

PREVENTION AND INVESTIGATION OF TORTURE IN THE REPUBLIC OF MOLDOVA AND THE RIGHT TO REHABILITATION OF VICTIMS OF TORTURE

40th Session [January – February, 2022] of the UPR Working Group of the United Nations Human Rights Council
3rd cycle of Universal Periodic Review

EMERGING ISSUES

Lack of prompt, impartial and effective investigation of torture allegations

Most acts of torture and ill-treatment are not investigated or prosecuted and go unpunished, contrary to Article 166/1 of the Criminal Code which incriminates torture in accordance with art. 1 of the UN Convention against Torture. The problem of impunity and lack of accountability of law enforcement and other public officials is caused by multiple factors and persistent systemic deficiencies, including: lack

of effective and independent investigation mechanisms; lack of appropriate and impartial prosecution and trial proceedings; insufficient legal safeguards to protect victims and witnesses; and limited access to independent forensic documentation of physical and psychological trauma.

According to the official data of the Prosecutor's Office for 2020, the criminal investigation was initiated only in 47 cases (8,3%) out of 563 complaints of torture and ill-treatment registered.

Even though, in approx 91% of cases, the criminal investigation was not initiated, there was no qualitative analysis of the complaints and circumstances that led to the registration of these complaints. Moreover, only 22 cases, which represent less than 4% of the total number of complaints, were submitted to the courts.

These data reveal the level of inadequacy of the investigation of torture and ill-treatment by state authorities.



SUGGESTED RECOMMENDATIONS

1

The Prosecutor General shall ensure that complaints regarding acts of torture and ill-treatment that are not *prima facie* unfounded receive a prompt, impartial, and effective investigation in accordance with the Istanbul Protocol - the UN Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;

2

In order to end all forms of torture in Moldova, all relevant professionals must be trained on the definitions of torture and what practices are prohibited under national and international legislation;

3

The Parliament and the Government, to ensure genuine implementation of all international recommendations and commitments undertaken to prevent torture, inhuman or degrading treatment, including the UN CAT recommendations (2018) and the UPR recommendations made in the previous cycle (2016).

DESCRIPTION OF THE ISSUES

inadequate conditions of detention for prisoners, including low-quality medical assistance

Despite all efforts to humanize criminal law, the rate of the prison population in the Republic of Moldova is still extremely high and detention facilities are overcrowded due to a complex set of causes that need to be addressed simultaneously to avoid perverse effects. Another serious problem concerns inter-prisoner violence and intimidation among the adult male inmate population. That is largely caused by chronic shortage of custodial staff, reliance on informal prisoner leaders to keep control over the inmate population and the existence of large-capacity dormitories. Penitentiary healthcare remains of poor quality due to a lack of medical staff and medicines, inadequate medical services, non-compliance with medical confidentiality and a lack of psychological service. The existing systemic problems in the penitentiaries were outlined by the COVID 19 pandemic.

Since 2019, a new national remedy for poor detention conditions came into effect. Under this remedy, prisoners and ex-prisoners who are or were kept in conditions that did not comply with Article 3 of the ECHR are entitled to a reduction of prison term or, if this is not possible, to a pecuniary compensation.



SUGGESTED RECOMMENDATIONS

1

The Government should engage in a determined policy to reduce its prison population. In this perspective, it should develop an integrated strategy, mobilising all the tools of penal policy, whether in the field of imprisonment, the scale of sentences, non-custodial measures, sentence adjustments, and the orientation of the activity of public prosecutors' offices, particularly in the fight against drugs.

3

The Government should bring prison conditions in line with the Standard Minimum Rules for the Treatment of Prisoners and the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (Bangkok Rules), (CAT/C/AUS/CO/4-5, CAT/C/UKR/CO/6, CAT/C/LUT/CO/3);

2

The Government and the Parliament should take concrete steps to improve conditions in prisons and detention facilities in line with the Convention against Torture and the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules) as well as Article 16 of UNCAT and Article 3 of the European Convention on Human Rights.

4

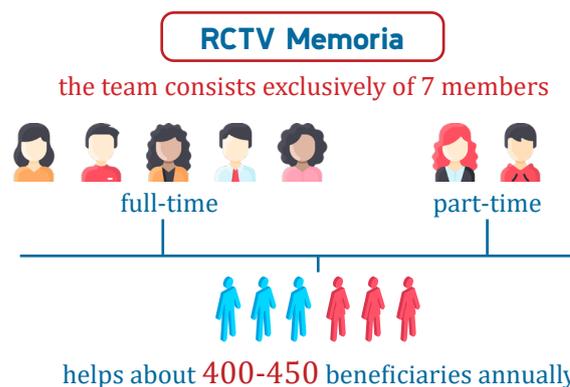
The Ministry of Justice should provide a detailed timetable for the construction of the new prison in Chişinău and information on its general layout (overall capacity; size and design of accommodation cells; facilities for out-of-cell association activities, including areas for educational and vocational training, workshops, facilities for outdoor exercise and sport, etc.)

Lack of implementation of the right to rehabilitation of victims of torture

The Moldovan anti-torture policy ignores victims' need for rehabilitation, reintegration and access to justice. The state response to the needs of victims and their rights to a comprehensive rehabilitation, as it is stated by General Comment No. 3 of CAT (2012) to art. 14 UNCAT, has so far been ineffective.

There are no existing state services that are capable of effectively addressing the complex needs of torture victims in a way where victims can trust that the services they are receiving are independent. No State institution has been assigned responsibility for developing rehabilitation programs and no financial resources have been allocated to non-State services to do the work. Furthermore, the existing state institutions do not have staff with the necessary professional skills to be able to deal with traumatic after-effects of torture.

Non-State rehabilitation services provided by the Rehabilitation Center for Torture victims "Memoria" (RCTV Memoria) are insufficiently resourced and thus not able to cover the existing needs of all victims.



Treatment is comprehensive as the centre provides social, medical, legal, psychological and mental health support. However, many victims in the country do not have access to these services, including because of lack of references from the state institutions, which are identifying and registering the cases (as are also the Prosecutor offices). Those who do not access rehabilitation services often suffer continuing devastating physical and mental health consequences.

SUGGESTED RECOMMENDATIONS

1

Secure the access of torture victims to medical and psychosocial rehabilitation services in the context of respect for human rights, which requires a *trauma and victim centered approach* and increased attention from the authorities, with allocation of the necessary resources for the effective implementation of rehabilitation programmes;

2

Amend the national legislation, including the Law 137, to include explicit provisions on the right of victims of torture and ill treatment to redress, including fair and adequate compensation and the means for as full rehabilitation as possible, in accordance with article 14 of the Convention and GC N3;

1

Establish or support rehabilitation programmes that are adequately funded and offer holistic rehabilitation services to all torture victims without temporal limitations on the services offered.

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"This advocacy factsheet was prepared by Association "Promo-LEX" on the basis of its joint NGOs Submission. Please access the NGO Submission at the following link: www.promolex.md."