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Communication from the Republic of Moldova concerning the Groups Becciev, Ciorap and Paladi against the Republic of Moldova (Applications No. 9190/03, 12066/02 and 39806/05)

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Réunion : 1186 réunion (3-5 décembre 2013) (DH)

Référence du point : Plan d'action (21/10/2013)

Communication de la République de Moldova relative aux groupes Becciev, Ciorap et Paladi contre la République de Moldova (requêtes n° 9190/03, 12066/02 et 39806/05) ***(Anglais uniquement)***

THE GOVERNMENT OF THE REPUBLIC OF MOLDOVA

Agent for the Government

EXECUTION OF THE JUDGMENTS

in *Becciev*, *Ciorap* and *Paladi* groups of cases (listed below)

The Government of the Republic of Moldova ("the Government") hereby submit:

The present submissions are dealing only with issues on account of inhuman conditions of detentions and the lack of medical assistance. These issues were analysed by the Government from the previous case law of the Court in series of judgments. The lists of groups of cases were updated respectively and it was reflected on the developments of the Court's case law and factual situation in the Republic of Moldova.

The present submissions pay attention to particular remand and detention facilities as they were reflected in the judgments. The relevant progress is reflected and following that the measures proposed by the Government are described.

The progress describes developments in improving material condition by increasing financial funding, refurbishing of the detention facilities and fighting overcrowding therein. There are plans for construction of new house of arrest. The relevant amendments of legislation and changing of practices on reducing the length of detention in custody of the police, as recommended by the CPT and other relevant monitoring bodies, were described. Also, the submissions addressed to reduction of prison population.

The proposed measures for implementation concentrate on strategies concerning judicial reform and, in particular, what concerns reformation of penitentiary and probation systems. There have been proposed certain measures for reassessment of the actual situation and of the recommendations proposed by the monitoring mechanisms.

The Government addressed the questions on opportunities concerning improving existed remedies or introduction of new remedies. The Government proposed to make a separate assessment of this question and to set a separate action plan for remedies to be introduced.

In addition, since the most of the cases concern to other linked violations (for ex. Articles 5, 6 and 8) the Government proposed to address them separately, while dealing with the *Sarban, Boicenco, Corsacov* groups of cases *et seq*. or by a submission of separate reports in each of the relevant case.

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CASES DESCRIPTION

1. The cases have been classified in the following groups.

The Becciev group of cases

2. The *Becciev* group of cases concerns to poor conditions of detention in the temporary detention facilities under the authority of ***the Ministry of the Interior***, including

- lack of adequate medical assistance in all cases (Art. 3); lack of an effective remedy in this respect in the *Malai* case (Art. 13).
- lack of relevant and sufficient reasons for the applicants' pre-trial detention in the *Becciev* and *Malai* cases (Art. 5§3);
- violation of the principle of equality of arms on account of the domestic courts' refusal to hear a witness without motives in the *Becciev* case (Art. 5§4).

Indicative list included *Becciev* (leading), *Malai* and *Ciorap (no. 2).*

The Ciorap group of cases

3. The *Ciorap* group of cases concerns to poor conditions of detention in the detention facilities under the authority of ***the Ministry of Justice***, including the lack of access to appropriate medical care. The issues raised by the present group of case are following:

- Poor conditions of the applicants' pre-trial detention in the remand centres under the authority of the Ministry of Justice in all cases, including
- lack of access to adequate medical treatment in detention in the *Ciorap, Istratii* and *Holomiov* cases (violation of Art. 3) and lack of an effective remedy in this respect in the *Ostrovar, Rotaru* and *I.D.* cases (Art. 13 taken together with Art. 3);
- torture of the applicant on account of his repeated force-feeding in detention in the *Ciorap* case and ill-treatment by the police in the *I.D.* case (Art.3);
- lack of relevant and sufficient reasons for ordering and/or prolonging the applicants' pre-trial detention in the *Istratii* case (Art. 5§3);
- violation of the applicant's right to a fair trial on account of the Supreme Court of Justice's refusal to examine his appeal in cassation due to his failure to pay the court fees in the *Ciorap* case (Art. 6);
- censorship of the applicants' correspondence by the Prison authorities on account of the opening of their correspondence without a court authorisation as required by the domestic law in the *Ciorap* and *Meriakri* cases and on account of the lack of reasonable clarity of Article 18 of the Law on Pre-Trial Detention which conferred some discretion to the administration in respect of the detainees' correspondence in the *Ostrovar* case (Art. 8) and lack of an effective remedy in this respect in the *Ostrovar* case (Art. 13 taken together with Art. 8);
- restrictions on the applicant's family visits due notably to a glass cabin in the *Ciorap* case and to the lack of foreseeability of Article 19 of the Law on Pre-Trial Detention in the *Ostrovar* case (Art. 8);
- and violation of Article 5 § 4 in respect of the interference with the right of each of the applicants to communicate with their lawyer under conditions of confidentiality in the *Istratii* case;
- the *Holomiov* case also concerns excessive length of criminal proceedings (Art. 6§1) and unlawful detention of the applicant based on the fact that his file was sent to the trial court (Art. 5§1).

4. Indicative list included *Ciorap* (leading), *Meriakri, Ostrovar, Holomiov, Istratii and others, I.D., Rotaru, Haritonov, Hadji, Arseniev, Culev, Constantin Modarca, Ciorap (no. 3), Mitrofan* cases (see for details the updated indicative list below).

The Paladi group of cases

5. The *Paladi* group of cases concerns to **lack of appropriate medical supervision and assistance** in the remand facility of ***the then Centre for Fighting Economic Crime*** **(now "*Anticorruption Centre*")** despite the medical recommendation to transfer the applicants to a specialised medical institution (in September 2004 in the *Paladi* case and in August 2006 in the *Oprea* case) (Art. 3). Other related issues:

- the applicant's continued pre-trial detention without a court order only based on the fact that the case-file has been sent to a trial court in the *Paladi* case (Art. 5§1);
- lack of relevant and sufficient reasons to justify the extension of the applicant's pre-trial detention in the *Oprea* case (Art. 5 § 3);
- the violation of the applicant's right of individual petition on account of the authorities' failure to comply with an interim measure of the Court indicating not to transfer the applicant from a hospital in the *Paladi* case (Art. 34).

6. Indicative list included *Paladi*, and *Oprea* cases (see for details the updated indicative list below).

Updated indicative list

7. The Government do not essentially object to the previous classification. However, given that, the Government's measures envisaged dealing with remedying and prevention of future violations, some amendments to lists and groups of cases are required. Therefore, the Government propose their own classification and the cases assessment.

8. The list of cases to which the Government refer in the present submissions includes the following judgments:

Title	Nos.	Judgment Date	Final
Ostrovar	35207/03	13/09/2005	13/12/2005
Becciev	9190/03	04/10/2005	04/01/2006
Sarban	3456/05	04/10/2005	04/01/2006
Boicenco	41088/05	11/07/2006	11/10/2006
Holomiov	30649/05	07/11/2006	07/02/2007
Istratii and others	8721/05, 8705/05, 8742/05	27/03/2007	27/06/2007
Modarca	14437/05	10/05/2007	10/08/2007
Ciorap	12066/02	19/06/2007	19/09/2007
Stepuleac	8207/06	06/11/2007	06/02/2008
Popovici	289/04, 41194/04	27/11/2007	27/02/2008
Turcan	10809/06	27/11/2007	27/02/2008
Malai	7101/06	13/11/2008	13/02/2009
Paladi	39806/05	10/03/2009	10/06/2009
Straisteanu and others	4834/06	07/04/2009	07/07/2009
Valeriu and Nicolae Rosca	41704/02	20/10/2009	20/01/2010
Gavrilovici	25464/05	15/12/2009	15/03/2010
Brega	52100/08	20/04/2010	20/07/2010
Ciorap (2)	7481/06	20/07/2010	20/10/2010
I.D.	47203/06	30/11/2010	11/04/2011
Oprea	38055/06	21/12/2010	21/03/2011
Lipencov	27763/05	25/01/2011	25/04/2011
Rotaru	51216/06	15/02/2011	15/05/2011

Bisir and Tulus	42973/05	17/05/2011	17/08/2011
Haritonov	15868/07	05/07/2011	05/10/2011
Feraru	55792/08	24/01/2012	24/04/2012
Hadji	32844/07, 41378/07	14/02/2012	14/05/2012
Arseniev	10620/06, 10614/06	20/03/2012	20/06/2012
Culev	60179/09	17/04/2012	17/07/2012
Plotnicova	38623/05	15/05/2012	15/08/2012
Constantin Modarca	37829/08	13/11/2012	13/02/2013
Ciorap (3)	32896/07	04/12/2012	04/03/2013
Mitrofan	50054/07	15/01/2013	15/04/2013
Ipati	55408/07	05/02/2013	05/05/2013

Assessment of judgments and the issues raised therein

Poor conditions of detention

9. **Periods of detentions and detention facilities.** All above-mentioned judgments referred to the following detention facilities and the periods of the detentions.

10. The first and most serious issues were found in regard to the remand centres detention facilities **under authority of Ministry of Interior.** The Court's judgments looked into the following period of detentions and detentions centres:

- the Chişinău remand centre of the *then municipal Inspectorate of the Police of the Ministry of Internal Affairs* (now *the General Police Inspectorate's remand centre*)[1] (hereafter "the remand centre of the Chisinau police").
- the remand centre of the then GDFOCC of Ministry of Interior[2] (now a division for fighting against organised crime within the *General Police Inspectorate*) (hereafter "the remand centre of the Chisinau police for combating organised crime").

11. Some isolated cases (for ex. *Gavrilovici, Brega, etc.*) may concern other detention facilities under the authority of Ministry of Interior, different from those of *Becciev* group of cases. Therefore, the Government will describe them below.

- the Orhei regional police station detention centre (*Malai*)[3]
- the Ştefan-Vodă regional police station detention centre (*Gavrilovici*)[4]
- the Buicani district police station detention centre (*Brega*)[5]
- the Hînceşti regional police station detention centre (*Ciorap no. 2*)
- the Riscani district police station detention centre (*Feraru*)[6]

[1] It was occasionally called as *the remand centre of the Ministry of Internal Affairs* (*Beciev*) or of the *General Police Station* (*Straisteanu and others*), *EDP of Chişinău Police Inspectorate (CPT report of visit to Moldova of 10-22 June 2001), etc.* It is a detention center within the building of the General Police Inspectorate set in Chisinau.

[2] The *General Directorate for Fighting Corruption and Organised Crime and Corruption of the Ministry of Internal Affairs* ("GDFOCC") (see *Stepuleac, Popovici* cases) or DGCCO detention facility (see *I.D.* case) – a former detached and quasi-independent division of Ministry of Inferior with a separate building and detention facility therein. It is set in Chisinau.

[3] The remand and detention center within the building of the regional police station of Orhei city.

[4] The remand and detention center within the building of the regional police station of Ştefan-Vodă city.

[5] The remand and detention center within the building of the police station of Buiucani district set in the Chisinau.

[6] The remand and detention center within the building of the police station of Riscani district set in the Chisinau.

12. In the case of *Popovici* the applicant was occasionally detained in one of both remand centres of the Chisinau police (the then General Police Inspectorate's remand centre and the then GDFOCC's remand centre). The Court treated them simultaneously.

13. It is worth mentioning that in *Haritonov* the Court admitted that a detention in the remand centre of the Chişinău police for a short period of time does not necessarily raise an issue under Article 3 on account of the alleged poor conditions of detention. In *Haritonov*, the applicant was confined in that remand centre for the second time for a period of twelve days, in February 2007, and did not amount in inhuman treatment. In the *Gorea* case, a relatively short detention for 21 days in the remand centre of the Chişinău police (the then General Police Inspectorate's remand centre) was not considered as being inhuman.

14. However, in *Feraru* the Court examined the 43 days (October-November 2008) of the applicant's detention of which six days at the Riscani police station, and the remained in the General Police Inspectorate's remand centre. Both detention facilities were under the authority of Ministry of interior, which on itself were considered by the CPT visit report 27-31 July 2009 as "[would] never be capable of providing conditions of detention suited for holding persons remanded in custody". The Court considered that the six days confinement in the Riscani district police station, even short one, was not compatible with minimum standards of compliance with Article 3.

15. The second detention facilities, conditions of which were seriously questioned by the Court, were prisons **under the authority of Ministry of Justice**. In particular, all of the Court's judgments concerned to:

- the remand centre of the Ministry of Justice Prison no. 13[7] (*Turcan, Ostrovar*, §§ 80-90; *Istratii and Others*, §§ 68-72, *Modarca*, §§ 63-69, *Ciorap*, §§ 65-71, *Rotaru*, §§ 33-42).

16. In all these cases, the Court referred to the findings of the CPT, which largely corresponded to the applicants' complaints, notably concerning overcrowding, the quantity and quality of food, and hygiene.

17. In particular in the case of *Ciorap no. 3*, the Court agreed that the applicant' conditions of detention in Prison no. 13 had not changed since the Court's judgment of 2007 in *Ciorap* case.

18. **Other prisons under the authority of Ministry of Justice**. In the case of *I.D.* the applicant was detained in different locations between October 2004 and November 2006. The Court held on a violation in respect of poor conditions of detention in the Prison no. 13 for period of February – October 2006 only. The Court found in that case that there was no continuous situation of the applicant's detention in the detention facilities of DGCCO[8], Botanica Police Station, the Soroca Prison and the Cricova Prison

19. Similarly, in *Hadji*, the Court considered the detention of the applicant for two months in the Prison no. 16, and the fact that the applicant did not complain on the conditions of detention there, as a cause of interrupting the alleged continuous situation. Therefore, only almost a year (March 2007-April 2008) spending in the Prison no. 13 was subjected to the Court's supervision. Also, the Court was not persuaded that the Prison no. 8, in so far as the conditions of detention are concerned, would raise any issues at the material time of the applicant's detention there (April 2007 – February 2011). Referring to the CPT's findings (visit 14-24 September 2007) the Court agreed that the conditions of detention in that prison were generally better than in other detention facilities and that the only major problem was isolated disruptions in the supplies of water and electricity as a result of actions of Transdniestrian separatist authorities, outside of the effective control of the authorities of the Republic of

[7] The remand Centre of the Ministry of Justice no.29/13, also known as Prison no. 13, former Prison no. 3 in Chişinău (see *Turcan* case)
[8] the remand centre of the Chisinau police for combating organised crime

Moldova. In Prison no. 8 the inmates, however, who requested transfers to other establishments and on account of that disruption they received satisfaction.

20. **Summarising** all judgments to which the Government rely on in the present submissions, they will deal with violations on account of poor conditions of detention in the following detention facilities and for the following periods:

under the authority of ***Ministry of justice***

- **Prison no. 13** for the period between **November 2000 and December 2009** (*Ciorap, Valeriu and Nicolae Rosca, Holomiov, Ostrovar , Rotaru, Ostrovar , Plotnicova, Istratii and others, Modarca, Paladi, Turcan, I.D., Haritonov, Straisteanu and others, Mitrofan, Ipati, Hadji, Ciorap (3), Constantin Modarca, Culev*).

  The overall detention, which was treated as inhuman in this remand establishment, was from 8-9 months to almost one or two years, except in cases of *Ciorap*, *Plotnicova,* where the detention lasted up to six years.
- **Prison no. 15** for the period from **June – October 2008** was mentioned in the case of *Ciorap no. 3.*
- **Prison no. 5** and the conditions of detention therein for period of two months at the **beginning of 2009** was found inappropriate in case of *Constantin Modarca.*

under the authority of the ***Ministry of interior***

- **the remand centre of the Chisinau police** for the period between **February 2003 and November 2008** (*Becciev, Popovici, Straisteanu And Others, Feraru,* except the case of *Gorea* when the complaints were declared unfounded).

  In those cases, the applicants were detained between 2 and 5 months. Almost a month of detention (*Gorea*) did not raised issues on account of the alleged inappropriate conditions of detention.
- **the remand centre of the Chisinau police for combating organised crime** for the period between November **2003 and November 2003 and March 2006** (*Popovici* and *Stepuleac*).

  An average period of detention in that establishment was 4-5 months in those cases. Even a short period spent in that remand centre is inacceptable within the meaning of Article 3.
- the **regional and district police establishments** for detention (Hincesti, Ciocana district, Ştefan-Vodă, Orhei, Straseni, Buicani district, Riscani district) for overall period between **November 2000 and September 2008** (see respectively *Ciorap (2), Lipencov, Gavrilovici, Malai, Straisteanu and others, Brega, Feraru)*

  The applicants in these cases were kept detained between 3 and 30 days, at the average. Even for a short time, the detention in those facilities was found incompatible.

21. **Overcrowding.** As an issue it was found in the cases of *Modarca,* § 28, *Valeriu and Nicolae Rosca*, § 78-79 concerning the remand centre of the Ministry of Justice (Prison no. 13) in periods lasting from 2001 to 2004 (CPT visits reports on 10-22 June 2001, 20-30 September 2004).

22. As to the Prison no. 13, in the *Rotaru*, § 38 case the Court noted that the statutory minimum of four square metres per detainee has still not been achieved in 2006, as was noted in 2007 by the CPT (see CPT visit report on 14-24 September 2007). In any case, the Court, having also referred to the above CPT findings, welcomed the progress made by the Moldovan authorities in reducing the prison population since 2004.

23. However, in cases of *Haritonov* in *I.D.* the Court was, also, confronted with a situation when the applicants' detentions in several prisons without interruption amounted to a "continuing situation" because of overcrowding of the cells in those facilities. In both cases, the Court linked the remand centre of DGCCO (under the authority of the Ministry of Interior)

and Prison no. 13 for the period between February 2006 (*I.D.* case) and January 2007 (*Haritonov* case).

24. In *Arseniev*, the Court confirmed again its findings concerning severe overcrowding for the period beginning with 2003 until 2008. In *Mitrofan, Constantin Modarca, Plotnicova* the overcrowding in Prison no. 13 remained an issue for the period between 2006 and 2009.

25. **Poor material conditions of detention.** In most cases and in particular what concerns the Prison no. 13 and all police remand establishments were found that the material conditions of detention there were far of acceptable. Improper material conditions of detention, as mentioned in *Becciev* and *Ciorap*, have been reiterated thereafter in all following judgments concerning the above-mentioned remand centres (see for example the recent authority *Mitrofan*, § 38). Not to be specified by kind, the material conditions contested by the applicants regarded to old structure building, lack of refurbishments, inappropriate sanitary conditions, lighting and ventilation problems, large-capacity cells insufficiently equipped for daily needs, potential infestation and smoke exposure.

26. **Lack of appropriate alimentation.** For the first time it was mentioned as an issue in *Modarca*, § 67, where the Court noted with a reference to CPT that in October 2004 a situation concerning daily expenses for food left a lot to be desired, the food being "repulsive and virtually inedible".

27. Similar issues as to poor alimentation were found in *Rotaru*, where the Court did not remain persuaded by an improvement of the applicant's material conditions of detention after 2004 in Prison no. 13. The Court took note of the Government's acknowledgement in 2007 that the issues in respect of the quality of food still need to be addressed. Such an issue was justified due to a lack of sufficient financial funding of the prisons all over the country.

28. The quality and quantity of food in the Prison no. 13 was criticised in *Plotnicova* (period 2003-2009) with the reference to CPT's findings during the visit in 20-30 September 2004.

29. The same decision the Court adopted in the case of *Ciorap no. 3* as far as concerned the failure to provide a minimum of qualitative food for 4 months (June-October 2008) of the applicant's detention in the Prison no. 15.

Lack of medical assistance

30. Two violations concerning the lack of appropriate medical assistance while in detention were found in respect of the detention facility of the *then Centre for Fighting Economic Crime* ("CFECC" - now "*Anticorruption Centre*") (see cases of *Paladi, Sarban*, §§ 29-35, *Istrati and others* §§ 17-19, *Oprea* §§ 39-41; for the periods of detention: September 2004–February 2005; August-September 2006, respectively. These violations, even where the material conditions are compatible, became the only breaches that had occurred in this remand centre.

31. In case of *Oprea* the Court actually went to find a violation because of delays on part of investigative authorities to allow the applicant's transfer into a specialised medical institution for a particular medical care required by her condition. The applicant spent an extra two weeks in detention facility, despite of the recommendations given by doctors of her choice, although a general medical care was however provided (*Oprea* § 40).

32. Certain developments on securing the detainees with required medical care in the detention facility of the then CFECC could be observed in the *Bisir and Tulus* case. The Court again did not questioned material conditions of detention in that facility and found the applicants' allegations in this respect as unfounded. The first applicant in that case was examined by independent doctors of his choice and received treatment in a prison hospital (see §§ 30-31). The applicants were detained during June-August 2005.

33. Lack of medical assistance would be not an issue in the prison authorities under the authority of the Ministry of justice.

34. Additionally, the Court found that the Government did not refute the allegations as to an unqualified medical assistance provided to the applicant in the remand centre under the

authority of Ministry of Justice (Prison no. 13) (see the case of *Ostrovar* § 86). However, it appears that these occurrences were incidental and they have not amounted in repetitive violations. Since then, all cases, except *Ostrovar*, have not raised similar issues in respect of the alleged lack of medical assistance in the Prison nr. 13.

35. The above assertion is proved by the Court's findings in the *I.D.* case (§§ 37-38). The Court faced with the applicant's allegation that he was not allegedly provided with appropriate medical care in the Prison no. 13 within the period of his detention between February and October 2006. The Government denied this contention and the Court noted that the applicant *I.D.* had been allowed to have a medical care of his choice and there had been no indication that the Government constrained the applicant to have a medical care required by his physical condition. The Court went then to examine the *I.D.* applicant's material conditions of detention in the Prison no. 13 only.

36. In *Rotaru*, the Court stayed convinced that the medical assistance in prisons under the authority of Ministry of justice does not rise any separate issues. The applicant in that case was cured sufficiently and the Prison no. 13 hospital offered better conditions of detention (see §§ 39-40). Similar conclusion was reached in case of *Plotnicova* (§ 29) where the applicant, having already had health problems before arrest, was thereafter regularly seen by various doctors and followed the treatment prescribed.

37. As to the remand establishments of Ministry of Interior, a separate issue was found in respect of the alleged lack of immediate medical assistance in case of *Lipencov* (see § 38). The Court, referring to the CPT visit report on 27-31 July 2009, endorsed criticism as to an attitude taken at Ciocana police station towards the applicant requiring medical attention, while he was detaining three days in October 2004. That case did not reveal a spread practice but rather an individual omission of the police officers who arrested the applicant. Given that, the Court did not consider necessary to make further findings in relation to the other matters complained of, i.e. regarding material conditions of detention in the remand centre of the Ciocana police station.

38. In *Gorea* case, the Court was not convinced that the applicant was systematically denied medical assistance, since he was examined by a number of doctors and received treatment in accordance with their recommendations. The applicant was detained in the remand centre of the Chişinău General Police Department for 21 days in May 2005.

As to the available remedies

39. The Court has examined on numerous occasions the issue of domestic remedies by which an applicant can complain against poor conditions of detention in Moldova (see *Sarban*, §§ 57-62; *Holomiov*, §§ 101-107, *Istratii and Others*, § 38, *Modarca*, § 47, and *Stepuleac*, § 46). It has concluded on each occasion that the remedies suggested by the Government were not effective in respect of individuals currently in detention. In *Malai*, §§ 42-46, the Court found a violation of Article 13 of the Convention, concluding that "it has not been shown that effective remedies existed in respect of the applicant's complaint under Article 3" concerning conditions of detention.

40. In so far as the other remedy referred to by the Government is concerned, namely a civil action to request an immediate end to the alleged violation, the Court observed that it has already found that that procedure does not constitute an "effective remedy" in respect of ongoing violations of Article 3 of the Convention (see *Holomiov* § 107). In *Holomiov* the Court found as follows: "[T]he Court does not consider that, at the present time, the existence of an effective remedy before the national courts for the applicant's complaint about the lack of adequate medical care in his place of detention has been clearly established. However, the Court may in future reconsider its position if it is informed of consistent application of the Convention by the domestic courts".

41. In the afterwards, the Court noted in *Rotaru* case that the remedies proposed by the Government are only of compensatory nature and they would be able to afford awards for past violations of Article 3 only. No civil action, in the opinion of the Court, can put at end the continuous situation of the applicant's detention in inhuman condition (*Rotaru*, § 25). The Court reached the same conclusion in *Arseniev* (§ 33) noting that the remedy by means of civil actions relied on by the Government is only of a compensatory nature and could not improve the applicants' conditions of detention.

42. In any case, in the *Ciorap no. 2*, the Court endorsed the opinion of the Supreme Court by which the latter acknowledged a violation and awarded an amount for compensation of Article 3 on account of the applicant's inhuman conditions of detention. In the light of the principle of subsidiarity, the Supreme Court's decision to apply the Convention directly, in the absence of a provision of domestic legislation giving the applicant a right to compensation, was to be commended. The only question examined in the *Ciorap no. 2* was that the Supreme Court had awarded a compensation considerably below the minimum generally awarded by the Court in similar cases.

43. The Government consider the above case as a sizeable development in relation to the issue of remedies for conditions of detentions, that must be pursued and used in the implementation of the present groups of judgments.

44. In conclusion, as to the remedies in the Republic of Moldova, the Government perceive the situation as open for discussion. Although, there is a consistent Court's case law that noted over the lack of remedies, this conclusion referred to the period before the Supreme court's judgment in the *Ciorap no. 2* case (2007). The next Court's judgments revealed that the Government proposed only compensatory remedies that do not suffice while dealing with conditions of detentions (*Rotaru, Arseniev, etc.*). Therefore, there is a need of remedies that would also improve the applicants' conditions of detention.

INDIVIDUAL MEASURES

45. **Payments of just satisfaction.** The applicants were awarded just satisfaction for compensation of pecuniary, non-pecuniary and cost and expenses, where there was a case. All payments were paid within the time limits set by the judgments. No delays were encountered.

46. **Other individual measures.** The most of the applicants are no longer detained. The applicants in cases *I.D., Oprea, Arseniev, Rotaru* were transferred to different detention locations other than complained of.

47. In the *I.D.* case the applicant at the day of delivery of judgment was detained in Cricova prison, where he is detained to date. The Court did not question the conditions of detention in that prison.

48. In case of *Oprea* the applicant now receives medical treatment on a daily basis, under the supervision of prison doctors and doctors of her choice. She is being placed under the ambulatory supervision periodically; last treatments she received in November-December 2011, February, April and May 2013. To date her condition is satisfactory.

49. As regards the individual measures stemmed from other violations, other than the poor conditions of detention and lack of medical assistance while in detention, the Government will not address them in the present submissions. In any case, the Government consider that, in the greatest number of cases, except some isolated cases, there is no need for any other particular individual measure(s), apart from the payments for just satisfaction.

GENERAL MEASURES

50. **Preliminary remarks.** The present submissions are solely oriented to the description of general measures for securing appropriate conditions of detention and medical assistance while in detention. The Government will address them by taking into account (i) the assessment

of developments of the Court's case-law as described above, then by distinguishing between (ii) measures already implemented and, therefore, (iii) those measures that still need to be pursued by authorities while dealing with execution.

51. In other words, the content of the present Government's submissions is outlining the progress achieved along with issues, which still remain to be addressed, and the measures envisaged in this respect, accompanied with a timetable for their implementation.

Brief description of actual situation relevant to the present submissions

52. The remand system of the Republic of Moldova comprises three types of remand centres, depending on the authority under which an establishment was set. There are remand centres under the authority of criminal investigative bodies (the Ministry of Interior and the Anticorruption Centre) and the Ministry of Justice. The remained establishments are designed for remand of persons on unsound mind and with psychiatric diseases. They are under the authority of Ministry of Health and they are not subjected to the assessment in the present submissions.

53. The investigative bodies are entitled to remand persons accused of criminal offences and serious contraventions, who have been arrested pending investigation and trial. Once the person receives a final criminal punishment, its enforcement is secured only by the Ministry of Justice. The prisons of the Ministry of Justice are equipped to keep in detention those persons in either situation, while detention pending trial or enforcement of criminal punishment. The Department of Penitentiary institutions, under authority of Ministry of justice, supervises all prisons, except those under authority of Ministry of Interior and Anticorruption centre. The Ministry of Interior and Anticorruption centre have their own subdivisions responsible for supervision of the remand centres, within territorial stations hierarchically subordinated to central subdivisions.

54. The investigative bodies' establishments are usually set within the buildings of territorial and regional police stations. The Anticorruption centre has one remand centre under its authority, which is set in Chisinau in the same central office building.

55. Escorting services are organised by each of three authorities entitled to remand persons.

56. There has been instituted a probation service in the Republic of Moldova (from 2007), which deals with enforcement of criminal punishments other than liberty deprivations. It does not deal with measures alternative to pre-trial and pending trial arrests.

57. Execution of criminal preventive measures, alternative to detention on remand, are supervised by investigative bodies only.

58. Typical situation of a detainee involves following stages of detention on remand. If a person is arrested pre-trial and pending trial, his or her detention usually starts at one of the police remand establishments and the person falls under custody of Ministry of interior or Anticorruption centre. Later, the person is transferred under authority of Ministry of justice, where the arrestee is kept in detention in the afterwards. There may be incidental transfers of detainees between the Ministry of justice and the Ministry of interiors, for purposes of investigations or judicial trials.

59. Medical care of detainees is also ensured by each of authorities entitled to remand persons. The authorities may ask assistance from common medical services provided under authority of Ministry of Health. The Ministry of Justice has its own prisons hospital services for detainees, both under authority of Department of Penitentiary Institutions and Ministry of Health. The medical care for detainees in the custody of investigative authorities is secured by calling medical institutions under authority of the Ministry of Health and by inviting legal medical experts therein. The authorities allow medical services provided by private doctors of a detainees' choice on case-by-case basis, if the detainee asks for such a medical assistance.

60. Legal aspects of execution of criminal sentences and of the detention, as far as it concerns other aspects then the material conditions of detention, is still supervised by the territorial and General Prosecution offices and, partially, by investigative judges.

61. All detainees have a right to initiate civil actions against the prison administration and the Department of Penitentiary Institutions, Ministry of Justice, Ministry of Finances, etc. claiming monetary compensations for the alleged breaches on account of inappropriate conditions of detentions or lack of a required medical assistance. Similar actions can be brought in civil courts against the Ministry of Interior and Anticorruption centre. These actions cannot deal with releasing of a detainee, which is under the competence of criminal courts only.

The authorities' attitude

62. The Government generally acknowledge the issues raised by the judgments of the Court on account of poor conditions of detentions. However, the Government cannot fall agree that there is any indication of structural or systemic problem rising from that judgments. The developments of the Court's case-law in respect of the Republic of Moldova show that there are several repetitive violations but they were treated rather individually by the Court. Some issues in respect of certain detention facilities, as for example the Prison no. 13 and the police remand establishments, may have created an impression that there is a serious gap to be solved. Above all, the concerns were related to particular aspects concerning conditions of detention, i.e. overcrowding, lack of financial funding, shortcomings in securing material conditions of detention, etc. Nevertheless, the progress achieved and the pro-active authorities' attitude reveal that the Government continue dealing with cases and issues raised therein.

63. The main, but not the only one, obstruction in the Government's commitments for implementation is a serious state's budget restraint.

64. For example, in their reply to findings of the United Nations Special Rapporteur[9], the authorities acknowledged the seriousness of the problem of ensuring appropriate conditions of detention in Moldova and stated that most of the necessary legislative measures had already been taken. The lack of financing for implementing the measures decided upon was the single most serious impediment to solving the problem.

65. The Republic of Moldova inherited old gulag-type prisons in dilapidated buildings, corresponding to former soviet standards. The prisons do not conform to current national and international standards. The similar situation the Government face up in respect of police establishments. However, the budget constraints upon the State do not allow for their reconstruction or renovation.

66. Therefore, the authorities choose to develop measures in their abilities to date, as far as it can be achieved beyond their financial constraints.

Progress and the measures that have been already implemented

Publication and dissemination.

67. All judgments were properly disseminated by translation, publishing and by giving a notice to the relevant authorities. The Governmental Agent gave recommendations to the relevant authorities concerning individual and general measures that would be appropriate for implementation, having requested regular feedback.

[9] United Nations Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment (Human Rights Council, 10th session, Report on the special rapporteur's mission to Moldova, document A/HRC/10/44/Add.3, 12 February 2009)

Developments and current situation on conditions of detention

68. **Relevant legislative improvements.** The Execution code, in its relevant part what concerns enforcement of the arrests and detentions, was amended in March 2012. The amendment reads that the arrest (preliminary apprehension) can be enforced by the remand centres, other than prisons, but only up to 72 hours (see Article 175/1 (1) of the Execution code).

69. Therefore, it is forbidden by law and by internal ministerial instructions to keep detained persons in all regional and sectorial police remand centres beyond regulatory 72 hours of detention (preliminary apprehension). Otherwise the detention, by law, would become unlawful and the person should be released and/or claim compensations. After 72 hours spent in one of the remand centres of the police, the detainee should be escorted to one of the remand facilities (houses of arrest) under the authority of Ministry of Justice.

70. **The remand centres and material conditions therein.** As it was asserted above the most problematic remand centres, according to the Court's case law, found to be the Prison no. 13, on account of overcrowding and material conditions of detention, the remand centre of the Chisinau police, the remand centre of the Chisinau police for combating organised crime, certain remand police centres of the regional and sectorial police stations, having been considered far beyond minimum standards. The Government will describe the developments respectively.

71. *As to the Prison no. 13* (*Ciorap* case), the authorities followed two scenarios. Firstly, the authorities continued investing in the prison. During 2007-2013, there were certain investments made in order to increase the quality of food supplies and material conditions as far as possible. Secondly, the authorities envisaged building of a new detention facility, with a far greater capacity and standards. Respectively, once the project will be finished the Prison no. 13 will be closed.

72. During 2007 and 2012 the financing of the Prison no. 13 was kept progressing and distributed to the prison's particular demands (see below for details). In due course, many cells and building blocks were refurbished. An internal and autonomy heating system was set in the whole prison.

73. During 2012-2013, the authorities identified a plot nearby Chisinau for building of new prison, instead of the Prison no. 13. A construction project and drawing specifications were developed in February 2013 under the authority of the Council of Europe Development Bank. In September 2013, the authorities concluded an agreement with the Council of Europe Development Bank and have received a loan for construction of new prison in an amount of almost 40 million EUR. The authorities shall invest about 6 million EUR as well. New prison foresees to hold about 1600 detainees and it will merge two acting prisons from the Chisinau region, inclusively the Prison no. 13. The construction shall start in 2014.

74. *As to other prisons under authority of Ministry of justice*, reconstruction, repairs and maintenance work were carried out in a number of penitentiary institutions starting from 2007 (see for example the findings of the *United Nations Committee Against Torture, adopted at its 43rd session on 2-20 November 2009 (document CAT/C/MDA/CO/2)).*

75. The Government report the refurbishment works at several custodial facilities (e.g. Taraclia Prison no. 1, Rusca Prison no. 7, Rezina Prison no. 17 were seriously renovated and the Goian prison for minors was build afresh).

76. *As to the remand centre of Chisinau police* (*Becciev* case), it is now considered as being the most suitable and exemplary detention facility under the authority of the Ministry of Interior. Its renovation was finished at the end of 2012 and in February 2013[10], the remand

[10] See press-release http://www.mai.gov.md/node/15865 and http://unimedia.info/stiri/foto--video-conditii-europene-de-detentie-in-izolatorul-cgp-celulele-sunt-dotate-cu-camere-de-supraveghere-44263.html

centre was officially re-lunched after significant refurbishments, that were funded by the EU (in an amount of almost of 250 000 EUR) and by the Government. It consists of 22 renewed cells, administrative facilities, place for outdoor exercises, all equipped with new lavatories, sanitary and furniture. A video surveillance was installed.

77. *As to the remand centre of the Chisinau police for combating organised crime* (*Popovici* and *Stepuleac* cases), it was closed and no longer exists.

78. *As to remained remand centres of the regional and sectorial police stations*. Under the authority of Ministry of interior there are 38 of the remand centres. Six remand centres were closed at all (*Străşeni, Ialoveni, Donduşeni, Criuleni, Dubăsari*) and a number of them were partially suspended (for ex. *Hînceşti* (*Ciorap no. 2* case) where the only one cell was adapted for short-term detention. That cell only remains functional. One police detention facility, in one of the big regional centres, was ceased until reconstruction of the police building (*Balti* police station). The detention in there cannot pass 72 hours and the arrestee is either released or sent to prisons (house of arrests) under the authority of Ministry of Justice.

79. As to the remand centre of Anticorruption centre, it did not raise any concerns in respect of conditions of detention therein, except occurrences on account of the prohibition of chosen medical care (*Paladi, Oprea,* etc.). However, both the Ministry of Justice and the Anticorruption Centre are now contemplating on transfer of the remand centre under authority of the Ministry of Justice.

80. **What concerns overcrowding**, although the above-described measures are relevant but they are not only measures required. The Government are dealing with overcrowding by implementing strategies for reducing of prison population, enhancing probation services and increasing application of preventive measures alternative to arrest.

81. For example, a number of amendments in December 2008 of the Criminal Code, which reduced minimum and maximum penalties, prompted a general review of penalties and reoffending, and provided for alternatives to detention, thus contributing to the reduction in the total number of prison population (see for example the assessment of the *United Nations Committee Against Torture, adopted at its 43rd session on 2-20 November 2009 (document CAT/C/MDA/CO/2)*).

82. For example, the following data concerning overall reduction of prison population, inclusive the persons kept in pre-trial and pending trial detention, are relevant. Number of persons in pre-trial and pending detention in period from 2002 to 2007 was kept reducing from almost 3400 (in 2002) to about 1300 (in 2007). Overall prison population decreased from almost 10600 of detainees in 2002 to 7900 of detainees in 2007. After 2008 and to 2013 these numbers is decreasing constantly with almost 10% per year, in the average. Last statistical data reveal that in 2011 overall prison population in detention was already of almost 4050 persons, which number remained constant in 2012 and 2013, varying between 4300 and 4100 detainees. However, the number of pre-trial and pending trial detainees, starting from the second semester of 2009, increased up to almost 2500 persons and this number is constant in 2011-2013, varying between 2100 and 2500. This growth is due to wider transfers from the police remand centres to those under authority of Ministry of justice, *inter alia* as a result of implementation of CPT recommendation to reduce as far as possible the length of stay in police custody.

83. As the CPT noted after its visit to Moldova on 14-24 September 2007, at the material time, " the delegation noted that the average length of stay in IDPs of persons remanded in custody had decreased. For example, at the IDP of the General Police Directorate in Chişinău, the majority of persons who had been remanded in custody were being transferred to Prison No. 13 within a week. This is a welcome development. …".

84. The CPT, *inter alia*, mentioned that "one particularly welcome outcome of these measures [reforming the Moldovan prison system and implementing the CPT's recommendations] was the reduction of the country's prisoner population. At the time of the

2007 visit the total number of prisoners stood at 8,033 (including 1,290 in pre-trial detention), compared to 10,591 in 2004. This positive trend can be attributed to recent legislative changes, including the entry into force in July 2005 of a new Execution of Sentences Code and amendments to both the Criminal Code and the Code of Criminal Procedure. As a result, there has been an increase in the number of conditional early releases, as well as a wider use of alternatives to imprisonment and a more selective application of pre-trial detention by the courts".

85. Now it has to be assessed to what extent the amendments introduced in the Execution Code in March 2012, concerning 72 hours of detention in police custody, would have effect on the growing of the number of detainees in pre-trial or pending trial detention kept in prisons and arrest houses under the authority of the Ministry of Justice. It appears that this number increased since the application of those new provisions.

86. However, the Government envisage dealing with these details in a greater extent while reporting issues raised by other related groups of cases concerning combating ill-treatment in police custody and overall length of pre-trial and pending trial detention (see *Sarban, Boicenco, Corsacov* groups of cases *et seq*). This is welcomed development on account of these groups of cases but it is quite unlike improvement on account of overcrowding of overall prison population. Nevertheless, the authorities are implementing strategies and plans of actions for a larger application of alternative measures to pre-trial and pending trial detentions, such as home arrests, release on bail and electronic surveillance of accused (see for details *Sarban* group of cases, to be submitted).

87. Finally, the Government would like to rely on results of CPT visit to Moldova in 1-10 June 2011. As for conditions of detention, according to the CPT report, the delegation noted with satisfaction that, in the light of the delegation's preliminary observations at the end of the visit, an action plan was immediately drawn up to combat overcrowding and improve material conditions in prisons.

88. **Financial funding.** Financial support of the penitentiary system and detention facilities under authority of investigative bodies is also an issue. It could not be solved in short terms, in particularly due to quite difficult economic situation of the Republic of Moldova and its budgetary restraints. However, some developments could be observed here as well.

89. For example, the 'Concept Paper for the Reform of the Prison System 2004-2013' has been supported by an increase in the budgetary allocation (from MDL 75.8 million in 2004, to MDL 166.1 million in 2007), as well as by an increasing contribution of foreign aid. This has enabled, *inter alia*, improved quality of food provided to prisoners and improved health care, as well as the execution of refurbishment works at several custodial facilities (see *inter alia* the CPT findings in the report on its visit to Moldova between 14 and 24 September 2007).

90. In 2012 the Government funded the Ministry of Interior with 160 000 EUR for renovations of the remand centres in regional and sectorial police stations. Almost 80% of such remand centres were totally or partially renovated.

91. A funding for the prison system costs have increased. In particular a funding for alimentation of prisoners in Prison no. 13 was of almost 175 thousands EUR in 2007, which was kept growing each next year. In the average the amounts constituted of almost 190 thousands EUR for 2008, 180 thousands EUR for 2009, 210 thousands EUR for 2010, 220 thousands EUR for 2011 and in 2012 the funding increased up to 320 thousands EUR for alimentation in Prison no. 13.

92. Other expenses in Prison no. 13, such as those for medical assistance and hygienic requirements in 2012 were granted by the Government in sums of almost 29 thousands EUR and 10.5 thousands EUR, respectively (compare for 2007 –about 10 thousands EUR and 800 EUR, respectively). There has been a growing of the costs for reparation of the prison, expenses for subscription to newspapers and magazines, bedding, linen and lavatory.

93. The total budged funding for Prison no. 13, extra-budgetary and humanitarian aid during the years 2007-2012 constituted of almost 215.5 thousands EUR, 300 thousands EUR, 260 thousands EUR, 303.5 thousands EUR, 300.5 thousands EUR and 404 thousands EUR, respectively.

94. The Government noted above that they are well aware about the requirement to redouble their efforts to find the financial means necessary for providing for the fundamental needs and preserving the dignity of detained persons. They keep continuing these efforts.

Medical care while in detention

95. **Relevant legislative improvements.** Article 175/1 (2) of the Execution code makes incumbent medicals examination immediately before a person is in custody, during his or her detention and after 72 hours, before escorting him or her to a prison or a house of arrest. Article allows an arrestee to call for a free medical examination at any time of his or her 72 hours detention and its provisions consent to any chosen medical assistance at his or her expenses.

96. Article 232 of the Execution code was also amended and it provides a wide regulatory framework for medical assistance within and outside the penitentiary system and the medical services in the remand centres. It obliges doctors to inform prosecution services about any clues or injuries resulted from ill-treatment. The provision gives to a detainee, at his or her expenses, varied possibilities to call private doctors and even legal forensic experts. It sets, of course, minimum of medical standard services free of charge.

97. A medical examination, pursuant to the above Article, is mandatory when a person is escorted and/or transferred from other detention centres. Compensatory medical treatment is fixed, upon a decision of medical commission, for certain types of infections and addiction deceases.

98. It seems that the above regulations for medical assistance would preclude the investigative bodies and prison supervision staff to prohibit any particular demands of a detained person to call for private and mandatory medical care.

Remedies available

99. **Judicial remedies.** As it was noted in the *Ciorap no. 2* case, the Court commended the Supreme Court's decision to apply the Convention directly, in the absence of a provision of domestic legislation giving the applicant a right to compensation for the alleged inhuman conditions of his detention. However, the Court disagreed with the amounts awarded to the applicant in that case, noting on their modest character, therefore finding a violation in that respect. This findings show that there was a quite possibility for a detained person upset by his or her detention conditions to commence a civil action in courts and to claim, at least, monetary compensation for the alleged breaches.

100. In the meantime, the Supreme Court has developed its case law and it has gave instructions to all domestic courts how to apply its rationale from the *Ciorap no. 2* case. The relevant Explanatory Decision of the Supreme Court no. 8 of 24 December 2012 explains the applicable law and procedure by which a person could claim compensation for such a breach of the Convention. It provides references to the relevant case law of the Court in cases against Moldova, and in particular to all cases referred by the Government in the present submissions. The Explanatory Decision also covers issues on the authorities' failures to provide required medical assistance.

101. To that Explanatory Decision can be added the Supreme Court's Recommendation no. 6 of 01 November 2012. The Recommendation noted on the direct application of the Convention and the Court's case law while applying the compensatory remedy introduced after *Olaru* pilot judgment. In its relevant part the Recommendation gives guidance to the domestic courts in part of awarding just satisfaction in amount at least comparable with amounts awarded by the Court in similar cases, inclusively those cases that concern violations of Article 3 of the

Convention. The Recommendation sets an average amounts of money applicable for breaches within the meaning of the Court's case law.

102. There is already an extensive domestic case law on applying the same rationale from the *Ciorap no. 2* case[11]. However, since that the case law is relatively recent, it still has to be settled for coherent application.

103. **Compensatory remedies.** Other compensatory remedies, apart from those mentioned above, cannot be exemplified in the present submissions.

104. **Remedies to stop continuous violations.** A person who is considering himself or herself as victim due to *conditions of detention* still can appeal to the prison or the remand centre administration, as well as to the investigative bodies. The detainee can claim transfer or change of his or her particular conditions of detention. However, such demands are examined on case-by-case basis and the Government may assume that there is no systemic approach. Although such a possibility exists, it is quite non-codified and all legal provisions would not allow to make an overall impression about these proceedings. The Government will be dealing with the present aspect below while describing their measures to pursue.

105. As for a remedy in case of the alleged *improper medical assistance*, the Government rely on application of the recent amendments to Execution code (March 2012), mentioned-above. It may be considered either as a prevention or as a remedy for any failure to provide medical care. As inferred above, the application of the amendments has still to be supervised and any conclusions are premature at the present stage. In any case, the new system of medical assistance and the regulatory framework for its implementation is on-going and it has been adapted to prevent any occurrences of similar violations on account of poor medical care.

Measures proposed to be pursued

106. The Government submit below a non-exhaustive list of measures proposed for dealing with all issues raised by the present groups of cases. Their implementation is a long-standing process and in due course one or more of the measures can fall into desuetude or may be substantially amended. New measures or proposals can appear depending on the implementation of previous ones.

107. The Government intend updating the measures below and to keep informed the Committee of Ministers, correspondingly.

General measures closely related to issues raised by the groups of cases

108. **Strategy for justice sector reform 2011-2015.** The Republic of Moldova has begun to implement a coordinated and well-defined reform of judicial sector that comprises as one of its basic pylons 'Securing of Human Rights'[12]. This Strategy is accompanied by an Action Plan, which reflects, *inter alia*, measures for reformation of Judiciary, Prosecution, Ministry of Interiors, Security Services, Enforcement system and Bailiffs, the Legal aid service and the

[11] See the most relevant example a set of cases *Ipate Nichita vs le Ministère des Finances en constatation de la violation du droit à la détention dans le Pénitencier 2 Lipcani dans des conditions inhumaines et dégradantes et la réparaion du préjudice moral*; *Ipate Nichita vs le Parquet général de la RM, le Commissariat Général de Police mun. Chișinău, le MAI RM, le Ministère des Finances de la RM en reconnaissance de l'application du traitement inhumain et dégradant, art. 3 CEDH, la réparation du préjudice matériel et moral causé suite au traitement inhumain et dégradant ; Ipate Nichita vs le Ministère des Finances, le Parquet Général, intervenant accessoire le Ministère de la Justice en encaissement du préjudice moral* ; *Ipate Nichita vs le Commissariat général de Police en constatation de la violation de l'Article 3 CEDH et la réparation du préjudice moral* ; *Ipate contre le Ministère des Finances, le Parquet Général et les Ministère de l'Intérieur*

[12] The Law no. 231 of 25.11.2011 and the Action Plan for implementation of Strategy for reformation of judicial sector

Ombudsman' office, etc.. This is a very demanding process that positively affects all relevant fields, which are closely connected with the issues raised by the present groups of judgments.

109. The Strategy envisages in its p.6.5. *Strengthening of the probation and of the penitentiary systems.* It describes that the probation system was created in the Republic of Moldova in 2007, along with the creation of the Central Probation of Probation, but even today the system is not yet strengthened and efficient. The ineffectiveness of the probation system is determined by several factors, such as: lack of necessary skills, competencies and training for the probation counsellor of the Central Probation Office; the inefficiency of the continuing education mechanism; the society is not involved to the necessary extent into the probation activities; formal institutional autonomy; lack of cooperation between probation and penitentiary sub-sectors; incomplete regulations regarding the post-care services; insufficient human resources and other factors. Under this situation, it is found that it is necessary to introduce a modern concept of probation that would ensure the balance between community safety and the need for social rehabilitation of offenders; it is also necessary to amend the legislation in this regard.

110. The penitentiary system is still a problem for the Republic of Moldova, being continuously underfunded for more than 20 years. The evaluation report has noted the following weaknesses in the penitentiary system: "overcrowding of the detention institutions; poor general conditions of detention (sanitation, hygiene, food); work, educational and social activities difficult to have access to; health care and psycho-social assistance under the required level; uncertain environment and poor discipline; persistent criminal sub-culture, facilitated by the high occupancy degree and maintenance of prisoners in bedroom type rooms; inadequate scheme for the detention facilities, escort and logistical arrangements". Another problem is the way the personnel of the penitentiary system is recruited, which is usually carried out unilaterally, most workers are former police officers and they keep their military ranks.

111. The intervention measures proposed in the Strategy will be oriented on revising the hiring and recruitment policy in the penitentiary system and full demilitarization of the penitentiary system; development and implementation of the policies on rehabilitation and social integration of prisoners, including individual planning of term serving and creation of a progressive detention regime; promotion and implementation of ethical standards in the probation and penitentiary system.

112. The Strategy proposes the following measures: to:

- Introduce a modern probation concept to ensure a balance between the community safety and need for rehabilitation of offenders in the society
- Ensure institutional autonomy of the probation service
- Ensure continuity of the individual probation process starting with the pre-sentence phase and ending with post-assistance services
- Strengthen partnerships between the probation service and other public or private organisations, members of the civil society, families and communities to promote rehabilitation and social inclusion of former detainees
- Strengthen the system of filing and review of complaints regarding the activity of probation services and la penitentiary system
- Review the employment and recruitment policy of the personnel for the penitentiary institutions and comprehensive demilitarization of the penitentiary system
- Promote and implement ethical standards within the probation services and the penitentiary system
- Develop and implement rehabilitation and social integration policies, including individual planning of sentence servicing and creating a progressive advanced regime of detention, supporting cognitive-behavioural programs
- Provide educational, occupational and other social activities for detainees, etc.

113. The Strategy includes the responsible authorities as the Ministry of Justice, Ministry of Labour, Social Protection and Family, Ministry of Education, Ministry of Economy, Judiciary, Local public authorities, National Institute of Justice, etc. It sets time-limits from 12 months up to 60 months beginning with the date for implementation (November 2011) of the Strategy, depending on an amount of tasks.

114. Another relevant measures, envisaged by the Strategy, assume securing a *respect for the rights of detainees*, (p.6.4. of the Strategy). It reads in its relevant part that, "taking into account the fact that is not enough to recognize the problem of the violation of the right to freedom and personal security, it is deemed to undertake the necessary measures to create a standardized system for keeping record of the arrest and detention cases; streamline the application of the procedural measures of coercion and those of freedom the deprivation; create adequate conditions of detention; …"

115. Therefore, the measures proposed are: to:

- Increase the effectiveness in the application of coercive procedural measures and preventive measures to ensure effective respect for the right to liberty and physical safety.
- Develop technical and material means, and infrastructure in accordance with the European standards in all places of deprivation of liberty
- Capacity building for the representatives of institutions responsible for deprivation of liberty (police, prison system, CCECC, psychiatric institutions, and psycho-neurological boarding homes) to prevent and combat torture and ill-treatment.
- Create a standardized and protected against manipulation system of tracking and registration of custody, arrest and detention, etc.

116. The same deadlines as described above were set up.

117. In particular, in the accompanied Plan of actions to the Strategy, the authorities proposed themselves to pursue the following relevant measures during the 2013 and 2016:

- Detailed analysis of the financial needs of the penitentiary institutions and gradually increasing the financial resources allocated to these institutions (2013)
- Installation of video surveillance equipment in all places of detention (2012-2013)
- Develop and implement plans for construction or reconstruction of premises of the detention facilities (2014-2016)
- Conducting a study on the procedures for resolving complaints relating to the activity of the probation services and penitentiary system (2013)
- Review and improve procedures for resolving complaints relating to the work of the probation services and penitentiary system (2013-2014)
- Conducting a comparative study on the employment policy and personnel recruitment system in penitentiary institutions and on the complete demilitarization of the penitentiary system (2013)
- Developing drafts amending the regulatory framework to review the employment policies and personnel recruitment system in penitentiary institutions and for the demilitarization of penitentiary system (2013-2014)
- Creating structures responsible for observance of professional ethics and resolving complaints regarding the conduct of probation counsellors and employees of the penitentiary system (2014)
- Creating the mechanism for the individual planning of the punishment execution (2015)
- Changing the regulatory framework in order to review and optimize the system of educational and occupational activities and other social activities provided to detainees (2014)

- Creation and application of the mechanism for monitoring the educational and occupational activities and other social activities provided to detainees (2015-2016), etc.

118. **Review of the domestic system for execution of the Court's judgments.** The Strategy and the Ministry of justice propose to institute new regulations for enforcement at large of the Court's judgments and decisions, in particular what concerns implementation of general measures to prevent future violations. A working group was instituted in that respect (September 2013) and it should propose significant amendments to the legislation governing the activity of the Parliament, Government, Agent for the Government, judiciary, prosecution services, other relevant authorities. The amendments envisage instituting an extensive parliamentary control over the execution of the Court's judgments and decisions and a great attention that should be paid by the Government to the execution. The amendments are proposed to be adopted until the end of 2013 and to start running in 2014. The effects of such a reformation of the execution of the Court's judgments will allow the Government to enhance their capacities on the national level by addressing issues raised, *inter alia*, by the present groups of cases.

119. **Enhancing of the Ombudsman office.** Since the Ombudsman is one of the monitoring mechanisms concerning, *inter alia*, conditions of detention, the Government have already proposed for the adoption new draft law on ombudsman. It envisaged enhancing the monitoring capacities of the Ombudsman, inclusively what concerns reaction to improper conditions of detentions. The law may be enacted at the end of the present year and start to run on 2014.

Particular measures

120. The Government assume continuing their measures as those already implemented and described above. Apart from those measures there is a need for the following.

121. **Review of regulatory framework.** The Government propose to review again the compatibility of primary and secondary legislation related to the conditions of detention and to make guidance on it. It would not necessarily entail amending or ceasing of that secondary acts, but they need to be re-examined and codified correspondingly. For example certain Government's Decrees and Decisions and internal Ministerial (of justice and of interior) acts and orders on certain issues connected to the rights of detainees should be re-assessed and codified. The review is proposed for 2014.

122. **Review of the manner and the practices in application of remand measures.** The above-mentioned Strategy proposes wide measures for implementation and reduction of the remand measures, in order to decrease the number of detainees. Those measures, as well as the measures proposed in process of execution of the *Sarban* group of cases are also relevant for the present execution. The Government propose to pursue them as assumed.

123. **Raising of awareness on account of conditions of detentions.** The Government observe that the authorities' previous approach to issues concerning conditions of detention was rather fractional and separated. They acknowledge that the recommendations given by different monitoring bodies (national Ombudsman office, UNCAT, CPT, etc.) were accepted and pursued by the authorities, however in a manner not consistent with a systemic and unified approach, which would eventually lead to a greater results in their implementations. Rather separate issues were addressed and only particular recommendations were pursued.

124. The authorities have to make an assessment of all monitoring bodies' recommendations, in particular the CPT, UNCAT, Ombudsman office, etc., in view of setting an unified approach to them. The Government consider establishing of an *ad-hoc* body or a working group responsible for assessment of all given recommendations, progresses achieved and the measures designed for implementation of the recommendations. It is envisaged to concentrate all efforts in a multitasking group either under authority of the Ombudsman office

and the National Mechanism for prevention of torture and inhuman and degrading treatment (OPCAT) or under the authority of Ministry of justice. Within the competences of such a group or body, would be also measures for raising and maintaining awareness on account of conditions of detentions, as well as proposals for plan of actions and recommendations to the relevant domestic authorities.

125. The Government propose dealing with institution with such a group, once the Ombudsman office law will start its action and simultaneously with measures designed for improvement of other relevant actors (for ex. Penitentiary system, Probation Service). In any case the codification of all recommendations and the assessment of all relevant improvements may be executed separately, by a research or a feasibility study. Such a study is proposed to be finished during 2014.

Introduction of remedies

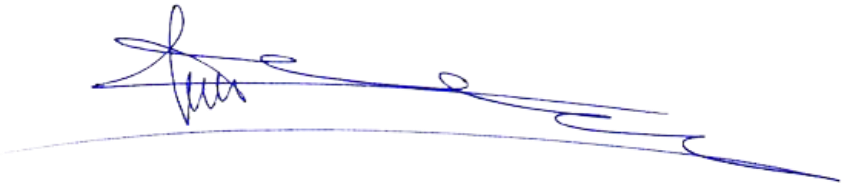
126. Introduction of the remedies dealing with conditions of detention is a matter of the Government's concerns. The remedies must address two main issues (i) concerning compensatory aspects and (ii) measures that would improve or put at end inhuman conditions of detentions of a detainee. It is also relevant to consider whether there is a need to introduce new remedies or to enhance those procedures by means of which the alleged violations can be dealt with.

127. Both aspects are difficult to address now, since the Government is paying a greater attention to cast way the causes leading to inhuman conditions of detention, as described above. This is already a considerable financial and demanding effort. However, the questions concerning the opportunity and requirements of such remedies may be addressed separately by another specific feasibility study and by recommendations therein. The Government, by means of new proposed mechanism for execution of the Court's judgments and decisions, propose to make this assessment until the second semester of 2014. As a result there can be defined a clear strategy for either introduction of new remedies or improving of those already existed.

128. The Government note that there is no a wide consensus between the relevant domestic authorities concerning the remedies that should be introduced for reparation of the conditions of detentions. Indeed, the Government declare that there is a great commitment of the authorities to deal with introduction of the remedies, but the authorities still have not agreed on the procedures and the means thereof. Also, given the complexity of the question on introduction of the remedies and for the sake of economy in the present submissions, the Government are prepared to deal with the question of remedies separately, while reporting to the Committee of Ministers the progress achieved in implementation of the present plan of actions.

IN CONCLUSION

The Government propose the Committee of Ministries to take note of the progress in the implementation of the judgments and of the measures proposed to be pursued. The Government fall agree to keep the Committee of Ministries informed about the implementation of their obligations under Article 46 of the Convention.



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