CZU 342.9:343.1
DOI https://doi.org/10.52388/2345-1971.2022.e2.07

PROCEDURAL PECULIARITIES REGARDING THE APPLICATION OF CONTRAVENTIONAL DETENTION AND CRIMINAL PROCEDURAL DETENTION

Albert ANTOCI
Doctor of Law, Associate Professor,
Academy "Ștefan cel Mare" of the Ministry of Internal Affairs,
Chisinau, Republic of Moldova
e-mail: *antoci22@mail.ru*
aio https://orcid.org/0000-0001-6304-2046

Aliona FRUNZA
Prosecutor in the Rascani district prosecutor's office,
Chisinau, Republic of Moldova
e-mail: *aliona.frunză@procuratura.md*
https://orcid.org/0000-0003-2088-7289

Ensuring respect for human rights is an imperative for societies that strive for well-being, peace and the strengthening of the rule of law. The Republic of Moldova has shown interest in fundamental human rights values when it ratified most international treaties in the field. In this scientific approach, it is proposed the scientific approach of the institute of detention regulated by the national contravention and criminal procedure law, by identifying the particularities and notion of contravention detention and criminal procedural detention, assessing the moment from which the person considers himself/herself to be detained, which in itself represents this measure, By whom and under what conditions it can be applied, as well as the brief analysis of the legal framework and the case-law of the ECtHR regarding the specificity of the application of the given measure in case of a contravention process and in case of a criminal trial.

***Keywords**: detention, criminal trial, contravention process, coercion measure, fundamental rights and freedoms of the person.*

PARTICULARITĂȚI PROCESUALE PRIVIND APLICAREA REȚINERII CONTRAVENȚIONALE ȘI REȚINERII PROCESUAL PENALE

Asigurarea respectării drepturilor omului constituie un imperativ al societăților care tind spre bunăstare, pace și consolidarea statului de drept. Republica Moldova și-a manifestat interesul pentru valorile fundamentale care vizează drepturile omului atunci când a ratificat majoritatea tratatelor internaționale în domeniu. În prezentul demers științific se propune abordarea științifică al institutului reținerii reglementat de legea națională contravențională și procesual penală, prin identificarea particularităților şi noţiunii reținerii contravenționale și reținerii procesual penale, aprecierea momentului din care persoana se consideră a fi reținută, ce reprezintă în sine această măsură, de către cine și în ce condiții poate fi aplicată, cât și analiza succintă a cadrului legal și jurisprudenței CtEDO referitor la specificul aplicării măsurii date în cazul unui proces contravențional și în cazul unui proces penal.

***Cuvinte-cheie**: reținere, proces penal, proces contravențional, măsură de constrângere, drepturile și libertățile fundamentale ale persoanei.*

PARTICULARITÉS PROCÉDURALES CONCERNANT LA DÉTENTION DE CONTRAVENTION POUR INFRACTION ET LA DÉTENTION PROCÉDURALE PÉNALE

Assurer le respect des droits de l'homme est un impératif des sociétés qui aspirent au bien-être, à la paix et au renforcement de l'État de droit. La République de Moldova a montré de l'intérêt pour les valeurs fondamentales des droits de l'homme lorsqu'elle a ratifié la plupart des traités internationaux dans ce domaine. Cette approche propose l'approche scientifique de l'Institut de détention réglementé par le droit national de la contravention et de la procédure pénale, en identifiant les particularités et la notion de détention de contravention et de détention de procédure pénale, en évaluant le moment à partir duquel la personne est considérée comme détenue, ce que représente en soi cette mesure, par qui et dans quelles conditions elle peut être appliquée, ainsi que la brève analyse du cadre juridique et de la jurisprudence de la CEDH concernant les spécificités de l'application de cette mesure en cas de procès de contravention et en cas de procès pénal.

Mots-clés: *détention, procès pénal, procès de contravention, mesure de contrainte, droits et libertés fondamentaux de la personne.*

ПРОЦЕССУАЛЬНЫЕ ОСОБЕННОСТИ ПРИМЕНЕНИЯ АДМИНИСТРАТИВНОГО ЗАДЕРЖАНИЯ И УГОЛОВНО-ПРОЦЕССУАЛЬНОГО ЗАДЕРЖАНИЯ

Обеспечение соблюдения прав человека является императивом для обществ, стремящихся к благополучию, миру и укреплению правового государства. Республика Молдова проявила интерес к фундаментальным ценностям, направленным на соблюдение прав человека, когда ратифицировала большинство международных договоров в этой области. В данной статье предлагается научный подход к институту задержания, регулируемому национальным уголовно-процессуальным законодательством путем выявления особенностей и понятия противоправного задержания и уголовно-процессуального задержания, оценки момента, с которого лицо находится под стражей. задержанным, что само по себе представляет собой данная мера, кем и при каких условиях она может быть применена, а также краткий анализ правовой базы и судебной практики ЕСПЧ в части особенностей применения данной меры по делу о процессах о правонарушении и в случае уголовного процесса.

Ключевые слова: *задержание, уголовный процесс, производство по делу о правонарушении, мера принуждения, основные права и свободы человека.*

Introduction

Ensuring respect for human rights is an imperative for societies that aim for well-being, peace and the consolidation of the rule of law. The Republic of Moldova showed its interest in the fundamental values aimed at human rights when it ratified most of the international treaties in the field. The alignment of national legislation with international standards constitutes a primary direction aimed at achieving the goals outlined in the process of ratification of international treaties. Achieving these objectives is possible in the case of the existence not only of studies and scientific approaches aimed at the analysis of the coercive measure - detention, but also the presence of a fair judicial practice and corresponding to international treaties in the field.

Materials used and applied methods. In the preparation of this article, the national normative framework, the international doctrine that studies the institution of detention in the criminal or contravention process was studied and used. The following methods were used: logical, comparative, analysis and synthesis, systemic.

Discussions and basic content

The adequate regulation of coercive measures capable of affecting the inviolability of the person is no less important than the consecration of this inviolability itself. The opinions of the authors I. Neagu, N. Volonciu,

Th. Mrejeru, M. Apetrei, C. S. Parsaschiv, L. Nae, Gh. Nistoreanu, A. L. Lorincz, A. Boroi, N. Jidovu , I. Măgureanu, Ş. G. Ungureanu, etc. regarding the nature of preventive coercive measures are generally uniform, specifying that by preventive coercive measure we understand that category of procedural measures provided by law, by taking which the judicial bodies seek to deprive the person of liberty or restrict the freedom of movement of the person brought before criminal justice, in order to ensure the smooth conduct of the criminal process or to prevent its evasion from the criminal investigation, trial or execution of the criminal penalty.

Regarding the determination of the legal nature of detention, we can say referring to the same authors, we specify that by detention we should understand a measure of coercion that threatens the person's freedom in the lightest way - due to its duration.

C. S. Paraschiv proposes to delimit detention as a procedural measure of coercion from some similar entities such as: the arrest or capture of the criminal, the detention carried out by the police for the purpose of identity verification, the prohibition to leave the courtroom until the end of the judicial investigation, ordered by the court on the trial participants [1, p. 81].

Local doctrinaires Tudor Osoianu and Victor Orindas identifies by criminal procedural detention "...deprivation of the person's liberty, for a short period of time, but not more than 72 hours, in the places and under the conditions established by law" [2, p. 189].

Detention is also defined as a procedural measure of coercion applied within a criminal case and which is manifested by the temporary isolation from society of the person suspected or accused of committing a crime, and in some cases - already convicted, with their detention in institutions specialized for a term strictly determined by law [3, p. 59].

The detention of the suspect has a preventive and urgent nature, and therefore does not require the intervention of the prosecutor or the authorization of the investigating judge. The purposes of detention are derived from the grounds for the application of preventive measures. Detention is applied only in situations where there are sufficient grounds to assume that the suspect will evade prosecution, from the trial or that he/she will continue his/her criminal activity, will influence witnesses or other participants in the criminal trial, will destroy or falsify the evidence, will prevent the establishment of the truth in the criminal trial or evade the execution of the sentence. Also, the purposes of detention are also attributed such moments as the need to establish the personal data of the suspect (identity) and to exclude his/her attempts to hide [4, p. 48].

The apprehension of the suspect appears to be a complex procedural-criminal institution, consisting of procedural criminal and other actions. Detention includes a totality of procedural criminal and administrative actions, as well as other actions of a changing legal nature [5, p. 125].

Detention is the measure taken by the competent body to deprive a person of liberty for a period of up to 72 hours (art. 6 p. 40 of the Criminal Procedure Code of the Republic of Moldova, hereinafter CPC). Detention is a deprivation of liberty of a person, for a short period of time but not more than 72 hours (art. 165 para. (1) CPC), which is applied until the decision is made regarding the application of the preventive measure or of the decision regarding the application of a sanction or other measures provided for by the criminal or contravention procedural law (e.g. expulsion of foreigners). Deprivation of liberty is considered any situation in which a person cannot move freely either because force has been applied to him/her in this sense (e.g. confinement in a cell, etc.) or due to a legal obligation to obey to some instructions given by a law enforcement officer (e.g. the order by

a police officer not to leave a place or to go to a specific place) [6, p. 5].

Disposing of the criminal procedural detention of the person is not a broad competence and can only occur in the base:

a) to the minutes, in the case of the immediate appearance of plausible reasons to suspect that the person has committed the crime. The report is drawn up by the criminal investigation body.

b) ordinance of the criminal prosecution body;

c) the decision of the court regarding the detention of the convicted person until the resolution of the issue regarding the cancellation of the conviction with the conditional suspension of the execution of the sentence or the cancellation of the conditional release from the punishment before the term or, as the case may be, regarding the detention of the person for committing an audience offence.

The existence of a purpose to bring the person before the court must be considered independently of the hypothesis of its realization. The standard set forth in letter (c) of Article 5 §1 does not require the accumulation of sufficient evidence to bring charges, either at the time of apprehension or while in custody [7].

Therefore, the official subjects of the criminal process who are empowered to order the detention of the person are: the criminal prosecution body and the court of law. It is appropriate to indicate these subjects exhaustively, because any restriction of rights and of the fundamental freedoms of the person must be absolutely legal and well-founded, with possible abuses being reduced to a minimum [1, p. 82].

Regarding the application of criminal procedural detention, the minimum requirements for the reasonableness of the suspicions that justify the detention of a person must be met, taking into account the general context of a particular case, the status of the applicant, the consecutiveness of events, the conduct of the authorities and the way in which the criminal investigation was carried out [8].

The scientific analysis of the legal literature dedicated to contraventional detention showed that legal researchers in their works quite often approach the topic of contraventional detention. Thus, we note the works of national authors such as V. Gutuleac, S. Furdui, who exposed themselves on the institution of contraventional detention.

Prof. V. Gutuleac appreciates the detention as a forced, short-term limitation of the citizen in his rights, the limitation in the freedom of action and movement of the person who committed a contravention, in order to ensure public order and public security [9, p. 16].

Para. (1) art. 433 Contravention Code [10] (hereinafter CC), identifies by detention: " *short-term limitation of the freedom of the natural person"* and applies in the case of:

a) flagrant contraventions for which this code provides for the sanction of contraventional arrest;

b) the impossibility of identifying the person in respect of whom contravention proceedings are initiated if all identification measures have been exhausted;

c) execution of the court decision regarding the expulsion of the person;

d) violation of the regime of the state border, the regime of the border area or the regime of the crossing points of the state border.

In the case of the contravention process, para. (2) art. 433 CC provides the exhaustive list of those subjects participants in the contravention process who have the competence to apply the detention contravention namely:

a) the police;

b) the border police, in cases of violation of the state border regime, the border zone regime or the regime of state border crossing points;

c) the customs service, in the case

of contraventions falling within its jurisdiction;

d) migration office and asylum of the Ministry of Internal Affairs, in case of contraventions related to its competence.

Thus, the legislator, in the aforementioned norm of the Code of Criminal Procedure and the Code of Contravention, presented the purpose and grounds on the basis of which the representative of the above-mentioned authorities has the competence to apply the coercive measure.

So under this aspect, the application of detention has the role of ensuring the smooth running of the process (criminal or contraventional). From these explanations given to the institution of detention, some particularities related to its essence are outlined: - it is a procedural measure of coercion (not being a measure of contraventional liability; - it consists in the deprivation of the person's freedom; - the duration of the deprivation is determined, as a rule , very short; - the purpose of the application resides in ensuring order and public security, but also the smooth running of the process (criminal or contravention) [11, p. 72].

Para. (2) art. 25 of the Constitution, provides that: "*The search, detention or arrest of a person is allowed only in the cases and with the procedure provided by law* ", paragraph (5) of the same article establishes: "*The detained or arrested person is immediately informed of the reasons for the detention or arrest, and the accusation - in the shortest possible time; the reasons for the detention and accusations are made known only in the presence of a lawyer, elected or appointed ex officio*".

Even if the legislation of the European Union does not contain rules of contraventional law [12], the European Court mentioned that contraventional proceedings must be assimilated to criminal proceedings, in the autonomous sense of the term "criminal" in the Convention, from which consideration the contraventional process is assimilated to the criminal process.

In the doctrine of Russian criminal procedural law, the opinion is found according to which "... the arrest (immobilization) and bringing, transportation of the person suspected of committing the crime, if they are not carried out on the basis of a reasoned ordinance regarding the detention, does not constitute a component of the procedural-criminal detention and in this case they have an administrative character".

The presented opinion arouses certain disagreements on the part of local researchers V.Rusu and M.Sorbala, an opinion that we fully support. In the legal doctrine, the notion of *"de facto detention"* is elaborated and substantiated, which includes both the moments of catching and immobilizing the person, as well as those of bringing and transporting them. Factual detention can be a component of criminal procedural detention. However, not in all cases the actual detention leads to the initiation of criminal prosecution, but it always has the effect of perfecting, drawing up the minutes of detention [13, p. 126].

The given justification has its source in the provisions of art. 166 para. (6) CPC, which indirectly distinguishes between actual detention/ de facto detention and de jure detention. In the content of IGP order no. 129 of 27.07.2020 [20], the notion of de facto detention and de jure detention is presented, with the subsequent presentation of the application procedure. Thus: *"De facto detention - is a criminal procedural action undertaken by a police employee, which consists in the physical deprivation of liberty of the person suspected or accused of committing a crime, until the arrest report is drawn up, a period that cannot exceed 3 hours. Persons against whom a final prison sentence has been pronounced or an arrest warrant has been issued may be detained de facto.*

Detention by law - is a criminal procedural

action carried out by the criminal investigation body which is manifested by drawing up the detention minutes. The police officer, by virtue of his/her status and position, can order the detention of a person from a criminal or contravention point of view. The detention of the person implies the person being in the custody of the police and, implicitly, the restriction of his/her freedoms and rights under the law. The detained person must have all his/her procedural rights respected and receive treatment that cannot harm his/her self-respect and dignity. Depriving a person of his/her freedom in other cases or conditions, than those provided by law, affects the normal performance of the activity of administering justice, which makes this act clearly a danger to society".

However, referring to the normative provisions aimed at the practical activity of police employees, the reports on the preventive visits of the representatives of the Lawyer's Office find that the majority of detentions are carried out in criminal cases in which the criminal process has already been started, being ordered regarding the persons whose identity is known. Under this aspect, it can be stated that the detention decision is taken considering the circumstances of the case that confirm the reasonable suspicion regarding the commission of the crime and, therefore, should support a legal and well-founded detention.

However, from the statistical data presented by the Police Inspectorates, by the OAP, it follows that the decision regarding the de facto detention was not always followed by a legal detention, or by a deprivation of liberty through the application of the arrest ordered by the court. Although this fact does not expressly indicate the illegality of the detention or its lack of grounds, it is, nevertheless , an indicator of an inopportune deprivation of liberty [21, p. 22].

The period of criminal and pre-trial detention is unique and continuous. The course of this term is not interrupted by drawing up the arrest report or by starting the criminal process. The express establishment in the law of the moment of the de facto detention of the person is of particular importance for ensuring the rights of the person detained. Directly, the actual detention term is to be established based on the report or explanation of the person who caught the person and based on the direct explanations of the suspect. It is totally incorrect the opinion according to which the moment of the actual arrest of the person is considered to be that of bringing him/her before the criminal investigation body, except for the cases of the person's detention directly based on the order of the criminal investigation body [13, p. 126].

The de jure detention takes place immediately when the minutes regarding the detention are drawn up, in compliance with all the conditions provided by the criminal procedural law. It is quite important to indicate the time of the de facto detention and the time of the de jure detention in the case of drawing up the report on the suspect's detention. It will be considered a violation not to record the time of the person's de facto detention in the detention report, within the framework of an initiated criminal process. It is only debatable the situation when the arrested person voluntarily accepts to follow the investigating body to the headquarters, in which case it cannot be considered a de facto detention, for the reason that he voluntarily accepted, although the investigating body must communicate to him/her the reason why the person must to follow him/her, however we consider that even in this case it will be necessary to indicate the time of de facto detention.

Apprehension in the misdemeanor process differs from apprehension in the criminal process. This fact is motivated by the violation for which the person is detained, as well as by the fact that in some cases the detention of the person can also be applied

outside the contravention process. That is, the elementary stop by the police employee of the person driving the means of transport already constitutes an action to limit the possibility of movement of the person, respectively he/she is already considered to be detained.

In this obvious case, no contravention process is initiated, and the police employee does not draw up any minutes regarding the arrest, although he/she stopped the means of transport to document the contravention found by him/her. Art. 434 Contravention Code in para. (1) stipulates: "*When the person is detained , a report on the detention is completed within 3 hours at most, in which the date and place of completion, the position, the name and surname of the person who completed the report, data regarding to the detained person, the date, time, place and reason for detention*".

Above-mentioned norm does not expressly require the drawing up of the minutes regarding the detention in the event that the person is detained, but is released until the expiration of the three-hour period. This fact does not mean that the person is not considered to be detained, but only that in this case no record of the detention is drawn up. Already at the expiration of the three-hour period, the police employee is obliged to either release the person, or draw up a verbal arrest warrant, according to the rules established by the Contravention Code.

It should be noted that the erroneous detention of the person based on invalid grounds, even for a short period of time, reveals a violation of Article 5 of the Convention if it results from administrative deficiencies in the transmission of documents between different state bodies [14].

Both in the case of contravention and criminal procedural detention, Article 5 § 2 of the Convention contains a fundamental guarantee that every person must know the reasons for his/her detention, this being an integral part of the whole scheme of protection offered by Article 5 [15].

Once a person has been informed of the reasons for his/her detention or arrest, he/she may, if he/she deems it appropriate, challenge the legality of the detention before a court, as provided for in Article 5 § 4 [16].

Everyone has the right to file an appeal in order to promptly verify the legality of his/her detention, and this right cannot be effectively realized without prompt and adequate information about the reasons for the deprivation of liberty [17].

The reasons for detention may be brought to light or may become apparent from the content of interrogations or questions subsequent to this measure [14, 15].

The person cannot claim that he/she did not understand the reasons for his/her detention if he/she was detained immediately after the commission of an intentional crime (*Dikme v. Turkey, § 54*) or if the details of the imputed facts were known to him/her from the content of arrest decisions and extradition requests made previously (*Öcalan v. Turkey (dec.)*).

Persons detained regardless of whether it takes place within the framework of the criminal or contravention process, are to be informed, in simple and accessible language, about the legal and factual reasons for their deprivation of liberty, so that they can challenge the legality of the detention in court according to article 5 § 4 [18]. However, Article 5 § 2 does not require that this information contain a complete list of the charges brought against the detained person [19].

Subsequently, the detained person, in the event that the ascertaining body decides to apply a preventive measure depriving of liberty, it is obliged until the expiration of the detention term to present the person before the court, which will decide on the admission or refusal to apply a preventive measure depriving of liberty freedom.

Conclusions

Obviously, the study carried out is quite laconic and does not contain all the particularities specific to the detention institution. If in the case of criminal procedural detention there is a sufficient number of doctrinal studies and there is a formed judicial practice, we cannot say the same about contraventional detention.

Even if by itself the contravention presents the deed - action or inaction - illegal, committed with guilt, with a lower degree of social danger than the crime, this fact must not influence the legality and correctness of the actions carried out in the contravention process.

As it was mentioned in the text of the given article, ECtHR jurisprudence equates the contravention process with the criminal process, a condition that requires the body authorized to examine the contravention, including the application of detention, to respect and apply the rules of the contravention law equally to the criminal procedural law, a fact that does not leave room for omissions and neglects in the process of applying contraventional detention.

The integration of the Republic of Moldova into European structures, as well as receiving the status of a candidate for EU accession, must not leave without due attention the assurance of respect for human rights in the case of the application of detention as a coercive measure of a contraventional or criminal nature. For these reasons, we support the trend of improving not only the normative and legislative framework, but also raising the professional level of the subjects empowered with the right to apply this coercive measure.

Bibliographic references

1. CUCIURCĂ, A., CUCIURCĂ, R. *Aplicarea măsurilor de constrângere sub forma reţinerii, respectînd drepturile şi libertăţile fundamentale ale persoanei.* În: Analele Ştiinţifice ale Universităţii de Studii Europene din Moldova. Numărul I-a / 2012.

2. OSOIANU, T., ORÎNDAȘ, V. *Procedura penală.* Ed. Academia Ştefan cel Mare a MAI al Republicii Moldova. Chişinău, 2005.

3. ZUBCO, V., AVRAM, M., GHEORGHIŢĂ, M. ş.a. *Protecţia drepturilor omului la aplicarea măsurilor procesuale de constrîngere*. Ed. ARC. Chişinău, 2006.

4. ТЕРЕГУЛОВА, А. А. *Правовое положение подозреваемого в уголовном процессе России.* Диссертация кандидата юридических наук. Челябинск, 2008.

5. RUSU, V., SORBALA, M. *Unele considerente privind reţinerea bănuitului în procesul penal.* https://ulim.md/sju/wp-content/uploads/SJU-1-2-2015-Vitalie-RUSU-Mihail-SORBALA.-Unele-considerente-privind-re%C5%A3inerea-b%C4%83nuitului-%C3%AEn-procesul.pdf (accesat – 25.10.2022).

6. *Cercetare cu privire la instituţia reţinerii în Republica Moldova.* Grupul Analitic pentru Justiţia Penală Fundaţia Soros-Moldova. Chişinău: Cartier, 2011.

7. *Codul contravenţional al Republicii Moldova* Cod nr. 218 din 24-10-2008 Publicat: 17-03-2017 în Monitorul Oficial Nr. 78-84 art. 100.

8. Cauza Petkov și Profirov c. Bulgariei, § 52; Erdagöz c. Turciei, § 51 https://hudoc.echr.coe.int/app/conversion/pdf/?library=ECHR&id=003-4802346-5851441&filename=003-4802346-5851441.pdf (accesat – 25.10.2022).

9. Ibrahimov și Mammadov c. Azerbaidjanului, § 113-131 https://hudoc.echr.coe.int/fre#{%22itemid%22:[%22001-200819%22]}.

10. https://www.scribd.com/document/132783755/Drept-Contraventional-Gutuleac.

11. CHIPER, N., IACUB, I. *Reținerea ca măsură de constrângere contravențională și impactul său asupra drepturilor omului.* În: Revista metodico-ştiinţifică trimestrială „Administrarea Publică”, numărul 2 (98) / 2018, p. 72.

12. Cauza Tsonyo Tsonev v. Bulgaria (nr. 2), 14 ianuarie 2010, § 56 https://e-justice.europa.eu/fileDownload.do?id=ed8a8a52-4047-41cb-84d2-d979daa45d72 *(*accesat – 25.10.2022).

13. RUSU, V., SORBALA, M. *Unele considerente privind reţinerea bănuitului în procesul penal.* - https://ulim.md/sju/wp-content/uploads/SJU-1-2-2015-Vitalie-RUSU-Mihail-SORBALA.-Unele-considerente-privind-re%C5%A3inerea-

b%C4%83nuitului-%C3%AEn-procesul.pdf, (accesat la 19.01.2023).

14. Kerem Çiftçi c. Turciei, §§ 32-34, https://www.echr.coe.int/Documents/Guide_Art_5_RON.pdf .

15. Cauza Khlaifia și alții c. Italiei [MC], § 115 http://ier.gov.ro/wp-content/uploads/cedo/Khlaifia-s.a.-impotriva-Italiei.pdf .

16. Cauza Fox, Campbell și Hartley c. Regatului Unit, § 40; Čonka c. Belgiei, § 50) https://legeaz.net/hotarari-cedo/fox-campbell-si-hartley-mc8 .

17. Cauza Van der Leer c. Olandei, § 28; Shamayev și alții c. GeorgieișІ Rusiei, § 413; Grubnyk c. Ucrainei, §§ 97 și 99 http://ier.gov.ro/wp-content/uploads/2018/11/Ghid-art.-5-2014.pdf.

18. Cauza Fox, Campbell și Hartley c. Regatului Unit, § 41; Murray c. Regatului Unit [MC], § 77; Kerr c. Regatului Unit (dec.); Grubnyk c. Ucrainei, § 95 și 98 http://ier.gov.ro/wp-content/uploads/cedo/Magee-%C8%99i-al%C8%9Bii-%C3%AEmpotriva-Regatului-Unit.pdf .

19. Bordovskiy c. Rusiei, § 56; Nowak c. Ucrainei, § 63; Gasiņš c. Letoniei, § 53 https://legeaz.net/hotarari-cedo/bordovskiy-contra-rusia-cir.

20. Ordinul IGP nr.129 din 27.07.2020 „Cu privire la aprobarea Procedurilor Standard de Operare privind reținerea, escortarea, transportarea și plasarea persoanei reținute în Izolatorul de detenție preventivă al Poliției”.

21. COTOROBAI, M., CROITOR, E., VIDAICU, M., MUNTEANU, V. *Situația persoanelor reținute şi aflate în custodia poliției*. Raport special. Oficiul Avocatului Poporului. Chişinău, 2019.