



CPT/Inf (2002) 35

**Report on the visit to the Transnistrian region  
of the Republic of Moldova  
carried out by the European Committee  
for the Prevention of Torture and Inhuman  
or Degrading Treatment or Punishment (CPT)**

**from 27 to 30 November 2000 and**

**Responses of the local authorities of  
the Transnistrian region**

The Moldovan Government and the local authorities of the Transnistrian region of the Republic of Moldova have agreed to the publication of this visit report. The local authorities' responses are also made public.

*The visit report and responses are also available in Russian on the CPT's website ([www.cpt.coe.int](http://www.cpt.coe.int))*

Strasbourg, 12 December 2002



## TABLE OF CONTENTS

	Page
Report on the visit to the Transnistrian region of the Republic of Moldova carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 27 to 30 November 2000 .....	5
Response of the local authorities of the Transnistrian region dated 12 July 2001.....	47
Response of the local authorities of the Transnistrian region dated 10 October 2001 .....	55



**Report on the visit to the Transnistrian region  
of the Republic of Moldova  
carried out by the European Committee  
for the Prevention of Torture and Inhuman  
or Degrading Treatment or Punishment (CPT)**

**from 27 to 30 November 2000**



## **CONTENTS**

<b>I. INTRODUCTION.....</b>	<b>9</b>
<b>II. FACTS FOUND DURING THE VISIT AND ACTION PROPOSED .....</b>	<b>11</b>
<b>A. Preliminary remarks .....</b>	<b>11</b>
<b>B. Police (Militia) .....</b>	<b>11</b>
1. Introduction .....	11
2. Torture and other forms of ill-treatment.....	13
3. Safeguards against the ill-treatment of persons deprived of their liberty.....	16
4. Conditions of detention .....	19
<b>C. Penitentiary establishments .....</b>	<b>23</b>
1. Introduction .....	23
2. Ill-treatment .....	24
3. Medical care .....	25
4. Conditions of detention .....	27
<b>APPENDIX 1: List of the CPT's recommendations, comments and requests for information.....</b>	<b>31</b>
<b>APPENDIX 2: Recommendation no. R (80) 11 of the Committee of Ministers of the Council of Europe, concerning custody pending trial.....</b>	<b>39</b>
<b>APPENDIX 3: Recommendation no. R (99) 22 of the Committee of Ministers of the Council of Europe, concerning prison overcrowding and prison population inflation .....</b>	<b>43</b>



## I. INTRODUCTION

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 region of the Republic of Moldova from 27 to 30 November 2000.

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

- Pierre SCHMIT, Head of the delegation
- Davor STRINOVIC.

They were assisted by:

- Jean-Pierre RESTELLINI, specialist in forensic and internal medicine, Geneva (expert)
- Veronica BOHANTOV (interpreter)
- Elena CEBAN (interpreter)
- Valeriu ROTARU (interpreter)

and were accompanied by the Executive Secretary of the CPT, Trevor STEVENS.

2. The delegation visited the following places of deprivation of liberty:

Prison N° 1, Glinoe

Colony N° 2, Tiraspol

Colony N° 3, Tiraspol

Police Headquarters and temporary holding facility (IVS), Tiraspol

3. At both the outset and the end of the visit, the delegation met representatives of the authorities of the Transnistrian region and, in particular, Viktor BALALA (responsible for Justice issues), Alexander KOROLYOV (Interior issues) and Nikolai GONCHARENKO (Prison matters). These meetings took place in an open and positive spirit.

The delegation enjoyed access to all places of deprivation of liberty which it wished to visit and to all persons deprived of their liberty which it wished to interview. Further, the delegation received a satisfactory reception from both the management and staff of the establishments visited and was granted access to all information (e.g. custody registers, medical records) necessary for the carrying out of its task.

The CPT is also grateful to the authorities of the Transnistrian region for the means of transport which they placed at its delegation's disposal; this facilitated considerably the delegation's work.

To sum up, it can be said that the authorities of the Transnistrian region cooperated fully with the CPT's delegation, in conformity with Article 3 of the Convention.

4. Nevertheless, the CPT has strong reservations with regard to the authorities' insistence that one prisoner at Colony N° 2 in Tiraspol, namely Ilie Ilașcu, be interviewed by the delegation in a specific room used for long-term visits, rather than in his cell.

The only explanation which the management of the establishment could offer for this approach was that it was in accordance with standing instructions; to override those instructions would apparently have required high-level approval. The prisoner indicated that he was fully aware of the possible implications of being interviewed in the room in question and entirely unconcerned about them. Consequently, the delegation chose on this occasion not to pursue the matter at a higher level. However, having regard to the provisions of the Convention and, in particular, Article 8, paragraph 3, **the above-mentioned standing instructions should be rendered inapplicable to CPT delegations.**

5. The authorities of the Transnistrian region emphasised that the region was facing serious economic and social problems, in part as a result of the protracted dispute concerning its legal status. They requested that this be taken into account when assessing the facts found.

The CPT's delegation bore these problems in mind, in particular when considering the material conditions and the activities offered to detained persons. However, as was stressed by the delegation at the end of its visit, in the statement which it made in Tiraspol on 30 November 2000, such problems can never excuse the deliberate ill-treatment of persons deprived of their liberty.

## II. FACTS FOUND DURING THE VISIT AND ACTION PROPOSED

### A. Preliminary remarks

6. The delegation was informed that the Code of Criminal Procedure and the Penal Code of the former Moldavian Soviet Socialist Republic remained applicable in the Transnistrian region, with modifications. **The CPT would like to receive copies of the most recent versions of those two Codes, as well as of all other legal texts which relate to deprivation of liberty. Further, the Committee would like to receive information on steps currently underway to replace the existing Codes.**

7. As regards more specifically the death penalty, the delegation was informed that it was still provided for in the Penal Code, but that a moratorium on executions had been introduced in 1999.

**In relation to the plans to introduce a new Penal Code, the CPT would like to recall that the Council of Europe has a clear policy against the death penalty, which was most recently reaffirmed in the Declaration adopted by the Committee of Ministers on 10 December 1998, on the occasion of the 50<sup>th</sup> Anniversary of the Universal Declaration of Human Rights.**

**Further, for as long as the death penalty remains provided for by law, the CPT trusts that the authorities will continue to adhere to the approach currently followed and refrain from carrying out any death sentence passed by the courts.**

### B. Police (Militia)

#### 1. Introduction

8. The CPT has requested the texts which will enable it to examine in depth the legal framework of police custody (cf. paragraph 6). However, the information gathered by the delegation indicated that under the Code of Criminal Procedure, a person suspected of a criminal offence may be held by the police for up to 72 hours. Within the first 24 hours the investigating authority must draw up a protocol of detention and inform the relevant prosecutor in writing of the detention. If the investigating authority subsequently wishes to use the preventive measure of remand in custody, its application must be approved by the prosecutor within 48 hours of receiving the initial notification of detention.

9. Nevertheless, the delegation learned that it was also common practice for the outset of the above-mentioned period of 72 hours to be preceded by a period of deprivation of liberty of three hours, during which operational police officers proceeded to "clarify" certain matters. **The CPT would like to be informed of the precise legal basis for this practice.**

The delegation also received reports of the existence of a decree (N° 222), which apparently authorises the police to detain persons for up to 30 days without bringing charges. **The CPT would like to be informed as to whether such a decree exists and, in the affirmative, to receive a copy of that decree.**

10. The delegation was informed by law enforcement officials that persons in respect of whom a protocol of detention was drawn up would be placed in a temporary holding facility (IVS). It was stated that the maximum permitted stay in such a facility was 10 days. However, when visiting the IVS at Tiraspol Police Headquarters, the delegation found that certain of the detained persons had been held there for periods far in excess of 10 days. **The CPT would like to receive the comments of the authorities on this matter.**

11. The delegation was also informed of recent amendments to the Code of Criminal Procedure, which enable persons subject to the preventive measure of remand in custody to lodge an appeal against that measure with a judge. The CPT welcomes these amendments.

**The Committee invites the authorities to envisage the possibility of going a step further and vesting in a judge the power to remand a person in custody.** In this way the situation in the Transnistrian region on this point would be in full conformity with the European Convention on Human Rights.

12. The CPT would also like to take this opportunity to stress that the preventive measure of remand of custody should be used sparingly. Being presumed innocent until proved guilty, no person charged with an offence should be placed in custody pending trial unless the circumstances make it strictly necessary. Custody pending trial should therefore be regarded as an exceptional measure and it should never be compulsory nor be used for punitive purposes.

These fundamental principles are set out and developed in Recommendation N° R (80) 11 of the Committee of Ministers of the Council of Europe, concerning custody pending trial (cf. Appendix 2). If the authorities were to be guided by these principles, this would bring great benefits for all concerned. With regard to matters directly related to the CPT's mandate, such an approach would significantly reduce the current pressures on IVS and penitentiary establishments in the Transnistrian region.

**The CPT recommends that the authorities review the law and practice relating to custody pending trial, in the light of the principles set out in Committee of Ministers' Recommendation N° R (80) 11.**

## 2. Torture and other forms of ill-treatment

13. A significant number of the persons deprived of their liberty interviewed by the CPT's delegation alleged that they had been ill-treated by the police. The allegations related to the time of apprehension and/or the period of initial questioning by operational police officers in charge of gathering evidence. The information gathered suggests that operational police officers based on the third floor of the Tiraspol Police Headquarters are particularly prone to resort to ill-treatment.

In contrast, scarcely any allegations were heard of ill-treatment by custodial staff in IVS establishments.

14. The ill-treatment alleged mostly concerned kicks, punches, blows with truncheons or bats and asphyxiation using a gas mask. Some allegations were also received of the infliction of electric shocks and suspension by the legs and/or arms. In a number of cases, the severity of the ill-treatment alleged could be considered as amounting to torture.

15. Many of the allegations pre-dated the delegation's visit by several weeks or even longer, and any marks which might have been caused by the kinds of ill-treatment alleged would almost certainly have healed in the meantime. As regards those persons interviewed who had very recently been apprehended and questioned, they were clearly afraid to talk in detail about the ill-treatment which they alleged and were reluctant to be examined by the delegation's doctors, fearing reprisals from police officers.

Nevertheless, medical evidence of recent physical abuse was gathered in certain cases, e.g. in one case, two purplish red bruises (3 cm x 1 cm) on the left cheek, consistent with an allegation of having been struck on that part of the body with the butt of a gun at the time of apprehension, several days earlier; in a second case, multiple injuries (bluish-violet haematomae, swellings, excoriations) to the face and right elbow, consistent with an allegation of having been kicked on those parts of the body whilst lying on the floor at the time of apprehension, several days earlier.

16. In the light of all the information gathered during the visit, including in the course of contacts with operational police officers and various other public officials, it is clear that guaranteeing respect of the human rights of persons deprived of their liberty in the Transnistrian region requires a fundamental change in the professional behaviour of many law enforcement officials.

The best possible guarantee against ill-treatment by the police is for its use to be unequivocally rejected by law enforcement officials themselves. This implies strict selection criteria at the time of recruitment of such staff and the provision of adequate professional training. As regards the latter, the authorities of the Transnistrian region should seek to integrate human rights concepts into practical professional training for handling high-risk situations, such as the apprehension and interrogation of suspects. This will prove more effective than separate courses on human rights.

Training should be pursued at all levels of the police, and should be ongoing. It should seek *inter alia* to put across and develop two points: firstly, that all forms of ill-treatment are an affront to human dignity and, as such, are incompatible with universally recognised basic values; secondly, that resort to ill-treatment is a fundamentally-flawed method of obtaining reliable evidence for combating crime. More advanced interrogation and investigation techniques will lead to better results from a security standpoint.

Further, particular attention should be given to training in the art of handling, and more especially of speaking to, persons taken into custody, i.e. interpersonal communication skills. The possession of such skills will often enable law enforcement officials to defuse situations which might otherwise become violent.

Consequently, the CPT recommends:

- that a very high priority be given to professional training for law enforcement officials of all ranks and categories, taking into account the above remarks. Experts not belonging to the police should be involved in this training;
- that an aptitude for interpersonal communication be a major factor in the process of recruiting law enforcement officials and that, during the training of such staff, considerable emphasis be placed on acquiring and developing interpersonal communication skills.

The CPT also recommends that the relevant authorities as well as senior police officers make it clear to law enforcement officials, *and in particular to operational police officers in charge of gathering evidence*, that the ill-treatment of persons in their custody is not acceptable and will be dealt with severely. An unambiguous message from a high political level, condemning ill-treatment by the police, would be particularly welcome.

17. As regards more specifically the allegations of ill-treatment at the time of apprehension, the CPT fully recognises that the apprehension of a suspect may often be hazardous, particularly if the individual concerned resists and/or the police have reason to believe that the person might be armed and dangerous. The circumstances may be such that the apprehended person (and possibly also law enforcement officials) suffer injuries, without this being the result of an intention to inflict ill-treatment. However, no more force than is strictly necessary should be used. Furthermore, once apprehended persons have been brought under control, there can never be any justification for their being struck.

**The CPT recommends that law enforcement officials be reminded of these precepts.**

18. Another effective means of preventing ill-treatment by the police lies in the diligent examination by prosecutors and judges of all complaints of such treatment brought before them and, when appropriate, the imposition of a suitable penalty. This will have a very strong dissuasive effect.

In this connection, the CPT must stress the importance of all persons to whom it is intended to apply the preventive measure of remand in custody being physically brought before the prosecutor who must approve that measure; at the moment this is not happening. The delegation learned that the prosecutor usually took his decision on the basis of the file, in the absence of the detainee. This means that a person can be apprehended and interrogated by the police and subsequently remanded in custody and placed in a pre-trial establishment, without ever being brought before an authority which is independent from the police. Such a state of affairs violates fundamental principles of due process and lends itself to abuse.

Systematically bringing the detainee before the prosecutor will provide a timely opportunity for a person who has been ill-treated to lodge a complaint. Further, even in the absence of an express complaint, the fact of having the person concerned brought before the prosecutor will enable the latter to take action in good time if there are other indications (e.g. visible injuries; a person's general appearance or demeanour) that ill-treatment might have occurred.

**Consequently, the CPT recommends that appropriate steps be taken to ensure that all persons to whom it is intended to apply the preventive measure of remand in custody are brought before the prosecutor who must approve that measure.**

**Further, the CPT recommends that whenever a person brought before a prosecutor alleges ill-treatment by the police, the prosecutor immediately request a forensic medical examination; this approach should be followed irrespective of whether the person concerned bears visible injuries. Even in the absence of an express allegation of ill-treatment, the prosecutor should request a forensic medical examination whenever there are other grounds to believe that a person brought before him could have been the victim of ill-treatment.**

19. Health-care staff in IVS facilities and penitentiary establishments can also make a significant contribution to the prevention of ill-treatment by the police, through the systematic recording of injuries observed on newly-arrived detainees and prisoners and, if appropriate, the provision of information to the relevant authorities.

Current practice in this area in the different establishments visited left room for improvement. Injuries observed on a detainee's/prisoner's arrival tended to be described in a very succinct manner, and related allegations by the person concerned were apparently not recorded. Further, although a specific register of injuries was kept in the IVS at Tiraspol Police Headquarters, no such register was kept in the penitentiary establishments visited; instead, injuries were recorded in the prisoner's medical file. The existence of a specific register of injuries would facilitate subsequent control by prosecutors and other relevant authorities. The delegation was also informed that in certain establishments (e.g. the Tiraspol IVS), newly-arrived detainees were medically examined in the presence of custodial staff.

**The CPT recommends that steps be taken to ensure that health-care staff at IVS and penitentiary establishments:**

- record in a detailed manner any injuries observed on newly-admitted detainees/prisoners;
- record any relevant statements made by the persons concerned (and, in particular, any allegations of ill-treatment).

**It would also be highly desirable for health-care staff to indicate the degree of consistency between the objective medical findings and any allegations made; this would enable the relevant authorities, and in particular prosecutors, to properly assess the information set out in the record.**

**The CPT also recommends that:**

- a specific register of injuries be kept in all IVS and penitentiary establishments;
- all medical examinations be conducted out of the hearing and - unless health-care staff expressly request otherwise in a given case - out of the sight of non-medical staff.

### **3. Safeguards against the ill-treatment of persons deprived of their liberty**

20. The CPT attaches particular importance to three rights for persons deprived of their liberty by law enforcement agencies:

- the right of those concerned to inform a close relative or another third party of their choice of their situation;
- the right of access to a lawyer;
- the right of access to a doctor.

The CPT considers that these three rights are fundamental safeguards against the ill-treatment of persons deprived of their liberty, which should apply from the very outset of custody (that is, from the moment when the persons concerned are obliged to remain with the police).

Furthermore, persons detained by the police should be expressly informed, without delay and in a language they understand, of all their rights, including those referred to above.

21. The CPT has not yet been in a position to examine in depth the legal position in the Transnistrian region as regards the above-mentioned rights (cf. paragraph 8). However, the information gathered during the visit clearly suggests that there is considerable room for progress as regards their effective application.

22. As regards notification to a close relative or another third party of the fact of one's detention, the vast majority of detained persons interviewed alleged that no such notification had been given during the first few days of their custody. Law enforcement officials with whom this question was raised alluded to the need to protect the interests of the investigation.

23. The CPT considers that the right of persons deprived of their liberty to be able to inform a close relative or a third party of their choice of their situation should be expressly guaranteed from the very outset of their deprivation of liberty. The exercise of this right may, of course, be subject to certain exceptions designed to protect the legitimate interests of the investigation; however, such exceptions should be clearly defined and strictly limited in time.

Consequently, **the CPT recommends that the authorities ensure that:**

- **persons deprived of their liberty have the right to inform without delay (either directly or through the intermediary of a law enforcement official) a close relative or other third party of the fact that they have been placed in detention;**
- **any possibility exceptionally to delay the exercise of this right be clearly circumscribed in law, made subject to appropriate safeguards (e.g. any delay to be recorded in writing with the reasons therefor and to require the approval of a prosecutor) and strictly limited in time.**

24. As regards access to a lawyer, the standard protocol of detention contains a printed entry to the effect that "The detained person has been informed of his right to have a lawyer, who should be presented to him within 24 hours of the moment of detention" (followed by a statement signed by the person concerned that he needs or does not need a lawyer). Consequently, it is clear that the right of access to a lawyer is not applicable as from the very outset of custody. Many persons interviewed by the delegation alleged that their requests to see a lawyer had not been granted promptly and, more specifically, that access to a lawyer had been denied until such time as they had confessed to the offences of which they were suspected.

25. The CPT wishes to stress that, in its experience, it is during the period immediately following deprivation of liberty that the risk of intimidation and ill-treatment is greatest. Consequently, the possibility for persons deprived of their liberty by the police to have access to a lawyer during that period is a fundamental safeguard against ill-treatment. The existence of that possibility will have a dissuasive effect on those minded to ill-treat detained persons; moreover, a lawyer is well placed to take appropriate action if ill-treatment actually occurs.

The CPT recognises that in order to protect the legitimate interests of the investigation, it may exceptionally be necessary to delay for a certain period a detained person's access to a *lawyer of his or her choice*. However, this should not result in the right of access to a lawyer being totally denied during the period in question. In such cases, access to *another independent lawyer* should be arranged.

The right of access to a lawyer must include the right to talk to him in private. The person concerned should also be entitled to have a lawyer present during any questioning conducted by the police (whether this be during or after the initial period of police custody). Naturally, the fact that a detained person has stated that he wishes to have access to a lawyer should not prevent the police from beginning to question him on urgent matters before the lawyer arrives.

26. In the light of these considerations, **the CPT recommends that steps be taken to ensure that all persons detained by the police have, as from the very outset of their deprivation of liberty, a right of access to a lawyer as defined in paragraph 25. The exercise of this right should not be made subject to anyone's authorisation.**

27. Turning to access to a doctor, in the event of an emergency, a doctor would be called or the person concerned taken to a nearby hospital. In addition, a feldscher was present in the IVS at Tiraspol Police Headquarters during normal working hours on weekdays.

However, it was not clear whether persons deprived of their liberty by the police have an expressly guaranteed right of access to a doctor, including the right to be examined, if they so wish, by a doctor of their choice. **The CPT would like to receive further information on this subject.**

28. The CPT has already indicated the importance it attaches to persons deprived of their liberty by the police being informed without delay, and in a language they understand, of all their rights. In order to guarantee that such information is given, **the CPT recommends that a form setting out those rights (including the rights mentioned in paragraphs 20 to 27 above) in a straightforward manner be systematically given to persons deprived of their liberty at the very outset of their custody (i.e. as from the moment they are obliged to remain with the police). This form should be made available in an appropriate range of languages.**

29. The information gathered during the visit also highlights the necessity for detailed directives on the conduct of interviews.

Admittedly, the art of questioning persons in police custody will always be based in large measure on experience. However, the CPT considers that formal guidelines should exist on a number of specific points; the existence of such guidelines will, *inter alia*, help to underpin the lessons taught during the training of operational police officers in charge of gathering evidence and criminal investigators.

Consequently, the CPT recommends that a code of conduct for interviews be drawn up. In addition to reiterating the total prohibition of ill-treatment, the code should deal, *inter alia*, with the following: the systematic informing of the detained person of the identity (name and/or number) of those present at the interview; the permissible length of an interview; rest periods between interviews and breaks during an interview; places in which interviews may take place; whether the person detained may be required to remain standing while being questioned; the questioning of persons who are under the influence of drugs, alcohol or medicine, or who are in a state of shock. It should also be stipulated that a systematic record be kept of the times at which interviews start and end, of the persons present during each interview and of any request made by the detained person during the interview.

The position of specially vulnerable persons (for example, the young, those who are mentally disabled or mentally ill) should be the subject of specific safeguards.

#### 4. Conditions of detention

30. Custody by the police is, in principle, of relatively short duration. Consequently, physical conditions of detention cannot be expected to be as good as in other places of detention where persons may be held for lengthy periods. However, certain elementary material requirements should be met.

All cells in police detention facilities should be clean, of a reasonable size for the number of persons they are used to accommodate, and have adequate lighting (i.e. sufficient to read by, sleeping periods excluded) and ventilation; preferably, cells should enjoy natural light. Further, cells should be equipped with a means of rest (e.g. a fixed chair or bench), and persons obliged to stay overnight in custody should be provided with a clean mattress and clean blankets.

Persons in police custody should be allowed to comply with the needs of nature in clean and decent conditions, and offered adequate washing facilities. They should have ready access to drinking water and be given food at appropriate times, including at least one full meal (i.e. something more substantial than a sandwich) each day. Persons held for extended periods (24 hours or more) should be provided with appropriate personal hygiene items and, as far as possible, be offered outdoor exercise every day.

31. Regrettably, conditions of detention in the temporary holding facility (IVS) at Tiraspol Police Headquarters fell far short of meeting the standards referred to above and can only be described as wretched. This state of affairs is all the more serious given that persons are frequently held in the facility well beyond the normal 10-day limit (cf. paragraph 10).

The local Police Chief acknowledged that conditions of detention in the IVS were far from satisfactory and, more specifically, not in conformity on a number of points with the legal provisions governing the operation of the facility (i.e. Regulation 220 of 20 August 1996). He explained this situation by the rising crime rate (which had led to overcrowding) and the very limited budgetary means placed at his disposal.

32. The IVS at Tiraspol Police Headquarters is a basement-level facility which has thirteen cells of varying sizes. On the day of the delegation's visit, 125 persons were being detained in the IVS, including nine women and an unspecified number of minors. The women were held together in one cell; as for the minors, they were held together with adults.

33. One of the largest cells (No. 12), measuring 16 m<sup>2</sup>, was accommodating 16 persons. Consultation of the custody register showed that this grossly excessive occupancy rate was in no way unusual and that on occasion it was even worse; 19 persons had been held in cell 12 in the recent past. The negative effects of the severe overcrowding were exacerbated by poor ventilation and lack of natural light. The cell window had been completely covered over and the only noticeable effect of the IVS's ventilation system was to produce a lot of noise. As a result, the atmosphere was both stale and excessively warm. Artificial lighting was just about adequate (the detainees pointing out that they had bought the neon tube themselves).

A wooden platform covered most of the cell floor. However, given the number of detainees, it was not possible for all of them to lie down on the platform at the same time; consequently, sleeping took place in shifts. There were some blankets, but no mattresses. The rest of the cell's equipment consisted of an asian toilet (a low partition offering a modicum of privacy), a washbasin, and an improvised table (apparently made by the detainees). As for the state of cleanliness and hygiene, the cell (including its toilet and washbasin) was filthy and infested with insects. The detainees had to rely heavily on their families for the provision of numerous items, including basic personal hygiene items.

Material conditions of detention in the other cells were in all respects very much the same as those described above. In particular, overcrowding reached alarming proportions in certain of them e.g. 9 persons in a cell of 7 m<sup>2</sup>.

It should also be noted that the food given to detainees was the subject of widespread complaints, both as regards its quality (it was claimed that a thin gruel of poor nutritional quality was usually provided) and its quantity (in particular, the daily bread ration was only some 250 grammes, rather than the 500 grammes apparently foreseen by the applicable regulations). However, the food was said to be somewhat better on the day of the delegation's visit.

34. Throughout their stay in the IVS, detainees only left their cells for questioning, visits from their lawyers and the occasional shower. Staff informed the delegation that detainees were offered a shower once every two weeks (the city providing the IVS with hot water at two-weekly intervals). The state of the shower room was in keeping with that of the rest of the detention facility.

The IVS did possess a "walking area". However, detainees alleged that they were rarely, if ever, taken there. The area in question consisted of a small and completely covered yard, immediately adjacent to the machinery operating the ventilation system. Although the yard was a very poor facility, regular access to it would no doubt come as a welcome break from conditions in the cells.

35. At the end of the visit, the CPT's delegation identified three measures not requiring a substantial financial outlay which should be taken immediately to improve conditions of detention in the IVS at Tiraspol Police Headquarters:

- ensure that the ventilation system is serviced regularly;
- uncover the cell windows, so as to allow access to natural light and fresh air;
- give detainees regular access (if possible on a daily basis) to the IVS's walking area.

**The CPT requests information on the steps which have been taken to implement the above-mentioned measures.**

36. The measures referred to in paragraph 35 will not be sufficient to bring conditions of detention in the IVS at Tiraspol Police Headquarters to an acceptable standard. Other measures which could and should be taken without delay include:

- providing mattresses in addition to blankets;
- ensuring that detainees have at their disposal basic personal hygiene products (soap, toilet paper, sanitary materials for women's monthly needs, etc.); those detainees who cannot obtain such products from their families should have them provided by the authorities;
- offering detainees a warm shower once a week;
- giving detainees the necessary products to keep their cells clean and hygienic;
- ensuring that the food provided to detainees is adequate in terms both of quality and quantity;
- holding minors separately from adults;
- providing detainees with reading matter (newspapers, etc.);

**The CPT recommends that immediate steps be taken to implement the measures set out in this paragraph.**

37. Of course, resolving the fundamental problem of overcrowding in the IVS at Tiraspol Police Headquarters will require either a change in current law and practice with regard to pre-trial detention (cf. the recommendation in paragraph 12) or a significant extension of the facility's premises. From a financial standpoint, the former would almost certainly be less onerous than the latter.

**The CPT recommends that the authorities strive through all appropriate means to reduce significantly cell occupancy levels in the IVS at Tiraspol Police Headquarters.**

38. As already indicated (paragraph 27), the IVS's in-house health-care service consisted of one feldscher, who was present throughout the day on weekdays. This is manifestly insufficient for a facility accommodating well in excess of 100 detainees and having a rapid turnover of inmates. Not surprisingly, the delegation heard many complaints about inadequate medical care.

**The CPT recommends that the health-care service in the IVS at Tiraspol Police Headquarters be reinforced immediately by an additional feldscher; this reinforcement should, inter alia, make it possible to guarantee the presence of a feldscher seven days a week.**

**Further, the Committee recommends that arrangements be made for the IVS at Tiraspol Police Headquarters to be attended regularly by a doctor.** In addition to providing medical examinations, such a doctor could assume responsibility for the health-care service and supervise the work of the feldschers.

\*

\* \* \*

39. The IVS in Tiraspol was the only police detention facility which the delegation had time to visit. However, the information gathered by the delegation would suggest that conditions of detention in other police establishments may also leave something to be desired.

**The CPT recommends that the authorities review conditions in all police detention facilities and, if necessary, make improvements so as to ensure that they meet the elementary material requirements identified in paragraph 30.**

## **C. Penitentiary establishments**

### **1. Introduction**

40. At the outset of the visit, the authorities of the Transnistrian region provided the delegation with detailed information on the five penitentiary establishments currently in service in the region.

In the time available, the delegation was not in a position to make a thorough examination of the whole of the penitentiary system. However, it was able to make an assessment of the treatment of persons deprived of their liberty in Prison No. 1, at Glinoe, Colony No. 2, at Tiraspol, and the SIZO (i.e. pre-trial) section of Colony No. 3, again at Tiraspol.

41. As the authorities are certainly already aware, the situation in the establishments visited by the delegation leaves a great deal to be desired, in particular in Prison No. 1. The CPT will examine various specific areas of concern in subsequent sections of this report. However, at the outset, the Committee wishes to highlight what is perhaps the principal obstacle to progress, namely the high number of persons who are imprisoned and the resultant overcrowding.

42. According to the information provided by the authorities, there are approximately 3,500 prisoners in the region's penitentiary establishments i.e. an incarceration rate of some 450 persons per 100,000 of the population. The number of inmates in the three establishments visited was within or, in the case of Prison N° 1, just slightly over their official capacities. Nevertheless, the delegation found that in fact the establishments were severely overcrowded.

The situation was at its most serious in Prison N° 1. The cells for pre-trial prisoners offered rarely more - and sometimes less - than 1 m<sup>2</sup> of living space per prisoner, and the number of prisoners often exceeded the number of beds. These deplorable conditions were frequently made worse by poor ventilation, insufficient access to natural light and inadequate sanitary facilities. Similar, albeit slightly better, conditions were also observed in the SIZO section of Colony No. 3 and in certain parts of Colony No. 2 (for example, Block 10).

43. An incarceration rate of the magnitude which presently prevails in the Transnistrian region cannot be convincingly explained away by a high crime rate; the general outlook of members of the law enforcement agencies, prosecutors and judges must, in part, be responsible for the situation. At the same time, it is unrealistic from an economic standpoint to offer decent conditions of detention to such vast numbers of prisoners; to attempt to solve the problem by building more penitentiary establishments would be a ruinous exercise.

The CPT has already stressed the need to review current law and practice relating to custody pending trial (cf. paragraph 12). **More generally, the Committee recommends that an overall strategy be developed for combating prison overcrowding and reducing the size of the prison population. In this context, the authorities will find useful guidance in the principles and measures set out in Recommendation N° R (99) 22 of the Committee of Ministers of the Council of Europe, concerning prison overcrowding and prison population inflation (cf. Appendix 3).**

## 2. Ill-treatment

44. The CPT did not receive any allegations of recent ill-treatment of prisoners in Colonies N° 2 and 3. More generally, most prisoners spoken to in those establishments considered that the attitude of staff towards them was on the whole acceptable. This was borne out by the delegation's own observations.

However, the delegation received accounts of beatings which were apparently inflicted by masked individuals upon members of the Ilaşcu group in May 1999, in Colony N° 2. Further, several allegations were received from separate sources, according to which a considerable number of prisoners in Colony N° 3 were beaten by members of a special unit, in the course of an incident which occurred on 18 February 2000.

**The CPT would like to receive the comments of the authorities with regard to the above-mentioned allegations.**

45. The current situation would appear to be less favourable in Prison N° 1 in Glinoe. The delegation received in several of the establishments visited, allegations of the recent ill-treatment of prisoners in Prison N° 1. Moreover, the delegation itself observed that the atmosphere in Prison N° 1 was considerably more tense than in the other penitentiary establishments visited. The general demeanour of the Prison's staff at all levels clearly suggested that at least certain of them could well be inclined to abuse their authority.

At the end of the visit, the delegation requested the authorities to make it clear to both the management and custodial staff at Prison N° 1 that the ill-treatment of prisoners is unacceptable and will be the subject of severe sanctions if it occurs. **The CPT would like to be informed of the action taken upon the delegation's request.**

46. The CPT wishes to stress in this context the great importance it attaches to the adequate recruitment and training of prison staff. There is no better safeguard against ill-treatment than properly recruited and trained prison staff who know how to adopt the appropriate attitude in their relations with prisoners. Developed interpersonal communications skills are an essential part of the make-up of such staff. Those skills will help to reduce tensions and improve the quality of life in the establishment concerned, to the benefit of all concerned.

**Consequently, the CPT recommends that the authorities give a high priority to developing both initial and in-service training for prison staff at all levels. In the course of such training, considerable emphasis should be placed on the acquisition and development of interpersonal communication skills. Building positive relations with prisoners should be recognised as a key feature of a prison officer's vocation.**

### 3. Medical care

47. The CPT is extremely concerned by its delegation's findings as regards the level of care provided to prisoners suffering from tuberculosis, notably at Prison N° 1. Ninety-three persons held in Prison N° 1 had the disease, including 27 with active tuberculosis. However, the delegation found that the establishment had a totally inadequate supply of the necessary medicines; at the time of the visit, only one anti-tuberculosis drug (rifampicin) was available. In fact, a sick prisoner's access to the medicines required to treat his illness (whether tuberculosis or any other) was entirely dependent upon him or her having a family with the necessary resources. The same situation prevailed as regards diet; prisoners suffering from tuberculosis were prescribed a special diet, but it was up to his or her family to provide it. Not surprisingly, in the light of the above, the delegation met tuberculosis sufferers who were receiving practically no treatment for the disease.

In addition, the material conditions of detention of prisoners with tuberculosis were not compatible with their state of health; the cells were poorly lit, inadequately ventilated and unhygienic, and living space per prisoner was very limited.

48. The CPT recognises that in periods of economic difficulties, sacrifices may have to be made, including in penitentiary establishments. However, regardless of the difficulties faced at any given time, the act of depriving a person of his liberty always entails a duty to ensure that that person has access to certain basic necessities. Those basic necessities include appropriate medication. Compliance with this duty by public authorities is all the more imperative when it is a question of medication required to treat a life-threatening disease such as tuberculosis.

At the end of the visit, the CPT's delegation requested the authorities to take steps without delay to ensure that all penitentiary establishments are supplied on a regular basis with medicines of various types and, in particular, with a suitable range of anti-tuberculosis drugs. **The CPT wishes to be informed of the action taken in response to that request.**

**In addition to the overriding need for a suitable range of medicines, the CPT recommends that immediate steps be taken to ensure:**

- **appropriate monitoring of the distribution and taking of anti-tuberculosis drugs;**
- **an adequate diet for prisoners with tuberculosis;**
- **material conditions in the accommodation for prisoners with tuberculosis which are conducive to the improvement of their health, in particular appropriate occupancy levels, access to direct sunlight, good ventilation and satisfactory hygiene standards.**

49. Official health-care staffing levels in the penitentiary establishments visited were rather low and, at the time of the visit, this situation was exacerbated by the fact that certain posts were vacant or staff members on long-term leave had not been replaced. This was particularly the case at Prison N° 1 and Colony N° 2. **The CPT recommends that the authorities strive to fill as soon as possible all vacant posts in the health-care services of those two establishments and to replace staff members who are on leave.**

The health-care services of all three penitentiary establishments visited had very few medicines at their disposal, and their facilities were modestly equipped. The question of the supply of medicines has already been addressed (cf. paragraph 48). As regards the level of equipment, the CPT appreciates that the existing situation is a reflection of the difficulties facing the region; it would be unrealistic to expect significant improvements at the present time. However, it should be possible to maintain all existing equipment in working order. In this context, the delegation noted that all the radiography machines in the establishments visited were out of use. **The CPT recommends that this deficiency be remedied.**

On a more positive note, the CPT was very interested to learn of the authorities' plans for a new prison hospital, with a region-wide vocation, at Malaieşti. This is a most welcome development. **The Committee would like to receive further details concerning the implementation of those plans.**

50. In the course of its visit, the delegation's doctors examined three members of the Ilaşcu group, including Ilie Ilaşcu. The delegation recommended that he benefit promptly from appropriate medication for a health condition displayed by him. Further, in view of various medical complaints raised by this prisoner, the delegation recommended that certain specific additional examinations be carried out shortly. **The CPT wishes to receive information on the action taken upon these recommendations, including the results of the above-mentioned examinations.**

#### 4. Conditions of detention

51. The CPT has already highlighted the poor material conditions of detention which prevailed in the establishments visited and has made recommendations designed to address the fundamental problem of overcrowding (cf. paragraphs 42 and 43).

In addition to overcrowding, the CPT is very concerned by the practice of covering cell windows. This practice appeared to be systematic vis-à-vis remand prisoners, and was also observed in cells accommodating certain categories of sentenced prisoners. The Committee recognises that specific security measures designed to prevent the risk of collusion and/or criminal activities may well be required in respect of certain prisoners. However, the imposition of such security measures should be the exception rather than the rule. Further, even when specific security measures are required, such measures should never involve depriving the prisoners concerned of natural light and fresh air. The latter are basic elements of life which every prisoner is entitled to enjoy; moreover, the absence of these elements generates conditions favourable to the spread of diseases and in particular tuberculosis.

It is also inadmissible for cells to accommodate more prisoners than the number of beds available, thereby compelling prisoners to sleep in shifts.

**Consequently, the CPT recommends that the authorities set the following as short-term objectives:**

- i) all prisoner accommodation to have access to natural light and adequate ventilation;**
- ii) every prisoner, whether sentenced or on remand, to have his/her own bed.**

Further, as measures to tackle overcrowding begin to take effect, the existing standards concerning living space per prisoner should be revised upwards. **The CPT recommends that the authorities set, as a medium-term objective, meeting the standard of 4m<sup>2</sup> of floor space per prisoner.**

52. As the delegation pointed out at the end of its visit, material conditions of detention were particularly bad at Prison N° 1 in Glinoe. The CPT appreciates that under the present circumstances, the authorities have no choice but to keep this establishment in service. However, the premises of Prison N° 1 belong to a previous age; **they should cease to be used for penitentiary purposes at the earliest opportunity.**

53. In each of the penitentiary establishments visited all prisoners, with the exception of those placed in a disciplinary cell, were offered at least one hour of outdoor exercise per day and certain categories of prisoners (e.g. juveniles) were offered two hours. However, the yards used for this purpose were very modest facilities and, in particular, were too small. Prisoners had access to fresh air, but the space was too confined to allow them to exert themselves physically.

**The CPT invites the authorities to explore the possibility of enlarging the exercise yards in Prison N° 1 and Colonies N°s 2 and 3.**

The CPT must also stress that all prisoners without exception should be offered at least one hour of outdoor exercise per day; this is universally recognised basic safeguard for prisoners. **Consequently, the Committee recommends that appropriate steps be taken to set aside the current prohibition on outdoor exercise for prisoners placed in disciplinary cells.**

54. Apart from the daily exercise period, out-of-cell activities were very limited. Remand prisoners were offered no such activities, and many sentenced prisoners were basically in the same position. The CPT was particularly concerned to learn that of the 871 sentenced prisoners in Colony N° 2, only 155 had a job.

**The CPT recommends that the authorities set the following as a medium-term objective: all prisoners, whether sentenced or on remand, to be able to spend a reasonable part of the day outside their cells/dormitories engaged in purposeful activities of a varied nature (recreation/association; work, preferably with vocational value; education; sport).**

As regards more particularly the provision of work, this is a fundamental part of the rehabilitation process insofar as sentenced prisoners are concerned. Moreover, in the interests of their psychological well being, remand prisoners should as far as possible also be offered work. It follows that the employment situation within the penitentiary system should not be dictated exclusively by market forces. **The CPT recommends that special measures be introduced with a view to ensuring that both sentenced and remand prisoners can be provided with work.**

55. Three members of the Ilășcu group had been held for more than 8 years under conditions of solitary confinement (though one of them - Tudor Petrov-Popa - had recently been offered, but had refused, the presence of other prisoners in his cell). As regards at least one of the prisoners, there were clear indications that the regime to which he was subject was having harmful psychological consequences. Certain other prisoners interviewed by the delegation had also been held under conditions of solitary confinement for prolonged periods.

The CPT pays particular attention to prisoners held, for whatever reasons, under conditions akin to solitary confinement. The principle of proportionality requires that a balance be struck between the requirements of the case and the application of a solitary-confinement type regime, which is a measure that can have very harmful consequences for the person concerned. Solitary confinement can, in certain circumstances, amount to inhuman and degrading treatment; in any event, all forms of solitary confinement should be as short as possible. To hold persons under conditions of solitary confinement for years on end is scarcely justifiable under any circumstances.

56. At the end of the visit, the delegation requested that two measures be taken to attenuate the severity of the regime applied to the three members of the Ilașcu group referred to above : i) allow them access to newspapers of their own choice; ii) ensure that their rights to visits from family members and lawyers are fully respected in practice. **The CPT wishes to be informed of the action taken upon the delegation's request.**

Beyond this, **the CPT calls upon the authorities to end the solitary confinement regime applied to Ilie Ilașcu, Andrei Ivanțoc and Tudor Petrov-Popa.** Whatever justification there might have been in the past for the application of that regime to these prisoners, to persist with such a regime for close to a decade is indefensible.

**More generally, the CPT recommends that steps be taken to ensure that:**

- **no prisoner is subject to a solitary confinement regime any longer than is strictly required by the circumstances;**
- **prisoners subject to a solitary confinement regime are provided with appropriate stimulation and, in particular, human contact.**



## **APPENDIX 1**

### **List of the CPT's recommendations, comments and requests for information**

#### **A. Preliminary remarks**

##### comments

- the standing instructions according to which interviews with Ilie Ilașcu must be held in a specific room used for long-term visits should be rendered inapplicable to CPT delegations (paragraph 4);
- in relation to the plans to introduce a new Penal Code, the CPT would like to recall that the Council of Europe has a clear policy against the death penalty, which was most recently reaffirmed in the Declaration adopted by the Committee of Ministers on 10 December 1998, on the occasion of the 50<sup>th</sup> Anniversary of the Universal Declaration of Human Rights (paragraph 7);
- for as long as the death penalty remains provided for by law, the CPT trusts that the authorities will continue to adhere to the approach currently followed and refrain from carrying out any death sentence passed by the courts (paragraph 7).

##### requests for information

- copies of the most recent versions of the Code of Criminal Procedure and the Penal Code, as well as of all other legal texts which relate to deprivation of liberty. In addition, information on steps currently underway to replace the existing Codes (paragraph 6).

#### **B. Police (Militia)**

##### **1. Introduction**

##### recommendations

- the authorities to review the law and practice relating to custody pending trial, in the light of the principles set out in Recommendation N° R (80) 11 of the Committee of Ministers of the Council of Europe (paragraph 12).

##### comments

- the authorities are invited to envisage the possibility of vesting in a judge the power to remand a person in custody (paragraph 11).

requests for information

- the precise legal basis for the practice under which the period of 72 hours during which a person suspected of a criminal offence may be held by the police is preceded by a period of deprivation of liberty of three hours, during which operational police officers "clarify" certain matters (paragraph 9);
- whether a decree exists authorising the police to detain persons for up to 30 days without bringing charges; in the affirmative, a copy of that decree (paragraph 9);
- the comments of the authorities on the fact that certain detained persons in the temporary holding facility (IVS) at Tiraspol Police Headquarters at the time of the delegation's visit had been held there for periods far in excess of 10 days (paragraph 10).

**2. Torture and other forms of ill-treatment**

recommendations

- a very high priority to be given to professional training for law enforcement officials of all ranks and categories, taking into account the remarks in paragraph 16. Experts not belonging to the police to be involved in this training (paragraph 16);
- an aptitude for interpersonal communication to be a major factor in the process of recruiting law enforcement officials and, during the training of such staff, considerable emphasis to be placed on acquiring and developing interpersonal communication skills (paragraph 16);
- the relevant authorities as well as senior police officers to make it clear to law enforcement officials, *and in particular to operational police officers in charge of gathering evidence*, that the ill-treatment of persons in their custody is not acceptable and will be dealt with severely (paragraph 16);
- law enforcement officials to be reminded that no more force than is strictly necessary should be used when apprehending a suspect and that once apprehended persons have been brought under control, there can never be any justification for their being struck (paragraph 17);
- appropriate steps to be taken to ensure that all persons to whom it is intended to apply the preventive measure of remand in custody are brought before the prosecutor who must approve that measure (paragraph 18);
- whenever a person brought before a prosecutor alleges ill-treatment by the police, the prosecutor to request immediately a forensic medical examination; this approach should be followed irrespective of whether the person concerned bears visible injuries. Even in the absence of an express allegation of ill-treatment, the prosecutor to request a forensic medical examination whenever there are other grounds to believe that a person brought before him could have been the victim of ill-treatment (paragraph 18);

- steps to be taken to ensure that health-care staff at IVS and penitentiary establishments:
  - . record in a detailed manner any injuries observed on newly-admitted detainees/prisoners;
  - . record any relevant statements made by the persons concerned (and, in particular, any allegations of ill-treatment) (paragraph 19);
- a specific register of injuries to be kept in all IVS and penitentiary establishments (paragraph 19);
- all medical examinations to be conducted out of the hearing and - unless health-care staff expressly request otherwise in a given case - out of the sight of non-medical staff (paragraph 19).

#### comments

- an unambiguous message from a high political level, condemning ill-treatment by the police, would be particularly welcome (paragraph 16);
- in the context of the medical examination of newly-admitted detainees/prisoners, it would be highly desirable for health-care staff to indicate the degree of consistency between the objective medical findings and any allegations made; this would enable the relevant authorities, and in particular prosecutors, to properly assess the information set out in the record (paragraph 19).

### **3. Safeguards against the ill-treatment of persons deprived of their liberty**

#### recommendations

- the authorities to ensure that:
  - . persons deprived of their liberty have the right to inform without delay (either directly or through the intermediary of a law enforcement official) a close relative or other third party of the fact that they have been placed in detention;
  - . any possibility exceptionally to delay the exercise of this right be clearly circumscribed in law, made subject to appropriate safeguards (e.g. any delay to be recorded in writing with the reasons therefor and to require the approval of a prosecutor) and strictly limited in time (paragraph 23);
- steps to be taken to ensure that all persons detained by the police have, as from the very outset of their deprivation of liberty, a right of access to a lawyer as defined in paragraph 25. The exercise of this right should not be made subject to anyone's authorisation (paragraph 26);

- a form setting out in a straightforward manner the rights of persons deprived of their liberty by the police (including the rights mentioned in paragraphs 20 to 27) to be systematically given to such persons at the very outset of their custody (i.e. as from the moment they are obliged to remain with the police). This form should be made available in an appropriate range of languages (paragraph 28);
- a code of conduct for interviews to be drawn up. In addition to reiterating the total prohibition of ill-treatment, the code should deal, *inter alia*, with the following: the systematic informing of the detained person of the identity (name and/or number) of those present at the interview; the permissible length of an interview; rest periods between interviews and breaks during an interview; places in which interviews may take place; whether the person detained may be required to remain standing while being questioned; the questioning of persons who are under the influence of drugs, alcohol or medicine, or who are in a state of shock. It should also be stipulated that a systematic record be kept of the times at which interviews start and end, of the persons present during each interview and of any request made by the detained person during the interview. The position of specially vulnerable persons (for example, the young, those who are mentally disabled or mentally ill) should be the subject of specific safeguards (paragraph 29).

#### requests for information

- whether persons deprived of their liberty by the police have an expressly guaranteed right of access to a doctor, including the right to be examined, if they so wish, by a doctor of their choice (paragraph 27).

#### **4. Conditions of detention**

#### recommendations

- immediate steps to be taken to implement the following measures in the IVS at Tiraspol Police Headquarters:
  - . to provide mattresses in addition to blankets;
  - . to ensure that detainees have at their disposal basic personal hygiene products (soap, toilet paper, sanitary materials for women's monthly needs, etc.); those detainees who cannot obtain such products from their families should have them provided by the authorities;
  - . to offer detainees a warm shower once a week;
  - . to give detainees the necessary products to keep their cells clean and hygienic;
  - . to ensure that the food provided to detainees is adequate in terms both of quality and quantity;
  - . to hold minors separately from adults;
  - . to provide detainees with reading matter (newspapers, etc.);

(paragraph 36);

- the authorities to strive through all appropriate means to reduce significantly cell occupancy levels in the IVS at Tiraspol Police Headquarters (paragraph 37);
- the health-care service in the IVS at Tiraspol Police Headquarters to be reinforced immediately by an additional feldscher; this reinforcement should, *inter alia*, make it possible to guarantee the presence of a feldscher seven days a week (paragraph 38);
- arrangements to be made for the IVS at Tiraspol Police Headquarters to be attended regularly by a doctor (paragraph 38);
- the authorities to review conditions in all police detention facilities and, if necessary, make improvements so as to ensure that they meet the elementary material requirements identified in paragraph 30 (paragraph 39).

#### requests for information

- steps taken to implement the measures which the CPT's delegation recommended be taken immediately to improve conditions of detention in the IVS at Tiraspol Police Headquarters, namely:
  - . to ensure that the ventilation system is serviced regularly;
  - . to uncover the cell windows, so as to allow access to natural light and fresh air;
  - . to give detainees regular access (if possible on a daily basis) to the IVS's walking area

(paragraph 35).

### **C. Penitentiary establishments**

#### **1. Introduction**

##### recommendations

- an overall strategy to be developed for combating prison overcrowding and reducing the size of the prison population. In this context, the authorities will find useful guidance in the principles and measures set out in Recommendation N° R (99) 22 of the Committee of Ministers of the Council of Europe (paragraph 43).

#### **2. Ill-treatment**

##### recommendations

- the authorities to give a high priority to developing both initial and in-service training for prison staff at all levels. In the course of such training, considerable emphasis should be placed on the acquisition and development of interpersonal communication skills. Building positive relations with prisoners should be recognised as a key feature of a prison officer's vocation (paragraph 46).

requests for information

- the comments of the authorities with regard to the allegations referred to in paragraph 44 (paragraph 44);
- the action taken upon the CPT delegation's request that it be made clear to both the management and custodial staff at Prison N° 1 that the ill-treatment of prisoners is unacceptable and will be the subject of severe sanctions if it occurs (paragraph 45).

**3. Medical care**

recommendations

- in addition to the overriding need for a suitable range of medicines, immediate steps to be taken to ensure:
  - . appropriate monitoring of the distribution and taking of anti-tuberculosis drugs;
  - . an adequate diet for prisoners with tuberculosis;
  - . material conditions in the accommodation for prisoners with tuberculosis which are conducive to the improvement of their health, in particular appropriate occupancy levels, access to direct sunlight, good ventilation and satisfactory hygiene standards (paragraph 48);
- the authorities to strive to fill as soon as possible all vacant posts in the health-care services of Prison N° 1 and Colony N° 2 and to replace staff members who are on leave (paragraph 49);
- the authorities to ensure that all existing equipment in the health-care services of penitentiary establishments, including radiography machines, is restored to and maintained in working order (paragraph 49).

requests for information

- the action taken in response to the CPT delegation's request that the authorities take steps without delay to ensure that all penitentiary establishments are supplied on a regular basis with medicines of various types and, in particular, with a suitable range of anti-tuberculosis drugs (paragraph 48);
- further details concerning the implementation of the authorities' plans for a new prison hospital, with a region-wide vocation, at Malaieşti (paragraph 49);
- the action taken upon the CPT delegation's recommendations that Ilie Ilaşcu benefit promptly from appropriate medication for a health condition displayed by him, and undergo certain specific additional examinations (the results of those examinations also to be forwarded to the CPT) (paragraph 50).

#### 4. Conditions of detention

##### recommendations

- the authorities to set the following as short-term objectives:
  - . all prisoner accommodation to have access to natural light and adequate ventilation;
  - . every prisoner, whether sentenced or on remand, to have his/her own bed (paragraph 51);
- the authorities to set as a medium-term objective, meeting the standard of 4m<sup>2</sup> of floor space per prisoner (paragraph 51);
- appropriate steps to be taken to set aside the current prohibition on outdoor exercise for prisoners placed in disciplinary cells (paragraph 53);
- the authorities to set the following as a medium-term objective: all prisoners, whether sentenced or on remand, to be able to spend a reasonable part of the day outside their cells/dormitories engaged in purposeful activities of a varied nature (recreation/association; work, preferably with vocational value; education; sport) (paragraph 54);
- special measures to be introduced with a view to ensuring that both sentenced and remand prisoners can be provided with work (paragraph 54);
- the authorities to end the solitary confinement regime applied to Ilie Ilaşcu, Andrei Ivançoc and Tudor Petrov-Popa (paragraph 56);
- steps to be taken to ensure that:
  - . no prisoner is subject to a solitary confinement regime any longer than is strictly required by the circumstances;
  - . prisoners subject to a solitary confinement regime are provided with appropriate stimulation and, in particular, human contact (paragraph 56).

##### comments

- the premises of Prison N° 1 in Glinoe should cease to be used for penitentiary purposes at the earliest opportunity (paragraph 52);
- the authorities are invited to explore the possibility of enlarging the exercise yards in Prison N° 1 and Colonies N°s 2 and 3 (paragraph 53).

##### requests for information

- the action taken upon the CPT delegation's request that two measures be taken to attenuate the severity of the regime applied to Ilie Ilaşcu, Andrei Ivançoc and Tudor Petrov-Popa: i) to allow them access to newspapers of their own choice; ii) to ensure that their rights to visits from family members and lawyers are fully respected in practice (paragraph 56).



**APPENDIX 2**

**COUNCIL OF EUROPE  
COMMITTEE OF MINISTERS**

**RECOMMENDATION No. R (80) 11**

**OF THE COMMITTEE OF MINISTERS TO MEMBER STATES  
CONCERNING CUSTODY PENDING TRIAL**

*(Adopted by the Committee of Ministers on 27 June 1980  
at the 321st meeting of the Ministers' Deputies)*

The Committee of Ministers, under the terms of Article 15.b of the Statute of the Council of Europe,

Having regard to Resolution (65) 11 on remand in custody and bearing in mind Resolution (73) 5 on the standard minimum rules for the treatment of prisoners ;

Considering that it is desirable that the recommendations contained in these resolutions be adapted to current developments in the field of crime policy and criminal procedure ;

Considering that it is desirable for humanitarian and social reasons to reduce the application of custody pending trial to the minimum compatible with the interests of justice ;

Considering that it is desirable to establish, at European level, certain standards to be applied to persons awaiting trial ;

Recognising the importance of providing the resources necessary to ensure that any person charged with an offence is brought to trial as expeditiously as possible ;

Bearing in mind the relevant provisions of the Convention for the Protection of Human Rights and Fundamental Freedoms signed in Rome on 4 November 1950, and the case-law of the European Commission and Court of Human Rights relating thereto ;

Having regard to Resolution No. 1 adopted by the Conference of European Ministers of Justice in Vienna in May 1974,

Recommends the governments of member states to ensure that their law and practice in matters relating to custody pending trial be guided by the following principles.

## *I. General principles*

1 . Being presumed innocent until proved guilty, no person charged with an offence shall be placed in custody pending trial unless the circumstances make it strictly necessary. Custody pending trial shall therefore be regarded as an exceptional measure and it shall never be compulsory nor be used for punitive reasons.

## *II. Principles applicable to decisions on custody pending trial*

2. A person charged with an offence and deprived of his liberty shall be brought promptly before a judge or other person authorised by law to exercise judicial power (hereinafter referred to as "the judicial authority").

When the person concerned is brought before the judicial authority, the decision concerning custody shall be taken without delay.

3. Custody pending trial may be ordered only if there is reasonable suspicion that the person concerned has committed the alleged offence, and if there are substantial reasons for believing that one or more of the following grounds exist :

- danger of his absconding,
- danger of his interfering with the course of justice,
- danger of his committing a serious offence.

4. Even where the existence of the aforementioned grounds cannot be established, custody pending trial may nevertheless exceptionally be justified in certain cases of particularly serious offences.

5. In considering whether custody should be ordered, the judicial authority shall have regard to the circumstances of the individual case, and in particular to such of the following factors as may be relevant :

- the nature and seriousness of the alleged offence,
- the strength of the evidence of the person concerned having committed the offence,
- the penalty likely to be incurred in the event of conviction,
- the character, antecedents and personal and social circumstances of the person concerned, and in particular his community ties,
- the conduct of the person concerned, especially how he has fulfilled any obligations which may have been imposed on him in the course of previous criminal proceedings.

6. Consideration shall be given to the development of services designed to improve the information available to the judicial authority about the personal and social circumstances of the person concerned.

7. Custody pending trial shall not be ordered if deprivation of liberty would be disproportionate in relation to the nature of the alleged offence and the penalty which the offence carries.

8. If custody is ordered, the record of the decision shall state as precisely as possible the subject matter of the charge and the reasons underlying the decision. It must be communicated promptly to the person concerned who shall be given a copy of it.

9. Whenever, in accordance with the aforementioned principles, custody pending trial can be ordered, the judicial authority shall consider whether the use of custody can be avoided by imposing alternative measures such as those mentioned in principle 15.

10. The person concerned shall be entitled to be legally represented before the judicial authority on any occasion when the question of custody pending trial arises or is likely to arise.

If custody pending trial is ordered he shall as soon as practicable be granted legal aid if his means are insufficient.

11. Any person against whom custody pending trial is ordered shall be entitled to appeal against the decision and apply for release.

12. A person against whom custody pending trial is ordered shall be informed of his rights, in particular the right to be legally represented, the right to ask for legal aid, and the right to appeal and apply for release.

13. Custody pending trial shall not be continued beyond what is required in the light of the objectives laid down in principle 3, nor shall it be continued if the period spent in custody awaiting trial would be disproportionate to the sentence likely to be served in the event of conviction.

14. Custody pending trial shall be reviewed at reasonably short intervals which the law or the judicial authority shall fix. In such a review, account shall be taken of all the changes in circumstances which have occurred since the person concerned was placed in custody.

### *III. Principles applicable to alternative measures*

15. When examining whether custody pending trial can be avoided, the judicial authority shall consider all available alternative measures, which may include the following :

- a promise of the person concerned to appear before the judicial authority as and when required and not to interfere with the course of justice,
- a requirement to reside at a specified address (e.g. the home, a bail hostel, a specialised institution for young offenders, etc.) under conditions laid down by the judicial authority,
- a restriction on leaving or entering a specified place or district without authorisation,
- an order to report periodically to certain authorities (e.g. court, police, etc.),
- surrender of passport or other identification papers,
- provision of bail or other forms of security by the person concerned, having regard to his means,
- provision of surety,
- supervision and assistance by an agency nominated by the judicial authority.

Such measures shall be notified in writing and shall be clearly explained to the person concerned, who shall also be warned that he might be taken into custody if he fails to comply with them.

A person on whom any alternative measure is imposed shall, in so far as that measure requires, have the benefit of the same safeguards as are accorded under the present recommendation to a person placed in custody pending trial.

*IV. Principles applicable to the investigation and the trial*

16. The investigation of the charges against persons kept in custody pending trial and the procedures up to trial shall always be conducted as expeditiously as possible so as to reduce to the minimum the period of custody. Every possible effort should be made to attain that aim.

In conducting the investigation and in bringing the person concerned to trial, the authorities involved shall give priority to cases where the person concerned is in custody.

17. The period spent in custody pending trial shall be deducted from the length of the sentence.

18. Consideration shall be given to the establishment or development of a scheme for compensating persons who have spent time in custody pending trial and are subsequently not convicted.

## APPENDIX 3

# **COUNCIL OF EUROPE**

## **COMMITTEE OF MINISTERS**

---

### **RECOMMENDATION No. R (99) 22**

#### **OF THE COMMITTEE OF MINISTERS TO MEMBER STATES CONCERNING PRISON OVERCROWDING AND PRISON POPULATION INFLATION**

*(Adopted by the Committee of Ministers on 30 September 1999*

*at the 681<sup>st</sup> meeting of the Ministers' Deputies)*

The Committee of Ministers, under the terms of Article 15.b of the Statute of the Council of Europe,

Considering that prison overcrowding and prison population growth represent a major challenge to prison administrations and the criminal justice system as a whole, both in terms of human rights and of the efficient management of penal institutions;

Considering that the efficient management of the prison population is contingent on such matters as the overall crime situation, priorities in crime control, the range of penalties available on the law books, the severity of the sentences imposed, the frequency of use of community sanctions and measures, the use of pre-trial detention, the effectiveness and efficiency of criminal justice agencies and not least public attitudes towards crime and punishment;

Affirming that measures aimed at combating prison overcrowding and reducing the size of the prison population need to be embedded in a coherent and rational crime policy directed towards the prevention of crime and criminal behaviour, effective law enforcement, public safety and protection, the individualisation of sanctions and measures and the social reintegration of offenders;

Considering that such measures should conform to the basic principles of democratic States governed by the rule of law and subject to the paramount aim of guaranteeing human rights, in conformity with the European Convention on Human Rights and the case-law of the organs entrusted with its application;

Recognising moreover that such measures require support by political and administrative leaders, judges, prosecutors and the general public, as well as the provision of balanced information on the functions of punishment, on the relative effectiveness of custodial and non-custodial sanctions and measures and on the reality of prisons;

Bearing in mind the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment;

Recognising the importance of Recommendation No. R (80) 11 concerning custody pending trial, Recommendation No. R (87) 3 on the European Prison Rules, Recommendation No. R (87) 18 concerning the simplification of criminal justice, Recommendation No. R (92) 16 on the European Rules on community sanctions and measures and Recommendation No. R (92) 17 concerning consistency in sentencing,

Recommends that governments of member states:

- take all appropriate measures, when reviewing their legislation and practice in relation to prison overcrowding and prison population inflation, to apply the principles set out in the Appendix to this Recommendation;
- encourage the widest possible dissemination of the Recommendation and the report on prison overcrowding and prison population inflation elaborated by the European Committee on Crime Problems.

## **Appendix to Recommendation No. R (99) 22**

### *I. Basic principles*

1. Deprivation of liberty should be regarded as a sanction or measure of last resort and should therefore be provided for only, where the seriousness of the offence would make any other sanction or measure clearly inadequate.
2. The extension of the prison estate should rather be an exceptional measure, as it is generally unlikely to offer a lasting solution to the problem of overcrowding. Countries whose prison capacity may be sufficient in overall terms but poorly adapted to local needs should try to achieve a more rational distribution of prison capacity.
3. Provision should be made for an appropriate array of community sanctions and measures, possibly graded in terms of relative severity; prosecutors and judges should be prompted to use them as widely as possible.
4. Member states should consider the possibility of decriminalising certain types of offence or reclassifying them so that they do not attract penalties entailing the deprivation of liberty.
5. In order to devise a coherent strategy against prison overcrowding and prison population inflation a detailed analysis of the main contributing factors should be carried out, addressing in particular such matters as the types of offence which carry long prison sentences, priorities in crime control, public attitudes and concerns and existing sentencing practices.

### *II. Coping with a shortage of prison places*

6. In order to avoid excessive levels of overcrowding a maximum capacity for penal institutions should be set.
7. Where conditions of overcrowding occur, special emphasis should be placed on the precepts of human dignity, the commitment of prison administrations to apply humane and positive treatment, the full recognition of staff roles and effective modern management approaches. In conformity with the European Prison Rules, particular attention should be paid to the amount of space available to prisoners, to hygiene and sanitation, to the provision of sufficient and suitably prepared and presented food, to prisoners' health care and to the opportunity for outdoor exercise.
8. In order to counteract some of the negative consequences of prison overcrowding, contacts of inmates with their families should be facilitated to the extent possible and maximum use of support from the community should be made.
9. Specific modalities for the enforcement of custodial sentences, such as semi-liberty, open regimes, prison leave or extra-mural placements, should be used as much as possible with a view to contributing to the treatment and resettlement of prisoners, to maintaining their family and other community ties and to reducing the tension in penal institutions.

### *III. Measures relating to the pre-trial stage*

#### *Avoiding criminal proceedings – Reducing recourse to pre-trial detention*

10. Appropriate measures should be taken with a view to fully implementing the principles laid down in Recommendation No R (87) 18 concerning the simplification of criminal justice; this would involve in particular that member states, while taking into account their own constitutional principles or legal tradition, resort to the principle of discretionary prosecution (or measures having the same purpose) and make use of simplified procedures and out-of-court settlements as alternatives to prosecution in suitable cases, in order to avoid full criminal proceedings.

11. The application of pre-trial detention and its length should be reduced to the minimum compatible with the interests of justice. To this effect, member states should ensure that their law and practice are in conformity with the relevant provisions of the European Convention on Human Rights and the case-law of its control organs, and be guided by the principles set out in Recommendation No. R (80) 11 concerning custody pending trial, in particular as regards the grounds on which pre-trial detention can be ordered.

12. The widest possible use should be made of alternatives to pre-trial detention, such as the requirement of the suspected offender to reside at a specified address, a restriction on leaving or entering a specified place without authorisation, the provision of bail or supervision

and assistance by an agency specified by the judicial authority. In this connection attention should be paid to the possibilities for supervising a requirement to remain in a specified place through electronic surveillance devices.

13. In order to assist the efficient and humane use of pre-trial detention, adequate financial and human resources should be made available and appropriate procedural means and managerial techniques be developed, as necessary.

### *IV. Measures relating to the trial stage*

#### *The system of sanctions/measures – The length of the sentence*

14. Efforts should be made to reduce recourse to sentences involving long imprisonment, which place a heavy burden on the prison system, and to substitute community sanctions and measures for short custodial sentences.

15. In providing for community sanctions and measures which could be used instead of deprivation of liberty, consideration should be given to the following:

- suspension of the enforcement of a sentence to imprisonment with imposed conditions,
- probation as an independent sanction imposed without the pronouncement of a sentence to imprisonment,
- high intensity supervision,
- community service (i.e. unpaid work on behalf of the community),
- treatment orders / contract treatment for specific categories of offenders,
- victim-offender mediation / victim compensation,
- restrictions of the liberty of movement by means of, for example, curfew orders or electronic monitoring.

16. Community sanctions and measures should only be imposed in conformity with the guarantees and conditions laid down in the European Rules on Community Sanctions and Measures.

17. Combinations of custodial and non-custodial sanctions and measures should be introduced into legislation and practice, such as unsuspended custodial sentences, followed by community service, (intensive) supervision in the community, electronically monitored house arrest or, in appropriate cases, by an obligation to undergo treatment.

*Sentencing and the role of prosecutors and judges*

18. When applying the law prosecutors and judges should endeavour to bear in mind the resources available, in particular in terms of prison capacity. In this connection, continued attention should be paid to assessing the impact which existing sentencing structures and planned sentencing policies have on the evolution of the prison population.

19. Prosecutors and judges should be involved in the process of devising penal policies in relation to prison overcrowding and prison population inflation, with a view to engaging their support and to avoiding counterproductive sentencing practices.

20. Rationales for sentencing should be set by the legislator or other competent authorities, with a view to, *inter alia*, reducing the use of imprisonment, expanding the use of community sanctions and measures, and to using measures of diversion such as mediation or the compensation of the victim.

21. Particular attention should be paid to the role aggravating and mitigating factors as well as previous convictions play in determining the appropriate quantum of the sentence.

*V. Measures relating to the post-trial stage*

*The implementation of community sanctions and measures – The enforcement of custodial sentences*

22. In order to make community sanctions and measures credible alternatives to short terms of imprisonment, their effective implementation should be ensured, in particular through:

- the provision of the infrastructure for the execution and monitoring of such community sanctions, not least in order to give judges and prosecutors confidence in their effectiveness; and
- the development and use of reliable risk-prediction and risk-assessment techniques as well as supervision strategies, with a view to identifying the offender's risk to relapse and to ensuring public protection and safety.

23. The development of measures should be promoted which reduce the actual length of the sentence served, by giving preference to individualised measures, such as early conditional release (parole), over collective measures for the management of prison overcrowding (amnesties, collective pardons).

24. Parole should be regarded as one of the most effective and constructive measures, which not only reduces the length of imprisonment but also contributes substantially to a planned return of the offender to the community.

25. In order to promote and expand the use of parole, best conditions for offender support, assistance and supervision in the community have to be created, not least with a view to prompting the competent judicial or administrative authorities to consider this measure as a valuable and responsible option.

26. Effective programmes for treatment during detention and for supervision and treatment after release should be devised and implemented so as to facilitate the resettlement of offenders, to reduce recidivism, to provide public safety and protection and to give judges and prosecutors the confidence that measures aimed at reducing the actual length of the sentence to be served and community sanctions and measures are constructive and responsible options.

**Response of the local authorities of the Transnistrian region  
dated 12 July 2001**



## **Response dated 12 July 2001**

The Ministry of Justice has examined the Report by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment concerning persons in prisons in the Transnistrian Republic of Moldova.

The report mentions the review of current legislation and practice regarding pre-trial detention in prison.

Penitentiary institutions recently came under the jurisdiction of the Ministry of Justice; as a consequence, the entire legislative framework is currently being reviewed.

Your communication recommends that a general prison strategy be developed in order to prevent overcrowding of corrective-labour institutions.

Analysis of the problem reveals that the number of people sentenced to imprisonment is presently increasing. In this connection, major problems are being experienced in corrective-labour colony 1 (ITK-1), Prison-1 and pre-trial detention centres.

A second pre-trial detention facility, to house 220 people, is currently being built in ITK-3 to reduce tensions.

However, we do not believe that building a second pre-trial detention facility will put a definitive end to the problem.

The Committee has asked for information about the circumstances surrounding the beating of members of the Ilaşcu group by individuals wearing masks in May 1999, and of prisoners held in the ITK-3 pre-trial detention unit in February 2000.

On the basis of the available evidence, it has been established that planned preventative activities were carried out in the ITK-2 pre-trial detention facility. These did not contradict either the Transnistrian Moldovan Republic's legislation or the European Prison Regulations. The use of the "Dnestr" battalion to restore order was approved by senior officials of the TMR's Interior Ministry.

The prosecutor with responsibility for supervising compliance with the law in penal institutions, who was present at the time, observed no violations of relevant legislation.

In response to inquiries, information on these matters was provided to Mr Vitold Karp, member of the OSCE mission in Moldova and to Mr Gottfried Hanne, member of the OSCE mission in the Republic of Moldova.

As regards the detention of convicted persons from the “Buzhor” group: during their detention, these prisoners were frequently given an opportunity to undergo medical examinations and investigations, and also to receive essential medical treatment. Since 1997, Ilașcu, Ivanțoc and Petrov have been regularly examined and had consultations with leading medical figures from the Republic of Moldova:

3.10.97 Professor G.K. Bivol – chief doctor from the Moldovan Ministry of Health, Head of department, State Medical University;  
Professor K.A. Tsybyrne – Head of department, State Medical University, surgeon;  
Professor N. Lezan – deputy head doctor, Moldovan State Hospital for treatment, doctor-therapist;

13.5.98 Professor Tsybyrne K.A. and Drs Anton, Burlak, Mastak and Bely;

14.1.99 Professor D.O. Sain, medical doctor;

21.1.99 T. Groza, surgeon

16.3.99 Consultation with doctors from the Institute of Phthisio-Pulmonary Treatment Association, Moldovan State Office.

During this period, Ilașcu, Ivanțoc and Petrov were examined several times by the head of the TMR Ministry of Internal Affairs’ Medical Directorate and his deputies, and also by doctors from the TMR Ministry of Health. In addition, medical personnel in the ITK-2 have a daily consultation period for prisoners held in cell-type accommodation, but Ilascu and Ivanțoc have categorically refused to accept medical help from prison doctors or accept medicine.

As regards solitary confinement for Ilașcu, Ivanțoc and Petrov:

Following the introduction of a moratorium on the death penalty in January 1999, convict Ilașcu was given a prison sentence. He was given an opportunity to share a cell with a convict who had also been sentenced to the death penalty; however, three days had barely gone by when Ilașcu categorically refused to share a cell not only with him, but with anyone at all, and requested a separate cell. In addition, Ilașcu enjoyed greater privileges than the other prisoners. He had a meeting with his wife, from whom he received parcels, almost every month.

Convict Ivanțoc was given an opportunity to live in ordinary dormitory-style accommodation with other prisoners; however, unusual relations developed between him and these prisoners, and the administration of ITK-2 consequently isolated him in a separate cell at his own request. He also had regular opportunities to meet relatives.

By decision of the Supreme Court of the TMR, dated 9.12.93, convict Petrov was sentenced to 15 years' imprisonment. The current corrective-labour legislation does not provide for early transfer to less severe regimes. However, Petrov spent more than two years in a sanatorium in the same conditions as other patients. On completion of his treatment, he too was isolated in a separate cell at his own request. He was allowed to meet relatives in accordance with the legislation.

In addition, it should be noted that none of the three prisoners wished to be with the others in a single cell.

All of the above-mentioned prisoners received TMR periodicals and were entitled to use transistor radios under their right to personal belongings. Accordingly, they did not suffer from a lack of information.

In its communication and report, members of the European Committee's delegation independently observed that the atmosphere in Prison-1 was considerably more tense than in the other penal institutions visited. On the basis of this, the Committee reached the conclusion from the general demeanour of prison staff that at least some of them might tend towards abuse of their powers.

The Committee has drawn our attention to the vital importance of correct selection and training of ITU personnel, of their development, and of both initial and in-service training for all grades of staff.

In accordance with the educational programme, the following training is provided in the TMR Ministry of Justice's penal enforcement system:

- course for junior management staff on the initial training programme, 2 months (for everyone in the TUVD);
- classes on military, official and vocational training for other ranks, including study of the corrective-labour legislation, internal regulations and treatment of prisoners, with a test (weekly) and exam;
- training for all employees in social-humanitarian subjects;
- on-going seminars for all staff (once per quarter).

## **MEDICAL PROVISION**

One of the most critical issues facing the TMR Ministry of Justice's penal enforcement system is the incidence of tuberculosis among prisoners.

Tuberculosis infection rates in TMR prisons is growing steadily each year. In 1995, 48 persons were registered as suffering from active tuberculosis of the lungs, in 1996 – 73, in 1997 – 112, in 1998 – 158, in 1999 – 246, and in 2000 366 people were registered as suffering from active tuberculosis. The yearly increase in tuberculosis cases is 15-20%.

On 18 May 2001, 349 patients were being treated in the TMR Ministry of Justice's penal institutions. This figure breaks down as follows: ITK-1 - 177 persons, ITK-2 – 112 persons, Prison-1 – 52 persons, the Aleksandrovka educational labour colony (VTK), Kamenskiy rayon – 5 adolescents, and ITK-3 – 3 persons. Infection of this particular group by active tuberculosis has assumed threatening proportions and affected 11%, leading to the conclusion that a tuberculosis epidemic has begun in prisons.

The reasons for the spread of the tuberculosis infection are as follows:

1. Inadequate isolation of patients with the open form of TB from healthy persons. In prison and pre-trial detention centres, single-cell detention enables arrestees to obtain such isolation, but this is impossible in colonies, as prisoners are able to move freely around the establishment. The isolated local sections, set up under the old MSSR regime, have not proved a success.
2. Insufficient treatment for tuberculosis, due to poor funding for medicines, makes it impossible to fight the TB infection successfully. Comprehensive TB treatment requires the patient to take at least 3 specific TB medicines for a duration of 6-9 months, as well as vitamins, resolvents, etc.

At the most conservative estimates, the cost of a six-month treatment course, using the three main TB medicines, is 270 roubles for a single patient. For 349 patients, the required sum would be around 95,000 roubles. Almost all stocks of medicine in medical units have been used up. There are absolutely no drugs for treating patients with stomach ulcers, hepatitis or hypertension, those suffering from heart disease, skin and venereal diseases, etc, since these medicines have not yet been purchased in the current year due to a lack of funds. The shortage, and sometimes total absence, of medicines in the medical units is forcing medical personnel to approach prisoners' relatives for help, which leads to dissatisfaction and irritation on the part of prisoners and their families.

Similar problems regarding medical funding occur in penal institutions in the Republic of Moldova; however, the Moldovan prisons are able to relieve the shortage of medical provision through regular supplies of humanitarian aid from various European voluntary organisations, including medicines and medical equipment. Such assistance is not provided to the TMR Ministry of Justice's penal institutions, and has not been provided in the past. Accordingly, there is no doubt that humanitarian assistance to Transnistrian penal institutions could ease the condition of prisoners.

In recent months, there have been some improvements in prisoners' diet, including in the case of those suffering from TB, stomach ulcers and dystrophy, for whom a diet including milk and butter is prepared and given out separately.

The issue of filling staff posts in medical units in penal institutions is acute, especially in Glinoye, ITK-1; only two out of eight doctors' posts are filled. Action is being taken to correct this situation, but no-one wishes to work in prisons.

No medical equipment has been replaced in the medical units over the past eleven years. Old equipment for which the use-by date has expired, has become unfit for use and written off. Thus, in ITK-1 the stomatology unit and disinfection room are worn out. In Prison-1, the disinfection room is no longer used and the X-ray unit is not operating, as additional X-ray protection is required for the walls. Authorisation for its use will only be given once this has been installed. In ITK-2, the disinfection room has reached the end of its functional life. Additional expenditure is required in all these areas.

With the transfer of penal institutions to the TMR's jurisdiction and the creation of new ITKs with their own local medical facility (medical units), prisoners have been left practically without qualified medical assistance. Previously, patients with general and infectious illnesses received medical help in the multi-profile State hospital in Prinkul, Kishinyev, and TB patients in ITK-8 received treatment in the TB Hospital in Bendery.

The creation of a multi-profile hospital for 200-250 in-patients and 300 out-patients, for treatment of prisoners with general and infectious diseases, including tuberculosis, has become an urgent necessity in the republic. This would make it possible to hospitalise all those suffering from active TB who are currently in ITKs, and thus eliminate one of the main reasons for the spread of TB, as strict isolation of TB patients would be achieved and anti-epidemic conditions in prisons improved. Additional financial and material resources are required when building hospitals for prisoners, for re-equipping premises, fitting monitoring equipment, organising and creating an additional company of interior-ministry troops to guard the building, salaries of hospital personnel on the basis of the staff schedule, etc.

It should be clear from the above observations that there are problems in connection with the upkeep of prisoners, and that the Ministry of Justice is seeking to eliminate these problems in every way possible.

Various options for the employment of prisoners are currently being studied. This should make it possible to solve some, but not all, of the financial problems.



Response of the local authorities of the Transnistrian region  
dated 10 October 2001



## **Response dated 10 October 2001**

In June 2001, the Ministry of Internal Affairs considered the letter of the Executive Secretary of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment together with the CPT's report on its 27 - 30 November 2000 visit to Transnistria.

Special attention was drawn to the quality of professional training for the Interior Ministry staff and to the observance of all legal norms whilst in the preliminary stages of investigating offences committed by individuals. Attention was also drawn to the art of speaking with persons arrested or detained for having committed an offence, to the treatment of persons detained in IVS (temporary holding facilities) by police staff and to improving conditions of detention in IVS facilities.

The measures taken in response to the above-mentioned letter have been reflected in Order No 56 of the Interior Ministry of the Transnistrian Moldovan Republic, dated 09.02.2001, on "Measures for strengthening the respect of law in Interior Ministry bodies responsible for investigating offences, guaranteeing order and respect for the rules governing conditions of detention for suspects and accused persons detained in IVS".

In order to prevent ill-treatment of arrested and detained persons, the Interior Ministry IVS medical staff has been instructed to examine any bodily injuries inflicted on detained persons, if those persons so request. They should then inform the Interior Ministry officials that such examinations have taken place so that a relevant investigation can be carried out. Special registers have been introduced for recording bodily injuries sustained whilst in an IVS.

In conformity with the Code of Criminal Procedure, all persons detained in IVS have access to a lawyer, their relatives are informed of their whereabouts and the reason for their detention and, in case of need, they can use the services of an ambulance and a doctor.

Detained persons are questioned in conformity with the existing Code of Criminal Procedure.

In 2001 some repair work was carried out in Tiraspol IVS and Slobodzeisko ROVD and sanitary conditions in cells and other facilities were improved. The coming into service of additional premises at Tiraspol SIZO has significantly reduced occupancy levels in the IVS at Tiraspol Police Headquarters, favourably affecting the conditions of detention there.

As for the professional training of operational police officers, the issues of observing the law while conducting an inquiry and investigation have been closely examined. The district leadership has tightened its control over this activity.

We are doing our best to implement other recommendations made by the CPT's Executive Secretary; however, we are unable to implement some of them due to the lack of funds.

Copies of the Executive Secretary's letter have been sent, for information and action, to all the Interior Ministry bodies and police schools, as well as to some key ministry officials directly responsible for conducting inquiries and investigations.