	1	3
	<i>Number of persons</i>	-	1	1	4
Sentences	<i>Number of files</i>	-	1	1	0
	<i>Number of persons</i>	-	1	1	0
Sanctions applied to accused persons	<i>Imprisonment</i>	-	0	0	0
	<i>Imprisonment with art.90 Criminal Code (suspended sentence)</i>	-	0	1	0
	<i>Fine</i>	-	1	0	0
	<i>Unpaid community work</i>	-	0	0	0
	<i>Complimentary punishment</i>	-	0	0	0
Resolution of civil acts as per art.219-221 of the Criminal Procedure Code	<i>Rejected</i>	-	0	0	0
	<i>Accepted / amount</i>	-	0	0	0
	<i>Agreed in principle</i>	-	0	0	0
Sentences of canceling of criminal process	<i>Number of files</i>	-	0	0	0
	<i>Number of persons</i>	-	0	0	0
	<i>Sentences of canceling based on art.55 Criminal Code (files)</i>	-	0	0	0
	<i>Sentences of canceling based on art.55 Criminal Code (persons)</i>	-	0	0	0

Absolutive sentences	<i>Number of files</i>	-	0	0	3
	<i>Number of persons</i>	-	0	0	4
The child or the parents withdrew the complaint or refused to cooperate with the prosecution		-	1	0	1

The data shows that there were few prosecutions brought as a result of inquiries on torture and ill treatment. In 2010, 25 complaints of the total of 33 resulted in a refusal to initiate the criminal prosecution, in year 2011, 32 complaints out of 35; while in the first 6 months of 2012, 20 cases out of 25 have resulted in a refusal to prosecute. *The absence of facts or elements of the act of a crime* was the reason given for refusal of prosecution.

The number of criminal prosecutions in these cases is as follows:

- In 2010, in regard to 8 cases of the total of 33 complaints;
- In 2011, in regard to 3 cases of the total of 35 complaints;
- In the first 6 months of 2012, in regard to 5 of the total of 25 complaints.

Among the criminal cases that were initiated, parts of them were canceled due to the lack evidence. The three criminal cases initiated in 2011 were canceled for the same reason ; the same situation refers to one case initiated in the first 6 months of 2012. By the end of 2010, there were only 4 criminal cases remaining, in 2011 – 2 criminal cases, while in the first 6 months of 2012, only 4 cases.

In 2010, there were 3 criminal cases sent to court referring to 4 people; in 2011, there were 5 criminal cases in respect of 8 people; in the first 6 months of year 2012, 1 case in referring to 1 person. In 2010, one criminal case regarding one person was been examined; in 2011, the same situation was repeated (1 case regarding 1 person); in the first 6 months of 2012, there were 3 cases with respect to 4 persons.

During the reference period, there were 2 convictions (one in year 2010 and another in 2011) with regard to two people. One of the sentences resulted in imprisonment in accordance with the provisions of art.90 Criminal Code (with suspended sentence); the second resulted in a fine penalty.

In the first 6 months of 2012, there were several acquittals -3 cases regarding 4 persons.

In 2 cases (one in year 2010 and the other in the first 6 months of 2012), the complaint was withdrawn by the juvenile or their parents or they refused to cooperate with the prosecution.

CHAPTER 3. RESULTS OF THE RESEARCH RELATED TO VARIOUS ASPECTS OF TORTURE AND ILL-TREATMENT ACCORDING TO THE SUBJECTS INVOLVED IN THE GIVEN PHENOMENON

3. 1. PHENOMENON OF TORTURE ACCORDING TO LAWYERS, PROSECUTORS, JUDGES, STAFF OF THE MINISTRY OF INTERNAL AFFAIRS, STAFF OF THE DEPARTMENT OF PENITENTIARY INSTITUTIONS

During the research, from each target group there were 10 professionals surveyed, with varying degrees of work experience.

LAWYERS` OPINION ON THE PHENOMENON OF TORTURE

During the research, there were 10 lawyers who were questioned, with varying degrees of professional background and degrees of involvement with legal assistance to victims of torture. These fall into 2 distinct groups:

- I. 6 lawyers who were trained in the field of torture and who assisted minors subjected to actions of torture, with referrals to the relevant authorities to investigate complaints;
- II. 4 lawyers who had not participated in any training in the field of torture and ill treatment, had not assisted victims nor have heard suspicions about allegations of torture, proving an unawareness of this phenomenon.

The lawyers had different opinions on the phenomenon of torture. In terms of cases, lawyers who had experience defending minors subjected to torture and ill treatment reported that law enforcement agencies had

used violence as a result of professional incompetence and a desire to collect evidence via unorthodox methods, to obtain results. Lawyers also noted that torture is used to intimidate, punish, humiliate or demonstrate their power over children who are detained or suspected of committing crimes. According to these lawyers, it is regrettable that the authorities don't respond adequately to cases of alleged torture, and instead they often assume a pattern of denial, impunity and self-protection. In some cases, law enforcement authorities try to protect those who are responsible for acts of torture). The cases that have been brought against Moldova at the ECHR have already shown that the authorities have been slow and ineffective in their investigation of cases of torture. The cases lost by Moldova at the ECHR also prove that authorities will not have credibility as long as they fail to initiate criminal prosecutions in cases of alleged torture and if they will not conduct a prompt investigation.

Conclusion: Lawyers with experience of providing legal assistance to minors who are victims of acts of torture and ill treatment stated that ***the dimensions of torture are larger and more serious than the view presented to civil society.***

In order to reduce and eradicate torture, the following measures were recommended those who were interviewed :

- ✓ Prompt submission of complaints about torture and the realization of all appropriate actions;
- ✓ Protection of the victim from outside influences;
- ✓ Provision of specialized treatment and assistance for the victim;
- ✓ Active involvement of lawyers and other professionals in collecting of evidences;
- ✓ The need to prosecute and sentence alleged perpetrators;
- ✓ Training for lawyers and encouraging them to act with diligence in such cases;
- ✓ The need to generate public information and awareness of torture.

Prosecutors' opinion on the phenomenon of torture

The role of the General Prosecution's Office is to establish the truth and to investigate cases of ill treatment. The situation has improved with the appointment of special prosecutors dedicated to these issues, although cases of torture are still evident. The *Department for the fight against torture* within the General Prosecutor's Office and the specialized prosecutors, empowered to investigate ill-treatment, are obliged to take all procedural measures in order to conduct a thorough investigation of all aspects of allegations of torture, including identifying perpetrators and seeking a just punishment.

Cultural factors in, Moldova, constitute a major barrier to the prevention and combating of torture and ill treatment. According to prosecutors, this scourge will prevail as long as there are weak standards for hiring public employees , as long as there are inappropriate working conditions and poor equipment. As stated by prosecutors, installing video surveillance cameras with storing information within detention facilities would make a major contribution in the fight against torture. But, hopefully, with a "zero tolerance attitude to torture", public officials will come to realize that they will be held individually accountable for crimes and might actually lose their jobs.

Judges' opinion on the phenomenon of torture

The majority of the 10 judges who were surveyed perceived the phenomenon of torture and ill treatment as a characteristic vice of developing countries like the Republic of Moldova, and a serious crime. The presence of this phenomenon in society demonstrates the inability of the state to ensure respect for rights and freedoms, as well as to provide adequate protection against abuse, such as torture and ill-treatment committed by its servants.

In this context, one of the causes that contributes to the existence of torture is a lack of professionalism by agents of the state,. This statement refers in particular to the quality of the materials submitted to courts by the criminal prosecution, which judges considered poor, ineffective and pro forma. In their opinion, the small number of dossiers submitted to the Courts, and the small number of sentences, affirms this fact.

Judges do not exclude cultural factors, as well, which are characteristic of Moldova, considering the general attitude of those who enforce the law and investigate others is tolerant of abuse .

At the same time, poor knowledge of the law and individual rights among the population represents a barrier for citizens trying to defend their rights against the public agents. Judges consider that the phenomenon of torture and ill treatment consists of all the factors listed above, and this also represents a basis for finding relevant solutions to prevent and combat torture.

OPINION OF THE EMPLOYEES OF THE MINISTRY OF INTERNAL AFFAIRS

Most of the 10 police who were interviewed were reluctant to express an opinion on torture. They professed not to have heard about any cases of torture and or ill-treatment committed by their institution, or from other regions.

They claimed that altercations between officials and juvenile detainees frequently occurred. Usually, information about incidents of "beatings" and other clashes between the police (especially operative officers) and minors, come to light afterwards. Employees are obliged to file report in these cases.

All the subjects who were interviewed denied that torture was used in their institutions, but did not rule out the existence of abuse.

80% of the police officers who were interviewed were unaware of cases of juvenile ill treatment within their premises or by other police employees. 60% of police officers stated that judges and prosecutors regard complaints from juveniles and their relatives to be more significant than the reports on the abuse of power, torture or ill treatment.

No police officer was aware of any complaints of juvenile torture and ill treatment within their police stations. One inspector said that involving psychologists would facilitate more effective communication with minors. This example was offered in the context of a sexual offence when a female minor refused to make a statement. Only after a week, with the help of a psychologist, did the victim offer a statement and helped an artist to produce an impression of the alleged offender. Criminal investigators and other criminal investigators often do not have the skills required to communicate with minors and to examine specific cases involving minors.

Opinion of staff of the Penitentiary Institutions

More than a half of the 10 prison staff who were interviewed stated that they were unaware of cases in which juvenile detainees had been ill treated by the prison employees (including from other penitentiaries). No employee confirmed the use of torture, but this does not exclude the possibility of other forms of violence. Employees seemed to be more concerned about recognizing the limits of the use of physical force, self-defense and special means. It was noted that they did not know where those lines were drawn.

Prison employees regarded incidents of torture as sporadic events, which might be increasing. In their opinion, torture was not used in the prison system, but mostly a police phenomenon. They noted that torture was used to obtain information. Children who are brought to a prison have already been convicted, while those who are in preventive detention are examined by a medical worker when they return from a criminal interview.

Prison staff considered that torture and ill treatment are used, in particular, in police offices, to obtain statements about alleged crimes. Juveniles do not report cases of ill treatments that occurred prior to their transfer to prison, and they were not aware of any cases. Two of the prison staff declared that children claim to have been abused in order to evade prosecution and to delay criminal investigations of their cases.

3.2. CONFESSIONS OF CHILDREN CLAIMING TO HAVE BEEN SUBJECTED TO TORTURE OR ILL-TREATMENT

For the purposes of the study there were 3 groups of juveniles who were selected, based on their legal status, and namely:

- I. 22 juveniles in preliminary arrest, placed in various institutions during the research: a) Penitentiary no.13 from Chisinau – 12 juveniles, including 2 girls; b) Penitentiary no.5 from Cahul – 6 juveniles; c) Penitentiary no.11 from Balti – 4 juveniles.

- II. 20 persons from Juvenile Penitentiary no.2 from Lipcani, sentenced for crimes committed while being less than 18 years old.
- III. 20 persons assisted by the RCTV “Memoria”, previously ill-treated, being in arrest or detention while minors.

Researchers used complementary and supplementary questions to discover if minors had been subjected to torture, as well as to determine the consequences.

According to the questionnaires for the early identification of traumatized persons, which have been applied to the interviewed minors, the following data have been provided:

Risk level of trauma (based on the results from questionnaires)	Group I - Juveniles in preliminary arrest		Group II -Juveniles in detention		Juveniles from both groups (1+2) Total	
	No.	%	No.	%	No.	%
high	12	54,5	8	40	20	47,6
medium	4	18,2	9	45	13	31
Low	6	27,2	3	15	9	21,4

Structural analysis of the groups of children included in the study

Table 11: Distribution of children within the groups included in the study, ***based on gender:***

		Group I Juveniles in preliminary arrest		Group II Juveniles in detention		Juveniles from both groups (1+2) Total		Group III Persons assisted by RCTV „Memoria”	
		No.	%	No.	%	No.	%	No.	%
Total		22		20		42		20	
Gender	M	20	90,9	20	100	40	95,3	19	95
	F	2	9,1	0	0	2	4,7	1	5

A total of 62 juveniles have been interviewed, including 3 girls and 59 boys.

Table 12: Distribution of children from each group included in the study, ***based on the age,*** at the time of arrest:

			Group I Juveniles in preliminary arrest		Group II Juveniles in detention		Juveniles from both groups (1+2) Total		Group III Persons assisted by RCTV „Memoria”	
			No.	%	No.	%	No.	%	No.	%
Age category of the juveniles at the time of arrest	14 - 15	4	2	9,1	1	5	3	7,1	1	5
	16	14	5	22,7	7	35	12	28,6	2	10
	17	17	6	27,2	4	30	10	23,8	7	35
	18	27	9	40,9	8	40	17	40,5	10	50
	Total	62	22	100%	20	100%	42	100%	20	100%

Table 13. Distribution of children within the groups included in the study, ***according to the education,*** at the time of arrest:

Education at the time of arrest			Group I Juveniles in preliminary arrest		Group II Juveniles in detention		Juveniles from both groups (1+2) Total		Group III Persons assisted by RCTV „Memoria”	
	Grades finished	No. of minors	No.	%	No.	%	No.	%	No.	%
	6	2	1	4,5	1	5	2	4,7	0	0
	7	6	2	9,1	2	10	4	9,5	2	10
	8	19	6	27,2	12	60	18	42,9	1	5
	9	35	13	59,1	5	25	18	42,9	17	85

Table 14: Distribution of children, ***based on ethnicity***:

		Group I Juveniles in preliminary arrest		Group II Juveniles in detention		Juveniles from both groups (1+2) Total		Group III Persons assisted by RCTV „Memoria”	
		No.	%	No.	%	No.	%	No.	%
Ethnicity	Moldovan	17	77,3	18	90	35	83,3	19	95
	Romanian	0	0	1	5	1	2,4	0	0
	Bulgarian	1	4,5	0	0	1	2,4	0	0
	Gagauz	1	4,5	0	0	1	2,4	0	0
	Ukrainian	1	4,5	0	0	1	2,4	0	0
	Russian	2	9,1	1	5	3	7,1	1	5

Thus, 54 persons or 87,1% of the total number of children included in the study were Moldovan citizens. Only 8 people (12,9% of the total number) were of another ethnicity.

Table 15: Distribution of children, ***according to the place of residence*** at the time of arrest:

		Group I Juveniles in preliminary arrest		Group II Juveniles in detention		Juveniles from both groups (1+2) Total		Group III Persons assisted by RCTV „Memoria”	
		No.	%	No.	%	No.	%	No.	%
Place of residence (region)	North	3	13,6	6	25	9	21,4	2	10
	Center	12	54,5	7	65	19	45,2	16	80
	South	7	31,8	7	10	14	33,3	2	10

- ✓ Chisinau - 19 juveniles, Stefan-Voda - 5, Cahul - 5, Orhei - 3;
- ✓ Nisporeni, Singerei, Briceni, Straseneni, Anenii Noi, Floresti, Ialoveni, Hincesti, Leova, Drochia – 2 juveniles per each location;
- ✓ Calarasi, Basarabasca, Rezina, Balti, Causeni, Comrat, Criuleni, Telenesti, Cantemir, Vulcanesti – 1 juvenile per each location.

The data shows that of the total number of children interviewed, 16 were from the South of Moldova, 35 juveniles were from the Center of the republic, including 19 from the Chisinau, and the remaining 11 minors were from the north of the country.

Allegations about torture and ill treatment of juveniles in detention (groups I and II)

Group no. I (Juveniles in preliminary arrest)

Table 16: Methods of torture and ill treatment, at certain stages of arrest

Methods of torture and ill-treatments	No.	%
Beating	15	68,2
"Phone" - torture (strong simultaneous blows over the ears)	2	9,1
Physical mobility restraints (long stay in small cells or other places)	7	31,8
Lack of conditions for sleep (wooden beds, without bedding)	7	31,8
Restrictions to hygienic facilities (access to WC, bathroom)	14	63,6
Cold and wet cells, in the absence of adequate clothing	2	9,1
Limited access to medical assistance, if necessary	6	27,3
Lack of drinking water or contaminated water for up to 24 hours	8	36,4

15 juveniles said that they had been beaten; there were 2 cases of blows to the ears ("phone" torture), which reflected the seriousness of a large number of the cases of beatings. It is unfortunate that other actions that have a negative effect on the physical and mental health are not taken into consideration when investigating cases or in the preparation of preventive measures.

Table 17: Methods of psychological torture and ill treatment, at certain stages of arrest

Methods of psychological torture	No.	%
Threats to the victim, including with:	16	72,7
• serious beating	7	31,8
• longer detention	8	36,4
• murder	4	18,2
Humiliation (obscene words, revilement, insults, ridicule, brutalization etc.)	10	45,5
Interdiction to communicate with outside world	7	31,8
Detention with isolation (placement in solitary confinement, in punishment cells)	7	31,8
Techniques of constraint (forcing to sign false confession)	6	27,3
Restrictive access to WC	4	18,2
Witness to the torture of another person (saw or heard other detainees who were beaten)	4	18,2
Sleep deprivation (night interrogations)	3	13,6

Threats have been the common methods of psychological torture. Thus, 72,7% of the total cases of minors was threatened with long-term detention, serious beatings, or murder. For example, a minor was threatened with drowning in a nearby pond, another – with murder and mutilation. These threats from a law enforcement agent were a major source of stress. Almost half of children interviewed said that they had been humiliated in different ways. The humiliation to which children were subjected often has profoundly destructive effects on their personality, and intensifies the impact of physical ill treatment.

Group no. II (juveniles in detention)

Table 18: Methods of physical torture and ill treatments, at certain stages of arrest and detention

Methods of physical torture and ill-treatments	No.	%
Beatings, blows on various parts of the body	11	55
"Phone" - torture (strong simultaneous blows over the ears)	1	5
Physical mobility restraints (small cells)	5	25
Lack of conditions for sleep (wooden beds, without bedding)	2	10
Restrictions to hygienic facilities (access to WC, bathroom)	5	25
Lack of drinking water or contaminated water for up to 24 hours	6	30

Lack of food for up to 36 hours	5	25
Holding the head under water (toilet bowl)	1	5
Limited access to medical assistance	2	10
Hanging	2	10

Table 19: Methods of psychological torture and ill treatment, at certain stages of arrest and detention

Methods of psychological torture	No.	%
Threats to the victim, including with:	14	70
• serious beating	10	50
• longer detention	4	20
• murder	4	20
Interdiction to communicate with relatives and lawyer	11	55
Humiliation (obscene words, revilement, insults, ridicule, brutalization etc.)	11	55
Restrictive access to WC	3	15
Witness to the torture of another person	4	20
Detention with isolation (placement in punishment cell)	10	50
Techniques of constraint (forcing to sign false confession)	5	25
Sleep deprivation	3	15

We can see that the threats are among the most common psychological methods of torture in this category, reflecting 70% of the total number of minors. Thus, 10 children were threatened with longer detention, 4 – with serious beating, 4 – with murder (including 2 - with drowning in the Nistru River, unless they confessed , and two others had a pistol put to their heads, and were threatened with mock execution. About a half of the juveniles stated that they have been subject to humiliation, their communicate with relatives was interrupted (55%). We note that the data obtained did not differ with group no.1.

Another method that was apparent from the research was isolated detention. This includes incarceration and solitary confinement during pre-trial detention, and quarantine periods spent in a prison in Lipcani, where quarantine cells are similar to ones for incarceration, and juveniles are sent there for about 15 days after their return from other institutions.

Physical consequences of the torture and ill-treatment on the juveniles from group I and II

Table 20: Physical consequences of the torture and ill-treatment on the juveniles from preliminary arrest (group I)

Physical consequences	No.	%
headache	7	31,8
dizziness, nausea	3	13,6
spine pain	10	45,5
pains in different parts of the body	5	22,7
hearing loss or reduction (post traumatic deafness)	2	9,1
soft tissue contusion	3	13,6
worsening of existing diseases (bronchial asthma, pyelonephritis)	2	9,1

Some of the physical consequences that were recorded refer to the initial period, immediately after the traumas were received, i.e. acute post-traumatic symptoms (headache, dizziness, nausea, contusion of soft tissue, pain in various parts of the body), which could have been caused by the blows they received . However, some of these symptoms, such as headache, dizziness, spine pains and pains in other parts of the body, persist until the present time. One of the children, who was diagnosed with deafness stated that he had been subjected to

“phone” torture in a police facility. The second received several punches to his head, including to his ears, to the extent that hearing loss could also have been caused by inner ear trauma.

a) The most severe immediate physical consequences:

1. Cranio-cerebral trauma and the cervical region trauma – 31,8% - represents a high risk of complications in the acute period;
2. Soft tissues` contusions of 3 minors also indicated the presence of contusions of their internal organs, which are potentially much more serious.

b) The most severe belated evolution and effects:

1. Hearing loss (a reduction in hearing) that over time could progress to severe deafness requiring possible surgery or hearing devices.
2. Consequences of cranio-cerebral trauma and cervical region trauma that could lead to epilepsy
3. Worsening of existing diseases (particularly bronchial asthma, renal and cardiovascular pathologies, etc.)

Table 21: Physical consequences of the torture and ill-treatment (group II)

Physical consequences	No.	%
headache	3	15
dizziness	3	15
pains in different parts of the body	2	10
Hearing loss (reduction hearing)	1	5
Broken teeth	1	5
soft tissue contusion	2	10
edema under eyes	1	5

a) The most serious clinical manifestations and immediate consequences: 1) Consequences of cranio-cerebral trauma and cervical region trauma (increased risk of acute complications); 2) Contusion of soft tissues (risk of traumas and contusions of internal organs).

b) The most severe belated evolution and effects: 1) the future consequences of cranio-cerebral trauma and cervical region trauma can lead to loss of memory, radiculopathy with persistent pain etc. 2) Hearing loss, which can progress to disability because of posttraumatic deafness.

Psychological consequences of the torture and ill-treatment on the juveniles from group I and II

Table 22: Psychological consequences of the torture and ill-treatment on the juveniles from preliminary arrest (group I)

Psychological consequences	No.	%
anxiety (tension, fear)	13	59,1
depression	14	63,6
Nightmares	12	54,5
sleep disorders (insomnia, frequent waking)	10	45,5
excessive nervousness	15	68,2
difficulties of concentration and memory	2	9,1
frequent memories of the trauma, avoidance behavior	5	27,3
self-mutilation	5	22,7

The high rate of depression (63,9%) and anxiety (59,1%) are most likely the result of traumatic events suffered by juveniles. Overcrowded penitentiaries, insufficient quality and quantity of food, limited access to daylight, unsanitary conditions in cells, cold, insufficient light and poor ventilation and other inadequate conditions may also affect minors, including their psycho-emotional condition.

Table 23: Psychological consequences of the torture and ill-treatment on the juveniles (group II)

Psychological consequences	No.	%
anxiety (tension, fear)	12	60
depression	14	70
Nightmares	7	35
sleep disorders (insomnia, frequent waking)	7	35
excessive nervousness	11	55
difficulties of concentration and memory	2	10
frequent memories of the trauma, avoidance behavior	5	25
self-mutilation	4	20
suicidal attempts	4	20

The rate of depression and anxiety remains high in this group (70, respectively 60%), approximately at the same level as the previous group (I). The rest of the indicators show lower values compared to the first group.

During the interview process with minors , there were a series of problems that were identified: a) increased risk of intimidation and violence against minors in the period immediately following arrest; b) difficulty proving the use of torture and its consequences; c) A lack of interest and disregard by the courts of the threats and other forms of psychological ill-treatment as proof; d) the persistent problems of physical and psycho-emotional health of the ill-treated children (especially feelings of insecurity and distrust); e) A reduced level of sociability of minors, who have suffered traumatic experiences.

Solutions for these issues:

- Identification, monitoring and complex assistance for juveniles who have suffered traumatic experiences, to prevent aggravation of the consequences of torture and ill-treatment;
- Identifying signs of distrust and low degrees of sociability in minors (fear and psychological barriers, or considering torture as normal);
- Ensuring access to state-qualified and independent medical-legal expertise;
- Recognizing the diversity and the severity of the consequences of torture and their correlation with the individual minor's age and his level of mental maturity at the time of ill-treatment;
- Periods of rest and psychological testing of employees on a regular basis;

According to data collected from interviews with minors with regard to the use of torture 69% of children said they were subjected to torture or ill treatment in police custody; 31% of children said that they were not tortured, or did not respond. The juveniles surveyed mentioned that as suspects to a crime, sometimes without a prior record, they were picked up from their homes by the police officers and taken to police stations. As a result of discussions based on specially designed questionnaires, it was revealed that 55% of those interviewed were interrogated without the presence of a lawyer, and were subject to intimidation, physical and psychological pressure, to force them to sign false statements.

Out of 69% of children who reported that they were subjected to torture and ill treatment, only 24% (8 cases) submitted a complaint, and 76% did not do so. Distrust of law enforcement authorities, was the main reason that they gave as well as the fear of being repeatedly tortured or ill-treated (4 cases). Four juvenile detainees stated that the complaints, of beatings which they were subjected to, were filed by a relative (mother, grandmother), who noticed visible physical signs of ill treatment.. Children stated that they had no support from prosecutors. Moreover, in 2 cases, prosecutors insisted that they withdraw their complaint, saying that "you will not be able to prove anything". 5 juveniles said they faced indifference and disregard on the part of law enforcement authorities, or have not received any response with regard to the case or have not been informed about a refusal to press criminal charges. In these circumstances, children were forced to relinquish their rights under questioning. Most children reported that they had no assistance from their appointed lawyers, and were often without legal and psychological support. Nine children said that their lawyer did not explain their rights, the concept of attorney client privilege , or notify them of their right to submit a complaint. In the

other 3 cases, children mentioned that they did not file a complaint or dropped the investigation of their complaints, due to a lack of financial resources to pay for their lawyer's services.

Conclusion: Children in detention are not getting due attention and proper protection, in accordance with their physical and mental condition (which is at times underdeveloped), nor any protection guaranteed by the law from law enforcement authorities or often their lawyers.

3.3. MEDICAL AND PSYCHO-SOCIAL ASSISTANCE OF CHILDREN IN DETENTION

We are pleased that the Moldovan authorities are interested in improving the situation with regard to the medical assistance of people in detention. It is worth noting that, recently, the Ministry of Health (MOH) and the Ministry of Justice (MJ) requested technical assistance from the United Nations Office on Drugs and Crime (UNODC), to assess the provision of medical services in places of detention. The Moldovan Government was keen to ensure the quality of medical services within detention facilities, and sought expertise to implement structural reform in the justice and health sectors.⁷²

Medical assistance in the prison system in Moldova is regulated by national legislation, namely art. 230(2) of the Execution Code, approved by Law no.443 of 24.12.2004. Medical assistance is provided by *"qualified health personnel, free of charge, as long as it is necessary"*. Prisoner's benefit from free treatment and medicines. In accordance with the legal provisions, every detainee should have access at least to a therapist, a dentist and a psychiatrist. Those who require specialized medical treatment shall be transferred to the prison hospital of the Department of Penitentiary Institutions, or civil sector hospitals, if necessary.

During the study 42 minors in detention, 5 medical workers, 5 psychologists, 2 social workers and 2 other employees were interviewed about medical and psychosocial assistance offered to the juvenile detainees in custody of the institutions involved in the study. The medical records of 20 beneficiaries assisted and interviewed at RCTV Memoria were also reviewed.

For the purposes of the research in this chapter, the following instruments were used:

- 1) Questionnaires in juvenile interviews;
- 2) Questionnaires for medical workers, social workers, psychologists, teachers;
- 3) Psychological questionnaires and tests for the beneficiaries of RCTV Memoria.

The given report contains:

- 1) Detailed description of the compliance of the situation with the internationally recognized requirements and standards;
- 2) Analysis and presentation of the information received from relevant sources – juveniles, workers and the administration;
- 3) Identifying obstacles which prevent juvenile detainees` exercising their rights to appropriate assistance;
- 4) Conclusions and recommendations for the removal of potential deficiencies and improvement of the situation.

The study of medical and psychosocial assistance surveyed the following :

- 1) Access to qualified medical assistance and equality of medical care, prevention measures;
- 2) Working conditions and professional independence of the medical workers, psychologists and social workers;
- 3) Documentation of the consequences of torture and different forms of violence.

⁷² Report on "Organization of medical services within penitentiary field of the Republic of Moldova". UNODC/OMS Mission from April 9-13, 2012.

3.3.1. ACCESS TO QUALIFIED MEDICAL ASSISTANCE AND EQUALITY OF MEDICAL CARE

From the moment of arrest or upon arrival at the penitentiary, all juvenile inmates shall be examined by a medical worker without delay. In accordance with international recommendations, each newcomer should be properly interviewed and medically examined as soon as possible, unless there are exceptional circumstances.

The following information was obtained during the interviews performed with specially created questionnaires for juveniles from detention, or from medical records of persons assisted at RCTV Memoria.

Table 24: Data received during the realization of the study regarding the medical examination

Medical examination at different custody stages:	Group I (P13 - 12, Cahul - 6, Balti - 4)	Group II (P 2 Lipcani)	Group III (assisted in RCTV Memoria)	Total
Police facilities	4	6	0	10
Prevention detention	22	20	2 (only forensic exam)	44
In custody	-	20	4 ⁷³	24

The survey revealed that 83,9%, or 52 juveniles of the total number of 62, were not examined by medical workers at the time of arrest. This situation has changed in recent years, as medical examinations are now carried out within some police facilities, although it is still insufficient and superficial, and does not document their health or identify possible traces of torture and other forms of violence.

Almost all children in detention stated that medical examinations were superficial, without any inquiry into signs of actions of torture or other forms of violence, that they were subjected to.

The data from the study show that the medical examinations conducted on arrival, were pro forma, and superficial, and limited to a standard screening focused on: tuberculosis (including roentgenography), pediculosis, infectious diseases, chronic diseases, AIDS, surgery, intolerance to drugs, as well as general medical examination (including tattoos, scars, physical defects). The examination took place individually, in the medical room.

The situation seems to be better within penitentiary no.2 in Lipcani, where children enjoy more care from medical workers, but the quality of the assistance is still less than the minimum required, and quarantine conditions are degrading, differing only slightly from incarceration. One of the children interviewed said that in the early days of quarantine he was placed in an isolation cell, because there was no other space available. It was not explained to him that it was actually a punishment cell, and when he found it out, the juvenile perceived this as unjust punishment.

The procedure of the juvenile`s access to medical assistance, if necessary.

As stated by the head of the medical service from Penitentiary no.13, the petition on medical assistance could be submitted as:

- Verbal request**, during the morning call (the paramedic is present in a compulsory manner);
- Verbal request**, with the help of the guardians throughout the day (the guardian has a portable station and calls the operator, who, in turn, registers the request and brings the paramedic). This procedure takes after a maximum of 10 and 30 minutes;
- Written request**, by means of the guardians or internal mailbox. The applicant shall be examined by the physician or the paramedic on the same day.

According to medical workers, minors have free access to medical assistance as needed. The paramedic has a portable station, and can be called by the guardians in case of emergency. The chief of the medical service did not recognize the possibility the guards might not make the call due to disruptions (knocking at the door,

⁷³ Out of 20 persons, only 4 juveniles have been accused and placed in prison, being examined by medical workers. The rest of them have only been in the arrest within the police facilities or preliminary detention, then being released.

screams, shouts etc.). At night, the decisions relating to the ability to provide assistance belongs to the paramedic. The only current problem perceived by medical workers relates to the need to hold children separately from adults. For this reason, they are brought in from their facility to medical services; after receiving the assistance necessary, they return to their cells, as there are no separate cells for minors in the medical service facility.

However, the juveniles' statements show that the assistance, including in cases of fever and pain, was not apparent or was quite late, more often the next day. Children claim that they were not informed about available medical assistance in the prison. In the vast majority of cases, the information was obtained from cellmates.

The interviewed children said, , that the access to medical or psychological assistance was carried out in the majority of cases ***through the guardians***, a fact which was corroborated from other sources as well as observations during visits. There have been cases when the guardian refused, delayed or relayed the information to provide medical assistance only on conditions. In one case, a guard humiliated the person with insulting words referring to a member of his family, who had died in detention.

Some minors talked about self-mutilation, anger or depression, because they were repeatedly asked for and were refused access to a paramedic or psychologist, without any explanation or details. At the Lipcani prison, a few of the children said they did not ask for assistance, because they did not want to look weak in front of their fellow prisoners, especially those of the so-called superior "caste", which dictates, with the tacit approval of the administration, the rules within the penitentiary for juvenile prisoners.

Cooperation with other medical institutions and transfer, in case of necessity

The information obtained in the interviews and the examined documentation have shown that transfer from a closed prison to the penitentiary hospital from Pruncul or to another locality sometimes takes too long, even if the distance is a short one. Internal prison regulations on the transfer of the patient in a health care unit outside the penitentiary were not made available. But, as stated by the interviewees, the transfer involves a long series of bureaucratic procedures, with about 7 signatures, which greatly adds to the delay in the granting medical assistance, which can sometimes lead to bad consequences.

The chief of the medical service from Penitentiary no.13 declared that in emergencies, including in cases of serious self-mutilation, transfer to other medical institutions are carried out by the "903" service (emergency). The same situation applies at nighttime, because the hospital from Pruncul Penitentiary does not receive patients after 5PM. But in cases of emergency, penitentiary doctors need to improve the transfer process, which takes time and can harm the health of the detainee. For these reasons, the working group insists on a ***unique medical card***, which is given to a minor in custody, wherever he is detained.

Quality and equality of the social-medical services provided to juveniles

a) General Medical Assistance

A penitentiary health unit should be able to provide necessary medical care and treatment, as well as appropriate diet, physiotherapy, rehabilitation or any other necessary specialized assistance in conditions comparable to those provided to patients in the community. The provision of medical staff, nursing and technical equipment, as well as the accommodation, and facilities, should be appropriate. Also, the use of medicines always should be carried out and monitored by qualified medical personnel.

The study revealed that juvenile medical assistance needs urgent improvement in several areas: capacity, quality, professionalism and competence of medical workers, monitoring and evaluation of the provided services, as well as necessary devices and equipment.

Generally, it was observed that the medical staff was motivated by higher salaries than in public institutions or other facilities and rights related to military rank. Some of them are willing to provide better medical services, but they lack appropriate and sufficient equipment, tools, devices, or necessary medicine. For example, a

paramedic who was interviewed from Penitentiary no.2 from Lipcani proved to have good knowledge of children's health issues in prison, but mentioned that necessary medicines and equipment are not provided.

At Penitentiary no.13, the medicines are prescribed, issued and recommended and brought by relatives (in some cases), but without proper monitoring of the treatment. For example, a person who was treated after a hunger strike, had a bag with more pills, and was not aware on how to take them. Some children stated that when they needed assistance, they were given some pills, but without clear explanation of the treatment and their effects.

At Penitentiary nr 2 from Lipcani, there is a dentist, but there is no equipment, including a dental chair. Therefore, regular dental prophylactic consultations cannot be provided, and the assistance is focused on the treatment of more serious cases, with pain, in the community medical clinic.

Interviews identified numerous people with sequelae after self-mutilation by cuttings in the arm area. The sequelae demonstrate the lack of an emergency medical assistance through the application of surgical sutures. The minor's scar had a width of about 3 cm, evidence that no suture was applied and, despite its seriousness, the wound was not treated properly.

The paramedics interviewed insisted that they could provide medical assistance; however, after interviewing them, a few weeks later, a case of an infection that was the result of a cut was revealed, which had not been adequately surgically treated nor a bandage applied. When asked why his wound was open, the minor replied that the bandage was too dirty and that he has requested another bandage, but he has not been brought to the medical cabinet, although it was already afternoon.

B) PSYCHIATRIC AND PSYCHOLOGICAL ASSISTANCE

The penitentiary institutions included in the study all have psychiatrists and/or psychologists on staff. But both the children and workers interviewed referred to the insufficiency of psychological service necessary for detainees.

The interviewed children said they feel an acute need for psychosocial assistance, which is considered of great significance for them, because these professionals are seen more than others as a bridge to society, where they hope to return as soon as possible.

These professionals reported the following issues:

- 1) Insufficient personnel and too many tasks for each worker;
- 2) Insufficient training, in particular in identifying and assisting victims of torture;
- 3) Insufficient literature, teaching materials and equipment;
- 4) Limited access to the internet;
- 5) Difficult and stressful working conditions, in inadequate facilities, which require extensive repairs, improvements and equipment;
- 6) Limited possibilities for occupational therapy and other instructional and creative activities, which would help to improve the status of minors;

c) Prevention of suicidal cases

This is another serious issue in terms of health of detainees and psychosocial assistance in places of detention. If carried out properly, medical examinations upon arrival and in the reception process have an important role to play in the prevention of suicide, since people who are at risk could be identified.

However, the data obtained in the study calls attention to another worrying factor - the number of children suffering from depression, over 60% of respondents, and the number of minors with signs of self-mutilation. It is unfortunate that medical staff, and the penitentiary administration do not provide the assistance necessary to these children and self-mutilation is seen only as "*an attempt of the minors to draw attention*" almost on a whim, which does not accord with reality. Children raised serious concerns, including too severe verbal abuse, homesickness, profound depression, or refusal of the guardians to call a medical worker or psychologist.

d) Prevention of juvenile torture, violence and ill treatment

The statements from minors who were interviewed led to the conclusion that **none** of them was examined in order to identify signs and consequences of ill treatments. The declarations from medical workers allowed us to conclude that, till present, these issues have not been brought up, and identifying the consequences of torture and other forms of violence was not given the due attention.

The study of medical records has shown that medical documentation is not always carried out in time, and does not reflect the true state of the minor's health in detention. Medical workers are not interested in and do not document the possible consequences of torture. For example, there were 2 minors who claimed loss of hearing, after having been beaten over the ears ("phone" torture). But they were not properly examined by a paramedic/ doctors, nor given the necessary treatment, and are at risk of further hearing loss.

e) Preventive medical assistance

Medical assistance should not be limited only to the treatment of the sick persons, but also it should include social and preventive medicine.

Conditions of hygiene: in terms of health conditions, there are persistent problems with ventilation and lighting in a majority of the facilities we visited, except for the Penitentiary no.2 from Lipcani, where the number of juvenile detainees has been reduced and the bedrooms are spacious. In other prisons, minors are detained in extremely overcrowded, dark, moist, conditions without ventilation facilities with an abundance of cigarette smoke. Also, the beds are stacked in two levels preventing the penetration of natural light and ventilation.

Several minors from Penitentiary no.13 reported that the food is of poor quality, and the bread sometimes has an unpleasant odor.

The food products which are available are often of good quality, and comply with the regulations for storage. However, vegetables, such as carrots, were peeled without being washed, which can lead to contamination and gives off an unpleasant smell. Bread was of good quality, but the storage facility had mould on the ceiling and the walls, as well as high humidity, which impaired the quality of the bread.

In the quarantine cells, transit cells and isolation cells there was a more a more serious situation. For example, at the Penitentiary no.2 in Lipcani, on arrival, convicts are kept in a quarantine area for a period of up to 15 days. During that time they are subjected to a medical examination to determine their health and given treatment if required,. But the conditions in quarantine cells are very bad, cold and poorly lit by the sun during the day, while at night the light is left on, which affects the quality of sleep and can cause discomfort, and severe physical and mental health disorders.

f) Infectious diseases

One of those interviewed reported that he was detained with a person who, presumably had tuberculosis (and assumed that the prison administration was aware of this fact), but it took a long time before the sick person was transferred elsewhere.

It is alarming that in the preliminary detention period, the vast majority of juveniles are tattooed in unsanitary conditions, with the same device, which represents a risk for the transmission of infections. Besides individual regrets, many of them reported some local infection after tattooing, claiming that they were not informed about the potential risks of transmission of infectious diseases.

g) Social and family relationships

Adolescence is a period in which individual personalities are formed that requires a special effort to reduce the risks of long term social problems. While in custody or detention, adolescents should be allowed to be part of healthy social groups, in a predetermined place and surrounded by personal items. Punishments, which are given, should be based on activities, including socio-educational sessions, sport activities, education, training, and availability of optional activities.

It is welcome that the prisons administrations visited displayed an interest in cooperating with civil society and other community institutions, to provide better assistance to minors in detention and to facilitate their

preparation for the post-detention period. But penitentiary authorities are facing management and financial problems which mitigate against a desire to organize more cultural or social events that would strengthen links with the family and society. It was also noted that there is also a community social assistance services show a lack of interest towards minors in detention, these services and public institutions should be more cooperative and interested in the fate of minors who have arrived in detention, in particular if they were not given the support and attention that was necessary before.

During discussions, minors referred to their ties with the family as being very weak, restricted and hard to keep, due to several reasons, including administrative ones. But because many of the children come from vulnerable low-income families, relatives cannot afford more frequent visits to prison. On the other hand, phone conversations are quite limited: 10 minutes every 2 weeks. But even this opportunity cannot be taken up by minors, often because these conversations are controlled by inmates of the superior "caste", as happens in Lipcani, for example. Many of the interviewed children are orphans, in single-parent families (21), or in the care of grandparents (5), or do not have any connections with their family, including due to detention or to the fact that their parents work abroad. One of the children interviewed was found by his mother, who was abroad, and who was not aware of the fact that he was in detention, until she watched TV and saw him giving an interview to journalists and telling his story.

3.3.2 LABOR CONDITIONS, COMPETENCES AND PROFESSIONAL INDEPENDENCE OF THE MEDICAL WORKERS, PSYCHOLOGISTS AND SOCIAL WORKERS

Besides higher monthly incomes and other military-grade facilities, such as earlier retirement, which could be attractive and would motivate some specialists, labor conditions are an important factor in the degree of professional satisfaction. Other factors include the provision of quality services, and the perception of playing an important role in the prevention of torture and different forms of violence against prisoners.

In this context, we can conclude that labor conditions for the medical workers, and psychologists or social workers do not correspond with requirements or needs of minors, or comply with relevant standards.

The standard of primary medical care is below expectations, and the process for getting treatment is complicated by obsolete equipment and a lack of medicine. Another reason is the lack of exchange of electronic information between medical services. Medical documentation is managed manually, by paper,. It is necessary to enhance support for lifelong learning, including computers and internet access. It is obvious that the medical service in prisons lack funding, but it is important to find solutions, which do not require large investments. Unfortunately the majority of those interviewed have noticed a continuous search for excuses for existing problems; and they add, it is harder to find a can do approach within resource constraints. This is a typical of many people within a system, but there are still people motivated and dedicated to working with children.

The majority of medical workers in the penitentiary system start working shortly after graduation, with limited experience in the civil system, and with no formal training in the provision of services in detention conditions. The lack of special training in identifying victims of torture is a important gap as is appropriately documenting the medical consequences. Even if the Istanbul Protocol is available for all relevant professionals, not all prison staff have received it nor have they become aware of its provisions. Even if they have received it, they are not able to comprehend what the Istanbul Protocol represents.

Following the responses received to the question *"to what extent do you think that you might need training in working with juvenile detainees, which were previously subjected to different forms of violence?"* it is apparent that all those interviewed need such training.

The medical and psychosocial personnel are not independent of prison administration and there are barriers in relation to cooperation in the interests of minors. It's unfortunate, but it seems that the role of security staff is to conduct surveillance of healthcare services and perhaps even decide whether to call a medical worker, or not, when a detainee needs assistance. This situation negatively affects trust between detainees and medical staff, with the appearance of ethical issues.

Almost all interviewees noted the large volume of work, given the number of detainees and the stressful work environment. The high rates of mental health problems among prisoners exceed the capacity and the number of employed psychiatrists and psychologists. There is close cooperation between the medical service and the education service on psychosocial issues related to health services and privacy. It is desirable that these services operate in the interests of minors in interdisciplinary detention.

Other assertions and conclusions:

1. During interviews with the children, some of them reported experiencing poor attitudes from medical and psychosocial service staff, that they (those children) deserve their fate. It is unfortunate that a punitive attitude exists along with the absence of **effective** programs of assistance, sociability, training, education etc. The statement "*you know who they are*" was repeatedly made by professionals from various institutions. It was revealed that in the vast majority of cases, minors in detention are punished too severely, neglected, ignored and forgotten by those which should provide them with quality services, as well as by wider society. Working conditions, the conditions for creative activities and outdoor exercises also are deplorable. Unhealthy conditions of cells, overcrowding, prolonged isolation and inactivity can contribute to the mental and physical degradation of minors, who, even if they have broken the law, should not be "sentenced to degradation".
- 2.
3. The freedom of medical professional's is limited by the prison itself: they are not free to choose their patients, and the detainees have no other medical options available. Their professional duty is to offer care, even if the patient breaks medical standards or applies threats or violence.
4. The guardians are assigned an exaggerated role with respect of decisions concerning access to medical and psychosocial assistance. Although it's not an excuse, they have limited knowledge of the field, and they are in need of more appropriate training, as they work in close contact with juvenile detainees.
5. Surveillance personnel must be made aware of how to identify certain behavioral changes or health problems, and to alert medical or psychological service. But it is undeniable that they should not have a decision-making role in physical or mental health cases among the prison population.
6. Medical workers from penal institutions should have specialized knowledge to enable them to deal with pathologies typical in detention and to adapt treatment methods to the conditions created by prison conditions. In particular, professional attitudes towards preventing torture, abuse and violence against detainees need to be developed.
7. Psychologists who are employees of different penal institutions should provide respective counseling, testing, and assistance with developing of individual programs, depending on the problems faced by each person in detention.
8. Psychologists need to ensure that tests are continuously updated and adapted to the needs and problems of minors, who have reported that they feel disoriented and confused when they are questioned during some tests, and
- 9.
10. Regardless of the place of work and position, prison staff should be trained to recognize the signs of suicide risk. People at risk of suicide should be placed under a particular surveillance regime, for as long as is necessary, with a lack of access to certain means: the prison` windows bars, broken glass, belts etc. Information about such individuals must be submitted both to the internal unit and other units of medical and psychosocial assistance, in case of transfer.
11. Information about infectious diseases (in particular, hepatitis, AIDS, tuberculosis, skin infections etc.) should be provided on a regular basis, both among inmates and the staff.
12. Medical and psychosocial assistance should be more involved in reducing social disturbances and family relations, which are usually effected by custody. Detainees` contact with the outside world should be guaranteed, by equipping areas for family visits. Long stay facilities for juveniles in family, professional, educational environment, and other socio-cultural contexts should be developed.
13. Prison administration should take measures for the early detection of mental problems among juvenile detainees (e.g., depression, reactive states etc.), to allow adjustments to their environment. This can be encouraged by appropriate medical training activities for the staff.

CHAPTER 4. EFFECTIVENESS OF THE LEGAL FRAMEWORK AND EXISTING MECHANISMS REGARDING TORTURE AND ILL-TREATMENT

4.1 EFFECTIVENESS IN THE CONTEXT OF OFFICIAL STATISTICAL DATA REGARDING THE COMPLAINTS, THE ACTIONS OF INVESTIGATION AND THEIR OUTCOME.

According to official statistics, the most common acts of torture and ill treatment are “beatings”,.

In accordance with the official statistics, the Department of Penitentiary Institutions did not receive any complaints from the juvenile detainees. In our opinion, this reflects the lack of an effective mechanism for submitting complaints.

After analyzing these statistics in relation to complaints on torture and ill treatment, we found that there is a strong correlation between the data on the nature of the complaint; the place where the described actions took place, and the subject charged with committing acts of torture and ill treatment. There are two important aspects of this phenomenon.

The first relates to the application of torture and ill treatment by the criminal police of MIA, at the stage prior to the submission of accusations. It was noted that the share of complaints indicating that the actions took place in the police sector, correlates with the large proportion of complaints that occur during the interrogation process, in pursuit of information or confessions, and with the high proportion of complaints where the subjects charged of these actions are employees of the Ministry of Internal Affairs of criminal police.

The second aspect of this phenomenon refers to the application of torture and ill treatment in the street. That conclusion is reached, as a result of the official figures showing that a significant share of the total complaints relate to actions committed in the street, while another significant category of subjects, according to the number of complaints, relate to employees of the Ministry of Internal Affairs (including carabinieri).

Another detail that was noted in the analysis of the statistical data refers to identity of the applicant/the person who filed the complaint. As stated earlier, the majority of complaints are submitted by the alleged victim or their parents. Social workers made a weak contribution (0 complaints) and feldshers (1 complaint). In this context, it is obvious that measures to improve cooperation between law enforcement and health care authorities, including on cases of torture is not working.

This conclusion could explain the large number of complaints with refusals to initiate criminal prosecution due to a lack of evidence. Although the prosecution is eventually informed, either by the alleged victim or by their parents, it is often too late for an effective prosecution. The tardiness in informing competent authorities about acts of torture and ill treatments, leads to the disappearance of physical signs of injury caused to the alleged victims, a fact which often leads to a lack of evidence against perpetrators. It should be noted that the methods of torture which are used often do not allow visual detection by the medical professionals of the injuries.

In this context, we could conclude that medical professionals working in this area, who are in charge of the examination of health of prisoners, detained, arrested persons etc. should be granted more independence, and the necessary equipment to conduct examinations.

Another problem refers to the deterrent effect of sentencing in addressing torture and ill treatment. We believe that there is no practical effect, since there only been 2 convictions, out of a total of 9 criminal cases submitted to the court; 1 conviction with a suspended sentence, and the 2nd sentence stipulated a criminal fine. It is obvious that these results have no effect on the behavioral and attitudes of potential perpetrators. This fact proves the weakness of the system in relation to torture and ill treatment and contributes to an atmosphere of impunity.

In this context, it is worth noting the sentencing Moldova received from the European Court of Human Rights, which provides an additional argument. Until 2011, the Court examined a total of 227 cases in respect of Moldova, 72 cases relating to art.3 of the European Convention for Human Rights, as follows: 8 cases on the prohibition of torture, 43 files on inhuman and degrading treatment, and 21 cases regarding the lack of an effective investigation.

4.2. EFFECTIVENESS OF THE EXISTING MECHANISMS AGAINST TORTURE IN THE CONTEXT OF THE REPORT RESULTS REGARDING THE EXPERIENCE OF VICTIMS OF TORTURE AND ILL-TREATMENT

The analysis of efficiency in terms of minors in detention under the aspect of submission/non-submission of the complaints on torture claims and legal consequences

The mobile teams interviewed 22 minors in preventive detention in Penitentiaries: no.13 from Chisinau, no.11 from Balti, no.5 from Cahul, as well as 20 children from the Penitentiary no.2 in Lipcani. The data collected from these minors with regard to the submission or non-submission of complaints of allegations of torture revealed the following: 69% of those interviewed have made allegations about torture and ill-treatment to which they were subjected, and 31% denied or did not respond. It is alarming that only 24% (8 children) of the 69%, who have made statements about torture, submitted complaints; 76% of children have not used this right provided and guaranteed by law.

Along with this data on the large number of claims in respect of acts of torture and the small number of recorded complaints, both their causes and development were identified as follows:

Submission of complaints on the application of ill-treatment actions:

Thus, 8 minors (24% of the total number of interviewed persons) who submitted complaints, mentioned about various modalities, not always efficient:

- ✓ Children who have submitted their own complaints against police officers (3 cases) found out later that the case had been dropped for lack of grounds. An. Two of the children said they had been convinced by prosecutors to withdraw their complaints in order not to worsen their situation.
- ✓ Children who reported that their complaints have been submitted by their **lawyers** (2 cases). In one case, the victim was forced to withdraw the complaint because of threats subsequently received from police officers, and in the other case, the case was not prosecuted, due to not meeting the threshold for a criminal offense. It was revealed that, in some cases, although complaints have been submitted through lawyers or in person, the procedure was suspended later due to the lack of financial resources to pay for their lawyer.
- ✓ Children who stated that complaints had been submitted by **their relatives** (3 cases), declared that members of their family subsequently advised them to drop the complaint, due to the refusal of prosecutors to begin criminal proceedings or because of "advice" on the part of the prosecution to waive any claims. In one case, the complaint was eventually withdrawn. In other cases, minors have not received any answer and have not being informed of developments in the case.

Conclusion: it is unfortunate that, among the children who have used the right to file a complaint against police officers of ill treatment and torture, there has not been a single case in which a prompt and efficient investigation was carried out, with a positive result. It seems that the approach on the part of law enforcement agencies was similar in all cases: to ignore the complaints, persuade to the victim to drop the complaint, prosecutors displayed an unwillingness to quickly and genuinely open an inquiry, there were few measures taken to protect the victims, there was a lack of information on how to appeal any decisions, the lack of a legal professional and prompt assistance.

Another problem was the lack of professionalism shown by some lawyers who were providing legal assistance: on the one hand, they do not fulfill their role to provide information to ensure the victim can exercise of their

legal rights in cases of alleged torture and ill-treatment; and on the other hand, a contracted lawyer often does not continue to represent the client for financial reasons. The lack of continuous legal assistance, as well as the quality of legal assistance constitutes a series of issues that should be reviewed by the National Council of State-guaranteed Legal Assistance and the Lawyers Union.

Last but not least, it would be highly appropriate to develop a legal staff who could work in prisons trained and experienced in addressing issues relevant to minors, to keep track of each minor's personal dossier, to regularly monitor each minors situation, and to provide basic information required for minors.

As to the indifferent attitude of law enforcement concerning complaints submitted by minors, the General Prosecutor's Office needs to permanently monitor the number of complaints submitted by minors, to address concerns about the apathy of law enforcement.

Non-submission of complaints:

The minors who did not file complaints (22 cases or 76% of total respondents) gave different reasons for their decision:

Distrust of the justice system. This was the most common reason given by the majority of the minors.

- ✓ This is explained by the fact that juveniles don't feel supported by law enforcement, and consider that police do not defend the rights of citizens.
- ✓ Police officers are perceived to dictate the law, and no prosecutor or judge will give credence to a minor in trouble with the law, so police officers are free from liability. This distrust of justice is reflected by social, financial, and cultural inferiority and the pervading sense of corruption.
- ✓
- ✓ **Fear of threats, beatings by the accusers, uncertainty of any protective measures on the part of law enforcement authorities.**
- ✓ Another reason of concern was that 5 of the children, who did not submit complaints, **did not even know** that they had the right. Some children have stated that they were unaware of their right to contest the claim, and that they were not informed about this by their lawyers, and they were not given any explanation of their rights at the moment of detention.
- ✓ 4 children mentioned a **lack of financial resources** to pay the lawyer's services
 - ✓ 2 children said that they did not complain because **their parents have advised them against it** so as not to aggravate the situation

Conclusions:

1. In these cases the lack of responsibility on the part of relatives, as well as the professional responsibility on the part of the lawyers concerned; professional incompetence of law enforcement authorities, as well as the low level of legal culture of the population; are all serious concerns
2. There is a lack of a legal support on the part of the penitentiary administration in which minors are detained.

Legal consequences

There are 2 types of legal consequences related to the legal situation of interviewed juvenile.

- 1) In the case of **minors who have filed complaints** of ill treatment and torture, the appeals have remained unresolved. Moreover, almost none of the children interviewed had exercised an appeal on the refusal to initiate a criminal prosecution, either because they were unaware of their right, or their lawyers' lack of involvement. They are still in prison, subjected to re-victimization, with no ability to resolve or prove their allegations.

The legal consequences include: illegal convictions, forced confessions; the lack of information about their legal rights, the prospect of a double risk of getting back in the hands of criminal prosecutors under new allegations of criminal offences. Many children said they did not have any contact with their lawyers to find out about the evolution of their cases, or to appeal court decisions, In the case of minors who **have not used the right to file the complaint**, *the legal consequences are the following*: the acceptance of any charges, a lack of information about alternative mechanisms for settling accusations, for example, reconciliation with the injured party. Many stated that they need qualified legal assistance to review their cases, although, they also acknowledged that they do not trust the legal system, and ad-

mit there is a possibility they will be "stigmatized for life". There have been cases when experts from mobile teams have revealed discrepancies in the offences minors were charged with, relating to the aggravation of the situation (for example: in the case of a premeditated murder there was also evidence of manslaughter. In other cases, children have submitted the petitions for appeal by themselves, with no results. Again, the lack of information and legal assistance from the penitentiary administration is evident.

Conclusions: Taking into account the negative effects of the above, it is necessary to undertake a series of measures regarding: a) the training of police s, prosecutors and lawyers on the issues of the phenomenon of torture; b) continuous monitoring of the cases of detained juveniles (Center for Human Rights from Moldova, General Prosecutor's Office, specialized NGOs); c) immediate application of existent legal protection measures for the children- who are victims of torture and ill-treatment; d) mass information about the phenomenon of torture to increase the level of legal culture.

4.3. INVOLVED SUBJECTS (POLICE STAFF, PENITENTIARY STAFF, PROSECUTORS, LAWYERS, JUDGES) ABOUT THE NATURE OF LAW AND THE EXISTING MECHANISMS AGAINST TORTURE AND ILL-TREATMENT, THEIR EFFECTIVENESS OR PRACTICAL IMPEDIMENTS.

4.3.1 OPINION OF THE POLICE STAFF

The police officers who were interviewed were vice-commissioners, inspectors of juvenile and morality department, criminal investigators, criminal prosecution officers, staff of the Department of Penitentiary Institutions, with over 6 years in the police force, who started their careers in the Ministry of Internal Affairs. Many of them are graduates of the Police Academy "Stefan cel Mare" or the law faculties of different universities. Three of those interviewed had completed their secondary education in teaching.

Police officers are regularly participate in training, which is usually organized at the Police Academy "Stefan cel Mare", including superficially training on human rights, torture, ECtHR jurisprudence. These courses focus mainly on tactics and operations. There also have been seminars organized by the Center for Human Rights from Moldova employees and some NGOs (e.g. La Strada, Pas cu pas etc.). Police officers find it necessary to deepen their knowledge regarding procedures in the case of juvenile recidivism, because some of them commit new offences even while their cases are being considered in criminal court.

Two police staff noted that they benefited from training and exchanging experience with similar institutions outside Moldova. A policeman mentioned a long-term training course, which he took in 2003, organized by the Helsinki Committee from Moldova. This training, included information on human rights and the ECtHR jurisprudence, and helped spur his professional growth and ability to guide of his younger colleagues.

The juvenile and morality department inspectors participate more often in trainings which include the concept of the juvenile rights - domestic violence, sexual violence, trafficking in human beings etc. Two employees said they did not feel the need to be trained in the field of children's rights, human rights or right of torture and ill treatment. 20% of those questioned said that at the weekly meetings of their police sections, there are regular discussions on torture and ill treatment. But they could not give accurate answers about topics discussed at these meetings. All of those interviewed consider juvenile and morality department as having an important role in preventing torture and ill treatment. This includes lessons in schools, private discussions with children and police officers applying different tactics in contact with minors. Minors are told their right, including actions they have to undertake when they are detained. The department presents procedures to court, communicates with the social services, but they have a lack of communication with probation counselors.

The police officers who were interviewed had a high degree of knowledge of criminal and procedural law. However, they admitted that often after an arrest, criminal investigation officers often required assistance in dealing with minors, until lawyers and prosecutors arrived. A police officer said that all documents concerning minors are given to prosecutors within a period of up to 3 days. Another policeman who was interviewed noted that police officers must be informed and instructed not to resort to any form of violence.

Inspectors (in particular those from the juvenile and vice departments) said they often buy food from their own money for minors, since they are not in Isolation for Preventive Detention (IDP), and were not registered as needing food. All the inspectors interviewed described detention conditions of the IDP as good, but did not know the criteria for assessing juvenile' detention facilities.

All the police confirmed the involvement of the *Department of juveniles and morality* and the prosecutor, in the initial arrest proceedings. In both cases they claim that the juvenile's relatives are notified about this action upon arrest.

Criminal investigators stated that they ask police officers to bring minors to the police station or to the prosecutor for criminal investigation procedures. The police officers in turn ask the parents to bring minors to the police station.

If children do not have parents or their parents are working abroad, police officers request the presence of a tutor, other relatives or a teacher. In particular, inspectors of juveniles and vice departments stated that over 60% of psychologists, educators and the trustees' are only physically present, after working hours, weekends or holidays. More effective representation is often the result of previous participation in other criminal investigations in which minors were involved. Officials claimed that in exceptional cases (e.g., the person is not from the locality in which he/she was detained, at night time) minors are detained in IDP. The Commissary noted that at times minors are placed in other institutions (e.g. temporary placement of minors), which are not supervised by the police, because there are no beds in the IDP.

Police officers ensure, the rights of minors are respected as soon as they reach the detention facility. If a detainee demonstrates resistance, police officers draw up a report on the circumstances of apprehension, where they note whether handcuffs, or special techniques were used etc.

In the first ten months of 2012, in the district of Cahul, there were 57 illegal state border crossings, in which minors participated. In the same period of year 2012, 9 children were detained in the police station, one of whom — twice. From January to September 2012, there have were 164 registered offences committed by children or with their involvement.

Officers confirmed that children are initially brought to their offices until a criminal investigator or the prosecutor arrives. Children are not officially registered as by the Police Commissariat or IDP, even though police facilities have interrogation premises, and the IDP sites rooms might be temporarily used for this purpose. 30% of the interviewed police officers confirmed that they frequently need assistance prior to a hearing. Five inspectors have stated that they do not require assistance, one of which said that after the amendment of the Criminal Procedure Code, only a prosecutor would be able to conduct interrogations and accumulate necessary evidence. According to police inspectors any questions concerning minors with respect to accomplices and evidence requires the presence of a Prosecutor

50% of inspectors who were questioned stated that the prosecutor handling the case was immediately informed about the detention of a minor,. Other employees mentioned terms "up to 3 hours" – and in case of administrative offences, up to 6 hours - if the legal representative was not present, or if it was not known if the deed could be qualified as an offence or administrative offences. An inspector confirmed that there are cases when prosecutors are notified after 1-2 days, about the involvement of minors in committing a crime, which was recognized as an abuse of power.

The inspectors consider that the most common reasons for conflicts between children and officials related to personality issues, communication issues, the act of detention, drunkenness, and aggressiveness toward police. Injuries to employees (in particular by intoxicated minors) represent a factor that "contributes" to the outbreak of violence. This in turn casts doubt on the ability of the probation service, and the Commission of protection to assist children in difficulty, because minors with a criminal record or with multiple sanctions often show a high degree of intolerance towards the inspectors.

90% of inspectors who were interviewed said they are not aware of the penalties imposed on minors in IDP, as

10% of those questioned stated that the penalty for torture and ill treatment, of 5 years imprisonment, is excessive for the crime. 90% said that the legislation in force on torture and ill treatment is effective, but they stated that it is important to explain the regulatory framework in force, including the internal Orders of the Ministry of Internal Affairs.

Half of those interviewed stated that the legislation in force on torture and ill treatment is sufficient and clear. The courts examine and weigh the statements of the witness and the alleged victims, balancing
One person said that the work of inspectors is essentially based on performance indicators; and there is an incentive to discover offences when the detainee is in custody, which could lead to abuse within police facilities.

Numerous police did not know what the law said and or its limits. In this context, training and instruction needs to be effective, in particular following the new amendments which entered into force in 2012.

Conclusions

- ✓ Police officers attend regular short-term training, but there is no concept of specialized lifelong training based on need. Training based on the recently amended legislation shall be provided in the near future.
- ✓ Police stations occasionally partner with NGOs, to involve minors in their work, or the involve specialists from NGOs in their activities to train inspectors from the juvenile and morality department or criminal investigation officers.
- ✓ During various meetings within the police sections there are no public discussions of cases of torture, ill treatment, the application of force or special means, on the basis of disciplinary proceedings and/or the ECtHR jurisprudence.
- ✓ The police officers in contact with minors and criminal investigation officers require additional and continuous training on friendly procedures applied to minors in conflict with the law.
- ✓ The majority of the inspectors of the juvenile and morality department do not know the probation counselors and their activity.

Recommendations:

- 1) Produce a list of priorities for training in the field of juvenile justice, involving academics and NGOs.
- 2) Produce performance indicators specific to the work of police officers with minors.
- 3) Compulsory registration of any minor brought to the police station, whether or not minutes of arrest are prepared and regardless of procedural statute.
- 4) Create a mechanism to register and compensate teachers and psychologists who provide assistance, at nighttime, on holidays or weekends, similar to lawyers who provide State-guaranteed legal assistance.
- 5) Ensure that minors are read their rights immediately when they are detained in a language understood by the minor, provided by the prosecution, including the right to silence and not to make statements against themselves,
- 6) Monitoring and documenting cases of violence by the police officers and criminal investigation officers.

4.3.2. OPINION OF THE PENITENTIARY STAFF

The prison officials who were interviewed were the heads of penitentiaries, the employees from human resources, education, and surveillance departments. They had an average of 5,8 years of experience working in prisons. About 50% of those interviewed have previously worked in various institutions, which were part of the Ministry of Internal Affairs, while the rest worked in the border guard service, DPI subdivisions, or started their career being graduates of educational institutions.

On August 17, 2012 in Penitentiary no.2 from Lipcani there were detained 37 minors, 6 of them not being 18 years⁷⁴.

⁷⁴ In the juvenile penitentiaries there are detained minors below 18 years of age, as well as adult detainees aged up to 23 years in respect of which the court has ordered the continuation of the execution of criminal sentences in the given penitentiary after coming the age.

	2009	2010	%	2011	%	2012	%
Minors	33	35	+106	32	+91%	37	+115,6%

At present, the DPI or other institutions do not collect or publish statistics on the duration of preventive juvenile detention. During the interviews with the prisons administration, the respondents confirmed that data on the detention of minors are submitted daily to the DPI, where they are summarized for each prison. Two of the children said they were kept in the criminal prosecution area of the penitentiary no.13 in Chisinau for about a year. The long period of detention was due to a court appeal .

During the criminal prosecution, and appeals process, minors are detained in preventive detention facilities by the Ministry of Internal Affairs or pretrial facilities (Balti, Bender, Cahul, Chisinau and Rezina), or the juvenile penitentiary institution no.2 (from Lipcani). This does not exclude the transfer of juveniles to other places, taking into account the criminal jurisdiction or judicial court examining the case in appeal, or retrial.

With reference to training, prison staff stated that upon employment, they received initial vocational training , lasting about three weeks, provided by the DPI.

10 persons (77%) of those interviewed considered that they need training, particularly on: teaching, psychology, juvenile communication, situational analysis, conflict` prevention and resolution, surveillance , prevention of torture and ill treatment. Employees requested long-term training, including complex modules or modules arranged within the DPI or by other organizations (of more than 3 days). They admitted that about 80% of their colleagues did not know and do not possess special skills in communication, cannot analyze situations, or prevent and resolve juvenile conflicts.

Prison authorities state that its employees are usually trained by the human resources department. The Department provides training of prison employees once a year, for 2-hours of training each week based on an approved plan. During these trainings, torture is , ill treatment or use of excessive force is rarely discussed. The ECtHR decisions against Moldova have not been studied in depth or they are dealt with superficially . 23% of employees say they benefited from the training courses organized by non-governmental institutions. In particular, the Institute for Penal Reforms and NORLAM were mentioned.

All employees (including those responsible for education) noted a problem with a lack of training with children. Few of the employees have received special training in psychology, communication etc. Employees recently hired or regularly responsible for the juvenile detention sectors (e.g. due to fluctuation of personnel declared that they do not know and have not been trained specifically about the needs of juvenile detention. But all the employees had good knowledge of the relevant statutes, the Execution Code and penitentiary institution regulations and other relevant acts.

The most common conflicts in detention arise between minors. Conflict situations among minors are often discussed by prison employees of penitentiary institutions, including at their vocational training sessions. The head of the surveillance service is informed about each conflict. The reasons for conflict are different: the influence of criminal subcultures, initiating new-comers, social status, psychological development, level of education in the family or community etc. It was also noted that the 18-21 years old inmates, who are classified as minors, are most often in conflict with the administration, requesting to be transferred to adult prison etc. Several employees of Penitentiary no. 13 confirmed the existence of conflicts between children, requiring transfers to different cells. In the Penitentiary no.2, from March to August 2012, there were 3 cases of juvenile conflict.

Conflicts between children and penitentiary employees are usually communicated to the head of the penitentiary and the human resources service or the security service. The investigation is carried out by filing reports and taking testimony from minors; there are consultations among the staff and with the head of the prison. , The Director of the Internal Security of the DPI, can become involved in serious investigations of abuse.

Among the many reasons for conflict which can arise between the minors and the staff are: attempts to introduce banned objects/products, disagreement over court decisions, arbitrary sanctioning of other con-

victed/arrested persons, a lack of contact with parents or relatives (including as a result of the effects of disciplinary sanctions applied by the penitentiary administration) etc. The negative effect of long-term detention of minors under prosecution was also mentioned, long periods of transfers (e.g. transfer between the criminal prosecution areas in penitentiaries during the time of appeal), but also the existence of so called "baptisms" (initiation rites in jail).⁷⁵ But some prison employees denied the existence of conflict or misunderstandings between minors or between minors and the DPI employees.

In one of the penitentiary conflict between a minor and an employee arose when the latter intentionally used negative and insulting language. The need for psychological training was revealed as well as the need for more effective communication between staff in contact with minors, including those in the educational service.

, After each shift change, the head reports any incidents with the convicts and/or employees. Prison superiors instruct supervisors and other employees about any situations that can evolve into conflicts or ill treatment. According to the data from the General Prosecutor's Office, however, prosecutors are rarely informed about such incidents, while children use the term "often" to describe the frequency of altercations between minors and the DPI staff.

Psychologists are usually called on to mediate conflicts. There are minors who communicate frequently with the psychologist (up to 2-3 times per day), while children from Penitentiary no.13 said they have repeatedly asked to speak to a psychologist, without success. In August 2012, the head of the Penitentiary no.13 said that, only one psychologist was employed, although overworked – responsible for both convicted and sentenced, including those in punishment cells and under protection. Annually 13,000 people move through the prison system. It was noted that 4-5 additional psychologists, 4-5 social workers or education personnel are required. This number would cover the needs and requests of minors, women and persons under the protection, and those who are preparing for release or any other requests.

There is free medical assistance for juveniles. The medical services are governed by the internal rules of each institution. Minors are detained in prisons where primary medical assistance is provided 24 hours per day (including on holidays or weekends). The minors' access to the medical assistance at night takes place via the guardian. A special permit is necessary for nighttime.⁷⁶ The request can be made verbally with an appeal to the surveillance service, during the morning or evening calls or with a written request that is filed in the mailbox addressed to the penitentiary administration, and which is checked daily, from 08AM – 5PM, by a person from the penitentiary administration, except on weekends or holidays. No one is authorized to approve confidential requests for access to a medical worker on weekends or holidays. The mailbox for the penitentiary administration is usually located in the lobby near the mailbox of the SE "Posta Moldovei". Although not all institutions or prison blocks have such mailboxes.

The prison administration has signed agreements with the family doctors' centers, to make up for shortfalls in personnel and equipment. , As of August 2012 there were 227,5 (80,7%) positions occupied by medical personnel and 54,25 vacancies⁷⁷ in penitentiary system. However, in case of emergency, juveniles from Penitentiary no.2, in Lipcani can go approximately 500 m to a family doctors' center. Medical professionals are required to provide urgent medical assistance and decide how and when, and where a patient can be treated. Prison authorities could not explain why it would be better to hire a greater number of medical workers or specialists, when the costs might be higher than agreements signed with family physicians. More details about the quality of medical service - in Chapter 3.3.

Prison staff reiterated the need to share experiences with other similar services from other prisons: practices of juvenile prisons from other states; work together on training on psychological problems in dealing with minors; understand the limits of acceptable use of physical force and other special means etc. 38,5% of the employees

⁷⁵ MORE DETAILS ABOUT THE REASONS FOR THE CONFLICTS WHICH ARISE BETWEEN THE MINORS AND COLLABORATORS — THE PERSONAL SECURITY IN THE PENITENTIARY ENVIRONMENT - [HTTP://IRP.MD/ITEM.PHP?TEXT_ID=1196](http://irp.md/item.php?text_id=1196)

⁷⁶ P.74 of the Government Decision no.583 of 26.05.2006 regarding the approval of the Statute on execution of criminal sentences by convicted persons.

⁷⁷ Letter of the Department of Penitentiary Institutions from 30.08.2012.

interviewed were unable to answer the question "What measures should be undertaken to reduce or eradicate the use of torture and ill-treatment against minors in different institutions from the Republic of Moldova?"

Moldovan law prohibits cultivating informants among convicted minors. Information about conflict among minors shall be obtained by field information, reports of employees, and internal discussions relating to the personality of minors. This information is used, both to prevent violence between minors, and potential conflicts between children and staff.

Both convicts and employees of penitentiary institutions are aware of the rules of internal order, the rights and obligations of prisoners, politics, the benefits and sanctions which are available, as well as legal restrictions. Inmates who are facing disciplinary sanctions may be refused family visits as a disincentive⁷⁸. Disciplinary sanctions are often seen by juvenile convicts as severe, because they are deprived of meetings with parents or relatives, although they do not contest them.

Corporal punishment of children is illegal in accordance with the general provisions, which prohibit torture, and the provisions of art.4, 6, 7, 18, and 29 of Children's Rights Law.

The number of disciplinary sanctions taken in Penitentiary no.13 is almost stable, while in Penitentiary no.2, the number of disciplinary sanctions decreased in 2012 in comparison with previous years. The most frequent applied disciplinary sanctions are reprimands.

Although they were prohibited by the Minister of Justice⁷⁹ in 2010, isolation areas continue to be used to detain minors. This was confirmed by employees of penitentiary institutions. As stated, minors are placed in an isolation area for no longer than 5-7 days. Although the use of a solitary confinement is contrary to international law and is recognized as harmful to children subjected to detention, it has not been banned by legislation.⁸⁰

Prison authorities consider that several factors contribute to problems with minors in custody: excessive free time and the absence of educational or skill building activity; the lack of raw materials in workshops, lack of sports or cultural activities, a lack of participation in activities such as a walk or lunch time etc.

The penitentiary administration also noted the low quality of education: classes are not organized on the basis of need; teachers subjectively assess students with passing grades. In 2012, a pupil took his bachelor's degree, but, according to the penitentiary administration, he could hardly read and could not write. In summer, there are no schools courses for minors, but thanks to several NGOs, in particular of religious organizations (e.g. Viata Noua, Asociatia Crestina), juveniles are involved in some activities. They benefit of increased support from diplomatic missions and international organizations (UNICEF, NORLAM).

The environment, infrastructure and type of the penitentiary also influence the behavior of minors. Penitentiary administrators gave the example of a minor, who had 11 disciplinary sanctions in Penitentiary no.13, while he earned no disciplinary sanctions in Penitentiary no.2. In October 2012, he was eligible for release from detention.

With certain exceptions, children from Penitentiary no.2 can walk around freely during the day in certain areas of the prison. According to the Code, the minors from criminal prosecution wards from Balti, Chisinau and Cahul can take a walk for a maximum two hours. The yards in which the minors can walk are open to other detainees, but they are not spacious and not especially comfortable for children. Thus, compared to the pretrial facilities in Balti, Chisinau and Cahul, Penitentiary no.2 has superior infrastructure with prearranged workshops, household activities, and a football field. The penitentiary administration makes efforts to keep the buildings

⁷⁸ P.280 of the Government Decision no.583 of 26.05.2006 regarding the approval of the Statute on execution of criminal sentences by convicted persons.

⁷⁹ The cells for the Moldovan juvenile confinement shall be closed
www.un.md/key_doc_pub/un_magazines/2010/Revista_UNU_2%2843%29_07_07_2010_Final_TIPAR.pdf

⁸⁰ Let.c) par.(1) art. 246, par.(10) art. 247, Execution Code, P.599, 615, al Pct. 74 of the Government Decision no.583 of 26.05.2006 regarding the approval of the Statute on execution of criminal sentences by convicted persons.

where minors are detained in good condition. It also promotes and encourages cooperation with charity and religious organizations.

Prison staff perceive juvenile detention conditions differently in different jails. For example, staff in Penitentiary no.2 consider the detention conditions as good (50%), while those from Penitentiary no.13 appreciate the detention conditions as satisfactory (30%).

For some prisoners, the system provides better living and food conditions than their own families – for the first time, the detainees have access to warm food three times a day, which they could not earlier.

In Penitentiary no.13, children can practice several available sports activities (e.g. table tennis, gym) however, in accordance with internal regulations, if juveniles face disciplinary action these benefits are denied them.

Conclusions

- 1) At present, the DPI or other institutions do not collect or publish statistical data on the duration of preliminary juvenile detention within penitentiary institutions.
- 2) The period of detention in criminal prosecution wards and the period of transfer to different penitentiary institutions until definitive sentence, seriously affects the education, health and the psychological condition of minors.
- 3) Penitentiary staff do not benefit from regular long-term training based, in particular, in the field of teaching, psychology, communication with children, conflict prevention etc.
- 4) The employees who were interviewed are not fully aware about the ECHR convictions against Moldova, based on art.2, 3, and 5 of ECHR.
- 5) The staff interviewed are not aware of the results of scientific research and analyses within the higher education institutions regarding the juvenile penitentiary system.
- 6) The number of juvenile psychologists within penitentiaries and criminal prosecution wards is insufficient.
- 7) Criminal subculture negatively influences the communication between staff and juvenile detainees.
- 8) When entering a penitentiary, the rules and regime within a penitentiary institution, are not explained to minors. Children do not know their rights and how and if they can contest any disciplinary sanctions which are handed down.
- 9) Contrary to international commitments assumed in the field of child protection, the solitary confinement is still allowed in accordance with current Moldovan law.

Recommendations:

- 1) Create and/or the inclusion into the primary and lifelong education of relevant topics on the human rights (including the prevention of torture and ill-treatment, ECHR practice) and non-legal topics: teaching, psychology, juvenile communication, analysis of situation, and prevention of conflicts.
- 2) Provide more information of the penitentiary collaborators about the results of the disciplinary procedures on the use of excessive force, torture and ill treatment.
- 3) Increase the number of psychologists, in order to ensure that there is one psychologist for juveniles in every detention facility.
- 4) Ban the use of solitary confinement for minors as a disciplinary measure.
- 5) Prohibit suspension of rights to contact family as a disciplinary measure.
- 6) Provide an environment and infrastructure appropriate to the age of minors within the penitentiary institutions and the criminal prosecution wards.
- 7) Regular psychological and teaching assessment for prison employees in relation to minors.

4.3.3. EFFECTIVENESS OF EXISTING LEGISLATION AND MECHANISMS, THE FACTORS THAT LIMIT THEIR EFFECTIVENESS AS WELL, IN THE PROSECUTOR'S OPINION

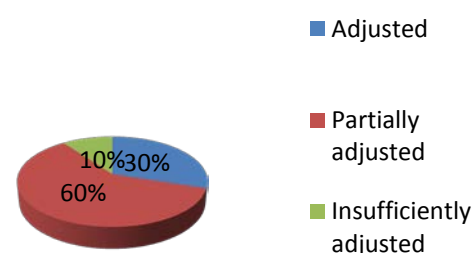
According to constitution, the role of the Prosecutor's General Office is to defend the interests of society, preserve law and order, ensure rights and freedoms of citizens, conduct and conduct criminal prosecutions, and

represent the prosecution in the judicial courts,⁸¹. For the purposes of the study, 10 prosecutors were interviewed on the effectiveness of the law in preventing and combating torture and ill treatment against children. Their average work experience was almost 7 years, for 5 of the prosecutors were at the beginning of their professional careers.

All respondents said that they had received training in eradicating torture. Training courses for prosecutors were organized by the National Institute of Justice within the framework of the European Commission and Council of Europe joint Program on "Sustaining democracy in the Republic of Moldova" and "Strengthening the fight against ill-treatment and impunity". Topics covered included: "Ethics and objectivity of the prosecutor", "Preventing and combating torture and other ill-treatment", "Methodology for the investigation of complaints of ill-treatment and of examination of the causes of violence through the prism of the European Court for Human Rights jurisprudence", "Strengthening the institutional framework for the investigation and criminal prosecution of allegations of torture and ill-treatment".

The role of prosecutors in preventing and combating torture and ill-treatment is to conduct a thorough and objective investigation of the claims of torture and undertake reasonable measures to gather evidence, as well as to perform random checks on police stations and places of detention. Public prosecutors need continuous training to uphold the law. Better training provides knowledge and skills for the equal treatment of participants in the process. Prosecutors apply international law and treaties to which Moldova is a party, in order to protect child rights. These include: "The United Nation Convention on the Rights of the Child", adopted on November 20, 1989, "The European Convention for the Protection of Human Rights and Fundamental Freedoms", adopted on November 4, 1950, "The Convention against Torture and Other Forms of Cruel, Inhuman or Degrading Treatment or Punishment", adopted by the General Assembly of the United Nations through Resolution no.39/46 of December 10, 1984, "The European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment", adopted on November 26, 1987.

Do you find the existing legal framework of the Republic of Moldova regarding torture and ill-treatment as one adjusted to the international standards to which our country is a party?



The majority of people interviewed said that the existing legal framework in the Republic of Moldova concerning torture and ill treatments had only partially adapted to international standards and instruments to which the Republic of Moldova is a party.

This perspective was based on the following:

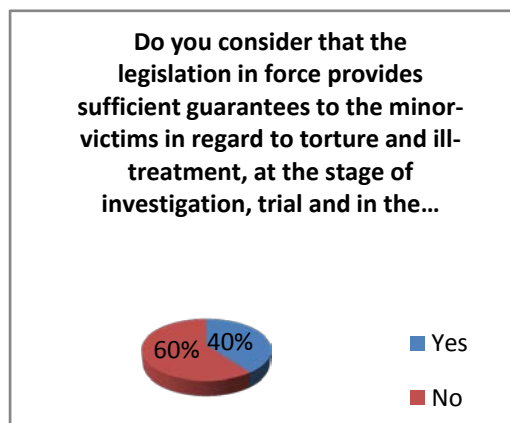
- ✓ *The lack of regulation on the exclusive competence of the prosecutors for the examination of cases of torture and ill-treatment;*
- ✓ *The need to amend the law which provides liability for the crime of torture, as the current version of the Criminal Code provides a series of articles which criminalize certain aspects related to torture and other forms of ill-treatment;*
- ✓ *The need to toughen the criminal penalties for the offence of torture and other ill-treatment, because the existing punitive practice in criminal cases concerning acts of torture (art.309/1 Criminal Code) and excess of power (art.328 par. (2) let.(a) Criminal Code), demonstrates the inefficiency of the penalties applied by the national judicial courts to this category of offences in relation to the jurisprudence and the demands imposed by the international standards etc.⁸²*

30% of the respondents had a different opinion, and considered that the legislation in Moldova has sufficiently adopted international standards, which the country has committed itself to comply with. They referred to international experts who visited Moldova, who stated, "It was established that the legislation of the Republic of Moldova corresponds to the requirements of the international law. Respectively, the previous reservations pro-

⁸¹ Art. 1, 5, 7, 8, 9 of the Law on Prosecutor's General Office no.294-XVI of December 25, 2008 and art. 51 and 52 of the Criminal Procedure Code

⁸² Based on statements during the interviews

vide difficulties in the practical application of these legal provisions, in particular regarding the technical-material equipment of the competent authorities to investigate reports of torture."⁸³

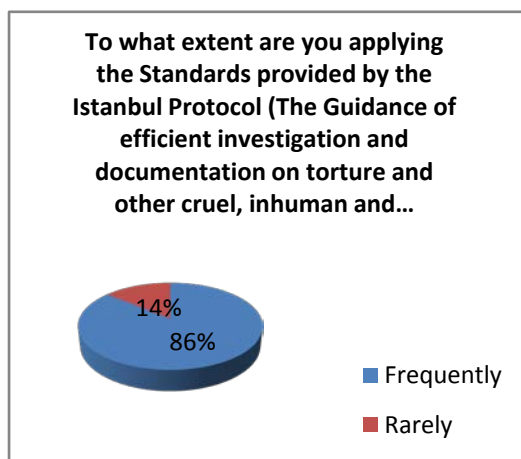


40% of prosecutors consider that the existing legislation does not provide sufficient guarantees for minors-who become victims of torture and ill treatment, both during the investigation and trial and post-sentence rehabilitation period.

According to prosecutors, some types of violence applied to children, in particular forms of psychological abuse, are not sufficiently identified, not properly recorded reported and minors, , are getting the benefit of psychological counseling. "Children constitute a vulnerable category of the population. The consequences of some forms of juvenile ill treatment differ significantly from the consequences from adults who were subjected to similar treatment.

*The legal framework regarding the activity of the institutions for juvenile protection is ineffective, and the concepts used to define the phenomenon of torture are interpreted differently by various specialists. There are significant discrepancies between the number of public servants that are informed about the cases of violence against children and the number of public servants that register those cases in official documents. There is no effective cooperation between institutions for the purpose of intervention and orientation towards the needs of the children-victims of violence, and the supervision and monitoring of activities designed to combat violence against children is ineffective."*⁸⁴

Some prosecutors consider that the state does not provide sufficient guarantees for child-victims during criminal prosecution, trial or during post-sentence rehabilitation period, because "there are no special centers for the placement of and/or assistance of these victims, with the participation of medical professionals, psychiatrists, psychologists, educators, social workers, to help and protect minors from possible abuse. There are no special programs for children in order to avoid their re-victimization."



As you can see from the diagram, 67% of respondents apply the standards set out in the Istanbul Protocol, considering this to be a basic tool and a good guide to investigate cases of torture and inhuman and/or degrading treatment effectively, and to report the conclusions to the relevant authorities and to ensure minimum standards to guarantee efficient documentation of cases of torture.

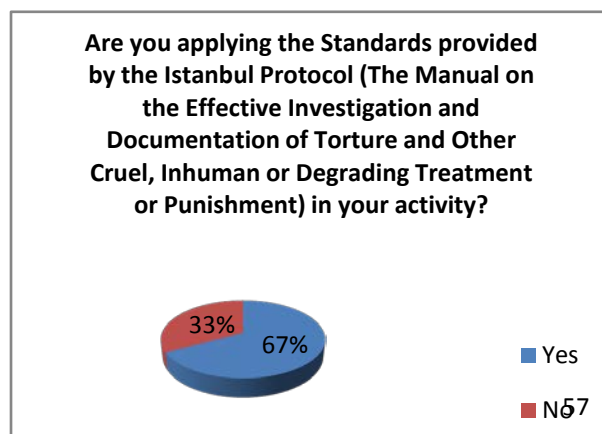
According to prosecutors, two very important factors concern the accumulation of evidence about the psychological consequences incurred as a result of torture, as well as the presentation of evidences in judicial court.

From the results of the interviews, when asked about the use of

the Istanbul Protocol, interviewees noted:

- ✓ 86% frequently apply the Standards provided by the Istanbul Protocol;
- ✓ 14% of respondents stated that they rarely applied the provisions of this Protocol, due to a lack of financial resources.

Article 215 of Chapter II of the Criminal Procedure Code, entitled "Protective measures" ensures the security of partici-

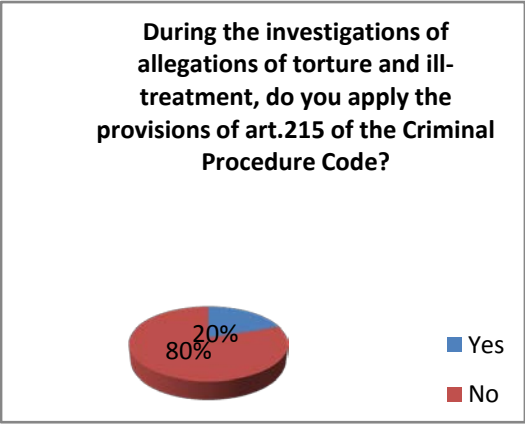


⁸³ Based on statements during the interviews

⁸⁴ Based on statements during the interviews

pants in the process. These measures are also regulated by the Law on protection of witnesses and other participants in criminal proceedings, no.105 of May 16, 2008.

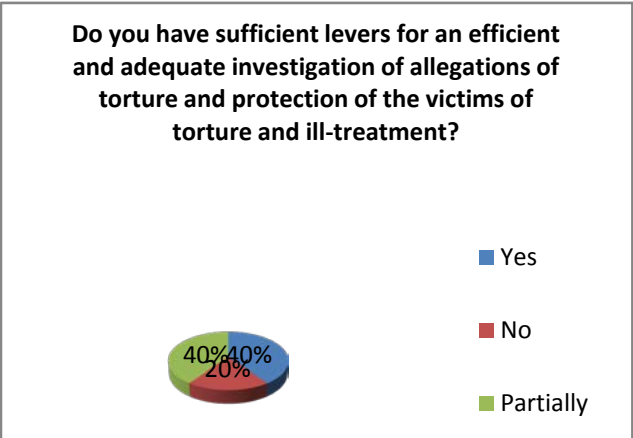
The provisions of these acts, seek to safeguard the security of participants in criminal process to protect people whose *lives, physical integrity, freedom or property are threatened as a result of the fact that they might hold data which they have agreed to provide to judicial authorities and which constitute conclusive evidence with respect to the committal of grave, very grave and especially grave crimes.*



In this context, during the investigations of torture and ill-treatment allegations, only 20% of the prosecutors interviewed apply the provisions of art.215 of the Criminal Procedure Code, while 80% do not seek to apply these provisions. According to prosecutors, the provisions of art.215 of the Criminal Procedure Code are not practical, because the authorities invested with such powers are subordinate to the Ministry of Internal Affairs, and most of the times people suspected or charged with committing criminal offences, are employees of the same Ministry. In some cases, the prosecutors' request the victim's transfer to

another place of detention, for their own safety.

Some prosecutors stated that security measures of the participants in the proceedings should be solved according to the circumstances of each individual case. The prosecutor shall decide on the measures to protect the victim, taking into account the age, life experience, social status, psychological-physiological states of both the victim and the suspect/accused.



As a consequence of ensuring the security of the participants in the proceedings, can't be based on a single model which applies in all cases. Pursuant to art.200 of Criminal Procedure Code, the prosecutor is entitled to solicit *"the provisional suspension of the accused from exercising his duties or performing his professional activity or in the interest of the public service. Provisional suspension is decided by the administration of the institution in which the suspect/accused is working, in accordance with the law, upon the prosecutor's initiative."*⁸⁵ The survey revealed that only 20% of prosecutors' request the provisional suspension of the alleged perpetrator, and the

other 80% do not attempt to do so, saying that *"these procedural actions do not represent a guarantee of the effectiveness of the investigation"*. Therefore, we note that even the current mechanisms are ineffective.

When asked whether prosecutors have sufficient levers to mount an effective and sufficient investigation of allegations of torture and protection of victims of torture and ill-treatment, 40% of respondents claim to have such means, 40% said they do not have any of them, and 20% said they partially exist.

According to prosecutors, the lack of sufficient means to mount an effective investigation of allegations of juvenile torture also reflects an insufficiency number of psychological and teaching specialists, who are needed at hearings for minors who are victims of torture or inhuman and degrading treatment or punishment.

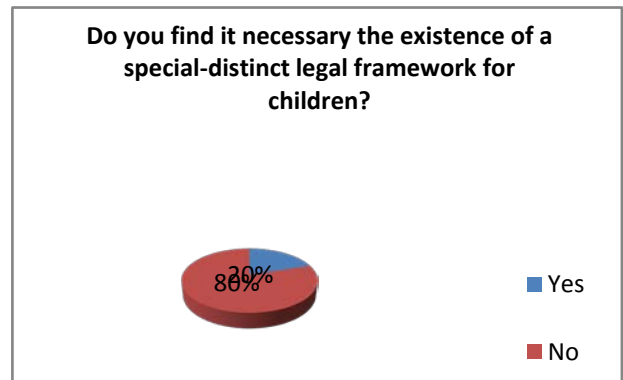
Another aspect is the lack of hearing facilities for juveniles, where children can comfortable. It is difficult for teachers and psychologists to offer assistance because there is often no mechanism to involve them in juvenile cases. The only existing lever applied by prosecutors to investigate cases of juvenile torture is the human factor – professional competence, skills as a result of experience and employment history of the prosecutors.

⁸⁵ Based on statements during the interviews

The diagram indicates that 80% of the interviewed prosecutors do not find it necessary to create a separate regulatory framework for minors, and consider a general normative framework is sufficient, including all the legal provisions concerning this chapter in Title III, Chapter I, "The procedure in juvenile cases" from the Criminal Procedure Code.

The prosecutors who were surveyed proposed improvements to the existing legal framework, including structurally ensuring better protection of minors,:

- 1) Consolidating prosecutors into one special subdivision that can investigate cases of torture,
- 2) The production of technical-material equipment for prosecutors;
- 3) Insuring the professional independence of medical workers in detention facilities
- 4) Amending the provisions of the Criminal Code, so that it stipulates a specific offence that would cover the full range of serious forms of ill treatment committed by any public servant, as well as the classification of acts of torture, in accordance with their gravity, by the provisions of international instruments. Such an amendment would equate to an official statement, from the highest political level, that would send a signal of "zero tolerance" towards torture and other forms of ill-treatment; In cases of torture, security needs to be provided by an institution other than the Ministry of Internal Affairs, to comply with the Law on protection of witnesses and other participants in criminal proceedings no.105 of May 16, 2008.

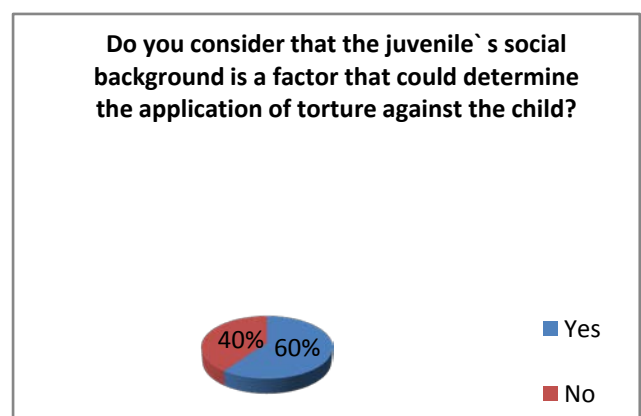


Based on their professional experience, the prosecutors were asked about administrative and other obstacles , which effect the prevention and combat of the phenomenon of torture. In their opinion, tolerance of torture by senior police officers, who ignore the acts of torture committed by their subordinates, is a serious problem, as well as the lack of professionalism among some police officers. They stated that some police officers apply torture to achieve the desired results in solving crimes, to meet performance indicators. The lack of technical-material also prevents police work meeting international standards of law enforcement that would guarantee respect for the human rights and democratic freedom.

In order to redress this situation, prosecutors came up with a set of proposals to streamline work to preventon and combat of torture and ill treatment, namely:

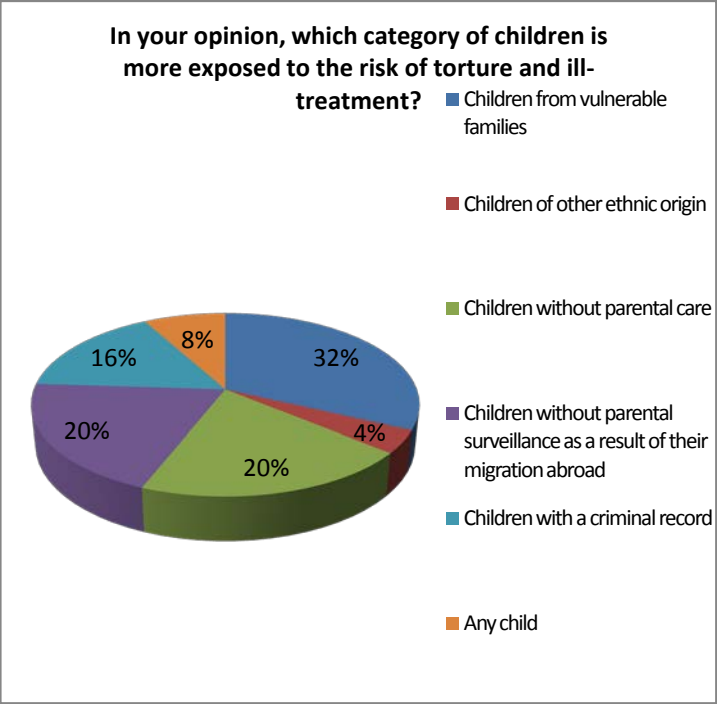
- 1) Rigorous selection of the future police officers (verification of moral, psychological and professional skills);
- 2) Allocating sufficient financial resources for the police work;
- 3) Sanctioning the heads of the subdivisions of the Ministry of Internal Affairs for each case of application of torture by their subordinates;
- 4) Creating a subdivision within the prosecutor`s office that would be in charge of the investigation of this type of offences etc.

According to 60% of the respondents, the juvenile`s social background is a factor in the use of torture, while 40% do not support this idea. Juveniles from a vulnerable families have fewer protections, and often do not have adequate assistance and support from their parents. At the same time, vulnerable families have limited access to information, and are often unaware of what their options are in response to cases of violence against a minor.



Children from vulnerable families often do not have the opportunity to obtain qualified legal assistance and most of the time they do not inform the prosecutor about the acts of torture that they are subjected to. Prosecutors voiced the opinion that the social background of a minor cannot be considered as a marker for the actions of torture. *"The application of torture has to be analyzed in terms of the personality of the person who committed the given offence, while the victim of torture can be any minor aged between 14 and 18 years".*

As you can see from this diagram, children from socially vulnerable groups are the most vulnerable to acts of

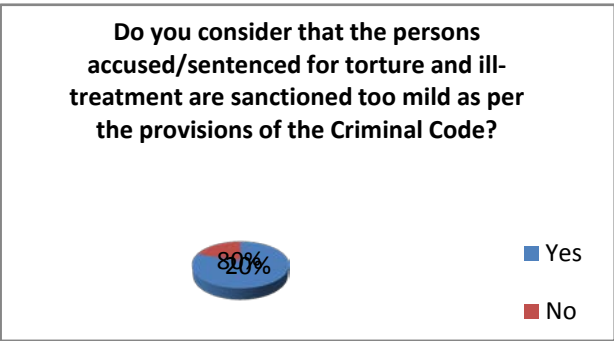


torture and ill treatment (32%), followed by minors without parental surveillance as a result of the parent's migration abroad (20%) and minors without parental care (20%), but also minors with a criminal record (16%). 8% of respondents noted that any minor is at risk of being subjected to torture and ill-treatment, while 4% of prosecutors noted that children from other ethnic groups may be victims of torture. The ECHR and the CPT standards indicate that in cases of torture or cruel or inhuman punishment only a custodial sentence is appropriate. A criminal penalty shall be determined according to the specific circumstances of the case.

*"Light sentences and the non-sanctioning of the persons who have committed or admitted to the use of torture or other ill-treatments, do not provide a sufficient deterrent effect to prevent such acts in the future. A suspended sentence is often given to people who are guilty of acts of torture."*⁸⁶

Thus, 80% of prosecutors who were interviewed considered that people charged with or convicted for acts of torture and ill-treatment are not punished severely enough in relation to the provisions of the Criminal Code, and only 20% consider that the penalty established by the judicial court is proportional to the sentence provided by the legal act.

According to some prosecutors, the penalties laid down by magistrates are too mild when it comes to a person employed by a public institution, who by their actions/inactions discredit not only the institution but also the state. Some prosecutors said that insufficient penalties were a result of legal provisions, which favored the interests of the defendant. Another opinion was that *"justice is a complex activity, involving not only the decisions of the court, but also law enforcement, and these acts reflect the degree of legal and cultural knowledge among civil society."*⁸⁷



Medical activity within police stations and penitentiary institutions on the prevention, identification and reporting of cases of torture was considered to be unsatisfactory by prosecutors. *"After the overall analysis of cases of torture, which were noted in the course of normal duties, multiple cases were revealed, where the plaintiffs stated that medical workers in detention units have examined them, have noticed traces of ill-treatment, but have not noted it in the examination records"*.⁸⁸

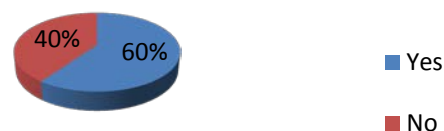
⁸⁶ Based on statements during the interviews
⁸⁷ Based on statements during the interviews
⁸⁸ Based on statements during the interviews

Prosecutors consider that the introduction of amendments to the Criminal Procedure Code, regarding the right to an independent medical examination for detainees, might well result in the disappearance of a large number of these issues. *"The objectivity and impartiality of medical services in the detention unit will face problems as long as they are subordinate to the heads of these institutions."* *"The injuries in police stations and penitentiaries are only partially recorded, or they are superficial and incomplete. Medical personnel in these institutions do not always report the use of torture or ill-treatment to prosecutors, or delay in producing their reports.."*

These are just a few opinions vis-à-vis medical services within police sections and penitentiary institutions. One solution, which might improve the situation, in this respect, would be to create minimum standards of medical assistance for these institutions, for victims or alleged victims of torture. Another barrier to preventing and combating torture and ill treatment are cultural factors, which characterize Moldovan society. These factors are perceived by respondents as stereotypes left from Soviet times, when the violation of fundamental human rights were inherent and persistent.

In this context *"The impact of cultural factors cannot be neglected, but their role is secondary."* According to prosecutors, the legal provisions need to be adhered to, in order to ensure juvenile protection. The situation has been gradually improved by the appointment of a prosecutor in each office specifically charged with investigating claims of torture and ill treatment, although the phenomenon has not disappeared completely. Nevertheless, specialization allows for more efficient investigation of claims of torture, and police began to exercise their powers in accordance with legal provisions, under the supervision of prosecutors. The creation of a special, independent body, separate from the Ministry of Internal Affairs and General Prosecutor's Office, would allow for more efficient investigation of reports of torture and ill treatment. The law cannot function properly without financial resources: equipment modern technologies, and modern methods of criminal investigation. The investigation of cases involving minors needs particular attention and adequate training for specialists. It is necessary to create facilities for handling minors, and that are comfortable to children, which meets international standards.

Do you consider that the tolerant attitude towards the further existence and non-sanctioning of the crimes of torture and ill-treatment is caused by the cultural factors characteristic for the society from the Republic of Moldova?



4.3.4. THE OPINION OF LAWYERS ON THE NATURE OF LAW AND THE EXISTING MECHANISMS AGAINST TORTURE AND ILL-TREATMENT, AND THEIR EFFECTIVENESS

To facilitate an understanding of the opinions of the lawyers who were interviewed, we consider it necessary to present the provisions of the **Article 10 of Criminal Procedure Code RM on the rights, freedoms and human dignity, which in par. 3-6 provides that:**

(3) In conducting criminal process, no one can be subjected to torture or to cruel, inhuman or degrading treatment, no one can be detained in humiliating conditions, cannot be compelled to attend the procedural actions that infringe upon human dignity.

(3¹) The task of probation regarding torture and other cruel, inhuman or degrading treatment belongs to the authority in whose custody is the person deprived of liberty, placed at the disposal of a state authority or at the indication thereof, or with its consent.

(4) Every person has the right to a defense by all means under the law to ensure the protection of their rights, freedoms and human dignity, in the course of criminal proceedings.

(5) Any injury caused to the rights, freedoms and human dignity of an individual, during a criminal process should be repaired in a manner established by law.

(6) If a minor is a victim or witness, actions to protect their interests shall be taken at each stage of the criminal process.

Lawyers have a special role in the fight against torture, especially in cases, which concern juveniles. As a consequence this study gave due attention to lawyers who defend the rights and interests of minors. 10 lawyers

were interviewed from various regions: North, South, and Centre (the majority being located in the Center) who offered their opinions on legal mechanisms used to address torture, as well as efficiency of the system and obstacles. Interviews were carried out based on a specially developed questionnaire, which highlighted basic actions that had to be taken, and noted difficulties, . Lawyers who were experienced in the field of torture and ill treatment expressed the following views:

As mentioned above, the lawyers could be divided in 2 groups:

- I. 6 of the 10 interviewed (the majority acting in the Center) were lawyers who participated in various events (such as the Lawyers` Club), have provided training in the field of torture, dealt with cases of torture and have experience in cases relating to the protection of victims subjected to actions of torture. In many cases they urged the relevant authorities to investigate complaints.
- II. The other 4 lawyers reported that practically they had no training in this field, had no experience in cases of torture and have not found cases of juvenile torture. It is important to note that lawyers from Balti did not participate in training seminars in the field of torture, only in certain events when they were invited to Chisinau.

Overall, the lawyers who were interviewed said that the national law with regard to the prohibition and investigation of cases of torture, was broadly acceptable but these legal provisions in most cases are ineffective for several reasons:

- ✓ Delays in initiating criminal prosecution with regard to complaints of torture Ineffective measures to protect victims;
- ✓ Difficulties with professional evidence collection (with regard potential witnesses and the circumstances in which the action took place);
- ✓ A lack of collaboration between the law enforcement authorities and the victims` lawyers in collecting evidences etc;

There are various reasons for these difficulties :

- ✓ A lack of a strict and transparent legal mechanism that would prevent the authorities f abusing their power ;
- ✓ A lethargic reaction in investigating torture cases ;
- ✓ Delays in performing necessary procedures (for personal reasons, due to professional stereotypes, or professional incompetence);
- ✓ Misunderstanding of the provisions of art.3 ECHR;
- ✓ The persistence of impunity, together with the failure of appropriate criminal penalties for the effective implementation of the purpose of criminal penalty, namely, the prevention of torture in society'

Minors who were interviewed for this study also corroborated the views of lawyers, in terms of the slow response from authorities and exaggerated administrative delays. Many of the minors have initiated complaints, but have not been given any information about their status.

There have been numerous official complaints about these legal issues and the general inefficiency of investigations into allegations of torture in addition to ongoing condemnations for violations of article 3 of ECHR. This has resulted in the formation of several working groups on amend mending and supplementing the current anti-torture statutes and mechanisms. The first positive step in this regard was the creation in 2009 of a Special Department for Combating Torture within the General Prosecutor's Office, staffed by trained prosecutors who deal with cases of torture, as well as monitor the underlying causes which relate to allegations of torture.

By October 2012, Law no.66 entered into force, which introduced some positive reforms and restrictions, to ensure more efficient examination of cases of torture. There is an ongoing process to amend the constitution; to introduce new items which relate to crimes of torture and definitions of ill treatment.⁸⁹

⁸⁹ On 08.11.12, the Parliament of the Republic of Moldova approved in the 2nd reading the draft on amendments to the Criminal Code with regard to the introduction of article 166/1, which will regulate the offence of torture and ill-treatment, being submitted for promulgation to the President of the Republic of Moldova.

It remains to be seen how this will apply in practice, and whether this will be really effective in terms of both the timeliness and greater effectiveness of investigations.

IDENTIFICATION AND LEGAL ASSISTANCE OF JUVENILE VICTIMS

Acts of torture often come to light as a result of statements from minors, their relatives, through the presence of visible injuries on the body, or the observation of psychological indicators, such as anxiety, depression, insomnia, increased fatigue, communication problems, lack of trust and others.

The lawyers, who have experience of juvenile protection, reported some cases in which defenders have limited contact with their victims. Children also perceive their lawyers as working with police officers, so undermining trust between them. In such cases, lawyers reported that their first task is to gain the confidence of their client and open communication, and only subsequently providing consultations on their rights and procedural guarantees. Some lawyers reported that only after they are convinced that their client is fully informed of all their legal aspects, risks and consequences, do they allow a minor to decide what actions they want to take in this situation. Legal assistance granted to a minor in these cases involves provision of both legal and moral assistance to gain the confidence of the victim in themselves as well as other people.

Most lawyers in Moldova are better prepared to defend a client who is charged than a victim, few of them possess information and specific training in dealing with victims of torture and ill treatment, both legally and psychologically. The Lawyers' Union does not provide specialized training to its members, a fact which was attested to by the lawyers interviewed, who either do not have any kind of specialized knowledge of torture or have not been able to follow training courses organized by various international organizations or NGOs.

The lawyers who were surveyed, in particular those who have recently witnessed cases of torture and ill-treatment against minors, reported making contact with victim is often facilitated by using a questionnaire, which allows useful information to be collected both for legal and psychological-social assistance. All of this information can be discussed later on by lawyers to detail facts recorded by the minor, or to request an immediate medical examination, as well as to ensuring the presence of a legal representative or teacher/psychologist in further hearings.

In addition to interviewing the minor, the lawyer also has to complete a dossier of the victim's case, including updated information about steps taken to resolve the case.

The lawyers believe children have a negative attitude towards the judiciary, while the clients who request state legal assistance often consider these lawyers are in the pocket of the police" and that, as a rule, they "show up" immediately after minors are mistreated by the police officers.

The biggest problem in making contact with minors and ensuring the confidentiality is the lack of trust in society, and as teenagers with little experience or skills to defend themselves against any challenges. In detention, the victim can easily be influenced by anyone and can easily fall prey to other influences in return for small benefits, as a result of physical or mental threats

Minors often do not trust lawyers, which makes it difficult to initially to establish professional contact. It takes time and perseverance, and after the victim gradually becomes more comfortable with their lawyer, they begin providing information and gain confidence in their lawyer. In one case reported by one of lawyers, the victim only admitted that he was intimidated after noticing the efforts taken by his lawyer.

Victims often face humiliation before the arrival of their lawyer, or they are pressed to make statements or give information that has no procedural merit, but this information is often accepted and entered into the record and attached to the criminal case.

Lawyers involved in cases of torture need a specifically equipped facility to meet with their clients. But the lawyers who were interviewed said they rarely have an opportunity to discuss the case with their clients confidentially, particularly in the case of juveniles detained at police stations, due to a lack of facilities or due to the prosecuting officer's efforts to limit or to control the discussions. Practically not all police stations are equipped with special facilities, while there are rarely decent conditions in prison for consultations because of the cold, poor light, and poor seats)

Lawyers who have witnessed cases of torture underlined the importance of establishing a relationship of trust with the -victim, sometimes requiring the assistance of parents, other relatives, etc) or a psychologist, to encourage them to cooperate. Lawyers who have not worked on cases of torture said they have never had any issues related to confidentiality of meetings with children, and that the criminal investigator was always cooperative. 4 of 6 interviewed lawyers, who were involved in the defense of victims of torture, said they had been informed by NGOs or by relatives about juvenile ill treatments. Cases where minors have confessed to suffering past traumas are very rare. This is explained both by the minors' distrust of lawyers and by the difficulty of communication between a lawyer and their client. Lawyers who have worked on these cases also noted the importance of explaining their rights to a minor, in clear, simple and accessible language, and when there is suspicion of torture and ill treatment, to render these concepts of torture and ill treatment as easily as possible.

Because many of the interviewed children said they had been interrogated by the criminal prosecution authority without the presence of parents, psychologist/teacher, their lawyer is responsible for ensuring the presence of the legal representative/teacher/psychologist in the procedural actions with minor. In these cases lawyer should refuse to take part in such procedural actions, and the record the violations in the minutes of the record.

The lawyers noted the importance of keeping information from interviews confidential, usually by keeping these materials in a separate folder with limited access to persons. One of lawyers indicated that sometimes he has signed a non-disclosure agreement with his client, to enhance his confidence.

Torture and ill treatment are most often used to extract confessions, or to give false testimony. The actions of violence against the minor victims were usually committed in detention, within police stations, and before the arrival of their lawyer.

In many cases, lawyers were disinterested and uncaring; and cases have been dropped due to a lack of support interest or in the face of numerous obstacles.

Submission of complaints:

The role of lawyers is often decisive given that the majority of victims subjected to the study are minors, who are unaware of their rights, or unable to defend themselves, don't know where they should address or to how to file a criminal complaint, and what its content should be. Lawyers should make every effort to collect the maximum amount of information, and to draw up and file a criminal complaint, which is exhaustively argued.

Lawyers agreed that their best chance of identifying the perpetrators or other persons responsible for acts of torture was by quickly filing a criminal complaints.

They also mentioned the need for a complete and proper medical examination of the client to look for signs and injuries. The lawyers said that the primary medical examination and medical assistance is extremely superficial and conducted too late, and often fails to document the possible signs of ill treatment.

An example is a case concerning Preventive detention unit no.13, in which emergency medical assistance was delayed, perhaps in an effort to mask the victim's injuries.

The lawyers who have taken on the cases of torture and ill treatment have emphasized some problems at the initial stage when complaints are submitted. Until recently, the Criminal Procedure Code of the Republic of Moldova had no time frame in which criminal proceedings needed to be initiated. This gap was often used as a tool to delay, under various pretexts, to the start of a prosecution.

This fact was confirmed both by the lawyers, as well as by the minors in the study, who noted the delay in responding to complaints. This has a negative impact on the course of an investigation, because neither the criminal prosecution authority nor the defense lawyer can conduct their work. In such cases, only 3 of the lawyers confirmed that they insisted on forwarding requests for information.

The new criminal procedural is to initiate a criminal action within 30 days, on the basis of a complaint, in cases of torture. Although in some cases when preliminary measures are needed, such as the medical-examination, there is the risk that some of the injuries could disappear. In the previous version of the Criminal Procedure Code a period of 10 days was given to examine a complaint and issue a decision in this regard.

Actions taken by the lawyer in the case of refusal to initiate the criminal prosecution:

Both minors, and lawyers, noted the lack of efficiency and poor quality of investigations, which characterize criminal complaints. Lawyers highlighted the slowness of and inefficiency on the part of the criminal prosecution: a) to find the presence of injuries on the body of the person, and, b) to initiate the criminal prosecutions, and effectively and systematically build a case.

The new amendments to the criminal procedure legislation are worth noting, in particular in relation to the terms and conditions for initiating a criminal prosecution on the basis of complaints, as well as providing information about any decision to decline to prosecute. It is important to monitor these procedural issues to ensure a more effective investigation into cases of torture.

Some lawyers stated that once they became aware of the reasons for refusing to initiate a criminal prosecution (art. 299-299/1 Criminal Procedure Code) they were able to argue for a new complaint which contained legal and factual counter arguments.

Actions in case of initiation of the criminal investigation:

With regard to cases in which prosecution was started, the lawyers have noted that often investigators are extremely passive about collecting evidence or, in general, do not take any measures in this regard. Lawyers have said they are trying to come up with proposals to reveal useful evidence in cases of torture, as follows:

- ✓ Additional hearings of victims in the case, in which relevant information is recalled;
- ✓ A hearing of witnesses for the victim, who are aware of the circumstances in which torture has been applied or other relevant and pertinent information;
- ✓ A hearing of paramedics or the person responsible for medical assistance from the institution where the minor was detained;
- ✓ A request for psychological assistance;
- ✓ Forensic (medico-legal) expertise etc.

In the absence of mechanisms to protect victims, lawyers confirmed that some of minors were subjected to various pressures or threats, to convince them to withdraw complaints, which resulted in the refusal of some of the victims to continue the case. One of the lawyers, involved in a case that was before the ECHR, and led to Moldova's conviction for a violation of article 3, said that his client's parents, who were very poor, were initially very tempted to accept a bribe, in exchange for dropping the allegations related to torture.

The above-mentioned lawyers consider it necessary to improve the law *on the state protection of injured party, witnesses and other persons providing assistance in the criminal process*, which, at present, is basically unenforceable due to a lack of financial resources to implement the measure. It is important to suspend police officers charged with committing acts of torture and ill treatment, immediately. In the course of public debates (including a report by Amnesty International Moldova) –that it is important to suspend a police officer, on full pay, as soon as they are named as a suspect, .

Some lawyers have noted that in some cases they resort to assistance of various institutions and non-governmental organizations in order to provide psychological, medical and social assistance to the minor. . In this context, the lawyers also referred to the Medical Center "Memoria", but the number of such services is very limited in Moldova, as this is not funded by the state or by donors, who focus more for the prevention of torture, and less on rehabilitation of victims.

The refusal of the prosecution to react promptly and to cooperate with the lawyers of the victims:

Some of the lawyers reported that they have faced various obstacles on the part of the criminal prosecution authority:

- ✓ TA lack of prompt reactions in examining complaints;
- ✓ A lack of cooperation on the part of the prosecution with the victims;
- ✓ Unjustified delays in responding to requests/complaints of the lawyers;
- ✓ Failures to inform victim about the decisions of the criminal prosecution authority;

As a result of these obstacles, the lawyers noted that *state institutions tend to hide/conceal the torture cases*. No disciplinary measures have been applied so far, and prosecutions have either been delayed or not initiated.

According to the lawyers surveyed, we could conclude that, although in criminal law the prosecutor should be on the side of the injured party, ; the prosecutor often assumes an inert or passive position. The lawyers in response are forced to be extremely active, to contest either via complaints about lack of action by the prosecution, or via repeated requests of information, which can spur activity.

Hence, we can make a parallel with the records of minors , who stated that they have been persuaded by prosecutors to withdraw their complaints, to avoid problems; they had been persuaded by relatives to stop their procedure, to evade threats and possible dangers; in some cases they have not even been informed about actions or reactions to their case . One lawyer indicated that his client has been intimidated to withdraw the complaint against the police officers, in exchange for his release after 24 hours arrest and his relatives convinced him to do it.

Thus, we can conclude that in cases where there are suspicions that a client would have been subjected to actions of ill-treatment and torture, the lawyers` assume the responsibility of mounting a criminal prosecution to collect relevant evidence; lawyers as a consequence need to be trained to take an active role in the investigation of allegations of torture. At the same time, there is a need to amend current Law regarding the need for claims to be rapidly exam within a reasonable time and the right of the parties to effective prosecution.

Examination of cases of torture in Courts

According to the lawyers, in the few cases sent to the courts for examination with regard to torture and ill treatment, the actions were qualified as crimes under article 309/1 Criminal Code of the Republic of Moldova "Torture" (**art.166/1 in the amended Criminal Code**) and violation of article 3 ECHR "Prohibition of torture".

The lawyers concluded that penalties under art.309/1 Criminal Code are far too mild penalties I comparison with the gravity of the committed offences,

The proposals put forward by the interviewed lawyers on improving the existing mechanism of anti-torture and ill treatment can be grouped as follows:

1. Training and specialization of law enforcement authorities, in particular for prosecutors in cases related to torture; as well as the formation of a neutral and independent body. This body should be independent of their work with police officers, to preserve the independent collection of evidence and shield them from special interests.
2. Creation of complex teams of specialists drawn from medicine, psychology, victimology, etc. who can work alongside investigators
3. Continuous training for lawyers, forensic experts, medical professionals, etc.) from the districts of Moldova in dealing with victims of torture.

Other recommendations related to facilitating the practice with regard to the investigation of cases of torture:

- 1) Equipping police sections and penitentiaries with video cameras to exclude the risk of juvenile abuse police officers, and the no child shall have contact with officials unless they are in the presence of the child's lawyer, this includes; police officers, employees of the criminal police. Establishment of a specialized mechanism to conduct effective and operative medical examinations of any detained person.
- 2) Improvement of the arrest and detention conditions for juveniles, as well as the diversification of social activities in order to maintain the social contacts.
- 3) Creation of a team of permanent psychologists within the juvenile detention institutions.
- 4) Regular psychological testing of people working in law enforcement authorities.
- 5) Improving the national mechanism for the protection of juveniles . Including an initiative to *modify and enhance protective measures for juveniles* ensuring that any measure come into force immediately on suspicion of any risk to the minor.
- 6) Tightening of criminal penalties for committing the offence of torture. Provision of a legal mechanism to ensure transparent controls on the allegations of torture, and appropriate responses to the alleged accusers, in accordance with the universally recognized principle "Dura lex, sed lex".

4.3.5. JUDGES` OPINION REGARDING THE NATURE OF LAW AND THE EXISTING MECHANISMS AGAINST TORTURE AND ILL-TREATMENT, THEIR EFFECTIVENESS OR PRACTICAL ENCUMBRANCES

10 judges were questioned on the effectiveness of the existing mechanisms and legislation in this field. Their average work experience judges, was 8,3 years, with added experience within prosecution bodies, universities⁹⁰, legal services etc. Most of the magistrates mentioned that they have attended trainings on improving their professional background in the area of eradication of torture (67% compared to 33%, who have not participated in any training). In this context, there were a series of trainings that were carried out from 2009-2010 by the National Institute of Justice, in collaboration with the Council of Europe and the European Union, the focus being *"The ECHR and CPT standards for combating ill-treatment and impunity; The use of alternatives for the pre-trial detention"*.

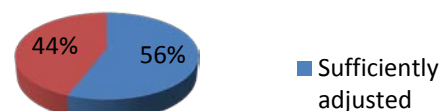
The magistrates see their role in preventing and combating torture and ill treatment in terms of executing their duties and through the proper application of the law . Functional duties often make only a tangential contribution to combating and preventing torture and ill treatment . However, this task can be improved through the latest amendments to legislation; continuous improvement of skills and performance in law; refraining from any form of discrimination against parties and participants in the process, in order to comply with equity and equal treatment.

The following opinion was expressed by one of the magistrates: *"The role of the magistrate in preventing and combating torture and ill-treatment must be shown by highlighting the facts of torture and ill-treatment, an efficient investigation in the case of complaints in this regard, depending on the resolution of the competent body, the assessment of the impact of this phenomenon, juvenile psychological evaluations, if necessary, pre-trial assessments, and notifications to guardians to provide assistance, in the case of torture"*.

During interviews, magistrates were asked about the existing legal framework Moldova concerning torture and ill treatment and their compliance to international standards to which Moldova is party. As shown in the table, 56% of the respondents said that the existing legal framework was sufficiently adjusted, while 44% find it partially adjusted to international standards.

The first group point to the existence of a legal framework governing the field of torture and ill treatment. Magistrates who see only partial compliance with international standards, state that the crim-

Do you find the existing legal framework of the Republic of Moldova regarding torture and ill-treatment as one adjusted to the international standards to which our country is party?



inal law sanctions against torture, or cruel inhuman and degrading treatment are very mild. They argue that Moldova does not have a "zero tolerance" towards torture, inhuman and degrading treatment. The penalty must be a deterrent. Unfortunately, criminal law is obscure in terms of qualification of the offences.

With Moldova's accession to the Council of Europe and ratifying the Convention for the Protection of Human Rights and Fundamental Freedoms and its additional protocols, e an integral part of Moldovan law. However, the internal regulations relating to torture still refer to notions and principles only (Constitution of the Republic of Moldova, Ombudsmen, Criminal Code, Criminal Procedure Code, Strategies etc.), and lack effective regulations governing the prevention and combating s of acts of torture, and victim` recovery. There are no effective mechanisms for investigating cases of torture. The Istanbul Protocol should be a guide for all professionals in charge of this issue.

Another aspect refers to the need to amend legislation, so that it contains explicit provisions, prohibiting all forms of cruel inhuman and degrading -treatment. The Criminal Code should stipulate a concrete offence that would cover the full range of the serious forms of ill-treatment administered by any of the representatives of the law enforcement agencies, as well as acts of torture, in accordance with their gravity as provided by international law.

The most relevant international instruments on juvenile torture and ill-treatment applied by magistrates include: the Universal Declaration of Human Rights, the European Convention for the Protection of Human Rights and Fundamental Freedoms, the Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment, the UN Convention on the Rights of the Child, the UN Rules for the Protection of Juveniles Deprived of Their Liberty, the Beijing Rules, the International Covenant on Civil and Political Rights.

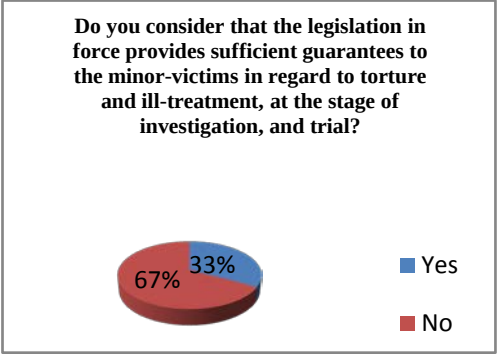
When asked whether they apply the standards set in the Istanbul Protocol (Manual on the effective investigation and documentation of torture and other cruel, inhuman or degrading treatment or punishment), 78% of the judges agreed, while 22% said no. At the same time, only 17% stated that they frequently use the provisions of the Protocol, versus 83% who rarely take into account its provisions.

However, magistrates consider that the Istanbul Protocol is an effective document, which sets out specific international norms and standards of efficient investigation and documentation of torture, cruel, inhuman or degrading treatment, but the lack of financial resources does not allow the provisions of the Istanbul Protocol to be fully implemented.

With regard to the guarantees provided to protect victims, 33% of magistrates said that they were sufficient, while 67% said that they are not . The measures are in name only , and lack any real mechanisms for the protection of minors-victims.

Generally, the legislation of the Republic of Moldova provides minors with guarantees against torture, inhuman and degrading treatment, but they are often ineffective. This is of-
ten due to both personnel issues and backgrounds of the children concerned

At the same time, the judges do not always realize that the judicial system must be child friendly, and deal with minors in conflict with the law as criminals rather than children who need special assistance and Probation counselors often do not provide necessary assistance, because they lack proper training. Training of the police employees, prosecutors and judges is also required, especially in terms of psychology and methodology.

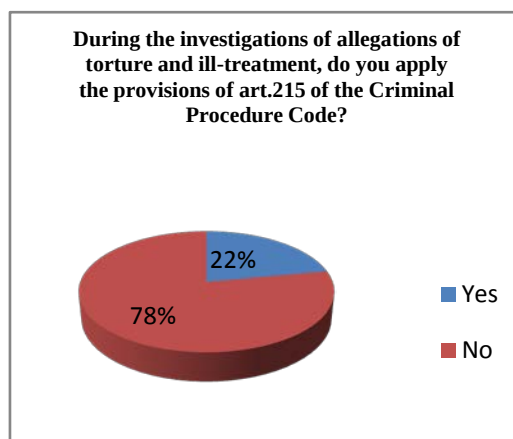


The legal provisions on torture deal with the phenomenon at a theoretical level. But there are no regulations that contain effective mechanisms for preventing, combating acts of torture, victims' recovery and effectively documenting cases. Certain types of violence against children, in particular psychological abuse, are not cor-

rectly identified or, if identified, are not recorded and reported properly so as to take necessary and appropriate measures.

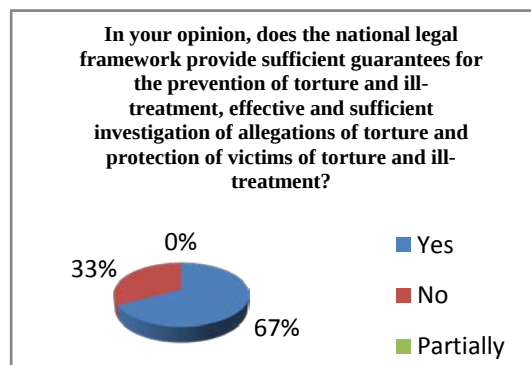
During interviews magistrates were asked about the obligation of the prosecution and the court to take measures to ensure the security of participants in the proceedings and other persons. 22% of respondents noted that these provisions are applied; while 78% have not used these provisions as such requests have not been submitted.

It is difficult to completely protect any member of the court as many of these meetings take place in public places.. Minimum levels of security can be ensured only in the situation when the defendants are in custody, when the meeting takes place under the police escort.



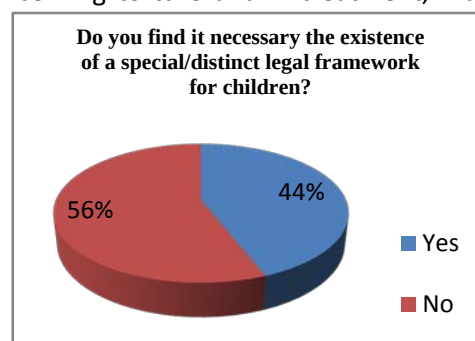
In terms of materials and files submitted in court, the magistrates stated that the investigation of allegations of torture is often unsatisfactory, ineffective, and formal, stating that while a formal mechanism is carried out, it often lacks objectivity. Magistrates` argue in this respect that a large number of criminal cases submitted pursuant to art.309, and art.328 Criminal Code have been stopped.

Most magistrates felt that, the national legal framework provides sufficient guarantees for the prevention of torture and ill treatment, the efficient investigation of the allegations of torture and the protection of victims of torture and ill treatment (67% vs. 33%). But most, thought investigations are not effective, are not are not uniformly conducted, and the current legal provisions are not regularly complied with. The fact that we still have a large number of persons exposed to torture and ill treatment, demonstrates that there are systemic problems stimulating this phenomenon.



Given that Moldova has no separate juvenile justice framework concerning torture and ill treatment, magistrates were asked about whether such a framework was needed. Thus, 44% of them stated that it would be necessary to have a special/distinct normative juvenile framework, while 56% of them said they did not see the need.

Of those who argued for a special framework, said it was needed because of the psychological impact of the acts of torture upon minors, and the social conditions that many minors are raised in.. On the other hand, the respondents who did not find it necessary consider it sufficient to have a general framework with the specifics relating to minors.



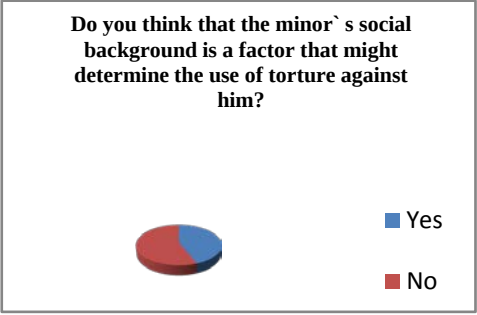
The magistrates also referred to the administrative barriers, which influence the effectiveness of preventing and combating the phenomenon of torture and ill treatment. Thus, they consider that one of the most important factors is the lack of qualified specialists in the field (including the lack of a relevant experience in the investigation of torture and ill-treatment), inadequate labor conditions and also a lack of a moral integrity in certain cases.

In addition, the existence of very mild penalties for acts of torture and ill treatment were also mentioned. As a result currently they felt that there were no effective deterrent from sanctions which need to be tightened . In cases where allegations of torture against the defendants were upheld, there are no regulations on mandatory minimum sentences.

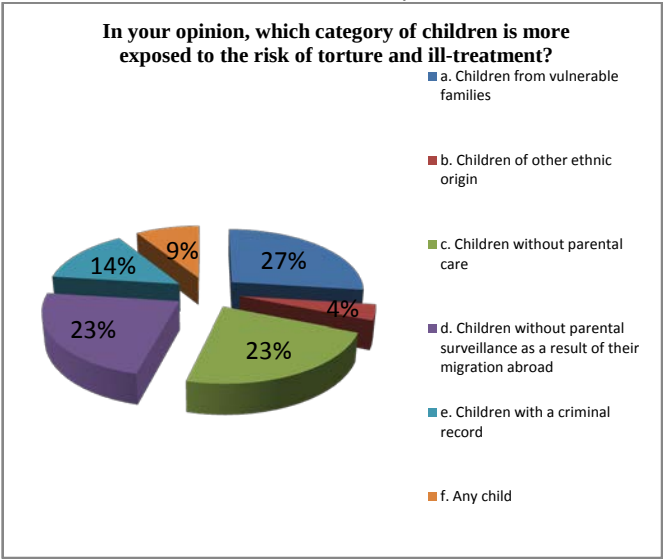
The cultural factors in Moldova were considered by 67% of respondents as a barrier in preventing and combating torture and ill treatment,. The use of force to obtain confessions or results is still considered widely acceptable.

The social background of a minor is a factor that can determine the predisposition to use force and torture against him, according to 44% of respondents, while 56% of them disagreed.

Minors who come from vulnerable families are perceived to be less well protected, and that they lack the assistance and support of their parents. In a case of a minor from a healthy family, it was felt that his parents would provide more consistent assistance to the minor, including the support of qualified legal aid, while children from vulnerable families most likely will not have such opportunities. The victim`s background as a perpetrator might see that there are likely to be fewer repercussions due to the victim`s ignorance of his rights, or due to the victims fear of making a statement.



It can be seen in the table below, the most exposed remain the socially vulnerable minors, those deprived of parental care, and the children without parental care as a result of the migration abroad.



Magistrates` recommended improving the existing legal framework, in order to ensure a better protection of minors, and also highlighted the urgent need to apply the existing rules.

At the same time, the creation of a special, autonomous body, separate from both from the Ministry of Internal Affairs and the Prosecutor's Office, would streamline the investigation of cases concerning torture and ill treatment.

The criminal procedure legislation is considered in a separate chapter on how to investigate the acts of torture, with reference to the mechanisms of protection, recovery, psychological assistance and documentation, including the standards of the Istanbul Protocol. As to cases concerning the acts of torture alleged by minors, their investigation should be carried out by a body distinct from the one that has led the investigation and which prosecutes the case.

An important aspect revealed by the magistrates is the need to allocate the necessary financial resources for the police, i.e. equipping them with appropriate technology and equipment in the field of criminal` investigation, which would allow the use of modern methods of investigation of offences. Legal provisions should be improved, in particular those relating to the obligation to report cases of torture and other ill-treatment and to amend current law to ensure the professional autonomy of medical workers in places of detention, by making

staff accountable to the Ministry of Health It is also necessary to regulate mechanisms of victims` recovery and compensation for damages.

Providing with audio and video equipment to all commissariats, penitentiaries, interrogation facilities etc, would also improve the situation. At the same time, the development of more appropriate performance indicators would strengthen professionalism, and guide police away from the use methods of torture and ill treatment.

CHAPTER 5. ANALYSIS OF TORTURE AND ILL-TREATMENT EFFECT ON CHILDREN, BASED ON THE EXPERIENCE OF THE REHABILITATION CENTER OF TORTURE VICTIMS MEMORIA

5.1. STATEMENTS ON TORTURE AND ILL-TREATMENTS - CONTEXT, METHODS, LEGAL ASPECTS

The Group III of the interviewed children was selected from among the beneficiaries assisted at RCTV "Memoria", being constituted of people who have been arrested and ill-treated by the police officers when they were minors.

The following information is collected from their sayings (testimonies) made during interviews, treatment sessions, medical examinations, including investigations and consultations provided by other specialists outside the RCTV Memoria. All the victims` records are documented in medical files, reports, including through psychological testing, completion of needs assessment questionnaires and surveys, and other forms.

Table 25: Methods of torture and ill-treatment, at certain periods of arrest and detention, as stated by the children from the group assisted by RCTV "Memoria":

Methods of physical torture and ill-treatment	No. cases	%
Beatings, including:	19	95
• Simultaneous beating by several persons	14	70
• Beatings over the head	17	85
• Beatings over the back, spine, kidneys	16	80
"Phone" - torture	4	20
Hanging	7	35
blows to the soles („falaka")	3	15
Electrocution	2	10
Crush of nails with pliers or introduction of needles under nails	2	10
Lack of conditions for sleep	2	10
Restrictions to hygienic facilities	3	15
Lack of drinking water or contaminated water for up to 24 hours	2	10
Lack of food for up to 72 hours or more	5	25
Stay in cold, without suitable clothes	3	15

Thus, from all the patients of the group that received assistance from RCTV Memoria, 19 stated that they suffered from beatings, a method which is notable in the relevant statistics (General Prosecutor`s Office, Ministry of Internal Affairs). It is alarming that the rate of beatings over the head (85%) coincides with cranio-cerebral traumas diagnosed and confirmed by the neurologists, which shows a high degree of severity of the suffered beatings. This rate of about 80-85% is typical of those seen by RCTV Memoria, where other recent victims of torture have be subjected to methods that would not leave any visible signs. This statement is also confirmed by other methods of torture from the table, which do not always leave visible signs, but the consequences can still be very serious, leading to disability. It is unfortunate, but the experience of RCTV Memoria shows that several methods of torture applied to minors were ignored by official investigations. Many of these leave no visible signs and which were ignored by forensic reports and as a result some perpetrators have escaped without charge. However, the physical and mental health of the victims has still been effected, sometimes very seriously.

Table 26: Methods of psychological torture, at certain stages of arrest and detention as stated by the children from the group assisted by RCTV "Memoria":

Methods of psychological torture	No. cases	%
Threats to the victim, including with:	17	85
• serious beating	13	65
• longer detention	8	40
• murder	7	35
Threats against the family	4	20
Interdiction to communicate with relatives	18	90
Humiliation (obscene words, revilement, insults, ridicule, brutalization etc.)	9	45
Witness to the torture of another person	5	25
Forcing to sign false confessions against itself	6	30

As with the other 2 groups of minors (in detention), the most frequent method of psychological torture is the threat (85%). Humiliation (in various forms, from insults, revilement, ridicule, obscene words, brutalization, and verbal harassment to forced removal of clothes, threats with rape etc.) is the next method, mentioned by 45% of respondents in this group.

It is unfortunate that this category of violent actions against minors, such as threats, humiliation, coercive techniques, restrictions etc., is frequently not taken into account at the early stages of investigation of torture.

5.2. PHYSICAL CONSEQUENCES OF THE TORTURE AND ILL-TREATMENT, IDENTIFIED WITHIN THE GROUP PF PERSONS ASSISTED BY RCTV "MEMORIA"

Table 27: Physical consequences of torture

Somatic pathologies related to the trauma suffered	No.	%
The consequences of brain injury	17	85
Discopathy, post-traumatic radiculopathy	6	30
Post-traumatic otitis with post traumatic deafness	3	15
Multiple leg bone fracture	1	5
Nephroptosis, pyelonephritis, and other disorders of the urinary tract	8	40
Stomach diseases (ulcers)	2	10
Chronic bronchitis	1	5

The most serious somatic pathologies, as immediate consequences of the suffered traumas are: a) the consequences of cranio-cerebral traumas (CCT), and b) leg bone fracture.

The more serious pathologies, as belated evolution and effects are: a) CCT consequences; b) Nephroptosis, chronic pyelonephritis, and other kidney disorders, discopathy, post-traumatic radiculopathy and other spine disorders, post-traumatic otitis with disturbance until severe loss of hearing.

5.3. PSYCHO-SOCIAL ASPECTS REGARDING THE CONSEQUENCES OF TORTURE AND ILL-TREATMENT, RELATED TO THE GROUP OF PERSONS ASSISTED BY RCTV „MEMORIA"

Table 28: Psychological consequences

Psychological consequences	No.	%
Post-traumatic stress disorder (PTSD), including	19	95
• depression	12	60
• anxiety	7	35

personality changes (suspiciousness and distrust of others)	1	5
convulsive syndrome (seizures with the loss of consciousness)	1	5
frequent nightmares	20	100
sleep disorders (insomnia, frequent waking etc.)	20	100
excessive nervousness, irascibility, anger attacks	20	100
difficulties of concentration and memory	11	50
frequent memories of the trauma, avoidance behavior	18	90
self-mutilation	5	25
suicidal attempts	3	15

As per the table, most of the victims (95%) have presented symptoms of post-traumatic stress disorder (PTSD). Almost all the people assisted by RCTV "Memoria" presented disturbing memories of traumatic events, sleep disorders (frequent insomnia, nightmares), especially in the acute period after abuse. Excessive nervousness persists for a long period after the trauma and often leads to a deterioration of relationships with other people, including family members and the emergence of additional problems for the victim and his entourage.

The rate of anxiety is lower than in the first two groups of children, which can be explained by the fact that these refer to people who are already at liberty. However, the depressions persist, their rate being almost at the same level as the other groups.

Social consequences, faced more often by the minors-victims of this group, are:

- ✓ The deterioration of social relations, including family, alienation from friends, carelessness in communicating with other people and increased risk of social exclusion – 51,6%;
- ✓ Labeling, which has a negative impact on the victim and his family;
- ✓ Quitting, interruption of studies and other difficulties related to the educational process - 40,3%;
- ✓ A decrease in prospects for social and professional reintegration after release - 24,1%;
- ✓ Decrease of creativity manifested by the lack of hobbies and other interests - 37%.

Generally, all these consequences enhance the possibility of social withdrawal and increase the risk of delinquent behavior or membership in criminal groups, because they feel rejected by the rest of the society. It is unfortunate that in some cases their education is interrupted and effected by arrest and detention, and the individual feels marked for the rest of their lives. It is necessary to re-evaluate programs for minors in detention, and place a stronger emphasis on implementation of educational, instructional and creative activities.

The psychosocial consequences of torture should be taken into consideration, since they, like scars or physical pain, constantly remind the victim of all the pain that has been suffered. It is a vicious circle, in which traumatic events always reappear in memory and the victim suffers for a prolonged period of time, perhaps even their entire life. Practically all children who have been mistreated have an enormous thirst for revenge. For these reasons, they need understanding and support in overcoming their problems faced.

5.4. LEGAL ASPECTS CONCERNING THE CONSEQUENCES OF TORTURE AND INHUMANE TREATMENT

During the study, there were 20 cases of minors, assisted by the RCTV Memoria, since 2003 (1 person), 2004 (1), 2006 (1), and since 2009 – 17 people. Most of them were registered at the request of lawyers and relatives or at personal request, being eligible under art.1 of UN Committee against Torture (CAT), as a result of suffering various forms of torture, or cruel inhuman and/or degrading treatment when they were in the state custody.

In addition to the health and mental problems caused by torture, some of them also faced legal issues. Of the total number of 20 children assisted at RCTV Memoria, 7 said they did not have an opportunity to effectively appeal the charges because of poor conditions and a lack of financial resources to hire a lawyer. As a result, the sentences of the court remained in force and 4 people were convicted and imprisoned. Of these 4 cases, only 2 persons who were sentenced with detention contested the courts decisions.

Despite the fact that all the people who were assisted suffered from mental and physical traumas, as a result of being placed in custody or detention, not all of them had the courage and the ability to file the complaint. 6 of

the assisted persons said they have not filed the complaint of torture and ill-treatments due to their distrust of the justice system nor based on the negative experience of others, who had previously submitted complaints in court, but have not had their cases upheld. Of 14 victims treated by RCTV Memoria, who filed complaints on torture and ill treatments, six cases have been suspended, for lack of evidence. But in reality the cases were suspended due to the inefficiency of the investigation and superficial forensic examinations.

Filing complaints of torture and provision of assistance to victims have a preventive character and represent a basic guarantee against torture and ill treatment. Thus, all detainees should have effective mechanisms to submit complaints, both inside and outside the institution of detention.

However, of the 14 complaints filed, 5 beneficiaries of RCTV Memoria have been recognized as victims, and given the moral, physical or material damages owed to them. These victims, along with their defenders, were the only ones able to demonstrate the culpability of the persons guilty of torture and ill treatment, by producing evidence in court.

Their cases regarding torture were examined by national courts, but because of a dearth of effective remedies, they have submitted complaints to the ECHR, of which 1 decision has already been taken (Corsacov vs. Moldova) and another 5 are still pending.

FINAL RECOMMENDATIONS:

1. Modification of the legal framework that regulates disciplinary sanctions applied to convicted persons, in order to exclude incarceration as a disciplinary measure applied to juvenile detainees.
2. Modification of the legal framework in order to regulate the abilities of minors to exercise their rights to petition and the procedure for their examination.
3. Strengthening the mechanism on the application of the protection measures to the minors who have submitted the complaints.
4. Modify the legal framework to regulate the state provision of legal assistance for children-who are victims of crimes.
5. Produce and approve a mechanism to monitor and assess the quality of the juvenile legal assistance.
6. Produce a set of universal indicators to collect and process the unconsolidated data on the children in conflict and in contact with the law.
7. Raising public awareness on torture and ill treatment and its impact on victims and society.
8. Inclusion in the training curriculum and the initial and lifelong training of comprehensive set of materials on torture and ill treatment: prevention, combating, documentation, investigation, detection and assistance of cases.
9. Ensuring the functional independence of medical services within the institutions that provide services for people who are detained, in particular minors, with increasing professionalism of medical and psychosocial staff and their awareness in the field related to the effects of torture and ill treatment on minors.
10. Produce a unique medical card that accompanies each minor as soon as they are apprehended until their final release from detention, ensuring all clinical manifestations and potential consequences of torture are systematically documented.
11. Develop programs to identify victims of torture and ill treatment early, including juveniles, who are in custody or detention. The program should monitoring juveniles and offer complex assistance, to prevent aggravation or expansion of their trauma, and develop programs for rehabilitation.
12. Make the rehabilitation of torture victims a core priority for the key institutions: Ministry of Justice; Ministry of Health, Ministry of Labor, Social Protection and Family of the Republic of Moldova. Make rehabilitation a priority in dialogues between Moldova-EU and other external partners and include the participation of NGOS..

APPENDIX A: THE INSTRUMENTS USED IN THE PROCESS OF IMPLEMENTATION OF THE RESEARCH

APPENDIX A1: QUESTIONNAIRE ON THE EARLY IDENTIFICATION OF PERSONS WHO HAVE SUFFERED TRAUMATIC EXPERIENCES

(Ludmila Popovici, Svetlana Visanu/ RCTV Memoria)

Name, Surname: _____ Date of birth: _____

Date of evaluation: _____ Evaluator: _____

(For those interviewed: The purpose of this Questionnaire is to provide support, by increasing the degree of awareness about any special needs that you may have. There are no right or wrong answers; it is important to answer as honestly as possible. When answering, please make reference to your recent condition)

I. QUESTIONS

		YES	NO
1.	Do you often ⁹¹ have difficulties falling asleep?		
2.	Do you often have nightmares?		
3.	Do you often have headache?		
4.	Do you often have pains in different regions of your body?		
5.	Do you think you get easily angry (fast)?		
6.	Do you often recall the painful events from your past?		
7.	Do you avoid activities that remind you about those events?		
8.	Do you often feel scared or terrified?		
9.	Do you have trouble with your memory or do you often forget things from everyday life?		
10.	Do you show no interest towards certain things?		
11.	Do you often have trouble to focus?		
12.	Periodically I feel such an acute anxiety that I can not sit still.		

Score: _____ Level of risk: _____

The questionnaire provides a risk assessment scale (moderate, medium, or high level) for people who have suffered traumatic experiences. Thus, only positive responses are summarized.

In the case of "**medium risk**" (4-8) or "**high risk**" (9-12), the person should be scheduled for an additional medical or psychological examination! The level of "**low risk**" (0-3) does not exclude the possibility that the minor has suffered traumatic experiences. The symptoms may appear later. Another screening should be carried out.

II: PERSONAL DESCRIPTION

2.1. Please indicate the most distressing or frightening event that you've lived (suffered), and specify **where** and **when** these events took place:

.....

2.2. In your current situation (in arrest, in detention or being released from detention, etc., to underline), please indicate the worst event, (if it is different from those listed above) and specify **where** and **when** this event took place.

.....

III: CRANIO-CEREBRAL TRAUMA

If you answered "Yes" to the following traumatic events, please indicate if you lost consciousness and for how long.

	Suffered		Loss of consciousness		If Yes, for how long?	
1. Blows to the head	Yes	No	Yes	No	hours	minutes
2. Choking and strangulation	Yes	No	Yes	No		

⁹¹ "Often" means more than usual, and/or that causes sufferings

3. Other types of head trauma (e.g.: accidents, burns, risk of drowning etc.)	Yes	No	Yes	No		
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Other details, if significant:

IV. We would like to ask you about certain traumatic events, and we would kindly ask you to answer whether: ***you have been directly involved, have been threatened, you have seen or heard*** about such actions intentionally committed by representatives of certain state institutions.

	<i>Traumatic actions, events</i>	<i>Was involved</i>	<i>Was threatened</i>	<i>Saw</i>	<i>Heard</i>
1.	Beating, blows with different objects				
2.	Humiliation, insulting words				
3.	Concatenation (long handcuffing), tying up or other forms of unjustified immobilization, or for the purposes of punishing				
4.	Exposure to heat, sun, strong light				
5.	Exposure to rain, cold, cold rooms etc., without appropriate clothing				
6.	Deliberate placement into a bag, box, trunk, or other small space				
7.	Drowning, immersion of the head in the water				
8.	Suffocation by various methods (plastic bag, gas mask etc.)				
9.	Extra-effort, overload, hard, forced works etc.				
10.	Exposure to unsanitary (unhealthy) conditions with the risk of infection or other diseases				
11.	Blindfolded, or placed in dark rooms				
12.	Long isolation from other persons; solitary confinement				
13.	Mock execution (imitation of execution, e.g. gun to forehead)				
14.	Forced to witness the ill-treatment of other persons in custody				
15.	Starvation or poor and insufficient food				
16.	Sleep deprivation, by nocturne interrogations or the lack of adequate conditions				
17.	hanging from a bar (or from other objects) by the hands or feet				
18.	Rape, sexual abuse, genital mutilation				
19.	Burns, use of hot liquids or objects				
20.	Blows to the soles with a bat, rod, bar or other objects				
21.	Blows over the ears (with palms)				
22.	Compelled to stand or other forced position, for a long time				
23.	Administration of medicines (without therapeutic purposes)				
24.	Needles under the nails or fingers				
25.	Writing confessions (depositions) several times				
26.	Shocks with electric tools				
27.	Others (please specify):				

APPENDIX A2: REGISTRATION FORM OF RELEVANT DATA FOR THE STUDY (MINORS)
(Ludmila Popovici, Svetlana Visanu/ RCTV Memoria)

No.	Requested information	Obtained information
1.	Name/Surname	
2.	Date of birth	

3.	Address, contact phone number (optional, if assistance is provided)	
4.	Contact persons/parents. Especially for persons under 18 years old	
5.	Education, at the time of arrest	
6.	Context of torture:	Date of arrest (or repeated arrests):/ Place of arrest: / Period of detention: Date of release:
7.	If parents, legal representative, teacher or psychologist were present during interrogation.	
8.	Medical examination: (realization, quality, volume)	At detention / At transfer to other institutions / In penitentiary
9.	The location, of the interview. Treatment in the first day in: Police facility / IDP / Penitentiary	
10.	Allegations about ill-treatment / torture:	Yes/No and other details
11.	Was a complaint of torture submitted	Yes/No
12.	If „Yes“, what was the mechanism for filing the complaint:	By means of a lawyer / Relatives / Act ex officio of the prosecutor / Others (please specify)
13.	Legal case situation, examination of complaint:	Initiated file (place of examination) / Suspended file – where? When? / Court (name, duration of examination) / Needs / wants legal assistance?
14.	If no complaint was submitted, please specify the reason: (to select, with detailed description, if any additional information)	Lack of financial resources for a lawyer / Fear of the accusers / Distrust in justice / Unaware of this right
15.	Methods of physical torture (check list): 1) simultaneous beating by several persons; 2) blows with fists, feet, elbows, stick or other objects over the entire body, including over the head, face, neck, back, shoulders, legs, groin, abdominal region (solar plexus); 3) blows over ears (“phone-torture”); 4) restriction of physical mobility; up to persons in a room of over sq.m.; 5) hanging of a bar or other forced positions (at the wall, with his hands raised, and forced not to move, while beaten; on his knees on a cold floor, others); 6) choking (suffocation); 7) lack of access to medical assistance, in case of health problems; 8) restriction of hygienic facilities (WC, bathroom); 9) lack of drinking water or contaminated water for up to..... hours; 10) lack of food for up to hours; 11) Lack of sleeping conditions, for up to days; 12) Others (please specify):	
16.	Methods of psychological torture (check list): 1) Threats against the victim (with detention, murder, sexual abuse etc.); 2) threats against colleagues or relatives; 3) sensory deprivations: dark room, blindfolded etc.; 4) restricted communication with outside world, including with the lawyer; 5) lack of information and or false, contradictory messages; 6) conditional access to vital necessities (WC, bathroom, food, water); 7) limiting access to education or interrupting the educational process; 8) humiliation by various techniques (obscene words, verbal sexual attacks, forced partial or complete removal of clothes); 9) techniques of constraint: forcing to sign false confessions;	

	10) witness to the torture or ill-treatment of another person; 11) lack of opportunity to help other or to offer moral support; 12) sleep deprivation; 13) insufficient or conditioned access to medical examination; 14) Others (please specify):
17.	Physical consequences: (fractures, contusions of the tissues etc.; somatic, psychosomatic pathologies etc.)
18.	Psychological consequences: (anxiety, depression, nightmares, insomnia, nervousness etc.)
19.	Social consequences: (education, religion, hobby, family relations etc.)
20.	Legal consequences: (closed file, lack of prejudice reparation, impunity, etc.)

Date: _____ Assessor(s): _____

APPENDIX A 3: QUESTIONNAIRE FOR THE ASSESSMENT OF THE MEDICAL ASSISTANCE FOR JUVENILES
(Ludmila Popovici, Elena Timofti/ RCTV Memoria)

Penitentiary/institution:

1.	Name of the medical unit	
2.	Position/specialty	
3.	Term of employment in the given penitentiary	
4.	Term of employment in the medical field	
5.	Special training in the field of identification and medical documentation of torture	a) Yes b) No If Yes, please specify:
No.	Name of indicator	Answers, comments
ACCESS TO MEDICAL ASSISTANCE		
1.	The procedure of access to medical assistance of the minors in the case of necessity (<i>verbal request, in writing, special procedure, etc. To specify</i>)	
2.	Ensure access to medical assistance (<i>free, limited, conditioned etc.</i>). Who decides if and when the minor in detention can receive medical assistance?	
3.	Limiting or conditioning the medical assistance (<i>No cases / Single cases / Most cases / Always...</i>)	
4.	Are there any medical personnel 24/24? (<i>If NO, what happens in emergencies case of necessity, at night, on holidays or weekend ...</i>)	(1) Yes (2) No
5.	What is the procedure for transferring the patient to a civil medical institution, in case of medical emergencies during the day and night?	
6.	What is the procedure for transferring the detained minor to another penitentiary?	
7.	Access to medico-legal expertise /forensic examination (how, who decides?)	
8.	Number of medical workers in an institution	Feldshers: Medical assistants: Contracted doctors-consultants:
9.	Working hours of the medical staff (please specify)	Feldshers: Medical assistants:
10.	How does the continuous professional training of the medical staff take place?	
11.	How the medical examination takes place immediately after the arrival in penitentiary? What is	

	the volume of examination and what specialists are involved?	
12.	Types of medical assistance provided within the institution: <i>(First aid; Treatment of chronic diseases; Simple surgery; Specific treatment in TBC cases, others.... Please specify)</i>	
13.	Number of minors a) sick, b) with special needs, c) physically or mentally handicapped, who are currently in detention	
14.	Average daily visits (examinations):	
15.	What are the most frequent pathologies registered to minors:	
16.	Hospitalization in penitentiary: Number of beds in hospital:	
17.	Number of detained juveniles receiving treatment in hospital this year	
18.	Dental care: <i>(to which extent the access to dental care is provided during the day and night)</i>	
19.	First aid kit with all necessary medicines. 1. <i>Is it permanently accessible;</i> 2. <i>It exists, but incomplete.</i> 3. <i>Missing</i>	
20.	Does the medical unit provide gynecologist services? <i>(Or there are hired specialists from the neighboring medical institutions)</i>	
PREVENTIVE MEDICAL ASSISTANCE		
21.	How the access to sanitary facilities is provided? (shower, bathroom, WC, laundry)	
22.	How are the sanitary-hygienic conditions: <i>(light, drying clothes, outdoor walks)?</i>	
23.	How are the regulations on acute diarrheal diseases/other infectious diseases, if any, observed? <i>(Not observed / Partially observed / Fully observed)</i>	
24.	To what extent is there provision for hygienic needs for girls? (1. Not ensured; 2. Partially ensured; 3. Fully ensured)	
25.	To what extent are juvenile detainees provided with safe drinking water? Do they have free access to water whenever they need?	
26.	To what extent does the food meet the vital needs of minors, both quantitatively and qualitatively? What rules are used to create the menu? Who checks the quality of the food?	
27.	How are the conditions for sleep?	
28.	How is the optimal temperature regime ensured?	
29.	How is the ventilation system ensured?	
MEDICAL DOCUMENTATION		
30.	The presence of medical records for all juveniles in detention (to verify the number)	Yes No
31.	The presence of the records for the juvenile medical assistance. How are they daily updated and used to document the health status of	Yes No

	children?	
32.	Number of external references and other specialists' call for any minors' consultations, investigations, interventions in the last 6 months	
33.	How does the cooperation with other medical institutions take place?	

Other comments:

Date/time:..... Interviewers:.....

APPENDIX A4: QUESTIONNAIRE FOR THE MEDICAL WORKERS
(Elena Timofti, Ludmila Popovici / RCTV Memoria)

I. General information

Name, surname: _____ Place of work, job title: _____

Working experience in penitentiary system: years

Previous working places: _____

II. Peculiarities of professional activities

No.	Indicator	Answers, comments
1.	How do you appreciate the training that you have in the field of identification of persons who have suffered traumatic experiences, such as, for example, any form of violence or torture?	1) No necessary training 2) Initiated in the field 3) Well-trained (specialized trainings or courses)
2.	How are you involved in the initial examination of the newly arrived minors?	
3.	What do you do if you notice changes in behavior, suicidal tendencies, hunger strikes and other signs and symptoms to children, which could be the consequences of ill-treatments?	1) Provide assistance and record the case 2) Inform the colleagues and the administration of institution 3) No actions
4.	To what extent do you consider that you need training in the work with juveniles who have been previously victims of ill-treatment?	1) Do not need training 2) I might need training 3) I need training
5.	On average, how often do you meet with every child who is in detention?	1) Once per week 2) Once per month 3) Once per 2, 3, 6, 12 months (to underline)
6.	Types of medical assistance provided to juvenile patients	1) First aid/ 2) Durable treatment 3) Simple surgery/ 4) Specific treatment in TBC cases / 5) Others (please specify)
7.	To what extent is medical assistance and the equipment with medicines, medical utensils provided?	1) Not ensured: 2) Partially ensured: 3) Fully ensured:
8.	a) How many persons do you assist at present? b) How many persons did you assist in the last month? c) How many persons did you assist in the last year?	a) b) c)
9.	List the most frequent pathologies (the nervous, cardio-pulmonary, gastrointestinal, urinary system etc.) faced by minors in detention?	
10.	To what extent are juvenile detainees provided with safe	

	drinking water? Do they have free access to water whenever they need?	
11.	To what extent does the food meet the vital needs of minors, both quantitatively and qualitatively? What rules are used to create the menu? Who checks the quality of the food?	
12.	How are the conditions for sleep? How is the optimal temperature regime ensured? How is the ventilation system ensured?	1) Not ensured 2) Partially ensured 3) Fully ensured
13.	Describe the most severe case you have assisted: (a) in the last 6 months? (b) in the last year? (c) what measures have been undertaken?	a) b) c)
14.	What are the main difficulties that you face in the process of juvenile assistance and documentation (e.g., the lack of previous medical records, the lack of investigations etc?)	
15.	What additional activities do you initiate / propose / carry out in order to solve the problems of the persons from this category?	
16.	What is your role in preventing and combating juvenile violence, torture and ill-treatment?	

III. Do you have a description of your job title, officially approved? What are the specifications of your task (a copy)

IV. How is your office equipped? Describe your working conditions. What else would you need for an optimal activity?

V. How is lifelong education and training provided?

VI. What is the status of the medical staff within the penitentiary? Are the medical recommendations and conclusions on a detainee taken into account by other employees of the penitentiary?

VII. **Other relevant information, comments:**

Date: _____ Assessor(s): _____

APPENDIX A5: QUESTIONNAIRE FOR PSYCHOLOGISTS (Svetlana Visanu, Ludmila Popovici/ RCTV Memoria)

I. General information

Name, surname: _____ Place of work, job title: _____

Working experience as psychologist in penitentiary system:years

Previous working places: _____

II. Peculiarities of professional activities

No.	Indicator	Answers, comments
1.	How do you appreciate the training that you have in the field of identification of persons who have suffered traumatic experiences, such as, for example, any form of violence or torture?	1) No necessary training 2) Initiated in the field 3) Well-trained (specialized trainings or courses)
2.	What do you do if you notice changes in behavior, suicidal tendencies, and other signs and symptoms to children, which could be the consequences of ill-treatments?	1) Provide assistance and record the case 2) Inform the administration of institution 3) No actions
17.	To what extent do you consider that you need training	1) Do not need training

	in the work with juveniles who have been previously victims of ill-treatment?	2) I might need training 3) I need training
18.	On average, how often do you meet with every child who is in detention?	1) Once per week 2) Once per month 3) Once per 2, 3, 6, 12 months (to underline)
19.	What work tools do you use (e.g. lists, registers, work records, battery of tests etc.)?	
20.	What is the type and format of assistance provided to the juveniles in detention (counseling sessions, individual / group therapies etc.)?	
21.	a) How many persons do you assist at present? b) How many persons did you assist in the last month? c) How many persons did you assist in the last year?	a) b) c)
22.	List the most frequent psychological problems faced by minors in detention?	Anxiety and depression, suicidal tendencies, difficulties in communication, personality disorders
23.	Describe the most severe case you have assisted: (a) in the last 6 months? (b) in the last year? (c) what measures have been undertaken?	a) b) c)
24.	What are the main difficulties that you face in the process of juvenile assistance?	
25.	What additional activities do you initiate / propose / carry out in order to solve the problems of the persons from this category?	
26.	What is your role in preventing and combating juvenile violence, torture and ill-treatment?	

III. What does the battery of tests comprise? What tests do you use most often? (please underline)

- Personality tests: Bontila, MMPI, Eysenk, Cattell, Freiburg, Myers-Briggs etc.
- Projective tests: Family drawing, house-tree-person test, tree, Rorschach test, thematic apperception test (TAT);
- Clinical tests: Hamilton anxiety scale, Taylor, Schmiescheck-Leonhard test;
- Others (please specify):

IV. What tests do you use for the identification of psychological consequences of the suffered traumatic events? Have you ever used:

- PTSD (Post-Traumatic Stress Disorder Questionary): Yes No
- HTQ (Harvard Trauma Questionary): Yes No
- Control list Hopkins-25 (HCL-25): Yes No

V. Do you have a description of your job title, officially approved? What are the specifications of your task (a copy)

VI. How is your office equipped? Describe your working conditions. What else would you need for an optimal activity?

VII. How is lifelong education and training provided?

VIII. What is the status of the psychologist within a penitentiary? Are the psychologist's recommendations and conclusions on a detainee taken into account by other employees of the penitentiary?

IX. **Other relevant information, comments:**

Date/time: _____ Assessor(s) _____

APPENDIX A6: QUESTIONNAIRE FOR THE SOCIAL WORKERS

I. General information

Name, surname: _____ Place of work, job title: _____

Working experience as social worker in penitentiary system:years

Previous working places: _____

II. Peculiarities of professional activities

No.	Indicator	Answers, comments
1.	How do you rate the training that you have in the field of identification of persons who have suffered traumatic experiences, such as, for example, any form of violence or torture?	1) No necessary training 2) Initiated in the field 3) Well-trained (details on specialized trainings)
2.	What do you do if you notice changes in behavior, suicidal tendencies, and other signs and symptoms in children, which could be the result of ill-treatment?	1) Provide assistance and record the case 2) Inform the administration of institution 3) No actions
3.	To what extent do you consider that you need training in the work with juveniles who have been previously victims of ill-treatment?	1) Do not need training 2) I might need training 3) I need training
4.	On average, how often do you meet with every child who is in detention?	a. Once per week b. Once per month c. Once per 2, 3, 6, 12 months (to underline)
5.	What are the used tools and techniques for the identification of the detainees' needs and necessities:	E.g.: Registers, Social survey, Lists, Individual assessment sheet, Intervention plan, Questionnaire for the assessment of needs and necessities, Motivational interview, others:
6.	What is the type and format of assistance provided to the juveniles in detention?	E.g.: individual / group counseling etc.
7.	a) How many persons do you assist at present? b) How many persons did you assist in the last month? c) How many persons did you assist in the last year??	a) b) c)
8.	List the most frequent social problems faced by minors in detention?	
9.	Describe how the following needs are ensured: a) access to bathroom	
	b) access to toilet facilities	
	c) access to laundry	
	d) access to library and periodicals	
	e) how often can they attend religious activities and services	
	f) access to sports room, is it equipped with sport equipment	
10.	Describe the most severe case you have assisted: (a) in the last 6 months? (b) in the last year? (c) what measures have been undertaken?	a) b) c)
11.	What are the main difficulties that you face in the process of juvenile assistance?	
12.	What additional activities do you initiate / propose / carry out in order to solve the problems of the	

	persons from this category?	
13.	What is your role in preventing and combating juvenile violence, torture and ill-treatment?	

III. Do you have an officially approved description of your job title? What are the specifications of your task (a copy)

IV. How is your office equipped? Describe your working conditions. What else would you need for an optimal activity?

V. How is ensured your lifelong education and training?

VI. What is the status of the social worker within a penitentiary? Are the social worker`s recommendations and conclusions on a detainee taken into account by other employees of the penitentiary?

VII. Other relevant information, comments:

Date: _____ Assessor(s): _____

APPENDIX A7: QUESTIONNAIRE FOR THE JUVENILE PENITENTIARY ADMINISTRATION

(Ludmila Popovici, Veronica Mihailov Moraru, Ion Guzun)

I. General information (optional)

Name, surname: _____ Place of work, job title: _____

Working experience in penitentiary system:years

Previous working places: _____

II. Peculiarities of professional activities

- Have you attended training that included work on "torture and ill-treatment" ?
a) No b) Yes (please, specify *the name, the period, the trainers*)
- What is the reason for the most common conflicts between the juvenile detainees and collaborators? How they are usually settled? Who are the mediators?
.....
- What are the disciplinary sanctions imposed against minors in detention, including in cases of conflicts created between the convicts? What are the offences that might impose disciplinary sanctions?.....
- How are you been informed about the conflicts between children in detention and other employees? Are these cases discussed? Is the staff instructed on how to proceed in certain cases/situations, in order to reduce conflicts?.....
- If a minor/ detainee complains of some pain, health issues, which is the mechanism for requesting medical assistance? Are there any regulations / procedures in this respect?.....
- When a minor is delivered to the penitentiary, which are the processes for conducting a medical examination and documenting their physical and mental condition?.....
- What human and technical resources are required (medical means/equipment) to cover medical diagnosis and assistance for juvenile detainees? What is the internal mechanism for requesting medical assistance and for transfer to specialized medical institutions?.....
- In the last 3 years, have you been informed about juveniles who have been ill-treatment by some employees/colleagues, including from other penitentiaries? Who informed you? What was your reactions/conclusions?.....
- In your opinion, torture in the Republic of Moldova is: a) a phenomenon, or b) does it have a sporadic character? What are the causes for the emergence and expansion of the phenomenon of torture?
.....
- In your opinion, in what institutions in Moldova where torture (A) was or (B) is still applied? Why are do cases of torture and ill-treatment persist in Moldova?.....
- How do you rate the punishment for the use of torture and ill-treatment in Moldova?.....
- How do you evaluate the detention conditions in the penitentiary, in terms of physical and mental health of juvenile detainees? a) Good b) Satisfactory c) Unsatisfactory d) Poor, dangerous

13. What measures have been undertaken by the administration to improve the detention conditions?
.....
 14. What is your role in preventing and combating torture and ill-treatment?
 15. Which institutions need to take responsibility for eradicating torture in the Republic of Moldova?
.....
 16. What measures should be taken to diminish or definitively stop the use of torture and ill-treatment against minors, within various institutions in Moldova?.....
 17. To what extent do you consider that you need training in working with juveniles who have been previously victims of ill-treatment?
a) Do not need training; b) I might need training c) I need training
If the answer is positive, what are the topics you would be interested in?
- Date/time: _____ Assessor(s): _____

APPENDIX A 8: QUESTIONNAIRE FOR LAWYERS
(Veronica Mihailov Moraru, Ion Guzun)

Name, surname: _____ Place of work: _____
Work experience in juveniles' assistance:

1. How do you treat a minor / client, when you have the information or assumptions that he has been previously subjected to torture and/or ill-treatment?
2. How do you provide an appropriate level of assistance and how do you ensure confidentiality of the information after the interviews with the minor client?
3. What methods and means do you use to meet with the minor/ client, who claims to have been ill-treated? What are the difficulties in establishing the professional contact with minors, who would have suffered physical and psychological trauma as a result of torture?.....
4. Please describe your methods for collecting information, evidence, in regard to torture use against the minor? What kind of institutions or experts do you involve to help document the case?
.....
5. Have you attended training that included the "torture and ill-treatment" component?
a) No b) Yes (please, specify *the name, the period, the trainers/organizers*)
.....
6. How have you been informed about the application of torture and ill-treatment against minors?
(1) from the assisted minors; (2) from relatives; (3) from journalists; (4) from other colleagues; (5) from certain institutions/organizations, in particular medical workers/social workers, psychologists from the penitentiary system (7) others:
- a) *How many minors claiming to have been tortured or ill-treated have been assisted by you? When and where have the actions of torture and ill-treatment occurred, in the cases submitted by minors?*
- b) *To what extent have the minors been able to find the perpetrators? Have the latter been identified and charged? How has the investigation and trial of the case evolved?*
- c) *What actions do you take to medically document the case?*
- d) *What was the position/attitude of the minor client or his family towards the investigation of the alleged case of torture? Have you had cases when the child and/or family refused to submit the complaint or withdrew their complaint? What were the reasons?*
- e) *Were any internal investigation initiated by the Ministry of Internal Affairs, the Ministry of Justice etc, in the cases of torture assisted by you? Do you know the result of this internal investigation?*
- f) *In your opinion, describe juvenile detainees' access to appropriate and effective medical assistance in case of an emergency or injuries which they suffered, including torture? Have you had cases when the minors assisted by you have requested specialized medical help, including diagnostic investigations, but were refused or the assistance was conditional or restricted to certain institutions of the penitentiary system?*
- g) *In your opinion, how do the state institutions react in cases of alleged torture, that you have worked on? Were any disciplinary sanctions applied or were criminal proceedings promptly and efficiently initiated?*

- h) What impediments related to the investigation of allegations of torture or ill-treatment, medical documentation and collection of evidence did you encounter as you assisted your clients?
- i) Have you had cases when pressures have been brought on the minor /client, by third parties, or by you, aimed at stopping the investigation into allegations of torture?
- j) What do you think about the penalties for using torture and ill-treatment in cases you have worked on (if any) and in Moldova, in general?

- 7. In your opinion, what are the causes for the emergence and spread of torture, and what reasons were given for the use of torture and ill-treatment against the minors you assisted?
- 8. How are the detention conditions for the minors? a) Good b) Satisfactory c) Poor
- 9. What is your role in preventing and combating torture and ill-treatment?
- 10. What measures should be taken to diminish or definitively stop this phenomenon?
- 11. Other comments:

Date/time: _____ Assessor(s): _____

APPENDIX A9: QUESTIONNAIRE FOR THE GUARDIANS FROM THE JUVENILE PENITENTIARY

(Ion Guzun, Veronica Mihailov Moraru)

I. General information

Name, surname: _____ Place of work, job title: _____

Working experience in penitentiary system:years

Previous working places: _____

II. Peculiarities of professional activities

- 1. Have you attended training that included work on "torture and ill-treatment"?
a) No b) Yes (please, specify *the name, the period, the trainers*)
- 2. How are you informed about the conflicts between juvenile detainees and other collaborators? Are these cases discussed? Are you trained in how to react in certain cases/situations, in order to diminish conflicts?
- 3. What would be the reason for the most frequent conflicts between juvenile detainees and staff?
- 4. During your work, have you been involved in conflicts with the minors? What were the reasons and how has been the conflict settled?
- 5. What disciplinary sanctions are imposed against minors in detention, including in cases of conflicts between the convicts? What offences might impose disciplinary sanctions?
- 6. If the minor is in pain, or suffers complications, how can they call for medical assistance and what actions do you undertake?
- 7. In the last 3 years, have you been informed about the ill-treatment suffered by juvenile detainees by some employees/colleagues, including from other penitentiaries? Who informed you? Your reactions/conclusions?
- 8. In your opinion, torture in the Republic of Moldova is: a) a phenomenon, or b) does it have a sporadic character? What are the reasons for the emergence and expansion of torture?
- 9. In your opinion, what are the institutions from the Republic of Moldova where torture (A) was or (B) is still applied? What are the reasons for the persistence of cases of torture and ill-treatment in Moldova?
- 10. How do you rate the punishment in Moldova for the use of torture and ill-treatment?.....
- 11. How do you rate the conditions in prison for detainees, in terms of the physical and mental health of the juvenile detainees? a) Good b) Satisfactory c) Unsatisfactory d) Poor, dangerous
- 12. What are the measures have been undertaken by the administration to improve the detention conditions?.....
- 13. What is your role in preventing and combating torture and ill-treatment?.....
- 14. Which institutions need to take responsibility for eradicating the phenomenon of torture in the Republic of Moldova?
- 15. What measures should be taken to diminish or definitively stop the use of torture and ill-treatment against minors, within various institutions from Moldova?.....

16. To what extent do you consider that you need training to work with juveniles who have been previously victims of ill-treatment?

a) Do not need training; b) I might need training c) I need training

If the answer is positive, what are the topics you would be interested in?

Date/time: _____ Assessor(s): _____

APPENDIX A10: QUESTIONNAIRE FOR JUDGES
(Dumitru Roman, Tatiana Crestenco, Olga Vacarciuc)

Name, Surname: _____ Job title: _____ Work experience: _____

Previous experience: _____

1. From 2010-2012, have you attended trainings to enhance your professional skills in eradicating the torture?
a) Yes (please specify: name, organizers, period); b) No
2. What is your role in preventing and combating torture and ill-treatment?
3. How do you evaluate the current legal framework in Moldova in terms of torture and ill-treatment in terms of connection to the international standards the Republic of Moldova is a party to? a) Sufficiently connected; b) Partially connected; c) Insufficiently connected. Please explain any of your answers.
4. PLEASE, indicate the most relevant international instruments/treaties on torture and ill-treatment of children, that applies to your work?
5. Do you consider that current legislation provides sufficient guarantees for minors who are victims of torture and ill-treatment at the investigation, trial and post-sentence rehabilitation period? a) Yes b) No. Please explain any of your answers.
6. Do you apply the standards set by the Istanbul Protocol (The Manual on Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment)? a) Yes b) No
7. How often do you apply the provisions of the Protocol? a) Frequently; b) Rarely; c) Not at all. Please assess their efficiency.
8. Do you apply the provisions of art.215 Criminal Procedure Code, during the investigations of allegations on torture and ill-treatment? a) Yes b) No
9. What measures are undertaken to ensure the security of the participants in the process and other persons?
10. How could you assess the quality of the work carried out by the criminal prosecution during the investigation of allegations on torture, in terms of the files transmitted to the court?
11. In your opinion, does the legal framework provide sufficient guarantees for the prevention of torture and ill-treatment, the efficient investigation of the allegations on torture and the victims' protection? a) Yes b) No c) Partially. Please explain any of your answers.
12. Is it necessary to create a special/distinct legal framework for juveniles? a) Yes b) No. Please explain any of your answers.
13. How do you understand the term "official tolerance"?
14. Please list any administrative and other obstacles that effect the prevention and combating the phenomenon of torture and ill-treatment.
15. Please indicate how you would improve the existing legal framework, including structurally at the departmental level, and how well the existing mechanisms function (structure, organization, vertical subordination, etc.) to ensure the protection of minors.
16. What changes would you suggest, at administrative, legal levels, in terms of ethics to enhance the prevention and combating torture and ill-treatment?
17. Do you think that the social background of a minor is a factor that might determine the application of torture against him? a) Yes b) No. Please explain any of your answers.
18. In your opinion, what category of minors is more exposed to the risk to be subjected to torture and ill-treatment?
a) Minors from vulnerable families
b) Minors of other ethnical origin
c) Minors without parental care

- d) Minors without parental care, due to their migration abroad
- e) Minors with criminal records
- f) Any minor

Please explain any of your answers.

19. How do you assess the effectiveness of judicial sanctions in preventing torture?

20. Please evaluate the effectiveness of police and prison medical services in terms of the prevention, identification and reporting cases of torture. (Please list the negative and positive aspects)

21. Do you consider that existing practice is related to **cultural factors**, that characterise Moldovan society?
a) Yes b) No

Please explain any of your answers.

Date/time: _____ Assessor(s): _____

APPENDIX A11: QUESTIONNAIRE FOR PROSECUTORS
(Dumitru Roman, Tatiana Crestenco, Olga Vacarciuc)

Name, surname: _____ Job title: _____ Work experience: _____
Previous experience: _____

1. Did you attend any training between 2010-2012, regarding the enhancement of the professional skills in eradicating the torture?
a) Yes (please specify: name, organizers, period); b) No
2. What is your role in preventing and combating torture and ill-treatment?
3. How do you rate the current legal framework on torture and ill treatment in Moldova and its adherence to international standards to which Moldova is a party? a) Sufficiently connected; b) Partially connected; c) Insufficiently connected. Please explain any of your answers.
4. Please refer to the most relevant treaties on torture and ill-treatment against children, as applicable.
5. Do you consider that existing legislation provides sufficient guarantees to the minors who are-victims of torture and ill-treatment in the investigation, trial and post-sentence rehabilitation period? a) Yes b) No. Please explain any of your answers.
6. Do you apply the standards set by the Istanbul Protocol (The Manual on Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment)? a) Yes b) No
7. How often do you apply the provisions of the Protocol? a) Frequently; b) Rarely; c) Not at all. Please assess their efficiency.
8. Do you apply the provisions of art.215 Criminal Procedure Code, during the investigations of allegations on torture and ill-treatment? a) Yes b) No
9. What measures are undertaken to ensure the security of the participants in the process and other persons?
10. Do you ask for the dismissal of persons suspected/accused of crimes of torture and ill-treatment? a) Yes b) No
11. How do the authorities react to your request?
12. Do you have sufficient tools to investigate the cases of torture and ill-treatment against children? a) Yes b) No c) partially. Please explain any of your answers.
13. In your opinion, does the legal framework provide sufficient guarantees for the prevention of torture and ill-treatment, the efficient investigation of the allegations on torture and the victims' protection? a) Yes b) No c) Partially. Please explain any of your answers.
14. Is it necessary to create a special/distinct legal framework for juveniles? a) Yes b) No. Please explain any of your answers.
15. Please indicate how you would improve the current legal framework, including structurally at departmental level, and enhance existing mechanisms (structure, organization, vertical subordination, etc.) to ensure minors are effectively protected.
16. Please list any administrative obstacles that effect official tolerance of torture and ill-treatment.

17. What changes would you make, at administrative, and legal levels, as well as ethically to enhance the efficient prevention and combating of torture and ill-treatment?
 18. Do you think that the social background of minor`s is a factor that might determine the application of torture against him? a) Yes b) No. Please explain any of your answers.
 19. In your opinion, what category of minors are more exposed at the risk to be subjected to torture and ill-treatment:
 - a) Minors from vulnerable families
 - b) Minors of other ethnical origin
 - c) Minors without parental care
 - d) Minors without parental care, due to their migration abroad
 - e) Minors with criminal records
 - f) Any minor
 Please explain any of your answers.
 20. Do you consider that the sanctioned for torture and cruel inhuman and degrading treatment are too mild in comparison with the provisions of the Criminal Code? a) Yes b) No. Please explain any of your answers.
 21. If your answer was YES to the previous question, do you think that this fact can be explained by the presence of a practice within the judicial system? a) Yes b) No. Please explain any of your answers.
 22. Please assess the effectiveness of the police and prison medical services in terms of the prevention, identification and reporting the cases of torture. (Please list the negative and positive aspects)
 23. Do you consider that existing practice is related to **cultural factors**, which are characteristic of Moldovan society? a) Yes b) No
- Please explain any of your answers.

APPENDIX A12: QUESTIONNAIRE FOR POLICE OFFICERS
(Veronica Mihailov Moraru, Ion Guzun)

Name, Surname: _____ Place of work, Job title: _____

1. Have you attended any training that included a component on "torture and ill-treatment" component?
 - a) No b) Yes (please, specify *the name, the period, the trainers*)
2. What is your role in preventing and combating torture and ill-treatment?
3. When and what part do you play in actions related to the identification of minors suspected for a crime?
4. What is the procedure / terms for transporting of a minor to the police commissariat?
5. What immediate actions are taken as a minor is detained by the police officers?
6. In what cases do you ask for preliminary statements under explanations from minors? Are there any other people who participate in preliminary investigations, if so, who are they?
7. Until a decision is taken to initiate a criminal prosecution of a detained minor, when do you inform the prosecutor about this fact?
8. Do you know of any colleagues (from your commissariat or other commissariats) who have ill-treated minors?
 - If yes, why do you think those actions have been taken?
 - How did things go?
9. Are you aware of any complaints on behalf of minors regarding the applied ill-treatment?
 - What have been the actions undertaken by you?
10. If a juvenile is detained in the holding room of the police commissariat, what are their rights and guarantees?
 - Is the minor provided the right to food, medical assistance until being transferred to isolation ward/penitentiary?
11. What measures should the administration take to avoid suspicion/ child abuse?
12. How are you informed about conflicts between detainees and staff ?
13. What is the reason for the most frequent conflicts between detainees and staff ?
14. What disciplinary sanctions are applied to detainees in case of conflicts?
15. Do you know about disciplinary/criminal proceedings against the police officers who used torture and ill-treatment against minors?

16. How do you assess the conditions of retention / detention from commissariats?

a) Good b) Satisfactory c) Poor

17. What measures are taken by the administration of the commissariat to improve detention conditions?

Date/time: _____ Assessor(s): _____

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