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Held at the Palais Wilson, Geneva, on Tuesday, 18 October 2016, at 3 p.m.

Chair: Ms. Seibert-Fohr (Vice-Chair)

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In the absence of Mr. Salvioli, Ms. Seibert-Fohr (Vice-Chair) took the Chair.

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

Consideration of reports submitted by States parties under article 40 of the Covenant
(continued)

*Third periodic report of the Republic of Moldova (CCPR/C/MDA/3;
CCPR/C/MDA/Q/3)*

1. *At the invitation of the Chair, the delegation of the Republic of Moldova took places at the Committee table.*
2. **Mr. Serbenco** (Republic of Moldova), introducing his country's third periodic report (CCPR/C/MDA/3), said that the Government of the Republic of Moldova strove to implement all the recommendations made by the United Nations human rights treaty bodies and special rapporteurs. Although the Republic of Moldova was relatively young, the need to develop and implement a legal framework in line with international standards was fully acknowledged.
3. Since 2013, the Republic of Moldova had ratified the European Convention on Mutual Assistance in Criminal Matters and the European Convention on the Supervision of Conditionally Sentenced or Conditionally Released Offenders, recognized the competence of the United Nations Committee on the Elimination of Racial Discrimination and taken steps towards the ratification of Protocol No. 12 to the Convention for the Protection of Human Rights and Fundamental Freedoms and the Optional Protocol to the Convention on the Rights of Persons with Disabilities.
4. The National Human Rights Action Plan for 2011-2014 had come to an end, and a new action plan would soon be finalized in light of the recommendations made by various international bodies, in particular the recommendations to be included in the Committee's concluding observations on the report under consideration. The Law on the People's Advocate, which had been adopted in 2014, had consolidated the capacity of the former Centre for Human Rights of Moldova, now known as the People's Advocate Office, by amending its appointment and financial resource allocation procedures. The Law on the Governmental Agent to the European Court of Human Rights, which had been adopted in 2015, provided for a new governmental supervision mechanism for the implementation of judgments pronounced by that Court. Furthermore, a draft law regulating the legal capacity of persons with disabilities had been submitted and would enable persons with disabilities to obtain protection, appoint a temporary guardian and represent themselves in civil proceedings.
5. Inhuman and degrading treatment had been incorporated into the Criminal Code. The new Law on the People's Advocate provided for the National Mechanism for the Prevention of Torture. The prosecution service had been reformed in line with the Action Plan for Implementation of the Strategy for Justice Sector Reform 2011-2016, and many laws and regulations concerning the functioning of the judicial system had been adopted.
6. Measures had been taken to combat torture, including the establishment of hotlines in all territorial and specialized prosecution offices to which information and complaints could be reported, and the installation of video surveillance equipment in detention facilities and police stations. The events of 7 April 2009 were currently under investigation, and financial compensation had already been awarded to 273 persons. Efforts were being made to improve the penitentiary system. With the financial assistance of the Council of Europe Development Bank, a major project was under way to build a new penitentiary institution with a total capacity of 1,600.

7. The Republic of Moldova was committed to upholding the rights of persons belonging to national minorities. With the assistance of the High Commissioner on National Minorities of the Organization for Security and Cooperation in Europe, a new strategy on inclusive diversity had been developed for the period 2016-2026. The Action Plan on Roma Support for 2011-2015 had been renewed, and the new action plan, which had been adopted in June 2016, would cover the period 2016-2020. The institution of community mediator would continue to be implemented. With regard to the provisions on hate crime, a proposal to amend the relevant section of the Criminal Code had been submitted to the Parliament of the Republic of Moldova and would be considered in the following weeks.

8. The Government had continued its efforts to promote and guarantee gender equality. In that regard, significant progress had been made in terms of adapting the legal and institutional framework and incorporating the issue into national sectoral policies. The National Programme on Ensuring Gender Equality for 2010-2015 had been implemented, and a new programme had been developed for the period 2017-2021. In April 2016, the Parliament had made amendments to several legislative acts, pursuant to which political parties had been made responsible for ensuring that their male and female members enjoyed equal rights and opportunities and that the rate of representation of either group never fell below 40 per cent. The Labour Code had been amended to provide for 14 days of paternal leave. Efforts had been made to combat domestic violence, and the Republic of Moldova was preparing to sign and ratify the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence. Additionally, significant progress had been made in terms of combating trafficking in human beings.

9. **Mr. Shany** said that he wished to know whether the National Human Rights Action Plan for 2011-2014 had been renewed. While he was aware that the relevant secretariat could follow up on the implementation of the Action Plan, its capacity to do so was very limited. In that connection, had consideration been given to the possibility of establishing a more permanent national mechanism to follow up on recommendations made by international bodies?

10. With regard to the national human rights institution, he asked what measures had been taken to improve its accreditation with the Global Alliance of National Human Rights Institutions from B status to A status. Furthermore, the Committee had concerns regarding the inadequate funding and staffing of the national human rights institution and its financial independence. Reports had been received that the premises made available to the Council for Preventing and Eliminating Discrimination and Ensuring Equality ("Equality Council") were inadequate. Also, information on the impact of the Association Agreement between the European Union and the Republic of Moldova would be appreciated.

11. With regard to freedom of assembly, he wished to know why the police, according to paragraph 30 of the State party's report, had recorded such a large number of "contraventions" in relation to public events, and why sanctions had been applied in many of those cases. Were such measures consistent with respect for freedom of assembly? In that connection, it would be helpful to know why the organizers of a public protest held in Chisinau on 24 April 2016 had been prosecuted. Was it true that police officers had warned protesters in advance against participation in that protest? On a separate occasion in May 2016, a gay pride march had been blocked for the safety of the participants soon after it had begun. Had all necessary measures been taken on that occasion to allow the exercise of freedom of assembly and protect the participants in the march? It should also be noted that, according to the Special Rapporteur on the rights to freedom of peaceful assembly and of association, lesbian, gay, bisexual, transgender and intersex (LGBTI) persons had been prevented from organizing public activities in several municipalities.

12. **Mr. Seetulsingh**, referring to question 4 of the list of issues, noted that 273 individuals had been compensated for damage suffered during the events of April 2009. As

disaggregated statistics were required to identify human rights trends, he asked how many of the victims had been civilians and how many had been law enforcement officers. He also enquired about the scale of the compensation awarded to the two categories. The Commission established in 2009 to identify victims had encouraged potential beneficiaries to submit complaints by publicizing its mandate in the media and on the Ministry of Justice webpage. It appeared, however, that law enforcement officers had found it easier to secure recognition as victims and had received a larger amount of compensation.

13. That conclusion seemed to be borne out by the State party's reply to question 5 of the list of issues concerning progress made in the 27 cases against police officers that had been referred to the courts. The large number of acquittals seemed to indicate the existence of a culture of impunity. He enquired about the grounds on which the acquittals had been based.

14. He requested additional information concerning measures taken under the National Human Rights Action Plan for 2011-2014 to guarantee access by victims of torture to legal assistance services and medical and social rehabilitation services. He also asked whether the measures envisaged under the Action Plan had continued to be implemented after its expiry in 2014.

15. Turning to question 12 of the list of issues concerning the Centre for Human Rights, he noted that there were now only two People's Advocates, one of whom was responsible for protecting children's rights. He asked whether the other People's Advocate acted as an ombudsman or national human rights institution and whether the person concerned had access to sufficient financial and human resources to perform his or her duties.

16. He noted that the draft law on the establishment of a national preventive mechanism had not yet been enacted although the State party had ratified the Optional Protocol to the Convention against Torture. He enquired about the issues that remained to be addressed before it could be enacted.

17. **Sir Nigel Rodley** said that the State party had failed to identify in its report the specific questions in the list of issues to which it was responding. In addition, most of the information relating to questions 7 and 8 and questions 16 to 19, on which he would focus, related to the period ending in 2013.

18. With regard to question 7, he noted that substantial measures had been taken to promote the training of judges, prosecutors, and police and prison officers, and that emphasis had been placed on compliance with international human rights standards. He enquired about the human rights components of the training programmes for judges and prosecutors, and about the outcome of the programme to train a total of 800 judges and prosecutors between November 2010 and May 2011.

19. The State party had failed to respond to the question concerning an evaluation of the impact of training programmes for police and prison officials on the fundamental principles applicable to the investigation of cases of torture and implementation of the Istanbul Protocol. He also requested further information on action taken to ensure the independence of the authorities which investigated torture and ill-treatment.

20. Turning to question 8 of the list of issues, he commended the detailed information provided in paragraphs 42 to 66 of the report concerning the Section for Combating Torture of the General Prosecutor's Office but lamented the fact that it related solely to the period ending in 2013. He would also have appreciated an overview of the statistics in tabular form with a view to identifying trends.

21. He drew attention to apparent contradictions in the information provided in the State party's report. Thus, while paragraph 53 referred to a worrying trend towards increasing violation of the rights of persons subject to contravention liability, paragraph 66 stated that

all policies implemented in the previous three years against ill-treatment by officials had had a positive impact, especially in reducing the number of serious criminal cases of torture. He enquired about the grounds for such a positive evaluation and asked whether the statistics provided in the previous 21 paragraphs referred to a period prior to the three-year period mentioned in paragraph 66. The European Committee for the Prevention of Torture, which had visited the State party in 2015, had concluded that the situation was improving and had not identified any recent cases of torture.

22. Most recent cases of ill-treatment had allegedly occurred at the time of apprehension rather than in police provisional detention facilities. It was unclear whether arrested persons were interrogated by investigators in such facilities.

23. **Mr. Politi**, referring to question 9 of the list of issues concerning rehabilitation centres for victims of domestic violence, asked whether the centres had begun to operate prior to the approval, by Government Decision No. 129 of 22 February 2010, of the Framework Regulation governing them. He enquired about the existence of a mechanism to monitor the quality of the services provided and compliance with the Joint Guidelines regarding social, legal and medical intervention in cases of domestic violence, and requested information concerning cases of non-compliance and measures to address violations of quality standards. He also requested statistics on the number of beneficiaries in the past three or four years. He asked whether victims also had access to home-based assistance and hospital care, and whether there were plans to extend assistance to all parts of the country, particularly to highly vulnerable groups such as rural women and girls. He enquired about awareness-raising initiatives, the training provided to staff, and procedures for selecting managers based on qualifications and merit. Lastly, he wished to know whether victims of domestic violence could file complaints about services provided in the rehabilitation centres and, if so, what action had been taken on any such complaints.

24. Turning to question 10 of the list of issues concerning the National Referral System Strategy for the provision of protection and assistance to victims and potential victims of trafficking in persons, he noted that legislation adopted in 2013 provided for harsher sanctions, especially in cases of child trafficking and sexual exploitation. He enquired about the effectiveness of the Strategy, particularly during the previous three years, and requested updated statistics concerning the type of assistance rendered to victims. He also wished to know what percentage of victims received assistance under the State programme rather than from NGOs, and what type of assistance had proved more effective for different categories of victims, particularly children. He asked whether victims had access to free legal assistance for criminal proceedings and for redress in the form of monetary compensation. He enquired about measures to publicize the availability of assistance and to prevent double victimization, for instance in the case of illegal migrants. Victims should be adequately informed about procedures for seeking asylum or obtaining refugee status.

25. Referring to paragraph 145 of the report concerning the Government's Instructions on the intersectoral cooperation mechanism for the identification, referral, evaluation, assistance and monitoring of child victims and potential victims of violence, neglect, exploitation and trafficking, he requested an assessment of the implementation of the Instructions by stakeholders and their effectiveness in preventing child trafficking and assisting victims. He also wished to know which State institutions were involved.

26. **Ms. Jelić**, drawing attention to question 11 of the list of issues concerning the politically sensitive situation in Transnistria, noted that the region was outside the effective control of the Republic of Moldova. She would appreciate receiving information on developments in the region since 2013, given that the report focused on the period from 2009 to 2013. She also enquired about the outcome of the settlement negotiations based on formats "1 + 1" and "5 + 2".

27. Turning to question 13 of the list of issues, she noted that the definition of discrimination in Moldovan law was not in line with international standards as it failed to mention discrimination on grounds of sexual orientation. The authorities had signed Protocol No. 12 to the European Convention on Human Rights in 2000, but had not yet ratified it, although many European human rights bodies had recommended ratification to ensure full protection of Moldovan citizens from discrimination.

28. Noting that Law No. 121 on equal treatment defined the concept of affirmative action, she asked how frequently it had been invoked and what results had been achieved, especially for the most vulnerable groups such as women, Roma, persons with disabilities, lesbian, gay, bisexual, transgender and intersex persons, and national, linguistic and religious minorities.

29. The Council for Preventing and Eliminating Discrimination and Ensuring Equality reportedly lacked adequate funding and human resources. She asked how the authorities planned to address the problem. The Council also lacked investigative capacity, including the authority to impose sanctions, and its decisions were frequently overruled by the courts. She wished to know whether the State planned to amend the applicable legislation and to enhance the Council's independence and competence. She enquired about the procedure followed in June 2013 to select the five members of the Council. It was unclear whether they were elected or appointed and whether the procedure was sufficiently transparent.

30. The Committee had been informed that an Orthodox priest had called for the abolition of the Council and of Law No. 121 on ensuring equality. She asked whether his intervention had been an official initiative or merely individual rhetoric.

31. As there was a need for further promotion of equality and non-discrimination and for the implementation of national and international legislation, she enquired about measures taken to raise awareness of the right to equality and of the prohibition of discrimination against vulnerable groups.

The meeting was suspended at 4.20 p.m. and resumed at 4.40 p.m.

32. **Mr. Serbenco** (Republic of Moldova) said that the delay in the submission of his delegation's report could be attributed to political upheaval in the country during the reporting period. His delegation was up-to-date in its other reporting obligations, for example to the universal periodic review process of the Human Rights Council and was committed to respecting the Committee's deadlines for the submission of reports. Progress made in the implementation of the National Human Rights Action Plan for 2011-2014 was being reviewed for any shortcomings. An interim plan had been launched in 2015 but the drafting of a new multi-year action plan would be postponed to take into account the results of the universal periodic review and the Committee's observations, in order to ensure that the new plan was as comprehensive as possible.

33. There was no single mechanism or body for monitoring the implementation of international human rights instruments. Currently individual councils made up of government and civil society representatives were responsible for the protection of specific rights, for example the Council for Preventing and Eliminating Discrimination and Ensuring Equality, or the Council for the Prevention of Torture. There was also a separate commission responsible for approving reports to treaty bodies. That system was unwieldy. Accordingly, with the assistance of the Human Rights Adviser deployed to Chisinau by the Office of the United Nations High Commissioner for Human Rights and bearing in mind the recommendations of international partners, a separate Council on Human Rights headed by the Prime Minister, with its own secretariat, was to be established to act as a central monitoring mechanism. He recognized the need for a national human rights institution but said that, for the time being, insufficient resources were available for the establishment of such an institution.

34. There were currently two People's Advocates: one for the rights of the child and one for other rights. The Constitution would be amended to better define the role and powers of the People's Advocates, who were selected by Parliament. Advocates were appointed in a transparent manner, subject to review by the Constitutional Court, which had in fact overturned one appointment recently. Their independence was bolstered by the fact that their salary was about the same as that of the Prime Minister.

35. The Council for Preventing and Eliminating Discrimination and Ensuring Equality played an active role as a human rights protection mechanism; it could undertake investigations and adjudicate cases relating to complaints of discrimination. Its decisions in such cases were subject to judicial review. His Government was studying the possibility of giving it the authority to impose sanctions in cases where it found that there had been a human rights violation but was wary of infringing on the role of the judiciary. With regard to recent calls by an Orthodox priest to repeal Law No. 121 on ensuring equality, he reassured the Committee that that position did not enjoy widespread support.

36. The conclusion of an Association Agreement with the European Union was Moldova's most significant foreign policy achievement and would one day lead to full membership. The association and membership process entailed ongoing dialogue with the European Union as Moldova worked to align itself with European Union standards and legislation, including in the area of human rights. Meetings were held twice a year with European Union representatives to discuss human rights issues.

37. The human rights violations following the post-election demonstrations in April 2009 represented a dark period in the life of the young Moldovan State. Both civilians and law enforcement officials involved in the violence had been prosecuted, leading to a number of convictions. Financial compensation to 273 victims had been provided by the Special Commission established in April 2010 and the Commission established in April 2011; while he did not have information on how many of the victims were civilians and how many law enforcement officials, the majority were civilians. He would try to supply more detailed information in that regard to the Committee.

38. He recalled that Moldova was not a rich country and was implementing painful reforms required by the International Monetary Fund. The Government had nevertheless paid compensation as ordered by the Commissions, generally the equivalent of 150 to 350 US dollars. Those were not large amounts but the Commissions could also order that victims be offered specialized treatment and rehabilitation, which was provided under the responsibility of the Ministry of Labour. Victims could also have recourse to the courts to seek compensation. New legal measures relating to the rehabilitation of victims of crime would come into force in 2018 and add new types of services and assistance for victims, including the right to free legal aid. A separate body would be established to review requests for compensation from victims.

39. The National Institute of Justice provided training to justice system personnel, judges and prosecutors in a wide range of areas, including human trafficking, gender equality, juvenile justice, etc. It also provided funding for training outside the Institute as needed. The legal system would soon offer the possibility of judicial mediation services and the Institute was preparing a training module for that new role. Familiarizing judges and prosecutors with human rights issues was a particular priority, including with regard to international review mechanisms, such as the United Nations treaty bodies and human rights mechanisms and the European Court of Human Rights. The Constitutional Court and the Supreme Court of Justice were fully aware of the Covenant and the Committee's jurisprudence and were free to invoke them during proceedings.

40. The issue of Transnistria was a politically sensitive one. His Government looked forward to the reintegration of that region into Moldova. The “5 + 2” mechanism provided an institutional framework for the resolution of problems.

42. **Mr. Ulianovschi** (Republic of Moldova) said that his Government was pursuing consultations to achieve a peaceful and sustainable solution to the conflict between Moldova and Transnistria. Protection of human rights in Transnistria was dealt with in the context of the “1 + 1” and “5 + 2” settlement negotiation formats between Moldova and the Transnistrian authorities. The Ministry of Foreign Affairs, in cooperation with the Reintegration Office, was responsible for human rights issues involving Transnistria. The situation was complicated by the fact that, although the international community considered Moldova to be responsible for human rights issues in Transnistria, it did not have effective control over or access to Transnistria. His Government cooperated fully with international human rights bodies and mechanisms and he noted that international human rights officials had been allowed to visit by the Transnistrian authorities.

43. The National Human Rights Action Plan for 2011-2014 had given special priority to protecting human rights in Transnistria. Human rights violations were reported to the “5 + 2” partners, including the Organization for Security and Cooperation in Europe (OSCE) mission and the representatives of the Transnistrian authorities. Since 2013 the Reintegration Office had dealt with 403 human rights cases. It cooperated with the Transnistrian authorities and civil society human rights organizations as well as international partners, including the United Nations, the Council of Europe and OSCE.

44. While a number of working groups on various topics had been established by the Moldovan and Transnistrian authorities, the latter had refused to create a group on human rights on the grounds that human rights were too sensitive a topic and the creation of such a group would have to wait until more confidence-building measures had been implemented. A subgroup on human rights had been established by the working group on personal status and documentation, but to the disappointment of his Government it had met only once, in February 2013. Moldova would continue to cooperate with the international community and the Transnistrian authorities to address human rights issues.

45. **Mr. Serbenco** (Republic of Moldova) said that the European Court of Human Rights had stated very clearly that Transnistria was a creation of the Russian Federation, which therefore also had positive obligations towards the region’s residents.

46. Concerning the right to freedom of assembly, accredited international observers had been present at parades and had attested to the fact that the national authorities, in particular the police, provided appropriate protection. While there might sometimes be organizational issues, the authorities were committed to ensuring that all persons could demonstrate freely and without interference. The delegation would provide the Committee with further details at a later stage.

47. **Ms. Furtuna** (Republic of Moldova) said that the Department to Combat Torture was a specialized branch of the General Prosecutor’s Office whose main aim was to ensure that investigations into allegations of torture met certain minimum standards. In accordance with the Code of Criminal Procedure, a total of 72 specialized prosecutors had exclusive competence to investigate such allegations across the country. In order to guarantee their independence, the prosecutors were not permitted to deal with criminal cases that involved cooperation with the police or with anti-corruption, customs or prison officials.

48. The Department, in conjunction with international human rights experts, had developed a methodological guide for the specialized prosecutors that contained mandatory recommendations. It also promoted international torture prevention standards at training seminars attended by the specialized prosecutors and by police and prison officials.

49. Members of the Department had participated in a working group tasked with drafting amendments to the Criminal Code. As a result of their efforts, the definition of torture had been amended and a new article had been introduced to criminalize cruel, inhuman or degrading treatment. The Code of Criminal Procedure had also been amended to bring it more closely into line with the Istanbul Protocol by requiring that alleged victims of torture should be provided with psychological and psychiatric support, and that photographs should be taken of their injuries.

50. Pursuant to the Code of Criminal Procedure, specialized prosecutors were obliged to take action in response to complaints of torture within 15 days. An interdepartmental decree had been issued to facilitate the recording of complaints and to ensure that they were dealt with exclusively by specialized prosecutors. Information on how to file complaints was made available to members of the public in all local prosecutors' offices.

51. In accordance with a law of 25 February 2016 that had entered into force on 1 August 2016, cases of torture had been placed within the purview of specialized prosecutors, while cases of ill-treatment remained within the competence of local and regional prosecutors' offices.

52. **Ms. Doros** (Republic of Moldova) said that the National Referral System to Protect and Assist Victims and Potential Victims of Human Trafficking had been launched in 2006 with the support of international donors and approved by Parliament in 2008. The Ministry of Labour, Social Protection and Family was responsible for coordination within the System and for monitoring the activities of local multidisciplinary teams in all districts of the country.

53. Victims and potential victims could benefit from a range of State assistance programmes and had access to a national shelter, a specialized centre for children and support services nationwide. Additional shelters were in the process of being accredited by a national council that had been established in 2015 to ensure compliance with minimum standards of care.

54. In 2015, there had been 132 recorded victims of human trafficking. All victims were informed of their rights and offered legal assistance. The Ministry of Internal Affairs and the Ministry of Labour, Social Protection and Family worked jointly to identify victims and provide them with appropriate support.

55. **Mr. Seetulsingh** said that he would appreciate clarification on the exact number of police officers who had been acquitted of charges brought in relation to the post-election demonstrations in April 2009. The delegation should comment on reports that several officers had been acquitted and that some had subsequently been promoted. It should also explain whether those officers responsible for the disproportionate use of force who had kept their jobs had faced any form of disciplinary action.

56. **Mr. Shany**, noting with regard to the Transnistrian region that the focus of the interactive dialogue was on the positive obligations of the Republic of Moldova and not those of other States parties, asked whether the Government accepted its ultimate responsibility to implement, to the best of its ability, the recommendations contained in the reports prepared by Thomas Hammarberg and by the European Court of Human Rights, among others.

57. **Sir Nigel Rodley** asked what distinction was drawn between torture and other ill-treatment under Moldovan law and what legal consequences, whether normative, substantive or procedural, flowed from that distinction, other than the fact that complaints of torture were handled exclusively by specialized prosecutors. He invited the delegation to indicate which articles of the Criminal Code prohibited torture and other ill-treatment, and to provide details of the content of those articles.

58. **Mr. Serbenco** (Republic of Moldova) said that it had not been his intention to downplay his country's responsibilities with regard to Transnistria and that the Government was committed to doing everything within its power to provide the necessary assistance to persons living in the region, most of whom were Moldovan citizens. The delegation would be in a position to reply to any unanswered questions at a subsequent meeting devoted to the consideration of his country's third periodic report.

The meeting rose at 5.55 p.m.