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REPORT
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ON HIS VISIT TO MOLDOVA
16 to 20 October 2000

for the Committee of Ministers and the Parliamentary Assembly

I. INTRODUCTION

1. At the repeated request of Moldova's Ministry of Foreign Affairs, I visited Moldova, including the eastern region (Transnistria) of the Republic of Moldova (hereinafter abbreviated as "Transnistria") from 16 to 20 October 2000. The programme of this visit is appended to my written report. During my visit, I was accompanied by two colleagues from my Office, Mr Müller-Rappard and Mr Belyaev, and we were joined during the trip to "Transnistria" by Mr Matti Sidoroff, a (Finnish) member of the OSCE Mission in Moldova, whose knowledge and experience on the ground were particularly valuable. Moreover, I was also accompanied by Ms I. Gorea-Costin, the Republic of Moldova's Permanent Representative to the Council of Europe, during all my meetings at Chisinau, including those with NGO representatives and the media, and the visit to Cricova prison. I would immediately ask her to transmit my thanks to her authorities for their co-operation in organising my visit.

2. We have at our disposal in the Council of Europe a considerable body of reference documents on the general situation regarding the respect for human rights in Moldova, which the Committee of Ministers has already examined in part, particularly while carrying out its own "monitoring activities" (notably as regards freedom of expression and information, the functioning of the justice system and local democracy, and the police and security forces), or when approving various activities concerning Moldova in the context of the ADACS programme. In this connection, the Committee of Ministers has also received information on several recent occasions on all aspects of the situation in "Transnistria" (cf, for example, the exchange of views with Ambassador Hill, Head of the OSCE Mission in Moldova, on 25 October 1999 (GREDS (99)54 addendum); the mission report by a Secretariat delegation to Moldova, from 9 to 11 March 2000 (CM/Inf (2000)19; the report on the Italian Chair's visit to Moldova on 21 and 22 July 2000 (CM/Inf(2000)49 rev). In addition, this issue was one of the topics discussed at the Committee of Ministers' 107th Session, on 9 November 2000 in Strasbourg (see, for example, para. 6 of the official press release).

For its part, the Parliamentary Assembly, and especially its Monitoring Committee, have also discussed the options for resolving the "Transnistrian conflict" on several occasions and the question of whether and to what extent Moldova has honoured the commitments it entered into as regards the respect of human rights prior to joining the Council of Europe (cf. Opinion N° 188 (1995), adopted by the Parliamentary Assembly on 27 June 1995).

In the light of the above, there is currently no need to re-examine in detail a great number of "Moldovan problems", both legal and political, that have already been dealt with in the course of the various monitoring activities. Accordingly, whilst I shall refer to some of the problems that have already been analysed, my intention is

to present an up-to-date general picture and to indicate, for the relevant Moldovan authorities as much as for you, the main areas of concern as regards respect for human rights in Moldova.

3. In this regard, I must state at the outset that the current situation in “Transnistria”, which *de facto* eludes any control by the Moldovan authorities (e.g., non-applicability *stricto sensu* of the ECHR and other Council of Europe instruments), is a matter of concern, both with regard to the human rights situation in this region, and in terms of the repercussions this has on the human rights situation in the territory controlled by the Moldovan authorities. Indeed, in all my interviews with the Moldovan authorities, the latter constantly drew my attention to this fact and to the urgent need to expedite resolution of the problem of “Transnistria”, calling upon the political role which the Council of Europe could play in this respect – although I repeatedly told them that this problem, which is currently within the mandate of the OSCE (cf. Declaration of the OSCE Summit in Istanbul in September 1999, par. 18 and 19) was primarily a matter for the Council of Europe’s political bodies, that I had no role as negotiator or political mediator, and that, under my specific terms of reference, I was essentially interested in the human rights situation in the territory controlled by the Government of the Republic of Moldova.

4. Naturally, I understand the Moldovan authorities’ concerns regarding developments in “Transnistria” (where the regional authorities continue to consolidate their *de facto* independence) and the Moldovan desire to win the support of inter-governmental organisations, including the Council of Europe, for the purpose of finding a durable and equitable solution to the “transnistrian” conflict. Nonetheless, I was rather surprised to read (in translation) certain articles that appeared in the local media regarding my visit to Moldova. Thus, “according to a press release from the President, the Head of State said that there were no serious problems with regard to human rights in Moldova. The President said that such violations had been noted only in Transnistria, where the Tiraspol authorities neglected the rights of a considerable part of the population...” (quoted from the translation of an article in the Moldovan daily newspaper “Jurnalul national”, 19 October 2000). Indeed, I learned of several Moldovan reports contrasting the situation in Moldova, especially as regards civil and political human rights, with that in “Transnistria”, which the authors of these reports considered to be worse (e.g., “Human Rights in the Transdnestrian Region of the Republic of Moldova” by the (Moldovan) Interdepartmental Commission for co-ordination of State policy in the settlements on the left bank of Nistru River, Chisinau, November 2000). However, in the absence of sufficient relevant information (*infra*), I cannot comment on this question. On the contrary, I have absolutely no doubt that in practice many serious problems still exist in Moldova with regard to respect for human rights, in spite of the relevant Moldovan authorities’ appreciable efforts, which I acknowledge, to establish a new legal framework that complies with the European standards in this area.

II. THE MAIN PROBLEMS CONCERNING RESPECT FOR HUMAN RIGHTS IN MOLDOVA

A. General situation

1. It emerged from my discussions with representatives of Moldovan Civil Society (NGO), and particularly from those with Mr A. Potinga, Director of the Moldovan Centre for Human Rights and one of the three "Parliamentary Advocates" called upon (like an Ombudsman) to report to Parliament on respect for human rights in Moldova, that "despite a good legislative framework, many of the human rights are violated, often on a large scale and severely", the worst affected being economic and social rights (A. Potinga, Annual report, 14 January 2000, p. 6). This appears to be chiefly due to the deterioration in the country's socio-economic situation over recent years (*ibid* p. 3), which has prevented implementation of the measures required to ensure respect for human rights as guaranteed, for example, in Article 47 of the Moldovan Constitution (the right to a decent standard of living, "including food, clothing, housing, medical care, as well as the necessary social services", the right to welfare protection and social security benefits...). The failure to take measures to pay salaries, pensions and various benefits seems to be entirely due to the State's current "complicated social-economic situation" (*ibid*, p. 3). Accordingly, 80% of the Republic of Moldova's population "lives on daily revenues of under 1 US dollar, or even less" and half the population is living below the poverty threshold (employees' average salaries currently "covering just 50 percent of the needs of the minimum consumption basket" of about 1000 lei, wages having fallen by 80% since 1990! – *ibid*, p. 4).

This situation, including increased unemployment, not only calls into question the realisation of many social and economic rights (welfare protection, medical care, education, vocational training, etc) but is also resulting in the widespread emergence of transmittable diseases (tuberculosis, Aids), alcoholism and drug dependency, prostitution of minors and violence within families, not to mention an increase in serious crime. This has led to a fall in the birth rate and a rise in the death rate (38% and 15% respectively compared to the 1990 rates). Those who are most affected, clearly belong to the most vulnerable social groups, namely pensioners (approximately 750,000 persons, or 22% of the population), invalids and the disabled (approximately 150,000 people), women, children, prisoners and above all, of course, the unemployed (almost 20% of the population, according to the reports, from M. Potinga and the Helsinki Committee) are also affected. Unemployment in Moldova also explains the high level of illegal emigration, particularly to Italy, by almost 700,000 (?) Moldavians in recent years, which is another reason for the official fall in population. (On the other hand, Moldavian "expatriates", who account for a fifth of the adult population, have already sent back \$56,1 million in the first half of this year, according to published data from the Moldovan National Bank, thus enabling their families who stayed in Moldova, to survive).

Given this situation, it is hardly surprising that among the complaints sent to the Moldavian Centre for Human Rights, almost 70% (from a total of 1368 in 1999 – 990 of which are from Chisinau!) were from people belonging to particularly

vulnerable social groups (pensioners, prisoners, invalids, unemployed people) and that almost 80% of all plaintiffs allege that there had been violations of their rights to social guarantees, property and free access to justice (*ibid*, pp. 10-12).

2. According to certain specialists on “Moldovan life”, the Moldovan “parallel economy” accounts for more than 80% of its official GNP; if the Moldovan government were to succeed in taxing the parallel economy as well as all goods transiting fraudulently between Moldova and “Transnistria” and/or exported by the latter under the label “Moldova-Transnistria”, such as the steel products exported by “Transnistria” to the United States, it would obtain well over a billion US dollars additional income, i.e. more than what is needed to pay off all outstanding salaries and pensions in one fell swoop. I hesitate to endorse this advice for remedying the Moldovan State’s lack of resources – especially since on 19 October 2000 (during my visit), the Moldovan Parliament finally adopted (by 54 votes to 36) legislation on the privatisation of certain sectors of the tobacco and wine industries, which will enable the IMF and the World Bank to re-examine during these days, the question of granting Moldova certain credits that had been previously blocked awaiting these privatisations.

Regardless of this purely financial aspect, I believe it is especially appropriate to recall in this case the opinion expressed on this matter by Mr Potinga, Parliamentary Advocate (in his report to the Moldovan Parliament), which I quote in its English translation “... many of the existent problems in this area could be resolved by the local public administration. Moreover, a number of the rights and freedoms would not be violated if the legal analphabetism did not predominate... [i.e., lack of knowledge of both national and international law]... If we add to this indifference, delays in examining complaints, bureaucracy, then it is easy to understand the reason why tens of thousands of citizens annually spend months visiting different institutions in Chisinau, but even here they are confronted with the same indifference, bureaucracy and incompetence” (*ibid* p. 8, *in fine*).

3. Since my meeting with about twenty representatives of Moldovan NGOs took place after the meetings with the Moldovan authorities, I was unable to verify officially some of the allegations made by the former group, such as the claims that NGOs which are too critical of the Executive are likely to suffer all sorts of administrative harassment, that a flourishing trade in human organs is taking advantage of the abject misery of some Moldavian citizens, or that compulsory work by prisoners, particularly those institutionalised for alcoholism under the supervision of the Ministry of Health, is underpaid and exploited to the extent that it constitutes “forced labour”. To a large extent, the complaints raised by these NGO representatives referred to problems already highlighted by the report which Mr Potinga gave me shortly after my arrival in Chisinau (*supra*), particularly the circumstances faced by elderly women, the situation of battered wives, the fatal consequences of the limitations on abortion, the lack of facilities for deaf children, but also the lack of information, structures and assistance for young people, the socially deprived and those likely to suffer deprivation.

4. On this occasion, the representative for the “Moldovan Helsinki Committee for Human Rights” described the interdependence between respect for various human rights in Moldova as follows: “since the overthrow of the previous regime and particularly since Moldova joined the Council of Europe, people have gained as regards civil and political rights, but they have lost as regards economic and social rights in the wake of the on-going economic and financial crisis. Given that without enjoying a minimum level of economic and social rights it is impossible to enjoy any civil and political rights, and since people no longer have the right to this essential minimum, they have now lost everything...”. In support of this view, the Consultant to both the Helsinki Committee and the “Resource Centre of Moldovan Human Rights NGOs” handed over, *inter alia*, two very detailed reports, copies of which will be sent to interested Departments within the Secretariat.

One of these reports, apparently co-written by Mr S. Ostaf, Moldovan Ombudsman for National Minorities, concerns the implementation in Moldova (including “Transnistria”!) of the Framework Convention for the Protection of National Minorities (report drawn up in application of Article 25, para. 1 of this Convention). The other report, prepared by the Helsinki Committee, concerns respect for human rights in Moldova in 1999 and provides an exhaustive analysis of whether and to what extent Moldova has fulfilled the obligations entered into prior to its accession to the Council of Europe, recent legislative developments in this connection and specific problems which raise the issue of whether current Moldovan regulations are compatible with the European standards applicable in this field.

I will return to some of these problems below, particularly those that touch on the application of Articles 5 and 6 of the European Convention for Human Rights. However, it should already be noted that, according to the above-mentioned report, there exists a whole range of threats to civil and political rights in Moldova, including freedom of expression, the right to respect for private life, freedom of religion and freedom of assembly, which have no connection with the lack of financial resources for guaranteeing the enjoyment of certain social rights, such as the right to health protection.

5. Thus, to sum up my evaluation of the general situation regarding respect for human rights in Moldova, it is clear that, in connection with accession to the Council of Europe, the Moldovan authorities (clearly desiring political integration of their country - which is economically highly dependent on its agricultural exports to Russia- within Western Europe) continued to bring their legislation and national practice into line with the requirements of the relevant European rules. However, it is equally clear that several draft legislative reforms, promised as part of Moldova’s international commitments, particularly relating to the Council of Europe, have still to be introduced or are to some extent delayed in Parliament, which, indeed, is openly in crisis with the Executive. Implementation of the legislative reforms already adopted with regard to human rights protection is taking place relatively slowly, partly due to the purely technical difficulties inherent in the transition from one legal system to another and the impossibility, especially for civil servants, to change mentalities and

approaches from one day to the next; partly due to a shortage of the necessary public funding and staff, since certain reforms, such as that of the justice system and of public administration, require considerable financial and human resources.

Lack of human and financial resources is often the reason for failure to respect a variety of economic and social rights; in their turn, the absence of the enjoyment of these rights, together with the lack of public funding, make it impossible to enjoy fully certain cultural rights, such as the right to education, including language training, and certain political and civil rights, in particular the right of access to justice and to a fair trial (e.g., lack of qualified interpreters and officially-assigned defence lawyers). Nevertheless, the enjoyment of several civil and political rights, such as freedom of religion and freedom of expression (cf. *infra*), is unduly restricted by considerations that cannot be justified by Moldova's current unstable economic and financial situation. The relevant Moldovan authorities would therefore be well advised to focus their efforts on achieving forward-looking reform in these areas in particular.

B. Specific problems with regard to observance of human rights in Moldova

1. While I am aware that certain problems regarding human rights protection in Moldova have already been examined by either the Committee of Ministers, the Parliamentary Assembly or the Congress of Local and Regional Authorities of Europe during their respective monitoring procedures, I must return, if only in passing, to those problems that I consider to be the most worrying at present. At the same time, I shall deliberately leave aside some other problems that seem sufficiently well known, are less "urgent", or that are being settled by one means or another, such as the restrictions on religious freedom (the case on the refusal to register the "Metropolitanate of Bessarabia" has been submitted to the ECHR); restrictions on freedom of expression, particularly with regard to the press and political parties, arising from the threat of criminal proceedings for "defamation" when the information provided cannot be proved to be 100% accurate; the obligation imposed on public and private broadcasters to broadcast in the official language for at least 65% of their total broadcasting time for their own broadcasts and programs, except in territories "compactly populated by the ethnic minorities", opening the door to arbitrary interventions and sanctions by the "Co-ordinating Audiovisual Council", in so far as the criteria and delimitations of these territories are not clearly defined; restrictions on advertising in Russian without translation into Moldovan even where potential clients are more likely to understand Russian than Moldovan; protection of the right to private life and the secrecy of personal correspondence, given that the legislation does not sufficiently limit the possibilities for derogation in the interests of public order and for the prevention of particularly serious offences, and in particular grants excessive powers to the security and intelligence services which are not subject to judicial supervision (this is also valid with regard to application of the "Law on operative-search activities"); the arbitrary treatment of asylum seekers, refugees, displaced persons and migrants (in the absence of national legislation based on the relevant international texts) and the failure to respect certain human rights, particularly those of military recruits, in the armed forces (cf. Moldovan Helsinki Committee for Human Rights, 1999 Report, *op. cit.*, pp. 18 ff, 21 ff). Notwithstanding all these problems,

which should be resolved sooner or later, and for which the solution, or at least much of it, does not in my opinion really depend on the availability of significant financial resources, the problems briefly explained below are those which I believe to be the most serious at present with regard to respect for human rights in Moldova.

a) Problems concerning the police, and even the administration of justice

2. During my meetings with the Moldovan authorities, notably with Ms V. Sterbet, Minister of Justice, and in particular with Mr V. Turcan, Minister of the Interior, I told them about information I had received to the effect that a substantial proportion of the Moldovan police force was unofficially living from the profits of corruption. This was said to date back to a time when, owing to non-payment of their salaries, the police had begun to be supported, at a rate of around \$100 US per month, by all businesses, shops and individuals who were in need of their services or good offices. Be that as it may, this corruption is allegedly continuing today, due to the fact that, objectively speaking, the police cannot survive on their monthly salaries (paid with arrears of “only” 3 months, at a rate of 350 lei for a non-commissioned officer and 600 lei for a police officer), barely 50% of the official subsistence level per person per month (1000 to 1200 lei).

Mr Turcan was very aware of this state of affairs, since he had just met with the Budget Committee to discuss his Ministry’s Budget for 2001, which he had tried to have increased, apparently by arguing that armed men who were not paid enough to live “honestly” posed a serious danger to the society that they were expected to supervise and even protect. The total number of police was about 23,000, of whom 6000-6500 municipal police, 8500 national police and 4500 constables were paid from the State budget, the remainder being mainly collaborators of the Interior Ministry (a “criminal investigation department” does not yet exist in Moldova).

3. This suggests that the number of “vulnerable” people is high, and this explains why many NGO representatives that we had met, spoke to me about the large number of flagrant human rights violations by police officers, including extortion through arbitrary fines (for example, for “driving offences”, “unauthorised” public demonstrations, and all sorts of business activities perfectly legal *per se*), arbitrary arrest followed by ill-treatment, even torture, abuse of the power of arrest (e.g., for vagrancy, resistance to the public authorities, or refusal or failure to produce valid identity papers), and subsequent prolonged administrative detention (without judicial supervision and with barely any supervision by the prosecutor’s office, traditionally a “friend” of the police) in order to extort confessions for use in subsequent criminal proceedings or simply as a bargaining tool to extort money (e.g., in the event of expiry of a residence permit), “cover” and even co-operation with criminal groups involved in smuggling, drug trafficking, prostitution, etc.

In this connection, while acknowledging (as did the Minister of Justice and even the Parliamentary Speaker) that a number of “police excesses” existed, as they do in all countries, Mr Turcan nonetheless drew attention to the considerable

reduction in the number of complaints addressed to the relevant Committee on this issue, set up within his own Ministry (696 complaints in 1998, 279 in 1999 and only 117 to date for this year), while at the same time he pointed out that the fact that the prosecutor's office responsible for police supervision had discarded more than half of the 470 complaints it had examined. In addition, he had ordered that a special telephone number be set up and publicised, allowing people to call him personally and free of charge every Saturday between 10 am and 1 pm to inform him of any complaints regarding the behaviour of any person under his authority....

4. Whatever the relevance of these figures and the accuracy of certain details gathered both from the NGOs and from the Moldovan authorities concerned, it seems clear that the current situation with regard to the Moldovan police and the lack of adequate supervision thereof, particularly by the prosecutor's office, is a source of serious concern. Unless this situation is corrected rapidly, the very basis of democratic order in Moldova is likely to suffer, not to mention the repercussions of this state of affairs on the normal functioning of the administration of justice, including the judicial system. For instance, so long as the centres and procedures for "administrative" detention are not subject to judicial supervision (because they come under the jurisdiction of the Ministry of the Interior) and so long as this detention is "abused" on a massive scale, only reform of the use and supervision of "legal" detention will not suffice to ensure observance, for example, of the provisions of Article 5 of the ECHR, on the guarantees applicable to all persons deprived of their liberty. Equally, so long as illegally extracted confessions, obtained during administrative detention through physical violence in the absence of ex officio defence Councils and, if necessary, qualified interpreters, may be used in subsequent criminal proceedings, in reality without restrictions (according to the Helsinki Committee), it seems rather "academic" to examine only whether, in the event of arrest in connection with criminal proceedings, a person in judicial detention is entitled to be assisted by a chosen or court-appointed lawyer and, if necessary, by an interpreter, in accordance with the requirements regarding fair trial as provided for by Article 6 of the ECHR (see, for instance, the above-mentioned Report by the Helsinki Committee, pp. 25-27). Moreover, it seems not contested that criminal proceedings frequently exceed a "reasonable" length, that there is a distinct shortage of specialised criminal lawyers and that half the judgments passed in "civil cases" are simply not executed – which seems equally worrying in light of the criteria for a "State governed by the rule of law".

b) Conditions of prisoners

5. In so far as I carried out only one brief visit to a Moldovan prison, namely Cricova, (which was, incidentally, well-prepared by the relevant authorities), I am unable to draw general and definitive conclusions regarding the conditions of prisoners in Moldova in terms of respect for human rights. Moreover, it seems that the Directorate General of Legal Affairs already has much of the data required to that effect, insofar as it has been very involved for some years in numerous co-operation programmes with the Moldovan prison administration (as part of the ADACS programme), particularly as regards staff training, management and improving the conditions of prisoners. Furthermore, having emphasised to the Minister of Justice,

now responsible for prison administration, the value of publishing the then still-confidential CPT report on its visits to prisons and places of detention in Moldova, I was informed prior to my departure that authorisation had been granted in the interim for publication of this report, thus enabling the specific opinion of this Committee's specialists on this matter to be known.

6. With regard to the "statistics on the situation in prisons in Moldova at 01.10.2000" (which I obtained from Mr Troenco, Deputy Minister of Justice, on 31 October, i.e. after my visit to Moldova), these coincide for the most part with the statistical data for 1998 and 1999 that I had already consulted (e.g., doc. PC-S-ST (99)8 def., dated 12 October 1999, and PC-CP(2000)2 def., dated 3 August 2000). In short, the total number of prisoners (9847) seems to have fallen very slightly, but still represents a very high rate of detention in terms of the overall population (about 270 per 100,000). The percentage of women (about 400), minors (about 200) and foreigners (about 175) is surprisingly small, which is apparently also the case as regards the figures for pre-trial detention (around 500 to 700?). Most prisoners (5845) are detained in penal settlements (called "colonies"), including special institutions and hospitals. The 3727 persons currently in "prison" are placed in regimes of varying degrees of severity, with more than 70% being in reinforced and severe regimes. Although the percentage of recidivists (about 40%) and individuals sentenced for particularly serious crimes (less than 50%) seems to correspond to the "European averages" (insofar as such comparisons are feasible), it nonetheless seems that the percentage of prisoners in Moldova serving sentences longer than 3 years (almost 80%) is particularly high, the majority of prisoners (74%) being aged between 22 and 40. The number of deaths in prison, which is also high, is allegedly partly due to the lack of medicines, particularly for the growing number of prisoners suffering from tuberculosis...

7. As Ms Serbet, Minister of Justice, confirmed, the Moldovan prison administration has been badly affected by the austerity measures adopted by the Government in the wake of the country's economic crisis and, according to our internal documentation, almost 15% of planned posts are in fact vacant due to a lack of funds. This would doubtless explain the relatively small number of wardens (about 1200) in comparison with the total number of prisoners, but here it is nevertheless surprising that wardens account for only about 40% of the prison administration's staff, since an approximately equal number are assigned to management and administration tasks only.

If it is correct that the prison administration receives less than half the amount considered essential for carrying out its tasks, this, together with the dilapidated state of the buildings, would also explain the prisoners' harsh living conditions, including the shortage of sufficient good-quality food, for which (according to the above-mentioned report by the Moldovan Helsinki Committee for Human Rights, p.28), the State's contribution is 0.43 lei per person per day (i.e. about \$1 US per month). Be that as it may, while it has ceded prison administration to the Ministry of Justice, the Ministry of the Interior has retained some of the buildings and technical equipment, as

well as responsibility for and supervision of armed guards outside prison centres, with responsibility for what goes on inside the latter now belonging to a very “impoverished” ministry.

8. While paying a rapid visit to some of the buildings in Cricova prison (428 prisoners, 30% of whom are foreigners), located half-an-hour from the centre of Moldova’s capital, Chisinau, I stopped in two cells, for 8 and 20 prisoners respectively, belonging to the general or “light” regime, then in a cell with 34 prisoners detained under the “severe” regime. The complaints that I heard from the latter group, who were serving sentences of 10 to 25 years, generally confirmed both the observations made by Mr Potinga (c.f. above-mentioned report, pp. 21-23) and the allegations by those NGOs, such as the Helsinki Committee (above-mentioned report, pp. 28-29), which are especially interested in the living conditions of Moldovan prisoners: lack of adequate food and drinks/drinking water, the absence of running water, electricity, public telephones and, in winter, heating, the dilapidated state of the sanitary facilities, lack of medicines and of effective free care in the event of illness, the absence of family and friends outside, who could help provide for certain prisoners’ essential needs, and the total absence of any possibility of prison work so as to earn money and buy what is missing; there were also complaints about the lack of follow-up to the complaints sent by various prisoners to the competent “institutions” outside the prison, such as the Moldovan Centre for Human Rights, the Prosecutor’s Office, or even the European Court of Human Rights in Strasbourg. Since the Cricova prison had not paid its bills, it was effectively without electricity during my visit, which naturally reinforced the sinister and dilapidated aspect of this over-populated cell, visited in the late afternoon, and which seemed very worrying, especially from the perspective of this prison’s internal security. I made a point of raising this issue at my press conference two hours later, recommending that the responsible Moldovan authorities immediately did everything possible to remedy this completely deplorable situation, which carried serious risks for both the staff and detainees of the prison.

c) Linguistic problems

9. Since the existence of certain problems arising, *inter alia*, from the imposition of a linguistic quota in the broadcasting field, has already been noted under the general monitoring of respect for freedom of expression and information in Moldova, I would prefer not to dwell on specific details (see *supra*, II, B, para.1), but instead to address more generally the use of, albeit discrimination against, minority languages in Moldova, in terms of teaching of these languages in schools, their use in public or in dealings with public authorities and their use in private relations, including business relationships. Here, I can only endorse – at least as a starting point – the following summary of the scope of European and international regulations in this field, by Mr C. Lazari, Moldovan Parliamentary Advocate: “... the main consequence of linguistic non-discrimination is the commitment that a policy of official or majority language would not imply interdiction of the use of other languages spoken on the territory of the respective state...” (Parliamentary Advocate, Newsletter, April-July 2000, n° 3, vol. 1, p.4, para. 3, *in fine*). Indeed, to quote Mr Lazari again, “knowledge of the

official language, even if it represents an additional difficulty for people speaking other native languages, is reasonable with the condition that the use of other languages is not entirely excluded” (*ibid*, para. 3, *in fine*).

10. That said, it nevertheless remains difficult to evaluate the linguistic situation in Moldova as regards respect for this general principle, for several reasons. Firstly, the figures provided (for example, by Ms I. Stoianov, Director General, Department of National Minorities and Functioning of Languages of the Republic of Moldova) on the overall ethnic and linguistic composition of the Moldovan population are not really up-to-date, and are in any case contested with regard to the current situation in “Transnistria” (out of a total Moldavian population, estimated in 1995 at almost 4.5 million but which has since fallen by around 200,000 persons, if not considerably more, the current ethno-linguistic composition would be equal to the one that was established by the last national population census in 1989, namely: 64.5% Romanian Moldovans, 13.8% Ukrainian, 13% Russian, 3.5% Gagauz, 2% Bulgarian, 2% others – Jews, Belarussians, Roma – not recognised as a national minority!-, etc).

Secondly, (according to the report written *inter alia* by M. S. Ostaf, national Ombudsman of Moldova for national minorities), the criteria and geographical boundaries of territories inhabited by a sufficiently large ethnic and linguistic minority (for example, certain urban agglomerations in the south and certain regions in northern Moldova), for making claims to a special linguistic regime, do not yet seem to be clearly established (except for the autonomous region of Gagauz Yeri, where almost 80% of the population is Gagauz, 170,000 people speaking Turkish, Taraclia Judit, where 65% of the population (or 20,000 people) are of Bulgarian origin and speak this language, and “Transnistria”, with a population of around 700,000 people, 40% Moldovan, 28% Ukrainian and 24% Russian, where the majority of the urban population is Russian-speaking and the majority in the countryside speak Moldovan or Ukrainian. See the above-cited report, Mr S. Ostaf, pp. 4, 6-7, 12). The situation is all the more complex in that, within a particular region, the majority language used in the cities (usually Russian) is often not the same as the majority language used in the countryside (frequently Moldovan). In addition, to quote Mr Ostaf, “it is rather incorrect to speak of a Russian speaking minority either in rural or urban areas of Moldova, since almost 90% of Moldova’s population speak Russian... It is though not true to say that the knowledge of Russian of Moldovans in rural areas is comprehensive enough to be admissible for court proceedings, etc... At the same time, the knowledge of Moldovan language among Gagauz, Russians, especially in urban areas, is very low. Ukrainians in rural areas, basically possess Moldovan passively, as well Bulgarians and some Gagauz in rural areas...” (*ibid*, p.6).

Thirdly, despite many attempts to obtain and take in certain information provided in response to our repeated questions about the legal situation and especially about current practice both in “Transnistria” (*infra*) and the rest of Moldova, there remain many unanswered questions, particularly as regards the public authorities’ attitude to “private” schools in which language teaching does not correspond to the “official rules” (that is, the procedures and criteria for the registration and authorisation of such schools, recognition of school diplomas awarded by them and, where relevant, “analogous” state subsidies for such schools).

11. For these different reasons, I am currently unable to give a definitive opinion on this question, although several aspects of Moldova's linguistic problems seem sufficiently clear for an evaluation to be made already with regard to respect for the relevant European standards in this area. In short, Moldova has opted for a single national language, Moldovan (which is virtually the same as Romanian) and its authorities are therefore following a policy of "forced" use of this language, in the sense that they are adopting a number of measures to rapidly establish the dominant position of the Moldovan language in public life, in a role that was previously occupied by Russian, which is now to be relegated to second or even third place. Implementation of this policy is seemingly giving rise to many problems and difficulties, exacerbated by the fact that, even among the "ethnic Moldovan" adult population, educated in Russian-medium schools in the past, there are still not enough qualified people to teach Moldovan to other adults who are not sufficiently fluent. This is also true with regard to the teaching of Moldovan (a compulsory subject from school-entry age) in schools where teaching is in a native language other than Moldovan. There is also a shortage of qualified interpreters for liaison between those whose Moldovan is not fluent and the public authorities (which are supposed to use Moldovan, knowledge of which is now a precondition for recruitment to the civil service) and especially, it seems in the field of justice. The frequently-heard argument that this shortage of teachers and interpreters speaking Moldovan is due to the unattractive level of the salaries proposed clearly does not change anything in the fact that the current linguistic legislation in Moldova cannot be applied in practice *per se* without numerous derogations, unless one accepts certain abuses.

12. Alongside the mainly practical problems arising from the accelerated teaching of Moldovan to "minorities" and its intensified public use as the only official language, I believe there are certain problems with regard to the scope of the recognised right for minorities to have schools that teach in their respective languages. There is nothing objectionable in a policy to improve teaching and knowledge of the official language in both primary and secondary schools where teaching is carried out in a native language other than Moldovan. However, I cannot endorse the "suggestions" (formulated by Mr Lazari, above-mentioned report, p. 5) that training in a minority language is no longer justified beyond secondary school level, on the grounds that post-secondary education is mainly aimed at preparing pupils and students for the labour market, which demands a knowledge of Moldovan. If, for example, in a town or region with a large majority of Russian speakers, Russian-speaking secondary pupils wished to continue their education in a technical college where teaching was in Russian, I personally can see no legitimate reason to refuse them, the only issue being the funding and status of this kind of vocational college. Equally, by dint of no longer permitting local training in the "minority" language, for many specialists and professionals including teachers, the minorities in question will sooner or later be deprived of the opportunity to learn their language or to use it in a practical manner in daily life.

13. It seems that such a situation exists indeed in "Transnistria", which, while officially recognising three national languages, namely Russian, Ukrainian and Moldovan, actually follows a policy of forced education in, and the forced use of

Russian, with Moldovan being officially taught only in the Cyrillic script (the Russian alphabet). As a result, the Moldovan University in Tiraspol, has been forced to relocate to the territory controlled by the Republic of Moldova's authorities, which means that Moldovan-speaking secondary pupils from "Transnistria" who wish their studies to be carried out via Latin-based Moldovan are obliged to leave their own region for this purpose. In addition, as regards the 50,000 pupils in "Transnistria", 10,000 are studying Moldovan using textbooks in the Cyrillic script that date back to the Soviet era: only about 5000 pupils are able to attend the seven or so schools where Moldovan is officially taught in the Latin script and which are funded for this purpose by the relevant Moldovan authorities. However, these schools, their teachers and pupils, and even the pupils' parents are allegedly subject to constant harassment and administrative red tape by the "Transnistrian" authorities, who insist on the legal requirement that all "official" schools teach only in the Cyrillic script, and view any other schools as "private" and therefore subject to a special procedure for registration and authorisation of functioning granted following certain professional and administrative checks (see below).

14. In conclusion, the implementation in "Transnistria" of a policy to favour Russian and place obstacles in the path of learning Moldovan in the Latin script seems at first glance harsher and more discriminatory than the implementation in the rest of Moldova of the policy to establish a predominant role for the sole national language, namely Moldovan. Be that as it may, it seems to me that the Moldovan Parliament would be well-advised to adopt as rapidly as possible the "organic law" (revised) on the functioning of languages on the territory of the Republic of Moldova, as provided for in Article 13.4 of the Moldovan Constitution, basing itself on Article 4.2 of the Constitution, which provides for the supremacy of international texts in the field of human rights in the event of conflict with Moldovan internal law, and to establish a reasonable balance in this revised law between divergent linguistic interests, whilst also taking account of certain "on-the-ground realities".

C. Situation with regard to human rights in "Transnistria"

1. As already noted, all my Moldovan interlocutors laid great emphasis during the meetings in Chisinau on the alarming situation with regard to a lack of respect for human rights in "Transnistria", and the voluminous amount of documentation I was given on this issue, aims indeed at justifying such a conclusion (particularly as regards respect for the right to life and to physical and mental integrity, the right to a fair trial, the right to elect and be elected, freedom of opinion, expression and information, religious freedom, freedom of movement, freedom of association, the right to equal employment opportunities, the right to private property, the right to education, as well as the problem of compulsory military service for all permanent residents of "Transnistria"). In this connection, it is appropriate to recall that, when depositing its instrument of ratification of the ECHR on 12 September 1997, Moldova formulated a reservation in connection with Article 1 of the ECHR, stating that the Republic of Moldova "will be unable to guarantee compliance with the provisions of the

Convention in respect of omissions and acts committed by the organs of the self-proclaimed Trans-Dniester republic within the territory actually controlled by such organs, until the conflict in the region is finally settled”.

This statement notwithstanding, the “the Transdnestrian Supreme Soviet” decided on 22 September 1992 that some of the most important international human rights instruments, including the ECHR, were also in force in “Transnistria”: accordingly, the “Transnistrian authorities” obligation to respect certain international human rights standards in their dealings with the persons under their jurisdiction is not open to dispute. However, the question of how such an obligation can currently be imposed and how human rights violations attributable to the “Transnistrian authorities” can eventually be sanctioned remains unanswered. My intention in visiting “Transnistria” (on 18 and 19 October 2000) was obviously to assess personally how human rights were being respected on the ground.

2. Unfortunately, I heard many clichés during my meetings in Tiraspol with representatives of both public authorities and local NGOs (see the appended programme). Since my request to visit a remand centre, or to see the conditions in the prison where Mr J. Ilascu’s is detained, was rejected (on the ground that it proved impossible to obtain the necessary authorisation in time from the “justice authorities”, to whom the “internal affairs authorities” had just handed over responsibility for prison management), I am not really in a position to assess whether and to what extent there has been progress in the area of respect for human rights in “Transnistria”. The fact remains that if the “Tirapol authorities” wish to be viewed (much as any other public administration) as being concerned about the question whether international standards are being complied with in their relations with their subjects, they would be well-advised to submit to the same type of investigation and supervision in this matter as the authorities in the Republic of Moldova.

3. My visit to School N° 20 in Tiraspol, one of the seven atypical schools teaching Moldovan in the Latin script, was “the exception to the rule”. As usual, I was accompanied by the OSCE Representative. In addition, a representative from the “Transnistrian Education Ministry” came, on his own initiative, to my meetings with the school’s management. Based on what I discovered on this occasion, or the impressive reference documents previously supplied by the “Tiraspol authorities” (“Atlas”, Dniester Moldavian Republic – 2000), the current ethnic-linguistic composition of “Transnistria’s” population (a total of 660,000 people, on a territory of approximately 4000 km²) is as follows: about 63% - Russian-speakers (i.e. Russians, Ukrainians, Bulgarians and Polish), 33% - Moldovan, 2% - Turkish-speaking Gagauz, and 2% - other. 69% of the population live in towns: 168,000 in Tiraspol, and 121,000 in Bendery, the neighbouring town. According to the headmistress of the school we visited (780? pupils, in a dilapidated rented building), only 17% of Tiraspol’s population speak Moldovan; there is a sufficient number of schools (33?) for children of Moldovan origin, but their native language (Moldovan), one of the three official languages, is taught via the Cyrillic script, using out-of-date Russian textbooks. Schools, which did not conform to this rule, using the Latin script (as in Moldova) and other textbooks, were blacklisted (cf. supra, II.B. para. 10 – *in fine*, and 13 – *in fine*). This means not only that such schools, viewed as private, must receive external funding (in this case, from the Moldovan Education Ministry), but also that they are

subject to discriminatory and arbitrary local rules with regard to their material survival and short-term operations (after registration, accreditation and receipt of a teaching permit for the proposed curriculum). The representative of the “Transnistrian Education Ministry” then informed me that, under the relevant law, dated 16 May 1999, almost all of these problems would be null and void - and therefore settled - were the relevant Moldovan authorities to sign an agreement on this matter with the relevant “Transnistrian authorities”, as provided for by the above law. However, the Moldovan authorities were refusing to do this, for fear that signature of such an agreement would contribute to recognition of “Transnistrian” national sovereignty. The children’s interests or rights were frequently invoked, but count for nothing in the political stakes – a statement as saddening as the general atmosphere in this school, forced into illegality.

III. CONCLUSIONS AND RECOMMENDATIONS

In so far as I have already drawn several provisional conclusions and proposed certain recommendations in the course of this report, there is no need to repeat them. In summary, the continued conflict in the Eastern region (“Transnistria”) of the Republic of Moldova is having very harmful effects on respect for human rights on both banks of the Dniester, with the left bank currently eluding any mandatory supervision in this regard by the Council of Europe. As regards the right bank, namely the Republic of Moldova, which is subject to this supervision of its own accord, the greatest need is to encourage the relevant Moldovan authorities to pursue their legislative work, beginning with clearer and more realistic legislation on the rights of persons belonging to national minorities and laws on the status of asylum seekers, refugees and displaced persons - but also laws on the administration of justice and the role and obligations of members of the police forces. At the same time, the current lack of public finances and personnel in Moldova cannot be used to cancel out or lessen the obligation on the Moldovan authorities to do everything in their power to improve respect for human rights in Moldova, in line with the relevant European and international standards.

PROGRAMME

OF THE OFFICIAL VISIT TO THE REPUBLIC OF MOLDOVA

BY MR ALVARO GIL-ROBLES, THE COUNCIL OF EUROPE

COMMISSIONER FOR HUMAN RIGHTS

16 - 20 October, 2000

Monday, 16 October

- 18.15: Arrival at Chisinau International Airport
- 19.30 – 21.00: Meeting with Parliamentarian Advocates of the
Centre for Human Rights

Tuesday, 17 October

- 9.00 - 9.45: Meeting with Mr Iurie Lenca, First Deputy Minister for Foreign
Affairs
- 10.00 - 10.45: Meeting with Mrs Valeria Sterbet, Minister of Justice
- 11.00-12.30: Meeting with Speaker of the Parliament Mr Dumitru Diakov
and leaders of political fractions of the Parliament
- 12.45 - 14.00: Lunch hosted by Ministry for Foreign Affairs and Parliament
- 14.30 - 15.30: Meeting with Mr Dumitru Branghis, Prime Minister of the
Republic of Moldova
- 15.30 - 16.15: Meeting with Mr Vasile Sturza, Head of the State Commission
for the Transdniestrian Conflict Settlement
- 16.30-17.15: Meeting with Mr Vladimir Turkan, Minister for Home Affairs
- 17.30-18.30: Briefing by Mr William Hill, Ambassador and Head of the
OSCE Mission to Moldova

CommDH(2000)4

- 19.00-19.45: Briefing by Mr Oldrich Andrysek, Representative of the UN High Commissioner for Refugees to Moldova
- 20.00-21.30: Dinner offered by Mr Iurie Lenca, First Deputy Minister for Foreign Affairs

Wednesday, 18 October

- 9.00 - 10.15: Meeting with Mr Petru Lucinschi, President of the Republic of Moldova
- 10.30 - 11.30: Meeting with the NGO leaders, which deal with Human Rights Protection
- 12.00: Departure from Chisinau to Tiraspol, capital of the self-proclaimed Transdniestrian Moldavian Republic

Visit to the Transdniestrian Moldavian Republic (organised by the office of the OSCE in Chisinau)

- 13.15: Meeting with Representative of the Ministry for Foreign Affairs at the check-point N° 5, city of Bendery
- 13.30 – 14.30: Meeting with Mr Grigory Marakutza, President of the Supreme Soviet
- 14.40 – 16.00: Meeting with Mr Alexandr Karaman, Vice-President
- 16.15 – 17.00: Meeting with Mr Vladimir Antyufeev, Minister for State Security, and Mr Oleg Gudymo, First Deputy Minister for State Security
- 17.15 – 18.15: Meeting with inhabitants of the city of Bendery who were injured during military actions in 1992

Thursday, 19 October

- 10.00 – 10.45: Meeting with Mr Alexandr Koroliiov and Mr Boris Medonov, Deputy Ministers for Internal Affairs
- 11.00 - 12.30: Meeting with Director of the School N° 20 (teaching in Rumanian) and Representative of the Ministry for Education

13.00 – 14.00: Meeting with the NGO representatives at the Office of the OSCE in Tiraspol

15.00: Departure from Tiraspol to Chisinau

16.30: Arrival to Chisinau

Continuation of visit to Chisinau

17.00 – 18.45: Visit of the prison of Cricova

19.15- 20.00: Press conference at the Ministry for Foreign Affairs

Friday, 20 October

9.00-9.45: Meeting with Mrs Tatiana Stoianov, General Director of the Department of National Relations and Language Functioning

10.35: Departure from Chisinau International Airport for Frankfurt/Main