



Fédération Internationale des Ligues des Droits de l'Homme

ORGANISATION INTERNATIONALE NON GOUVERNEMENTALE AYANT STATUT CONSULTATIF AUPRES DES NATIONS UNIES, DE L'UNESCO,
ET DU CONSEIL DE L'EUROPE ET D'OBSERVATEUR AUPRES DE LA COMMISSION AFRICAINE DES DROITS DE L'HOMME ET DES PEUPLES

INTERNATIONAL FEDERATION
OF HUMAN RIGHTS

FEDERACION INTERNACIONAL
DE LOS DERECHOS HUMANOS

الفدرالية الدولية لحقوق الانسان

**Note on the Human Rights situation and Torture in Moldova
for the Session of the UN Committee against Torture (May 2003)**

**By the League for defence of Human rights of Moldova (LADOM) and the
International Federation of Human rights (FIDH) and the FIDH**

A. General situation on Human Rights

B. Torture, inhuman or degrading treatments and punishments in Moldova

A. General situation on Human Rights

History

In 2002 the Republic of Moldova has celebrated the 13th anniversary of its declaration of independence; 13 years of self-governance as an independent, sovereign and indivisible state. During this period the inhabitants of the state have been facing a civil war, financial, economic, political and social crisis and, as a consequence, the territory of the state was divided into several parts (approximately 11% of the territory being uncontrolled by the central authorities).

The first step of the new independent Republic was to proceed to democratic reform with for example the adherence to the most important organisations (the Republic has adhered to the Council of Europe in July 13 1995) and the signing of a series of international instruments.

But the incapacity of the authorities to solve the Transdnistrian issue and the presence of a unit of Russian Army on the territory of the separatist region favoured the transformation of the young state with an inexperienced political class in an unstable region haunted by corruption and traffic of influence, political, social, economic and legislative instability. At the beginning of III-rd millennium Moldova has to face major problems such as : birth rate reduction, unemployment, mass emigration of citizens, trafficking in human beings and body organs etc. It became the poorest state of Europe.

A change in politics that silenced freedom of speech and expression

With the election on the 25 February 2001 of a new government, clearly in favour of the principles of the ex-soviet states, the policy of restricting rights and liberties in the country increased thus creating a climate of tension and fear among the civil society.

After the estrangement of some territories of the Republic of Moldova in 2001, the crisis and cease of

negotiations with the authorities from Tiraspol (capital of Transnistria), the intention of introducing the Russian language as a compulsory discipline in schools and declaring it a State language, the censure of State Media means, as well as the revision of the territorial-administrative reform at the end of the year 2001, made the year 2002 marked by mass protests of the opposition, which were supported by the independent press, civil society and the intelligentsia.

In particular, on 9 January the Fraction of Popularly Christian Democratic Party (PCDP) from Moldova that constitutes the parliamentary opposition began demonstrations of protest against the decision on the introduction of the Russian language as a compulsory discipline in schools. The protests began after the collection of thousands of signatures of the civil society against the abovementioned decision. In reaction to those protests, where no discussions were engaged and firmness was adopted, the Government emitted a “provocative” decision on the replacement of the subject „The History of Romanians “ with „The History of Moldova” and the Ministry of Justice decided to suspend the PCDP activities.

In this context of firmness leading to a climate of fear, few examples can be mentioned, as cases of disappearances of opposition members, like the disappearance of Vlad Cubreacov, Christian-democratic deputy and European parliamentary, in March 2002. Moldovan authorities delayed to take necessary actions in order to find the whereabouts of the deputy and to find and sanction the kidnappers. He finally reappeared in May 2002. Although this case was the first in the history of the Republic of Moldova, it was not the last. After 2 month of Cubreacov’s appearance, another State official disappeared in similar circumstances. The Director of Informational Technologies Department, Piotr Dimitrov, was kidnapped in Chişinău on 2 August 2002.

The interference of the Executive in the political and judicial system

1- Concentration of powers in the hands of the President.

Although a parliamentary system was established in the Republic of Moldova with the 2000 constitutional reform, the power turns out to be in the hands of the President. Moldova has all the features of a presidential system in which the president claims for more and more prerogatives, a fact that is in contradiction with the Constitution. It has to be noted that the President of the country cumulates as well the function of leader of the Communist Party.

There is also a high degree of interference between the legislative and the executive by the significant growth of the role of the Presidency which detains within the government the main power. The majority of the parliament - more than 2/3 of the mandates – belongs to the President party. All these contribute to the lack of transparency of the governing process.

2- The suppression of the independence of judicial power.

Another major problem consisted in the attempt of reducing the independence of judicial power. The government has already carried out some actions in the view of establishing the control over the judicial instances. Furthermore, the administration of the justice is marked by a malfunctioning and non-ensuring of basis human rights: stop in the judicial reform, many cases of abuses of the judicial entities, the use of torture and degrading treatments, illegal and arbitrary arrests and sentences, revenges, etc.

During the year 2002, an important number of cases were brought before the European Court of human rights especially regarding the lack of independance of the judicial power : *the case of Basarabian Church, the scandal between “Bucuria” factory and the prime-minister, the Moldovan Government and the Ministry of Privatisation against the Spanish Group “Union Fenosa”;* *Moldovan Government and the “Air Moldova” Airline Company;* *Moldovan Government and “Air Moldova International” Airline Company;* *Moldovan Government and “Farmaco” Ltd and, of course, the governing party and the parliamentary and extra-parliamentary opposition.*

Lastly, the citizens lost their trust in an equitable and fair justice. Nothing seems to be done as to inform the citizens of their rights, nor as to go to courts to defend their rights as the citizens are afraid of any kind of reprisals.

Repression against independent media

In 2002 Independent Media tried to resist to unfavourable economic and social conditions and to censorship attempts.

Furthermore, for the first time in the history of Moldova there were cases of arrests of journalists on the ground of bribery and authorities interference in the information sphere of the State.

The case of the *Accente weekly newspaper* is one of many existing examples. After issuing some sensational articles that revealed the illegal actions of a lot of former and current officials, journalists have been permanently intimidated, threatened and blackmailed and then the action of bribery was simulated so that to be captured in flagrant delict by the law enforcement agencies. The editorial office was searched and the law enforcement agencies confiscated all the equipment from the office and journalists homes. On 9.10.2002 three journalists from *Accente* have been arrested in an illegal and abusive way. The law enforcement agencies entered *Accente* editorial office and prevented the release of the 10.10.2002 issue. All the office goods were searched: computers, database, video camera, cassettes, Cds. Telephone lines were cut and the activity of the newspaper was suspended.

According to its lawyer, the journalist S.Afanasiu was subjected to pressures in order to tell the sources of information of the newspaper. After the release of the journalists and the resumption of the newspaper's activity the persecutions and threats have not ceased.

On 24.12.02 the Prosecutor's Office from the Centre sector, Chişinău brought an action against the journalist Ileana Rusu, from the *Accente* newspaper. For the first time in the history of the Republic of Moldova a journalist was charged with calumny. Such charge was considered as a new attempt to destroy the newspaper because it was involved in a series of civil and penal causes against former and current State officials. The charge was considered illegal because it violates the Constitution of the Republic of Moldova, the Law on press and the European Convention of Human Rights.

Infringement regarding freedom of thought and religion

The freedom of thought, consciousness and confession in the Republic of Moldova are submitted to severe restrictions. The case of the Basarabian Church became well-known for the whole Europe. An additional proof in the favour of the violation of this right is the fact that just after the proclaiming of the ECHR decision on the case of Basarabian Church, Moldovan authorities did not want to ensure it. The Council of Europe had to insist upon and monitor for a long period of time the situation till the communist governance gave in and registered the Basarabian Church.

Although the government registered the Basarabian Church, it committed a lot of other serious violations that impeded the definitive solving of the problem. This is the conclusion of the Council of Europe experts and rapporteurs who decided to supervise the exact implementation of ECHR decisions.

A short time after the registration of the Basarabian Church, its confessors addressed the Council of Europe an informative note which accused the Moldovan authorities of violating the rights of confessors. They wrote that the RM Government registered the Church, but the rights of the confessors to property and the freedom of free choice of religious confession continue to be violated. Meantime, the Government refused to cancel the decision from 26.09.2001 that stipulated that the Moldovan Church is the legal successor of the Basarabian Church that activated until 1940. Because of this decision, the Basarabian Church cannot regain its possession passed temporarily in the custody of the Romanian Patriarchy and the Moscow Patriarchy has no legal right over it. In this case the Government violated the provisions related to property and inheritance of the RM Constitution and of the European Convention. The Basarabian Church contested the decision from 26.09.2001 at the Court of Appeal of the Republic of Moldova, but it avoids to examine the cause.

It should be also mentioned that the activity and functioning of the Basarabian Church is frequently disturbed by several provocative actions. The priests from the Moldovan Church that adhere to the Basarabian Church are often blackmailed and threatened with death and, sometimes they are physically abused just in the presence of confessors and even policemen.

Such a case was described in details by the press of Chişinău. The priest Teodor Golban from Caşunca, Soroca was pulled from the church and bestially beaten by a group of villagers incited by the members of the

communist party. It is supposed that the attack was prepared by the communist deputy Mihail Rusu together with the spouses Ciupac from Cașunca. A day before the incident, the teachers from the village have been warned by phone by the Educational Direction from Florești not to take part in the “religious meeting” on the ground that the school is non-political. After 13 days, some representatives of the Moldovan Church accompanied by 13 policemen came to the village and named a new priest subordinated to the Moldovan Church. Most of villagers were against but the police used the force in order to enter the church. The confessors have been pushed and the priest’s wife was beaten in her head and stomach by the policemen from Fălești, after which she was transported to the hospital from Florești. The chief of the police sector from Florești denied that the incident from Cașunca was provoked by the police. The proces verbal and the signatures for the replacement of the priest have been falsified and the padlocks from the church door have been changed.

At present, another religious cult has to traverse the same way as the Basarabian Church. Although the representatives of the new confession won the process in the national instances, the authorities refuse to register it. This fact was related by Vitalie Nagacevschi, chairman of the „Jurists for the Human Rights” Association during a TV program. At the end of 2002, the Ministry of Justice developed a draft law on religious cults. Once it will be adopted, the Ministry of Justice could impose such conditions that could threaten the functioning of all the cults in the Republic of Moldova. According to the draft law, all the cults should be reregistered but only with the agreement of the local public authorities that should confirm that they have functioned in an area of at least 25 localities and for at least 25 years. Such conditions favour the Moldovan Church - structure of the Patriarchy from Moscow, because Moldova exists as an independent state only for 11 years, and the draft law requires 25 years. Thus, the new law threatens the activity not only of the Basarabian Church which was registered in 2002 under the pressure of the European Community but also other cults from Moldova, as for example the Roman-Catholic Episcopacy, founded on 23 November 1993 by a decision of the Pope of Rome.

The situation in Transnistria

Since its declaration of independence, the Republic of Moldova does not control over 11% of its territory. After the arm conflict from the spring-summer of 1992 all the efforts taken for exerting the authority on the territory from the left bank of the river Nistru have failed. During a decade, the separatist region from Tiraspol, supported by various forces from the Russian Federation, settled there a truly state entity. Although it remained officially unrecognised, this territory has many elements characterising a state: president, parliament, government, judiciary instances, army, law enforcement agencies, citizens, and others. The constituting of this „state” was realised by violating the elementary norms of the international law, by the use of the military force and committing crimes against the population of the region.

Although Russia has not recognised the participation of its forces in the conflict and the arming of the military structures of the separatist region from Tiraspol, its involvement in the conflict is quite obvious because of the great number of Russian Casacs and of other notorious personalities (for example, Vladimir Antiufeev, who is searched by the legal forces of Lethonia for war crimes and, at present, he is the Minister of Security of Transnistria). The Mafia, very influenced otherwise, enjoys the protection of the self-proclaimed president Igor Smirnov. Thousands of KGB former services came from Moscow and became the leaders of Transnistria.

According to national and international reports the most fundamental freedoms are violated in the region. The population was terrorised by the “respective state bodies” and the elections and governance are exerted according to dictatorial principles. The right to life is currently violated.

The case of the Ilașcu group (members of a democratic political party, accused of terrorism). The members of the “Ilașcu group” A. Ivanțoc, T. Petrov-Popa, A. Leșco have been condemned to different terms of imprisonment and Ilie Ilașcu was condemned to capital punishment en 1993. During the first four years, the execution of the punishment was simulated four times, and during the penal investigations the condemned persons have been subjected to torture and inhuman treatment.

On 27 May 2002, after the appearance of Vlad Cubreacov, Șevțov-Antiufeev, the Minister of security from Tiraspol declared: „if we happened to get him – he wouldn’t be alive “.

The freedom of press: in Râbnîța town appears the newspaper „Dobryi deni”, which after the loss of processes was forced to cover the damage for harming the dignity and honour of some local authorities in an amount of 30 thousands \$. „Thus, speaking about any independent press in the Transdnestrian region is ridiculous “, point out Aleksandr Ivanko, OSCE councillor.

The right to education: In Grigoriopol town the children from the school no. 1 have been forced by the Transdnestrian authorities to study beginning with 2 September 2002 „the Moldovan language” in Cyrillic graphic. The teachers and pupils who wanted to study in Romanian based on Latin graphic had to go to the next village Doroțcaia, that is situated at a distance of more than 10 km. 150 pupils and 25 teachers have been already transferred to the school from Doroțcaia. The chairman of the parents’ council opposed to the intentions of the authorities and as a result he was cited in the court and condemned to 15 days of imprisonment for „hooliganism “.

The right to a fair trial and to access to courts: The possibility of contesting the court decision in a court of higher instance is lacking. The Transdnestrian “Constitution” does not secure this right to the arrested persons. The citizens have the possibility to contest the courts decisions neither in the court instances of the Republic of Moldova nor in the international ones.

On 28 October 1998 the lawyer V. Țurcanu was refused the right to defend the accused P.Ceh. The Prosecutor’ Office and the Justice Direction from Transdnestria have confirmed the right of the lawyer to defend the citizen P.Ceh, but V. Țurcanu was not allowed to take part in the process because he had Moldovan citizenship and was not registered as a lawyer in Transdnestria.

Freedom of religion: The freedom of religion formally exists, but at official level, only the Christian–orthodox religion, subordinated to the Russian Church is recognised. The representatives of the “power” of Transdnestria have been decorated with high distinctions of the given Church. The registering of the “Iehova Witnesses” was refused because its principles do not correspond to the norms of “Transdnestrian legislation”. On 2 September 1997, 200 kg of religious books have been confiscated. The registering of the Methodists Church was also refused on the ground that the members of the given church did not have Transdnestrian citizenship.

B. Torture, inhuman or degrading treatments and punishments in Moldova

The right of being protected against torture, inhuman or degrading treatments or punishments is a right directly related to the person’s integrity and to the human dignity of the individual.

Although the criteria to determine the state incapacity of respecting this right are quite subjective, we can firmly state that during the year 2002 Moldova has registered grave violations of the **Convention against Torture and other Cruel, Inhuman or Degrading Treatments or Punishments**, to which the Republic of Moldova is party since 1995, and of the **European Convention against Torture**, ratified in 1997.

In the Republic of Moldova, more and more cases of abuse of power on behalf of the law enforcement agencies collaborators have been registered. The law enforcement agencies avoid the punishment of these persons in order not to damage the image of law enforcement agencies and only in most obvious and gravest cases these violations are made public.

These obstacles to the repression of such acts of torture constitute a violation of Article 2-1 and Article 4, which mention the obligations of state parties regarding the prevention and repression of acts of torture. Those acts mustn’t go unpunished.

In the Republic of Moldova, serious irregularities in the treatment of persons in custody and other detention measures were noted. Article 11 of the Convention specifically deals with those items.

Custody, police, administration of justice

Serious cases of acts of ill-treatment and torture were committed by police officers in order to extract confessions during periods of administrative detention.

An extremely grave case was noticed by the central press in Criuleni: after having been retained for 2 months at the police sector from Criuleni, Ruslan Bâtca, a 23 year-old man from Chisinau, was transported to the hospital from Pruncul and the medical investigation showed that the person was very seriously ill. During the investigation, the doctors noticed the traces of violent acts inflicted on his head, neck, breast, face and knees. Ruslan Bâtca was retained in a perfect health state and was charged with the theft of some animals from a local household. In fact, the offender was a relative of Ruslan who took his car. Without making an investigation of the case, the policeman took Ruslan to the village Zaicani and ill-treated and tortured him. He tied him to an animal and forced him to walk along the village and shout that he was the thief. At the police sector of Criuleni Ruslan Bâtca was tortured and ill-treated in an awful way (the policemen stubbed out their cigarettes on his body, he was forced to eat razor blades). During the investigation he was threatened by the commissar Armasu.

On 21 June 2002 the press recorded a case of illtreatment of minors by the policemen. The minor A.Pastusoc was illtreated and beaten with the legs by policemen just in the street.

The facts reported in such testimonies constitute a grave violation of the principles of article 5 of the Universal Declaration of Human Rights and article 7 of the International Covenant on Civil and Political Rights (both articles being quoted in the preamble of the Convention against Torture).

The European Committee for Prevention of Torture and inhuman or degrading treatments and punishments (C.P.T.) expressed grave concern on the situation of people in custody in its report of June 2002 following its visit in Moldova in June 2001. The CPT called upon the authorities to effectively implement the rights of detainees, to urge police officers to respect those rights and to make sure they are aware of the penal and disciplinary sanctions they risk if they use torture.

The practice of obtaining confessions by using torture is a serious threat to a good and fair administration of justice. It is clearly denounced in Article 15 of the Convention, which states that ... *any statement which is established to have been made as a result of torture shall not be invoked as evidence in any proceedings* ...

Conditions of detention

We are also concerned by the conditions of detention inmates suffer.

Indeed, the ill-treatment of detainees is a common practice. The standards of evaluating the severity degrees of State behaviour towards its detainees have been established on the basis of the submitted complaints. In this respect, the evaluation of the state respect for this right will be extremely difficult unless the letters written by the detainees to the national and international human rights organisations are read and censored by the penitentiaries' administration.

The detention conditions in the Moldovan penitentiary system are extremely preoccupying; the detainees live in deplorable conditions and suffer cruel, inhuman or degrading treatments.

One of the most pertinent examples at this chapter is the case of journalists from the independent weekly newspaper "Accente" who have been under preventive arrest. The lawyer Roman Mihaes declared that the detention conditions of the journalist Mr. Sergiu Afanasiu were inhuman and degrading and he did not exclude the possibility of administering to the journalists some prohibited substances in order to make some confessions. The second arrested journalist declared that in the penitentiary institutions of the republic of Moldova serious violations of basic human rights take place. Mr. Valeriu Manea, former police collaborator, denounced the attitudes towards the human being and the detention conditions by the General Department of Organised Crime and Corruption. "4-5 arrested persons are held in a cell of 2x2 m, height 1,75m. Because of the lack of natural and electric light the biologic processes that took place in the human body suffer great negative changes and in a short period of time the person cannot understand what season or what time it is. The insomnia becomes a norm and the person becomes conscious of his psychic and physical degradation. The air is conditioned periodically and during the nights the air conditioner is switched off."

In such conditions the citizens whose guilt was not proved yet, are held in detention. Although the Prosecutor's Office knows about the situation from this cellar, it did not work enough for improving the situation, because the life from the given institution is "not sufficient" for being considered a violation of human rights. Mr. Valeriu Manea declared a hunger strike and stated that he is morally ill-treated because he is held together with 6 recidivists. For a former policeman, this is a "masked" punishment dangerous for the life and health of the person.

The Moldovan press wrote about several cases of violations of the provisions of the Convention. Thus, over 800 detainees from the penitentiary of Soroca declared the hunger strike, protesting against the inhuman detention conditions. Meantime, the detainees addressed letters to various national and international bodies asking them to get involved in the solving of this acute problem. The lack of financial means that could improve the conditions of detention, the corruption among the penitentiary institutions and the judiciary system's collaborators hamper the activities and efforts of these organisations. For example, for those 10500 persons deprived of their liberty, the State allocates only 27000 lei per day, that is approximately 2 lei per day for each detainee (0,14\$) .

The detention conditions in the Republic of Moldova are much lower than the internationally agreed norms and, as a consequence a lot of persons fall ill or even lose their lives.

For example, according to Mr. Valentin Sereda, general director of the Department of Penitentiary Institutions, the number of HIV infected persons increased 6 times during a year. Because of the poor detention conditions, the number of detainees ill with tuberculosis is permanently increasing. At present, 10% of the total number of detainees are bearers of the tuberculosis virus.

Mr. Valeriu Manea declared that "no one cares about the health problems of the detainees. No one asks you about your health and the doctors are ycalled only in the case of clinical deaths. "

In order to avoid the overcrowding of penitentiaries with detainees and the spread of infectious diseases some alternative methods of detention should be promoted in the Republic of Moldova.

After its visit in Moldova, the C.P.T. took note of this alarming situation in its report and recommended that the authorities take effective measures to improve the general conditions of detention.

That alarming situation has also been pointed out by the Human Rights Committee at its 74th session in 2002. The Committee deplored the conditions of detention in Moldova and especially the spreading tuberculosis infection. It called upon the authorities to take measures to improve this situation.

The Minister of Justice, Mr. I. Morei mentioned that the State planned to build a new penitentiary, but its construction is permanently postponed on the ground of lack of funds. He also mentioned that 3 or 4 penitentiaries are very old and the life and health of detainees held in these penitentiaries are in danger and the detention conditions are deplorable.

Another positive step made by the Moldovan authorities in the view of securing the rights of persons in detention is the development of a draft law voted at the end of 2002 by the Parliament, that provide that "the letters of condemned persons or of those who are under preventive arrest addressed to national and international human rights organisations will not be read and censured by the penitentiaries' administration".