



CPT/Inf (2008) 37

**Report to the Government of the
Republic of Moldova
on the visit to Prison Establishment No. 8
in Bender carried out by the European Committee
for the Prevention of Torture and Inhuman
or Degrading Treatment or Punishment (CPT)
on 18 March 2006**

The Moldovan Government has requested the publication of this report and of its response. The Government's response is set out in document CPT/Inf (2008) 38.

Strasbourg, 4 December 2008

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Copy of the letter transmitting the CPT's report

Strasbourg, 12 July 2006

Sir

In pursuance of Article 10, paragraph 1, of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, I enclose herewith the report to the Government of the Republic of Moldova drawn up by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) following its visit to Prison Establishment No. 8 on 18 March 2006. The report was adopted by the CPT at its 60th meeting, held from 3 to 7 July 2006.

I would draw your attention in particular to paragraph 21 of the report, in which the CPT requests the Moldovan authorities to inform the Committee, within two months, of the solution found in respect of Prison Establishment No. 8: either the restoration of supplies or the relocation of the prisoners.

The CPT would ask, in the event of the response being forwarded in Moldovan, that it be accompanied by an English or French translation. It would also be most helpful if the Moldovan authorities could provide a copy of the response in electronic form.

I am at your entire disposal if you have any questions concerning either the CPT's report or the future procedure.

Yours faithfully

Silvia Casale
President of the European Committee for
the Prevention of Torture and Inhuman
or Degrading Treatment or Punishment

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I. INTRODUCTION

A. Context of the visit and composition of the delegation

1. In pursuance of Article 7 of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (hereinafter referred to as "the Convention"), a delegation of the CPT carried out a visit to the Transnistrian region¹ of the Republic of Moldova from 15 to 20 March 2006. The visit appeared to the Committee "to be required in the circumstances" (cf. Article 7, paragraph 1, of the Convention). On 18 March 2006, the delegation visited Prison No. 8 in Bender (Tighina), with a view to examining the prevailing conditions².

2. The visit was carried out by the following members of the CPT:

- Jean-Pierre RESTELLINI, Head of the delegation
- Andres LEHTMETS, 2nd Vice-President of the CPT
- Pierre SCHMIT.

They were supported by Geneviève MAYER, Deputy Executive Secretary of the CPT, and assisted by:

- Cyrille ORIZET, psychiatrist, Georges Pompidou European Hospital, Paris, France (expert)
- Sergiu BUFTEAC (interpreter)
- Rodica IOVU (interpreter)
- Iulian ROBU (interpreter)
- Andriana ŞINDIRINSCHI (interpreter).

¹ The Transnistrian region declared itself an independent republic in 1991. The report on the visit carried out during this period to the penitentiary establishments of the local authorities of the Transnistrian region is set out in document CPT (2006) 32.

² This prison, located in the Transnistrian region, is part of the prison system of the Republic of Moldova.

B. Co-operation received

3. The delegation met with Nicolae EȘANU, Vice-Minister of Justice, and Vladimir TROFIM, Director General of the Penitentiary Institutions, as well as with representatives of the prison administration and the Prosecutor General's Office. Discussions took place in a climate of openness and co-operation.

The co-operation received from the establishment's management and staff, on the spot, was excellent.

4. Having said that, the Moldovan authorities were unable to secure access for the delegation to Prison Establishment No. 8. The delegation had to organise, by its own means, access to that place of detention, which is under the authority of the Department of Penitentiary Institutions of the Republic of Moldova.

The Moldovan authorities had in fact informed the delegation at the beginning of the visit (namely, on 15 March) that they could no longer go to the Transnistrian region on an official basis. They indicated that any initiative from their side to secure access for the delegation to Prison Establishment No. 8 (including accompanying the delegation from Chișinău to Bender) would result, in their opinion, in the delegation being blocked at the checkpoints set up by the local authorities at the entry to the region.

5. It is not for the Committee to enter into the details of this question, although it takes note of obstacles faced *de facto* by the Moldovan authorities in travelling to a place under their jurisdiction, located in a zone controlled by the local authorities of the Transnistrian region. It also notes that, during the 2006 visit, the situation was politically strained as a result of the implementation, at the beginning of March, of the customs agreement between the Republic of Moldova and Ukraine.

However, having regard to Article 3 of the Convention, it would have been desirable for the Moldovan authorities to inform the Committee of the aforementioned difficulties, upon receiving the letter of 6 March 2006 from the President of the CPT, notifying them of the Committee's intention to carry out the visit, so that suitable arrangements could have been made in consultation with the CPT to secure access for the delegation to Prison Establishment No. 8 in Bender.

II. FACTS FOUND DURING THE VISIT AND ACTION PROPOSED

A. Preliminary remarks

6. Prison Establishment No. 8 has been visited three times by the CPT. Two of the three visits - in November 2003 and February 2004³ - were devoted specifically to this establishment, given the seriousness of the situation confronting the prison.

Since 10 July 2003, the municipal authorities of Bender have been depriving the establishment of running water and connection to the electricity supply⁴. In March 2006, the prison establishment was still being deprived of running water and connection to the electricity supply; furthermore, since 2005, it has also been disconnected from the city's sewage disposal system - again by decision of the municipal authorities of Bender.

7. At the time of the visit, Prison Establishment No. 8 was accommodating 101 prisoners (compared with 204 in February 2004). This progressive and steady fall in the prison population is due to there being no new admissions, since the local authorities continue to refuse the transfer of prisoners to the establishment (cf. paragraph 17 of document CPT (2004) 23), but only the release of prisoners having served their sentences and the transfer of some prisoners to Pruncul Hospital. The delegation was informed that, at this rate, the establishment would be emptied of its prisoners in ten years or so, once all the current detainees had served their sentences.

The establishment had no prisoners suffering from tuberculosis. All the prisoners were given chest X-rays twice a year, which were often accompanied by a sputum test. The thirteen cases of active tuberculosis detected in 2004 and the eight cases identified in 2005 had been transferred to Pruncul Prison Hospital; screening carried out in the first months of 2006 had not revealed any cases of tuberculosis.

8. As on previous visits, the delegation received no allegations of ill-treatment of prisoners by prison staff or any allegations of violence between prisoners. The CPT would like to highlight the efforts made by the establishment's staff to maintain an atmosphere free of tension in extremely difficult conditions.

³ The CPT report on these two visits is set out in document CPT (2004) 23.

⁴ At the time, the Minister of Justice of the Republic of Moldova requested the assistance of the CPT to resolve this situation (cf. paragraphs 3 and 4 of document CPT (2004) 23).

B. Conditions of detention

9. The living space per prisoner (5.5 m²) can be described as adequate. The fact remains that - during the cold season - due to the limitations hanging over the provision of fuel (cf. paragraph 16 below), this living space was in practice smaller, as detainees had to gather around stoves in the dormitories. The dormitories in the renovated building housing most of the prisoners (78) and the separate sections reserved for prisoners assigned to maintenance (known as the "service detachment") and those working outside the prison walls (the "escort-free detachment") were clean and fairly well equipped, thanks to items obtained by the prisoners from their close relatives (carpets, blankets, cushions, aquariums, etc.), and benefited from good natural light. That said, the premises were distinctly run-down and some of the dormitories attacked by damp.

Heating in the dormitories, at this end-of-winter period, was generally acceptable (about 19°), and even good in certain dormitories (between 20° and 21°). With regard to electricity, the diesel-powered generator supplied the dormitories for three hours a day (from 8 p.m. to 11 p.m.); however, the frequent power surges caused damage to electrical appliances such as television sets.

10. At the time of the visit, the establishment had sufficient supplies of drinking water, as the transit of tankers drawing water from a river in the village of Varnitsa (Varnița) was possible.

As for food, an examination of stocks and interviews with prisoners confirmed that the basic needs were covered. In addition, prisoners were able to improve their daily fare by means of foodstuffs sent to them by their families.

11. Having said that, the prisoners' situation was extremely precarious: soap and detergent were provided once a month by the establishment, a "do-it-yourself" shower (using bowls of hot and cold water) was possible once every ten days, opportunities to wash clothes and underwear were necessarily restricted given the circumstances, and prisoners depended on their families for toilet paper. Fortunately, there was no limit on parcels from relatives.

In addition, following the local authorities' decision to disconnect the establishment from the municipal sewage disposal system, the toilets could no longer be used and cesspools had had to be installed outside the detention areas. These consisted of a rudimentary row of holes in the ground, with a sheet of corrugated iron as a makeshift roof.

12. The establishment was not able to provide stimulating activities for the prisoners, whose only means of occupying themselves was to walk around inside the prison, read, listen to the radio or watch television (when the electricity was on and when the set had not been damaged by power surges) and chat among themselves. In reality, most of the prisoners were trapped in a cycle of complete idleness, the days passing with the rhythm of the acts of survival such as fetching water, wood and food.

13. Only the possibilities of contact with the outside world⁵ and, in particular, visits (one short visit of 4 hours a month and one long visit of 3 days every three months) broke this monotony. However, there were numerous complaints about the insufficient heating in the visiting rooms; the delegation observed for itself that these were very cold.

Furthermore, for visitors, travelling to the prison was not easy; they were sometimes not allowed to pass through the checkpoints controlled by the local authorities at the entry to the Transnistrian region and, when passage was allowed, the local authorities charged a fee of 7 Lei. If the visitors came for a long visit, they had in addition to pay the prison administration 15 Lei per day for the use of the rooms reserved for visits.

14. In general, no problems with regards to health care were apparent during the visit: it was easy to gain access to the health-care staff and the medical supervision of the prisoners was satisfactory, which was due in particular to the ample number of doctors and feldshers⁶. The establishment had a sufficient supply of medicines to last three months. In emergencies, prisoners were accepted at Bender municipal hospital, under the supervision of prison staff.

However, the delegation once again observed the unacceptable practice of administering treatment through the bars of the "procedures room", despite repeated calls by the CPT to cease this practice (cf., in particular, paragraph 24 of the report of the November 2005 visit to the Republic of Moldova, document CPT/Inf (2008) 35).

⁵ There was no limit on mail and it was possible to make a 10-minute paid telephone call instead of receiving a monthly visit.

⁶ Two general practitioners working full-time plus a phtisiologist, a psychiatrist, a dentist, a radiologist working half-time as well as two full-time feldshers, backed up by a pharmacist, an assistant radiologist and a laboratory assistant, all half-time.

C. Conclusion

15. It is certainly true that the Moldovan authorities have taken steps since the February 2004 visit to remedy, as far as possible, the severe difficulties afflicting Prison Establishment No. 8 resulting from the measures taken by the municipal authorities of Bender. The prison's administration spared no effort to make the conditions of detention as bearable as possible. Prisoners and staff appeared to be united, supporting one another through the daily trials of survival imposed upon them.

16. However, they were permanently living with the sword of Damocles above their heads, as the transportation of water as well as coal/wood/fuel oil and the delivery of food supplies could be jeopardised at any time. The establishment was reliant on the daily arrival of at least two tankers of water⁷; it only had reserves of fuel oil to last two weeks, coal for a month and a half, dry food for two months, canned meat for two weeks, powdered milk and sugar for two months and one season's supply of cabbage. It was, however, evident that if just one water tanker were to be blockaded for a few days, the prisoners' situation would become untenable.

Furthermore, even if supplies of the water and foodstuffs vital to the prisoners' subsistence continued to be authorised, the material conditions of detention would never be acceptable as long as the establishment remained cut off from running water and the electricity supply and disconnected from the municipal sewage disposal system.

17. In its report on the 2003 and 2004 visits (paragraph 18), the CPT had emphasised that the measures taken by the municipal authorities with regard to Prison Establishment No. 8 in Bender had clearly placed prisoners' physical integrity at risk. It has to be said that the municipal authorities are maintaining - and have hardened - their attitude. The situation resulting from those measures is unacceptable and could be described as amounting to inhuman and degrading treatment.

18. The CPT had repeatedly called on the municipal authorities of Bender to resume running water and electricity supplies immediately and unconditionally (cf. paragraph 20 of the aforementioned report on the visits in 2003/2004). It had also asked them, in a letter of 10 March 2004, to reconsider their rejection of the solution identified to break the deadlock (cf. paragraphs 21 and 22 of the aforementioned report). They have never responded to this point, despite having received, at their request, the conclusions of an independent expert of the World Health Organisation (WHO)⁸ demonstrating that Prison Establishment No. 8 posed no health risk for the local community ("Based on the reported data and the epidemiology of tuberculosis, the likelihood of excess exposure to infectious TB by the Bender community as a result to the existence of Colony Number 8 is not probable").

⁷ Equivalent to two tonnes of water per day in winter and at least four tonnes of water per day in summer (i.e. four tankers a day).

⁸ This expert assessment was carried out from 25 to 27 May 2004 and was co-funded by the Council of Europe, the Organisation for Security and Co-operation in Europe (OSCE) and the WHO.

For their part, as indicated in paragraph 7 of the present report, the Moldovan authorities have taken the necessary steps to ensure that any of the establishment's prisoners diagnosed with active tuberculosis is transferred to an appropriate health facility (cf. point 2 of the solution identified in 2003 to break the deadlock).

19. In 2006, the stand-off between the two parties involved was still continuing: the local authorities were insisting on a complete evacuation of the establishment with a view to taking it over; the Moldovan authorities insisted on keeping it.

Neither of the two parties saw any way out of the situation and all dialogue had been broken off (including through the Joint Control Commission⁹, whose activity had been paralysed). It was clear from the discussions held with interlocutors at the level of both the local authorities and the Republic of Moldova that the issue was above all of a political nature.

20. It is not the role of the CPT to enter into a debate of this kind. In the same way, it did not enter into any discussion of the merits of the reasons given by the municipal authorities for the measures taken in 2003 with regard to the prison establishment, although it had highlighted that certain of the arguments heard were unconvincing (a fact substantially borne out by the aforementioned expert assessment).

For the CPT, the only issue is the welfare of the prisoners, who remain hostages¹⁰ in this ongoing stand-off aimed at imposing a settlement of differences by bringing about further hardship to prisoners. Such an attitude on the part of all those involved in bringing about this intolerable state of affairs can only merit unqualified condemnation.

One should no longer shy away from the facts: the measures taken since the previous visit and the efforts made by the Moldovan authorities in respect of Prison Establishment No. 8 have merely enabled the prisoners and the staff to hold out in a "state of siege".

⁹ Set up under Article 2 of the Agreement on principles for the peaceful settlement of the armed conflict in the Transnistrian region of 21 July 1992.

¹⁰ The situation of the staff is by no means enviable either: staff levels have gradually been reduced and those still in post have had their wages progressively cut, under a pay system indexed to the number of prisoners in an establishment.

21. These considerations lead the Committee not to make any recommendations for further improvements or aimed at remedying some of the shortcomings observed. This approach would be counterproductive and would serve only to mask the real facts of the deadlock and the responsibilities to be assumed in seeking a solution.

In the CPT's opinion, the Moldovan authorities must now draw the necessary consequences deriving from their fundamental obligation to protect prisoners from inhuman or degrading treatment. More than two years ago, the CPT stressed that "should the current situation persist, fulfilling that responsibility may well require the relocation of prisoners to another facility". At present, it is no longer possible to prevaricate: either the problems of access to running water and connection to the electricity supply and sewage disposal system have to be solved without further delay, or the prisoners have to be relocated elsewhere. In this respect, the Committee is not convinced by the argument that the hundred prisoners involved would exacerbate overcrowding in other penitentiary establishments in Moldova.

Therefore, the CPT would like to be informed within two months of the solution found in respect of Prison Establishment No. 8: either the restoration of supplies or the relocation of the prisoners.

