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COMMITTEE AGAINST TORTURE

Thirtieth session

SUMMARY RECORD OF THE 563rd MEETING

Held at the Palais Wilson, Geneva,
on Thursday, 8 May 2003, at 3 p.m.

Chairman: Mr. BURNS

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The meeting was called to order at 3.10 p.m.

ORGANIZATIONAL AND OTHER MATTERS (agenda item 2) (continued)
(HRI/ICM/2002/2)

1. The CHAIRMAN invited the members of the Committee to express their views on the proposal that a list of issues should be drawn up and sent to each State party prior to the session at which its report would be considered. The suggestion was that the procedure would be introduced for the November 2004 session. The Working Group, with the Secretariat's assistance, would be responsible for preparing the list of issues. The Committee needed to indicate to the Secretariat and the Working Group what was expected of them.

2. Ms. RUEDAS (Secretary of the Committee) referred the Committee members to chapter V of a background document, prepared by the Secretariat, on methods of work relating to the State reporting process (HRI/ICM/2002/2). The chapter in question summarized the practices of all the treaty bodies with regard to lists of issues. The Committee's discussion should focus on four main areas: contributions from non-governmental organizations (NGOs); whether the list of issues should be drawn up in connection with the initial or later periodic reports, or both; what kind of issues should be included; and whether the States should send their written responses in advance of the session or give them orally at the session.

3. The CHAIRMAN said that, if the Committee wished NGOs to assist in the formulation of the issues, they would have to be given sufficient time to submit their material well in advance of the session.

4. Mr. YAKOVLEV said he wondered whether the Committee members would be able to ask additional questions during the session and whether the list of issues would be drawn up for the current or for the following session.

5. Ms. RUEDAS (Secretary of the Committee) said that, in other committees, the list of issues was drawn up one session in advance. Thus, the Working Group, meeting in November, would prepare a list of issues relevant to the countries concerned, which would then be examined in the following May.

6. Committee members would not be limited to the list of issues but could raise other matters of concern with the delegation during the session.

7. Mr. EL MASRY said that the Committee would have to decide whether it wanted to use the list of issues to change the form of country reports and have the State party focus on certain issues. If so, the State's reports should be written in response to the list of issues and such a list should not be drawn up for the initial report and, perhaps, not even for the second periodic report. The State party could divide its report into three sections: response to the list of issues, the information requested, and the steps taken to follow up the Committee's previous recommendations. However, if the list of issues was intended to replace the oral questions posed by the two country rapporteurs, then the Working Group should draw up the list of issues in November, after the Secretariat had provided an analysis of the report. If possible, the Committee should make use of input from the NGOs.

8. He wondered what role the country rapporteurs would have to play in the process and whether the list of issues would be sent to them before being sent to the State party.

9. The CHAIRMAN said he agreed that no list of issues should be drawn up for initial reports.

10. Mr. RASMUSSEN suggested that the two country rapporteurs, rather than the Working Group, should draw up the list of issues. In any case, they would have to study the State party's report and examine it in connection with the 16 articles of the Convention. It could either be done during the session or else, a few months later, by correspondence.

11. Contributions from the NGOs were extremely important for the Committee's work and should be facilitated. He thought that a list of issues could in fact be drawn up for the initial report and did not wish to exclude the idea of written replies. The State party could be given the option of submitting written replies.

12. Mr. MAVROMMATIS said that it would be a lot simpler not to deal with the initial report. The list of issues should be limited to questions and answers and updated information.

13. The practice of the Human Rights Committee was the following: the Secretariat prepared an analysis of the previous periodic report and drew up a list of issues; the Working Group examined the list which was then approved by the plenary. The process was designed to facilitate consideration of the report and save time.

14. Although Committee members could continue to ask questions during the session too much time would be wasted if the questions were numerous or repetitious. The Committee had a vast number of outstanding reports and was considering only eight reports per session. He stressed the need to find a strategy which would enable it to examine two reports per meeting. The country rapporteurs should study the list of issues and, if need be, come up with additional questions.

15. Although contributions from NGOs were needed, he believed that a single briefing would suffice. The briefing should take place at the time the questions were being prepared. The NGOs could provide the Committee at a later stage with updated information. The Committee should not just copy the practices of other bodies but should adopt practices that would best suit its needs.

16. Ms. GAER said that, as she understood it, the list of issues was intended to shape the dialogue with the State parties. If a list of issues was drawn up for initial reports, it had to be done sufficiently in advance to enable the State party to prepare and submit the information to the Committee. The system would need six to eight months of preparation.

17. She wondered what status the list of issues would have. If it was to be interpreted as comprising the major issues then the country rapporteurs would have to be involved but they could not be the only persons involved. A discussion with the Working Group and, very probably, with the entire Committee would be necessary.

18. As she understood it, if the list of issues were developed, the Committee would no longer receive country analyses. A decision on whether that was the case would be helpful to the Committee in determining the value it wished to attach to the list of issues. She stressed that the country rapporteurs should play a key role in the process.

19. Mr. CAMARA said that, before a working method was abandoned, the Committee should at very least assess it. The Working Group had originally been designed to examine communications and to draw up lists of questions. To date it had been dealing only with communications. As compared with the method previously used to draw up the Committee's decisions, the Working Group had done an excellent job and the Committee's decisions were currently much better prepared. The Committee should make use of the skills available in the Working Group to prepare questions to be put to the country rapporteurs and not to the States.

20. The Committee should reach a decision on the composition of the Working Group. The question was whether the Working Group could meet without the country rapporteurs. It would surely be possible to devise a system which would allow the country rapporteurs to participate in the Working Group's sessions.

21. The Committee's questions had to be relevant ones. The great advantage of the current method of work was that a lively oral discussion often ensued. A written procedure would eliminate the need for a qualified delegation to be present at the meeting. It would be enough for a single person to submit the written replies of the State party.

22. In the past, some serious incidents had occurred as a result of meetings with NGOs. Some States parties had even accused NGOs of communicating information to the Committee which they had not provided to the States parties themselves. He stressed the need to strike a delicate balance and suggested that a representative of the State party should be present at meetings of the Committee with an NGO.

23. The CHAIRMAN said that it was not necessary to have representatives from both sides present at such meetings.

24. Mr. MARIÑO MENÉNDEZ said that the questions sent to the States parties should be closely connected with the articles of the Convention.

25. The Working Group was made up of four people who examined individual complaints, the reports of States parties and, perhaps, the reports of NGOs. It was possible that the workload was too heavy. He agreed with Mr. Camara's suggestion in that regard. Oral presentations were of great importance and should continue to be held.

26. Mr. YU Mengjia suggested that, in addition to making an oral presentation, the States could be given the option of submitting written replies. The list of issues could be examined by the country rapporteurs, not the Working Group, and be approved by the Committee during its session. The Committee could hold briefing meetings with the NGOs and then assess the information received.

27. The CHAIRMAN said that the Committee could not simply ignore the list of issues system as some States parties had indicated that they would like it to be considered. He suggested that, with the Committee's assistance, the Secretariat should prepare a preliminary list of issues. The focus would be on unanswered questions and questions in which the Committee had indicated an interest. The Working Group would examine the list and meet the NGOs. The list would then be given to the country rapporteurs, who could approve or modify it, and then be sent to the State party. The State party would reply in writing, but such a reply would not prevent an oral discussion from being held at the Committee's session. Following an oral presentation by the State party, the country rapporteurs and other Committee members could ask for further details or bring up other issues. However, the Committee members would probably not wish to become too actively involved at that stage.

28. The proposed system would avoid repetition and duplication of work, inject clarity and focus into the Committee's line of questioning, and afford the representatives of the State party some comfort insofar as they could make adequate preparation for the pre-set questions. The only people who might conceivably be unhappy about such a new arrangement were the NGOs, because they would no longer be able to submit new material to the Committee immediately before its session.

29. Mr. YAKOVLEV said that, if the country rapporteurs were to be mainly responsible for dealing with the relevant States parties, he failed to see the purpose and role of the Working Group. As for the rationale behind lists of issues, the need for greater focus and clarity was perfectly understandable when considering, for instance, diffuse economic and social rights. In comparison, however, the Committee against Torture had a very narrow focus. He could envisage the following simple procedure: the country rapporteurs would examine the report, compile a list of issues, and submit the list to the State party. The State party would then present its report and the other members of the Committee could ask further questions if they wished.

30. The CHAIRMAN said that, by employing such a procedure, the Committee would save time by cutting out one stage in its discussions, namely, the invitation to Committee members to state their views and opinions on a periodic report to the country rapporteurs. Nevertheless, he was still unclear about the precise relationship between the country rapporteurs and the Working Group under any such new arrangements.

31. Mr. MAVROMMATIS said that, in the past, the Committee had operated through the Working Group alone, without involving the country rapporteurs.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 19 OF THE CONVENTION (agenda item 4) (continued)

Initial report of the Republic of Moldova (CAT/C/32/Add.4)

32. At the invitation of the Chairman, the members of the delegation of the Republic of Moldova took places at the Committee table.

33. Mr. SLONOVSCHI (Republic of Moldova), introducing the initial report, said that the Republic of Moldova had ratified the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment on 31 May 1995, and the Convention had become law on 28 December 1995. Since the collapse of the Soviet Union, of which it had formerly been a part, the country had experienced thoroughgoing political, social and economic changes and embarked on a process of legislative and judicial reform. It had also ratified a series of international human rights treaties at the European level.

34. The supremacy of international law over domestic law was guaranteed by article 4 of the Moldovan Constitution, and the prohibition of acts of torture was enshrined in the Convention, the Criminal Code, the Code of Criminal Procedure and other legislation. Article 24 of the Constitution stated that "The State guarantees to each person the right to life and physical and mental integrity … No one shall be subjected to torture or to inhuman or degrading treatment or punishment." Moreover, article 101/1 of the current Criminal Code defined torture as an offence, as indicated in paragraph 3 of the report.

35. A new Criminal Code was about to become law in the Republic of Moldova, on 1 July 2003 under which the existing offence of torture would be replaced by an array of discrete offences that could be assimilated to torture or inhuman and degrading treatment or punishment. The establishment in 1997 of the office of parliamentary jurist and a Centre for Human Rights were other important safeguards for ensuring that the authorities respected human rights and constitutional liberties.

36. Legislative protection for all persons in custody at all stages of legal proceedings was an important element in the prohibition of torture. Specifically, a new version of article 25 of the Constitution stated that individual liberty and personal security were inviolable. Searches, arrest and remand in custody must follow statutorily defined procedures. Only a judge could direct a person to be held in custody for up to 30 days, and that decision could be appealed to a higher court. The period of custody could be extended to a maximum of 12 months by order of a judge or a court. The reasons for detention must be communicated to the detainee without delay, and the charge made known as soon as practicably possible. A lawyer, whether chosen or appointed, was required to be present at both stages. A detainee had to be released if the grounds for his or her detention no longer existed.

37. The Criminal Code provided stiff penalties for anyone who tried to influence the gathering of evidence at the investigative stage of proceedings. Evidence obtained in breach of the Code of Criminal Procedure was inadmissible. Under the new Code of Criminal Procedure, which was also due to come into force on 1 July 2003, a suspect could be detained upon arrest for up to 72 hours, whereupon he must either be charged or released. Examining magistrates were to handle the initial stage of criminal proceedings; their role was to pay particular attention to the recording of evidence and to ensure that investigative actions were properly carried out.

38. The situation in Moldovan prisons was difficult owing to the generalized poverty of the country. In an attempt to deal with the problem over the longer term, the new Criminal Code made greater provision for non-custodial sentences. The new Code for the Execution of Criminal Sanctions contained progressive measures intended to improve the legal status of

prisoners and ameliorate and humanize conditions in prisons. Prison overpopulation was a chronic problem. According to the regulations, each prisoner should have a living space of 4 m^2, whereas the actual figure was closer to 1.7 m^2. Again, lack of money was at the root of the problem. It was hoped that the various non-custodial sentences provided for under the new Criminal Code would help to address the problem of overcrowding, as would a proposed programme to overhaul certain prisons and an amendment to the Code of Criminal Procedure that would allow the courts to dispose of cases more briskly, thereby obviating the need for detainees to be held on remand for long periods. Release on parole was yet another way of reducing the prison population, and an important legislative amendment of July 2000 stipulated that prisoners who worked conscientiously would be eligible for early release. Finally, efforts were being made to transfer to inmates to open prisons.

39. The prison authorities undertook regular preventive measures to ensure that inmates were properly treated. Training of prison officers had been stepped up, with NGOs helping to organize seminars on human rights. All prisoners were entitled to lodge complaints of ill-treatment with the prison governor, the commission overseeing the administration of the prison, or the public prosecutor. Budget constraints severely limited the range of medical services offered to prisoners, but specialized consultations, gynaecological check-ups and psychological and neurological assistance were available. Tuberculosis was still a major problem, compounded by fear of infection in the outside community; one prison had even been disconnected from the hot water and electricity supplies because it was viewed as a source of contamination. There were currently 765 prisoners suffering from tuberculosis, 90 of whom had the disease in chronic form. To deal with the problem, the DOTS treatment system had been introduced in several affected institutions. To date, 64 inmates had undergone treatment.

40. Lastly, the Committee should be aware of the continuing instability on the left bank of the Dniester river (Transnistria); the pacification of that region would obviously reduce crime and lessen tensions.

41. The CHAIRMAN, speaking as Alternate Country Rapporteur, said that he would concentrate his questions on articles 1 to 9 of the Convention. The Country Rapporteur, who had extensive medical experience, had chosen to focus on the remaining articles. Regarding article 1 of the Convention, the Republic of Moldova was probably the only State party to have replaced the single crime of torture as defined under the Convention with a series of discrete offences, a change that would come into effect when the new Criminal Code became law on 1 July 2003. He hoped that the delegation would be able to explain the rationale for that decision. The fact that Moldova was a desperately poor country was generally known, yet poverty was not an excuse for failing to abide by international obligations.

42. It appeared from the material before the Committee that the Republic of Moldova had two distinct detention regimes, namely, detention in the course of criminal proceedings and administrative detention. Administrative detention basically meant detention by the police, without judicial oversight. It appeared from the information provided by the Secretariat and NGOs that most of the alleged brutality that occurred in the Republic of Moldova took place in police custody, i.e. during administrative detention.

43. According to reports, a person could be detained incommunicado in police custody for up to three hours and was not allowed to contact a lawyer, doctor or relative unless the police officer on duty decided otherwise. Under the administrative detention regime, the police could effectively extend the period of custody for a further 30 days, stating that the detainee had resisted arrest or had been intoxicated. It was alleged that many cases of police brutality occurred during that period. It was unclear whether there was any judicial oversight and whether detainees had the right to contact a lawyer or doctor during the period. The delegation should indicate seriatim the maximum length of the initial period of detention under both the criminal and the administrative regimes and the maximum length of subsequent detention if authorized by a judge or prosecutor.

44. He was particularly concerned, for a number of reasons, about the emphasis placed in the criminal justice system on the confession as the primary form of evidence. Using confessions as the basis of a criminal case encouraged overzealous police officers to regard the interrogation procedure as simply an opportunity to extract confessions to the detriment of indirect or scientific evidence. According to the reports received, the use of force to extract confessions was commonplace. Reports by NGOs highlighted cases where persons had been punched, placed in uncomfortable positions, partially suffocated and electrocuted by interrogators. If such practices were as widespread as the allegations suggested, he wished to know whether the Government had adopted any measures to stop such brutality.

45. He had been astonished by reports that police officers' salaries depended on the number of cases that were taken to court as a result of their efforts. Such a system placed even more pressure on individual officers to extract confessions. He had been even more astonished to learn that prosecutors' salaries depended on the number of cases that they won in court. If, to earn their living, prosecutors had to ensure that the cases they brought to court were winners rather than cases designed to further the course of justice, they would naturally choose to ignore any indication that a confession had been extorted. In several cases brought to the Committee's attention, judges had disregarded the fact that the accused displayed sequelae that could have been the result of torture or ill-treatment, asserting that it was the responsibility of the prosecutor to look into the problem. The prosecutor had taken the view that the injuries had been incurred because the detainee had obstructed the police in the discharge of its duties. He would like the delegation to comment on all those issues. He would also like to know by what process prosecutors were appointed and dismissed.

46. The information he had received indicated that the judiciary was far from independent. He would like confirmation as to whether the members of the judiciary were appointed for a limited period before they obtained life tenure. He would also like to know on what conditions judges were appointed or dismissed. It appeared that, in the pre-tenure period, judges had to be sensitive to the interests of the State if they wished their contracts to be renewed. It had been reported that, after the last election, a number of judges had been dismissed for no apparent reason; he would like reassurance from the delegation that that had not been so. He would also like to hear the delegation's views on the extraordinary assertion that members of the executive regularly contacted judges prior to the hearing of a case.

47. Referring to the legal aid scheme in Moldova, he said he would like to know whether there was a monitoring mechanism in place to guarantee the competence of legal aid lawyers. He would also like to know which body certified practicing lawyers, in view of the fact that there appeared to be some 37 different law departments in Moldova.

48. Turning to article 2 of the Convention, he asked whether, under the criminal law of Moldova, the defence of superior orders could apply. It would also be interesting to know whether the defence of necessity could be raised in the case of a charge of torture, either under the Criminal Code as it stood or in the revised version of the Code that was about to enter into force.

49. With respect to article 3, he said that, as far as he knew, Moldova had not signed many extradition agreements. However, it did have a number of refugees and illegally resident aliens. He would like to know whether a formal process was followed when a person entering Moldova requested refugee status. It would also be useful to learn whether the Moldovan authorities were aware of the provisions of article 3, which stipulated that no State party should expel, return or extradite a person to another State where there were substantial grounds for believing that he would be in danger of being subjected to torture and that the rights under that article were non-derogable.

50. In that regard, he would like further information about the informal arrangements made between the Moldovan and Transnistrian authorities. In a well-known case, a man who had taken part in the Transnistrian War as a combatant in the Armed Forces of the Republic of Moldova had returned to Moldova where he had later been arrested by uniformed Transnistrian police officers and taken back to Transnistria to be incarcerated and badly beaten. He hoped that the delegation would be able to assure the Committee that the Moldovan authorities had not connived with the Transnistrian authorities in that case, since any such connivance would constitute a clear breach of the Convention. The Moldovan border police clearly cooperated with the Transnistrian border police to some extent; in one particularly disturbing case, a Chechen man had been informally handed over to the Russian authorities and sent to Russia where he would no doubt have been susceptible to torture. He wished to know whether the senior authorities in Moldova were unaware of such activities or whether they simply turned a blind eye.

51. Concerning article 4 of the Convention, he said that, with no independent authority to keep police brutality in check, it was unlikely that the current situation would change. While he welcomed the fact that efforts were being made to train young police officers, the situation would not improve until senior officers set a good example by indicating a commitment to the provisions of the Convention. Probably the best example of that situation was the Padurets case referred to in Moldova's initial report (CAT/C/32/Add.4, para. 72). The case involved two cadets from the police academy who, while on a field assignment, had participated in the interrogation of a detainee under the supervision of two police officers. The detainee had been beaten, tortured and later released. A case had been brought by the General Magistracy, but had been dismissed. Many months later, the file had been reopened on appeal and the two cadets had

been prosecuted. The two supervising officers had simply been transferred to another district and had eventually been promoted. The cadets would certainly not have acted illegally without the endorsement of the senior officers. He would like to receive updated information about the case and would like to know how seriously the authorities were dealing with such problems.

52. Referring to article 5, he asked whether the Moldovan authorities exercised a universal jurisdiction over crimes of torture committed abroad.

53. With respect to article 6, he was not impressed by the commitment on the part of the Government of the Republic of Moldova to investigate alleged crimes of torture. He would be interested, in particular, in learning whether an independent body existed to investigate allegations of police brutality.

54. Mr. RASMUSSEN, Country Rapporteur, expressed his gratitude to the Chairman for having volunteered to become the Alternate Country Rapporteur following the death of Mr. González Poblete. He welcomed the Moldovan delegation to the "club" of 75 States that had met their obligation under the Convention to prepare an initial report. He was fully aware that the Government of the Republic of Moldova was facing many problems, including serious economic ones. He had therefore decided to focus on the major obstacles to the implementation of the Convention.

55. In 2001, as a member of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), he had had the opportunity to visit Moldova, and had thus benefited from first-hand experience of the situation in that country. He commended the Government of the Republic of Moldova for having made the CPT report public and for having established a special committee to address the CPT recommendations.

56. With regard to article 11 of the Convention, he noted with regret that the Code of Criminal Procedure contained very few provisions on interrogation procedures. There was an urgent need, therefore, to issue a set of strict guidelines or a code of conduct to be followed by interrogators, governing, inter alia, the length and place of the interrogation. The identity of the interrogator should always be noted together with the names of all those present. It was a good idea to record interviews, so that the police could later prove that the detainee had not been tortured. A set of special safeguards should be introduced for vulnerable persons such as children. He would like to know the delegation's views on those suggestions.

57. He would also like the delegation to respond to accusations that individuals were held for long periods in police custody without access to food or drinking water. A number of special safeguards should exist to protect persons in police custody. The Government should consider producing a document in a number of languages to inform detainees of their rights; a measure that would not require any significant economic resources.

58. He wondered how the authorities ensured compliance with the right of a detainee to a defender of his or her choice from the moment of arrest. Furthermore, according to the Law on Preventive Custody, after the first inquiry, the suspect and the defender had the right to hold

private discussions with no time limitation. The Law also guaranteed the right of detainees to free medical assistance. CPT had found, however, that there were serious problems in Moldova with regard to the implementation of those rights.

59. He was particularly concerned about the fact that the right of a detainee to inform his or her next of kin or a person of his or her choice of the arrest, as outlined in article 78 of the Code of Criminal Procedure, applied only when an arrest warrant had been issued. He would like further information about that and about the access of detainees to a doctor.

60. The Law on Preventive Custody further stipulated that persons against whom physical strength, special methods or firearms had been applied must undergo an obligatory medical examination and that the prosecutor must be immediately informed in writing. Serious allegations had been made that those provisions were not actually implemented. He would like the delegation's comments in that regard.

61. He said that the way in which information was recorded in Moldova still left much to be desired and asked what measures were being planned to comply with the requirement that proper custody registers be kept.

62. With regard to police cells, he quoted the CPT report on its visit to Moldova in June 2001 which described them as overcrowded, poorly lit, inadequately ventilated and unhygienic and stated that detainees were often not provided with food or water during their period in custody. Such arrangements were clearly far from satisfactory and he would like to know what plans there were for their improvement.

63. The situation in EDPs (remand centres under the control of the Ministry of Internal Affairs) was also far from satisfactory. The conditions there were totally unsuitable for the detention of remand prisoners for several months at a time and the health care provided was inadequate. He wished to know why control of the EDPs had not been transferred from the Ministry of Internal Affairs to the Ministry of Justice as scheduled, why such centres continued to have underground cells that encouraged the spread of tuberculosis and whether the CPT recommendations on EDPs were being implemented.

64. The prisons were overcrowded, poorly lit, inadequately ventilated and lacking in medical supplies and health-care personnel. Inmates were not given any work to do and had no opportunity to take outdoor exercise. He asked what was being done to facilitate the inspection of prisons and holding facilities by independent bodies and to improve prison conditions generally.

65. In relation to article 12 of the Convention concerning investigations, he mentioned that, during the CPT visit to Moldova in June 2001, the delegation had visited the Ialoveni EDP and interviewed two of its inmates twice within a 24-hour period. A medical examination following the second interview confirmed allegations that one of the men had been tortured in the interim. He invited the delegation to report on the investigation into that case and provide information on the fate of the two men in question.

66. With regard to article 13 on the right to complain about torture or ill-treatment, he was pleased to note that article 20 of the Moldovan Constitution guaranteed all citizens the right to obtain satisfaction for actions infringing their rights and freedoms. However, the Committee had received serious allegations that such complaints were not followed up. He invited the delegation to comment on those allegations.

67. With regard to the issue of redress under article 14 of the Convention, he would like to know whether there had been any cases at all where compensation had been paid to a person found to have been tortured or ill-treated by a public official.

68. Being aware of the existence of two rehabilitation centres in Moldova, he wished to know whether they were supported by the Government and whether the authorities made use of their expertise and training.

69. Citing article 55 of Moldova's Code of Criminal Procedure, he asked whether there had ever been a single case in Moldova in which evidence had been thrown out of court because it had been obtained by coercive means.

70. In the light of all the issues raised by the Committee and in the interests of the prohibition of torture, he highlighted the urgent need for education and training and requested information on future plans to train the police, provide specialist training for medical personnel working with those deprived of their freedom and offer training courses to judges and prison staff.

71. He also wished to know in what conditions migrants were held and whether the Chisinau Vagrants Centre visited by the CPT in October 1998 was still in use. If so, he would like to know how many migrants were held there, whether migrant children were included, whether there were any other centres for migrants and how long they remained in them.

72. He asked whether there were any special detention facilities for juveniles, whether juveniles were held together with adults and whether they had the opportunity of recreational activities.

73. The CHAIRMAN, speaking as Alternate Country Rapporteur and quoting from the report by the Special Rapporteur on the question of torture regarding a case of unlawful disappearance in Moldova (E/CN.4/2003/68/Add.1, para. 1145), asked why the Ministry of Internal Affairs had not replied to the Organization on Security and Cooperation in Europe (OSCE) or the Special Rapporteur.

74. Inquiring about the possibility of bringing civil action for damages in cases of torture, he asked whether it was correct that, under the Moldovan system of justice, no such action could be brought until the accused had been convicted in a criminal case.

75. Mr. CAMARA asked about the exact status of prosecutors in Moldova, how they were appointed, whether they were independent of the political authorities and whether their independence was guaranteed by the conditions under which they were appointed.

76. Mr. MARIÑO MENÉNDEZ, referring to paragraph 57 of the report which mentioned the possibility of a further amnesty law, asked what such laws covered and whether they applied to crimes such as torture.

77. Paragraph 123 of the report referred to article 23 of the Law concerning the Legal Status of Foreign and Stateless Persons in the Republic of Moldova, which stated that such persons could be expelled if they violated Moldovan legislation. He would like confirmation that the reference was to violations of the law regarding entry into Moldova and not to domestic law of all kinds.

78. Paragraph 126 of the report referred to article 29 of the same law as complying with the principle of non-refoulement. However the article appeared to be inspired by the Convention relating to the Status of Refugees and was insufficient to cover the prohibition contained in article 3 of the Convention under consideration. He invited the delegation to comment on that point.

79. In relation to article 12 of the Convention, paragraph 247 of the report referred to the existence of seven different criminal investigation bodies. He therefore asked whether the criminal investigation process was independent of the General Prosecutor's Office and how the public prosecutor coordinated the work of so many different bodies.

80. He had been impressed by the large number of units which, according to the report, could receive complaints concerning violations of human rights and grant compensation therefor. He would like some clarification, however, of the relations between the various bodies and the powers granted to them.

81. He also asked whether the Government of the Republic of Moldova planned to submit the Rome Statute of the International Criminal Court to parliament for ratification.

82. Ms. GAER, referring to the statistics in paragraph 24 of the report, requested further information on how many people had been sanctioned for torture, ill-treatment and acts of violence or coercion under the Criminal Code, together with a breakdown of the information by gender.

83. Paragraph 43 of the report indicated that professional training was being offered on the international conventions on human rights to which Moldova was a party and the knowledge acquired was subsequently evaluated by examination. She would like to know the results of the examinations in question and whether the candidates were required to pass. The same paragraph referred to the difficulty of translating the teaching material into Romanian and she therefore wondered how the programmes in question had been managed to date.

84. Paragraph 65 of the report referred to only one case of torture being reported to the Ministry of Justice between 1994 and 2001. She would like to know how such cases were handled and whether the individual concerned had been granted the right to a trial. She also wished to know whether, in such cases, there was any cooperation with the Helsinki Committee for Human Rights, what powers, if any, the Committee had to investigate cases and whether the process of cooperation was formal or informal.

85. Paragraph 69 referred to those detainees that had complained to the Department of Prisons about violations as being themselves the most serious violators of the penal system. She asked how such a conclusion had been reached and whether it was based on a scientific or political study.

86. Paragraph 161 stated that, there had been no complaints of torture made to the General Magistracy in recent years but that there had been petitions concerning illegal inquiry and criminal investigation procedures. She would like further data on the subject, including a breakdown by gender. Similarly, paragraphs 252 and 253 stated that many cases referred to the Magistracy from the Ministry of Internal Affairs were not solved. She wished to know whether there was a specific procedure for bringing such complaints, whether there were financial reasons for the complaints not being processed or whether it was simply because individuals were not permitted to lodge complaints.

87. Paragraph 342 stated that, during the interrogation of a minor, a teacher had to be present, but there was no reference at all to a parent. She would like the situation clarified.

88. Mr. YAKOVLEV, responding to Ms. Gaer's comment about the statistics in table 1 of paragraph 24, pointed out that the statistics for article 101/1 were incomplete because it had only recently been introduced.

The meeting rose at 6 p.m.