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Moldova

Police torture and ill-treatment: “It’s just normal.”

1. Introduction

“It’s just normal to be beaten by the police. I thought: ‘Well, they will beat me and then they will let me go.’”

A.B., detained by police in Chişinău from 25 February to 17 July 2006

Moldova is failing to fulfil its obligations under international human rights law to ensure individuals’ right to freedom from torture and other cruel, inhuman and degrading treatment. In this report Amnesty International shows that despite measures taken by the Moldovan government to bring legislation into line with international and European standards, torture and ill-treatment in police custody remain widespread and people who are ill-treated and tortured while detained by the police do not have adequate protection or recourse to justice.

President Voronin has made it clear that Moldova aspires to European integration: “We are a part of Europe and it is only the historical conditions that have impeded the development of the Republic of Moldova in accordance with the integration processes on the continent.”¹ Moldova has been a member of the Council of Europe since 1995 and has made substantial progress towards improving the protection of human rights. Since joining the Council of Europe, it has ratified 62 out of 200 Council of Europe conventions; it was the first country in Europe to ratify the Convention against Trafficking in Human Beings in 2006. In July 2006 Moldova ratified the Optional Protocol to the United Nations Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment. In 2003 a new Criminal Procedural Code and Criminal Code were adopted which brought legislation closer to Council of Europe standards, and in 2005 the Criminal Code was amended to include an article specifically referring to torture by state officials in accordance with the UN Convention Against Torture

On 22 February 2005, Moldova and the European Union (EU) agreed the EU-Moldova Action Plan under the European Neighbourhood Policy which sets a number of goals to bring Moldova closer to Council of Europe standards including on the eradication of ill-treatment and torture.

¹ Speech to the Committee on Foreign Affairs of the European Parliament and of the members of the Delegation for Cooperation with Moldova, 8 June 2005, Strasbourg, http://www.europarl.europa.eu/meetdocs/2004_2009/documents/fd/dmd20050621_08/dmd20050621_08en.pdf

In accordance with the Vienna Declaration and Programme of Action adopted at the World Conference on Human Rights in 1993, Moldova has adopted a National Human Rights Action Plan and is one of only 17 countries in the world to have done so. The plan covers the period 2004 – 2008 and sets goals for improving the conditions of detainees and the prevention of torture and ill-treatment. However, in the introduction there is an acknowledgement that there is a gap between Moldova's intentions and the reality in the country:

“Basic international principles and standards included in the Constitution and other legislative acts have not become a reality so far and do not hold a special place in the life of society and of the state. The deformed legal conscience observed during the last decade, the deeply-rooted neglect of human rights and freedoms, and of the human being in general, legal nihilism and the lack of trust in the state have conditioned the insecurity of the people, their mistrust of the ability of the state to protect their rights.”²

In researching this report, Amnesty International found that the changes to legislation and some practices may have resulted in a reduction of incidences of torture and ill-treatment. One young policeman informed Amnesty International delegates in March 2007 that the use of physical violence was frowned upon and that police investigators now use more psychological pressure. Amnesty International has come across cases where police used relatives to apply pressure indirectly to detainees by first threatening the relatives, and where they threatened detainees with more serious criminal convictions to get them to confess to minor crimes. In its report on its visit to places of detention in 2004, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) stated that there had been an “encouraging change for the better” regarding the prevalence of torture and ill-treatment, but “the problem remains far from being resolved”. Pressure is building on the Moldovan government to eradicate torture once and for all: since 2005 the European Court of Human Rights has found in eight judgments that Moldova has violated the right to be free from torture and ill-treatment; four of these were handed down in 2007. During two visits by AI delegates in March and July 2007 the Ministry of Internal Affairs and the Prosecutor General's Office showed remarkable openness and a willingness to cooperate with Amnesty International. In meetings, officials acknowledged that torture and ill-treatment is a problem and invited Amnesty International to make recommendations.

However, despite some positive developments, Amnesty International continues to receive allegations of torture and ill-treatment in police detention, and there is reason to believe that the problem is widespread. According to a survey carried out by the Institute for Penal Reform in 2004, 60.7 per cent of judges, prosecutors and lawyers thought that the rights of the accused were violated; 42.8 per cent of the same group thought that investigation bodies applied violence or other means of pressure against suspects. Heads of regional police

² National Human Rights Action Plan of the Republic of Moldova for 2004-2008, p. 2
<http://www.unhcr.ch/html/menu2/moldova.doc>

stations and police investigators, whom Amnesty International met during visits to police stations in July 2007, were unwilling to acknowledge the problem, and displayed a lack of understanding of human rights standards.

In its visit to Moldova, Amnesty International collected several detailed case studies; an account of three illustrative cases appears in the appendix to this report. The victims themselves told Amnesty International how their basic human rights have been violated and national laws and procedures have been ignored by police investigators. Sergei Gurgurov stated to Amnesty International delegates that he was tortured by police officers from Rîșcani district in Chișinău in October 2005 to make him confess to a series of mobile phone thefts. He was allegedly beaten until he was unconscious and police officers attempted to wake him by giving him electric shocks. Sergei Gurgurov, who is 28 years old, has been left disabled by the alleged torture and ill-treatment he suffered at the hands of police. A.B. said he was beaten by three officers from the Internal Security Department of the Ministry of Internal Affairs; one officer used handcuffs to beat him, and one beat him with a rubber torch. They were allegedly assisted by the detention centre's medical assistant who held his legs and expressed regret that the electric shock machine was not working. He said he was beaten to force him to give testimony against a friend who worked as a policeman, but he refused to give false testimony. He was held in police detention from 25 February to 17 July 2006, and accused of theft. Viorica Plate was allegedly tortured by police from Botanica police station in Chișinău on 21 May 2007 to force her to confess to stealing money from her ex-husband. She said that police officers beat her, made her wear a gas mask, deprived her of oxygen, and hung her on a metal hat stand between two chairs while they beat her.

The information in this report has been gathered through interviews with victims, lawyers, non-governmental organizations (NGOs), representatives of the Ministry of Internal Affairs and of the Prosecutor General's Office. Amnesty International representatives conducted two fact-finding visits to Moldova in March and July 2007 and visited places of detention in Chișinău, Comrat, Taraclia, Ocnîța, Edineț, Orhei and Strașeni. This report does not include any cases from the self-proclaimed Trans-Dniester Moldavian Republic (Transdniestria). This is not because of the absence of torture and ill-treatment in Transdniestria, but because of a greater reluctance on the part of those living in Transdniestria to report cases of torture and ill-treatment, a lack of NGOs working on this issue and low awareness among lawyers. In its report on a visit to Transdniestria in 2000, the CPT stated that "a significant number of the persons deprived of their liberty interviewed by the CPT's delegation alleged that they had been ill-treated by the police."

Amnesty International calls on the Moldovan government to increase safeguards against torture and other ill-treatment in police custody such as shortening the detention period before the detainee comes before a judge in criminal cases from 72 to 24 hours to ensure that detainees are held in police detention as short a time as possible; compulsory medical examinations on arrival at places of detention; and to ensure that interrogations are held in designated interrogation rooms and that interrogations are recorded on audio or audiovisual equipment. The government should end impunity for acts of torture and other ill-

treatment by ensuring that all allegations of torture and other ill-treatment are promptly, thoroughly, independently and impartially investigated, and that police officers under investigation for such acts are suspended on full pay for the duration of the investigation; that statistics on the number of complaints and how they have been dealt with are regularly published and that victims and their families receive reparations. The Moldovan government should comply with the 2003 recommendation of the United Nations Committee against Torture and set up a fully resourced independent mechanism to investigate all allegations of human rights violations including torture and other ill-treatment by law enforcement officers, and in line with its ratification of the United Nations Optional Protocol to the Convention against Torture should set up an effective and independent body to carrying out monitoring of all detention facilities.

In order to protect the safety of one of the victims mentioned in this report, letters which bear no relation to the name of that person have been substituted for the real name. Amnesty International is grateful to all those who have helped in compiling this report and believes that the recommendations made to the Moldovan government will help to eradicate torture and other ill-treatment in police custody.

2. Moldova's obligations under international law

The prohibition of torture

All forms of torture or other ill-treatment are unequivocally prohibited under international human rights law. This prohibition is set out in numerous treaties and other instruments, and is also part of international customary law which applies to all states, irrespective of whether they are party to specific treaties containing the prohibition. Torture and ill-treatment are prohibited at all times and in all circumstances. No exceptions are permitted and states cannot derogate from their obligations in times of public emergency or for any other reason.

Since 1948, numerous international and regional human rights instruments have been adopted which include this prohibition. These instruments include legally binding treaties and conventions, and declarations and similar instruments which are not legally binding in the same way as treaties, but which, having been adopted by the UN General Assembly or other UN bodies, carry considerable authority and represent strong agreement by states regarding the standards set out in them. Moldova is a state party to all such major relevant international conventions which are:

- International Covenant on Civil and Political Rights (ICCPR) – Article 7
- European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) – Article 3

- Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (Convention against Torture) including the Optional Protocol to the Convention against Torture
- European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment

The ICCPR establishes a body of independent experts, the Human Rights Committee, to review states' parties' implementation of its provisions. The ECHR allows individuals to submit formal complaints to the European Court of Human Rights if their rights under the convention have been violated. The Court delivers judgments which are binding and can instruct states to pay compensation to victims. The Convention against Torture establishes the Committee against Torture (CAT), a body of independent experts which reviews states' parties' implementation of its provisions. In 1985 the UN Commission on Human Rights appointed a Special Rapporteur on torture, an expert who is mandated to address the government of any state, irrespective of the specific treaties it is a party to, including by intervening in urgent cases.

At the European and international level there are treaties which establish monitoring bodies to visit places of detention. The Optional Protocol to the Convention against Torture (OPCAT) entered into force in June 2006 and provides for a system of regular visits to places of detention by independent international and national bodies. At the international level, the OPCAT creates a new international preventive body, called the UN Subcommittee for the Prevention of Torture. At the national level, states that have ratified OPCAT are required to set up National Preventive Mechanisms within one year after they ratify. The European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment adopted in 1987 establishes a committee of experts drawn from the states parties, the European Committee for the Prevention of Torture and Inhuman and Degrading Treatment or Punishment (CPT), which is empowered to visit places of detention with a view to strengthening the protection of detainees from torture and ill-treatment. The CPT has published a collection of standards which cover the main issues that it looks at during its visits to places of detention in states parties; these include a section dealing with police custody.³ More specifically, the CPT has made nine visits to Moldova including Transdnistria during which it has looked into, among other things, torture and ill-treatment in police detention.⁴ The reports of these visits provide very detailed recommendations and are referred to in this report.

As a state party to all these international human rights instruments, Moldova has committed itself to protect the rights of all individuals under its jurisdiction. In addition to the

³ The CPT Standards can be found in English on the CPT website: <http://www.cpt.coe.int/en/documents/eng-standards-scr.pdf> in Romanian and Russian: <http://www.cpt.coe.int/en/other-languages.htm>

⁴ All CPT reports are available on the CPT website: at <http://www.cpt.coe.int/en/states/mda.htm>

instruments which deal specifically with torture and ill-treatment, there are some key international texts which set out standards relating to detention generally, and which include important safeguards against torture and ill-treatment: the UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment (UN Body of Principles), the UN Standard Minimum Rules for the Treatment of Prisoners (UN Standard Minimum Rules), the UN Principles on the Effective Investigation and documentation of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, and the European Committee for the Prevention of Torture Standards (CPT Standards).

Definition of torture and ill-treatment

The UN Convention against Torture and Other Cruel Inhuman or Degrading Treatment (Convention against Torture), to which Moldova is a state party, deals explicitly with torture and other cruel, inhuman or degrading treatment by public officials. Article 1 contains the following definition of torture:

“For the purposes of this Convention, the term ‘torture’ means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity.”

3. Political, social and economic conditions

Moldova has a population of approximately four million⁵ and gained its independence following the collapse of the USSR in 1991. The state language is Moldovan⁶, but Russian and Gagauz (see below) have the status of “official languages”.

Moldova faces significant political and economic challenges. In the first place the government does not have control over the whole territory of the country. The territory to the East of the Dniestr River declared independence from Moldova, but still within the Soviet Union in 1990, as the Pridnestrovian Moldavian Soviet Socialist Republic. This declaration was followed by fighting which escalated in March 1992 and during which thousands died. The violence ended in July 1992 when an agreement was signed between Moldova and the Russian Federation. The Trans-Dniester Moldavian Republic (Transdniestria), which has

⁵ According to a census carried out in 1989 and including Transdniestria the population was 4.3 million. In a census carried out in 2004 and excluding Transdniestria the population was 3.6 million.

⁶ There is considerable debate as to whether the language should be called Romanian or Moldovan. Amnesty International is calling the language Moldovan because the constitution describes the state language as Moldovan.

never been internationally recognized, functions as a presidential republic with its own government, parliament, military and police force, constitution, and currency.

Relations with the Gagauz ethnic group in the south of the country have been more successful. The Gagauz, an orthodox Christian Turkic ethnic group, also fought alongside the inhabitants of Transdnistria during the civil war in the early 1990s, but they agreed a settlement with Moldova whereby the Gagauz Autonomous Region, although not geographically contiguous, has a degree of autonomy within Moldova.

Moldova remains one of the poorer countries in Eastern Europe and the former Soviet Union. It has no natural resources, and farming, which employs 40 per cent of the population, is not organized efficiently. According to the United Nations Development Programme (UNDP), "a large group of rural inhabitants is simply and desperately trying to survive."⁷ Poverty and lack of employment opportunities leads to high levels of emigration and people being trafficked. Official estimates for the number of Moldovans working abroad in 2005 were 394,500, and remittances accounted for 30 per cent of the GDP in that year.⁸ One NGO working in the Gagauz Autonomous Region told Amnesty International that according to a survey they conducted, 80 per cent of girls in a local school aspired to working abroad and 70 per cent of children in a local village school had a relative working abroad.

Rampant corruption is a social consequence of poverty which undermines the rule of law and contributes to impunity for public officials who break the law. All officials whom Amnesty International representatives met, during their visits in March and July 2007, admitted that corruption is a problem at all levels of government including among police officers, lawyers, and judges. One employee of the Ministry of Justice said: "We can never say that government will be free of corruption. That would mean that there would be no government."

Violence is tolerated at many levels in Moldovan society. Violence within the family is very widespread; the Deputy Minister of Justice told Amnesty International representatives that if all parents in Moldova were to answer truthfully whether they beat their children or not, 100 per cent of parents would admit that they beat their children.

4. Police detention practices

According to the Law on the Police, police carry out their work on the basis of the principles of "legality, humanity and social justice, cooperation with citizens and work collectives, the facilitation of openness and respect for professional secrecy". The law also states that the police can only violate the rights and freedoms of citizens in cases where it is necessary to carry out their duties. In Moldova, as in other parts of the former Soviet Union, the police are

⁷ *The Republic of Moldova: Human Development Report 2006*, UNDP, Chişinău, 2006, p. 11

⁸ UNDP, p. 10

adapting to working in a democratic rather than an authoritarian political system, and the transition is not yet complete. The police in Moldova still retain many features of a Soviet-style police force such as a highly militarized and hierarchical structure, failure to respect the presumption of innocence, and reliance on confessional evidence.

However, there is a growing awareness of the need to change and the Ministry of Internal Affairs has embarked on a year-long project with the UK-based NGO Saferworld and the Institute for Public Policy (IPP) in Moldova to develop a community-based policing strategy. In May 2006, in accordance with the National Human Rights Action Plan, a Code of Ethics and Deontology for the police was passed with the aim of improving police behaviour, establishing the trust of society in police and eradicating professional abuse. The Code of Ethics and Deontology establishes principles for the professional conduct of policemen including legality, impartiality, transparency, flexibility etc.

The various law enforcement bodies such as the criminal police, the judicial police, the gendarmerie (*carabinieri*), and the traffic police are under the jurisdiction of the Ministry of Internal Affairs. The Ministry of Internal Affairs runs 38 temporary isolation facilities (IDP – acronym from the Moldovan, *izolatoare de detenție preventivă*) most of which are attached to regional police stations and which have an official capacity of 1,564 detainees. In addition to the IDPs run by the Ministry of Internal Affairs, the Centre for Combating Economic Crimes and Corruption in Chișinău runs its own detention facility. The Centre was set up by Presidential decree in 2002 and is accountable to the Prime Minister.

The Criminal Procedural Code and the Law on the Police lay out the procedures for arrest and treatment of criminal detainees and their rights. Many aspects of the treatment of detainees and their conditions are also laid down in internal regulations of the Ministry of Internal Affairs such as Order No.5, most recently updated in 2004 but not publicly available.

Excessive time spent in police detention

All detainees are held in IDPs for up to 72 hours until they are brought before a judge. At that stage they are either transferred to a remand prison (*Instituția penitenciară* – IP or the Russian acronym SIZO) run by the Ministry of Justice, or their detention in the IDP may be extended. The period of time that detainees actually spend in police detention is not laid down in the Criminal Procedural Code, but on visiting IDPs Amnesty International representatives were told that detainees could be held for 10 days. This is presumably laid down in internal regulations. However, it is common practice for pre-trial detainees to be returned frequently to the IDP from the SIZO for further interrogation or investigative work. When visiting IDPs in July 2007, Amnesty International delegates found that most of the detainees who were suspects in criminal cases had been brought repeatedly to the IDP during pre-trial detention to meet the investigators or prosecutors dealing with their cases. Each visit would last a maximum of 10 days before they were returned to the SIZO. This practice had a negative effect on the detainees: not only were they held in poor conditions for an excessive period of time, but they were also frequently deprived of the possibility of family visits.

One important safeguard against torture and ill-treatment is to ensure that the authorities responsible for interrogation are separate from those in charge of detention. One of the action points of the National Human Rights Action Plan is to transfer the management of IDPs to the Ministry of Justice. This would be an effective safeguard against torture and ill-treatment, because it would mean that detainees would be held in police facilities only for the first 72 hours under existing laws. For this to take place, a number of new pre-trial detention facilities (*casele de arest* - houses of arrest) need to be built throughout the country, and the planned transfer date is currently 2010. Amnesty International urges the Moldovan government to take action without delay to ensure that the responsibility for detainees is transferred to the Ministry of Justice even if this means that Ministry of Justice officials will need to work within police stations run by the Ministry of Internal Affairs.

Lack of separation of convicted prisoners and investigation detainees

According to the UN Standard Minimum Rules for the Treatment of Prisoners, detainees awaiting trial should be kept separate from convicted prisoners, should be presumed innocent and should be treated as such. In Moldova this separation is not currently respected because prisoners sentenced under the Administrative Code are also held in IDPs. (see section 4.5)

The planned transfer of IDPs to the jurisdiction of the Ministry of Justice would also mean that administratively sentenced prisoners would be held separately from detainees under investigation. This separation should occur as soon as possible.

Criteria for evaluation of police work

One of the legacies of the Soviet past is a very high conviction rate of about 76 per cent, compared with a Western European conviction rate of 20 to 40 per cent.⁹ There is pressure on police officers to solve crimes, and this is used as a measure of success rather than other factors, such as public perception of the police or crime prevention. One recently qualified policeman told Amnesty International representatives that his performance is measured by the number of cases he sends to court. The quality of the cases was not measured and the court decisions were not taken into consideration. The Chief of Police in Ocnitza confirmed this to Amnesty International delegates in July 2007, and stated that his station was among the best in the country because they were able to send 97 per cent of the cases that they took on to the prosecutor's office. When asked if he knew what court decisions were made on the basis of those cases, he said that it was not his concern. During a meeting with the Ministry of Internal Affairs in March 2007 it was confirmed that pay depends on the quality of work. Amnesty International was told that salaries can vary substantially. Violations of the Criminal Procedural Code will be punished by reductions in pay, but similarly a manager can decide to reward a policeman for solving a crime. Amnesty International was told that there are no

⁹ Uildriks, Niels and van Reenen, Piet, *Policing Post-communist Societies. Police-Public Violence, Democratic Policing and Human Rights*, Intersentia, 2003, p.47.

norms for solving crimes, but there is competition within the Ministry to show high conviction rates. Amnesty International believes that new criteria for the evaluation of police work established in line with the Code of Ethics and Deontology would help to combat torture and ill-treatment.

Reliance on confessions

Police in Moldova rely very heavily on confessional evidence. The Criminal Procedural Code requires evidence apart from confessions, but it is not mandatory and in practice this usually consists of the testimony of witnesses.

Many IDPs have recently introduced interrogation rooms within the cell block area; however, when asked, most investigators and heads of local police stations admitted that interrogation also takes place in the investigators' offices. In most of the cases that have come to Amnesty International's attention, torture and ill-treatment had taken place in the investigators' offices rather than in special rooms in the detention area. There is no requirement to record police interrogations on audio or video equipment.

A dire lack of resources contributes to a tendency to rely on confessions. When Amnesty International delegates visited six police stations in July 2007, the police investigators stated that the computers and any other technology had been bought with their own money, and any redecoration of the offices was usually at their own expense. A young policeman told Amnesty International representatives in March 2007 that he not only paid for his computer out of his salary, but also for his chair and most of his phone calls.

Moldova has made an effort to bring its laws into line with international standards to ensure that they provide safeguards for detainees such as access to a lawyer, doctor and family members, and also to ensure that detention is only on a judge's order. These guarantees are often simply ignored, and are sometimes ineffectual because of other shortcomings in the system.

4.1 Access to a lawyer

"We lose cases in the European Court because prosecutors do not pay attention to trifles [нустяку] like access to a lawyer."

Deputy Prosecutor General

"The period immediately following deprivation of liberty is when the risk of intimidation and physical ill-treatment is greatest. Consequently, the possibility for persons taken into police custody to have access to a lawyer during that period is a fundamental safeguard against ill-treatment... The right of access to a lawyer must include the right to talk to him in private. The person concerned should also, in principle, be entitled to have a lawyer present during any interrogation conducted by the police..."

CPT, 12th General Report, Para 41

The UN Special Rapporteur on torture has recommended "[t]hat the right to have access to a lawyer is one of the basic rights of a person who is deprived of his liberty".¹⁰ The CPT has stated that the right of access to a lawyer is a "fundamental safeguard" against ill-treatment and that this right should apply from the outset of custody. As one lawyer, Veaceslav Țurcan, said to Amnesty International delegates: "A clever and well educated lawyer is a god-send for victims of torture and a nemesis for perpetrators, but it is a matter of time before there are enough such lawyers in Moldova."

According to Article 69 of the Moldovan Criminal Procedural Code, access to a lawyer is mandatory in all criminal cases. It is also mandatory when a suspect is unable to defend him or herself, for reasons of mental or physical disability, or when the suspect is a minor. Article 64 states that suspects have the right to be questioned by police in the presence of a lawyer if they desire it. Article 167 of the Criminal Procedural Code stipulates that within three hours of their arrest all detainees must be informed of their right to legal defence, as well as the reasons for their arrest, and all their other rights.

Amnesty International is concerned that despite these legal guarantees most detainees do not see a lawyer soon enough and are often subjected to torture and ill-treatment at the hands of police officers before they can see a lawyer. Interrogations are often carried out without the presence of a lawyer, and in many cases the quality of legal advice is not a sufficient safeguard against torture and ill-treatment. Many lawyers are former police officers and this may present a conflict of interest in favour of the police and against their clients.

Vitalii Colibaba was detained on 21 April 2006 by police officers from Buiucani district police station in Chișinău, the capital city. He stated to Amnesty International that the police tortured him to force him to confess to injuring a police officer in a drunken brawl. He was not allowed to see a lawyer until he had been in custody for six days. Sergei Gurgurov

¹⁰ Commission on Human Rights Resolution 1994/37 of 4 March 1994

did not see a lawyer from the time he was detained by police officers on 25 October 2005 until 3 November, when he was taken to court. When Amnesty International visited police stations in July 2007, all investigators and local police chiefs assured the Amnesty International delegates that interrogation only takes place in the presence of a lawyer, yet when the Amnesty International delegates entered an office used by several investigators, and were told that an interrogation was taking place, there was no lawyer present.

At times the quality of legal advice available to detainees does not offer any protection from torture and ill-treatment. A.B. was detained on 25 February 2006 and stated that he was severely beaten by police officers from the Department for Internal Security of the Ministry of Internal Affairs to force him to testify that a police officer had stolen petrol coupons. Police officers called a state-funded lawyer, but according to A.B., he did not even take notes when A.B. told him about the beating he had just suffered, and was not interested in the fact that he was covered in blood. He reportedly asked A.B. to hand over the US\$150 he had on him at the time of arrest and left. According to A.B., the police initially recorded the fact that he had handed over the money to the lawyer, but the lawyer reportedly told the police officers to destroy that report, and there is now no record that the money was taken.

In several detention centres, including the detention facility of the Centre for Combating Economic Crimes and Corruption (CCECC), and the IDP of the Chişinău police headquarters, lawyers could only see their clients through a glass screen. This situation meant that documents could not easily be exchanged, and there were also grounds to suspect that the conversations were recorded. Between 1 and 3 December 2004, the Moldovan Bar Association held a strike refusing to attend any court proceedings or deal with the prosecuting authorities or the police until the Ministry of Internal Affairs agreed to provide lawyers with rooms for confidential meetings with their clients. Their request was not granted. When in March 2005 the Bar Association asked to inspect the glass screen in the CCECC to ensure that it was not bugged, the administration refused even though the Bar Association offered to pay the costs of dismantling the glass screen.

The European Court of Human Rights ruled in the case of *Oferta Plus SRL v. Moldova* that the applicant's right to appeal to the European Court had been violated because he was unable to speak to his lawyer confidentially. The applicant in this case could only talk to his lawyer through a screen at the CCECC, and although they decided not to discuss certain matters relating to the case, fearing their conversation was being monitored, they discussed the fact that the criminal charges against the applicant were not consistent with the findings of the civil courts. The following day the police investigator went to the archives of the Economic Appeal Court and removed the relevant file, which suggested that he was acting on information received by monitoring the conversation between the applicant and his lawyer.

When Amnesty International visited the CCECC in July 2007, they were shown an interview room for the use of lawyers and their clients where the glass had been removed, and delegates were told that the glass had been removed in response to complaints and criticism.

4.2 Access to a doctor

"A proper medical examination shall be offered to a detained or imprisoned person as promptly as possible after his admission to the place of detention or imprisonment, and thereafter medical care and treatment shall be provided whenever necessary. This care and treatment shall be provided free of charge."

UN Body of Principles, Principle 24

International human rights bodies and mechanisms state that independent medical examinations on admission to a place of detention are particularly important as a safeguard against torture. The UN Human Rights Committee has emphasized the need "to have suspects examined by an independent doctor as soon as they are arrested, after each period of questioning and before they are brought before the examining magistrate or released".¹¹

Articles 64 and 66 of the Criminal Procedural Code give detainees the right to demand medical attention, and the Law on the Protection of Health gives detainees before and after trial the right to health care, and the right not to be subjected to treatment that injures their health in any way. However, Amnesty International is concerned that there is no mandatory requirement to carry out medical examinations on arrival at the place of detention and, that the other legal guarantees relating to health are often not upheld in practice. In a meeting with Amnesty International delegates in March, the Deputy Prosecutor General agreed that it would be of great assistance to prosecutors investigating torture allegations if medical examinations on admission were compulsory.

One of the action points of the National Human Rights Action Plan is to have paramedics in all police stations, and since the end of 2006 all IDPs have employed a paramedic. The *feldshers*, as they are called, are trained at a technical college for a shorter period than fully qualified doctors. The feldshers keep a register of the detainees' state of health and fill out forms when they conduct medical examinations of detainees on arrival and departure from the IDP.

According to the NGO Lawyers for Human Rights, the introduction of feldshers has reduced the incidences of torture. However, Amnesty International is concerned that the system still requires considerable improvement if it is to act as a safeguard against torture and ill-treatment. The feldshers are employed by the director of the detention centre and are, therefore, not independent. In one case known to Amnesty International, the feldsher at the Department for Organized Crime run by the Ministry of Internal Affairs in Chişinău allegedly assisted police by holding down A.B. as he was beaten by police officers to force him to give false testimony. Despite the presence of a feldsher in all detention centres, medical checks on arrival in police detention are still not compulsory, only advisable. As Amnesty International

¹¹ A/52/40, Report to 52nd session of the General Assembly (1997), para. 109, referring to Switzerland

discovered, this can depend on whether a feldsher happens to be on duty when a detainee is brought in. An Amnesty International representative spoke to one detainee at the IDP on Tighina Street in Chişinău, who was being held in a cell for tuberculosis-infected detainees, but claimed that he did not have TB. The feldsher could not produce any medical records for this person, and suggested that the detainee had probably been admitted in the morning when he was off duty. In July 2007, feldshers were earning only 600–700 Lei (36–42 euros) per month,¹² and most were working in other places at the same time, usually in a nearby hospital, so that they could come to the police station when summoned.

Despite the provisions in the Criminal Procedural Code, it can be very difficult for detainees to insist on their right to adequate medical care. In 2006 there were two decisions of the European Court of Human Rights concerning access to medical care in Moldova. In the case of *Boicenco v. Moldova* the European Court ruled that Nicolae Boicenco had not been given adequate medical care and for a period of two weeks was not offered any medical care at all in violation of Article 3. Nicolae Boicenco was detained at the Centre for Combating Economic Crime and Corruption (CCECC). On 20 May 2005 he was beaten on arrest and lost consciousness as result. He remained in a state of semi-consciousness or stupor for more than six months. He was held in a prison hospital from 24 May until 1 September 2005, but throughout that time no diagnosis was made, no brain scan was carried out, his family were not allowed to visit him, and their requests for an examination by an independent doctor were turned down. He could not move or speak, and his treatment was limited to keeping him alive. From 1 September to 15 September he remained in prison in a semi-conscious state and was not transferred to the neurological hospital immediately as planned.

In the case of *Holomiov v. Moldova*, the European Court of Human Rights ruled that there had been a violation of Article 3 because the authorities failed to provide Viktor Holomiov with adequate medical care. Viktor Holomiov was arrested on 26 January 2002 on suspicion of abetting bribery. He was detained at SIZO No.3 for almost four years until 28 December 2005, when a judge granted him house arrest. He suffered from numerous grave urological disorders as well as head trauma. Despite several recommendations by doctors that he should be operated on urgently or risk permanent damage to his kidneys, no operations were carried out and he was not able to see doctors specializing in his particular ailments.

Sergei Gurgurov stated that he was tortured by police officers in October 2005, but he did not receive specialist medical attention for the injuries he sustained as a result of the torture until 9 December. He saw a doctor only on 11 November, and the doctor refused to diagnose his condition saying that he needed to be examined in a hospital and demanded that he be transferred immediately. The following day, at the insistence of Sergei Gurgurov's lawyer, the head of the neurosurgery department of a local hospital visited Sergei Gurgurov, and confirmed that he needed an urgent examination with equipment only available at the hospital. The authorities finally transferred Sergei Gurgurov to the prison hospital at Pruncul on 2 December, but this hospital could not offer the specialist neurological care that he

¹² The average monthly income in Moldova in 2007 was approximately 100 euros.

needed and only after he was released on bail on 9 December could he be treated adequately for the head and spinal injuries he had sustained in police detention.

When A.B. was detained on 25 February 2006, and, as he has stated, severely beaten by high-ranking police officers from the Department for Internal Security at the detention centre of the Department for Organized Crime, he was not offered medical attention until, encouraged by his cell mates, he asked to see a doctor. The feldsher available at the detention facility was unable to do anything for his serious ear injury and two days later A.B. was taken to the Ministry of Internal Affairs hospital, where the injury was bandaged, but left untreated. This visit to the hospital was unrecorded and, according to his lawyer, A.B. remained in the Department for Organized Crime for a further two months because the police officers who had beaten him wished to avoid him being examined by a doctor who would have recorded his injuries.

4.3 Access to the outside world

"Promptly after arrest and after each transfer from one place of detention or imprisonment to another, a detained or imprisoned person shall be entitled to notify or to require the competent authority to notify members of his family or other appropriate persons of his choice of his arrest, detention or imprisonment or of the transfer and of the place where he is kept in custody."

UN Body of Principles, Principle 16

If a detainee has access to the outside world and the outside world is able to contact the detainee, this helps to break down the isolation which enables abuses to be committed. One of the important aspects of this safeguard is the right to have friends or family notified of detention, or to notify them personally.

Article 64 of the Moldovan Criminal Procedural Code gives a detainee the right to inform their relatives about their whereabouts via the investigating authorities "immediately or not later than six hours after detention".

Amnesty International has come across several cases where family members were not informed promptly where their relatives were being detained or of the charges against them. Mikhail Kaldarar was detained on 19 July 2005 in connection with a murder enquiry. On 25 July the appeal court in Bălți ordered his release on the basis that there was insufficient evidence against him. However, he was not released and his lawyer and his family had no information about his whereabouts until 3 August, when it was confirmed that he was still being detained despite the court order. He was finally released on 8 September without charge.

4.4 Bringing detainees before a judicial authority

"Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release."

Article 9 (3) of the ICCPR

The requirement to bring detainees before a judge as soon as possible after arrest is a very important safeguard for the protection of human rights of detainees, because it removes the absolute power over a detainee that officials might otherwise exercise. Judges should ensure that all detentions are lawful and necessary, and should require the investigation of any evidence of torture or other ill-treatment and order release if the detention is unlawful, or medical treatment, if it is required.

According to Article 25 of the Moldovan Constitution, the detention period before the detainee comes before a judge (*Reținerea*) cannot exceed 72 hours after arrest, and further detention (*Arestarea*) can only be extended by a judge's order for periods of up to 10 days, and cannot exceed 30 days. After 30 days they have to be charged and detained in a remand prison, bailed pending trial or released.

The new Criminal Procedural Code that was introduced in 2003 introduced investigation judges (*judecătorul de instrucție*) whose role it is to authorize the detention and release of suspects, searches, confiscation of property, and to take decisions about placements in medical institutions. According to Article 166 of the Criminal Procedural Code, detainees may be held up to 72 hours by the police, but at the end of the period they must be brought before the investigation judge. This period of time is inevitably viewed as the allowed period rather than as a maximum limit, and it is rare for detainees to be brought before a judge before the expiration of 72 hours.

In some cases that have come to Amnesty International's attention, the bringing of a suspect before a judicial authority has not helped to protect the rights of detainees. In the case of A.B., he was not offered adequate medical attention for his injuries despite the fact that each month during the five and a half months of his pre-trial detention he was brought before a judge to extend his period of detention. On each occasion the judge, seeing his injuries, demanded that he be given medical care, but the judge's decisions were ignored by police officers. The judge did not order his release on bail so that he could be treated for his injuries, nor, reportedly, did he order an investigation into the allegations of torture. Sergei Gurgurov came before an investigation judge on 3 December 2005 after he had been tortured by police officers. Seeing his injuries, the judge ordered his release on bail, but the police officers ignored the judge's decision and took Sergei Gurgurov back to police detention. They then produced an arrest warrant dated 5 September 2001 to justify holding him in detention. The fact that the arrest warrant had not been used to detain him in 2005, and that it was only

produced after the judge's decision to release him, casts doubt on the legality of the document.

Amnesty International is concerned that judges are not doing all in their power to protect the rights of detainees and to prevent torture and ill-treatment, and encourages the Ministry of Justice to ensure that all judges are instructed to order investigations when they come across allegations of torture and ill-treatment, or to order the release of a suspect on bail when necessary to ensure that he is not exposed to torture and ill-treatment, or to receive a medical examination or treatment.

4.5 Few legal safeguards for administrative detainees

The safeguards listed in the above sub-sections are often ignored in practice, but those detained under the Code on Administrative Infractions benefit from even fewer safeguards. In effect there are two different standards of protection for detainees. In its consideration of the government report in 2003, the UN Committee against Torture asked the Moldovan Government to "ensure that the fundamental safeguards against torture and ill-treatment of detainees, including those held for administrative offences, be made available in practice".

Under the Code on Administrative Infractions detainees may be held for no more than three hours before being brought before a judge, but if the detainee does not have identity documents he can be held for up to 10 days with the prosecutor's sanction and without a judge's order. In some cases the Code on Administrative Infractions is vague about how long a detainee can be held before seeing a judge. Article 249 part 2 states that those committing acts of hooliganism, public order disturbances, or violating regulations on the organization of meetings and gatherings can be held "until the case is considered by the relevant judicial body".

Anyone detained for an offence that falls under the Code of Administrative Infractions has no automatic right to a lawyer. This not only means that large numbers of people accused of minor offences are deprived of the right to a lawyer, but also provides a loophole for police to detain people so that they can extract a confession and charge them with a more serious offence.

Once sentenced, administrative detainees are held for up to 15 days in health-threatening conditions in IDPs. According to the new Executive Code passed in 2005, administrative detainees should be detained in the penitentiary system run by the Ministry of Justice. However, until the responsibility for the early stages of pre-trial detention has been transferred to the Ministry of Justice (now planned for 2010), and the planned new detention centres have been built, administrative detainees will continue to be held in IDPs. In many cases, administrative detainees are held together with detainees who are under investigation.

During a visit to a police station in Ocnîța, Amnesty International was alarmed to be told that administrative detainees are "used" for cleaning jobs and other work by the local

authorities. Officials of the Ministry of Internal Affairs were adamant that this was only with the detainees' free consent and pointed out that it was preferable to be working in the open air than sitting in a stinking cell. This practice is not laid down in any law, but is described in Order No. 5 of the Ministry of Internal Affairs. Amnesty International is concerned that proper safeguards must be put in place to ensure that this practice is not abused and that people are not detained to provide free labour.

Amnesty International urges the Moldovan government to ensure that the provisions of the Administrative Code are changed to ensure that all detainees are brought before a judge without delay and that they are provided with necessary safeguards against torture and ill-treatment such as prompt access to a lawyer.

4.6 Poor conditions in detention

"We are trying, but we don't really know what proper detention places look like."

Employee of the Ministry of Internal Affairs

In the report on its visit to Moldova in September 2004 and published in February 2006, the CPT described conditions in places of detention run by the Ministry of Internal Affairs as "disastrous", and stated that in many cases the conditions amounted to inhuman or degrading treatment. In January 2006, Amnesty International received reports about conditions in the IDP in Orhei. According to this information, cells at the police station in Orhei were in the basement, and measured approximately 3m by 4.5m. The cells were intended to hold four detainees, but usually held seven or more. Ventilation was poor and the cells were infested with fleas and lice. Many of the detainees suffered from skin diseases, but were rarely given access to a doctor. Detainees did not have access to a flushing toilet, and were provided with a bucket for use in the cell in full view of the other detainees. Detainees told Amnesty International they were forced to sleep in turns, on a platform 1.5m by 3m made of limestone bricks and planks. They were not provided with blankets, sheets, or mattress.

When Amnesty International delegates visited police stations in Moldova in July 2007 it was clear that a number of CPT recommendations had been acted upon. For example, five of the IDPs that Amnesty International visited had exercise yards and showers. However, despite these improvements, conditions were still very poor. All the police stations that Amnesty International visited in July 2007 had been built between 1960 and 1980. The detention cells were in the basement or semi-basement, and although exercise yards had been added, in most cases detainees were still sleeping on platforms that accommodate two or more detainees. Ventilation was poor in many of the detention centres, and in Comrat the ventilation system was so noisy that it was impossible to sleep and most of the time the detainees requested that it be turned off. The only other ventilation was one small hole in one of the semi-opaque glass bricks that made up the windows in each cell. In three of the detention centres, detainees were taken to the toilet twice a day and otherwise were provided with a bucket to be used in full view of the other detainees. In one case the bucket was behind

a metre-high wall in the cell. There was no evidence of any heating in any of the facilities that Amnesty International visited. In Ocnița the windows were covered with metal screens with small holes punched in them. In most cases detainees had blankets to sleep on and in some cases thin eiderdowns were provided as mattresses. When an Amnesty International delegate visited the IDP on Tighina Street in Chișinău in March 2007 some detainees did not have blankets or mattresses and were sleeping on their coats.

The Ministry of Internal Affairs has drafted plans for improvements to all IDPs, but these improvements are to be financed by the local authorities and in most cases the police stations are still awaiting the funding. In Taraclia, the reconstruction was almost complete and the cells had basins with a cold water tap and toilets, but the toilet was not screened off from the cell in any way. A new exercise yard had been built, but when Amnesty International visited, the Ministry of Internal Affairs had not yet approved it, and detainees were not getting any exercise at all.

The Ministry of Internal Affairs sets standards for food provided for detainees and recently doubled the amount of money that it recommends should be spent on food by police stations from 16 to 30 lei (1.80 euros) per person per day. However, during a meeting with Amnesty International delegates in July 2007, officials of the Ministry of Internal Affairs admitted that this amount was still insufficient and for that reason food parcels from relatives were essential and were not restricted.

Amnesty International remains concerned that the conditions in police stations in Moldova are not adequate for the long periods of time that detainees spend in them, and that the conditions are a health risk to detainees and often amount to cruel, inhuman and degrading treatment. The Moldovan government must improve standards urgently, but also ensure that detainees are kept in police detention for the shortest possible time.

4.7 Monitoring of places of detention (OPCAT)

One of the most effective ways to prevent torture and ill-treatment and to improve conditions of detention is to ensure regular visits to places of detention, because "torture and ill-treatment usually take place in isolated places of detention, where those who practise torture feel confident that they are outside the reach of effective monitoring and accountability".¹³ According to the Association for the Prevention of Torture (APT), a system of regular independent monitoring of places of detention also "contribute[s] to the transparency and accountability of places of deprivation of liberty, thus increasing the legitimacy of the management of the place and the public confidence in the institutions".¹⁴ The Optional

¹³ Report of the UN Special Rapporteur on torture, UN Doc. A/61/259 (14 August 2006), para. 67.

¹⁴ Association for the Prevention of Torture, *Monitoring places of detention: a practical guide*, Geneva, April 2004

Protocol to the UN Convention against Torture (OPCAT) adopted on 18 December 2002 requires states parties to set up National Preventive Mechanisms (NPM) for the prevention of torture at the domestic level within one year after ratification. In accordance with OPCAT, NPMs must have unlimited access to places of detention and to detainees in order to carry out effective monitoring.

Article 18 of the OPCAT requires that the National Preventive Mechanisms should be functionally independent, that they should include experts with relevant knowledge and capabilities, and that they should have the necessary resources to carry out the task of monitoring places of detention. The APT draws attention, in its Guide to the Establishment and Designation of National Preventive Mechanisms, to the importance of guaranteeing independence by ensuring that government representatives or parliamentarians who are members of the governing party not take part. APT also stresses the importance of including representatives of non-governmental organizations in the consultation process and as members of the NPM.

Moldova ratified the OPCAT in July 2006 and on 29 June 2007 the government approved amendments to the Law on the Ombudsmen's office to propose the setting up of the NPM. According to these amendments the jurisdiction of the parliamentary ombudsmen is extended to include the new mechanism. After lobbying by non-governmental organizations, on 26 July 2007, further amendments were passed to set up a Consultative Committee within the Ombudsmen's office consisting of independent experts and non-governmental organizations that would better satisfy the requirements of independence for NPMs as stipulated by OPCAT.

Despite these efforts, national non-governmental organizations are concerned that the proposed Consultative Committee is not sufficiently independent and is not endowed with sufficient resources to be effective in accordance with OPCAT. The operation of the Consultative Committee will be laid down in regulations drawn up by the Director of the Ombudsmen's office. Non-governmental organizations insist that the functioning of the Consultative Committee should not be determined by internal regulations of the Ombudsmen's office, but by a law drawn up in consultation with civil society. Furthermore, the amendments to the Law on the Ombudsmen's Office do not stipulate any funding for the Consultative Committee. As the Ombudsmen's office is currently underfunded, this gives rise to concerns about the funding of the Consultative Committee. Article 18.3 of OPCAT stipulates that states parties must make available essential funding for the NPM. Non-governmental organizations believe that the requirements of OPCAT would be better served if the NPM were set up by a separate law ensuring its independence and essential funding.

5. Tackling impunity

"Moldova will pay [damages awarded by the European Court of Human Rights] but will never punish those responsible."

A.B., detained by police in Chişinău from 25 February to 17 July 2006

1. Each State Party shall ensure that all acts of torture are offences under its criminal law. The same shall apply to an attempt to commit torture and to an act by any person which constitutes complicity or participation in torture.
2. Each State Party shall make these offences punishable by appropriate penalties which take into account their grave nature.

Convention against Torture, Article 4

In Moldova, allegations of torture and ill-treatment by law enforcement officers are investigated by the Prosecutor General's Office and its regional prosecutors. The role of the Prosecutor General is laid down in the Constitution: the Prosecutor General's Office represents the interests of society and defends law and order, and also the rights and freedoms of citizens; leads criminal investigations in all cases; and presents the case for the prosecution in court. The Prosecutor General is appointed by Parliament on the recommendation of the Chair of Parliament. According to Article 298 of the Criminal Procedural Code all complaints about any actions or inaction by criminal investigation authorities should be addressed to the prosecutor in charge of the investigation. According to Article 299 of the Criminal Procedural Code, the prosecutor must inform the complainant within 72 hours whether a criminal investigation will be started or not, and in case of refusal, must give full reasons to the complainant.

Amnesty International is concerned that the Prosecutor General's Office is not doing enough to combat impunity for acts of torture. The low rates of conviction of police officers, the difficulties that victims face in lodging complaints and the failure of the Prosecutor General's Office to conduct prompt, thorough, independent and impartial investigations, mean that many perpetrators of torture and ill-treatment are not brought to justice and victims remain without redress and reparation.

5.1 Low rate of police officer convictions

The Moldovan Criminal Code passed in 2003 did not include an article outlawing torture by state officials, but on 30 June 2005 parliament amended the Criminal Code and added Article 309/1 which states that torture is punishable by two to five years' imprisonment and suspension from official duties for five years. Torture is defined in line with the definition in Article 1 of the Convention against Torture as "[the] deliberate infliction to anybody of severe pain or physical or moral suffering, with the aim of receiving from that person or a third person information or confessions, or to punish somebody for actions carried out by them or a

third person...if such pain or suffering is carried out by an official or somebody acting in an official capacity.” Officials can also be charged under the following articles of the Criminal Code for committing acts amounting to torture and ill-treatment: Article 328 (Exceeding powers or official duties), Article 309 (Forcing people to give testimony), and Article 308 (Illegal arrest).

According to the Prosecutor General’s Office, there were 146 criminal cases ongoing against police officers who had violated the law in 2006. However, this figure covers all crimes and not just torture. The Ministry of Internal Affairs provided Amnesty International with the following figures for cases that had been started against police officers:

Article of Criminal Code	Number of cases started
309/1 Torture	2005 – 3 2006 – 21
328 Exceeding powers or official duties	2005 – 121 2006 - 79
309 Forcing people to give testimony	2005 – 4 2006 – 17
308 Illegal arrest	2005 – 2 2006 – 2

According to the Prosecutor General’s Office investigations of police officers resulted in charges and convictions under certain articles as follows:

Article of Criminal Code	Number of charges laid	Number of convictions
309/1 Torture	2005 – 3 2006 – 16	2005 – 1 2006 – 1
328 Exceeding powers or official duties	2005 – 70 2006 – 23	2005 – 40 2006 – 27

However, these figures show that only a small percentage of police officers suspected of torture and ill-treatment and other violations are investigated and convicted. At a meeting of Ministry of Internal Affairs staff and the collegium (a body composed of high ranking prosecutors from the Prosecutor General's Office, towns and regions) in September 2006, at which these figures were given, it was stated that the figures of investigations “do not reflect the de facto situation,” and the Prosecutor General, Valeriu Balaban, stated that complaints about torture “have been sometimes ignored, or superficially investigated and more often than not the punishment has been modest”.¹⁵

¹⁵ Press Release of the Prosecutor General’s Office, 29 September 2006

In January 2003, two letters were published in the newspaper, *Jurnal de Chişinău*, which cast an interesting light on the problem of impunity in Moldova. The first letter shows how police officers can be prevented from being prosecuted for acts of torture by political intervention. The letter was sent to the Prosecutor General by the Deputy Speaker of Parliament, Vadim Mişin, on 21 June 2002, calling on the Prosecutor General to "get personally involved in the case" of four police officers charged with illegal detention and ill-treatment of detainees. Vadim Mişin claimed that the police officers were part of one of the best teams in the Ministry and were being prevented from working normally by the General Procuracy. He asked whether the "Deputy Prosecutor General was fighting crime or the police". The second letter was from the Vice-Minister of Internal Affairs, Alexandru Ursachi, to a Deputy Prosecutor General and suggests that police officers often face derisory fines or sentences for torture and ill-treatment. The letter stated that one of the police officers mentioned in the previous letter by the Deputy Speaker had been sentenced only to a fine (which he was exempted from paying) and that he had been re-employed despite being convicted of illegal detention, endangering life or health, abuse of power accompanied by acts of violence and use of a firearm or torture. The employee of the Prosecutor General's Office who sent the letters to the press was dismissed from his job despite the fact that the letters were not classified as secret and is now challenging his dismissal in the European Court of Human Rights.¹⁶

Police officers routinely continue to work while they are being investigated for torture and ill-treatment, and they may try to discourage complainants from pursuing their complaints. The police officers who allegedly tortured Sergei Gurgurov are still working and in July 2007 they allegedly threatened Sergei Gurgurov's relatives because of his complaint about the torture he had suffered. In a meeting in March 2007, Amnesty International asked why police officers were not suspended on full pay while under investigation; the Deputy Prosecutor General replied that officers could not be suspended during investigation because that would be a violation of the principle of the presumption of innocence. According to the UN Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, "[t]hose potentially implicated in torture or ill-treatment shall be removed from any position of control or power, whether direct or indirect, over complainants, witnesses and their families, as well as those conducting the investigation."¹⁷ The suspension should be without prejudice to the outcome of the investigation: suspension does not mean that the official is presumed to be guilty.

¹⁶ European Court of Human Rights, Press Release Issued by the Registrar, 5 June 2007, *Hearings: June 6 and 7, 2007*.

¹⁷ Principle 3 (b), Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, GA resolution 55/89, 4 December 2000.

5.2 Difficulty pursuing complaints

"He did not complain about the torture and most people don't because it is like putting your finger in an electric socket."

Ludmila Popovici, Director of the Medical Rehabilitation Centre for Victims of Torture "Memoria"¹⁸

The UN Human Rights Committee, in its General Comment 20 on Article 7 of the ICCPR, has stated that: "The right to lodge complaints against maltreatment prohibited by Article 7 must be recognized in domestic law." In Moldova, there are obstacles within the criminal justice system which make it difficult for victims to lodge complaints.

In most of the cases that have come to Amnesty International's attention, the Prosecutor General and local prosecutors have refused to open criminal cases against police officers accused of torture and ill-treatment. In 2005 and 2006, Amnesty International raised concern about two alleged victims of torture – Sergei Gurgurov and Vitalii Colibaba – but by July 2007 no criminal cases against the perpetrators had been opened. In a letter dated 9 March 2006, in response to Amnesty International's appeals on the case of Sergei Gurgurov, the Prosecutor General stated that the version of events given in the Amnesty International document "does not correspond to the reality, [and] generates [an] image crisis for our state". The Prosecutor General's Office went so far as to threaten the two lawyers who had provided Amnesty International with information on the two cases with criminal prosecution for enlisting the help of an international organization. In a letter to the national Bar Association of Moldova dated 26 June 2006, the Prosecutor General's Office stated that the two lawyers could face prosecution under Article 335 of the Criminal Code on "misuse of official position" and a possible maximum prison sentence of five years or a fine. As of the end of August 2007, no further action had been taken. Most recently, on 3 July 2007 the Supreme Court overturned the decision of the Rîșcani district court not to grant the lawyer's request for an investigation into the allegations of torture. The case has been referred back to Rîșcani district court for reconsideration.

In April 2006, in the case of *Corsacov v. Moldova* the European Court of Human Rights ruled unanimously in favour of Mihai Corsacov, who accused two police officers of torture. He alleged that the police officers kicked, punched, and beat him with batons in July 1998, and he spent 70 days in a hospital as a result of injuries. Mihai Corsacov's mother

¹⁸ Memoria is a non-governmental treatment centre where victims of torture are offered medical and psychological support. Many of the victims of torture who are treated by Memoria do not lodge complaints about the torture or ill-treatment they have suffered. According to the Director of the Memoria treatment, Ludmila Popovici, they and many others are deterred by difficulties of lodging complaints and the fear of reprisals. This leads to under-reporting of incidents of torture and ill-treatment, which in turn contributes to impunity.

opened a case against the police officers who had beaten him, and the investigation lasted more than three years, during which time the case was closed and reopened 12 times. The European Court of Human Rights found that the Prosecutor General had failed to effectively investigate Mihai Corsacov's allegations and deprived him of a remedy against ill-treatment by refusing to open a case against the police officers. In a letter from the General Procuracy dated 11 June 2007, Amnesty International was informed that the police officers identified in the European Court judgment were currently under investigation for torture.

Complaints about torture and ill-treatment by the police are very often rejected by prosecutors with the standard phrase that the allegations "do not disclose the constituent elements of a crime".¹⁹ Amnesty International has come across cases where complainants have had to go through four or five appeals against such decisions and still failed to have a criminal case opened.

A.B. has been denied justice and reparations for the ill-treatment that he suffered at the hands of high-ranking police officers from the Department for Internal Security of the Ministry of Internal Affairs in February 2006. His lawyer complained to the prosecutor responsible for the case on 28 February, 9 March and 13 March 2006 about the alleged ill-treatment, but the prosecutor has repeatedly refused to open a criminal case against the police officers concerned. A.B.'s lawyer appealed against these decisions on 21 April, 26 July and 9 November 2006. In his decision of 9 November the investigation judge overruled the prosecutor's refusal to open a criminal case and ruled that there were "reasonable grounds to find ill-treatment by the police of the detained person according to Article 328 (2) of the Criminal Code" and that the prosecutor had not relied on "incontestable evidence gathered during the criminal proceedings" in making the decision not to start a case. The prosecutor successfully appealed against this decision and to date no action has been taken by the authorities.

5.3 Lack of independent investigations

Under international human rights standards, state authorities are required to ensure that investigations into human rights violations by law enforcement officials are carried out independently, impartially, promptly and thoroughly. One of the barriers to Moldova's fulfilment of such requirements is the lack of independence of the prosecution authorities. In Moldova, prosecutors are responsible for overseeing criminal investigations carried out by police officers as well as being responsible for the investigation of police misconduct.

In Moldova, the lack of independence of the investigating body means that cases against law enforcement officers are inadequately investigated, delayed or stalled, or are not opened at all. In its consideration of the government report in 2003 the UN Committee against Torture expressed its concern over the "absence of an independent oversight mechanism competent to deal with complaints against the police," and recommended that the Moldovan

¹⁹ Criminal Procedural Code, Article 274

government should "establish an independent administrative body competent to deal with complaints against the police and law enforcement personnel".²⁰ To date, such a mechanism has not been instituted.

In the case of *Boicenco v. Moldova*, the prosecutor who oversaw the criminal investigation against Nicolae Boicenco was the same person who received the complaint by Nicolae Boicenco's lawyer about the ill-treatment. In its judgment, the European Court of Human Rights stated that the independence of the prosecutor was open to doubt because of his dual role. Moreover, the prosecutor did not take any action after he received the complaint, failed to examine the medical files or question any doctors, and even concluded that the applicant's ill-treatment was justified because he was presumed to have wanted to use a gun during his arrest. The European Court concluded that the state authorities had failed to conduct a proper investigation into the applicant's allegations of ill-treatment and thus violated Article 3 of the ECHR.

Cases examined by Amnesty International show that there is a clear bias in favour of the perpetrators in all torture investigations. The burden of proof lies with the victim, who must prove that he has been tortured, rather than the police who must prove that it could not have happened. It is a general principle in the European Court of Human Rights case law that it is the responsibility of the state to explain how a person got their injuries. In the case of *Corsacov v. Moldova*, the European Court ruled:

"It is not sufficient for the State to refer merely to the acquittal of the accused police officers in the course of a criminal prosecution, and consequently, the acquittal of officers on a charge of having assaulted an individual will not discharge the burden of proof on the State under Article 3 of the Convention to show that the injuries suffered by that individual whilst under police control were not caused by the police officers."

The Prosecutor General could potentially play a crucial role in ending impunity for torture and ill-treatment. However, in almost all the cases that have come to Amnesty International's attention, prosecutors have failed to provide an effective remedy for alleged victims of torture and ill-treatment, as required under international law. Amnesty International recommends that an independent mechanism should be set up to investigate complaints about human rights violations by police officers and to make recommendations to the prosecuting authorities on whether to bring a prosecution or not.

²⁰ Conclusions and Recommendations of the Committee against Torture, UN Committee against Torture, Thirtieth Session, Consideration of Reports Submitted by States Parties Under Article 19 of the Convention, Moldova

5.4 Inadequate medical documentation of torture or other ill-treatment

The effective investigation of cases of torture or other ill-treatment depends on the availability of thorough and accurate documentation enabling the prosecution to bring evidence of torture and ill-treatment to light, and hold the perpetrators accountable for their actions.

The UN Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment recommend to states to ensure that complaints and reports of torture are promptly and effectively investigated, and that investigators should be independent and impartial and should have access to impartial medical experts.

The Istanbul Protocol, a manual published by the UN in 1999, provides detailed guidelines for the effective implementation of these principles. The Istanbul Protocol stipulates that the investigators should be independent of the suspected perpetrators and the organization they work for and that they must be competent and impartial. It goes on to say that "they must have access to or be empowered to commission investigations by impartial medical or other experts. The methods used to carry out these investigations must meet the highest professional standards, and the findings must be made public."²¹

In Moldova, victims who wish to prove that they have been tortured must have a report from a forensic doctor showing the degree of seriousness of the injuries caused, or a report from a hospital accompanied by a report from a forensic doctor confirming the seriousness of the injuries. They must be referred for a forensic examination by a judge or a prosecutor, and it can sometimes be difficult to get this referral. Forensic experts are independent from the Ministry of Internal Affairs and are employed by the Ministry of Health. However, in some cases documented by Amnesty International, forensic examinations have been inadequate. When Vitalii Colibaba was taken for a forensic examination after he had been allegedly tortured by police, the examination was carried out in the presence of the three officers implicated in the torture. Vitalii Colibaba stated that the forensic expert only looked at his hands and concluded that there was "no evidence of torture".

In Moldova forensic experts are general medical practitioners with specialist training, but they have no equipment and can only look at superficial marks and bruises and medical reports. When A.B. was finally referred to a forensic expert after he had been severely beaten and suffered a serious injury to his ear, the expert refused to look at the injury to his ear because he said the conditions in his office were not hygienic enough to allow him to remove

²¹ Office of the United Nations High Commissioner for Human Rights, Istanbul Protocol: Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, p. 17, <http://www.ohchr.org/english/about/publications/docs/8rev1.pdf>

the dressing. He was able to report that the bruises on A.B.'s chest, legs, and face and the injury to his ear lobe were caused by the "traumatic action of heavy objects with a limited interaction surface" and stated that they could have been sustained through beating as described by A.B..

In many cases torture methods may not leave any visible scars and doctors who do not specialize in evidence of torture may not recognize the signs. For instance, the technique of hanging does not leave any scars, because police officers are careful to protect any parts of the body that come into contact with the bar with rags, but it can cause circulatory damage. This may only show up after some time has passed, but it is permanent. In the case of *Colibaba v. Moldova* the government has denied that any torture took place because there were no scars from the hanging, although the NGO Memoria has documented other evidence that supports the allegations, including psychological effects.

Amnesty International recommends that more resources should be allocated for effective forensic examinations. The authorities must ensure that all victims who allege torture or other ill-treatment are sent for a forensic examination and that the doctors who carry out such examination have been trained in the recognition of injuries caused by torture or ill-treatment.

6. Conclusions and recommendations

Amnesty International considers that torture and ill-treatment at the hands of the police is widespread and systemic in Moldova. Law enforcement officers are known to extract confessions and testimony from detainees through force, sometimes resorting to torture.

There is willingness within the government to tackle the problem, but so far the government has not done enough to eradicate torture and ill-treatment and to change police practices. Moldova has substantially overhauled its laws to bring them into line with international and European standards, but practice and attitudes have not kept pace with this change. Ministry officials and heads of local police stations all told Amnesty International that financial resources are needed, but even if sufficient resources were available torture and ill-treatment will not be eradicated until there has been a radical shift in the attitudes and entrenched culture of law enforcement officers. Amnesty International is concerned that police officers in Moldova do not respect the principle of the presumption of innocence, are not adequately trained and equipped to gather evidence and establish the facts of a case, and as a result rely too heavily on extracting confessions to solve crimes. The system for the evaluation of police officers' work and the system of rewards and incentives within the Ministry of Internal Affairs will need to be changed accordingly.

The growing awareness of the problem coupled with the mounting cost of damages awarded by the European Court of Human Rights have led to an increase in the number of prosecutions against police officers for acts of torture and ill-treatment, but perpetrators

continue to act with impunity. If Moldova is going to live up to its international human rights commitments and protect the right of people on its territory not to be subjected to torture and ill-treatment, it will need to ensure that all allegations are thoroughly, promptly, independently and impartially investigated, that perpetrators are punished and that victims are offered recompense.

In order to address the most pressing issues identified in this report, Amnesty International makes the following recommendations to the Moldovan government:

The absolute prohibition of torture or other ill-treatment

- Senior officials of the Ministry of Internal Affairs should deliver the clear message to their subordinates responsible for criminal investigation and detention that torture or ill-treatment against both criminal and administrative detainees, or threats to use such treatment are absolutely prohibited, and that anyone committing such acts and any commanding officers condoning such acts will be subject to severe sanctions;
- Pending the establishment of a new independent mechanism to investigate all allegations of human rights violations by law enforcement officials, prosecutors should initiate investigations whenever they receive a complaint about torture and ill-treatment, or even in the absence of an official complaint when they have grounds to suspect that torture and ill-treatment has taken place;
- Judges should exercise their legal competence whenever a person brought before them alleges torture or ill-treatment and whenever there are reasonable grounds to believe that an act of torture or ill-treatment has occurred to order an investigation into the alleged torture and ill-treatment, including a forensic medical examination, and to exclude evidence gained through torture and ill-treatment from the trial proceedings;

Safeguards against torture or other ill-treatment while in police custody

- All people deprived of their liberty should be informed at the outset of their custody of the reason for arrest, and their rights to access to a lawyer of their choice and a doctor, and to have their relatives informed, and all detainees should be guaranteed prompt and regular access to lawyers (including the right to talk to a lawyer in private) and doctors in private;
- The government should implement without delay the plans to transfer responsibility for pre-trial detention to the Ministry of Justice; if necessary Ministry of Justice officials should be deployed in existing IDPs, to ensure that there is a separation of the investigatory and custodial functions;

- Accurate and standardized records must be kept for all detainees. These must include information about reasons for arrest, identity of the detainee, date and time of the arrest, when brought to a custody facility, the first appearance before judicial or other authority, when told of his/her rights, identity of law enforcement officials concerned in the arrest, signs of injury or mental illness, when next of kin and their lawyer were contacted and visited, when offered food, when interrogated, when transferred or released. The detainees' lawyer should also have access to this custody record;
- Detention in criminal cases before the detainee comes before a judge should be reduced from 72 hours to 24 hours, and this should be viewed as a maximum rather than an allowed period of time; once transferred to facilities run by the Ministry of Justice detainees should in principle not be returned to the IDP, and interviews should be carried out in the facilities in which they are held, while ensuring the necessary safeguards against coercive interrogation;
- The impartiality and independence of para-medics working in detention facilities run by the Ministry of Internal Affairs must be guaranteed to ensure that all cases of torture and ill-treatment are recorded accurately. For this they should be employed by a Ministry other than the Ministry of Internal Affairs, must be ensured adequate recompense, properly equipped and sufficiently qualified to carry out their duties;
- Thorough, confidential medical examinations upon arrival and departure from places of detention should be made compulsory in law;
- All interrogations should be held in designated interrogation rooms. There should be no interrogations in investigators' offices;
- Requirements of the Criminal Procedural Code that a lawyer always be present during police interrogations must be complied with and all interrogations should be recorded accurately, preferably with the use of video/audio equipment;
- The presumption of innocence must be respected and a strict separation in detention facilities of those sentenced and those under investigation must be observed;
- Those sentenced under the Code on Administrative Infractions must not serve their sentences in IDP facilities, and the Code should be amended to ensure that people detained under this law are afforded the same rights as those detained under the Criminal Code such as the right to be represented by a lawyer;
- There should be clear safeguards to ensure that the practice of sending administrative detainees out to work is not abused and that they are not sent out to work against their will;

- Ensure that judges are aware of the possibility of bail and clarify and establish procedures to enable judges to use non-custodial measures particularly in relation to people sentenced under the administrative code;
- Implement fully and without delay the recommendations of the European Committee for the Prevention of Torture and Inhuman and Degrading Treatment or Punishment regarding conditions in IDPs and particularly ensure that food provided is sufficient and adequate. Clear deadlines must be set for the renovation of these facilities;
- Establish a National Preventive Mechanism that satisfies the requirements of OPCAT by being functionally independent, developed in consultation with representatives of civil society, and provided with necessary funding; a law on the National Preventive Mechanism should be passed without delay;

Effective evaluation

- Criteria for evaluation of police work at all levels must be clear and specific and include qualitative criteria that are based on the Code of Ethics and Deontology for police work and reflect understanding of human rights, attitudes, communication skills;

Preventing impunity

- Ensure that all allegations of police ill-treatment or torture are subject to prompt, thorough, independent and impartial investigation, including interviewing the victim and any witnesses;
- The Moldovan government should consider establishing a fully-resourced independent agency to investigate all allegations of human rights violations by law enforcement officers, including the police;
- Any police officer or law enforcement official who is under investigation for having committed acts of torture or other ill-treatment should be suspended on full pay for the duration of the investigation;
- Any police officer or law enforcement official reasonably suspected of responsibility for torture or other ill-treatment should be brought to justice; if proved guilty, the sentences imposed should be commensurate with the gravity of the crime;
- Victims or their families should receive reparations, including fair and adequate compensation, and where relevant, the means for as full rehabilitation as possible;

Statistics on the number of complaints of torture and ill-treatment and how they have been dealt with should be centralized and regularly published, in order to identify patterns of violations and establish appropriate remedial action.

Appendix

Illustrative Cases

These three illustrative cases of alleged torture and other ill-treatment highlight Amnesty International's concerns about the failure of the authorities to fulfil their obligations to provide victims of human rights violations with an effective remedy. Despite Europe Court of Human Rights judgments requiring the authorities to ensure effective investigation into such allegations, these cases demonstrate that the inadequacies identified in the judgments have not been addressed.

1. A.B.

A.B. gave Amnesty International the following account of his treatment. A.B. was severely beaten by officers of the Internal Security Department of the Ministry of Internal Affairs at the Department for Organized Crime in Chişinău on 25 February 2006. He had been called to make a statement about some petrol coupons that he had been given in January. He had suspected that the coupons might have been stolen, and had given them to a friend, who was a police officer, so that he could check at the police station whether it was alright to use them. His friend told A.B. that it was fine to use them.

During the interrogation on 25 February, police officers tried to force A.B. to testify that his friend had given him the coupons, but he said that he refused to make a false statement. Police officers told him that if he would just say what they wanted him to say they would let him go. A.B. continued to refuse to make a statement that was untrue. He was then interrogated by a higher ranking officer of the Department for Internal Security who tried to force him to make a statement. He said that he was threatened that he would be charged with theft and was then beaten by three officers from the Internal Security Department of the Ministry of Internal Affairs; one officer used handcuffs to beat him, and one beat him with a rubber torch. They were allegedly assisted by the detention centre's medical assistant who held his legs, and expressed regret that the electric shock machine was not working.

A.B. had previously injured his hand and had one hand in plaster which prevented police officers from putting handcuffs on him. At one point he was punched in the ear, which started to swell up. The beating continued for several hours, but he refused to make a statement. A.B.'s sister had come to the detention centre to find out what had happened to him, and she was also threatened that she would lose her job. A meeting was arranged so that she could convince A.B. to make the statement that the police officers wanted him to make. A.B. continued to refuse, and he was charged, as threatened, with having stolen the coupons according to Article 195 (2) of the Criminal Code. After they had beaten him the police officers provided him with a state-funded lawyer, but according to A.B., the lawyer did not

even take notes when A.B. told him about the beating he had just suffered, and did not pay attention to the fact that his client was covered in blood. The lawyer asked A.B. to hand over US\$150 that he had on him at the time of arrest and left. According to A.B., the police initially recorded the fact that he had handed over the money to the lawyer, but the lawyer reportedly told the police officers to destroy that report, and there is now no record that the money was taken.

After the beating, A.B. was taken to the cells in the same building. At first, the officer in charge of the cells at the Department for Organized Crime refused to receive him because he was so badly injured, but after a phone call to a superior officer he was accepted. The other detainees in the cell were shocked at A.B.'s appearance and encouraged him to ask for medical assistance. A.B.'s cell mates warned him that the police would not release him with such an obvious injury. On 26 February, a very inexperienced medical assistant looked at his injured ear, but said he could not do anything. On 27 February an ambulance was called, but the emergency doctor said that he could not perform an operation in the detention centre and that A.B. needed to be treated in hospital. The police officers who had beaten him would not take him to the public hospital claiming that there was no transport available, and took him to the Ministry of Internal Affairs hospital where his ear was bandaged, but no treatment was carried out, and this visit was unrecorded. On 28 February, A.B. came before the investigation judge who ordered 10 days' detention. On the same day his sister engaged a lawyer who started to appeal against the decision to detain him, to request an investigation into the allegations of ill-treatment, and to demand that he be given medical treatment. On the insistence of the lawyer, a forensic examination was conducted on 6 March 2006 (nine days after the beating), and found that the bruises on A.B.'s chest, legs, and face, and the damage to his ear lobe were caused by the "traumatic action of heavy objects with a limited interaction surface" and stated that they could have been sustained through beating as described by A.B.. However, the expert refused to look at the injury to his ear because he said the conditions in his office were not hygienic enough to allow him to remove the dressing.

On 7 March, 6 April, 5 May and 5 June, an investigation judge ordered further 30-day extensions of his detention. A.B.'s lawyer appealed against these decisions, but his appeals were not upheld by the appeal court, and A.B. was kept in detention until 17 July 2006, when he was released on bail. Each time A.B. came before an investigation judge, the judge noticed his injuries and ordered that he be given medical treatment, but he did not order his release or ask for an investigation into the allegations of ill-treatment. The requests for medical treatment were ignored. His lawyer complained to the prosecutor responsible for the case on 28 February, 9 March and 13 March 2006 about the alleged ill-treatment, but the prosecutor has repeatedly refused to open a criminal case against the police officers concerned. A.B.'s lawyer appealed against these decisions on 21 April, 26 July and 9 November 2006. In his decision of 9 November an investigation judge overruled the prosecutor's refusal to open a criminal case and ruled that there were "reasonable grounds to find ill-treatment by the police of the detained person according to Article 328 (2) of the Criminal Code" and that the prosecutor had not relied on "incontestable evidence gathered during the criminal

proceedings" in making the decision not to start a case. The prosecutor successfully appealed against this decision and to date no action has been taken by the authorities.

Amnesty International wrote to the Prosecutor General's Office concerning this case on 18 April 2007, but has not yet received a reply.

2. Sergei Gurgurov

"I won because I didn't confess."

Sergei Gurgurov gave the following account of his treatment. Sergei Gurgurov was arrested by police from Rîșcani district in Chișinău on 25 October 2005 on suspicion of stealing a mobile phone. He was held at the IVS of the Chișinău police headquarters, and was allegedly beaten everyday from 25 October until 3 November 2005 when he was released on bail. During this time he was taken in the evenings and at lunch time to police operatives' offices on the second floor of the police headquarters, and tortured to force him to confess to further mobile phone thefts. He said that police officers beat him on the spine, applied electric shocks to his body, used a gas mask to partially suffocate him and twisted his fingers. He did not see a lawyer until 3 November, when he was taken to court to appear before the investigation judge. Video-footage of his arrival at the courthouse seen by Amnesty International shows that he was unable to walk unaided and had to be dragged by two policemen. He was also unable to move his fingers and had difficulty talking. At the hearing the judge ordered his release on bail. However, despite the judge's order, Sergei Gurgurov was taken from the courtroom by police officers with the excuse that some paperwork needed to be completed for his release, but in fact he was taken to the IDP of the Department for Organized Crime. His lawyer was only able to locate him the following day on 4 November. The police later justified the re-arrest of Sergei Gurgurov on the basis of an arrest order made on 5 September 2001. However, the fact that this arrest order was not used to arrest Gurgurov on 25 October 2005, when he was initially apprehended, suggests that it may have been fabricated to ensure that Sergei Gurgurov was not at liberty to complain about the torture he had suffered, and possibly to conceal his injuries.

On 4 November his lawyer submitted a complaint about the ill-treatment to the Prosecutor General's Office, and an investigation was started, but very little action has been taken, and Sergei Gurgurov has not been interviewed in connection with the allegations of torture. On 1 December 2005 the investigation judge ordered an extension of his detention for a further 25 days. His lawyer appealed against this decision to the appeal court, and on 9 December Sergei Gurgurov was released on bail. Sergei Gurgurov did not receive any medical attention for the injuries he sustained as a result of the torture until 2 December when he was transferred to a prison hospital, but this hospital could not offer the specialist neurological care that he needed and only after his release on bail was he treated by specialists.

Sergei Gurgurov, who is 28 years old, has been left disabled by the torture and ill-treatment he was subjected to in police detention, and is unable to work. Both of his eardrums are damaged and he has total loss of hearing in one ear. As a result of the head injuries he received his speech is impaired and he has spinal injuries which have left him unable to walk without crutches. In June 2007, he was granted Grade 2 disability status, which allows him a small monthly pension and some privileges. The charge against him of theft is still in force, and he is awaiting trial. The police officers who allegedly tortured him are still at work and they have threatened the relatives with whom Sergei Gurgurov was staying, with the result that Sergei Gurgurov has been asked to move. As of the end of August 2007, no further action had been taken. Most recently on 3 July 2007 the Supreme Court overturned the decision of the Rîșcani district court not to grant the lawyer's request for an investigation into the allegations of torture. The case was referred back to Rîșcani district court which ordered the prosecutor to open a criminal case. As of August 2007 a case had not been opened.

Amnesty International wrote to the Prosecutor General's Office concerning this case on 30 November 2005 and 18 April 2007. In a letter dated 9 March 2006 referring to an Urgent Action that had been issued on this case, the Prosecutor General stated that the version of events given in the Amnesty International document "does not correspond to the reality, [and] generates [an] image crisis for our state". In reply to Amnesty International's letter of 18 April the Prosecutor General's Office replied that no criminal case had been started because it had not found the "constituent elements of a crime".

3. Viorica Plate

Viorica Plate was allegedly tortured by police from Botanica police station in Chișinău on 19 May 2007. She had just been to the flat that she used to share with her ex-husband to collect some of her belongings and she believes that her ex-husband paid the police officers to scare her, so that she would give up her claim to half the flat they had owned jointly. Police officers came to her home in Orhei, 40 kms from Chișinău, told her she was accused of stealing \$7,000 from her ex-husband and demanded that she come with them. When she refused they allegedly threw her onto the sofa and twisted her arms. She finally agreed to go with them and she was driven to a subdivision of Botanica police station. She gave the following account of what happened to her: "One of them grabbed my hair and started to punch me on the head. He said: 'I swear that I will torture you'. I thought he was just trying to scare me. We went into an office. I sat down. One of them took out a gas mask and some rags and said 'tell us where the money is or we will put a gas mask on you. We have already used this on somebody with TB and you will be infected.' He took the handcuffs off and told me to lie on the floor. I didn't want to lie down, because it was dirty, but then he pushed me and I lay down. He put the gas mask on me and started to beat me on the soles of my feet – I started to cry and they closed the air vent on the gas mask. I fainted and they splashed me with water. They brought out a metal pipe and tied my hands to this pipe behind my back, and they put chairs on a table and hung me between the chairs. They continued to beat me through my shoes."

After the beating, Viorica Plate was moved to another room where a woman asked why she had been beaten and where she had found the money in her husband's apartment. Viorica Plate believes that this was an attempt to incriminate her. She was then taken back to the police officers who had allegedly beaten her and, terrified that they would beat her again, she took a knife off the desk and cut her wrist, at which point an ambulance was called and she was taken to hospital. Once she had been examined by a doctor, who reportedly confirmed that her injuries were consistent with her allegations, the Ministry of Interior sent two officers to take a statement from her. On 22 May Viorica Plate complained to the Prosecutor General and a criminal investigation was opened. The Ministry of Interior also passed the information to the municipal prosecutor who continued the case. The police officers implicated in the torture were not suspended pending investigation. On 8 June at 6.30 am, two of the police officers who had allegedly beaten Viorica Plate returned to her home with a search warrant and searched her flat. They disconnected the phone and took her mobile, but she managed to get her mobile phone back and phoned her lawyer who spoke to the policemen and threatened them with an investigation into their behaviour. The lawyer later told Amnesty International that they were very abusive and appeared to be unconcerned that their behaviour would be reported. According to the lawyer they behaved with "total impunity". The policemen insisted that Viorica Plate accompany them once more, but she refused and agreed to go to the police station later in the day. On 11 June Viorica Plate was charged with theft, but after appeals by her lawyer to the appeal court and to the Prosecutor General, the charges against her were dropped and she was released. The case against the police officers who tortured her is ongoing.