

REPORT
On the Observance of the Rights of Persons with Mental Disabilities
in Cocieri Social Care House

I. General information about the institution

1.1. According to the information posted on the electronic page of the Ministry of Labor, Social Protection and Family¹ (hereinafter – *MLSPF*), the Psycho-Neurological House of Cocieri (hereinafter – *Social Care House*) is an institution that provides social-medical services to adults with mental disabilities on a temporary or permanent basis. The institution aims at ensuring the social protection of its beneficiaries by providing to them recovery, maintenance of their capacities, and social (re)integration. The Social Care House's specialized staff has knowledge about the individual features of each type and disability level of the beneficiaries, so that to be able to establish communication and adequate relations with them. They also have empathic and communication skills. The institution's capacity is of 355 beds.

1.2. The *Social Care House* is located on the left bank of the Nistru River, in a buffer zone in the district of Dubăsari in the east side of the Republic of Moldova, at about 40 km away from Chişinău. The access to this institution by car is impossible without being subject to the control of the illegitimate authorities of the self-proclaimed republic of the left bank of Nistru.

1.4. The complex of buildings of the *Social Care House*, designated for accommodation, meals, medical assistance, recovery and daily care of the beneficiaries includes the following sections:

- 8 typical accommodation sections, with the capacity of 40-45 places;
- Food court, made up of a kitchen and canteen (located on the first floor near the main entrance);
- Library, other rooms;
- Transit rooms, auxiliary rooms;
- Administrative side;
- Storehouse for food products;
- Laundry;

There are no rooms for common activities.

II. Deficiencies signaled by various relevant actors regarding human right violations happening in the work of the institution visited:

2.1. The sections below specify the findings of national human rights protection institutions, human rights nongovernmental organizations and other relevant actors as well as media information on the observance of the rights of the Social Care House residents.

¹ <http://www.mmssf.gov.md/ro/advanced-page-type/institutii-subordonate>

European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT)²

- Invocations of staff having used punishments in the form of punching and kicking, including with wooden sticks; rapes and insults;
- A number of residents unhappy with the food (the stocks of meat and fish do not cover the needs);
- Shortage of medical and auxiliary staff;
- Immobilization measures used by the unqualified staff;
- Living conditions: unsatisfactory sanitary installations;
- Doors in showers are missing; Warm water twice a week; Complaints that the beneficiaries must buy hygiene supplies by themselves;
- Lack of appropriate training for the staff (nurses);
- Forced work through intimidation with stick hitting;
- Intimidation and violation among the beneficiaries;

National Torture Prevention Mechanism³:

- Undue provision of social-medical services of recovery and rehabilitation
- Lack of efficient preparation of the beneficiaries for social-family (re)integration
- Insufficient medical services and adequate care to the beneficiaries with an advanced level of disability
- The normative acts and line ministry do not offer solutions to those social care house residents who have decided to become mothers.

Moldovan Human Rights Institute (2013):

- Failure to prepare identity documents for some beneficiaries;
- Lack of freely accessible hygiene items for the residents (soap, shampoo, toilet paper, toothpaste and brush);
- Lack of reasonable accommodation of persons with physical disabilities who are in wheelchairs and who do not have the possibility to walk in fresh air;
- Use of a disciplinary isolator. Inferior staff decides who is put here and for how long;
- Lack of bulbs, but also defect artificial light source;
- Unsatisfactory conditions in the sanitary installations;
- Unsatisfactory conditions in the food unit;
- Residents engage in physical work outside the Social Care House;

Information from the media (2013):

- Sexual abuse from the institution's staff;

² Its visit of 14-24 September 2007

³ 2012 Activity Report of the NMPT, which describes the general situation in the social care houses of Moldova

- Insufficient amount of food;

III. Information about the visit

3.1. Date of the visit: 10 March 2017

Duration of the visit: 16.00 – 17.30

Members of the monitoring team: Moldovan Human Rights Institute (IDOM) and Office of the High Commissioner for Human Rights (OHCHR).

3.2 Objectives of the visit:

a) Assess the manner of redress of the deficiencies previously flagged by international and national human rights institutions and organizations who had had monitoring visits to the Cocieri Social Care House;

b) Verify the information flagged by IDOM about the recent use of violence against some residents of the Social Care House by the institution's staff.

IV. General observations

4.1 At the beginning of the visit, some of the work group members had introductory discussions with the director of the *Social Care House*, Ms. V. Verlan, who mentioned that the institution was still facing a number of challenges, including:

- Lack of medical and auxiliary staff, especially of a psychiatrist;
- Residents with an aggressive behavior to the staff or other residents;
- Insufficient financial resources.

V. Findings about accessibility and accommodation conditions

5.1. During the visit, the members of the monitoring team examined especially the closed regime sections on the 3rd floor of the Social Care House. During the monitoring, we found that the situation with hygiene in those sections was somewhat problematic. The precarious situation results from the insufficient number of staff; e.g. one section includes 45 residents but is assisted by only one nurse who obviously cannot manage to cope with the needs.

Covering such needs takes place by involving the residents in cleaning work in halls, sanitary rooms, in the yard etc. At the same time, the residents are involved in maintaining discipline inside the section.

During the visit, we noticed that the bathrooms and toilets in those sections did not have individual rooms or partitions, which is a requirement for respecting intimacy and human dignity. At the same time, the sanitary rooms require cosmetic repair.

5.2 During the interviews with the residents, the working group members found that the outside access or walks for the residents immobilized in bed do not take place. According to the staff, this is justified by the shortage of staff.

5.3. During the day, the residents of these two sections do not have any basic occupational activities. Usually, they are taken outside their bedrooms and most of them are placed in one room where they spend the whole day. Some of them cannot control their physiological abilities and, therefore, a sharp smell of urine persists in this room. Clothes changing and washing for these residents takes place with a delay of up to 2 hours.

5.4. The distribution of residents to wards, according to the staff, takes place on unregulated criteria, at the staff discretion, who usually take the severity of the disability as a guide. A number of female residents complained about not wanting to stay in the same ward with other female residents who they claimed were very aggressive.

5.5. The problem of individualization of personal things still exists at the Cocieri Social Care House. It is the nurses who distribute the clothes and footwear, usually at their discretion. The personal belongings (footwear, clothes etc.) of the residents are kept in one room to which only the staff have access. The CPT had referred to this in its reports, including in the one to the Republic of Moldova, *and signaled the need to provide the residents with personalized clothing, footwear, hygiene items as well as furniture for storing their things.*

5.6. A good thing to hear during the interviews was when the residents spoke to the monitoring team about the satisfactory quality and quantity of food as compared to the previous periods. At the same time, during the visit we also saw the kitchen of the Social Care House. Although no major problems were found there, despite the statements made by the kitchen staff, not enough food seemed to have been cooked for dinner. Only two trays of 30 liters of food had been prepared for over 300 people.

5.7. From the discussions held with some residents we deduced that the defrauding of pensions and money still remains a very big problem in the Social Care House. In the male section (closed regime), a number of them complained about their impossibility to use their own pensions because it was managed by the institution's therapist. Women flagged similar situations. The institution's staff tolerate such situations claiming they were taking care of the residents by not allowing exaggerated and useless expenditures if the pensions were in their management. A number of residents also said that, for moving to the local store, the staff would take a fee for assisting them with it.

Hence, it is necessary to ensure observance of art. 12 para. 5 of the Convention on the Rights of Persons with Disabilities, which guarantees that "States Parties shall take all appropriate and effective measures **to ensure the equal right of persons with disabilities** to own or inherit property, **to control their own financial affairs** and to have equal access to bank loans, mortgages and other forms of financial credit, **and shall ensure that persons with disabilities are not arbitrarily deprived of their property**".

5.8. Another problem found in this institution is obstructions to the right to start a family and the right to establish and maintain personal relations. From the discussions with the residents we found that they were being convinced by the Social Care House staff that they did not have the right to start a family in the institution or have children. The persons with disabilities in such institutions should be able to enjoy all their sexual and reproductive rights, guaranteed by the international legal instruments and the national legislation. The monitoring group is concerned with how the measures of contraception are distributed. In practice, condoms are offered at the

residents' request who thus must inform the staff about their intentions, which is inadmissible in terms of human dignity. At the same time, according to the beneficiaries and the staff, they are distributed selectively only to male residents, a situation that must be immediately redressed.

5.9. The sections on the 3rd floor (with closed regime) are designated for the residents who suffer from 'very serious' disorders or those who 'infringe on the regime' in the institution (especially those who abuse of alcoholic drinks). The issue of the closed sections will be elaborated upon in point 11.4 of this report.

5.10 Additionally, IDOM expresses concern about the violation of the right to freedom, by further obliging the institution staff to return to the institution the residents who have left the institution without notifying the institution's management/doctors. The staff must travel at their expense to the place of stay of the residents who have 'disappeared' from the institution, although the national legislation does not set out such an obligation. Moreover, such actions are contrary to the safeguards provided in article 14 of the Convention on the Rights of Persons with Disabilities, according to which "States Parties shall ensure that persons with disabilities, on an equal basis with others: (a) **Enjoy the right to liberty and security** of person; (b) **Are not deprived of their liberty unlawfully or arbitrarily**, and that any deprivation of liberty is in conformity with the law, **and that the existence of a disability shall in no case justify a deprivation of liberty**. 2. States Parties shall ensure that if persons with disabilities **are deprived of their liberty through any process**, they are, on an equal basis with others, entitled to guarantees in accordance with international human rights law and shall be treated in compliance with the objectives and principles of the present Convention, including by provision of reasonable accommodation."

In the same connection, a resident complained about having been returned to the Social Care House after more than six months. He stressed he did not want to return to the institution, especially to be placed in the 'closed regime' section as a sanction for being 'predisposed to escape'.

VI. Findings about the number of staff and their qualifications

6.1. From the analysis of the staff list, the monitoring team deduces that the institution does not by far have a sufficient number of medical or auxiliary staff. In the same connection, the relation between the staff and the residents is of 1 to 30. In such conditions, it is impossible to ensure the necessary assistance and support to the residents.

6.2. From the discussions with the staff, we deduced that their personal qualifications urgently need to be enhanced, by encouraging continuous training measures, with emphasis on human rights.

VII. Deinstitutionalization and social inclusion

7.1. The members of the monitoring group concluded that the process of deinstitutionalization from the residential institutions of the MLSPF was somewhat bureaucratic due to its unreasonably complicated procedure of getting permission to leave the institution, especially with regard to the persons with full legal capacity. In this sense, we refer to the need for the residents or their legal representative to submit the following documents: written agreement of all (major) family members living jointly with the applicant to the resident's reintegration in the

family; certificate issued by the LPA from the applicant's domicile that specifies the composition of the family and the owner of the house where the applicant has their domicile.

7.2. From the focus group discussions with the institution's residents, the working group members found interest in the announcements posted in the institution about the deinstitutionalization of the institution's residents. The announcement says that everyone interested must file a request with the administration of the Social Care House and request living space outside the institution. Although many have already filed such requests, they do not know many details of this process and come with the request to be explained the procedures and nuances of this process in more detail.

7.3. We think that in the context of the deinstitutionalization efforts, the individual assistance plans must include, in detail, the aspect of the necessary support for the social inclusion of the residents, in order to prepare the residents, the members of their families and eventually the authorities involved in providing appropriate services.

VIII. Medical assistance

8.1. The institution does not currently have a psychiatrist. His tasks are performed by the therapist who prescribes psychiatric treatments, which is the exclusive attribution of the psychiatrist, according to art.20 of Law No.1402 of 16 Dec 1997 on Mental Health.

IX. Violence at the Social Care House

9.1 During the visit of 10 March 2017 and the discussions with the closed sections of the Social Care House, the group members were concerned to find that complaints had come about hitting of different intensity used towards the residents by the care staff and even by the medical staff. Such actions are reasoned by the staff through the fact that the residents do not execute the orders given to them by the staff.

9.2 During the visit to the section of closed regime for women, the member of the monitoring team noticed a female resident with her hand bandaged. In confidential discussions, she explained the reason for her bandage as follows: *"Two days ago the UAP (unlicensed assistive personnel) X came and told me to undress and go wash. I didn't want to wash and I told him so. He got angry with me for that and started twisting my hands. It was hurting me a lot but he insisted. I felt great pains in my hand and I went to the nurse who greased my hand with some unguent and bandaged it. X and Y often come to us and create problems; they hit us if we do not listen. And from time to time they ask for money from those who receive pensions."* We did not find any entries in any registers about this incident, which shows that such incidents are ignored from documentation.

At the beginning of the discussions with the beneficiaries about the use of physical force by the staff, they are apparently intimidated and reserved in their accounts of the circumstances in which such inhuman treatment is used. After they are explained the impartiality of the work group to the institution's staff and management, they admit aggression to the residents exists in the institution but that they are afraid to speak about it.

In the interview with another female resident of the institution she communicated to us that doctor Z was *"very hot-tempered and bad, he always shouts at us and calls us mad, but we are*

not all like that. One day I went to him to ask for some pills because my feet were hurting but he shouted at me and said he shouldn't see me there again."

9.3 From the discussions with the nurse we found out that in 2016 there was an incident when one resident hit another one with an axe in his back and the latter died. Another incident happened in 2017 when a resident 'accidentally' (as claimed by the nurse) hit another one; the latter fell and hit himself against a sharp object as a result of which he died.

9.4. During the visit, the monitoring team did not identify any accessible ways of filing complaints by the residents to the administration of the Social Care House or to the national human rights protection institutions (Ombudsman, Council for Prevention and Elimination of Discrimination and Equality Assurance) or the law-enforcement (police, prosecution).

9.5 We did not find any registers on the use of coercion measures (chemical or physical) that should be kept in every unit, as recommended by the CPT⁴.

X. Observations about engagement of residents in work

10.1. According to the management of the Social Care House, around 30 residents get engaged in work outside the institution in the warm period of the year but that there were no records kept about those situations.

10.2. From the discussions with many residents, the monitoring group finds that many of them wish to work but they do not quite have where to work and that they had heard that the exits from the Social Care House would be restricted by the administration. Our strong presumption is that such a situation is used by the higher staff to intimidate the residents.

10.3. Another group of residents complained about being forced to work in the territory of the Social Care House by doctor Z or by the "instructor of the Social Care House". They say they do not wish to work without being paid for it but they are threatened by the staff with being transferred to the closed regime sections or with having their food portions reduced.

10.4. As mentioned above, a part of the residents are engaged in cleaning of the buildings/sections, in territorial arrangement in the territory of the Social Care House, and also in the institution's kitchen.

XI. Observance of human dignity

11.2. The sanitary installations, both the bath and the toilet, are not equipped with individual doors or partitions, which injures human dignity and the intimacy of the residents. An alarming situation is for the female residents from the closed type section who must 'beg' for the necessary intimate items during their menses. They say the amount offered to them is not enough and at night they must tear up the bed linen to ensure an adequate hygiene for themselves. The monitoring group checked the stock available on the third floor and found that just two units were available in the staff room, which obviously is not enough to the number of female residents in the section.

⁴ CPT recommends that such measures be taken at the **Edinet** Psycho-Neurological House and, if necessary, in other psycho-neurological houses in Moldova, at the same time assuring that all immobilization measures used (including fast tranquilization) are entered in the residents' medical cards. In addition, a specific register of the constraint means used must be kept in each unit. Register entries must include when the measure started and when it ended; the circumstances of the case; the reasons for applying the measure; name of the doctor who ordered or approved it and of the staff who participated in applying the measure, and tracking of the injuries caused to the patients or staff.

11.3. The individual discussions with the residents showed that those from the closed sections cannot enter their wards in daytime, having to spend the whole day in a room, down on the floor.

11.4. Regarding the inhuman treatment, during its ad hoc visit of 20 May 2017, IDOM took over a case as a result of the information referred by the operator of the telephone assistance service for persons with disabilities, implemented by AOPD (Alliance of Organizations for Persons with Disabilities) and managed by Keystone Moldova. An on-spot verification of the information led to a reasonable doubt that a resident, the alleged victim, had been incarcerated in a small room that was designated to be used for quarantine cases, which the residents called 'black hole'. This is used by the institution's staff as a form of punishment. The staff had brought her to this room by force, dragging her and thus causing her bodily injuries, where a nurse injected her medications in the muscle against her will, leaving obvious traces of the needle in her arm. In this 'room', the person was not given any linen or personal hygiene items or toilet paper. She spent time alone in the black hole throughout the period, and was then transferred to the closed-type section. IDOM considers such acts to be inadmissible in relation to human dignity and beings and that they should not persist in social institutions of residential type. Hence, after the IDOM's notifications, the prosecution started criminal investigations on grounds of inhuman and degrading treatment.

We recall that in the past the issue of abuses and ill-treatments in psychiatric institutions as well as of the hostile attitude and discrimination to the persons with intellectual and psychosocial disabilities had been repeatedly reported in various international fora: UN Council for Human Rights, EPU, Committee for the Rights of Persons with Disabilities, as well as by the Special UN Rapporteurs.

XII. Material means of evidence

12.1. We requested copies of the official documents of the Social Care House.

12.2 In addition, we took pictures of the living rooms and other rooms of the institution. We also held focus group discussions and interviews with the residents and staff of the Social Care House.

XIV. Conclusions and recommendations

14.1. The Ministry of Labor, Social Protection and Family is recommended to take the following actions:

- Ensure the liquidation of the 'closed-type' sections in all the social care houses directly or indirectly subordinated to the MLSPF.
- Strengthen institutional efforts and extend the necessary partnerships for a progressive continuation of the deinstitutionalization and social inclusion of the persons placed in social care houses, including the one of Cocieri;
- Stir the process of creation at local level of social services necessary for the deinstitutionalized persons and implement the necessary measures for reducing the stigma attached to the persons with mental disabilities among the social workers and LPAs – primary impediments to relocating the beneficiaries of Social Care Houses in the community;
- Reassess the deinstitutionalization mechanism used by the MLSPF towards the 'discharge' applicants to ensure that it is not unreasonably complicated/abusive and that it complies with the standards of the Convention on the Rights of Persons with Disabilities;

- Having in mind the multiple cases of bodily injuries among the residents of Social Care Houses that have inclusively led to fatal consequences, it is imperative to review and strengthen the mechanisms for the protection of the residents against the violent actions of other residents or staff;
- Promote the message of zero tolerance to ill-treatments and other human right violations in social care houses, making sure that the management of institutions examines and reports them to the competent institutions for the violations found. It is everyone's obligation to notify the Torture Fighting Section of the General Prosecution Office about any case of ill-treatment (degrading treatment, inhuman treatment or torture);
- Reiterate the task and obligation of the management of the Social Care House to notify and report to the law enforcement each case of bodily injuries caused to the Social Care House residents and facilitate the transportation of residents with injuries to the Forensic Center for fact-finding;
- Create an accessible censorship-free mechanism for filing complaints by social care house administrations on behalf of the residents to the national human right protection institutions and law-enforcement;
- Develop a uniform policy for applying and documenting the cases of physical and chemical constraint against social care house residents in crisis;
- Order internal investigations in cases of defrauding of pensions and of having them in the care of the institution's staff;
- Develop the necessary mechanisms for reducing and excluding the cases of money defrauding of social care house residents;
- Eliminate the practice of discouraging social care house residents to create families/conceive children but rather identify solutions and create social services for supporting the respective pregnant women and families/couples;
- Implement an accessible mechanism of informing the beneficiaries of residential institutions about reproductive health duties, give them access to contraceptives, making sure that no decision about the patient's health condition is made without their informed agreement;
- Introduce a program for informing the beneficiaries and their families about their rights in relation to the staff of social care houses, central and public administration authorities, medical facilities, employers, employment agencies as well as about the manner of addressing the national human right institutions and the law enforcement;
- Take a holistic approach to the training in human rights of the staff and management of social care houses, including of the medical staff by developing and implementing a practical cycle of initial and continuous training;
- Support the efforts of engaging social care house residents in paid activities within the social-medical facilities, at the same time ensuring an effective level of labor rights protection;
- Take the necessary measures to ensure the work executed by the staff of social care houses is not replaced by the work done by the residents in the form of ergotherapy within all residential institutions;

- Identify solutions for providing personal space, with a lock, to each beneficiary for keeping their personal belongings, including their clothes etc.
- Allocate funds for the due accommodation (according to the norms) of the infrastructure of social care houses to provide for the necessary conditions for the independent use of sanitary rooms and free movement of the residents in wheelchairs to walks outside the buildings;
- Allocate the necessary financial resources for equipping the sanitary rooms with doors or partitions to provide for intimacy in toilets within all the residential institutions in the country.

14.2 The director of the Social Care House of Cocieri is recommended to take the following actions:

- Eliminate the practice of isolating the residents by liquidating the 'closed-type' sections;
- Take the necessary measures for the progressive continuation of the deinstitutionalization and social inclusion of the Social Care House residents;
- In the context of the deinstitutionalization efforts, the individual assistance plans must contain information about the necessary support measures for the social inclusion of the residents, preparation of the parties involved, including family members and competent authorities for living in the community;
- Start thorough internal investigations of having residents money kept by the institution's staff;
- Take the necessary measures to prevent violence among the Social Care House residents, including by requesting the intervention of the law enforcement in examining the respective cases. It is everyone's obligation to notify the Torture Fighting Section of the General Prosecution Office about any case of ill-treatments (degrading treatment, inhuman treatment or torture);
- Carry out internal investigations, including by suspending from functions the alleged aggressors as well as reporting to the law enforcement each case of alleged injury, defrauding of goods, including of allowances or other forms of abuse from the Social Care House staff;
- Account the complaints filed/signed by the residents against the staff members; Analyze the opportunity of installing video surveillance cameras in the common spaces of the institution;
- Set up an accessible censorship-free mechanism for the residents of the Social Care House for filing complaints to the national human right protection institutions and to the law enforcement;
- Develop a policy for applying and documenting the cases of physical and chemical constraint against the Social Care House residents that are in a crisis; Make sure that chemical constraint is a used as a last resort and that each case is authorized by a psychiatrist, thoroughly monitored and documented. Applying such measures must end immediately after the emergency has been overcome;
- Notify the law enforcement about the allegations of deprivation of legal capacity and placement in the Social Care House of persons to defraud them of their goods and tangible and intangible assets;
- Introduce a program to inform the residents and their families about their rights in relation to the representatives of the Social Care House, central and local public administration, medical

facilities, employers, employment agency as well as about how to address the national human right protection institutions, the law enforcement and the territorial offices for free legal aid;

- Assure due accommodation (according to the norms) of the infrastructure of the Social Care House, to provide for the necessary conditions for the independent use of sanitary rooms and free movement of the residents in wheelchairs to walks outside the buildings;
- Eliminate the practice of discouraging the Social Care House residents from starting a family/conceiving children but rather inform them about the attributions of reproductive health, provide access to contraceptives, and make sure that no decision about the patient's health condition is made without their informed agreement;
- Take the necessary measures to provide quality and full medical assistance to the residents by ensuring access to the medical services provided in the locality.
- Notify the law enforcement about the unjustified refusal of medical services from the locality to provide the mandatory medical services;
- Ensure the continuity of the individualized needs-based treatment. Continue the efforts of using individual approaches in establishing psychosocial therapy measures. Ensure effective periodical revision of the support measures and prescribed treatment;
- Make the necessary efforts to ensure the continuous retraining of the Social Care House staff, including of the medical one, in practical human right matters;
- Avoid cases of having the institution staff involved in the search and transportation of the residents who have 'escaped' (have left the institution);
- Take the necessary measures to ensure the work executed by the staff of the Social Care House is not replaced by work done by the residents in the form of ergotherapy within the Social Care House;
- Identify solutions for providing personal space, with a lock, to each beneficiary for keeping their personal belongings, including their clothes etc.;
- Equip the sanitary rooms with doors or partitions to provide for intimacy in the toilets and baths of the Social Care House;
- Provide daily access outside/walks in fresh air for the beneficiaries who are immobilized in bed and to those with motion disabilities;
- Provide the institution's residents with clothes, footwear, personalized hygiene items, such as soap, shampoo, toothpaste, and intimate hygiene items for women.

Report prepared by the Moldovan Human Rights Institute that partly includes the observations of the monitoring team members from the UN Human Rights Office in Moldova.