

Civil society report for the Review of the Third Periodic Report of
Moldova (CAT/C/MDA/3) at the 62th session of the
UN Committee Against Torture
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**Torture and Other Cruel, Inhuman or Degrading Treatment
in the Transnistrian region of Republic of Moldova**

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ABBREVIATIONS

MRT: "Moldavian Republic of Transdnjestria"

NHRAP: National Human Rights Action Plan

ICCPR: International Covenant on Civil and Political Rights

UPR: Universal Periodic Review

ECtHR: European Court of Human Rights

OSCE: Organization for Security and Co-operation in Europe

This submission focuses entirely on issues related to the human rights in the Transnistrian region of Republic of Moldova. Presentation of the names of functions and denominations of acts that emerge from the secessionist administration cannot have a political connotation and in no way implies the *de jure* recognition of these normative acts, *de facto* authorities or institutions. The use in this report of such terms as "Constitution", "Court", "Judicial system", "Law", "President", "Minister", "Prosecutor" does not indicate any *de jure* recognition of these normative acts, *de facto* authorities or institutions. These terms are used exclusively for providing the most precise identification possible of specific documents, *de facto* authorities, office-holders and institutions.

INTRODUCTION

1. This shadow report was jointly written by the Promo-LEX Association¹ and World Organization Against Torture (OMCT),² in collaboration with Media Centre from Tiraspol.³
2. This report describes the ways in which torture and ill-treatment continues to be committed in the Transnistrian region (also called MRT) and perpetuated due to a lack of action on the part of the national authorities of the Republic of Moldova. We highlighted persistent discrepancies between the *de facto* authority's on-going practices and the Republic of Moldova's obligations under the Convention Against Torture.
3. Considering that the third periodic Moldova's report was due on 2013, but it was submitted only in July 15, 2016, this submission is based on work that has been undertaken in the reported period 2010 – 2013, and the updated information after this period until nowadays.
4. **This alternative report presents the below mentioned aspects arising from the List of Issue No.12 (Article 2) (LOI) prior to the submission of the third periodic report of the Republic of Moldova (CAT/C/MDA/3).** We have also included information considered relevant on the implementation of Articles 1-16 of the Convention against Torture and Other Cruel, Inhuman and Degrading Treatment and Punishment in the in Transnistrian region of the Republic of Moldova:
 - The Republic of Moldova's obligation to ensure the protection of human rights in the Transnistrian region.
 - Torture and ill-treatment in places of detention
 - Torture allegation and lack of investigation and impunity
 - Torture and ill-treatment outside places of detention
 - Recommendations for action to be taken by the Republic of Moldova.

GENERAL BACKGROUND

5. In the past quarter-century, very little is known about and done to promote or defend human rights in the frozen conflict zones or in the territories controlled by *de facto* administrations. Most of the times, people living in such territories do not

¹ **Promo-LEX Association** - a nongovernmental organization that aims to advance democracy in the Republic of Moldova, including in the Transnistrian region. During the reporting period, Promo-LEX filed more than 100 claims described further in this report with ECtHR, of which 60 were communicated to the governments of the Republic of Moldova and the Russian Federation (considering its effective jurisdiction in the region). Promo-LEX Association has the NGO consultative status with ECOSOC.

² **OMCT** - the World Organisation Against Torture (OMCT) is the main coalition of international non-governmental organisations (NGO) fighting against torture, summary executions, enforced disappearances and all other cruel, inhuman or degrading treatment. OMCT enjoys a consultative status with the following institutions: ECOSOC (United Nations), the International Labour Organization, the African Commission on Human and Peoples' Rights, the Organisation Internationale de la Francophonie, and the Council of Europe.

³ **The Media Centre Tiraspol** - a non-governmental organization that The Media Centre is a nongovernmental organization that aims to promote civil liberties in Transnistrian region of Republic of Moldova.

have the possibility to defend their rights and fundamental freedoms. This is true at least for the Transnistria region of the Republic of Moldova.⁴ This happens for at least three reasons:

- First, because nobody monitors the human rights situation in these territories;
 - Secondly, because there are no efficient human rights protection mechanisms in place and thus none of those who violate human rights are held accountable;
 - Third, because of impunity phenomenon, nobody is responsible for human rights abuses.
6. Despite restricted access to the region, the Promo-LEX Association did not stop monitoring whether human rights are observed in the Transnistrian region and discovered dozens of cases of illegal detention. As a result, we can say that the observance of the right to freedom and security in the Transnistrian region is a much more acute issue than in the rest of the country.⁵
7. Since 2005, formal negotiations to reach a settlement on the Transnistrian conflict take place in a format known as the "5+2". Chaired by OSCE, it includes the Moldovan de jure authorities and de facto Transnistrian administration, Russia and Ukraine as mediators, and the EU and US as observers. The negotiation process was interrupted for almost six years, resuming in 2011. The negotiation process has failed to bring about any significant progress in human rights situation in Transnistrian region.

I. The Republic of Moldova's obligation to ensure the protection of human rights guaranteed by "Torture Convention" in Transnistrian region of Moldova.

8. Torture and in all its forms is a grave rights violation and an affront to human dignity. Article 3 of the UN Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in 1975 states that "*no state may permit or tolerate torture*" and that "*exceptional circumstances such as a state of war or threat of war, internal political instability or any other public emergency*" may not be invoked as a justification of torture or other cruel, inhuman or degrading treatment or punishment. According

⁴ Transdnistria, also spelled Transnistria, also called "*Moldovan Republic of Transdnistria*" ("*MRT*"), is the separatist enclave in Moldova located on the east bank of the Dniester River. The self-proclaimed (1990) "MRT", is not recognized by any state. It has a national bank, national currency (the ruble), customs house, and its own flag and national anthem. The main city is Tiraspol. Transnistrian authorities governed through parallel administrative structures. There were regular reports that showed violations of human rights, including police engaged in torture, arbitrary arrests, unlawful detentions, and pressure being placed on Latin-script schools. The facts concerning the armed conflict of 1991-1992 are set out in more detail in the case *Ilaşcu and Others v. Moldova and Russia* (no.48787/99, §§ 28-183, ECHR 2004-VII).

⁵ MOLDOVA: Judicial harassment by the Transnistrian Security Committee of Promo-LEX, FIDH member organisation <https://promolex.md/2428-moldova-hartuirea-judiciara-de-catre-comitetul-de-securitate-din-transnistria-a-asociatiei-promo-lex-organizatie-membra-a-fidh/?lang=en> ; MOLDOVA: Judicial harassment by the Transnistrian Security Committee of Promo-LEX, FIDH member organization <https://www.fidh.org/en/region/europe-central-asia/moldova/moldova-judicial-harassment-by-the-transnistrian-security-committee> ; Urgent Appel of UN Special Rapporteurs [https://spdb.ohchr.org/hrdb/32nd/public_-_AL_Other_07.12.15_\(10.2015\).pdf](https://spdb.ohchr.org/hrdb/32nd/public_-_AL_Other_07.12.15_(10.2015).pdf)

to international law the prohibition of torture and other cruel, inhuman or degrading treatment has the enhanced status of a peremptory norm of general international law. The UN Convention against Torture (UNCAT) therefore has the important function of ensuring that under international law, the torturer will find no safe haven.

9. By acceding to the UNCAT without any reservations, Moldova pledged to protect human rights on its territory, including the Transnistrian region.
10. The Republic of Moldova's responsibility for the protection of human rights in the Transnistrian region, was highlighted and emphasized by the Human Rights Council,⁶ ECtHR,⁷ UN Human Rights Committee.⁸
11. The observance of the right not to be subjected to torture in the Transnistrian region will be analyzed in the light of positive obligations of the Republic of Moldova. To this end, even if the constitutional authorities do not control effectively the Transnistrian region, the Republic of Moldova must ensure the observance of human rights on this territory. The Republic of Moldova limited its international commitments to a part of its territory – the Transnistrian region. Without viable and efficient protection mechanisms for the victims of human rights violations in the region, the human rights commitments are ambiguous. This ambiguity is accompanied by the fact that the constitutional and law enforcement authorities confine themselves to presenting political arguments and ignoring their positive obligations toward the victims of abuses committed by the *de facto* administration of the Transnistrian region. The constitutional authorities did not pass any regulation specific to the situation in the region to effectively protect the victims of human rights violations.
12. We emphasized that Moldova must undertake its treaty obligations with regard to all individuals under its jurisdiction. The object and purpose of the UNCAT is to create legally binding standards for human rights placing them in a framework of obligations which are legally binding for those States which ratify; and to provide efficacious supervisory machinery for the obligations undertaken.
13. **Unfortunately, the issue No.12 raised by the Committee Against Torture (CAT/C/MDA/3) about the human rights in the Transnistrian region, were not addressed by the national report.**
14. Referring to the ECtHR cases of Băluță, Matcenco⁹, Mozer¹⁰ raised in the LOI we would like to report that the Moldovan Government has opened criminal investigations into the unlawful deprivation of liberty. However, there have been no meaningful results. No steps have been taken to identify those responsible for arrest, detention, and torture. No one was identified as suspect in these investigations.

⁶ <http://www.ohchr.org/EN/HRBodies/UPR/Pages/MDIndex.aspx>

⁷ Ilașcu case no. 48787/99, Mozer case no. 11138/10.

⁸ Concluding observations on the third periodic report of the Republic of Moldova (CCPR/C/MDA/CO/3 of 18 November 2016)

http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fMDA%2fCO%2f3&Lang=en

⁹ Urgent appeal of Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment [https://spdb.ohchr.org/hrdb/20th/UA_Moldova_18.01.2012_\(1.2012\).pdf](https://spdb.ohchr.org/hrdb/20th/UA_Moldova_18.01.2012_(1.2012).pdf)

¹⁰ Mozer case no. 11138/10.

15. The ECtHR, in the case of *Ilașcu and Others vs. Moldova and Russia* found that “Moldova's positive obligations relate both to the measures needed to re-establish its control over Transnistrian territory, as an expression of its jurisdiction, and to measures to ensure respect for the applicants' rights”. In¹¹ its concluding observations from November 2009, the UN Human Rights Committee emphasized that despite Moldova's difficulty in exercising effective control over the Transnistrian territory, Moldova retains the obligation to guarantee respect for the rights recognized under the applicable treaties, with respect to the population of Transnistria.¹²
16. During the monitoring period, we noted that the constitutional authorities (former Ministry of Reintegration (now Reintegration Office), Ministry of Home Affairs, General Prosecutor's Office, etc.) denied their jurisdiction over specific cases of rights violation in the Transnistrian region, invoking the lack of control in this territory. Only occasionally, under the pressure from the civil society, the Government sensitized the international actors of the 5+2 talks¹³ and intervened in certain cases¹⁴ of rights violation in Transnistria.
17. Most of the time, the Government counted on the support from international development partners, both during the negotiations, and when taking decisions regarding the residents of Transnistria. The Moldovan Government placed greater focus on a dialogue with the administration of the Transnistrian region about political and economic sectoral issues rather than human rights, and its ambition to negotiate with the effective authorities has often caused it to disregard its positive obligations in Transnistria, undertaken through the ratification of the ICCPR.

National human rights framework

18. All Moldovan governments since 2011 adopted work programs that included the country reunion and the settlement of conflicts.¹⁵ However, there is no strategy to achieve these objectives and assess progress in this regard. The status of the dialog with the de facto administration and the impact of the agreed decisions are not clear either.
19. By its Decision No. 90 of May 12, 2011, the Parliament approved the National Plan of Action on Human Rights for 2011-2014 (NHRAP). In 2012, the Government established the Commission for the implementation of the NHRAP for 2011-2014

¹¹ *Ilașcu and Others v. Moldova and Russia* (Appl. No. 48787/99), Judgment (Grand Chamber), 8 July 2004, § 339.

¹² Concluding observations of the Human Rights Committee Republic of Moldova 4 November 2009, §5, /CCPR/C/MDA/CO/2

¹³ Since 2005, formal negotiations to reach a settlement on the Transnistrian conflict take place in a format known as the "5+2". Chaired by OSCE, it includes the Moldovan de jure authorities and de facto Transnistrian administration, Russia and Ukraine as mediators, and the EU and US as observers. The negotiation process was interrupted for almost six years, resuming in 2011. The negotiation process has failed to bring about any significant progress in human rights situation in the Transnistrian region or improve access of human rights defenders to the region

¹⁴ *Catan and others v. Russia and Moldova*, Grand Chamber Judgment from 19 October 2012;¹⁴ *Pisari v. Moldova and Russia*, Third Section Judgment from 21 April 2015;¹⁴ *Mozer v. Moldova and Russia* Grand Chamber Judgment from 23 February 2016;¹⁴ *Casian v. the Republic of Moldova and Russia* from 30 August 2016.¹⁴

¹⁵ Republic of Moldova Government's Work Program 2011-2014, <http://www.e-democracy.md/files/parties/program-activitate-guvern-moldova-2011-2014-ro.pdf> 2012-2015
<http://www.cnp.md/sedinte-de-guvern/item/79-program-de-activitate-plan-de-actiuni-guvern-2011-2014>

and approved its procedures and guidance. A separate chapter of the NHRAP for 2011-2014 was dedicated to the promotion and protection of human rights in the Transnistrian region of Moldova. The same was done into the NHRAP and for 2013-2014.¹⁶ It also included a separate section dedicated to the region.¹⁷ **Unfortunately, with the exception of the establishment of a territorial office of the Ombudsman in Varnita (security area), no other essential measures were taken to ensure the observance of human rights in the region.**

20. Moldova has assumed to adopt a new NHRP to implement the recommendations addressed to the country by the UN Human Rights Council under the Universal Periodic Review (UPR). But until today, the draft of the document elaborated jointly with civil society, which included a separate chapter on the protection of human rights in the Transnistrian region,¹⁸ has not been adopted yet.
21. In 2016, the Human Rights Committee expresses concern at the lack of a new action plan, even of an interim nature, since the expiration of the previous plan. It also expresses concern at the limited implementation of the previous plan owing to insufficient human and financial resources, recommending to the Government of Moldova to provide within one year of the adoption of the concluding observations, the information about the adoption of a new NHRP.¹⁹
22. The NHRAP is a good mechanism only if it is truly applicable, rather than just a theoretical exercise. Although Moldovan authorities claim to have implemented this plan, various reports on human rights and fundamental freedoms confirm that Moldova still has many shortcomings in the promotion and protection of human rights in the Transnistrian region. According to progress reports on the NHRAP for 2011-2014,²⁰ the Government did not meet most of its commitments to improve the observance of human rights in the Transnistrian region. Neither the plan, nor the progress report provide for indicators to enable an objective assessment of the implementation progress.
23. Thus, the Moldovan government included into the National Human Rights Action Plan (NHRAP) for 2013-2014²¹ a separate section dedicated to the Transnistrian region. The main objectives of the section targeting Transnistria include the establishment of a national mechanism for monitoring human rights observance

¹⁶ Decision of the RM Parliament on the approval of the National Plan of Action on Human Rights for 2011-2014 <http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=339395>

¹⁷ The main objectives of the section targeting Transnistria in NHRAP 2011-2014 include: the establishment of a national mechanism for monitoring human rights observance in the region, the provision of access to justice for the residents of Transnistria, including the establishment of a joint mechanism (with international organizations) for regular monitoring of the conditions in the detention facilities from Transnistria and the introduction of a rehabilitation mechanism for arbitrarily imprisoned citizens, the establishment of information centers, awareness raising of international organizations, the observance of social rights of the residents of Transnistria, and the establishment of the Ombudsman's territorial offices.

¹⁸ Planului național de acțiuni în domeniul drepturilor omului pentru anii 2017-2021 <http://www.justice.gov.md/libview.php?l=ro&idc=4&id=3536>

¹⁹ Concluding observations on the third periodic report of the Republic of Moldova (CCPR/C/MDA/CO/3) 18 November 2016 http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fMDA%2fCO%2f3&Lang=en

²⁰ Report on the implementation of the National Plan of Action on Human Rights (2011-2014) http://www.justice.gov.md/public/files/drepturile_omului/Raport_PNADO_2013_APC.pdf

²¹ NHRAP for 2013-2014 <http://lex.justice.md/md/339395/>

in the region, the development of a study and recommendations, the implementation of outreach campaigns, the provision of access to justice for the residents of Transnistria, including the establishment of a joint mechanism (with international organizations) for regular monitoring of the conditions in the detention facilities from Transnistria and the introduction of a rehabilitation mechanism for arbitrarily imprisoned citizens, the establishment of information centres, awareness raising of international organizations, the observance of social rights of the residents of Transnistria, and the establishment of the HRC's (Ombudsman's Office) territorial offices. With the exception of the establishment of a territorial office of the HRC in Varnita (security area), no other essential measures were taken to ensure the observance of human rights in the region.

1.1. Recommendations by human rights treaty bodies and during the UPR

24. **CCPR:** The HRC, at the 118th session, examined the third periodic report of the Republic of Moldova on ICCPR implementation.²² The Committee expressed concern that people of the Transnistrian region can not enjoy the same level of protection of their rights under the Covenant as other people in the rest of the country do.

25. CCCPR recommended:

- *To review its policies and take all measures appropriate to ensure that individuals in Transnistria can effectively enjoy their rights guaranteed under the Covenant, including those that were the subject of the recommendations made by the United Nations Senior Expert on Human Rights in Transnistria, Thomas Hammarberg.*²³
- *To adopt promptly a new national human rights action plan on the basis of consultations with all relevant stakeholders.*
- *To allocate sufficient human and financial resources to ensure the effective implementation of the former and new plans.*
- *To ensure that the implementation of the former and new plans is reviewed and evaluated regularly.*

26. **HRC (UPR):** Moldova was reviewed in 2011 and 2016.²⁴ The Government accepted recommendations to:

- *Continue to work on the promotion of human rights in the region of Transnistrian region, integral part of the territory of the Republic of Moldova.*
- *Provide systematic support and assistance to victims of human rights abuses in Transnistrian region.*

²² Concluding observations on the third periodic report of the Republic of Moldova (CCPR/C/MDA/CO/3 of 18 November 2016)

http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fMDA%2fCO%2f3&Lang=en

²³ Report on Human Rights in the Transnistrian Region of the Republic of Moldova (14 February 2013) <https://assets.documentcloud.org/documents/889086/raport-onu-drepturile-omului-in-transnistria.pdf>

²⁴ <http://www.ohchr.org/EN/HRBodies/UPR/Pages/MDIndex.aspx>

- *Take appropriate steps to initiate the elaboration of a monitoring mechanism of the human rights situation in the Transnistrian region of the Republic of Moldova, with the involvement of civil society representatives from both banks of the river Nistru.*
- *Continue to work on the promotion of human rights in the region of Transnistria, integral part of the territory of the Republic of Moldova. This commitment was undertaken upon accession to the UN Human Rights Council.*
- *Complete the process of establishment of a new national human rights action plan and establish a monitoring and coordination mechanism to implement the national human rights action plan.*

II. Torture and cruel, inhuman or degrading treatment in place of detention

27. Promo-LEX Association described previously the situation inside the detention institutions in the Transnistrian region.²⁵ They are not a part of the national penitentiary system and can be deemed private detention institutions (unofficial)²⁶. The constitutional authorities or other persons, including the international bodies, do not have access to these institutions unless a permission is given by the Tiraspol administration.

28. The ECtHR continued to communicate to the Governments of the Russian Federation and the Republic of Moldova complains about the violation of Article 3 of the Convention in the Transnistrian region of the Republic of Moldova, to pay attention mainly to the torture investigation and detention conditions.

2.1. Condition of detention and health care

29. Conditions in most prisons and detention centers in Transnistria remained harsh and did not improve significantly after the reported period.²⁷

30. In 2013, the UN Senior Expert on Human Rights Thomas Hammarberg made several documentation visits to places of detention in Transnistria, and concluded that the conditions of detention were unsatisfactory and did not meet international requirements.²⁸

31. The conditions in the detention facilities from the region stay poor and have not improved, notwithstanding the recommendations made by the UN Expert. The local administration invoked the lack of financial means.²⁹ In his report,³⁰ the local Ombudsperson confirms that the situation did not change after 2013: inmates are kept in inhuman conditions both in police stations, and in the three prisons of the

²⁵ https://promolex.md/wp-content/uploads/2016/04/doc_1456905480.pdf

²⁶ See periodic reports of Promo-LEX Association, Web source: <https://promolex.md/category/publicatii/>

²⁷ U.S. Department of State 2014 Human Rights Reports: Moldova <http://www.state.gov/j/drl/rls/hrrpt/2014/eur/236554.htm>

²⁸ Senior Expert Hammarberg Report TN Human Rights / www.un.md/publicdocget/41

²⁹ Press release in the implementation of the Recommendations of the UN Expert, Thomas Hammarberg, of 30 March 2014 <http://president.gospmr.ru/ru/news/prezidentpmr-zaslusal-otchet-ob-ispolnenii-plana-meropriyatiy-po-realizacii-rekomendaciy>

³⁰ http://www.ombudsmanpmr.org/doclady_upolnomochennogo.htm

region (small spaces, cold concrete rooms, lack of ventilation and aeration, lack of toilets, insufficient lighting, overcrowding, poor nutrition, lack of medicines and inadequate medical care, lack of drinking water). Particularly precarious are sanitary facilities; in almost all preventive detention facilities in Transnistria, detainees have to use buckets or bottles, instead of toilets, for their physiological needs, which is a violation of human dignity. In this respect, the local ombudsman pointed out that, according to Order No. 65 of February 25, 2012, of the pretended Ministry of Home Affairs of the Transnistrian region, prison cells must have toilets only where this is provided for in the design-drawings of the isolation cell.

32. Promo-LEX beneficiaries declared that the infrastructure of detention institutions in the Transnistrian region is characterised by small spaces, cold concrete rooms, lack of ventilation and fresh air, lack of toilets, insufficient light, overcrowding, poor nutrition, rusty water, moisture and mold, lack of medicines,³¹ inadequate medical care, suspicious deaths, etc.
33. Detention of people with disabilities is one of the major problems. There is no information available on the number of persons with disabilities detained in the local prisons. Moreover, the access to prisons is highly restricted and it is very difficult to obtain relevant information and to monitor the observance of the detainee's rights, in particular of those with disabilities. They are held under the same conditions as other detainees, and they do not receive any special conditions or adjustments provided by human rights standards³². Similarly, health care is poor and in some cases, it is absent at all. Detainees with locomotors disabilities have difficulties in moving, meeting human basic needs, access to bathrooms, lacking special accommodations. These conditions clearly cause enormous physical and mental suffering.³³
34. Water is unsanitary and contributes to disease and poor dental health among prisoners. There is no access to qualified medical care. As a result, prisoners are often forced to turn to their families for assistance, who, in turn, seek help from private doctors, placing the burden of costs on relatives³⁴.
35. At the same time, the local ombudsman draws attention upon the small number of skilled doctors in prisons, and upon the reduced quantity of medicines. According to him, 12 detainees passed away in 2014 (nine because of diseases and three committed suicide).³⁵
36. Several victims have complained before national authorities, and also before the ECtHR³⁶ about the poor quality of healthcare in prisons, their prolonged

³¹ Moldova, Republic of: Ill-treatment and denial of adequate medical care for Mr. Oleksandr Lypovchenko <http://www.omct.org/urgent-campaigns/urgent-interventions/moldova/2014/05/d22676/>; Moldova, Republic of: Lack of adequate medical care for Mr. Beşleaga Vitalii and Mr. Bevziuc Serghei, two prisoners held in Prison n°3, in Tiraspol <http://www.omct.org/urgent-campaigns/urgent-interventions/moldova/2016/05/d23784/>; Torture of suspects reveals dark heart of Transnistrian justice <https://theblacksea.eu/index.php?idT=88&idC=88&idRec=1137&recType=story>

³² Report discriminatory ill-treatment in Moldova: page.75

³³ Page.13 <https://promolex.md/wp-content/uploads/2016/09/Raport-CCPR-eng-1.pdf>

³⁴ Human Rights in Moldova, Civil Rights Defenders / <https://www.civilrightsdefenders.org/country-reports/human-rights-in-moldova/>

³⁵ Local ombudsman's reports from 2011-2014 http://www.ombudsmanpmr.org/doclady_upolnomochennogo.htm

³⁶ ECtHR: <http://www.echr.coe.int/Pages/home.aspx?p=home>. Judgment Mozer v.Moldova and Russi from 23 February 2016; Judgment **Apcov v. Moldova and Russia from 30 May 2017**; **Comunicated cases to Moldova and Rusia: Dobrovîţchi no.41660/10**; **Popovschii no.16281/11**; **Alexandr Ursu no.25197**; **Serghei Boltenco**

treatments, the use of expired drugs, and lack of necessary medical equipment. In their complaints, the beneficiaries of Promo-LEX Association also mentioned that they had to stay in inhuman conditions. The treatment of inmates suffering from tuberculosis is the most serious problem. One specialized physician is assigned to treat tuberculosis in all of the detention facilities in the region.³⁷ Aside the overloaded schedule, he lacks special medical equipment. Various programs of prevention and deterrence of TB were launched in the region, but these measures seem insufficient, and the number of people suffering from acute tuberculosis is growing.

37. The modest statistical data are available only in the report of the Transnistrian Ombudsman:³⁸

- According to the data of the Penalty Execution Service of the Transnistrian region, in 2011, 18 inmates died in prison: six of them died a violent death; five hanged themselves and one was killed; 12 died of illness (four of HIV/AIDS; seven of tuberculosis and one of cancer).

- In 2011, 6123 inmates sought healthcare services in prison medical facilities of Transnistria (in 2010, this figure amounted to 5946), including 61 inmates with active tuberculosis and 173 with HIV/ AIDS. - According to the State Penalty Execution Service under the Ministry of Justice of the Transnistrian region (ГЦИН МЮ ПМП), in 2012, 17 inmates died in these institutions, of whom only four died a violent death, and 13 died of illness.

38. In all these cases, it is impossible to establish the real cause of death. In a report, the local ombudsman expressed his concern that hundreds of sick inmates are kept in long-term care wards, where they do not receive necessary healthcare, are exposed to suffering, misery and, finally, death.³⁹

39. Some of the victims respondents say that sometimes, to hide the precise number of deaths in prisons, prison administration indicate, “released” instead of “died” in the personal files of the deceased. In other cases, it conceals the cause of death. The Criminal Penalty Execution Code does not provide for a way to establish prisoners’ deaths, including the obligation to investigate the causes of deaths in prisons, as required by other national and international standards. The Execution Code obliges prison chiefs to notify a prosecutor only when a prisoner is killed during the application of special physical force methods and firearms by the guards. Deceased prisoners may not be subjected to a credible independent forensic examination. The family members of the victims complained of inefficient criminal investigation, concealment and cover-up of cases of death. It is virtually impossible to demonstrate the guilt of prison administration and prison doctors (*e.g. the case of Drovorub v. Russia and Moldova ECtHR*).⁴⁰

no. 28972/13 ; Untilov no. 80882/13 ; Babchin no. 55698/14 ; Rosip no. 8387/15 ; Elitov no. 64075/11 ; Pogorletchi no.3020/13 ; Belozervo v. 3368/12 and many other.

³⁷ There is an educational institution for juvenile convicts in Camenca; penitentiary colonies for male convicts in both Glinoe (prison no. 1) and Tiraspol (prison no. 2); another penitentiary institution in Tiraspol (no. 3) which holds (in separate sections) male convicts; female convicts and detainees held on remand (Report on Human Rights in the Transnistrian Region of the Republic of Moldova By Thomas Hammarberg Senior Expert 14 February 2013.

³⁸ Transnistrian ombudsman’s report 2011-2016 http://www.ombudsmanpmr.org/doclady_upolnomochennogo.htm

³⁹ Transnistrian ombudsman’s report 2011-2016 http://ombudsmanpmr.org/doclady_upolnomochennogo.htm

⁴⁰ Mortality in detention facilities. Torture https://promolex.md/old/upload/ebulletin/ro/nr97_1422610935ro_.pdf

40. In 2016, the right not to be subjected to torture in the Transnistrian region did not register positive trends. Such a conclusion results from the lack of clear progress at local policy level in the field of torture prevention, complaints about the use of torture, the indifference of the Transnistrian ombudsperson (to see § from the above).
41. Although in 2016, with the assistance provided by the UN, some dental offices from the regional penitentiaries were renovated,⁴¹ the general health care situation in the region is still precarious, especially regarding the treatment of persons with tuberculosis or HIV/AIDS. The regional penitentiaries also seriously lack staff. Only 70% of medical positions are filled in.

2.2. Overcrowded penitentiary facilities

42. An important phenomenon that can be considered one of the catalysts for torture and ill-treatment is the overcrowding of detention facilities. Analyzing the information published by the Transnistrian ombudsman for the reported periods with regards to the progress of the situation of persons deprived of liberty, we found that the number of prisoners is increasing, which causes the overcrowdedness and worsens the conditions of detention.

Table 1. Development of the situation regarding the number of imprisoned persons.⁴²

PERIOD	NUMBER OF PRISONERS
Situation in 2010	1984
Situation in 2011	2071
Situation in 2012	2164
Situation in 2013	2137
Situation in 2014	2252

43. Overcrowding is a “normal” phenomenon for the prisons in the region,⁴³ and the roughness of detention facilities permits qualifications as acts of torture and/or ill-treatment.

⁴¹ UN press release, Web source :

http://md.one.un.org/content/unct/moldova/ro/home/presscenter.html?par_list_3_start=8&par_list_0_%20start=12&par_list_start=0&par_list_1_start=18

⁴² Transnistrian ombudsman’s reports (2011-2014)

http://www.ombudsmanpmr.org/doclady_upolnomochennogo.htm

⁴³Report on Human Rights in the Transnistrian Region of the Republic of Moldova By Thomas Hammarberg Senior Expert, february 2013

http://md.one.un.org/content/dam/unct/moldova/docs/pub/Senior_Expert_Hammarberg_Report_TN_Human_Rights.pdf

44. In 2016, the Transnistrian ombudsman recognize that the phenomena of overcrowding and detention in inhuman condition, persist and in nowadays.⁴⁴
45. Current imprisonment rate in the Transnistrian region is higher than in Europe and at least the 6th highest in the entire world, if making abstraction of the fact that de facto administration is actually not recognized at international level.⁴⁵ The high imprisonment rate can be explained by the fact that the de facto administration implements a penalty policy and legislation similar to the one of Russian Federation, where the imprisonment rate is about 450 persons to 100,000 inhabitants.⁴⁶
46. According to the newest information published by the local Ombudsman in the Transnistrian region, in 2016, the regional detention institutions detained about 2000 people. Number of prisoners in pretrial detention centers is unknown.
47. In 2015 more than 1000 people were granted amnesty. Taking into account that in the Transnistrian region, according to the last estimation, live about 400,000 citizens, the imprisonment rate is of 500 persons per 100,000 citizens.⁴⁷
48. The high imprisonment rate in Transnistrian region can be explained first by the frequent use of pretrial detention, punitive legislation and practice.⁴⁸ According to the head of the Department of the enforcement of sentences from the Transnistrian region, N. Zubreiciuc, this issue could be solved if the courts of law were to apply alternative measures to arrest and detention.⁴⁹
49. Since 2013, data on the number of prisoners are not made public on the websites of the regional penitentiary administration.⁵⁰ In addition, the targeted institutions communicate on request that the Transnistrian region does not collect and store the statistical data on the number of prisoners, complaints and other information on the observance of the right not to be subjected to torture.

2.3. RECOMMENDATIONS

Recommendation 1: Enforce its international human rights obligations in the Transnistria region .

Recommendation 2: Ensure that future national policies contain strong, measurable actions and targets in respect of combating torture and ill-treatment and that such policies are monitored and reviewed regularly to ensure that they are being implemented, including through the collection of disaggregated data.

⁴⁴ Transnistrian ombudsman's reports (2016) page.84

http://www.ombudsmanpmr.org/doclady_upolnomochennogo.htm

⁴⁵ List of countries by incarceration rate, Web source: <http://www.prisonstudies.org/highest-to-lowest/prison-population-total>

⁴⁶ Report the right not to be subjected to torture and ill-treatment. Promo-LEX Association 2016
https://promolex.md/wp-content/uploads/2017/04/Raport-TORTURA-web-ENG_2017.pdf

⁴⁷ List of countries by incarceration rate, Web source: <http://www.prisonstudies.org/highest-to-lowest/prison-population-total>

⁴⁸ Promo-LEX Association report the right to freedom and security in the Republic of Moldova/Retrospective pf 2016. page.24 <https://promolex.md/wp-content/uploads/2017/04/Raport-LIBERATE-si-SIGURANTA-engleza-WEB.pdf>

⁴⁹ Report of the head of the punishment serving department from the region – N. Zubreiciuc / Available on http://ovrpress.narod.ru/new_news/2015/kollegija.html

⁵⁰ See the website of Государственная служба исполнения наказаний Министерства юстиции Приднестровской Молдавской Респу- блики, Web source: <http://gsinpmr.org/page/polozhenie-o-gsin>

Recommendation 3: Adopt the Human Rights National Action Plan for 2017 – 2021 with the promotion and protection activities planned for Transnistrian region proposed by civil society and review annually its implementation.

Recommendation 4: Integrate the human rights Human Rights National Action Plan 2017-2021 into the ordinary work of the public administration and ensure effective coordination and cooperation between the authorities at all levels by setting up networks or other fora for the exchange of experiences and information, discussions and planning, inclusive with the civil society.

Recommendation 5: Ensure that all the recommendations provided by international institutions and mechanisms regarding the protection of human rights in the Transnistrian region are included in relevant national policies.

Recommendation 6: Invite the Working Group on Arbitrary Detention and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment as soon as possible to visit Moldova for an independent and impartial assessment of the situation of arbitrary detention, torture and cruel, inhuman or degrading treatments in the Transnistrian region.

Recommendation 7: Set up an adequate systems for data collection and analysis on the number of persons deprived of their liberty, the number of torture complaints, the number of cases investigated and the number of people punishment for torture and other ill-treatment. Collection of sensitive data should be coupled with proper safeguards to prevent the identification of individuals belonging to a particular group.

Recommendation 8: Ensure that all the victims subjected to torture and of ill-treatment in Transnistrian region, have prompt access to appropriate rehabilitation services.

Recommendation 9: To recommend to Moldova to call upon the international actors and the participants of the 5+2 talks⁵¹ for the settlement of the Transnistrian conflict to insist on including on the Agenda the implementation of the recommendations made by the United Nations Senior Expert on Human Rights in Transnistria, Thomas Hammarberg.⁵²

Recommendation 10: To recommend to Moldova to call upon the international actors and the participants of the 5+2 talks⁵³ for the settlement of the Transnistrian conflict, within their legal mandate, to insist that the representatives of the de facto

⁵¹ Since 2005, formal negotiations to reach a settlement on the Transnistrian conflict take place in a format known as the "5+2". Chaired by OSCE, it includes the Moldovan de jure authorities and de facto Transnistrian administration, Russia and Ukraine as mediators, and the EU and US as observers. The negotiation process was interrupted for almost six years, resuming in 2011. The negotiation process has failed to bring about any significant progress in human rights situation in Transnistrian region or improve access of human rights defenders to the region

⁵² Available from

http://md.one.un.org/content/dam/unct/moldova/docs/pub/Senior_Expert_Hammarberg_Report_TN_Human_Rights.pdf

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administration collect disaggregated statistical data regarding the observance of the right not to be subjected to torture, and statistical data regarding the health and penitentiary systems.

III. Torture allegation - lack of investigation and impunity (Article 12 and Article 13)

50. Moreover, the state's obligations extend beyond that of its own officials and the state has a duty towards non-state actors. The CAT has been clear in this regard: "The Committee has made clear that where State authorities or others acting in official capacity or under colour of law, know or have reasonable grounds to believe that acts of torture or ill-treatment are being committed by non-State officials or private actors and they fail to exercise due diligence to prevent, investigate, prosecute and punish such non-State officials or private actors consistently with the Convention, the State bears responsibility and its officials should be considered as authors, complicit or otherwise responsible under the Convention for consenting to or acquiescing in such impermissible acts. Since the failure of the State to exercise due diligence to intervene to stop, sanction and provide remedies to victims of torture facilitates and enables non-State actors to commit acts impermissible under the Convention with impunity, the State's indifference or inaction provides a form of encouragement and/or de facto permission."⁵⁴

3.1. The lack of the complaint and preventive mechanism

51. The UN Human Rights Committee (HRC) recognized the value of independent monitoring of places of detention in General Comment 21 on the International Covenant on Civil and Political Rights (ICCPR) and urged states to report on the concrete measures taken "*by the competent authorities to monitor the effective application of the rules regarding the treatment of persons deprived of their liberty. States parties should include in their reports information concerning the system for supervising penitentiary establishments, the specific measures to prevent torture and cruel, inhuman or degrading treatment, and how impartial supervision is ensured.*"⁵⁵

52. The UN Special Rapporteur against Torture's recommendation to extend the operations of Moldova's national mechanism for the prevention of torture to Transnistrian region⁵⁶ has not been implemented; thus no mechanism applies in the region. Furthermore, numerous impediments restrict the ability of observation missions from international organisations and representatives from the Republic of Moldova from conducting monitoring.

53. Temporary detention centres and prisons run by local authorities are not accessible to NGOs and official representatives, as is the case in Moldova. Access

⁵⁴ Committee Against Torture, General Comment 2, CAT/C/GC/2, para 18.

⁵⁵ HRC General Comment 21, para. 6

⁵⁶ http://www.promolex.md/upload/publications/en/doc_1355473063.pdf

to the prisons and visiting rights can only be authorised by a decision of the administration in Tiraspol.

54. Promo-LEX, in its 2012 report, highlights the Moldovan government's persistent failure to live up to its obligation to protect human rights in the region, excusing this inaction to European and international partners with the assertion that the region is out of its control.⁵⁷ **Promo-LEX calls on the Republic of Moldova's justice system to investigate legal proceedings and enquiries in line with legal provisions, in respect of reported instances of death in detention, torture, arbitrary detention, and wrongful conviction.**
55. Unfortunately, law enforcement bodies of the Republic of Moldova didn't investigate the acts of torture and ill-treatment, even if in the Criminal Code of Republic of Moldova the torture is criminalized.⁵⁸ Almost all the initiated criminal investigation by the constitutional law enforcement of unlawful detention in Transnistrian region are suspended. No further progress is achieved, the constitutional law enforcement invoke the impossibility of carrying out procedural steps on the territory of the self-proclaimed MRT, even if the Criminal Procedural Code states many instruments that can be applied.
56. The Government did not take any consistent actions to discourage the so-called regional authorities from condemning persons or to determine them to free people from illegal detention.
57. In the Transnistrian region, torture is not regarded as a crime. Article 21 of the de facto Transnistrian constitution establishes that no one shall be "subjected to torture, to cruel, inhuman or degrading treatment or to medical experiments". However, the de facto Criminal Code of Transnistria does not criminalize acts of torture. Thus, there is no mechanism to investigate the acts of torture as such.
58. Until October 2012, the Transnistrian Penal Code did not define torture or ill-treatment. Victims were unable to report any act of torture committed by local authorities, particularly the local militia. Thus, although Article 21 of the Constitution condemns torture, according to the Transnistrian ombudsman, Vassily Kalko⁵⁹ the fact that no article of the penal code defines or punishes such acts means that it is treated as a "subjective notion". The only articles Mr Kalko could conceivably refer to was that relating to the abuse of power, or article 114 (inflicting physical or psychological suffering).
59. In October 2012, article 114 of the Penal Code was amended with the introduction of a note defining torture as an act causing physical and mental suffering so as to obtain by force statements or actions against a person's will and with the aim of punishing or inflicting punishment on someone. However, this definition is more restrictive than the definition recognized in international law. Furthermore, there is no punishment applicable to cases of torture, nor a mechanism by which complaints may be lodged or torture prevented.

⁵⁷ <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G09/107/72/PDF/G0910772.pdf?OpenElement>

⁵⁸ Article 166/1 Criminal Code of Moldova

⁵⁹ Interview during the FIDH mission https://www.fidh.org/IMG/pdf/moldova_transnistria_report.pdf page.35

60. The use of torture by the police representatives or other force structures is tolerated when they want to obtain testimonies. Therefore, people from the Transnistrian region do not notify or complain about torture.
61. After certain institutional modifications made in 2014, the prosecutors and the Transnistrian Ombudsperson can register victims' complaints, which are examined by the investigation committee of the Ombudsperson thereafter. However, the Ombudsperson typically fails to take any actions. Accordingly, the trust in the relevant mechanisms is also little. Due to lack of elements of offence, the local investigation bodies do not initiate proceedings and the mechanism of appeal against allegations of torture stays inefficient. The victims taken in police custody are obliged to prove the facts they complained about. According to the investigation committee, during 3 years since this institution was established, not one criminal case was initiated with regards to torture.⁶⁰
62. In its reports, the Ombudsperson tries to justify the omissions of *de facto* administration by the lack of financial means in the budget of the separatist administration.



63. It is worth to mention now the distrust of the local justice and the general absence of rule of law, which is a feature of the Transnistrian region. In 2016, the ECtHR pronounced the judgement in the Moser vs. the Republic of Moldova and the Russian Federation case.⁶¹ In the said judgement, the Court underlined that contrary to the law adopted by the constitutional authorities, which was subject to expert review and monitored by several international bodies, the so-called legislation that applies to the Transnistrian region has never been subject to a review. Thus, arrest and sentencing decisions taken by the so-called Courts on the basis of some local acts cannot be regarded as adopted under a judicial tradition compatible with international human rights standards. At the same time, the Court came to a conclusion that the „courts” and other „MRT” authorities do not have the

⁶⁰Report “Observance of Human Rights in the Transnistrian Region of the Republic of Moldova 2015 Retrospect” Page.5 https://promolex.md/wp-content/uploads/2016/04/doc_1456905480.pdf

⁶¹ECtHR, Case of Moser v. Moldova and Russia, application No 11138/10 of 23 February 2016

right to order arrest or detention of persons, since they are the part of a system which operates „under constitution and legislation’, which do not reflect a judicial tradition compatible with the ECHR in order to allow the persons to benefit from its guarantees.

64. Courts in the region are generally influenced by the executive. According to the Constitution of the „MRT” – the „President” is the guarantor of the independence of justice.⁶² Therefore, even though certain rights seem to be guaranteed by the local laws, a general lack of rule of law and endemic corruption prevent these laws from being applied consistently, contributing to the persistence of impunity.
65. There is no preventive mechanism also. But, an advisory group made of representatives of the civil society in the region was created, apart from the local Ombudsperson – a monitoring mechanism (consultative council).
66. In June 2016, after the expiring of the mandate of the local Ombudsman the Regulation about the consultative council, lost its force.
67. On 27 April 2017, the Media Center sent a letter to the new appointed Transnistrian Ombudsman with a proposal to organize a meeting to resume the work of the Consultative Council in the Transnistrian region. This proposal was rejected, in which the Ombudsman referred to the fact that he saw no reason to organize a joint meeting.⁶³
68. The application of the National Mechanism for the Prevention of Torture of Moldova does not extend to detention facilities in Transnistrian region, which is outside all external control mechanisms, including those of international bodies. The Moldovan central government continued to decline responsibility. However, the arguments of the de jure authorities that they do not have control over the eastern region of the country are not admissible under their positive obligations to protect human rights in Transnistrian region.

3.2. RECOMMENDATIONS

Recommendation 1: Amend Articles 30-33 of the Law on Ombudsperson to provide the National Preventive Mechanism against Torture with the possibility to monitor the right not to be subjected to torture and ill-treatment in the Transnistrian region, on the basis of available information without the need to conduct monitoring visits.

Recommendation 2: Ensure that an immediate, thorough, and impartial investigation into all reported cases of torture and ill-treatment in Transnistria region and bringing those responsible to justice in accordance with international standards.

⁶² Article 80 of the „MRT Constitution”

⁶³ The answer of the new local Ombudsman of ”MRT” from May 29, 2017.

IV. Torture and ill-treatment in Psychiatric Establishments

69. As early as 5 august 2011, the UN Special Rapporteur on torture and other cruel, inhuman and degrading treatment or punishment, established that the isolation of persons with disabilities, no matter for how long, may lead to a serious violation of fundamental rights and freedoms.⁶⁴
70. Following the visit in 2015, the United Nations Special Rapporteur on the rights of persons with disabilities analysed aspects regarding the deprivation of liberty of persons with disabilities.⁶⁵
71. The Special Rapporteur met directly with a number of institutions from Moldova, inclusively the Transnistria region, where the Special Rapporteur visited the Vyhvatintsi psychiatric hospital, a residential institution in Tiraspol and a rehabilitation center for children with disabilities.
72. The Special Rapporteur noted that, while the de facto authorities have not yet committed to the implementation of the Convention, they have a responsibility to promote the rights and well-being of all persons with disabilities of the region. The Special Rapporteur formulated some recommendation in this regard.
73. Unfortunately, we didn't see any information as a result of visiting the Vyhvatintsi psychiatric hospital, where the situation regarding the torture and and other cruel, inhuman and degrading treatment or punishment is a big problem.
74. Currently, in the Transnistrian region live about 22,000 people with intellectual disabilities or drug addictions. The main health care facility from the Transnistrian region providing health care services to persons with mental disabilities is the Psychiatry Hospital of Vihvatinti, Transnistrian region. Capacity of the health care institution is of 200 persons. ⁶⁶
75. During a journalistic investigation performed by the Media Center were found many situations that can be qualified as ill-treatment.⁶⁷ Journalists found some facts related to the use of forced medical treatment, bad conditions such as persistent smell of urine, lack of bedding, lack of ensuring patient hygiene, lack of reasonable accommodation for some categories of patients, low temperatures in winter, lack of medicines, lack of health workers.⁶⁸
76. Local Ombudsperson performed some monitoring visits. Previously, the UN Senior Expert Thomas Hammarberg made some similar findings in the Report on Human Rights in Moldova's Transnistrian region.⁶⁹

⁶⁴ 2 See the Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Manfred Nowak, A/63/175 (p.55 – 56) and CPT standards, p.58-64

⁶⁵ The report of the Special Rapporteur on the rights of persons with disabilities concerning her mission in the Republic of Moldova of 2 February 2016,

<http://md.one.un.org/content/dam/unct/moldova/docs/pub/A%20HRC%2031%2062%20Add.2%20ro.pdf>

⁶⁶ Promo-LEX Association Report the rights not to be subjected to torture and ill-treatment, page.46

https://promolex.md/wp-content/uploads/2017/04/Raport-TORTURA-web-ENG_2017.pdf

⁶⁷ Психиатрическая больница. Жизнь на дне, Web source: http://mediacenter.md/prava_celoveka/1042-psihiatricheskaya-bolnicazhizn-na-dne.html

⁶⁸ Психиатрическая больница. Жизнь на дне, Web source: http://mediacenter.md/prava_celoveka/1042-psihiatricheskaya-bolnicazhizn-na-dne.html

⁶⁹ Report on Human Rights in Moldova's Transnistrian region, the UN High expert Thomas Hammarberg, page.33, Web source :

http://md.one.un.org/content/dam/unct/moldova/docs/pub/Senior_Expert_Hammarberg_Report_TN_Human_Rights.pdf

77. In 2015, the member of an advisory group made of representatives of the civil society visited the Psychiatric Hospital in the village of Vihvatinti, where serious violations of the persons held in this institution were found.⁷⁰
78. In August 2015, it was also confirmed that forced labor is applied in these institutions. The deputy head physician of the Psychiatric Hospital in the village of Vihvatinti, used the unpaid work of patients who were on treatment in the narcological department on personal farm.⁷¹

RECOMMENDATIONS

Recommendation 1: To ensure the ratification of the Optional Protocol to the Convention on the Rights of Persons with Disabilities (2006) without any territorial reservation or declaration.

Recommendation 2: To call upon international actors and the participant of the 5+2 talks⁷² for the settlement of the Transnistrian conflict to insist on including on the Agenda the issue of the rights of persons deprived of their liberty in the context of psychiatric care, in particular in the Vhvatintsi hospital.

V. Ill-treatment in Paramilitary Units

79. Article 282 of the Criminal Code of the Republic of Moldova criminalizes the organization of an illegal paramilitary formation or participation in such, the constitutional authorities of the Republic of Moldova still face challenges in applying these legal provisions. The forced enrolment in the paramilitary structure of the region continues to be practiced. However, there are no statistical data with regards to this phenomenon.⁷³
80. The enrolment in these structures is tacitly accepted and unanimously tolerated, while in fact it has to be treated as unlawful deprivation of liberty⁷⁴. Back in 2008, Promo-LEX Association highlighted the complex situation of recruits in the Transnistrian region⁷⁵. Nine years later, the young people on the left bank of the

⁷⁰ The information about the violation you can see at this Web resources :

http://mediacenter.md/prava_celoveka/703-psihiatricheskaya-bolnica-s-vyhvatincy-doklad-o-situacii.html

⁷¹ За злоупотребление полномочиями осужден заместитель главного врача психбольницы в селе Выхватинцы
<http://vestipmr.info/articles/2015/08/11/za-zloupotreblenie-polnomochiyami-osuzhden-zamestitel>

⁷² Since 2005, formal negotiations to reach a settlement on the Transnistrian conflict take place in a format known as the "5+2". Chaired by OSCE, it includes the Moldovan de jure authorities and de facto Transnistrian administration, Russia and Ukraine as mediators, and the EU and US as observers. The negotiation process was interrupted for almost six years, resuming in 2011. The negotiation process has failed to bring about any significant progress in human rights situation in Transnistrian region or improve access of human rights defenders to the region

⁷³ Press release: Promo-LEX Is Worried about the Forced Enrolments in the Transnistrian Region / 2015 / Available on: <http://promolex.md/index.php?module=press&cat=0&&item=1847>

⁷⁴ Promo-LEX: Tiraspol Wants a More Attractive 'Army'
<https://promolex.md/9864-promo-lex-tiraspolul-vrea-o-armata-mai-attractiva/?lang=en>

⁷⁵ Research – the Military Service Obligations of the Inhabitants of the Transnistrian Region of Moldova
https://promolex.md/wp-content/uploads/2017/06/eng-doc_1233076724-2.pdf

Nistru River are still being forcefully enrolled in the paramilitary structures, since in case of evasion they risk to be sanctioned with a fine of up to EUR 1,700 (*as of the end of 2016, equivalent to about 5.5 average salaries per economy in the Transnistrian region*), or up to 2 years of imprisonment.⁷⁶

81. The conditions of the so-called compulsory military service of the recruits, which are at least inhuman and degrading, represent another problem. Since 2008, Promo-LEX Association has drawn the public attention to a number of deaths in the 'Transnistrian army'.⁷⁷
82. The violations of the rights of the forcefully enrolled persons are also confirmed by the findings reported by the Ombudsperson of the Transnistrian region. According to hid data submitted, 87 persons were convicted for desertion in 2016 (including due to hazing among soldiers). The report also states that in 2016, 7 criminal cases were initiated for hazing, bringing 12 soldiers to criminal liability.⁷⁸
83. In this context, inhuman conditions are not only determined by the hazing among military staff, but also by the abuses committed by persons in the paramilitary structures of the region. Thus, the Ombudsperson's report reveals 19 crimes, for which 21 military officers were brought to criminal liability.
84. The data of the 'Ministry of Defense' of Tiraspol also reported the following in 2016:
 - 3 members of the military died under unknown circumstances;
 - 8,247 claims/petitions were filed about the illness of members of paramilitary structures, 2,434 of whom were hospitalized;
 - 88 of 154 injuries/traumas occurred during the 'military service'.
85. Despite the existing cases of deaths or hospitalizations due to bodily injuries, there is absolutely no information about the causes or circumstances of these cases. Moreover, since the Ombudsperson of the Transnistrian region himself supports in his report the actions of the paramilitary structures in the Transnistrian region, we can conclude that he is neither independent, nor impartial or trustworthy.
86. Many cases of torture and ill-treatment of soldiers were published on the website of 'Media Center' Association of the Transnistrian region.
 - On 6 July 2016, the 'Media Center' Association received an anonymous call from a person communicating that in the hospital he was hospitalized there was a young man with multiple bruises and injuries on the entire body, including on the face area. After a few days, the kidneys of the young man ceased to function. The man was a soldier from the military unit of Parcani village.⁷⁹ On 16 July 2016, the 'Media Center' Association received an anonymous call from a person who

⁷⁶ Article 325 of the Criminal Code of the Moldovan Republic of Transnistria

⁷⁷Promo-LEX Newsletter No. 89/VI, 'Dedovshina as it is', June 2014
https://promolex.md/old/upload/ebulletin/en/nr89_1422621657en.pdf

⁷⁸ Report of the Ombudsperson of the "MRT" for 2016. On the observance and protection of the rights and freedoms of persons and citizens in the Moldovan Republic of Transnistria by the public regulatory and administrative authorities, local authorities, citizen groups and organisations, regardless of their legal organisational forms and types of ownership, as well as by their officials, and on shortcomings identified in the legislation related to protection of rights and freedoms of persons and citizens.

⁷⁹ Ответ Министерства обороны: ошибка в букве или повод уклониться от ответа?, Web source:
http://pitkamnet.mediacenter.md/%20pridnestrovie/obraschenie_na_gliniyu/1161-otvet-ministerstva-oborony-oshibka-v-bukve-ili-povod-uklonitsya-ot-otveta.html#comment

described the use of ill-treatment in the military unit from Tiraspol. According to that person, as a punishment, the soldiers are forbidden to sleep, meet their physiological needs, are placed in the dungeon.⁸⁰

87. The last data published in 2014 by the *de facto* administration, suggest that at least 10% of the total number of criminal complaints in the region refer to cases of ill-treatment of soldiers in the military units.⁸¹ In its 2015 report, the local Ombudsperson did not include information on the situation regarding the torture and ill-treatment in the military units. Neither constitutional authorities, nor civil society or international institutions are able to monitor paramilitary units.

Table 2. Statistics of criminal cases initiated for the violations of military nature and as a result of unlawful relations⁸²

Period	Total number of criminal cases initiated for service-connected offenses	Number of criminal cases initiated for the violation of statutory rules
2010	227	9
2011	617	22
2012	265	19
2013	308	24
2014	343	21

85. The local and national media published several cases describing the seriousness of the phenomenon: On May 22 2015, a sergeant inflicted on his colleague severe bodily injuries in the form of abdominal trauma and traumatic rupture of the spleen because he did not react to an order. The incident happened at night, in a military unit from Tiraspol. After the case was reported in the media, the investigation committee mentioned that a criminal investigation was initiated on this case. Neither the outcome of this investigation nor whether the victim was provided redress and rehabilitation is known.⁸³

86. In August 2015, R.A. escaped from the military unit in Parcani village from the Transnistrian region, after he was subject to ill-treatment. The young man came to Chisinau where he sought help with the authorities and informed about the abuses. The young man recounted about the “military traditions” or humiliations that he and his peers

⁸⁰ Жестокое наказание за дисциплинарное нарушение в армии, Web source: http://pitkamnet.mediacenter.md/pridnestrovie/%20obraschenie_na_gliniyu/1159-zhestokoe-nakazanie-za-disciplinarnoe-narushenie-v-armii.html

⁸¹Promo-LEX Association Report the rights not to be subjected to torture and ill-treatment, page.45 https://promolex.md/wp-content/uploads/2017/04/Raport-TORTURA-web-ENG_2017.pdf

⁸² Report “Observance of Human Rights in the Transnistrian Region of the Republic of Moldova 2015 Retrospect” https://promolex.md/wp-content/uploads/2016/04/doc_1456905480.pdf

⁸³ Statement of the investigation committee, “Military sentenced for abuse” / Tiraspol, 2015 / Available on <http://skpmr.org/index.php/en/novosti-komiteta/1903-voennosluzhashchijosuzhden-za-dolzhnostnoe-prestuplenie>

were subject to. Later, after the case was out in the national media, the KGB (the so-called the security service from Transnistrian region) initiated an investigation on grounds of betrayal and put him on the wanted list.⁸⁴ In November 2015, R. was shot somewhere around his face by an officer serving in the military unit from Tiraspol. According to the statements of the representative of the military unit in the region – Oleg Gumeniuk – the victim was shot by accident by an officer on his night shift, for which he will be brought to account. Other details are unknown.⁸⁵

5.1. RECOMMENDATIONS

Recommendation 1: Ensure prompt, impartial and thorough investigation of all allegations of torture, other forms of ill-treatment and deaths in the Paramilitary Forces.

Recommendation 2: Prosecute and punish those responsible for acts of torture.

⁸⁴ Video interview, moldova.org “Testimony of a runaway soldier of the Transnistrian army” / Chisinau, 2015 / Available on: <http://www.moldova.org/marturiile-unui-soldat-fugit-din-armatatransnistreana-e-ingrozitor-video/>

⁸⁵ Video coverage made by TSV channel, “Who shot Ruslan B.” / Tiraspol / 2015 / Available on <https://www.youtube.com/watch?v=4sWCoOb2kUg>