

The prevention of arbitrary arrest, exile and torture in Moldova

The statement of Promo-LEX Association at the HDIM 2018

The Universal Declaration of Human Rights proclaims that “no one shall be subjected to arbitrary arrest, detention or exile”. Accordingly, the OSCE participating States committed to ensure that “no one will be subjected to arbitrary arrest, detention or exile” (Vienna 1989). Despite these commitments and clear international obligations, Republic of Moldova is still facing problems with illegal arrest. The situation in some penitentiary premises do not correspond to international standards and represent an inhuman and degrading treatment for those who are detained in these premises. Also, the recent incident with the deportation of Turkish nationals shows that there is a lack of impunity towards actions of secret service.

As to illegal arrests: The arrest of persons in the Republic of Moldova is often made with violation of legal provisions and international human rights standards. Preventive arrest and detention, when persons are most vulnerable to torture and ill-treatment, is applied excessively, even in cases when the crime committed does not qualify for preventive arrest and detention. In Moldova, the general rate of admissions of the prosecutor's request to apply the preventive arrest is above 80% starting with 2006 and culminating by an 87 % admission rate in 2017¹.

We are deeply concerned about the new changes to the Criminal Procedural Code, which state that a person can be arrested only if he/she does not plead guilty². We should mention that these changes were introduced contrary to the national regulation which states that public consultation should be organised.

Also, we would like to highlight that Moldovan society is facing another threat to public security. The situation in the area of freedom and security in the Transnistrian region did not change since 1992. Every person who enters the territory controlled by de facto Transnistrian authorities risks to be arrested and be illegally deprived of liberty. Due to the constant and unconditional support of the Russian Federation, the Transnistrian regime created unconstitutional structures which violate human rights. The so-called judicial Courts applies arrests illegally, contrary to all international standards. In the period of the existence of this region, parties involved in political negotiation never raised the questions of the situation with the legality of these courts. Moreover, the Moldovan constitutional authorities collaborate with the de facto administration. The recent case of kidnapping by the special structures from the Transnistrian regime of an ex-servant of the de facto administration from the territory controlled by the constitutional authorities raises serious questions as to the personal security of the people living in the Republic of Moldova.

As to conditions of detention and medical care in prisons: Promo-LEX is seriously concerned about reports of overcrowding in at least six penitentiaries out of 17 institutions and about the deficient healthcare practice in the entire penitentiary system.

The living conditions in penitentiary institutions in some cases endanger the lives of inmates and amount to inhuman and degrading treatment, in particular in Prison No. 13 in Chisinau.

According to the Report of the Council for the Prevention of Torture in Moldova (CfPT), there is insufficient medical staff, which influences the access of convicts to medical examinations:

¹ Official statistics dates as to arrests, source: <https://crjm.org/en/datele-statistice-oficiale-cu-privire-la-arestari/>

² New modifications operated to art. 185 of the Criminal Proceedings Law by the Law Nr. 179 of 26 July 2018

- there are no clear procedures to ensure the right of the detainee to independent medical examination, which limits the observance of this right in the institution; unsatisfactory quality of medical records (initial data) regarding the health and diseases of detainees, healthcare in places of detention differs based on accessibility, availability and quality, and respectively is not similar to that available in the community because the places of detention face insufficient human and financial resources, scarce material and technology basis, limited access of detainees to diagnosis and treatment services;
- the quality of healthcare provided is not verified systematically by the Ministry of Health, Labour and Social Protection or by other authorities in the field because the national quality audit mechanisms, necessary standards/procedures, as well as monitoring and evaluation indicators of healthcare in places of detention are missing.
- The responsibility for healthcare in places of detention is assigned to departmental healthcare institutions, which are not under the Ministry of Health, Labour and Social Protection. So, the healthcare in places of detention is not monitored by the relevant ministry (MHLSP) and is not reflected in the state health policies and strategies, which leads to the isolation of departmental medicine and failure to observe the international commitments of the RM in preventing torture, inhuman and degrading treatment.

Also, reports concerning the collusion of custodial staff with detainees, resulting in the ill-treatment of prisoners were registered. Promo-LEX is also concerned that the state lacks an effective mechanism to examine complaints from inmates about their treatment and conditions of detention. As a result of inadequate medical care, annually, about 30 prisoners die in suspect conditions.

As to exile of the asylum seekers: Six days ago, seven teachers³, Turkish citizens, have been illegally arrested and expelled from the Republic of Moldova in less than 4 hours from their arrest. The expulsion of these persons was done with grave violations of the legal procedures, as they were asylum seekers, and cannot be legally and morally justified. Moreover, their expulsion to Turkey leads to an imminent danger to their lives and security and the risk that they will not have a fair trial. Thus, in this case, the Government of the Republic of Moldova abusively and intentionally violated national legislation and international conventions.

In conclusion, we ask the member state urgently, seriously and responsibly to solve the systemic problems of arrests, conditions of detention and lack of medical care, and to investigate the grave human rights violations committed by state authorities in the case of 7 Turkish teachers.

³ Practices of abduction and transmission of persons to the structures of Tiraspol regime continue, <https://promolex.md/12943-practicile-de-rapire-si-transmitere-a-persoanelor-catre-structurile-regimului-din-tiraspol-continua/?lang=en>