



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

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COMMITTEE AGAINST TORTURE

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SUMMARY RECORD OF THE FIRST PART (PUBLIC)* OF THE 565th MEETING

Held at the Palais Wilson, Geneva,
on Friday, 9 May 2003, at 3 p.m.

Chairman: Mr. BURNS

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* The summary record of the second part (closed) of the meeting appears as document CAT/C/SR.565/Add.1.

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The meeting was called to order at 3 p.m.

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

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

1. At the invitation of the Chairman, the members of the delegation of the Republic of Moldova took places at the Committee table.
2. Mr. SLONOVSKI (Republic of Moldova) thanked the members of the Committee for their careful study of his country's initial report. His delegation had noted the criticisms about the format of the report and would seek to take them into account in future reports.
3. With regard to the treatment of the offence of torture in the new Criminal Code, he wished to inform the Committee that the new Code had been drafted with the advice of a number of international bodies. The word "torture" was itself used in a general sense in the text, and it should not be forgotten that judges were permitted a certain amount of leeway in determining whether or not a particular conduct constituted torture. It was for that reason that the concept of torture had been broken down into a number of very specific offences in the new Code. The use of torture to extract confessions during the interrogation of suspects was absolutely prohibited under the Code. In addition, the new Code of Criminal Procedure laid down some very clear procedural rules for collecting evidence. It specified that an examining magistrate would henceforth oversee the gathering of evidence, and a series of rigorous tests and safeguards had been put in place to ensure that evidence was gathered in strict accordance with the rules.
4. Judges were appointed by the President for an initial five-year period on the basis of a recommendation by the Supreme Council of Justice. After that period, and pursuant to a further Council recommendation, a judge could be appointed for life. Prosecutors were appointed by the General Prosecutor; they had to be Moldovan citizens with a legal education and excellent personal and professional references. They also had to pass the necessary examination.
5. The Republic of Moldova was in the process of ratifying the Rome Statute of the International Criminal Court; an appropriate bill had been submitted to Parliament which would effect the necessary legislative amendments to enable the Statute to become law. With regard to extradition matters, bilateral agreements had been signed with a number of neighbouring countries and with the European Union. Where no bilateral extradition treaty existed, the Republic of Moldova applied article 8, paragraphs 3 and 4, of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.
6. A law had been passed in 2002 setting up an institutional mechanism to deal with refugees, and the department dealing with refugees' affairs had just been transferred to the jurisdiction of the recently created immigration service. Refugee protection was therefore a priority for his Government.

7. Mr. BOTNARI (Republic of Moldova) said that the Ministry of Internal Affairs had a dual function, namely, maintaining public order and detecting crimes. It was completely untrue that the salaries of law-enforcement officers were pegged to the number of crimes they solved. Officers drew a fixed salary paid out of the national and local budgets. It was true, however, that investigators could earn a supplement amounting to 80 per cent of their base pay for good all-round performances.

8. A number of the Committee's questions had focused on the two systems of penalties that could be applied in the Republic of Moldova, namely, criminal and administrative. For certain administrative offences, such as disorderly conduct, drunkenness and failing to obey police orders, a judge could impose a sentence of administrative detention lasting up to 30 days. Administrative detainees were held at facilities other than those used to house persons convicted of criminal offences. Under article 254 of the Code of Administrative Offences, administrative detainees were guaranteed the right to legal counsel, the right to a medical examination and the right to telephone relatives. Oversight of the legality of administrative detention was the responsibility of the Prosecutor's Office and the Department for Internal Security of the Ministry of Internal Affairs.

9. The centrepiece of most criminal cases was evidence gathered in the course of a criminal investigation, and not a confession by the accused, although a sincerely made confession could be taken into account at the sentencing phase of a trial. The only people detained at police substations were drunks and drug addicts, i.e. people with whom the police came into contact during routine preventive police work. Police substations lacked the proper facilities to detain criminal suspects.

10. As to the extent of cooperation between the Moldovan law-enforcement authorities and those of the Transnistria region, there was none at all at the most senior levels, although some mid-level contacts existed. More specifically, he had no information regarding the allegation that law-enforcement officers from the Transnistria region had detained a group of Chechens on the territory of the Republic of Moldova and subsequently deported them to the Russian Federation. An inquiry would be made into the matter. Generally speaking, however, law-enforcement and security officers from the Transnistria region were not authorized to operate in Moldovan territory without special registration.

11. Monitoring of remand prisons was carried out by the Prosecutor's Office. Officials were under instructions to visit remand prisons on a daily basis to ascertain, among other things, that prisoners had not been ill-treated or tortured. Complaints were recorded and, depending on the gravity of the allegation, appropriate action was taken by the relevant authority. In that connection, the Committee should be aware that a disciplinary code for police officers had been introduced in 2002, which provided for appropriate sanctions against officers who committed human rights violations.

12. The rules and procedures for interrogating suspects were set out in detail in the Code of Criminal Procedure, which stipulated that such interrogations must be carried out in the presence of a lawyer, and that video or audio recordings could be made. Unfortunately, the use of such technology was patchy, owing to the financial constraints. In addition to the daily checks of

remand prisons by officials from the Prosecutor's Office, prisoners were also checked by medical personnel, and the sick were immediately removed to hospital. Allegations that remand prisoners had been denied food and water were simply untrue, and without further details he would be unable to investigate such assertions.

13. It was not true either that detainees were denied private meetings with their lawyers. A special area had been set aside in every police station for such meetings, and it was even possible to hold lawyer-client consultations in other official buildings. The police were duty bound to inform a detainee's family of his or her arrest and the reasons for the detention. They could not circumvent the rules governing detention because every police station and remand prison in the Republic of Moldova had a register that charted all the details of a person's arrest and detention. In addition, prosecutors were obliged to keep case-files that to all intents and purposes duplicated the register.

14. It had to be admitted that prison conditions in the Republic of Moldova fell well short of international standards. Most Moldovan prisons had been built in the 1970s, and many were located in basements. It would be extremely expensive to build new facilities, but the Government fully intended to confront the issue head-on. Lastly, with regard to training, a course on protecting human rights had been introduced into the Police Academy in 1995.

15. Mr. SEREDA (Republic of Moldova) said that a number of questions had been asked about prison conditions. The prison system comprised a central headquarters, a centre for training prison personnel and 19 institutions, including five remand centres, one institution for women and another for juvenile delinquents. Certain health and sanitary standards applied to all the institutions; for example, at least four square metres had to be available per person and each cell had to be sufficiently ventilated, heated and lit. However, it was not easy to guarantee those standards and the Moldovan authorities had thus been on the receiving end of a significant amount of criticism. Many of the problems could be attributed to legislative shortcomings and the lack of qualified staff, but also to the serious lack of funding.

16. Overpopulation was a serious problem in certain facilities, particularly the remand centres in Chisinau where up to 2,000 people were sometimes held in premises designed for only 1,800. That problem could be attributed largely to the lengthy investigation procedures and the backlog of cases awaiting trial. Although the problem was not as acute in the institutions for convicted prisoners, complaints had been made about the situation in the Pruncul and Cricova high-security prisons.

17. In recent years, however, the authorities had done their best to monitor and improve the situation of detainees. The metal blinds had been removed from 98 per cent of cell windows, greatly improving ventilation and allowing more natural light to enter. The only cells that still retained such blinds were those looking out over the perimeter fence.

18. In 2002, most of the funds allocated to the renovation of prison buildings had been used to improve the conditions of juvenile detention. Particular efforts had been made to increase the floor space per person and to improve hygiene. Measures had also been adopted to separate

minors from other detainees. All cells for minors currently had cold running water, natural daylight and ventilation. Similar measures were being taken in 2003 to improve conditions for women. Unfortunately, the resources allocated by the State to improve detention conditions were quite insufficient.

19. A question had been asked as to whether detainees were provided with adequate food. Urgent efforts were being made to address that issue. Unfortunately, the Department of Prisons did not receive enough funds from the Government to meet the food requirements of detainees. In 2003, for example, the funds available for feeding prisoners covered only 40 per cent of the costs. To address the problem, relatives were encouraged to supply detainees with food parcels. Furthermore, the Government had introduced a project to enable prisoners to grow their own food and engage in animal husbandry. The benefits were twofold: the project not only helped to improve the diet of the prisoners, it also provided them with an opportunity to work. As a result, the number of working convicts had trebled since 2001; over one third of all convicts were currently employed. Those not working in the agricultural sector were engaged in manual labour, such as construction and waste disposal.

20. A number of questions had been asked in connection with the medical care provided in prisons. In recent years, the Government had found it extremely difficult to provide adequate care for tubercular convicts. There were enough qualified professionals to address the current needs, but insufficient funding made it difficult to provide drugs and other medical supplies. While the funds allocated by the State to prison medical services had more than doubled since 2001, only 14 per cent of needs had been met in 2003.

21. The problem was particularly acute in Transnistria. For example, there had been approximately 640 cases of tuberculosis among convicts at the Bender hospital in 2002. As the power supply had been cut off in the hospital, a generator had been set up to provide electricity for a few hours per day.

22. Fortunately, however, Moldova received a significant amount of humanitarian assistance. His Government was particularly grateful to the Embassy of the United States of America in Moldova for its recent assistance in transforming a prison building at Pruncul into a hospital with 300 beds for tubercular prisoners. With the help of the United States Embassy also, the Government had been able to allocate sufficient funds for another specialized tuberculosis hospital, which was due to open in Rezina before the end of the year. The aim was to reduce the spread of the disease by treating all tuberculosis patients in the same two hospitals, where standards could be guaranteed.

23. Caritas Luxembourg was a non-governmental organization (NGO) that deserved special thanks. It was playing a significant role in the implementation of the tuberculosis control strategy recommended by the World Health Organization (WHO), known as DOTS. That strategy had been extended to cover all areas of the country. As a result of such initiatives, adequate drugs had been made available to treat all cases of tuberculosis among remand prisoners and specialists had been trained in various parts of Europe to care for tubercular patients. Consequently, the number of tubercular prisoners had been reduced from 1,000 at the beginning of 2002 to 770 at the beginning of 2003.

24. Replying to a question about the training opportunities available to prisoners, he said that, because of insufficient funding, there were currently only two prison schools in Moldova. One of them was at the centre for juvenile delinquents at Lipkany, which accommodated some 130 boys aged between 14 and 18. The centre also had a vocational training department and cultural and sporting facilities. The boys received regular visits from psychologists and teachers. There were currently only six girls under the age of 18 being held in detention in Moldova. They were held in a separate section of the women's prison in Ruska, which provided accommodation for approximately 200 to 230 women per year.

25. A number of prison institutions provided prisoners with vocational training. The Ministry of Education was responsible for funding such services, but counted on the support of both national and international NGOs. It had recently made a commitment to improve the training and educational facilities provided in the prisons.

26. Since the early 1990s, there had been no training facilities for prison personnel, leading to a great shortage of qualified staff. However, a centre had recently been opened under the auspices of the Ministry of Internal Affairs to provide professional training for prison staff. There were places for 25 full-time students and 25 correspondent students. A number of courses had also been introduced at the police academy. Efforts were also being made to design a criminology course for penitentiary staff.

27. An amnesty law had been adopted in 2002 to mark the tenth anniversary of Moldovan independence. The law had made possible the release of 349 convicts and the transfer of 317 prisoners to open institutions. It was hoped that another amnesty law would be introduced in 2003.

28. In recent months, the Department of Prisons had been preparing a five-year plan to reform the prison system, covering all areas from legislative reform to the improvement of detention conditions. The general outline of the plan had already been formulated and it was hoped that it would be adopted by the end of May 2003.

29. A request had been made for further information about the case outlined in paragraph 65 of the initial report (CAT/C/32/Add.4), which involved the only instance of torture or ill-treatment of a detainee by a prison official between 1994 and 2001. Unfortunately, the delegation was unable to provide further details about the case for the moment. However, he would send the appropriate information to the Committee as soon as possible.

30. Reference had also been made to paragraph 69 of the report, which indicated that the majority of detainees who had made complaints to the Department of Prisons about illegal actions by the penitentiary personnel had been identified as being the biggest violators of the rules of the detention system. A member of the Committee had asked who had been responsible for making such a determination. He explained that a thorough investigation had been carried out into the personalities of the detainees involved. It had been found that the detainees were indeed guilty of violating prison rules. However, no further investigations had been made.

31. In conclusion, his Government would appreciate any help that could be offered by the Committee to improve the prison system in Moldova and would endeavour to implement its recommendations. However, many of the problems faced by the Moldovan authorities were caused by circumstances beyond their control, largely due to insufficient funding.
32. Mr. RASMUSSEN, Country Rapporteur, acknowledged that, due to its late arrival in Geneva, the delegation had not had much time to prepare its answers to the questions put by the Committee. He welcomed the fact that the delegation had offered to provide any outstanding replies in writing at a later date and would like to know when the Committee could expect to receive them.
33. He had been very impressed by the replies concerning reforms to the prison system. He had been disappointed, however, to learn that no changes had been made to the system of police custody. For example, he had not been able to ascertain whether or not food was provided to persons detained in police custody.
34. He had not received a reply to his query as to whether the remand centres (EDPs) had been transferred from the control of the Ministry of Internal Affairs to that of the Ministry of Justice and he asked the delegation to submit an answer in writing.
35. Similarly, he had not received a reply to his question as to whether migrants, including children, were being held at the Chisinau Vagrants Centre, which was an EDP in fact and thus totally unsuitable for holding non-criminal migrants. He had also asked for information on other centres where migrants were being held and would like to receive all such information in written form.
36. The delegation had also failed to reply to his question concerning the staffing problems of health-care personnel in detention facilities. There again, he would like an answer in writing.
37. On a more positive note, he had been pleased to hear that 98 per cent of all metal shutters had been removed from the windows of prison cells in Moldova. He was sure that that would dramatically improve conditions for the inmates and would reduce the number of cases of tuberculosis.
38. The CHAIRMAN, speaking as Alternate Country Rapporteur, said that he was disappointed with the replies from the Moldovan delegation which had contained little of substance. The Committee had received none of the information it had requested on the status of the judiciary, the ill-treatment of persons held in detention centres, the investigation of allegations of ill-treatment or the fate of individuals in specific cases. However, he recognized that the report was Moldova's first and that the delegation had possibly not known what was expected of it. He therefore asked it to respond fully in writing on its return home.
39. The members of the delegation of the Republic of Moldova withdrew.

The meeting was suspended at 4.35 p.m. and resumed at 4.45 p.m.

ORGANIZATIONAL AND OTHER MATTERS (agenda item 2) (continued)

The Guantánamo Bay detention centre

40. Mr. EL MASRY said that the Committee needed to address the problem of the Guantánamo Bay detention centre where people of over 40 different nationalities, including minors, were being detained indefinitely under the exclusive control of the United States of America with no access to legal counsel or the courts to challenge the lawfulness of their detention. That situation violated articles 2, 3, 5, 11, 12, 13 and 16 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.
41. Amnesty International had expressed its concern that people were being held at Guantánamo Bay in conditions amounting to cruel, inhuman and degrading treatment and that the Government of the United States of America had not demonstrated that it had conducted a thorough investigation into allegations of human rights violations there. In addition, there had been reports of hunger strikes and attempted suicides at the camp. The Committee could not ignore the problem when so many other bodies had addressed it and, since the United States of America was a State party to the Convention and its second periodic report was 18 months overdue, he suggested that the Committee should draw its attention to the issue and request further information.
42. Mr. MAVROMMATIS said that the Committee was entitled to examine a case only in connection with a report. The only course of action would thus be for the Special Rapporteur on overdue reports to contact the State party and request submission of its report, without which the Committee was unable to raise the matter.
43. Mr. RASMUSSEN endorsed the statement by Mr. Mavrommatis but said that he was very concerned about the situation.
44. Mr. MARIÑO MENÉNDEZ said that he was unfamiliar with Committee practices in relation to communications with States parties but he did not feel that writing a letter to express concern would be a violation of the Committee's mandate.
45. Mr. YU Mengjia said that the issue needed to be examined in connection with the overdue report. The State party should be urged to submit its report first so as to enable the Committee to examine it.
46. Mr. CAMARA said that it was important to avoid entering into the politics of the issue. The Committee must confine itself to the legal aspect. Guantánamo Bay was not on United States territory but was under United States jurisdiction. As the body exercising control over the territory in the same manner as it did over its territory on the North American continent, the Government of the United States of America was responsible for its actions there

and the Committee should treat it accordingly. There had been allegations of torture which, if they proved to be true, represented violations of article 16 of the Convention. As in the past, the Committee must adopt a procedure which was in keeping with the Convention by first requesting the State party to submit its report and then putting questions to its delegation and asking for replies. Given the circumstances in Guantánamo Bay, the Committee would certainly be entitled to ask the State party to present its report on a certain date and say that it wished to discuss the matter with the delegation when it presented the report.

47. The CHAIRMAN said that it was not known whether the United States of America was in breach of any of the articles of the Convention. The Committee had information which gave rise to suspicions, but the State party had had no opportunity to come before it and respond. As lawyers, the members of the Committee should not make assumptions but should be guided by the terms of the Convention. Under article 19, it was possible to argue that a State party could be asked to respond to questions but only in the context of a follow-up to a report that it had just presented. That argument did not, however, apply to the current situation in that it was three and a half years since the United States of America had been before the Committee and it would therefore be difficult to ask it for follow-up information at the current point in time. The issue should not therefore be raised until the United States of America came before the Committee with its second periodic report, at which time the members would be entitled to ask all the questions they wanted. He reminded the members of the Committee of the importance of preserving the integrity of the Committee against Torture and the human rights monitoring system as a whole.

48. Ms. GAER said that her analysis of overdue reports of States parties revealed that 20 countries had never submitted a report, including countries where millions had reportedly been subjected to extrajudicial killings, torture and ill-treatment. Reports of some of those States were at least five or six years overdue.

49. Mr. EL MASRY said that the United States was the only place in the world where detainees had no right to habeas corpus and no legal protection and that the country's highest-level officials had made public statements which derogated from the rights of detainees. The country's second periodic report was one and a half years overdue. The most powerful State in the world, which claimed to be defending democracy, liberty and human rights everywhere and which produced a yearbook on human rights observance throughout the world, should set an example for other countries. He agreed with Mr. Mariño Menéndez that sending a letter to the State in question would not be in violation of any rules and stressed the need to address the issue of Guantánamo Bay when the United States next came before the Committee.

Joint draft declaration on torture (CAT/C/XXX/Misc.10)

50. The CHAIRMAN invited the members of the Committee to consider the joint draft declaration (CAT/C/XXX/Misc.10).

51. Ms. GAER proposed that, in the first, introductory, sentence of the draft declaration, the definite article before the word “widespread” should be deleted, that the word “conflict” should become “conflicts” and the word “Day” should be inserted after the words “United Nations International”.

52. It was so decided.

53. The draft declaration was adopted, subject to editorial changes.

The public part of the meeting rose at 5.40 p.m.