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CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT

Second periodic reports of States parties

REPUBLIC OF MOLDOVA

[5 October 2007]

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I. GENERAL DATA

1. Pursuant to provisions of article 40 of the International Covenant on Civil and Political Rights and following the guidance on the form and contents of the initial reports of States parties, this report on actions undertaken by the Republic of Moldova in application of the Covenant and on progress made over the period 1 January 2002 to 31 October 2006 is hereby submitted to the Committee on Human Rights. The Republic of Moldova ratified the International Covenant on Civil and Political Rights (ICCPR) on 28 June 1990 by Decree of the Parliament No. 217-XII, and was enacted on 26 April 1993.

	2002	2003	2004	2005	2006
1. Demographic data					
Population (end of year, in thousands)	3 617.7	3 607.4	3 600.4[1]	3 589.9	3 581.1
Natural growth of the population, in per cent	-1.7	-1.8	-1.0	-1.9	-1.5
Rural, per cent	58.6	59.0	59.0	59.1	58.7
Urban, per cent	41.4	41.0	41.0	40.9	41.3
2. Human development					
Human Development Index	0.716	0.723	0.730	0.733	0.694
GDP per capita, Moldovan Lei	6 227	7 646	8 890	10 475	12 292
GDP per capita, US$	459	548	721	831	936
Life expectancy at birth	68.1	68.1	68.4	67.8	...
Adult literacy rate, per cent	98.5	98.7	98.9	99.1	...
Gross rate of enrolment in educational institutions of all levels per cent	70.1	71.0	70.9	71 7	...
3. Socio-economic indicators					
GDP, real annual growth per cent	7.8	6.6	7.4	7.5	4.0
Unemployment, per cent	6.8	7.9	8.1	7.3	7.4
Inflation rate, end of year, per cent	4.4	15.7	12.5	10.0	14.1
Relative poverty threshold, Lei	202.3	257.2	294.4	319.3	...
Poverty rate, per cent	23.6	19.4	20.3	23.3	...
Labour revenues and remittances of non-residents (inputs), per cent of GDP	19.4	24.4	27.0	30.6	35.0
Flow of foreign direct investments into the national economy (net), per cent of GDP	5.1	3.7	5.7	6.6	6.6

[1] In conformity with the October 2004 census the number of population was 3,383.3 thousands people.

	2002	2003	2004	2005	2006
1. Demographic data					
GDP					
Gross foreign debt (end of year), million US$	1 821.4	1 936.1	1 897.9	2 080.5	2 482.1
Foreign debt serviced by the Government (end of year), million US$	724.3	751.4	688.9	656.3	718.2
2. Health					
Infant mortality under one, per 1 000 live births	14.7	14.4	12.2	12.4	11.8
Maternal mortality, per 100 000 live births	28.0	21.9	23.5	18.6	16.0
New cases of active tuberculosis	3 026	4 016	4 289	4 704	4 602
Public expenditure on health, per cent of GDP	4.0	4.0	4.2	4.3	4.8
3. Education					
Rate of net enrolment in preschool institutions, per cent	54.0	58.7	63.7	68.6	...
Rate of net enrolment in primary schools, per cent	92.7	92.4	91.0	87.8	...
Number of students in universities (thousands)	95.0	104.0	114.6	126.1	128.0
Public expenditures on education, per cent of GDP	6.9	6.7	6.8	7.2	8.2

II. INTRODUCTION

2. Pursuant to article 1(3) of the Constitution (supreme law of the country) the Republic of Moldova is a democratic state with the rule of law, in which human dignity, human rights and liberties, free development of personality, justice and political pluralism are supreme values and are guaranteed. The heading of Chapter 2 of the Constitution, dedicated to these values, is called *Fundamental rights, freedoms and duties*, taking into account their essence and significance. Human rights are of imperative significance both politically and morally, a constitutional and legal institution inherent to any democratic and modern, rule of law State. Human rights represent the pillar value in application of "human coordinates" not only in respect to State, law, justice, rule of law, but also in respect to civil society, in view of the fact that the maturity and development of a civil society depends to a great extent on the condition of human rights, on the complexity of these rights and on the degree of their protection.

3. The Constitution of the Republic of Moldova stipulates that constitutional provisions on human rights and freedoms shall be interpreted and applied in compliance with the Universal Declaration of Human Rights, with international agreements to which the Republic of Moldova is a signatory party, international human rights provisions taking precedence in relation to the internal ones (art. 4). The reporting period has featured the adoption of a significant number of legal acts of national importance, such as the Criminal Code adopted on 12 April 2002, the Code of Criminal Procedure adopted on 14 March 2003, the Civil Code adopted on 6 June 2002, the Code for Civil Procedure adopted on 30 May 2003, etc. All these legal acts entered into force on 12 June 2003.

4. Probably, the most important event of the reporting period was the adoption of the National Human Rights Actions Plan in (NHRAP) by the Parliament of the Republic of Moldova by Decree No. 415-XV of 24 October 2003 for the period 2004-2008. This document envisages numerous and diverse actions ultimately aimed at improvement of legislation, strengthening of

democratic institutions, training and education in human rights, building public awareness of existing opportunities and tools for realizing and safeguarding fundamental human rights and freedoms. It was developed pursuant to the recommendations of the Vienna World Conference in Human Rights and aims at ascertaining the realization of a common policy and strategy of State institutions and civil society to improve the situation in the area of human rights through identification and formulation of priority tasks and actions for their implementation, setting of timelines for the implementation of planned actions, and nomination of institutions and organizations responsible for the implementation of planned actions. This document was developed in cooperation with the United Nations Development Programme (UNDP) in Moldova, and the joint UNDP and Office of the United Nations High Commissioner for Human Rights OHCHR) programme HURIST (Human Rights Strengthening).

5. The NHRAP includes also the domestic legal framework, as well as the terms for periodic submission by the Republic of Moldova of reports on observance of commitments undertaken by ratification of international instruments. In order to revive the system for submission of such reports, the Government of the Republic of Moldova has adopted on 1 March 2006 a decision on the National Commission for the development of initial and periodic reports on implementation of international conventions to which the Republic of Moldova is party, as well as the regulation for its operation. This Commission, in particular shall:

- Carry out analyses and monitoring of overall observance of international conventions to which the Republic of Moldova is party
- Coordinate activities on the mode of generating respective initial and periodic reports
- Approve above-mentioned initial and periodic reports
- Set up groups of experts for the development of initial and periodic reports and coordinate their work, etc.

6. According to the NHRAP, the Ministry of Foreign Affairs and European Integration (MFAEI) has been designated as the entity responsible for the development of initial and periodic reports on the implementation of ICCPR. Taking into account the provisions of the Regulation on the National Commission for the development of initial and periodic reports on implementation of international conventions to which the Republic of Moldova is party, MFAEI has established a group of experts that have participated directly in the development of the present report. It is also worth mentioning that some experts of the working group have participated in the training workshop “Reporting on observance of human rights in compliance with the International Covenant on Civil and Political Rights”. The training event took place in Chisinau from 16 to 19 November 2005 and was organized by UNDP. The working group has been convened by the MFAEI four times and has worked out the following tasks:

- Calendar of activities for 2006 in the area of ICCPR implementation
- Reporting scheme
- Development of a summary of the report contents

- Allocation of tasks in the development of the periodic report by article, according to functional competencies of each individual institution

- Examination of comments and suggestions of international experts on the periodic report summary contents

- Due to the delay in submission of the second period report, due in 2004, it was decided to merge it with the third periodic report, to cover the 2002-2006 period

7. It is also essential to state that representatives of the civil society that operate in the area of human rights participated in the training and in the working group sessions. All the objections and suggestions provided by the NGO representatives for the development of the report were taken into account equally with those made by the representatives of the State authorities.

8. Along with the basic international treaties in the area of human rights to which the Republic of Moldova is a party, such as Universal Declaration of Human Rights, European Convention on Protection of Fundamental Human Rights and Freedoms, European Framework Convention on Protection of Ethnic Minorities, etc, during the reporting period, the Republic of Moldova has become a signatory party to the following international treaties in the area of the protection of human rights:

- Protocol No. 13 to the European Convention for protection fundamental human rights and freedoms regarding abolition of death penalty in all circumstances

- The Second Optional Protocol to the International Covenant on Civil and Political Rights in respect to abolition of death penalty

- European Convention on contact concerning children

- Protocol No. 14 to the European Convention on Protection of Fundamental Human Rights and Freedoms amending the system of Convention monitoring

- Optional Protocol to the Convention against Torture and other cruel, inhuman or degrading treatment or punishment

9. In order to accede to the Second Optional Protocol to ICCPR regarding the abolition of death penalty and to the Protocol No. 13 to the European Convention concerning the abolition of death penalty in all circumstances, the Parliament of the Republic of Moldova has made material amendments to the Constitution which allowed the application of death penalty "for acts committed upon war or threat of war and only in compliance with the law". Thus, the Parliament of the Republic of Moldova excluded the above-cited provision from the Supreme Law by Law No. 185-XVI of 29 June 2006.

10. In 2002, following consideration of the initial report of the Republic of Moldova, the Human Rights Committee expressed a number of concerns and made a number of recommendations:

- Lack of more detailed data on the situation in the Transdniestria Region of the Republic of Moldova

- Lack of a survey aimed at identifying whether the legal and other actions undertaken for the implementation of resolution 1373 (2001) of the Security Council were in compliance with its obligations under ICCPR

- Deplorable detention conditions in penitentiary facilities

- Continuing human trafficking

- Excessive detention of suspects prior to appearance in court

- Deficiencies in the court system - the relatively short tenure of judges, and the need to review relevant legislation to guarantee the independence and impartiality of judges

- Existence of artificial obstacles to manifesting of religious freedoms by individuals and organizations, as stipulated in article 18 of the ICCPR

- The State TV and radio service "Teleradio-Moldova" obeying orders, in violation of articles 19 and 26 of the ICCPR; the need to amend legislation to ensure the independent operation of this institution

- The excessively long time demanded by local authorities for preliminary notification about public meetings and manifestations

- Excessive requirements (size of territorial representation) for the registration of political parties

- Need to ensure the right of women to participate in political and economic life and activities within the State, equally with men

- High levels of maternal mortality

- Poor conditions of Gagauz and Roma ethnicities

11. These concerns and recommendations were taken as basis for the development of the present report, and the response of the Republic of Moldova is detailed below.

III. STATE OF AFFAIRS IN THE TRANSDNIESTRIAN REGION OF THE REPUBLIC OF MOLDOVA

12. The Transdniestrian secessionist regime has been created via unconstitutional ways in the Eastern part of the Republic of Moldova at the beginning of the 1990s. The area stretches over 4,163 km² and has a population of about 555,000. This phenomenon has seriously impeded implementation within the entire country of provisions of the International Covenant on Civil

and Political Rights, as well as provisions of other international treaties to which the Republic of Moldova is a party. In this context, Moldovan authorities were content to see the understanding expressed by the Human Rights Committee in its comments with respect to the initial report of the Republic of Moldova submitted in 2002, which acknowledged that the Republic of Moldova was unable to exercise effective control over the Transdniestrian region due to the existence of parallel structures that have usurped local power in this part of the country.

13. Since 2002, Moldovan authorities, with the support of international organizations, especially OSCE and the EU, as well as with Ukraine and the United States of America, have undertaken efforts to achieve a rapid settlement of the Transdniestrian problem, which constitutes the most serious obstacle for the development of the country and its progress towards European integration. In this context, direct involvement in 2005 of the EU and the United States as observers in the negotiation process and introduction of the so-called "5+2" negotiation format, as well as the activity of the EU Assistance Mission at the Moldovan-Ukrainian State border have appeared rather promising. In the same context, one should mention the fact that lately, a political consensus has been achieved in the Republic of Moldova (territory on the right bank of the Nistru River and settlements under Moldova's jurisdiction) between the governing power, opposition and civil society with respect to ways and modalities of settlement the Transdniestrian problem. Thus, in June-July 2005, the Parliament of the Republic of Moldova has unanimously adopted a number of highly important documents, among which the "Law on the main provisions regarding the special legal status of settlements located on the left bank of Nistru river (Transdniestria)" and the two Appeals regarding democratization criteria, principles and conditions of de-militarization of the Transdniestrian zone of the Republic of Moldova. By the end of 2006, Moldovan authorities have launched new initiatives based on a comprehensive approach within the "5+2" format, which opened new perspectives in the settlement process of the Transdniestrian conflict.

14. Regretfully, we need to admit that in spite of undertaken efforts, including the extension of the negotiation format (the last meeting within the "5+2" format took place in February 2006) and multiple other promising initiatives, for the time being, no significant progress has been achieved in the settlement process of the Transdniestrian conflict. The main problem of the conflict - development and adoption of a special legal status of the Transdniestrian region (Transdniestria) based on the observance of the sovereignty and territorial integrity of the Republic of Moldova - continues to remain unsolved. There exist general views in conformity to which lack of progress in the settlement of the conflict is caused by the obstructionist and intransigent position of the separatist leaders from Tiraspol, the administrative centre of the Transdniestrian region. The latter continues to benefit from substantial direct support (political, economic, financial, etc) on behalf of the Russian Federation. Perpetuation of the Russian military presence in the Transdniestrian region and the partial attitude of the Russian Federation in its capacity as a mediator have a negative impact on the negotiation process dedicated to rapid achievement of the settlement of the Transdniestrian problem, and consequently, the re-instalment of the sovereignty and territorial integrity of the Republic of Moldova.

15. In these well-known circumstances, the so-called authorities in Tiraspol have impeded the Moldovan authorities in a permanent, ostentatious and frenzied way to exercise constitutional prerogatives in the Transdniestrian region, including commitments deriving from the

international conventions on the protection of human rights to which the Republic of Moldova is a signatory party. More than that, the secessionist regime structures have violated in a systemic and deliberate way the human rights and fundamental freedoms in this region, displaying a challenging and contemptuous behaviour with respect to the constitutional authorities of the Republic of Moldova and international bodies with expertise in this area. An eloquent example is the categorical refusal of the self-proclaimed Tiraspol administration to comply with and to execute the decision of the European Court of Human Rights made on 8 July 2004 with respect to the case of *Ilascu and others against Moldova and Russia*, which requested the immediate and unconditional release of detainees Andrei Ivantoc and Tudor Petrov-Popa, convicted in an arbitrary way to 15 years detention by an illegal court in Tiraspol.

16. In the absence of real possibilities to exercise sovereign prerogatives over the Transdniestrian region, the authorities of the Republic of Moldova have closely followed the evolution of the situation within this territory of the country, including in relation to the observance of human rights, trying, at the same time, and to the extent possible, to influence in a positive way the state of affairs in this region. It is worth mentioning here that actions were undertaken to raise awareness and disseminate information to the international organizations, to reveal cases of violations by the totalitarian Transdniestrian regime of human rights and fundamental freedoms, to try to make it to comply with the international standards in the area. At the same time, in the context of the settlement process of the Transdniestrian problem, the Government, civil society and the relevant international organizations, namely the United Nations, OSCE and the Council of Europe, have undertaken specific actions aimed to securing democratization of the region. They pursued the following: extension of values and democratic principles over this region - its "Europeanization"- through development of democratic institutions, creation of necessary conditions for the organization of free and democratic elections, observance of human rights and fundamental freedoms provided by international treaties to which the Republic of Moldova is a signatory party.

17. Below we try to provide pertinent information, including a number of relevant examples, which describes the real situation with respect to the protection of human rights in the Transdniestrian region of the Republic of Moldova, seen from the perspective of the International Covenant of Civil and Political Rights. Being aware of the fact that this information is not exhaustive, we nevertheless think that it demonstrates in an eloquent way the authoritative and antidemocratic character of the secessionist regime of Tiraspol, which violates in a flagrant way the human rights and fundamental freedoms.

Right to life (art. 6)

18. Persons that showed open opposition to separatist forces during 1989 through 1992, or who fought on the battlefield during the 1992 hostilities defending the constitutional order and the territorial integrity of the Republic of Moldova have been accused of "terrorism" and sentenced to deprivation of liberty by illegal courts, created by the secessionist regime. These people are dismissed from their jobs, persecuted or arrested. Those who managed to quit the region are declared subjects of general pursuit. In order to save their lives, these people are forced to abandon their houses and goods collected during their entire life. They are forced to move to the right bank of the Nistru River and start everything from zero (the Mirca brothers case, phenomenon of internally displaced persons).

19. The law enforcement bodies of the Republic of Moldova have promptly reacted to cases of violation of human rights by the secessionist regime. Thus, from 1992 through 2004 110 criminal investigations have been opened involving cases of homicide of citizens of the Republic of Moldova in the Transdniestrian region, including the cases described below.

20. On 3 September 2004, the General Prosecution Office of the Republic of Moldova filed criminal case No. 2004058010 within provisions of article 89 of the Criminal Code. It was stated that Dimitri Soin, member of an extremist grouping from the Transdniestrian region, in November 1994, in Tiraspol town, used a firearm unidentified by the criminal investigating bodies and shot in a premeditated way the citizen S. Bogoros, causing the latter a lethal injury, and then disappeared from the crime scene.

21. On 23 September 2004 the General Prosecution Office of the Republic of Moldova also filed another criminal case, No. 2004058011, within provisions of article 88, items 1 and 7, of the Criminal Code. It was stated that on 14 March 1995, the same Dimitri Soin, during a burglary attempt, used a firearm unidentified by the criminal investigating bodies and shot several bullets in a premeditated way towards citizen I. Maico and his relative, residents of Tiraspol, lethally injuring them.

22. On 16 November 2004 a criminal file was opened against Dimitri Soin, announcing an international warrant. Previously, on 20 October 2004 Dimitri Soin was declared in pursuit and the court issued a warrant for his arrest.

Ban on torture (art. 7)

23. Due to lack of real possibilities to exercise control over the force structures and penitentiaries in the Transdniestrian region, the Moldovan authorities have no entire awareness of the real state of affairs with respect to non-admission of torture, cruel, inhuman or degrading treatment. However, there is evidence demonstrating the existence of such cases. One example is the criminal investigation with respect to case No. 2006058005 started on 22 June 2006 by the General Prosecution Office of the Republic of Moldova within the provisions of article 309/1, paragraph (3), items c), d) and e) of the Criminal Code incriminating application of force by the employees of the so-called “minister of state security” of the self-proclaimed “moldovan dniestrian republic” in the case of police officers Stefan Mangir and Constantin Condrea, who had been kidnapped and tortured with the use of special instruments.

Right of a person to freedom and security (art. 9)

24. A big number of cases have been registered when citizens were arbitrarily detained and arrested by the unconstitutional law enforcement bodies of the Transdniestrian region. The General Prosecution Office of the Republic of Moldova has filed numerous lawsuits, including the ones below.

25. Criminal lawsuit No. 200468003 was filed on 6 September .2004 within the provisions of article 166, paragraph (2), items a), and d) of the Criminal Code incriminating deprivation of freedom during 15 days of the “Moldova 1” TV company employees D. Mija and V. Magaleas by the unconstitutional law enforcement bodies of the self-proclaimed republic.

26. Criminal lawsuit No. 2005058005 was filed on 30 March 2005 within the provisions of article 166, paragraph (2), items b), and d) of the Criminal Code. It was established that on 29 March 2005 employees of the illegal force structures of the Transdniestrian region deprived of liberty the judiciary police inspector Denis Solonenco of the Bender Police Commissariat, pretexting a criminal case existed against him. No legal acts were presented during the arrest. On the same day and in the same way the judiciary police inspector Vasile Kiriacov of the Bender Police Commissariat was illegally deprived of liberty.

27. Lawsuit No. 2006058004 was filed on 15 June 2006 within the provisions of article 164, paragraph (2), items b), and e) of the Criminal Code incriminating the representatives of the so-called security ministry of the self-proclaimed republic with the kidnapping act on 14 June 2006 of police officers Ştefan Mangîr, Alexandru Pohilă, Constantin Condrea, Igor Dațco and Vitalie Vasiliev.

28. Lawsuit No. 2006018046 was filed on 22 March 2006 within the provisions of article 164, paragraph (2), items e), and g) of the Criminal Code, incriminating the employees of the so-called "state security ministry" of the self-proclaimed republic with the kidnapping of citizen Vladimir Gorbov. At the beginning of 2007, Vladimir Gorbov was released from detention in Tiraspol.

29. Lawsuit No. 2004638005 was filed on 6 September .2004 within the provisions of article 272, paragraph (2), item b) of the Criminal Code incriminating the representatives of authorities of the Transdniestrian region with the act of constraint committed on 6 September 2004 with respect to employees of the Bender railway transportation station, threatening them with physical injuries and impeding them to fulfil their duties.

Detention conditions and penitentiary regime (art. 10)

30. In prisons created by the unconstitutional Transdniestrian regime, especially in the ones located in Tiraspol and Bender, the detention conditions and the penitentiary regime prescribed by the relevant international conventions are not observed. The so-called Ilascu Case constitutes an eloquent example in this sense. Article 14 of this report includes more details in this respect.

31. It is also worth mentioning that on 6 September 06 2004 the General Prosecution Office of the Republic of Moldova filed criminal lawsuit No. 2005018094 within the provisions of article 339, paragraph (2), item c), and paragraph (3), items b), c) and e) of the Criminal Code. It was established that during 2005, employees of the penitentiary institution ITK-2 in Tiraspol displayed inhuman treatment with respect to persons detained in that unit. They applied physical force, used firearms, threats with physical revenge and psychological constraints and deprived people of the right to sanitary conditions. These actions have caused severe damages to detainees, some of them having to be moved to the hospital.

32. Constitutional authorities of the Republic of Moldova face serious difficulties in their attempts to ensure a normal functioning of Correction Colony No. 8 and Prison No. 2 under the jurisdiction of the Ministry of Justice of the Republic of Moldova but located in Bender municipality controlled by the self-proclaimed Tiraspol administration. These penitentiary

institutions constituted a matter of dispute between Tiraspol and Chisinau. As of spring 2002 the so-called transdniestrian authorities have undertaken a number of actions aiming at jeopardizing the activity and even liquidation or "evacuation" of these institutions.

33. Thus, based on a special decision of the self-proclaimed administration of the Bender, under the pretext that detainees of these units constitute a danger to infect the local population with tuberculosis, these institutions have been disconnected from the electricity supply, and water supply has been stopped. Also, during wintertime the supply with coal, wood and food products has been blocked. The Transdniestrian militia made prison No. 2 subject to a siege with no access permitted to it.

34. Moldovan authorities proposed various compromising solutions to the administration of Bender, including maintaining the colony but building a settlement-type colony instead of the tuberculosis hospital to host detainees from neighbouring districts in the Bender municipality and the establishment of a general profile hospital, which could also serve for the treatment of Transdniestrian detainees. However, these proposals were rejected. The diplomatic missions and representatives of the international organizations accredited in the Republic of Moldova, including OSCE, the International Committee of the Red Cross, the Council of Europe and others were informed about the created situation and about violation of rights of persons deprived of liberty in the two penitentiary institutions, located on the uncontrolled territory of the Republic of Moldova.

35. In this critical situation, the Moldovan authorities made everything possible to ensure the normal functioning of Penitentiary No. 8 located. Thus, at present, a diesel generator is used to produce electricity 2-3 hours per day and drinking water is delivered in tanks to meet the personal needs of the detainees. A residential house has been substantially renovated, which made it possible to ensure the convicts with more space than 4 m2 per person. Heating of rooms is done with stoves and coal. Measures are undertaken to improve the food rations and provision of health care to detainees.

36. The Ministry of Justice, with the support of the OSCE mission in Moldova, has requested that the World Health Organization (WHO) undertake monitoring of the activity of Penitentiary No. 8. In conformity with conclusions drawn by the WHO expert Jerold Skolten, Technical Coordinator of the WHO European Bureau, this institution is absolutely safe as far as the threat of spreading tuberculosis is concerned and presents no danger. The OSCE mission in Moldova informed the local administration of Bender municipality of these conclusions. Unfortunately, ignoring conclusions drawn by the WHO experts, the municipality continues to insist on the total evacuation of the institution and requests the evacuation of all detainees of the above-mentioned institution within one month.

37. In spite of appeals by the authorities of the Republic of Moldova, OSCE and other international organizations to the self-proclaimed administration of the Bender municipality to abstain from actions liable to disturb the normal functioning of these institutions, the situation of penitentiaries located in the Bender municipality and detainees held there continues to worsen. As of the end of 2006 104 detainees were kept in prison No. 2 and 109 persons in the Penitentiary unit No. 8.

Criminal and civil accountability (art. 11)

38. In conditions when constitutional authorities of the Republic of Moldova have no access to the Transdniestrian region, prosecutors of the Republic of Moldova, while processing the criminal and civil legal proceedings, undertake all possible actions to examine appeals of citizens from the settlements controlled by the Tiraspol separatist regime so that the persons guilty of committing violations in this region be brought before the court to bear effective criminal accountability.

39. It is also worth mentioning that in this situation the General Prosecutor Office of the Republic of Moldova finds it impossible to participate in litigations in the Transdniestrian region. An example is the case of citizen Vasile Spirivac from Dnestrovsc (Transdniestria), who submitted an application to the General Prosecutor's Office of the Republic of Moldova requesting an intervention in his litigation with the administration of the Moldovan Power Station pursuing recovery of dividends due to him as shareholder following the privatisation of this enterprise.

40. The General Prosecutor's Office of the Republic of Moldova has filed a number of other legal proceedings, among them being:

- Lawsuit No. 2005018105 filed on 20 September 2005 within provisions of a Article 352, paragraph (3), item d) of the Criminal Code incriminating unauthorized exploitation by the so-called authorities of the Transdniestrian region of 143.6 km of rail ways, including all its assets, which is public property belonging to the State enterprise "Calea Ferata din Moldova" (Moldovan Rail Way) thus causing the latter extremely large damages in an amount of 500130,4 thousand Moldovan lei

- Lawsuit No. 2005138018 filed on 7 June 2005 within provisions of article 336, paragraph (1), of the Criminal Code incriminating the administration of the "Interdnestrcom" joint stock company from Transdniestrian region the illegal use of the 450 MHz frequency band in delivering mobile telephoning services

- Lawsuit No. 2005138008 filed on 11 March 2005 within provisions of article 278, paragraph (2), items b), c) and e) of the Criminal Code incriminating 10 militia employees equipped with "AKSU" automatic pistols with the use of force under the leadership of Mihail Smintina, the chief of the so-called traffic militia and other representatives of the unconstitutional administration of the town of Dubasari, with the purpose of dismantling the telecommunication station of the Vasilevca village, Cocieri community of the Dubasari district installed there by Ministry of Transportation and Communication of the Republic of Moldova

- Lawsuit No. 2005138016 filed on 20 June 2005 as annex to lawsuit No. 2005138008 dated 11 March 2005, filed on 17 June 2005 within provisions of article 187, paragraph (2), items b), c) e) and t) of the Criminal Code incriminating a group of masked militia men and employees of the special destination battalion equipped with "AKSU" automatic pistols of committing an armed attack on the house of culture of the Vasilevca village, Cocieri community of the Dubasari district. Employees of the Police Commissariat of Dubasari district (Republic of Moldova) V. Prodan and A. Cojuhari

were also attacked and suffered physical injuries, considerable material losses and were threatened to be killed. On 25 July 2005, citizens Vladislav Finaghin - chief of the so-called administration of the Dubasari town and district, Fiodor Palcinschi and Alexei Maliutin - respectively, chief and deputy chief of the so-called militia of the Dubasari district and Mihail Smintina - chief of the so-called traffic militia have become accused subjects under Moldovan Law. On 4 August 2005 all persons mentioned above have been nominated as being in pursuit

- Lawsuit No. 200605803 filed by the prosecutor office of the Bender municipality on 21 April 2006 within provisions of article 275, paragraph (1), of the Criminal Code incriminating a group of militia employees and personnel of the Bender fluvial port of the self-proclaimed republic with the abusive occupation of the fluvial port in the Varnita village and seizure of three fluvial ships

Right to free movement of persons (art. 12)

41. The so-called authorities of Tiraspol violate in a systemic and deliberate way the right to free movement of persons over the entire territory of the country infringing in an abusive way the access of a certain category of citizens to the Transdniestrian region, including the leaders of the country and members of the Government. Thus, the right to free movement of persons, commodities and services between the two banks of the Nistru river as prescribed within article 5 of the "Agreement on principles of peaceful regulation of the armed conflict in the Transdniestrian region of the Republic of Moldova" signed on 21 July 1992 in Moscow by the Presidents of the Republic of Moldova and the Russian Federation is ignored in a defiant way.

42. As of 1992 the Transdniestrian structures have installed in an arbitrary way "customs posts, border guards, migration and militia posts" along the entire perimeter of the so-called Security Zone, a strip of land 225 km long and 12-20 km wide on the two banks of the Nistru River, starting from Floresti district in the north and up to Stefan-Voda district in the south. These units are equipped with all insignia of "interstate" border cross points. Moldovan citizens are requested in an abusive way to pay "migration taxes" at these "control points" in order to have access to the territory of the Transdniestrian region. They are also requested to "register themselves" in local administration bodies if they intend "to stay" there more than 24 hours. One should mention here that these taxes and the "registration" are requested in a discriminating way only from Moldovan citizens living on the right bank of the Nistru River. Citizens of other States like from the Russian Federation and Ukraine are exempted of these payments. It is evident that this policy follows the goal to humiliate a certain category of citizens, generate dissatisfaction, worsen contacts between persons and separate in an artificial way the population on the two banks of the Nistru River.

43. The operation at the Gura-Bicului Bridge constitutes a very eloquent example in this context. This bridge was destroyed in 1992 by the separatist structures during the armed conflict and was reconstructed several years ago with international financial support. However, de facto Tiraspol authorities, without invoking any plausible arguments, would not permit re-opening and operation of this bridge. They oppose even the initiative of the residents of the Bicioc and Gura-Bicului villages (neighbouring villages situated on both banks of the Nistru River) to baptize this bridge according to local tradition.

44. The Tiraspol administration has introduced circulation restrictions in the Transdniestrian region even for representatives of some diplomatic missions accredited in the Republic of Moldova. The latter are refused access to this territory under the pretext that they have not coordinated their visits with the so-called "minister of foreign affairs" from Tiraspol. Eloquent examples in this context are the cases when staff of the United States Embassy, Lithuanian Embassy and the OSCE Mission in Moldova have been repeatedly impeded by the separatist structures to enter the region. One should mention here that no such requests are put forward for other diplomatic missions such as the Embassy of the Russian Federation.

45. The separatist authorities create obstacles and restrict the right to free movement of citizens of the Republic of Moldova, residents of the Transdniestrian region, who possess transportation vehicles registered by the state qualified institutions. These people are requested to re-register their transportation vehicles and to periodically pay taxes to the "customs" structures and to militia, these goods being placed under the category of "temporary imported goods on the customs territory of Transdniestria". Persons that refuse to comply with these illegal provisions are harassed by different unconstitutional agencies, and even confiscation of their transportation vehicles might take place.

46. In 2005 the General Investigation Directorate within the General Prosecutor's Office, together with the prosecutor's office of the Dubasari district have examined cases implying confiscation of automobiles registered by the State qualified institutions of the Republic of Moldova, private property of citizens who are residents of the Transdniestrian region. On 27 January 2005 citizen Iurie Turturica, resident of Lunga in the Dubasari district, owner of the private car "Volkswagen Golf-2" registered under C EF-052 car number, was detained by the so-called customs post of the secessionist regime under the pretext that he had violated the Transdniestrian "customs legislation" and his car was confiscated.

47. Also Mihail Dirul, resident of Lunga, No. 9 Stefan cel Mare street was subject to the illegal actions of the "customs and militia" structures. On 22 December 2006 at the control post illegally installed near Lunga, he was deprived of his private car, which was restored only several days later after the payment of an arbitrary fine. Mr. Dirul was warned by the unconstitutional structures of the Dubasari that his car would be seized if he tried again "to penetrate" the territory of the Transdniestrian region with it.

48. The de facto Tiraspol administration creates serious obstacles for the natural establishment of contacts between economic entities located on the two Nistru River banks. Moldovan producers from the right Nistru River bank are demanded to pay a 100 per cent "customs fee" for commodities introduced to the Transdniestrian region. Imposition of this kind of "fees" has evidently led to a dramatic decrease of commercial exchange between the two Nistru River banks.

49. One may also qualify as similar obstacles the actions aimed to jeopardize access of peasants/farmers from a number of villages of the Dubasari district under the jurisdiction of the constitutional Moldovan authorities to their private agricultural land plots. Thus, in order to reach their land plots these farmers had to cross the Rîbnița-Dubăsari-Tiraspol highway, where "customs control posts" are installed in an arbitrary way. The employees of the separatist regime force structures harass farmers and oblige them to pay different fees.

50. A number of foreign citizens and national and international philanthropic and charity missions have been repeatedly denied access to the region.

51. The General Prosecutor's Office of the Republic of Moldova has also started legal proceedings with respect to this kind of flagrant infringements of human rights and fundamental freedoms, among them being:

- Lawsuit No. 2004058006 filed on 5 August 2004 within provisions of article 271, item b) of the Criminal Code incriminating the public order enforcement bodies subordinated to the Transdniestrian administration the deliberate blockage on 5 August 2004 of the rail way tracks in Bender

- Lawsuit No. 2004058006 filed by the Dubasari district Prosecutor's Office (Republic of Moldova) on 3 September 2004 within provisions of article 358, paragraph (1) of the Criminal Code incriminating the Transdniestrian militia personnel the deliberate blockage of the traffic circulation on the Dubasari-Tiraspol highway, at crossroads to and from Pohrebea village

- Lawsuit No. 2005058011 filed on 17 November 2005 within provisions of article 352, paragraph (2), items b) and d) of the Criminal Code incriminating the Transdniestrian militia personnel with the illegal detention on 21 October 2005 in Bender of the examining judge Pavel Todica

- Lawsuit No. 2006138003 filed on 8 February 2006 within provisions of article 352, paragraph (2), item b) of the Criminal Code incriminating the Transdniestrian militia personnel with the illegal blockage of the passage in the Dubasari Power Station area, through instalment of a locked metallic fence.

Right to a fair trial (art. 14) "Ilascu case"

52. The "Ilascu case", which had a powerful international resonance, is one of the well-known cases of brutal infringement of civil and political rights of people in the Transdniestrian region, including the right to a fair trial held by a competent, qualified tribunal.

53. In 1993, four citizens of the Republic of Moldova, Ilie Ilascu, Alexadru Lesco, Andrei Ivantoc and Tudor Petrov-Popa, known as the "Ilascu group" were convicted by an unconstitutional court of the Transdniestrian region to 12-15 years imprisonment, Ilascu being convicted in the same process to capital punishment.

54. On 5 April 1999, the four persons mentioned above, benefiting from the assistance of their wives, submitted an application to the European Court of Human Rights (ECHR), which accepted to examine it. Their application contained allegations with respect to the so-called authorities of the self-proclaimed "Moldovan Transdniestrian republic", especially invoking their illegal arrest, their conviction by an incompetent Transdniestrian court and denial of a fair trial. They accused the Moldovan authorities, but also, in particular, the Russian Federation, of being accountable for the infringement of their rights, especially invoking the fact that "the

Transdniestrian territory used to be and continues to be de facto under Russia's control, given the presence of the Russian military troops and arms deployed within this territory and the support rendered by this country to the separatist regime".

55. Meanwhile in 2001 Ilie Ilascu was graced and freed, and A. Lesco was set free in 2004 at the moment of the "expiration of imprisonment period".

56. On 8 July 2004 the ECHR adopted a judgment with respect to the case *Ilascu and others against the Republic of Moldova and the Russian Federation* in which it qualified the detention of the defendants in the prisons of the self-proclaimed republic on the basis of a sentence proclaimed by an incompetent court illegal, inhuman and degrading and requested their immediate release.

57. By payment of the amounts for moral and material prejudice to the petitioners as set by the Court and the representative costs and expenditures this judgment has been partially executed, but the immediate release of the convicts has not been entirely executed. The last two plaintiffs of the Ilascu group, Andrei Ivantoc and Tudor Petrov-Popa, continued to be kept in detention in prisons of the self-proclaimed republic long time after the pronouncement of the Court judgment.

58. All this time, since 1993 and especially after the pronouncement of the ECHR judgment with respect to the Ilascu case Moldovan authorities have undertaken all possible efforts to determine the decision making factors to fully execute the provisions of the Court judgment, especially that part requesting the immediate and unconditional release of the political detainees of the Ilascu case, including A. Ivantoc and T. Petrov-Popa. Moldovan authorities constantly raised the issue of the execution of this judgment during bilateral contacts and dialogues with other States and within international forums. Numerous declarations have been made and periodical information has been produced referring to safeguarding and observance of human rights in the Eastern part of the Republic of Moldova. This information was submitted to different international organizations, including OSCE, EC, by the Special Representative of the Republic of Moldova in the Council of Europe, Moldovan Representative in OSCE in Vienna, etc.

59. To ensure full execution of the judgment the Moldovan authorities have submitted a great number of letters to relevant authorities of the Russian Federation, taking into consideration the responsibilities this country has vis-à-vis the observance of human rights in the Transdniestrian region, which is de facto controlled by Russia.

60. Similar letters were also sent to Valerii Litkai, "representative of Transdniestria responsible of political issues in the transdniestrian settlement process" in the "5+2" format, but no adequate answers have been received.

61. Messages have been repeatedly sent to heads of the OSCE mission in Moldova, William Hill and Luis Oneill, the Special Representatives of the General Secretariat of the Council of Europe in the Republic of Moldova Vladimir Philipov and Vladimir Ristovski, as well as to Adriaan Iacobovits de Szeged, Representative of the European Union for the Republic of Moldova, requesting their contribution in ensuring the execution of the ECHR judgment.

62. Authorities of the Russian Federation have complied only partially with the provisions of the ECHR judgment by making the payment of the set amounts to the plaintiffs, but avoiding to fulfil their responsibilities with respect to the release of A. Ivantoc and T. Petrov-Popa. Iurii Mordvintev, chargé d'affaires of the Russian Federation in the Republic of Moldova, in his off-the-records statement made on 8 November 2004 at the Ministry of Foreign Affaires and European Integration of the Republic of Moldova stated that authorities of the Russian Federation considered that by paying the plaintiffs of the "Ilascu case" the requested amount as monetary compensation "they have fully, for good and all fulfilled their commitments within the European Convention on Human Rights. The Russian Federation considers that all the other issues connected with the setting free of the two plaintiffs constitute the responsibility of the authorities of the Republic of Moldova, on the territory of which the two persons reside". In the same statement it was said that "insistence of the Council of Ministers of Council of Europe that the Russian Federation executes "by all means" this part of the ECHR Resolution would bring no outcomes, neither would the discussions regarding application of eventual sanctions, no matter what the arguments could be for the purpose. On the contrary, these actions inevitably would bring about a negative effect on the relations of the Russian Federation with the Council of Europe and would also generate other negative consequences for Russia's comprehensive participation to the European construction".

63. After the ruling by the European Court, the Council of Ministers of the Council of Europe adopted four resolutions referring to the "Ilascu case", insisting on the compulsory execution of ECHR resolutions, especially underlining the fact that continuation of the illegal and arbitrary detention of detainees A. Ivantoc and T. Petrov-Popa constituted a violation of article 46 of the European Convention on Human Rights and urged "the relevant parties, especially the Russian Federation, to undertake all necessary measures to immediately set free the plaintiffs Ivantoc and Popa". The Council of Ministers of the Council of Europe was drawing attention to the fact that non-execution of the ECHR judgment undermined the credibility of the Council of Europe and the European Court of Human Rights.

64. Regretfully, the actions undertaken by the authorities of the Republic of Moldova and the insistent appeals of the international community, including by the Council of Europe, OSCE and the European Union, have not brought about the full realization, within set terms, of the judgment. The bold and ostentatious ignoring of this decision of a high European institution constitutes a cynical disregard for the European mechanism of protection of human rights and a direct challenging of the international community.

65. Andrei Ivantoc and Tudor Popa (former Petrov-Popa) have been set free by the separatist Tiraspol regime only at the moment of "expiration of the detention terms", established in an arbitrary way by the Tiraspol separatist regime respectively on 2 and 4 June 2004. One should mention here that the Tiraspol illegal institutions made the decision to "expel all four citizens - members of the so-called "Ilascu group" - from the territory of moldovan transdniestrian republic" and they were denied the right to ever enter this region. In these circumstances Andrei Ivantoc and Tudor Popa have lodged a new application to the ECHR "against Republic of Moldova and Russian Federation" with allegations regarding the prolongation of their arbitrary detention after 8 July 2004. The application was accepted for consideration.

Prohibition of propaganda in favour of war and national hate (art. 20)

66. The signing in Moscow on 21 July 1992 of "the Agreement on principles of peaceful regulation of the armed conflict in the Transdniestrian region of the Republic of Moldova" put an end to hostilities that took place from March through July 1992 in localities on the Nistru River banks. However, immediately after that the Tiraspol separatist regime, making use of mass media instruments - both printed and electronic - and of certain "non-governmental organizations" created for the purpose and under its control, started a virtual informational war against the Republic of Moldova and its people.

67. The propagandist machine of the self-proclaimed republic propagates in a methodical, ostentatious and deliberate way ideas instigating to war, enmity, xenophobia and national hatred, making enemies out of the country Republic of Moldova, Chisinau authorities and some ethnic communities (Moldovans, Romanians). Very often these entities are qualified as "nationalist" and "fascist", presumably preparing "a new aggression on the Transdniestrian people with the aim to deprive it of its assets, enterprises, etc."

68. Extremist and chauvinistic movements, organizations and press enterprises like "Russkii mars" movement and its press release "Dnestrovsckii curier" (initially "Molodiojnii mars"), international youth Corporation "Proriv!", "Pridnestrovsckii patrioticesckii soiuz molodeji" (Transdniestrian patriotic youth union), "the kazaks unions", etc. operate within the Transdniestrian region, instigating people to national hatred and discrimination, to hostility and violation. In the region there are also structures engaged in the production and sales of weapons, the fact having been described in mass media and proved by journalist investigations. Pursuing the goal of combating this negative phenomenon, the General Prosecutor's Office of the Republic of Moldova has filed a number of legal proceedings, including the ones mentioned below:

- Lawsuit No. 2004058008 filed on 23 September 2004 within provisions of article 282, paragraph (1) of the Criminal Code bringing allegations against Dimitri Soin for organizing and developing actions with the goal to undermine the operation of legal institutions and organizations. In 1994 he set up in Tiraspol the "Russckii mars" extremist organization, members of which, under his leadership, in October of the same year devastated the Moldovan School of Tiraspol , where teaching is done using the Latin alphabet

- Lawsuit No. 2004058009 filed on 23 September 2004 within provisions of article 346 of the Criminal Code bringing allegations against Dimitri Soin for organizing the "Russckii mars" extremist organization and its press release "Molodiojnii mars", later re-named "Dnestrovsckii curier", which pursued the goal of defamation of the national honour and dignity, instigation to national enmity, and humiliation of citizens depending of their national origin

- Lawsuit No. 2004058012 filed on 23 September 2004 within provisions of article 323, paragraph (1) of the Criminal Code brings allegations against the so-called "minister of state security" , Vladimir Antiufeev, of protecting a highly severe crime. In

November 1994 V. Antiufeev declared Dimitri Soin non guilty, in the absence of an investigation of the case and without requesting criminal accountability of the offender. On 10 November 2004 V. Antiufeev has been announced in pursuit and an arrest warrant for 30 days was issued in his name. On 16, November 2004 an investigation file was opened and V. Antiufeev was announced in interstate pursuit

- Lawsuit No. 2005018057 filed on 11 May 2005 within provisions of articles 27, 279 and 292, paragraph (1) of the Criminal Code incriminating the personnel of the so-called "minister of state security" of the self proclaimed republic with selling, to a person who claimed being member of an Algerian armed group, of three "Alazan" missiles equipped with radioactive strontium and caesium devices, which in case of use may generate radiation within a 32 km distance

- Lawsuit No. 2005058009 filed on 23 May 2005 within provisions of articles 285, paragraph (4), and 348 of the Criminal Code incriminating the leaders of the Bender local public administration bodies with publishing on 4 October 2003, 24 June 2004 and 9 September 2004 an article in the local newspaper "Novoe Vremea" instigating the population and public authorities to active insubordination to legal requirements put forward by the police personnel of the Ministry of Domestic Affairs of the Republic of Moldova, functioning in Bender municipality. Alexandru Posudnevskii, chief of the so-called administration of Bender municipality and the employees of the same institution Victor Fiodorov and Igor Lanico have been accused on 12 July 2005 within the same lawsuit. On 19 July 2005 all above-mentioned persons have been announced in the interstate pursuit

- Lawsuit No. 2006018120 filed on 4 September 2006 within provisions of article 347, paragraph (2), item b) of the Criminal Code brings charges against members of the popular-democratic party "Proriv" and the "International Youth Corporation" with the same name functioning in the Transdniestrian region under the leadership of Dimitri Soin for committing profanation of the flag and coat of arms of the Republic of Moldova and shouting anti-Moldovan slogans (the flag and coat of arms of the Republic of Moldova were splashed with gasoline, put on fire and thrown to flow in the waters of the Nistru River)

Right to opinion and freedom of expression (art. 19)

69. The unconstitutional authorities of the Transdniestrian region commit systemic and deliberate infringement of the person's right to opinion and freedom of expression, including the freedom to seek, receive ad disseminate information, these freedoms being qualified as "undermining the Transdniestrian statehood". In order to suppress and annihilate the person's right to opinion and freedom of expression the separatist Tiraspol regime has favoured the creation of certain "non-governmental organizations", diverse "public" and "patriotic" movements, unions "of defenders of Transdniestria", "kazak circumscriptions" etc.

70. In doing this the Transdniestrian regime creates serious obstacles against free broadcasting of the informing TV programmes from Chisinau, radio programmes of the national radio and programmes of the public TV "Moldova 1" within the left bank territory of the Nistru River.

Collective antennas installed on the roofs of buildings that used to receive the Moldovan TV are dismantled, while the Transdniestrian "Sheriff" company, which has practically monopolized the cable television in the region has not included in its package the Chisinau TV programmes.

71. Free dissemination of printed newspapers and magazines produced in Chisinau is practically forbidden and reporters from the right bank of the Nistru River and foreign journalists have limited access to the region. For example, in September 2004 Dinu Mija, cameraman of the public company "Teleradio - Moldova" has been arrested and kept in prison for more than one week for filming the attack committed by the force structures of the separatist regime on the depot belonging to the state Enterprise "Calea Ferata a Moldovei" (Moldovan Rail Ways) in Bender. At the time of detention the cameraman was deprived of registered materials and his camera was destroyed. In the summer of the same year, in Transdniestria, a group of journalists of the regional bureau of the British BBC company was detained and registered materials were seized.

72. One should also mention here that in 2003 - 2004 during the so-called "telephonic war" the Tiraspol regime practically interrupted telephone communication, both fixed and mobile, between the two banks of the Nistru River, setting up its "own" telecommunication system, which has created a number of difficulties and limitations in the communication between people of the entire territory of the country, including the dissemination of information.

73. At the same time it is worth mentioning that Russian TV and radio programmes, as well as Russian newspapers and press agencies are accepted here and encouraged to broadcast and collect materials in the Transdniestrian region. One goal here is to maintain this region "within information area" of the Russian Federation. In order to facilitate receipt of information different organizations have disseminated on different occasions (elections, festivities, etc.) several thousand radio sets as gifts to the population of this territory.

74. Transdniestrian administrative and representative structures involving some so-called "activists" (Dmitri Soin, Dmitri Kalutki, Aleona Arshinova etc.), some "public organizations" like "Prorîv", "Russkii marş" etc and using the "official" websites harass, persecute, intimidate, threaten with death and subject to reprisals persons, mass media units and social-political formations with beliefs, opinions and ideas other than the ones propagated by the secessionist regime. Alexandr Radcenko, Nicolai Buceatki, Andrei Safonov, Grigori Valovoi, as well as Russian expression newspapers "Chelovek I ego prava" and "Novaya gazeta", the radio programme "Novaya volna", have suffered considerably in this context for the reason that they acted in opposition to the regime, expressing critical opinions with respect to the Tiraspol administration and its leaders thereby and for having made statements in favour of a settlement of the Transdniestrian problem and re-integration of the Republic of Moldova, defending human rights ad freedoms, revealing corruption and embezzlement of public goods, etc. Apart from the mentioned above publications, there exist no independent mass media.

75. There were numerous cases of intimidation and cases when the so-called "state security ministry" of Tiraspol exercised psychological pressure over the leaders and representatives of a number of NGOs, the activity of which "was not complying" with the ideology of the separatist Transdniestrian regime. Oxana Alistratova ("Interaction"), Roman Sandu ("Piligrim Demo"), Veaceslav Popescul ("Stels - Terra") and others have been "invited" by this odious institution and were requested "to give up the anti-state activities".

The right to peaceful reunion (art. 21)

76. The right to peaceful reunion is among the human rights and fundamental freedoms suppressed by the Tiraspol separatist regime. A relevant example in this context is the refusal by the so-called city authorities to authorize the organization at the initiative of a group of representatives of the "Transdniestrian Communist Party" on 13 March 2007 in front of the "Supreme Soviet" of the so-called "republic", near Lenin's statue, of a peaceful protest meeting in connection with the aggravation of the socio-economic situation in the region, price and tariff increases, etc. In order to jeopardize the organization of this peaceful reunion, on 11 March, the employees of the so-called "minister of domestic affairs" detained a group of citizens who were calling people to attend the reunion, among them Oleg Horjan - leader of the communist party - and Nadejda Bondarenko, editor-in-chief of the "Pravda Pridnestrovya" newspaper, who the same day were convicted by an illegal court to three days administrative arrest.

77. One should note that in spite of problems and difficulties faced during many years now by the population of the Transdniestrian region, it is very rare that protest actions are held there, this being explained by the deeply non-democratic character of the Transdniestrian separatist regime. One can more frequently see here "solemn" manifestations organized by the unconstitutional authorities on the occasion of "anniversaries" or "official" holidays, involving great numbers of people, or "military parades" organized to demonstrate the force of the regime.

Right of the child to protection and acquisition of citizenship (art. 24)

78. The unconstitutional regime of the Transdniestrian region promotes a discriminatory policy in respect to children, especially on grounds of spoken language and national origin, infringing with obstinacy the children's rights to enjoy protection on behalf of the family, society and State. This kind of discrimination and infringement of fundamental children's rights is especially manifested in the education system, described in details in article 27 of this report.

79. The right to seek and to be granted citizenship both in case of children and adults constitutes a serious problem generated by the Transdniestrian separatist regime in this region. Thus, in pursuance of the goal of "assertion of the Transdniestrian statehood" by all means, the so-called authorities of Tiraspol apply different constraints, including administrative ones, on residents of localities under their control, children above 16 years included, requesting them to adopt the "citizenship" of the so-called "republic". In such circumstances, people have no other way than to accept the so-called "citizenship of the republic" and receive a "passport" very similar to the former Soviet one, which is used exclusively within the territory of the Transdniestrian region as "identity card", with no right to travel abroad, bearing in mind that no state has recognized it.

80. At the same time, to benefit from the right and possibility to be supported, protected and defended by the Moldovan State, as well as to be able to travel abroad, most of population of the Transdniestrian region has obtained (confirmed) the citizenship of the Republic of Moldova and other countries, in view of the fact that Moldovan legislation stipulates the right to multiple citizenships.

81. To facilitate procedures conferring/confirming Moldovan citizenship to residents of the Transdniestrian region, the Government adopted on 9 September 2005 a special Decree (No. 959) "On measures ensuring confirmation of citizenship and documentation of population residing in localities situated on left bank of the Nistru River (Transdniestria)". In conformity with this act, the identity cards and national passports for travel abroad are issued to residents of the Transdniestrian region in conformity with a simplified procedure and free of charge, the expenditures for providing the documents and services being supported with proceedings from the State budget.

82. It is necessary to mention here the serious concerns of authorities of the Republic of Moldova in connection with the tendency of authorities of the Russian Federation and Ukraine to issue via a simplified procedure citizenship of these countries to a growing number of residents of the Transdniestrian region. At present, according to an unofficial source some 80,000 citizens of the Russian Federation and 50,000 citizens of Ukraine live within this territory of the Republic of Moldova. It is evident that such a policy brings about a number of political, social and humanitarian problems, including safeguarding human rights and fundamental freedoms.

The right to take part in the administration of public affairs (art. 25)

83. The self-proclaimed authorities of the "Moldovan Transdniestrian republic", which have usurped power in the Transdniestrian region, have totally compromised the constitutional system of the State power organization in the Republic of Moldova, denying the citizens of this part of the country the right to effectively participate in the administration of public affairs at the level of the entire county, implicitly the right to elect and to be elected.

84. The separatist leaders in Tiraspol, a big number of whom are citizens of the Russian Federation, have involved the population of the Transdniestrian region that has become hostage of the separatist regime, into a pseudo-electoral process of "elections" to the parallel unconstitutional bodies of the public administration at local and regional levels.

85. Nobody in the world has recognized the so-called "elections" and "referendum" organized and carried out in the Transdniestrian region in absolutely non-democratic conditions of an authoritarian repressive regime and in the presence of foreign troops. This also refers to the so-called "referendum" held on 17 September 2006 regarding "independence of Transdniestria and its subsequent affiliation to the Russian Federation" and to the so-called "presidential elections" held on 10 December 2006, which have led for the fourth time to the "re-election" of the Tiraspol leader Igor Smirnov in the function of so-called "president of the "moldovan transdniestrian republic".

86. At the same time the de facto authorities in Tiraspol have ignored the provisions of the Election Code of the Republic of Moldova stipulating the creation of electoral bodies facilitating organization and conducting of election of the Parliament of the Republic of Moldova in 2005. They also opposed with obstinacy to the organization of general local elections in 2003 in Corjova village, Dubasari district, in which since year 1992 parallel local administrations exist, one under Chisinau jurisdiction and the other subordinated to the secessionist Tiraspol regime.

87. For purpose of organizing parliamentary elections on 6 March 2005 the Central Election Commission has drawn decision No. 854 dated February 2005 "On participation of citizens of the Republic of Moldova from localities on the left bank of the Nistru River, Bender municipality and certain localities from Causeni district in the elections of the Parliament of the Republic of Moldova on March 6, 2005". According to this decision arrangements have been made for citizens of the Republic of Moldova from localities controlled by the separatist regime to vote in nine voting stations situated in the Security Zone settlements under the jurisdiction of the Republic of Moldova. No basic electoral lists have been drawn for this category of citizens, they being entered into supplementary lists based on their identity cars, when physically present at the voting station during the election day. These people have inserted their vote bulletins into separate ballot boxes. Calculation of votes has been done separately and they have been registered in separate minutes. In conformity to data entered in the respective minutes, 9,000 people from the Transdniestrian region participated to elections held on 6 March 2005, which is a very minor percentage of the total number of people with the right to vote from this region of the country.

88. Infringement of the right of Moldovan citizens from Transdniestrian region to election took place in 2003 during local general elections in Corjova village, Dubasari district, where the elections have been impeded by the secessionist regime. Elections of the Corjova village mayor and of the local and district counsellors have been organized in 2003 in the neighbouring village Cocieri under the jurisdiction of the Republic of Moldova, where they could be held practically without incidents.

The right to enjoy equal protection by the law (art. 26)

89. Infringement of the right to free access to justice constitutes one of the most severe problems faced by residents of the Transdniestrian region of the Republic of Moldova. They are denied a fair trial, and effective judgment made by courts against acts violating their legal rights, freedoms and interests.

90. In order to ensure access to justice and examination of litigations in courts, in cases when parties are citizens from the Transdniestrian region, the Moldovan authorities have assigned special judges for Bender Court - headquarters located in Anenii-Noi, Varnița village; for the Bender Court of Appeal - headquarters located in Căuşeni; for the Dubasari Court - headquarters located in village Ustia, Dubasari district; for the Grigoriopol Court - headquarters located in the Centre Court of the Chisinau municipality; for the Ribnita Court - headquarters located in Rezina town; and for Slobozia Court - headquarters located in Stefan Voda town.

91. At present all State and private notaries functioning in the Republic of Moldova facilitate access to notary services to residents of the Transdniestrian region. State notary bureaus have been open in Cosnita village, Dubasari district, which provides services to all residents of the Dubasari district, and also in Varnita village, Anenii Noi district for residents of the Bender municipality.

Right to preserve ethnic and linguistic identity (art. 27)

92. The Tiraspol separatist regime violates in the most brutal way the rights of ethnic communities in the Transdniestrian region, especially of Moldovans wishing to preserve and develop their cultural and linguistic identity, and to effectively use their mother tongue. In the self-proclaimed "Moldovan transdniestrian republic" the Moldovan, Russian and Ukrainian languages have been declared "official state languages on an equal basis". However, a policy imposing the Russian language, and carrying out "a linguistic cleansing" is deliberately and methodically promoted, aiming to assimilate Moldovans, who are practically treated as an ethnic minority. The Tiraspol administration promotes a discriminating policy with respect to the population speaking Moldovan language and endorses use of the Russian language in all spheres of social life. A relevant example in this context is the policy promoted by the so-called transdniestrian authorities in the education area.

93. The right to education does not entirely belong to civil or political rights and is not covered by the International Covenant on Civil and Political Rights. However, within the specific conditions of the Transdniestrian region of the Republic of Moldova, which have been created there following the instalment of a separatist regime, this right has acquired profound political and social connotations.

94. In conformity with statistical data produced by Tiraspol specialized institutions, the total number of population living in the Transdniestrian region at present is approximately 550,000. Moldovans constitute the majority - 174,000, or 32.3 per cent followed by Ukrainians - 157,000 people, or 29.1 per cent and Russians - 152,000, or 28.1 per cent.

95. Although Moldovans constitute the majority population, the Russian language continues to be the language taught in preschool institutions: 90 per cent of the total number of children have attended these institutions in 2005. Only 8.7 per cent children speak Moldovan, meaning that only every eighth Moldovan child has the possibility to attend a preschool institution with the teaching process in Moldovan. Teaching in Ukrainian is used only in case of 0.6 per cent of children.

96. In 2005 in the Transdniestrian region 184 general culture schools were operating with a number of 67,500 children. At present there are no high schools or lyceums in the rural settlements of this region. This situation appears even more severe, taking into consideration that 61.5 per cent of the total number of general culture schools are located in the rural area, hosting 37.7 per cent of the total number of students.

97. The national composition of students is the following: Moldovans - 35.0 per cent, Russians - 29.9 per cent, Ukrainians - 29.0 per cent, Bulgarians - 2.5 per cent and other nationalities - 3.6 per cent.

98. Russian is the teaching language in 68.3 per cent of general culture schools with 77 per cent of the total number of students; in 19.8 per cent of these schools (12.3 per cent of the total number of students), teaching is done in Moldovan language with the Cyrillic alphabet; in 3 teaching institutions (1.3 per cent of the total number of students) the teaching is in Ukrainian and in 4 - in both Russian and Ukrainian.

99. In the Transdniestrian region there are 25 vocational schools for youth, where about 11,000 students are being trained, out of which Moldovans - 34 per cent, Russians - 34 per cent and Ukrainians - 28 per cent. In spite of this, 97.4 per cent of the total number of students are trained in Russian and only 2.7 per cent study in Moldovan.

100. Three higher education institutions function in this region of the Republic of Moldova with a total number of about 12,200 students, out of which Russians - 38.9 per cent Ukrainians - 32.0 per cent, Moldovans - 22.8 per cent, Bulgarians - 2.7 per cent and other nationalities - 3.6 per cent. In spite of this situation, 94.0 per cent of the total number of students study in Russian, 5.0 per cent - in Moldovan and 1.0 per cent in Ukrainian.

101. In the Transdniestrian region at present there are 16 Moldovan schools and 32 mixed schools with teaching in Moldovan with the Cyrillic alphabet with a number of 12,311 students (7.2 per cent of the total number of students). In eight schools with a number of 2,650 children, teaching is carried out in Moldovan language based on the Latin alphabet using curricula and textbooks approved by the Ministry of Education and Youth of the Republic of Moldova. The so-called Transdniestrian administration has qualified the schools with teaching in Moldovan with the Latin alphabet as "foreign non-state education institutions".

102. One can see that in the education system of the Transdniestrian region the observance of children's right to study in their mother tongue is in a very severe situation, given the fact that the secessionist regime continued during all these years to undertake different measures that have led to even deeper aggravation of the situation, especially in the case of the education carried out in Moldovan language based on Latin alphabet. The so-called authorities of Transdniestria have permanently exercised administrative and psychological pressures on these schools, insisting with obstinacy that all Moldovan schools of the region be totally subordinated to the Tiraspol structures, including the use of local curricula in the teaching process of these schools.

103. On 28 January 2004 the so-called "Supreme Soviet" of the self-proclaimed republic adopted a decree in conformity to which as of the school year 2004-2005 no general culture schools were to exist in this region that do not comply with "transdniestrian legislation". This actually meant a ban on the functioning of Moldovan schools which do not comply with the so-called authorities and which carry out teaching based on curricula and textbooks approved by the Ministry of Education and Youth of the Republic of Moldova.

104. The eight schools of the Transdniestrian region with teach based on the Latin alphabet, qualified by the so-called Tiraspol authorities as "foreign non-state education institutions", in reality have the status of State schools of the Republic of Moldova, created during the Soviet period. More than that, in 1990-1992, before the beginning of hostilities on the Nistru River, the teaching process in all Moldovan schools in the Transdniestrian region used to be carried out based on the Latin alphabet, in conformity with the unique curricula of the Ministry of Education of the Republic of Moldova.

105. Initially the administration of the Tiraspol secondary school No. 20, later the "Lucian Blaga" theoretic lyceum, has been warned by the Tiraspol prosecutor office that its activity would by suspended if the school does not register before 15 February 2004. At the same time,

the administration of Moldovan schools teaching based on the Latin alphabet was notified by the Transdniestrian local public administration bodies about the termination of their contracts (rent, provision of utilities, etc.) and suspension of the activity of these teaching institutions by the end of the school year 2004-2005, which actually meant their effective liquidation.

106. In July 2004, the headquarters of the "Lucian Blaga" theoretic lyceum in Tiraspol, the "Evrica" theoretic lyceum in Ribnita and the boarding schools for orphan children from Bender have been subject to attacks, and were devastated and besieged more than one month by the Transdniestrian militia under the pretext that Moldovan schools teaching based on the Latin alphabet were net registered by the local administration. After closing the "Lucian Blaga" theoretic lyceum, the Transdniestrian authorities, ignoring the protests of parents, teachers, students and international community, closed down all the other schools teaching in Moldovan based on the Latin alphabet.

107. The devastation and closing down of the "Lucian Blaga" theoretic lyceum in Tiraspol marked the beginning of a serious crisis in the relations between Chisinau and Tiraspol, which became known to the public international opinion as the "crisis of schools in Transdniestria".

108. On 29 July 2004 the Transdniestrian militia attacked and occupied the Evrica lyceum in Ribnita. Parents, teachers and children who were barricaded within the school were evacuated and six teachers and parents taken by force to the police, where files have been drawn on them for the reason that they defended the right of their children to study in their mother tongue. Later they were sentenced to different detention terms - from three to seven days' imprisonment.

109. In spite of the fact that from the administrative and teaching point of view these schools are subordinated to the Ministry of Education and Youth and their finances are provided from the State budget of the Republic of Moldova in the attempt to ensure normal learning conditions, the administration of the repressed schools did comply with the arbitrary request put forward by the Tiraspol administration and registered in that region. Thus, these education institutions have been temporarily registered by the Transdniestrian structures for one-year study period as "non-state foreign education institutions". Regretfully, even after the registration of these schools the local authorities continued to blackmail and persecute under different pretexts the school administrations, teachers and children.

110. Thus, at the theoretical Lyceum "Evrica" in Ribnita, teachers, parents and children continue to be harassed by the town administration. A file has been opened against the headmaster of the lyceum Eugenia Halus, accusing her of carrying out "illegal currency operations" because she paid salaries to teachers working in this school in Moldovan Lei. Students and parents were summoned to the local prosecutor's office to make depositions against the school administration. The administration of the lyceum, charged with having "falsified the registration documents", receives numerous letters requesting it "to comply" with requirements of the local administration. This school continues to face serious problems connected with its need for premises and establishment of a mail "address" in view of the fact that Ribnita town authorities have registered a protection and social rehabilitation school for students at 14, Gagarin street - the legal address of the lyceum "Evrica". It is to be noted here that the learning building was constructed with financial support from the State budget of the

Republic of Moldova (more than 11,000 Lei). In view of this, the leadership of the lyceum "Evrica" has repeatedly been requested to change the construction documents, and to indicate the "exact" legal address, meaning the premises of the kindergarten belonging to the Moldovan Metallurgical Plant, where it functions on temporary grounds. The lyceum administration is permanently requested to submit detailed information on the number of children, residence and employment addresses of parents, data used to blackmail and persecute these persons.

111. The lyceum "Alexadru cel Bun" in Bender is also facing serious difficulties. Thus, the director of this school has been requested to sign a new rent contract with local authorities, in spite of the fact that a similar contract has been previously singed. One should notice that these kind of provocative actions were undertaken in conditions when the local Bender administration had already signed a similar contract with the Moldovan Social Investment Fund (MSIF), the provisions of which were stipulating that the local administration assumes the commitment to carry out the capital repair of the lyceum building. The investment amount contributed by MSIF for the rehabilitation works made about 11,000 Lei. In turn, the administration of the town assumed the obligation to restrain from the change of destination of the building during a ten-year period of time. It was also agreed that the invested money would cover the due costs for the rent of the building.

112. After the devastation in July 2004 of schools with teaching in Moldovan based on the Latin alphabet, parents, teachers and children of these schools had to face during the entire period of August and later persecutions from the self-proclaimed Transdniestrian authorities. They had to sleep in these schools, or in the yards of the schools, in order to protect them against being closed. The separatist leaders of Tiraspol ignored in a cynical way the numerous appeals made by the Moldovan authorities, OSCE, EU, the Council of Europe and other international institutions, requesting to re-open these schools. In these circumstances, the Chisinau authorities were forced to declare that they withdrew from the negotiation process dedicated to the settlement of the Transdniestrian conflict, requesting at the same time a more active involvement of the United States and EU in the settlement process.

113. Teachers, parents and students fight hard against tough pressures applied by the separatist structures on Moldovan schools in the Transdniestrian region that teach using the Latin alphabet and continue defending their rights to maintenance and development of their cultural identity and use of their mother tongue, including in the teaching process. They are convinced of the fact that the Cyrillic alphabet is not adequate for Moldovan language and is disadvantageous for students of Moldovan schools from Transdniestrian region. They understand that imposition of linguistic politicised rules is depriving them of the possibility to enjoy the right to use their own language and to be competitive when enrolling in the higher education institutions of the Republic of Moldova and abroad.

114. These were the reasons that made children, parents and teachers of Moldovan schools wishing to study in Moldovan based on the Latin alphabet to firmly oppose the attempts of the separatist regime to close down or transform these institutions into schools teaching in the Cyrillic alphabet. They organized strikes and other protesting actions, like pickets in front of local administration bodies and blockage of highways, etc.

115. This is the way that the eight schools survived and continue to teach based on the Latin alphabet, in conformity with the curricula and textbooks approved by the Ministry of Education and Youth of the Republic of Moldova. The other Moldovan schools subordinated to the Tiraspol administration teach using the Cyrillic alphabet and obsolete curricula and textbooks, which do no correspond to the requirements of the time. It is important to mention that most of the teachers, parents and students of Moldovan schools in the Transdniestrian region that teached based on Cyrillic are willing to switch to teaching in the Latin alphabet, but the Transdniestrian authorities deprive them of the possibility to exercise this right.

116. An eloquent case in this context is the example of the "Stefan cel Mare" lyceum in Grigoriopol which has been created as a result of the splitting of secondary school No. 1 of this town. The so-called authorities of Grigoriopol town and Tiraspol have rejected the request put forward by teachers, parents and students willing to study using the Latin alphabet to create within the premises of secondary school No. 1 in Grigoriopol an "alternative school" subordinated to the Ministry of Education and Youth of the Republic of Moldova. Under the pretext that local authorities have not awarded this school a license to carry out teaching using the Latin alphabet, the activity of this educational institution was suspended on 30 September 1996. Consequently, 200 students and teachers residents of Grigoriopol had to move to a school subordinated to Moldovan authorities in Dorotcaia, Dubasari district, situated 10 km away from the town. Thus, for more than 10 years now, students and teachers of the "Stefan cel Mare" lyceum have to commute daily 20 km distance to the school in Dorotcaia, where children study in the afternoon shift. In spite of the fact that Chisinau authorities supported by the OSCE mission in the Republic of Moldova have undertaken efforts to identify solutions and to ensure adequate premises for the "Stefan cel Mare" lyceum, the problem continues to remain unsolved.

117. The Government of the Republic of Moldova supported by the international community, including OSCE and the Council of Europe, undertakes continuous efforts to settle the problem of Moldovan schools in the eastern part of the country. Nevertheless, the authorities of the so-called "moldovan transdniestrian republic", in their turn, carry out actions aimed at obstructing the normal functioning of Moldovan schools with teaching based on the Latin alphabet and continue to harass children, parents and teachers. Lately, the Tiraspol authorities are insisting on the so-called "licensing" of the activity of such schools in the Transdniestrian region, although these institutions have all necessary documents for their functioning issued by the Ministry of Education and Youth of the Republic of Moldova.

118. Thus, one may come to the conclusion that in the Transdniestrian region of the Republic of Moldova a latent process of children's de-nationalization is taking place. The number of parents forced to enrol their children in Russian schools is constantly growing, while the number of children in the Moldovan schools is decreasing every year. Authorities of the Republic of Moldova express their great concern in connection with the tendency of the Transdniestrian authorities to use the problem of Moldovan schools of the region for exclusively political purposes. The support of the international community is very much needed in this context. In view of created circumstances, teachers and parents of children studying in four educational institutions "Evrica" (Rîbnița), "Lucian Blaga" (Tiraspol), "Alexandru cel Bun" (Bender/Tighina) and "Ştefan Cela Mare" (Grigoriopol), have lodged cases before the ECHR in 2004 and 2006 "against the Republic of Moldova and Russian Federation" regarding infringement of their rights.

119. In this context, the General Prosecutor's Office of the Republic of Moldova is processing a large number of criminal proceedings concerning violations committed by the Tiraspol separatist regime, among them being:

- Lawsuit No. 2004058004, filed on 2 August 2004 within the provisions of article 176, item b) of the Criminal Code incriminating the illegal force structure of the Transdniestrian region with the attack on school No. 20 in Tiraspol municipality and the seizure of documents and assets and with blocking the access of students and teachers to the rooms of this institution

- Lawsuit No. 2004058005, filed on 2 August 2004 within provisions of article 176, item b) of the Criminal Code incriminating the illegal force structure of the Transdniestrian region with the blocking on 30 July 2004 of the access of students and teachers of the gymnasium boarding school and the "Alexandru cel Bun" lyceum in Bender to the rooms, canteen and dormitories of these schools

- Lawsuit No. 2004280216, filed 2 August 2004 within provisions of article 176, item b) of the Criminal Code incriminating the illegal force structure of the Transdniestrian region with the blocking on 29 July 2004 of the access of students and teachers of the "Evrca" Lyceum in Ribnita town to the study rooms of the building

IV. IMPLEMENTATION OF THE COVENANT

Article 1

120. The absolute priority of the foreign policy of the Republic of Moldova is European integration, and special attention is being paid to the human dimension of integration and integration within the universal and regional instruments on the protection of human rights. In this respect, on 22 February 2005 in Brussels, the Action Plan European Union-Republic of Moldova was signed within the EU-Moldova Cooperation Council.

121. The Action Plan is the first step of the process. The EU - Moldova Action Plan is a political document that states the strategic objectives of cooperation between the Republic of Moldova and the EU. The timeframe for implementation of the Action Plan is three years. Its implementation will contribute to the realization of the provisions of the Partnership and Cooperation Agreement (PCA) signed in 1994 by the European Community and its member States and the Republic of Moldova and will encourage and support Moldova's objective of its further integration in European economic and social structures. The implementation of the Action Plan will provide for significant progress in adjusting Moldova's legislation, norms and standards to those of the European Union. Within the context, the Action Plan will lay a reliable foundation for economic integration based on adoption and implementation of economic and trade rules and regulatory tools that may contribute to progress in trade, investments and growth. Moreover, it will assist in drawing up and implementation of policies and actions for promotion of the economic growth and social cohesion, poverty reduction and environmental protection, thus contributing to the long-term sustainable development objective. Moldova and the EU will

closely cooperate in implementation of the Action Plan. The European Union acknowledges the European aspirations of Moldova and the "Concept for Moldova's integration in EU". The signed Partnership and Cooperation Agreement will remain a valid base for cooperation between EU and Moldova for the near future.

122. On 16 March 2005 the Ministers of Foreign Affairs of EU members States, convened for a session of the Council for General Affairs and Foreign Relations of EU, have reached political consensus on the designation of the EU Special Representative for Moldova.

123. On 17 May, 2005 the Ambassador of the Republic of Moldova presented his accreditation letters to the Chairman of the European Commissions as head of Mission of the Republic of Moldova in the European Communities.

124. On 6 October 2005 the Office of the Delegation of the European Commission was inaugurated in the Republic of Moldova.

125. Another important document establishing tripartite cooperation is the Joint Programme of the European Commissions and the Council of Europe for support of democratic reforms in the Republic of Moldova for 2004-2006, which was adopted by Government Decree No. 514 of 1 June 2005 which aims at providing assistance to our country in strengthening its legal and institutional framework in compliance with European norms. The cost of the above-mentioned Programme is of 3 200 000 €, 60 per cent of which being provided by the European Commissions and 40 per cent - by the Council of Europe.

126. The Programme is divided into four essential chapters that correspond to the proposed general objectives:

- Development of the rule of law State in compliance with European standards
- Strengthening of local democracy
- Assistance for efficient delivery of social services, in particular, for vulnerable groups of the population and for mental health
- Strengthening of human rights protection at national level, especially in national level courts

127. One should also mention the launch on 31 October 2006 of the Joint Programme of the European Commissions and the Council of Europe against Corruption, Money Laundering and Financing of Terrorism in the Republic of Moldova. This Programme will assist the Republic of Moldova in its efforts to fight corruption, money laundering and financing of terrorism, so that these phenomena do not undermine democracy, the rule of law e, social and economic development, as well as public trust in State institutions. The basic institutions to be involved in the implementation of this project are the Centre for Combating Economic Crime and Corruption, other law enforcement authorities, as well as civil society.

128. Another common programme of the European Commission and Council of Europe has been developed for 2006-2009 aimed at the achievement of an increased *independence, transparency and efficiency of justice*. The Ministry of Justice is the central public institution responsible for management and implementation of this Programme.

129. Over the period 2003 - 2006, important qualitative changes have occurred in the development of the process for a solution of the Transdniestria conflict. Starting in 2003, due to sustained efforts of the Republic of Moldova to internationalize the problem, the process for resolution of the conflict has become an issue of interest and concern for the European Communities, the United States and NATO. Currently, the international community shows increased interest for supporting Moldova to resolve the Transdniestria dissension.

130. The year 2003 was marked by a deadlock situation, conditioned by the reaction of the Russian authorities to the refusal by the Moldovan authorities to sign the "Kozak Memorandum", the "school crisis" and the attempts of the illegal Tiraspol authorities to unilaterally interfere with the school curriculum and contents of manuals, the seizure of the Bender sector of the Moldovan Railways, the suspension by the Republic of Moldova of its participation in the five-sided negotiations of the Transdniestria situation, and a standstill in the process of Russian armed forces removal from the territory of the Republic of Moldova.

131. In 2005, the process of the conflict resolution has gained momentum due to the intention of Ukraine to play a more active role and to have an independent position in the process, which was reflected in the production of a Ukrainian plan, the so-called "Iushchenko Plan". In addition, the Republic of Moldova has distinctly stated its position in respect to the solution of the conflict and has developed a number of documents that were unanimously adopted by the Parliament supplementing the Ukrainian Plan - the Parliament Decree No. 117-XVI of 10 June 2005 "On the initiative of Ukraine for the solution of Transdniestria conflict and on actions for democratisation and demilitarisation of Transdniestria zone" and Law No. 173-XVI of July 2005 "On basic provisions of the special legal status of the communities on the left bank of Dniester (Transdniestria)".

132. Also in 2005, the European Union and the Unites States of America were accepted as observers in the resumed negotiation in the format "5+2", the EU Border Assistance Mission (EU-BAM) for the Moldovan-Ukrainian border was inaugurated.

133. The constructive dialogue with the Ukrainian side, particularly in view of the implementation of the Joint Declaration of Prime Ministers of the Republic of Moldova and Ukraine of 30 December 2005, has led to the realization on 3 March 2006 of the provisions of the Moldovan-Ukrainian Protocol on mutual recognition of customs marks of 15 May 2003.

134. It is also worth mentioning that over the last years, along with the efforts for political solution of the Transdniestria conflict, one of the main areas of concern was the work to encompass companies of the left bank of the Dniester into the legal framework of the Republic of Moldova and to organize the monitoring of export/import flows of Transdniestria region, to create conditions for the legal operation of companies, as well as to resolve the problems that are faced by the population of the Eastern zone of the Republic of Moldova, aiming at practical implementation of the objectives for reintegration of the country.

135. As a result, over the years 2003-2006 at the initiative or with the support of the Republic of Moldova a number of legal acts were drawn up and adopted, including:

- Government Decree of the Republic of Moldova No. 712 of 12 June 2003 "On actions for creating conditions for import-export operations by companies located in the Eastern regions of the Republic of Moldova"

- Government Decree No. 1598 of 30 December 2003 "On assigning fiscal codes to nongovernmental organizations located in Eastern districts of the Republic of Moldova"

- Law No. 380-XV of 3 October 2003 "On amending Art. 35 of the Law on State Budget for the year 2003" - for compensation for the tariffs disparity for electricity and natural gas used by the population of some communities of Dubasari and Causeni districts (3 million Lei)

- Government Decree No. 976 of 8 August 2003 "On some actions for stabilization of the situation in the communities of Eastern districts of the Republic of Moldova" - for improvement of electricity and natural gas supply to communities of Dubasari district

- Government Decree No. 1294 of 28 October 2003 "On preparation of Dubasari district schools for the cold season", providing for the allocation of 150 thousand Lei

- Government Decree No. 769 of 26 June 2003 "On reallocation of capital investment funds planned in the state budget for the year" - the increase of capital investment for Dubasari district was approved from 5,600,000 to 7,440,000 Lei

- Government Decree No. 355 of 5 April 2004 - allocation of 364,000 Lei from the reserve fund of the Government to the Copanca village council of Causeni district for repaying historical debts accrued for consumption of electricity and for finishing works for gas pipeline installation in the village gymnasium

- Law No. 222-XV of 2 July 2004 "On amending the Law on Citizenship of the Republic of Moldova" - amendments and additions were made to fit proposals of the Ministry of Reintegration; based on them the population of Transdniestria region was provided a number of facilities for obtaining the citizenship of the Republic of Moldova

- Government Decree No. 1146 of 15 October 2004 "On preferential credits to some groups of the population, including to internally displaced persons of the eastern districts of the Republic of Moldova"

- Government Decree No. 1130 of 1 December 2004 "On approval of the Regulation for institution of the procedure for tax liability management by companies located in communities of the left part of Dniester and in the city of Bender"

- Government Decree No. 1386 of 16 December 2004 "On partial compensation of losses incurred by agricultural producers of the security zone"

- Government Decree No. 1410 of 20 December 2004 "On the Action Plan for provision of accommodation to internally displaced persons of the Eastern regions of the Republic of Moldova"

- Law No. 173-XVI of 22 July 2005 "On basic provisions of the special legal status of communities on the left side of Dniester (Transdniestria)", which states the need for provision of humanitarian, political, social-economic and legal assistance to Transdniestria population for overcoming the consequences of the conflict

- Government Decree No. 814 of 2 August 2005 "On confirmation of main guarantees to the population of Transdniestria", which lists main guarantees related to right to property, social protection, etc.

- Government Decree No. 815 of 2 September 2005 "On regulation of commodity flows related to Foreign trade of Transdniestria" (up to date (14 April 2006), 110 companies of the eastern districts of the Republic of Moldova were registered)

- Government Decree No. 1001 of 2 September 2005 "On declaration of commodities by companies of the Eastern districts of the Republic of Moldova"

- Government Decree No. 959 of 9 September 2005 "On actions for confirming citizenship and documentation of the population of the communities of the left bank of Dniester (Up to date, (25 October 2006), over 50,000 people from among the Moldovan population located in the Eastern districts of the country made use of these provisions)

- Law No. 39-XVI of 2 March 2006 "On institution of additional procedures for supporting entrepreneurship in Dubasari district communities located on the left bank of the Nistru River"

- Decree of the Parliament No. 117-XVI of 10 June 2005 "On the initiative of Ukraine for resolution of Transdniestria conflict and actions for democratisation and demilitarisation of Transdniestria zone".

Article 2

136. The integration in the European process entails, among others, a human dimension. In this context, human rights tend to become probation of a political regime in its aspiration to be counted among civilized States.

137. The protection of human rights internally, through constitutional provisions that state human rights as supreme values and allocate guarantees to their exercise, is of major importance.

138. The Constitution of the Republic of Moldova dedicates a whole chapter to fundamental human rights and freedoms. In addition, the importance allotted to this issue is confirmed by the

wording of article 4 of the Constitution, referring to interpretation of legal provisions related to human rights and freedoms in compliance with international standards, the latter taking precedence in such interpretation.

139. Vis-à-vis the right to an effective appeal when a person faces the infringement of his/her rights we state that article 20 of the Constitution guarantees every citizen the right to obtain effective protection by competent courts of jurisdiction against actions infringing on his/her legitimate rights, freedoms and interests. No law may restrict the access to justice. In addition, the right to defence is guaranteed. In conformity to Constitutional provisions every person has the right to respond independently by appropriate legitimate means to an infringement of his/her rights and freedoms (article 26, paragraph (1) and (2)). Provisions of Law No. 1545-XIII, dated 25 February 1998 spell out the modality to be applied for the reparation of prejudice caused by illegal actions of criminal investigation bodies, prosecutor office and courts.

140. Effective defence of rights is also consolidated in the Law on Administrative Offences, No. 793-XIV of 10 February 2000. In conformity with article 1, paragraph (2) of this Law every person facing infringement of his/her rights as recognized by the Law, committed by a public authority through an administrative act, or through failure to settle in legal terms the allegation, may lodge an application to the competent administrative court requesting the annulment of this act, recognition of the claimed right and reparation of damages caused to him/her.

141. On 29 December 2004 a working group was set up based on the Decree of the Legal Commission of the Parliament of the Republic of Moldova assigned to develop the legal framework on access to justice and State guaranteed legal assistance. Membership of the working group included representatives of the above-mentioned Parliamentary Commission, Ministry of Justice, Presidential Office, Bar Association and non-governmental organizations. The working group developed a draft law in conformity to which the free of charge legal assistance shall encompass the criminal, civil, contravention and administrative domains. It envisages, among others, the creation of public lawyers' bureaus, the national Commission for State guaranteed legal assistance, diversification of the primary legal assistance system in rural areas through creation of networks of lawyers, and development of quality standards. The draft law on State guaranteed legal assistance developed by the working group was adopted by Government Decree No. 325 of 28 March 28 2006 and was adopted by the Parliament in the first reading on 2 June 2006. At present the draft law is being examined by the Council of Europe.

142. In conformity with article 19 of the Constitution, foreign citizens and stateless citizens enjoy the same rights and duties as citizens of the Republic of Moldova, except in cases when the Law has other rulings. Aliens and stateless persons may only be extradited based on an international convention in conditions of reciprocity or based on the decision of a court. At present, the legal framework regulating relations in this area includes Law No. 275-XIII of November 1994 on the legal status of aliens and stateless persons in the Republic of Moldova. In conformity to this Law aliens and stateless persons are equal before the Law and public authorities, irrespective of race, nationality, ethnical origin, spoken language, religion, sex, opinion, political affiliation, wealth or social origin. The Law in force stipulates that aliens and

stateless persons are guaranteed inviolability of person and domicile. They enjoy the right to effective satisfaction on behalf of competent courts of jurisdiction, and other public authorities, against acts violating their rights, liberties and legal interests.

143. Additionally to that, aliens and stateless persons enjoy the right to lodge applications to the Centre of Human Rights (the ombudsman institution) whenever their legitimate rights have been infringed in the Republic of Moldova. During legal proceedings they enjoy the same procedure rights as citizens of the Republic of Moldova.

144. In a considerable number of petitions received by the Centre from penitentiaries, the petitioners were invoking the violation of the right to effective recourse, generated by some provisions of the Code for Criminal Procedure that required that the declaration of the recourse and the annulment recourse should be made by the lawyer. Although the Decree of the Constitutional Court No. 16 of 19 July 2005 made these provisions unconstitutional, the flow of petitions has not diminished, their senders reflecting their dissatisfaction with the mandatory requirement to declare the recourse in a typed format.

145. In this sense, the conclusion may be made that the requirement to submit typed recourse was precluding the free access to justice of the respective persons. Taking these arguments into consideration, the ombudsmen submitted to the Parliament the proposal to review articles 429 and 455, paragraph (1), of the Code for Criminal Procedure so as to exclude the wording "in typed format". Currently, this mandatory requirement is no longer valid for declaring recourse or annulment of recourse.

146. The Ombudsmen receive petitions from citizens and lawyers regarding the procedure for examination by the Court of Appeal of the recourse on legitimacy of applying preventive arrest or on extension of preventive arrest duration. Upon review of this issue, it was found that the Chisinau Court of Appeal employed the practice of discontinuing examination of the preventive action recourse once the case had been sent for examination to the specialized court.

147. The opinion of the Ombudsmen was that in compliance with the provisions of the Code of Criminal Procedure the recourse court has the duty to examine the recourse in any circumstances and to make a ruling regarding all aspects invoked in the recourse. In the belief that in this context the fundamental rights and freedoms guaranteed by the Constitution of the Republic of Moldova and international legal acts to which the Republic of Moldova is party are violated, the Ombudsmen appealed to the Supreme Court of Justice with a request to make a ruling related to this issue.

148. In this respect one should mention that the European Court of Human Rights in two cases (*Corsacov v. Moldova and Moisei v. Moldova*), found a violation of article 13 of the Convention (right to an effective appeal). In *Corsacov v. Moldova* the Court found that the applicant did not have an effective remedy under domestic law to claim compensation for his ill-treatment, and that therefore had been a violation of article 13 (since the criminal investigation conducted by the domestic authorities concluded that the actions of the police officers were legal, any civil action against them would have been ineffective). Accordingly, the Court held unanimously that

there had also been a violation of Article 3 in respect of the failure to conduct an effective investigation into the applicant's complaints about his ill-treatment by the police. In *Moisei v. Moldova* the Court concluded to the absence of an effective appeal in connection with the allegations of the plaintiff that the final court decision remained non-executed. The following measures were taken at national level - the judgements were translated in their entirety and submitted to the National Gazette of the Republic of Moldova for publication, and placed on the website www.justice.md; all central and local public authorities were notified of the judgements; relevant information was sent to the General Prosecutor's Office (pursuant to article 17 of the Law on the Governmental Agents, dated 28 October 2004).

149. Going back to the problem of aliens it needs to be stated that the Parliament of the Republic of Moldova adopted Law No. 268-XV on 21 June 2001 ratifying the additional Protocol to the European Convention on Extradition. On the same date the second additional Protocol was ratified by Law No. 270-XV.

150. By ratifying ICCPR the Republic of Moldova has assumed the obligation to adopt laws and actions guaranteeing the rights stipulated in the Covenant. Consequently, a process was launched to develop and adopt a number of legal acts.

151. Thus, the Republic of Moldova in December 2006 adopted Law No. 371-XVI on international legal assistance in criminal issues, , which also regulates the extradition procedure from the Republic of Moldova, as well as extradition requests made by the Republic of Moldova.

152. In conformity with article 42 of the Law, the following shall not be extradited from the territory of the Republic of Moldova:

(a) Citizens of the Republic of Moldova;

(b) Persons that have been granted the asylum right;

(c) Persons that have been granted the status of a political refugee;

(d) Foreign persons that enjoy jurisdiction immunity in the Republic of Moldova, in conditions and limits set by the international treaties;

(e) Foreign persons requested from abroad to participate in hearings, appear as witnesses or experts in front of a court or a criminal investigation body, within limits of immunity granted through international treaties.

153. The Ministry of Justice has also developed the draft law on amendments and additions to the Constitution, in particular article 19, on the legal status of aliens and stateless persons. This draft law has been approved to ensure compliance with item 17 of the National Implementation Programme of the Plan of Actions Republic of Moldova - European Union; Section human rights and fundamental freedoms, objective No. 12 - ensuring international justice through International Penal Court, adopted by Parliamentary Decree No. 356 of 22 April 2005.

154. Based on the draft law a new paragraph (3) is added to article 19 of the Constitution of the Republic of Moldova with the following wording: "Aliens and stateless persons can be handed over to an international court based on international treaties to which the Republic of Moldova is a signatory party". Present paragraph (3) of the Constitution became paragraph (4).

155. The draft adopted by the Government of the Republic of Moldova has been submitted to the Constitutional Court, so that it makes its ruling in conformity to the procedure established by law.

156. In conformity with provisions of article 298 of the Code of Criminal Procedure, the accused, the defendant, their legal representative, their defender, the prejudiced part, the civil part, the civil responsible part and representatives thereof, as well as other persons whose rights and interests have been infringed by these bodies, can lodge complaints against actions carried out by the criminal investigation body and the body executing the investigation operative activity.

157. On 28 July 2006 the Parliament of the Republic of Moldova adopted Law No. 264-XVI on amendments and additions to the Code of Criminal Procedure, which modifies and adds to article 298 of the Code. In conformity to the new ruling complaints against actions carried out by the criminal investigation body and the body executing the investigation operative activity are to be lodged to the prosecutor heading the criminal investigation. In cases when the complaint refers to the prosecutor heading the criminal investigation or is directly carrying the penal investigation, the complaint accompanied by their explanations shall be lodged, within 24 hours, to a hierarchically superior prosecutor.

158. With respect to training of public authorities, judges and lawyers one should mention that Law No. 152-XVI on setting up National Institute of Justice was approved on 8 June 2006.

159. Setting up the National Institute of Justice pursues the goal to achieve a qualitative training of future judges and prosecutors, namely their initial and continuous training, both before their assignment and before expiration of their professional duties. Training of other persons contributing to the justice process is also envisaged (judicial executors, court clerks, lawyers, notaries, etc.). During this training, the persons are supposed to be also familiarized with international standards related to observance of human rights, the national legislation and judgments of the European Court of Human Rights.

Article 3

160. The Constitution of the Republic of Moldova guaranties to all citizens equal rights before the law and public authorities irrespective of race, nationality, ethnicity, language, confession, gender, opinion, political affiliation, wealth or social origin" (art. 16 (2)). The Constitution states that "family shall be established by marriage entered into with free consent between man and woman, based on their equality of rights and on equality of parental duties to provide for growth, education and training of their children" (art. 48 (2)).

161. CEDAW has recommended to the Republic of Moldova to strengthen the national mechanism promoting the principle of equality between women and men (June 2000). Actually, a governmental commission, created based on Government Decree No. 74 under the name

"Commission on the women issues", started to work in this area in 1999 as a consulting and coordinating body. Its task was to develop strategic and organizational bases, tools and instruments to influence and implement the state policy on ensuring equal rights and opportunities for women and men.

162. Strengthening the legal framework in line with the task stipulated in article 3 of ICCPR has been recently achieved through the adoption of a number of legal acts and plans of actions aimed at establishing and maintaining equality between women and men. Thus, on 9 February 2006 the Parliament of the Republic of Moldova adopted Law No. 5-VXI on Equal Chances for Women and Men. The goal of this Law was to ensure the following:

- Realization of equal rights between men and women in political, economic, social, cultural and other areas of life
- Coordination of the activity of central and local public administration bodies in areas referring to equality between women and men
- Developing collaboration between State agencies and civil society in areas referring to equality between women and men as well as in other spheres of life and with respect to the rights guaranteed by the Constitution in order to prevent and eliminate all forms of gender discrimination

163. Article 5 of the Law states that in the Republic of Moldova women and men enjoy equal rights and freedoms and are guaranteed equal opportunities for their realization. Promotion of policies or undertaking of actions that do not ensure equal opportunities for women and men are considered to be discriminatory and should be eliminated by competent public authorities in compliance with the legislation. In addition, it contains a provision on direct and indirect discrimination. Actions that limit or exclude in any form equal treatment of women and men are considered to be discriminatory and are banned. A legal act that comprises gender discriminatory provisions shall be declared null and void by competent authorities.

164. The Law expressly regulates the situations which are not considered to be discriminatory, as follows:

- Actions creating special conditions for women during pregnancy, confinement and nursing
- Qualification requirements for activities in which gender features are a determining factor due to specific conditions and mode of delivery of respective activity
- Special recruitment announcements of persons of a specified sex for jobs, in which, due to their specific nature and labour conditions, gender features are determining as provided by the law
- Affirmative actions

165. It also regulates equal access to public functions, equal opportunities in elections and in mass media, equal access to entrepreneurship activity, to education and to health.

166. The Government of the Republic of Moldova adopted the National Plan (by Decree No. 218 of 28 February 2003) "Promotion of gender equality in society for the 2003-2005 period". The same plan was also adopted for the period 2006-2009. In particular, the two plans pursue the following specific objectives:

- Increase of opportunities and possibilities for equal employment for both genders
- Improvement of labour force quality
- Development of entrepreneurship activity
- Improvement of the social position of unemployed women that have worked in construction industries
- Building public awareness of gender issues
- Building awareness among decision makers of gender issues
- Introduction of the "gender education" subject into the education system
- Elimination of gender stereotypes in family
- Building awareness within population regarding the impact of environment on women's and men's health
- Building awareness among decision makers of environmental problems taking into account gender aspects
- Development of the legal framework for gender equality promotion
- Promotion of gender balance in society and family
- Harmonizing professional life with family life
- Improvement of education for health measures and promotion of the healthy way of life
- Reproductive health and rights of women during maternity period
- Maternity protection at workplace
- Combating domestic violence
- Decrease of illegal border-crossing acts for labour purposes

In addition, a Government Commission for equality among women and men was created by Government Decree No. 350 of 7 April 2006 and a regulation thereto was approved by another

Government Decree (No. 895 of 7 August 2006). The Government Commission for equality between women and men is a consultative and coordination body and it was created to provide a strategic and organizational basis, to develop instruments and influence and implement the State policy regarding safeguarding equal rights and opportunities for women and men. The Commission consists of 23 members (most of them of the rank of Deputy Minister) and is chaired by a Deputy Prime Minister.

167. The Commission has set as basic objectives the promotion of an integrated approach to equality between women and men, improvement of the conditions of women and men in all areas of social life and providing women with a social, economic and political status equal to that of men both de jure and de facto. These objectives are supposed to be accomplished through coordination of activities of central and local public authorities, cooperation actions of governmental structures with non-governmental organizations and international organizations working in gender equality areas.

168. In order to achieve the above-mentioned objectives, the Commission has the competences to:

- Participate in the development and realization of the policy for equality between women and men at all levels, both in political and in private life and monitor the observance of the equality principle between women and men, taking into account relevant international standards

- Contribute to the modernization of the legal and institutional framework and to its adjustment to relevant international standards in order to ensure equal opportunities for women and men, including in families

- Coordinate the operation of State authorities in this area, contribute to the implementation of equal opportunity principle for women and men in the main areas of activity of public central and local authorities

- Propose and support actions to motivate full involvement of women in decision making and development of strategies, as well as in all areas of economic, political and cultural life as active decision makers, participants and beneficiaries

- Contribute to the realization of sociological studies, analyses and multidisciplinary research in equality and equity between women and men in relation to family issues, in conformity with human development indices and with Millennium Development Goals in the Republic of Moldova

- Work for the elimination of stereotypes regarding the role of men and women in society, including in the family, at all levels and in all forms of education and training

- Contribute to sensitisation and building awareness of women and men, as well as of the entire society about the need to eliminate all forms of gender discrimination, including of domestic violence

- Cooperate with international organizations and non-governmental organizations for promoting the principle of equality between women and men based on international standards and coordinate the implementation of specific projects with technical and financial support of international and local organizations

- Inform public opinion about developments in the observance of the gender equality principle

It is necessary to re-launch activity of the above-mentioned Commission because:

- The responsibility of this body is to act as the main coordination unit of the national referral mechanism in the Republic of Moldova

- In conformity to the draft Law on Prevention and Combating Domestic Violence (approved by Government Decree No. 138 on 6 February .2006 and recently adopted by the Parliament in second reading) this Commission is made responsible for the coordination of domestic violence issues

- Membership of this Commission includes responsible persons from ministries, trade unions, employers and NGOs carrying out activity in this area. Thus, members of this Commission are representing all domains of women's and men's activity in the society

Articles 4 and 5

169. Law No. 212-XV on the Regime of the Emergency State, Siege and War adopted by the Parliament of the Republic of Moldova on 24 June 2004 pursues the aim of regulating the grounds, procedure and conditions for proclaiming a public emergency state, as well as the establishment of competencies of the authorities proclaiming it. In compliance with provisions of article 5 of the law, the realization of some rights and freedoms of the citizens may be restricted for the duration of the state of public emergency, siege or war. This shall be done in compliance with provisions of article 54 of the Constitution, except for restrictions of fundamental rights that guarantee free access to justice, presumption of innocence, non-retroactivity of law, the right of each person to know his/her rights and duties, as well as the right to life and physical and mental integrity.

170. The Law was developed by the Ministry of Defence; however, it was never implemented, since its realization was not needed on the territory of the Republic of Moldova. Currently, Law No. 271 of 9 November 1994 on civil protection is applied, which represents a set of measures and actions to be undertaken within the entire State during war and environmental calamities, accidents and catastrophes, epiphytoties, epizooties, fires, as well as in case of application of modern destruction means.

171. Notwithstanding that constitutional authorities of the Republic of Moldova have no de facto control over the Eastern region of the country, Law No. 173-XVI of 22 July 2006 on basic provisions of the special legal status of the communities of the left bank of the Nistru River was adopted, which states the need to provide humanitarian, political, social-economic and legal assistance to the population of the Eastern districts in view of overcoming the consequences of the conflict.

172. The legislation of the Republic of Moldova and the international agreements to which it is a party provide a number of legal guarantees ensuring observance of international commitments in the area of human rights, rights of refugees, and humanitarian rights within the framework of compliance with the resolutions of the Security Council. Pursuant to article 3 of the Law on Combating Terrorism, action in the Republic of Moldova to combat terrorism is based on legitimacy principles, priority of actions aimed at terrorism prevention, joint application of preventing, legal, political and social and economic measures, primordial protection of rights of people in jeopardy of a terrorist act, decrease of human lives losses, minimal concessions to terrorists, etc.

173. The methods, means and procedures applied by competent authorities for the detection, prevention and counteracting terrorist or extremist acts are governed by the law.

174. The Law on Combating Terrorism and other specific rulings explicitly spell out the competences of authorities entitled to fight terrorism, the procedures for their realization, their rights and duties, the limits of their application, etc. The legislation also establishes the rights and duties of suspected and accused persons and of persons under criminal investigation or under pursuit and the methods of their realization, guarantee and application.

175. When national provisions contradict international ones, the international rulings shall apply.

176. The law stipulates the guarantee and protection of the human being in any circumstances and an interpretation of the law in favour of the suspected, accused or convicted person.

Actions taken for protection against terrorist acts and compensation of victims that have suffered in result of eventual terrorist acts

177. The effective legal framework of the Republic of Moldova provides a sufficient level of protection and social rehabilitation of victims that suffered as a result of terrorist acts. In fact, there have been no terrorist acts with serious consequences in the Republic of Moldova; thus, the legal provisions have never been applied in practice.

178. The conditions of the State protection of victims is governed by Law No. 1458-XIII of 28 January 1998 on State protection of prejudiced parties, witnesses and other persons that provide assistance in a criminal case; Law No. 539-XV of 12 October 2001 on combating terrorism; relevant provisions of the Code for Criminal Procedure (No. 122-XV of 14 March 2003); Regulation on the way of social rehabilitation of victims of a terrorist act, approved by Decree of the Government of the Republic of Moldova No. 873 of 8 July 2002.

179. Thus, persons who were subjected to moral, physical or material damage by a terrorist act, as defined in the Criminal Code, or by other actions listed in the Code committed with terrorist purpose, shall be entitled to social rehabilitation.

180. The social rehabilitation of victims of terrorist acts aims at restoring the victims to normal life and presupposes provision of legal assistance, psychological, medical and professional rehabilitation (including restoring their labour capacity), employment and accommodation, and shall be carried out according to the procedure established by the Government.

181. The institutions funded by the State budget, and/or by budgets of the territorial administrative units where the terrorist act had taken place, shall carry out rehabilitation of victims within the limits of approved allocations. If the allocations approved for the institutions funded from territorial administrative units prove insufficient, social rehabilitation shall be carried out at the expense of the State budget.

182. According to article 16 of the Law on Combating Terrorism, victims of a terrorist act shall also receive remedy for the material damage incurred by the terrorist act.

183. Pursuant to article 215 of the Code of Criminal Procedure, if there is sufficient ground to believe that the victim, the witness or other participants in the cases as well as their family members or close relatives may be or are threatened with death, violence, deterioration or destruction of property or other illegal acts, the authority for criminal prosecution and the court shall undertake actions stipulated by the legislation for safeguarding the life, health, honour, dignity and property of the respective persons and for finding the guilty parties and their punishment.

184. According to Law No. 1458-XIII the following actions for State protection may be undertaken, depending on specific circumstances, to safeguard the security of the protected persons:

(a) Ordinary actions:

- Personal guard, guarding of residence and property
- Provision of special means for individual protection, for communication and alerting about danger
- Temporary removal to a safe place
- Non-disclosure of personal data regarding the protected person

(b) Extraordinary actions:

- Change of workplace or place of study
- Moving to a new residence location, with mandatory provision of accommodation (house, apartment)
- Change of identity documents following the change of name, surname and patronymic change of external appearance
- Closed court session

185. Such protection actions may be undertaken only with the consent of the protected person, taking care not to infringe his/her rights, freedoms and personal dignity.

Article 6

186. The right to life is certainly one of the most obvious fundamental rights. In this sense, it is important to mention here that the stipulation of this right in this article does not imply unconditional protection of life per se and it envisages no guarantee of a certain quality of life. The aim pursued is ensuring protection of the person against any suppression of life arbitrarily imposed by the State.

Actions undertaken in the area of health protection

187. In 2001, the Law on Protection of Reproductive Health and Family Planning No. 185-XV was adopted and the National Action Plan for Assistance in Planning and Protection of Reproductive Health for 1999-2003 was approved by Government Decree No. 527 of 8 June 1999, both aiming at the improvement of services in family planning and improvement of reproductive health.

188. The implementation of the above-mentioned Programme has contributed to reducing the role of abortion as a birth control method by providing modern contraception options, bringing about a decrease of the number of unwanted pregnancies and a significant decrease of the number of abortions in the country from 59.1 cases in 1993 down to 14.1 cases in 1,000 women of fertile age in 2006. The rate of use of modern contraception methods has increased up to 50 per cent.

189. In 1998 family planning health care was structured into three levels: level 1 - family doctor, level 2 - family planning unit of district hospital, and level 3 - National Research Practical Centre for Reproductive Health, Medical Genetics and Family Planning.

190. However, abortion is still frequently used in family planning, which sometimes is associated with real risks that affect reproductive health even more. In 2002 14,603 abortions were registered, while in 2006 their number has reached 15,742.

191. The majority of abortions (70 per cent) are practiced by dilatation and curettage, and only 30 per cent, by electric vacuum aspiration followed by control curettage in early pregnancy phases. Being aware of the negative impact of this practice on women's reproductive health, the Ministry of Health has amended legal acts to facilitate the implementation of the Manual Vacuum Aspiration method, which is more secure, bears less risks and is more cost efficient.

192. On the other hand, the study "Strategic assessment of policies on, quality of and access to contraception and abortion services in the Republic of Moldova" (2005) found that access to such services is particularly limited to women of socially vulnerable groups, especially in rural areas, not only in respect to contraception methods, but also to information, abortion still being a birth control method.

193. Pursuing the aim to increase access of women to health care, the 2007 programme of mandatory healthcare insurance also included abortion, provided that pregnancy has been confirmed by clinical and ultrasound investigation. Pregnant women wanting to abort can be hospitalized irrespective of their having a mandatory healthcare insurance policy or not.

194. The National Strategy for Reproductive Health has been developed and approved by Government Decree No. 913 of 26 August 2005. It sets forth the areas of reproductive health relevant for the Republic of Moldova and the aims and objectives of this area. The aim of the strategy is to improve the health of future generations, to fill information gaps in the area and to raise awareness among all members of the society about provisions of relevant international and national legal acts.

195. In order to reduce high maternal mortality rates, actions were undertaken for protection of pregnant women and women in fertile age. A number of national and sector programmes were developed and implemented, which reflect a strategy aimed at improving the situation, implementing preventive actions and cost effective technologies and improvement of healthcare services.

196. One of the basic achievements was the implementation, starting in 2004, of mandatory healthcare insurance and approval of the Single Programme, which includes solutions to major problems related to pregnant women's health, by including pregnant women in the group of persons benefiting of State insurance with provision of compensated medicines (iron preparations and folic acid).

197. The National Programme for Improvement of Perinatal Healthcare was successfully implemented in 1997-2002. It was aimed at reducing maternal, perinatal and early neonatal mortality, top-down implementation of new technologies approved by the World Health Organization as modern and cost effective at all healthcare levels. During the same period a region-based system for perinatal healthcare was created consisting of three levels: 10 second-tier and one third-tier perinatal centres were provided with medical equipment purchased with grant money offered by the Government of Japan. During the same period the staff of the centres was trained, optimal conditions were created in maternity wards, and a service for the centralized transportation of pregnant women and premature infants was created.

198. As of 2003 the Programme for promotion of High Quality Perinatal Services was implemented (2003-2007). Its basic objectives are to reduce maternal mortality rates by 30 per cent, perinatal mortality rates by 30 per cent, early neonatal mortality rates by 30 per cent and reducing stillborns rates from 7.2 down to 5.0 cases per 1,000 newborns.

199. The Republic of Moldova was selected by WHO as the only pilot country in Europe for the implementation of the international strategy "Risk Free Pregnancy" with objectives targeted towards access, high quality and efficiency to be achieved by development of standards focused on evidence-based health care and healthcare based on process indicators specific for each zone. In this context, the Ministry of Health is carrying out a confidential national investigation of maternal and perinatal death cases at national level and of proximity maternal death cases at the level of healthcare institutions in the country.

Actions at political level

200. Article 24, paragraph 1, of the Constitution stipulates that the State guarantees to each person the right to life and to physical and mental integrity. Referring to the recommendation of the United Nations Human Rights Committee to become party to the Second Optional Protocol of ICCPR, we state the following.

201. The Constitution of the Republic of Moldova (art. 24, para. 3) stipulates that death penalty is abolished. The only exception to the general rule is penalty „exclusively for acts committed in war time or in imminent war jeopardy and only under legal conditions". These constitutional provisions contradict the Second Optional Protocol of ICCPR and Protocol No. 13 to the European Convention on Human Rights.

202. Aiming at preparing the set of documents needed for ratification of the two international treaties, at the initiative of the Ministry of External Affairs and European Integration, the President of the Republic of Moldova addressed the Parliament requesting the initiation of the Constitution review procedure. In this context, the Constitutional Court made a favourable ruling in its Comment No. 2 of 22 September 2005 regarding drafts of amendments to article 24, paragraph 2. Thus, article 24, paragraph 3, was amended and the possibility to apply the death penalty was totally excluded.

203. The legislation of the Republic of Moldova protects the right to life, and the new Criminal Code adopted on 18 April 2002 includes the following offences against life and health of the person: premeditated murder (art. 145); murder committed in state of affect (art. 146); infanticide (art. 147); deprivation of life at the request of the person (euthanasia) (art. 148); deprivation of life through imprudence (art. 149); enticing to suicide (art. 150), etc.

204. Referring to the guarantee of the right to life in prison conditions, much emphasis is placed on provision of adequate food to detainees. Thus, provision of quantitative and qualitative food adequate for the human body depends largely on the optimal balance between the necessary ingredients in the foodstuffs.

205. Increased diets, including additional portions, as determined by the law, are provided to certain groups of detainees (minors, the sick and invalids of first and second degree, pregnant detainees and mothers nursing infants, detainees that carry out hard or hazardous labour).

206. The staff of penitentiaries has the right to apply physical force, special means and firearms in cases and in accordance with the procedure set forth in article 242 of the Enactment Code, paragraph 10, article 11 of the Law on Penitentiary System, and in cases allowed by articles 35-40 of the Criminal Code. Thus, in pursuance of provisions of article 242 of the Enactment Code, physical force, special means and firearms may be applied when convicts resist or disobey legal and justified requirements of penitentiary staff, when detainees participate in mass disorders, take hostages, attack other persons and commit other socially dangerous acts, when they escape from penitentiary or during detention of escaped detainees, as well as for prevention of detainees causing injuries to themselves or others. The conditions and limits of application of physical force, special means and firearms are stipulated in Section 21 of the Statute for Penalty Execution by the convicts.

Cases in which firearms were used legally or illegally

207. As an example of firearm application is the attempt of the convict Pripa Serghei Vladimir, born in 1976, to escape from Penitentiary No. 18 in Brăneşti through by-passing the technical/engineering guarding devices. In respect to this case Justice Major I. Cruc, Head of the Security Service of the Penitentiary, carried out a service investigation. The investigation

showed that on 5 July 2006, approximately at 2.15 p.m., the warden, Serghei Gasper, justice warrant officer, noticed that one convict had entered the forbidden zone of the prison (he climbed the main fence of the technical engineering guarding devices). When summoned by the warden, the convict continued to walk in the same direction. Consequently, the warden summoned the convict again (by firing a warning shot aiming vertically), but the convict did not react to it. Thus, upon repeated summons, the warden Gaşper Serghei applied the firearm and wounded the offender in the left leg in the area of the shank. After being detained, the convict was provided first aid.

208. The case was documented in the way and in accordance with the procedure set out in the legislation, while the associated materials were sent to competent authorities for ordering the initiation of a criminal investigation case. Thus, on 28 August 2006, the court of Orhei district examined the case of Pripa Serghei Vladimir and he was convicted to six years and six months imprisonment for committing the offence spelled out in article 27, paragraph (1); article 317 and article 85 of the Penal Code (attempt to escape), the penalty to be served in a closed type penitentiary. Copies of the documents related to court examination are provided in annex I to this report.

209. Further, we present a case of unlawful use of the firearm by a police officer.
On 21 August 2004, at approximately 8.30 p.m., in Causeni district, the head of the Police Commissariat of Ialoveni district, police Sergeant Gligor Ion, being in service, made several shots (16 cartridges) from the service firearm "AKSU", Nr. 802442. The circumscription police inspector, junior lieutenant Gurău Victor Dionis, also made two warning shots from the service firearm IM 4754 while detaining a criminal group. As a result, the inhabitants of Tocuz village of the same district, unemployed I. Ţurcanu and V. Iurcu, were detained, while I. Condrea, resident of the same village, evaded in the reed of the lake.

210. Following the actions undertaken on 22 August, the corpse of I. Condrea was found in the lake at approximately 5:30 p.m. He had a firearm injury in the head.

211. Criminal lawsuit Nr. 2004481192 was initiated with respect to this case, based on article 328, paragraph (2), item (b) of the Penal Code.

212. On 13 March 2007 the Court of Causeni district sentenced the police sergeant Gligor Ion Iova, recognizing him as guilty of the offence according to article 328(3), item d) of the Penal Code (excess of authority or excess of service competencies). He was convicted to nine years of imprisonment and deprivation of the right to work in certain positions within the Ministry of Internal Affairs. The sentence may be attacked in the Bender Court of Appeals (the copy of the court sentence is provided in annex I).

Data on application and use of firearms by staff of the Ministry of Internal Affairs	2002	2003	2004	2005	2006	3 months 2006	3 months 2007
Application of service firearm	136	100	82	48	30	10	10
Unlawfully	13	15	10	8	3	0	2

213. The most severe offences related to the right to life and physical and mental integrity are being committed in isolation premises of preventive detention facilities of the police sections and, partially, in penitentiaries. The competent authorities of the Republic of Moldova are undertaking actions to improve detention conditions; however, insufficient funding from the State budget and the current economic situation do not allow for the observance of minimal requirements related to nutrition and adequate healthcare. This is reflected in the petitions addressed to the Centre for Human Rights. Thus, according to data, over the period January to December 2004, the ombudsmen received 295 petitions related to personal security and dignity. The statistical data by category of petition for the period January to December 2004 show a total of 558 complaints of detainees.

Article 7

214. Observance of life, physical and mental integrity of a person naturally implies the ban of torture, cruel or degrading punishment or treatment. This right is instituted by paragraph (2) of article 24 of the Constitution, which rules that no person shall be subjected to torture, or to cruel, inhuman or degrading punishment or treatment.

215. This provision of the Constitution is also stated in article 4, paragraph 2, of the Criminal Code. The Criminal Code has a number of provisions that deal torture and inhuman treatment, such as articles 137, 151, 152, 165, 171, 188, 206, etc.

216. At the time, when the new Criminal Code was adopted on 18 April 2002, there was no article to treat torture as a separate offence. Subsequently, on 30 May 2005 the Parliament adopted the Law on amending and supplementing the Criminal Code of the Republic of Moldova, introducing a new article, No. 309/1, on torture. The new article defines torture as "deliberately causing a person severe physical or mental pain or suffering, especially with the aim to obtain from that person or third persons information or disclosure, or to penalize the person for an act committed by him/her or a third person or suspected to have committed it, or to intimidate or put pressure on him/her, or as a punishment for any other reasons based on a form of discrimination, whatever it might be, if such pain or suffering is caused by a person of authority or any other person acting in an official capacity, or at the incitement or with the tacit consent of such officials, except for the pain and suffering that result exclusively from legal penalties which are inherent to such penalty or conditioned hereby".

217. The Code for Criminal Procedure stipulates in article 10, paragraph (3), that no person shall be subjected to torture or to cruel, inhuman or degrading treatment during the process of a criminal prosecution.

218. In addition, article 166 of the Enactment Code of 24 December 2004 states that the convicted person has the right to defence and respect of his/her dignity, rights and freedoms by the institution or authority that realizes execution of the penalty, including the right not to be subjected to torture and to cruel, inhuman or degrading treatment, as well as irrespective of his/her consent, - to medical or research experiments that endanger his/her life or health, the convict enjoying, as the case may be, protection measures on behalf of the State.

Comments made by the Centre for Human Rights

219. The petitions sent to ombudsmen reveal that inhuman and degrading treatment, torture, physical and mental violence are frequently met in investigation isolators. In most cases the information on maltreatment of persons cannot be confirmed due to failure to carry out a medical examination of the detainees (the monitoring is usually limited to an interview of the person who carries out the investigation and that person, obviously, would never make statements against him/herself); thus, persons that commit such abuse are not punished.

220. In responses received from competent authorities the argument in connection with torture is usually the following: "the maltreatment fact described and claimed by the petitioner to be committed by staff member X has not been corroborated, has not been confirmed, no such claims were received, etc."

221. The fact that persons that are detained in isolators for provisional detention are not subjected to an independent medical investigation at the time of their imprisonment is of great concern. Thus, the absence of a medical health report, including data on the state of health of persons brought to the isolator, precludes the demonstration of inflicted torture. However, Law No. 1226 of 27 June 1997 on preventive arrest expressly stipulates in its article 11, paragraph 3, that "detention of persons in places for preventive arrest shall be made in conformity to the principle of observance of the Constitution of the Republic of Moldova, the requirements of the Universal Declaration of Human Rights and other legal documents and international standards and it may not be associated with wilful actions that inflict physical or mental suffering or hurt human dignity".

222. As an example, the lawyer C applied to the ombudsman with a petition invoking denial of meeting with his client detained in the isolator for preventive detention of the General Division for Combating Organized Crime and Corruption, access being denied for various reasons. Thus, the constitutional right of the detained person to defence and to free access to justice was violated. Moreover, the lawyer had the opportunity to see his client only in the courtroom, where he was seen to have a number of evident physical injuries. The detainee stated that he had been subjected to torture by the police staff of the Department of Operative Services. This is an eloquent case of violation of the most common constitutional rights. Regretfully, the number of such cases is rather significant, while the actions undertaken to suppress this practice are inefficient.

223. Relations between detainee and administration, based on autocracy and command, constitute another factor that "contributes" to spreading of the torture practice in penitentiaries. The problem stems, largely, from the fact that the staff of penitentiaries have no multipurpose training, which would allow even transfer to other sectors of work, which might have a positive impact on the public image of penitentiaries. Another factor that affects the professional level of the staff and their attitude towards work is their material and social status.

224. Regarding relationship between staff and detainees, item 26 of the Guidelines of the European Committee for Prevention of Torture, Inhuman or Degrading Penalties or Treatment (CPT) adopted during the 56th session of the CPT in April 2005 states that "true professionalism of penitentiaries' staff requires that they be able to treat the convicts in a decent and humane manner, while paying attention to order and security issues. In this context, the administration of

penitentiaries shall encourage the staff to manifest certain trust, based on the concept that the convicts are willing to behave in a decent manner. The development of constructive and positive relationships between the staff and convicts would reduce not only the risk of maltreatment, but also improve control and security. Assuring good staff-convict relationship also depends, to a great extent, on the existence at any time of a sufficient number of staff in detention zones and in places frequently attended by detainees".

225. Thus, detainees should enjoy humane treatment, separation by categories, provision of wholesome detention conditions, adequate supervision, health care, application of legal disciplinary actions, etc. The staff of penitentiaries shall be guided by the following principles: observance of the prohibition of torture, non application of inhuman degrading treatment, application of legal investigation techniques, penalization of persons who practice torture, etc.

226. With respect to detention conditions it is worth mentioning that although the penitentiary system is undergoing a reform process and a decrease of the morbidity rate among detainees was registered, currently the penitentiary institution cannot provide to its inmates minimal living conditions in compliance with international standards. According to the Department of Penitentiary Institutions, in 2005, the penitentiaries had insufficient funding, for the reason that the State budget allocated only 94.6 million Lei out of the planned 179 million Lei, which covered only 52.3 per cent of the needs.

227. In 2006 the budget of the Department of Penitentiary Institutions covered only 46.7 per cent of the needs, the allocations amounting to 91 million Lei as opposed to the 195 million Lei needed. Due to lack of funds and overcrowding of penitentiaries, the convicts do not enjoy sufficient space, a normal diet, personal hygiene items and adequate health care. The diet of a detainee is based on a 4.21 Lei allocation per day, out of them only 3.37 Lei being from the State budget allocation, while 0,84 Lei come from humanitarian aid.

228. In view of the fact that article 3 (ban of torture) of the European Convention on Human Rights does not refer exclusively to physical sufferings, but also defines as inhuman or degrading treatment the infliction of mental sufferings that bring about states of anxiety, panic and stress, the Centre for Human Rights has found the following:

229. Statistical data show that during January-December 2005 the ombudsmen received 704 petitions from convicts. 380 complaints were invoking issues linked with personal security and dignity. The situation continues to be critical in the following areas: detention conditions, inadequate behaviour of penitentiaries staff and staff of places for provisional detention, access to information, access to adequate health care.

230. Upon enacting of the Enactment Code on 1 July 2005 adopted by Law No. 443-XV of 24 December 2004, the penitentiary system of the Republic of Moldova faced a number of impediments in the practical realization of its provisions. One of the major problems is connected with the practical implementation of provisions of article 172, paragraph 9, of the Enactment Code, envisaging that penitentiaries, criminal prosecution isolators included, should also provide for execution of preventive arrest. In this sense, the need became even more imperative to transfer provisional detention isolators from the jurisdiction of the Ministry of Internal Affairs to the jurisdiction of the Department for Penitentiary Institutions of the Ministry of Justice.

231. However, realization of such transfer entails the use of especially fitted-up space in compliance with the requirements of the Enactment Code and of minimum detention standards. Taking into account budget constraints, the Government of the Republic of Moldova has accepted the proposal of the Ministry of Justice to institute some arrest houses with a capacity of 250 inmates, within identified out-of-use premises (buildings), which are located in suitable places in eight settlements of the country. Local public authorities of six districts have proposed some buildings, which, upon examination, proved to be unsuitable for detention of persons in compliance with the requirements. Taking into account that for the time being only plots of lands have been proposed for the construction of arrest houses, the Penitentiaries System experiences the need of significant additional funds for the realization of all the provisions of the Enactment Code.

232. Due to lack of funds the implementation of the following provisions of the Enactment Code faces problems:

- Creation of suitable conditions in penitentiaries for separate detention of convicts according to their previous criminal records, previous occupation, as well as assuring personal safety of the convicts in compliance with provisions of articles 224 and 225 of the Enactment Code

- Opportunity for the convicts to inform his/her family, lawyer or other persons about his/her detention place (in writing or by telephone free of charge), in compliance with provisions of article 244, paragraph 4, of the Enactment Code

- Observance of the requirement to minimum space for one person that cannot be less than 4 sq. meters, in compliance with provisions of article 244, paragraph 2, of the Enactment Code

- A facility for storage of detained person's things and other arrested assets up to the expiry of penalty execution, in compliance with provisions of article 223 of the Enactment Code

- Fitting up and supplying books for libraries in penitentiaries, so that books are available for all categories of detainees, in compliance with provisions of article 259, paragraph 5, of the Enactment Code

- Mandatory organization of general secondary education, as well as conditions for university education, in compliance with provisions of article 259, paragraph 6, of the Enactment Code

- Free provision of a set of clothing to inmates of a model determined by the Department for Penitentiary Institutions, in compliance with provisions of article 246, paragraph 2, of the Enactment Code

233. The issue of detention conditions is the most frequent object in detainees' petitions. In 2005, the ombudsman's office received and registered petitions related to this issue from detainees of penitentiaries No. 13 Chisinau (23 petitions), No. 9 Pruncul (11 petitions),

No. 5 Cahul (6 petitions), No. 6 Soroca (17 petitions), No. 4 and No. 15 Cricova (respectively 5 and 4 petitions), No. 17 Rezina (5 petitions) and from provisional detention isolators from Criuleni, Basarabeasca, Ceadir-Lunga, Hincesti, etc.

234. Thus, in July 2005 the ombudsman received petitions from a group of inmates of Penitentiary No. 29/3 in Leova, invoking detention conditions that do not comply with the existing standards and the inadequate behaviour of the administration of the institution with respect to the inmates. To investigate the petitions, a representative of the Centre visited the penitentiary, discussed with the authors of the petitions and with the first Deputy Director of the penitentiary, inspected the rooms for meetings, the kitchen, the washing room, the bathroom, the shoemaking workshops and other premises, and stated the following: some premises have inadequate water supply; during the cold season the premises for the inmates are practically unheated and the detainees have to sleep in their clothes; no disinfection of rooms and no parasitic disinfestation are made; access to the central landing is blocked for the detainees held on the second floor, the access to their rooms being possible only via the fire escape staircase, which may lead to accidents. In addition, the detainees have no possibility to make themselves familiar with the provisions of the Enactment Code, and certain convicts are deprived of the right to meet with visitors.

235. Acknowledging the problems existing in Penitentiary No. 3, its administration has approved the "Plan for elimination of deficiencies in the operation of Penitentiary No. 3 identified by the representative of the Centre for Human Rights (CHR) as of July 28, 2005", which includes a list of planned actions along with the responsible persons and implementation deadlines. At the end of 2005, the administration of Penitentiary No. 3 reported to the ombudsman that all possible actions were undertaken to eliminate the deficiencies found by the representative of the CHR; the Department of Penitentiary Institutions made a number of inspections; the operation of the Penitentiary was subjected to an ordinary comprehensive inspection; the institution was visited by a Parliamentary Commission accompanied by representatives of other organizations working in the area and by mass media representatives.

236. Since the enacting of the Enactment Code, persons executing their penalty have been deprived of the possibility to remedy the material and/or moral damage stated by the court because the administrations of penitentiaries have no legal grounds to retain the respective amounts. This situation emerged in view of the fact that provisions of article 14 of the Code require that the first-tier court issues the execution title to the creditor, who, in his/her turn, has to submits it for execution according to provisions of article 17, paragraph 1, of the Enactment Code. Thus, the execution titles are left, de facto, with the creditors or with court executors.

237. It should be noted that in order to enjoy the opportunities to obtain liberty or commutation to a lesser penalty provided for in the Criminal Code, the convict needs to integrally repair the damage incurred by the offence for which he/she is serving a term. The situation described above makes it impossible to implement provisions of articles 91 (Freedom conditioned by early service of penalty term) and 107 (Amnesty) of the Criminal Code. Upon examination of the respective problem, as well as the data of the Department for Penitentiary Institutions on application of the Enactment Code provisions, the ombudsman has submitted a proposal to review and supplement article 17 with a new wording to the effect that upon finalization of the civil proceedings of a criminal case, the execution title should be sent for execution ex officio.

238. Human dignity is the basis of fundamental rights, primarily, of the right to life and integrity of the person, as well as of the right to ban of torture, inhuman or degrading penalties or treatment. Human dignity, generally, presupposes respect for other persons, as well as respect for the own person.

239. Regretfully, in the Republic of Moldova respect to dignity of a person arrested or detained is far from perfect. Torture, inhuman or degrading treatment are frequent occurrences, a fact that requested that the Criminal Code be supplemented with article 309/1 ("Torture").

240. The most severe violations in this area occur during criminal investigation. The detained persons are treated as potential criminals with no account of the principle of the person being presumed innocent until proven guilty. The necessary evidence and statements are obtained by constraints and excess of authority, threats and interdictions. Psychological methods to influence a person are frequently applied and the right to petition is denied. In view of their situation detained persons have no opportunity to send immediate complaints to the Centre for Human Rights or to other institutions regarding inadequate treatment by criminal investigation staff. This opportunity is granted later when the event has already occurred and the facts invoked by petitioners cannot be proved.

241. Abuse is registered in penitentiaries in application of penalties for disciplinary deviations, body search and with respect to receipt and mailing parcels and letters to and from convicts.

242. Prevention and treatment of diseases, prevention of infection with tuberculosis and other infectious diseases, observance of sanitary and hygiene rules, conditions of life and treatment of patients with tuberculosis and other patients in health care institutions of the penitentiaries raise another set of difficult problems faced both by the administration and the inmates of the respective institutions.

243. The petitions of the convicts invoke a number of aspects of these problems, including the lack of opportunity to carry out the invalidity degree assessment to obtain an invalidity degree.

244. Upon enacting of the Enactment Code, the operation of the Medical Commission of the Department of Penitentiary Institutions was suspended, which had the authority for assessing invalidity degree of the inmates of the penitentiary system.

245. The Department for Medical Vitality Assessment being the only institution with full authority to carry out medical vitality assessment, the National Chamber for Social Insurance has upon request of the Department for Penitentiary Institutions assigned the Tuberculosis-Pneumonia Department Council and the Ciocana district Medical Vitality Assessment Council to carry out the detainees' health assessment.

246. The process of assessing the health of patients with somatic disorders started on 9 December 2005 and is being carried out in Penitentiary Institution No. 16, Pruncul (penitentiary hospital), exception making the operation Medical Vitality Assessment Commission and for Mental Health Assessment for Tuberculosis-Pneumonia and the Psychiatric Medical Vitality Assessment Commission. In future, invalid detainees will be sent for health

assessment to the penitentiary hospital, based on a conclusion of the consultative medical Commission set up under the healthcare unit of the respective penitentiary, should obvious persistent functional disorders be found as consequences of diseases, traumas and health disorders.

247. Aiming at the realization of the National Action Plan for the Human Rights, the Ministry of Internal Affairs has undertaken a number of actions to facilitate monitoring actions regarding the conditions of detainees in provisional detention isolators under the Ministry's management, to provide free legal advice and to ensure access of civil society to information related to the situation of detained persons in provisional isolators, so as to allow no inhuman and degrading treatment.

248. In 2005 and the first 10 months of 2006, in cooperation with the Centre for Human Rights of Moldova, the Institute for Penal Reforms, the General Prosecutor's Office, the Helsinki Committee and UNICEF, numerous inspections were made of the detention conditions with the purpose of excluding possible violations of convicts' rights and incidents and of ensuring non-application of inhuman or degrading treatments. A number of tasks have been set during these inspections aimed at improving the situation in this area.

249. The Ministry of Internal Affairs has developed a Programme for Development of Technical and Material Assets of the preventive detention isolators for 2004-2006 to ensure observance of detention conditions of convicts and detained persons, and the reconstruction and equipping penitentiaries in conformity with proposals and recommendations made by the United Nations Committee against Torture.

250. Notwithstanding the actions undertaken by the Ministry of Internal Affairs, in the provisional detention isolators of district police sections, deficiencies are systematically found with regard to the sanitary state and hygiene, lack of adequate illumination and natural ventilation, high humidity, lack of yards for detainees' walks or their inadequate use, lack of healthcare units and shower booths, lack of ventilation or its failure to operate. The delays in the examination of criminal cases by courts bring about situations when detention of detainees in isolators exceeds the regulated terms. This fact leads to an increase in the number of petitions and incidents in isolators belonging to Police Commissariats in Criuleni, Briceni, Calarasi, and Anenii-Noi.

251. Aimed at improving the situation the Ministry of Internal Affairs has undertaken a number of actions.

252. The management of Nisporeni, Ialoveni, Falesti, Donduseni, Calarasi, Criuleni, Anenii Noi, Ceadir-Lunga and Balti District Police Stations was notified about the need to develop plans for the elimination of persistent deficiencies in the operation of preventive detention isolators.

253. In order to improve the situation, based on project documentation and comments to it, the compartment "Reconstruction of Criuleni District Police Station and building of a new preventive detention isolators" was included in the capital investment programme for 2006-2008.

254. In order to exclude from the daily practice of the police staff cases of torture and other forms of maltreatment, training and methodology seminars are conducted for their familiarization with the legal acts, basic principles of police operation in compliance with the European Convention for Protection of Human Rights and the proposals and recommendations of the European Committee for Prevention of Torture.

255. The provisions of the Code of Police Ethics are being studied during professional trainings held for the police staff with higher legal education in all units of the Ministry of Internal Affairs. Attention is also paid to education regarding principles of observing human rights, taking into consideration the role of the police officer in this area.

256. The Ministry of Internal Affairs has developed an order with firm guidelines regarding detention and interrogation of persons suspected of a criminal offence, requesting that these should be carried out in strict observance of the provisions of the Code of Criminal Procedure, and ensuring strict control over their application.

257. Referring to the relevant legal acts issued by the European Court for Human Rights with respect to the Republic of Moldova, we should mention the decisions relevant to this subject in relation to the cases *Ostrovari v. Moldova*, *Sarban v. Moldova*, *Becciev v. Moldova*, *Corsacov v. Moldova* and *Boicenco v. Moldova*.

258. As concerns general issues, he actions described below were undertaken to execute the five above-mentioned judgments: translation of the full texts of the judgments made, sent for publication in the Official Gazette of the Republic of Moldova and their full text was placed on the official site of the Ministry of Justice (www.justice.md); central and local public authorities were notified of the pronouncement of the respective decisions.

259. As concerns specific issues, in the case of *Ostrovari v. Moldova*, the Court unanimously found a violation of articles 3, 8 and 13 of the Convention and stipulated that 4,500 Euros be allocated to the applicant. For the execution of this decision, in addition to the above described actions, a number of measures were and are being undertaken to improve detention conditions in Penitentiary No. 3. On 23 January 2006 the Complaints Committee was set up with the mandate to examine complaints of detainees of penitentiaries in accordance with the provisions of the Enactment Code of the Republic of Moldova.

260. In *Becciev v. Moldova* and *Sarban v. Moldova*, individual actions were undertaken to execute the respective decisions and to prevent similar violations in future. Taking into account the highly complex nature and the severity of violations found by the European Court, the representative of the Government notified the competent authorities about the range of identified problems and the proposals for their solution. It should be mentioned that the European Court has condemned our State also for failure to provide grounds for internal decisions of national courts. Moreover, during the period January-February 2006 the centre for training and re-training of judiciary staff of the Ministry of Justice has carried out training seminars for judges and prosecutors which addressed various issues related to human rights, examined taking into account the ECHR decisions condemning the Republic of Moldova.

261. In order to avoid violations similar to the ones in the case *Ostrovari v. Moldova*, the Department for Penitentiary Institutions, additionally to measures described in the response to the CPT report, has undertaken the following.

262. With respect to the assessment of the High Court regarding exposure to cigarette smoke, provisions were introduced to the new Charter regarding Penalty Execution by the Convicts approved by Government Decree No. 583 of 26 May 2006, which bans smoking of convicts in cells, premises and other detention spaces, smoking being allowed only in specially designated sites.

263. Referring to violation of article 8 of the European Convention for Human Rights, we inform you that along with the enacting of the new Enactment Code, Law No. 1226-XIII of 27 June 1997 on Preventive Arrest was abrogated. Pursuant to article 229, paragraph (2), of the Enactment Code the correspondence of convicts may be subjected to censorship. The Charter regarding Penalty Execution by the Convicts provides that correspondence of the detainees with relatives and other physical and legal persons shall be subjected to verification or censorship only in conditions stated in the Code of Criminal Procedure or in the Law on Operative Investigations article 6, paragraph 2, item (2). Thus, in pursuance of article 229, paragraph (2), of the Enactment Code, the censorship of the convicts' correspondence with the lawyer, Complaints Committee, authorities for criminal investigation, Prosecutor's Office, court, central public authorities and international intergovernmental organizations that safeguard fundamental human rights and freedoms is banned.

Article 8

264. In conformity to provisions of article 168 of the Criminal Code, forced labour is defined as an offence. Subjection to forced or compulsory labour is an act of violence, since the consent of the one subjected to such labour is lacking. By such act, the freedom of the physical person to choose freely the labour is obstructed. The dangerous nature of the offence stated in article 168 of the Criminal Code resides in the flagrant violation of freedom of the person with possible prejudice of other social values, which present inherent features of a person. The damage-incurring aspects of the offence consist of the following alternating actions: (1) forcing a person to work against his/her will; (2) forcing a person to deliver compulsory labour; (3) holding a person in servitude for payment of a debt; (4) obtaining labour or services by fraud, constraint, violence or threat of violence. In compliance with article 44, paragraph 2, of the Constitution of the Republic of Moldova the following shall not be interpreted as forced labour: (a) service of the military nature or other service effected instead of military service by those that pursuant to the Law are not liable for compulsory military service; (b) labour of a convicted person effected in normal conditions during detention time or conditional freedom; (c) any service exacted in case of calamity or other danger, as well as service pertaining to ordinary civil duties as stated by law.

265. Article 62 of the Criminal Code states that unremunerated labour for the benefit of the community constitutes one category of penalties applied with respect to physical persons. The category of criminal penalties has been recently changed through amendments to a number of legal acts in conformity to Law Nr. 184 of 29 June 2006. Thus, a new paragraph was added to

article 62 of the Criminal Code stating: "Unremunerated labour for the benefit of the community might be applied as main penalty, or, in case of conviction with conditional suspension of the penalty - as an obligation for the probation period." In pursuance to article 67 of the Criminal Code unremunerated labour for the benefit of the community presupposes involvement of the convicted person in labour, beyond the time of his/her basic job or studies, as determined by local public authorities. Such labour is meant to last from 60 to 240 hours with a 2-4 hours per day regime, over a period of up to 18 months, the date being calculated from the day of the final court decision. Article 67, paragraph (3), provides that in case of wilful evasion of a convict from unremunerated public works, the penalty is replaced by imprisonment, a day of imprisonment being calculated as equivalent to two hours of unremunerated public labour. In such case, the imprisonment term cannot be less than six months. Unremunerated public labour shall not be exacted from persons recognized as invalids of first and second degree, pregnant women, women with children under eight years of age, persons under 16 and persons that have reached retirement age.

266. The Enactment Code, articles 253, 254 and 255, regulates labour of the convicts in penitentiaries. The convict may be engaged in remunerated socially useful labour in accordance with the labour legislation, taking into account his/her physical and mental condition.

267. The notion of unremunerated labour is also met in the context of serving an imprisonment term as penalty, implying works for maintenance of the penitentiary and its territory, improvement of living and sanitary hygienic detention conditions, which may be carried out by the convicts, including by preventive detention inmates, as a rule, beyond the working hours for maximally two hours per day, but no longer than 10 hours per week, while for preventive detention inmates no longer than six hours per week. Pursuant to provisions of article 256 of the Enactment Code, the convict engaged in remunerated labour for at least 6 months has the right to unremunerated vacation of at least 12 calendar days. The convict that serves penalty in an open type penitentiary may enjoy the right to move outside the penitentiary for the duration of the vacation.

268. In respect to the provisions of the Criminal Code on application of the respective penalty by court authorities we state that the development of the institutional and legal framework for practical implementation of the respective penalty falls under the jurisdiction of the Enactment Department. In this context, a regulation on the mode of criminal penalty execution in form of unremunerated public labour was developed and approved by Government Decree No. 1643 of 31 December 2003. Subsequently a pilot project dedicated to the application of the respective penalty was implemented in the "Centru" district of Chisinau and in Nisporeni and Ungheni districts.

269. Following the adoption of the Enactment Code, application of criminal penalty in form of public labour has become more frequent, and is applied both for adults and minors. Currently, the number of those convicted to this penalty is continuously growing. This is due to the fact that Law No. 184-XVI of 29 June 2006 has changed the penalties for a number of offences falling under the Criminal Code, so that offences for which before more severe penalties were foreseen (including imprisonment), now are changed and envisage milder punishment including unremunerated public works.

270. Notwithstanding the existence of the institutional and legal framework for the application and execution of this penalty, problems still exist in connection with the implementation of these tasks, specifically, problems dealing with the procedure for supervision of convicts and finding jobs for them. Thus, the insufficient number of staff to carry out these tasks is an obvious obstacle to the supervision of the convicts at their workplace.

271. Another factor that hampers the execution of the penalty is the lack of work sites regulated by the legislation, where the convicted to such a penalty may be employed. This issue was also discussed by the participants to the "Conference for evaluation of implementation of unremunerated public labour to the benefit of society in the Republic of Moldova", held on 29 September 2006. The participants at the conference assessed the actions undertaken so far as successful and formulated proposals for additional actions for further improvement of practice in this area.

272. Human trafficking, corruption, shadow economy, tax evasion, financial fraud, drugs and arms trafficking are the most extensive manifestations of criminality, which has reached during extremely short time an unacceptable degree.

273. Aiming at combating trafficking of human beings which has extended, the need appeared to adjust the legal framework and bring it in compliance with international standards with the final goal to make the operation of the law enforcement bodies more efficient in combating human trafficking, bearing in mind the need for observance of human rights, provision of assistance to trafficking victims and also penalizing persons who committed offences and benefited from legislation gaps.

274. Thus, the adjustment of the legal framework was carried out in conformity to provisions of the Convention of the Council of Europe on Combating Human Trafficking, signed on 16 May 2005 in Warsaw, and ratified by the Parliament of the Republic of Moldova on 30 March 2006.

In accordance with this Convention:

- The Law on Prevention and Combating Human Trafficking was adopted
- The National Plan for Prevention and Combating Human Trafficking for the years 2005-2006 was developed
- A new article was introduced in the Criminal Code (3621) related to organizing illegal migration
- Amendments were made to the Criminal Code to introduce changes to provisions related to child trafficking (with or without the consent of the victim) and to include criminal responsibility for legal entities
- Proposals were developed in relation to Law No. 458-XII of 28 January 1998 on State protection of the damaged party, witnesses and other persons that provide assistance in criminal cases, and in respect to the Code for Criminal Procedure of the Republic of Moldova as related to human trafficking

275. It is also important to mention the opening on 30 November 2005 of the European Union Border Assistance Mission (EU-BAM) for the Moldovan-Ukrainian border. EU-BAM was instituted at the initiative of the Prime Ministers of the Republic of Moldova and Ukraine, aiming at fighting smuggling of commodities, arms, drugs, illegal migration and not least, human trafficking. The institution of such a mission was conditioned by the need to control and fight the above-mentioned illegal activities along the Transdniestria segment of the border. The central office of the EU-BAM is located in Odessa, and its mandate was issued for approximately two years. The mission has made the commitment to submit reports on border monitoring to competent authorities of the two countries, and in 2007 the Mission will continue to provide to parties methodology and technical assistance to efficiently carry out border control.

276. Taking into account the importance of this issue, also mentioned in the recommendations of the Human Rights Committee, and aiming at making the operation of law enforcement bodies more efficient in the area of combating human trafficking and illegal migration, on 6 September 2005 the Governments of the Republic of Moldova and the United States of America signed the 3rd Amendment to the Agreement Letter that provided for the establishment of the Centre for Combating Human Trafficking (CCHT) within the Ministry of Internal Affairs.

277. The Centre cooperates with the staff of the Ministry of Internal Affairs, the General Prosecutor's Office, the Centre for Combating Economic Crime and Corruption, the Customs Service and Border Guards Service.

278. The Ministry of Internal Affairs his allows for a more rapid and more efficient interaction of all law enforcement authorities in combating trafficking and in documenting cases of corruption, protectionism on behalf of persons with responsible authority involved in criminal activity.

279. Thus, over the first nine months of 2006, the Centre for Combating Human Trafficking (CCHT) has undertaken a number of practical and organizational actions that have led to the detection of 396 offences related to human trafficking:

- Human trafficking - 215 cases (+5.4 per cent as compared to 204 in the previous year)
- Child trafficking - 59 cases (+25.5 per cent as compared to 47 in the previous year)
- Pimping - 92 cases (+19.5 per cent as compared to 77 in the previous year)
- Organization of illegal migration - 30 cases

280. As a result of the operative investigation activity undertaken by the CCHT, over the first nine months of 2006, 36 networks of traffickers were liquidated, as follows: sexual exploitation - 23 networks (Turkey-11, United Arab Emirates-5, USA-1, Austria-1, Romania-2, Kosovo Province-2, Serbia-1), labour exploitation - 7 networks (Russian Federation-4, Italy-1, Poland-1, Ukraine-1), transplant of body organs - 1 network (Turkey), organization of illegal migration - 3 networks (Schengen space countries), begging - 1 network (Russia).

281. Analysing the level of identified offences as compared to the same period of 2005, we have found that the situation is characterized not by an increase of the level of trafficking offences, but rather by more intensive activity in the area by law enforcement authorities and by an efficient cooperation with other State authorities, international organizations (International Organization for Migration), nongovernmental organizations: (La Strada and the Centre for Combating Women Trafficking), civil society (identification of trafficking victims, organization of prevention measures, training and re-training staff of authorities responsible for combating trafficking, etc.).

282. Currently, a discontinuation of the human trafficking for sexual exploitation has been registered. For example, during previous years there was an enormous flow of women trafficked to countries in the Balkans. At present, as a result of implemented activities in cooperation with law enforcement authorities of other countries, especially States members of SECI Centre, the operation of these networks has been stopped.

283. At present, illegal migration predominates. However, due to the existing legal framework, all conditions have been created to stop it. In this area the important role of the National Committee for Combating Human Trafficking should be mentioned, as well as of the commissions operating under the district and municipal councils. Meetings held in communities of the country catalyse the operation of local public authorities, State institutions and of the non-governmental organizations in the area.

284. As concerns international cooperation, we may state that efficient cooperation has been established with most destination countries of human trafficking, including European Union countries.

285. Most international conventions related to the area have been signed and ratified, including the United Nations Convention against Transboundary Organized Crime and Additional Protocols on the prevention, combating and penalizing human trafficking, especially trafficking of women and children.

286. At present, law enforcement authorities cooperate with about 14 other countries on the basis of bilateral treaties concluded in the area of combating criminality and re-admission of persons. In this respect, the following examples of fruitful cooperation with other countries in combating human trafficking may be listed:

1. Release of hostages from Turkey (Victims - T. Valovaia, born in 1986 and E. Talpă, born in 1987). The traffickers were extorting an amount of $US 20,000;

2. Arrest of the paedophile Mark Bianchi who committed 13 offences dealing with child trafficking for sexual exploitation.

287. Criminal investigation actions were undertaken jointly with the United States Federal Bureau of Investigations.

288. It may also be mentioned that over the period of CCHT operation, an efficient cooperation has developed with OSCE, the United Nations Development Programme (UNDP) and other international organizations working in the area of prevention and combating human trafficking.

289. The unconstitutional processes taking place in the Transdniestrian region and the fact that representatives of law enforcement authorities have no access thereto continue to have a negative effect on the situation of criminality in the Republic of Moldova. Transdniestria continues being a region where organized crime is flourishing, especially human trafficking. Even when sufficient evidence thereon is collected, no criminal investigation or rapid intervention action can be carried out there. The following cases investigated by the staff of the Centre for Combating Human Trafficking over 2006 may serve as eloquent examples:

- A human trafficking network dealing with trafficking to Russia of young girls for sexual exploitation, organized by citizen Sazonov, was in operation for three years and could be liquidated only when the railway transportation was re-directed to avoid Transdniestria region

- Another trafficking network organized by members of a criminal group in Transdniestria, having as destination sexual exploitation in Dubai, the United Arab Emirates, has been recently liquidated. However, the organizer of the network, Mărgărita Zelenin, is safe on the territory of Transdniestria up to this day and there is no opportunity to arrest her

- As a result of international cooperation with law enforcement authorities from the United Arab Emirates, 28 victims of trafficking were identified in Dubai, most of them from Transdniestria, including the organizer of the network, Evghenii Kovalenko

290. One should mention that after the criminal legislation becoming more severe, a large number of offenders, after committing an offence, go to Transdniestria and hide there, while others obtain fake documents to travel further to Russia. Even if they are detained there, the extradition procedure is protracted for years.

Conditions for application of compulsory unremunerated labour in the context of criminal penalties

291. Article 67 of the Criminal Code of the Republic of Moldova regulates the relationships in the area of unremunerated public works as follows:

- Unremunerated labour for the benefit of the community means involvement of the convicts outside his/her basic job or studies in labour as determined by local public authorities

- Unremunerated labour for the benefit of community is set for a period between 60 and 240 hours and shall be executed from 2 to 4 hours per day

- In case of evasion or ill will of the convicted person in respect to labour for the benefit of community, it shall be replaced with imprisonment, one day in prison being equivalent to two hours of unremunerated labour for the benefit of community

- Unremunerated labour for the benefit of community shall not be applied in respect to persons recognized as first and second degree invalids, the military, pregnant women, women with children under eight years, persons under 16 and retired people

- Unremunerated labour for the benefit of community may be delivered for maximally 18 months, the time being calculated starting on the date of pronouncement of the final court decision

Labour exploitation of children in families

292. Current criminal legislation of the Republic of Moldova does not expressly provide for the offence "labour exploitation of children in families". However, we can mention the fact that the lawmaker provided for criminal responsibility for such action in item 1, letter b) of article 206 of the Criminal Code (trafficking of children), which refers to "exploitation of children through labour or through forced services".

293. "Exploitation of children through labour or through forced services" denotes maintenance of victims in conditions of forced labour either remunerated or unremunerated. "Exploitation through labour" means maintenance of victim in conditions of forced labour either remunerated or unremunerated in order to obtain diverse benefits. "Forced services" denote obliging children to provide some works for the benefit or to the interest of the guilty person.

294. Referring the activity of the Supreme Court of Justice of the Republic of Moldova, on 8 February 2005, a representative of the Supreme Court was included in the working subgroup responsible for the development of a National Strategy/National Action Plan for Combating Human Trafficking, namely the section dedicated to the legal basis for combating human trafficking and organization of monitoring and evaluation of the implementation of the Action Plan.

295. In addition, the Supreme Court made proposals addressed to the Ministry of Justice regarding the above-mentioned plan following its participation in the meetings of the interagency working group. In order to ensure uniform application of the legislation by courts, the Plenum of the Supreme Court adopted Decree No. 37 of 22 November 2004 on law enforcement practices used in cases involving human and child trafficking.

296. Currently within the joint project of the Supreme Court and the Embassy of the United States "Managing cases of human trafficking in the courts of the Republic of Moldova, January 2004-September 2005", a new updated draft Decree is being finalized by the Supreme Court Plenum on law application practices used in criminal cases related to human trafficking.

297. In view of implementing the technical assistance project objectives in combating human trafficking of the United Nations Office for Combating Drugs and Criminality in the Republic of Moldova, the Higher Magistrate Council, by decision No. 11 of 13 July 2006, decided to organize seminars for three working groups, each including three judges, dedicated to the application of legislation in the area of human trafficking. The seminars took place during in October 2006.

Article 9

298. Pursuant to provisions of article 187, paragraph (1) of the Code for Criminal Procedure, the penitentiary administration has the duty to ensure the security of the detained persons, to provide protection and assistance in case of need. In addition, article 225 of the Enactment Code stipulates that in case of danger of the convict's personal security, he/she has the right to address to any penitentiary authority a petition requesting assurance of his personal security. In such case the respective person of authority has the duty to immediately undertake measures to ensure personal safety of the convict or, as the case may be, protection actions on behalf of the state.

299. In respect to categories of arrest, the law in force distinguishes between the following types: arrest as penalty, arrest as preventive measure, and contravention arrest.

300. The arrest as a form of penalty shall be applied based on provisions of article 62 (e) of the Criminal Code, upon final court decision, and it consists of deprivation of liberty of the convict for a period of three to six months. Pursuant to provisions of articles 192 and 195 of the Enactment Code, the penalty by arrest is served in semi-closed regime penitentiaries. The fact should be mentioned that based on the stipulations of Law No. 184 - XVI of 29 June 2006 on modification and completion of some legal acts, the arrest as a form of penalty for physical persons was excluded. Thus, currently the penitentiaries are used for execution of imprisonment and life detention penalties.

301. Arrest as preventive measure is different from arrest as penalty. Thus, arrest as preventive measure in compliance with article 175 of the Code for Criminal Procedure is applied to ensure proper development of the criminal proceedings and to prevent the suspect, the accused, the defendant to hide from criminal proceedings or court when there is a risk of disappearance of the accused, or of his/her putting pressure on witnesses or destroying or deteriorating evidence. The measure is meant to avoid creation of impediments in finding out the truth, as well as to ensure execution of the sentence. Pursuant to provisions of paragraph (9) of article 172 of the Enactment Code, preventive arrest is done in penitentiaries, including isolators for criminal investigation of the Department of Penitentiary Institutions under the Ministry of Justice.

302. The contravention arrest is an administrative penalty, which is set for a term of up to 90 days in accordance with article 55, paragraph 2 (b) of the Criminal Code. The fact should be mentioned that prior to enacting Law No. 211 of 29 May 2003 on the modification and completion of the Criminal Code, contravention arrest was called "contravention imprisonment", this notion being in existence only in the Enactment Code. Thus, in pursuance of article 333 (3) of the Enactment Code, the execution of the contravention imprisonment penalty shall be carried out in penitentiaries.

303. The administrative detention of a person who has committed an administrative offence shall not last more than three hours. In exceptional cases, due to a specific need, other terms for administrative detention may be established by legal acts of the Republic of Moldova. Thus, persons that have infringed the residence rules for aliens and for stateless persons in the Republic of Moldova, the border regime and the regime of the State border crossing posts of the Republic of Moldova, may be detained for a period of up to three hours in order to write the minutes. In case of need, such persons shall be detained for a period of up to three days to determine their identity and clarify the circumstances of the offence. The prosecutor shall be notified about such

cases in writing within 24 hours from the time of detention. Such persons may be detained for up to ten days with the authorization of the prosecutor is they have no documents to confirm their identity.

304. Pursuant to article 20 of the Code for Criminal Procedure on the duration of the prevention detention in the framework of a criminal process, the criminal prosecution and court proceedings shall be carried out within reasonable terms. The criteria for determining the reasonable detention term include the complexity of the case, the behaviour of parties to the process and the procedure for conducting the case by prosecution authority and by the court. The hierarchically higher authority shall verify the observance of the reasonable term for specific cases deferred to court in the respective court instance by ordinary or extraordinary appeal.

305. Preventive measures may be ordered by the criminal prosecution authority or by a court only when there are sufficient reasonable grounds to assume that the suspect, accused or defendant may hide from the prosecution authority or from court, interfere with the establishment of the truth by criminal procedure or commit other offences, pursuant to provisions of article 176, paragraph (1), of the Code for Criminal Procedure. Pursuant to paragraph (2) of the same article, preventive arrest shall be applied only in case of an offence for which the law provides a punishment of deprivation of liberty for a term longer than two years. Pursuant to article 186, paragraph (8) of the Code for Criminal Procedure, when a case has been sent to court, the duration of the court proceedings, if the defendant is under arrest, may not exceed six months in the case of offences with a maximum punishment of up to 15 years of imprisonment. It cannot exceed 12 months in case of offences for which the law provides punishments of up to 25 years of imprisonment or life detention.

306. Pursuant to provisions of article 329, paragraph (1), of the Code for Criminal Procedure, the court has the right, either ex officio or at the demand of the parties upon audition of their views, to order the application, replacement or revocation of the prevention measure applied with respect to the defendant. When new grounds for application, replacement or revocation of the prevention measure have emerged, a new application may be submitted, but not earlier than within one month after the previous sentence entered into force or in the case that no new circumstances have emerged conditioning the new application. Paragraph (2) of this article stipulates that these decisions may be appealed by recourse in the hierarchically higher instance within three days, and only in case that the preventive arrest has been applied, which secures the observance of the human rights of the arrested person provided for in article 5, paragraph 4, of the European Convention for Human Rights.

307. Pursuant to article 345 of the Code for Criminal Procedure, within a maximum of three days from the date when the case was lodged for court examination, the judge, or, as the case may be, the court bench, shall, upon examination of the file materials, set the date for the preliminary hearing and, with the participation of the parties, solve issues dealing with placing the case on the roll. Paragraph (4) (6) of that article expressly provides that issues related to preventive and protection actions are also expected to be solved during the preliminary session.

308. In addition, pursuant to article 351, paragraph (7), when a case is appointed for prosecution in court, the court shall order the maintenance, change, revocation or cessation, as the case may be, of the preventive action pursuant to provisions of the Code for Criminal Procedure.

309. It is worth mentioning that pursuant to provisions of article 2 (e) ("Authorities of the Supreme Court of Justice") of Law No. 789 of 26 March 1996 on the Supreme Court of Justice, the Plenum of the Supreme Court of Justice may adopt explanatory decisions for courts of the Republic of Moldova aiming at uniform application of the judiciary practice and for provision of ex officio explanations, other than the ones related to interpretation of laws. In order to prevent violations related to lack of grounds or insufficient grounds for conclusions on application or extension of the preventive arrest by the courts, the Plenum of the Supreme Court of Justice has adopted the following explanatory decisions:

- No. 4 of 28 March 2005 "On application by courts of certain provisions of the Law on Criminal Procedure related to preventive arrest and domestic arrest", which abrogated the Decision of the Plenum of the Supreme Court of Justice of 9 November 1998, based on the reasoning of article 5 of the European Convention on Human Rights

- No. 19 of 31 October 2005 "On the process of examination by Chisinau courts of criminal proceedings with defendant under arrest", based on articles 5 and 6, paragraph 1, of the Convention

- No. 6 of 27 February 2006 "On outcomes of the review of the judiciary process followed during examination of lawsuits with defendants under arrest and actions to eliminate identified deficiencies in response to requirements stipulated in article 6 of the Decision of the Parliament of the Republic of Moldova No. 370-XVI of 28 December, 2005", aimed at improving the situation related to defendants under arrest

310. Pursuant to article 165, paragraph (1), of the Code for Criminal Procedure, the following persons may be detained:

- Persons suspected to have committed an offence liable for imprisonment for periods over one year

- The accused, the defendant who violated the conditions of preventive actions with non-deprivation of freedom, if the offence is punished with imprisonment

- The convict in respect to whom decisions were taken to annul conviction and conditionally suspend punishment, or annul conditional freedom prior to term

311. The Code of Criminal Procedure law additionally provides for application of constraint actions also in some other cases, such as:

- Catching a person suspected by citizens to have committed an offence and bringing him/her to the criminal investigation authority (art. 168). Any person has the right to catch and forcefully bring to police or other public authority a person caught when committing an offence, or who has tried to hide or run away immediately upon committing an offence.

- Detention of a person based on an order of the criminal investigation authority for conviction (art. 169)

- Detention of an accused person based on an order of prior to arrest criminal investigation (art. 170). In case that the accused person violates the preventive actions applied in respect to him/her or the written commitment to come to the criminal prosecution authority or to court upon citation and to communicate his new place of residence, the prosecutor has the right to issue an order to detain the accused and to submit it to the instruction judge for the application of his/her arrest.

- Detention of a person in result of suspension of the lawsuit due to the fact that an offence has been committed during hearing (art. 171). If during the court session an act is committed which comprises elements of a criminal offence, the chairperson of the session may order identification of the person who has committed the offence and his/her detention. The fact should be mentioned in the minutes of the session. The court makes a ruling to send the materials to the prosecutor and to detain the respective person.

312. The criminal prosecution authority has the right to detain a person suspected to have committed and offence only if the following conditions are cumulatively met:

- The offence is liable of imprisonment for over one year (the condition is mentioned in the law even if there are other alternative punishments)

- One of the situations described in article 166, paragraph 1 (1), (2) and (3) and paragraph 2 of the Code of Criminal Procedure are present as follows:

  (i) If the person has been caught *in flagrante delicto*;

  (ii) If an eye witness, including the injured person, points directly to the person as having committed the offence;

  (iii) If obvious signs of the offence are found on the body, clothes of a person or in his/her residence or vehicle;

  (iv) In other circumstances that serve as grounds to suspect that the person has committed an offence, he/she may be detained only if he/she has tried to hide or has no permanent residence or the identity was not determined (art. 166 paragraph (2)).

313. Pursuant to article 166 of the Code, the detention of an adult based on the grounds listed in paragraph (1) is allowed only prior to registration of the offence in the set way. The file of the offence shall be open immediately, but no later than three hours from the time when the detained person was brought to the criminal investigation authority. Whenever the fact which served as grounds for detention was not filed in due manner, the person should be immediately released. The detention of a person according to this article shall not exceed 72 hours from the time of detention; the maximal detention time for a minor is 24 hours (art. 166, paragraph (4)).

314. The duration of detention shall be counted from the time of the deprivation of liberty, which in all cases is the time of actual detention of the person, that is, the moment of his/her physical capture with the aim of delivering to the police authority. Thus, the time taken to bring

the person to the criminal investigation authority and the time of writing the detention minutes shall be included in the detention duration. If a person has been detained pursuant to article 249 of the Code on Administrative Offences for three hours and it is proven afterwards that the respective fact constitutes an offence, the duration of the administrative detention shall be included in the duration of the procedural criminal detention.

315. Article 166 (5) contains a provision which complies with article 5 of the European Convention on Human Rights, and states that the detained person "should be immediately brought in front of a judge or other magistrate authorized by law to carry out judiciary processes and he/she has the right to be judged within a reasonable term or to be put to liberty during the procedure".

316. Paragraph (2) of article 167 contains an imperative provision regarding the participation of a defendant in the act of communication and handing over to the person the copy of the detention minutes, which complies with article 25, paragraph (5), of the Constitution of the Republic of Moldova. This provision sets the initial time when the lawyer of a detained suspected person can be admitted. The participation of a defence lawyer to this action is mandatory; however, the detained suspected person may refuse a defence lawyer if he/she has been given real opportunities to ensure participation of an attorney to the trial. The wording "to be immediately communicated" presumes the obligation of the investigation authority to carry out this action upon writing the minutes, without delay. The fact should be confirmed by the signature of the detained person in the minutes.

317. If the detained person refuses to sign the detention minutes, the official who has written the minutes mentions the fact in the minutes and the defence lawyer confirms it in writing.

318. In case of detention of a minor, the person carrying out the criminal investigation is obliged to inform the prosecutor and the parents of the minor or the persons who replace them, immediately upon detention. No postponement of a detention notification of a minor is allowed (art. 167, para. 3).

319. As far as the frequent administrative detention of persons qualified as "vagabonds" is concerned, they are placed in the Centre for Screening Vagabonds and Beggars of the Chisinau General Police Commissariat based on a decision of the Chisinau Prosecutor's Office. This is made familiar to the detained person and confirmed by his/her signature. In 2006, 2,452 persons were temporarily detained in the Centre.

320. The draft Code on Administrative Offences foresees that a person who is under administrative detention should enjoy the following rights:

- In a contravention procedure, the competent authority is obliged to ensure full enjoyment of procedural rights to parties and other participants in the process according to the law

- During the contravention process, the parties have the right to be assisted by a defence lawyer

- When a contravention case has been initiated, the competent authority is obliged to notify the person liable for contravention responsibility about his/her right to have the assistance of a defence lawyer

- If the person liable for contravention arrest has not chosen a defence lawyer within at least three hours from the time of detention, a lawyer shall be appointed ex officio

- A person in respect to whom a contravention process has been started and a contravention penalty has been established through final decision, or a person in case of whom the contravention responsibility or the execution of the contravention penalty has been revoked by final decision is called offender

321. The person in respect to whom a contravention process has been started has the right:

- To defence

- To knowing the imputed act

- To written information and explanation of rights pursuant to this article, including the right to keep silence and not to testify against himself/herself, against close relatives, spouse, fiancée, or the right to plead not guilty

- To have the hearing in the presence of a defence lawyer if the person accepts or requests hearing

- To be provided within maximally 24 hours with an ex officio defence lawyer in case of detention, if the person is liable for contravention arrest

- To have confidential meetings with the defence lawyer, with no limitation as to the number or duration of the meetings

- To learn the contents of the file materials

- To submit evidence

- To submit applications

- To challenge the decision on the case

- To plead fully or partially guilty of imputed action

- To notify in case of detention, through a competent authority, at least two persons of his/her choice about the fact and place of detention

- To express his/her lack of recognition of the representative of the competent authority, expert, interpreter, translator, court clerk in examination of the contravention case

- To request audition of witnesses

- To make objections against actions of the investigator and to request entering his/her objections in the minutes
- To make himself aware with the minutes prepared by the investigator and to make objections related to its correctness, to request adding of circumstances which, in his/her opinion need to be mentioned in minutes
- To contest the decision of the investigator in court
- To contest actions of the investigator, prosecutor and court
- To be informed by the investigator about all decisions issued regarding his/her rights and interests, to receive, upon request, copies of such decisions
- To challenge according to legal procedure the actions and decisions of the investigator or the court, including the court decision
- To withdraw any complaint submitted personally or by the defence lawyer on his/her behalf
- To reconcile with the victim in conditions provided for in the Code
- To seek and receive remedy of damage caused by illegal acts of the investigator, or of the court

322. According to statistical data, between January and December 2005, 704 petitions were received by ombudsmen from detainees. 380 petitions referred to personal safety and dignity. From one year to another, the range of problems does not differ much. The situation is dissatisfactory in the following areas: detention conditions, inadequate behaviour of penitentiaries' staff and staff of provisional detention facilities; access to information, access to adequate health care.

Article 10

323. It is worth mentioning that notwithstanding the currently difficult situation in prisons, significant improvements have been made as recommended by the CPT. Pursuant to provisions of paragraph 141 of the report on the CPT visit from 20-30 September 2004, the Republic of Moldova was supposed to submit, within six months, a report on the implementation of recommendations made by the CPT and on reaction to the requirements and findings of the CPT, except for items 62 and 101. The report was sent within three months.

324. An action plan was developed and approved for the implementation of CPT recommendations; and sent to penitentiaries for implementation. Since the budget of the Department for Penitentiary Institutions has no funds for such actions (the funding allocated to penitentiaries in 2005 amounted to about 47- 48 per cent of the needs) full implementation of CPT recommendations would be impossible in a short time. They could be implemented only during a more extended period (for example, until 2013, according to the Concept for the

Reform of the Penitentiary System, especially its area related to provision of minimal space of 4 sq. meters to each inmate and creating conditions for placing 2 to 4 inmates per a cell). Thus, the following was achieved.

325. Paragraphs 54-56 and 59 of the CPT report described the general situation in the penitentiaries visited. Findings indicated insignificant changes and the existence of the same problems that were identified during the 1998 and 2001 visits, as far as the material aspects and the detention regime were concerned. Among the most common problems exposed in the report, overpopulation one is prominent. In order to address this, the Concept of Reforming the Penitentiary System over the period 2003-2013 was developed and approved on 31 December 2003 by Government Decree No. 1624, thus anticipating the adoption and enacting of the new Enactment Code. Based on this Concept the renovation of penitentiaries was initiated to facilitate detention conditions in compliance with minimal European standards and with the provisions of the new Enactment Code, including the observance of the requirement of a minimum of 4 sq. meter space per inmate. At the end of 2004, a new building with a capacity for 100 inmates was commissioned for use in Penitentiary No. 1 in Taraclia, and the tuberculosis hospital in Penitentiary No. 17 in Rezina reached its first phase of construction. In 2005, construction works went on in these penitentiaries. Thus, as of the end of 2005 a new prison block has been commissioned for use in Penitentiary No. 1 - Taraclia and a block for diagnosis with some dependencies - in the hospital of Penitentiary No. 17 - Rezina, each with a capacity of 100 places based on the 4 sq. meter per inmate requirement.

326. Regrettably, the State budget constraints allow the funding of the Concept for reforming the penitentiary system only at 30-37 per cent, which creates important impediments to its full implementation.

327. In view of the recommendation on application of all possible means for the practical implementation of relevant provisions of the new criminal legislation enacted in 2003, the Plenum of the Supreme Court of Justice adopted Decree No. 16 on 31 May 2004 “On practical implementation of the individual approach principle to criminal punishment”, in which the way of implementation of the individual approach principle to criminal punishment as well as the principle of applying alternative punishments to the deprivation of liberty are established.

328. Aiming at a decrease of the limits of the criminal penalties and an increase of the number of offences for which alternative punishments may be applied, the Law No. 184 “on modification and completion of the Criminal Code” was developed and adopted on 29 June 2006.

329. The amendment and completion of the Code for Criminal Procedure were envisaged for 2006 to regulate the procedure for re-transfer of detainees from prisons to criminal investigation premises. In addition, on 16, August 2004, in connection with the 10th anniversary of the adoption of the Constitution of the Republic of Moldova, the Law on Amnesty No. 278 was adopted, which contributed to a reduction of overpopulation of cells. Following the implementation of this law, as per July 01, 2005 a number of 1,323 convicted persons were released from the penalty execution and 3,320 convicts benefited of a reduction of punishment term.

330. According to paragraph 57 of the CPT report, all competent Moldovan authorities should be involved in the practical application of the Concept of Reforming the Penitentiary System. However, given the budget constraints, on 18 February 2004, letter No. 1227 was developed and sent to international organizations, including to the International Monetary Fund, World Bank, the Council of Europe, Organization for Security and Cooperation in Europe and other organizations, as well as to embassies and diplomatic representations accredited in the Republic of Moldova with a request to grant technical assistance for the implementation of the Concept. So far no positive responses have been received. Taking into account the above, the Concept is being implemented partially, within the limits of the State budget investments. Measures foreseen in the Concept that do not require funds have been practically entirely implemented.

331. In paragraphs 60 to 62 and 131 of the CPT report inhuman and degrading treatment is invoked, in particular of the staff hitting convicts with fists and feet. We want to mention that over the last year no complaints have been received from convicts invoking illegal application of physical force and special means. More than that, application of physical force and special means is done in strict compliance with provisions of the law in force, and the Prosecutor's Office is informed of each case of such application.

332. No degrading treatment of detainees by the staff is allowed by the administration of penitentiaries. In this context, in order to fight and prevent such practice, the staff of penitentiaries attends initial training courses and continued re-training.

333. We would like to state that no application of gas with respect to detainees during their search in the disciplinary isolator did take place, since the penitentiary has not had gas for more than five to seven years.

334. Paragraph 63 of the CPT report requires that data be provided on the a number of cases in which force was applied since 1 July 2004 and the number of cases subjected for examined by prosecutors as well as actions undertaken following these examinations. Between 1 July 2004 and 1 September 2005, 279 cases of application of physical force and special means occurred in the penitentiaries of the country. In respect to these cases, documents were prepared and the Department for Penitentiary Institutions and the General Prosecutor's Office were informed. The examination carried out by the representatives of the General Prosecutor's Office found no illegal application of force. Moreover, at present, the staff of penitentiaries periodically attends seminars and lectures on observance of the humanitarian principle and non-application of torture, physical and mental violence with respect to convicts.

335. As concerns paragraphs 64 to 69 and 132 of the CPT report on the distribution of convicts by castes (groups according to some hierarchy and authority) and, respectively, the violence emerging among these groups, such practice is not accepted by the staff of penitentiaries and actions are undertaken to fight it. However, bearing in mind that the practice is traditional within the penitentiary environment, which has been carried on for years, its suppression is very difficult.

336. The administration of penitentiaries undertakes all possible actions not to allow physical violence among convicts. The work of the staff is organized in such a way so as to have representatives of the administration with the minors from wake to sleeping time. A post for continuous supervision during night-time was established close to the sleeping rooms of the detainees.

337. When certain danger to life or health of some detainees or danger of some detainees' committing crimes against other detainees is identified, and in order to eliminate conditions endangering the detainees' life and health, the representatives of penitentiary administration undertake urgent actions to transfer and isolate such persons in a safe place, where their security is ensured and conditions threatening their life and health are eliminated.

338. In pursuance to the recommendations contained in paragraph 69 of the CPT report, in order to fight violence among convicts, the Department for Penitentiary Institutions has developed and approved by Decree No. 168 of 2 September 2005 a strategy to combat violence in penitentiaries aimed at orientation and increase of activity on the observance of rights and freedoms of detainees by reducing violence both among convicts and in relationships between staff and detainees. The basic tasks of the strategy are the observance and protection of fundamental rights and freedoms of the detainees, such as the right to life, health and dignity; prevention and refraining from any action that entails discrimination of detainees for reason of ethnicity, race, nationality, gender, confession, language, belief or for any other reason, objective approach to detainee's problems in compliance with rules for order and discipline set in the penitentiary; positive impact on convicts behaviour by encouraging them to assume responsibility for their actions and to participate in socially useful activities, establishment of detention conditions in compliance with sanitary and hygiene requirements and with minimal international standards; prevention of conflicts between detainees and undertaking actions for the prevention of their occurrence in the future.

339. Paragraphs 70 to 75 and 133 of the CPT report recommend a review of policies for penitentiary management of convicts convicted to life imprisonment, of which there are 70 at present. In this context, in 2004, three new cells were repaired and put into use for life imprisonment detainees in Penitentiary No. 17 in Rezina, and in 2005 another six cells were commissioned. This allowed increasing the detention space for this category of detainees.

340. Aiming at involving the convicts with life sentences of Penitentiary Nr. 17 in educational activities, three rooms were repaired and partially equipped to support: computer training activities, musical training, sports, work for production of art items. Representatives of various creeds and non-governmental organizations frequently visit the persons convicted to life imprisonment within cultural programmes. They also benefit from unrestricted access to mass media and TV and radio programmes.

341. In order to create normal conditions for meetings of the convicted to life imprisonment of Penitentiary No. 17 with their relatives, the short-term visiting room was renovated and the plan exists to replace the iron grating with an organic glass wall.

342. Referring to the practice of keeping life imprisonment detainees in handcuffs, the total abandonment of the practice is currently not possible for security reasons. At present handcuffs are used for this group of convicts only when they are escorted.

343. Paragraphs 76 to 85 and 135 of the CPT report relate to detention conditions in the visited penitentiaries. In the context of CPT recommendations and in pursuance of the Plan on Urgent Actions for the improvement of the situation in Penitentiary Nr. 13 in Chisinau, renovation of 129 cells in a degraded state was undertaken as well as fitting them up with beds and utilities necessary for the detainees. Because of overpopulation and lack of detention space it was decided to use cells No. 17 and 38 as quarantine rooms for the detention of persons for a maximum of three to six days until their displacement to other rooms.

344. The nutrition of detainees in penitentiaries is carried out in accordance with diets based on the Government Decree mentioned in article 2, in conformity to which the diet includes grits, vegetable oil, vegetables, tea, sugar and bread in the necessary quantities. Meat products are included in diets of all groups of detainees, upon availability of funds. The diet of most vulnerable groups of detainees (the sick, minors and women) includes dairy and fish products. The diet of the detainees is also improved by foodstuffs from humanitarian aid and donations from various non-governmental organizations.

345. Implementation of the Concept for Reforming the Penitentiary System will bring about a gradual reduction in the number of detainees per cell and provision of more space to achieve the requirement of 4 square meters per detainee, as well as improvements of detention conditions.

346. For the establishment of labour programmes as recommended in paragraphs 86 to 88, 114 and 136 of the CPT report, actions were undertaken to open three new production lines for polymer tiles, wall construction stone (fortan type) and sidewalk paving stones. In August 2005, 20 more convicts were assigned to do manual sewing of shoes, leading to an increase of production in Penitentiary No. 4 in Cricova.

347. Educational programmes exist for the organization of sports and entertainment activities in penitentiaries. One should mention here that in penitentiaries psychologists and social workers carry out programmes for mediation, social reintegration and training. The representatives of religious creeds carry out various activities and provide spiritual assistance to the convicts. Non-governmental organizations also organize educational, cultural and sports events activities in cooperation with the administration of penitentiaries. With the support of the NGOs, training of the staff is carried out in issues related to the observance of human rights. Help is provided to detainees in the area of social assistance, legal and healthcare issues. However, in order to increase the range of sport activities, there is a need of additional funds to purchase necessary equipment which is currently unavailable.

348. In the context of assigning high priority to education and acquisition of an occupation, a number of meetings were held with the Ministry of Education and Youth for discussion of the procedure and ways for implementation of an educational and training programme for minor detainees.

349. In order to organize and implement education and sports activities for minor detainees, the sports rooms in Penitentiary Nr. 13 in Chisinau were repaired. The rooms were partially fitted up with sports equipment and the minors are allowed to practice sports during two hours a day, in addition to the walk hours.

350. In order to implement recommendations of paragraphs 89 to 91 of the CPT report, the nursing staff of Penitentiary Nr. 4 in Cricova was increased, with only two positions of doctor's assistants, for the reason that they are supposed to provide only out-patient healthcare services (specialized and qualified healthcare services are provided in the penitentiary hospital), whereas the number of doctors is optimal for this institution. Additional healthcare positions were added in other penitentiaries.

351. As far as provision of medicines is concerned, as stated in paragraphs 94 and 137, it should be mentioned that in 2004 allocations for healthcare amounted to 800,000 lei and 1 million lei in 2005, which is not enough to meet all the needs of the penitentiaries in medicines.

352. As recommended in paragraphs 95 and 96, in 2005 the staff of Penitentiary Nr. 16 in Pruncul (penitentiary hospital) was supplemented with the following new positions: doctor-laboratory assistant - 1 position, radiologist - 1,5 positions, paediatrician - 0,5 position, nurses - 3 positions, doctor's assistants - 2 positions.

353. With regard to recommendations contained in paragraphs 103, 104 and 137 of the CPT report, it should be mentioned that in healthcare institutions of penitentiaries the information of tuberculosis patients about the natural evolution of the disease and eventual side effects of treatment is carried out in interviews with the doctor during the visit, through training of patients by radio, and organization of a contest for the best information poster in tuberculosis treatment. The issue is also addressed in the "National Programme for tuberculosis control and prevention for 2006-2010 (Strategy X)" under the heading „Organization and implementation of communication, awareness raising and education and information activities", which includes:

- Appointing a national communication coordinator on tuberculosis and establishment of a technical working group on tuberculosis

- Organization of a communication campaign related to the objectives of the National Programme

- Establishment of support groups for tuberculosis patients and their families through peer-education programmes, including in penitentiaries, aimed at building a correct attitude towards treatment of tuberculosis in conformity with the Directly Observed Therapy Short Course (DOTS) Strategy, and raising patients' awareness of treatment for multi-drug resistant tuberculosis and TB/HIV/AIDS co-infection

354. In addition, other activities are organized such as:

- Dissemination through mass media of information about ways of tuberculosis transmission, prevention, diagnosis and treatment

- Issuing brochures, flyers and posters with information on classical tuberculosis, multi-drug resistant tuberculosis and TB/HIV/AIDS co-infection

- Organization of communication activities, such as "Education TB week", among vulnerable groups (migrants, unemployed, etc.)

- Creation of documentary movies, TV and radio programmes about the tuberculosis in the country, its diagnosis, treatment, prevention, etc

- Organization of actions on the International Day on Fighting Tuberculosis

355. With respect to paragraph 105 of the CPT report, the sustainability of medicine supply for the treatment of tuberculosis and antibioticograms to find out drug resistance is ensured by the World Bank and the Global Fund up to the year 2008.

356. Ensuring continuity of treatment in TB patients upon their release from detention constitutes an important factor. To achieve this, the National Programme for Combating Tuberculosis, in cooperation with the NGO "Carlux" and the Royal Dutch Organization for Combating Tuberculosis in Moldova, has developed a pilot tool including incentives for patients to finish their tuberculosis treatment. The patients, who are new cases and the recurring ones, receive 170 lei monthly.

357. Along with implementation of the DOTS-Plus pilot project, in December 2005 ten patients with multi-drug resistant tuberculosis were placed in the tuberculosis hospital of P-16 penitentiary. At present, they are undergoing treatment and receive an amount of 320 lei to ensure continuity of the treatment for a period of 24 months. Anti-tuberculosis medicines from centralized sources were provided for the support and treatment of chronic patients in the penitentiary system hospitals. 13 training courses for doctors, doctor assistants and laboratory workers were organized aiming at improving the qualification of healthcare staff of penitentiaries in the area of the new DOTS and DOTS-Plus strategy.

358. In accordance with the "National Programme for Antiretroviral Treatment of HIV/AIDS Infected Person" 30 persons were being provided with antiretroviral treatment, which, as confirmed by laboratory investigations, has led to an improvement of the immunology status of 20 of them.

359. With reference to conditions of detention of convicts who have declared hunger strike (para. 107 of the CPT report), following the order of the Ministry of Justice No. 529 of 26 November 2004 and in coordination with the Ministry of Health, the "Guidelines on detaining conditions of convicts that have declared hunger strike in penitentiaries and their enteral nutrition when they give up strike" was approved, which regulate detention conditions of persons who have declared hunger strike in penitentiaries. It bans the application of forcible means for physical and mental restraint in case of parenteral nutrition of detainees who have declared hunger strike.

360. The need for parenteral nutrition of hunger strike convicts is determined by the doctor, depending on their state of health. For each separate case of parenteral nutrition an entry is made in his/her healthcare records (date, administered preparations, doses, postinfusion reactions, signature of responsible person). Parenteral nutrition shall be accompanied by periodic paraclinical examinations.

361. Parenteral nutrition shall not be applied or shall be discontinued if the convict consciously refuses nutrition or undertakes actions that make such treatment difficult. The problem shall be

addressed in an individual manner based on doctor-patient relationship. When the state of the convict becomes better the parenteral nutrition is discontinued and an entry to such effect is made in his/her healthcare records.

362. During the rehabilitation period after giving up the hunger strike, the diet of the convict envisages a gradual increase in intake of nutrition.

363. With respect to paragraph 108 of the CPT report, we communicate the following: in Cricova Penitentiaries No. 4 and No. 15, and Penitentiaries No. 7 (in Rusca), No. 18 (Branesti) and No. 6 (Soroca), as of June 2005, the Syringe Exchange Programme is being implemented for drug addicts. In these penitentiaries the representatives of healthcare services and educational staff (social workers, psychologists), with the involvement of non-governmental organizations, carry out programmes for the social rehabilitation of HIV-infected convicts: lectures, trainings, social and legal counselling, etc. In addition, methadone substitution treatment for opiates addicts has been initiated. Thus, upon finalization of the entire set of preparative actions for the launch of this programme, treatment started on 19 July 2005 under the supervision of a doctor who underwent re-training in the area, in the Division for contagious diseases of Penitentiary No. 16 in Pruncul.

364. In conformity with the recommendations contained in paragraphs 109 and 138, the information on general rights and duties of convicts placed in disciplinary isolators is read to them upon their arrival to the penitentiary. This information on rights is also displayed on posters. Regarding the right to protest the decision of being placed in a disciplinary isolator, upon adoption of the Enactment Code, along with opportunities existing earlier, the Complaints Committee was established. Thus, as of 1 January 2006 convicts have the opportunity to make complaints, including protesting against decisions on their placement in disciplinary isolators. During the examination of the legitimacy of placement of the convict in the isolator, the respective decision of the penitentiary administration shall be suspended until such time when the Complaints Committee rules on its legitimacy or illegitimacy. Moreover, such decisions may be protested by referring to an Ombudsman, as well as to other national institutions.

365. As far as material conditions in disciplinary isolators are concerned, referred to in paragraphs 110 and 113 of the CPT report, the renovation (cosmetic) of disciplinary isolators of Penitentiaries No. 4 and No. 15 in Cricova, No. 17 in Rezina and No. 13 in Chisinau is carried out on an annual basis. However, at present, their capital repair is not possible due to lack of funds. The disciplinary isolators of these penitentiaries have been equipped with reliably fixed tables and chairs. In Penitentiary No. 2 in Lipcani , renovation was carried out in five cells of the disciplinary isolator, including the installation of pipes for drinking water supply, change of the heating system pipes, and repair of chairs and tables. Similarly, the cell type rooms of all penitentiaries are to be reconstructed in order to create conditions for initial detention regime in compliance with the requirements of the Enactment Code.

366. Regarding statements contained paragraph 111 related to providing walk opportunities for convicts placed in disciplinary isolators, it is true that the old criminal enactment Law provided that the convicts were placed in the disciplinary isolators for violating the detention regime and were deprived of the right to a daily walk outside the cell. However, pursuant to provisions of article 234 of the Enactment Code, as of 1 July 2005, this category of convicts enjoys daily walks lasting one hour for adults and two hours for minors.

367. In respect to recommendations contained in paragraphs 112 and 115 related to convicts who are declared "fraudulent offenders", it is necessary to state that, in compliance with the provisions of the Enactment Code, placement of these groups of convicts in cell-type rooms will no longer take place. Pursuant to the criminal enactment legislation, this category of convicts will be sent back for execution of their penalty to the initial regime of the penitentiary in which they were placed, with observance of the rights and duties associated with this type of regime, including the right to short-term visits.

368. With reference to previous decisions stipulating the declaration of convicts as being "fraudulent offenders of the detention regime", we inform that in July-August, 2005 all these decisions were re-examined in the penitentiaries, as well as the decisions on placement of convicts in cell type rooms. No violation of the law was found in the issuance of these decisions. The control showed that upon examination of the case the convicts are offered information about the grounds of such decisions, and they have to sign as confirmation. If a convict refuses to sign, a record is made to that effect. In addition, pursuant to provisions of the law in force, detainees have a right of recourse against decisions of the administration they disagree with. The recourse may be addressed to the prosecutor, judge, ombudsman and other State authorities, as well as to the Department for Penitentiary Institutions. One should mention that the Complaints Committee is operational as of 1 January 2006, and is the competent authority to examine and resolve detention problems.

369. Referring to the visiting conditions and correspondence, commented in paragraphs 116-117, the penitentiary administration, in compliance with the law, may and does allow visits to detainees under prevention detention only with the permission of the criminal investigation authority that is investigating the case.

370. Regarding the visit fee, its collection for short-term visits was banned by Order of the Department for Penitentiary Institutions No. 79d of 3 May 2005. The fee for long term visits cannot be abolished at present, given the fact that the system of penitentiaries has no funds to cover such expenditures, including electricity consumed during the visit, water and other utilities.

371. It is mentioned in paragraphs 66, 119-121, 138 of the CPT report that adequate recruiting and training of penitentiary staff is the most effective guarantee against inhuman treatment. Aiming at creating a body of qualified staff, the Training Centre of the Department for Penitentiary Institutions was established by Government Decree No. 1119 of 14 October 2004 for initial training and re-training of penitentiary system staff. In this context, for the implementation of the provisions related to staff training on non-application of inhuman treatment and practical application of an efficient policy for initial training and re-training, two training plans were developed for 2005, which supplement each other and together are expected to contribute to the realization of the CPT requirements.

372. The first training plan refers to continuous staff training, organized on an annual basis for the staff of penitentiary units, based on a programme of professional training approved by the management of the Department for Penitentiary Institutions. The second training plan refers to initial training (for one to three months) and re-training of the penitentiary staff (up to one week) divided in groups according to their profile, organized by the above-mentioned centre. At the end

of training, the knowledge of the trained staff is evaluated based on tests. The fact should be mentioned that training plans for all levels of staff training include hours of training on human rights issues, study of the Convention on Torture, as well as study of other international documents that have provisions in this area. In order to increase the efficiency of training, three training seminars were organized for the penitentiary system within the National Plan for Safeguarding Human Rights, one for deputies of education unit managers, as disseminators, and two seminars for inspectors for professional training as trainers who are supposed to carry out professional training for the staff of penitentiaries in issues dealing with observance and safeguarding human rights with specific focus on non-application of inhuman treatment.

373. In this context and taking into consideration the recommendations of the Council of Europe, the Code of Ethics of the staff member of the penitentiary system was developed and approved by Order No. 307 of 4 August 2005 of the Ministry of Justice. The Code is meant to contribute through its provisions to the promotion of a dignified and adequate staff behaviour, compatible with inhuman treatment and the promotion of a new personnel policy. Performance evaluation criteria were also developed for the penitentiary system staff. An evaluation sheet will be added to the criteria, comprising evaluation objectives. Upon approval, the evaluation objectives will be used for efficient recruitment and fair evaluation of the penitentiary staff in compliance with standards and requirements hereto.

374. With respect to labour conditions of the penitentiary staff, we would like to mention that they also depend on the general economic situation in the country. The fact should be mentioned that on 23 December 2005 Law No. 355 on the system of wages in the public system was adopted, which provides for salary increases for specific positions related to national defence, State security and public order. Additionally, some amendments of the Law on the Penitentiary System (No. 1036 of 17.12.1996) have been developed and are to be promoted, aiming at improving social protection of penitentiary system staff.

375. Referring to this chapter, one should mention that in 2005, 2,551 people were released from detention centres. Based on their applications for help to the Centre for Human Rights, we state that their social integration is difficult. Many persons, when released from correction institutions, have no identity documents, no decent clothes, no money to travel to the place of permanent residence, and no accommodation.

376. Undoubtedly, the State undertakes specific actions for improving their situation.

377. As of 1 January 2006 the amendments to Law No. 297 of 24 February 1999 on social adaptation of persons released from detention were enacted, which provide that persons that have served a penalty by deprivation of liberty are entitled to a one-time indemnity which shall be paid on the date of release by the respective penitentiary. The Government has approved a regulation on the procedure for this payment. Prior to enacting the respective amendments, only persons who had identity documents could receive the indemnity.

378. Lack of identity documents is another obstacle for full integration of former detainees in society, the provisional identity documents (Form F-9) issued by the Ministry of Informational Development being only a temporary solution.

379. Lack of money is not the only reason that makes obtaining identity documents impossible. Lack of living space and of a permanent place of residence is a serious deterrent in the process of social re-integration. It is known that in many cases close relatives of persons that serve imprisonment terms carry out real estate transactions that deprive the detainee of living space, while agencies for book-keeping and documentation of population have the groundless requirement of a residence permit for making identity documents. This vicious circle does not allow for the realization of these persons' rights to free movement, labour, and healthcare.

380. Separate detention of convicts in penitentiaries is provided for in article 224 of Enactment Code. Thus, in penitentiaries the detainees shall be detained:

- Women - separately from men
- Minors - separately from adults
- Persons detained under preventive arrest - separately from the convicts
- Persons convicted for the first time - separately from persons that had previous preventive arrests or have un-served criminal antecedents
- Persons convicted to the arrest penalty - separately from imprisonment penalty detainees
- Persons convicted to life imprisonment - separately from any other convicted persons
- Persons convicted for committing a group offence - separately from participants in the same offence
- Convicts commuted to initial detention regime as disciplinary sanction - separately from persons convicted to initial regime for the first time
- Convicts, who in view of their previous positions could be liable to acts of revenge - separately form other convicts
- Convicts who have the right to movement without escort or accompanying personnel - separately from other convicted persons

381. Also, aiming at increasing the safety of the convicts or at creating conditions for their treatment, the administration of the penitentiary may apply other criteria for separate detention of convicts, in addition to those specified above. In view of separating the detainees based on their regime according to the above-mentioned criteria as established by the penitentiary commission, a decision was taken by Order of the Ministry of Justice No. 327 of 18 August 2005 on the establishment of types of penitentiaries and sectors of detention, in the form of separate sectors.

382. In view of ensuring social reintegration of the convicts, the Department for Penitentiary Institutions has developed socio-educational programmes that are currently being implemented in the penitentiaries of the country. Among them are:

- Programme “PROSOCIAL”on the preparation of the detainees for their release from detention

- Programme on the preparation for commutation to conditional release before the end term

383. With respect to the area of social reintegration of the detainees we inform that currently, the system of probation is being implemented, which aims at rehabilitation and social reintegration of persons, both minors and adults, who have violated the law. It is meant to be applied at any stage of the criminal proceedings (probation during the pre-sentence, sentence and post-sentence periods). The Enactment Department has developed to this end a draft government decree on creation of the probation service and the draft law on probation.

384. The implementation of the institution of probation and of alternatives to detention is based on the recommendations of the Committee of Ministers of the Council of Europe, as follows: Recommendation No. R22(99), of 30 September 1999; Recommendation R(97)12 of 10 September 1997 and Recommendation R (2003)22 of 24 September 2003. Also, it is in accordance with the stringent need of the State to decrease the number of detainees in penitentiaries and to educate a sound society.

385. The Committee of Ministers of the Council of Europe expressly recommends in respect to persons convicted to mild and less serious penalties the application of conditional and community penalties (alternative to detention), oriented towards essential reduction of the number of detainees in penitentiaries and their correction in the state of liberty, under the supervision of persons with adequate training in the area and benefiting of educational, preventive and social and moral rehabilitation services within a comprehensive programme of actions towards this end.

386. Thus, implementation of the Probation Service is expected to have beneficial effects for the Republic of Moldova, bearing in mind the overpopulation of penitentiaries, which leads to enormous expenditures by the State for maintenance of the penitentiary system and favours the spreading of infectious diseases, especially of tuberculosis, which is a negative element affecting the entire society.

Article 11

387. Article 51, paragraph 2, of the Criminal Code stipulates that criminal responsibility lies only with the person guilty of a criminal offence provided for in the criminal offence law, while paragraph 3 provides that application of the criminal law by analogy is prohibited. The person who has a civil obligation may not be subjected to criminal responsibility.

388. Pursuant to article 8, paragraph 2, of the Civil Code, the civil rights and duties originate from:

- Contracts and other legal acts
- Acts issued by a public authority stipulated in the law as grounds for origination of civil rights and obligations
- Court decisions in which rights and obligations are stated
- Creation and obtaining property in ways that are not banned by the law
- Development of scientific works, creation of literary, arts works, inventions and other products of intellectual activity
- Incurring damage to other person
- Obtaining wealth with no fair reason
- Other acts committed by physical and legal persons and events listed by the legislation as having judicial effects in civil matters

389. Civil responsibility arises from contracts and offences. Defence of civil rights that have been violated as stated in article 11 of the Civil Code, can be ensured by the following methods:

- Recognition of the right
- Restoration of the situation prior to the violation of the right and suppression of actions violating the right or creating danger of such violation
- Recognition of the juridical act as null and void.
- Declaration of the act issued by a public authority as null and void
- Imposing execution of the in-kind obligation
- Self defence
- Remedy of damage
- Collection from a criminal clause
- Remedy of moral damage
- Elimination or amendment of a legal provision

- Non-application by a court of the act issued by a public authority that contradicts the law

- Other ways allowed by the law

390. Chapter VI, Book Three, of the Civil Code spells out measures securing the execution of obligations stated herein: criminal case, prepayment, debtor's guarantee, and retention. In addition, a way to guarantee the execution of obligation is the contract regulated by articles 1146-1165 of the Civil Code.

Article 12

391. Article 27 of the Constitution of the Republic of Moldova expressly stipulates these inherent rights of each person, namely: "The right to move freely within the boundaries of one's native country is guaranteed. Every citizen of the Republic of Moldova has the right to choose his place of residence anywhere within the national territory, to travel in and out of the country, to emigrate and return to the country".

392. The guarantee of observance of the above-mentioned rights with respect to aliens and stateless persons is underlined in the Law on legal status of aliens and stateless persons in Republic of Moldova, article 10 and, respectively, article 16:

- "Aliens and stateless persons residing in the Republic of Moldova have the right to a place of residence similar to the citizens of the Republic of Moldova".

- "Aliens and stateless persons have the right to move within the territory of the Republic of Moldova and to acquire residence in ways allowed by the effective legislation".

393. Pursuant to article 7 of Law No. 269 of 9 November 1994 "On going out of and coming back to the Republic of Moldova", records shall be kept on aliens and stateless persons arriving to the Republic of Moldova upon their crossing of the State border, by entering data of their identity documents into the State Register of Population. A note applied for the purpose by the border guards of the Republic of Moldova in their national identity documents at the moment of the State border crossing and confirmed by information entered into the State Register of Population is taken as ground for legal residence of aliens and stateless persons within the territory of the Republic of Moldova for a period of up to 90 days over a period of six months. Aliens and stateless persons who have entered the Republic of Moldova for a period of over 90 days may take temporary or permanent residence only upon obtaining an immigrant certificate or confirmation of repatriation issued by competent authorities. Based on such documents residence permits or identity documents are made for stateless persons. The residence permit shall be issued in compliance with the procedure set up in the law in force.

394. In pursuance of the above-mentioned Law, the citizens of the Republic of Moldova have the right to leave and come back to the Republic of Moldova based on a passport, and refugees - based on a travel document issued by competent authorities. The denial to issue a passport or a travel document incurs property obligations of physical and legal persons in respect to the State, as ruled by the court.

395. The Decree on approval of amendments in Annex 1 to the Government Decree No. 376 of 6 June 1995, No. 286 of 17 March 2006 states that persons residing in the territory of the Republic of Moldova are citizens of the Republic of Moldova, and aliens and stateless persons are considered to be inhabitants of the Republic of Moldova. Record-keeping of the inhabitants of the Republic of Moldova shall be done by competent authorities where the place of life or residence of the person is located.

396. In cities and towns the decision on registry of citizens is taken by the head of the section *(bureau)* for record keeping and documentation of the population, while in other localities - by persons responsible for record-keeping of inhabitants in the jurisdiction of local public authorities. Local public authorities shall carry out record- keeping of inhabitants in their jurisdiction and provide the data within 48 hours to the Ministry of Informational Development, which is responsible for updating the data of the automated informational system "State Register of Population" with the assistance of its territorial units that report to it. A physical person may have permanent and temporary registration.

397. The residence registration is done by applying a special seal on the accompanying sheet of the identity card or of the residence permit, while in case of retired people who refuse to have an identity card of the new type on religious grounds - by applying the seal in the old type internal passport (1974 year pattern), showing the respective data in the compartment entitled "Residence", with the subsequent data entry into the State Register of the Population. The residence registration data are considered valid when shown in the identity documents and updated in the State registry of the Population. In case that data on residence registration do not coincide with those entered in the State Register of the Population, the latter shall be deemed authentic.

398. Physical persons who change their residence shall make a registration application to competent authorities in the jurisdiction of their new residence. The applicants to be registered at a new residence are automatically deleted from the old one. The residence application shall be submitted in person or by a proxy authenticated by a notary.

399. Annex I shows the migration processes in the Republic of Moldova for the years 2002-2006.

400. Referring to conditions to be observed by citizens of the Republic of Moldova going abroad for studies, in pursuance of the above-mentioned Law on exit and entry to the Republic of Moldova, minors (schoolchildren and students) who have reached 14 years of age and have been enrolled for study in an educational institutions outside the country shall present on exit and entry of the Republic of Moldova the document confirming the enrolment in educational institutions and the statement of one of the parents on his/her consent authenticated by a notary showing the destination country, aim of travel and period of minor's stay in the country of destination, whereas in case of other legal representatives - their consent expressed through a decision of curator authority. The statement is valid for one study year.

401. Article 22 of the Law on Creeds No. 979-XII of 24 March 1992 (with subsequent amendments and completions) provides that "Involvement of aliens in religions activities, as well as delegation of citizens of the Republic of Moldova abroad towards this end shall be made

individually for each case with the consent of state authorities". In this sense, the State Service is entitled to provide authorization for religions activity of aliens within creeds based on paragraph 11 of item 5 of the Regulation on Structure and Operation of the State Service for Problems of Creeds approved by Government Decree No. 201 of 25 February 2003.

Article 13

402. On 17 May 2006 the Government issued Decree No. 529 "On reorganization of certain central specialized public administration bodies" in conformity to which the National Migration Bureau has been disbanded and its functions have been placed under the Ministry for Internal Affairs and the Ministry of Economy and Trade.

403. Thus, the Ministry for Internal Affairs was designated as the competent authority for the monitoring and coordination of migration processes, analysis and control of observance of legislation in the area of migration and asylum; development of draft legal acts on regulation of legal status of aliens and stateless persons, extension of entry visas and provision of exit visas for exiting the territory of the Republic of Moldova; provision of immigrant status, responsibility to develop draft decrees of the Government on annual immigration quotas, monitoring the completion of the annual immigration quota, management of migration flows to the Republic of Moldova; collection, storage, processing, dissemination and data exchange related to Foreign and internal migration processes; and the maintenance and update, in cooperation with other central public authorities, of the database on aliens and stateless persons staying in the Republic of Moldova. The Ministry of Economy and Trade has taken over functions connected with labour migration and development and implementation of labour migration policies.

404. In these circumstances the need to make amendments to migration legislation has appeared, especially to spelling out the functions of the two assigned institutions, and a draft law on the modification and completion of a number of legal acts was developed and sent for comments. Amendments and completions are proposed for the following acts: Law on Migration, No. 1518-XV, of 6 December 2002, Law on the Status of Refugees, No. 1286-XV, dated 25 July 2002, Law on the Exit and Entry to the Republic of Moldova, No. 269, of 9 November 1994, Law on Prevention and Combating Trafficking of Human Beings, No. 241, of 20 October 2005, Law on State Fee, No. 1216-XII, of 3 December 1992, and the Code on Administrative Offences.

405. Thus, Law on Migration spelling out competencies of the public authorities, which in their capacity of central public administration specialized bodies are assigned functions of management, coordination and regulation of migration processes, including migration of labour force, in collaboration with other central public administration specialized bodies.

406. Given the fact that the functional responsibilities of the National Bureau on Migration have been divided between the two ministries, it appeared necessary to work out a new wording of article 8 (later article 9) of the Law on Migration and to indicate in the contents of the law the new bodies with the responsibilities assigned to each of them.

407. In view of the reasons mentioned above amendments are also proposed to the Law on the Status of Refugees and the Law on the exit and entry to the Republic of Moldova.

408. Given the new functional competencies of the two ministries amendments seem necessary to the Law on Prevention and Combating Trafficking of Human Beings and the Law on State Fees.

409. Taking into consideration that no amendments have been made to the Law on State Fees after the adoption in 1992 of the Law on Migration, it is proposed to modify the notion "labour market employment authorization" and replace it with the wording "labour permit".

410. Amendment proposed in article 31/1 of the Code on Administrative Contraventions is required by the fact that article 191/1 has been amended based on Law No. 324-XVI, of 15 December .2005 and paragraph 1 has been excluded. Thus, paragraphs 2 and 3 of this article have become paragraphs 1 and 2, something that was not indicated in article 31/1.

411. Proposals put forward by interested ministries, as well as comments made by the Ministry of Justice have been taken into consideration during the development of the final version of the draft law.

412. In order to harmonize and adjust the national legal framework to international standards and to ensure execution of Government instruction No. 1210-571 of 22 September 2006, the draft law on the status of aliens in the Republic of Moldova has been developed in cooperation with the Ministry of Foreign Affairs and European Integration and Ministry of Information Development.

413. The draft law includes 11 chapters and 95 articles:

- Chapter I contains general provisions regarding regulated areas, exceptions, terms applied for the purpose of this law, rights and general duties of aliens, and the social economic assistance provided to aliens for their integration in the society

- Chapter II contains provisions regarding entry and exit of aliens on and out of the territory of the Republic of Moldova, the obligations of transporters, cases of entry non-admission to the country, situations during which entry interdiction and period of interdiction are requested. One should mention that two terms are used in the draft law, "entry non-admission" and "entry interdiction". The "entry non-admission" presupposes the situation when the alien is about to cross the State border and certain circumstances appear, based on which he is not allowed to enter on the territory of the Republic of Moldova. The "entry non-admission" also includes cases when the entry to the country is forbidden, or to put it differently, there exist restrictions to entry the territory of the Republic of Moldova for a certain period of time. The draft law also stipulates conditions of exit and non-admission of the exit from the country

- Chapter III contains the regime of visa issue. For the time being the law in force contains no exhaustive and clear regulations regarding types of visa and ways of their issue. Government Decree No. 376 of 6 June 1995 "On supplementary measures in the realization of the national passport System" contains incomplete regulations and regulations which do not comply with present needs of visa issue procedure. The regulation of types of visa as provided in this chapter is based on the visa purpose and on the necessary conditions to be met for their issue. The chapter refers also to visa

issue based on invitation, provided to aliens from certain countries (countries with high migration risk) and based on availability of banking deposits as a guarantee that the alien returns to his country of origin

- Chapter IV spells out the right to temporary stay. Conditions for issuing and prolongation of the right to temporary stay of the aliens at the request of the owners of long-term stay visa are described. The right to temporary stay is granted based on the decision stating the right to stay, issued by the competent authority for aliens. Also, provisions are included here regarding special conditions for granting and prolongation of the temporary stay right depending on the purpose of stay on the territory of the Republic of Moldova

- Chapter V stipulates granting the right of permanent stay to aliens possessing a temporary right. The right to temporary stay may be granted to aliens married to citizens of the Republic of Moldova for a period of at least three years; other categories of aliens, if their residence on the territory of the country is at least five years. The simplified regime stipulates that the right to permanent stay is granted to aliens originated from the Republic of Moldova or born on the territory of the Republic of Moldova and their descendents, irrespective on their present domicile; persons who permanently resided on the present territory of the Republic of Moldova for at least 10 years and went abroad for domicile purposes, studies or treatment; persons set free from detention places outside the territory of the country, who before committing the violation used to permanently reside on the territory of the Republic of Moldova

- Chapter VI stipulates conditions of annulment and revocation of a right to stay and describes cases of annulment and revocation, as well as the procedures of notification of the holder of the stay right about its annulment or revocation

- Chapter VII describes the regime of removing aliens from the territory of the Republic of Moldova. The chapter includes new rulings developed by a number of legal institutions, which are not covered by the law presently in force, and which refer to removing aliens from the territory of the country. The action is realized via the request to quit the territory, return, including return based on agreements of re-admission, voluntary return and expulsion. The chapter also describes new instruments of our legislation like: declaring an alien undesirable in a situation when there exist proved evidence that the person carries out, or intends to carry out, activities that generate danger for national security or public order; taking aliens under public custody in cases when they could not be returned within terms set by law and also in cases when aliens have been declared undesirable, or are due to be expelled but for some objective reasons cannot be removed from the territory of the Republic of Moldova; provisions on tolerating aliens who for the time being cannot be removed from the territory of the country

- Chapter VIII refers to documentation of aliens. At the moment when aliens obtain the right of temporary stay on the territory of the Republic of Moldova they are issued documents confirming this right. The chapter also spells out conditions of documentation of aliens when the latter decide to take up permanent domicile on the territory of the Republic

- Chapter IX Data processing and data protection of aliens. This chapter stipulates ways to maintain records of aliens in the integrated automatic information system. It is placed under migration domain and constitutes a complex system of processing personal data of aliens. The chapter also describes State agencies assigned to organizing these records

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- Chapter X refers to the legal regime to be applied with respect to alien minors. Certain measures are to be taken with respect to unaccompanied alien minors to ensure their security

- Chapter XI contains "Final and Transition Provisions", which spell out the way to cover costs incurred by the removal of aliens from the territory of the country and other measures that need to be taken by the Government to ensure efficient management of migration as well as the necessary actions for the enactment of the law

414. Adoption and implementation of the Law on the Regime for Aliens in the Republic of Moldova seems very adequate in view of the need to ensure a complete, uniform and sustainable regulation of the regime of aliens on the territory of the Republic of Moldova and to introduce a uniform procedure of their documentation. In this context, all conditions exist for obtaining the international community's high confidence in our country, in its intention to effectively and consequently realize European integration and qualitative development of inter-State relations.

415. In order to ensure and maintain public order, security and public morals, the amendment and completion of Law on Creeds No. 979-XII of 24 March 1992 was proposed by introducing a provision obliging creeds registered in the due way on the territory of the Republic of Moldova to obtain the authorization of local public authorities and, respectively, of the State authority for creeds, for the building, lease, and use of premises and buildings for performing religious or cult rituals. The respective proposal was also conditioned by the fact that some NGOs, which operate on the territory of the country under the pretext of studying folklore and culture of other ethnicities, organize unauthorized religious rituals that frequently have a negative impact on human mentality and mental condition.

416. Expulsion of an alien or stateless person from the territory of the Republic of Moldova is stipulated in the Law on the Legal Status of Aliens and Stateless Persons in the Republic of Moldova, the Law on Migration, rules for stay of aliens and stateless persons in the Republic of Moldova, the Code on Administrative Offences and the Criminal Code of the Republic of Moldova.

417. In pursuance of the above-mentioned legal acts, the expulsion consists of forced evacuation from the territory of the Republic of Moldova of aliens and stateless persons who have violated the rules of stay in the Republic of Moldova with the purpose to end dangerous situations or prevent the commission in the future of socially dangerous acts by such persons.

418. Expulsion may be applied as an additional penalty in case the alien has committed an administrative offence.

419. Aliens and stateless persons who have been convicted for committing an offence may be prohibited to stay on the territory of the country. When expulsion is accompanied by imprisonment, administrative arrest or other penalty declared by a court, the execution of the expulsion shall be carried out upon execution of the penalty.

420. Aliens that endanger national security, public order or morale, or when entry and stay in the country are effected in violation of the legislation, that is, they are found in the country with no valid entry visa, residence permit or identity card, or show expired entry visas, residence permits or identity documents, violate customs or currency laws, avoid medical investigation or AIDS testing, or they have brought or are trying to illegally bring other aliens into the country, or have used different fake documents or have declared fake personal data in order to obtain an entry visa, a residence permit or an identity card, avoid leaving the country upon expiry or reduction of their allowed stay, shall be expelled from the Republic of Moldova.

421. The alien or stateless person shall be expelled to the country of his/her citizenship or the country that provided him/her identity documents or, based on international agreements, to the country from which he/she entered the territory of the Republic of Moldova.

422. An alien or a stateless person shall not be expelled if evidence exists that in the country he is to be expelled to he may be persecuted for reason of race, nationality, religion, or political opinion, or that he may be subjected to inhuman and degrading treatment, torture or capital punishment.

423. Authorities of the Ministry for Internal Affairs at their own initiative or in response to a request by a company, institution or organization that takes care of the alien's stay in the country, files cases on expulsion of an alien or stateless person.

424. Authorities of the Ministry for Internal Affairs, based on a court decision, carry out the expulsion of an alien or stateless person.

425. The expelled person, and persons that have invited him/her to the Republic of Moldova, cover the expenditures for expulsion or, in case there are objective grounds for the above-mentioned persons not being able to cover such expenses, the expenditures for expulsion may be covered from the State budget.

426. Currently there are many objective and subjective difficulties in the execution of decisions on expelling aliens from the territory of the Republic of Moldova.

427. Primarily, these deal with financial expenditures for expulsion. In most cases the aliens identified as staying illegally in the country have no money to pay for their repatriation.

428. If a person or a group of persons that are to be expelled have entered the country illegally, have no identity documents and prior to being detained in their route have been travelling and

staying illegally on the territory of one or several States, it is difficult to determine their exact route and the network for illegal migration, and to provide grounds for their expulsion to a neighbour or bordering country. These persons are reluctant to cooperate because they want to delay the process. In the current situation, when many States that have illegal migrants in the country have no representations in the RM Republic of Moldova, the procedure of their identification and obtaining travel documents for their repatriation is very difficult.

429. To ensure the operation of the Provisional Placement Centre for Aliens, the official implementation of the reconstruction project for this institution has been initiated with the approval of the European Commission and the funding contract has been signed. A tender has been organized to designate a company to carry out blueprinting works, which are to last up to four months. Within the same project a tender was organized for the procurement of a vehicle.

430. The Law on Migration adopted on 6 December 2002 stipulates the principles and objectives of migration, competences of public authorities involved in migration issues and basic emigration and immigration rules.

431. The Law provides for restrictions on emigration from and immigration to the Republic of Moldova. Thus, persons who are serving penalty based on a court decision, or are subject to criminal liability, or under investigation in a criminal case, as well as persons who have property liabilities in respect to the State and/or to some physical or legal persons are not allowed to emigrate.

432. Immigration is forbidden for aliens or stateless persons who represent a danger to national security, public order, health or morale, or have committed offences against peace, security of humankind, severe offences of other type, including military ones as defined in international law, have a criminal record, or have diseases that pose danger for public health.

433. Immigration is forbidden for a limited time for aliens or stateless persons who:

- Have been expelled earlier - for five years
- Have earlier violated the regime of stay in the country - for three years
- Have worked illegally in the country - for three years
- Have intentionally provided fake personal information - for one year

434. Persons who have common children with persons with permanent residence on the territory of the Republic of Moldova do not fall under the incidence of provisional restrictions. This law also provides for expenditures needed for expulsion of aliens that can be covered with resources from the expulsion fund. Regretfully such a fund has not yet been established and there is no procedure for collection of contributions into such fund.

Article 14

435. To achieve strengthening of the national legal framework and its consistency with the international treaties to which the Republic of Moldova is a party, including the International

Covenant on Civil and Political Rights, measures have been taken to develop and amend legal acts and other norms subordinated to the Law. The following documents have been developed for the above-mentioned purpose:

- "Concept of the penitentiary system reform and Plan of Actions for 2004 - 2013", approved by the Government Decree No. 1624 of 31 December 2003. In view of concerns expressed by the Committee on Human Rights in connection with conditions in detention places, one should mention that the set of measures envisaged in the Concept presuppose improvement of the situation in the penitentiary system. These measures are based on advanced experiences of countries that have reformed their penitentiary systems in conformity to European standards and ensured compliance of detention conditions with provisions of legal acts relevant to human rights. Stipulations of the above-mentioned Concept envisage the following: re-profiling of penitentiary institutions, improvement of communal and living conditions and observance of accommodation rules, medical assistance to detainees and execution of technical measures for the purpose, modernization of heating systems, illumination, ventilation and water supply

- The *Enactment Code adopted by Law No. 443-XV of 24 December 2004*

- *The statute of execution of punishment by convicted persons*, approved by Government Decree No. 583 of 26 May 2006. This statute constitutes the realization of strategic objectives identified in the Plan of Action Republic of Moldova-European Union (objective No. 6), National Plan of Action in the human rights area (chapter 14), Economic Growth and Poverty Reduction Strategy for 2004-2006 (item 268)

- *Minimum norms of daily nourishment and supply with detergents for detainees* approved by the Government Decree No. 609 of 29 May 2006. This legal act has been developed based on article 247 of the Enactment Code, which envisages provision of warm food to penitentiary detainees three times a day. The expenditures are to be covered by proceedings from the State budget, respecting the minimum norms established by the Government. The development of these legal acts was done in pursuance of the goal to achieve compliance of the national legislation with the European standards, taking into consideration the recommendations of the CPT. The draft decree mentioned above has been developed in collaboration with the Ministry of Health and Social Protection, pursuing the goal to ensure qualitative and quantitative improvement of the food ration of detainees through the increase of calorific value of food within the limits of physiological nutrition needs of different categories of detainees

- *Government Decree No. 77 of 23 January 2006 on constituting the Committee for Complaints*, which was set up based on article 177 of the Enactment Code as an independent body, meant to ensure observance of the rights of detainees, including the right to an effective appeal, during the entire detention period

- *Government Decree No. 826 of 14 August 2005 on the approval of the list of penitentiary institutions.* The need to re-name the penitentiary institutions appeared as a result of the abrogation of the Enactment Code of Criminal Penalties, article 62 of

which used to stipulate the existence of correction colonies, settlement colonies, re-education colonies, isolators for criminal investigation, etc., as well as by enactment of the Enactment Code. Thus, as a result of re-naming penitentiary institutions Decree No. 327 issued by Ministry of Justice was approved on 18 August 2005, establishing the types of penitentiaries and detention sectors established thereby

436. On 21 July 2006 the Law No. 244 on amendments and additions to the Code of Civil Procedure of the Republic of Moldova was adopted.

437. This Law was developed by the Ministry of Justice in cooperation with the Supreme Court to ensure adequate realization of the calendar programme of legislative actions in conformity with the resolution and recommendations of the Commission on observance of obligations and commitments of member states of the Council of Europe. The programme was adopted by Parliament Decree No. 284-XVI on 11 November 2005 envisaging the reform of the judiciary system through revision of legal acts on civil procedures.

438. A new article was added - 12/1. In conformity to the latter whenever during adjudication of the cause it is established that the law to be applied, or the one that has already been applied, is contradictory to constitutional provisions, and control of constitutionality of the legal act is the prerogative of the Constitutional Court, then the court has the right to inform the Constitutional Court, in line with provisions of the Code on Constitutional Jurisdiction, so that the constitutionality of this legal act is verified.

439. Articles regarding replacement of the part involved by mistake in the process have been amended. Amendments have also been made to an article regarding the main interferer. These articles have been made consistent with the real necessities, derived from the practice in use.

440. Article 72 acquired a new paragraph, facilitating the examination of the cause, even in situations when the prosecutor is not present during the trial, provided that he was previously notified about this. In conformity to amendments, only the court can prolong the procedure terms established by the court or the judge.

441. Adoption of this Law constituted an important step in the development of an efficient and useful legal framework in this area and it also facilitated the realization of commitments assumed by our country towards the Council of Europe and other international forums.

442. Non-execution of court decisions continues to be one of the most stringent problems on the working agenda of the Centre for Human Rights. By the end of October 2005 the European Court of Human Rights had issued 36 judgements condemning the Republic of Moldova for non-execution of final court decisions. Other 35 cases are pending before the Court.

443. Problems connected with this issue have not diminished, although on 1 July 2005 the Enactment Code was adopted, the task of which is to defend and to realize the rights and

freedoms of physical and legal persons through forced execution of resolutions, decisions, statements, instructions, and civil character sentences of the courts. On the contrary, in certain cases the situation has become even more complex for creditors.

444. According to the information provided by the Execution Department during January - September 2005 the 42 execution offices took over within the procedure 287,035 execution documents (both court judgements and decisions of other bodies). In conformity with article 82 of the Enactment Code, out of the total number of documents held within the procedure, 26,668 documents were submitted back to creditors for different reasons. 28,039 executive documents were returned with the request to be re-developed in conformity with the provisions of article 16 of the Enactment Code.

445. The new Enactment Code envisages that in case of non-execution of the requirements of the court executor, guilty persons may be penalized with fines. As of the end of 2005 since the enactment of the Enactment Code the chiefs of the execution offices issued 25 fines. Thus, although the State is taking measures to improve the situation in this area, non-execution of court decisions in cases of civil lawsuits remains one of the most frequent problems touched upon by petitioners in their addresses to the Ombudsman institution.

446. In most cases petitioners request payment of salary arrears, restitution to the previous function, collection of debts from physical and legal persons, payment of food pensions, etc.

447. The reasons could be the following: debtors have no assets or revenues that might be subject to seizure in conformity with the law in force; emigration of a big number of population abroad where they work illegally; high rates of unemployment and consequently impossibility to check the income of debtors; possibility of creating phantom firms with no wealth at basis that can be seized for payment in case of generation of a debt; possibility to make cash payments in the relations between legal entities; omission of certain contract clauses, which might ensure eventual forced execution of the contract; lack of an efficient cooperation between the Execution Department of court decisions and institutions in possession of information referring to the wealth of debtors.

448. Based on the examination of petitions mentioned above we state that among court executors a so-called “professional precedent” has been created, which means that the executive title is restored in the absence of execution in cases when it is stated that debtors lack assets and financial proceedings. Thus, provisions of paragraph (5) of article 25 of the Enactment Code of stipulate that the court executor can restore the executive document only based on a written request of the creditor, or after the execution of the executive document is ignored.

449. In conformity with provisions of article 82 of the Enactment Code, at the request of the creditor the executive title can be repeatedly submitted for execution in cases when debtors lack assets or assets are not sufficient to satisfy the payables, or the debtor or his assets are not found at the address indicated by the creditor, or in other cases. The practice at present is that the executor, in violation of the law s, restores the execution title for reasons of impossibility of its execution and explains to the creditor his right to submit the executive document for repeated execution. In doing so he specifies the need to have available information about the assets of the

debtor that might be seized during the execution of the court decision. Thus, the executor places his obligations on the shoulders of the creditor, who in his capacity of a common citizen has no possibility to learn new information about the wealth of the debtor.

450. Protraction of execution of court resolutions, and procedure that last a very long period of time, are very often invoked in petitions. Another problem invoked in the petitions is the refusal by the debtor to execute court decisions based on this or that reason. Article 26 of the Enactment Code stipulates consequences of non-execution of the court requirements, including application of fines or even the possibility to bear contravention or penal accountability. One should mention here that the court executors do not fully use the above-mentioned provisions. The explanation may be poor familiarization with the provisions of the Enactment Code, or deliberate avoidance to apply them.

451. A growth in the number of non-executed decisions regarding payment of supporting pensions is to be seen together with the increase of the phenomenon of labour force migration outside the borders of the republic. In many cases the problem remains unsolved due to lack of bilateral treaties between the Republic of Moldova and the respective country, or due to the fact that the debtor is illegally staying on the territory of another country. This situation acquires considerable proportions if the migration flow of population outsider borders of the Republic of Moldova is taken into consideration. As a result, minor children left in the care of only one of the parents are the ones who suffer most of all.

452. In view of this, the issue regarding non-execution of judgements on the collection of supporting pensions is becoming a priority at State level for all institutions and organizations functioning in this area, and we consider relevant the need to speed up the ratification of the United Nations Convention on the Recovery Abroad of Maintenance.

453. Every year petitioners invoke in their letters the fact that the limitation of the access to justice is also occurring due to lack of money to pay the State fee for a civil lawsuit or submission of appeals. After the enactment of the Civil Procedure Code (version 2002) the number of persons who refer to the Centre of Human Rights claiming the impossibility to pay the State fee for appeals has considerably grown. Petitioners, most of them poor people, expressed their dissatisfaction in connection with the fact that no possibility exists to request exemption from payment of the State fee. One should notice that the State fee is not restored in cases when the appeal is declared inadmissible.

454. Although the State fee contributes to the budget formation, the Ombudsman lawyers think that provisions of the Civil Procedure Code need to be revised so that payment of the State fee at the moment of appeal submission is also regulated. This would offer a category of citizens the possibility to really use the appeal possibility as stipulated by the law. A discrepancy has been found during examination of this category of petitions, referring both to the legal aspect and the practical side of the implementation of legal norms regulating the State fee required at the moment of lodging an application to bring a person before an administrative court (Civil Procedure Code No. 225-XV of 30 May 30 2003, Law on Administrative Offences no. 793-XIV of 10 February .2000, Law on the State Fee No. 1216-XII of 3 December 1992). In many cases the comparison of provisions of the above-mentioned laws indicated lack of consistency, leading to different solutions being promoted with respect to the same issue subject to settlement.

455. The following has been stated as a result of a survey of randomly selected 46 files, processed by a number of administrative courts in the Chisinau municipality:

456. In 30 cases the State fee was not paid; in 7 cases the State fee of an amount of 18 Lei had been paid; in 5 cases the amount of 360 Lei had been paid and in 4 cases, the amounts of 9, 18, 90 and 202 Lei had respectively been paid. This situation indicates that the provisions of the law in force are applied in a different way, with no observance of principles of coherence, consequence and balance between regulations in competitions.

457. Taking into consideration this situation, the Ombudsman institution has submitted to the Parliament a proposal to revise article 85, paragraph (1), item a) of the Civil Procedure Code, article 16, paragraph (3), of the Law on Administrative Offences and article 3, item c) of the Law on State Fee, in order to ensure their consistency. This will also ensure the unification of the legal norms regulating the collection of the State fee in cases of adjudication of causes generated by administrative relations.

458. One should mention here that the amendments mentioned above have been already made.

459. Article 20 of the Constitution stipulates that everyone has free access to justice and is entitled to receive effective protection from competent courts against actions causing a violation of his lawful rights, freedoms and interests. No law can restrict access to justice. Justice is carried out exclusively by courts in accordance with the law (art. 114). Justice is administered by the Supreme Court, the Courts of Appeal and the Courts of Law. Specialized courts may also function for certain categories of law proceedings in conformity to the law. It is forbidden to set up courts of exception.

460. Pursuant to article 1 of Law No. 514 on Court Structure, of 6 July 1995, justice is independent and separate from the legislative and executive powers.

461. In accordance with Law No. 191 on Amendments and Completions of Legal Acts of 8 May 2003, amendments have been made to Law No. 514, article 15, pursuant to which tribunals have been excluded from the chain of the court system and five Courts of Appeal have been set up.

462. Article 116 of the Constitution stipulates that judges are independent, impartial and irremovable under the Law. Article 1 of Law No. 544 on the Status of Judges of 20 July 1995 envisages that justice is administered exclusively within courts by judges empowered to exercise judicial power.

463. Pursuant to article 18 of the Code of Criminal Procedure everyone is entitled to a fair, equitable trial in reasonable time exercised by an independent, impartial and legally set up court.

464. In accordance with article 5 of the Code of Civil Procedure, no person shall be deprived of legal protection on the grounds of lack of legislation, imperfection, collision or obscurity of the law in force. Nevertheless, renouncement to take proceedings before a court has no legal effect whenever such an action contravenes the law or infringes the rights, liberties and lawful interests of the person.

465. Article 21 of the Constitution envisages that everyone charged with a criminal offence shall have the right to be presumed innocent until proved guilty on legal grounds, brought forward in a public trial during which all guarantees of a due defence have been given.

466. A person shall be held guilty through a court decision stating the final conviction. No one is obliged to prove his innocence. A person may not be found guilty for committing an offence on grounds of suppositions. Under the Code of Criminal Procedure all doubts existing in the charge probation that cannot be excluded shall be interpreted in favour of the suspect, accused or offender (art. 8).

467. On 21 July 2006 the Parliament also adopted a number of laws in second reading amending several legal acts in force. These amendments were prepared taking into consideration the legal expertise offered by the Council of Europe, for the following laws:

- Law on Judicial Organization
- Law on the Status of Judges
- Law on the Supreme Court of Magistrates
- Law on the Council of Attestation and Qualification of Judges

468. Comments with respect to a number of draft laws have also been made during the period under consideration, namely:

- Law on the Forced Execution System
- Law on Mediation
- Law on the draft of amendments and completions to the Law on the Bar

469. Dissemination of information related to committed crimes and disclosure of all details referring to the offender may be justified only in case of existence of a conviction sentence. Otherwise, dissemination of information disclosing detailed accusations against a person in the absence of a judicial assessment of all circumstances of the cause and the possibility of the accused to defend himself is considered violation of the presumption of innocence.

470. Conclusions regarding a person's guilt shall not be made on grounds of suppositions. Temporary restriction of human rights and freedoms and imposition of constraints against a person is exercised exclusively by competent bodes in cases and ways strictly envisaged by the penal procedure legislation. Such provisions are expected by the Ombudsman to ensure a higher degree of protection of human rights and freedoms of persons under criminal investigation as well as guarantees against inadequate treatment.

471. One should notice that restrictive measures are applied to ensure order in the penal proceeding (including temporary suspension from the function). However, the penal legislation

places no obligatory or constant character on these provisions, they being applicable only when their necessity and grounds have been proved before the judicial institution in accordance with a strictly determined procedure, constituting an integral part of justice administration. The judicial supervision ensuring compliance to law in the case of application of certain temporary restrictive measures against a civil servant is meant to guarantee his constitutional rights.

472. In the Republic of Moldova no laws may be adopted that infringe or diminish the right to presumption of innocence (article 54 of the Constitution). It is the foremost duty of the State to respect and protect the human being (article 16 of the Constitution). According to the opinion of the ombudsman such constitutional provisions need to reflect and confirm the duty of the State to establish such rule of law that a priori excludes situations implying suppression or limitation of the human rights and fundamental freedoms. It is their expectation that the above-mentioned constitutional provisions should discourage adoption of legal acts allowing restrictions of the guaranteed rights, even if the possibility to recourse is provided. The issue raised here refers to the adoption and interpretation of laws and to harmonization of legislative regulations within the entire territory of the country, domains pertaining to the competence of the Parliament.

473. As concerns safeguarding ex officio legal assistance for all cases, in the Republic of Moldova ex officio legal assistance during criminal trials is guaranteed to the suspect, accused, offender, prejudiced party, civil party and the civil responsible party. However, due to a number of factors, the provided ex officio legal assistance is very weak. Collected fees in this case, which are very insignificant, are covered by proceeds from the State budget. Consequently, highly qualified lawyers with broad experience are not present among lawyers providing free of charge legal assistance.

474. In civil cases a lawyer may be assigned ex officio in situations when the party or the intervener have no or limited exercising capacity and in the absence of legal representatives. All other citizens may enjoy qualified legal assistance provided by lawyers on a contractual basis at a rather considerable cost. Whenever persons lack the necessary financial resources, one can say that the free access to justice is illusory for those who cannot afford to pay for defence or a representative.

475. Based on petitions addressed to the Centre of Human Rights we came to the conclusion that a great number of citizens are in need of legal assistance in demanding resolution of their claimed prejudiced right in the court. In most cases these people belong to socially vulnerable layers of society and, due to lack of financial means, are unable to benefit from qualified legal assistance. Very often they also lack the relevant knowledge and in the end they go to the Ombudsman institution requesting free of charge legal consultations. On the other hand, the Parliament has adopted in first reading the Law on the State Guaranteed Assistance, which regulates conditions, amount and way of provision State guaranteed legal assistance to ensure the protection of human rights and fundamental freedoms and other legitimate interests of people. This draft law has been sent to the Council of Europe for comments. On 29 and 30 May 2007 an experts' meeting was held to discuss this draft, during which the shortcomings of the present system of State guaranteed legal assistance and standards of the Council of Europe were discussed.

476. Persons detained under arrest find themselves in an unfavourable situation. The Ombudsman continues to monitor this issue. In 2004 the Ombudsman drew the attention of the Supreme Council of Magistrates to the severe violations of justice administration, which may not be tolerated in a democratic State with the rule of law.

477. In these conditions 362 acquittals were made in 2005 and delays in the examination of files and in the delivery of copies of sentences took place, which constitutes a severe violation of the right to an equitable trial, recognized by the European Convention on Human Rights. Pursuing the goal to reflect the situation in an objective and true way and taking into consideration the registered petitions, the Ombudsman institution requested supporting information from the General Prosecutor's Office and the Department of Penitentiary Institutions. The findings showed the following:

478. Article 399 of the Code of Criminal Procedure stipulates that the defendant is entitled to receiving a copy of the sentence, or its order, within a maximum of three days. In reality convicts have to wait for it for more than one month or even from six to eight months, which violates the above-mentioned provision. Only in very rare cases the convicts receive the sentence within a one-month period of time since their conviction. For example citizen V. convicted on 11 May 2005 by the Buiucani sector suit at law received the copy of the sentence only on 16 September 2005; citizen T., convicted on 15 December 2004 by the Stefan Voda district suit at law received the copy of his sentence only on 14 July 2005.

479. On 15 November 2005 eight convicts of Penitentiary No. 5 in Cahul were waiting more than a month for a copy of their sentences and 17 convicts for their execution orders. In the Chisinau penitentiary No. 13 nine convicts were waiting for a copy of their sentences and 37 were waiting for the execution orders for more than a month. Similar situations were found in Penitentiary No. 17 (Rezina) and Penitentiary No. 11 (Baltsi), where respectively three convicts and 11 convicts were waiting for copies of their sentences more than one month.

480. The Code of Criminal Procedure stipulates that judgment of criminal cases is carried out in reasonable time, the length of which is set depending on the degree of complexity of the case, the behaviour of the parties to the proceeding and the conduct of the suit at law. However, the "reasonable time", due to objective and subjective factors, is assessed in different ways, leading to delays in the administration of the criminal cases. This is especially true with respect to the first instance suits at law.

481. The investigation carried out on 15 November 2005 showed that the number of persons detained more than one year, while their files were undergoing examination in the first instance suits at law, was different from one suit at law to another. Thus, the situation looked critical in Cahul (7 persons) and Comrat courts (9 persons) and also in some Chisinau district courts: Centre (24 persons); Riscani (25 persons); Buiucani (26 persons). In many other courts, however, among them the Ciocana court, no similar situations have been found.

482. Consequently, one may come to the conclusion that the objective reasons for these shortcomings include the lack of session rooms, inadequate supply of courts with relevant equipment, insufficient number of interpreters, and failure to ensure during hearing a qualitative

translation into the language familiar to the respective person, but are not the only reasons responsible for the this situation. Other - subjective - reasons explain the existence of these shortcomings, such as the unsatisfactory organization of the working hours of judges and the irrational management of the session rooms.

483. The obligations and competences of the Ombudsman and lawyers working for the Centre for Human Rights do not presuppose exercising lawyers' functions or a substitution for such. For this reason, petitioners to the Centre requesting assistance to draw up charges against somebody, to file an appeal or a recourse, or requesting to be represented in the law court very often remain disappointed. It is necessary to take into consideration the recommendations of the international instruments, which stipulate rendering legal assistance for all types of judicial proceedings and to all poor persons. It is necessary to streamline the procedure to be followed by citizens to request free of charge legal assistance. A request for legal assistance shall be rejected exclusively in case of its inadmissibility, lack of success chances or when provision of free of charge legal assistance is not to the interest of justice.

484. Taking into consideration the importance of guaranteed access to justice, the Ombudsman institution thinks that amendments to the Code of Civil Procedure need to be made in order to extend the category of ex officio legal assistance beneficiaries.

485. Talking about the court attitude towards evidence obtained through torture, inhuman or degrading treatment one should mention that the quality of the criminal file submitted to the court by the criminal investigation officer or the prosecutor continues to be one of the most stringent problems related to the administration of justice in the Republic of Moldova. In conformity to the law in force (article 24 of the Penal Procedure Code - the principle of contradiction) the court has a passive role in the justice making process. It does not manifest itself in favour of the accusation or the defence and expresses no other interests except the interests of the law. In conformity to provisions of article 5, paragraph (1) of Law No. 514-XIII of 6 July 1995 on judiciary organization, justice in the Republic of Moldova is carried out in strict compliance with the law and judges are obliged to strictly execute the provisions of the law. Before, the Penal Procedure Code did not include a special provision for situations offering grounds to presuppose that a person has been subjected to torture, inhuman or degrading treatment, and a the decision to open a criminal investigation into allegations of torture was at the discretion of the prosecutor. Following the adoption of Law No. 264-XVI on 28 July 2006 and of its enactment on 3 November 2006, based on which paragraph (4) of article 298 of the Penal Procedure Code was amended, the prosecutor is now obliged to examine any declaration, complaints or other circumstances that constitute grounds to presuppose that a person has been subject to torture, inhuman or degrading treatment. He is also obliged to open a criminal investigation pursuant to provisions of article 274 of the Penal Procedure Code, and do that in a separate procedure, as well as to carry out a comprehensive investigation of the circumstances, in line with provisions of the Penal Procedure Code.

486. The European Court of Human Rights pronounced itself with respect to 55 out of 107 individual applications submitted. In 11 cases the Court found that torture, ill treatment and inhuman and degrading detention conditions had been practiced by the Moldovan authorities - (cases *Ostrovar, Şarban, Becciev, Corsacov, Boicenco, Holomiov, Pruneanu, Castraveţ, Istratii*

and others). In one case Moldova was found to have violated the right to life, based on four submitted applications (*Ilascu and others*). The percentage of such judgments delivered by the ECHR represent 14.1 per cent of the total number of applications.

Article 15

487. According to article 22 of the Constitution no one may be sentenced for actions or omissions which did not constitute an offence at the time they were committed. Also, no punishment shall be applied that is harder than the applicable one at the time when the offence was committed.

488. Article 8 of the Criminal Code stipulates that the offending character of an action and punishment thereto shall be established by the criminal law in force at the time when the action was committed. In conformity to article 10 penal legislation reversing the violation character of the action, easing the punishment or ameliorating in any other way the situation of the person who has committed the violation has a retroactive effect, meaning that it extends to persons who committed the respective actions before the enforcement of this law, as well as persons executing their punishment or who have had executed their punishment but are having penal antecedents. The penal legislation making the situation of a person guilty of committing an offence harder, or worsening it, shall have no retroactive effect.

Article 16

489. Article 23 of the Civil Code stipulates that the civil capacity is equally recognized for everyone, irrespective of race, nationality, ethnic origin, mother tongue, religion, sex, opinion, etc. No one's capacity of benefiting and exercising shall be restricted except on such grounds and in accordance with such procedures as are established by law. Total or partial renouncement of a physical person to benefit of the capacity of benefiting and exercising, as well as other legal acts meant to restrict a person's capacity of benefiting and exercising shall be considered null. The capacity of benefiting and exercising is spelled out in articles 19, 20, 21, and 22 of the Civil Code.

Article 17

490. To ensure implementation of provisions spelled out in article 17 of the Covenant a draft law has been prepared "On Protection of Personal Data", which has been adopted in first reading by the Parliament of the Republic of Moldova.

491. The Constitution of the Republic of Moldova includes a provision in conformity to which the State respects and protects intimate, family and private life. The development of modern information techniques accompanied by the creation of multiple powerful databases which store data on concrete persons (personal data), and the easy data dissemination from these databases made imperative the development and approval of the draft law "On Protection of Personal Data". The possibility to modify data generates additional dangers to the interests of persons. In view of this the necessity arises to include restrictions in the legal regulations dedicated to protection of personal data. Article 1 of the law spells out the goal of this legislation, which is to guarantee the observance and protection of a person's rights and freedoms in personal data processing (including operations, or sets of operations carried out with personal data during data

capture, registration, organization, storage, updating, adaptation, modification, extraction (exclusion), consulting, access provision, use, transmission, blocking or deletion) and also to protect the rights to inviolability of private life, personal or family secret.

492. Owners of databases containing personal data of citizens could be State empowered agencies and private bodies. Among them may be structures of the Ministry of Internal Affairs, agencies responsible for civil records, medical institutions, lawyers, notaries, real estate management bodies, etc. Protection of information containing personal data needs to become a strictly regulated process for all above-mentioned owners. The process is expected to prevent the violation of integrity, authenticity and confidentiality of information sources of any organization, irrespective on its legal status and type of ownership.

493. In view of the above, article 2 of the draft law covers relations appearing during personal data processing carried out by legal and physical persons, with or without use of automatic means, within the territory of the Republic of Moldova and outside its territory. Article 2 also spells out relations falling beyond the scope of this law.

494. The draft law has been prepared in conformity with international conventions and treaties and in compliance with basic principles referring to actions involving personal data as spelled out in the Convention of the Council of Europe on Protection of Persons during Automatic Personal Data Processing (1981), which have provided the basis for the development of this law.

495. Besides the Constitution of the Republic of Moldova, the Convention and its additional Protocol of 2001 constitute the legal framework for the personal data processing envisaged in article 3 of the draft law. The Parliament of the Republic of Moldova ratified the European Convention on Protection of Persons during Automatic Personal Data Processing by its Decree No. 483-XIV of 2 July 1999, and it is expected that it will enter into force once harmonization of domestic legislation with the provisions of the Convention is achieved, namely when the above-mentioned law has been adopted. It is well known that it is not enough to ratify conventions. It will be necessary to take certain measures facilitating the adoption of the legislation referring to data processing.

496. The wording of article 5 of the draft law gives the characteristics of personal data ensuring a general compliance with article 5 of the Convention, thus creating the well-known principles of data protection, in this case the personal data. The data specified below shall constitute subject of the personal data processing:

- Data captured in a legal way and adequately processed
- Data captured and processed for special purposes, which shall allow no other use, incompatible with the set one
- Accurate data, updated depending on the need
- Data stored in a form allowing identification of the subject to the extent to which the set goals request

497. Article 6 of the draft law spells out the legal framework facilitating personal data processing. It starts by stating that personal data processing is carried out with the unconditional written consent of the interested physical person (personal data subject). Article 7 envisages processing of special categories of personal data referring to race, ethnic origin, political views, religious or other beliefs, personal data on health status or sexual life, as well as personal data regarding criminal convictions. Processing and storage of personal data falling under the category of special data can be done exclusively with the written consent of the subject of this data. In the absence of the corresponding consent of the subject of this data, this information shall not be used for purposes other than the ones set for its storage and shall not be disclosed to tertiary persons.

498. Article 6 of the draft law provides for the right of the subject of personal data to withdraw at any moment the expressed consent for processing. At the same time, to avoid the occurrence of unjustified workload of the respective State agencies due to unreasonable interpretations, the draft law ensures that the withdrawal of the consent has no retroactive effect.

499. The draft Law spells out situations that do not require the consent of the subject for the personal data processing (articles 6 and 7). An example of such a situation is data processing exclusively for statistical or scientific and historical investigation purposes. In this case, however, personal data shall be de-personalized in compliance with article 15 of the draft law. This presupposes elimination form the personal data of certain data that might allow the identification of the physical person. This data shall appear in the form of anonymous data, which cannot be associated with the identified person.

500. Article 10 specifies the rights of the subjects of personal data and constitutes a key position in this draft law. It fully complies to the European Convention, containing provisions specifying access of the subject to his own personal data and allowing him to obtain information about the data owner and its location. These provisions envisage the right to request information on the personal data subject to processing, origin of information regarding this data and specify the place where data are transmitted or are supposed to be transmitted. Finally, in situations when actions have been undertaken by the personal data owners or, on the contrary, have not been undertaken, they provide the right to appeal to the body entitled to ensure personal data protection or to court.

501. The Directive of the European Union envisages the creation of an independent body entitled to ensure the protection of personal data making this a compulsory condition for all national legislations.

502. In conformity with article 11 of the draft law the Ombudsman shall have the task to ensure the supervision of the way the guarantee and protection of rights and freedoms of a person during processing and use of personal data. A special independent institution - the National Centre for the protection of personal data - is expected to be created, which shall function independently from the State agencies.

503. In view of the fact that the supervising body is entitled to ensure protection of the private life of citizens, and also of personal data, the role and operation of this organization becomes very important. The draft Law (article 11) specifies the functions of the Centre for the protection of personal data, the basic ones being following:

- Consideration of petitions submitted by subjects of the personal data in view of establishing the compliance of the content of the personal data with the processing methods

- Exercising control over the information related to processing of personal data or implication for this purpose of other state agencies, depending on their competences

- Requesting the data owners to update, block, or delete personal data whenever this turn out to be incorrect or have been obtained in an illegal way

- Initiation of law proceedings meant to protect the rights of the subjects of personal data

- Drawing up minutes stating the violation of provisions of this Law

- Administration of a register of personal data owners

504. Taking into consideration recommendations of the Council of Europe the list of functions of the Centre has been extended. Administration of the register of owners of personal data constitutes one of the basic supervising functions of the National Centre for the protection of personal data (article 12). Future developments of the information society will more and more impose on data owners the use of automatic methods in personal data processing. It is expected that controls carried out by the supervising body and a broader information of society regarding data protection will constantly remind personal data owners of the need to inform the National Centre (control body) on the automatic data processing. They will have to also inform the Centre whether they receive data directly from the subjects of personal data or from legal entities, whenever they create information systems. Finally, they will have to inform the Centre about the information sources containing personal data.

505. Data protection is a rather new concept in our legal system and in society. Nevertheless, implementation, for several years now, of principles stated in the Convention and principles of other international instruments and analysis of attempts made so far to ensure a relevant data protection and the promotion of the data protection concept in the Republic of Moldova allow us to draw following conclusions:

- Efficient data protection depends on the relations between the control bodies (National Centre for the personal data protection) and data owners, especially in a situation when data protection is at an initial stage of development

- Transparent operation of the control body lies at the basis of trust building and successful collaboration with the private sector

- To obtain better results in the data protection domain it is necessary to stimulate and strengthen the collaboration between the control body and data owners

- While exercising supervision and control of legality of personal data processing the supervising body is supposed to report both to the Parliament and society on the data protection process, to ensure that a better data protection is achieved

- More attention should be paid to ensure prevention of possible violations during data processing at an initial stage, when many weaknesses exist, to avoid the appearance of order violation during data processing at a latter stage. Information and consulting may turn out to be efficient methods to avoid "future" violations, which can cause prejudice to citizens as far as their right to private life is concerned

506. Article 17 of the draft law provides for civil, administrative and penal accountability established by the legislation with respect to violation of provisions of the law. The development of the draft law "On Protection of Personal Data" was initiated in 2000 by the Ministry of Transportation and Communications. Comments received from the Council of Europe on the draft law have been disseminated to all parliamentary commissions for their information. Two years ago, the Ministry of Information Development, together with the Parliamentary Committee for Human Rights, taking into consideration recommendations made by Council of Europe, succeeded to finalize this draft law. The new draft law has been coordinated with all interested public administration bodies and organizations. In September 2005 the new draft law has also been supported by OSCE. Opinions received have been also disseminated to all parliamentary commissions for their information.

507. Between December 2005 and October 2006, after the Government approved the draft law, the document was considered by the parliamentary commissions and in August 2006 examined by the Council of Europe. Experts from the Ministry have made themselves familiar with all comments received from the Council of Europe and the parliamentary commissions and made a synthesis of all recommendations and submitted them to the Parliamentary Commission for National Security for consideration.

508. The Ministry of Information Development considers that the draft law constitutes a guarantee for effective data protection within the limits of the legislation in force, given the fact that the document has been supported by the Parliamentary Commissions and the Council of Europe and has been already adopted in first reading by the Parliament of the Republic of Moldova.

509. Regarding implementation of provisions of article 17 of ICCPR referring to provision of postal services one may say that confidentiality of letters, telegrams and other mail correspondences is guaranteed by the Constitution, the Law on Post, and other legal acts. Thus, article 6 of the Law No. 463 on Post, dated 18 May 1995 envisages that persons involved in postal operations are obliged to ensure confidentiality thereof. Violation of the secret of correspondence or disclosure of its content or of other postal dispatches is forbidden. However, for purposes of criminal investigations or for judicial proceedings, postal clerks shall be obliged to ensure access of criminal investigation bodies and suits at law to the postal dispatches and required documents they might need as evidence. Seizure and withdrawal of postal dispatches from the post offices is done only within the law, with the consent of the prosecutor.

510. Correspondence addressed to persons kept in detention is processed and distributed by the post office in compliance with provisions of article 30 of the Constitution and article 6 of the Law on Post. In conformity to item 80 of the rules on the delivery of postal services "Correspondence addressed to persons kept in detention or in correction institutions is delivered to the designated staff, at the special windows".

511. In 2002 and 2003 the most valuable judicial and law reform has been carried out in the Republic of Moldova, which facilitated the development and implementation of a new legal framework in compliance with international standards. This legal framework guarantees implementation, realization and observance of human rights and legal freedoms of a person in the way stipulated by article 17 of ICCPR.

512. In conformity to article 20, paragraph 1 of the Constitution every citizen has the right to obtain effective protection from competent law courts against actions infringing his/her legitimate rights, freedoms and interests.

513. Article 28 of the Constitution stipulates that the State respects and protects the intimate, family and private life.

514. According to article 29 of the Constitution the domicile and residence of a person are inviolable. No one may enter upon or stay on the premises of a domicile without the owner's consent. Search and investigations at domicile may be carried out only within conditions established by the law. They shall not take place during the night, except in cases of flagrant offence.

515. Derogations from the stipulations mentioned above are admitted exclusively within the law and in situations stipulated by the Constitution, as being:

- Execution of an arrest warrant or a court decision
- Elimination of a danger threatening life, physical integrity or goods of a person
- Prevention of the expansion of an epidemic

516. In conformity to provisions spelled out in article 30 of the Constitution the State assumes the obligation to ensure confidentiality of letters, telegrams, other postal dispatches as well as of telephone conversations and use of other legal means of communication. Derogations from these provisions can be made only within the law and only in cases when such derogation is necessary for the interest of the national security, economic welfare of the country, public order and for the prevention of offences.

517. The Criminal Code of the Republic of Moldova through Law No. 985-XV of 18 April 2002 ensures protection to every person against arbitrary interference or any other prejudice to private life, domicile, correspondence, honour, dignity, reputation and other values included in components of concrete offences. Thus, according to article 177 of the Criminal Code "Violation of inviolability of the private life" the following is considered a violation of the law: illegal data capture or deliberate dissemination of law-protected information regarding the private life of another person without the latter's consent, whenever this information constitutes a personal or family secret of that person; dissemination of the mentioned above information in a public speech, in mass media or deliberate use of the information at the work place.

518. Article 178 of the Criminal Code "Violation of inviolability of the private life" incriminates the violation of the right to confidentiality of letters, telegrams, other postal dispatches as well as of telephone conversations and telegraphic communications via infringement of law, including misuse of the function at workplace, use of special technical devices meant to illegally obtain information or to act in favour of an organized crime grouping or a criminal organization;

519. According article 179 of the Criminal Code "Violation of domicile" the illegal entering or stay in the domicile or residence of a person without his consent as well as the refusal to quit the premises at his request is considered a violation of the law. Also, the illegal search and investigations fall under this provision.

520. The Republic of Moldova is a democratic State governed by the rule of law, in which the dignity of the person is a supreme value and is guaranteed. It is the primordial duty of the State to ensure respect and protection of the person (article 1, paragraph 3 of the Constitution).

521. In conformity to provisions of article 32, paragraph 2 of the Constitution, freedom of expression may not prejudice the honour, dignity or the rights of other persons to have and express their own opinions or judgments.

522. In this context the right to defend children's honour and dignity is guaranteed through provisions of article 7 of Law No. 338-XIII of 15 December 1994 on children's rights. Infringement of children's honour and dignity is punished in conformity to the law.

523. Respect of honour, dignity and professional reputation of a person is also protected and guaranteed by the Civil Code through Law No. 1107-XV of 6 June 2002, namely by provisions of article 16 "Protection of honour, dignity and professional reputation" and article 1422 "Reparation of the moral prejudice".

524. Article 16 of the Civil Code stipulates that everyone is entitled to the right to request denial of information that harms his honour, dignity and professional reputation if the one who has disseminated it cannot prove that the information corresponds to reality. The way to deny information prejudicing honour, dignity and professional reputation is established by the Civil Code and also by the suit at law for cases not covered by the Civil Code.

525. The provisions of the same article specify that the person with respect to whom information has been disseminated prejudicing his honour, dignity and professional reputation, apart from denial, is entitled to the right of requesting reparation of the material and moral prejudice caused thereby. The amount of the compensation for moral prejudice needs to be reasonable, and determined taking into consideration the following:

- The character of disseminated information
- Area of the information dissemination
- Social impact on the person in question

- Severity and extent of psychological and physical sufferings caused to prejudiced person
- Proportionality between the compensation and the degree to which the reputation has been prejudiced
- Guiltiness degree of the author of such prejudice
- Measure to which such compensation may bring satisfaction to the harmed person
- Publication of rectification, response or denial in advance to the emission of the court decision
- Other relevant circumstances for this case

526. Whenever it is impossible to identify the person who disseminated the information prejudicing honour, dignity and professional reputation of another person, the latter has the right to submit an application to the court requesting that the disseminated information be declared untrue.

527. Protection of private and family life of a person is ensured within the Family Code of the Republic of Moldova, adopted through Law No. 1316-XIV on 26 October 2000. Article 134 of this Code spells out the secret of adoption. Thus the civil servants familiar with the adoption act are obliged to observe the secret of this deed. Failure to observe this provision is punished in conformity to the law. In the absence of the consent of adopters or tutoring authority it is forbidden to make excerpts from civil records or copies of documents that might indicate that adopters are not the natural parents of the adopted child. The one who violates the provisions of this article may be subject to criminal proceedings, on grounds of the violation component envisaged in article 204 of the Penal Code "Disclosure of the Adoption Secret".

528. Also, Law No. 106-XIII of 17 May 1994 on the State Secret and Law No. 982-XIV of 11 May 2000 on Access to Information, regulate certain aspects referring to protection of information and personal data. Failure to respect provisions of the Law on the State Secret entails criminal liability on grounds of article 344 of the Penal Code "Disclosure of the State Secret". Also, the draft law on processing personal data discussed above contains similar provisions.

529. However, one cannot speak of an absolute character of these rights, freedoms and interests. Article 54 of the Constitution of the Republic of Moldova stipulates that the exercise of rights and freedoms may be restricted only under the law and shall correspond to unanimously recognized norms of international Law. It also specifies that such restrictions can be applied only as required in cases like the defence of national security, territorial integrity, economic welfare of the country, public order, prevention of mass riots and offences, protection of rights, freedoms and dignity of other persons, prevention of disclosure of confidential information and safeguard of justice authority and impartiality. A restriction is expected to be proportional to the situation that has generated such restriction and shall not affect the existence of the respective right or

freedom. The provisions mentioned above in no way admit the restriction of rights proclaimed in articles 20 through 24 of the Constitution (right to life and to physical and psychological integrity, free access to justice, presumption of innocence and non-retroactivity of the law).

530. Consequently, similarly to any other democratic society, the State has the right "to derogate via the law" from the observance of these rights and freedoms when such derogation is necessary for national security interests, economic welfare of the country, public order and prevention of offences as well as in other cases stipulated by the Constitution or the law in force.

531. "Derogation via the law" as required for interests mentioned above shall be possible only under the provisions of the Penal Procedure Code, namely Law No. 122-XV of 14 March 2003 and Law No. 45-XIII of 12 April 1994 on the investigation operations as well as other laws in force in the Republic of Moldova.

532. Protection via penal procedure against arbitrary interference or any other prejudices to private life, domicile, correspondence, honour, dignity, reputation and other human values is realized through safeguarding these values in the form of basic inviolable principles of the penal process. Also a legal procedure is set up foreseeing interference and derogation carried out by the State whenever this becomes necessary for the interests indicated above.

533. Thus, the Code of Criminal Procedure guarantees the observance of rights, freedoms and human dignity (article 10), inviolability of the person (article 11), domicile (article 12), property (article 13), secret of correspondence (article 14), inviolability of private life (article 15), etc. At the same time the Penal Procedure Law spells out cases and legal conditions for derogation from these principles for interests mentioned above, and for the realization of the scope of penal procedure stipulated in article 1, paragraph 2 of the Code of Criminal Procedure. Given the necessity to restrict certain rights and freedoms, the procedural legislation spells out the obligatory legal framework facilitating investigation at site (article 118), body examination (article 119), search and seizure of goods and documents (articles 125-129), body search and seizure (articles 130-131), seizure of correspondence (articles 133-134), interception of communications (articles 135-136), registration of images (article 137), realization of expertise (articles 142-152), application of restricting procedure measures (Title V, of the Special Part of the Code on Penal Procedure) and other procedural actions necessary for the truth establishment during the penal process, identification and bringing the offenders in front of the court.

534. One should mention the inevitable role of the instruction judge in the realization of the above-mentioned and other procedural actions. He is a new lawsuit subject empowered with special competences in the penal investigations and entitled to exercise judicial control over the legal actions carried out during penal investigations. He acts as a guarantor of the observance of the most valuable rights, liberties and inviolability both during the penal investigation stage and the execution of the court decisions. Guarantee of the observance of rights and fundamental freedoms of a person is achieved through the authorization and supervision of penal investigation actions, investigation operations and prevention measures, especially the ones that can totally or partially restrict the rights, liberties and legal interests of persons. It is also achieved by exercising judicial control over the pre-trial procedure, by examination of applications and

complaints to identify illegal actions committed by the penal investigation body, the prosecutor office and agencies carrying out investigation operations. In a number of cases, specially provided by the law (articles 109 and 110 of the Code of Criminal Procedure), the instruction judge himself carries out certain penal investigation actions.

535. In conformity to article 301 of the Code of Criminal Procedure the instruction judge gives authorization to carry out criminal investigation actions referring to restriction of inviolability of a person, domicile, restriction of secret of correspondence, telephone conversations, telegraphic dispatches and other communications, as well as other actions stipulated by the law. In exceptional cases criminal investigation actions involving search, investigation at site within the domicile and sequestration of goods following a search can be made without the authorization of the instruction judge. In case of flagrant crimes such actions are carried out based on a motivated order of the prosecutor. Whenever cases like this occur, the instruction judge shall be informed of the criminal investigations within 24 hours. For control purposes he is submitted the evidence material regarding that the case, which have served as arguments for undertaking criminal investigation actions. Depending on available grounds the instruction judge takes a decision on the legality of the criminal investigation action. Based on the instruction judge's authorization, whenever the legal requests of the penal investigation body are not fulfilled, it is possible to undertake forced execution of certain actions, such as: body examination of a person, medical investigation of a person in specialized institutions, and collection of evidence for comparative investigation.

536. Articles 302 and 303 of the Code on Penal Procedure stipulate the restrictive legal actions applied with the consent of the instruction judge and the investigation actions undertaken with his authorization.

537. In conformity to provisions of articles 298 to 300 of the Code on Penal Procedure, in view of realization of the judicial control function, the instruction judge carries out the following: gives authorization to the prosecutor's request to proceed with criminal investigation actions, to undertake operative criminal investigation actions and to apply legal constraint measures, restricting the constitutional rights and freedoms of a person; to consider complaints against the illegal actions of the criminal investigation bodies and units carrying out operative investigation actions. Finally, he considers complaints against illegal actions of a prosecutor directly involved in exercising criminal investigation actions.

538. In the case of *Ostrovari v. Moldova* the ECHR found a violation of article 8 (right to private life) of the European Convention on Human Rights. The Court unanimously stated that: a violation of article 8 of the Convention had occurred with reference to the right of the defendant to a correspondence with his mother, as well as with reference the appellant having been denied the right to have meetings with his wife and daughter.

539. In the case of *Mericacri v. Moldova* the ECHR also stated the violation of the secret of correspondence in conditions of detention.

540. In order to ensure the execution of the above-mentioned ECHR judgments, the following measures were taken: the judgments were integrally translated, and the translated version published in the National Gazette of the Republic of Moldova; the payments ordered by the

ECHR were made; and the full text of the two judgements were posted on the website www.justice.md. All central and local public authorities and justice authorities were notified of the judgments.

541. Recently, on 29 March 2007 the draft law on amendments and additions to article 1 of Law No. 173-XIII of 6 July 1994 on the publication and enactment of official acts was adopted.

542. This law has been developed by the Ministry of Justice in view of the fact that judgments and decisions of ECHR previously did not constitute "official acts" within the Law on the publication and enactment of official acts. Consequently the wording "decisions and resolutions of the European Court of Human Rights pronounced in situations when the Republic of Moldova appears in the capacity of the accused" has been excluded form article 1, paragraph (1) of the amended law.

543. A new paragraph has been added to this article, which stipulates that decisions and judgments of the European Court of Human Rights concerning the Republic of Moldova as respondent State shall be published within one month of their enactment in the official issues of the Official Gazette, after having been translated into the State language.

544. In conformity to the information included in the first part of article 17, namely in line with the existent legal provisions, every person in the Republic of Moldova enjoys inviolability of private life. Certain discrepancies exist, however, as concerns the practical implementation of this right, and its guarantee is characterized by certain discrepancy with the written law (from the perspective of the two ECHR judgments). In this context we respectfully request ECHR guidelines and recommendations in view of efficient implementation of provisions of article 17 of ICCPR.

Article 18

545. National legislation on creeds includes the Law on Creeds No. 979-XII of 24 March 1992 and the provisional regulation on the registration of the component parts of creeds approved by Government Decree No. 758, of 13 October 1994. According to article 14 of the Law on Creeds (the version of the Law No. 1220-XV, of 12 July 2002) the creeds are supposed to submit to the responsible State agency a declaration specifying their organization and operation modalities. Additionally to this, they submit their statutes (regulations) spelling out their organization and operation modality, including information about the organization and its administration system, and the fundamental principles of that particular belief. Creeds organize themselves based on their own rules, in line with their learning, canons and traditions. The State encourages and supports the social, moral, cultural and charity activity of creeds. The creeds enjoy the freedom of organizing their education system for the education of their own human resources.

546. A group of members of Parliament have developed a draft law on creeds and their component parts, which has been approved in its first reading by Parliament Decree No. 366-XVI, dated 23 December 2005. The Council of Europe in the two following years made a number of comments on the draft law which was finally adopted by the Parliament of the Republic of Moldova on 11 May 2007 and submitted to the President of the Republic of Moldova for promulgation. This document is meant to regulate relations referring to freedom of

conscience and religion. Following the aims of modernization and harmonization of legislation of the Republic of Moldova with the European standards, the draft has been developed taking into consideration the documents relevant to religious issue produced by the European Court on Human Rights, the protocols of the European Convention on Human Rights, as well as the standards of the Council of Europe on religious freedom issues.

547. The draft law provides safeguards for the observance of the fundamental rights of a person to freedom of mind, conscience and religion. No one shall be forced to practice or restrain from practicing a religious exercise. It also stipulates that the religious creeds are autonomous, separated from the State and equal before the law. Finally the draft law guarantees that any act leading to the infringement of legally established rights and exercised within limits set thereby can be attacked through judicial ways.

548. The State Service for Creed Issues took of the Decision of the taken by the European Court on Human Rights in December 2001 with respect to the case of *Basarabia Metropolitan Seat and the neighbouring regions and other 12 v. Moldova*, and on 30 July 2002 the Basarabia Metropolitan Seat was entered into the Register of religious cults and their component parts. This became possible as a result of amendments made to the Law on Creeds by Law No. 1220-XV. Thus, the Basarabia Metropolitan Seat obtained the status of a legal entity. Measures mentioned in article 17 have been taken to ensure the implementation of the above-mentioned decision of the European Court on Human Rights.

549. As of 1 November 2006 the State Service has registered 97 parishes, 11 districts of archpriests, 10 monasteries, 2 theological seminaries, 1 monk theological seminary, etc. in the composition of the Basarabian Metropolitan Seat.

550. Paragraph 3 of article 66 of the Civil Code stipulates that “a legal entity may not be registered if the name of this person coincides with the name of some other legal entity registered earlier”. On these grounds the State Service used to reject registration of religious communities that requested registration under a name of some other religious communities registered earlier. There were cases when religious communities would go to court for the resolution of such problems.

551. The State Service abstains from making statements on the observance of the right to free conscience and religious belief in the Eastern part of the Republic of Moldova for the reason that it has no updated information on the issue in view of the fact that this region is beyond the control of constitutional authorities of the Republic of Moldova. Nevertheless, the State Service has registered multiple communities representing different religious beliefs, they being: Moldovan Metropolitan Seat, Roman Catholic Bishopric, the Evangelic Lutheran Church, Basarabian Metropolitan Seat, etc.

Article 19

552. Initially the criminal legislation used to incriminate slander, namely the conscious dissemination of lies defaming another person. Very often this action is accompanied by accusations of committing very severe, or exceptionally severe offences with hard consequences. Later, however, at the request of civil society and international experts, slander has been

excluded from the category of offences through the Law on the amendment of the Criminal Code of the Republic of Moldova No. 111-XV of 22 April 2004. At present slander is sanctioned exclusively in the administrative way. In conformity to article 47/2 of the Code on Administrative Offences slander is defined as the action of conscious dissemination of lies defaming another person. Outrage, namely the premeditated abasement of honour and dignity of a person either through actions or verbally or in written form, is also considered a contravention and is sanctioned (article 46/3 of the Code on Administrative Offences).

553. In conformity to provisions of the Code on Elections No. 1381-XIII of 21 November 1997 and its subsequent supplements and amendments, citizens of the Republic of Moldova, parties and other social political organizations, electoral blocks, candidates for a position and the reliable persons of the candidates enjoy the right to enter into free discussions of the election programmes of the electoral competitors. Subject of discussions can also be the political, professional and personal characteristics of competitors. During meetings and assemblies with the electorate and also via mass media or other communication ways it is also allowed to agitate in favour, or to the detriment, of candidates running in the elections. These actions, however, should exclude violation of public order and ethical rules.

554. During the election campaign the public institutions of the audiovisual shall ensure free-of-charge broadcasting time for public debates within the limits established by the Central Elections Commission. Private audiovisual institutions may organize, in equitable conditions for all candidates running in the elections, round table talks. All election competitors are supposed to be invited to such meetings, either all of them at the same time, or in groups created in conformity to a number of criteria announced in advance by the Central Elections Commission.

555. Public and private audiovisual institutions are obliged to ensure equal conditions for all elections competitors to procure broadcasting time at equal payment. During election campaigns all other analytical, informative or entertainment broadcasting programmes, or any other programmes referring, in one way or another, to subjects of the election are broadcasted by observing the correspondent concept and regulation. Programmes referring in a direct or indirect way to subjects of the elections are broadcasted exclusively under the title “Elections campaign” to make possible recording of the broadcasting time. Whenever a subject of the elections campaign has suffered prejudices to his image in programmes other than the ones under the title “Elections campaign”, then the person enjoys the right to retort in similar conditions.

556. The elections competitors may organize meetings with the voters. Electoral councils and bureaus along with the public administration bodies are obliged to facilitate such assemblies within equal terms and conditions. Starting with the date of their registration the elections competitors enjoy the right to expose electoral posters, the content of which should not contravene the law and ethical norms. The Central Elections Commission establishes the rules to be observed during placement, in equal conditions, of electoral advertisements on the publicity posters, including the ones in private ownership. The rules are made familiar to the society at the beginning of the elections campaign.

557. Local public administration bodies are obliged, within three days as of the registration of the elections competitor, to establish and to guarantee a number of special places for electoral advertisement and to designate premises for meetings with the electorate. The authorities shall

immediately post these decisions (orders) on the panels within their premises and bring it to the attention of interested subjects via the mass media or other available communication ways. No agitation is allowed during the elections day or the day before the elections.

558. Following the aim to encourage and facilitate a pluralist expression of opinions and in compliance with provisions of paragraph (3), article 7 of the Code of Audiovisual, the radio broadcasting agencies are obliged to reflect the elections campaign in a true, balanced and impartial way. The Audiovisual Coordinating Council determines the concepts of the radio broadcasting agencies with respect to the coverage of elections campaign strictly in compliance with the Law in force and submits them to the Central Elections Commission.

559. The Code of Audiovisual of the Republic of Moldova was adopted by the end of Parliament spring session and entered into force on 18 August 2006 after having been published in the Official Gazette. The Code establishes the principles of the legal regulation as well as the ways of development, broadcasting and/or retransmission of programmes of radio broadcasting stations under the jurisdiction of the Republic of Moldova. The aim followed by the Code of Audiovisual is ensuring protection of the programme consumers' rights and to establish democratic principles of the audiovisual operation in the country. One should look at this Code as a sign of progress and a clear wish to bring the audiovisual legislation of the Republic of Moldova in compliance with the European standards. Although meeting the requirements of the European Union from many points of view, the Code of Audiovisual still has a number of deficiencies.

560. The Law on Access to Information was adopted in May 2000 and entered into force in July 2000. In conformity to this law everyone may request the public authorities or institutions to provide any information or document without being obliged to explain the reasons of their request. In reality, however, requested information is very often refused. This law was developed with the participation of civil society and international experts and corresponds to a large extent to international standards. Unfortunately in the Republic of Moldova it is not always observed.

561. In its current operation the Public National Agency the "Teleradio-Moldova" Company take as guidance the Audiovisual Code, Chapter VII of which, entitled "Public Radiobroadcasters", spells out the legal status of this company. "The Audiovisual Public National Agency "Teleradio-Moldova Company" is an independent public radio and TV broadcasting company with an autonomous institutional arrangement for its creativity activity aimed to provide services in form of programmes to the entire society of the Republic of Moldova". The Audiovisual Code also describes the functions of the company, and includes provisions specifying its editorial independence (article 52). According to the Code the management bodies of the company enjoy the exclusive right to develop editorial policies, organize creative activity, and design and produce programmes. One should mention here that article 52 specifies non-admission of any interference of public authorities, or of any political party, commercial, economic, or other type of organizations, or the trade unions, in the activity of the company.

562. Also in connection with access to information one should mention that in its correspondence with citizens the Centre for Human Rights very often comes across the following question: to what extent does the State ensures the realization of its Constitutional obligations

"to make all laws and other legal documents accessible to citizens" and "to ensure every person's right to know his rights and duties"? It is true that the adopted legal acts are published in the Official Gazette "Monitorul Oficial" of the Republic of Moldova. However, the biggest circulation of the publication (in both languages) does not exceed 20,000 copies. If related to the number of the population, accessibility to published legal acts becomes questionable. Although the Official Gazette places on its pages advertisements, meaning that part of the costs are covered by economic entities beneficiaries of the advertisement, the price of this publication remains high and unaffordable for a large number of potential readers.

563. The Official Gazette also constitutes an important source of information for the realization of other constitutional rights and freedoms of citizens. For example it includes a public magazine with announcements on the reorganization or liquidation of companies; about auctions of sequestrated goods; announcements about loss of documents, subpoena to court, etc. Subsequently, it is expected that the State ensures citizens' access to the Official Gazette via its relevant bodies, and through necessary financial support.

564. It is equally necessary to ensure the existence in every settlement of a library with a reading room providing access to the legal database of the country. Subscription of libraries to the Official Gazette and other legal publications also needs to be ensured.

565. It has become a stringent need of mayoralties to have in their staff a legal consultant, irrespective of the number of population in the settlement. The local public administration bodies should find ways (maybe initially with the financial support from the State budget) to employ a specialist who provides services to the population on permanent basis (a lawyer of that settlement, financed by the State). Thus, citizens could have the possibility to clarify their problems at the local level without supporting financial expenses and loss of time. They could benefit from consultations with respect to writing a petition or an application to court; choice of the relevant institution able to settle their problem, etc. This would diminish the number of petitions wrongly addressed to local and central agencies, with an ultimate positive influence on the activity of such institutions. Besides, this would educate the citizens' skill to settle their ordinary problems in a civilized, legal and timely way.

566. The legal consultants thus recruited and once they identified the problems of the citizens in their settlement could request the State agencies and NGOs to provide informational and training support as necessary in those places. They would also have the obligation to keep records and develop a legal database of that settlement as well as to duly inform the residents about new legal documents. Also this would be an opportunity to create jobs for young specialists who graduated in law.

567. In a significant number of applications sent by petitioners, including convicted persons, the Ombudsman is requested to provide information regarding particular laws, international treaties and conventions. Very often they request that the integral part of these legal documents be mailed to them, invoking the right of access to information. They also make reference to provisions of the Law on Access to Information and the Law on the Ombudsman, especially to article 33. In conformity to this article the Ombudsman is supposed to disseminate knowledge referring to the protection of constitutional rights and freedoms of the person.

568. The Centre of Human Rights satisfies these requests to the extent of its possibilities. However, the Centre does not have the technical or financial possibilities to send to every detainee the requested legal documents. It turns out that the convicted persons are in unfavourable situation since ordinary citizens do have, more or less, access to a number of sources of information (the Library of public law, the Centre of legal information under the Ministry of Justice, NGOs dealing with human rights).

569. The Code on Enforcement of the Republic of Moldova (in force since July 2005) spells out certain ways ensuring access to information and access to legal orders and other documents regarding execution of penalties of deprivation of liberty.

570. Penitentiary institutions make efforts and apply different accessible methods, within the limits of their possibilities, to ensure access to information for convicted persons. In most penitentiaries libraries are open, ensuring free access of convicted persons to legal literature, including the Constitution, Code on Enforcement, the Criminal, Civil, Family and Labour Codes, Codes of Penal and Civil procedures and the Statutes on the execution of penalties by the convicted persons. Penitentiaries subscribe to the Official Gazette in two languages as well as to other periodical editions. Some penitentiaries have the possibility to receive radio and TV programmes.

571. Penitentiaries benefiting from extrabudgetary proceeds are in a much better situation with respect to this issue. For example Penitentiary No. 2 in Lipcani with the support of the Institute of Penal Reforms manages to issue the monthly “AerZona” publication, which includes a special compartment dedicated to legal consultations.

572. The OSCE mission in the Republic of Moldova has made a book donation with special literature to the library of Penitentiary No. 6 in Soroca. However, the situation is different in penitentiary No. 10 in Goian , where the available special literature in the library is insufficient; for the 596 convicts kept there, it keeps only 22 copies of the Codes on Enforcement, 5 Criminal Codes, 5 Codes on Penal Procedure, 2 Codes on Civil Procedure, 2 Civil Codes, 2 Labour Codes, 2 Family Codes and 4 Constitutions. These books have also come to the library from the OSCE mission in the Republic of Moldova as book a donation.

573. Analysing the received correspondence, the Centre came to the conclusion that measures taken so far are insufficient. We express concern with respect to the fact that temporary detention institutions do not have libraries, and do not own copies of the Code of Criminal Procedure, Code on Execution, or Code of Administrative Offences. In view of that, the detainees have no possibility to make themselves familiar with elementary information about their rights. They are not aware of the fact that they have the right to request a defence attorney or to inform their relatives of their place of detention. In situations like that realization of the rights of detainees to information, defence, etc. depends on the discretionary behaviour of the penal investigation bodies.

574. In view of the need to realize the constitutional right to information, the administrations of the penitentiaries are obliged to ensure convicted persons’ access to information disseminated via mass media. According to provisions of article 227 of the Code on Execution, convicted persons can use their own radios, TV sets, tape recorders, or any other devices authorized by the administration of the penitentiary, provided that they pay fees for the consumed electricity.

575. However, no financial proceeds have been allocated for the realization of the provisions of this article. The modality to be followed by the convicted persons to pay for the electricity they consume is still under development and is expected to be implemented upon approval of the new Statutes of Penalty Execution by Convicts. Failure to ensure practical implementation of this article has been the subject of a considerable number of letters addressed to the Centre of Human Rights.

576. During our visits to the Republican broad profile hospital located in Pruncul and to Penitentiary No. 3 in Chisinau we found an infringement of the right to information as guaranteed by article 34 of the Constitution of the Republic of Moldova, articles 2 and 19 of Universal Declaration of Human Rights, article 19, paragraph 2, of the International Covenant on Civil and Political Rights, and article 10 of the European Convention on Human Rights. The Centre of Human Rights receives petitions from convicts of these institutions, in which they complain that the administration refuses to issue copies of their files, excerpts from their medical records and other necessary documents.

577. One example is the petition from convict C (name not disclosed for reasons of confidentiality) kept in the Republican broad profile hospital located in Pruncul. He complained that the administration of the institution refused to provide the following documents: copies of necessary documents from his personal file and the copy of the sentence based on which he was imprisoned in the preventive detention isolator.

578. In the end, following the Ombudsman's intervention with the General Director of the Department of Penitentiary Institutions, the request of the above-mentioned convict has been satisfied. The Ombudsman of the republic, based on article 27 of the Law of the Republic of Moldova on the Ombudsman Institution, has submitted requests to reinstate the infringed right of convicts to information.

579. The Ombudsman Institution has investigated the case of citizen Coliban Svetlana, student of the "Alexei Mateevici" lyceum in Causeni, aimed at elucidating the circumstances in which the constitutional right of lyceum students to freedom of opinion and expression was infringed.

580. Below we produce the statement submitted to Mr. Andrei Toderascu, Chief of the Education Division of Causeni district, developed by the Ombudsman within provisions of article 29, paragraph (1), item b) of the Law on the Ombudsman Institution.

581. The Ombudsman Institution has investigated the case of citizen Coliban Svetlana, student of the "Alexei Mateevici" lyceum, in Causeni pursuing the goal to elucidate the circumstances of infringement of the constitutional right of lyceum students to freedom of opinion and expression, guaranteed by article 32 of the Constitution of the Republic of Moldova stipulating the following: "*All citizens are guaranteed the freedom of opinion as well as the freedom of publicly expressing their thoughts and opinions by way of word, image or any other possible means*".

582. Between 19 and 21 September 2006 the editorial group of the "Asta-Da" newspaper for youth carried out a survey to find out people's opinion in connection with the introduction of the integrated history course in schools. Svetlana Coliban, a grade 11 student and employee of the

above-mentioned newspaper, developed a questionnaire and disseminated it among students of grades 6 through 12 of the lyceum. Following that she was summoned to the Causeni district Education Division and threatened with exclusion from the lyceum. She was told that realization of this kind of actions contravenes the regulation of the lyceum.

583. We need to bear in mind that human rights constitute an ethical and political priority and also they are a basic constitutional and legal institution of any modern and democratic State. Situation regarding observance of human rights, all other rights, and the complexity of such, determines the maturity of democracy and the development of the civil society.

584. A democracy means a struggle between divergent opinions at all levels of the society - in the family and at school, in associations and at work. It depends on a certain social climate favouring an open discussion of diverging opinions. An expression of somebody's own opinions needs to be tolerated and encouraged. Own opinions constitute that basis on which active participation in public life is built. The right to free expression of opinions is closely linked to the right of freedom of press.

585. The ombudsman institution reaffirms its belief that freedom of expression and freedom of information are vital for the existence of a democratic society. They are also essential for the society progress and welfare, as well as for exercising other rights and fundamental liberties.

586. In conformity with article 4 of the Constitution of the Republic of Moldova the constitutional provisions on human rights and freedoms shall be understood and implemented in accordance with the Universal Declaration of Human Rights and with conventions and treaties to which the Republic of Moldova is a party. Whenever disagreements appear between conventions and treaties on human fundamental rights signed by the Republic of Moldova and its domestic law, priority is given to international regulations.

587. The preamble of the Universal Declaration of Human Rights proclaims that freedom of expression as the highest aspiration of a person. Pursuant to this Declaration, exercising of this right presupposes that human beings enjoy freedom of expression and convictions. Article 19 of the Declaration stipulates that everyone is entitled to the right of freedom of opinion and expression, which implies the right to be free of persecution for his opinions and the right to seek, to receive and to impart information and ideas through all possible ways of expression.

588. This statement, which resembles a principle , is also developed in article 19 of the International Covenant on the Civil and Political Rights which states clearly that "Everyone shall have the right to hold opinions without interference. Everyone shall have the right to freedom of expression".

589. A broad regulation of freedom of opinion and expression is given by article 10 of the European Convention on Human Rights. Thus, subject to provisions of article 10, paragraph 1, freedom of expression is exercised in the absence of interference of public authorities.

590. In the Republic of Moldova freedom of opinion and expression constitutes a fundamental right, which is guaranteed by article 32 of the Constitution. The State guarantees to everyone the right to freely express opinions and ideas, to truthful information about internal and international

life through periodical publications and press agencies, carrying out activity in pluralistic conditions. Freedom of press can be exercised only in the absence of limitations. Absence of restrictions, however, is not enough for freedom of press. It needs to be supported by values confirmed by actions.

591. As concerns freedom of child we would like to focus on the relation - of the State vis-à-vis a child's personality. In reality a child's right can be realized only provided that the State respects all its obligations and contributes by all means to the solution of children's problems.

592. Article 13 of the Convention on the Rights of the Child states that "*the child has the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of the child's choice*".

593. A number of domestic legal acts, among them Law No. 338 on Child's Rights of 15 December 1994, take up this international statement. Thus, article 8 of this Law stipulates that in no way shall the child's right to freedom of thought, opinion and faith be infringed. The State guarantees the child the right to freely express his opinions with respect to any problems related to his personality.

594. Under article 44 of Law No. 547 on Education of 21 July 1995 the Education Division in a district ensures the observance of the education legislation within its jurisdiction. Article 57 of the law includes a special provision stating that rights and freedoms of pupils and students are respected in educational institutions of all levels. Students and pupils have the right to freely express their opinions, convictions and ideas. At the same time any use of physical of psychological violence is forbidden.

595. In view of the above we qualify the behaviour of the Education Division in question unjustified and contravening to general accepted principles in a democratic society. We express our deep concern with respect to the action committed by it. To our mind this kind of attitude is excessive and exceeds competences established by the law in force. Additionally, it had a negative impact on students of the "Alexei Mateevici" lyceum, and especially stressful consequences for student Svetlana Coliban.

596. *To achieve that in future no similar situations of infringement of constitutional rights of students are permitted* and based on the provisions of article 29 of the Law on Ombudsman of the Republic of Moldova, Iurie Perevoznic, in his capacity of ombudsman, has requested the consideration of this notification.

597. In connection with the above issue the European Court on Human Rights has passed two judgments with respect to the Republic of Moldova - *Busuioc v. Moldova* and *Savitchii v. Moldova*. The following has been undertaken to ensure their execution: the judgments were integrally translated into the State language; the lump sum ordered by the Court was paid (5,625 Euros for *Busuioc* and 4,500 Euros for *Savitchii*); the decisions were published in the Official Gazette of the Republic of Moldova "Monitorul Oficial" and posted on the official website of the Ministry of Justice: www.justice.md; and central and local public administration bodies and judicial authorities were notified of the two decisions.

598. On 15-16 November 2005, the Ministry of Justice, in cooperation with the Council of Europe, organized a workshop for magistrates dedicated to issues related to article 10 of the European Convention on Human Rights (freedom of expression and information). The two judgments (*Busuioc* and *Savitchii*) received a lot of attention during this workshop.

Article 20

599. Paragraph (3) of article 32 of the Constitution stipulates that the law forbids and prosecutes all actions aimed at denying and slandering the State or the people. Likewise are forbidden and prosecuted the instigations to aggressive war, national, racial or religious hatred, the incitement to discrimination, territorial separation, public violence, or other actions threatening constitutional order.

600. In conformity to article 16, paragraph (2) of the Constitution all citizens of the Republic of Moldova are equal before the law and the public authorities, without any discrimination as to race, nationality, ethnic origin, language, religion, sex, opinion, political choice, personal property or social origin. Pursuant to article 5, paragraph (3) of Law No. 275-XIII of 10 November 1994 on the Legal Status of Alien and Stateless Persons in the Republic of Moldova, alien and stateless persons enjoy the same principle of equality before the law.

601. In the Criminal Code of the Republic of Moldova we find a direct incrimination of the war propaganda, constituting a separate type of offence. Thus, article 140 of the Criminal Code stipulates that war propaganda, dissemination of tendentious or invented information instigating to war, or any other actions aimed to unleash a war committed orally, in writing, via radio, TV, cinema, or other means is prosecuted.

602. Within the terms of the Criminal Code the following are considered offences: involvement of minors in military actions or war propaganda among minors (article 210); public appeals to overthrow or change through violence the constitutional rule or to violate the territorial integrity of the Republic of Moldova, as well as to spread for this purpose through different means materials containing similar appeals (article 341); instigation (article 42), to planning, preparation, unleashing, or conducting war (article 139), instigation to attacks on persons or institutions placed under international protection, whenever such attacks follow the aim to provoke war or international conflicts (article 142), etc.

603. The Criminal Code in article 346 includes actions constituting “an urge to national, racial or religious hatred, an incitement to discrimination, hostility or violence” among them being: deliberate actions, public urges, including the ones made through mass media, in writing and electronically, aimed to stir feud or national, racial or religious split, with the final aim to bring about humiliation of national dignity and direct or indirect limitation of rights or, vice versa, establishment of advantages of citizens based on national, racial or religious criteria.

604. The penal law also foresees penalties for goad (incitement/instigation), it being qualified as participation to the offence, - the national, racial or religious hatred included herein. Thus, pursuant to article 42, paragraph (4) an instigator is considered a person who through any methods determines another person to commit an offence. Within the terms of article 83 of the

Criminal Code the penalty for an organizer, instigator and his accomplice in a deliberately committed offence falling under criminal law is similar to the penalty envisaged for the author. In establishing the penalty everyone's contribution to commitment of the offence is taken into consideration, as well as general penalty individualizing criteria.

605. Other examples of instigations prosecuted under penal law are: instigation to genocide, i.e. commitment, following the aim to totally, or partially destroy a national, ethnic, racial or religious group, of actions as listed in article 135; instigation to deliberate murder carried out for reasons of enmity or social, national, racial or religious hatred (article 145, paragraph (3), item j); instigation to deliberate severe or medium damage of body integrity or health committed for reasons of enmity or social, national, racial or religious hatred (article 151, paragraph (2), item i) and (article 152, paragraph (2), item j); instigation to violate human rights and freedoms of citizens guaranteed by the Constitution and other laws on grounds of sex, race, colour, language, religion, political or any other opinions, national or social origin, belonging to a national minority, personal property, birth or any other situation (article 176); organization, heading or active participation to a group, the activity of which while carried out in the form of preaches of religious beliefs and performance of religious rites, causes damages to citizens' health, or other attacks on the person or infringement of his rights, or constitutes instigation of citizens to deny participation to social life, or to refuse observance of their duties as citizens, etc.

606. Prevention and combating of instigation to national, racial or religious hatred, which constitute incitement to discrimination, hostility or violence is also carried out within the provisions of Law No. 54-XV of February 2003 on Counteracting the Extremist Activity. Subject to provisions of article 12, paragraph (1), the development of extremist activities by citizens of the Republic of Moldova, aliens and stateless persons is prosecuted by the criminal, administrative or civil law in the way established therein.

607. Extremist activity as defined in the Law on Counteracting the Extremist Activity constitutes an activity carried out by a non-governmental or religious organization, a mass media institution or any other entity or physical person aimed at planning, organizing, preparing or realizing actions in view of the following final goals:

- Generation of racial, national or religious hatred and of social hatred in result of violence, or urges to violence
- Humiliation of national dignity
- Stirring mass disorders, hooliganism or vandalism actions for reasons of hatred or ideological, political, racial, national or religious dissension, as well as for reasons of feud against a certain social group
- Propagation of exclusiveness, superiority or inferiority of citizens based on their attitude to religion, or on basis of such criteria as race, nationality, ethnical origin, language, religion, sex, opinion, political choice, property or social origin

608. Extremist activity is also considered the financial support or contribution in any other way to the realization of the above-mentioned activities, including allocation of financial proceeds,

premises, training and printing facilities, other material supplies, telephone and fax communication and other communication means, information services, as well as public urges to develop activities or actions as mentioned above.

609. The Law on Counteracting the Extremist Activity also includes provisions spelling out the penal administrative or civil penalty to be applied in the way established by law with respect to non-governmental or religious organizations, or any other organizations (articles 6 and 14), mass media institutions (article 7), employees with responsible functions (article 11), citizens of the Republic of Moldova, aliens and stateless persons (article 12), in case of development of extremist activity, publishing or dissemination of extremist printed materials, audiovisual or other materials. Subject to this Law it is inadmissible to use the telecommunication networks commit any of above-mentioned actions. Other counteracting measures are also included here.

610. Pursuant to article 3 of this Law counteraction of extremist activity is carried out in line with the following principle directions:

(a) Adoption of a number of preventive measures meant to prevent the extremist activity and to identify and exclude causes and conditions leading to the development of the extremist activity;

(b) Identification, prevention and cease of the extremist activity of non-governmental and religious organizations, mass media institutions, other organizations and physical persons.

611. Also, the development of extremist activity in meetings is forbidden. Organizers of such meeting bear responsibility for the observance of provisions of Law No. 560-XIII of 21 July 1995 on Organization and Conduct of meetings, as well as provisions of other legal acts referring to the inadmissibility of extremist activities. Thus, during meetings it is forbidden to involve actions committed by extremist organizations, to use their insignia or symbols and to disseminate extremist materials. Whenever circumstances of this kind arise the organizers of the reunion, or other persons responsible are obliged to take immediate measures to eliminate the violations. Failure to fulfil these obligations brings about responsibility in line with provisions of article 13 of the Law on Counteracting the Extremist Activity.

612. The Criminal Code includes no special provision with respect to “racial discrimination” and the latter does not appear as a distinct component of an offence. However, in view of adhesion to the International Convention on the Suppression and Punishment of the Crime of Apartheid it has become necessary to make amendments to the criminal legislation and to stipulate punishment of the crime of apartheid. The Information and Security Service has developed a draft law to complete the Criminal Code with a new offence component - “Racial Discrimination (Apartheid)”, included in article 135¹.

613. This draft law has received positive comments from the competent authorities and subsequently has been approved by the Government and submitted to the Parliament for consideration. However, at the request of the Legal Commission of the Parliament of the Republic of Moldova the Government has withdrawn this draft law from the Parliament given the need to make certain amendments ensuring consistency with provisions of articles 7 and 9 of the Rome Statute and with other offence components of the Criminal Code comprising apartheid elements.

614. The ratification procedure of the Rome Statute of the International Criminal Court started in March 2006 when a set of documents necessary for the ratification of this instrument were submitted to the Government through the Ministry of Foreign Affairs and European Integration.

615. In order to prepare for the ratification procedure of the Rome Statute the Ministry of Justice developed a draft law on amendments to the Constitution, which are meant to exclude inconsistency with the Statute's provisions. On 21 April 2006 the draft law was submitted to the Government for consideration. In the same context, the Ministry of Justice was supposed to submit to the Government by 11 December 2006 a draft law on amendments to the Criminal Code for consideration and approval, which should ensure compliance of this Law with the provisions of the Statute.

616. During the preliminary stage of the ratification of the Rome Statute the Ministry of Justice developed a draft law on international legal assistance with respect to criminal issues, which was adopted in first reading by the Parliament on 11 May 2006.

617. On 3 and 4 March 2006 representatives of the Ministry of Justice attended an international Conference on the importance of the ratification and implementation of the ICC Statute. This event, organized in Chisinau by the International Criminal Law Society, has also facilitated the preparation process for the Statute's ratification and implementation.

618. With respect to realization of paragraph 2 of article 20 of the ICCPR, the ombudsman of the Republic of Moldova thinks that the fair observance of the existent legal framework ensures to a large extent the beneficial realization of article 16 of the Constitution, in conformity to which the State protects and respects every person. The ratification of the European Charter on Regional and Minority Languages and of Protocol No. 12 of the ECHR signed by the Republic of Moldova on 4 November 2000 are relevant in this context.

619. The petitions received by the Centre for Human Rights give grounds to state a number of drawbacks of the law in force. One of them refers to discriminating conditions of certain categories of citizens in the realization of their rights, making the constitutional principles on equity and equality before the law inconsistent. In view of this, additionally to ensuring the formal equality of rights and freedoms, the legislator should also ensure equal chances for their realization.

620. Law No. 1324-XII on Privatisation of Housing Stocks of 1 March 1993 is an example thereof. In conformity to this law the cost of housing requested for privatisation is set based on the work experience accumulated as per 10 March 1993 (date when the Law entered into force). Here we deal with discriminating conditions for the acquisition of lodgings for a significant number of citizens, representing in their majority the vulnerable layers of the society (grade I and II invalids; single persons, orphan children, young families without significant means of existence). This is a violation of the principle of equal opportunities for a person in the social sphere (equal chances for property acquisition). The ombudsman institution considered a concrete petition dealing with the problem in question. In the absence of other remedies it addressed to the administrative court a request to annul the decision of the Republican Commission on Privatisation of Housing Stocks and to oblige this Commission to issue a new

decision, ensuring the direct application of provisions of the Constitution of the Republic of Moldova with respect to free-of-charge transfer of housing stocks into private property. The ombudsman institution based this request on the provisions of the Constitution of the Republic of Moldova, the decision of the Constitutional Court No. 28 of 27 October 1997 on control of constitutionality degree of Law No. 1069 of 26 December 1996 regarding amendments to article 5 of the Law on Privatisation of Housing Stocks, and the Decision of the Plenum of the Supreme Court of Justice No. 2, dated 30 January 1996 "On ways of application by the courts of a number of provisions of the Constitution of the Republic of Moldova".

621. The ombudsman institution thinks that the Law on Privatisation of Housing Stocks is not the only legal act containing discriminating provisions. One should mention here a number of provisions of Law No. 289 on allowances for temporary loss of labour capacities and other social insurance payments, as well as the Tax Code, etc.

622. The situation does not look better with reference to discrimination based on race, colour, language, religion or belonging to a national minority.

623. In the development of the periodic report on the implementation of the International Convention on the Elimination of All forms of Racial Discrimination, facts stated in the petitions received by the Centre for Human Rights have been used for this purpose as well as information collected by the Bureau of Interethnic Relations. This gives us grounds to state that racial discrimination on basis of certain criteria is rather frequent in the Republic of Moldova.

624. Certain citizens and non-governmental organizations consider discriminatory the cases of non-observance of provisions of the linguistic legislation and the Codes on Civil and Penal Procedures. In conformity to information submitted by the Bureau of Interethnic Relations, cases are frequent when persons addressing the public authorities or other authorities in Russian (orally or in writing) receive answers in the State language, which is an infringement of this person's rights. The same situation occurs during audiences or addresses registered in the Centre of Human Rights. The petitioners insist that they receive an answer to their applications in Russian.

625. The situation regarding this issue becomes even more alarming when the procedural rights of citizens are violated, or when the legal institutions commit violations of this kind.

626. We have examples of petitions invoking the infringement of their constitutional and procedural rights when the courts have violated the legal provisions regarding the procedural language. The ombudsman institution considered necessary to inform the Superior Council of Magistrates about such cases and requested comments regarding correctness of interpretation and application by judges of provisions of article 24 of the Code on Civil Procedure.

627. Another problem concerns the partial realization of the rights of the Ukrainian minority to study its mother tongue. The latter is studied in less than half of schools in settlements compactly populated by Ukrainians, which differs from the situations with respect to Russian, Gagauz and Bulgarian languages.

628. Also, a significant number of Roma are in a difficult social and cultural situation, which has a negative impact on the realization of their economic, social and cultural rights. Cases have been registered when citizens belonging to nationalities other than the rest of population (Roma, persons originating from African or Asian countries) invoke an excessive interest towards them by law enforcement bodies and representatives of public authorities.

629. Article 14 of the European Convention on Human Rights stipulates that exercising of rights and freedoms need to be ensured in the absence of any differentiations especially based on sex, race, colour, language, religion, political or any other opinions, national or social origin, belonging to a national minority, property, birth or any other situation.

630. In view of this, the State members need to recognize the universally recognized rights and freedoms, including observance of rights of sexual minorities, for all persons under their jurisdiction.

631. The Council of Europe Parliamentary Assembly, in its resolution No. 1465 of 16 September 2005 dedicated to the operation of democratic institutions in the Republic of Moldova, has recommended full observance of the fundamental rights of sexual minorities.

632. In spite of some democratic changes that took place in Moldova recently with respect to the observance of rights of the sexual minorities, the reality is that the behaviour of authorities and the entire society is far from being in compliance with the international standards.

633. Discrimination of a certain category of citizens is detrimental to the image of the Republic of Moldova in the context of evolution of democratic reforms and fulfilment of assumed commitments.

634. The problem is not caused exclusively by the national legal framework or the international conventions on human rights to which Moldova is a party. It is rather linked with the stereotypes and prejudices of members of our society.

635. This conclusion is also based on facts described in an open letter received by the Centre on Human Rights in October 2005 from the "GenderDoc-M" information centre. This organization drew attention to a concrete case of discrimination committed by an employee of the Ministry of Internal Affairs on grounds of sexual orientation. The same letter invoked the personal security of gay and lesbian persons in Moldova.

636. The Supreme Law of the Republic of Moldova stipulates that "dignity of people, their rights and freedoms are supreme values and are guaranteed" (article 1) and further it says: "it is the foremost duty of the state to respect and protect the human person" (article 16). The Constitution guarantees all citizens the rights and freedoms stipulated by international law. The State also recognizes equality of rights and freedoms, irrespective on criteria listed in article 16, the list of which, actually, is not exhaustive.

637. Nevertheless, we continue to come across negative attitudes and intolerance by members of society towards this category of plenipotentiary citizens of the State. An example of such attitude is an incident that took place during a workshop organized for policemen. It was during

this event that an employee of the Ministry of Internal Affairs, in his capacity of the head of a Christian policemen organization, made the following statement: “the fundamental Law is the Law of the Lord, in conformity to which homosexuality is a sin and the person committing it deserves death”.

638. The ombudsman institution qualifies the behaviour of the employee of the police forces during the workshop and, therefore, during working hours, as inadmissible and deserving accusation for reasons that the person participated in this meeting in his capacity of an employee of a State institution and not of a head of a Christian policemen’s organization. Therefore, it was correct to appreciate his actions from the perspective of his function within the law enforcement bodies.

639. In conformity to Law No. 416-XII of 18 December 1990 on Police Forces, the police in its activity seek to observe the personality of citizens, being a guarantor of their dignity, rights, liberties and legal interests. The police ensure protection to citizens irrespective of their social situation, wealth, national belonging, race, sex and age, education and language, religion, political or other types of convictions. Police does not interfere with the rights and liberties of citizens. At the same time, the Constitution guarantees to everyone freedom of conscience and opinion, including the police employee. This right implies freedom of thought, opinion and freedom to have or adopt a religion or a conviction, at the choice of the person, as well as the freedom to manifest his religion or conviction both in public and in private, through a creed and performing rites and through practices and education.

640. However, freedom of opinion and freedom of manifestation of somebody’s religion may be subject to restrictions as are prescribed by law and as necessary for the security, order and public health or morals, rights and fundamental freedoms of other persons. Freedom of expression shall not prejudice the honour, dignity or right of another person to have his own vision. Also, religious convictions of a person shall not be taken as basis of the activity of the institution in which he works, nor should it constitute the foundation of the State-promoted policy.

641. In this context, in his capacity of a representative of a body set up to protect the public order and invested with certain powers as specified by legal acts and regulations a policemen is not supposed to commit actions that cause prejudice to public interests, rights and legal interests of other citizens.

642. Exercises carried out by the police forces have implications for the fundamental human rights, among them the right to life, liberty and security of a person. In a State with the rule of law and in a democratic State they may consolidate, but also undermine the essential rights such as, for example, the right to a fair process, freedom and peaceful meetings. They can also violate important personal rights such as the right to private life, which might have both positive or negative effects on the community to the extent to which the policemen manifest or do not manifest due respect to options of the fundamental human rights.

643. Judging from the powers delegated to policemen one comes to the conclusion that they are party of the system responsible for the law enforcement and, subsequently, in a democratic society they are obliged to directly contribute to the protection of a person.

644. The ombudsman institution requested that a thorough control of facts described in the letter submitted by the "Gender Doc-M" Information Centre be made. The Ministry of Internal Affairs in its response, however, stated that it does not consider discriminatory the opinion of the policeman in question expressed during the workshop with respect to sexual minorities. In the opinion of the Ministry the behaviour of this policemen does not contravene the generally accepted norms, or the ethics of work.

645. In view of the above and taking as guidance the powers given to them by law the ombudsman recommended to the administration of the Ministry of Internal Affairs to take an attitude avoiding future situations, in which prejudice is caused to rights and freedoms of sexual minorities and conflicts are generated between the police forces and this group of citizens.

Article 21

646. Freedom of assembly is guaranteed by article 40 of the Constitution. In accordance with the provisions of article 184 of the Criminal Code violation of the right to assembly is prosecuted. A typical example of this offence is the violation of the right to freedom of assembly through illegal impediments to holding of meetings, demonstrations, rallies, processions or any other assemblies or to participation or restriction to participation of citizens to such:

1. Committed by a person with responsible functions;

2. Committed by two or more persons;

3. Accompanied by violence, which presents no danger for life and health.

647. In accordance with Law No. 560-XIII of 21 July 1995 on the Organization and Conduct of Assemblies the following entities enjoy the right to organize assemblies: a) citizens of the Republic of Moldova above 18 years, in the capacity of exercise; b) parties, other social political organizations, economic entities, trade unions, churches and other religious organizations and non-governmental organizations that are duly registered. In conformity to article 11 assemblies are to be declared at least 15 days in advance, as is prescribed by law.

648. Pursuant to article 11 of the European Convention on Human Rights no restrictions regarding participation to an assembly are imposed.

649. The Law on Local Public Administration, in article 34 (1), items f) and g) stipulates that it is the general mayor's responsibility to take measures ensuring the conduct of public assemblies. He has the power to forbid or suspend public assemblies contravening the legal order or good morals.

650. The declaration made in advance need to be considered by the public authority at the latest five days before the assembly date. Authorization of the assembly is given through a decree of the general mayor. The general mayor issues a similar decree when the authorization to conduct the assembly is denied.

651. Referring to the ECHR concerns (p. 15 of Final Comments, 2002) regarding the requirement of advance notification about meetings (15 days), the public authorities have offered the following arguments in favour of maintaining the respective requirement:

1. Practically all political parties, socio-political movements, NGOs, etc., have their offices and operate in Chisinau;

2. The central public authorities of the State, and the premises of foreign diplomatic missions accredited in the Republic of Moldova are located in the capital;

3. The technical procedure - registration of preliminary statements, preliminary coordination of issues connected with payments of fees for services, conclusion of contracts, development of a draft order of the General Mayor, its coordination and the notification of the organizers about the outcome takes a long period of time;

4. The meeting is a form of expressing protest against or consent to certain events, institutions, persons, etc. The organizers have no obligation to solve certain conflicts and there is no special procedure for this, therefore the preliminary notification is absolutely necessary;

5. In addition, in order to provide the requested services, time is needed for preparation, both technical and practical;

6. Most of the meetings take place in Chisinau;

7. The preliminary notification term does not preclude the free organization of meetings in compliance with article 40 of the Constitution; on the contrary, it disciplines both the organizers and the local public authorities;

8. Renunciation to the preliminary notification procedure can create impediments during the settlement of conflicts in administrative offence courts; as well as with respect to the term of placing applications to the court at law, term and procedure of examination, the right of parties to recourse, etc.

652. 14 assemblies received authorization in 2002, and in 2003 another 55 assemblies received authorization.

653. In 2004 150 assemblies were authorized assemblies and 10 assemblies were denied authorization, out of which 6 for failure to observe the terms set regarding placement of the declaration. One refusal was based on the fact that the organizer was not a citizen of the Republic of Moldova. Another refusal was made in view of the fact that another authorized assembly had already booked the place requested for the meeting. In one case the authorization was denied because the organizers refused to collaborate in the organization of that reunion. Finally, one authorization was denied for the reasons that the invoked purpose was beyond the competences of authorities mentioned in the declaration.

654. The Mayoralty of Chisinau municipality, in 2005, considered 190 preliminary declarations requesting authorization of assemblies, submitted by natural and legal persons. 26 assemblies were denied authorization, out of which: 3 - for failure to meet the terms of placement of the assembly declaration; 5 - for the reason that another authorized assembly already booked the

place requested for the reunion; 3 - for the reason that the purpose of that reunion was not indicated; 4 - for the reason that the central authorities scheduled assemblies to be organized during that period; 1 - for the reason that picketing of some private houses was requested; 1 - for the reason that the demands were already satisfied through the adoption of an administrative act; 1 - for the reason that peaceful conditions for the conduct of that reunion could not be ensured; 1 - for the reason that the form and place of the reunion were not indicated; 3 - for the reason that the need of such reunion was not justified; 1 - for the reason that the court has issued an irrevocable decision regarding the demands herein and 3 - for other reasons.

655. Thirteen decrees issued by the interim general mayor have been challenged in courts. In case of 10 requests to bring legal actions against the mayoralty put forward by the plaintiffs the courts made irrevocable decisions denying these requests.

656. The meeting referred to in the letter submitted by the "GenderDoc-M" Information Centre, meant to represent the interests of homosexual and lesbians and scheduled for 20 May 2005, was not authorized for the reason that the Chisinau General Police Commissariat was in possession of information according to which during this assembly fights with severe consequences were expected to take place among participants and other citizens. The organizer challenged the decree No. 313-d, of the general interim mayor in court. The Chisinau Court of Appeal issued a decision on 14 June 2006, rejecting the demand in question, and the decision of the Supreme Court of Justice of 18 October 2006 maintained in force the decision of the Chisinau Court of Appeal.

657. Between 1 January and 30 October 2006 the mayoralty of the Chisinau municipality considered 124 preliminary declarations requesting authorization of assemblies, out of which 95 declarations were authorized. In the other 29 cases the authorization to hold assemblies was denied: 8 - for reasons of violation of public order, 4 - for reasons of failure to observe the terms put forward for placing a declaration; 2 - for reasons of absence of powers to declare the assembly; 2 - for reasons that the organizer refused to participate to preliminary consideration of the assembly; 2 - for reasons that another authorized assembly already booked the place and time requested for the reunion; 9 - for other reasons.

658. The preliminary declaration No. 87, of 7 March 2006 requesting authorization of a solidarity march on 20 May 2005 submitted by the "GenderDoc-M" Information Centre, representing the interests of homosexual and lesbians, was not subject to consideration but it was not authorized on the grounds that the mayoralty received more than 600 letters and petitions from citizens, NGOs and religious organizations requesting the authorization of a protesting counter-manifestation. That would have provoked mass violations of public order with severe consequences for the society. At present, the court is considering the request of the "GenderDoc-M" Information Centre to take legal actions against the mayoralty of the Chisinau municipality and annulment of the administrative act.

659. One should take into consideration the fact that after the adoption on 18 March 2003 of the Law No. 123-XV "Regarding Local Public Administration" no amendments have been made to the Law on Organization and Conduct of Assemblies to bring it in compliance with provisions of the Law on Local Public Administration. This situation creates confusions during the consideration of preliminary declarations, authorization of assemblies and consideration of challenged administrative acts by courts.

660. The European Court on Human Rights through its judicial acts referring to the Republic of Moldova in the case - *Popular Christian Democratic Party (PPCD) v. Moldova* found a violation of article 11 (right to participate to assemblies).

661. Following this judgment made by the Court on 14 February 2006, the Republic of Moldova was obliged to pay the plaintiff the amount of 4,000 Euros. The following actions were undertaken to ensure execution of this decision: the judgment was translated integrally and published in the Official Gazette of the Republic of Moldova; payment was made to the plaintiff; the decision was posted on the official website of the Ministry of Justice: www.justice.md; central and local public administration bodies, as well as the judicial authorities, were notified of the decision.

662. To ensure execution of the ECHR judgment in *Ziliberberg v. Moldova* the following measures were taken: the judgment was translated integrally and published in the Official Gazette of the Republic of Moldova; payments were made to the plaintiff; the judgment was posted on the official website of the Ministry of Justice: www.justice.md; and central and local public administration bodies, as well as the judicial authorities, were notified of it.

663. In connection with the judgment in the case of *Ziliberbergv. Moldova*, the Ministry of Justice developed a draft law for the amendment and completion of the Code on Administrative Offences. This draft law is meant to regulate the legal procedure summoning persons in lawsuits involving administrative contraventions. The draft law was submitted to the Government for approval, and approved by Government Decree No. 507, dated 30 May 2005, and submitted it to the Parliament for consideration. On 23 June 2005 the Parliament issued decree No. 128-XVI adopting the draft law in the first reading, but regrettably, through Parliamentary Decree No-149-XVI of 14 July 2005 rejected it.

Article 22

664. Law No. 837-XIII on Public Associations, dated May 17, 1996, regulates the social relations arising in realization of the right to assembly of citizens and spells out the principles to be observed during foundation, registration, operation and cease of operation of public associations. Additionally to these provisions the Civil Code, article 181 contains provisions regarding associations (non-commercial organizations), and the statutes of non-commercial organization (article 186). Articles 187 through 191 spell out types of activities to be carried out by the non-commercial organizations, their administration and conflict of interests.

665. A very important event took place during the period under consideration, which has contributed to strengthening cooperation between public authorities and civil society. Today civil society is present in all spheres of activity and is able to provide to the decision-making bodies opinions, expertise, well-founded scientific and practical strategies and concepts. In this context, the indisputable need appears to create a favourable environment for the initiation of cooperation between the governmental public sector and the non-governmental sector in view of achieving encouragement of the civil initiative, participatory democracy and objective awareness of problems faced by the Moldovan society.

666. To this end the Parliament developed the Concept on the Cooperation with the Civil Society, which was approved on 29 December 2005 through Decree No. 373. This Concept is focused on the need to create an open, permanent dialogue between civil society and the Parliament in view of streamlining the decision-making process and developing the non-governmental sector. The realization of these objectives is expected to be achieved through the creation of a consulting and cooperation mechanism.

667. To facilitate the realization of this goal the following objectives have been identified:

(a) Objective assessment of problems faced by the society at present;

(b) Broad representation in the Parliament of opinions held by different groups of citizens;

(c) Streamlining participatory democracy and the decision-making process;

(d) Encouragement of civil initiative;

(e) Extension and improvement of the legal framework through broader participation of the electorate in this process.

668. Parties to this cooperation shall be the Parliament and organizations of the civil society, registered in the Republic of Moldova.

669. The cooperation shall be carried out through the following ways:

(a) Councils of experts

The standing committees of the Parliament, subject to conditions stipulated in the Parliamentary Regulation, create, in line with main directions of activity of the committees, permanent councils of experts under these committees including representatives of the civil society organizations.

(b) Ongoing consultation

The Parliament shall make the draft laws accessible for cognizance of the civil society. In view of this goal the draft laws shall be placed on the official web site of the Parliament.

Interested civil society organizations shall be able to freely access the information and submit expertise, analyse the impact, make comments, share opinions, evaluations, proposals and other materials observing minimum cooperation standards.

(c) Ad-hoc assemblies

Ad-hoc assemblies can be organized at the initiative of the President of the Parliament, Standing Bureau, standing parliamentary commissions, parliamentary factions or civil society organizations to carry out consultations regarding concrete issues on the Parliament agenda and regarding other problems of national interest.

(d) Public hearings

Public hearings shall be organized by each standing parliamentary commission at least once a week to consult the civil society organizations regarding concrete issues on the Parliament agenda or regarding other problems of national interest.

(e) The annual conference

To evaluate the degree of cooperation and to decide on new cooperation directions between the Parliament and civil society organizations, the President of Parliament summons an annual conference with the participation of representatives of the civil society organizations and representatives of the Parliament.

670. Representatives of civil society can be included in the working groups created by the Parliament or by its working bodies in view of elaborating or defining certain draft laws. The Parliament and the civil society organizations shall ensure an adequate publicity of the consultation process involving all available information means for that.

671. To this end a conference was held to summarize the outcomes of two workshops organized by the Information Bureau of the Council of Europe. During these events the Standing Bureau of the Parliament made a communication on the distribution of relevant competences and responsibilities among the standing committees and subdivisions of the Administration. As a result of these events the Parliament started to place on its official website the draft laws so that representatives of the civil society be able to make comments. Also, following the aim to facilitate the contribution of the civil society to the law-making process, members of Parliament agreed on the most adequate way of achieving that. The decision was to involve representatives of civil society in the realization of legislative actions in line with the calendar programme, following the resolution and recommendations of the Commission of the Council of Europe on the respect of obligations and commitments of member states and also the legislative programme for 2005-2009.

672. Political parties have a special role and importance in the Republic of Moldova, similar to all other States where democratic procedures are exercised through political pluralism and sovereignty of people is exercised rather through bodies representing the people than directly. Article 41 the Constitution stipulates the freedom of parties and other socio-political organizations. Pursuant to this article, citizens may freely associate in parties and other socio-political organizations. They contribute to defining and expression of the political will of the people and participate to elections as provided for in the law.

673. The conditions and principles of establishment, operation and liquidation of parties and other socio-political organizations are stated in Law No. 718 of 17 September 1991 on parties and other socio-political organizations.

674. A new draft law on political parties has been developed by a group of parliamentarians, which was adopted in the first reading by the Parliament. The document was subjected to expert evaluation by the Council of Europe, the last comment on the law draft being made

on 19 April 2007. The purpose of the draft law is to add lacking regulations and innovations to the system of requirements put forward for the operation of political parties and to ensure its qualitative adjustment.

675. This draft law was developed based on study of the legislation of many countries such as Estonia, Latvia, Lithuania, Romania, Germany, Austria, and Georgia. In addition, the recommendations of the Parliamentary Assembly of the Council of Europe were followed.

676. The development of this draft law aims at the establishment of tools for strengthening democracy, political pluralism, and at decreasing absenteeism in elections.

677. The novelty of this law lies with creating a tool for funding the parties not only through membership fees and donations, but also through subsidies from the State budget. This funding is a direct investment in increasing the efficiency of the political parties and, on the other hand, it is an indirect investment aimed at democratic development of the society. Such States as Estonia, Latvia, Lithuania, Germany, France, Romania and others have a system of legal acts to support the funding of political parties, while the allocations from the State budget to political parties is similar to the one of the above-mentioned draft law, with some exceptions conditioned by the specific economic, political and social features of each State.

Article 23

678. Article 28 of the Constitution of the Republic of Moldova stipulates that the State respects and protects the personal, family and private life. Pursuant to provisions of article 48 of the Supreme Law the family is the natural and fundamental constituent of society and as such has the right to be protected by the State and by society. The family is founded on the freely consented marriage of husband and wife, on the spouses' equality of rights and on the right and duty of parents to ensure their children's upbringing and education. The Code on Family, adopted on 26 October 2000, as well as other legal acts adopted within the frame and limitations set herein, establish the conditions under which a marriage may be concluded, terminated or annulled.

679. The Family Code stipulates that only a marriage concluded exclusively within the State civil status bodies generates rights and duties of spouses spelled out in the Code. To conclude a marriage persons fill in a marriage declaration, which is submitted personally by citizens wishing to marry to the State civil status body within the territory where the domicile of one of them, or one of their parents, is located. In their marriage declaration the future spouses need to declare that there exist no impediments to their marriage. Submission of the marriage declaration and marriage registration take place in the set way as specified for the State registration of civil status acts.

680. Marriage is concluded on condition that mutual, non-vitiated consent is personally and unconditionally expressed both by man and woman being married and also on condition that the spouses have reached the matrimonial age. The minimum matrimonial age is 18 years for men and 16 years for women. However, in the presence of grounded reasons, the conclusion of marriage can be approved for men of younger, but not less than two years below the age limit.

Reduction of matrimonial age can be approved by the local public administration body of the territory where the persons wishing to marry have their domicile based on their application and with the consent of the minor's parents.

681. Article 15 of the Family Code spells out the impediments for marriage as follows:

(1) Marriage shall be forbidden between:

(a) Persons in a situation when at least one of them is already married;

(b) Direct relatives, including the IV grade relatives, brothers and sisters, including the ones who have a common parent;

(c) Adopter and adopted persons;

(d) Adopted and a direct relative of the adopter, including the II grade relatives;

(e) Tutor and the minor person in his custody during the tutoring period;

(f) Persons who at least one of them is deprived of the capacity of exercising the right;

(g) Persons convicted to deprivation of liberty during the period when both of them are in prison;

(h) Persons of the same sex.

(2) Any one can challenge a marriage in case of existence of legal impediments or some other requirements of the Law are not met, provided that reasons are submitted in writing and proof is annexed to them. The civil status body is obliged to verify these challenges and to refuse to conclude the marriage if evidence proves to be true.

682. In accordance with article 155 of the Family Code, alien and stateless persons with a domicile on the territory of the Republic of Moldova in family relations enjoy similar rights and duties with the ones of the citizens of the Republic of Moldova. Aliens with a domicile outside the territory of the Republic of Moldova may conclude a marriage on the territory of the Republic of Moldova subject to the legislation of the Republic of Moldova provided they have the right to conclude a marriage obtained in compliance with the legislation of the country they are citizens of. Conditions to be observed by stateless persons wishing to conclude marriage on the territory of the Republic of Moldova are stipulated by the legislation of the Republic of Moldova, taking into consideration the legislation of the State where these persons have their domicile. Marriages concluded within diplomatic missions and in foreign consular offices are recognized on the territory of the Republic of Moldova based on the reciprocity principle.

Article 24

683. In respect to children's rights promotion and protection, the Working Group established by General Prosecutor's Order of February 11, 2005 has developed the draft Law on Legal Status of Adoption. The draft law has been improved by the Ministry of Justice taking into account objections submitted by the Academy of Sciences and the Ministry of Foreign Affairs and European Integration pursuant to Government Decree No. 1138-1845 of 6 September 2006. The draft law aims at eliminating gaps existing in the national legislation, through the institution of strict regulations in the area of observance of children's rights and of legal guarantees in line with international standards.

684. In addition, it provides for the establishment of a central public authority (earlier the idea was to establish an agency for protection of family and child, now the plan is to have a ministry of social protection, family and child) that would manage the procedure of national and international adoptions of Moldovan minors, and develop the specific requirements to the contents of the adopting family file and the file of the minor to be adopted. A special article refers to the prevention of child abuse, trafficking and criminal responsibility for failure to execute the adoption procedure according to the law. Similarly, the right of the adopted minor to continuity with respect to his/her cultural, religious affiliation, maintenance of the name and citizenship until reaching adult age is envisaged.

685. The draft law is also important since it provides for the right to international adoptions only in cooperation with competent authorities of the adopting countries (members of the Convention on Protection of Children and Cooperation in the Area of International Adoptions of 1993, or when there exist bilateral agreements between States).

686. In the Republic of Moldova every newborn shall be entered into the State Register of Population based on the healthcare certificate confirming the birth. The latter confirms the birth of a child by a concrete woman, either in a healthcare institution or outside such institution with the assistance of healthcare staff. The birth-confirming certificate is an official document of a specific pattern (Form No. 103/e-2004) approved by a Joint Order of the Ministry of Health, Department for Statistics and Sociology and Department for Informational Technologies No. 292/130/126 of 11 October 2004. The birth-confirming certificate is a numbered document, each having its own number (from 000000001 up to 999999999) and an identity number (IDNP), which is reserved for the newborn child. The identity number of the newborn and the consecutive number of the healthcare certificate are assigned by the Ministry of Informational Development. When twins are born (2, 3 or more) the healthcare certificate is filled in and provided separately for each child.

687. Pursuant to provisions of article 4, item (4) letters a-d of Law No. 1585-XIII of 27 February 1998 on mandatory healthcare insurance, insurance of children is done by the State. The Government annually approves a specific Programme of Mandatory Healthcare Insurance providing that each child, including the newborn, has the right to emergency healthcare at pre-hospital, primary, specialised outpatient care, dental healthcare, para-clinical services, including high performance hospital assistance and home healthcare. Children under five are provided with integrally compensated medicines for outpatient treatment. In addition,

all children are vaccinated free of charge in accordance with the vaccination plan set up for the country. In order to combat malnutrition, children under one year from vulnerable families in need of artificial nourishment, are provided with adapted dairy products, the expenditures for them being covered by the budgets of local authorities.

688. Government Decree No. 138 of 6 February 2006 approved the draft law on prevention and combating domestic violence. The Parliament adopted it in first reading on August 2006 and the draft is currently being improved for the second reading.

689. The Ministry of Health (and Social Protection) has participated in the development of the draft government decree on approval of the strategy and national plan on reform of the residential system of child healthcare for 2006-2012 and it is supposed to participate in the implementation of provisions stipulated in the respective project jointly with the Ministry of Education and Youth.

690. Domestic violence is a negative phenomenon and its combating is possible through a comprehensive approach, prioritization of actions and the development of prevention and combating actions both at national and local levels. These measures need to be targeted towards provision of healthcare, social and legal assistance to vulnerable women, aiming at improving their life conditions and status; organization of professional activities contributing to their social reintegration and/or health promotion, manifestation of vigilance in detecting and reporting consequences of domestic violence for marginalized groups of the population, awareness raising and mutual trust, prevention of conflicts; mediation and conflict settlement, civic education, mutual tolerance and respect for human diversity; cooperation with international organizations and NGOs in promotion of family values, rights of the person, etc.

691. To realize item 2 of the Resolution of the Commission for Human Rights and Ethnic Minorities in respect to domestic violence, its consequences and actions for prevention, the Ministry of Health has issued and sent to territories an order addressed to managers of public national, municipal and district healthcare institutions. It proposes undertaking actions to increase vigilance of healthcare staff in respect to persons subjected to violence, to inform police authorities about persons subjected to violence that have applied for healthcare services in public healthcare institutions. Healthcare services are to be provided to persons subjected to violence in pursuance of the law in force. The same resolution requires the organization of activities for awareness-raising, education for health, prevention of sexually transmitted diseases, HIV/AIDS, etc., organization of awareness-raising activities in issues of healthcare - social protection and cultivating individual, family and community responsibility with the help of reproductive health units under the Family Doctor Centres and Centres for Women's Health as well as Youth Friendly Health Centres.

692. The National Strategy for Reproductive Health approved by Government Decree No. 313 of 26 August 2005 is the basic document that regulates State policy in the area of reproductive health of youth. One of the main objectives is the prevention of domestic violence and sexual abuse. Prior actions for reaching this objective are aimed at:

- Establishment of an adequate legal framework for prevention of domestic violence and sexual abuse in the country

- Provision of specific services to victims of domestic violence and sexual abuse
- Increasing awareness and education of the population in respect to domestic violence and sexual abuse
- Instituting social assistance services for families that do not carry out their duties in respect to children
- Implementation of programmes for mental rehabilitation of children-victims and witnesses of violence
- Organization of counselling services for abusers

693. *Institutionalized children*: The Ministry of Health (and Social Protection) has under its subordination two Child Placement Centres for 330 children - the Centre for early age children placement and rehabilitation in Chisinau for 200 children and the Centre for Provisional Placement and Rehabilitation of children in Balti for 130 children. The grounds for placing children in these institutions are as follows: sick parents, parents in detention, deceased parents, single mothers, minor mothers, orphan children, sick children, difficult life conditions including lack of lodgings, homeless parents, etc. Annually, a number of over 200 children are placed in these centres, about 98 per cent of whom are of preschool age. Out of the total number of children placed in these institutions in 2003, 30 per cent were under one month old. Practically all children have various somatic and neurological disorders, while 25 per cent of children have severe disabilities, birth malformations, genetic disorders, etc. Over 65 per cent of the children are placed provisionally.

694. Maintenance of family - child relations is the basis of a child's health and its harmonious social-emotional development. In order to ensure this relationship the need exists to restructure and upgrade current residential services. Prevention of institutionalization and its negative effects on children is a priority concern of the State.

695. Aiming at maintaining the family integrity, protection of children at risk and decrease of the number of institutionalized children the Ministry of Health (and Social Protection), has undertaken a number of actions to ensure:

- Decrease of the number of rejected children in maternities and sections for children in hospitals
- Prevention of child abandoning
- De-institutionalization of children placed in residential facilities reporting to the Ministry and their integration in families
- Creation of conditions for the rehabilitation of children with disabilities

696. To ensure this, in maternities with over 700 births per year the staff comprises one psychologist and one social worker active for the prevention of child abandoning in maternities. These staff members offer counselling both to pregnant women at risk and to their families.

697. Another action undertaken by the Ministry in this area was the establishment of the *Maternal Section* within the Centre for Early Age Children Placement and Rehabilitation in Chisinau. The section accommodates six mother-child groups. Here mothers at risk of abandoning their newborn or small children, or pregnant women during their late pregnancy period facing material, social, professional or relational difficulties are placed. The groups are placed in the respective section for an average period of up to six months depending on existing problems and possibilities for individual solution of the case. Here mothers receive healthcare, psychological and pedagogical assistance offered by the multi-disciplinary team of the Centre (psychologist, social workers, lawyer, etc.). In 2006 a *Maternal Section* similar to the one in Chisinau was established in the Provisional Centre for Placement and Rehabilitation in Balti for seven mother-child groups mainly from the northern area of the country.

698. Taking into account that about 21 per cent of the early age children are institutionalized for health reasons, in order to prevent child abandoning a *Day-care* Centre for healthcare and social rehabilitation and education with a capacity of 15 beds was opened in the Balti Centre for Provisional Placement and Rehabilitation of Children. The beneficiaries of the Centre are children with various serious mental-neurological and physical disorders from Balti aged between one and seven. Currently, reconstruction works are in progress in the Chisinau Centre for Early Age Children Placement and Rehabilitation preparing the opening of a *Day-care* Centre *for Children with disabilities* with a capacity of 10 beds. In this Centre comprehensive healthcare, mental and pedagogical rehabilitation services are provided to children from Chisinau with neurological and movement disorders aged between six months and seven years. Both Placement Centres subordinated to the Ministry have received high quality equipment for the rehabilitation of children with disabilities.

699. *Disabled Children*: As of 1 January 2006 the healthcare records showed that there were 13,208 disabled children under 16, the index being of 18.5 per 1,000 children of the respective age, as compared to 15.6 children in 2001.

700. The list of diseases and pathologic disorders that entitle children under 16 to the right to a status of disabled child and to a State social allocation was approved by Government Decree No. 1260 of October 17, 2003. Based on this Decree the Order of the Ministry of Health and Social Protection No. 369/77 of 26 December 2003 was developed. In 2005 the structure of invalidity based on severity degree was as follows:

- 1st degree invalids amount to 35.6 per cent or 6.45 in 1,000
- 2nd degree invalids amount to 53.7 per cent or 9.72 in 1,000
- 3rd degree invalids amount to 10.7 per cent or 1.95 in 1,000

701. Over the last years a decrease of the level of primary disabilities was registered: from 2.6 in 2001 down to 2.4 in 1,000 children in 2005. The share of primarily identified disabled children varies between 16.4 per cent in 2001 and 13.2 per cent in 2005 of the total number of disabled children. Analysis of invalidity roots shows that the first place is taken by mental and

behaviour disorders with invalidity index of 4.2 in 1,000 children. Second come congenital malformations with 4.0 in 1,000 children, followed by nervous system disorders with an index of bone-joint, muscle and connective tissue index of 1.0 in 1,000 children, the fifth cause are diseases of the ear and mastoid apophizy disorders, diseases of the eye and its annexes and respiratory apparatus diseases with an index of 0.7 in 1,000 children.

702. Pursuant to provisions of Law No. 499-XIV of 14 July 1999 on State social allocations for certain groups of citizens, the allocations for disabled children of 1st, 2nd and 3rd degree are approved for children who are not fully institutionalized and cared for by the State.

703. The allocations vary in amount depending on the assessed severity of disability:

(a) For disabled children under 16 with 1st disability degree, 100 per cent pension, or 179 lei per month;

(b) For disabled children with 2nd and 3rd degree disability the monthly allocation is 85 per cent of the full disability pension, amounting to 152 lei.

704. As of 1 April 2006 pensions were indexed by 11.9 and at present amount to 200.30 lei for children of 1st degree disability and 170.09 for 2nd and 3rd degree disability. In addition, disabled children are provided targeted compensations for payment of utilities and electricity, as well as an annual compensation for purchase of coal and wood during the cold season.

705. Referring to social protection of children and families in difficult circumstances in the Republic of Moldova, the current national social assistance system in the Republic of Moldova consists of:

1. Social allocations, which means money targeted for support of people in difficult circumstances; and

2. Social services - a set of measures and actions to assist them in overcoming difficulties.

706. Social allocations provided to families with children in the current social assistance system are regulated by the Regulation on Procedure for Calculation and Payment of Indemnities to Families with Children approved by Government Decree No. 1478 of 15 November 2002 and are as follows:

I. Indemnities:

- One-time indemnity upon birth of a child
- Monthly indemnity for caring for the child
- Monthly indemnity for caring for a child between 1.5/3 and 16 years based on assessment of family income

II. Targeted indemnities are monthly allocations for payment of utilities to families with four and more children in pursuance of Law No. 933-XIV of 14 April 2000 "On social protection of certain groups of population"

III. Social state allocations:

- For children with disabilities under 16 years of age
- For invalids from childhood
- Children under 18 upon loss of breadwinner
- For care of disabled person to families with invalid children with 1st degree disability

The allocations are indexed annually on 1 April in compliance with the effective legislation, except allocations for the care of disabled persons, which are regulated by Law No. 499-XIV of 14 July 1999 on Social State Allocations for Certain Groups of Citizens.

IV. Humanitarian aid from the national or territorial funds for social support to the population.

707. The Frame Regulation for the Centre for Provisional Child Placement was approved by Government Decree No. 1018 of 13 November 2004, whereas Government Decree No. 450 of 28 April 2006 has approved Minimal Quality Requirements regarding Care, Education and Socialization of a Child in a Provisional Placement Centre.

708. Pursuant to Government Decree No. 181 of 17 February 2006 three centres were transferred from public property of local authorities to State public property - the Centre for children with special educational needs "Speranta" ("Hope") in Criuleni, the Centre for rehabilitation and social protection of children at risk in Taraclia and the Provisional Placement Centre for Children at Risk "Azimut" ("Azimuth") in Soroca.

709. The regulations on the operation of these centres were approved by Decree of the Ministry of Health and Social Protection No. 366 of 6 September 2006.

710. Of major importance for the development of family and child protection is the implementation of short-term actions planned by the Government and the Ministry of Health and Social Protection in the area of child and family rights protection, including:

1. Establishment of a central entity specialized in problems of the child; establishment of local entities of major importance for growth of the child at risk and of families;

2. Unification and harmonization of the legal framework and development of second tier legislation in the area;

3. Creation of a national network of social workers that could contribute to identification and prevention of separation of the child from family and referral in case of need to social assistance programmes, basic and specialized services;

4. Creation of a general database in the area of social assistance;

5. More efficient coordination of measures and actions in the area of social assistance, which are undertaken nationally and locally by non-governmental organizations and international donors.

Article 25

711. Over the reporting period, the Elections Code was amended by Law No. 248-XVI of 21 July 2006, Law No. 79-XVI of 6 April 2006, Law No. 298-XVI of 17 November 2005, Law No. 276-XVI of 4 November 2005, Law No. 176-XVI of 22 July 2005, Law No. 31-XV of 13 February 2003, and Law No. 796-XV of 25 January 2002. The amendments were made taking into consideration the recommendation of the European Commission for Democracy by Law of the Council of Europe, as well as the recommendations of OSCE/ODIHR, especially as related to:

- Decision-making authority of the Commission (art. 18): Central Election Commission (CEC) has authority to adopt decisions with a majority of voting members with deliberative vote

- Ensuring a participatory CEC membership, irrespective of the political group in power (art. 16): Central Election Commission consists of 9 members with deliberative vote: one member is appointed by the President of the Republic of Moldova, another by the Government, and seven members by the Parliament, including five by opposition parties in proportion with the number of mandates obtained by them. The members of the Central Election Commission shall be no members of parties and other social-political organizations. The persons to become members of CEC are to be confirmed by a decree of the Parliament with a majority of the elected parliamentarians' votes

- Unlimited annulment of election rights for persons convicted to imprisonment (art. 13 paragraph (1) letter c)); the persons convicted to imprisonment by final court decision have no election rights"

- Electoral campaigning (art. 47): see item 1 "Assuring liberty of expression and information during election period"

- Publication of CEC resolutions (art. 18): following amendments of the Election Code, all CEC Resolutions are to be placed on the official web site of the Commission and to be published in the Official Gazette

- Publication of election results for each election section (art. 58): one copy of the minutes shall be maintained at the election office of the election section, another shall be submitted to the district election council, another shall be displayed close to the entrance to the election section, and the rest shall be handed over to the representatives of the election competitor and observers. Detailed election results, including for each election section, shall be placed on the official Internet site of the CEC - www.cec.md immediately upon their processing by election section councils

- Complaints and protests: responsible authorities (arts 65-68): Protests related to actions and decisions of election sections offices and of district election councils shall be submitted to a court on the territory where the respective office or council is located, while protests related to actions and decisions of the Central Election Commission to the Chisinau Court of Appeals

- Setting the representation threshold (art. 86): the representation threshold for parties and other social-political organizations was decreased to 4 percent, while for election alliances to 8 percent and for independent candidates to 3 per cent

- Accreditation of observers (art. 63) - observers may be accredited prior to the beginning of the election period and may work both on election day, prior to its onset, during elections and upon finalization of the elections, while the Regulation on Accreditation of Observers shall be approved by a decision of the Central Election Commission

- Amendment of the Election Code in the sense that the organizational support to election bodies by local public authorities does not provide the right and does not authorize permanent or long-term presence of local administration officials in the premises of election sections or other election bodies (art. 55 paragraph (8))

- Increase of time for informing the participants in elections about their rights and election procedures (art. 64): mass media shall disseminate at the request of the Central Election Commission, social and civic education and election spots, organize awareness raising campaigns on election procedure and other features of the voting process. Public TV and radio institutions have the responsibility, versus the private ones that have the right, to organize during the entire election campaign, public debates in equitable conditions for all competitors in the election. They shall be given no less than 90 minutes per day, to be used during one or several programmes

712. Pursuant to article 3 of the Election Code, the citizens of the Republic of Moldova have the right to elect and be elected irrespective of race, nationality, ethnicity, language, confession, gender, belief, political affiliation, property or social origin. Currently the Parliament of the Republic of Moldova includes members who are Moldovans, Romanians, Ukrainians, Russians, Gagauz, and Bulgarians.

713. As stated in the Law on parties and other socio-political organizations, the charter of the party or other socio-political organization shall be registered if the party or the organization has at least 5,000 members residing in at least half of the second tier administrative territorial units, provided it has a programme and elected management bodies.

714. One should mention that representatives of international organizations, as well as experts from the Republic of Moldova stated that the respective provisions of the Law on parties and other socio-political organizations restrict the possibility to set up parties by persons pertaining to national minorities residing together in specific communities. However, the respective objections refer more to the way of organization of parties and do not affect materially the possibility of efficient participation of ethnic minorities, especially those with small population, to the public life.

715. Pursuant to article 11 of the Election Code the right to elect is vested in citizens of the Republic of Moldova that have reached, as per the date of the election, the age of 18, except those deprived of this right according to procedures stated in the law. Article 12 states that the right to be elected is vested in citizens of the Republic of Moldova who have the right to vote and comply with the requirements stated in the Election Code.

716. In addition, the Election Code imposes some limitations on the right to elect and to be elected, namely, subject to article 13 the right to elect is denied to persons who:

(a) Do not comply with requirements provided for in article 11;

(b) Are recognized as incapable by final court decision;

(c) Are convicted to imprisonment by final court decision.

717. Paragraph 2 of the article stipulates the categories of citizens who cannot be elected, namely:

(a) Militaries servicing their term;

(b) Persons mentioned in paragraph (1);

(c) Persons who are convicted to imprisonment by final court decision and are serving their penalty in detention places.

718. The right to be elected is guaranteed to the citizens of the Republic of Moldova who have the right to vote in accordance with the Law. Citizens of the Republic of Moldova may be elected members of the Parliament provided that they have the right to vote, have reached, including as per the election day, the age of 18, reside in the country and comply with the requirements of the Election Code.

Article 26

719. In accordance with the Constitution, the Republic of Moldova is a democratic State with the rule of the law, in which human dignity, the rights and freedoms of man, free development of human personality, fairness and political pluralism are supreme values and are guaranteed (art. 1, paragraph 3). Respect to and care for the person is a prior duty of the state. All citizens of the Republic of Moldova are equal before the law and public authorities irrespective of race, nationality, ethnicity, language, confession, gender, belief, political affiliation, property or social origin (art. 16, paragraphs (1) and (2)).

720. Article 53 of the fundamental law stipulates that every person facing infringement of his rights committed by a public authority through an administrative act, or through failure to settle in legal terms the allegation, is entitled to secure the annulment of this act, recognition of the claimed right and reparation of damages caused to him.

721. According to law, the State is financially accountable for errors committed in criminal court cases by the criminal prosecution authorities and courts.

722. In addition, article 20 of the Constitution set forth the principle of free access to justice. Thus, any person has the right to effective remedy ensured by a competent court against any act that infringes on his/her lawful rights, freedoms and interests.

723. Law No. 190-XIII of 19 July 1994 on petitions sets out the procedure for the examination of petitions by citizens of the Republic of Moldova addressed to State authorities, companies, institutions and organizations aiming at securing the protection of their legitimate rights and interests. No law may preclude access to justice.

724. The Law on organization of courts No. 514-XIII of 6 July 1995 provides, in its article 8, that all citizens of the Republic of Moldova are equal before the law and court authority, irrespective of race, citizenship, ethnicity, language, confession, gender, opinion, political affiliation, property or any other circumstances.

725. Pursuant to article 5 of the Law on legal status of aliens and stateless persons, aliens and stateless persons are equal before the law and public authorities, irrespective of race, citizenship, ethnicity, language, confession, gender, opinion, political affiliation, property or social origin.

726. Article 22 of the Code of Civil Procedure also states that justice in civil cases shall be exercised based on the principle of equality of all persons irrespective of citizenship, race, nationality, ethnicity, language, confession, gender, opinion, political affiliation, property, social origin, workplace, residence, place of birth as well as equality of all organizations, irrespective of the type of property and legal status, reporting system, office or any other circumstances.

727. The same principle is also firmly stated in article 9 of the Code of Criminal Procedure, which says that all are equal before the law, criminal prosecution authorities and court instances irrespective of gender, race, colour, language, confession, political opinion and any other opinion, ethnicity or social origin, pertaining to a national minority, property, circumstance of birth or any other circumstances.

728. Pursuant to article 346 of the Criminal Code, deliberate actions, public incitement, including in mass media, either printed or electronic, to raise discord or national, racial or religious feud, to degrade national honour and dignity or to directly or indirectly limit the rights or set direct or indirect favours depending on national, racial or religious affiliation is prosecuted.

729. One should mention that the legislation of the Republic of Moldova has no definition of "discrimination". The Bureau for Interethnic Minorities makes use of the definition contained in the International Convention on the Elimination of All Forms of Racial Discrimination, in which "racial discrimination" denotes any distinction, exclusion, restriction or preference based on race, colour, national or ethnic ascendancy or origin aiming at or having the effect of destruction or compromising recognition, use or exercise in conditions of equality, of the fundamental human rights and freedoms in political, economic, social, cultural or any other area of public life.

730. It is worth mentioning that in 2005 the Republic of Moldova prepared and submitted its periodic report to the United Nations Committee on the Elimination of Racial Discrimination on the implementation of the International Convention on Elimination of All Forms of Racial

Discrimination. Based on data submitted by the Bureau for Interethnic Relations, the National Bureau for Statistics, Ministry of Economy and Trade, former National Migration Bureau, Ministry of Education and Youth, Ministry of Culture and Tourism, Ministry of Health and Social Protection, Ministry of Informational Development, State Service for Problems of Creeds, General Prosecutor's Office, Coordinating Council for Radio and TV, "Teleradio-Moldova" company, Ministry of Reintegration, Centre for Human Rights in Moldova, and ethnic/cultural NGOs of national minorities, it was stated that in the Republic of Moldova the provisions of the Convention are effectively realized. No confirmed cases of discrimination were reported in the context of the Convention.

731. There are registered cases of violation of the legislation on language, which sometimes is treated by citizens and NGOs as being of a nature of racial discrimination. It should be mentioned here that while non-observance of language legislation provisions is a violation of human rights and negatively affects the condition of the respective persons, the respective cases did not aim and did not have the effect of destroying or compromising recognition, use or exercise of fundamental human rights and freedoms in conditions of equality. This area is continuously in the focus of attention of the Bureau for Interethnic Relations of the Republic of Moldova, which supervises the observance of legal provisions in national ethnic and language related areas and undertakes the necessary actions to prevent violations of the law in force.

732. Cases are registered when persons belonging to ethnicities that differ in appearance from the rest of the population (Roma, persons originating from African and Asian countries) complain with respect to law enforcement authorities and public authorities. However, these cases did not aim at limiting fundamental human rights and freedoms.

733. No cases of racial discrimination as defined in the Convention were reported to the Bureau of Interethnic Relations during 2005-2006.

734. With respect to the final observations of the Human Rights Committee of 26 July 2002 (CCPR/CO/75/MDA) related to the concerns of the Committee on "the situation of the Gagauz and Roma, that continue to suffer from profound "discrimination, especially in the rural space", we state the following: currently, there is no valid information on discrimination of Gagauz, especially in the rural areas, since practically all villages and communities in which the Gagauz form a considerable part of the population are located in the Gagauzia autonomous territorial unit. In communities with small numbers of Gagauz persons, their condition does not differ as compared to that of other ethnic minority communities.

735. As far as cases of Roma discrimination are concerned, the fact should be mentioned that representatives of NGOs for the Roma frequently refer to discrimination of the Roma for reason of ethnicity. However, no confirmed cases of discrimination were registered in the course of operation of the Bureau for Interethnic Relations in the context of the International Convention on Elimination of All Forms of Racial Discrimination. As mentioned earlier, cases are registered where Roma persons apply to the Bureau with complaints about increased interest by police authorities based on the criteria of their facial features and skin colour. Racial attitude in this sense is manifested in selective detention of persons, frequent verification of identity documents and visits to their place of residence. This situation is also common in respect to persons

originating from African and Asian countries. This problem is receiving permanent attention from the Bureau for Interethnic Relations and Ministry of Internal Affairs, which when necessary undertake relevant actions to prevent violations of fundamental human rights and freedoms.

Article 27

736. According to the 2004 census data, the population of the Republic of Moldova is 3,383,332 people (100 per cent), including: Moldovans - 2,564,849 people (75.8 per cent); Ukrainians - 282,406 persons (8.3 per cent); Russians - 201,218 persons (5.9 per cent); Gagauz - 147,500 persons (4.4 per cent); Romanians - 73,276 persons (2.2 per cent); Bulgarians - 65,662 persons (1.9 per cent); other ethnicities - 34,401 persons (1.0 per cent), among them: Roma - 12.271 persons, Byelorussians - 5,059 persons, Jews - 3,608 persons, Polish - 2,384 persons, Armenians - 1,829 persons, Germans - 1,616 persons etc.; undeclared ethnicity - 14,020 persons (0.4 per cent).

737. Language: 78.4 per cent of the Moldovans have declared Moldovan as their native language, 18.8 per cent - as Romanian, 2.5 per cent - Russian, 0.3 per cent - other languages; Ukrainians: 64.1 per cent - Ukrainian, 31.8 per cent - Russian; Russians: 97.2 per cent - Russian; Gagauz: 93.3 per cent - Gagauz language, 5.8 per cent - Russian; Bulgarians: 81 per cent - Bulgarian, 13,9 per cent - Russian.

738. Census data do not include data on ethnicity data the Eastern districts of the Republic of Moldova and Bender.

739. In accordance with the 1989 census, data the population of the Eastern districts of the Republic of Moldova (Transdniestria) is 707,400 persons (100 per cent), including: Moldovans - 239,900 persons (39.9 per cent); Ukrainians - 170,100 persons (28,3 per cent); Russians - 153,400 persons (25.4 per cent); Gagauz - 3,200 persons (0.2 per cent); Bulgarians 11,100 persons (1.9 per cent); Bender city: Moldovans - 41,400 persons (29.9 per cent); Ukrainians - 25,100 persons (18,2 per cent); Russians - 57,800 persons (41.9 per cent); Gagauz - 1,600 persons (1,2 per cent); Bulgarians - 3,800 persons (2.8 per cent).

Development of legislation during 2002-2006

740. The National Plan of Action on Human Rights (NHRAP) was adopted on 24 October 2003, in which a separate chapter is dedicated to safeguarding the rights of national minorities. The NHRAP provided for the ratification of the European Charter for Regional and Minority Languages (2006); adjustment of the legislation to the standards of the Charter, observance of the principle of proportional representation in public authorities, justice, police and armed forces; ensuring opportunities to learn Ukrainian, Bulgarian and Gagauz languages in communities where a considerable part of the population pertains to the respective minority; consideration of the issue of teaching Romani in some educational institutions, etc.

741. On 19 December 2003, the Parliament adopted Law 546-XV on Approval of the Concept of Policy on Nationalities of the Republic of Moldova. The concept presents a set of priority principles, objectives and tasks for the integration and consolidation of the multicultural and

multi-language people of the Republic of Moldova by harmonizing general national interests with the interests of all ethnic and language related communities of the country. The State undertakes to ensure to the utmost degree the maintenance, development and free expression of the ethnic, cultural, religious and language identity of all ethnic communities that reside in Moldova. The free development of the culture of different ethnic and language-related communities in the Republic of Moldova is a reality that successfully contributes to the development of the common spiritual space and common cultural heritage of Moldova. The ethnic, cultural and language diversity, mutual tolerance and interethnic peace are the spiritual wealth of Moldova. The concept of the Policy on Nationalities of the Republic of Moldova comprises priority directions of the policy on nationalities, principles, aims of this policy as well as specific tasks in the political and administrative, legal, social-economic areas, the area of training, culture and education, in the area of foreign policy.

742. On 22 July 2005 the Law No. 173-XVI on Basic Provisions of the Special Legal Status of the Communities on the Left Bank of Dniester (Transdniestria) was adopted, which provides that on the territory of Transdniestria, which is an autonomous territorial unit with special legal status and is an inalienable part of the Republic of Moldova, the official languages are Moldovan, Ukrainian and Russian.

743. In compliance with the Programme of Activity of the Government for the years 2005-2009 "Modernization of the Country - Welfare of the People", cultural identity is inseparable from such fundamental values as language, collective memory, and the spirituality and continuity of generations. Therefore, the Government, taking into account the experience of the old and new members of the European Union, will promote among all citizens of the country the dedication to culture, language, religion, history, achievements and sacrifices of the Moldovan people in the creation, maintenance and development of the State, as well as in the contribution of various ethnic-cultural groups to maintaining Moldova's cultural and territorial ethnicity; restoration of a informational-linguistic environment of unperturbed and general application of the State language in conditions of respect to diversity and cultural tolerance; extensive and profound study of the State language and simultaneous creation of favourable conditions for the development of languages and cultures of local ethnical-cultural groups; and strengthening of the cultural identity of the population of the country as a decisive condition for building a peaceful and prosperous future for the entire society.

Practical actions

744. In the Republic of Moldova pre-university educational institutions operate that teach in the State language (1,129), Russian language (289), as well as mixed institutions. Languages of national minorities are being studied in schools as follows: Ukrainian (54 schools and lyceums - 7,091 students), Gagauz (52 schools and lyceums - 25,087 students), Bulgarian (35 schools and lyceums - 6,953 students), Ivrit (2 schools - 633 students), Polish (1 school - 118 students), German (1 school - 199 students). In some schools the language of the national minorities is used as teaching language (Ukrainian language - 21 classes, 411 students, Bulgarian language - 7 classes, 86 students). These data refer to the school year 2005-2006. The data on school year 2006-2007 will be available in December 2007.

745. Curricula have been developed and are being implemented for the study of languages of national minorities. Russian, Ukrainian, Gagauz and Bulgarian language manuals have been developed and printed. The specialized course "History, culture and traditions of the Ukrainians/Russian/Gagauz/Bulgarian people" was introduced.

746. In the Republic of Moldova there exists a basis for training of teachers for educational institutions, where the languages of national minorities are being studied. In universities chairs of Russian, Ukrainian, Gagauz, Bulgarian operate and develop programmes and literature for the training of teachers for educational institutions, in which languages of minorities are taught. Training programmes are developed and teaching methodology literature is printed. Internship of teachers of national minorities' languages in Ukraine, Russian Federation, Turkey, Bulgaria and other countries is practiced.

747. Within the Academy of Sciences of Moldova there is an Institute for Cultural Heritage which carries out research in history, languages and culture of Ukrainian, Russian, Gagauz, Bulgarian, Jewish, and Roma populations of the Republic of Moldova.

748. Cultural institutions in the Republic of Moldova support the development of national minorities' culture (of Ukrainians, Russians, Gagauz, Bulgarians, Jews, etc.). Currently in the Republic of Moldova art groups operate that represent the culture of national minorities, among them Ukrainian, Russian, Gagauz, Bulgarian, Roma groups.

749. In Chisinau there is a library of Ukrainian literature "L. Ucrainka", a library of Russian literature "M. Lomonosov", a library of Gagauz literature "M. Ciakir", a library of Bulgarian literature "H. Botev", a library of Jewish literature "Iosif Mangher". In district libraries literature in Moldovan and Russian may be found, in some of them also literature in Ukrainian, Gagauz, Bulgarian and other languages is available.

750. In Chisinau, the Russian State Dramatic Theatre "A.P. Cehov" operates, in Ciadir-Lunga (Autonomous region Gagauzia) - National Gagauz Theatre "M. Ciachir", in Taraclia (Taraclia district) - the Dramatic Bulgarian Theatre "Olimpii Panov" operates along with the Home-Museum, A. S. Puşkin", etc.

751. In most districts art and ethnographic folklore groups have been established and operate, most of them being amateur groups of schools, lyceums, and ethnic-cultural organizations. These groups actively participate in cultural events organized in the country.

752. The electronic mass media, TV stations, broadcast programmes mainly in the State and Russian languages. In Taraclia, programmes are shown in Russian and Bulgarian, in Edinet - in the State language, in Russian and Ukrainian. On the territory of the Autonomous Region Gagauzia "Teleradio Gagauzia" retransmits a number of other TV and radio stations programmes in Gagauz, Bulgarian and Russian.

753. In Chisinau local radio stations broadcast programmes in the State language and in Russian, in Balti - in the State and Russian languages, as well as a number of programmes in Ukrainian and Polish, in Edinet district - in the State and Russian languages.

754. National public TV and radio company "Teleradio Moldova" that covers the national territory, and especially the editorial office "Comunitate" presents programmes in languages of ethnicities that live in the country (Russian, Ukrainian, Gagauz, Bulgarian, Gipsy/Roma, Yiddish, and other languages). The aim of the programmes is to multilaterally reflect the life of citizens of different ethnicities, and to support the maintenance of the identity of people pertaining to different ethnicities in a multi-ethnic State.

755. In a number of regions private publications, including periodicals, are issued. The languages used in these are the State and Russian language, and less frequently - Ukrainian, German, Polish (Balti), Gagauz (Autonomous Region Gagauzia, Chisinau), Bulgarian (Taraclia district, Chisinau), Byelorussian (Chisinau).

756. Persons belonging to ethnic minorities may use their mother tongue without restraint, and may disseminate and exchange information in their native languages.

757. Pursuant to provisions of the Law "on Functioning of Languages Spoken on the Territory of the Republic of Moldova" and the Law "on Rights of Persons Pertaining to Ethnic Minorities and on the Legal Status of their Organizations on the territory of the Republic of Moldova" citizens have the right to apply to public institutions, either verbally or in writing, in Moldovan or Russian languages and have the right to a reply in the language in which the appeal has been made (Moldovan or Russian). On the territory of Gagauzia, an autonomous territorial unit with special status, which while being a form of self-governance of the Gagauz, is a component part of the Republic of Moldova, communication languages, both spoken and written, are Moldovan, Gagauz or Russian. In territories where ethnic minorities form a majority of the population, Moldovan or Russian languages may serve as communication language (both verbal and written); on the territory of Gagauzia communication languages are Moldovan, Gagauz or Russian. Other languages of ethnic minorities are used for verbal communication.

758. The Laws, Decrees of the Parliament, Decrees of the President, Decrees and Orders of the Government, the Acts of the Constitutional Court and those of the Chamber of Accounts are published in the official Gazette of the Republic of Moldova in the State and Russian languages.

759. Official communications and other information of national significance are published in State language and in Russian in newspapers *Moldova Suverana* and *Nezavisimaia Moldova*, as well as other periodical publications.

760. The acts of local public authorities are published in the State and/or Russian languages. On the territory of the autonomous region Gagauzia a number of legal acts are published in the State, Gagauz and Russian languages (these are official Gagauzian languages in compliance with special legal status of Gagauzia). In Taraclia district, populated mainly by Bulgarians, the acts of local authorities are published in Russian. The acts of local public authorities are not published in any of the other languages (Bulgarian, Ukrainian).

761. In communities populated mainly by ethnic minorities the language of the respective minority is used for verbal communication with local authorities. Russian is used most frequently in such cases.

762. The Law on Creeds No. 979-XII states that each person has the right to freedom of thought, conscience and religion. This right should be realized in the spirit of tolerance and mutual respect and it includes the freedom to change religion or belief, to worship or exercise belief individually or in groups, in public or separately, through creed, education, practice and ritual.

763. Exercise of the right to freedom of manifestation of confession or belief may be restrained in compliance with the law only when such restriction in a democratic society is necessary for public security, public order, and protection of health or morale or for protection of rights and freedoms of other people.

764. As of 1 November 2006 21 creeds and religious associations operated in Moldova, which are officially recognized by the State. They have over 2,200 component entities as follows:

	Name of confession	**No. of component entities**
1.	Moldovan Orthodox Church (Moldovan metropolitan church)	1 266
2.	Local Autonomous Orthodox Church within Romanian Patriarchal Church (Bassarabian Metropolitan church)	245
3.	Diocese of the Russian Orthodox Church of Old Faith in Chisinau	15
4.	Romano - Catholic Episcopal Church in Chisinau	32
5.	Union of the Christian Evangelical Baptist Church	264
6.	Church (Conference Union) of Seventh's Day Adventists	149
7.	Church of Seventh's Day Adventists "Reformation Movement"	1
8.	Union of Evangelical Christian Churches (Pentecostal Creed)	37
9.	Religious Organization of Jehovah Witnesses	163
10.	Federation of Jew Communities	8
11.	Armenian Apostolic Parochial Church	2
12.	Krishna Conscience Society of the Republic of Moldova	3
13.	Union of the Moloch Spiritual Christians Communities	2
14.	Backhai Creed	1

Name of confession	No. of component entities
15. Presbyterian Religious Community “Peace Church”	1
16. New-Apostolic Church	11
17. Union of Free Christian Churches (Charismatic Creed)	20
18. Final Testament Church	3
19. Bible Church	3
20. Union of Messianic Jew Communities	1
21. Lutheran Evangelic Church	7

765. Out of the total population of the country, 3,158,015 persons (93.3 per cent) declare themselves Orthodox, 32.,754 persons (1 per cent) - Baptist, 13.503 persons (0.4 per cent) - Seventh’s Day Adventists, 9,179 persons (0.3 per cent) - Pentecostal creed, 5,094 persons - old faith Christians, 4.645 persons - Roman Catholics, 1,667 persons - Moslems.

Abbreviations

CCHT	-	Centre for Combating Human Trafficking
CPT	-	European Committee for Prevention of Torture and Inhuman or Degrading Penalties or Treatment
DP	-	Department for Penitentiaries
ECHR	-	European Court for Human Rights
EU	-	European Union
EU-BAM	-	European Union Border Assistance Mission
HRC	-	Human Rights Committee
ICCPR	-	International Covenant on Civil and Political Rights
MEAEI	-	Ministry of External Affairs and European Integration
MIA	-	Ministry of Internal Affairs
MID	-	Ministry for Informational Development
NHRAP	-	National Human Rights Action Plan
ODIHR	-	Organization for Democratic Institutions and Human Rights
OSCE	-	Organization for Security and Cooperation in Europe
PCA	-	Partnership and Cooperation Agreement between EU and Moldova

References

Information and statistical data from the following governmental entities were used in the preparation of this report:

1. Ministry of Justice
2. Ministry of Economy and Trade
3. Ministry of Health and Social Protection
4. Ministry of Internal Affairs
5. Ministry of Informational Development
6. Ministry of Reintegration
7. Ministry of Finance
8. Service for Information and Security
9. Border Service of the Republic of Moldova
10. State Service for Problems of Creeds
11. Interethnic Relations Bureau
12. Coordinating Council of the Radio-TV Issues
13. Central Election Commission
14. National Agency for Regulation in Telecommunications and Informatics
15. Centre for Human Rights
16. Supreme Court of Justice
17. Higher Magistrate Council
18. Chisinau Mayor's Office

The following NGOs have also participated in the report:

1. "PROMO-LEX" Association
2. Bar Association
3. Resource Centre for Organizations Active in the Area of Human Rights (CREDO)
4. CSPJ - Centre for Political and Legal Studies
5. "Tinerii pentru Initiativa Democratica" (The Youth for Democratic Initiative)
6. APCJ - Association for Promotion of Legal Clinics
7. LADOM - League for Protection of Human Rights.
