
INTERNATIONAL HELSINKI FEDERATION FOR HUMAN RIGHTS

HONORARY CHAIRMAN
Yuri Orlov

EXECUTIVE DIRECTOR
Aaron Rhodes

DEPUTY EXECUTIVE DIRECTOR
Brigitte Dufour

ADVISORY BOARD (CHAIR)
Karl von Schwarzenberg

EXECUTIVE COMMITTEE
Sonja Biserko
Holly Cartner
Bjørn Engesland
Krassimir Kanev
Andrzej Rzeplinski

PRESIDENT
Ludmilla Alexeyeva

VICE PRESIDENT
Ulrich Fischer

TREASURER
Stein-Ivar Aarsæther

Wickenburgg. 14/7, A-1080 Vienna, Austria; Tel +43-1-408 88 22; Fax 408 88 22-50
e-mail: office@ihf-hr.org – internet: <http://www.ihf-hr.org>
Bank account: Bank Austria Creditanstalt, 0221-00283/00, BLZ 12 000

ANNUAL REPORT 1999

Moldova¹

IHF Focus:

Election; freedom of expression and the media; freedom of association; peaceful assembly; the judicial system and independence of the judiciary; detainees' rights; torture and ill-treatment; conditions in prisons and detention facilities; religious tolerance; right to privacy; protection of ethnic minorities; protection of asylum seekers and immigrants; human rights defenders.

Efforts by Moldovan authorities to bring domestic legislation into compliance with the European Convention led to substantial improvements in the protection of the security and liberty of persons, and due process. A governmental center for human rights was established, and a UNDP sponsored project on "strengthening the judiciary through offering courses on the European Convention of Human Rights" was carried out. In November, Moldova signed the European Social Charter. On the negative side, the rule of law remained weak, the separation of powers insufficient and democratic principles were often subordinated to the interests of local authorities.

Religious freedom remained a problem, the protection of asylum seekers was virtually non-existent, and the proposed law on national minorities did not meet European and international standards. The lack of appropriate regulations on refugees and minorities contributed to the government's ambiguous stand on large-scale abuses carried out in the self-proclaimed "Dniester Moldovan Republic (DMR)", where Russian forces remained.

The Communist Party won the parliamentary elections, but was not admitted to the government by the majority center-right coalition.

Elections

Parliamentary Elections

During the campaign leading to the 22 March 1998 parliamentary elections, the Central Election Commission (CEC) ordered that both public and private broadcasting stations should refrain from airing information which could "undermine

The IHF has consultative status with the United Nations and the Council of Europe.

MEMBER AND COOPERATING* COMMITTEES IN:

Albania – Austria – Azerbaijan – Belarus – Bosnia-Herzegovina – Bulgaria – Canada – Croatia – Czech Republic – Denmark – Finland – France – Georgia³
Germany – Greece – Hungary – Italy – Kazakhstan – Kosovo – Kyrgyzstan – Latvia – Lithuania – Macedonia – Moldova – Montenegro – The Netherlands
Norway – Poland – Romania – Russia – Serbia – Slovakia – Slovenia – Sweden – Switzerland – Ukraine* – United Kingdom – United States – Uzbekistan³

COOPERATING ORGANIZATIONS:

The European Roma Rights Center – Human Rights Without Frontiers – Mental Disability Advocacy Center

public order", "pose a threat to the security of persons or property", "violate human rights", or "degrade human dignity". They were also ordered not to depict monuments and buildings of the "national heritage" in their campaign materials, or use documents "touching upon the interests of public persons" without their written consent. Such vague wordings led to self-censorship both in national television and radio as well as local media outlets.

TV Moldova, the public broadcasting company, resorted to a bias in its broadcasting on the election campaign. The coalition "For a Democratic and Prosperous Moldova", which supported the incumbent president, and Civic Alliance Furnica were allocated 2.5 times more free airtime than the regulations provided. Also, the Civic Alliance Furnica and the Democratic Agrarian Party received 1.5 and 1.3 times more time respectively than provided by the regulations for paid programs. The government-owned newspaper Moldova Suverana gave to the coalition "For a Democratic and Prosperous Moldova" as much space as to the rest of all the other parties together.

The CEC ignored the above-mentioned violations of its own regulations and protests from NGOs. The Coordinating Council on Audiovisual Matters, which was responsible, among other things, for protecting the independence of the public broadcasting media and promoting pluralism, also neglected the abuses. Supreme Court Judge V. Tataru ruled that the disproportionate allocation of airtime by the CEC was not illegal.

Local authorities in the "DMR" banned polling stations from the territory under their control. Therefore, less than 10 percent of the electorate in the "DMR" was able to participate in the elections. "DMR" authorities also stopped people who were crossing the border to the right bank of the river Dniester (territory under the control of the government of the Republic of Moldova) and questioned them why they were traveling there. Bus routes and other traffic were considerably restricted and controlled by "DMR" militia and security forces. However, "DMR" authorities did allow the Communist Party of Moldova to carry out its election campaign in the region under its control.

Nicolai Podreadov, a member of the Social Democratic Party of Moldova, was forced to leave the "DMR" for making political propaganda for a "foreign political party". Citing the lack of legislation on refugees, Moldovan government authorities did not offer him protection.

Freedom of Expression and the Media

The Moldovan constitution, penal code, press law and the Law on Audiovisual Matters provided for excessive restrictions on the freedom of expression.²

The main problems regarding the Moldovan broadcasting media arose from amendments to the provisions governing the operation of the Coordinating Council for Audiovisual Matters and its dependence on the executive branch. From the nine members of the council, six represented the government and the president, and three the parliament. Only three members were experts in this field. Prior to the March parliamentary elections, parliament adopted provisions to strip the council of the right to propose the parliament-candidates for directors of public television and radio, or to dismiss them, and assumed this right itself. This act, in practice, placed the council under the influence of the governing coalition.³

The operation of the council was criticized for lack of transparency and employing closed procedures, a serious accusation against a body that also allocated radio frequencies for private radio stations. Basa Press, an independent press agency, claimed that the council had failed to reply to its two applications for frequencies. A. Ciubasenco, head of the council, stated that he would not "grant frequencies to that agency." The decisions of the council cannot be appealed.

Journalists of the paper Acik Ghoz from Comrat (autonomous region of Gagauzia, a region mostly populated by ethnic Gagauz and Bulgarians) were refused entry to the local legislative body and its press conferences on the grounds that they did not correctly depict the situation in the region.

"DMR" authorities imposed severe censorship on the media. According to the 1998 provisions, only the authorities were allowed to establish media outlets in that region. The last remaining independent newspaper lost a lawsuit against a representative of the presidential administration for defamation. A court in Rabnita imposed a fine of US\$20,000 and threatened to close the paper. It faces serious financial difficulties and significantly diminished circulation figures.

Freedom of Association⁴

Moldova had no law on trade unions, and authorities cited this lack of legislation when refusing to register new trade unions. As a result, there were no collective

bargaining agreements, which added to individual insecurity in an extremely vulnerable social and economic situation.

In the "DMR" local authorities did not allow NGOs with international affiliations to operate, on the grounds that such activities would undermine local order.

Peaceful Assembly

The Law on Peaceful Assembly prohibited non-citizens and stateless persons who did not reside in Moldova to participate in public meetings or demonstrations. Moreover, public assemblies could be dispersed if they were deemed to defame the state and the people, spread propaganda of war and national hatred, or incite violence or secessionism. The law also stipulated that public meetings were forbidden within a 50 meter circle around official buildings used by the authorities.

- Mr. Tausanj, the democratically elected mayor of the city of Comrat (Gagauzia) whom Gagauz authorities had prevented from taking office, was detained for "approaching closer than 50 meters to a public building used by the authorities". He was accused of violating the Election Law. Later Tausanji won the case in the Supreme Court of Justice of Moldova.

The same law did not explicitly provide for state protection for public meetings and demonstrations. By law, demonstrators had to strictly follow the orders of the police, otherwise a demonstration could be dispersed. Police were allowed to take any appropriate measures to assure that public meetings were carried out in a "civilized" manner.

On the basis of Decree No. 222, emergency rule was in force in the "DMR" throughout 1998. It allowed that persons be placed in preventive detention for 30 days before being charged if they were suspected of a disturbance of the public order.

The Judicial System and Independence of the Judiciary

Four years after its admission to the Council of Europe, Moldova still had not adopted a new penal code and penal procedure code, which would be in conformity with European standards.

In 1998 punishments for minor offenses became stricter, and the system of sanctions

did not harmonize with the publicly declared objectives of reeducation and social integration. Even some minor economic offences (amounting to the loss of US\$20) could be punished with deprivation of liberty, this also being a relict of the Soviet penal code. Almost half of all the prison inmates had been sentenced for minor economic crimes and offences, an increasing number of them was very young. Also, correctional work of the Soviet era-type was still applied.⁵

While the Law on the Judiciary provided that judges were to be nominated by the Superior Magistrates Council - a public body composed mostly of judges - and appointed by the president, the executive branch in the autonomous region of Gagauzia demanded that the Superior Magistrates Council's nominations of judges and prosecutors be approved by it.

In the "DMR", none of the amendments intended to bring national legislation in compliance with the European Convention were enforced. Among other things, the executive appointed all judges.

Detainees' Rights

On 30 April some amendments to the penal procedure code became effective, stipulating that only a judge – instead of a prosecutor - could warrant an arrest within 24 hours of apprehension.

However, police frequently circumvented this provision through invoking alleged violations of administrative orders, e.g. the refusal to identify oneself, to detain a person without a court warrant. In addition, the police and the Department for Combating Crime frequently arrested individuals under article 174(6) of the Code of Administrative Sanctions for outrage,⁶ or for resisting the police, to give themselves more time to get sufficient evidence for more serious charges against suspects.

During its fact-finding missions to the towns of Balti and Rezina (northern and northeastern Moldova), the Moldovan Helsinki Committee learned about several persons being held in detention for 10-15 days for outrage or resisting the police under the Code of Administrative Sanctions. Almost 50 per cent of all the individuals held in the Balti facility had undergone such a procedure. In addition, police could detain vagrants and beggars for 30 days with the permission of a prosecutor only.⁷

- Mr. Filipov was held for 15 days in the Balti Isolator for Preventive Detention under provisions of the Code for Administrative Sanctions, after that he was charged with

robbery.

Article 25(5) of the penal procedure code stipulated that the "reasons for detention or arrest should be given immediately" in the presence of a legal representative. However, the police typically did not follow this provision.

In 1998 the Constitutional Court ruled unconstitutional a provision which stipulated that access to a lawyer should not be delayed for longer than 12 hours. It also stated that a detainee should be interrogated only in the presence of a lawyer. Still, in practice, lawyers had access to their clients only upon the consent of an investigating police officer or a prosecutor, and in most cases this did not happen until the final stages of interrogation. Moreover, it was extremely difficult to have access to a lawyer of one's own choosing.

- On 3 December 13-year old Hristian was reportedly interrogated by the police in Botanica court in Chisinau without legal assistance.

- I. Bejenari told the Moldovan Helsinki Committee, that he was granted access to a lawyer only at the end of the interrogations, before the case was sent to court.

During the first hearing before a judge, the defendants' lawyers were often not allowed to present any evidence or documentation against the police's reconstruction of events, based on an unclear provision. In practice this could lead to situations in which it was impossible for a victim of police brutality to introduce a medical certificate of abuse as evidence to contest the legality of detention.

Lawyers were granted access to detention facilities only upon the written consent of the Bar Association, with explicit reference to a specific detainee. Those arrested under the Code for Administrative Sanctions had no right to have a state-appointed lawyer or any lawyer to be present in interrogation and court hearings. As a result, it was commonplace to sentence individuals to administrative detention for up to 30 days without any participation of counsel for the defence in the whole procedure. Moreover, the code did not explicitly provide for a causal link between the alleged offence and the punishment.

- A woman was held in the Balti isolator in preventive detention for failing to appear before the court in a case in which she was the victim (of rape). The judge ordered her to be detained for two weeks.

A prosecutor could order a 15-30-day detention for violations of residence permit (propiska) regulations.⁸

The regulations of the Ministry of the Interior for detaining minors remained unpublished.

The Law on Repair of Moral and Material Damages Resulting from Mistakes by the Judiciary and Misconduct by the Police was adopted on 25 February. However, it did not provide for any compensation for violations of the penal procedure code, e.g. illegal detention. The law also allowed complaints only if a person was acquitted. However, the Moldovan Helsinki Committee was not aware of a single case in which this law had been invoked by the time of writing.

Torture and Ill-Treatment

Moldova has ratified the European Convention on Prevention of Torture, Inhuman and Degrading Treatment. The European Committee for the Prevention of Torture (CPT) carried out its first periodic visit in Moldova in October.

Reports were received about both physical and psychological torture and ill-treatment of detainees. A fact that facilitated abuses was the absence of a regulation requiring the police to register detainees. Detainees often fell victim to abuse while being transferred from one facility to another, and certain facilities were more notorious than others. Several detainees of the Balti preventive detention isolator interviewed by the Moldovan Helsinki Committee claimed that they had been beaten, given electric shocks, or otherwise tortured during interrogation.⁹

There were no adequate procedures to file a complaint about torture or ill-treatment. By law, a complaint had to be filed with the investigating police, who had to pass it on to the supervising prosecutor within 24 hours. No cases of accountability were known to the Moldovan Helsinki Committee.

Conditions in Prisons and Detention Facilities

Conditions in prisons and detention facilities were generally poor, in police facilities even worse.

In the Balti Isolator for Preventive Detention, there were 12-24 inmates in one cell,

each cell measuring about 12 to 24 square meters. They had two levels of beds, one window and poor natural light. Sanitary facilities were in cells, with only cold water. In Balti and Chisinau, minors were held together with adult inmates and pre-trial detainees were often held together with convicted criminals. Detainees frequently complained about the poor quality of food.

In the Balti police headquarters, the facilities accommodated 4-5 persons in each cell the size of 9 square meters. Half of the space in the cells was occupied by beds without mattresses. There were no toilet facilities: the inmates had to use buckets, which were emptied once a day. Nor was there running water, and hot water was unavailable at all. The inmates had no means of communication available to contact their relatives or friends.

In the "DMR", there were no facilities designed specifically for detention. People were held in cellars and similar places quickly adjusted for this purpose.

Between 10-17 December, the detainees of Hlinaia detention facility near the city of Grigoriopol in the "DMR" were on hunger strike to protest the poor detention conditions, systematic beatings and other abuse. Six detainees committed suicide.

Religious Tolerance

Clergy who wished to leave the country to participate in religious meetings had to apply for permission from state authorities. In addition, authorities had the right to "impose economic-financial control beyond fiscal control over religions or religious organizations." Proselytism was forbidden by law.

In the fourth year following its admission to the Council of Europe, the government failed to comply with its obligation to solve the conflict between the majority Moldovan Orthodox Church (Mitropolia Molodvei) and the Besarabian Orthodox Church (Mitropolia Basarabiei).¹⁰ It refused to register the latter because "its activity is in contradiction to church rules [i.e. those of the Moldovan Orthodox Church]...and its recognition by the Government would ignore the existence of a canonical order in the Orthodox Church in Moldova".

The decision of the Appeals Court to order the government to register the Besarabian Orthodox Church was overridden by the Supreme Court, which cited procedural errors on the side of the Besarabian Church in the registration procedure. In late 1998 the church again tried to register, but was refused.

In the "DMR", non-Orthodox religious organizations were under pressure and faced extreme intolerance. Local authorities hindered them from practicing their religions through bans on peaceful assembly and distribution of literature in public places, harassed and humiliated them.

"DMR" authorities refused to register the Jehovah's Witnesses and the local Baptist community as juridical persons. Regarding Jehovah's Witnesses, they cited noncompliance of their statutes with the local legal regime because the group refused to serve in the army, rejected blood transfusion, was "destructive", "non-traditional", and "intolerant and aggressive" towards other religions. Members of both communities were arrested for the distribution of religious literature, questioned and harassed by the police, and their meeting places were searched.

Right to Privacy

The Moldovan Law on Telecommunications and the Law on Postal Services violated the right to secrecy of correspondence and telephone conversation. They vested the prosecutor with the right to order tapping phones and to open private mail and to confiscate it. Complaints filed against such acts were dealt by the same body, the Prosecutor's Office.

Moldova still lacked a law on personal data and privacy, and the Documentation and Information Center on the population was under the jurisdiction of the semi-military Ministry of the Interior.

Protection of Ethnic Minorities

The European Framework Convention on National Minorities entered into force in 1998, and Moldova was scheduled to present its first report on its compliance with the convention by February 1999.

The issue of national minorities was highly politicized in Moldova in 1998. First, a draft law on minorities was proposed but not adopted. The draft law did not meet the basic criteria laid out in the Recommendation 1201 of the Council of Europe. Its definition of minority groups was broad and it lacked provisions on religious minorities and on minority languages.

In the "DMR", local authorities promoted suppressive and discriminatory practices on local ethnic Moldovans. Ethnic Moldovans made up 41 percent of the total population of the "DMR". Other ethnic groups were Ukrainians (28 percent) and Russians (23 percent). On the basis of a local legal provision on the language of instruction, the Moldovan language in Latin script was forbidden in public schools. Therefore, all public schools have had to teach the Moldovan language in Cyrillic script since 1992. Private Moldovan-language schools, which continued to use Latin script, faced financial discrimination and some of them were stripped of their licenses. As a result, the remaining seven schools still using Latin script were under severe pressure, resulting in some parents taking their children out of those schools. Three teachers from the private school of "Dubasari 3" were arrested and detained for more than one month.

Protection of Asylum Seekers and Immigrants

The Republic of Moldova remained the only state in Central and Eastern Europe that had not adopted national legislation on asylum, refugees and displaced persons, and on extradition. Nor did Moldova adhere to the Geneva Convention and protocol.

The absence of adequate legislation was one reason for the failure by Moldovan authorities to provide for the protection and security of those persons who fled or were forced to leave the "DMR". Between January and September the Moldovan Helsinki Committee registered five cases of displaced persons originating from the "DMR" residing in Chisinau, who were arrested by the Chisinau police and turned over to "DMR" authorities. They had been involved in the March-June 1992 armed conflict siding with the Republic of Moldova against the separatist "DMR" regime.

- On 9 March A. Chelsa was arrested and deported back to the "DMR" for allegedly being guilty of illegal purchase and possession of weapons and having caused intentional damage to property. "DMR" militia arrested him in Chisinau, with the consent of the local police. The police first claimed that they had acted on the basis of an agreement between the Chisinau police and the "DMR" militia, an agreement that does not - at least officially - exist. Later the police cited a CIS convention on co-operation in civil and penal matters.

- On 22 April the Chisinau police arrested Anatol and Ecaterina Ciubuc, both refugees from the "DMR" residing in Chisinau, at the request of "DMR" authorities who claimed that the Ciubucs had committed a crime. At the intervention of the

Moldovan Helsinki Committee, they were not returned to the "DMR". They were released, but both claimed that they had been beaten while in police custody and suffered physical injuries.

Another cause of concern was the failure of authorities in Moldova to provide protection for draft evaders from the "DMR". They were sent back, officially because they had "DMR" residence permits (*propiska*). The "DMR" did not recognize the right to conscientious objection. Moreover, military draftees who were close relatives of those individuals who had sided with the Republic of Moldova in the March-June 1992 armed conflict faced humiliation and ill-treatment in the military. Some draft evaders were even arrested by the "DMR" militia outside the "DMR" territory and brought back to the "DMR".

Human Rights Defenders

"DMR" authorities denied human rights activists access to places of detention, and did not allow them to meet political prisoner Ilie Ilascu, incarcerated since December 1993 following an unfair trial for "undermining Soviet power in the Dniester Moldovan Republic."¹¹

FOOTNOTES:

1. Based on the 1998 Report on the Respect of Human Rights in Moldova, Moldovan Helsinki Committee for Human Rights.
2. See also IHF Annual Report 1998.
3. See also Rights of the Mass Media in Moldova, Moldovan Helsinki Committee, 1998; Interpretation of the Law on Audio-visual in Moldova, English edition by Valentina Odagiu and Serghei Ostaf, Moldovan Helsinki Committee for Human Rights, 1998 (also published in Human Rights and Civil Society, Vol.4, No.3, 1998, IHF.)
4. See also Serghei Ostaf, "Social Cohesion and Human Rights", a contribution to the UNDP Human Development Report..
5. In the beginning of 1999 it was replaced by economic sanctions.
6. Article 174(6) of the Code for Administrative Sanctions stipulates: "Outrage against a police officer while on duty to maintain public order, through action, verbally or in written can be sanctioned with administrative detention."

7. See reports on the fact-finding missions to Balti and Rezina by the Moldovan Helsinki Committee for Human Rights.
8. A person who intends to stay for more than two months in a municipality has to register with local police or the Department of Migration Office of Ministry of Interior to get a residence permit. These provisions also frequently amount to abuses.
9. See reports on the fact-finding missions to Balti and Rezina by the Moldovan Helsinki Committee for Human Rights.
10. The Besarabian Orthodox Church was founded before the Soviet era. Initially, the Moldovan government refused to register it on the grounds that there already was one Eastern Orthodox Church in Moldova.
11. See IHF Annual Report 1995.

