



**PERMANENT MISSION OF THE REPUBLIC OF MOLDOVA
TO THE UNITED NATIONS OFFICE IN GENEVA**

No. 494/ R-ONU- 129

The Permanent Mission of the Republic of Moldova to the United Nations Office and other International Organizations in Geneva presents its compliments to the Office of the High Commissioner for Human Rights, Special Procedure Branch, and has the honour to transmit herewith the response of the Government of the Republic of Moldova to the Joint Urgent Appeal no. *MDA 5/2013* dated 23 September 2013, of the Chairperson-Rapporteur of the Working Group on the issue of discrimination against women in law and in practice; the Special Rapporteur on the independence of judges and lawyers; the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; and the Special Rapporteur on violence against women, its causes and consequences.

The Permanent Mission of the Republic of Moldova to the United Nations Office and other International Organizations in Geneva avails itself of this opportunity to renew to the Office of the High Commissioner for Human Rights, Special Procedure Branch, the assurances of its highest consideration. v.#



Encl.: 2 pages

**OFFICE OF THE UNITED NATIONS HIGH
COMMISSIONER FOR HUMAN RIGHTS
SPECIAL PROCEDURES BRANCH**

Geneva

OHCHR REGISTRY

- 7 MARS 2014

Recipients : S.P.D. (incl)

S.L.

The relevant national institutions have conducted an investigation in response to Ms Balitschi's complaint regarding the gang-rape and the acts of violence, threats and intimidations towards her and the members of her family.

The investigation process

The Police Inspectorate Ialoveni opened a criminal case according to the Article 171 (2) (b,c) of the Criminal Code of the Republic of Moldova referring to the rape committed knowingly against a pregnant woman by two or more persons. The results of the investigation confirmed that on 29 July 2013, Ms Irina Balitschi was brutally raped by seven drunken men in a field outside the village of Molesti, knowing with certainty that the victim was pregnant.

Additionally, on 8 August 2013 the Police Inspectorate opened a criminal case in accordance with the Article 287 (2) (b) of the Criminal Code of the Republic of Moldova on hooliganism committed by two or more persons. In this sense, it was demonstrated that on 1 August 2013 two persons allegedly broke into the Ms Balitschi's house insulting and harassing her and her mother and smashing the house's window.

In the light of changing circumstances and new information, another criminal case was opened according to the Article 172 (2) (b¹, c) of the Criminal Code of the Republic of Moldova referring to violent actions of a sexual character committed knowingly against a juvenile and against a pregnant woman.

On 20 September 2013 the above mentioned criminal cases were linked into a single procedure. During the investigation the law enforcement structures applied to the alleged perpetrators house arrest as a preventive measure. Also, there was no confirmation on the allegation that the police officer investigating the case acted in connivance with the alleged perpetrators.

Protective measures for ensuring the life, physical and psychological security and integrity of Ms. Balitschi

During the investigation the national institution referring to the Article 2 (1) of the Law No. 105-XVI of 16.05.2008 on protection of witnesses and of other participants in criminal proceedings, did not ascertain any circumstances that would threaten the life, physical and psychological security and integrity of Ms. Balitschi. Additionally, the victim did not request for protection and did not report on any cases of intimidation and pressure. Therefore the prosecution authorities did not dispose the application of the protective measures to ensure the security of Ms Irina Balitschi.

Ms. Balitschi' access to free legal assistance

Furthermore, referring to the provisions of the Law on state guaranteed legal aid (No.198-XVI of 26 July 2007) persons that do not have sufficient financial means to pay for them and that meet the requirements provided for in the present law can benefit from state guaranteed legal aid for the purpose of protecting human rights and fundamental freedoms and other legitimate interests of persons. In this case, Ms Balitschi did not submit any request for the state guaranteed legal assistance.

Medical examination

Due to the late address of Ms Balitschi to the doctor no physical evidence could be obtained to confirm the allegations of rape - facts stated in the conclusions of the forensic report No. 3942/S of 6 August 2013.

Additionally, the Health Center from Molesti assisted Ms Balitschi to receive free medical insurance, explaining to her the required steps she needs to take for the period of her pregnancy. After the medical examination on 14 August 2013 the doctor recommended for her the inpatient treatment. Nevertheless, after the hospital discharge Ms. Balitschi did repeat the medical check-up.

Only after doctor home visit on 7 October 2013 she came to the hospital. Being diagnosed with pyelonephritis of pregnancy the doctor recommended for her ambulatory treatment.

The Ministry of Labor, Social Protection and Family of the Republic of Moldova jointly with the Directorate of Social Assistance and Family Protection from Ialoveni had conducted a common investigation regarding this case. As a result, the institutions reported that Ms Balitchi lives together with her mother and the paramour of her mother in a place that did not meet elementary sanitary conditions. Ms Balitchi rejected the proposal to be placed into a Centre for protection of victims of violence.

Compensation availability to Ms. Balitschi

The national legal framework provides the necessary conditions for receiving compensations. According to the Art 1422 of the Civil Code of the Republic of Moldova in case a person were inflicted moral damage (mental or physical suffering) by acts that attempted to his extra-patrimonial rights, as well as in other cases provided by law, the court is entitled to bind the liable person to compensate for damage in monetary equivalent. In this particular case, the victim did not submit a request to be recognized as a civil party in order to benefit of some compensation from the offenders.

Additionally, the representatives of the Directorate of Social Assistance helped Ms. Balitschi to apply for the social aid for the cold period of the year and helped her to prepare the necessary documents to connect her house to the electricity grid.