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Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee)

MOLDOVA

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Draft report

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I. Introduction

A. The monitoring process in respect of Moldova

1. Moldova joined the Council of Europe on 13 July 1995. On 25 January 1996 the Committee on Legal Affairs and Human Rights initiated the procedure for monitoring the obligations and commitments entered into by Moldova, in accordance with Assembly Order No. 508 (1995), (for the history of the monitoring process, see Appendix 1).

2. The present report is based on the Monitoring Committee's exchange of views with the Moldovan delegation on 23 September 1997, the various visits of the co-rapporteurs to Moldova (for the programme of their visit on 27-30 October 1998, see Appendix 2) and the observations submitted by the Moldovan parliamentary delegation to the prelmiminary draft report [AS/Mon (1998) 52 rev2].

3. When Moldova joined the Council of Europe, it accepted the obligations incumbent upon every member state under Article 3 of the Statute: acceptance of the principles of the rule of law and of the enjoyment by all persons within its jurisdiction of human rights and fundamental freedoms. It also entered into a series of specific commitments in the letter of 10 May 1995 sent by Mr Petru Lucinschi, former Speaker of the parliament and currently President of the Republic of Moldova, to Mr Dumeni Columberg in reply to his letter of 27 April 1995. These commitments are also set out in Parliamentary Assembly Opinion No. 188 (1995) (for excerpts from this opinion, see Appendix 3).

4. The purpose of this report is to verify on a thematic basis the honouring of the main obligations and commitments entered into by Moldova.

B. The political and economic context

5. Following the parliamentary elections of March 1998, Moldova was governed by a coalition, the "Alliance for Democracy and Reforms", led by Mr Mircea Snegur, former President of the Republic, and composed of three parties: the Moldovan Democratic Convention (26 seats), the electoral bloc "For a Democratic and Prosperous Moldova" (24 seats) and the Party of Democratic Forces (11 seats). The Communist Party, with forty seats, is in the opposition.

6. Mr Ion Ciubuc who led the coalition government resigned on 1st February 1999, claiming that he was unable to consolidate his cabinet because of the differences between the coalition parties.

7. The President of the Republic, Mr Lucinshi, instructed firstly Mr Serafim Urecheanu, Mayor of Chisinau, to form a new government. Mr Urecheanu asked the parliament to grant him increased powers to allow him to face the serious economic crisis of the country. He withdrew his candidature after having failed to obtain the support of the parliament. President Lucinschi chose as next candidate Mr Ion Sturza, deputy Prime Minister responsible for economic reforms in the outgoing government, who has been having consultations with all parties represented in parliament in order to form a viable government since 19 February 1999.

8. As far as the economic crisis is concerned, it was caused partly by the Russian crisis. In fact, Russia accounts for 65% of Moldov's trade. Before the crisis, the national currently – the

lei – was stable and inflation had not exceeded 11%. But in early November the lei dropped from 6 lei to 10 lei for one dollar. The exchange rate is currently about 8 lei for one dollar. Inflation for the period January-October 1998 did not exceed 10%, but after the National Bank decided in early November to stop intervening in currency transactions in order to prop up the lei, inflation for 1998 is expected to exceed 20%. At the time of the rapporteurs' visit, civil servants and judges had not received their salary since July 1998. All senior representatives of the state — the President of the Republic, the Speaker of parliament and the Prime Minister — underlined the seriousness of the economic crisis and the importance of international aid.

9. The progress made by Moldova towards honouring its commitments should be assessed against this critical economic background.

II. Council of Europe conventions

A. Signature and ratification

10. Upon its accession, Moldova undertook to sign and ratify a number of Council of Europe conventions by certain deadlines.

11. The rapporteurs welcome the ratification by Moldova on 20 November 1996 of the Framework Convention for the Protection of National Minorities. By so doing, Moldova honoured one of its commitments (see paragraph 11.*g* of Opinion No. 188).

12. The rapporteurs also welcome its ratification, on 4 July 1997, of the European Convention on Human Rights (ECHR). Moldova has also ratified Protocols No. 1, 2, 3, 4, 5, 6, 7, 8 and 11 to the ECHR. A Moldovan legislation compatibility exercise is underway, and a series of laws are currently being amended with a view to ensuring their compatibility with the ECHR.

13. Moreover, on 2 October 1997 Moldova ratified the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment and Protocol No. 2 thereto, as well as the Convention on Extradition and the European Charter of Local Self-Government.

14. It should be noted in this context that the Moldovan delegation repeatedly assured the rapporteurs that Moldova did not intend to ratify the Convention on Human Rights of the Commonwealth of Independent States (CIS), in view of the implications such ratification could have for the ratification of the ECHR (see paragraph 11.*e* of Opinion No. 188).

B. Official publication

15. The rapporteurs were deeply concerned by the fact that none of the above-mentioned Council of Europe conventions ratified by Moldova had been published *in extenso* in the country's official gazette (*Monitorul Oficial*) by October 1998. Moldovan judges complained of this situation at a meeting with Mr Columberg in Strasbourg in January 1998. They thought that the absence of any official publication prevented these international texts from being applied in everyday judicial practice, which rendered their ratification virtually useless.

16. The Constitutional Court decided that, in accordance with Article 4 of the constitution, international conventions on human rights that had been ratified by Moldova were directly

applicable in domestic law even in the absence of any publication in the official gazette. However, this decision has not solved the problem of the lack of knowledge of these texts among judges, lawyers and the public in general. The court itself has repeatedly underlined the need for the ECHR and the other international texts ratified by Moldova to be officially published and widely distributed among the public.

17. The rapporteurs laid great stress on this problem, which now seems to be solved. In fact, the first in a series of 26 volumes comprising international conventions ratified by Moldova in the field of human rights was published last October. It includes the ECHR. According to the Moldovan authorities, this volume was distributed free of charge to all Moldovan courts. Five additional volumes of international treaties have just been published.

C. Distribution to the public: the Council of Europe Information and Documentation Centre

18. Even before the publication of this first volume of international treaties, the ECHR and its protocols were published in the Bulletin of the Council of Europe Information and Documentation Centre in the Republic of Moldova (IDC). This bulletin, of which the first issue was published in 1998, contains a very useful diagram explaining the Strasbourg supervisory machinery.

19. The rapporteurs are particularly pleased with the establishment of this centre, the need for which they had stressed in the past *vis-à-vis* both the Moldovan authorities and the Committee of Ministers of the Council of Europe. Such a centre can contribute to the wide distribution of conventions and other documents of the Council of Europe to the public.

20. Set up at the request of the Ministry of Foreign Affairs of Moldova by a decision of the Committee of Ministers at its meeting from 17 to 20 March 1997, the IDC went through difficult moments due to the fact that, for more than one-and-a-half years after its cretion, it had not acquired any legal personality and consequently could not possess a bank account. The rapporteurs emphasised this problem in their talks with the Minister of Justice, who invoked purely "technical" problems – rather than any lack of political will – to explain the situation.

21. The rapporteurs welcome the fact that in January 1999 a satisfactory solution was found: the IDC was registered as a non governmental organisation with the Ministry of Justice. Thus, it currently possesses a bank account in foreign currency. It has been foreseen that it will be exempted of taxes and VAT.

III. The legal, judicial and penitentiary systems

A. The legislative process

22. The outgoing parliament was fairly active in adopting numerous laws in order to facilitate political and economic transition, notably laws on property, privatisation, the tax system, etc.

23. As far as codification is concerned, however, in the field of both criminal and civil law the old codes — although substantially amended on several occasions — have not yet been replaced by entirely new ones. The diversity of the amendments introduced has made the law difficult to apply. The need for new codes in keeping with the constitution was repeatedly

stressed by judges and lawyers as a *sine qua non* for the practical implementation of judicial reform.

24. As regards the code of criminal law and the code of criminal procedure in particular, upon its accession to the Council of Europe Moldova undertook to adopt new codes, in conformity with Council of Europe standards, within one year. Currently the procedure for the expertise of the draft criminal code by the Council of Europe is pending and should be completed by end of April 1999. As regards the code of criminal procedure, a working group was set up in July 1998 by decision of the government under the chairmanship of the President of the Supreme Court. The Moldovan Government committed itself to submit to the Council of Europe for expertise the draft which this group will prepare.

25. Despite the delay in the adoption of a new code of criminal procedure, it should be stressed that the old code was substantially amended in February 1998 with a view to ensuring its compatibility with the ECHR. The most important amendment concerned detention on remand: as from 1 April 1998, it is a court — and no longer the General Prosecutor — that decides whether a person should be placed in detention on remand. The Prosecutor's Office has thus lost one of its functions that were incompatible with the ECHR.

26. According to the new law, police custody is limited to 24 hours. After expiry of this period, the person arrested must be brought before a judge, who is required to order (within the following 48 hours) either the immediate release of the person or his or her placement in detention on remand (for an initial period of 30 days which may be prolonged for up to one year or more in the case of certain serious offences).

B. The judicial system

1. *The administration of justice*

27. The institutional law on the administration of justice was adopted on 6 June 1995, shortly before Moldova became a member of the Council of Europe. On 20 July 1995, the Parliament of Moldova adopted a law on the status of judges.

28. On 27 August 1996, the new judicial system introduced by the institutional law of 1995 came into force. The new system comprises courts of first instance, courts of second instance, a Court of Appeal and a Supreme Court.

29. The representatives of the judiciary with whom the rapporteurs had several meetings pointed out that the key aspect of the judicial reform was the appeal institution, which constituted a new level of jurisdiction. The concept of adversarial proceedings was also difficult to apply in practice because of the lack of experience.

30. According to judges and lawyers, however, the main reasons why the new judicial system did not work in practice lay in technical and organisational problems. Thus, it was only in July 1998 that premises were provided for the Court of Appeal.

31. The Minister of Justice was also of the opinion that the judiciary could not function properly because of a lack of funding. Judges had not received their salaries for more than four months. The risk of corruption in these circumstances was obvious. The ministry had decided to propose increasing judicial charges in order to meet this problem. An increase in the

state budget for the judiciary was indispensable but difficult to achieve in view of the country's general economic problems.

32. Another problem impeding the smooth operation of the judicial system is the fact that the long-awaited law on the status of lawyers has still not been adopted. Thus lawyers are continuing to work on the basis of a set of rules dating from 1980. A bill was passed at first reading in late 1996, but since then no decision has been taken by parliament. The lawyers interviewed by the rapporteurs criticised this bill as being a step backwards and complained of the fact that parliament had at the time ignored the bill prepared by the Bar Association. The rapporteurs hope that the current parliament will resume the debate on the basis of a new draft drawn up in consultation with the Bar Association and the Council of Europe experts.

2. *The independence of the judiciary*

33. As regards the independence of the judiciary, a significant development was the amendment — on 19 July 1996 — of Article 116, paragraph 2, of the constitution, in conformity with an explicit commitment given by Moldova upon its accession to the Council of Europe (see paragraph 8. of Opinion No. 188). This constitutional provision was considered unacceptable in terms of the independence of the judiciary, since it stipulated that judges who passed the entrance examination for the judiciary should be appointed initially for a period of five years, then for a period of ten years; only after fifteen years could they be appointed for life.

34. The constitution now provides that judges shall be appointed for life after a probationary period of five years.

35. Certain provisions of the law on the High Judicial Council were declared unconstitutional by the Constitutional Court because they were prejudicial to the independence of the judiciary. Some judges complained that the new law which was adopted in the wake of the Constitutional Court's decision also failed to ensure the independence of the judiciary. According to information provided by the Moldovan authorities, the Supreme Court had seized the Constitutional Court on the unconstitutionality of the new law, but withdrew its application at the opening of the plenary sitting of the Constitutional Court which would examine this case.

36. But the greatest problem is that in practice the High Judicial Council has not been able to function because of a lack of funding. The Minister of Justice informed the rapporteurs that for the first time this year the state budget included appropriations for the functioning of the High Judicial Council.

37. Lastly, the judges expressed the wish that seminars on the development of the judicial system be organised in Moldova with the assistance of the Council of Europe. According to some judges, these seminars should be organised by the association of judges and the High Judicial Council without any intervention by the government or the General Prosecutor. Moreover, a seminar should be organised on the legal drafting techniques for parliamentarians. It would also be useful to organise a seminar on the development of case-law in other countries possessing the same system as Moldova and having experienced the same reforms.

3. *The General Prosecutor's Office*

38. Upon Moldova's accession, emphasis was put on the need to modify the role and functions of the General Prosecutor's Office in order to ensure their compatibility with the principles of the rule of law and the Council of Europe's standards. A specific commitment was given by Moldova in this respect (see paragraph 8.*b* of Opinion No. 188).

39. Since accession, the law on the General Prosecutor's Office, dated 29 January 1992 has been modified on two occasions — on 21 July 1995 and 26 December 1995. Furthermore, in July 1995 adversarial proceedings were introduced, so that the general prosecutor now takes part in criminal proceedings with the same rights and obligations as the other parties. The lawyers interviewed by the rapporteurs confirmed that the principles of adversarial proceedings were being observed in the courts.

40. The representatives of the judiciary nevertheless expressed the opinion that the General Prosecutor's Office had still not been integrated into the system of judicial authorities, since it was still the General Prosecutor who appointed the other public prosecutors.

41. In November 1996 the Council of Europe provided the Moldovan authorities with an expert report on the 1992 institutional law regulating the Public Prosecutor's Office, as subsequently amended. The following comments of the experts are still awaiting an answer by the legislature:

— the General Prosecutor's Office continues to perform a general function of surveillance over all individuals and legal entities, both public or private (see Article 4, paragraph 1, of the law). It still exercises powers of a purely judicial nature together with others of a purely administrative nature; [7]

— the General Prosecutor is subject to no supervision of legality in the exercise of his duties (see Article 13 of the law);

— members of the Public Prosecutor's Office are defined as civil servants devoid of any guarantee of independence in the fulfilment of their duties (see Articles 13, 16 and 44 of the law).

42. Nevertheless, as regards the judicial function of a prosecutor, significant progress has been made. For example, as already stated, on 1 April 1998 prosecutors lost their power to decide on non-custodial security measures. In proceedings concerning placement in detention, they are merely the applicant before the judge and the authority responsible for executing the judicial decision. They are no longer able to take decisions on detention on remand, a power henceforth confined to judges.

43. The Moldovan authorities have informed us that the drawing up of a draft law modifying articles 124 and 125 of the Constitution, providing the status of the Prosecutor's Office, is foreseen for the first half of 1999 by the Ministry of Justice.

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[7] The General Prosecutor stressed again the role still played by prosecutors in the field of free legal aid for citizens who cannot afford to consult a lawyer. The General Prosecutor's Office receives tens of thousands of applications for legal aid every year.

4. *The Constitutional Court*

44. The rapporteurs welcome the authority gained by the Constitutional Court of Moldova and the importance of its role in the country's democratisation process. However, they are concerned by the fact that some of its decisions are not implemented. According to our information, this is the case *inter alia* with Decision N° 23 of 21.07.1997, in which the Constitutional Court declared unconstitutional presidential Decree N° 116-II of 7 April 1997 setting up the Department for the fight against organised crime and corruption, presidential Decree N° 117-II of 7 April 1997 on the appointment of Mr Nicolae Alexei as head of the Department, and governmental Decree N° 479 of 26 May 1997 on the organisation of the Department. This decision has not yet been implemented and the rapporteurs would like to know why.

45. According to the Moldovan authorities, the organisational structure, staffing and rules of the Department for the fight against organised crime and corruption have just been established within the Ministry of the Interior, on the basis of a decision taken by the government on 8 August 1997 on the implementation of the Constitutional Court's decision.

C. The penitentiary system

46. On 8 December 1995, the Moldovan Parliament adopted Law No. 667-XII on the modification of the Criminal Code, the Code of Criminal Procedure and the Code on the Execution of Criminal Sentences, by which the death penalty was abolished in Moldova. Moldova has thus honoured its commitment in this respect (see paragraph 11.*c*, second indent, of Opinion No. 188).

47. During their visit to Moldova in September 1996, the rapporteurs were able to speak to some prisoners whose death sentences had been commuted to life imprisonment and who expressed their gratitude to the Council of Europe for bringing about this change of legislation.

48. Furthermore, on 1 January 1996 responsibility for the penitentiary system in Moldova was transferred from the Ministry of the Interior to the Ministry of Justice, under Decree No. 865 of 28 December 1995. Moldova is thus to be congratulated on honouring this commitment too (see paragraph 8.*d* of Opinion No. 188).

49. However, the situation in prisons is still a problem, albeit largely as a result of the lack of funding.

50. Two Council of Europe experts visited prisons and other detention centres in Moldova in March 1995. They reported that detention conditions were often deplorable, the establishments over-crowded and the sanitation inadequate. The problems seem more serious in the case of remand centres, where eighty-one detainees died of malnutrition or ill-health in 1995 alone.

51. During their visit to Moldova in September 1996, the rapporteurs asked to visit a prison of their choice. At random they chose penitentiary centre No. 13, which at the time contained 1,044 detainees (including 21 serving life sentences, 915 awaiting trial, 14 women and 46 adolescents.

52. The rapporteurs observed the over-crowding and the inadequacy of the food. The prison governor explained that, in view of the food shortage, families were allowed to bring food to the detainees.

53. Since then, Moldova has ratified the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment. The committee set up by this convention (the CPT) went to Moldova a few days before the rapporteurs (11-22 October 1998). It visited district police stations, remand centres, prisons, a psychiatric hospital etc. It will be drawing up a report containing recommendations which will be transmitted to the Moldovan authorities. The latter will be able to decide whether to allow publication of the report, together with their own observations, as most states visited by the CPT do. At present, all information concerning the CPT's visit remains confidential, with the exception of the programme.

54. The rapporteurs did not want to substitute themselves for the CPT, but they did wish to visit a detention centre, as is done in most states undergoing monitoring. This time, they chose a police station in Chisinau (Thigina Street).

55. The rapporteurs wish to underline the great openness and co-operativeness of the Moldovan authorities, from the Minister of the Interior, who allowed all visits to any of the establishments under his authority, to the head of the police station chosen by the rapporteurs and announced at the very last moment.

56. A few minutes after the arrival of the rapporteurs, the police superintendent and the prosecutor responsible for this establishment appeared. The rapporteurs asked them why persons remanded in custody (pending trial) were detained in this police station and not in a prison under the authority of the Ministry of Justice, as the law required. They answered that such detainees were transferred from the prison to the police station for a period of three to seven days at the request of the investigator for the purposes of the investigation. The rapporteurs noted that such a practice did not seem to be in conformity with European standards. They hope that the CPT will make recommendations on the subject.

57. As for detention conditions, they correspond to the resources available, which are poor. The prosecutor said that he occasionally received complaints of ill-treatment from detainees, but that it was always difficult to prove such allegations.

58. The rapporteurs consider that assistance in the penitentiary field should be considered a priority matter under the Council of Europe's assistance programmes for Moldova.

IV. Human rights and fundamental freedoms

A. Articles 54 and 55 of the constitution

59. Moldova has officially undertaken not to apply Articles 54 and 55 of the constitution in such a way as to restrict fundamental human rights, in contradiction with international standards.

60. These two constitutional provisions were criticised by the eminent lawyers in their reports on the compatibility of Moldovan legislation with Council of Europe standards. Article 54 is a general provision listing circumstances in which restrictions may be placed on all human rights, in contradiction with the ECHR, under which only clearly defined restrictions

are authorised while certain rights may not be subjected to any restrictions. Article 55 could be interpreted, according to the eminent lawyers, as meaning that rights and freedoms are to be granted only to those persons who properly carry out their obligations.

61. According to Article 4, paragraph 2, of the constitution, international law prevails over domestic legislation, and, according to a decision by the Constitutional Court, the constitution and international treaties are directly applicable by Moldovan courts. In the light of this, the Moldovan authorities have noted that a restriction on human rights that was not in conformity with international standards would be precluded. A law providing for such a restriction would even be unconstitutional itself.

62. The rapporteurs had already concluded that, in the light of the above considerations, Moldova had honoured its commitment relating to the application of Articles 54 and 55 of the constitution; but, for reasons of clarity, they had proposed a revision of these two articles of the constitution. They are therefore gratified that such a constitutional revision is now underway, in consultation with Council of Europe experts, and they hope that this problem will thus be clearly and definitively solved in the near future.

B. Freedom of the media

63. Several criticisms have been voiced with regard to the compatibility of Moldova's legislation on the press with European standards, including by independent experts engaged by the Council of Europe.

64. The most strongly criticised provision is Article 4, paragraph 1.*a,* which prohibits "the publication of documents containing elements of dissent or defamation against the state or the people, calling for a war of aggression, fomenting national, racial or religious hatred or fostering discrimination, territorial separatism or public violence as well as any other manifestations prejudicial to the constitutional system in force". Paragraph 1.*b* of the same article prohibits, *inter alia*, the publication of documents "in contradiction with the general principles of international conventions on human rights".

65. On 15 December 1995, the Moldovan Parliament adopted amendments to Article 4 of the press law, in the light of the Council of Europe experts' proposals. According to these amendments, paragraph 1.*a* would prohibit the publication of "false" documents containing elements of dissent or defamation against the state and the people "in bad faith". The reference to "other manifestations prejudicial to the constitutional system in force" would be deleted. The above-mentioned phrase would be removed from paragraph 1.*b,* while the ban on publications prejudicial to an individual's dignity would be lifted in the case of documents "of general interest" which "at the time of publication, ... were considered authentic by the publisher".

66. However the President of the Republic used his veto and refused to promulgate these amendments. Subsequently, on 7 February 1996, parliament voted in favour of maintaining the original version of the press law.

67. During the rapporteurs' visit in September 1996, the Moldovan delegation had assured them that the above-mentioned amendments would be tabled again in parliament either before or immediately after the presidential election (November 1996).

68. Other provisions criticised as infringing freedom of expression are Article 7 of the Civil Code (defamation) and Article 203.*b* of the Criminal Code (insulting the President of the Republic or the Speaker of parliament). For these provisions, too, the Moldovan authorities had assured the rapporteurs that amendments would be introduced.

69. During their last visit to Moldova, the rapporteurs observed that the situation had scarcely changed with regard to either Article 4 of the press law or the other above-mentioned provisions. They consider that this matter should be dealt with as rapidly as possible, even if the Moldovan authorities stress that "there are no more judicial proceedings for defamation of the state and the people".

70. Currently, Article 32, paragraph 3, of the constitution, concerning restrictions to freedom of expression, is being revised so as to become compatible with the ECHR. In this connection, the Council of Europe experts stressed once more the need to amend the press law along the same lines.

71. With regard to radio and television, a law on the audiovisual sector was adopted on 3 October 1995. It set up an Audiovisual Sector Co-ordinating Council, which is made up of nine members appointed in equal numbers by the President of the Republic, parliament and the government for a five-year term. According to the law, the council members are independent of the authorities which appointed them and are responsible for protecting the public interest.

72. In its original version, the 1995 law provided that the television and radio directors were appointed by parliament on the proposal of the Audiovisual Sector Co-ordinating Council for a period of five years. However, in November 1997 the outgoing parliament "interpreted" the law as granting it the power to appoint and dismiss directors "either on the proposal of the council or on its own initiative". It thus dismissed the directors of the national television without any proposal by the council. It subsequently amended the law and clearly assumed the power to appoint or dismiss the general director of television without the approval of the Audiovisual Sector Co-ordinating Council. The case was brought before the Constitutional Court, which declared this legislative amendment compatible with the constitution in view of the public character of television.

73. According to the information provided by the Moldovan authorities on 11 February 1999, the Parliament adopted a plan for the "support and promotion for the Moldovan media" which foresees the perfection of the legislative framework and the granting of certain financial facilities to the press. On the basis of this plan, the Parliament undertook to adopt a law on the accessibility of information, a law on the organisation and functioning of television and broadcasting in the Republic of Moldova and a law on the status of journalists.

74. Parliament is currently amending the press law and the law on the audiovisual sector. The rapporteurs hope the new press law will address the above-mentioned problems and that the new law on the audiovisual sector will provide for a different system of appointment and dismissal of radio and television directors to avoid political influence in the management of the audiovisual sector. The opinions of the Council of Europe experts should be taken into consideration.

C. Freedom of conscience and of religion and freedom of association

75. The report on Moldova's accession prepared by the late Lord Finsberg dwelt on the problem of the state's refusal to recognise the Orthodox Church that calls itself the "Metropolitanate of Bessarabia".

76. In accordance with Opinion No. 188 (1995), Moldova undertook "to confirm complete freedom of worship for all citizens without discrimination, and to ensure a peaceful solution to the dispute between the Moldovan Orthodox Church and the Bessarabian Orthodox Church".

77. The rapporteurs responsible for monitoring the honouring of Moldova's commitments consider that the problem of the Bessarabian Church is at present one of freedom of association rather than of freedom of religion. It is in these terms that the problem is raised.

78. During their first monitoring visit to Moldova, in 1996, the rapporteurs met the representatives of the Orthodox Church of Bessarabia who complained about this problem of registration and denounced acts of violence committed against the Church's practitioners. They also stressed that, contrary to what had been said, they made no reference to Romania. They invoked the Romanian Patriarchy only in accordance with the canonical rules and prayed for the state of Moldova.

79. In this context, the Moldovan authorities reiterated the reasons why the Church could not be registered:

— its statute refers to it as the rightful successor of the former Metropolitanate of Bessarabia, which existed from 1925 to 1941 (for the historical background, see the report on Moldova's application for membership, Doc. 7278 of 18 April 1995). Thus, the problem seems to be raised of claims on the assets of the Moldovan church;

— the name used by the Church could cause conflicts with Ukraine.

80. The matter has since been brought before the Moldovan courts. The Chisinau Court and the Court of Appeal decided that the state's refusal to register the Church of Bessarabia was illegal, but the Supreme Court quashed this decision. The Bessarabian Orthodox Church subsequently submitted an application to the European Court of Human Rights. A new request for registration, tabled recently by the Church of Bessarabia, was once more rejected by the government.[2]

81. The rapporteurs urge the parties to seek a solution to this problem.

D. Minorities

82. The ratification by Moldova of the Framework Convention for the Protection of National Minorities on 20 November 1996 is, as already stated, a highly significant step towards the protection of minorities in this multi-ethnic country, where 35.05% of the population belong to national minorities (for further information, see the report on the

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[2] See also the motion for a resolution on the freedom of the Metropolis of Bessarabia presented to the Parliamentary Assembly on 3 July 1997 and referred by the Bureau to the Monitoring Committee for information on 22 September 1999.

application by Moldova for membership of the Council of Europe, Doc. 7278, paragraph 10). Moldova has thus honoured its commitment in this respect.

83. However, Moldova has not yet adopted any law on national minorities, and the ratification of the framework convention cannot fill this gap (precisely because it is a "framework" and therefore necessitates domestic legislation to implement its principles). Several draft laws on this subject have been prepared, and the Venice Commission gave its opinion on one of them. But no text has yet been adopted by the parliament. The rapporteurs call on the current parliament to place this matter on its agenda.

84. As regards linguistic rights in particular, when Moldova joined the Council of Europe, it formally undertook to minimise "potential legal consequences of inadequate knowledge of the official language" and to grant "a significant extension of the time required for the learning of this language" (see paragraph 8.*c* of Opinion No. 188).

85. According to an official communication from the Moldovan parliamentary delegation, the law of 1 September 1998 on the status of the official language and the functioning of languages in the territory of the Republic of Moldova offers favourable conditions to citizens who do not speak the official language of the state but wish to learn it. Moreover, all deadlines set by the 1994 law for the learning of the official language by civil servants have expired without any consequence for those who have not yet learned Moldovan.

86. As far as teaching is concerned, the Constitution of Moldova provides for the right of citizens to be taught in the language of their choice (Article 35), thereby guaranteeing the right of parents to choose the language of their children's education. Article 8 of the law on education guarantees the right of citizens to education and teaching in their mother tongue.

87. Moldova's legislative framework is therefore substantially in keeping with international standards on the protection of national minorities.

88. With regard to the implementation of this legislation in practice, in reply to the complaints of representatives of national minorities that the number of schools in which Moldovan is taught has risen considerably in recent years, the Moldovan authorities state that this trend is in line with the wishes of parents themselves who are increasingly anxious that their children should be educated in the official language of the state.

89. According to information provided by the Moldovan parliamentary delegation, the linguistic situation in schools at present is as follows:

90. Among the 1 469 schools (640 393 pupils) currently functioning in Moldova:

— 1 085 are Moldovan (453 727 pupils);
— 257 are Russian (121 218 pupils);
— 125 are mixed (58 891 pupils).

91. In mixed schools, teaching is dispensed in the following languages:

— in Moldovan (Romanian) to 32 203 pupils;
— in Russian to 303 pupils;
— in Bulgarian to 56 pupils.

92. There are two Jewish schools in which teaching is in Russian (557 pupils).

93. In total, teaching is in Russian for 147 547 pupils, in Ukrainian for 303 pupils and in Bulgarian for 56 pupils.

94. With regard to the specific question of the Gagauz minority, since the election of a governor (*Bachkan*) and an autonomous parliament in Gagauzia in May and June 1995, the region has enjoyed autonomy in keeping with the principles laid down in the special legal status granted to Gagauzia on 23 December 1994. A "legal code" ("Rules of Procedure") was unanimously adopted by the Gagauz Parliament on 14 May 1998. The Venice Commission prepared an opinion on the draft of this text.

95. Until recently, the autonomous region did not seem to have any political problems with the central authorities in Chisinau, although confronted with serious economic problems (it is still one of the poorest regions in Moldova).

96. The drawing up by the Moldovan government and parliament of two laws, one on local public administration and the other on administrative and territorial organisation, gave rise to tensions between representatives of Gagauzia and the Chisinau authorities. At the same time, the adoption of the law on the administrative and territorial organisation provoked strong reactions by the Bulgarian minority. For these problems, reference is made to the next chapter.

V. Local self-government

97. On 2 October 1997, Moldova ratified the European Charter of Local Self-Government, thus honouring its commitment on the subject (see paragraph 11.*h* of Opinion No. 188).

A. Legislative reform

98. Moldova also undertook, upon accession, to reform its laws and practice in the sphere of local self-government in accordance with the Charter (see paragraph 11.*g* of Opinion No. 188). This long-awaited reform was considered a priority by the present parliament and government, which worked on the matter in co-operation with the Congress of Local and Regional Authorities of Europe (CLRAE). For the International Monetary Fond, the reform was a condition for the provision of assistance to Moldova.

99. On 6 November 1998, parliament finally adopted a new law on local public administration, and six days later (on 12 November) a law on administrative and territorial organisation.

100. In its Recommendation No. 38 (1998) of 6 March 1998, the CLRAE welcomed the "generally high standard" of the texts, which were then in draft form, while making some proposals aimed at rendering the texts clearer and fully compatible with the European Charter of Local Self-Government.

102. As stated above, the drawing up of the two new laws gave rise to criticisms by the representatives of Gagauzia and strong reactions by the Bulgarian minority.

103. As far as Gagouzia is concerned, its representatives considered that the draft law on local public administration as passed at a first reading in parliament threatened their special autonomous status guaranteed by the institutional law of 1994 and the Moldovan Constitution.

104. The rapporteurs met the *Bachkan* and the President of the People's Assembly of Gagauzia, who in particular contested the need to appoint a prefect as representative of the Moldovan government in their autonomous region possessing its own head of the executive. But both expressed the hope that a satisfactory solution for both sides would be found before the adoption of the law. For their part, they would be satisfied if the new law made an explicit reference to the 1994 law on the autonomous status of Gagauzia.

105. The rapporteurs asked the Venice Commission to give them an opinion on the compatibility of the new laws on local public administration and on administrative and territorial organisation with the institutional law of 1994 on the autonomous status of Gagauzia as well as the Moldovan Constitution. They have also taken into account the expert opinion drawn up by the CLRAE.

106. According to the memorandum prepared by the Venice Commission and the opinion of the expert of the CLRAE, the new laws raise indeed a problem of compatibility with the organic law of 1994 on the special status of Gagauzia, notably because of the fact the law on local public administration finally foresees a prefect for Gaguzia as a representative of the executive whereas the autonomous region possess already a head of the executive (*Bachkan*). The question is raised how the competences between these two representatives of the executive will be ditsributed.

107. Nevertheless, both laws refer explicitly to the autonomous status of Gagauzia. In particular under the law on local public administration, the autonomous region of Gagauzia is governed by that law and the organic law of 1994 on the special status of Gagauzia. The problem of compatibility would thus be solved if one considers that, in case that a conflict of interpretation arises, the organic law on the autonomous status of Gagauzia will prevail as *lex specialis*. The rapporteurs invite the Moldovan authorities to ensure that such an interpretation will be made in the implementation of the new laws.

108. As far as the Bulgarian minority is concerned, the problem was raised because of the fact that the law on administrative and territorial organisation, in creating less numerous and thus larger regions ("judets"), merged the Tarakliya region, mainly inhabited by members of the Bulgariona minority, into a larger region (the Cahul "*judet*"). The Regional Council of Tarakliya protested (*inter alia* by organising a local referendum) against this change and asked that the Tarakliya region remain a separate administrative-territorial entity so that its importance as a centre for the development of the Bulgarian culture would be maintained. The experts of the CLRAE and of the Venice Commisison suggested that this change could raise problems of comformity with the Framework-Convention for the Protection of National Minorities (ratified by moldova and put into force), and notably its Article 16.[3] Taking intoi account the opinion of the experts, the rapporteurs invite the Moldovan authorities to ensure that the implementation of the new law on administrative and territorial organisation will not have any negative effects on the enjoyment by all persons belonging to the Bulgarian minority of thir rights enshrined in the Framework-Convention and in the principles laid down in

[3] "The Parties shall refrain from measures which alter the proportions of the population in areas inhabited by persons belonging to national minorities and are aimed at restricting the rights and freedoms flowing from the principles enshrined in the present framework Convention."

Assembly Recommendation 1201 (1993); in fact, upon its accession, Moldova committed itseld to conduct its policy towards minorities on the basis of these latter principles.

B. The current democratic basis of local authorities

109. The rapporteurs regret that ninety-two local authorities — which, while accounting for only 10% of Moldova's local authorities, represent a large share of the population because they include the capital, Chisinau, and other major cities — are still deprived of any elected democratic structure in the form of a municipal council or a mayor.

110. This situation results from the fact that the 50% minimum rate of participation by voters was not reached in both rounds of the local elections in spring 1995. The Constitutional Court declared unconstitutional the provision of the law on local elections that granted the President of the Republic the power to appoint mayors and municipal councils in those constituencies where the 50% rate was not achieved in both rounds of the local elections. The Constitutional Court added that parliament should amend the law on local elections in accordance with this decision within four months and "restore the legal consequences of the provisions of the law that had been declared unconstitutional" — that is, new elections should be held in the 92 localities concerned.

111. On 23 May 1996 a law amending the law on local elections was adopted by parliament. It provides for a 50% minimum participation rate in only the first round of local elections; if this rate is not attained, a second round of voting takes place in which there is no minimum rate.

112. While this legislative amendment is in keeping with the CLRAE's suggestions and the Moldovan Constitutional Court's decision, no new elections have yet been held in the ninety-two districts mentioned above, which include the capital city and which are still headed by mayors and municipal councils appointed by the President of the Republic.

113. The rapporteurs and the CLRAE have repeatedly urged the Moldovan authorities to hold these local by-elections without delay. It seems, however, that the situation will not be remedied until the next local elections, scheduled for spring 1999.

VI. Transnistria

114. As stated in the introduction, during their fact-finding visit to Moldova the rapporteurs visited Tiraspol, the capital of the so-called "Moldovan Republic of Transnistria" (MRT)[4] on 28 October 1998. There they had some very interesting talks with Mr Marakutsa, the President of the Supreme Council (parliament), Mr Igor Smirnov, the President of the MRT, and senior representatives of the judiciary. They earnestly requested a meeting with Mr Ilie Ilascu, one of the best known political prisoners who is also a member of the Moldovan Parliament, but Mr Smirnov categorically refused to grant it. The division of Moldova poses problems not only for the country itself but also for the Council of Europe, whose human rights protection instruments are not applied in Transnistria even though Moldova is a member of the organisation.

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[4] Not recognised at international level. From now and on, the rapporteurs will use the term "Transnistria".

A. The problem of Transnistria

115. In this report, we do not need to go over again the history of Transnistria, which was very well described in the report on Moldova's application for membership of the Council of Europe (Doc. 7278 of 18 April 1995). However, it should be remembered that the Assembly agreed to Moldova's accession in 1995 on the assumption that it would gain full control of its territory and on the condition that it would "seek to settle international, as well as national, disputes by peaceful means".

116. On 25 August 1991 — that is, at practically the same time as Moldova — the Supreme Council of the so-called "Moldovan Republic of Transnistria" adopted a declaration for the independence of Transnistria. According to the Moldovan delegation, "the separatist forces declared the independence of Transnistria on 2 September 1991 ». In late 1991 and early 1992, there were violent clashes between the forces of the self-proclaimed republic of Transnistria and the Moldovan forces of public order, leading to several hundred deaths. The 14th Russian Army, under the command of General Lebed, intervened in the conflict. A ceasefire was concluded on 21 July 1992.[8] Since then, the territory of Transnistria has been under the *de facto* control of the self-proclaimed authorities; and when Moldova acceded to the European Convention on Human Rights on 4 July 1997, it declared that it could not be held responsible for violations of the Convention by the Tiraspol authorities.

117. With regard to the troops of the 14th Russian Army stationed in Transnistria, an agreement between the Republic of Moldova and the Russian Federation on their withdrawal was signed on 21 October 1994. This agreement stipulates that withdrawal will take place within three years after its entry into force — that is, "on the date of the last notification by both parties of the completion of the requisite internal procedures ». This agreement has still not entered into force and, according to the information submitted by the Moldivan delegation, the Russian State Duma has withdrawn the item of ratification of the agreement from its agenda in January 1999. This constitues a serious failure of Russia to honour its commitments vis-à-vis the Council of Europe. Moreover, it flows from the comments of the Moldovan delegation that this agreement has not been ratified by the Moldova Parliament either but has been implemented on 9 November 1994 under a decision of the Government - a fact which seems strange to the rapporteurs to the extent that Article 66 of the Moldovan Constitution (entrered into force on 27 August 1994) foresees the intervention of the Parliament in the ratification process of international treaties.

118. It is worth noting that Article 2 of the agreement refers only to the withdrawal of the "military formations", including "large formations, units, institutions, enterprises and organisations of the Armed Forces of the Russian Federation », and stipulates that withdrawal will be "synchronous with the political settlement of the Transnistrian conflict and the establishment of a special status for the region of Transnistria within the Republic of Moldova".[6]

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[5] For the role played by the 14th Russian Army, see the observations of the Moldovan delegation in Appendix 4.

[6] According to the interpretation of this article by the Moldovan delegation (see Appendix 4), the notion of "military formations" also includes the arms and the military equipment. Moreover, the Moldovan delegation recalls the decision of the OSCE Budapest Summit (December 1994) which welcomed the commitment by both parties to conduct the withdrawal of the Russian 14th Army from the territory of Moldova and the search of a political settlement for the problems of the eastern part of Moldova (Trans-Dniester region) as two parallel processes which will not hamper each other.

119. Under Article 13 of the agreement, the installations left behind by these troops will be handed over to the local authorities of the Republic of Moldova. According to our interpretation[7], the "installations" in question are not the 14th Russian Army's weapons. This is extremely important, as some 42 000 tonnes[8] of various types of highly dangerous arms are still located in Transnistrian territory and it is easy to imagine what would happen if the troops responsible for this arsenal were to withdraw and leave the weapons behind unguarded. Therefore, the Assembly was well-advised when, in Opinion No. 193 (1996) on Russia's application for membership of the Council of Europe (see paragraph 10.ix.), it noted Russia's commitment "to ratify, within six months from the time of accession, the agreement of 21 October 1994 between the Russian and Moldovan Governments, and to continue the withdrawal of the 14th Army and its equipment from the territory of Moldova within a time-limit of three years from the date of signature of the agreement". Since then, while there has been some progress regarding troop withdrawal (there are now only 2 600 soldiers stationed in the region), some 42 000 tonnes of arms remain! Even though Russia has not yet ratified the agreement on the withdrawal, it could have started the repatriation of the easily transportable weapons as a gesture of good will.

120. It is easy to imagine the trafficking now taking place in these arms, especially as Mr Atamaniuk, the Vice-President of the Supreme Council of Transnistria, told us, in a formal statement contradicted by Mr Smirnov, that the arms were the property of Transnistria. According to the Moldovan delegation, he was without no doubt referring to the Protocol of agreement concluded on 20 march 1998 in Odessa by Mr Chernomyrdin, then Vice-Prime Minister of Russia, and Mr Smirnof (see Annexe 5). This is dangerous for the region and for the whole of Europe, where most conflicts are being fought with the weapons of the 14th Army! Furthermore, according to the representatives of the Moldovan Ministry of Defence and Ministry of the Interior, Transnistria is an arms producer and the resultant arms trafficking in this uncontrolled region, which is a source of enormous profits, is being aided and abetted in Chisinau, the Moldovan capital, and in Ukraine as well by western entreprises. The rapporteurs also express their concern about the commercial relations established directly by western enterprises with Transnistria in violation of the Moldovan legislation. A list of these enterprises appears in Appendix 6.

121. What counts at this moment is to proceed, under international control, to an assessment of the stock of arms present in Transnistria, their transfer to several areas of conflict and the production of arms in the region. It is also absolutely imperative that the agreements on the withdrawal of the arms be honoured and that an international monitoring of this withdrawal be put into place.

122. The third problem is human rights. How can the Council of Europe accept that, in practice, in an area between Moldova and Ukraine, both of which are among its member states, the European Convention on Human Rights does not apply? An example of this is the case of the political prisoner Ilie Ilascu, who on 9 December 1993 was given a death sentence and has since been imprisoned in Transnistria. The trial of this parliamentarian, who was campaigning for his country's independence (branded a terrorist by the Transnistrian authorities), has been declared unlawful by the Supreme Court of Moldova. Without wishing to comment on the merits of the judgment, the rapporteurs nevertheless hope that Mr Ilascu will be given a fair trial, just like any other European citizen. For that reason one of the

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[7] Based on the Russian version of the agreement in our possession, since we have not yet been provided with the Moldovan version despite our request.

[8] And almost ten times more, according to some unofficial sources.

rapporteurs made a point of returning to Tiraspol on 4 December 1998 to be able to speak to Mr Ilascu at last and enquire about his conditions of detention. This meeting did in fact take place, and the rapporteur could have a discussion with Mr Ilascu on his conditions of detention which remained impossible to fully assess, the conditions of his arrest and his judgment, and the possibility to enter an appeal with the European Court of Human Rights, with which he fully agreed. During this meeting, Mr Ilascu also insisted on the fact that he felt himself to be a political prisoner and on the need to make the Council of Europe aware of his fate.

123. To sum up, the problem raised by Transnistria for the Council of Europe relates to three main questions linked to Moldova's sovereignty as a member state of the Council of Europe:

— the control of its territory;
— the presence of foreign troops and arms;
— respect for human rights.

What are the prospects in these three areas?

B. Prospects of settling the conflict

124. It may be noted straight away that, while Chisinau is making every effort to settle the conflict and secure the withdrawal of Russian troops and arms, the current rulers in Tiraspol seem quite content with the status quo. This is a totally unsatisfactory state of affairs for the Council of Europe, since only part of Moldova is actually bound by the conventions ratified by the country.

1. *The status of Transnistria*

125. Since Transnistria's and Moldova's declarations of independence, no significant progress has been made. Chisinau and Tiraspol are both determinedly standing their ground. In accordance with the Constitution of the Republic of Moldova, the Moldovan authorities regard Moldova as a unitary state (Article 1) and are considering only a "special form of autonomy" for the territory on the left bank of the Dniestr (Article 111). This arrangement also appears in Article 4.2 of the law on the administrative and territorial organisation of the Republic of Moldova adopted by Parliament on 12 November 1998.

126. For the time being, such arrangement is contested by Tiraspol leaders. According to some of them, only a confederation combining two sovereign states could be considered. In this connection, they referred to the memorandum on the bases for normalisation of relations between the Republic of Moldova and Transnistria, co-signed in Moscow on 8 May 1997 by Mr Lucinschi for the Republic of Moldova, Mr Smirnov for Transnistria and Presidents Yeltsin and Kuchma for the guarantor states (the Russian Federation and Ukraine) in the presence of the head of the OSCE mission, Mr Petersen.

127. Thus, the following question remains to be decided at present: the degree of autonomy of Transnistria and the nature of the state which would be likely to satisfy the different actors, while respecting the sovereignty and integrity of Moldova.

2. *Arms*

128. As mentioned above, the 14th Russian Army's 42 000 tonnes of military hardware, guarded by 2 600 men, represent a huge threat to the security of the region and of Europe as a whole. These arms fall into three categories: those which can be returned to Russia, those which should be destroyed in situ and those which can be "realised", that is sold. The Moldovan authorities rightly demand that Russian troops and arms be withdrawn simultaneously from the region. On 20 March 1998 an agreement on confidence-building measures and the improvement of contacts between the Republic of Moldova and Transnistria was signed in Odessa by Mr Lucinschi, Mr Smirnov, Mr Chernomyrdin and Mr Kuchma in the presence of the head of the OSCE mission, Mr Evans. Under point 6, it states that "the Parties shall contribute actively to the prompt withdrawal from Transnistria of superfluous Russian military equipment. They welcome Ukraine's willingness to allow transit of this equipment across its territory". It would undoubtedly be useful for the OSCE to be involved in the operations for the withdrawal of the 14th Army's arms.

129. The rapporteurs earnestly appeal to the Russian authorities to withdraw their arms from Transnistria as soon as possible, in accordance with their commitments to the Council of Europe and their undertakings under the Treaty on Conventional Armed Forces in Europe, signed in Paris on 19 November 1990.

3. *Human rights*

130. According to the authorities in Chisinau, Transnistria is now an area of arms and drug trafficking as well as money laundering.[9] Human rights are flouted there, as illustrated by the imprisonment of Mr Ilascu who should be brought before the Moldovan justice, the only one recognised at international level, and retried. However, on 22 September 1992 the Supreme Council of Transnistria adopted a resolution indicating Transnistria's willingness to sign and ratify the European Convention on Human Rights and its protocols. Of course, as Transnistria is not internationally recognised, it cannot become a party to the convention as things stand at present. However, it might be worth familiarising the judicial authorities of Transnistria more fully with the provisions of the convention and the case-law of the European Court of Human Rights by means of information seminars. The goodwill expressed by the Transnistrian authorities in this respect can be gauged by their degree of willingness to review Mr Ilascu's trial, which was declared unlawful by the Supreme Court of Moldova.

VII. Concluding remarks

131. The rapporteurs welcome the considerable progress Moldova has made towards honouring the obligations and commitments it entered into upon accession to the Council of Europe. Some commitments have, indeed, clearly been honoured, namely:

a. the abolition of the death penalty;

b. the transfer of responsibility for the penitentiary system from the Ministry of the Interior to the Ministry of Justice;

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[9] See also on this issue in Appendix 7 the motion for recommendation of 9 October 1998 on "violations of human rights in the eastern part of the Republic of Moldova".

c. the amendment of Article 116, paragraph 2, of the constitution and the appointment of judges for life (after a probationary period of 5 years);

d. the revision of criminal procedure in order to ensure that only a judge can decide on detention on remand (instead of the Prosecutor as in the past);

e. the application of Articles 54 and 55 of the Moldovan constitution in a manner compatible with international human rights standards and the ongoing revision of those articles;

f. the adoption of new legislation in the field of local self-government;

g. the ratification of all the Council of Europe conventions that Moldova had undertaken to ratify;

h. the non-ratification of the Human Rights Convention of the CIS.

132. Other commitments have not yet been fully honoured, notably those regarding:

a. the complete transformation of the Prosecutor's Office into an institution conforming to the principle of the rule of law and the Council of Europe's standards;

b. the adoption of a new criminal code and a new code of criminal procedure;

c. the adoption of a law on the protection of national minorities;

d. the current democratic basis of local authorities;

e. a peaceful solution to the dispute between the Moldovan Orthodox Church and the Bessarabian Orthodox Church.

133. In other fields, there are problems resulting from the general obligations of Moldova as a member state of the Council of Europe, notably with regard to the implementation of the judicial reform in day-to-day practice and the independence of judges, as well the abolition of certain legislative provisions prejudicial to freedom of the media (Article 4 of the law on the press, Article 7 of the civil code, Article 203.*b* of the Criminal Code).

134. With regard to the problem of Transnistria, the rapporteurs feel that the state of isolation Transnistria finds itself in today is highly unsatisfactory. Numerous economic and technical agreements have been concluded between Chisinau and Tiraspol, but negotiations on the most important issues seem to have reached deadlock, particularly as regards the status of Transnistria and the withdrawal of Russian troops and military equipment, whose continuing presence is undoubtedly a destabilising factor. The current situation in Transnistria is especially disturbing as it has become an area of drug and arms trafficking, which constitutes a threat to the security of the whole region. The Council of Europe and neighbouring countries should be aware of this danger and seek to prevent such a development.

135. Accordingly, the rapporteurs point out that Russia's failure to honour its commitment to withdraw these troops and arms is liable to call in question its membership of the Council of Europe. Increased dialogue between Moldovan, Ukrainian, Romanian and Russian parliamentarians could help to settle the conflict.

APPENDIX 1

History of the monitoring process in respect of Moldova

1. An initial visit by the rapporteurs to Moldova took place from 11 to 14 September 1996. Mr Dumeni Columberg and Mr Geza Jeszensky participated in it in their capacity as rapporteurs for the Committee on Legal Affairs and Human Rights and the late Lord Finsberg as rapporteur for opinion of the Political Affairs Committee. Mrs Josette Durrieu, rapporteur for opinion of the Committee on Relations with European Non-Member Countries, could not take part.

2. After their visit, the rapporteurs prepared an introductory memorandum on the honouring of commitments entered into by Moldova which, following approval by the Committee on Legal Affairs and Human Rights, was transmitted to the Moldovan parliamentary delegation on 30 January 1997. [10]

3. After its creation on 27 April 1997, the Committee on the Honouring of Obligations and Commitments by Member States took over the monitoring procedure in respect of Moldova (see Resolution 1115) and received the Moldovan authorities' comments on the introductory memorandum, which arrived on 22 April 1997. For the sake of continuity, the new committee appointed Mr Columberg and Mrs Durrieu as co-rapporteurs for the Moldovan monitoring process.

4. Mr Columberg and Mrs Durrieu visited Moldova from 15 to 17 October 1997. On 29 January 1998, they presented to the Monitoring Committee a table summarising the progress made by Moldova in honouring its commitments. They considered that a draft report should not be presented before the parliamentary elections scheduled for 22 March 1998.

5. Mr Columberg took party in the Assembly Bureau's *ad hoc* committee which observed the parliamentary elections of 22 March 1998. Following this visit, a separate report was drawn up for the Bureau of the Assembly (Doc. 8058 Addendum II to the Progress Report of the Bureau and the Standing Committee).

6. The rapporteurs (Mr Columberg and Mrs Durrieu) paid a further visit to Moldova from 27 to 30 October 1998. They held talks in Chisinau as well as in Tiraspol, the capital of the "Moldovan Republic of Transnistria" (not recognised at international level).

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[10] This memorandum reproduced in an appendix the report drawn up for the Bureau of the Assembly following the observation of the presidential election in Moldova on 17 November 1996. This report was declassified on 13 January 1997 (Doc. 7699 Addendum III).

APPENDIX 2

Programme of the visit to Moldova
on 27-30 October 1998

Tuesday 27 October

8.30 p.m.	Meeting with Ambassadors of Council of Europe member states (Germany, Bulgaria, Hungary, Romania, Russia, Ukraine) and the Head of the OSCE Mission

Wednesday 28 October

8.00 a.m.-8.45 a.m.	Working breakfast with members of the parliamentary delegation of Moldova to the Parliamentary Assembly of the Council of Europe
8.45 a.m.	Departure for Tiraspol
10 a.m.	Meeting with Mr Marakutsa, President of the Supreme Council of Transnistria, and Mr Atamaniuk, Vice-President of the Supreme Council
11 a.m.	Meeting with: the Minister of Justice the Chairman of the Legal Committee of the Supreme Council the Prosecutor General the President of the Supreme Court the President of the Court of Arbitration
12 noon	Meeting with Mr Igor Smirnov, President of Transnistria, and members of the Government
1. p.m.-2 p.m.	Lunch hosted by Mr Marakutsa
3.30 p.m.	Arrival in Chisinau
3.40 p.m.-4 p.m.	Meeting with Mr Dumitru Diacov, Speaker of the Parliament of the Republic of Moldova
4.10 p.m.-4.30 p.m.	Meeting with representatives of the Alliance for Democracy and Reforms
4.30 p.m.-4.50 p.m.	Meeting with representatives of the Communist Party of Moldova
5.00 p.m.-6 p.m.	Meeting with representatives of the media
6.10-6.50 p.m.	Meeting with Mr Ion Ciubuc, Prime Minister of Moldova

7.30 p.m.	Dinner hosted by the parliamentary delegation of Moldova
9.30 p.m.	Meeting with Mr Petru Lucinschi, President of the Republic of Moldova

Thursday 29 October

7.30 a.m.-8.15 a.m.	Working breakfast
8.30 a.m.-9.00 a.m.	Meeting with Mr Nicolae Tabacaru, Minister of Foreign Affairs
9 a.m.-9.45 a.m.	Meeting with the members of the Legal Committee, for nominations and immunities
9.45 a.m.-10.30 a.m.	Meeting with the President of the People's Assembly of Gagausia and the *Bachkan* of Gagausia
10.35 a.m.-11.20 a.m.	Meeting with the Prosecutor General
11.25 a.m.-12.10 p.m.	Meeting with the Minister of Justice
12.15 a.m.-12.45 p.m.	Meeting with the Minister of Internal Affairs
12.50 p.m.-1.20 p.m.	Meeting with the Minister of Defence
1.30 p.m.-3 p.m.	Working lunch
3.05 p.m.-3.35 p.m.	Meeting with the President of the Constitutional Court
3.40 p.m.-4.15 p.m.	Meeting with the President of the Supreme Court and the President of the Appeal Court
4.20 p.m.-4.55 p.m.	Meeting with members of the Bar Association
5 p.m.-5.30 p.m.	Meeting with representatives of NGOs
5.30 p.m.-7 p.m.	Visit to the Thigina Street police station, Chisinau
7.30 p.m.	Working dinner

APPENDIX 3

OPINION No. 188 (1995)

on the application by Moldova for membership of the Council of Europe

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Excerpts

...

8. The following commitments have been entered into by the Moldovan Parliament:

a. Articles 54 and 55 of the Moldovan Constitution will not be applied in a manner restricting fundamental human rights, contrary to international standards;

b. the role and functions of the Prosecutor's Office will change, transforming this institution into a body which is in accordance with the rule of law and Council of Europe standards;

c. potential legal consequences of inadequate knowledge of the official language will be minimised and a significant extension of the time required for the learning of this language will be granted;

d. the responsibility for the penitentiary system will be transferred from the Ministry of the Interior to the Ministry of Justice in autumn 1995;

e. a new Criminal Code and Code of Criminal Procedure in conformity with Council of Europe standards will be adopted within a year of accession;

f. Article 116, paragraph 2, of the constitution will be modified in such a way as to ensure the independence of the judiciary in conformity with Council of Europe standards within a year of accession;

g. the country's laws and practice in the sphere of local self-government will be reformed in accordance with the European Charter on Local Self-Government.

...

11. Therefore, the Parliamentary Assembly, on the understanding that Moldova shares its interpretation of commitments entered into as spelt out in paragraph 8, and now intends

a. to sign the European Convention on Human Rights at the moment of accession;

b. to ratify the European Convention on Human Rights and Protocols Nos. 1, 2, 4, 7 and 11 within a year from the time of accession (subject to a declaration, if necessary, which would exclude the responsibility of the state of Moldova for any acts committed by organs which are *de facto* not under its control);

c. to sign and ratify Protocol No. 6 of the European Convention on Human Rights on the abolition of the death penalty in time of peace within three years of accession, and to uphold the moratorium on executions until total abolition of capital punishment;

d. to recognise, pending the entry into force of Protocol No. 11, the right of individual application to the European Commission and the compulsory jurisdiction of the European Court (Articles 25 and 46 of the convention);

e. to withhold ratification of the CIS Convention on Human Rights until the implications of the co-existence of that convention and the European Convention on Human Rights, especially as far as the control-mechanisms are concerned, have been clarified by the Council of Europe and furthermore not to ratify the said CIS convention without the prior agreement of the Council of Europe;

f. to sign and ratify within a year from the time of accession the European Convention for the Prevention of Torture and Inhuman and Degrading Treatment or Punishment;

g. to sign and ratify within a year from the time of accession the Framework Convention for the Protection of National Minorities and to conduct its policy towards minorities on the principles laid down in Assembly Recommendation 1201 (1993) on the question of an additional protocol to the European Convention on Human Rights on the rights of national minorities and incorporate it into the legal and administrative system and practice of the country;

h. to sign and ratify, within a year from the time of accession, the European Charter on Local Self-Government, and to study, with a view to ratification, the Council of Europe's Social Charter and the European Charter on Regional or Minority Languages;

i. to study, with a view to ratification, and to apply the central principles of other Council of Europe conventions — notably those on extradition, on mutual assistance in criminal matters, on the transfer of sentenced persons, and on laundering, search, seizure and confiscation of proceeds from crime;

j. to sign and ratify within a year from the time of accession the General Agreement on Privileges and Immunities (and its additional protocol),

k. to seek to settle international, as well as internal, disputes by peaceful means, as an obligation incumbent on all member states of the Council of Europe;

l. to confirm complete freedom of worship for all citizens without discrimination, and to ensure a peaceful solution to the dispute between the Moldovan Orthodox Church and the Bessarabian Orthodox Church;

m. to co-operate in the implementation of the Assembly's procedure on the honouring of commitments entered into at the time of accession to the Council of Europe on issues related to the Organisation's basic values and principles, as well as in monitoring processes established following the Committee of Ministers' Declaration of 10 November 1994 (95th session).

APPENDIX 4

Observations of the Moldovan delegation on the preliminary draft report [AS/Mon (1998) 52 rev2]

Having studied the preliminary draft report of the PACE Monitoring Committee, drawn up by rapporteurs Ms Josette Durrieu (France) and Mr Dumeni Columberg (Switzerland), it is our honour to put forward certain comments and additional information. We have endeavoured to summarise herein the viewpoints of several ministries and of various political forces represented in parliament.

Our reply follows the structure of the rapporteurs' preliminary report, for the sake of clarity.

II. COUNCIL OF EUROPE CONVENTIONS

We should like to say in respect of paragraph 14, in part B, *Official publication*, that the process of publication of all international treaties to which the Republic of Moldova is a Party has begun. Just published, under the aegis of the Official Journal, are six volumes of the collected international instruments to which the Republic of Moldova is a Party. It should be noted that the first volume is dedicated to all the conventions in the human rights field. The collected texts have been distributed free of charge to all the courts in Moldova.

Where part C, *Distribution to the public: the Council of Europe Information and Documentation Centre*, is concerned, we point out that the Council of Europe Information and Documentation Centre has been registered, so it already enjoys legal personality and has a bank account. Furthermore, the IDC was, under the budget law for the year 1999, exempted from taxes and duties, as provided for in Articles 3 to 8 of the Agreement on the Privileges and Immunities of the Council of Europe.

III. THE LEGAL, JUDICIAL AND PERNITENTIARY SYSTEMS

1. Where part A, *The legislative process*, is concerned, it has to be mentioned that the draft criminal code has been finalised and referred to the Council of Europe. Intensive work is currently in progress on the other draft codes.

2. The information given in paragraphs 30 and 31, in section 1, *The administration of justice*, of part B, *The judicial system*, is inaccurate, as both judges and lawyers are already familiar with the appeal system, and the Supreme Court of Appeal has premises in the city centre.

3. Nor is the information given in paragraph 36, in section 2, *The independence of the judiciary,* of part B, *The judicial system*, correct. In practice, the Supreme Court of Justice, referred the matter to the Constitutional Court for a second time, asking it to rule unconstitutional the provisions of certain standard-setting documents, including certain provisions of the law on the High Judicial Council. The Constitutional Court agreed to examine this request, which it decided on 12 January 1998 to place on the agenda. At the beginning of the plenary sitting, however, the representative of the Supreme Court of Justice

submitted to the Constitutional Court the withdrawal of that request (decision of the Constitutional Court of 23.6.98 on the checking of the constitutionality of certain provisions of standard-setting documents relating to the division of powers between the organs of the judicial authorities and the Ministry of Justice).

4. With reference to paragraph 38 in section 2, *The independence of the judiciary*, of part B, *The judicial system*, we consider that it was certain judges, and not all, who would like the Council of Europe seminars to be organised only by the association of judges or by the High Judicial Council. Moreover, it is obvious that the organisation of such seminars by the Ministry of Justice has no effect whatsoever on the independence of the judiciary. At the same time, legal co-operation with international organisations in accordance with the legislation in force is a matter for the Ministry of Justice, and not for any other institution. In addition, when activities are planned in co-operation with the Council of Europe, account is taken of all the relevant proposals made by judges. What is more, the organising of certain seminars by judges might divert them from their main activity, that of dispensing justice.

5. In the context of the comments made about the role and functions of the General Prosecutor's Office, we note that the Ministry of Justice programme of work for the first half of 1999 provides for a bill to be drawn up amending Articles 124 and 125 of the Constitution of the Republic of Moldova, which lay down the status of the General Prosecutor's Office.

6. Nor is the statement made in section 4, *The Constitutional Court*, of part B, *The judicial system*, accurate.

In order to implement Decision No. 23, of 21 July 1997, of the Constitutional Court of the Republic of Moldova, the Moldovan Government on 8 August 1997 adopted Decision No. 757 on a Department of the Ministry of the Interior for the fight against organised crime and corruption, setting the Ministry the task of preparing and approving, within five days, the organisational structure, staffing and rules of the said department. On the basis of this decision, by order of the Ministry of the Interior, the structure, staffing and rules of the Department for the fight against organised crime and corruption have just been laid down. Thus Decision No. 23 of the Constitutional Court, of 21 July 1997, has been implemented.

IV. HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS

FREEDOM OF THE MEDIA

On 11 February 1999, the Parliament of the Republic of Moldova adopted the state support and promotion plan for the Moldovan media for the years 1999-2003. The plan involves the perfecting of the legislative framework and the granting of certain financial facilities to the press.

Parliament has undertaken to adopt the law on the accessibility and protection of information, the law on the organisation and functioning of television and broadcasting in the Republic of Moldova and the law on the status of journalists. Parliament is currently amending the press law and the law on the audiovisual sector.

On the basis of the plan, the government is going to prepare programmes setting favourable conditions for privatisation and for the leasing of premises for the media.

Currently under examination are bills on freedom of information and on the organisation of television and broadcasting.

Freedom of conscience and of religion and freedom of association

The words "on the schism within the Orthodox Church in Moldova and" in paragraph 73 should be deleted, given that the matter concerns two parties, not just one.

Also to be deleted are the words "that calls itself the 'Metropolitanate of Bessarabia'", while an indication should be given of the name of this Church, used in Opinion No. 188 (1995) on Moldova's application for membership.

It would be desirable for the words "not for Romania" to be deleted from the final sentence of paragraph 76 and replaced by "for its Army and its leaders".

Paragraph 77 should be deleted in its entirety, for it contains out-of-date information inconsistent with the postion of efforts to resolve the problem.

Also to be deleted is the suggestion that "The Constitutional Court rejected an application on the matter as inadmissible", given the fact that the Bessarabian Orthodox Church has never referred this issue to the Constitutional Court. At the same time, two more sentences should be added to paragraph 78 after the second: "Having exhausted all internal remedies, the Bessarabian Orthodox Church submitted an application to the European Court of Human Rights. The Court registered this application definitively and, on 26 January 1999, opened file No. 45701/99 'Mitropolia Basarabiei si Exar hatul Plaiurilor v Moldova'".

The second sentence of paragraph 78 should begin: "The Chisinau Court and the Moldovan Court of Appeal decided...", with the rest of the sentence unchanged.

Part C should have a new paragraph 77 added to it, worded as follows: "The rapporteurs also met representatives of the Human Rights organisations of the Republic of Moldova, who unanimously condemned the attitude of the Moldovan authorities to the believers freely associated within the Bessarabian Orthodox Church. They unanimously advocated the admission to legal status of the Church".

Part C should have another new paragraph added to it, worded as follows: "The rapporteurs examined and took into consideration the motion for a resolution on the freedom of the Metropolis of Bessarabia, submitted to the Parliamentary Assembly of the Council of Europe on 3 July 1997 by several members of the Assembly, and which was sent by the Bureau of the Assembly to the Monitoring Committee on 22 September 1997".

It is necessary for the rapporteurs to mention the fact that the two Patriarchates - Russian and Romanian - have begun a canonical dialogue about their canonical jurisdiction in the Republic of Moldova, during which they have agreed to move from conflict and hatred to conciliation and co-operation.

We also consider it necessary to state in the report that the Metropolis of Bessarabia has extra-territorial canonical jurisdiction within the Romanian diaspora in the former Soviet area, and that the religious communities of the church, which is active in Lithuania and Latvia, are integrated into those countries' legal systems, enjoying the rights which

accompany legal personality. It may also be added that the Metropolis of Bessarabia is canonically recognised by Constantinople and by all the autocephalous Orthodox Churches, with the exception of the Russian Patriarchate of Moscow.

V. LOCAL SELF-GOVERNMENT

According to the preliminary draft report, the Republic of Moldova adopted its new law on public local administration on 6 November 1998 and its law on administrative and territorial organisation on 12 November 1998. Both laws have already been published.

The Parliament of the Republic of Moldova is in the very near future to discuss the setting of a date for new local government elections, in accordance with the new provisions of the law on local elections mentioned in paragraph 105 of the preliminary draft report of the Monitoring Committee.

VI. TRANSNISTRIA

PARAGRAPH 108 (page 17)

Although the rapporteurs specify (note 3) that the so-called "Moldovan Republic of Transnistria" (MRT) is not recognised at international level, the continued use of that name might influence international opinion, with this designation possibly appearing in official international documents. We therefore consider it necessary to draw attention to the fact that, as the MRT is not internationally recognised as a state, the use of the name MRT in this report contravenes the rules which are unanimously accepted internationally. The only solution, in principle, along these lines, is the continued use of the current place name, the Transnistrian region of the Republic of Moldova, or, in conformity with Appendix V of the law on administrative and territorial administration of the Republic of Moldova (No. 191-XIV, of 12 November 1998), the use of the designation "administrative and territorial unit of the left bank of the Dniester". Should the continued use of the name MRT be insisted upon, it is absolutely essential also to add the adjective **"so-called"**.

THE PROBLEM OF TRANSNISTRIA

Paragraph 110 (page 18)

It should first be noted that separatist forces declared the independence of Transnistria on 2 September 1991, and not, as stated by the Assembly rapporteurs, on 25 August 1991. Were the final report to be the same as the current version of Ms Durrieu and Mr Columberg's text, this would create an awkward situation even for the rapporteurs. It would lead to the conclusion that, as the Transnistrian region of our country declared its independence before the Republic of Moldova, the Republic of Moldova therefore declared itself independent on 27 August 1991 both of Moscow and, implicitly, of the Transnistrian region of the country, which is nonsense and shows that the authors of the report had far from adequate documentary information available to them.

It should also be stated that some of the facts put forward in this paragraph are an insult to the Republic of Moldova:

Initially only the police, of our country's constitutional authorities, took part in the clashes (at the end of 1991 and beginning of 1992) in the Transnistrian region of the Republic of Moldova. At that time, the national army had not been created, so its lawful involvement came much later.

The parliamentary delegation of the Republic of Moldova is perplexed by the interpretation in this paragraph of the role and activities of the former XIVth Russian Army during the armed conflict in the Transnistrian region of the Republic of Moldova. It is impossible to describe the ending of the fighting as having been achieved ***thanks to*** the action of the former XIVth Russian Army (now the OGRF, or Operational Group of Russian Forces). We should like to draw to the attention of the rapporteurs of the Parliamentary Assembly of the Council of Europe the fact that the armed conflict between the separatists' military forces, with the former XIVth Russian Army, and the forces of the police of the Republic of Moldova had already ceased *de facto* in May 1992, when negotiations began on the signature of the agreement on a cease-fire in the Transnistrian region of the Republic of Moldova. The agreement was signed in Moscow on 21 July 1992, by Mr Mircea Snegur, former President of the Republic of Moldova, and Mr Boris Yeltsin, President of the Russian Federation, and was also countersigned by Mr Igor Smirnov, President of the self-proclaimed Moldovan Soviet Socialist Republic of Transnistria.

At the same time, the parliamentary delegation of the Republic of Moldova queries the inclusion of some incorrect information and appraisals in the PACE report on the Republic of Moldova. It is unanimously accepted that the XIVth Russian Army became internationally known after giving support to the separatist movement in Moldova, thanks to its size and its direct involvement in the Transnistrian conflict. In practice, the XIVth Russian Army continues to provide the material, political and ideological support for separatism in our country. The following evidence may be cited as proof of this:

1. Immediately after the declaration of independence of the Republic of Moldova (on 27 August 1991), an intensive campaign was conducted within the Russian military units stationed on Moldovan territory, indoctrinating the troops with Russian chauvinism, anti-Romanian feeling and a hatred of the constitutional structures of the Republic of Moldova. Over the period from 10 to 20 September 1991, according to information given by the Odessa Military District Command and the administration of the XIVth Russian Army, meetings of officers were held in the military units in the garrisons at Tiraspol, Ribnitsa and Dubasari, at which appeals were made for them to boycott the Decree of the President of the Republic of Moldova *on the withdrawal of the military formations of the Soviet Army from the territory of the Republic of Moldova*, dated 3 September 1991. Also discussed at the same time was the legitimacy of the inclusion of the Transnistrian region as part of the Republic of Moldova. The relevant appeal contained the words: "*We are at home, on the land of our ancestors, which is why the decisions of the people of Transnistria, who have, of their own will, formed the Moldovan Soviet Socialist Republic of Transnistria, are clear and close to us. It is our prayer that the withdrawal of the units of the Soviet Army will not be allowed from the ancient lands of out great Motherland*".

2. From September 1991 onwards, with the direct participation of the XIVth Army, a National Guard, workers' detachments co-operating with the separatist police and military security detachments were set up and supplied with arms. The Dnestr (Nistru) detachment of the Transnistrian National Guard alone, for example, had some 200 officers and NCOs of the XIVth Army transferred to it. Training centres for the troops of the Transnistrian National

Guard were set up in the towns of Ribnitsa and Tiraspol. Training was provided by officers of the XIVth Army.

3. When armed conflict in the region was imminent, military formations of the XIVth Army, with all the military equipment supplied to them, were, as a matter of urgency, placed under the control of the Tiraspol separatist authorities. The 66th Engineer Battalion, stationed in the village of Parcani, was transferred to the control of the authorities of the self-proclaimed Moldovan Soviet Socialist Republic of Transnistria, for example, an order of the Ministry of Defence of the Russian Federation removing it from the complement of the XIVth Army.[10] Once this military unit had been transferred under the direct authority of Tiraspol, the separatists gained 1321 *Kalashnikov* rifles with 1.5 million cartridges, 155 *Makarov* and *TT* revolvers, 1300 *F-1* defensive grenades and *RGD-5* offensive grenades, 15 *RPG-7* grenade launchers with full battle equipment, 30 ground-to-air rocket launchers and other military equipment.

4. When references are made to the direct involvement of the Russian Federation in the armed conflict in the Transnistrian region of the Republic of Moldova, the participation of Russian Kazakhs should not be overlooked. Even Russia's independent media described their participation in the Transnistrian fighting as "*armed aggression by the Russian Federation against a sovereign and independent state, aggression encouraged by the Russian Government, in that it failed to suppress it or, at least, officially to condemn it*".[11] It should be noted that the Kazakhs, who came to the Transnistrian region of the Republic of Moldova from various parts of the Russian Federation, were also supplied with arms from the stores of the same XIVth Army.

Although the Government of the Russian Federation never acknowledged that Russian troops stationed on the territory of our country were involved in the armed conflict in the Transnistrian region, certain statements made by the leaders of the Russian Federation confirm their participation. Boris Yeltsin, for instance, in an interview granted to *Komsomoliskaya Pravda*, a daily newspaper, stated that: "*Obviously there are supporters of Transnistria among the officers of the XIVth Army, some of whom have transferred their allegiance, and all their equipment, to the Transnistrian cause. That is why Mr Snegur and others take the view that Russia is directly involved, whereas it is a matter of defending the people who live there, on the personal initiative of officers who also live there. In my opinion, if the people of Transnistria wish to live independently, that's their business*".[12]

What is more, after the cease-fire in the Transnistrian region, Boris Yeltsin gave an interview to Russian television in which he openly acknowledged his country's interference in the internal affairs of the Republic of Moldova: "*Now where Transnistria is concerned, we have ultimately achieved our goal there. The situation is now more or less peaceful. We are helping Transnistria as far as we can. Bread, water, many things, general help. We are giving direct assistance. We are also urging the President of Moldova to persuade the parliament to give Transnistria a political status which could, in future, guarantee the Republic (ie the self-proclaimed MRT) the right to self-determination...*".[13]

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11 Izvestia, 21 July 1992.

11 Izvestia, 6 and 11 March 1992.

12 Komsomoliskaya Pravda, 27 May 1992.

13 Moldova Suverana (digest in Russian), 19 November 1993; CSCE mission to Moldova. Documents. Vol. I (April-October 1993), Appendix 4, page 9 (of the French version).

General Lebed, at a meeting of Kazakhs of the Stavropol region (Russia) in the summer of 1998, publicised by the RTR television channel, acknowledged that it had been he who had armed and trained the paramilitary forces of the separatists of the Republic of Moldova. "*I personally recruited 12,000 officers and men, gave them all the necessary weapons and recorded all the arms as lost during battle*".

Even the separatist leaders, in their statements, acknowledged Russian Federation involvement, especially that of the XIVth Army in the fighting in the Transnistrian region. Igor Smirnov, President of the self-proclaimed MRT, speaking on 2 September 1992 on the occasion of the anniversary of Transnistrian independence, declared that "*the [Moldovan Soviet Socialist] Republic [of Transnistria] has survived only thanks to Russia and its XIVth Army*".[14] Several days later, on 16 September 1992, Grigore Maracuta, President of the Supreme Soviet of the self-proclaimed MRT, told a press conference in Tiraspol that "*Russia gives Transnistria not just moral and political support, but also military support and equipment*".

5. If we wish to make an approximate assessment of the level of involvement of Russian troops in the Transnistrian conflict, we must note that the Russian General M Kolesnikov, Deputy Chief of Russia's General Staff, told a meeting in early July 1992 that, according to information held by his department, "*overall, the military action in the conflict zone involved some 15,000 people, 400 tanks and armoured combat vehicles, about 300 pieces of ordnance and mine throwers*".[15] If we bear in mind that, on 3 September 1992 (the date on which the National Army of the Republic of Moldova was set up), Moldovan military forces had (and still have) available virtually no tanks, having just 104 armoured combat vehicles and 108 pieces of ordnance, whereas the separatist authorities of Tiraspol, according to official information, to date have at their disposal eighteen T-64 tanks, 40 armoured combat vehicles, 20 pieces of GRAD artillery, ten military helicopters and five warplanes, it is clear where the rest of the arms involved in the Transnistrian conflict came from.

The above arguments are more than sufficient grounds for rejecting the statements of the PACE rapporteurs on Moldova that it was possible to put an end to the fighting thanks to the intervention of the XIVth Army, under General Lebed. We should also like to point out to the rapporteurs that the Russian Federation's intention to retain its military presence on the territory of the Republic of Moldova is not dictated solely by strategic military considerations. On 17 December 1993, at a Moscow seminar on the prospects for resolving the Transnistrian conflict, organised by the Russian association for the theory and modelling of international relations, and attended by a select group of participants (just representatives of Russia's Foreign Ministry, the State Duma, the Russian General Staff, the Diplomatic Academy and the Russian Academy of Sciences, as well as Mr N Medvedev, who at the time was the special representative of the President of the Russian Federation for the resolution of the Transnistrian conflict), it was clear that Russia's interests in Transnistria were determined by the following requirements:

- to hold Russia's strategic positions in south-east Europe;

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[14] RFE/RL Daily Report, 3 September 1992, p. 3. Igor Smirnov also acknowledged XIVth Army involvement in the armed conflict on other occasions. In 1992, for example, he stated in an interview: "*During the tragic events at Bendery, our volunteers were involved in the fighting. They had help from the officers and NCOs of the XIVth Army, who fought at night, while carrying out their military service in the Russian army during the day. That's how things were, and it cannot be forgotten*". (Rossiyskie vesti, 5 July 1994).

[15] Izvestia, 9 July 1992.

- to defend within Moldova the interests of the Russian population and of the representatives of the other nationalities which regard Russia as their historic homeland;

- to keep up co-operative links with the enterprises of Transnistria, some of which are unique within the framework of the former Soviet Union's military-industrial complex;[16]

- to resolve the conflict with a view to its own (the Russian Federation's) internal stability and to the consolidation of Russia's relations with neighbouring countries, where a significant Russian minority lives;

- to establish more predictable and more stable relations with Romania, and not to allow its nationalist influence on Moldova to grow.[17]

The last and most eloquent example of the Russian Federation's unwillingness to engage in constructive dialogue during the process of reaching a final political solution to the Transnistrian conflict is the inclusion on the agenda for the plenary sitting of Russia's State Duma of 25 December 1998 (and the relevant vote) of recognition by the Russian Federation of the independence of the Moldovan Republic of Transnistria.

Paragraph 111 (page 18)

The Agreement between Moldova and Russia on the legal status and terms and conditions for the withdrawal of the military formations of the Russian Federation temporarily stationed within the territory of the Republic of Moldova does not stipulate that it must be ratified by both parties, as stated in the Parliamentary Assembly report. Under Article 23 of the Agreement the text must be enforced *on the date of the last notification by both parties of the completion of the requisite internal procedures and shall remain in force until all the military formations of the Russian Federation have been withdrawn from the territory of the Republic of Moldova.* Consequently, a simple Government decision is sufficient for implementation of the Agreement. The Republic of Moldova did not ratify the Moldovan-Russian Agreement of 21 October 1994, as stated in the report, but rather implemented it on 9 November 1994 under a decision of the Government of the Republic of Moldova. Furthermore, the Russian Federation withdrew its military troops from the Baltic States without requesting the approval of the State Duma. However, in the case of the Republic of Moldova the Russian Federation has decided to transmit the Agreement to the lower house of the State Duma for ratification, knowing full well that the balance of political power in the Duma is such that it is extremely unlikely to decide in favour.

Moreover, on 17 November 1998, after four years of prevarication in the lower house of the Russian Parliament about ratifying the document, Mr V. Sredin, Vice-Minister for Foreign Affairs of the Russian Federation, requested the withdrawal from the State Duma of the Moldovan-Russian Agreement on the evacuation of Russian military formations from our

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16 There are on the territory of the Transnistrian region of the Republic of Moldova enterprises of exceptional importance to Russia, many of which form part of the military-industrial complex of the Russian Federation. Examples are the Litma works in Tiraspol (which during Soviet rule manufactured almost all the smelting machinery used in the former USSR), the factories producing refrigerators and coloured metal cables in Bendery (which produced respectively 63% of the former Soviet Union's output of refrigerators, and cables), the Elekroma and Elektroaparat works, etc. See Nezavisimoe voennoe obozrenie, No. 5 (9), March 1996.

17 Bezopasnosti. Informatsionnii sbornik Fonda Natsioanalinoy I Mejdunarodnoy Bezopasnosti. No. 1-2 (January-February), 1994, pages 52-54.

national territory, claiming that *no progress had been made towards a final political settlement of the Transnistrian conflict.* The delegation of the Moldovan Parliament regards this act by the Russian Minister for Foreign Affairs as an infringement of the Agreement which, far from helping consolidate relations between the two countries, will escalate the tension in the Transnistrian Region of Moldova and, by extension, in the whole surrounding area of south-eastern Europe. The situation is further exacerbated by the fact that the letter sent to the State Duma by the Russian Ministry of Foreign Affairs very explicitly states that *any future decision by the Russian Ministry to come back to this subject would* ***depend on developments in relations with the Republic of Moldova and the Transnistrian Region and the political settlement in the region.*** Mr G. Tikhonov, Chairman of the Committee on CIS Affairs and Relations with Compatriots, also states the following in the explanation presented to the State Duma concerning the decision of the Russian Vice-Minister for Foreign Affairs to withdraw the Agreement of 21 October 1994 and its additional protocols from the lower house of Parliament: ***the Committee considers that the Agreement in question corresponds neither to the political relations between the Moldovan Republic of Transnistria*** (an unacceptable statement since the Moldovan Republic of Transnistria is not recognised as a subject of international law [*author's note*]) ***nor to Russia's geopolitical interests. Future implementation of the Agreements will pose a real threat to the security of the State. Consequently, they cannot be ratified as they stand.*** Mr G. Tikhonov concludes as follows: ***In view of NATO's eastward expansion, we consider it advisable to negotiate for a consolidated Russian military presence in this region.*** The Moldovan Parliamentary Delegation to the Parliamentary Assembly considers that these affirmations by the Russian official amount to interference in our country's internal affairs and demonstrate the complete lack of will on the part of the Russian Federation, as guarantor of stability in the Transnistrian Region of the Republic of Moldova, to enter into constructive dialogue towards achieving a final political settlement of the Transnistrian conflict.

In January 1999, shortly after the State Duma had discontinued consideration of the Moldovan-Russian Agreement on the withdrawal of Russian military formations from our national territory, the draft Treaty of Friendship and Co-operation between the Republic of Moldova and the Russian Federation, which had been signed in 1990 and ratified by the Parliament of the Republic of Moldova the same year, was also withdrawn from the lower house of the Russian Parliament. The reason given by the Russian authorities this time was that the current version of the Treaty did not reflect the special status of the Transnistrian Region of the Republic of Moldova. This contention is an insult to the Republic of Moldova because it is well known that Transnistria raises an exclusively internal problem for our country. Outside interference in this issue, especially this type of international political blackmail, is unacceptable.

In the second version of the Parliamentary Assembly Monitoring Committee's report on Moldova the concept of military *formation* is equated with that of military *personnel*, which is not in fact the case. Article 1 of the Agreement defines *military formations of the Russian Federation* as *large formations, units, institutions, enterprises and organisations of the Armed Forces of the Russian Federation, temporarily stationed within the territory of the Republic of Moldova.* It is unanimously agreed that the concept of *military formation* also embraces procurement and logistics.

In connection with the stipulations of Article 2 of the 21 October 1994 Agreement on the ***synchronisation*** of the political settlement of the Transnistrian conflict and the withdrawal of the Russian military formations from our national territory, we might recall the

Decision of the OSCE's Budapest Summit to the effect that ***the participating States welcomed the undertakings by both parties to effect the withdrawal of the 14th Russian Army from the territory of Moldova (Transnistria) in the form of two parallel, mutually non-obstructive processes.***

Paragraph 112 (page 18)

The Moldovan-Russian Agreement of 21 October 1994 provides that the *barracks and other accommodation, service areas, car parks, firing ranges with their immovable facilities, depots with fittings and all buildings vacated after the withdrawal of the military formations of the Russian Federation will be transferred to the local authorities of the Republic of Moldova as they stand.* Consequently, the Republic of Moldova's only claim is to the former 14th Army's immovable property, not to its weaponry.

In connection with the risk of withdrawing the personnel of the former 14th Army (now known as the Operational Group of Russian Forces - OGRF) without evacuating an enormous quantity of arms and munitions from the OGRF depots (the official figure advanced by the Russian authorities is 42 000 tonnes, but no independent estimate has been conducted because both the Russians and the Tiraspol separatist authorities have rejected any international assessment mission to that end; this has led us to believe that the OGRF depots contain a much larger quantity of weaponry, and some unofficial sources quote a figure of 400 000 tonnes), this might induce the separatists authorities of the Transnistrian Region of the Republic of Moldova to confiscate all the weapons and munitions. This is why the Republic of Moldova urges the Russian Federation to proceed immediately to evacuate all arms and munitions located in our national territory, as this would promote stability in the region and greatly facilitate the process of political negotiations towards finally settling the Transnistrian conflict. Consequently, the Moldovan Delegation to the Parliamentary Assembly considers unacceptable any attempt to artificially separate the process of withdrawing all the military formations from that of evacuating the munitions, arms and military equipment. Since the quantities of Russian weaponry temporarily located in the territory of the Republic of Moldova have never been accurately determined, it is vital that all the stocks of munitions and arms of the former 14th Army be withdrawn immediately. These stocks include the OGRF's current military hardware (119 tanks, 129 armoured combat vehicles, 129 cannons and 7 helicopters), with all the corresponding personnel. This would provide hope of a full and orderly withdrawal of all Russian military formations from the territory of the Republic of Moldova, based on the following procedure:

. the withdrawal of the OGRF should begin with the open and verifiable evacuation of all munitions and military equipment, in accordance with the CFE Treaty, which provides a perfect legal framework for the withdrawal of five types of conventional weapons;

. the Republic of Moldova considers that the international organisations, including the Council of Europe, must implement a monitoring procedure to verify the withdrawal of the Russian military forces from our national territory.

We would refer here to the official undertaking by the Russian Federation to the Council of Europe (PACE Opinion 193 of 1996, para. 10 ix) to ratify, within six months from the time of accession, the Moldovan-Russian Agreement of 21 October 1994 and to continue the withdrawal of the former 14th Army and its equipment from the territory of Moldova within a time-limit of **three years from the date of signature of the Agreement.** We note

with regret that at the time of the Russian Federation's accession to the Council of Europe (and the same is still true today), little headway had been made in withdrawing the Russian military forces and their arms from our national territory. Furthermore, the withdrawal of the Moldovan-Russian Agreement of 21 October 1994 from the State Duma and the reasons given for this action constitute a blatant insult to both the Republic of Moldova and the whole international community and a risk to stability and security in south-eastern Europe.

Paragraph 113 (page 19)

The separatist authorities of the Transnistrian Region of the Republic of Moldova have indeed taken advantage of the lack of supervision by the Moldovan constitutional bodies, with the tacit agreement of the authorities of the Russian Federation whose peace-keeping forces are deployed in the security zone of the Moldovan Transnistrian Region, to smuggle weapons out of the OGRF depots for use in other troubled areas of the CIS. Transnistrian enterprises also produce their own weapons for the same purpose. For instance, the authorities of the Republic of Moldova have reliable information to the effect that arms have been illegally supplied to Abkhaz separatists in Georgia, which has recently joined the Council of Europe, and that Transnistrian military formations have in fact participated in the fighting there, thus actively supporting separatism in another sovereign and independent country. We cannot preclude the possibility that weapons from the former 14th Army's depots are being used and Transnistrian military units being directly deployed in other hot spots such as Kosovo.

The statement made by Mr ATAMANIUK, the Vice-President of the Supreme Council of the self-proclaimed Moldovan Republic of Transnistria, during talks with the Council of Europe rapporteurs to the effect that **the arms are the property of Transnistria** is based on the Protocol to the Agreements on military property signed on behalf of the Russian Federation by Mr V. CHERNOMYRDIN, former Prime Minister, and Mr I. SMIRNOV, President of the self-proclaimed Moldovan Republic of Transnistria on 20 March 1998 in Odessa. Article 1 of this Protocol breaks down the property of the Russian forces in Transnistria into three conventional categories:

1. weaponry, munitions and property of the Operational Group of Russian Forces (OGRF);

2. surplus weaponry, munitions and movable property still to be compulsorily evacuated into Russian Federation territory;

3. surplus weapons and munitions and military property and equipment which can be commercialised (utilised) directly in (or outside) their place of storage.

Receipts from commercialisation of the 3rd category is to be distributed between the two Parties as follows:

- Russian Federation - 50%;
- Transnistria - 50%, bearing in mind the expenditure incurred in commercialising the property under the 2nd category.

We leave it to the PACE Rapporteurs to pronounce on this paragon of international law and its impact on the region.

With regard to arms trafficking in the Transnistrian Region of the Republic of Moldova through the intermediary of western companies and the resultant profits, the Moldovan Delegation to the PACE must correct a number of factual errors. During the talks held in Chisinau between the PACE Rapporteurs and Mr Nicolae TABACARU, Minister of Foreign Affairs of the Republic of Moldova, and various members of the Moldovan Delegation, reference was made to direct trade relations established by some western companies with enterprises in the Transnistrian Region of the Republic of Moldova, bypassing our country's constitutional authorities. It might be said that the western companies co-operating directly with the separatists' industrial units and therefore paying the relevant taxes directly into the Transnistrian budget are providing economic support for separatism in the Republic of Moldova. Our country has repeatedly impressed upon the international community that we do not want an economic blockade against the separatist region, but we do ask foreign companies and investors to conclude their commercial contracts lawfully through the official authorities of the Republic of Moldova in order to prevent enormous losses in terms of budgetary revenue for our country and also help curb separatism in the region. Unfortunately, a considerable number of western companies, mostly from European Union countries, are disregarding the Republic of Moldova's legal procedures and maintaining direct trade links with industrial enterprises in the Transnistrian Region of Moldova.

However, the Transnistrian Region of the Republic of Moldova is not only an outpost of unsupervised export of arms and munitions but also an ideal area for illicit trafficking aimed at the western markets: drugs, smuggled goods and prostitution, including sexual exploitation of young people. It is also, of course, a haven for laundering the proceeds of unlawful commercial transactions. During the talks with the PACE rapporteurs Mr Victor CATAN, the Minister of the Interior of the Republic of Moldova specified that according to information available to his Ministry Mafia-type criminal groups working the Tiraspol-Kiev-Moscow-Chisinau route were also interested in maintaining the prevarication about achieving a final political settlement.

Paragraph 114 (page 19)

When the ILASCU group were arrested and their farcical "trial" began, the authorities of the Republic of Moldova came down firmly and unequivocally in favour of closing the fabricated case-files and demanded the immediate release of Mr Ilie ILASCU, a member of the Parliament of the Republic of Moldova, Mr Alexandru LESCO, Mr Andrei IVANTOC and Mr Tudor PETROV-POPA.

This issue is a permanent fixture on the agenda of the talks between the leaders of the Republic of Moldova and the Tiraspol separatist authorities.

Talks are also being held with the leaders of the Russian Federation and Ukraine, which stand guarantor for the final political settlement of the Transnistrian conflict, in an effort to secure the release of the ILASCU group.

The ILASCU case is a matter of ongoing concern for the international organisations (UN, OSCE, Council of Europe, Amnesty International, International Red Cross, etc) and national parliaments and governments, which have demanded the immediate and unconditional release of these political prisoners.

Members of the ILASCU, LESCO, IVANTOC and PETROV-POPA families have issued appeals to the unconstitutional authorities of Tiraspol regarding this alarming situation and the prisoners' inhuman conditions of detention, but these requests have remained unanswered.

Unfortunately, the Moldovan Delegation to the PACE is forced to note that all the appeals to the authorities of the self-proclaimed Moldovan Republic of Transnistria from the leaders of the Republic of Moldova and the international organisations for the immediate unconditional release of Mr ILASCU, member of the Parliament of the Republic of Moldova, Mr LESCO, Mr IVANTOC and Mr PETROV-POPA have been rejected.

The leaders of the Republic of Moldova are advocating the transfer of Mr ILASCU, Mr LESCO, Mr IVANTOC and Mr PETROV-POPA to the judicial bodies of the Republic of Moldova or the appointment of an international group of legal experts to give impartial consideration to the documents on the preliminary investigation and the so-called trial no. 1-5/93 of the prisoners in Tiraspol. It should be noted that the Ministry of Justice is currently preparing a request to the European Court of Human Rights disputing the lawfulness of the continued detention of Mr ILASCU and also broaching other matters.

Paragraph 115 (page 19)

The Delegation of the Moldovan Parliament to the PACE takes exception to the expression "***the problem raised by Transnistria for the Council of Europe***" for the simple reason that the Republic of Moldova is a member of the Organisation and the Transnistrian Region is an integral part of our country. It would therefore be more appropriate and logical to say "***the problem raised by the Republic of Moldova***".

Paragraph 119 (page 20)

The Delegation of the Moldovan Parliament to the PACE is obliged to make a declaration on this paragraph to the effect that the Memorandum signed in Moscow on 8 May 1997 was virtually imposed on the Moldovan Party by the Russian Federation, with the concept of ***common state*** insidiously inserted into Article 11. The Republic of Moldova categorically rejects this term, and would point out that the concept of ***common state*** is an artifice which does not exist in international law. Consequently, the Republic of Moldova reiterates its official position, which is that it is prepared to grant the Transnistrian Region increased self-governing powers and a special status, based on the model of the Gagauz-Yeri territorial-administrative unit in the south of the country.

Concluding remarks

The Delegation of the Parliament of the Republic of Moldova to the PACE considers it extremely important that the PACE Monitoring Committee's final report should comprise the provisions set out in the draft recommendation (Doc. 8263 of 9 October 1998) regarding human rights violations in the eastern part of the Republic of Moldova. It is also convinced that these same concerns should be reflected in the draft resolution to be submitted to the Parliamentary Assembly for discussion and adoption.

APPENDIX 5

PROTOCOL OF AGREEMENT ON MATTERS RELATING TO MILITARY PROPERTY

(Protocol of Agreement reached the 20 March 1998 at Odessa)

Following discussion of military property matters connected with the presence of Russian troops in Transnistria, the following has been agreed:

1. All property shall be divided into 3 standard categories:

- Category I shall comprise the regular arms, ammunition and property of the Restricted Grouping of Russian Troops;

- Category II shall comprise any superfluous arms, ammunition and movable military property which are to be unconditionally removed to the territory of the Russian Federation;

- Category III shall comprise any superfluous arms, ammunition, military property and equipment which may be sold (salvaged) directly at the place of storage or elsewhere.

The proceeds from the sale of Category III property shall be divided between the parties in the following proportions:

Russian Federation - 50%
Transnistria - 50%, allowing for expenses incurred in connection with the sale of Category III military property.

The procedure governing the use and sale of superfluous arms, ammunition, military property and equipment belonging to Category III shall be determined by the Russian party with the participation of Transnistria.

2. The parties have agreed to settle in full their reciprocal debts as at 20 March 1998 by means of netting, using the proceeds from the sale of military property and other sources.

3. The Russian party shall continue to withdraw from Transnistria any military property which is particularly essential for the purposes of the armed forces of the Russian Federation, in accordance with the Appendix to the Protocol. The Transnistrian authorities shall refrain from hindering the removal of such property.

4. The Russian party, with the agreement of the Transnistrian party, shall continue to destroy any non-transportable, unsaleable ammunition in the district of Kolbasno with due regard for environmental protection and other safety considerations.

5. With a view to hastening the resolution of matters relating to the release of immovable property, the representatives of the Russian Federation and Transnistria have agreed that ownership of the military bases being vacated by Russian troops may be assigned to the local authorities of Transnistria by means of official instruments stating the actual cost of such bases.

6. It is reaffirmed that measures relating to the gradual withdrawal of the Russian troop formations stationed in Transnistria and the withdrawal of their property shall, as before, be effected in a spirit of openness. Such openness in the practical implementation of these measures may be ensured in a bilateral manner, in accordance with the agreements concluded between Moldova and Russia. The necessary information relating to the presence of Russian troops in Transnistria shall be supplied to the OSCE via its mission in Chisinau in accordance with established practice.

V. Chernomyrdin

I. Smirnov

20 March 1998
Odessa

APPENDIX 6

LIST

of enterprises in Transnistria licensed to export goods to EU countries in 1998

I. TIRASPOL COTTON PRODUCTION ASSOCIATION "TIROTEKH"

ITALY:

1. "*INDUTEX*"
2. "*SIRETESSILE*"
3. "*BETATRANSPORTTRANSPORTI*"
4. "*COGETEX*"
5. "*BIGAGLI TESSUTI*"
6. "*CO.PRA.TEX*"
7. "*POINTEX*"
8. "*STABILIMENTI TESSILI OZELLA*"
9. "*XELENE*"
10. "*AURORA TRADING*"
11. "*NEMESIS*"
12. "*COTTONTEX ITALY*"
13. "*MANIFATTURA G.A.I.*"
14. "*C.F.B. s.p.a.*"
15. "*F.PARISI*"
16. "*VALGANDINO CONFEZIONI*"
17. "*FINANCO*"
18. "*SIGGI CONFEZIONI*"
19. "*OZELLA*"

GREECE:

1. "*MAROULIDES*"
2. "*ANDREAS RODOPOULOS*"
3. "*E. MAROULIDIES E.P.E.*"
4. "*I.PLAKITSIS-S.STEFANOU O.E*"
5. "*MICHAIL KASSITEROPOULOS*"
6. "*GEORGIA AL. SAKARELOU & CO.E.E.*"
7. "*G.E.KOKKINAKIS O.E.*"
8. "*K.APOSTOLOPOULOS*"
9. "*TEODOROS KOKKINAKIS O.E.*"
10. "*STAVROS DIAMANTIDIS*"
11. "*D.GEORGIADIS*"
12. "*N.& A. PLAKITSIS O.E*"

AUSTRIA:

1. "*NOVALIS*"
2. "*HANS WITTMAN & SOHN GES*"

BELGIUM:

"CARGA"

HOLLAND:

"TIMMERMANS CONFECTIE WIJCHEN"

GERMANY:

"LINDALY-GERMANY"

II. FOOTWEAR FACTORIES "FLOARE", "TIGHINA", "RIDA" (BENDERY)

GERMANY:

INFORM BRILL GmbH"

III. GARMENT FIRM "VESTRA" (BENDERY)

ITALY - *"IRENE"*

HOLLAND -

"CONFECTIEBEDRIJF MAX ABRAM B.V."
"NEW EUROPE DESIGN B.V."

GERMANY - *"LA VIE.BEKLEIDUNGSHER-STELLER GmbH"*

IV. "ODEMA" A.O. (TIRASPOL)

ENGLAND - *"SHOWHURST LIMITED"*

ITALY - *"STAF s.n.c.di ALDROVANDI"*

V. "INTERCENTRE LUX" Ltd.

HOLLAND:

"NEW EUROPE DESIGN B.V."
"MIRNA KONFEKTIE B.V."

VI. RYBNITSA KNITWEAR AND LINEN FACTORY

ITALY - *"IRENE"*

GERMANY - *"TECHNO MODEVERTRIEB GmbH&CO.KG"*

VII. KIROV FACTORY (TIRASPOL)

ITALY - "*ARDI*"
VIII. RYBNITSA CEMENT AND SLATE WORKS

ENGLAND - "*EUROPEAN MANUFACTURING ASSOCIATION Ltd.*"

APPENDIX 7

Doc. 8236
9 October 1998

Violations of human rights in the eastern part of the Republic of Moldova

Motion for a recommendation
presented by Mr Nedelciuc and others

This motion has not been discussed in the Assembly and commits only the members who have signed it

1. The Assembly regrets that despite the efforts of the government of the Republic of Moldova as well as of the international community, notably the OSCE, the eastern part of the Republic of Moldova remains under the control of the illegal separatist regime (this state of affairs is imprecisely called Transnistrian problem) which systematically and flagrantly violates human rights.

2. It deplores the continuous refusal of the separatist authorities of the said region to seriously consider the proposals of the Moldovan Government, welcomed by the OSCE and other international bodies, to settle differences within the framework of the Moldovan Constitution, relevant international norms and with due regard to the legitimate concerns of the population of the region and the people of the country as a whole.

3. The Assembly notes with dissatisfaction that the continued presence of Russian troops in this part of the Republic of Moldova is in breach of the international commitments of the Russian Federation and does not contribute to the peaceful and fair settlement of the Transnistrian issue.

4. It considers as totally unacceptable and running counter to the European spirit and democratic values the situation where the population of that region is bereft of fundamental human rights, such as freedom of expression and information, the right to elect and to be elected in free and fair elections, to educate their children in their mother tongue, to be protected from the arbitrary interference of the administration and to have access to an independent judiciary. It is especially concerned by the fact that numerous refugees and displaced persons have been forced to flee that region and are still not able to return.

5. The Assembly further strongly condemns the continuous imprisonment of MM. Ilie Ilascu, mmber of the Moldovan parliament, Andrei Ivantoc, Alexandru Lesco and Tudor Petrov-

Popa who were never tried by an independent and legally established court and who are exposed to inhuman and degrading treatment by the separatist authorities.

6. It expresses its alarm over the lack of control on the arms deposits accumulated in the said region during the Soviet era and the numerous reports of arm smuggling from those reserves.

7. The Assembly welcomes the efforts of the OSCE as well as the official position of the Russian Federation and Ukraine which undertook to mediate in order to obtain a mutually acceptable settlement of the Transnistrian problem but regrets lack of progress in this respect.

8. It urges the Russian Government to honour its commitment concerning the withdrawal of Russian troops from the eastern part of the Republic of Moldova.

9. The Assembly especially calls on the Governments of Russia and Ukraine to continue their efforts as mediators with a view to the final settlement of the Transnistrian problem.

10. The Assembly considers that the authorities of the said region have to enter into sincere and responsible dialogue with the Moldovan Government with a view to resolving this problem within the framework of the Moldovan Constitution and in accordance with international norms, as well as put an end to the violations of human rights in the region, the first step in this direction being the immediate release of Mr Ilie Ilascu, MP *et al.* or their transfer to the Moldovan judicial authorities.

11. It considers that further investigations of the situation concerning human rights in the said region and of the possibility of further action in order to contribute to the settlement of the Transnistrian problem are necessary.

13. It recommends that the Committee of Ministers be actively involved in the search for a solution to this issue.

Signed[18]*:*

Nedelciuc, Moldova, LDR
Solonari, Moldova, SOC
Antretter, Germany, SOC
Atkinson, United Kingdom, EDG
Bársony, Hungary, SOC
Bergqvist, Sweden, SOC
Besostri, Italy, SOC
Blaauw, Netherlands, LDR
Blunck, Germany, SOC
Chiliman, Romania, LDR
Chornovil, Ukraine, EDG
Contestabile, Italy, EPP/CD
Cox, United Kingdom, SOC
Cubreacov, Moldova, EPP/CD
Cunliffe, United Kingdom, SOC
Davis, United Kingdom, SOC
Degn, Denmark, SOC
Demetriou, Cyprus, EPP/CD
Dumitrescu, Romania, SOC
Elo, Finland, SOC
Eörsi, Hungary, LDR
Eversdijk, Netherlands, EPP/CD
Frunda, Romania, EPP/CD
Gabrielescu, Romania, EPP/CD
Gelderblom-Lankhout, Netherlands, LDR
Gjellerod, Denmark, SOC
Gül, Turkey, EDG
Gylys, Lithuania, SOC
Hagard, Sweden, EDG
Hancock, United Kingdom, LDR
Hegyi, Hungary, SOC
Holovaty, Ukraine, LDR
Iwinski, Poland, SOC
Jansson, Finland, LDR
Judd, United Kingdom, SOC
Jurgens, Netherlands, SOC
Kelam, Estonia, EPP/CD
Kirkhill, United Kingdom, SOC
Kovalev, Russia, LDR
Kurykin, Ukraine, NR

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18 SOC: Socialist Group
EPP/CD: Group of the European People's Party
EDG: European Democratic and Reformers Group
LDR: Liberal, Democratic and Reformers Group
UEL: Group of the Unified European Left
NR: not registered in a group

Kuzmickas, Lithuania, EDG
Lesein, France, LDR
Van der Linden, Netherlands, EPP/CD
Lupu, Romania, EPP/CD
Magnusson, Sweden, SOC
Martinez, Spain, SOC
Mutman, Turkey, SOC
Nastase, Romania, SOC
Newall, United Kingdom, EDG
Niculescu, Romania, SOC
Paslaru, Romania, SOC
Pollo, Albania, EPP/CD
Ponsonby, United Kingdom, SOC
Popesku, Ukraine, NR
Poptodorova, Bulgaria, SOC
De Puig, Spain, SOC
Ruffy, Switzerland, SOC
Rusu, Moldova, EPP/CD
Sincai, Romania, SOC
Sinka, Latvia, EDG
Sole Tura, Spain, SOC
Stanoiu, Romania, SOC
Steolea, Romania, EDG
Tabajdi, Hungary, SOC
Urbanczyk, Poland, SOC
Wohlwend, Liechtenstein, EPP/CD
Woltjer, Netherlands, SOC
Zingeris, Lithuania, EDG