



**Asamblea General**

Distr.  
GENERAL

A/HRC/10/44/Add.3  
12 de febrero de 2009

ESPAÑOL  
Original: INGLÉS

CONSEJO DE DERECHOS HUMANOS  
Décimo período de sesiones  
Tema 3 de la agenda

**PROMOCIÓN Y PROTECCIÓN DE TODOS LOS DERECHOS HUMANOS,  
CIVILES, POLÍTICOS, ECONÓMICOS, SOCIALES Y CULTURALES,  
INCLUIDO EL DERECHO AL DESARROLLO**

**Informe del Relator Especial sobre la tortura y otros tratos o  
penas crueles, inhumanos o degradantes, Manfred Nowak\***

**MISIÓN A LA REPÚBLICA DE MOLDOVA\*\***

**Resumen**

El Relator Especial sobre la tortura y otros tratos o penas crueles, inhumanos o degradantes, Manfred Nowak, y el Relator Especial sobre la violencia contra la mujer, sus causas y consecuencias, Yakin Ertürk, realizaron una visita conjunta a la República de Moldova, incluida la región de Transnistria, del 4 al 11 de julio de 2008.

El Relator Especial expresa su agradecimiento al Gobierno por la excelente cooperación que le ha brindado. Toma nota del compromiso del Gobierno de defender y promover los derechos humanos y, por ende, de los progresos realizados desde la independencia del país

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\* Documento presentado con retraso.

\*\* El resumen del presente informe se distribuye en todos los idiomas oficiales. El informe propiamente dicho figura en el anexo del resumen y se distribuye únicamente en el idioma en que se presentó.

en 1991. También acoge calurosamente las iniciativas en marcha para impedir la tortura, en particular la creación de un mecanismo nacional de prevención en el marco del Protocolo Facultativo de la Convención contra la Tortura y Otros Tratos o Penas Crueles, Inhumanos o Degradantes.

Sobre la base de las conversaciones mantenidas con funcionarios públicos, jueces, abogados y representantes de la sociedad civil, así como de las entrevistas habidas con víctimas de la violencia y con personas privadas de libertad, a menudo avaladas por pruebas médicas forenses, el Relator Especial llega a la conclusión de que los malos tratos durante el período inicial de la detención policial son una práctica generalizada. También recibió graves denuncias de casos de tortura en algunas comisarías de policía. Se informó al Relator Especial de varios casos de malos tratos en instituciones dependientes del Ministerio de Justicia, principalmente en relación con incidentes de violencia entre los reclusos. Aun cuando recientemente algunos casos de tortura han llegado a los tribunales, el Relator Especial pudo observar que, en general, la mayoría de los mecanismos de denuncia son ineficaces.

Las condiciones existentes en las celdas de las comisarías no se ajustan a las normas internacionales; esas celdas no están adaptadas como lugares de internamiento para largos períodos. La reclusión durante varios meses en semejantes condiciones, tal como se practica en la República de Moldova, equivale a un trato inhumano. Las condiciones de detención en las instituciones dependientes del Ministerio de Justicia varían. Algunas instituciones, en particular el centro de detención preventiva de Chisinau, sufrían un grave problema de hacinamiento. Otras instituciones situadas fuera de la capital tenían niveles aceptables de espacio para cada preso. Sin embargo, preocupaba al Relator Especial que habitualmente se instalase a los reclusos recién llegados en celdas de cuarentena, la mayoría de las cuales no cumplían las normas internacionales. Además, el Relator Especial recibió numerosas denuncias por el acceso restringido a la atención médica y por la mala calidad de los alimentos.

En lo que respecta al marco jurídico del Estado, el Relator Especial acoge con satisfacción la tipificación de la tortura como delito y el hecho de que la legislación establezca en general garantías. Sin embargo, para que las garantías sean eficaces, todos aquellos que ejercen funciones en el ámbito del derecho penal deben asumir sus responsabilidades y denunciar los casos de tortura.

En vista de lo que antecede, el Relator Especial recomienda que el Gobierno de la República de Moldova cumpla plenamente las obligaciones que le imponen las normas internacionales de derechos humanos. En particular, insta al Gobierno a que dote al mecanismo nacional de prevención, recién creado, de los recursos humanos y de otro tipo necesarios y a que lo considere como parte de la labor colectiva destinada a descubrir lo que realmente ocurre en los lugares donde las personas están privadas de libertad. Recomendaba también que el sistema penitenciario se conciba de manera que realmente esté orientado a la rehabilitación y la reintegración de los delincuentes. Se deberían establecer mecanismos de denuncia accesibles y confidenciales, así como mecanismos efectivos e independientes para la investigación penal de las denuncias de torturas y el enjuiciamiento de sus presuntos autores. Se recomienda también que la detención policial se limite a 48 horas, que se refuercen las garantías para que sean eficaces y que las celdas de detención temporal se transfieran del Ministerio del Interior al Ministerio de Justicia. Se debería exigir a la acusación que demuestre más allá de toda duda

razonable que no se han utilizado medios ilegales para la obtención de pruebas, en lugar de dejar que la carga de la prueba recaiga en la víctima.

En relación con la región de Transnistria de la República de Moldova, el Relator Especial señaló que era especialmente preocupante la falta de un mecanismo de vigilancia y de denuncia. En consecuencia, recomienda que el mecanismo nacional de prevención extienda sus actividades en esa región. Asimismo, se debería tipificar la tortura y abolir *de jure* la pena de muerte. Además, se debería poner fin de inmediato a la práctica de la reclusión en régimen de aislamiento de las personas condenadas a muerte o a cadena perpetua.

El Relator Especial hace un llamamiento a la comunidad internacional para que colabore con el Gobierno de la República de Moldova en su lucha contra la tortura, proporcionando ayuda técnica y financiera.

## **Annex**

### **REPORT OF THE SPECIAL RAPPORTEUR ON TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT MISSION TO THE REPUBLIC OF MOLDOVA (4-11 JULY 2008)**

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## I. INTRODUCTION

1. The Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment of the Human Rights Council, Manfred Nowak, undertook a visit to Moldova from 4 to 11 July 2008, at the invitation of the Government. The visit was undertaken jointly with the Special Rapporteur on violence against women, its causes and consequences, Yakin Ertürk, which allowed both mandates to benefit from each other's experience in assessing the situation of human rights in Moldova and underlined once again the importance of a gender-sensitive interpretation of torture.

2. The purpose of the visit was: to assess the situation of torture and ill-treatment in the country including conditions of detention, and to offer assistance to the Government in its efforts to improve the administration of justice. The Special Rapporteur notes that Moldova has made considerable progress in institution-building and protecting human rights. He encourages the Government to implement the recommendations contained in this report with a view to fully complying with international minimum standards in the administration of justice.

3. The two Special Rapporteurs held meetings with the Prime Minister; the Deputy Prime Minister and Minister of Foreign Affairs and European Integration; the Minister of Health; the Minister of Justice; the Minister of Interior; the Minister of Social Protection, Family and Child; the Prosecutor General and the Deputy Minister of Economy and Trade. In addition, the Special Rapporteurs met with Members of Parliament, the Head of the Penitentiary Administration; representatives of the Ministry of Education and Youth, representatives of the Governmental Committee for Gender Equality and the Bureau for Interethnic Relations, members of the Supreme Court of Justice and governmental institutions at local level. The Special Rapporteur wishes to thank the Ministry for Foreign Affairs and all the other authorities for their excellent cooperation. He is particularly grateful that, at the outset of his visit, they provided him with letters authorizing him to access all places of detention without prior announcement and to interview detainees in private.

4. The Special Rapporteurs also met with representatives of the National Preventive Mechanism (NPM) under the Optional Protocol to the United Nations Convention against Torture, including its Chairman, Mr Ivan Cucu, who was at the same time one of the heads of the Centre for Human Rights.

5. The Special Rapporteurs also had discussions with civil society representatives, including non-governmental organizations, ethnic minorities, religious leaders, persons in places of detention and victims of violence, trafficking and ill-treatment and their relatives. In addition, they held meetings with the United Nations country team, the Organization for Security and Cooperation in Europe (OSCE), the Delegation of the European Commission, other members of

the diplomatic community and the donors group (on gender). The Special Rapporteurs visited prisons, police posts, a psychiatric hospital and several shelters in different parts of the country<sup>1</sup> (see also appendix).

6. The delegation also visited the Transnistrian region of the Republic of Moldova, met with the so-called Acting Foreign Minister and the so-called Deputy Head of the Penitentiary Administration of the Transnistrian region of the Republic of Moldova and visited some detention facilities.<sup>2</sup> In 1990, the Transnistrian region has unilaterally declared independence from Moldova. The Transnistrian region was however not recognized as independent State. In line with the European Court of Human Rights in its *Ilaşcu* decision of 2004,<sup>3</sup> the Special Rapporteur considers that the Transnistrian region of the Republic of Moldova comes under the jurisdiction of both, the Republic of Moldova and the Russian Federation and that, therefore, both of them share the responsibility to uphold respect for human rights. He accepts, however, the argument of the Government that the authorities of the Republic of Moldova do not exercise de facto control over that territory. The present report refers to the findings concerning the

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<sup>1</sup> Chişinău - Casa Mărioarei, Centre for Rehabilitation of Victims of Human Trafficking, Penitentiary institution n. 13, Central temporary detention isolator, Centre for forensic medicine, Centrul de reabilitare “Memoria”

Bălţi - Penitentiary institution n. 11, Temporary detention isolator, Psychiatric hospital

Drochia - Maternal Centre “Ariadna”

Soroca - Centre for Rehabilitation and Social Reintegration of Vulnerable Children and Youth “Dacia”

Comrat - Temporary detention isolator

Cahul - Centre for Training and Counselling for Victims of Violence, Centre for Children and Youth with Disabilities

Căuşeni - Law Centre

Rezina - Penitentiary institution n. 17

Cimişlia - Temporary detention isolator

Hînceşti - Penitentiary institution n 7 in Rusca.

<sup>2</sup> Transnistrian region of the Republic of Moldova

Tiraspol - Headquarters of the militia

Hlinaia - Penitentiary institution n. 1, Investigation Isolator n. 1.

<sup>3</sup> Case of *Ilaşcu and others v. Moldova and Russia*. Application no. 48787/99.

Transnistrian region of the Republic of Moldova in paragraphs at the end of the respective chapters. Since the Special Rapporteur had only one day to visit the Transnistrian region of the Republic of Moldova, his assessment is necessarily less complete. He would like to express special thanks to the OSCE presence in Moldova for its support during the visit to the Transnistrian region of the Republic of Moldova.

7. The Special Rapporteur further expresses his gratitude to the Office of the Resident Coordinator and the Head of the presence of the High Commissioner for Refugees in Moldova. He would also like to thank the entire United Nations team for the excellent assistance prior to and throughout the mission, including human rights officers, interpreters and drivers; Dr. Duarte Nuno Vieira, forensic expert; and Ms. Isabelle Tschan and Ms. Julia Kozma of the Ludwig Boltzmann Institute of Human Rights in Vienna.

8. The Special Rapporteur shared his preliminary findings with the Government at the close of his mission. On 4 December 2008, a preliminary version of this report was sent to the Government. The Special Rapporteur is grateful for the extensive and constructive comments sent to him on 19 January 2008, which he has incorporated in the present report and its appendix to the extent possible.

## **II. LEGAL FRAMEWORK**

### **A. International level**

9. The Republic of Moldova is a party to the major United Nations human rights treaties prohibiting torture and ill-treatment: the International Covenant on Civil and Political Rights (ICCPR) and its first and second Optional Protocols;<sup>4</sup> the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment and Punishment (CAT); the Convention on the Rights of the Child; and the Convention on the Elimination of All Forms of Discrimination against Women. Moldova has ratified the Optional Protocol to the Convention against Torture (OPCAT). It is a party to the Geneva Conventions of 1949 and to Additional Protocols I and II thereof, but not to the Rome Statute of the International Criminal Court.

### **B. Regional level**

10. Relevant regional human rights instruments ratified by Moldova, a member State of the Council of Europe, include the European Convention on Human Rights and its Protocols, inter alia Protocols No. 6 and 13 abolishing the death penalty and the Convention on Action against the Trafficking of Human Beings. It has also ratified the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, under which the Committee on the Prevention of Torture has undertaken several visits to Moldova.<sup>5</sup>

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<sup>4</sup> Note the reservations to be found at: <http://www.ohchr.org/EN/countries/ENACARegion/Pages/MDIndex.aspx>.

<sup>5</sup> See: <http://www.cpt.coe.int/en/states/mda.htm>.

11. The European Court of Human Rights has found violations of Article 3 of the European Convention on Human Rights - the prohibition of torture and of inhuman or degrading treatment or punishment - in fifteen judgements handed down since 2005.

### **C. National level**

#### **1. Constitution of the Republic of Moldova**

12. Article 24 (2) of the Constitution prohibits torture and cruel, inhuman or degrading treatment. In its Chapter II, the Constitution also contains a variety of relevant provisions relating to fundamental rights and freedoms, notably the right to life, physical and mental integrity. Its Article 4 (1) also stipulates that human rights and freedoms guaranteed in the Constitution shall be understood and implemented according to the Universal Declaration of Human Rights as well as conventions and treaties ratified by Moldova.

#### **2. Prohibition of torture in national legislation**

13. In its general principles, the Criminal Code of Moldova stipulates that “[t]he Criminal Law does not have as a purpose to cause physical suffering or to violate human dignity. No person can be subjected to torture or to cruel, inhuman, degrading treatments or punishments (article 4 (2)). Following recommendations by the Committee against Torture in May 2005, on 30 June 2005, by Law No. 139, the Moldovan Parliament introduced new Article 309 (1) into the Criminal Code, making torture punishable by two to five years’ imprisonment and suspension from official duties for five years. The definition of torture is in line with Article 1 CAT.<sup>6</sup> Some other provisions can equally be applied to acts of ill-treatment by officials, notably articles 309, 308 and, most often exceeding powers or official duties (article 328). Like for any other crime sanctioned with a maximal punishment of five years’ imprisonment (“less severe crime”), a statute of limitation of five years is applicable to the crime of torture.

14. The prohibition of torture and inhuman and degrading treatment, respectively punishment, is enshrined in article 10 (3) of the Code of Criminal Procedure (CCP), article 16 (a) of the Code of Ethics of the Police and article 166 (1) (b) of the Enforcement Code.<sup>7</sup> Furthermore, article 11 of CCP prohibits physical and mental abuse of and threats against detainees and provides for the respect of their human dignity.

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<sup>6</sup> Article 309 (1) Criminal Code: [torture is an] “action by which severe physical or mental pain and suffering is deliberately caused to a person, especially with the aim of receiving information or a confession from the person concerned or a third person, punishing him or her for a deed that the person concerned or a third person committed or is suspected of having committed, intimidating or putting pressure on the person concerned or a third person, or for any other reason based on a form of discrimination, whatever it is, if such pain or suffering is caused by an official or by any other person that acts officially or at the instigation or with the verbal or written consent of such a person, except for the pain or suffering that results exclusively from legal sanctions, inherent to such sanctions or caused by them”.

<sup>7</sup> “Codul de Executare”.



### **3. Safeguards, complaints and investigations of torture allegations**

15. The domestic legislation provides for a series of safeguards with regard to arrest and detention, such as the right of a detainee to be informed of his/her right to legal defense (CCP article 64 (1)), the right of a detainee to inform his/her family of the place of detention within six hours after arrest,<sup>8</sup> the right to confidential meetings with his/her defense lawyer (articles 64 (6) and 66 (6)) and the right to be heard in presence of his/her defense lawyer (articles 64 (7) and 66 (7)).

### **4. Length of police detention**

16. Article 25 (3) of the Constitution and Articles 63 (2) (i); 165 (1); 166 (4) CCP provide for a period of custody of 72 hours, after which the person is to be brought before a judge. (CCP article 66 (4)). This period can be prolonged by 6 to 12 months depending on the crime of which a person is accused (CCP article 186 (3)). Police detention of minors can be prolonged by 30 days up to 4 months. Prolongation of police detention is decided by the investigating judge upon request of the prosecutor. Detention may be legally challenged at a hierarchically superior court.

### **5. National Human Rights Action Plan 2004-2008 and National Development Strategy 2008-2011**

17. The Special Rapporteur welcomes the measures taken according to the National Human Rights Action Plan 2004-2008,<sup>9</sup> e.g., in relation to the improvement of conditions of detention for female detainees as well as improved conditions and treatment for detainees suffering from tuberculosis and other diseases. He encourages the Government to quickly implement other planned steps, such as providing for a mandatory independent medical examination of persons taken into custody and the transfer of the management of preventive detention facilities from the Ministry of Internal Affairs (MoI) to the Ministry of Justice (MoJ).

18. The National Development Strategy for 2008-2011 sets out several steps to be taken in the area of penal law reform, particularly the creation of measures alternative to detention and the focus on social rehabilitation for convicted detainees.<sup>10</sup>

### **D. Transnistrian region**

19. As regards obligations at the international and regional levels, by Resolution 226 of the so-called “Supreme Council” of the “Transnistrian Republic” of 22 September 1992, the Transnistrian region of the Republic of Moldova undertook “independently of the membership of the Transnistrian Republic in the respective international organizations, to consider the

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<sup>8</sup> Articles 64 (12) and 173 (1) CCP; see also Code of Ethics of Police (CEP) Article 21.

<sup>9</sup> Approved by the Parliament by Resolution No. 415-XV of 24 October 2003.

<sup>10</sup> Law on the approval of the National Development Strategy for 2008-2011, No. 295-XVI, 21 December 2007.

mentioned international acts [Convention on the Prevention and Punishment of the Crime of Genocide, ICCPR, European Convention on Human Rights, ICESCR] as in force in the territory of the Transnistrian Republic” (point 2 of res. 226).

20. Article 21 of the so-called Transnistrian “Constitution” provides that no one can be “subjected to torture, cruel, inhuman or degrading treatment and punishment.” Whereas the “Criminal Code” of 19 April 2006 does not contain the definition of torture required by the Convention against Torture, it criminalizes “istyazanie” (torment), to be punished with up to 3 years of imprisonment (article 114) and states that it can be combined with “torture”, to be punished with up to 7 years of imprisonment. Articles 3 (1) and 57 of the “Criminal Procedure Code” contain a series of guarantees, namely on non-admissibility of the proofs obtained through violations of the Code the presumption of innocence (article 4) and fair trial (articles 6, 11 and 43). Its Article 6 (1) on “Respect for the honour and dignity of the person” provides explicitly that “In a criminal process acts and decisions humiliating the honour of the party, as well as any treatment humiliating his human dignity or creating danger for his life and health are prohibited. None of the parties to a criminal process must be subjected to violence, torture, other cruel or degrading treatment.”

21. Although abolitionist in practice, the death penalty is still provided for by the “legislation” of the Transnistrian region of the Republic of Moldova.

22. A “Human Rights Commissioner” has been instituted, but he does not undertake monitoring visits to places of detention and most of the Special Rapporteur’s interlocutors expressed distrust in this institution.

### **III. ASSESSMENT OF THE SITUATION**

#### **A. Acts of torture and ill-treatment in places of detention**

##### **Institutions under the Ministry of Justice**

23. The Special Rapporteur has received a limited number of allegations of ill-treatment by officials in institutions under the authority of the MoJ.<sup>11</sup> However, although corporal punishment of children is unlawful under the general provisions prohibiting torture and the Law on Child Rights,<sup>12</sup> he received credible allegations about corporal punishment and forced labour in Lipcani educational colony reportedly to prepare minors for life in adult prisons.

24. In Rezina, several detainees in the tuberculosis unit informed the Rapporteur that, on 4 July 2008, in response to their complaints about fish they had been served that they found rotten, they were beaten by the guards. The Special Rapporteur assessed these allegations and

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<sup>11</sup> The Government repudiated these allegations of ill-treatment and stressed that rights and obligations of the convicted minors would be respected. The Special Rapporteur welcomes on-going efforts by the Government, e.g. in the area of training for penitentiary staff on the prevention of torture.

<sup>12</sup> Articles 4, 6, 7, 18, 29.

found that they were partly corroborated by medical evidence. He also took due note of information provided by the colony's administration that guards had been injured by the detainees in the above described process. He concluded that it is likely that the violence used by the guards was excessive. He urges the authorities to conduct a proper investigation into the allegations.<sup>13</sup>

25. The Special Rapporteur has learned that a strictly hierarchical order among prisoners has been inherited from Soviet times. Those who do not want to obey the so-called "law of the criminal world" are subjected to threats and violence by their co-prisoners. As a result, a certain level of violence, including sexual violence among prisoners is widely alleged to be quite common (e.g. vis-à-vis the so called "humiliated ones", who are used for sexual services to prisoners higher up in the hierarchy). Whereas, according to information provided by the authorities, a number of preventive and educational measures have been taken to neutralize this hierarchy and ensure equal treatment of all detainees,<sup>14</sup> the Special Rapporteur has received credible allegations that in many cases, the prison administration supports and sustains this system as a way of managing discipline. The Special Rapporteur would like to recall that inter-prisoner violence can amount to torture or ill-treatment if the State fails to act with due diligence to prevent it.

### **Police custody**

26. The Special Rapporteur received consistent and credible allegations of frequent beatings and other forms of ill-treatment and torture at some police detention facilities, mostly during interrogation, but also during arrest. This was the case in particular in Comrat and surrounding police stations and district police stations in Chişinău. He also visited police stations, where he received no allegations of violence, e.g. Cimişlia. In light of the information received in private interviews with individuals who were or had been in police custody, the corroborating results of independent forensic medical examinations of injuries, he concludes that ill-treatment during the initial period of police custody is widespread.

27. Torture methods such as severe beatings, with fists, rubber truncheons, and baseball bats, including on soles, electro-shocks, asphyxiation through gas masks, putting needles under fingernails and suspension are used in order to extract confessions from suspects. In general these acts are performed when suspects refuse to "cooperate". The torture and ill-treatment is normally inflicted avoiding visible marks (by putting cloth around the wrists when suspending, beating on soles, fabric around the baseball bat used for beatings etc.).

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<sup>13</sup> He wishes to thank the Government for the additional information provided to him regarding this case. He took note of its assertion that the authorities had used "legal special means - rubber batons and handcuffs" only to defend themselves and that their use was in line with the applicable legislation. He regrets, however, that these findings do not appear to have been made by an independent investigation body.

<sup>14</sup> For example Order n. 25 of 20 February 2008 establishing procedures to ensure the personal security of detainees under art. 225 of the Enforcement Code; "Strategy on Preventing Violence in Penitentiaries" under Order n. 168 of the Penitentiary Department of 2 September 2005.

## **Transnistrian region of the Republic of Moldova**

28. With respect to penitentiary institutions the Special Rapporteur found the level of inter-prisoner violence to be of concern. As regards treatment during militia custody, the Special Rapporteur received consistent and credible allegations of frequent beatings and other forms of ill-treatment and torture, mainly during interrogation. Torture methods include severe beatings, with fists and rubber truncheons, including on soles and kidneys, electro-shocks, needles inserted under their fingernails.

29. The Special Rapporteur also received information that in the Transnistrian region of the Republic of Moldova transfers of prisoners are conducted by the police. Prisoners are packed on top of each other in a metal wagon with only one tiny window. In the summer the heat in the wagon becomes unbearable after a few minutes but they have to stay inside for hours. Different categories of prisoners are mixed during these transports (adults, minors, sick, including those with open tuberculosis), which puts the prisoners at risk of contamination with diseases.

### **B. Conditions in places of detention**

#### **Institutions under the Ministry of Justice**

30. Undoubtedly, progress has been achieved in improving conditions of detention.<sup>15</sup> However, some of the institutions visited by the Special Rapporteur were heavily overcrowded. The authorities themselves pointed out that Institution No. 13 in Chişinău was severely overcrowded - on the day of the visit it held 931 persons with the official capacity being 600 (see also appendix). The Special Rapporteur was informed of Government plans to close down this institution.

31. Common problems at all pre- and post-trial prisons are the poor hygienic conditions, restricted access to health care and lack of medication as well as risk of contamination with tuberculosis and other diseases. Whereas the Special Rapporteur notes that the minimum norms regarding nutrition of detainees (Government Decision n. 609 of 29 May 2006) are checked on a daily basis and that, according to the financial plan of the Penitentiary Department, the food budget for 2008 had almost doubled in comparison to 2004 and is set to rise further, he also received consistent allegations regarding the poor quality and quantity of food.

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<sup>15</sup> The Government indicated that a large number of penitentiary institutions have undergone or are currently undergoing renovation, including heating, water supply systems, sanitary facilities or roofs (e.g. n. 1 - Taraclia, n. 3 - Leova; n. 5 - Cahul, n. 6 - Soroca, n. 9 - Pruncul, n. 17 - Rezina, n. 18 - Branesti; some of these projects are supported by international or bilateral donors.

32. Recognizing some efforts made by the Government to reduce the overcrowding in prisons, such as e.g. the application of alternative measures to deprivation of liberty,<sup>16</sup> the Special Rapporteur is concerned by the extensive periods of pretrial detention. Several of his interviewees had spent up to three or four years in detention without a final judgement. This concern is exacerbated by the fact that the conditions in the pretrial facilities (SIZO) are often worse than in facilities for convicted prisoners (detainees are held in overcrowded cells for 23 hours per day). Spending prolonged periods in such conditions constitutes a violation of the principle of the presumption of innocence and, in some cases, may amount to inhuman treatment.

33. The Special Rapporteur was particularly concerned about the drastic security measures against persons convicted of severe crimes or so-called recidivists. Especially the year-long confinement to cells for 23 hours per day of persons sentenced to life-imprisonment may amount to torture or inhuman treatment. The Special Rapporteur welcomes Government reports about studies conducted in 2008 about the psychological state of persons serving a life sentence, on the basis of which more flexible security arrangements are to be made in their regard.

34. The Special Rapporteur found that the so-called “initial regime” was introduced in the Enforcement Code of the Republic of Moldova in 2005. Instead of “humanizing” conditions for the detainees, this regime actually exacerbated their situation by confining them to their cells for periods between three, six and nine months after the sentence as an “introduction” to life in a correctional institution, which should aim at rehabilitating convicted persons.

35. As confirmed by the authorities, persons arriving in penitentiary institutions, as a general rule have to spend 15 days in quarantine in order to undergo a medical examination of their overall state of health and their labour capacities. The Special Rapporteur found that conditions in quarantine cells are generally worse than elsewhere and was concerned about the high risk of infection in these cells, since detainees with contagious diseases seemed not always to be separated.

36. Sickneses and diseases still occur at a high level in places of detention, although the overall trend is positive. As a result of the measures taken by the Penitentiary Administration in cooperation with international organizations, according to Government figures, the incidence of tuberculosis (TB) in penitentiary institutions was reduced from 495 cases in 2006 to 245 cases in 2008 (51% decrease, 153 new cases and 92 relapses), prevalence fell from 1150 cases in 2001 to 290 at the end of 2008, mortality rates halved in the period 2002 to 2007. Regarding HIV/AIDS, the Government reports that, on 1 December 2008, 296 detainees were registered as infected with HIV. Out of them, 32 are receiving antiretroviral treatment. With regard to the latter, the Special Rapporteur is concerned that access to anti-retroviral therapy appears to be limited and reports that effective prevention measures are insufficient.

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<sup>16</sup> Authorities informed him that, in 2007, 1941 and in the first six months of 2008, 1497 pretrial detainees were released due to the introduction of alternative measures of imprisonment.

37. Furthermore, the Special Rapporteur noted with concern that article 248 of the Enforcement Code requires that prisoners on hunger strike be separated from other detainees and be kept in “carcers” in solitary confinement until they give up the hunger strike. These cells, mostly located in the basement of the penitentiary institutions, lack natural light and are often very small and filthy. Moreover, prisoners who are detained in a “carcer” are not allowed to receive visits and go for walks outside.

### **Police custody**

38. Despite of international and national<sup>17</sup> minimum standards, conditions in some police custody facilities are a source of major concern. Whereas some police stations were suitable at maximum for short-term police custody, in some cases, notably in Bălți, Comrat, and at Chișinău police headquarters, the conditions amounted to inhuman treatment. In those police stations, persons were held in small, badly ventilated cells with little or no daylight sometimes for several weeks or even months. However, according to official sources, some of the police custody facilities had been closed in order to improve conditions (Criuleni, Ialoveni, Straseni, Cantemir, Glodeni, Stefan-Voda, Edinet, Donduseni, Ciadir-Lunga).

39. Notwithstanding some measures taken by the Government,<sup>18</sup> many persons in police custody complained about the quality and quantity of the food, although some said that it had slightly improved. Detainees in some police stations (e.g. Comrat) indicated that they received food only once per day. Lack of access to medical care was another major concern. Some of the cells were not equipped with mattresses and persons in police custody were not given blankets to sleep on.

40. The Special Rapporteur received consistent allegations that the minimum time required by national law for exercise (one hour per day) is not respected in many cases. At several police stations, detainees indicated that they are allowed to walk only for about 15 minutes per day. This is exacerbated by the fact that some spend long periods of up to several months in police custody.<sup>19</sup> The one shower per week requirement is not always respected. Moreover, the toilet in the cells consists normally of a bucket or an open toilet without flush, at best separated by one meter high walls. Since often more than one person is detained in a cell, these sanitary facilities deprive the detainees of their privacy. Furthermore, this situation generates not only an unpleasant smell, but also a critical hygienic situation.

41. The Special Rapporteur learned that visits by relatives during police custody have to be authorized by the investigator. However, he was told by many of his interlocutors that this is hardly ever the case and practically no visits took place, although in many cases the relatives regularly bring food and clothes to the facility, but are not allowed to see the detainee. The fact that police detainees are prevented from receiving visits for prolonged periods of up to several

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<sup>17</sup> Articles 20 and 21 of the Code on Police Ethics.

<sup>18</sup> By Government Decision n. 609 of 29 May 2006 new food-related norms were introduced.

<sup>19</sup> See *infra*, para. 15.

months adds unnecessary hardship on the detainees. In this context, the Special Rapporteur notes that, according to the Ministry of Interior, new instructions have been elaborated jointly by the Prosecutor's Office, the Ministry of Interior, the Penitentiary Department and others to regulate meetings and telephone conversations of detainees.

### **Institutions under the Ministry of Health**

42. The Law on psychiatric assistance stipulates that a patient shall be treated in a human manner, shall have access to a lawyer or legal representative and that hospitalization in a psychiatric establishment is to be limited to the period needed for medical examination and treatment and always be subject to informed consent by the concerned patient and that any patient has the right to complain to a lawyer, to the public authorities and to the court.<sup>20</sup> However, the Special Rapporteur received allegations that these safeguards were not effective in practice - hardly any psychiatric patient had access to a lawyer and the requirement of informed consent is frequently not respected. He welcomes information provided by the Ministry of Health that the humanization of the system of psychiatric assistance was on-going (with the introduction of a focus on out-patient treatment, of a formal procedure for obtaining informed consent and of awareness raising activities on patients' rights).

43. The Special Rapporteur visited a psychiatric clinic in Bălți, including the wards for persons who were serving court sentences, including forced treatment and the children's ward. He was concerned that persons serving court sentences were held in apathy, subject to excessive use of tranquilizers and by the lack of clarity on whether the use of these tranquilizers was always based on free and informed consent by the patients.<sup>21</sup> Moreover, according to the forensic expert who accompanied the Special Rapporteur, the medication given to the partly very young children, especially in terms of tranquilizers, was clearly not suitable. He thanks the Government for the additional information received and welcomes that the Ministry of Health recognized that the treatment, which consists almost exclusively of the use of strong neuroleptics (developed long time ago), was inadequate and indicated that psychiatric care would be individualized, new treatments developed (ergo therapy, psychotherapy, music therapy, occupational therapy), and modern drugs purchased once the necessary funds were made available.

44. The Special Rapporteur received allegations that psychiatric clinics are sometimes used as places of detention (see appendix: Bălți Prison, Comrat police detention facility). In these cases detainees are reportedly transferred from police custody and held for up to two or three weeks in psychiatric institutions, officially in order to make an assessment of their mental health condition.

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<sup>20</sup> Articles 13 (2) and 36 (2) (b) of the Law on psychiatric assistance.

<sup>21</sup> The Government explained that the excessive use of medication is conditioned by the lack of alternative methods of treatment and the lack of availability of newly development medicine.

**Transnistrian region of the Republic of Moldova**

45. According to several of his interlocutors, including detainees, progress has been made with improving conditions in the penitentiary system, e.g. functioning heating, food quality improved, HIV treatment in prisons commenced in September 2007. However, complaints about the poor quality and sometimes lack of food were common. The Special Rapporteur also received reports that international programmes are often not extended into the Transnistrian region of the Republic of Moldova, which means less out-reach in terms of health care and problems in particular with regard to tuberculosis treatment and a higher percentage of persons sick with tuberculosis and HIV.

46. The Special Rapporteur is concerned that many human rights violations flow from the legislation in force, which, for instance, requires solitary confinement for persons sentenced to capital punishment and to life imprisonment and which prescribes draconic restrictions on contacts with the outside world.

47. Conditions in custody of the militia headquarters in Tiraspol were clearly in violation of minimum international standards. The Special Rapporteur considers that detention in the overcrowded cells with few sleeping facilities, almost no daylight and ventilation, 24 hours artificial light, restricted access to food and very poor sanitary facilities amounts to inhuman treatment.

48. Whereas the Special Rapporteur was unable to visit a psychiatric facility in the Transnistrian region of the Republic of Moldova, he has received allegations of detention in psychiatric clinics as a means to pressurize persons to comply. He also received credible allegations that conditions in Cocieri psychiatric clinic are not in compliance with international standards.

**C. Women<sup>22</sup>****Trafficking**

49. Whereas Moldova is widely considered to be a major source country of trafficking, the scale of the problem remains relatively unknown because most victims are not identified due to the absence of systematic identification processes in Moldova and some destination countries, as well as the inability or unwillingness of some victims to report their trafficking experiences. An indication of the actual volume is the total number of Moldovan nationals assisted as victims of trafficking by the International Organization for Migration (IOM). Between 2000 and 2007, this number amounted to 2227, which is extremely high.<sup>23</sup> Women constitute the majority of

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<sup>22</sup> See also report of the Special Rapporteur on Violence against Women to be submitted to the 11th session of the Human Rights Council.

<sup>23</sup> No official estimates of trafficking victims are available, but it is assumed that the actual numbers are even higher.



trafficked persons and more than half of them are between the ages of 19 and 24. Women trafficked for sexual exploitation are usually subjected to additional human rights abuses including being beaten, raped, and sometimes killed.

50. The Government has taken steps to address the problem, e.g. in the first nine months of 2007, the Ministry of Interior reported that it conducted 62 raids to inspect 195 travel and employment agencies, and it withdrew the licenses of 14 (six travel and eight employment agencies) for suspected trafficking. The Prosecutor General's Office reported that authorities initiated 507 trafficking investigations in 2007-including 17 criminal investigations under the child trafficking statute- which constitutes an increase from 466 investigations in 2006. Moldova's Centre to Combat Trafficking in Persons (CCTIP) reported 251 trafficking prosecutions (out of which 107 sent to the courts) and 51 convictions of traffickers in 2007. In 2008, 96 criminal cases on trafficking were sent to courts. While the Government could not provide complete statistics on length of sentences for trafficking convictions, CCTIP reported that at least 50 traffickers convicted in 2007 are serving 7 to 10-year prison sentences.

51. In spite of the measures detailed above, the Special Rapporteur is concerned about consistent allegations that high-level officials may facilitate trafficking in exchange for financial gains and that widespread public corruption contributes to the ease with which vulnerable persons from Moldova are trafficked. Although in August 2006 several government investigators, prosecutors and senior officials - including the deputy director of the Centre to Combat Trafficking in Persons (CCTIP) - were dismissed from their posts for allegedly assisting a prominent trafficker and his syndicate, they have not been prosecuted. As a result, it appears that no official has been criminally punished for complicity in trafficking.

52. The Special Rapporteur would like to recall the findings contained in his report to the Human Rights Council A/HRC/7/3, where he observed that in certain cases trafficking can amount to torture and/or ill-treatment, if the State fails to fulfil its due diligence and rehabilitation obligations in terms of the prevention of trafficking and the protection of individual victims. Also, the social exclusion resulting in some cases from past trafficking can lead to re-victimizing the victims and may amount to inhuman and degrading treatment.

### **Domestic violence**

53. The Special Rapporteur was informed that law enforcement agencies and the public at large lack awareness of the need to address domestic violence. He also observed that infrastructure to support survivors of domestic violence was lacking in most parts of the country (only one shelter existed in July 2008, which was privately run and situated in the capital). The Law on preventing and combating family violence<sup>24</sup> contains a number of important provisions, such as on the possibility of granting protective orders obliging the perpetrator to stay away from the victim, on cooperation between public administration and civil society organizations, on the protection of the security of the victim as a human rights principle, and on the possibility for third parties to file complaints.

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<sup>24</sup> 45-XVI of 1 March 2007.

## **Women in detention**

54. The Special Rapporteur has received allegations that corporal punishment is regularly used in the Rusca Penitentiary for women.

55. Children of mothers sentenced to imprisonment can by law be accommodated in detention facilities with their mothers up to the age of three years (see Enforcement Code article 276). The Special Rapporteur welcomes the Government's project to build a special wing at Pruncul penitentiary institution which would accommodate twelve female detainees with their children.

## **Transnistrian region of the Republic of Moldova**

56. The Special Rapporteur notes with concern that, whereas the scale of trafficking in human-beings appears to be significant in the Transnistrian region of the Republic of Moldova,<sup>25</sup> there is practically no infrastructure to prevent trafficking and assist the victims. Similarly, few measures have been taken to prevent violence against women, to protect individual victims and to ensure their rehabilitation.

# **IV. UNDERLYING CAUSES**

## **A. Punitive penitentiary policies**

57. The Special Rapporteur found that the legal framework and penitentiary policies in Moldova are punitive, directed at locking people up, rather than aimed at reintegrating prisoners in society. Whereas, from a human rights perspective, imprisonment per se carries certain limitations, namely the deprivation of liberty, other human rights should be affected only to a minimum. The Soviet-inspired system of a complex variety of security regimes decided by the judge, depending on the severity of the crime committed rather than on the danger that a detainee represents, is based on using restrictions of contacts with the outside world as a form of punishment and contradicts the principle that reformation and social rehabilitation should be the essential aim of imprisonment contained in Article 10 (3) of the ICCPR.

58. A clear sign of this are the extremely restrictive visiting policies and the numerous constraints to contacts with the outside world. The limitation to one short visit per month, combined with the often lengthy terms of imprisonment, runs against the aim of social rehabilitation and reintegration of prisoners in society. This is particularly true for contacts with family members, namely children.<sup>26</sup> Person sentenced to life imprisonment face even more

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<sup>25</sup> An indication of the extent of human trafficking from the Transnistrian region is the number of telephone calls placed to the new assistance/referral hotline launched in Transnistria in 2006: in just over eight months, the hotline received 1136 calls, out of which 239 were emergency crisis calls related to concrete cases of trafficking. In addition, during the period of 2000 to 2007 IOM assisted 213 victims from Transnistria in the Transnistrian region of the Republic of Moldova.

<sup>26</sup> The Government indicated that the number of visits granted to the detainees was steadily growing (a total of 22 short and long term visits per year).

severe restrictions as they are allowed to be in contact only with their cell-mates. In addition the fact that persons sentenced to life-imprisonment have to wear handcuffs at all times, when the cell door is opened appears humiliating, notably in Rezina. Furthermore, the Special Rapporteur regrets the introduction of the so-called “initial regime” (see above, para. 33) and notes that he has not seen the so-called “re-socialisation regime” being implemented anywhere.

59. Whereas the Special Rapporteur notes that some efforts are underway to improve sentencing policies, he is still concerned by the overly lengthy prison terms: in 2006 Moldova had sentenced only 0,3 per cent of all convicts to less than 1 year, but 21.4 to between 3 and 5 years; 34.4 per cent between 5 and 10 years and 28.1 between 10 and 20 years - all well above the European average.<sup>27</sup> One of the consequences of these sentencing policies is that, in 2006, Moldova had a ratio of 224,5 incarcerated persons per 100 000 persons,<sup>28</sup> well above the average among Council of Europe members (105,1), even if the overall (total) number had decreased by 7.9 per cent since 2005. According to the Minister of Justice, during the last months of 2006 and in 2007, the number decreased even further to 7400 persons in the penitentiary system (around 217 per 100 000).

### **Transnistrian region of the Republic of Moldova**

60. Also in the Transnistrian region of the Republic of Moldova the administration of justice system focuses on punitive aims rather than on reintegration, and there is a higher percentage of persons in detention than in the rest of the country. In some areas the restrictions placed on convicts are even stricter; e.g. solitary confinement is required for those convicted to life imprisonment or capital punishment. The mandatory complete solitary confinement for death row prisoners and persons sentenced to life imprisonment constitutes inhuman punishment (A/63/175, paras 77-85).

61. According to the so-called “Prison Administration” of the Transnistrian region of the Republic of Moldova, 628 persons per 100 000 are being held in penitentiary institutions, which is extremely high (see above: Council of Europe member States average: 105,1).

### **B. Corruption and lack of resources**

62. The Special Rapporteur recognizes that insufficient conditions in detention facilities, such as the lack of adequate food and access to health care, are aggravated by the lack of resources faced by some state institutions and that the lack of resources facilitates corruption. He would like to stress, however, that lack of resources cannot serve as an excuse for human rights violations and discriminatory practices.

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<sup>27</sup> Table 9 on page 51 of the Council of Europe Annual Penal Statistics PC-CP (2007)9 rev 3 of 23 January 2008; see: [http://www.coe.int/t/e/legal\\_affairs/legal\\_co-operation/prisons\\_and\\_alternatives/statistics\\_space\\_i/pc-cp%20\(2007\)%2009%20rev3%20-%20e%20\(SPACe%202006\)%2023-01-08.pdf](http://www.coe.int/t/e/legal_affairs/legal_co-operation/prisons_and_alternatives/statistics_space_i/pc-cp%20(2007)%2009%20rev3%20-%20e%20(SPACe%202006)%2023-01-08.pdf).

<sup>28</sup> Table 1.2.a on page 24; idem.

63. He received numerous and consistent allegations that corruption is deeply ingrained in Moldova's criminal justice system. Several sources indicated that at every stage, starting from the police and the judiciary to the detention centres and prisons, corruption is a quasi-institutionalized practice.<sup>29</sup> The fact that the President, shortly before the Special Rapporteur's visit, dismissed some of the senior staff of the Ministry of Interior on charges of corruption is an indication for the seriousness of the problem.

### **Transnistrian region of the Republic of Moldova**

64. According to many interlocutors, corruption is at least equally pervasive in the Transnistrian region of the Republic of Moldova and leads to discrimination at all stages of the criminal law cycle with wealthy persons less likely to be arrested, found guilty and sentenced to imprisonment.

## **C. Malfunctioning of protection mechanisms**

### **Complaints mechanisms**

65. Numerous interlocutors indicated to the Special Rapporteur that in order to eradicate torture, a change in culture of the administration of justice system was urgently needed. The widely held idea that confessions are the "crown" of evidence needed to change. Whereas the Special Rapporteur recognizes that it is not easy to change "old habits", he is of the opinion that, if the prevention and protection mechanisms provided for by the law start functioning in practice, and all the separate elements in the criminal law cycle fulfil their duties, the change in mentality will quickly follow suit.

66. Several avenues to file complaints are provided for by law.<sup>30</sup> In addition, the Department of Internal Security within the MoI examines complaints of individuals alleging violations by police officers and runs a telephone hotline for complaints. It can impose disciplinary sanctions against police officers found responsible for violations or, in case there is enough evidence to believe that a crime has been committed, send the case to the prosecutor's office for criminal prosecution. By Ordinance No. 77 of 23 January 2006, pursuant to article 177 of the Enforcement Code, the so-called Complaints Committee was established to examine complaints submitted by detainees of penitentiary institutions. However, it never functioned in practice,

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<sup>29</sup> See also the Council of Europe's Parliamentary Assembly's document Doc. 11374 of 14 September 2007, paras. 16, 93, 100, 121 and 129 - 141; also Moldova is ranked 111th on the Corruption Perception Index 2007 issued by Transparency International. This index ranks 180 countries by their perceived levels of corruption, as determined by expert assessments and opinion surveys.

<sup>30</sup> CCP articles 187 and 298, Law No. 264-XVI on amending the CCP of 27 July 2007; CCP article 299; article 166 (1) (c) of the Enforcement Code; also the Parliament, the President's Administration, the Government/State Chancellery, judges, the Ministry of Health and Social Protection, the Mission of the Organization for Security and Co-operation in Europe to Moldova and the Parliamentary Advocate may receive complaints.

partly because no financial compensation for its members was foreseen. The Parliamentary Advocate/Chair of NPM reported having received 1150 complaints in the year preceding the Special Rapporteur's visit, out of which approximately 50 per cent were related to ill-treatment. However, he had limited means of dealing with these complaints.

67. Overall, the Special Rapporteur found that the large majority of complaints are not properly investigated and rejected quasi-automatically. Equally, the fact that ex-officio investigations do not function in practice is a major concern. Judges, prosecutors or penitentiary personnel hardly ever initiate investigations, even if there is medical or other evidence that torture was committed. The fact that the system of internal remedies is dysfunctional is also illustrated by the relatively high number of violations of Article 3 ECHR found by the European Court of Human Rights in recent years. He identified the following reasons for this state of affairs:

(1) Wide discretion of the prosecutor

- The double role of the prosecutor as part of the investigation and “accuser” at the trial stage<sup>31</sup>
- Although a refusal to initiate investigations into allegations of torture must be motivated, this is a largely formal requirement and the overwhelming majority is found “manifestly ill-founded” (according to the official statistics provided by the prosecutor's office, only a relatively small percentage of complaints is pursued)<sup>32</sup>
- The power of the prosecutor to allow or refuse independent medical examinations (according to many interlocutors, this is refused in the majority of cases)
- The prosecutor is unlikely to denounce acts of torture committed by the police and therefore inspections conducted by the prosecutors are unlikely to be effective
- Complaints about inaction of the prosecutor's office are to be filed with the prosecutor's office (even if they are addressed to another office)

(2) Lack of independent medical examination

- At a later stage it is in the power of the penitentiary institution to allow or refuse independent medical examinations - seeing a specialized doctor can in fact take up to several months

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<sup>31</sup> See also the Council of Europe's Parliamentary Assembly's document Doc. 11374 of 14 September 2007, para. 120.

<sup>32</sup> See also para. 68.

- Whereas it is laudable that paramedics employed by the penitentiary administration respectively the police, are present in detention facilities during working hours on weekdays, they lack independence. In violation of the law that requires the doctor and/or the head of the penitentiary institution to inform the prosecutor of bruises or pain that may stem from ill-treatment,<sup>33</sup> in some cases no action is taken (ex from appendix Bălți police station).
- Similarly, forensic examinations to assess torture allegations are the exception rather than the rule and are often carried out too late. They also tend to only record the marks without indicating how they were caused. Also, the State Forensic Institute is underequipped.

(3) Judges and lawyers

- The lack of independence of judges who in many cases continue to follow the arguments of the prosecutor
- Not enough professional and independent lawyers/insufficient remuneration for them. In addition, although foreseen by law, the legal aid system is not effective.
- Notwithstanding assertions to the contrary by the authorities, the Special Rapporteur received many allegations that the confidentiality of meetings with lawyers, in particular at the early stages of police custody, is often not respected

(4) Threats by police and non-action of penitentiary authorities and medical personnel

- Threats are routinely used by the police in order to deter detainees from filing complaints; in addition, the Special Rapporteur received a worrying number of allegations of reprisals against complainants
- The non-action of the staff of penitentiary institutions in cases of allegations of torture (e.g. in Balti and in Penitentiary Institution No.13 in Chișinău the prison directors indicated that, although many detainees arriving from police stations have injuries that might result from torture, in many cases no action is taken)

68. A key problem the Special Rapporteur has identified in this regard is the burden of proof - numerous interlocutors reported that, first of all, policemen were very good at avoiding leaving any traces and that secondly, ill-treated detainees were normally not transferred from police custody unless the marks have disappeared. However, according to international standards, if “allegations of torture or other forms of ill treatment are raised by a defendant during trial, the burden of proof should shift to the prosecution to prove beyond reasonable doubt that the

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<sup>33</sup> Article 251 Enforcement Code and article 515 of the “Regulations on serving of sentences by convicted persons”.

confession was not obtained by unlawful means, including torture and similar ill-treatment”.<sup>34</sup> Moldova, as a matter of priority, should take decisive steps to implement the shift of the burden of proof in practice.

### **Disciplinary measures and prosecution of alleged perpetrators of torture**

69. According to the Prosecutor General in recent years article 309 (1) has been increasingly applied: in 2007, a total of 282 complaints were received resulting in 44 criminal cases, out of which 21 were brought before the courts. 14 cases involving 26 persons ended in verdicts of guilt. By 6 June 2008, out of 145 complaints, 18 criminal cases had been initiated, 7 had been brought before the courts and 14 persons were found guilty. However, according to the information received by the Government, the penalties imposed were fines which are by no means commensurate the gravity of the acts.

70. Whereas the Special Rapporteur welcomes these developments, he also wishes to stress that these investigations and prosecutions can be considered only first steps and that the above figures (even if the prosecutions under Article 328 are included<sup>35</sup>) by no means reflect the actual scale of the torture and ill-treatment perpetrated in the country. In this context, he wishes to recall that the prosecution of acts of torture and ill-treatment (with adequate penalties) is crucial to eradicate the phenomenon of torture.

### **Transnistrian region of the Republic of Moldova**

71. The Special Rapporteur was even more concerned about the lack of any functioning complaints mechanisms in the Transnistrian region of the Republic of Moldova: the “Human Rights Commissioner” as well as other local instances were perceived as totally ineffective and the possibility of using international remedies (such as a complaint to the ECHR) was less known of. In addition, detainees were quasi unanimous in their assessment that lawyers are not helpful, neither in terms of defence during a trial, nor in terms of protection from torture.

## **D. Weakness of prevention**

### **1. Monitoring and inspection**

72. A number of bodies can conduct visits to places of detention, including the Penitentiary Commission,<sup>36</sup> the prosecutor’s office, an inspector for police custody facilities, the Department

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<sup>34</sup> See: General Recommendations of the Special Rapporteur on torture in E/CN.4/2003/68, para. 26.

<sup>35</sup> In 2007, 1532 complaints were filed under Article 328 (abuse of power) resulting in the opening of 143 criminal cases, out of which 72 were transmitted to the judiciary, 54 cases involving 71 persons. By 6 June 2008, out of 634 complaints, 65 criminal cases were initiated, and 37 were brought before court, which ended in 9 verdicts of guilt involving 12 persons.

<sup>36</sup> Enforcement Code article 238.

of Internal Security of the MoI; and the Parliamentary Advocates and NGO representatives. Additionally, the Special Rapporteur was informed that under the Civil Council new monitoring commissions, composed of representatives of the civil society, will be established.

73. In January 2008, amendments to the Law on Parliamentary Advocates adopted in July 2007, entered into force and led to the establishment in 2008 of an independent “Consultative Council”, which has been designated as National Preventive Mechanism (NPM) under the Optional Protocol to the Convention against Torture. The Council is composed of eleven independent experts and one of the four parliamentary Advocates, acting as chair. This Council has the right to undertake unannounced visits to all places where persons can be deprived of their liberty and to conduct private interviews with all persons detained. It draws up reports of its findings, containing recommendations to improve the situation. The body’s secretariat is ensured by the Centre for Human Rights, an independent human rights body reporting to the Parliament.

74. Whereas the creation of the Consultative Council and the comprehensiveness of its mandate must be considered a milestone in terms of torture prevention in Moldova, it has started its work only recently so that it is too early to make an assessment of its effectiveness. Concerns have been expressed that insufficient resources have been put at its disposal. However, the Special Rapporteur was encouraged by the information he received about the 41 visits the Council has undertaken in the three months preceding his visit. He looks forward to learning how the NPM deals with some key-issues that had not been decided during his visit, e.g. the question of publicity, whether to take up individual cases etc. The Special Rapporteur is concerned that the draft law on the Civil Council, if adopted in its current form, might duplicate the functions of the existing NPM.

## **2. Safeguards**

### **Excessive length of police custody**

75. The Special Rapporteur is concerned by the long periods of police custody. Although article 18 of the Code of Police Ethics stipulates that deprivation of liberty shall, if possible, be limited and applied by taking into consideration the vulnerability of each detainee and must be registered, de-facto, most detainees are kept in police custody for several weeks/months and regularly return there for “further investigation” or for their trial or appeal, which makes them vulnerable to reprisals in the case they file complaint about ill-treatment. Many of the Special Rapporteur’s interlocutors indicated that detainees are only transferred to pretrial facilities once the marks resulting from torture are not visible anymore. However, the Special Rapporteur was informed that police detention facilities are to be transferred under the authority of the Ministry of Justice.

### **Evidence obtained under torture**

76. In accordance with CCP article 94 (a) and (h), evidence obtained through violence, threats or other compelling methods is not admitted as evidence during the criminal court proceedings. However, the Special Rapporteur received numerous allegations that confessions obtained under torture are taken into consideration during court proceedings and that judges, prosecutors and other actors in the criminal law cycle routinely ignore allegations of torture.



### **Administrative detainees**

77. Fewer safeguards are foreseen for administrative detainees (e.g. detention without judicial order for up to 10 days; no access to lawyers for up to 30 days), which allows the police to keep suspects in administrative detention without access to lawyers etc, and transform them into criminal suspects at a later stage.

### **Transnistrian region of the Republic of Moldova**

78. In the Transnistrian legal framework not many legal safeguards exist and those that exist in law are not implemented in practice. Moreover, no independent torture monitoring mechanism has been enacted so far in the Transnistrian region of the Republic of Moldova. The Special Rapporteur encourages the newly established National Preventive Mechanism to extend its preventive monitoring visits also to places of detention in the Transnistrian region.

### **E. Lack of compensation and rehabilitation mechanisms**

79. Compensation is dealt with by a number of legal instruments, such as article 616 of the Civil Code. The Special Rapporteur has not received any evidence that the compensation mechanisms provided by the law work in practice.

80. For rehabilitation services for victims of torture the State relies on services provided by the non-governmental Medical Rehabilitation Centre for Torture Victims “Memoria”, which is providing excellent services. The Centre entirely depends on foreign funding and, therefore, is unable to cover the entire country. Rehabilitation therefore suffers from a lack of financial resources for the establishment of adequate facilities as well as for training of health personnel. The Special Rapporteur was very concerned to hear that recently the “Memoria” Centre and its staff were threatened at several instances.

## **V. CONCLUSIONS AND RECOMMENDATIONS**

### **A. Conclusions**

81. **The Republic of Moldova has come a long way in institution building and human rights protection since independence in 1991. By acceding to numerous international human rights treaties, it has sent strong signals about its commitment to put the rights of individuals at the centre of its legal system and its public policy formulation. Important steps have been taken to integrate these international standards into the national legal framework, including through the criminalization of torture. However, some gaps remain, such as the statute of limitations that applies to the crime of torture.**

82. **On the basis of discussions with public officials, judges, lawyers and representatives of civil society, interviews with victims of violence and with persons deprived of their liberty, often supported by forensic medical evidence, the Special Rapporteur concludes that ill-treatment during the initial period of police custody is widespread. Torture methods such as severe beatings, with fists, rubber truncheons, and baseball bats, including on soles, electro-shocks, asphyxiation through gas masks, putting needles under fingernails and suspension are often used in order to obtain confessions from suspects.**

83. The commission of acts of torture is facilitated by the lack of awareness and action of other stakeholders in the criminal law system (such as prosecutors, judges, the medical profession and lawyers) and by the excessive length of police custody. Detention for several weeks or even months in police cells which do not comply with international minimum standards often amount to inhuman and degrading treatment.

84. Whereas overall conditions in penitentiary institutions have improved over recent years, overcrowding, diseases and inter-prisoner violence, as well as discriminatory practices fuelled by corruption remain highly problematic. Furthermore, the Special Rapporteur is concerned about the severe restrictions on contacts with the outside world.

85. The Special Rapporteur, recognizing that some first steps have been taken to address impunity, has found that the existing complaints mechanisms are not effective. He is particularly concerned that the burden of proof rests on the alleged victim of ill-treatment. In light of the high number of allegations he received, he concludes that only a small minority of perpetrators face criminal prosecution. Additionally, the penalties imposed are not commensurate with the gravity of the crime of torture. He further identified significant gaps with regard to the State's obligations in the areas of compensation and rehabilitation.

86. The Special Rapporteur warmly welcomes the establishment of the National Preventive Mechanism. Since such monitoring bodies are among the most effective means of preventing torture, this, in his view, constitutes a major step towards preventing torture and ill-treatment in the future.

87. With regard to violence against women, the Special Rapporteur is concerned about the scale of trafficking in women and girls, and the inadequate prevention and protection afforded by the State as well as the lack of measures to bring officials involved in facilitating trafficking to justice. He is similarly concerned about the lack of infrastructure for victims of trafficking and domestic violence.

88. With regard to the Transnistrian region of the Republic of Moldova, the Special Rapporteur comes to similar conclusions as for the rest of the country concerning the widespread use of ill-treatment by the police to extract confessions and the conditions of detention in police and penitentiary facilities. He regrets that no effective monitoring and complaints mechanisms, such as the National Preventive Mechanism are in place in the Transnistrian region of the Republic of Moldova.

89. The death penalty is still enshrined in the "legislation" of the Transnistrian region of the Republic of Moldova and no steps were taken to abolish the death penalty. The Special Rapporteur is very concerned about life imprisonment in complete solitary confinement of persons sentenced to death or life imprisonment. Life-long detention in such conditions amounts to torture.

## **B. Recommendations**

**90. In the spirit of cooperation and partnership, the Special Rapporteur recommends that the Government of the Republic of Moldova take decisive steps to implement the following recommendations:**

**(a) Impunity**

**Abolish the statute of limitations for crimes of torture;**

**Establish effective and accessible complaints mechanisms; and protect complainants against reprisals;**

**An independent authority with no connection to the body investigating or prosecuting the case against the alleged victim should investigate promptly and thoroughly all allegations of torture and ill-treatment ex-officio; an independent forensic expert should carry out an examination in respect of all allegations of torture and ill-treatment; the Forensic institute should be equipped accordingly.**

**(b) Safeguards and prevention<sup>37</sup>**

**Reduce the period of police custody to a time limit in line with international standards (maximum 48 hours), after which transfer the detainees to a pretrial facility, where no further unsupervised contact with the interrogator or investigator should be permitted;**

**Ensure that no confessions made by persons in custody without the presence of a lawyer that are not confirmed before a judge are admissible as evidence against the persons who made the confession; Shift the burden of proof to the prosecution to prove beyond reasonable doubt that the confession was not obtained under any kind of duress; Judges, prosecutors and medical personnel should routinely ask persons arriving from police custody how they have been treated; Consider video and audio taping interrogations;**

**Regularly and following each transfer of a detainee undertake medical examinations;**

**Bring the legal safeguards for administrative detainees in line with international standards (limit to 48 hours, access to a lawyer etc.);**

**Ensure that the sound legal basis of the National Preventive Mechanism translates in its effective functioning in practice, including through allocation of budgetary and human resources.**

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<sup>37</sup> For more specific comments and recommendations see table in the appendix.

**(c) Institutional reforms**

**Continue and accelerate reforms of the prosecutor's office, the police and the penitentiary system with a view to transforming them into truly client-oriented bodies that operate transparently, including through modernized and demilitarized training; Strengthen the independence of the judiciary; make judges aware of their responsibilities with regard to torture prevention;**

**Conceive the system of execution of punishments and its legal framework in a way that truly aims at rehabilitation and reintegration of offenders, in particular through abolishing restrictive detention rules and maximizing contact with the outside world; Take further steps to improve food and access to health care; Strengthen further non-custodial measures before and after trial.**

**(d) Compensation and rehabilitation**

**Incorporate the right to reparation for victims of torture and ill-treatment into the domestic law together with clearly set-out enforcement mechanisms; lend full support to non-governmental institutions working on the rehabilitation of torture victims and protect the staff working for those institutions.**

**(e) Women**

**Ensure adequate funding for the existing infrastructure to support victims of domestic violence and trafficking and extend the network of centres providing psycho-social, legal and residential services to all parts of the country taking into account the increased vulnerability of women and girls in rural areas;**

**Establish specialized female law enforcement units;**

**Devise concrete mechanisms to implement the new Law on preventing and combating family violence in practice, including through a Plan of Action for its implementation and monitoring, including through allocation of adequate budgetary and human resources to relevant State bodies.**

**(f) Health-care facilities/psychiatric institutions**

**Consider ratifying the Convention on the Rights of Persons with Disabilities and ensure respect for the safeguards available to patients, in particular their right to free and informed consent in compliance with international standards (see also report A/63/175); Allocate funds necessary to reform the system of psychiatric treatment.**

**(g) Transnistrian region of the Republic of Moldova**

**In addition to the introduction and implementation of legal safeguards, such as *inter alia* the reduction of the length of police custody to a maximum of 48 hours and the medical examination of newly arrived detainees in places of detention, establish independent monitoring of places of detention; Criminalize torture and abolish the death**

**penalty de-jure. Stop immediately the practice of solitary confinement for persons sentenced to death and to life imprisonment.**

**(h) Recommendation to the international community**

**Support the efforts of the Republic of Moldova in reforming its criminal law system, in particular, the measures to strengthen the national preventive mechanisms in compliance with international standards;**

**Extend financial support to the modernisation of the prison system and technical cooperation, such as training for law enforcement officials;**

**In view of the transnational dimension of trafficking and the resulting shared responsibility among States, develop bilateral and transnational solutions to the problem.**

## Appendix I

### OVERVIEW OF OBSERVATIONS AND RECOMMENDATIONS

Issue	Situation observed	Recommendations
Length of police custody and regular transfers back to police custody	<ul style="list-style-type: none"> <li>Following the initial 72 hours in police custody, after which the person is to be brought before a judge, the CCP allows for a prolongation of 30 days up to 12 months to be decided by the investigating judge upon request of the prosecutor<sup>38</sup></li> <li>The Code of Police Ethics<sup>39</sup> stipulates that deprivation of liberty shall, if possible, be limited and applied by taking into consideration the vulnerability of each detainee and must be registered</li> <li>De-facto, most detainees are kept in police custody for several weeks/months and regularly return there for “further investigation” or for their trial or appeal, which makes them vulnerable to reprisals in the case they file complaint about ill-treatment</li> <li>Detainees are only transferred to pretrial facilities once the marks resulting from torture are not visible anymore</li> <li>Cells are not adapted for lengthy custody; detention amounts to inhuman and degrading treatment</li> </ul>	<ul style="list-style-type: none"> <li>As a matter of priority, reduce the length of police custody to maximum 48 hours in accordance to international standards; after this period the detainees should be transferred to a pretrial facility under a different authority, where no further unsupervised contact with the interrogators or investigators should be permitted</li> <li>Use alternatives to pretrial custody whenever possible</li> </ul>

<sup>38</sup> Article 186 (3).

<sup>39</sup> Article 18.

Issue	Situation observed	Recommendations
Evidence obtained under torture	<ul style="list-style-type: none"> <li>• Many allegations that confessions obtained under torture are not excluded as evidence during court proceedings, in contravention of the national legislation<sup>40</sup></li> <li>• Numerous reports that judges, prosecutors and other actors in the criminal law cycle routinely ignore allegations of torture</li> <li>• Although the law provides for the possibility to use tape or video recording during interrogations,<sup>41</sup> these tools are not used in practice</li> <li>• Burden of proof is on the victim</li> </ul>	<ul style="list-style-type: none"> <li>• Confessions made by persons in custody without the presence of a lawyer that are not confirmed before a judge shall not be admissible as evidence against the persons who made the confession</li> <li>• Serious consideration should be given to video and audio taping of interrogations, including of all persons present</li> <li>• The burden of proof should shift to the prosecution to prove beyond reasonable doubt that the confession was not obtained under any kind of duress</li> </ul>
Medical checks in detention	<ul style="list-style-type: none"> <li>• Paramedics are present in detention facilities of the police and the penitentiary system during working hours on weekdays, but the rules do not spell out when medical examinations should take place and so checks</li> <li>• Examinations are done only superficially; in some cases bruises or pain are registered, but no action is taken</li> <li>• The paramedics are employees of the penitentiary system respectively the police, and, therefore, lack independence</li> </ul>	<ul style="list-style-type: none"> <li>• Medical personnel are well-placed to contribute to preventing torture, since they would be able to record the state of health of all detainees who are often sent back and forth between the police custody facility and the pretrial detention centre, but examinations need to be done regularly and following each transfer of a detainee</li> </ul>

<sup>40</sup> Article 94 CCP.

<sup>41</sup> Article 115 (1) CCP.

Issue	Situation observed	Recommendations
Forensic medical expertise	<ul style="list-style-type: none"> <li>• In most cases of allegations of abuse, no forensic examinations are carried out</li> <li>• The examinations that are done, record the injuries (with a tendency to understate them, but do not assess how they were caused</li> <li>• The State Forensic Institute is underequipped</li> </ul>	<ul style="list-style-type: none"> <li>• Examination by an independent forensic expert should be carried out in respect of all allegations of ill-treatment</li> <li>• The Forensic institute should be equipped accordingly</li> <li>• Forensic experts inside and outside the Forensic Institute should be trained, including on their role in torture prevention</li> </ul>



Issue	Situation observed	Recommendations
Ex-officio investigation	<ul style="list-style-type: none"> <li>Although article 515 of the “Regulations on serving of sentences by convicted persons” requires doctors to inform the prosecutor of traces of potential torture, in reality this does not happen</li> <li>Also judges, prosecutors or penitentiary personnel hardly ever initiate investigations, even if there is medical or other evidence that torture was committed</li> </ul>	<ul style="list-style-type: none"> <li>The authorities have an obligation to proceed with a prompt and impartial investigation, wherever there is a reasonable ground to believe that act of torture or ill-treatment has been committed (Art 12 CAT)</li> <li>Judges, prosecutors and medical personnel should routinely ask persons arriving from police custody how they have been treated, and if they suspect that they have been subjected to ill-treatment, order an independent medical examination in accordance with the Istanbul Protocol, even in the absence of a formal complaint from the defendant</li> </ul>
Access to lawyers and legal aid	<ul style="list-style-type: none"> <li>Allegations that the confidentiality of meetings with lawyers is frequently not respected, although guaranteed by the CCP<sup>42</sup></li> <li>A State lawyer is assigned to practically every detainee; however, the SR received numerous complaints indicating that they are not effective and cooperate with the police</li> </ul>	<ul style="list-style-type: none"> <li>Confidential meetings with independent lawyers should be allowed from the initial stage of custody on</li> <li>SR recommends establishment of an effective and independent legal assistance network</li> </ul>

<sup>42</sup> Articles 64 (6) and 66 (6).

Issue	Situation observed	Recommendations
Safeguards for administrative detainees	<ul style="list-style-type: none"><li>• Fewer safeguards are foreseen for administrative detainees (e.g. detention without judicial order for up to 10 days; no access to lawyers for up to 30 days),<sup>43</sup> which allows the police to keep suspects in administrative detention without access to lawyers etc, and transform them into criminal suspects at a later stage</li></ul>	<ul style="list-style-type: none"><li>• The legal safeguards for administrative detainees should be improved</li><li>• Immediate access to a lawyer should be allowed</li><li>• Administrative police custody should be limited to 48 hours</li></ul>

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<sup>43</sup> Code on Administrative Offences.

## Appendix II

### PLACES OF DETENTION VISITED AND INTERVIEWS CONDUCTED

1. The Special Rapporteur conducted visits to detention facilities unannounced and was able to hold private interviews with detainees in all facilities he visited. If detainees did not wish that their interviews are recorded, the information provided is only reflected in the general findings of the report. Some detainees only agreed to an anonymous publication of their interviews. In its official response of 19 January 2009, the Government promised to thoroughly examine all the cases mentioned below.

#### **Rusca prison No. 7, penitentiary for women**

**(Visited on 5 July 2008)**

2. **General information:** The officer in charge who received the Special Rapporteur and provided general information was Antom Rotaru. 293 inmates were held at the time of the visit, among them 9 minors. 2 women on hunger strike were kept in the so-called “carcer”. Officer Rotaru informed the Special Rapporteur that the longest period a person could spend in solitary confinement in the “carcer” was seven days. The prison system provided for three regimes, namely the initial, joint and re-socialisation regimes. In the initial regime the detainees had to spend 3, 6 or 9 months confined to a cell for 23 hours per day. The length of the initial regime depended on the court sentence. At the time of the visit, 71 women were under the initial regime. A special regime of separation cells, similar to the initial regime, was put up for detainees who violated prison rules. Those sanctioned could be held in separation cells with four detainees for up to one year. However, according to the officer in charge, they were actually only held for six months. Under this regime only short term visits were permitted. The detainees were allowed to walk in a concrete courtyard for two hours per day. At the time of the visit children were not allowed to stay with their mothers, but a unit for mothers with children up to three years was under construction.

3. Prison staff was comprised of 11 officers, 26 sub-officers and 20 guards. 5 senior guards were male, the rest were female. Minors were held in separate cells but spent the days together with adults in the joint regime. The detainees had the right to receive 4 long-time visits (3 days) per year and 4 short-time visits every 3 months.

4. According to the doctor, all persons, upon arrival, underwent a general medical examination and were checked for HIV/AIDS and tuberculosis. Furthermore, there was a methadone programme available for drug addicts. A gynaecologist, a psychiatrist and a neuro-pathologist came twice a week to the prison, a dentist every day. Newly arrived detainees were put under quarantine for 15 days. The detainees received food three times per day.

5. According to information provided by the Government, the Department of Penitentiary Institutions, in cooperation with the Swiss Agency for Development and Cooperation, recently conducted renovation works in Rusca Prison. New medical facilities and a station of water purification were built.

6. **Natalia Shalamova**, aged 28, had been arrested when she was 21 years old and had spent 8 years in prison. After being transferred from the initial regime to the joint regime, she had an argument with the prison administration over a visit to the prison doctor and was put in a separation cell, where she spent six months. She then received a sanction and had to spend another six months in the separation cell. She was also locked into the “carcer” once for seven days in relation with a fight between detainees. While in separation regime, she was allowed to walk outside one hour in the morning and one in the afternoon. Detainees violating prison rules were generally sanctioned with one year in a separation cell. On the other hand, the initial regime was usually only used for two months due to lack of available cells. She often encountered difficulties when she wishes to see a prison doctor. Under criminal investigation it was normal to get beaten if one was suspected of a serious crime. She lost her child because of beatings during her interrogation.

7. **L.Z.** alleged that she had been beaten two weeks before the Special Rapporteur’s visit by the officer in charge, Antom Rotaru. She was ordered to go into her cell but stayed outside to finish her cigarette. The officer shouted at her and tried to hit her. One day later she was taken to his office, where he beat her violently. He hit her in the chest and on her head and twisted her arm. Another guard was in the room witnessing the beatings. She had bruises and still suffered from headaches. She was held in the separation cell because she suffered from mental problems and tried to commit suicide by slitting her veins. Because of her mental problems, she was constantly provoked and beaten and kicked by the male guards. The female guards never ill-treated her.

8. **Inga Tcaci**, aged 28, was arrested on 4 August 2004 at her home. On 9 August 2004, she was transferred to the SIZO of Bălți Prison No. 11. In the quarantine cell of the SIZO she was infected with tuberculosis, a skin disease and her eye-sight got impaired. Later she got pregnant from another inmate of the SIZO, where male and female detainees were kept together. On 27 October 2005 she was sentenced to 15 years imprisonment, which was reduced to seven years on appeal. From 6 March 2006 to September 2006 she was detained at Pruncul prison hospital since she had a difficult pregnancy and was still suffering from tuberculosis. On 7 November 2006 she gave birth to a boy in the SIZO of Bălți. The baby was taken from her and was living with his grandparents. Initially, the birth of the boy was not registered, but after she complained, a birth certificate was issued. On 13 June 2008 she was transferred to Rusca and put under quarantine. Since 23 June she was held in the “carcer” in solitary confinement for being on hunger strike. The reason for the hunger strike was that she wanted to be confined together with her child at Pruncul prison, where a special mother-and-child unit existed. If she wished to give up the hunger strike, she had to write a respective note. She regularly drank water but still felt very bad. A doctor came to see her two to three times per day and checked her blood pressure and gave her medication as well as injections. She had not been threatened with force feeding. Although she was told that she was not suffering from tuberculosis anymore she still felt some of the symptoms. Neither in the SIZO nor at Rusca Prison had she been ill-treated. However, in her view, the prison management of Bălți was responsible for her bad health condition since, since she had been infected with tuberculosis in the quarantine cell, where healthy and sick persons were detained together and the hygienic situation was dreadful. When in police detention in the

investigation department of Bălți, she was taken out of her cell at 9 p.m. and taken to an office where she was beaten by a policeman with his fists in order to make her confess to a second crime. She was beaten until 2 or 3 a.m. the next morning and then returned to her cell. The bruises only disappeared approximately one month later. She complained to the Helsinki Committee but never received an answer. She had also complained to the prosecutor's office for causing her diseases such as tuberculosis and an ulcer.

9. **Natalia Grigore Franco**, aged 25, was arrested on 7 June 2006 at Chişinău airport, handcuffed and transferred to Cahul where she was held for 15 days at the temporary isolator. She had to sleep on the floor. The toilet consisted of a bucket which had to be used in front of the other detainees. She then managed to bail herself out by paying 10'000 Lei. On 19 March 2007, she was found guilty of trafficking and sentenced to seven years of imprisonment. The first six weeks of her prison sentence she spent in the Cahul penitentiary institution. Then she was detained for two weeks at Penitentiary n. 13. Conditions of detention were better at Rusca Prison than in other detention facilities. The first nine months at Rusca Prison she was held in the initial regime and was allowed to leave her cell only for one hour a day.

10. **Female detainee**, was arrested in March 2004 and held at the police temporary isolator in Ocnita for 30 days. It was very dirty, dark and cold, there was no heating and a hole that they had to use as toilet. She had to sleep directly on the floor. She got a skin disease and was refused medical treatment. After 30 days she was transferred to Bălți SIZO, but she had to go back and forth between the SIZO and Ocnita police station. The prison is ok, but the water is very bad.

11. **Female detainee**, was arrested in September 2004 and held in Ocnita for 10 months, mostly on her own. At several occasions she lost consciousness and the doctors indicated that this was due to the lack of oxygen. The worst thing in the prison is that the women are forced to do hard work for two hours a day on the construction sites in the prison. Whereas their terms should be reduced in exchange for this, they effectively receive nothing. Furthermore, the conditional release system does not work.<sup>44</sup>

12. **Female detainee**, was arrested in Chişinău in 2003 and held in a police temporary isolator for three months. During interrogation, she was made to do the "sparrow" (handcuffed behind her back; her feet tied together with metal wire; and then suspended face down from a metal stick fixed between two chairs) for three hours and repeatedly beaten. She was not allowed to see anybody while the marks were visible.

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<sup>44</sup> The Government informed the Special Rapporteur that all construction work was realized by entrepreneurs with special qualification. Some women were involved in paid jobs, but the women were not forced to do construction work.

### **13. Shelter for victims of trafficking and domestic violence, Chişinău**

#### **14. (Visited on 5 July 2008)**

15. **Anna (Annushka)**, aged 22.<sup>45</sup> In November 2006 she was approached by a stranger in a park in Chişinău, who proposed to bring her abroad and provide her with work as a housekeeper and caretaker of elderly people. She suffered from diabetes and decided to take the offer because insulin was very expensive and she wanted to support her family by working abroad. She did not tell her parents and left with the stranger, two other men and one woman towards Poland in a minibus. At one stage they were running through the woods to Italy and then went by train to Switzerland, where the driver picked them up again. She was brought to Geneva and locked into a room in a house. The other woman was also locked into a different room. She was not given enough food or any insulin. She was locked in for several weeks. The man who initially approached her came and went regularly. He wanted her to work in a brothel, but she refused. Each time he came he beat her. She screamed for help, but to no avail. The door of the room was locked and the windows were barred. One day she decided to flee. When the man came into the room she hit him with a chair and escaped. She could not remember what happened afterwards. Eventually, she woke up on a park bench with a broken leg. A woman who found her took her to a hospital, where she stayed for three months. As a result of the lack of insulin she was losing her sight. When she was detained in the house she could still see, but later in hospital she had lost 50 per cent of her eye sight. On 15 February 2007, she was deported to Moldova where a representative of the shelter picked her up from the airport. The Red Cross had established the contact. After her return to Moldova she stayed with her family. However, her father was an alcoholic and when the grandmother started threatening her to hand over money which she thought Anna had earned in Switzerland, she decided to move out together with her 18 year old sister, who was now looking after her since she turned completely blind in November 2007. As a child she and her sister had often been beaten by their father when they tried to defend their mother. The shelter provided her with food and medical assistance and helped her with finding an apartment. She was still afraid that the man who had locked her into the house in Geneva might be looking for her.

16. **Two women and one girl** aged 9, from Dubasari (Transnistria). Upon the proposition of an unknown woman who offered them work in Turkey, the two women and the girl travelled to Turkey in 2005. Upon arrival in Turkey they were taken to a factory where they had to work from 8.30 a.m. to 12 p.m. every day. Their passports were taken away. They had no proper place to live, but slept in the factory under a table. In the evening the grandmother and the mother were sometimes forced to render sexual services. Under the pretext to make a copy of their passports they requested their documents and fled leaving all their belongings behind. In Istanbul, they found another factory which employed them for a salary of approximately 50 USD per month.

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<sup>45</sup> This case, among others, illustrates that, while in Moldova violence within the private sphere has been found the most prevalent form of abuse women face, the risk of such abuse and ill-treatment are particularly manifest in the context of irregular migration often intersecting with trafficking for the purposes of sexual and labour exploitation. Often women who are trafficked have previously been victims of domestic violence.

With the help of the wife of their chief in the factory they took the child, then 6 years old, back to Moldova since she was sick. The two women worked in the factory for nearly two years but could hardly survive. They were under complete control of their boss and were allowed to buy food only when accompanied by him. In the evenings they sometimes worked as prostitutes in order to earn enough money to survive. Eventually, they fled from the factory and stayed at a pension for three days. On the third day their boss found them and brought them back to the factory, where they were beaten up and forced to work for free. One of the women succeeded to call the police from a public phone. Consequently, everybody was arrested and the two women were taken to a shelter in Istanbul from which they were transferred to the shelter in Chişinău. The first two weeks after their return they stayed at their home with the child. Then they spent three weeks at the shelter in Chişinău where they were provided with clothing as well as medical and psychological treatment. In addition, the shelter supported them in reintegrating in Transnistria.

### **Bălţi police station**

**(Visited on 6 July 2008)**

17. **General information:** The Special Rapporteur was received by Mihail Matasari, Deputy Chief of Personnel and Education, and Serghei Juravets, Head of the Temporary Isolator. The temporary isolator, located in the basement of the building, consisted of eight cells. On the day of the visit only two cells were used; two persons were held in one of them and six persons in the other. The cells were not equipped with toilets, but only plastic buckets. There was no natural light, and no mattresses were provided to the detainees. Two times per day the detainees were allowed to go to a water closet outside the cells. Shower facilities were under construction but, thus far, the detainees could not take a shower, even if administrative detainees could be held for up to 30 days. Only following some discussions, the Special Rapporteur was also granted access to the three “detox cells” (used for holding intoxicated persons), where no detainee was held on the day of the visit.

18. In the course of the visit, the Special Rapporteur received allegations of acts of ill-treatment at the police station, notably in offices n. 13, 15 and 25 of the criminal investigation department. According to the information he received, the treatment consisted mostly of beatings or the “sparrow” (a detainee handcuffed behind his/her back; his/her feet tied together with metal wire and then suspended face down from a metal stick fixed between two chairs). A deputy chief of the police station conformed that the detainees could be interrogated in any room or office although Serghei Juravets had claimed that they were only interrogated in a special room in the basement close to the cells. Most of the victims were reportedly kept in detention in the temporary isolator until the bruises caused by the ill-treatment were no longer visible. The perpetrators mentioned by victims were officers Oleg Shuba and Serghei Vatricu.

19. **B.D.**, aged 46, was arrested on the same day by the railway police just after having left the prison. They beat him during the arrest with their fists on his kidneys. He indicated that the entire law-enforcement system was very corrupt.

**Bălți prison No. 11,  
Mainly pretrial, so-called “SIZO”**

**(Visited on 6 July 2008)**

20. **General information:** The Special Rapporteur was received by Director Teodor Pascaru. On the day of the visit the prison held a total of 445 inmates out of whom 15 were women and 12 minors (male). 280 persons were held in pretrial detention and 165 were convicted prisoners. Out of the 165 convicted prisoners 129 were held under the “initial regime” and 36 under the “joint regime”. Detainees in the initial regime were allowed to spend two hours per day outside their cells. The prisoners in the joint regime were in charge of maintenance of the prison. 6 detainees had tuberculosis and 10 were infected with HIV/AIDS. The prison had a total staff of 184, of whom 46 were women. The institution had two quarantine cells and six single cells used for punishment and isolation. Detainees could be held for up to 20 days in the punishment cell, minors only for a maximum of 10 days. About six weeks earlier, a detainee committed suicide in an isolation cell. He had been separated for smuggling drugs and money into the prison and hanged himself with his own trousers. In the course of the preceding six months, approximately 30 persons had been on hunger strike. In accordance with the CPC, hunger strikers had to be kept in separate cells until they give up the strike. In 2005, one person had to be force fed. Additionally, persons who were violating prison rules in other colonies were brought to Bălți Prison No. 11 for punishment.

21. Director Pascaru informed the Special Rapporteur that newly arrived detainees or detainees returning from police stations underwent a medical examination automatically. In the event that they carried bruises or marks, those were recorded, and internal investigations were initiated. In 2007, four or five such cases were recorded and, in the first half of 2008, two or three cases. Detainees were transferred to Bălți Prison from twelve different police stations in the region. The Director knew that people were afraid of being brought to the police station in Bălți because there were rumours that they were beaten up there. According to Director Pascaru, some of the detainees had serious wounds when they arrived from a police isolator but some also claimed that they have been tortured without being able to present any marks. In a few cases the doctor had registered torture marks, but then the detainee refused to file formal complaints needed for launching an internal investigation. Before the detainees were transferred to the SIZO, they stayed at police stations between 24 hours and one week, sometimes also longer. They were often brought to the SIZO and then taken back to the police station for another week. Interrogations could take place in a special building for investigations or directly at the police stations, where in his opinion more torture took place. He could think of only one case which was brought to the attention of the prosecutor a couple of years ago, but the allegations could not be substantiated.

22. The persons detained longest at Bălți Prison No. 11 had been there for eight years. In the SIZO, persons were held for up to 18 months.

23. **Ludmila Tibulico**, aged 35, was arrested at the market in Bălți, together with her husband on 15 June 2008 and taken to the police station in Bălți. The next day, she was interrogated by police officer Mr Plomadeala in the investigation room at the Criminal Investigation Section. During the interrogation she was beaten on her buttocks and her back with a rubber stick and a rubber pipe in order to make her confess. The ill-treatment caused bruises on her back. After she



confessed, she was released. After her release she went to the prosecutor in order to file a complaint because of the ill-treatment she was subjected to. Pursuant to her complaint, she was arrested again and detained for one week in the police station in Bălți. One week later she was transferred to the pretrial section (SIZO) of Bălți Prison. Upon arrival at the prison she underwent a medical check-up. However, by then the bruises caused by the ill-treatment were no longer visible. She made no allegations of any ill-treatment in the SIZO.

24. **Vasiili Proclan**, aged 44, convicted, had been in detention at Bălți prison for two years and three months. Prior to this, he had been held for 7 months in pretrial detention in Ocnita. In Ocnita, he was taken out of his cell and dragged along the corridor and beaten by the staff. He lodged a complaint with the prosecutor, but no action was taken. He made no allegations of ill-treatment at Bălți prison but informed the Special Rapporteur that he was currently on hunger strike, because the prison authorities had stopped to register complaints by detainees to national and international bodies or mechanisms since 1 June 2008.

25. **Vasile Dolgan**, aged 29, was arrested in 2004 and convicted to eight years' imprisonment, of which he had already served 3 years. He was brought to Bălți from Rezina prison the day before the visit of the Special Rapporteur without knowing the reason for his transfer. After his arrest he was tortured during his interrogation in Strașeni police station. He was suspended between a chair and a table in the "sparrow" position, with an iron stick put between his cuffed hands and feet behind his back. In this position he was left for two hours and repeatedly hit on the soles of his feet. Afterwards, he was brought back to his cell. The ill-treatment continued until he eventually confessed to a crime he had not committed. He complained to his State appointed lawyer, who did not take note of the complaint. He also asked for a doctor but was denied medical assistance. The first two years of his prison term he had spent in Chișinău; then one year in Rezina, where he had relatives. Although he did not complain of ill-treatment in Bălți Prison No. 11, he still wanted to be transferred back to Rezina.

26. **Detainee**, aged 30, was arrested three days before the visit in Bălți and taken to Bălți police station. At the time of arrest no violence was used and he was locked immediately into one of the basement cells. He stayed in the police station from 3 July, 5 p.m. to 4 July, 9 a.m. He was not questioned while in police detention. However, during an earlier arrest in May 2007, he had been severely tortured by police officers in Bălți police station. He was beaten with a screwdriver on his legs. He was hit and kicked in the chest and two times in his kidneys, and his head was banged against the wall. On the second floor of the criminal investigation department in Bălți he was electrocuted two times with a black tool with two electrodes. The torture took place from 9 p.m. to 3 a.m. One of the wounds got chronically infected. He showed clear handcuff marks on his wrist and first claimed that he tried to break the handcuff while being transported to the police station. When examined by the forensic expert, he disclosed that he had been suspended on the cuffs from the ceiling of a local police station for ten minutes. With regard to a large burning wound on his hand he claimed that he had burnt it accidentally on a heating device. He confessed to the crime he was suspected of because he could not stand the pain of the torture any longer. He had complained to the prosecutor of the ill-treatment, but the accused officer, Anatolii Bidiac, was acquitted.

27. **Slobodaniuk Veaceslav**, aged 58, was arrested on 23 February 2008 in Bălți and taken to the police station. There, five drunken police officers broke one of his ribs and his hand joint and seriously injured his knee. He could not see after the beatings because his eyes were completely

swollen. The beatings took place in an office on the second floor of the main building and lasted for one hour. He was beaten with bare hands and a rubber baton. One of the officers had been serving in Afghanistan and told him that he would now learn how the Afghan police was treating criminals. After the beatings he was hidden in a “detox cell” and in an office for six days until the swellings disappeared. He was not hospitalized. Only once transferred to the SIZO, he was helped by prison paramedics who took note of his injuries. However, he did not know whether these were reported anywhere. He had sent complaints to the Supreme Court and to diverse human rights organizations.

28. **A female detainee** alleged having been held in a psychiatric hospital and given injections for two months against her will. She was also held in police detention for six months in poor conditions (leaking toilet, no water to wash, insects everywhere, overcrowding, only 10 minutes of walk). She has an 18 months old child, who she had not been allowed to see for four months after her arrest.

### **Psychiatric hospital Bălți**

**(Visited on 6 July 2008)**

29. **General information:** The Special Rapporteur was received by Dr. Angela Donciuc, who provided the following information: The hospital hosted more than 700 patients, who were separated according to different regimes. Criminals with psychiatric impairments and persons with acute psychiatric problems had to undergo forced treatment in the most restraint regime. Forced treatment of criminals was based on a court decision and the length of the treatment was determined by the judge. In other cases, the maximum duration of treatment of children was 26 days, and of adults 35 days. Patients under forced treatment are under permanent supervision. The clinic did not use any physical restraint mechanisms; in case of violent behaviour or aggression, the patients received medication. Dr. Donciuc explained that no complaint mechanism was necessary since the patients did not complain. In the children’s section, 74 children up to the age of 18 were held at the time of the visit. According to the medical doctor of the team of the Special Rapporteur, who examined some of the patients’ dossier, including the children, receive a very high daily dose of tranquilizer. The closed ward was in a deplorable state where the patients appeared to be in apathy, owing to extensive use of medication.

### **Cimișlia police station**

**(Visited on 7 July 2008)**

30. **General information:** The Special Rapporteur was received by the Commissioner, Lieutenant Colonel Grigore Andrei Copiimulti, and the chief of the temporary isolator, Oleg Casaiman. The police station had eight cells. On the day of the visit, three persons were kept in custody in three different cells. The Special Rapporteur received complaints about the quantity and quality of food and the short time detainees were allowed to be in the courtyard. The detainees had a bucket in their cells and were taken to a proper toilet once a day. Detainees were allowed to receive visits.

31. **Detainee** was arrested in Cimișlia city on 29 April 2008 by the police for being involved in a fight. He was informed of the charges against him and no violence was used during arrest. He

was first brought to the police station in Cimişlia and later transferred to Cahul Prison. Since his arrest he had been transferred back to Cimişlia twice because the prosecutor needed to see him for investigation. The conditions of detention were much better in Cahul Prison. All together, he was in Cahul Prison twice for 10 days each. The rest of the time in detention he had spent in the police station. He was allowed to walk in the police station's courtyard for about 5 to 10 minutes per day. Sometimes he was detained with others, but mostly he was alone in his cell. For lunch he received soup and porridge; he did not get any food from his family. Since his arrest he had lost 20 kilograms and was in a permanent state of hunger. He had a State appointed lawyer whom he did not trust. His court hearings had been postponed twice; he saw a judge the first time after his arrest in mid-June. His file was only written in Latin script, which he did not understand. The interrogator treated him well and the guards were also friendly.

32. **Detainee** was arrested by the police about one month before the Special Rapporteur's visit in Căuşeni district at work. No force was used during his arrest. His initial detention was prolonged by the judge first for 3 days and later for 10 respectively 20 days. He was not properly questioned but only asked for a confession which he could not give. He was well treated by the police officers and guards. He still suffered from an older stabbing wound and an operation in his abdomen but did not receive any medication for the pain. He was allowed to walk outside for half an hour per day.

33. **Detainee** was arrested by the police on 8 May 2008 in Cimişlia. Since that day, he had been held in detention at the police station. The detention was prolonged by a judge several times. The detainee made no allegations of ill-treatment, but said he lacked a blanket to protect him during cold days. He was taken out of the cell to a small outdoor courtyard for 20 to 30 minutes per day and to take a shower every second day. The last 24 days he had spent alone in his cell and said that he suffered from the solitude. From 1996 to 2005 the detainee already served a prison sentence of nine years in Cricova Colony and Goieni Colony. In February 2007, he was arrested again and taken to Cimişlia police station. At that time, he was taken to an office in the police station and was handcuffed behind his back. Then his hands and arms were forcefully pushed upward by a police man; a movement which caused him pain in his shoulders.

#### **Comrat police station**

**(Visited on 7 July 2008)**

34. **General information:** The Special Rapporteur was received by Commissioner Vasiliu Stoianiglo. Four cells were located in the police station's basement. The cells were dark and badly ventilated. On the day of the visit, five detainees were held in two different cells. Another person who obviously suffered from a psychiatric impairment was locked into a single cell. The guards explained that that man was brought to the police station on a regular basis and was administratively detained for 15 days every time. All detainees interviewed by the Special Rapporteur declared that they had no right to visits, which was confirmed by the Commissioner. They were allowed to walk in a caged yard for one hour per day. They could use the toilet one or two times per day. Otherwise they had to use a bucket in the cell without any privacy. The detainees claimed that they received food one time per day at lunch time and were otherwise dependent on food parcels from their family. However, the Commissioner told the Rapporteur that the detainees received food three times per day. Whereas the Special Rapporteur received consistent allegations of beatings at Comrat police station, notably by Nicolai Arnaut,

Ivan Cristoglo, Andrei Aladov and in particular Andrei Sirkeli or Sercheli, the Commissioner had not received any complaints of ill-treatment from the detainees.

35. **Roma Kiaroglo**, aged 21, was arrested on 12 January 2008 in Ceadar Lunga by the police, near his house. He was brought to the police station of Ceadar Lunga where he was interrogated in several offices by a total of seven police officers in civilian clothes from 4 p.m. to 1 a.m. During that time, he was beaten with fists and with baseball bats wrapped in cloth on his head to make him confess to a crime which he had not committed. The beatings caused severe pain and a small deformation on his head. After nine hours of ill-treatment Roma Kiaroglo partly confessed to the crime. At 1 a.m. he was put in a car and driven to a forest, where he was taken out of the car and handcuffed. A dark plastic bag was put over his head, which was closed with a band around his neck. In this position electroshock was applied to his genitals. Since he could not see anything because of the dark plastic bag over his head, he could not say which instrument was used for the electrocuting. He was then driven to the police stations of Comrat, Bessarabesca, Taraclia and back to Ceadar Lunga at 6 a.m. in the morning. In each police station he was put into an office or a cell and left alone for some time. Between the stops at the police stations he was tortured several times by the above-described methods either in the car or in forests. He saw a State lawyer at 1 a.m. and at 6 a.m. in the morning in Ceadar Lunga, where he finally confessed. He was held in custody for four days at the police station in Ceadar Lunga and then transferred to the police station in Comrat. On 15 February he was transferred to Penitentiary n. 13 in Chişinău, where he was held for another four days. He was subsequently transferred to the Psychiatric Institution Costiujeni, officially in order to check if he suffered from any psychiatric impairment. After his three-week long detention there, he was held for another four days in Chişinău. On 7 March, he was transferred back to Comrat Police Station. On 28 March he was taken to Cahul Penitentiary, where he was detained in the SIZO until 18 April. On that day he was transferred again to Comrat police station where he was detained in the basement for another 90 days. On 4 July 2008 he was convicted to 28 years of imprisonment. He informed the Special Rapporteur that he would be transferred the following day to Cahul Penitentiary Institution where he would serve his sentence. With the help of his third lawyer, whom he hired privately, Roma Kiaroglo lodged a complaint with the prosecutor regarding the torture he was subjected to on 22 and 23 January. The complaint was not taken up for lack of evidence. During the five months terms he had spent in police custody and pretrial detention, his mother was allowed to visit him once for one hour at Cahul penitentiary institution in May. Roma Kiaroglo wrote his mother ten letters which he gave to the police or the prison authorities; but none of the letters reached her. His mother was allowed to send him clothes and food. The findings of the forensic expert of the team of the Special Rapporteur fully corroborated the allegation of electrocuting on the genitals with medical evidence.

36. **Detainee**, aged 18, was arrested by the police in the street in Ceadar Lunga in January 2008. During the arrest, no force was used. He was taken to Ceadar Lunga police station, where he was held for six days. During his interrogation in Ceadar Lunga, he was beaten by an unknown number of police officers and forced to confess. He was hit with a baseball bat wrapped in a cloth on his legs, back, head, arms and hands. He was forced to kneel on a chair so that the officers could beat him on his soles. Additionally, he was beaten through a black folder placed on his head. He was threatened with being taken outside to the woods and beaten even stronger if he did not confess. The police officers showed him pictures and told him what to say until he finally confessed. The beating went on for nine hours at night in an office of the criminal

police. Later he was returned to his cell but was not allowed to see a doctor. Six days after his arrest, he was transferred to Comrat, where a doctor saw him but did not examine his body properly. He told the doctor of the ill-treatment, but the man did not react and told him that everything was alright. During this 15 minute examination police officers were present. Only when the signs of torture had disappeared, he was taken to the hospital. Although he was also interrogated in Comrat, he was not ill-treated there. He was transferred back and forth from Cahul Penitentiary several times. He was finally convicted in July 2008 for a crime which he had not committed. In addition, he was only 17 when the crime was committed. At Comrat police station he was awaiting his appeal trial. A State appointed lawyer was assigned to him, but he was not very helpful. He also complained to the judge and the prosecutor about the ill-treatment, but both refused to act.

37. **Ruslan Chindighilean**, aged 17, was arrested by police wearing civilian clothes on 7 February 2008 in the street in Comrat. He was beaten during the arrest and some marihuana was placed in his pocket. He was also beaten during the interrogation in order to make him confess, but he managed to run away. On 7 April 2008, he was again arrested and taken to Comrat police station. He was interrogated for ten minutes and beaten. The beatings first took place in office no. 6 on the 2<sup>nd</sup> floor. He was punched and kicked and told that he should not expect any mercy. A number of criminal police officers in civilian clothes went in and out and participated in the beatings. The officers also used folders to beat him and forced him to stand in a stress position for 15 or 20 minutes. Additionally, he was threatened that he would be taken to the forest or the field and that a plastic bag would be put over his head or that he would be electrocuted. A friend of his had been electrocuted in Comrat in February. At night he was brought to a cell in the basement. After half an hour the officers came back and beat him in the cell. Since his second arrest in April he spent more than two months in the police station and around 20 days in Cahul prison. He confessed to a theft because of the beatings. He did not complain to anyone because he did not know that he could do so. He had a State appointed lawyer who did not care about his case.

38. **Gheorghe Mihni**, aged 24, was arrested on 19 April 2008 and taken to Comrat police station. Except for ten days, when he was detained in Cahul Prison, he was always held in the police station. During the month of April he was interrogated by criminal police officers in an office on the second floor of the building. Every Saturday and Sunday, he was questioned and threatened in order to force him to confess. He was beaten all over his body with diverse tools, such as a rubber stick and a baseball bat. His head was banged against a metal safe. He was threatened with electroshocks and was shown the electroshock device they threatened to use on him outside the police station in the woods. Additionally, he was told that he would be beaten with a metal bar and that a bottle would be inserted into his anus. When he could not take it anymore, he tried to commit suicide by slitting his wrist and throat. For the suicide attempt he used a razor blade smuggled into the cell. When he was found in the morning, the Commissioner told him to say that he had used a piece of broken window glass because the guards would get into trouble for not detecting the razor blade. However, he told the doctor who sewed him what really happened. He also complained to the Centre of Human Rights while being detained in Cahul about one month ago and he was expecting an answer. He was waiting to be taken back to Cahul prison in order to complain again because he did not dare to while in police custody. He had a State appointed lawyer who he had never seen. The conditions of detention were much better in Cahul Prison. When he was transferred to Cahul prison he still bore marks and bruises

of the torture. The prison doctor registered the bruises without taking any action. When he showed the scars of his suicide attempt to the prison staff, they asked whether he had been beaten so severely in Comrat that he had to slit his veins. He concluded that everyone gets beaten in Comrat police station.

**Penitentiary institution n. 13, Chişinău**  
**Mainly pretrial detention, so-called “SIZO”**  
**(Visited on 8 July 2008)**

39. **General information:** The prison was built in 1846 and is the oldest prison in Moldova. The Special Rapporteur was received by the director of the prison, Victor Petrachi. On the day of the visit, the pretrial penitentiary institution held a total of 931 detainees, of whom 74 were women and 37 (male) minors. The institution had a quarantine section and a hospital. 66 detainees were hospitalized, of whom 25 were infected with tuberculosis; two of them were younger than 18. The latter were separated from adults. Furthermore, one person was being held in the “carcer”. Persons on hunger strike were automatically put in isolation cells and checked by a doctor on a daily basis. 2 persons died in detention in 2007. The total number of staff was 243, of whom 88 women. The staff included 22 persons with a para-medical education. The penitentiary would need another 40 persons to reach the full number of staff required. One guard who had pushed a detainee had received an official warning, and his salary was reduced for one year. Upon arrival at the penitentiary institution, detainees underwent a medical examination. If a detainee has bruises that might result from ill-treatment or torture, a special report has to be submitted to the prosecutor’s office. The director observed that detainees often did not complain of police torture when they had bruises, but rather indicated that they had had an accident. In 2008, there were no explicit complaints of police torture, although the director did not believe that this meant that there was no torture happening in police stations.

40. Depending on the permission of a judge, detainees could receive visitors. Adults were allowed to walk outside in the yard one hour per day, minors two hours. In the quarantine cells, which had no natural light, the electricity was turned off for four hours per day, so that the detainees were in almost complete darkness. The Special Rapporteur welcomes the decision taken by the Government to close prison No. 13 and to build a new prison outside Chişinău instead.

41. **Women sector:** The female detainees reported that they had not experienced any problem with male officers working in the female department. Generally, they were allowed to take a shower once a week and go out of the cell in a small outdoor yard for two hours a day. They could receive a visitor once per month for one hour. Most of the women had children, some very young, but they had not seen them for up to several months. Many women did not even know where their children were. The Special Rapporteur was informed that children of female detainees were generally taken to orphanages.

42. **Veronica Codreanu**, aged 19, was arrested on 23 February 2008 in the street in Chişinău and brought to the Police Headquarters, where she was detained for one week in a cell with other detained female minors. During the interrogation, which lasted eight hours, she was threatened and told what she had to confess. She was not allowed to attend the funeral of her mother who died while she was in detention. The prosecutor and the State lawyer reportedly addressed her in an aggressive way. She alleged that the prosecutor said “I will put you in jail anyway”. After one

week she was transferred to Penitentiary Institution No. 13. She made no allegations of ill-treatment within the Penitentiary Institution.

43. **E.S.**, aged 43, was arrested on 20 November 2007 in Chişinău. While she was in police custody at the Central police station, she received a small portion of food only once per day. During her interrogation she was subjected to psychological pressure. She was sentenced after spending twice 30 days in police custody, but received the verdict only in Moldovan, which she did not understand. She sent it back asking for translation into Russian. Regarding Penitentiary Institution n. 13, she was unhappy with the quality of the food and complained about lack of access to health care, in particular she did not get the medicine she needed against hypertension.

44. **Sergiu Bulgaru**, aged 30, was arrested together with a young woman by Ukrainian border guards following an Interpol search in Ukraine two years earlier. He was searched by the police because they suspected him of having kidnapped the young woman accompanying him and hiding her in his house in Tiraspol. Furthermore, he was suspected of having planned to kill her parents who were living in Chişinău. However, Sergiu Bulgaru denied these allegations and said that this story was fabricated by the Moldovan police who convinced the young woman to play the role of the victim. From Ukraine, he was brought to the Department for the Fight against Organized Crime detention centre in Tiraspol by a Moldovan police officer, Victor Alexeiov, and an officer of the Transnistrian militia. On that same evening he was taken to room n. 13 of the Department for the Fight against Organized Crime detention centre, where he was beaten on his chest by Viktor Alexeiov and another person for two hours in order to extort a confession. On the second day, he was brought again to room 13 by Viktor Alexeiov and the director of the Department for the Fight against Organized Crime, Eduard Mova. He was handcuffed behind his back and his feet were tied together behind his back with a metal wire. A metal bar similar to a coat hanger was passed under his arms and feet and his body was suspended in this position for 90 minutes. It seemed to him that the metal bar had been used for the same purpose before, as there was a permanent fixation system on the wall. Sergiu Bulgaru lost consciousness twice. After having been subjected to this treatment, he confessed to what they asked him. One week later, he was transferred to the detention centre at Police Headquarters in Chişinău by Viktor Alexeiov. He was taken to room n. 5 on the second floor, where he was handcuffed behind his back and had his feet tied together with a wire. In this position he was suspended on a metal bar which was fixed between two tables. Furthermore, a dark hood was put on this head so that he could not see anything. Viktor Alexeiov put his foot on his back pressing his body towards the floor. Sergiu Bulgaru was detained in cell n. 5 of the detention centre at Police Headquarters in Chişinău for about a month. He had no clothes except shorts and a T-shirt and was therefore suffering from the cold in the cell. For this reason he started a hunger strike. The prosecutor told him: "We do not care about your hunger strike." Beginning of September 2006, Sergiu Bulgaru was transferred to Penitentiary n. 13. The prosecutor, Ion Matusenco, came several times to see him in prison and threatened him in order to prevent him from complaining about the torture and ill-treatment he had been subjected to. He told Sergiu Bulgaru that the victim had connections to the Minister of Justice; so if he complained, Sergiu Bulgaru's sister (resident in Bender) would get problems. Sergiu Bulgaru made no allegations of ill-treatment in Penitentiary n. 13, but complained about the horrible conditions of detention. Together with two other inmates he was detained in a small and dark cell in the basement. The very unhygienic shower and toilet were located in the cell. Sergiu Bulgaru was convicted to 20 years of imprisonment and was currently appealing the second instance decision.

45. **Detainee**, aged 26, tuberculosis section, said that he was infected with tuberculosis in the detention facility, like many others. He was treated with Isoniazid and Rifampin, both of which were not effective. The last x-ray and blood test had taken place about three months earlier.

46. **Pavel Danilescu**, aged 53, was arrested on 7 December 2007 and taken to Buiucani police station. Subsequently, he was transferred several times between the detention facilities at Police Headquarters and Buiucani, where he had to stay during the day. In Buiucani he was beaten and not given any food the whole day. A uniformed officer kicked and punched him in his back so that two disks of his spine were dislocated and he had hematomas on his back. He was also beaten on the head with a full plastic bottle. Additionally, the police officer kicked him with a military boot into his Achilles tendon. The ill-treatment took place in an office. He did not confess to anything and was taken downstairs where he was beaten again by two operative workers. On the fifth day he was given a lawyer who advised him to pay € 1.000 to the victims, which he did. He should also have paid € 1.500 to the police officer, but he refused to do so. After his release on 12 December he complained to the prosecutor's, who sent him to do a forensic examination. However, because he could not walk, he had to wait until January before he could see the forensic expert. The doctor confirmed and documented that he had been beaten and forwarded the documentation to the prosecutor. However, the prosecutor stated that the evidence was not sufficient and that the case had therefore been closed. He also complained to the Centre for Combating Economic Crimes and Corruption.

47. **Grigore Dimitri Terentiev**, aged 32, was arrested in Cahul on 19 March 2003 at 10 p.m. and was taken to Cimișlia police station. On the next day he was tortured in office n. 10 and in the office of the deputy commissioner. First he was forced to drink vodka and then taken to a hospital to prove that he was drunk. He was beaten and punched with fists against his head, chest and abdomen for two days. On the second day he was beaten so severely that one of his ribs broke. Between the beatings he was taken back to his cell. The officers responsible for the torture were Deputy Commissioner Buțanu, Head of Criminal Investigation, Serghei Pavel Dodică and Criminal Investigator, Mihail Vechiu. Due to the torture he finally confessed to homicide. The rib was not healing well and hurt for a while. More recently it only hurt when he was doing sports. He complained to the prosecutor of the ill-treatment.

48. **Vyacheslav Caraus**, aged 43, was arrested on 21 February 2003 in Soroka. He was initially detained at the Ministry of Interior's Department for the Fight against Organized Crime, where he was severely ill-treated in several offices, including through beatings and electroshocks with the aim of obtaining information and confessions. As a result he had broken fingers and teeth. He had written numerous complaints to many different actors and his case had been sent back for re-trial. The conditions of detention in Penitentiary n. 13 were poor, mainly because of the over-crowding. His cell was located in the basement and was so bad that they were allowed additional walking time.

49. **Detainee** alleged that there was a general prohibition for detainees to talk with members of the "commission" who visited the penitentiary institutions every month. Before visits by commissioners, the inmates received a boiled egg, 50 g of butter and one potato in addition to their usual food. Also, walls were normally freshly painted, and one or two cells restored. However, the declarations made by the staff to the visitors were not followed by actions. He alleged that the cells in SIZO n. 13 were unhygienic without any windows and with an open toilet in a corner of the room. The situation was further exacerbated by the fact, that detainees



were allowed to leave their cells for only one hour per day, which they spend in a 20 m<sup>2</sup> yard surrounded by 4 m high walls. In addition, access to medicine and medical treatment was severely restricted and, because of lack of space, persons who were in good health were sometimes detained together with patients sick with tuberculosis. He himself had been held in pretrial detention for three years, and pretrial periods were often extremely long. One of the things he found worst was the way of transporting detainees back and forth from the SIZO to the courts: 15-20 persons were forced into a 1,5m x 1,5m box fixed to a truck. Inmates violating prison rules were punished by detention in underground cells, called “catacomb” or “carcer”. In addition, violators were often subjected to punching and kicking with boots by officers from the “Special Force Department”. He himself was beaten six times and forced to wear a gas mask filled with smoke; electroshocks were applied to his genitals and legs five times. The ill-treatment took place in the Central police station in Chişinău, over 34 days. After that period he was transferred to a hospital for seven months. Within the prison colonies in Moldova there was a strict hierarchy between prisoners. The power was in the hands of organized criminal groups, with the inmates lowest in the hierarchy being obliged to do the dirty jobs in prisons, such as cleaning toilets etc. In Cricova colony for example, the “chiefs” had full control over the 600 inmates working in a shoe factory within the prison and obliged them to pay 20 per cent of their salary to the “bank of the organized crime group”, the so-called “abchak”. In his opinion, the hierarchy of prisoners was inherited from the Soviet past and many suicides of prison inmates originated from the suffering resulting from it. Violence against detainees by police and prison staff was the norm rather than the exception. However, the large majority of complaints against police and prison officers filed with the General Prosecutor were declared ill-founded and dismissed - even if evidence was provided. The large amount of European Court of Human Rights cases under article 3 that Moldova lost had not led to any change in the situation. No police or prison officer had been put behind bars for having committed acts of torture. On the contrary, police and prison officers were often promoted. “Thousands of complaints (against police officers) are stuck on the desks of prosecutors who are more interested in imprisoning some poor boys who have stolen a mobile phone.”

### **Rezina penitentiary institution No. 17**

**(Visited on 8 July 2008)**

50. **General information:** The Special Rapporteur was received by Director Alexandru Ceban, and one chief of bloc, Oleg Sergin Dudvic. On the day of the visit, there were 399 inmates, 85 of whom sentenced to life imprisonment. They were kept in cells with three other “lifers”, but they could be transferred to other cells if they wished. According to security rules, three senior staff members had to be present every time their cell door was opened. 46 detainees were held in pretrial detention; of whom two were women and three (male) minors. 49 persons were in the tuberculosis unit of the prison hospital. Persons sentenced to life or long term imprisonment were held in a special high security wing. When questioned whether there had been any incidents in the course of 2008, the Director told the Special Rapporteur that no major incidents had happened. Confronted with the findings and allegations of excessive use of force by prison guards in the prison hospital of 4 July 2008 collected during the visit, the Director said that he did not consider this a serious incident. He further explained that one of the guards was pushed from the back and hit with a chair on his back during a search for an illegal cell phone. He had to be hospitalized because of the injuries caused by this attack. The Head of the Security Service was reportedly also hit by a chair. This unrest, which, according to the

Director, was confined to one room, lasted approximately one hour and was stopped with the help of rubber sticks by the security prison guards. The Director reportedly called the ambulance for the injured prison guard and notified the prosecutor. Seven detainees complained about the use of force and were seen by a doctor. The Director could not recall any complaints of rotten food as reported by the detainees. (See below an account of these events by several detainees.)

51. The Government informed the Special Rapporteur that the incident occurred during an unannounced body search by the prison guards in the prison hospital. The prisoners refused to cooperate and tried to prevent the prison guards from removing their cellular phones which are prohibited in the prison. Two staff members were hit and injured by the prisoners with furniture items. One of them, the Deputy Chief of the Penitentiary Institution, had to be treated in hospital. The guards used rubber batons and handcuffs to take control over the situation. The Department of Penitentiary Institutions, the Ministry of Interior, as well as the Prosecutor's office of Rezina District were informed of the case. Two criminal investigations were launched by the police regarding the incident.

52. **Female detainee**, was arrested in 2005 in Orhei. Following her arrest, she was beaten with fists by seven policemen for about 30 minutes. She did not have access to drinking water for the entire first day. She complained to her State-assigned lawyer and the prosecutor, but to no avail. In the prison, no female guards were present and the food was of bad quality, but otherwise she had no complaints.

53. **Minor's cell**: Three boys of 16 years and one young adult of 18 years were held together in a cell. The four boys only had one bunk bed (two beds). They said that they had two bunk beds before, but decided to remove one of them in order to have more space in the small cell. The cell was furnished with a TV and DVD player, for which their families had paid. They were allowed to go outside for one hour in the morning and one hour in the afternoon. During these two hours they could mix with adult detainees. They did not experience any problems with the other detainees and made no allegations of ill-treatment in the penitentiary institution in Rezina. The four detainees had previously been held in different police stations, where the conditions were poor, especially the food and the low temperatures. One boy indicated that, while in police custody, he had had no blanket to cover himself in spite of the fact that it was winter. Another one said that he had been held in solitary confinement for many days in a row and saw only his mother and a lawyer once in a while. The boys also said that the police often does not respect the one hour exercise time and shortens it to ten or fifteen minutes. Some of them had also been to the educational colony for minors in Lipcani.

54. **Detainee**, minor, was held at Rezina police station after his arrest in May 2008 for periods of 10, 5 and 3 days. On the first and second days, three respectively two policemen beat him with fists and kicked him in his face, ribs and on his back, so that he had bruises and a swollen face. As a result, he partly confessed to the crime. He was not examined by a doctor and has not complained, but he still feels pain in his breast. He will have to go back to the same police station during his appeal.

55. **Detainee**, had been held in the re-education colony for minors in Lipcani for one month. For ten days he was locked up in the quarantine cell of the institution and was only allowed out for 3 times 5 minutes per day. Artificial light was switched on for 24 hours in his cell. He was beaten up by prison guards several times in front of other detainees. This seemed to be standard

practice in the institution and was reportedly called “playing football” since the prison guards kicked the boys lying on the floor. The minors detained in Lipcani were also subjected to forced labour such as sweeping and washing the floor etc. If they refused to do so, they were beaten. He referred to the educational colony as the “school for future detainees”, where minors were prepared for detention rules in penitentiary institutions for adults.

56. **Grigore Irofti**, aged 40, was arrested on 17 March 1990 and convicted to death for homicide in November 1990, still under the former Soviet Union. The police had locked him into an iron cage resembling a safe, which they then hit with a metal object until he confessed. He was summarily convicted with four other persons. Until his sentence was commuted into a life sentence in December 1994, he spent his term in Chişinău Prison No 13 on death row. Only in 2002, he was transferred to Rezina prison. During the time in Penitentiary No 13 he was continuously locked into a basement cell without light or air. If his death sentence had been commuted in 1994 in accordance with the original law, which had been the basis of his conviction, he would have received a term not exceeding 15 years. However, a later amendment to the criminal code was retroactively applied and the death penalty was commuted into a life sentence. In general he had no complaints against the prison management of Rezina Prison and found it rather pleasant in comparison with Penitentiary No 13 in Chişinău.

57. **Detainees (tuberculosis unit)** informed the Rapporteur that a few days before the visit they had been given rotten fish to eat. When they asked for fresh food, they were beaten up by the guards on 4 July 2008. The officer in charge was beating detainees with a hammer. Following this, a team came into the rooms with sticks and batons in order to conduct a search. The detainees were thrown out of their beds and beaten. The guards wore masks, so they could not be recognized. After the incident a doctor came to record the detainees’ injuries. The detainees also informed the Special Rapporteur that in March one man died of tuberculosis and diabetes because he was not given enough medicine and was not allowed to leave the prison to go to hospital.

58. **Vosile Ivan Costiuc**, aged 30 years, said that, when he was sleeping in the morning of 4 July 2008, suddenly 15 to 20 guards stormed into his room with batons and a wooden hammer. They tore his sheet off and threw him into the corridor outside the room where they kicked and beat him. The guards were also stepping on his back and leg with their boots. He was beaten with rubber batons and saw a guard with a wooden hammer, which, however, was not used on him. After the incident he asked for a doctor and the prison physician examined him and recorded his injuries. However, the doctor refused to hand over the document when asked for it. The prosecutor was notified. The day before the visit of the Special Rapporteur the Parliamentary Advocate came for an inspection. Mr. Costiuc could not identify the guards because they were wearing masks. He thought that the reason for the beatings was that the detainees had complained about rotten fish. He had been detained in Rezina for three years but had never experienced anything similar. The guards sometimes conducted searches for illegal objects.

59. **Vitalii Pashkov**, aged 36, reported that he was accommodated in the room next to the entrance. He was among the first ones to be beaten on 4 July 2008. He was outside his room when guards hit him with a wooden hammer on the back of his knees so that he fell down. Two guards were holding his shoulders while a third one struck him with the hammer. He was also beaten three or four times with a baton all over his body except for his head.

60. **Stepan Firnachi** was sleeping in his room on the second floor of the building on 4 July 2008, when he was taken out of bed and pushed into the corridor. The guards shouted at him to get up because they were conducting a search. He was beaten with a baton and a wooden hammer on his legs, arms and back. There were many guards but only four of them threw him out of bed and beat him. He saw four guards with wooden hammers; the remaining ones used rubber batons. It was not unusual for the guards to conduct a search, but it was the first time that they used violence in order to clear the rooms for the search. He did not know why the detainees were beaten. The Deputy Director of the prison was involved in the beatings and the Director too saw what was happening. After the incident the Parliamentary Advocate came and talked to some of the detainees. He took photos of the rotten fish. Only the prison doctor examined the detainees and took photos of the beating marks. Mr. Firnachi has been detained in Rezina for two years. Some of the guards were friendly and some were not. He could go to the caged yard for a walk and could also receive visitors for short visits of about one hour. He was administered Analgin and Dimitrol.

61. The above allegations of beatings with sticks were partly confirmed by the Special Rapporteur's forensic expert.

### **Transnistrian region of the Republic of Moldova**

62. The Prison Administration informed the Special Rapporteur that there were five pre- and post-trial institutions in the Transnistrian Region, which covered all types of regimes from super-high-security to open prisons and one colony for minors. On 1 January 2008, a total of 3487 persons were held in these institutions, up from 2533 in 1998. Persons sentenced to death or life-imprisonment, according to the law, have to be held in single cells all the time. They may receive visits (three short - up to four hours, and one long-term - up to three days per year), but they remain handcuffed when somebody is with them. The penitentiary system in the Transnistrian Region of the Republic of Moldova had been transferred from the Ministry of Interior to the Ministry of Justice in 2000. The salary of a prison director was about 220 USD; that of a guard was about 140 USD.

#### **Hlinaia penitentiary institution No. 1 (Transnistria)**

**(Visited on 9 July 2008)**

63. **General information:** The colony consists of several buildings and large cultivated fields. Some of the facilities are in good condition and the visiting facilities are of a high standard. The Special Rapporteur was received by the Director of the colony, Yuri Alexeevich Mokryak. Prisoners informed the Special Rapporteur that they had expected the visit for several days and that, in preparation of his visit, the walls had been newly painted. Prisoners had to work in the fields for eight hours per day. If they refused to work, they were put in the punishment cells, the so-called "carcer" (see also description below).

64. **Detainee**, aged 23, was arrested in Bender by the Militia on 4 September 2004. He was taken to a militia post. During the interrogation he was beaten with a plastic bottle filled with water on his head, and also on his body by several militia officers. He was held in the pretrial detention facility (SIZO) in Tiraspol and transferred to Hlinaia Colony No.1 after his conviction. On the day of the visit, he was held in a punishment cell together with two other detainees. They

were reportedly allowed to go outdoors for one hour per day. No showers were allowed during detention in the punishment cell. The detainee reported that he suffered from amblyopia and was afraid that he would completely lose his sight while in prison since he could not get adequate medical treatment. The detainee did not make any allegations of ill-treatment within the colony.

65. **Detainee**, aged 34, was arrested on 10 January 2008 by prison guards while working inside the penitentiary in the framework of a compulsory treatment against alcoholism. He received an eight month sentence for possession of marihuana. Since the morning of the visit he had been in a punishment cell because he did not stand up when prison staff went by. To his knowledge the guards did not beat inmates. In general he had no complaints about the food, but he had not received any food on the day of the visit. The medical care was not sufficient. He was told before that an inspection of an international organization would come for a visit and was advised not to complain about the prison administration but to speak solely about personal problems. However, he had not been threatened.

### **Investigation isolator No. 1, Hlinaia (Transnistria)**

**(Visited on 9 July 2008)**

66. **General information:** The prison appeared clean and well kept. Persons condemned to death and life imprisonment were detained in a special high security unit. The medical facilities were deficient in terms of available medication and medical equipment. Medical registers were also poorly kept. The staffing level seemed to be adequate.

67. **Anna Koheba**, aged 29, and **Onora Kometoba**, aged 19, had been detained in a cell in the SIZO in Hlinaia together with two other women for one month. They were transferred to the SIZO from the women's colony No 3 in Tiraspol as a punishment measure. Consequently, they were held under the strict regime, allowing them only 40 minutes outdoors per day. However, they reported that the conditions of detention in Hlinaia were better than those in Tiraspol. They did not allege any ill-treatment in the SIZO of Hlinaia. Both women had been arrested in 2005 in Tiraspol by the militia. In Tiraspol colony they were subjected to physical violence several times, mostly because they were said to have violated the rules. They were violently pushed by six prison officers, their arms were twisted and they were pulled by their hair. This use of force caused their joints to twist and led to bruises all over their bodies, which disappeared after some weeks. In March, they were put in the "carcer" for two months, a small, mildewed, sparsely illuminated room with many insects in the basement of the institution. The cell was equipped with two iron beds but no mattresses. There was no possibility to take a shower. The bucket that served as toilet was inside the small room. The two women lodged a complaint with the penitentiary division of the so-called "Transnistrian Ministry of Justice". However, the complaint did not yield any results since they were told that they had to provide evidence.

68. **Fiodor Negrea**, aged 42, sentenced to death. He was arrested in Tiraspol on 8 April 1999 by the Special Forces of the State Security Committee (KGB) after he had surrendered. Since the then Minister of Interior, who knew him, was present, he was not beaten. He was kept in the newly built Prison No. 3 in Tiraspol until February 2000, when he was transferred for three months to the temporary detention isolator of the militia in Tiraspol. In May 2000, he was taken to the SIZO in Hlinaia, but in July 2001 he was transferred to Tiraspol Prison, where he spent one year in solitary confinement. In July 2002 he was transferred back to Tiraspol SIZO, where

he was tortured at the beginning of July 2003 by Special Forces called “Skorpions”, which he had personally founded earlier. They damaged his spine. He was tortured because he had complained about his case and refused to cooperate with the prison guards. His trial started in July and, on 25 July 2003, he was convicted of four cases of homicide and sentenced to death despite a moratorium on capital punishment dating from 1993. He had a lawyer, but she was not useful. He did not appeal against the judgment. He was told to ask for pardon (amnesty or commutation of sentence), but he refused because he had done nothing wrong. The entire trial was purely political. Since 26 July 2003, he had been detained in solitary confinement in Hlinaia. He spent 23 hours a day in his cell and one hour outside walking alone in a small yard. He never saw any other prisoners. Once in four months he was allowed to receive a short visit of four hours. In fact, the visits of his mother and brother usually did not last longer than one or two hours. He had a wife and three children, but he did not want his children to visit him in prison. He could write letters to his family. He read many books, listened to the radio and watched television. He had already been visited by the Council of Europe’s Committee on the Prevention of Torture and by another delegation consisting of two ladies. Whenever the door was opened, he had to wear handcuffs behind his back. He was very concerned about his political case, had written many complaints (e.g. to Human Rights Committee of Transnistria) and wished to submit a complaint to the European Court of Human Rights, but he could not afford a lawyer. Although he seemed to be more concerned about the political circumstances of his trial than about the conditions of his detention, the Special Rapporteur considers his strict solitary confinement of more than five years as additional punishment to his court sentence as amounting to torture. The effects of this treatment on his mental health were already visible.

69. **Vitaliy Kocherga**, aged 40, was sentenced to capital punishment under Article 88 of the Soviet Criminal Code in 1992. At that time the Code foresaw 15 years as the maximum punishment in case of pardon. However, when he applied for pardon after the 15 years had come to an end, on the basis of the new Criminal Code of the Republic of Transnistria, he was sentenced to life imprisonment. Mr. Kocherga argued that the retroactive use of the new Code with its heavier penalty constitutes a violation of Article 11 of the UDHR. He had sent complaints to some institutions, but never received a response. He indicated that the conditions in the prison had improved considerably over the last five years, e.g. he had not been allowed any visits at all until 2008. At times it had been very cold in his cell, but lately he had gotten heating. However, he spent 24 hours per day completely on his own and sometimes the prison administration used collective punishment, such as reduced food supply or restricted access to water, when other persons in the high-security regime made trouble. As in the previous case, the Special Rapporteur considers this prolonged solitary confinement as torture.

70. **Eduard Vasile Manole**, aged 27, and **Ivan Politanschi**, aged 27. Mr Manole was arrested by the Bender militia in December 2005 and spent about six weeks in the isolator in Bender, where he was beaten by the guards and the militia. Then he was taken to Tiraspol SIZO. After the first annulment of his sentence by the Supreme Court on 29 January 2007, he was threatened in the courtroom, his arms were twisted while he was handcuffed, and four guards beat him for 15 minutes. Back in the SIZO, the prison doctor recorded his bruises. Although the Prison Director, Mr. Bessonov, asked him not to complain, he did complain to the prosecutor about the ill-treatment. He had been detained in Hlinaia SIZO starting from 22 May 2008. He was separated from all the other prisoners with the exception of his cell mate with whom he also spent his one hour walk outside the cell. There was a strong hierarchy among the prisoners,

supported by the administration. He strongly complained about the fact that he had already spent 2 ½ years in pretrial detention. His sentences were already twice annulled by the Supreme Court, because all the evidence was fabricated. Although the prosecutors were responsible for supervising the detention facilities, it was useless to complain. Similarly, the Transnistrian Human Rights Commissioner was useless.

71. **Mr. Politanschii** was heavily beaten upon his first arrival from Dubasari to Hlinaia SIZO in 2004 as kind of “welcome” for five minutes until he fell down. He was taken there for the second time on 2 October 2007, after he had been arrested by the militia in Dubasari. He was threatened by two militia officers (Vasilii Gritco and Victor Zeleniac) with the arrest of his wife and his parents if he refused to confess, but he did not complain about any physical violence. When he first tried to complain to the prosecutor about these threats, the latter refused. When he complained again, he was told that this complaint would be attached to the case file for the court.

72. Neither of the detainees complained about ill-treatment in the SIZO. They only indicated that the quality of the food was not great, that water cuts were frequent, and that medical care was poor. Once a month they could be visited for one hour in the visitor’s room, separated from the visitor by a glass wall, so that they had to communicate by phone. Their main frustration related to the poor functioning of the judiciary, the long pretrial detention periods and the fact that none of their complaints seemed to go anywhere. Although the prosecutors should deal with their complaints, they simply referred them to the courts.

73. **Minors cell:** The youngest boy was 15. The shortest period one of them had spent at the SIZO was seven months. They had no complaints about the institution.

74. **Male detainee**, was arrested in March 2008 and beaten during custody in the militia post for one hour with fists on his chest and head. There was nobody he could complain to. He saw a judge on the fourth day, but he did not take any measures. Whereas the Prosecutor came by every day, he did not really control what was going on. Corruption was rampant. The worst experience for him had been the transfer between detention places - everybody was stuffed into box-like transporters with one tiny opening and essentially no ventilation and had to stay there for up to two or three hours. During the summer the heat in there was unbearable. That was when many caught tuberculosis.

#### **Tiraspol headquarters of the militia (Transnistria)**

**(Visited on 9 July 2008)**

75. **General information:** The Special Rapporteur was received by the Head of the Militia Station, Lieutenant Colonel Yuriy Ignatovich Ursul. Tiraspol Militia Station had several cells in the basement in which a total of 84 detainees were held on the day of the visit of the Special Rapporteur. 64 were held for criminal investigation; 20 persons were under arrest for administrative infractions. Six women were in detention. The minors were detained in different cells together with adults because most of them were involved in the same case. The cells, holding up to ten persons, were completely overcrowded, so that the detainees had to sleep in shifts. Ventilation was poor, the temperature very high, there were no mattresses and no natural light. The only source of light was a light bulb which was switched on around the clock. Toilets were located in the cells, but were not separated through a wall, so the detainees were completely

deprived of their privacy. Detainees were allowed to walk outside for 10 to 15 minutes per day in a tiny courtyard. They were allowed to take a shower once a week. They complained about the very poor quality of food and the extended periods of time they had to wait for medical treatment.

76. The Special Rapporteur received a large number of allegations of torture and ill-treatment. Most torture and ill-treatment allegedly took place in the third floor office n. 303 of the operative investigation department of the militia station. Most of the detainees spent several months in detention in the cells in the basement. Furthermore, on the first floor the Special Rapporteur found three very small cells which were too small to allow a person to lie down. A detainee was reportedly held there for two days. Practically all interlocutors indicated that, in their view, complaining is pointless because neither the medical staff nor the prosecutor nor the human rights commissioner will take any measures to investigate and offer redress. Complaints addressed to international organizations were intercepted.

77. **Female detainee**, aged 16, was arrested on 17 April 2008 in the street and taken to the Militia Headquarters. She immediately confessed to the crime she was accused of and was not threatened or ill-treated. After 13 days in the Headquarters she was taken to Tiraspol prison for two weeks. Then she was transferred back to the headquarters for two days and again back to the prison for one week. Since then she has been continuously detained at the Headquarters, where she sometimes shared the cell with others and sometimes was detained alone. On the day of the visit she had been in solitary confinement for five days. She could go outside for 10 to 15 minutes per day. She had no complaints with regard to the food or the treatment by the guards.

78. **Eight detainees** informed the Special Rapporteur that in the previous week several detainees who bore marks of ill-treatment had been transferred from the Militia Headquarters. Persons were often beaten up at the time of arrest and later in an office on the third floor of the building to get a confession. Every detainee in the cell had been beaten or tortured at least once. They were hit with batons or other objects, needles were inserted under their fingernails, as happened to one detainee in 2002, and they were electrocuted with electric contacts on their fingers. The tool used for electrocutions was a small generator with a handle, which was kept in another place and not in the Headquarters. One of the detainees was electrocuted in the previous year in the Headquarters and also in another place. Others had to lie on their front with their hands cuffed behind their back while they were beaten on the soles of their feet with batons. Usually, detainees were tortured to make them sign confessions. Sometimes detainees were taken outside and beaten on the kidneys. A detainee reported that he was beaten so fiercely on the kidneys that he could not stand up for three or four days.

### **Central temporary detention isolator, Chişinău**

**(Visited on 10 July 2008)**

79. **General information:** The officer in charge at the time of the Special Rapporteur's arrival was the Deputy Head of the Temporary Isolator, Mr. Anatolie Paraschiv. On the day of the visit the detention centre held 26 detainees under criminal investigation, and 18 "administrative" detainees. The maximum capacity of the isolator was 78. The walls of the detention facility were freshly painted. The cells were dark and detainees had to sleep on wooden platforms. Artificial



light was on around the clock. The toilets were inside the cell. Detainees could spend 10 minutes to one hour per day in the outdoor courtyard. The detainees complained about the poor quality of the food. They were not allowed to receive visitors. Often detainees were taken to other police stations in Chişinău for investigation and interrogation. These detainees were supposed to stay in the other police stations only during the day and to be returned to the Central Isolator in the evening. However, a number of detainees reported that they had to stay in the police stations also overnight, where they were not provided with any food.

80. The Special Rapporteur paid two visits to the isolator; the first visit took place in the afternoon and the second in the evening. Eight detainees who were taken for interrogation to the police stations of Botanica, Central and Rascani during the day were transferred back to Central Temporary Detention Isolator in the evening. While the Special Rapporteur was generally welcomed in a very cooperative manner, he regrets to report that the driver of a police bus did not grant the Special Rapporteur access to five detainees who were held in the bus stationed in front of the Detention Isolator. Instead the bus with the detainees drove away pretending that the detainees were to be transferred to SIZO No. 13 in Chişinău. However, it was later confirmed that after having driven some rounds around several blocs in Chişinău, the bus drove the detainees back to the Central Temporary Detention Isolator.

81. **Valentin Cosetic**, aged 29, charged with drug consumption, was arrested on 1 July 2008 and taken to a police station in Chişinău, where he was held for two days, during which he did not receive any food. On 3 July he was transferred to the Central Temporary Detention Isolator. He made no allegations of ill-treatment, but reported that the quality of the food provided was poor. Furthermore, he informed the Special Rapporteur that he had already been arrested in December 2006 and brought to the same police section in Chişinău where he was beaten until one of his ribs broke.

82. **Oleg Stanciu**, aged 26, was taken to Rascani police station after his arrest on 2 July 2008. During the transfer to the police station, he smashed the window of the police car. Pursuant to this incident he was locked up in one of the offices of the police station as a punishment measure, and four investigators kicked and punched him all over his body while he was lying on the floor, handcuffed with his hands behind his back. The ill-treatment lasted for three hours. He saw a judge three times, and each time the detention was prolonged. After two days in detention at Rascani police station, he was transferred to the Central Temporary Detention Isolator. Upon arrival at the Detention Isolator he was asked about the bruises on his body. He was afraid to complain about the ill-treatment since, at Rascani police station, he had been asked not to complain, and therefore said that the bruises resulted from a fall. The doctor who examined him reportedly just asked if he felt pain and, out of fear, he said that he did not feel pain. The forensic expert of the team of the Special Rapporteur examined him and corroborated the allegations of ill-treatment by medical evidence.

83. **Vitalii Petrov**, aged 41, was arrested on 30 June 2008 in Botanica by the police and brought to Botanica police station, where he had to stay for one day and one night. He was not interrogated then, but only locked up. He was not allowed to go to the toilet and was not given food or even water. He was not informed that he had the right to inform a lawyer. Two officers in civilian clothes broke his cigarettes. He refrained from protesting because he was afraid that he would be beaten or even killed. On 1 July he was transferred to the Central Temporary Detention Isolator, where he stayed for ten days in five different cells. The guards did not

respond to any requests and he did not receive medical care. According to him, this was how it was done: if a detainee did not behave, he/she was taken out of the cell and beaten with rubber batons, as he had witnessed with five fellow detainees. Then they were put in the “carcer” where they had to stay for two days without any light. Two nights earlier, two detainees were beaten in an office of the Police Headquarters. When he was interrogated in Botanica police station on the day of the visit, he was insulted and threatened but not ill-treated.

84. **Radika Ursachi**, aged 24, had been arrested at her home one week earlier by the police. She was taken to the Botanica police station, where she was interrogated and had to stay overnight. Then she was transferred to the Central Temporary Detention Isolator. She was regularly transferred back to Botanica for further investigations. She had heard rumours of beatings but had not witnessed anything herself.

85. **Viktor Vasilevich Gynkota**, aged 44, spent six weeks at the Ryshany police station after his arrest. The quality of the food was poor, the medical care was insufficient, and beatings were used against protesters, but nothing had happened to him so far.

#### **Medical rehabilitation centre for torture victims “Memoria”**

**(Visited on 10 July 2008)**

86. **Antonio Morari**, aged 34, was arrested on 21 February 2008. He was handcuffed and, although he did not resist, he was beaten by the police officers and then taken to a district police station, where he was locked in a cell. The following day, he was interrogated by three police officers in an office on the first floor of the same station. During the interrogation his legs were fixed to a chair with a leather belt and the police officers put a gas-mask on him. He was handcuffed with his hands behind his back and generator cables were fixed on two of his fingers. He was electrocuted for three hours with some interruptions. At the same time, water was poured on him. Since he had already confessed to the crimes he committed, the police officers allegedly wanted to extort confessions of crimes other than those he had committed. He fainted twice as a consequence of the treatment. Bruises were visible on his back and his fingers after the ill-treatment, but disappeared after some weeks. To his knowledge no action was taken against the perpetrators.

87. **Vitalie Colibaba**, informed the Special Rapporteur about a special room in the basement of Buicani police station which was used to torture detainees. He himself was tortured there by three police officers in order to extort confessions. His hands and feet were tied together behind his back. A metal bar was passed under his arms and feet and fixed between two chairs so that his body was suspended. He was suspended in this position for 40 minutes and lost and consciousness three times. The police officers each time tried to make him regain consciousness by pouring water on him or beating his head. Furthermore, they put a jacket on his head to prevent him from screaming. On the same day, he was taken back to the Central Police Custody facility. When he was put back in the cell, he was beaten up with plastic bottles filled with water. Vitalie Colibaba was convicted to four years imprisonment on probation. He lodged a complaint to the European Court of Human Rights, which found a violation of Article 3. At Memoria Centre he received free medical treatment, including psychological treatment. His mother, who was psychologically affected by these events, also received psychological treatment.

88. **Sergiu Gurgurov** was arrested on 25 October 2005 by six police officers vested with bullet proof jackets and armed with guns at his house, and taken to Rîscani district police in Chişinău. Later he was transferred to the main police commissariat in Chişinău, where he was interrogated in different offices on the second floor. During interrogation police officers ill-treated him to extort confessions. His hands and feet were tied together behind his back with a finger-thick textile rope. A metal bar was put under his arms and feet and fixed between two chairs so that his body was suspended. His hands were first wrapped with medical textile so that the rope did not leave any traces. Furthermore an anti-gas mask was imposed on him. Then the police officers put two cables to his ears and electrocuted him several times. He was suspended for about 90 minutes. During this time he fainted several times. The police officers made him regain consciousness by electrocuting him and beating him on his head with plastic bottles filled with water. They turned around one of his fingers which had already broken before his arrest. Furthermore, he was beaten with palms on his ears so that he partly lost his hearing. He suspects that a doctor was present in the room, because somebody checked his pulse and told the police officers when to stop with the electroshocks. In addition, the police officers stopped his breathing with a gasmask, but let him breathe again when the person who he supposes to be a doctor told them to do so. Since he did not confess during this interrogation he was brought back to Rîscani police station, where he was left alone for the whole day and was not given any food. In the evening, he was transferred back to the main commissariat. He still did not confess. He was convicted by the court to home arrest. After the trial, police officers transferred him to the hospital, made the doctors issue a fake document on his state of health, and took him to the Department for Organized Crime where another 30 days detention were authorized. Although he still had difficulties walking, they forced him to sit on a chair and hit him on his body and his head. During these 30 day in detention, he was repeatedly taken to offices on the second and third floor where he was beaten with wall paper tubes and plastic bottles filled with water. As a consequence of the torture he had a serious trauma of the spinal bone and his legs were partly paralysed. At Memoria Centre, he received treatment to the extent possible. The prosecutor's office explained to his lawyer that the different medical analyses did not unanimously prove that the injuries stem from torture. No criminal investigation and prosecution procedure were launched against the police officers responsible for the torture. The persons who were detained in the same cells in the police commissariat who saw him shortly after he was tortured refused to give testimony out of fear.

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