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UPR SUBMISSION

REPUBLIC OF MOLDOVA

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1. This submission was prepared in March 2011 on the basis of the latest information available to CPTI.

Executive summary:

2. **This submission focusses on the situation regarding military service and conscientious objection to military service in Moldova.**

3. **CPTI notes as a positive development that the 2007 “Law on the Organisation of Civilian (Alternative) Service” reportedly shortened the duration of such service to 12 months, the same as military service.**

4. **Concerns however remain that recognition of conscientious objectors is apparently confined to members of specific groups, and regarding the nature and funding of alternative service.**

5. **Although the Moldovan Government cannot be held responsible, it is also noted that an onerous system of *de facto* military service, without any provisions for conscientious objectors, exists in the secessionist province of Transdneistria.**

Background: Military Service in Moldova

6. The Republic of Moldova inherited from the Soviet Union a system of obligatory military service with a universal male liability between the ages of 18 and 24, with Spring and Autumn recruitments each year leading to 24 months of service. The 1992 Military Service Law reduced the duration of obligatory military service to 18 months; the Law on Preparation for Defence (No.1245, 18th July 2002) reduced this further to 12 months.¹ In fact, however, the universality of the military service obligation relates only to the requirement to register, which is done at the age of 16, and upon which the citizen acquires the formal status of “recruit”.² The number of “recruits” actually called up each year has in recent years remained consistently just over 4,000 as opposed to something over 30,000 who are nominally liable.³ There is no readily-available information about how the selection is actually made in practice.

7. At the time of the 2002 reforms there was discussion of the possibility of abolishing conscription altogether, but this proposal was rejected. Despite the low enforcement rate of obligatory military service, conscripts account for some 70% of the manpower of the Moldovan army.

8. The Law on Alternative Service, No. 633/1991, represented the first provision for conscientious objectors to military service. At no point does that Law explicitly refer to the concept of conscientious objection, but its purpose, as stated in Article 1, is to reconcile civic duty with “the citizen’s right to freedom of thought, conscience, religion and belief” in accordance with international standards. Its provisions, as amended by Law No. 534 of 22nd July 1999, were outlined in the Initial Report of the Republic of Moldova under the ICCPR, in the section relating to Article 8 (forced labour).⁴

9. Under the 1991 Law, the duration of alternative service was set at 24 months. This was not automatically linked to the duration of military service, so the discriminatory and punitive discrepancy increased as military service was reduced first to 18 months and then to 12 months; until 2007 alternative service was twice the length of military service.

10. A new Law, No.156-XVI of 6 July 2007 on the Organization of Civilian (Alternative) Service, finally reduced the duration of alternative service to 12 months, equal to that of military service.⁵ It has not however been reported that other unsatisfactory features of the previous legislation have been removed.

¹ Stolwijk, M., The Right to Conscientious Objection in Europe: A Review of the Current Situation, Quaker Council on European Affairs, Brussels, 2005, p 47.

² Coalition to Stop the Use of Child Soldiers, Child Soldiers Global Report 2008 (London, 2008) p.233

³ The Military Balance 2007 (International Institute for Strategic Studies, London), p 170

⁴ CCPR/C/MDA/2000/1, Paras 214 - 229.

⁵ Council of Europe, European Social Charter Governmental Committee, Report Concerning Recommendations 2008 of the European Social Charter (revised), (Document T-SG(2010)6) Strasbourg, 23rd March 2010, para 54.

Recognition apparently confined to members of specific groups.

11. Article 3 of the 1999 Law defined acceptable grounds for recognition as “religious or pacifist beliefs”; Article 14 requires that applications be accompanied by “proof of membership of the religious or pacifist organisation”. This implies that recognition is granted solely on the grounds of membership of specific organisations, whereas conscientious objection by definition springs from the individual conscience and may be grounded in a wide variety of different beliefs, not necessarily requiring or entailing formal membership of any specific group.

12. It is reported⁶ that applications which fulfil the required criteria are not the subject of individual investigation. However it is not known that any list of qualifying organisations has been made public. On the other hand, it is not surprising that the language of the Law should have encouraged those liable to conscription to seek membership of recognised pacifist organisations, an apparent abuse against which the authorities reportedly found it necessary to bring specific legislation.⁷

Funding arrangements for alternative service

13. Although the legislation was not entirely clear, it seems that the administrative costs of the system were to be met by a levy of 20% on the remuneration of those performing alternative service, who thus received only 80% of the salary of those performing military service. Although the list of typical alternative service placements supplied by Moldova in its initial report under the ICCPR were in the same sort of institutions as elsewhere,⁸ there are persistent reports⁹ that many of those performing alternative service simply continue in their previous job in the public or private sector, but pass some of their salary to the State. This might breach the principle¹⁰ that alternative service placements should be in the public interest rather than for private gain; on the other hand, to the extent that it results in those performing alternative service being paid less than those performing military service, it represents a further discriminatory and punitive aspect.

⁶ Reply by the Republic of Moldova to the questionnaire on “best practices concerning the right of everyone to have conscientious objections to military service”, circulated by the Office of the High Commissioner on Human Rights, 2003.

⁷ Stolwijk, M. 2005, op cit

⁸ CCPR/C/MDA/2000/1, Para 225.

⁹ eg. Stolwijk, op cit.

¹⁰ Commission on Human Rights, Resolution 1998/77, OP4.

Transdneistria

14. The 13% or so of the population who live in the Trans-dneister region are of course not currently accessible to the Moldovan recruitment authorities. However it is reported that the *de facto* administration in this region imposes conscription of 18 months up to the age of 27, under a “Law” promulgated in 2005, and that there is a 22% enforcement rate, which although low, is much higher than in Moldova as a whole. Ironically, it is reported that many men from Transdneistria avoid military service there by relocating to Ukraine or the part of Moldova under Government control, where the requirement is less onerous.¹¹ The military recruitment laws of Transdneistria contain no provisions regarding conscientious objection, but those who have served in the Moldovan armed forces are not subject to recruitment.

15. The *de facto* authorities in Transdneistria require all companies, organisations and institutions within the region to submit to the recruitment authorities details of young men aged 17. It is reported that much of the recruitment takes place as a result of checks at points where people cross to or from the area under Government control.¹²

¹¹ Coalition to Stop the Use of Child Soldiers, Child Soldiers Global Report 2008 (London, 2008) p.234

¹² Association Promo-Lex, Research on the Military Service Obligations of Inhabitants from the Transnistrian Region of Moldova, (Chisinau, 2008).