



**Convention against Torture
and Other Cruel, Inhuman
or Degrading Treatment
or Punishment**

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**Committee against torture
Forty-third session**

Summary record (partial)* of the 910th meeting

Held at the Palais Wilson, Geneva, on Wednesday, 11 November 2009, at 10 a.m.

Chairperson: Mr. Grossman

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* No summary record was prepared for the rest of the meeting.

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The meeting was called to order at 10 a.m.

Consideration of reports submitted by States parties under article 19 of the Convention (*continued*)

Second periodic report of Moldova (CAT/C/MDA/2; CAT/C/MDA/Q/2 and Add.1; HRI/CORE/1/Add.114)

1. *At the invitation of the Chairperson, the members of the delegation of Moldova took places at the Committee table.*

2. **Mr. Cerba** (Moldova) said that since its independence in 1991 Moldova had ratified the main international human rights instruments and adopted a series of measures aimed at incorporating recognized principles for the prevention of torture into its domestic law and institutional practices. It had established a new code of professional ethics for law enforcement personnel and set up a mechanism to monitor the code's implementation. As part of the National Human Rights Action Plan for 2004–2008, human rights training had been provided to police officers, prosecutors, judges and medical staff. In 2006, parliament had adopted amendments to the Constitution abolishing the death penalty, and the process of establishing of a national mechanism to prevent torture had got under way.

3. As a result of his Government's compliance with the many recommendations made by international human rights experts, considerable improvements had been made in prison conditions. Those included improved sanitary conditions, equipment and renovation of exercise yards, and better-quality medical services for inmates. Prisoners were allowed confidential and unrestricted meetings with their lawyers, and new techniques, such as music therapy, had been introduced in psychiatric wards.

4. Although 8 of the existing 38 remand facilities had been taken out of operation for not providing appropriate conditions of detention, budgetary constraints prevented the Government from carrying out many of the improvements needed. The authorities were examining ways of providing financing and had proposed the inclusion of the cost of renovating prisons in the 2010 general budget. Nevertheless, the Government was counting on the support of the Committee and international donors in helping it to end the problem of prison overcrowding and further improve prison conditions.

5. The necessary legal steps to transfer responsibility for Moldova's remand facilities and the functions of the judicial police from the Ministry of Internal Affairs to the Ministry of Justice were currently being examined by the Government. Legislation to enact the transfer was expected to enter into force on 1 January 2010.

6. Plans had been made for the adoption of a number of measures to prevent torture and inhuman treatment. A joint decree by the Ministry of Internal Affairs, the Ministry of Health and the General Prosecutor's Office had been issued. It required the General Prosecutor's Office to be notified immediately of cases of bodily harm to inmates. Greater attention was being given to the prevention of human rights violations by law enforcement officials. An automatic helpline had been set up in police stations, which made it possible to record requests for help and information on offences committed.

7. Moldova's main achievement in the area of torture prevention was the reform under way in the Ministry Internal Affairs, including efforts to ensure that the police responded to the needs of society and were accountable to citizens and their representatives. In the past several years, there had been a dramatic decline in the overall number of cases of alleged torture and inhuman treatment. In 2007, 33 cases of torture had been alleged, whereas in 2008 there had been only 15 such cases.

8. The Government was deeply concerned about, and very much regretted, the events of 7 April 2009, which had seriously undermined not only its efforts to give effect to the

provisions of the Convention but also many of Moldova's achievements since independence. The Government was examining the reasons for those events, and would take all appropriate measures to ensure that such acts were not repeated and that all the persons responsible were brought to justice. The General Prosecutor's Office had examined 104 complaints of the use of force by the police in connection with the events. Of a total of 32 criminal suits filed, 7 had already been prosecuted. It was important to bear in mind that those events had resulted from the politicization of the police force by the previous Administration.

9. A parliamentary commission was investigating the events to try to ascertain the reasons underlying them. Moldova was interested in receiving international support in that investigation. It had examined all the reports and comments provided by international organizations and was paying particular attention to the question of human rights training for police officers. It had doubled the amount of time allocated for the study of human rights and the prevention of torture and inhuman treatment by law enforcement officials.

10. His Government was committed to ensuring respect for human rights in the Transnistria region. Despite the continuing efforts of the Moldovan constitutional authorities and the international community to address the dispute in that region, it remained unresolved. On a weekly basis, the Government verified compliance with human rights in the region and cooperated with law enforcement bodies there as a part of the activities of the Unified Control Commission. On 7 and 8 November 2009, under the aegis of the Organization for Security and Co-operation in Europe (OSCE), a seminar had been held on cooperation between law enforcement bodies in Moldova and Transnistria. The Government hoped that the recent renewal of the Transnistria 5 + 2 negotiations would enable it to settle the question of the free movement of people between the two regions and to introduce monitoring mechanisms for the prevention of torture and inhuman treatment.

11. With the investiture of the new Government on 29 September 2009, Moldova had turned a new page in its modern history. Its main focus was to ensure the primacy of rule of law, incorporating human rights priorities and priorities for European integration. Key areas included: the development of a legal framework and institutional structure for the protection of human rights; the urgent reform of law enforcement institutions; the prevention of torture and ill-treatment by the police; the inclusion of human rights as a subject in schools and institutions of higher learning; and freedom of the press.

12. **Ms. Sveaass**, First Country Rapporteur, said that recently much attention had been focused on the fall of the Berlin wall 20 years previously; that celebration also related to Moldova's attainment of independence in August 1991. Moldova's core document (HRI/CORE/1/Add.114) described how in the years following independence, priority had been placed on the process of democratization of social and political life, and the country had made much progress in building institutions, developing legislation and establishing international relations. It had ratified most of the major human rights treaties, including the Optional Protocol to the Convention against Torture, which had entered into force in 2006. One year later, parliament had enacted legislation to establish a national mechanism for the prevention of torture.

13. Moldova was a signatory to the International Convention for the Protection of All Persons from Enforced Disappearance, the Convention on the Rights of Persons with Disabilities and the Rome Statute of the International Criminal Court. She asked when it planned to ratify those instruments.

14. With the help from other countries, Moldova had made a number of efforts aimed at strengthening its society and the rule of law. She commended the Government for its openness in receiving the visits of various international experts and cooperating with them.

15. There had been many developments in Moldova's internal legal system, including the establishment of a three-tiered judiciary and the entry into force of new criminal and civil codes and their corresponding codes of procedure. In addition, Act No. 45-XVI on Preventing and Combating Domestic Violence had entered into force in 2008, and contained important provisions for the protection of victims. A national committee had been established for the purpose of monitoring the implementation of the Act on Preventing and Combating Trafficking in Human Beings. She would welcome updated information on the activities of that committee and on the results achieved through implementation of the Act.

16. However, there appeared to be a serious gap between the legislation that had been introduced and its effective implementation. The European Court of Human Rights had found 22 cases of violations of article 3 of the European Convention on Human Rights and OSCE had reported serious difficulties concerning trials and public hearings. Moreover, after his 2008 visit, the Special Rapporteur on torture had expressed concern about ill-treatment during the initial period of police custody and serious allegations of torture in some police stations (A/HRC/10/44/Add.3). He had also noted that complaint procedures were weak and did not function adequately. Reports of visits made in 2008 by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment included references to torture and ill-treatment in police custody, concern about pretrial detention in Ministry of Internal Affairs facilities and a serious lack of training for staff working with patients undergoing involuntary treatment in psychiatric hospitals.

17. The report of the Commissioner for Human Rights of the Council of Europe had recommended that the State party should conduct comprehensive inquiries after the events of April 2009. She asked what procedure was followed when the State party received such reports and recommendations. In particular she wished to know whether they were publicized and disseminated, and if so, to whom. Recalling the Committee's concluding observations on the State party's initial report (CAT/C/CR/30/7), she asked for the delegation's comments on the absence of a reply to the two follow-up letters the Committee had sent to the State party requesting updated information.

18. She welcomed the fact that that article 309 of the Criminal Code encompassed all the elements of the definition of torture contained in article 1 of the Convention, including torture inflicted for any reason based on discrimination, and that torture was dealt with as a separate criminal offence. It would be useful to learn whether the Convention had ever been directly invoked before a domestic court.

19. It was, however, unclear whether the penalties for acts of torture took into consideration the grave nature of the offence. While the periodic report referred to prison sentences of 2 to 5 and 3 to 8 years, the replies to the list of issues seemed to suggest that the rehabilitation of the convicted person could be prioritized and that courts took the character of the perpetrator into consideration. She requested clarification in that regard. In the replies, inhuman treatment was referred to as a moderate offence, penalties imposed for such treatment being commensurate with those for other offences in the same category. It was unclear to which category the State party referred in that context.

20. From the information provided in paragraphs 80 to 100 of the periodic report, it would appear that only about half the criminal proceedings brought against police officers implicated in acts of torture or the abuse of power accompanied by violence or torture went to court, and in most cases, the courts imposed conditional punishment. She asked if that was true and if so, how it was consistent with the provisions of the Convention concerning the grave nature of such offences. She requested updated information on the 53 cases that had been under examination at the time of preparation of the periodic report, including details of the punishments imposed. It would be useful to learn whether there was a statute of limitations relating to the offence of torture.

21. She requested additional information on the complaints procedure, the number of complaints lodged for torture and the convictions handed down. The General Prosecutor's Office appeared to have investigated and prosecuted a number of cases of torture and ill-treatment in custody. Concerning the 63 convictions in 2007, it would be useful to know what punishments had been imposed and how long the sentences had been for the 14 persons sentenced to imprisonment.

22. It would be interesting to learn whether any support was given to people who lodged complaints. She requested the State party's reaction to reports that the Ombudsman only examined about 20 per cent of complaints submitted to him and that over 40 per cent were referred to other institutions. That was an important issue, as the Committee had received many reports of ongoing torture in the State party. One such report had been submitted by the organization Memoria, which ran one of the most important centres for treatment, rehabilitation and documentation of torture cases and regularly provided care for people who had been subjected to torture, not only during the former regime but also in the current era.

23. The victims of two such cases, Mr. Colibaba and Mr. Gurgurov, had brought their cases before the European Court of Human Rights, which had found that they had been ill-treated or tortured by the national police and that no effective investigations had been carried out by the State party. It would be useful to have additional details of those cases. Information from other sources indicated that ill-treatment and torture continued to take place, particularly during the initial period of police custody, and that those practices could even be described as widespread. The Committee would welcome more information on possible impunity in cases of torture and ill-treatment, including when offenders received only disciplinary sanctions.

24. Allegations of bribery and corruption among public officials were also of concern to the Committee. OSCE had reported that corruption and other offences committed by public officials represented one of the major forms of crime in the State party. The Special Rapporteur on torture had also referred to conditions in detention facilitating but not excusing corruption and to numerous and consistent allegations that corruption was deeply ingrained in Moldova's criminal system, even constituting a quasi-institutionalized practice. The State party should provide information on measures taken to combat the practice.

25. The Committee would appreciate updated details on the rights of persons in detention, especially pretrial detention. She requested clarification of whether detainees had the right to independent legal counsel and an independent doctor at the time of detention. It would also be useful to know whether all detainees had the right to legal aid from the moment of arrest. She asked how long a person could be deprived of their liberty before they were brought before a judge. It remained unclear whether "preventive detention" differed from "preventive custody", and whether the Law on Preventive Custody was still in force. She asked whether the legal guarantees enjoyed by detainees included the right to consult an independent doctor and medical services.

26. The Committee would appreciate additional details of cases in which medical reports referring to torture or ill-treatment had been presented in court. It would be useful to learn what happened when such a report was presented and who requested the medical examination. It was clear that, under article 251 of the Enforcement Code, doctors were obliged to report signs of torture on the bodies of deceased detainees to a Parliamentary Advocate. She asked, however, what happened to the doctors' records of signs of torture, what action was taken concerning the detention facility in question and what happened to the victims of torture who remained in detention. Given that convicted prisoners had the right to be examined at their own expense in prison, and that the records were then kept in the prisoner's medical file, she wished to know what steps were taken to hold those

responsible accountable. It would also be interesting to know whether the Istanbul Protocol was used as a guideline for medical examinations.

27. She requested updated information on administrative detention and recent amendments to the relevant rules, including details of the legal safeguards in place. Information would also be welcome on measures being taken to stop interrogations being carried out without the presence of a lawyer and to ensure that the quality of legal advice was sufficient to safeguard against torture and ill-treatment. In addition, she would appreciate clarification of the meaning of the term “incommunicado detention” as used in paragraph 50 of the periodic report.

28. Given that investigations into allegations of torture or ill-treatment were often discontinued because of a lack of evidence or sufficient proof, she asked where the burden of proof lay in such cases. It would be useful to know whether the addition to the Code of Criminal Procedure placing the burden of proof in cases of torture or other cruel, inhuman or degrading treatment or punishment on the institution where the prisoner was confined had come into force and whether it was being complied with.

29. It would be useful to have updated details of the plans to transfer places of temporary detention or pretrial custody from the jurisdiction of the Ministry of Internal Affairs to the Ministry of Justice. She wished to know whether new remand centres were going to be built and if so, under the jurisdiction of which Ministry.

30. She would be grateful for information on any non-monetary compensation that had been granted to the 22 victims of torture and other cruel, inhuman or degrading treatment or punishment whose cases had been brought before the European Court of Human Rights.

31. She asked what measures were taken to monitor, investigate and prevent sexual violence in places of detention, particularly given the number of reports of such incidents, especially against women. Given that paragraph 82 of the replies to the list of issues named four individuals who had reported sexual assault in detention, she asked whether they had given explicit permission for their names to be publicized. If not, their names should be removed, as the replies constituted a public document. It would be useful to learn what measures were in place to ensure that persons sexually abused while in detention were not stigmatized and were fully rehabilitated.

32. The national human rights institution in Moldova was represented by the Centre for Human Rights, which could visit prisons and other facilities where persons were detained. She asked whether it had unlimited power to visit and report, whether the need for such monitoring bodies was generally accepted and whether its reports were made public. According to information reaching the Committee, on some occasions ombudsmen had been denied entry into prisons or had been allowed to visit for only 15 minutes. It would be useful if the delegation could inform the Committee of action taken to address that situation. She also asked it to comment on reports that (a) there was disagreement as to the nature of the mechanism that had been established and who had the authority to conduct its work, and also (b) the institution’s resources were very limited.

33. With regard to the events of April 2009, she noted that the figures concerning the number of persons detained varied, and she asked the delegation for the official number. The Committee would like to know how many allegations of torture had been filed by the prosecutor or any other body during that period. She wondered whether any cases had been discontinued or were still under consideration. The delegation should also inform the Committee of the terms of reference of the parliamentary investigatory group established in October and indicate whether it was in a position to conduct a thorough and independent investigation of the April events. The list of brutal, systematic beatings and other injuries recorded by Memoria in connection with those events gave cause for deep concern. She

enquired whether victims could obtain reparation, even in cases in which the perpetrators had not been brought to justice.

34. **Mr. Kovalev**, Second Country Rapporteur, noting that significant progress had been made in preventing torture in Moldova, said that he had a number of comments on implementation of articles 10 to 16 of the Convention.

35. With regard to article 10, he noted that significant progress had been made since consideration of Moldova's initial report in 2003. However, the Committee had not received a reply to its questions on the training of forensic doctors and medical personnel dealing with persons in detention, asylum-seekers and refugees or on how the Istanbul Protocol was applied in practice. He asked what action the Government intended to take in that regard and whether the police were trained in crowd control.

36. In reply to question 11 of the list of issues, Moldova had provided detailed information on the number of detainees at places of detention, the creation of monitoring commissions, the work of the Complaints Committee, legislation on a reduction in minimum and maximum penalties and a more general review of penalties. However, according to information from NGOs, conditions of detention at police stations were inadequate and insalubrious, and detainees were held for prolonged periods. A report by an OSCE representative following a visit to Moldova in September 2004 had described conditions at detention facilities in Orhei Rayon as disastrous: seven or more detainees had been held in a cell measuring three by four metres, and detainees had had to sleep in shifts; no mattresses, blankets or sheets had been provided. Examples had also been cited of abuse of detainees. He asked the delegation to comment on those reports and to explain how conditions for prisoners and persons in police custody would be improved in the future.

37. It was still not clear how frequently interrogation rules or regulations for police custody were reviewed. Nor had the Committee received a reply to its question regarding allegations about an internal document or verbal order from the Ministry of Health and the Ministry of Social Protection in which all medical institutions were instructed not to issue medical certificates attesting to the ill-treatment and use of torture (even torture resulting in death) in the aftermath of the events of April 2009. It would be useful to have detailed answers to those questions.

38. With regard to implementation of article 12 of the Convention, he said that the Committee had not received a reply to its question on whether an independent administrative body had been established to deal with complaints against the police and law enforcement personnel and, if so, what its terms of reference were.

39. According to information received by the Committee, 200 persons had been arrested in the aftermath of the events of April 2009 and had not been given prompt access to a lawyer. They had allegedly been kicked and beaten with plastic bottles filled with water. The Committee repeated its request for information on whether those allegations had been promptly investigated and what the outcome of those investigations had been.

40. Moldova had provided detailed information in response to the questions asked by the Committee on the implementation of article 13. For example, postboxes had been installed in prisons, in 2008 a decree had been issued by the Department of Prisons guaranteeing the right of detainees to correspondence, and it was possible to file complaints about actions or omissions of prison officers with the prosecution bodies, the Centre for Human Rights and other authorities. However, according to information reaching the Committee, many detainees did not have access to a lawyer, notwithstanding the 2009 Code of Violations, which also required police officers to bring detained suspects before a court within 24 hours. He asked the delegation to comment on that matter. Moreover, it was alleged that the witness testimony given by the friends of Valeriu Boboc, who had been beaten to death by the police in the night of 7 to 8 April 2009, had not been duly

investigated, and that not only had the prosecutor declined to investigate the case but the witnesses themselves had been prosecuted. He would like to know whether anyone had been punished for failing to investigate the case.

41. On the implementation of article 14 of the Convention, he asked the delegation whether the redress and compensation available to victims of torture was adequate and fair, and whether the victims were satisfied with the amount of compensation offered. Moldova had also failed to reply to the question how victims of torture and ill-treatment were informed of the rehabilitation services and how often such services had been utilized.

42. Regarding implementation of article 15 of the Convention, he reiterated the Committee's request for the State party to provide examples of any judicial cases where the courts had declared statements inadmissible on the ground that they had been obtained through coercion.

43. As to implementation of article 16 of the Convention, it was clear from the periodic report that Moldova had made considerable efforts to improve conditions of detention in many prisons, some of which had been renovated or rebuilt. Major investments were planned in 2009 to modernize many other prisons. All those initiatives had led to a significant decline in the incidence of tuberculosis. However, Moldova continued to make use of barracks for holding prisoners, rather than cells, in Orhei Rayon and elsewhere. And it had failed to reply to questions about the area in square metres available per prisoner in practice in those facilities, and the availability of food and drinking water to individuals held in police custody for long periods. The Committee had also asked for information on inter-prisoner violence and measures to prevent it; and had enquired whether there was legislation aimed at preventing and prohibiting the production, trade, export and use of equipment specifically designed to inflict torture. The Committee would appreciate detailed replies to those important questions.

44. He urged Moldova to make use of its new legislation on the granting of humanitarian status to persons who did not meet criteria for obtaining refugee status and risked torture or ill-treatment if returned to their country of origin. According to UNHCR, there were 5,000 stateless persons in Moldova, although in 2004 the State party had reported a total of only 1,927. In his view, the discrepancy between the two figures was due to the lack of legislation, procedures or an administrative body for determining who was stateless. The Committee recommended that Moldova should accede to the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness, pass legislation regulating the status of stateless persons and establish an administrative body to deal with the question.

45. He also had a number of points to make about Moldova's written replies. In paragraph 140, it seemed odd that the burden of proof in cases of torture or other cruel, inhuman or degrading treatment or punishment should rest with the institution in which a prisoner was confined. Paragraph 186 appeared to contain a mistake, since it spoke of a decrease in the number of human trafficking offences in Moldova between 2007 and 2008, although the figures indicated an increase; the figures were recorded correctly in paragraph 184. In paragraphs 196 and 197, he did not see what labour exploitation or begging had to do with sexual exploitation. Noting that, according to paragraph 255, the Criminal Code had been amended under Act No. 277-XVI of 18 December 2008 and that that had led to a reduction in minimum and maximum penalties and prompted a more general review of penalties and reoffending, he wondered whether any specific sentences would be reviewed.

46. **Ms. Belmir**, referring to paragraphs 10 to 14 of the second periodic report, noted that acts of torture were punishable by two to five years' imprisonment. She did not think that that was sufficient in cases of rape or other particularly serious acts of torture, and asked whether such offences should not carry a heavier sentence.

47. With regard to the initial stage of police custody, which was when torture or ill-treatment was most likely to occur, she said that the notion of “administrative detention” referred to in paragraph 30 of the report was very vague and should be modified or even abolished, since it was not clear who was in charge of such detention or whether an administrative, civil or criminal matter was concerned.

48. According to paragraph 38 of the report, a defence lawyer must be present when a copy of the “minutes” or record of the detention was issued. She enquired about the presence of legal counsel during the preceding period. She regretted that Moldova had not transferred responsibility for places of detention from the Ministry of Internal Affairs to the Ministry of Justice.

49. The Committee on the Rights of the Child, in its concluding observations (CRC/C/MDA/CO/3), had urged Moldova to bring its system of juvenile justice into line with the provisions of international instruments. In particular, young offenders should be segregated from adults in detention centres and steps should be taken to protect them against ill-treatment.

50. According to the State party, persons were placed in solitary confinement in order to ensure a fair trial and respect for the law. However, they were not allowed under such circumstances to make telephone calls or purchase food, although the State party admitted that access to adequate food and medical treatment was a problem in places of detention.

51. **Mr. Mariño Menéndez** asked whether Moldova intended to ratify the Rome Statute of the International Criminal Court, which defined crimes against humanity, including torture, and war crimes and stipulated that such crimes were not subject to a statute of limitations. The State party’s legislation should mirror those provisions if it planned to ratify the Rome Statute.

52. An NGO had informed the Committee that suspects and detainees who were liable to be charged with criminal offences were sometimes deprived of proper legal assistance because of corrupt practices on the part of their legal representatives. He asked whether action had been taken against lawyers, especially public defenders, who engaged in such practices.

53. Act No. 270-XVI on asylum promulgated in December 2008 regulated the situation of stateless persons and their access to asylum status. He asked whether it reflected the provisions of the Convention on the Reduction of Statelessness and the Convention relating to the Status of Stateless Persons. For instance, would a stateless person who had been granted asylum find it easier to obtain Moldovan nationality?

54. According to paragraph 198 of the report, the State party had concluded readmission agreements with a number of European States. If a national of one of those States requested asylum, was the application examined or was the person automatically returned to his or her country of origin? He understood from paragraphs 226 and 227 of the replies to the list of issues that the Bureau for Migration and Asylum could decide to return applicants at border crossing points immediately or within a few days. Could an appeal against such decisions be lodged with an administrative or judicial authority?

55. The Committee had been informed of a number of cases in which witnesses of criminal acts by prison officers had been subjected to harassment on attempting to file a complaint. He asked whether there was any legislation or programme aimed at protecting witnesses in such circumstances.

56. **Ms. Sveaass** said that the Committee and the Special Rapporteur on torture had ascertained that most cases of torture and ill-treatment occurred during the early stages of detention. It was therefore important to ensure that detainees were informed of their rights orally and in writing from the outset, that records were kept of every detainee from the

moment he or she was taken into custody, and that detainees were able to exercise their right of access to an independent doctor and lawyer and to inform a relative of their arrest.

57. She welcomed the fact that Moldova had ratified the Optional Protocol to the Convention and was setting up a national preventive mechanism. She stressed the importance of allowing NGOs to visit and monitor places of detention without prior notice. The Committee had been informed that NGO access had been permitted in the past subject to prior notification but that access had been restricted in recent years, especially when visits were deemed to be inconvenient for the prison authorities.

58. Although it was generally recognized that a public trial guaranteed a fair trial, she understood that not all court hearings were public and that the dates and times of legal proceedings were not always publicized.

59. **Ms. Gaer** referred to paragraph 82 of the report of the Special Rapporteur on torture (A/HRC/10/44/Add.3), which stated that ill-treatment during the initial period of police custody was widespread. It included severe beatings with fists, rubber truncheons and baseball bats, electric shocks, asphyxiation through gas masks, putting needles under fingernails and suspension, the purpose being to obtain confessions from suspects. She asked whether such testimony was admissible in court and, if not, whether the delegation could list the number of cases in which it had been prohibited.

60. A woman known as “Ms. Z” who had secured an illegal abortion had been sentenced to a 20-year prison term for premeditated murder on the basis of allegedly coerced testimony. She enquired about doctors’ obligations to report women suspected of undergoing such an abortion, and the law concerning criminal investigations, including interrogation and arrest of women who had been hospitalized and were in need of emergency medical treatment due to the aftermath of an abortion. How many women had been charged and sentenced for abortion, murder and infanticide? Paragraph 261 of the replies to the list of issues provided figures for intentional homicide and infanticide. She requested a breakdown of the figures for the two offences and asked whether the offence of infanticide included abortion.

61. The Special Rapporteur on violence against women, its causes and consequences had recommended (A/HRC/11/6/Add.4) the establishment of specialized female law enforcement units and the investigation of allegations of corruption among public servants. Had the State party taken action on those recommendations? The Special Rapporteur had also stated that violence against women and girls was largely underreported due to shame, fear of social stigma, lack of knowledge about existing laws, judicial procedures and services, or simply lack of confidence in the system.

62. She asked the delegation to comment on the cases of Natalia Shalamova and L.Z. mentioned by the Special Rapporteur on torture in his report, both of whom alleged that they had been beaten in prison. Had the State party taken any action on the two cases? The Special Rapporteur had also repeatedly referred to a form of torture and coercion known as the sparrow position. Had those cases been investigated and, if so, with what results?

63. There were reports of men being trafficked for construction work in the Russian Federation, children being trafficked for begging in neighbouring countries, and women being trafficked extensively for sexual exploitation. The International Organization for Migration had records of 2,027 victims of trafficking. According to the State Department of the United States, significant efforts were being made to combat trafficking but no complicit officials had been convicted and no increase was discernible in law enforcement efforts. She asked whether those conclusions were correct.

64. According to paragraph 338 of the replies to the list of issues, the Ministry of Internal Affairs was intending to recruit staff from ethnic minorities to participate actively

in law enforcement structures. Would they include members of the Roma community? She was concerned about a number of statements in paragraphs 346 to 349, namely that an aspect which created difficulties in relations with the Roma was their engagement in unlawful trade, especially trade in religious objects at markets, that the Roma tended to migrate from one settlement to another so that it was impossible to keep records or to inform them of the provisions of the law in force, and that the Ministry of Internal Affairs had not registered a single incident of threats, discrimination, hatred or violence against ethnic minorities in 2009. The first two statements suggested a prejudiced approach to the Roma minority. With regard to the third statement, she asked the delegation to clarify how it was possible that not a single case of hostility towards ethnic minorities had been recorded.

65. **Mr. Gaye** drew attention to an inconsistency in paragraph 50 of the report, which referred to “incommunicado detention” in the first sentence and “solitary detention” or confinement in the second. It was unclear to him which of the two quite separate regimes was being described.

66. He was surprised at the lack of any mention of alternatives to imprisonment, which could improve the reportedly disastrous situation in detention facilities. He noted that such alternatives were common in EU member States, which seemed to serve as models for many of the State party’s practices.

67. **The Chairperson** welcomed the ratification by Moldova of the Second Optional Protocol to the International Covenant on Civil and Political Rights.

68. The penalty for torture was a prison sentence of between two and five years, which seemed very lenient. The Committee would be interested to hear about the sentencing criteria applied in specific cases. He also enquired, for the sake of comparison, about the penalties imposed for offences such as assault by private individuals or property embezzlement.

69. According to the Committee on the Elimination of Discrimination against Women (CEDAW/C/MDA/CO/3), the Law on Equal Opportunities for Men and Women lacked implementation mechanisms and did not provide for legal remedies in the event of violations. Had any action been taken in that regard?

70. With regard to the use of torture on orders from a superior officer, paragraph 59 of the report stated that subordinates were required to obey such orders and that superiors were responsible for their legality. Did the State party intend to amend the law to bring it into line with the Convention? Orders from a superior could not be invoked to pre-empt criminal responsibility.

71. He enquired about the scope and resources of the Centre for Combating Trafficking in Persons and about the provisions of the Criminal Code that were applicable to human traffickers. Had anyone been sentenced to date?

72. He reiterated the questions asked in paragraph 11 (a) of the list of issues. Had there been any cases of extraordinary rendition or instances in which diplomatic assurances had been accepted?

73. According to the State party, international instruments took precedence over domestic law. He asked whether the Convention was directly applicable in the courts and whether it could be invoked by lawyers. Had that occurred in any specific cases?

74. The Committee had referred in its concluding observations on the State party’s previous report (CAT/C/CR/30/7) to the treatment of tuberculosis patients in Moldovan prisons. The Committee on Economic, Social and Cultural Rights had expressed alarm in late 2003 (E/C.12/1/Add.91) about the rising incidence of tuberculosis in the State party

and noted with particular concern the acuteness of the problem in prisons, where the infection rate was more than 40 times higher than the national average. He enquired about developments in the meantime.

75. According to the Human Rights Council, Moldovan lawyers had complained of threats impeding performance of their professional duty of protecting human rights and defending clients, especially those alleging torture. He referred to a Bar Association letter concerning the lawyers Ana Ursachi and Roman Zadoinovv, who had allegedly been prevented from representing victims of torture. Their treatment was reportedly intimidating other lawyers. The Committee would appreciate any statistics the delegation could provide regarding such complaints. Were there any plans to amend article 335 of the Criminal Code to prevent lawyers from being prosecuted for abuse of their official status when they were merely representing a client?

The discussion covered in the summary record ended at 12.20 p.m.