



COMMISSIONER FOR HUMAN RIGHTS
COMMISSAIRE AUX DROITS DE L'HOMME



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REPORT
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Following his visit to Moldova
25 to 28 April 2009

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Executive summary

Commissioner Thomas Hammarberg and his delegation visited Moldova two and a half weeks after the post-electoral demonstrations of 6-7 April 2009. The specific issue of the treatment of the people detained in relation to the events was the central focus of the Commissioner's attention.

The majority of the persons interviewed by the Commissioner's delegation, who had been arrested in connection with the April 2009 post-electoral demonstrations, alleged that they had been beaten – some of them severely - by police officers. In several cases, the medical expert accompanying the Commissioner directly observed physical marks consistent with those allegations. Moreover, the medical files in the establishments visited contained records of injuries which were consistent with the persons' accounts.

The Commissioner recommended that decisive action be taken to adopt and enforce a firm attitude of "zero tolerance" of ill-treatment throughout the criminal justice system. Prosecutors, judges, senior police officers and lawyers should be attentive to allegations or signs of possible ill-treatment, and there needs to be proper screening, recording and reporting of injuries in police detention facilities.

Representatives of the Moldovan authorities accepted that police had abused their powers in the aftermath of the protests when dealing with persons deprived of their liberty, and expressed their resolve to overcome the problem of ill-treatment by the police. It was strongly underlined by the Commissioner that such large-scale violations of the fundamental right to be free of ill-treatment must never be allowed to recur, and that active steps must be taken to pursue accountability whenever individual cases of ill-treatment emerge. The Minister of the Interior and the Prosecutor General informed the Commissioner that many complaints concerning ill-treatment had been received and were being processed, and that investigations had been initiated *ex officio*.

The Commissioner's medical expert examined the autopsy reports on the three deaths discovered after the April events and made certain observations. However, many questions regarding those cases still remain unanswered. An effective, thorough and comprehensive investigation is necessary to elucidate the circumstances of the deaths.

The Commissioner also took note of the concerns expressed with regard to media issues and reporting on possible human rights violations. He underlined that the necessity to protect free expression and information, including in times of crisis. Media have a key role of informing the public about important developments in society, including those which may cast a critical light upon the authorities. A special effort should be made to encourage a constructive dialogue and cooperation between the authorities and civil society during periods of tension to avert and minimise harm.

The violent events of April 2009 were a shock to many Moldovans and have been the subject of conflicting interpretations. Nevertheless, the Commissioner's diverse interlocutors were unanimous in their acknowledgement that this period will be viewed as a difficult chapter for the Republic, and one which constituted a setback to certain fundamental values and rights.

Establishing the facts would be one contribution to healing the severe trauma experienced by the Moldovan people as a consequence of the April 2009 events in Chisinau. The Commissioner recommended that thorough and comprehensive inquiries be carried out into those events. Apart from clarifying the issues relating to the elections themselves, it is essential that the developments during the demonstrations, including the violent acts and the failed riot control measures be investigated. There needs to be a prompt follow-up to the human rights violations, in particular the numerous instances of ill-treatment by the police. The inquiries must be independent, impartial, transparent and perceived as credible by the people of Moldova.

I. Introduction

1. The present report follows a visit to Moldova by the Commissioner for Human Rights from 25 to 28 April 2009.¹ The purpose of the visit was to assess the human rights situation following the post-electoral demonstrations in early April 2009.
2. The parliamentary elections in Moldova, which were held on 5 April 2009, were followed by demonstrations organised in various venues in the capital of Chisinau. It is undisputed that the demonstrations in question proceeded peacefully at first (6 and morning of 7 April 2009). However, there was an outbreak of violence on the second day (7 April) around 1 pm.
3. The Commissioner received reports according to which a large number of persons, some of whom were minors, had been apprehended by the police in the context of or following the demonstrations. According to those reports, the police had used excessive force when carrying out the apprehensions, and concern was expressed about ill-treatment of protesters held in police detention facilities. Moreover, the whereabouts of a large number of persons were said to be unknown. There were also confirmed reports that three persons had been found dead shortly after the events; however, the circumstances of those deaths were the subject of controversy. A number of complaints were also made concerning restrictions on media and free reporting on the post-electoral events.
4. The Commissioner decided to visit Moldova to receive first-hand information from various sources in order to obtain an accurate and complete picture of the post-electoral events and their implications for human rights. While concerns were expressed regarding possible infringements of a range of different rights protected by the European Convention on Human Rights – including freedom of assembly, right to liberty and security, freedom of expression and information - the specific issue of the treatment of the people detained in relation to the events was the central focus of the Commissioner's attention, based on the particularly alarming information received prior to the visit in this regard.
5. The Commissioner held consultations with representatives of the state authorities of the Republic of Moldova, including the Deputy Prime Minister and Minister for Foreign Affairs, Mr Andrei Stratan, the Minister of Interior, Mr Gheorghe Papuc, and the Minister of Justice, Mr Vitalie Pîrlog. He also met a parliamentarian from the Communist Party, Mr Mark Tkachuk, and the Prosecutor General, Mr Valeriu Gurbulea. The Commissioner visited the national human rights institution, the Centre for Human Rights of Moldova, and had discussions with the Parliamentary Advocates (Ombudspersons). In addition, he had meetings with the members of the Consultative Council for the Prevention of Torture (the National Preventive Mechanism under the UN OPCAT) as well as representatives of civil society and media. The Commissioner's interlocutors also included certain leaders of the political opposition, including the mayor of Chisinau, Mr Dorin Chirtoaca, the leader of the Liberal Party, Mr Mihai Ghimpu, and the leader of the Liberal Democratic Party, Mr Vlad Filat.
6. The Commissioner interviewed various persons who were, or had been, deprived of their liberty in connection with the post-electoral demonstrations and violence. Some of those under investigation were interviewed in Prison No. 13. The Commissioner also visited the General Police Directorate in Chisinau, where many of the people who had been arrested in connection with the demonstrations had been held. The medical expert accompanying the Commissioner reviewed numerous police, prison, and emergency hospital medical records; he also visited the Forensic Medical Institute and reviewed the autopsy reports related to the three deaths.

¹ The Commissioner was accompanied by his Adviser, Ms Bojana Urumova, and by a medical expert, Dr Davor Strinović of the Institute of Forensic Medicine at the University of Zagreb Medical School.

7. The Commissioner sincerely wishes to thank the authorities of the Republic of Moldova for their excellent cooperation and the assistance they provided in facilitating the independent and effective performance of the visit. He would also like to express his gratitude to all his interlocutors for the valuable information they provided.

II. Persons deprived of their liberty by the police

8. Under Moldovan legislation, law enforcement agencies may detain persons suspected of a criminal offence for a maximum period of 72 hours (Section 11(4) of the 2003 Criminal Procedure Code); in the case of minors, the limit is 48 hours. Before the expiry of this period, the person must be either released or remanded in custody. The decision to remand someone in custody must be taken by an investigative judge. For administrative proceedings, the legal limit in police custody is 3 hours.²
9. Moldova is a party to the major international treaties prohibiting torture and ill-treatment. The prohibition of torture is enshrined in Article 24, paragraph 2, of the Moldovan Constitution. Torture is a criminal offence (Section 309, Criminal Code) punishable by two to five years imprisonment and suspension from official duties for five years. Related offences in the Criminal Code include exceeding official authority (Section 328 of the Criminal Code). Furthermore, evidence obtained through violence or threats is inadmissible in court (Section 94, paragraph 1, Code of Criminal Procedure).
10. The Minister of the Interior informed the Commissioner that 106 people were detained in the aftermath of the 6-7 April 2009 demonstrations on suspicion that they had committed criminal offences.³ Nine of those persons were still in custody as of 28 April 2009, remanded in Prison No. 13, an institution under the authority of the Ministry of Justice. Moreover, 216 people, including ten young women, had been detained on administrative charges related to the events in question; all of those persons had been released by the time of the Commissioner's visit. At least 19 of the totality of the persons arrested following the demonstrations were minors.⁴
11. Based on the information at the Commissioner's disposal, the persons apprehended in the aftermath of the demonstrations were brought to one of the following police establishments in Chisinau: the General Police Directorate, or the Centru (Centre), Botanica, Ciocana, Rîșcani and Buiucani district police stations. People who were initially detained in one of the district police stations were then transferred to the detention facility at the General Police Directorate. Due to the large volume of persons detained in police establishments in Chisinau, which exceeded the capacity of the places concerned, some detainees were temporarily placed in police establishments in other parts of the country, such as Drochia, Taraclia, or Vulcănești. 111 persons were transferred from the police establishments (under the authority of the Ministry of the Interior) to Prison No. 13 in Chisinau.
12. The Commissioner received no complaints regarding the treatment of persons in Prison No. 13. However, the majority of the persons interviewed by the Commissioner's delegation, who had been arrested in connection with the April 2009 post-electoral demonstrations, alleged that they had been physically ill-treated by police officers. In most cases, the

² At the time of the April 2009 events, the applicable legislation was the 1985 Code of Administrative Offences. On 31 May 2009 a new Code of Administrative Offences entered into force.

³ The most common charges were mass disorder, robbery and hooliganism (respectively, Sections 285, 187 and 287 of the Criminal Code).

⁴ Local authorities (City Hall of the Municipality of Chisinau) have furnished higher estimates of the total number of people deprived of their liberty after the 6-7 April demonstrations, as have the NGOs Institute of Human Rights (IDOM) and Resources Centre for Human Rights (CReDO), who are members of the National Preventive Mechanism under the OPCAT.

persons who were subjected to the alleged ill-treatment were relatively young (under 25). As the Prosecutor General has himself observed, the alleged ill-treatment broadly related to three different situations: 1) at the time of apprehension; 2) during transport to a detention facility; and 3) ill-treatment within the detention facility, including during questioning with the objective of extracting a confession.⁵

13. The physical ill-treatment alleged included punches, kicks and blows with rubber batons, wooden sticks, the butts of firearms, or other blunt and hard objects. Certain persons claimed that the ill-treatment was sufficiently severe or prolonged so as to make them lose consciousness at least once and/or to result in fractures or permanent nerve damage. Many persons also alleged that they had been threatened with physical violence or even with summary execution, verbally abused, and/or subjected to humiliating treatment, an example being strip searches of some female detainees who were allegedly made to squat naked and stand up repeatedly in the presence of male officers, for the ostensible purpose of verifying that they are not concealing any items inside their bodies.⁶
14. According to the Minister of Justice, of the 111 persons admitted to Prison No. 13 following a period of deprivation of liberty by the police, 28 persons displayed various degrees of injuries. The Minister of the Interior informed the Commissioner that, as of 28 April 2009, 54 complaints concerning ill-treatment were being processed. The Prosecutor General indicated that his office had received 37 complaints as of that date, and that investigations in 30 further cases had been initiated *ex officio*. In addition, one criminal prosecution had been initiated.
15. In several cases, the medical expert accompanying the Commissioner directly observed physical marks consistent with allegations of ill-treatment, despite the fact that more than two weeks had elapsed since the time the alleged ill-treatment occurred. Moreover, the files studied by the Commissioner's medical expert contained records of injuries which were consistent with the accounts of physical ill-treatment given by the persons who had been in police custody. For instance, the records in the Emergency Hospital in Chisinau revealed that 115 persons had sought medical attention during the relevant period because of injuries they sustained due to use of force by the police. Of those, 24 had to be hospitalised because of severe injuries, including concussions, contusions of the kidneys, fractured limbs or ribs, and/or multiple soft tissue injuries. The following paragraphs contain but six examples of the many cases of alleged ill-treatment examined by the Commissioner and his delegation.⁷
16. A person interviewed by the Commissioner and his delegation alleged that he was beaten at the time of his apprehension on 7 April 2009 and subsequently, during his detention in the General Police Directorate, where he reportedly lost consciousness. The person claimed that he sustained many injuries as a result of the ill-treatment, including a fractured finger from a blow with the butt of a machine gun and being trampled or kicked with combat boots. He further alleged that police officers threatened to shoot him in the head if he did not sign a prepared confession, and that the physical ill-treatment increased in severity when he asked to see a lawyer. The Commissioner's medical expert was shown photographs of the person which were reportedly taken on 10 April 2009, following the person's release from police custody. The photographs displayed many ecchymoses, bruises and excoriations (between 20 and 30) on the person's back, bruises on his right

⁵ According to IDOM and CReDO, 81% of the persons detained following the April 2009 demonstrations have alleged that they were beaten at the time of apprehension, and 64% have claimed that they were beaten and abused while in police custody.

⁶ The same search technique was reportedly also used with male detainees (with male officers present). Senior police officers confirmed to the Commissioner that no women police officers were assigned to the detention facility at the General Police Directorate in Chisinau.

⁷ Several of the cases concerned have already been widely publicised in the media and on the Internet.

and left shoulders and right arm, bruises around the left eye, excoriations on the forehead and on the right front side of the head, and swelling of the right hand with fracture of the finger bones. The person was admitted to the Emergency Medical Hospital on 20 April 2009, and his hospital records indicated that he suffered a concussion, contusion of the back side of the head and thorax, fracture of the index finger of the right hand, and contusion of the right leg and both arms. When examined by the Commissioner's medical expert on 26 April 2009, the person still displayed traces of pale grey-blue bruises above the left eye. In the view of the expert, all of those injuries are consistent with the person having sustained a heavy beating in the manner in which he described.

17. A Member of Parliament indicated that she was present near the Parliament building when, following what appears to have been a verbal dispute, two police officers grabbed her left arm and twisted it, causing her strong pain. According to her account, the officers dragged her by her hair along the asphalt pavement, and one of them kicked her in the right buttock, while the other one struck her in the back of the neck. She reportedly lost consciousness as she was thrown to the ground by the officers. The woman was hospitalised in the Emergency Hospital from 9 to 24 April 2009, and the relevant hospital records indicated that she had a fracture of the left forearm in the area of the wrist, as well as a concussion. It was also recorded that she had excoriations in the right buttock and left lumbar regions, as well as post-traumatic headaches.
18. Another person who was apprehended on 7 April 2009 claimed that he was beaten at the time of apprehension and subsequently, after he was taken to the Centru District Police Station. On the way from the police vehicle to the police station he was allegedly made to pass through a "corridor" of police officers who punched and kicked him, and beat him with batons.⁸ On 21 April 2009 he was seen by a doctor who found that his nose was fractured, and that he had a concussion and trauma of the sternum and ribs.
19. A person who had been brought to the General Police Directorate on 7 April 2009 alleged that he was made to pass through a "corridor" of some thirty police officers who beat him, and that he was beaten during questioning and forced to sign a prepared document which his condition prevented him from reading. The person alleged that he lost consciousness because of the ill-treatment. On 11 April 2009, the person went to a hospital in Cahul, where it was found that he had a contusion of the kidney with blood in the urine. On 13 April 2009, he was seen by a forensic doctor who issued a certificate describing large haematomas on the back side of his thighs (femur). The Commissioner's medical expert was shown photographs taken at that time, which showed bruises covering one third of the back side of the thighs. The person was also hospitalised on 22 April 2009 for craniocerebral trauma. On 26 April 2009, the Commissioner's expert examined the person and found him to display yellow-greenish bruises, 15 x 15 cm, on the back side of each thigh. In the view of the Commissioner's expert, the injuries are consistent with the person's allegations of having been beaten severely some two weeks previously.
20. A remand prisoner interviewed by the Commissioner and his delegation complained of severe beating on 8 and 9 April 2009 in the General Police Directorate in Chisinau. He reportedly lost consciousness twice during that time. He was examined by the medical team at Prison No. 13 on 15 April 2009, following his admission to that establishment, and was found to suffer craniocerebral trauma, a concussion, contusion of the soft tissue of the head, contusion of the left thorax and stomach, and pain in the left kidney. The injuries were serious enough to require hospitalisation for several days. On 27 April 2009 he was examined by the Commissioner's medical expert, who noted traces of injuries on his legs

⁸ During his visit, the Commissioner received numerous allegations of such a practice.

and arms (several 2 cm contusions and scars, about two weeks old). The person continued to complain of pain in the head, arms and back lumbar area.⁹

21. Another person claimed that he was beaten by a police officer in a park during the evening on 7 April 2009. He alleged that the officer struck him with a baton on the head, thorax, and left arm, up to the point where the person could no longer feel his arm; afterwards, he was allegedly left in the park. The person went to a hospital, where it was found that his left arm was broken (fracture of the left humerus), and that he had a concussion, as well as contusions of the soft tissue of the face, nose, and left eye, and on the top of the head and both lateral sides. The medical expert accompanying the Commissioner examined the young man, who was still hospitalised on 27 April 2009, and noted traces of bruises on his back and forearms. The radial nerve of his left arm was damaged, and he could not lift this arm.
22. In contrast to the prison and hospital medical records, the Commissioner's medical expert observed that the records of injuries kept in the detention facility at the General Police Directorate in Chisinau were extremely cursory and superficial. The explanation given for this was that the feldsher (paramedic) employed in that facility was not a forensic doctor. These deficiencies in the recording of injuries in police establishments have already been highlighted by the European Committee for the Prevention of Torture (CPT) in the report on the Committee's 2007 visit to Moldova. The CPT made a detailed recommendation on screening for injuries of persons within 24 hours of their admission to a police detention facility outside the presence of police officers, and on the imperative to record any injuries in a thorough manner. If the injuries recorded are consistent with allegations of ill-treatment, they should immediately be brought to the attention of the relevant prosecutor and an examination should be ordered by a recognised forensic doctor.¹⁰ In the interests of preventing ill-treatment, the Commissioner strongly urges the Moldovan authorities to provide for proper screening, recording and reporting of injuries, in light of the CPT's recommendations on this subject.
23. Another matter which requires urgent attention is the need for prosecutors, judges, senior police officers and others – in particular, ex officio lawyers - to be attentive to allegations or signs of possible ill-treatment and to react promptly to pursue accountability. The Commissioner received many complaints that this approach was not followed; in a number of cases, the authorities concerned were said to display indifference to allegations of ill-treatment, and sometimes even explicitly to discourage persons from complaining. In the Commissioner's view, such an attitude is conducive to impunity and undermines the very foundation of the prohibition of torture and other forms of ill-treatment.
24. The large-scale arrests which followed the post-electoral demonstrations in April 2009 were characterised by a failure to implement certain fundamental rights of persons in custody, including their right to notify a third party (e.g. a family member), to have access to a lawyer and to a doctor, and to receive clear information about these basic rights.¹¹ Most persons interviewed by the Commissioner claimed that they had been stopped (and assaulted) on the street by plainclothes officers who allegedly did not identify themselves, and then taken away in unmarked cars; many said that they were not certain whether they were being apprehended by law enforcement officials or kidnapped. Moreover, representatives of the

⁹ This case, *Matasaru v. Moldova (IV)* (No.20253/09), in which the applicant complains of violations of Articles 3, 5, 6 and 8 of the European Convention of Human Rights, was communicated to the Government by the European Court of Human Rights on 23 April 2009.

¹⁰ Cf. paragraph 22 of CPT / Inf (2008) 39.

¹¹ The Parliamentary Advocate (Ombudsman), who visited police stations and the prison in Chisinau following the arrests (13 April 2009), informed the Commissioner that he found a number of "irregularities" in the practical implementation of those fundamental safeguards. In particular, the right of notification of custody and access to a lawyer were not fully respected and/or were subject to delays.

Consultative Council for the Prevention of Torture (the National Preventive Mechanism under the UN OPCAT) were reportedly prevented on 11 April 2009 from visiting certain police establishments in Chisinau where persons were being held, including the General Police Directorate and the Centru District Police Station.

25. The Commissioner received many complaints about the conditions of detention in police establishments following the large-scale arrests; most of these involved reports of serious overcrowding, very poor hygiene, lighting and ventilation, as well as the lack of provision of food, clean bedding, and personal hygiene or sanitary items. As already noted, the Commissioner only visited one police detention facility, i.e. the one at the General Police Directorate in Chisinau. The Commissioner observed that the material conditions in the cells were poor, with very dim lighting and bad ventilation; in general, the conditions corresponded quite closely to the descriptions provided by the persons who had been held in those cells. As for the issue of overcrowding, it was confirmed by the staff that the capacity of the establishment was exceeded during the dates in question.

III. Deaths

26. Three persons were found dead shortly after the post-electoral demonstrations and violence in Chisinau. The circumstances of the deaths were the subject of some controversy. Unconfirmed allegations were being reported that the persons had died in police custody, and certain NGOs reported that two of them had been beaten to death. The Commissioner's medical expert visited the Forensic Medical Institute in Chisinau to obtain more information on the deaths and examined the written autopsy reports.
27. According to the relevant autopsy report, the body of V.B. was found in front of the Emergency Hospital in Chisinau on 8 April 2009. An autopsy was performed the following day. The person had many superficial injuries, including excoriations on the head (forehead, right and left frontotemporal regions, right side of the face, nose, the area above the left ear), body (umbilical and left lumbar region, right paravertebral region on the back, the region around the 5th right rib on the back, and both elbows). The internal inspection revealed haematoma of the galea, bleeding in the mastoid region, contusion of the left lung, and fracture of the fifth left rib. The report noted the cause of death as "unknown". No photographic evidence was included with the report. According to the Commissioner's medical expert, the injuries revealed by the autopsy clearly indicate that the person was beaten. However, based solely on the evidence recorded in the report, the Commissioner's expert considers that it is not certain whether the beating alone was the cause of the person's death.¹²
28. The second autopsy report recorded that the body of I.Ț. was found on 8 April 2009, on a road located some 3 km from the Chisinau city centre. The body displayed many injuries, including superficial injuries of the head, elbows, thorax, right arm and right leg. There were also internal injuries of the right lung and several ribs (mostly on the right side), as well as fractures of the pelvis and right femur. Again, no photographs were included with the report. In the view of the medical expert, the findings in the report strongly suggest that the injuries resulted from a fall from a height.
29. The autopsy report (dated 16 April 2009) of E.T. recorded that the person's body was found in Chisinau on 15 April 2009. According to that report, the findings based on the post-mortem changes led to the conclusion that the death occurred two or even three weeks prior to the autopsy. There was a mark (with dimensions 1.2 x 0.1-0.2 cm) indicative of hanging or strangulation found on the neck, but no other injuries or evidence of toxicity. Based on this report – which, like the others, was not accompanied by any photographic or

¹² According to a press release (3 July 2009) from the City Hall of the Municipality of Chisinau, a second autopsy led to the conclusion that the person died as a result of "hard hits".

filmed evidence – the Commissioner’s medical expert finds it difficult to draw any solid conclusion; however, he considers it possible that the death resulted from a hanging prior to the violent events in Chisinau.

30. It should be emphasised that the above observations of the expert are based solely on the rather sparse evidence contained in the autopsy reports. In the view of the Commissioner and his expert, such reports should always be accompanied by photographic or filmed evidence; this is all the more true for suspicious deaths, especially in a polarised climate when diametrically opposed accounts are being set forth. Clearly, many questions as to the three deaths discovered after the April events in Chisinau remain unanswered. An effective, thorough and comprehensive investigation is necessary to elucidate the circumstances of the deaths and, as appropriate, to identify the persons responsible, who should be held to account.

IV. Media issues and reporting on possible human rights violations

31. In the context of the post-electoral demonstrations and arrests, many concerns were voiced about restrictions on freedom of the media and free reporting. These reportedly included: the assault and detention of local and foreign journalists reporting on the post-electoral violence; the refusal of entry to the country to certain foreign journalists on 7 and 8 April 2009; the requirement that some journalists leave the country - despite valid press accreditation - due to a changed visa regime; and restrictions upon access to internet services or particular websites. The OSCE Representative on Freedom of the Media, Mr Miklos Haraszti, issued a statement on 14 April 2009, in which he called upon the Moldovan authorities to ensure journalists’ access, and investigate cases of obstruction and intimidation. The Commissioner supports this statement.
32. During the visit, the Commissioner was shown a copy of a letter sent by the Ministry of the Interior on 21 April 2009 to certain newspapers, expressing concern about the content of certain articles published in those newspapers, and finding that the articles in question “do not represent the truth and are misleading to the public”. The letter went on to indicate that the information published “contains unjustified serious accusations against the police affecting the reputation of the police officers, who exercise their duties correctly and according to the law for maintaining public order and security”. Furthermore, the Ministry requested the newspapers to present within ten days “any specific information and solid evidence which served as a basis for [the] articles”, failing which a retraction should be published.
33. There have also been reports that certain non-governmental organisations involved in reporting on possible human rights violations received letters from the authorities requesting information on their position towards the post-electoral events and on measures taken by each organisation to prevent and stop the violence. Apparently, the organisations concerned were also unexpectedly requested to furnish financial information to the tax authorities.¹³
34. The Commissioner finds that pressure of this sort upon media and NGOs involved in reporting on possible human rights violations is unacceptable. Instead of requesting media outlets and non-governmental organisations to justify their critical reporting, the government authorities should encourage victims and witnesses to come forward and contribute to the investigations.

¹³ Statement of Amnesty International dated 22 June 2009.

V. Conclusions and recommendations

35. The violent events of April 2009 were a shock to many Moldovans and have been the subject of conflicting interpretations. Despite the polarised environment which prevailed at the time of the Commissioner's visit, his diverse interlocutors, including the official representatives of the Republic of Moldova, were unanimous in their acknowledgement that this period will be viewed as a difficult chapter for the Republic, and one which constituted a setback to certain fundamental values and rights.
36. The Commissioner noted that, though the majority of the demonstrators had behaved peacefully, some of the protesters used violence and committed acts of vandalism. Groups of people broke into the Parliament and Presidential building on 7 April 2009. The riot control measures appeared to be largely ineffective, and the Commissioner was informed that a number of police officers were injured by stones thrown by protesters. According to the Minister of the Interior, 56 police officers were hospitalised for injuries following the events, and eight still remained in the hospital as of 28 April 2009. Obviously, this is deeply regrettable.
37. The Commissioner believes that establishing the facts would be one contribution to healing the severe trauma experienced by the Moldovan people as a consequence of the April events. He therefore recommends that thorough and comprehensive inquiries be carried out into the events of 6-7 April 2009 in Chisinau. Such inquiries must have the objective of establishing a detailed, comprehensive factual account of the course of events during the demonstrations of 6-7 April 2009, including factors which provoked the violent acts. They must be independent, impartial, transparent and perceived as credible by the people of Moldova. They should aim at drawing general conclusions and giving recommendations how to proceed should any similar situation arise in future and in the interest of strengthening the protection of human rights and freedoms in general. It is very important that any report and recommendations generated by such inquiries be made public.
38. Of course, there is the need to distinguish such inquiries from any criminal investigations which have been completed, are underway, or have yet to be initiated into possible official misconduct or other criminal acts. In particular, the criminal responsibility for certain serious offences related to the ill-treatment of people deprived of their liberty is a separate issue (addressed in paragraphs 40 to 47 below).
39. It is of great concern to the Commissioner that a large number of the more than three hundred persons – certain of whom were minors - arrested in the context of or following the protests were subjected to ill-treatment by the police, some of it severe.
40. The extent of the problem of ill-treatment of persons deprived of their liberty by the police in Moldova, as well as the related issue of lack of accountability for ill-treatment, are neither new nor unknown. To date, the European Court of Human Rights has found violations of Article 3 of the European Convention of Human Rights by Moldova in 22 judgments handed down since 2005. In a recent judgment, *Gurgurov v. Moldova* (No. 7045/08), the Court held unanimously that there had been a violation of Article 3, on account of the severe pain and suffering inflicted on Mr Gurgurov by the police and of the obstacles – created by the prosecution during the investigation – to identifying those responsible. Moreover, following its September 2007 visit to Moldova, the European Committee for the Prevention of Torture (CPT) concluded that “the phenomenon of ill-treatment by the police remains of serious proportions”.¹⁴

¹⁴ The original French text of the CPT report reads: “le phénomène des mauvais traitements infligés par la police est toujours d’actualité, et ce dans des proportions importantes” (cf. CPT / Inf (2008) 39).

41. A concerted approach with support at the highest political level is needed to stamp out the problem of ill-treatment, which manifested itself in a particularly grave and acute manner in the aftermath of the post-electoral demonstrations in Moldova. Such violence against persons in detention must never be tolerated in a democratic society based on human rights and the rule of law. The prohibition against torture and other forms of ill-treatment is absolute and non-derogable, even in time of serious unrest or threats to state security. It should be made fully clear to law enforcement officers at all levels that they must respect the rights of people in their custody and that they will be subject to severe sanctions if they resort to ill-treatment.
42. There is a need to review once again the recruitment and training of policemen; to strengthen the safeguards for persons apprehended and held in police custody, including to ensure their immediate access to a lawyer; to provide for proper screening of persons admitted to police detention facilities - under conditions respecting medical confidentiality - and thorough recording of any injuries observed; to provide more resources and support to the office of the ombudsman and the national mechanism for the prevention of torture and to ensure their unhindered access to all places of detention.
43. However, even if all the above steps are diligently taken, they will have only a limited effect if impunity is permitted for those who have ill-treated persons deprived of their liberty. The Commissioner therefore recommends that decisive action be taken to adopt and enforce a firm attitude of "zero tolerance" of ill-treatment throughout the criminal justice system.
44. It is clear to the Commissioner that there is a need to review not only the behaviour of individual police officers, but also the responsibility of their superiors. It is of great concern that these violations could take place in spite of a legal ban on torture, formal preventive safeguards, a code of conduct for the police and a number of training courses. Full clarity must be established on this breakdown of professionalism and respect for basic standards.
45. The Commissioner's official interlocutors accepted that police had abused their powers in the aftermath of the protests when dealing with persons deprived of their liberty. The Commissioner underlined strongly that such large-scale violations of the fundamental right to be protected from ill-treatment must never be allowed to recur, and that active steps must be taken to pursue accountability whenever individual cases of ill-treatment emerge.
46. The Prosecutor General stated that he will investigate each case brought to his attention and also take initiatives himself upon information indicative of ill-treatment even in the absence of a complaint. According to him, special prosecutors which have not had working relations with police departments implicated in the events were being assigned to the cases. In his discussions with the Commissioner, the Minister of the Interior expressed a firm commitment that all complaints and information indicative of ill-treatment will be examined, including information appearing in the media. The Minister referred to the possibility of disciplinary punishment within the police such as demotion, suspension or dismissal.
47. The Commissioner welcomes the fact that the Moldovan authorities have expressed their resolve to overcome the problem of ill-treatment by the police and ensure accountability. He very much hopes that these positive signals are followed by concrete, resolute and sustained action. The violations of the prohibition against ill-treatment, which surfaced so acutely in April 2009, must be tackled head-on in order to restore the climate of confidence which is essential to a solid civil society.
48. As for the reports of difficulties encountered by media and non-governmental organisations in the aftermath of the post-electoral protests, the Commissioner would like to emphasise the necessity to protect free expression and information, including in times of crisis. The purpose of journalism and "watchdog" organisations is not to please those who are in

power. Indeed, a key role of the media is precisely to inform the public about important developments in society, including those which may cast a critical light upon the authorities. At the same time, media professionals should make a special effort to adhere to professional and ethical standards, with self-regulation being the most appropriate mechanism for ensuring that those professionals perform in a responsible manner.

49. It should also be made clear that when individuals – together with others or alone – speak out for human rights or work for them with other means, they should be free to do so without being subjected to pressure. Constructive dialogue and cooperation should be cultivated between the authorities and civil society to avert and minimise harm in times of crisis.¹⁵
50. Finally, the Commissioner wishes to stress that he will continue to follow closely the situation in Moldova and give his support, in accordance with his mandate as an independent and impartial institution of the Council of Europe, in order to promote the effective implementation of the Council of Europe standards relating to human rights protection. The Commissioner stands ready to continue a frank and constructive dialogue to assist the Moldovan authorities in their efforts to remedy the shortcomings outlined in the present report.

¹⁵ Cf. in this regard the Guidelines of the Committee of Ministers of the Council of Europe on protecting freedom of expression and information in times of crisis (adopted by the Committee of Ministers on 26 September 2007), as well as Council of Europe Committee of Ministers Recommendation No. R (96) 4 on the protection of journalists in situations of conflict and tension.

Appendix

Comments of the Moldovan authorities on the Report of Mr. Thomas Hammarberg, Commissioner for Human Rights concerning his visit to Republic of Moldova from 25-26 April 2009.

After the examination of the Report made by Mr. Tomas Hammarberg, Commissioner for Human Rights, following his visit to Moldova during the dates of 25th - 28th of April 2009, the General Prosecutor's Office of the Republic of Moldova presents the recent developments in the process of investigating the allegations of ill-treatment by the police officers of the peoples that participated at the public disturbances on the 7th and 8th of April 2009.

During the period from 12th April till 15th July 2009, by the Chisinau Military Prosecutors Office were registered 97 complains from the citizens that pretend that they suffered from the abusive and torture actions of the police officers in the period 7 – 8 April 2009.

From the total number of complains, 48 of them refers to the cases of excessive force application by the police in the moment of arrest in the centre of the Chisinau and 49 – of ill-treatment in the Police Commissariats.

At the moment, were done 59 conclusions of the doctors (coroners), according to which at 9 persons were registered easy body injuries, at 26 - body injuries without any prejudice to health, at 7 persons – medium body injuries, at 13 – were identified no injuries and 4 persons needs additional investigations.

From the total number of complains, in 4 cases was decided initiation of the penal proceedings on the base of art. 309 of the Penal Code (in the cases Hincu, Matasari, Gumeni, Grigoropol), on 3 cases was decided initiation of the penal proceedings of the base of art. 328 par. 2, letter a) Penal Code (in the cases Andriuta, Iancev, Ivantoc), in one case was decide to stop the criminal proceedings (injured party O. Brega) and in one case was decide initiation of the penal proceedings on the base of the art. 152, par. 2, letter e) Penal Code (injured party V. Cusnir).

2 complains (injured party V.Mihailov and V. Mamadaliev) were sent for investigation to the sector prosecutor's office (Buiucani and Centre) due to the fact that their cases of ill-treatment does not have any connection to the riot acts that took place on the 7th and 8th of April 2009, in Chisinau.

On the 35 complains was refused the initiation of the criminal proceedings.

In present remains for examination 51 complains.

In the process of complains examining from the persons in connection to the events from the 7th and 8th of April 2009, were identified 13 cases when the lawyers have declared

that their clients were ill-treated. But after the interviewing those persons was established that there were any acts of violence from the police side.

In this context, on the 15th of April 2009, lawyer S. Olari forwarded a complain in which was stated that on the 8th of April 2009, Mr. Victor Mamadaliev, that was detained in the criminal case nr. 2009038033 opened on the bases of art. 285 par. 4 and art. 339 par. 1 of the Penal Code, during the time he was detained in the police Commissariat Buiucani, he was ill-treated by the police officers with rubber stick and hard objects.

Being interrogated on this issue, Mr. Mamadaliev declared that he found out about this complain, that was filed by the lawyer S. Olari, only at that his interrogation, that took place on the 19th of May 2009. As it was mentioned by Mr. Mamadaliev, he had seen the lawyer S. Olari on the 8th of April 2009, at the moment when he was giving explanations to the prosecutor in the case of an attack of three youngsters. At that moment, he had no discussions with her, did not make any requests of defending him and pointed out that mentioned complain was tabled without his consent. Mr. Mamadaliev, also declared that on the 7th and 8th of April was not ill-treated by the police officers and that he is not in knowledge about cause of actions of lawyer S. Olari.

A similar case was registered in connection to Mr. Sergiu Bulache, whose pretended lawyer was again S. Olari. After being questioned on this issue, Mr. Bulache declared that he had never seen lawyer S. Olari, neither asked her to table any complains on his behalf. From where was taken the information that he was ill-treated by the police officers in the Buiucani Commissariat with rubber stick and other hard objects, Mr. Bulache does not know, but he supposes that the facts from the complain were referring to another person not to him and his name was confused. Mr. Bulache also underlined that on the 7th and 8th of April 2009 he was not ill-treated by anyone.

The same lawyer, S. Olari, acted similarly in the cases of Mr. Cojocaru Grigore, Dumitru Rozlovan and Stroi Gheroghe. Being questioned on this issue, these three persons declared that the physical force was not applied to them.

Another similar case, the lawyer Mariana Ulinici, filed three complains in which was stated that Oleg Galchin, Viorel Ghidu and Alexandru Popov were ill-treated by the policemen. It is to mention that all three complains had identical text. After being heard, the above mentioned persons denied any violence towards them by the policemen and stated that they did not ask to any lawyer to submit any complains.

On the 22nd of April 2009, the lawyer Nadejda Rosioru, tabled at the Chisinau Military Prosecutor's Office complains in the interest of Igor Popovici, Vasile Ciolan, Mihail Baidu, Igor Olaru and Mindrescu Andrei. From the content of the complain results, that the persons mentioned were detained in the Buiucani Commissariat on the basis of the criminal proceeding nr. 2009030833, were ill-treated by the policemen. After investigating this cause the fact stated in the claim were not confirmed.

Being questioned, Mr. Igor Popovici mentioned that at the moment of arrest, and during his escort and detention to the Buiucani Commissariat he was not ill-treated or put under

pressure. Pretention to the police officers he does not have. As regard, the lawyer Nadejda Rosioru, he does not know her, did not ask her to submit any complains on his behalf and considers that the claim tabled by ms. Rosioru on the fact of ill-treatment is fallacious. Similar positions had the rest of the persons concerned Vasile Ciolan, Mihail Baidu, Igor Olaru and Mindrescu Andrei.

The Ministry of Internal Affairs has undertaken a number of measures aimed at the elucidating reported cases of torture and inhuman treatments, also and counteraction of these phenomena. Analyzing the situation created after the events of the 7 April 2009, it was found that the need of intervention of police forces resulted from the violent actions of the protesters. However, it is necessary to note that the police intervened in force already after one day stayed in the way of stones, in smoke and fire, the police officers were hooted and aggressed, and some of their colleagues were warded in the hospital with serious injuries (272 of police officers received emergency medical care, from which 56 were hospitalized in the Ministry of Interior Affairs Hospital and 37 were carried surgical interventions). In comparison with the alleged "torture" of citizens these number highlights the clearly superior prevail of the police requirements for the medical help.

As a result, a number of offenders were detained and brought to police offices of Chisinau. Some of the detained were taken physical injuries, while opposed the resistance to the police forces, in order to demonstrate disobedience with dishonesty to legitimate demands of police officers. During detention in police establishments were respected the rights of persons arrested and detained on informing relatives, access to a lawyer and medical help in case of need, also were assured equal conditions of detention as to others arrested. Following the introduction in May of medical agent function in each preventive detention establishment, all in custody and detained persons from these institutions were examined at the moment of entrance about their health estate, and necessarily concerning the signs of bodily injuries and complaints of this kind. This allowed, after the balancing of the results of legal expertise with the initial examination dates from the apprehension moment, to infirm a lot of declarations concerning the physical harms caused inside of police establishments after the events of 7-8 April 2009, in most of cases body injuries were caused to persons while opposed resistance to order forces in Great National Assembly Square, manifesting disobedience with dishonesty to legitimate demands of police officers.

Massive publications in media of the information about the alleged police abuses determined MIA to get self-wise to these cases and to conduct service inquires. The accumulated information in the initial phase was transmitted to the prosecutor offices for a broad and impartial inquiry under the criminal aspect. It is noted that MIA have not received any complaints from citizens regarding the torture, inhuman or degrading behaviour.

It is necessary to note that in some cases it was found that the alleged statements of victims do not correspond to reality. About this fact is talking the same the following example. MIA have made inquiries about the interview shown by the *Jurnal TV* channel with Stefan Matei, who declared him self as a lawyer and defender of the interests of a

young lady, name of which was not specified, as this young lady has been detained in the evening of the 6 April 2009, in the street by police collaborators then transported to the Buiucani district police station, where she was raped and then transported to the General Police Directorate of Chisinau being held there until 8 April 2009 and then released. Following the verification carried out, has been established that the alleged lawyer has 19 years, and persons of female gender during the period of the 6-7 April 2009 were not detained at the Buiucani district police station.

Also, all women detained during the 7-8 April 2009 deny sexual violence against them. In the prosecution office were not registered any complains concerning rape during the period from 6 to 7 April 2009, also the Legal Medicine Center were not addressed complaints on the fact of rape. However, the inquiry established that the citizens O. Radu, L. Radu and N. Stratila being detained on the night of the 8 April 2009 by police collaborators were escorted to the IDP General Police Directorate of Chisinau, where were made minutes to them in the basis of art. 164 and art. 174 of the Administrative Contraventions Code (not too serious hooliganism and insubordination with dishonesty to legitimate orders and demands of police collaborator). Subsequently the court had applied sanctions in the form of administrative arrest, offenders being transported to the IDP Police Directorate of Drochia. During the hearings, the nominees have given statements indicating to the manifestation of a humiliating behavior from police officers during body searches at the General Police Directorate of Chisinau. Accumulated material, MIA has sent to the military prosecutor office for examination in accordance with the article 274 of the Criminal Procedure Code.

Currently the prosecution offices examine in accordance with its competence/jurisdiction all the petitions of the citizens concerning alleged torture, ill-treatment and abusive detention to which they were subjected. At the end of prosecution case, in case of confirmation of ill-treatment of citizens by the police, will be taken a drastic action, in accordance with the provisions of the laws in force, against persons guilty in the commission of such abuses, also as those who tolerated and encouraged their perpetration. Following the above mentioned, it is found that the Report shows just subjective objections detected, unilaterally, without a presentation of the competent national authorities position to the subject.