

MOLDOVA

NGO REPORT

On the implementation of the ICCPR
(prior to the adoption of the List of issues)

Resource Center for Non-governmental
Organizations for Human Rights (CREDO)

Moldovan Human Rights Institute (MHRI)

Unedited version

Chisinau, February 2009

With the support of :



Centre for Civil and Political Rights (CCPR Centre)

The CCPR Centre was established in June 2008 to facilitate NGO access to the HR Committee, to ensure their effective participation in the State reporting process, and ultimately to ensure better monitoring of the implementation of the ICCPR by State parties.

To this end, the CCPR Centre aims at strengthening the role of Non Governmental Organisations (NGOs) in the State reporting process, which requires States parties to submit, on a regular basis, reports to the Human Rights Committee (HR Committee) on measures taken to comply with obligations enshrined in the ICCPR.

The CCPR Centre's mission is to:

- I. Promote the role and the participation of NGOs in the HR Committee reporting procedure through:
 - a) Information dissemination.
 - b) Coordination and reinforcement of NGO contributions to the HR Committee and its work.

- II. Build the capacity and support NGOs through:
 - a) Strengthening the capacity of NGOs in their activities related to the reporting process;
 - b) Reinforcing the involvement of NGOs in the follow-up to the HR Committee's Concluding Observations.

More information is available at www.ccprcentre.org

Moldovan Human Rights Institute (MHRI)

The Moldovan Institute for Human Rights is an independent, non-profit organization, having the aim of defending human rights, founded in 2007 by a group of lawyers, defenders of human rights. The MIHR has experience in monitoring the observance of human rights, of the obligations undertaken by the Republic of Moldova before the OSCE, the United Nations, and the Council of Europe.

The main goal of the MIHR is to contribute to the education, promotion and protection of the rights and freedoms as provided by the national and international legislation. The MIHR will carry out advocacy and litigation, contributing to the rising of awareness of specific groups and of the whole society of the most serious human rights violations, caused by the lack of knowledge of superior values of individual freedoms, social justice, equality and non-discrimination.

The members of the MIHR have brought the contribution to writing reports concerning various human rights violations, followed by analysis of the situation, of the cases, comparative analysis of national and international laws in the field of the human rights, recommendations for improvement of the situation, addressed to authorities such as: alternative Reports to UN committees (UN Committee for Civil and Political Rights, UN Committee for Social, Economic and Cultural Rights, UN Committee for the Elimination of All Forms of Discrimination, UN Committee against Torture), and periodical reports to CoE agencies (ECRI – European Commission against Racism and Intolerance, CPT – European Committee for

the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, work group of the Framework Convention for the protection of National Minorities, Commissioner for Human Rights, Parliamentary Assembly of the European Council, etc), reports to OSCE (Human Dimension, Security Council);

The staff of the MIHR participated, with two representatives, at the regional initiative of the COPLI/INTERIGHTS/Bulgarian Helsinki Committee for the promotion of human rights for the South-East of Europe; one representative finished studies at COLPI/Columbia Public Interest initiative for public interest lawyers; 3 representatives are finalists of the Advanced International Course on Human Rights Protection (Warsaw, Poland); 2 members participated at the Human Rights Advocacy Program (Syracuse University, N.Y. USA).

The organization has a developed network of people and agencies worldwide who support and share the values promoted by our organization, which offers sustainability to the organization in the near future.

Resource Center for Non-governmental Organizations for Human Rights (CReDO)

The Resource Center for Non-Governmental Organizations for Human Rights (CReDO) aims at the development of democratic leadership and promotion of democratic policies and human rights.

I- Promotion of democratic policies and human rights:

Democracy and Human Rights Initiatives aimed at addressing major human rights concerns. Current initiatives are:

1. Development of national capacities to promote freedom of assembly
2. Integration of national minorities through education multilingual policies and best-practices
3. Rural roma communities empowerment
4. Cooperative peace transformation.

II- Policy Analysis and Consultancy

Analysis and policy advise on public policies with emphasis on democracy, human rights, health, social, educational policies assisting Moldova's European integration. Recent policy advices include:

1. Ratification process of UN CAT complaints mechanism and implementation of OPCAT
2. Ratification process of OP ICCPR on individual complaints
3. Integration of people with disability into labour market
4. Mental Health Policy for LGBT
5. Mental Health Policy for children with disabilities
6. Strategic Overview of the Social Policies of Moldova and others.

CReDO submits regularly shadow reports to UN, CoE, and OSCE specialised bodies and instruments since 2002. Organisations representatives participate in the hearings and works of these commissions and bodies.

Functioning of democratic institutions

A. The Parliament:

Parliament and legislative process has only slightly improved as compared to 2001-05 legislation, mostly due to greater involvement of civil society and more transparency, yet lost on the quality of political debates.

Progressive developments:

- a. The Parliament has moved into operating more openly and in a transparent manner, introducing the practice of public hearings in the commissions, consulting specialized NGOs on subjects and issues of legislating. For this it passed decisions and rules to regulate NGOs and interest groups involvements. From the participatory point of view it worked well, from the content point of view it has some modest improvements. Draft laws have been published and lately together with the informative notes, heads of commissions became more considerate of role of the NGOs and civic groups. A number of progressive laws have been adopted with the direct support and involvement of the civic society.
- b. Leadership of the Parliament (chairman, vice-chairmen and the heads of commissions) has improved both from the technical skills point of view and from the more democratic and modern ways of carrying out the business.

Negative developments:

- a. Reduction in political pluralism in the Parliament, de facto in many cases the Communists + Cristian Democrats shielded the executive from the accountability, silenced the issues and topics of public importance and acted in public disadvantage this way.
- b. The legislative process has lost debate and public discourse and attractively for the citizens, discourse confrontation has been reduced to formal statements.
- c. The Parliament decided to stop broadcasting the Parliamentary hearings started in 2005 reducing citizens' access to information and information about its work.
- d. Political factions address in public discourse

No changes:

- a. Capacity to oversee and hold the executive accountable has not changed substantially, the Parliament effectively lacks the control of the government.
- b. Overall Parliamentarians capacity to exercise legislative role has not improved, a substantial part of the deputies do not represent a qualified asset to the legislative functions.

B. The executive role in relation with the Parliament

The executive maximized its dominance over the Parliament, has not opened up to provide the opportunities for citizens' contributions and moderately started to produce more information about its activity to the public.

Progressive developments:

- a. Amount of information put on the executive's web-sites improved,
- b. Some Ministries has shown more openness and cooperation in policy development with the civil society organizations, as Ministry of Economy and Trade, Ministry of Social protection, child and family, Ministry of Health, Ministry of Justice, ...
- c. Implementation of the access to information has improved moderately the work of the government.

Negative developments:

- a. Government reduced Parliament role to monitor, hold executive accountable for the policies, have the Parliamentary debates to scrutinize the policies proposed by the Government,
- b. Governmental agencies (policy-implementers) have become more powerful as compared to the sectoral Ministries (with the exception of Ministry of Economy and Trade and Ministry of Finance) in determining the policy options and effectively formed powerful sub-governments with absence of accountability towards the public and towards the policy-making process.

No changes:

- a. Government capacity to produce qualitative and maximizing public utility policies has remained almost unchanged, only during the last year, some moderate progress has been achieved that yet to produce any impact.
- b. Only in the last two years there has been a modest process for openness of the executive and of the Cabinet that has not matched the one of the parliament.
- c. No executive transparent decision-making process law.

B. The Judiciary

Only last couple of years the judiciary has been moderately strengthened, it had to slowly recover from a very intrusive earlier political influence, important institutional development has taken place, yet to produce the results.

Progressive developments:

- a. Superior Magistrates Council strengthened its role and lately became more autonomous in its functions,
- b. National Institute of Justice has just started to provide more professional and targeted training to judges and prosecutor,
- c. Modest improvement in the leadership of the judiciary,
- d. Courts receive separate budgets and improved its autonomy in managing finances and cases,
- e. Judges salaries have moderately improved and it became more attractive for the talented graduates,
- f. Only recently, the procedure for judges' selection has slightly improved, it is a modest improvement as compared to 2003-06 very much political appointments and removal of inconvenient judges without proper evidence presentation.

Negative developments:

- a. Government reduced Parliament role to monitor, hold executive accountable for the policies, have the Parliamentary debates to scrutinize the policies proposed by the Government,
- b. Frequent assertion of the political will on the judges and the judiciary through informal ways,
- c. Economic courts remain far easily influenced and un-transparent courts,

No changes:

- a. Government capacity to produce qualitative and maximizing public utility policies has remained almost unchanged, only during the last year, some moderate progress has been achieved that yet to produce any impact.
- b. Judiciary is still not independent: political influence (nomination), financial dependence, professional qualities and access to the judiciary,
- c. Courts case management is outdated, low technical and judges support facilities,
- d. Unacceptable quality of judgments (motivational part, coherence and consistence)
- e. Quality of human capital and professional training is inadequate and insufficient,
- f. Insufficient capacity of Ministry of Justice to strategize, formulate, implement and evaluate policies.

ECHR relevant cases:

- Article 6 (access to justice, fair trial), 43% of cases:
 - (2004, Prodan, 1P1), (2004, Luntre, 1P1), (2004, Prodan, 1P1), (2004, Pasteli, 1P1), (2004, Sirbu, 1P1), (2004, Bocancea, 1P1), (2005, Daniliuc, 1P1), (2005, Baibarac, 1P1), (2005, ASITO, 1P1), (2006, Popov, 1P1), (2006, Lupacescu, 1P1), (2006, Lupacescu, 1P1), (2005, Macovei, 1P1), (2006, Lungu, 1P1), (2006, Istrate, 1P1), (2006, Ermiciev, 1P1), (2006, Lozan, 1P1), (2006, Draguta, 1P1), (2006, Braga, 1P1), (2006, Melnic, 1P1), etc - non-execution of judicial decision,
 - (2005, Ziliberberg) failure to summon properly to court procedure, etc
 - Direct costs of bad policy to society: 235 000 E,

Recommendations:

- Improve quality of judges professional education, including content and court management system,
- Provide more independence and self-governing of the Superior Council of Magistrates,
- Improve transparency of the judiciary and judgment procedure and access to court decisions and files,
- Improve Ministry of Justice and Superior Council of Magistrates policy making, evaluation capacities based on evidence and situations,
- Promote judiciary ethical standards and empower judges professional association and Superior Council of magistrates with ethical standards rulings,
- Judiciary budgeting process shall be more transparent for the public and targeted investment (including management capacity) and operation costs,
- Presentation of the comprehensive data and statistics on the courts workload, type of cases, progress of cases, allocation of cases per judge, nature of entry cases and progress through the judiciary,
- Profound and comprehensive reform with the Ministry of Internal Affairs: developing policy capacity, problem strategic orientation, separation of enforcement (police commissariats, inspectorates) from policy-making (ministry), ethical standards and internal meritocracy and professionalism,
- Promote independence of the Prosecutor office,
- Strengthen courts final decisions executions

Human Rights and Fundamental Freedoms

Positive developments:

- Ratification or pending ratification of 1OP UN CAT, art. 21, 22 UN CAT, 1OP UN ICCPR, OP UNCRC, etc
- Strengthening of the Center for Human Rights and children ombudsman

Fundamental Freedoms and Liberties Concerns and Recommendations

With regard to Roma rural communities:

We consider extremely important that local and central authorities through positive measures include the following measures that will improve the situation of the people living in rural communities of Roma

- Take measures that will provide Roma representative counselor in local administration and political bodies;
- Eliminate discriminatory practices with regard to allocation of public financiers on education and culture for rural communities of Roma;

- Assure minimal human conditions of existence including but certainly not limiting to, running and drinking water, electricity, telephone communication, access means to the community, medical care;
- Construct road up to the villages of Schinoasa and Ursari;
- Assure access to schooling system and create minimal conditions;

With regard to security and liberty of person:

- carefully review the legal provisions and practices with regard to use of the various administrative procedures affecting the security and liberty of person in order to repeal the existing practices;

With regard to Freedom of expression:

1. Review the practices of its various agencies regarding offering access to information so that they correspond in reality to the law, as well as give more efficient and faster remedies to the media in cases access is denied. Insure more transparency in all aspects of its work.
2. Review various legislative acts analyzed above, in order to eliminate ambiguity and possibilities of abuse against the media.
3. Organize explanatory work with the various state agencies, especially the judicial system, on the need to observe international standards of freedom of expression and information. Also, educational work needs to be done to ensure that national legislation is in reality observed in the actions and decisions of national authorities.

With regard to Conditions of Detention in Penitentiary System:

- Pursue policies for significant lowering number of persons in detention, including vision of the penalties, alternative non-private sanctions, etc;
- raising at least several times the expenditures for alimentation in accordance with laws of Moldova and international standards¹;
- allocate needed budgetary finance to the real needs of the medical service and for the places of detention integrally^{2, 3};
- improve hygiene conditions including running and hot water, electricity;
- provide adequate food, necessary infrastructure for cleaning and supporting the medical services to oppose the raising number of TB infected people in detention⁴;

With regard to Right to Conscience, Religion and Thought:

- Excessive limitations on passive right to religion will be eliminated and avoided;
- Exclusion of legal provisions restricting freedom of movement for religious purposes;
- Registration procedure will be substantially modified to allow clear unbiased and publicly open procedure, with possibility to contest in court of law the decision;
- Preferential practices for dominant-Orthodox Church of Moldova should be avoided and inter-confessional communication encouraged;

With regard to local and regional self-governance:

¹ Ibid, para 116

² Raport adresat Republicii Moldova cu privire la vizita efectuată de Comitetul european pentru prevenirea torturii și a pedepselor sau tratărilor inumane sau degradante (CPT) din 11 - 21 octombrie 1998, para 105.

³ Ibid, para 105

⁴ Raport adresat Republicii Moldova cu privire la vizita efectuată de Comitetul european pentru prevenirea torturii și a pedepselor sau tratărilor inumane sau degradante (CPT) din 11 - 21 octombrie 1998, Rezumatul recomandarilor, Comentariilor și Intrebarilor adresate de CPT, para 67.

- It is urgently recommended to seize the process of centralization of the local and regional powers and local public administration with regard to the transmitting of the budget planning and disposal powers to the central representative;
- Freeze the process of elaboration of the “new” law on administrative organization to reinstate the vertical hierarchy and consult the relevant Council of Europe expertise on the matters;

With regard to independence of judiciary:

- Provide necessary and proportionate budgetary allocations for the functioning of the judiciary;
- Revise the laws on the judiciary organization and statute of the judge to limit the excessive executive influence on the administration of the justice and the appointment of judges procedure;

With regard to the torture and police abuses in pre-trial detention and effective investigation of them:

Moldovan authorities, most notable, central authorities and politicians should strongly emphasize the inadmissibility of the practices of the use of force as a mean for carrying out the criminal and administrative investigation:

- establish a task force, with participation of the Center for Human Rights, parliamentary human rights commission, independent think tanks, Ministry of Interior, prosecutor office to identifying the needed steps to combat the widespread practices of beatings and extortion of the evidence in the pre-trial detention;
- public prosecutor and parliamentary advocates should work hand-in-hand to in effective investigation of the allegations of torture and developing specific recommendations on the effective investigation of torture and establishing the punishment for perpetrators;

Article 7 Prohibition of Torture

Some moderate changes in the legislation and institutions and yet to improve practice, some areas require more substantial reform.

Progressive developments:

- a) Recent creation of the national preventive mechanism for against torture composed of the civil society members,
- b) Use of alternative detention practices, probation introduced,
- c) Legislation for non-detention penalties introduced,

No change:

- some categories of persons are being investigated while under the custody of the police,
- frequent use of the administrative detention with low guarantees
- widespread of institutional residential care for adults, children, etc
- conditions of detention in prisons only moderately improve,

ECHR recent cases on Article 5 (security and liberty of person):

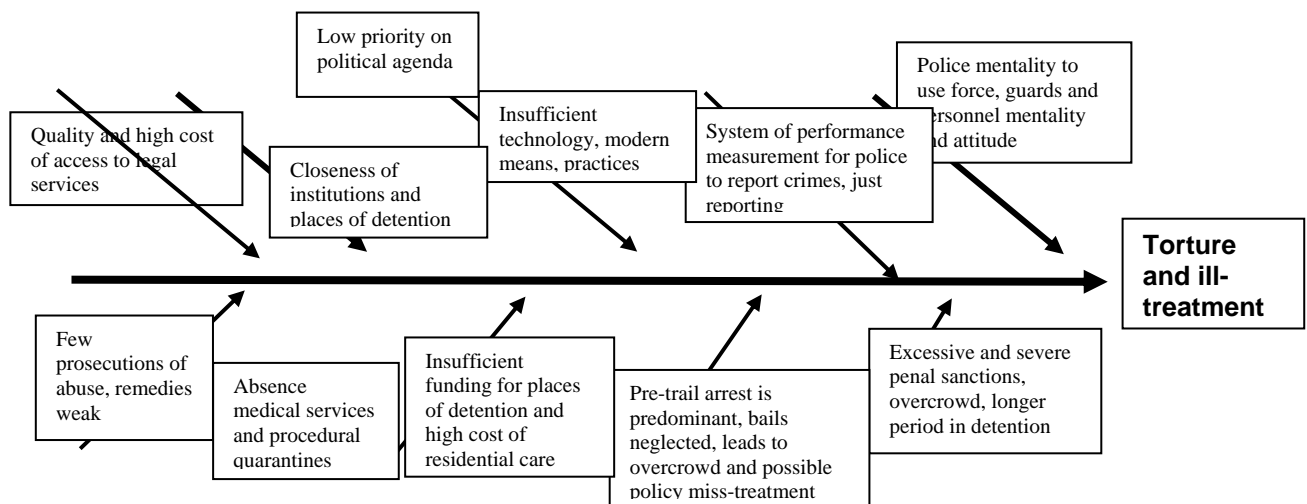
- (2005, Becciev) violation by non-communication of motives of arrest/detention,
- (2005, Sarban) violation by non-communication of motives of arrest/detention,
- (2005, Holomiov) lack of legal reasons for detention,
- (2005, Boicenco) detention without sufficient grounds, refusal of lawyer to access to information for defense

Recommendations:

- Law on preventive detention and Law on execution of penal penalties to modify to guarantee the basic material conditions for detention, security, access to relatives, right to remedy at national level,
- Policies for the alternative to detention,
- Change Penal Code sanctions to limit the responsibility for small offences,
- Adjust places of preventive detention and prisons to humane conditions
- Review performance policy in Police system and Prosecutor office,
- Improve technical capacity in Police and prosecution to use modern intelligent means of investigation,
- Improve policies to hold perpetrators responsible for the violations, independence of investigation authorities and judiciary,
- Separate temporary detention places from the investigative authorities (Police),
- Provide independent and immediate access to medical services of people in preventive detention,
- Provide training on human rights sensitive policing

The phenomenon of torture in its diverse manifestations has been unfortunately an ongoing practice in Moldova. The reasons and causes are different. Despite some modest improvement as observed in the reports from specialized international organizations as CPT of the Council of Europe⁵ a number of substantial areas remain of serious concern. National and international organizations provide examples and cases that remain of substantial concern. Up to 2007, European Court of Human Rights delivered 43 judgments against Moldova of which 50%⁶ (22) relate to the violations of the articles 3, 5, 6 and 8 dealing with situations with the detention, of which 10 deal with the conditions of detention and 5 of ill-treatment in policy and failure to investigate it effectively.

Moldova has around 100 places where people are in detention or are institutionalised⁷ and overall a population of around 50 000 persons⁸ in custody of state. These are: Ministry of Justice (penitentiaries and preventive detention centres), Ministry of Interior (police custody and some isolators), Ministry of Education (children internats), Ministry of Social Protection (elderly and adults with disabilities asylums, children with disability schools), Ministry of Health (psychiatric hospitals, hospitals for children with severe mental affections). Based on the combined estimate on the causes of the phenomenon of torture and ill-treatment the key *root-cause fishbone* is as follows:



⁵ Report from September 2004 <http://www.cpt.coe.int/documents/mda/2006-07-inf-fra.htm>, and from September 2007, <http://www.cpt.coe.int/documents/mda/2007-43-inf-fra.htm>

⁶ <http://cmiskp.echr.coe.int/tkp197/portal.asp?sessionId=4050481&skin=hudoc-en&action=request>

⁷ Resource Center for Human Rights, (CReDO), Policy paper on the creation of the effective National Prevention Mechanism, <http://credo.md/arhiva/documente/PolicyOPCATMoldova%20v3.pdf>

⁸ 4,2 mln official population of which 3,4 mln permanently residing in the country, data includes Transdnistrian region, making 1,2% of total population and 1,5 of population that permanently reside in the country

One can observe that the causes are multiple from institutional, preservation of heavy sanctions system, economic, absence of guarantees, access to services, closeness of places and outdated investigation practices. The policy response has to be adequately comprehensive and targeting the existing causes.

Moldova has signed OPCAT and ratified it in March 2006. In August 2007, by law passed by the Parliament it created the National Prevention Mechanism (NPM). The implementation of NPM has been one of the Moldova-EU Action Plan 2006-08. NPM could grow into one of the mechanisms to address systematically the causes of torture by collecting various relevant data and information on places of detention, visit and make the places more open and transparent, generate specific policy recommendations and raise the awareness on the problems for the decision-makers and the society.

In relation to NPM, one identifies several required aspects for the intervention: insufficient experience and capacity of NPM to undertake effectively its tasks, opportunity to explore the NPM potential to act complementary with other mechanisms and adding the value in addressing preventively and systematically the issues of torture in the places of detention. One crucial aspects lies with the capacity and knowledge of the individuals who will serve in the NPM to undertake these responsibilities, the other is the receptiveness of the relevant authorities to the work and outputs of the activity of the NPM.

Article 10 Right of Detainees to be treated with Humanity and Dignity

- Conditions of Detention⁹

TB as well as the HIV virus is spreading unchecked and in an uncontrolled manner. Very poor living conditions, bad food, insufficient hygienic supplies, lack of beds, shortage of bedding and clothes, no access to recreation or work, all undermine the health of the prisoners.

It should be stressed out that on average 50 inmates die yearly. An increasing number who are already infected become immune to drug therapy as a result of poor medical care, lousy diets and overcrowding.

TB together with the situation of the 350 HIV positive is definitely priority problems to be addressed.

Overcrowding of places of detention

In 2001 the overall number of inmates raised with 26% comparing with the number of inmates in 2000. Conditions of detention of the majority of the detained in penitentiary system of Moldova are insupportable and constitute a serious risk for their health. The most of the time detainees locked in dirty, closed to air and light cells. Places of detention require priority attention of Moldovan authorities and namely substantial efforts to reduce the population of detainees, improvement of conditions of detention and medical care as well as alimentation to sustain at least the vital needs. Moldovan authorities face serious financial insufficiencies and still promote the policy of heavy fines and sanctions resulting in maintaining the overall number of detainees and even its raise. De facto the present conditions amount to violation of right to life, right not to be subjected to inhuman treatment and right to privacy for any of about nearly 11 000 detainees.

Large number of detainees of the penitentiary system generates the conditions of inhuman and degrading treatment. It should be noted that the official norm for minimal detention space according national standards - 2m² per person is per se a satisfactory norm. In reality in many places of detention the space per detainee is several times lower (pre-trial detentions).

To the end of 2001, 10 850 are detained, including 7 380 condemned, 3 299 persons in pre-trial detention and 193 in forced alcohol treatment and social rehabilitation. Of persons in pre-trial detention

⁹ Based on Report: Violation of Rights to Life and Right not to be subjected to Inhuman and degrading Treatment Caused by Conditions of Detention of Penitentiary System of Republic of Moldova, (ROMANIAN) OCTOBER 2001 BY MOLDOVAN HELSINKI COMMITTEE FOR HUMAN RIGHTS

452 in criminal investigation by prosecuting authorities, 1 632 awaiting the trial in first instance, 1 310 awaiting the final conviction by superior courts. 445 women waiting the trial, of which 206 in pre-trial and 239 convicted. 106 minors detained in Lipcani colony.

Medical treatment Allocations for medical needs are under the imaginable level. If the level of allocations remain at the same amount of 2,3 EURO per detainee, in 5-6 years the rate of progress of variety of illnesses will be uncontrollable and irreversible. Only *5,9% or 2,3 EURO annually is allocated for medical services of minimal required*. In average in last three years 3% of inmates die of different illnesses that is 10 times higher than in average per country for people not detained. The real conditions for medical services require 5,5 mln EURO when the budget provides only 0,5 mln EURO, which is about 6% of the needs. The given amount covers only the needs for detergent and soup. *9,8 % or 1 000 of condemned are ill of TBC*. In 2001 - 398 persons acquired TBC. The rate of contamination had grown compared with year 2000 when only 200 new cases were registered. **The probability to acquire TBC in places of detention is 40 times higher than outside the detention**. 52 persons died of TBC in 1999, 51 died in 2000, and 25 already died in 9 months of 2001, in total 128 for last three years. The average number of inmates in detention for this period is 8 000, thus died of TBC constitutes 1,6% of population in this period. If the present rate of contamination and deaths keep in incoming 6-7 TBC can kill already 15% of total number of inmates. *195 or 1,8% of condemned carry HIV/AIDS*.

Detention conditions *30% of needed is allocated for transportation of detainees. Of needed 120 000 EURO for transportation per year (1 500 000 lei) only 50 000 EURO (610 000 lei) were budgeted only 40 000 EURO (460 000 lei) allocated*. In some penitentiaries light is given only several hours per day. Budget provides 60% of the real needs and de facto only half of the budgeted money is allocated. Heating is scarcely enough for the end of January 2002. Only *12 hours per day 24 penitentiaries are assured with running water*. The financial allocations cover only 70% of needs. Penitentiary systems carry debt of about 4 20 000 EURO for failure to pay services provided (5 mln lei).

Sanitary and hygiene conditions Allocations for sanitary needs cover only 40%. Although norms require 200 gr per month per person, detergents - 100 gr. per month. The penitentiary system has only 70% of needed beds, 50% of needed cover sheets, 40% of needed cover beds, 0% of needed clothes and shoes.

Alimentation In present only 0,18 EURO (2, 05 Moldovan lei) per day is allocated per detainee or 2,5 times less than even as provided in Moldovan Law, constituted only 40% of the minimal vital needs. It is provided that minimal vital need per person should be 0, 60 EURO (6,57 lei multiply with 30 days - 197,1 lei (or about 20 EURO per month); per one year – 2 400 lei (200 EURO)) that even that being under the real needs. Detainees are not given any fish, animal oil, meat, dairy products, vegetables and fruits, etc.

- the overpopulation of the prisons create the condition in which the spread of infectious diseases as tuberculosis, hepatic and others;
- lack of the minimal sanitary conditions to satisfy personal needs;
- the detainees are not provided with adequate medical assistance and pharmaceutical products are of expired date;
- the qualitative and quantitative insufficiency of alimentation;
- lack of the adequate mechanism to individual complaint against contested administrative sanction;
- no access to personal medical files;
- minors suffer from malnutrition (many of them do not have more than 30 kg);

The living conditions in police isolators:

The police station (MI) on Tigina Street in Chisinau had a capacity of 60 prisoners. According to a guard the maximum capacity of the isolator was not often exceeded during Soviet times. However a recent

observation, which was made at the end of February 2001, the number of detained persons was 238. The number of detained persons in one cell varies from 5 to 19. (minors are kept together with adults).

All cells are overcrowded, with a lack of fresh air. The windows are covered with a metal plate with very small holes in it, which prevents fresh air from entering the cells. The temperature in them is often quite high as many persons are kept in a small space without sufficient ventilation.

All cells are very dark because they have no access to daylight. Another reason is that the artificial light is insufficient due to the weak electric bulbs used.

The equipment of the cell is very simple. One third of the cells are covered with the wooden benches. Neither mattresses nor covers are given to detainees who are forced to stay here for up till one month. The cells look very dirty and an observer was told not to enter them, as it is full of fleas. The method used by the guards to clean the cells from parasites such as fleas is that first the cells are sprayed with disinfectant. Then the detainees are powdered with disinfectant. The prisoners do not have access to the showers. In the corner of the cells an open 'WC's can be found, lacking walls or any private space.

The detained people keep water in the plastic bottles for the time while they do not have access to water. The tap water is available to them three times a day, in the morning, noon and evening. The detained persons are prevented from leaving their cells and during the period while they are detained they are never let out on the open air.

Minors (between 14-18) in Pre-trial detention in Chisinau still in detention to the moment of writing of the Report

- Panarin Alexandr A. arrested 7.2.2000, infected by TB in prison, (at the present time with open stage of TB), convicted to 10 years imprisonment 7.11.2001, wrote an appeal to the Tribunal, presently at the medical section in prison with other 70 patients with open stage of TB;
- Miklasevski Denis S., detained on 12.5.2000;
- Pugacenco Valentin I., detained on 8.11.2000;
- Serbliuc Mihail G., detained on 31.06.2000;
- Crudu Jurii G., detained 1.2.2000;
- Macovei Ruslan F., detained on 9.06.2000;
- Mereuca Petru P., detained on 4.12.2000;

Article 14: Procedural Guarantees in Civil and Criminal Trials

- Prosecutor's Role

Prosecutor's Office remains largely unreformed in the very soviet style of the institution that supervises the exact and uniform execution of the laws by all persons as well as invested with the right to protect human rights and liberties of the citizens stipulated in art. 124 and art. 25 of the Constitution of Moldova.

According to Law on the prosecutor's office it is the institution that is responsible¹⁰ for supervision of the respect of laws by all persons on the territory of Moldova. It is structured in a uniform and centralised¹¹ way hierarchically subordinated to the General prosecutor. Prosecutor supervises the respect of legality of the criminal investigation conducted by police, supervises the respect for legality in

¹⁰ Art. 1 of the Law on the Prosecutor's Office.

¹¹ Art. 3 of the Law

the places of pre-trial detention, execution of the condemnation in all places of detention, supervises the legality of the decision of the courts decisions¹².

Beyond that the prosecutor's office supervises and co-ordinates the emission of legal acts of all institutions disregarding type of property on the subject of compliance with the laws of Moldova; protects the interests of the state and other persons and institutions¹³. In this respect the prosecutor can ask access to any information held by public or private institutions; can hold any official or citizen responsible and be give the explications; can forward motions to representatives of public authorities to eliminated or take measures in this respect regarding the violations of laws.¹⁴ The prosecutor's office is also responsible for supervision of respect of legality of situating of persons in all different places of detention, pre-trial detention, including on the basis of the judicial decision; supervises the respect of legality of the conditions and rights of holding there persons.¹⁵ These attributions, given also the attribution to present charges in court, are considered incompatible and generally of conflicting interests¹⁶ pressingy needed significant reforms.

Article 17 Rights to privacy

No progress registered.

Positive developments:

- No changes

Negative developments:

- o Law on operative investigations provides wide discrepancy in intercepting correspondence (lack of adequate supervision by courts, independent authorities)
 - o Domestic courts judges lack awareness on ECHR case-law and bend under political influence (likely to generate cases)
 - o Prosecutors and judges lack awareness and absence of detailed supervision and guarantee policy (likely to generate cases)
 - o Direct costs of bad policy to society: 20 000 E,
- Recommendations:
 - Abrogation of law on operative investigations bringing all under Code of Penal Procedure
 - Bring all operative functions under supervision and control of courts and prosecutor
 - Training Prosecutors, judges in managing in respecting privacy rights
 - Domestic courts judges lack awareness on ECHR case-law and bend under political influence (likely to generate cases)
 - ECHR cases on Article 8 (Privacy, family):
 - (2005, Meriakri) violation of correspondence in detention
 - (2006, lordache, admissibility) violation of correspondence

Article 18 Freedom of Thought, Conscience, Religion and Belief

- Development over the period of time

¹² Art. 4 of the Law

¹³ Art. 18 of the Law

¹⁴ Art. 19 of the Law

¹⁵ Art. 38 of the Law

¹⁶ See 1998 IHF Annual report on Moldova and Reports of the Moldovan Helsinki Committee on human rights in the places of detention and Human Rights in Pre-trial detention. (<http://chdom.ngo.moldnet.md>)

Strong bias and hatred towards non-traditional religious remain; some institutional improvements have been registered.

Positive developments:

- new law on religious denominations has been lately approved, the law is more liberal in its application and rules.

Negative developments:

- Religious Service discriminates and hinders the process of registration (likely to generate cases),
 - Orthodox Church is influential in state authorities,
 - Police prosecutes unregistered religions hindering their private space assemblies (likely to generate cases),
 - Direct costs of bad policy to society: 55 000 E,
- ECHR cases Article 9 (freedom of religion):
 - (2001, Bessarabian Metropoly) Refusal to register another Orthodox church as there exists already one, harassment of followers,
 - (2007, True Orthodox Church) Non-execution of court decision to register the church,
 - (2005, Spiritual Council of Muslims, non-admissibility on procedure) Refusal to register Muslim church

Recommendations:

- Build capacity and professionalism of religions registration office,
- Cultivate tolerance with the society, decision-makers and elites,
- Provide awareness, training and skills for police in dealing with religious freedoms.

- Minor religious groups

It was noted in the second report ECRI, that the orthodox Christians are more than 90% from Moldova. The rest of the population constitutes other Christians: Jews, Muslims and members of other religions. A new law concerning the religious denominations got in use at August 18, 2007, taking the place of the previous law, that dated from 1992. The law about the denominations: Article 15 foresees the separation from the government of the religious thoughts, their equality in front of the legislation and the forbidness of the discrimination on religion. Regarding the same article the government admits the special importance and the major role of the orthodox faith and the Orthodox Church in the life, history and culture of Moldova. The new law covers the procedure of registration of the religions names and of the individual parish that belong to those religions.

The registration of some minor religious groups is an acute problem still. In his anterior report, ECRI notes that after a decision of ECHR the metropolitan Church of Basarabia was finally registered as a church at national level in 2002. Though it meets still difficulties with the registration of the individual parishes even if the general situation ameliorated in time. Other groups were finally registered after a certain interval, as for example the Church of Jesus Christ in 2006.

Though there are a lot of religious groups that expect to be registered. At 27.02.2007 ECHR decided to refuse the registration of the Moldovan True Orthodox Church, and violated the art.9, that guarantees the freedom of religion²⁶. For instance there is not registered any Muslim religious group, even if two different associations solicited-²⁶ the case of the Moldovan True orthodox church versus Moldova

ECRI notes that there are about 30 000 Muslims representatives in Moldova. Many resources described the procedure of registration before entering in use of the new law being bureaucratic and absolute. It is to hope that the new law just in use would facilitate the procedure of registration to constitute a

superior base in order to solve the problems that remain in this field. ECRI notes that the formalities of registration have been simplified through the new law.

The responsibility of registration of a certain faith will be transferred from Government Department for religious affairs that will disappear at Ministry of Justice. Though ECRI expresses his concern about the fact that it is allowed to be registered only for the lists containing 100 citizen of Moldova (art.19-d) a formality that is hard to improve to the little religious groups.

According the dates obtained by MIHR, the attempt to register the Muslim League fizzled out. Even if the League had the success to gather the signatures from 100 persons, citizens of Moldova, the Ministry of Justice refused to register the cult.

Article 19 Freedom of Opinion, Expression and Information

- Media, independence of media, freedom of expression

Some institutional progress has been registered regarding public media, yet the changes have to be supported to be applied into practice.

Progressive developments:

- a. New law on public television with Observatory Council composed of the representatives of Civil society and the opposition, New law on public audiovisual with representatives nominated from opposition and professional associations provided improvements in institutional set up, yet application of laws is difficult,
- b. Repeal of penal liability of journalists,
- c. Draft law on repeal of material liability of the journalists,
- d. Privatization of municipal radio and television,
- e. Improved diversity of informational agencies.

Negative developments:

- a) Law on press provides ambiguous grounds for newspaper closure,
- b) Interference by politics (ruling party) in Public television (likely to generate cases),
- c) Subsidies for local authorities creating local administrative televisions,
- d) Direct costs of bad policy to society: 50 000 E,

No changes:

- a) Domestic courts judges lack awareness on ECHR case-law and bend under political influence (likely to generate cases)
 - b) Prosecutor/Police lack awareness and training on freedom of expression and serve political interests (likely to generate cases)
 - c) Most newspapers are party owned,
- ECHR cases Article 10 (freedom of expression):
 - (2004, Amihalachioaie) administrative sanction for criticism of Constitutional Court decision by Bar president,
 - (2004, Busuioc) civil defamation penalty for critique of public servants for incompetence and corruption
 - (2002, Savitchi) civil defamation penalty for critique of public servants for incompetence and corruption
 - (2006, Komersant Moldovy) closure of newspaper on grounds of promotion of separatism
 - (2006, Manole, admissible) censorship of journalists and editors at national tv

Recommendations:

- Amendments to Civil Code relating to civil defamation
- Detailed policies to guarantee autonomy and independence of Public Television
- Trainings and awareness for judges and prosecutors
- Cultivate tolerance to diversity of opinion with the society, decision-makers and elites,

- Limitations on electoral political propaganda

Moldovan Parliament modified art. 23/1¹⁷ of the law on Audiovisual forbidding local broadcasters to insert local information in programs produced and retranslating on the territory of Moldova. That modification targeted primarily political ads during elections. Constitutional Court, however, declared on 14 December 2000, the modifications unconstitutional.

- Draft Penal Code Provisions Affecting Freedom of Expression

As of December 2001, Moldovan Parliament is considering in the second reading the draft Penal Code. The present draft Penal Code contains provisions for even greater restrictions of freedom of expression than the present one. The draft Penal Code penalizes expression of propaganda of incitement to war¹⁸, expression of state secret¹⁹, defamation (calumny)²⁰, insult²¹, confection or dissemination of works that make propaganda of violence and cruelty²², produce or dissemination of pornographic objects²³, calumnious advertising²⁴, insult (offense) of a judge²⁵, calumny of a judge, prosecutor, investigator²⁶, civil disobedience²⁷, profanation of state symbols²⁸, insulting a military servant.²⁹

¹⁷ Article 23/1 (2) of law on audiovisual says "Audiovisual institutions cannot combine retranslating with making, producing and emitting of original audiovisual programs on frequencies (channels) which carry the retranslating of programs of news produced abroad, with exception of commercial adds." 22.06.2000.

¹⁸ See Art. 135 "Propaganda of war" of Draft Penal Code. "1) Propaganda of war, dissemination tendencies or invented information, of nature that serves the incitement to war, or any other manifestation in favor of launching of a war, made in written, by voice, radio, television, cinema or by other means, - is penalized with a fine up to 500 minimal salaries or detention for up to 3 years, in both cases with ban to occupy a certain activity for a period of up to 5 years..."

¹⁹ See Art. 118 "State Secret" of Draft Penal Code. "State secret constitutes the information protected by state in the fields of military, economy, technical and scientific, external politics, intelligence, contra-intelligence and operative investigation which dissemination, opening, loss, unlawful give away or destruction may submerge the state security."

²⁰ See Art. 167 "Calumny" of Draft Penal Code. "1) Calumny, the good known dissemination of false information that defame another person: a) by printed means; b) multiplied by other means; c) by a person previously condemned for the same doing— is penalized with a fine of up to 200 minimal salaries or with unpaid labor in favor of community for up to 100 hours or a detention for up to 3 years.

2) Calumny: a) followed by grave consequences; b) alongside with accuse of deed of an extreme grave crime;-- is penalized with detention for up to 5 years."

²¹ See Art. 168 "Insult" of Draft Penal Code "1) Insult, intentional lowering of honor or dignity of a person by actions, verbally or in written, -- is penalized with a fine for up to 100 minimal salaries or with unpaid labor in favor of community for up to 100 hours. 2) Insult: a) in a published work; b) multiplied by other means; c) by a person prior condemned for insult—is penalized with a fine up to 200 minimal salaries or unpaid work in the benefit of community for up to 200 hours..."

²² See Art. 235 "confection or dissemination of works that make propaganda of violence and cruelty" of Draft Penal Code "Confection, dissemination demonstration or depositing with the aim to disseminate or demonstrate of movies or videos or other works that propaganda the violence and cruelty – is penalized with a fine for up to 300 minimal salaries or unpaid labor in the benefit of community from 180 to 240 hours or with detention for 2 years.

²³ See Art. 234 "Produce or dissemination of pornographic objects" of draft Penal Code. "Produce or dissemination of pornographic objects, printed publications, pictures or other objects with pornographic character as well as commerce with them or depositing them with the aim of selling or dissemination, -- is penalized with a fine for from 200 to 500 minimal salaries or with unpaid labor in the benefit of community from 180 to 240 hours, or detention for up to 2 years"

²⁴ See Art. 291 "Calumnious advertising" of draft Penal Code. "Using in calumnious information intended to products, works or services, as well as to producers (authors , sellers), made in the interest of profit, if produced a considerable downs to the interests protected by law of juridical or physical persons, is penalized with a fine from 200 to 500 minimal salaries or detention up to 2 years."

²⁵ See Art. 345 "Offense of a judge" of draft Penal Code, "Offense of a judge or parties of the process that contributes to the administration of justice or other gross violation of a public order in the court, - is penalized with a fine from 200 to 500 minimal salaries or with unpaid labor in the benefit of community from 180 to 240 hours, or detention for up to 6 months."

- Draft Contravention Code Affecting Freedom of Expression

To December 2001, Moldovan Parliament had been examining in the second reading the draft Contravention Code. The draft contains a number of provisions that might affect the freedom of expression containing the penalty in form of detention: calumny³⁰; insult³¹; confection or dissemination of works that promote the cult of violence³²; confection or producing pornographic objects³³; violation with intent of use of state symbols³⁴; illegal actions with regard to state decorations³⁵; petty

²⁶ See Art. 346 "Calumny of judge, prosecutor, investigator, penal investigation person, sentence executor" of draft Penal Code, "(1) Calumny of a judge, or another person that contributes to administration of justice in relation with examination of case or materials in court, -- is penalized with a fine for from 200 to 500 minimal salaries or arrest for up to 6 months or detention for up to 2 years; (2) same actions, made towards a prosecutor, investigator, a person that administrates penal investigation, sentence executor in relation to administration of justice or execution of a sentence, of a judicial decision or other judicial act, - is penalized with a fine up to 300 minimal salaries or arrest from 3 to 6 months, or detention up to 2 years. (3) Actions provided in (1), (2) of the article, combined with accusation of a grave or exceptional crime, is penalized with a fine for up to 300 to 600 minimal salaries or detention up to 4 years. "

²⁷ See Art.381 "Civil disobedience" of draft Penal Code, "(1) Persons that impede in active manner the implementation of requirements of the Constitution of Moldova and other laws of Moldova by open civil disobedience and provoke others for same actions, -- is penalized with a fine for 400 minimal salaries or unpaid labor in the benefit of community from 200 to 240 hours or detention up to 3 years. (2) Same actions, followed by an appeal for civil disobedience in mass of the requirements of the Constitution and other laws of Moldova, as well as organization of them, -- is penalized with a fine from 300 to 600 minimal salaries or detention from 3 to 7 years, (3) Actions stated in (1) or (2), made by the leaders of state administration, enterprises, institutions and organizations disregarding the type of property that bring prejudices to the interests of state or public, -- are penalized with detention up to 3 years with privation to occupy some positions or exercise some activities for a period more than 5 years."

²⁸ See Art.382 "Profanation of state symbols" of draft Penal Code, "(1) Profanation of state symbols (flag, hymn, sign) of the Republic of Moldova or another state or violation of the way of using of them, -- is penalized with a fine up to 500 minimal salaries or with detention up to 3 years. (2) The same actions, made: a) in a repeated way; b) by a prior agreement by a group of persons, -- is penalized with a fine from 200 to 700 minimal salaries or detention from 2 to 6 years, (3) Actions mentioned in (1) or (2) made by persons occupying functions of responsibility for using of state and national symbols, -- is penalized with a fine from 500 to 800 minimal salaries or detention from 4 to 7 years in both cases with privation of right to occupy certain functions or exercise certain actions for a period up to 5 years "

²⁹ See Art.415 "Insulting a military servant" of draft Penal Code, "(1) Insult of a superior by an inferior, and the inferior by superior in relation with exercising of obligations of military service, -- is penalized by sending the guilty to a disciplinary military troops up to 2 years or detention up to 3 years (2) Same action made: a) in the time of war; b) in the time of fighting, -- is penalized with detention up to 5 years."

³⁰ See art. 75 of draft Contravention Code "Calumny". Calumny, or dissemination with good intent of hereabouts that defame a person, is to be fined by a fine from 15 to 25 minimal salaries or contravention detention for up to 30 days.

³¹ See art. 76 of draft Contravention Code "Insult", (1) Insult, lowering with intent of honor and dignity of a person by action, in verbal or in written, is to be fined by a fine from 10 to 20 minimal salaries r contravention detention for up to 30 days. (2) Insult made thru a publication or copied circulated information is subject of fine from 15 to 25 minimal salaries or contravention detention from 10 to 60 days.

³² See art. 93 of draft Contravention Code "Confection or dissemination of works that propagate violence cult and cult of cruelty" Confection, dissemination, demonstration or storage with intent to disseminate or demonstrate films or other works that propagate cult of violence or cruelty, is to be fined from 10 to 20 minimal salaries with confiscation of materials used or to be used for doing a contravention, as well as materials and good acquired by contravention; juridical persons are fined from 200 to 300 minimal salaries with confiscation of materials and goods used or to be used for doing the contravention, as well goods acquired by contravention"

³³ See art. 94 of draft Contravention Code, "Confection or producing of pornographic objects and propaganda of services and carrying out spectacular measures with sexual character" Confection, dissemination or publication of pornographic materials, published works, drawings or other objects with pornographic character, commercialization or storage with intent to sell or disseminate, as well as offering and circulating of services and carrying out of spectacular measures with sexual character, is subject of fine from 10 to 20 minimal salaries with confiscation of goods used or to be used for doing of contravention, as well as well goods acquired by contravention; juridical persons are fined from 200 to 300 minimal salaries with confiscation of materials and goods used or to be used for doing the contravention, as well goods acquired by contravention"

³⁴ See art. 337 of draft Contravention Code, "Violation with intent of way to use of state symbols", (1) Violation with intent of way to use of state symbols (hymn, sign, flag) of the Republic of Moldova or any

hooliganism³⁶; organization of illegal strike³⁷; blocking with intention of enterprises, institutions, organizations, transportation roads³⁸; violation of ways established for organization and carrying out of meetings³⁹.

Vague and abusive procedural provisions of the draft Contravention Code support the substantive provisions and grounds for penalties. For all mentioned sanctions police enforces the law playing a role of the establishing of facts authority. For all mentioned substantive provisions, the establishing authorities can take so-called assurance measures, including detention of the person for up to 3 hours or for up to 24 hours⁴⁰ that starts from the moment the person is brought to the police headquarters or to another public place⁴¹. Police can apply also a detention for a longer period of time thru mandate procedure with regard to the contravention⁴². Police writes the protocol of the establishing of facts

other state, is fined from 5 to 10 minimal salaries. (2) Actions provided in (1) made as a result of a priory agreement by a group of persons, as well as by persons responsible for use of state symbols, is fined from 10 to 20 minimal salaries or contravention detention for up to 30 days.

³⁵ See art. 338 of draft Contravention Code.

³⁶ See art. 373 of draft Contravention Code, "Petty hooliganism", (1) Petty hooliganism, unashamed curses in public places, insulting accosting of citizens and other similar actions that violate moral norms that disturb public order and silence of citizens, is subject of fine from 10 to 20 minimal salaries or contravention detention for up to 10 to 20 days. (2) Petty hooliganism or hooliganism carried out by teenagers of age between 14 to 16 years, is subject to fine of parents or persons legally responsible from 5 to 15 minimal salaries.

³⁷ See art. 377 of draft Contravention Code, "Illegal strike", Organizing of illegal strike not respecting the conditions provided in the law, is subject of fine from 15 to 25 minimal salaries.

³⁸ See art. 390 of draft Contravention Code, "Blocking of enterprises, institutions, other organizations, roads", (1) Blocking of roads and buildings that belong to the enterprises, institutions or organizations by installing posts or in any other way that provoke or could have provoked disturbance of normal functioning of railway transportation, air transportation, water transportation, auto transportation, enterprises, institutions, organizations, is subject of fine from 10 to 20 minimal salaries. (2) Same actions made by a group of persons as a result of prearranged plan, is subject of fine from 15 to 25 minimal salaries or contravention detention from 10 to 20 days.

³⁹ See art. 378 of draft Contravention Code

⁴⁰ See art. 501 of draft Contravention Code "Terms of detention", (1) Detention cannot exceed the term of 3 hours, with exception of cases provided by para. (2) and (3) of the Code. ... (3) suspected person that is likely to apply the sanction of contravention detention can be detained until the examination of the case on contravention but no more than 24 hours. (4) Terms of contravention detention is calculated from the moment the suspect is brought for writing the protocol...

⁴¹ See art. 497 of draft Contravention Code, "Measures to Assure the application of contravention procedure", (1) In the scope of redressing of contravention, identification of contravention when the protocol of contravention cannot be written at the place, for the scope of operative examination of the case and execution of the decisions on the matter, the establishing authority has the right, within the limits of its competence, to apply the following assurance measures of contravention procedure: 1) bringing the suspect to the place where the contravention protocol will be written; 2) detention of person; 3) bringing the person according to the mandate; 4) corporal control and control of means of transportation, control of people in the means of transportation; 5) seizure of documents and objects, ...7) detention of means of transportation and people inside; (2) with regard to the juridical person establishing authority can apply: 1) control of the buildings and territories and goods located inside, means of transportations and other objects inside; 2) seizure of documents and other goods belonging to the person; 3) application of sequestration of goods, means of transportations and other goods belonging to the person. And art. 499 of draft Contravention Code (1) Detention composed of limitation for a short period of time of physical liberty of person. It can be applied, in exceptional cases, for the assurance of the procedure and execution of the decision in contravention cases...

⁴² See art. 503 of draft Contravention Code "Apprehending by mandate", (1) Apprehending by mandate is composed of forcible bringing of person to the organ that issued the mandate in cases of person's

applying the measure provided in the law in cases when detention is not provided, the sanction is subject to judicial appeal in the court within period of 10 days, with decision of police taking force immediately⁴³. If the person disagrees or the sanction contains detention, the court examines the case⁴⁴. Police and the person subject of measures as the draft Code provides and adversarial procedure share the burden of proof of the facts, established by police and sanction applied contained in the protocol of established of facts⁴⁵. Positive obligation to provide legal aid is guaranteed by the state only in cases suspected explicitly requests that, suspected is a minor, or has a handicap of any kind, or the interests of different suspected are conflicting⁴⁶.

- Draft Civil Code Provisions Affecting Freedom of Expression

Towards December 2001, Moldovan Parliament had been considering in the second reading the draft Civil Code. The draft contains a number of provisions that might affect the freedom of expression and freedom of information: prohibition of dissemination of information that violates non-patrimonial personal rights⁴⁷, protection of honor and dignity⁴⁸, right to secrecy of family life⁴⁹, right to image⁵⁰,

obligation to be present upon summon or organ that is the establishing fact authority (police). (2) Apprehending by mandate is made by the organ of police by presenting of mandate issued by court or **by chief of police**. (3) ...

⁴³ Art. 519 of the draft Contravention Code "Paying the fine at place", 1) In case of contravention for which the article of special part of the Code provides only fine, the person has the right to pay the fine at the place receiving the receipt, of amount of at least half of the fine unless he/she: 1) suspected contests the qualification of contravention; 2) suspected agrees to pay fine at the place, 3) there is no other damages caused

⁴⁴ See rt. 520 of the draft Contravention Code, "Sending the contravention case to court", If the substantive sanction provides other actions then fine or warning, as well as when suspected contests the deeds or there exist damages, the case is being sent immediately to the court for examination being duly signed by the chief of the police or establishing authority.

⁴⁵ See art. 486 "Evidence", (1) Evidence is any real information, on the basis of which, by the way established in present Code, establishing authority or court, establishes the presence or lack of contravention fact, liability of suspected and other circumstances that have importance for just solution of the case. This is established thru protocol of the contravention, protocol of application of assurance measures of contravention procedure, thru explications of the suspected, victims, witnesses, thru examination of delict corps, thru expertise and written materials. (2) ...

⁴⁶ See art. 482. Obligatory participation of a lawyer. (1) Participation of lawyer in contravention procedure is obligatory in case when: 1) this is asked by suspected, 2) suspected faces difficulties to self-defense, being mute, or other handicap of any kind impeding him/her to effectively exercise the defense; 3) suspected at the moment of contravention is a minor; 4) interests of suspect persons are different; 5) in the case participates a lawyer on behalf of victim or civil party. (2) Obligatory participation of lawyer in contravention procedure is assured pro bono by the authority that carries out the procedure.

⁴⁷ See Art. 32 of draft Civil Code "if personal non-patrimonial right can be violated by means of materials prepared for publication in journals, papers, radio, tv, cinema programs, at the request of the interested person, court is in right to forbid the dissemination or publication of this materials. And if the information is already disseminated, at the request of interested person, the court is in right to decide to seize and destroy the whole journals, papers, books, program, etc"

⁴⁸ See art 14. of draft Civil Code: "1. any person has the right for respect of honor and dignity. 2. any person has the right to ask for denial/refutation of affirmations that slander person's honor and dignity, unless the person who disseminated the information proves that the information corresponds to the reality. 3..."

⁴⁹ See art. 44 of draft Civil Code: "No one is in right to interfere with family life without the respective consent of the person, and to disseminate data about private personal life and family life, that have become known in relation with the exercise of person's function or from other sources."

general limitation clause for non-patrimonial rights⁵¹, new rules for regulation of freedom of information⁵².

In the light of discussions that follow, the new provisions are not considered a satisfactory development in view of better protection of freedom of expression and right to information⁵³.

- Threat to Withdraw Licence on Grounds of "contesting and defaming the state and nation"

Coordinating Audiovisual Council (CCA) decided withdrawal of license to broadcast of a private TV company on the grounds of "contesting and defaming the state and nation". On August 29, 2000 CCA decided to suspend the license of a private TVC21 cable TV station for a period of three months. It

⁵⁰ See art.55 of draft Civil Code: "1. No one is in right to make photo, create, publish and disseminate or by other means spread the person's affecting information (photo, movie, audio-visual recording, drawing, or other artistic opera, etc) without the consent of the person. 2. The person's consent is presumed for making photo, audio-video recordings if they are done at meetings, gatherings, conferences, etc and in other places of concentration of people in mass. 3. At the gatherings, meetings, conferences, etc making photos of the participating persons, can be done by persons who have respective authorization of the organizations. 4. Obtaining person's photo without person's consent can be effectuated according to legislation. 5. The photo can be disseminated against person's will if this information protects person's interest or the interests of other persons. 6 The person's consent for publication or dissemination of photo is presumed if he/she received payment for it"

⁵¹ See art. 30(3) of draft Civil Code "...3. Physical person is in right to dispose himself/herself, if not violating the rights and liberties of others, public order or good morals"

⁵² See art. 51 of the draft Civil Code: "1. A person has the right, in conformity with the law, to obtain, utilize, and disseminate information. 2. The right to information should not cause prejudices to the measures of legal protection of persons or state security. 3. Researching of information that constitute state secret or commercial secret, as well as selecting, keeping, using and disseminating of information about private life of a person against his/her will is not allowed. 4. Information presented by a person, while exercising his/her function as well as information from official sources is considered true. 5. A person that utilizes and disseminating information is obliged to be convinced about the truthiness of information and is fully responsible for the risks and effects resulted from the non-execution of this obligation."

⁵³ Excerpt from Moldovan Helsinki Committee analysis of the draft Civil Code provisions:

- draft art. 42 (1) does not give the definition of "honor", "dignity" that uses in the law. The great confusion in Moldovan court practice imposes the imperative for clear definition of these terms and needs for different reglementation.
- draft art. 42 (2) uses the notion "affirmation" that includes both facts and opinions that is in this context imposes unreasonable restriction.
- draft art. 42 (2) imposes burden of proof of truth on the journalist:
 - a. It is out of logic to request from the journalist to demonstrate that his/her opinions corresponds to reality and is true;
 - b. Before the journalist is hold liable the versus party should demonstrate the actual loss or damage caused;
- draft art. 42 fails to provide journalists legitimate defense:
 - a. There is a greater public interest in knowing than to protect "reputation".
 - b. There is no malicious intention in journalist action.
 - c. Journalist cited with accuracy the public sources and due references.
 - d. Journalist made reasonable investigations and made use of normal practices of documenting practices in the field and in the country..
- Draft art 42 does not give the definition of "public person" or the person that by virtue of the subject becomes a public person, and therefore requiring a different legal arrangements or at least corrections for interpretation.

motivated its decision that on 29 July, 2000 TVC21, in the informative news program aired an interview with one of the leader of self-proclaimed "Dniester Moldovan Republic" ("DMR") about "DMR" recent local elections. CCA arguments that "...the interview with Maracuta, a person that fights for separation of Moldova as a unitary state and incites for territorial separatism" violates the Constitution. The decision grounds on the provisions of art 32 (3)⁵⁴ of the Constitution of Republic of Moldova and art. 3⁵⁵ of law on Audiovisual.

The incident takes place while provisions of art. 32(3) of the Constitution and art. 3 of law on Audiovisual had been under scrutiny of monitoring of PACE⁵⁶ Committee on honoring of Moldova's obligations before the Council of Europe in the context of not application these limitations of freedom of speech. Moldovan Government proposed draft modifications of the mentioned legal provisions to comply with the mentioned obligations.

- Restrictions on Activities of Journalists

The law imposes further limitations, than those stipulated in international human rights instruments applicable. Article 30 (1)⁵⁷ coupled with 44(b)⁵⁸ violate fundamental freedoms and liberties which are being restricted by labor contracts, and provisions of essentially restrictive art. 3. Art. 44(b) allows the Government to prosecute, invoking Penal Code provisions, journalists that prepared and distributed the programs with violation of art.3.

The "Law on Audio-visual" lacks the relevant provisions providing the journalists' accreditation and the remedy for the accreditation refusal. The respective regulation may be found in "Press Law" and a variety of Government's rules.

- Monopolistic Restrictions

The Government has priority access to public audio-visual institutions. Art. 13(1)⁵⁹ legitimizes the priority access to public audiovisual institutions of the government. The priority access is conditioned with the "of public interest" information. One, as logic helps, can hardly, if at all, imagine the information of nonpublic interest from the Government. Therefore, it can be undoubtedly concluded that the Government simply legitimized the priority of access to information in the Republic of Moldova. At the moment, it is inadmissible, when state television covers the whole territory and the private one has just made its first steps. It might be much more reasonable to leave the Government priority access with the information of vital interest for the society or something more restrictive and clearly worded. Moreover, the last phrase "other official information is established in common with the CCA" allows pressure on behalf of the Government on the CCA.

- Penal Provisions

⁵⁴ Article 32. Freedom of Opinion and Expression

(3) The law shall forbid and prosecute all actions aimed at denying and slandering the State or the people. Likewise shall be forbidden and prosecuted the investigations to sedition, war, aggression, ethnic, racial or religious hatred, the incitement to discrimination, territorial separatism, public violence, or other actions threatening constitutional order.

⁵⁵ Article 3. The freedom of audio-visual expression presupposes the strict observance of the Constitution and does not allow the detriment of other persons' honor, dignity, private life and right to have their own views.

⁵⁶ PACE-Parliamentary Assembly of the Council of Europe

⁵⁷ Art. 30 (1) say, "Journalist (a) will not commit violation of art.3; (b) will respect the requirements that resulted from the present law, statute of audio-visual institution and labor contract concluded."

⁵⁸ Art. 44(b) say, "(b) preparation and distribution of programs with violation of provisions of art. 3"...is prosecuted in conformity with the legislation."

⁵⁹ Art. 13(1) say, "Public audiovisual institutions air with priority and free of charge the information of public interest from the Parliament, the Presidency and the Government. The airing of other official information is established in common with CCA"

Moldovan Penal Law contains several provisions that criminalize “profanation of national symbols”, “outrage of a public official” and “calumny of state official without malicious intent”.

Expression of criticism or insult, by means of symbolic speech, of the national symbols is outlawed and penalized by the present Penal Code. Art 203(2)⁶⁰ allows the government suppression of symbolic speech of a social value having as the means of expression national state symbols of the Republic of Moldova or symbols of other state. The absolute protection of the state national symbols by a vague and broad formulation of wording “profanation” (in Romanian “profanation” carries the meaning of treatment without respect) cannot be legitimately justified in a democratic society. Symbolic speech, having a social value and contributing to societal discussions presents an inalienable part of an expression targeted on dissatisfaction of the Government, its agencies and public officials. The broad meaning of “profanation”, being abusively interpreted, inadmissibly limits peaceful expression of criticism (through teaching, publication, research, etc...) or even insults that do not intend or are not likely to incite imminent violence. Moreover, Symbolic expression with state national symbols may have different aspects of the message: economic, political, social, and all of them may present vital interest for the society. The article’s wording does not relate the likely or imminent effect or consequences produced by speech with the content of the message and its societal value.

Public officials enjoy higher criticism protection than non-official persons and have immunity against criticism targeted at exercising their functions. Arts 205⁶¹ and 205 (1)⁶² essentially restrict the expression of information communicating about personal abilities and skills of a public official, a member of the Ministry of Interior or a servant of a nongovernmental organization that exercise the function to maintain public order and combat criminality. It is an inadmissible limitation to consider the insult of a public official, viewed in certain situations as the extreme response to inadequate and provocative behavior on their behalf, an act to undergo penal prosecution. The broad and inexplicit wording of outrage may also raise legitimate concerns in view of the state’s attempts to considerably restrict the speech. There are also overwhelmingly many known cases of police violence and intimidation-provoking individuals a back word fight reaction. Art. 205 (1) goes even farther on tabooing personal criticism of the police officer justifying it with the extremely broad “outrage of honor and dignity”.

The public affirmations of a private individual or a journalist without malicious intent are the subject of state prosecution. Art 205 (2)⁶³ defines the calumny as spreading or circulation of obvious false

⁶⁰ Art 203 (2) of the Penal Law say, “Profanation of state national symbols of the Republic of Moldova or a of other state, is penalized with deprivation of liberty of up to 3 years or with correctional work for up to two years, or with penalty of up to 50 minimal salaries. The same actions, made for the second time or with an agreement of group of people, is penalized with deprivation of liberty with up to 7 years or with a penalty from 50 to 70 minimal salaries....”

⁶¹ Art. 205 of the Penal Law say, “Outrage against of a representative of state power or against a representative of a nongovernmental organization that maintain public order when they exercise their functions, is penalized with correctional work for up to 6 months or with penalty of up to 30 minimal salaries or calls for application of measures of social influence. The same actions made in public are penalized with correctional work for up to one year.”

⁶² Art 205 (1) say “Outrage of the police officer (outrage of his honor or dignity), outrage of other person from Ministry of Interior or of a person serving in an official capacity as well as in a nongovernmental organization to maintain public order and combating of criminality, expressed by actions, verbally or in written, made repetitively within the period of one year after an administrative sanction against similar actions, is penalized with the deprivation of liberty for up to 6 months or with correctional work for the term of up to one year, or with penalty for up to thirty minimal salaries.”

⁶³ Art. 205 (2) of the Penal Code say, “Calumny of a collaborator of order protection state organizations, or distribution of obvious false and defaming information as to his/her professional activities including calumny by printing or other mean of multiplication through mass media, anonymous letters, is penalized with deprivation of liberty of up to 3 years or with correctional work for up two years or with penalty of up to 30 minimal salaries.”

information in printed or written form. It is easy to see that the obviousness of one's opinion on the origin or truth of information does not necessarily coincide with the other's opinion on that. Mass media namely serves the role of the watchdog in the society and make the information transparent of abuses of power and force, etc. There is also another side at stake, even if the information is found to be not true; one should always weigh the intent of the mass media. The large wording of the article allows outlawing the information positively intended to contribute to discussion having social value, however wrong it is later confirmed to be.

- Concluding Points

The following provisions are considered vulnerable as to international human rights standards and require modifications:

- Art. 32 (2), art (2-4) of the Constitution of the Republic of Moldova;
- Art. 3 of the Law on Audio-Visual in view of defining of level of openness to criticism of public officials and their delimitation from private persons;
- Art. 30 and art. 44 in view of more restrictive obligations imposed by labor contracts;
- Art. 13 (1) in view of eliminating of priority of state central authorities access to mass media;
- Art. 7(2) and art. 31(2) in view of exempting the CCA from infringements of legislature's abusive interpretations;
- Art. 29 in view of providing with remedy the access to information;
- Art. 37 and art. 43 in view of exercising of right to private property and separation of powers;
- Art. 41 (2) and art 43 in view of providing the CCA with sole independence and independence from the Government;
- The modifications of Penal Code provisions.

Article 21 Freedom of Assembly

- Legal provisions

At the outset of the monitoring project the legal environment consisted of: the old law on assemblies, which had been adopted in 1995, the provisions of the Constitutionⁱ, provisions of the Code of Administrative Offences (CAO) and the provisions of the Criminal Code (CC). At the time of writing this report the CAO and CC both remained unchanged.

1. Definition of assembly (art.2, 3, 6(1)). The old law defined assemblies through specific forms such as: meetings, demonstrations, manifestations, processions, picketing and other forms. It excluded assemblies organized by political parties, religious organizations, public authorities, commercial actors, sports events. Only peaceful and unarmed assemblies were legal and allowed.

2. Authorization of assemblies (art. 11, 12, 13, 14, 15). The old law provided for an authorization procedure. Organizers had to submit a request for a permit to City Hall 15 days before the event. City Hall had to issue a permit, including any conditions imposed, 5 days before the assembly. City Hall could refuse a permit and the organizers could appeal any refusal in court. Failure to issue a permit was considered acceptance of the assembly.

Issuing an assembly permit was done by a commission on assembly permits. The commission prepared a draft permit and submitted this for the mayor's signature. The commission members included: a representative of the socio-cultural department of the mayoralty, a legal advisor to the mayoralty, and representatives of the police. In some cases security agents also joined the work of the commission. Hearings and deliberations were in principle open and the organizers were invited to participate. The police always had an important input regarding the route, conditions and restrictions that might be imposed.

3. *Organizers, participants of assemblies (art. 4, 6(2), 10)*. Only citizens over the age of 18 with full legal capacity or juridical persons could organize assemblies. Children and persons bearing forms of weaponry were not permitted to participate in assemblies.

4. *Conditions for assemblies (art.8, 9, 17)*. Assemblies could only be held in public spaces. Assembled were not allowed within 25 meters of buildings of the legislative, executive and judicial powers or local authorities. Local authorities could establish special places for assemblies. The timing of an assembly was subject to local authority regulation. The police and local authorities could further regulate assemblies on the ground.

5. *Ban, limitation, suspension of assembly (art. 7, 17)*. Assemblies that defamed the nation, incited to war or discrimination or subverted constitutional order were not allowed. The police and local authorities had the power to suspend an assembly.

6. *Positive obligation of police and local authorities (21, 22, 23, 24)*. The local authorities, together with police, had responsibility to facilitate peaceful assemblies.

7. *Responsibility, liability of organizers, participants (18, 19, 20)*. Organizers were responsible for ensuring assemblies remained peaceful and for co-operating with the police to maintain order, and were liable to pay for services provided. Organizers also had the following liabilities:

1) *organizer (article 22(1) provides civil, administrative and penal responsibility)*:

- a. (civil) for the costs of damages,
- b. (administrative) failure to follow the notification procedure - 22(2)ⁱⁱ,
- c. for the actions of the participants - 22(3) if demonstrated that they acted upon instigation of the organizer,
- d. (administrative) for failure to perform duties provided in the draft lawⁱⁱⁱ,
- e. (administrative) obstruction of public transport or institutions^{iv},
- f. (administrative) involvement of children in unauthorized assembly^v,
- g. (penal) propaganda for war^{vi},
- h. (penal) incitement actions and hatred^{vii},
- i. (penal) calls to forcibly overthrow the Government^{viii},
- j. (penal) serious disturbance of public order^{ix}.

2) *Participants (article 22(1) provides civil, administrative and penal responsibility)*:

- a. (civil) for the costs of the damage,
- b. (administrative) active participation in the assembly without proper notification or violating manner of assembly^x,
- c. (administrative) obstruction of public transport or institutions^{xi},
- d. (penal) propaganda for war^{xii},
- e. (penal) incitement actions and hatred^{xiii},
- f. (penal) calls to forcibly overthrow the Government^{xiv},
- g. (penal) active participation in serious intervention in public order^{xv}.

3) *third parties (no civil or administrative)*:

- a. (penal) obstruction of assembly or participation in it^{xvi}.

4) *police (no civil or administrative)*:

- a. (penal) obstruction of assembly or participation in it^{xvii}.

5) *local authorities (no civil)*:

- a. (administrative) for hindering the notification procedure – 22(2), if demonstrated by the organizer in court^{xviii},
- b. (penal) obstruction of assembly or participation in it^{xix}.

8. *Role of police and local authorities*. Police were subordinate both to the local authority and to the Ministry of Internal Affairs. The municipal and regional police are organized as Commissariats, which is the police inspectorate, and the territorial police that enforce the law. Commissariats are composed of:
1) Sector police, attached to particular parts of a city, which have responsibility to oversee order at a

local level and are financed from municipal or regional budgets, but methodologically and hierarchically subordinate to the Minister of Internal Affairs. 2) Criminal police, who are financed by the Minister of Internal Affairs and located in the same building as the sector police. Finally, the Ministry of the Interior has Special Police for Maintenance of Order (“Scut”) who are directly involved in the policing of large assemblies. Sector police are primarily responsible for ensuring order at assemblies, while members of Scut (Special Police for Maintenance of Order) will be deployed at the larger events.

The new law on assemblies was enacted on 22 April 2008. The favorable context for its adoption had been facilitated by:

- An individual EU-Moldova Action Plan that expressly required a comprehensive revision of the law on assemblies;
- Technical support and expert opinion of the OSCE/ODIHR and OSCE Mission to Moldova;
- An active role in lobbying and co-operating with the Ministry of Justice by CReDO, Promo-lex and Amnesty International-Moldova in adopting of the law on assembly.

Comparative analyses of the key provisions of the old and new laws

Comparative provision	Provision of the Old law	Provision of the New law (as of 22.04.2008)	Conclusions, risk factors
1. Definition of assembly and assembly principles	The definition is built on forms of assembly, does not permit simultaneous and spontaneous events. It excludes religious, commercial, sporting, cultural and political meetings.	A temporary, intentional gathering provides for simultaneous and spontaneous assemblies. It includes political but excludes religious, sporting, cultural and commercial meetings. Establishes principles of legality, non-discrimination, proportionality and presumption in favor of freedom of assembly.	The new law is more inclusive and generic in covering all possible forms of assemblies. It additionally includes political assemblies within its remit. Assembly principles in the new law provide better interpretation of the provisions of the law.
2. Notification /Authorization	Assemblies are authorized if submitted 15 days in advance. Permits provide for specific conditions to be made.	Assemblies do not require authorization, only 5 days prior notification, with an exception for notification of small or spontaneous assemblies. Accommodation of plurality of assemblies.	The new law is liberal and permissive. It facilitates the exercise of assemblies and aims to accommodate multiple events including oppositional assemblies.
3. Organizers and participants	Only citizens with full legal capacity. Children cannot be involved.	Everyone including minors and persons with limited legal capacities can organize events.	The new law removes all restrictions on the organization and exercise of assembly, and empowers vulnerable groups.
4. Conditions for assemblies	Special commission decides on conditions imposed on an assembly. The commission may impose conditions under threat of refusing a permit. Conditions imposed prior on forms, time, place and manner and during the	Special commission only screens notifications. May hold meetings with the simultaneous assemblies’ organizers. May only recommend restrictions, the organizers must make final decision	The new law removes censorship on assemblies. Allows for subsequent scrutiny of authorities involvement of conditions on assemblies. Risks remain due to insufficient capacity of local authorities and police to apply

	assemblies by police, special places recommended.		new law in practice and refrain from undue influence.
5. Ban, limitation, suspension of assembly	<p>Authorization effectively used as ban, recourse to courts fails to ensure the exercise of the right as decisions come later.</p> <p>Grounds broadly formulated: defamation of nation, order, constitution. Same broad grounds applied to limitation or suspension of assembly.</p> <p>Suspension is decided by police, with some involvement by local authorities in forcible dispersion.</p>	<p>Authorities can only ban or impose a limitation to the assembly by a court decision, which is a substantial guarantee.</p> <p>Suspension of ongoing assembly is prescribed as matter of last resort, when other measures have been tried out.</p> <p>Decision to disperse is taken by local authorities and police.</p>	<p>The new law provides substantial increase in guarantees and make possible legally suspension only in very limited number of cases.</p> <p>Risks remain in insufficient capacity of local authorities and police to apply new law in practice and refrain from undue influence.</p> <p>Another risk results from hostility between central and local authorities in some cases.</p>
6. Responsibilities of organizers, participants	<p>Organizers are responsible to maintain order and to pay for services.</p> <p>Some liability for the actions of participants and damages caused.</p>	<p>Organizers responsible for their own actions, including towards the participants, must cooperate with police.</p> <p>Authorities have to provide necessary services.</p> <p>Most of penal, administrative liability remained unchanged.</p>	<p>New law partly limits organizers responsibility, and provides for positive obligations of police and local authorities.</p> <p>Risks remain in practicalities of the application of the new law in practice and ability to refrain from undue influence.</p>

- Recommendations

Regarding strengthening of the notification procedure, there is a need for:

- 1) Consolidation of local authority and police capacities to deal with notifications, facilitation of the notification procedure, developing skills of the members of the commission on assemblies to work and deal with the organizers,
- 2) Collection of disaggregated information and statistics, comparable to those presented in this report, in order to understand the development of the functioning of the notification procedure,
- 3) Introduction of an on-line platform to announce lodging of notification and to publicize notified assemblies helping local authorities and the potential organizers to plan assemblies; the on-line platform could be modeled to the one that is used by the monitoring project,
- 4) Publication of the annual and bi-annual reports with detailed information on assemblies comparable to the information included in statistical information section.

Regarding holding assemblies and interventions in assemblies there is a need for:

- 1) Development of police awareness of the incompatibility of the use of administrative sanctions legislation with freedom of assembly legislation,
- 2) Capacity-building and confidence-building among the police to deal with conflict situations,
- 3) Developing skills and tactics in managing confrontational, aggressive and contradictory behavior,
- 4) The creation of specialized assembly-management policing groups, with a maximum of 50 persons who could be deployed to manage assemblies,

- 5) Learning from the court decisions on invalidating police interventions during assemblies, including dispersal, detention, etc.
- 6) Organizing capacity-building activities for the local authorities, police, organizers and media.

Regarding creation of generally policy-learning process there is a need for:

- 1) Greater political enforcement of the existing law on assemblies, the law is among the best in OSCE countries in terms of legal regulation of the freedom of assembly,
- 2) Greater co-operation between the police and local authorities in policing and facilitating freedom of assembly,
- 3) Production by the police and local authorities of annual reports including statistics and information on assemblies to inform the public,
- 4) Annual reports, which can be used for a review of practice and lessons relating to developments around freedom of assembly.

Article 22 Freedom of Association and Trade Unions

Some institutional improvements in freedom of assembly legislation, no progress in association, and practice abundant with political parties' harassment and improvement in insurance of freedom of assembly rights.

Positive developments:

- New law on freedom of assembly has been lately approved, the law is more liberal and inclusive, and practice started to change positively,
- Changes in the nonprofit legislation, fiscal facilities for NGOs is being considered,

Negative developments:

- police prosecute and harass the organizers of the assemblies,
 - law enforcements question the legitimacy and intimidate constituencies of some political parties,
 - Law on political parties does not have enough guarantees for party registration, suspension,
 - Domestic courts judges lack awareness on ECHR case-law and bend under political influence (likely to generate cases),
 - Slow procedure for registration of local and national NGOs,
 - Police lack awareness and training on managing public assemblies (likely to generate cases),
 - Domestic courts judges lack awareness on ECHR case-law and bend under political influence (likely to generate cases),
 - Direct costs of bad policy to society: 15 000 E,
- ECHR cases on Article 11 (freedom of assembly, association):
 - (2004, Ziliberberg, partly admissible) dispersal of public assembly
 - (2005, Popular Christian Democratic Party) temporary suspension of party for holding “un-authorized” public meetings

Recommendations:

- Adoption of the new law on political parties
- Training the regulatory authorities (local authorities) in handling notification/authorization of public assemblies
- Training Policy in managing and facilitating public assemblies

- *Political Association on Ethnic Basis*

As was described before Moldovan law on political parties requires at least half of counties representation for registration. This requirement precluded political association on solely ethnic minority grounds. At the moment, when political movements matured it seems that this requirement disadvantage some of minorities, as Gagauz or Bulgarians. However, political parties have on their list representatives of these ethnic minorities it appears to be that the representation of interests of these minorities is not adequate. There are no provisions in Moldovan law that would require a certain number of minorities in the supreme legislative body or cabinet positions or supreme judicial authority or constitutional court. In some cases (supreme legislative body-parliament) the informal understandings for allocating seats for national minorities considered more or less adequate. It is difficult to judge with respect to others.

The decision of the Government imposing the obligation to public officials of different rank the knowledge of official language at different levels provoked hot discussions in the Moldovan society. There are no restrictions to elected positions. The obligation to possess official language in the extent of function to perform appears to be justifiable with regard to public officials. With regard to private organizations (see chiefs of NGOs, other organizations) the law seems to be unreasonable.

The Ministry of Justice refuses the registration of nongovernmental organizations. The refuse of the Ministry is not motivated and it doesn't embody itself in the forecasts of laws concerning the NGOs.

MIHR presents the association HomoDiversus in the process of judgment that is prosecuted to Ministry of Justice about the refuse to register the organization.

Article 27 Protection of Minorities

For this Article please see a detailed report on National Minorities.

With regard to the rights of the national minorities in Moldova:

Reinforcement of minority rights practical implementation with respect particularly disadvantaged and in past unjustly discriminated Roma, Gagauz, Bulgarians, Ukrainians:

With regard to the minority language rights:

- take positive measures in protecting **Gagauz, Bulgarian, Ukrainian** minorities from language assimilation in order to repair the injustices of the past of the policies of Russification;
- Change of the name of the villages and localities of ethnic Bulgarians and Ukrainians to reflect national minority origins;
- Encourage and improve proficient staff of Ukrainian language to communicate in Ukrainian, Bulgarian and Gagauz;
- Adopt a policy for the use of the Ukrainian, Gagauz and Bulgarian in public sphere, based on the flexibly criteria:
 - o communication verbally (not in written form) in Ukrainian with two options-respondent to the local authority and in both ways (requiring from a public servant to know passively the Ukrainian or actively), this could be at individual or public manner;
 - o use of the Ukrainian names and titles for the public offices along the official language names;
 - o active written information coming from the local authorities for the population (information posted out, decisions announced, etc);
 - o receiving an replying in written form on the requests, complaints in the Ukrainian language;

- providing the parallel functioning of two or several language where the information is provided in the Ukrainian only when requested in Ukrainian, otherwise the information is kept or delivered in the original language;
- obligation to provide all the information in the Ukrainian language as well;

With regard to minority education rights:

- Implementation of the minority rights obligations in respect to Bulgarians, Ukrainians, Gagauz minorities on educational rights through the effective establishment and support for the development of mother tongue education should constitute the another priority for the Moldovan government;
- Provide education at all levels, particularly pre-school, primary school, middle and high school in mother tongue as along with state language and other languages;
- Decentralize the regulation of education processes to local and regional authorities;

With regard to minority use of media rights:

- State radio and TV programs in Ukrainian, Bulgarian and Gagauz languages, specifically in the regions where they constitute compact population should be encouraged and provided public support;
- Private outlets in Ukrainian, Bulgarian and Gagauz languages should be encouraged by temporary affirmative actions of support.

With regard to establishing minority organizations and political association:

- Law on political parties and social movement should be modified so that to remove the restrictions for political association based on ethnic principles that preclude effective representation the interests of minorities through political process;
- The National Council of Minority organizations with consultative status to the Department of National Minorities should take into consideration and be proportionally composed of the community interest based minority organizations.

With regard to participation in the decision-making process:

- Greater emphasis should be placed on the representation and consultation of community based national minority organizations in the elaboration and implementation of policies relevant to the respective minorities, especially with regard to the Bulgarian, Ukrainian and Gagauz national minorities;
- Decision-making processes on education, culture, other issues should be devolved to the regional and local authorities with the compact population of the national minorities;

With regard to enforcement of provisions of the agreements:

- Implementing and enforcement of minority rights provisions should be undertaken under the initiative of the Department of the National Minorities that needs further capacity building and raising of professionalism;

The Department of National Minorities and other public authorities (Ministry of Education, etc) should closely co-ordinate their efforts in advancement minority rights obligations;

With regard to Roma rural communities in Moldova:

It is considered extremely important that local and central authorities through positive measures include the following measures that will improve the situation of the people living in rural communities of Roma:

- Take measures that will provide Roma representative counselor in local administration and political bodies and local decision-making bodies;
- Eliminate discriminatory practices with regard to allocation of public finances on education and culture for rural communities of Roma;
- Assure minimal human conditions of existence including but certainly not limiting to, running and drinking water, electricity, telephone communication, access means to the community, medical care;
- Assure access to schooling system and create minimal conditions;
- Undertake measures for compensation of past injustices regarding the privation of majority of rural Roma communities of access to asset generation (access to land privatization);
- Guarantee access to education in Romani language in those communities where the need exists;

With regard to the forcible assimilation and ethnic cleansing of more than 100 000 Moldovan children and about 300 000 Moldovans in the region taking place in Transnistria region of Moldova:

- oblige the de facto Transnitrian leadership to refrain from forbidding and punishing by law the use in private and public schools the use of Moldovan language in Latin script;
- oblige the de facto Transnitrian leadership to refrain from prosecution of children parents supporting the establishment of private and public education in Moldovan language in Latin script;
- oblige the de facto Transnistrian authorities to refrain from direct public support for aggressive anti-Moldovan propaganda, chauvinism in public media;

Specific Situations

1. Situation of a good number of *Roma communities* in rural areas throughout the Republic of Moldova most urgently with regard to:
 - a. discriminatory practice and non-representation in the in local public administration decision-making process affecting the communities;
 - b. non-discriminatory access to public benefits;
 - c. access to assets and their generation;
 - d. access to educational system and right to education in Roma language;
2. Situation of *Moldovans in Transdnister region* of the Republic of Moldova most urgently with regard to:
 - a. Non-representation of interests of Moldovan relative minority (against Russians and Ukrainians) with regard to the political process of decision-making affecting the Transdnistrian region as a whole;
 - b. right to education (public and private pre-school, primary and high education) in mother tongue and compulsory education in Cyrillic of Moldovan children;
 - c. communication with public authorities in the language of relative minority, attempts of “ethnic cleansing”;
 - d. freedom of expression in public and in private, including through media;
3. Non-representation of interests of *Gagauz minority (Gagauz Autonomous Entity)* in the *Parliament of Moldova* with regard to the political process of decision-making affecting the Republic of Moldova as a whole⁶⁴.

⁶⁴ Not to mention the ban to set up Political parties based on ethnic belongings.

4. Non-representation of interests of *Bulgarian minority (Taraclia county)* with regard to the political process of decision-making affecting the South region of Moldova.

5. Various forms of discrimination based on ethnicity, language in private sphere, most notable with regard to engagement in private sphere. Especially this goes true for the persons belonging to Roma but also ethnic Moldovans.

- Roma minority in rural areas and beyond

Roma are not officially ever recognized and seen as a national minority. Roma constitute compact population in North of Moldova in several towns and in Central-West part of Moldova also in several towns. The total population is roughly estimated to 100 000-200 000 persons, however they seems to be more. Although, they are seen quite distinct from the other population through peculiarities of culture, distinguished language and mostly traditions, they have not been recognized a status of an ethnic groups, ethnic community, national minority, etc in all scholar or another discussions. It is perceived that positive measures with regard to Roma minority are almost nonexistent. It has been given little, if any support for measures to assist Roma language education of primarily level or within the existent educational system. In some central areas of Hincesti sector, Lapusna county of Moldova, Roma compactly populated villages (Scinoasa, etc) are extremely poorer with no water canalization facilities, comparing with the next Moldovan villages. Comparing with other small minorities (Bulgarians, Germans, Polish) Roma does not have Roma cultural centers, libraries, books published in Roma language. Their language is not studied or researched on University level. There is no even a single audiovisual program on public television. Moldovan Government lacks a program on development of Roma cultural community. In rural areas majority of Roma study in Moldovan schools, Roma language exist only verbally. Roma community is the most disadvantaged minority, whose access to media, including public is nonexistent. There are no programs in Romani language or programs in other languages about Roma culture, etc. Roma community does not have a printed media or other way to cultivate their identity, the public authorities give no concern with this regard.

The Roma represent one of the largest minorities in country. Despite that the last official census made in soviet times 1989 shows that size of Roma population in Moldova constitute 11 600 which represent 0.3% of population indeed the number are much larger and can be estimated around 150 000 which is supported by Department for Interethnic Relations⁶⁵. They be considered to live dispersed in whole country and can be found in such cities such as: Chisinau, Otaci, Soroca, Balti, Edinet, Drochia, Riscani, Orhei, Calarasi, Nisporeni, Comrat, Ciadir-Lunga, also in transdnestrian region Tiraspol. The provisions of the Decision also state that the respective Governmental bodies will elaborate in terms of 2 months the respective plans of actions.

The main problems addressed to Roma remain to be poverty and access to public services such as jobless, housing, medical care and education with affects to their social and economic rights

The Roma continue also to face racial discrimination and to be the target of police abuses, such attitude is expressed by police officers in the north of Moldova, Edinet county, Otaci town. The migration of Roma in this town is in grown process after the event of May, 2001 where a policeman who was intoxicated with alcohol, being close to Market where were a lot of Roma, he start to manifest aggressively toward Roma people shouting racist slogans about their origin take out his duty arm and start to shoot pulled all the bullets in all ways discharge all load. The prosecutor office not makes any reactions to this case.

The situation is mostly drastically when the police officers uses their force against Roma children. For example the three policemen (were also intoxicated) of Guardian State in Orhei County, towns in central of Moldova have beaten up 15 years old a Roma boy with a duty firearm in the head, causing serious

⁶⁵ Various data estimate Roma population from 2-3% (40 000) to 7-8% (100 000) of total about 4 000000 of Moldova.

injuries according to first forensic examination. The prosecutor office from Orhei applied for a new forensic examination given with a result that sustained injures were much less “grave” than stated in the first forensic.

Such cases shiver any understandings of expectations.

Roma in Moldova are also frequently subjected to unlawful police raids, assaulting adults and children, were beating, and intimidating by police and pressured not to file complaints, for example in case of M. Z., a Romani woman together with her 4 years old son walking on the street when suddenly a police car stopped near her (not showing their Identity Card or Service Card) where two police officers get off and start to beating her, slapping in the head (causing a bump on left side of her head), snatching her hands and hair tearing the handbag saying humiliated words toward her origin.

The xenophobic attitude toward roma was expressively manifested when a non-roma man use his revenge against romani children in school. A case from Soroca, a town in the north-east of Moldova, was beaten Preida Vasile a romani boy by Surdu Anatolii inside of Gymnasium No.1 from Soroca, where Preida Vasilii is student in IX „A” form. The intolerant teachers not try to prevent the conflict or even to intervene in (was stated in a interview with Ms.Ana Pirlea, a teacher from the Gimnasium Nr.1 from Soroca, gave me on 2 October 2001).

The situation is mostly drastically when the police officers uses their force against Roma children. For example the three policemen (were also intoxicated) of Guardian State in Orhei County, towns in central of Moldova have beaten up 15 years old a Roma boy with a duty firearm in the head, causing serious injuries according to first forensic examination. The prosecutor office from Orhei applied for a new forensic examination given with a result that sustained injures were much less “grave” than stated in the first forensic. Such cases shiver any understandings.

Roma is found living scattered all over the country but also in compact mostly rural communities in all parts of Moldova. The situation of Roma in compactly populated rural communities of Moldova is one of the most alarming pressing minority rights concern. Roma compactly populated rural communities are spread throughout the country and it is deemed that about half of the Roma population of Moldova is concentrated in this form of living. The estimate number of these communities is around 20, with population varying from several hundreds to thousands. In many instances communities are a component and physically indivisible part of the settling, but frequently they form up a separate settling being including administratively as satellites in a predominately non-Roma entity. The real situation of these Roma settling is unknown as unknown remains the degree of the representation of the Roma interests in public policies. These communities are disregarded and neglected, community interests are not represented in public decision process, they lack self-administration to a slight possible degree exercised by a distinct cultural group. Other serious concerns provoked by central policies of the Government.

Material Situation

Visited communities material situation is extremely poor to the generally accepted living standards and in comparison with the neighbor rural communities of Moldovans, Ukranians, Gagauz, Bulgarians, Russians throughout the country where is relevant. Paved or hard covered roads are inexistent thus access is precluded while heavy rains or snows, especially in autumn, spring and winter. For instance Schinoasa community situated couple of km off the main road so the people of community have to carry ill people in hands up to the main road should they need an urgent medical intervention. Houses are scarce and extremely week apparently likely to fall apart. Houses of three rooms are common wide, still people live in only one room during cold times and men stay outside during summer over the night. No running water or wells and access to drinking water is a general consideration for the communities. In Schinoasa for a population of about 300 persons there were only 4 wells of which only two used for drinking purposes, but even there the water was visibly bad. In Ursari, people complained of two wells drinking water as if left over the night, some condensate would be clearly visible. In majority of cases no electricity had been available for different reasons of lack of resources to pay or electricity system

destroyed. In Schinoasa, the community was disconnected totally more five years. In Ursari, as it situated on the main road, only some of the people would have the electricity close to the next Moldovan village and around the school. For heating left over of wood or animal residues are used. Authorities strictly persecuting for cutting the wood in nearby where available. In Schinoasa one man was sentenced to 6 months for cutting one dry tree to keep the worm of his house with three children. People basically use just basic alimentation product cornflower, potatoes and some vegetables grown up during the summer. Humanitarian aid, when reached the villages, is a very important source for survival. Meat or fish is practically absent from diet. Children wear nothing during the worm times or just clothes donated through humanitarian aid during cold times. Second hand and humanitarian aid clothes is the prime source for them. In majority of cases, as is the case of Schinoasa and Ursari, no shops of any kind (food, clothes, medicine, etc) exist.

Access to Education System.

Information comes only through people coming and going out of community. Nobody subscribes to papers or listen to radio, etc for lacking money to pay. No telephone connection exists in majority of communities, as is the example of Ursari and Schinoasa. In all communities officially there are state supported primary schools in Romanian language hosting from 20 to 50 children of various years studying together in one or two rooms. In most cases the allocation from local budgets for schools is incomparably less then to schools and schooling for non Roma communities. For instance in case of Schinoasa, local mayoralty gave, comparing to the number for children from the communities 200 times less, in absolute value amounting to 0,01 EURO per child in Schinoasa and 25 EURO per child in neighbor non Roma community. In Ursari, situation is comparatively similar, however Schinoasa Roma is the worst. Children in most cases have no books and other schools requisites. In Schinoasa, during our visit, one child was crying after the paper notes we used to write and take the notes. Education is done only in Romanian/Moldovan. Kindergartens lack in all communities. Libraries contain couple of hundred books, majority of Cyrillic alphabet and only some 10-20% in Latin alphabet. Teachers come in the community school from other communities or nearby villages as rarely there would be a local person able to be a teacher or qualify for that. Children stay most of their childhood in the community not knowing where they live, the country, etc. We met many adolescents who could not read.

Access to Assets and Means to Generation of Living Income.

The land is the major asset generation and survival source in the rural communities. Roma communities had been traditionally given the status of localities without perspective that substantially economically and socially disadvantage the people of communities in Soviet times and that practice had been kept on after the independence. Roma communities' people had been outside the process of privatization of land due to the policy adopted on privatization. The participation for privatization of land in for example Schinoasa is averagely 40-50 times lesser than in nearby non-Roma community, so that the dimension of fertile land was shifted to non-Roma communities. Local authorities qualified only 5% of persons living in Schinoasa for privatization and 95% in neighbor non-Roma community. In majority of cases central social assistance program is the only source for existence, however only several families qualify. No job employment opportunities exist in the community or in nearby villages as Roma are considered up only for season works day-to-day engagement.

Participation in representation in public life.

Roma representatives are not present in all local public governing bodies. All communities administratively situated in a local administrative unit where they form minority less of 25% of population. None of the representatives exist I local councils due to the structure of the local election system. Schinoasa Roma community, being a part of larger administrative entity of Tibirica, composed on Tibirica community, Meleseni community and Schinoasa community, Schinoasa constituted 9% of population and none of 9 counselors came from Schinoasa community. In Ursari the situation is similar and none of the counselors come from Ursari community while the about 10% of population of administrative unit are Roma from Ursari.

Assimilation and Right to Enjoy Distinctive Culture.

In many communities Roma use Romani language in every day life, however in several communities we saw Roma assimilated to the population they live with. In Ursari Roma spoke Romani and clearly identified themselves with Romani identity and culture, in Schinoasa Roma would identify themselves as Romani but did not speak the Romani language. No education or study of Romani exists throughout the rural communities in Moldova. Local authorities allocate ZERO to the budget line culture for the community of Schinoasa or Ursari.

- Limitation on the ground of language

Coordinating Audiovisual Council initiated the withdrawal of broadcasting licenses of several radio-stations that “were violating the provisions to broadcast at least 65% of total airtime in the official language”. The Coordinating Audiovisual Council warned with withdrawal of licenses “Russkoe radio”, “Radio Nostalgie”, “Radio D’or”, “Serebreannii Dojdi” for failure to respect art. 13(3) of the Law on Audiovisual. On Court of appeal satisfied the petition brought by Club of Students graduated from High Education Institutions from Abroad and Romania (CAIRO) against Coordinating audiovisual council and eventually against the mentioned radio-stations obliging the Council to withdraw the respective licenses.

Meanwhile, The Parliament of Moldova interpreted art. 13 (3) of the law on audiovisual in a such a manner that the obligation to air at least 65% of the total airtime applied only for local (Moldovan based) radio-stations, excluding retranslating stations. The Supreme Court of Justice is to examine the case on appeal in late January 2001.

- Definition of National Minority

Interpretation of “national minority” has been approached by the Official Report of the Republic of Moldova on the implementation of the Framework Convention on National Minorities. It states that ‘...Moldova proposes ...the following criteria, distinguishing several categories of minorities: 1. Compact national minority, 2. Disperse-compact national minority, 3. Disperse national minority. The classification criteria are a) density per square meter, b) area of living (ethnic-geographic factor), 3. Demographic dynamics (historic-geographic factor). Taking that approximately 1/3 of the population constitute national minority of Moldova, consider that criteria has to correspond this one thirds barrier. Russian, Ukranian, Bulgarian, etc minorities take part in of 14 cities, 51 towns and 658 villages at least 1/3 of the respective population, therefore it can be considered compact ethnic minority in the respective localities. In other cases, when the ethnic minority forms up less than 1/3 of population it is disperse minority. Russians, Ukrainians, Gagauz, Bulgarians, according to the classification also take part in disperse-compact national minority. Polish (4739), Germans (7335), Armenians (2873), Jewish (40 000), Belarussians (19 608), Cazahs (2000), Asers (2 642), etc according the classification are disperse ethnic minorities’ (see the report). The proposed classification has so far only doctrinal character, having no implementation in juridical regulations or government practice. The potential effects of the advanced doctrine presents though a subject for at least several relevant suggestions and ideas. It is not clear what is the intention of giving the classification of different types of minorities. There are some provisions in the Convention and in generally recognizable rights that do not admit discriminatory attitude based on the developed approach on behalf of the state, as it would be for instance, freedom of expression in private sphere or institutionalizing private education, etc. One however cannot recognize a rather large margin of appreciation when speaking of obligation of authorities to provide public education for and in minority language or communication with authorities in a minority language. Also, if the criteria are to be used in the last mentioned examples, a rather rigid standard imposed of one third of the population of a certain locality may produce clearly unjustifiable results. Therefore, the effects of proposed criteria are to be monitored and researched as it going to progress into the legislative provisions.

ⁱ Constitution of Moldova, 29 July 1994 <http://www.legislationline.org/legislation.php?tid=200&lid=6182&less=false>

ⁱⁱ **Administrative Sanctions Code: Article 174/1. (1)** Violation of legislation regulating organization and conduct of assembly. Violation of the terms and procedure of consideration of notice on holding an assembly - is punishable by a fine of not less than twenty and no more than thirty minimal wages.

(2) The organization and holding of an assembly without a prior notice to the municipal council or not authorized by it, and in breach of the conditions (manner, place, time) concerning the conduct of a meeting as indicated in the authorization – results in a fine to be imposed on the organizers (leaders) of the assembly in an amount equal to between twenty five and fifty times the minimal wage.

ⁱⁱⁱ **Administrative Sanctions Code: Article 174/1 (3)** Failure of the organizer (leader) of the assembly to perform his or her duties prescribed by the law, -is punishable by a fine of not less than twenty and not more than thirty minimal wages.

^{iv} **Administrative Sanctions Code: Article 174/1 (6)** any form of obstruction of operation of public transport or enterprises, institutions and organizations by participants of an assembly - is punishable by a fine of not less than twenty and not more than fifty minimal wages or by administrative arrest for up to fifteen days.

^v **Administrative Sanctions Code: Article 174/1 (7)** Involvement of children in unauthorized assemblies results in a fine of between 10 and 20 minimal wages.

^{vi} **Penal Code Article 140. Propaganda of war**

(1) Propaganda of war, dissemination of biased or feigned information, contributing to instigation of war, or any other activity aimed at unleashing war through public calls, in writing, via radio, television, cinema or using any other means, - is punishable by a fine of up to 500 conventional units or by imprisonment for not less than 3 and no more than 8 years and by a ban on holding office or engaging in certain activity for up to 5 years.

^{vii} **Penal Code Article 346. Deliberate action aimed at inciting national, racial or religious hatred or discord**

Deliberate action and public calls, including those made through printed or electronic mass-media, with the aim of inciting national, racial or religious hatred or discord or degrading national honour and dignity, as well as direct or indirect restriction of rights or direct and indirect provision of advantages for citizens based on their nation, race or religious affiliation,- is punishable by a fine of up to 250 conventional units or with imprisonment for up to three years.

^{viii} **Penal Code Article 341. Public calls to overthrow or forcibly change the constitutional order of the Republic of Moldova**

(1) Public calls to overthrow or forcibly change the constitutional order or to undermine territorial integrity of the Republic of Moldova, as well as disseminating for this purpose any materials containing such calls,-is punishable by a fine of not less than 200 and no more than 600 conventional units or by imprisonment for any term not exceeding 2 years.

(2) The same offence in the event of:

a) being repeatedly;

b) committed by two or more persons,

is punishable by a fine of not less than 300 and no more than 1000 conventional units or by imprisonment for the term not exceeding 5 but not less than 7 years.

(2) Involvement of minors in group actions leading to serious interference with public order, concomitant with resisting lawful orders of officials or obstructing regular operations of transport, or inflicting serious damage to legally guarded rights and interests of individuals and legal entities, -is punishable by a fine of up to 500 conventional units or by imprisonment for up to five years.

^{ix} **Penal Code Article 358. Organization or active participation in group actions leading to serious interference with public order**, and involvement of minors in this offence:

(1) Organization or active participation in group actions leading to serious interference with public order, concomitant with resisting lawful orders of officials or with obstructing regular operations of transport, enterprises, institutions, and organizations, -is punishable by a fine of up to 500 conventional units or by imprisonment for up to 3 years.

^x **Administrative Sanctions Code: Article 174/1 (4)** Active participation in an assembly referred to in paragraph (2) of this Article - results in a fine in an amount between 180 and 450 minimal wage.

^{xi} **Administrative Sanctions Code: Article 174/1 (6)** any form of obstruction of operation of public transport or enterprises, institutions and organizations by participants of an assembly - is punishable by a fine of not less than twenty and not more than fifty minimal wages or by administrative arrest for up to fifteen days.

^{xii} **Penal Code Article 140. Propaganda of war**

(1) Propaganda of war, dissemination of biased or feigned information, contributing to instigation of war, or any other activity aimed at unleashing war through public calls, in writing, via radio, television, cinema or using any other means,- is punishable by a fine of up to 500 conventional units or by imprisonment for not less than 3 and no more than 8 years and by a ban on holding office or engaging in certain activity for up to 5 years.

^{xiii} **Penal Code Article 346. Deliberate action aimed at inciting national, racial or religious hatred or discord**

Deliberate action and public calls, including those made through printed or electronic mass-media, with the aim of inciting national, racial or religious hatred or discord or degrading national honour and dignity, as well as direct or indirect restriction of rights or direct and indirect provision of advantages for citizens based on their nation, race or religious affiliation,- is punishable by a fine of up to 250 conventional units or with imprisonment for up to three years.

^{xiv} **Penal Code Article 341. Public calls to overthrow or forcibly change the constitutional order of the Republic of Moldova**

(1) Public calls to overthrow or forcibly change the constitutional order or to undermine territorial integrity of the Republic of Moldova, as well as disseminating for this purpose any materials containing such calls,-is punishable by a fine of not less than 200 and no more than 600 conventional units or by imprisonment for any term not exceeding 2 years.

(2) The same offence in the event of:

a) being repeatedly;

b) committed by two or more persons,

is punishable by a fine of not less than 300 and no more than 1000 conventional units or by imprisonment for the term not exceeding 5 but not less than 7 years.

^{xv} **Penal Code Article 358. Organization or active participation in group actions leading to serious interference with public order**, and involvement of minors in this offence:

(1) Organization or active participation in group actions leading to serious interference with public order, concomitant with resisting lawful orders of officials or with obstructing regular operations of transport, enterprises, institutions, and organisations, -is punishable by a fine of up to 500 conventional units or by imprisonment for up to 3 years.

^{xvi} **Penal Code Article 184. Violation of the right to freedom of assembly.**

1) Violation of the right to freedom of assembly by means of unlawful obstruction to holding or participating in a meeting, demonstration, manifestation, procession or any other type of assembly as well as compelling citizens to take part in the assembly against their free will:

- a) committed by an official;
- b) committed by two or more persons;
- c) accompanied by violence with no threat to life or health,

is punishable by a fine of not less than 200 and not more than 400 conventional units or by up to 2 years' imprisonment.

^{xvii} **Penal Code Article 184. Violation of the right to freedom of assembly.**

1) Violation of the right to freedom of assembly by means of unlawful obstruction to holding or participating in a meeting, demonstration, manifestation, procession or any other type of assembly as well as compelling citizens to take part in the assembly against their free will:

- a) committed by an official;
- b) committed by two or more persons;
- c) accompanied by violence with no threat to life or health,

is punishable by a fine of not less than 200 and not more than 400 conventional units or by up to 2 years' imprisonment.

^{xviii} Administrative Sanctions Code: Article 174/1. (1) Violation of legislation regulating organisation and conduct of assembly.

Violation of the terms and procedure of consideration of notice on holding an assembly - is punishable by a fine of not less than twenty and no more than thirty minimal wages.

(2) The organisation and holding of an assembly without a prior notice to the municipal council or not authorised by it, and in breach of the conditions (manner, place, time) concerning the conduct of a meeting as indicated in the authorisation – results in a fine to be imposed on the organisers (leaders) of the assembly in an amount equal to between twenty five and fifty times the minimal wage.

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- b) committed by two or more persons;
- c) accompanied by violence with no threat to life or health,

is punishable by a fine of not less than 200 and not more than 400 conventional units or by up to 2 years' imprisonment.