



irct
International
Rehabilitation
Council for
Torture Victims

Torture in Moldova

Developed in collaboration with Medical Rehabilitation Centre for Torture Victims (RCTV Memoria)

1 How many victims?

There were 485 officially recorded cases of torture in 2012, though unofficial estimates guess that torture is more widespread

2 Who are the victims?

- Romanian speaking Moldovan men
- Some female victims
- People from poor economic backgrounds
- Most torture is committed against those over 18 years old, though some youths are victims

3 Who are the perpetrators?

- Law enforcement agents, particularly police officers, who have been blamed for the majority of torture cases during the 2009 civil unrest as well as in more recent allegations

4 Where does torture take place?

- Mainly in police stations (over half of the total abuse complaints recorded in 2012 were said to have occurred in police stations)
- Public spaces, particularly during the 2009 civil unrest
- Places of detention

Overall situation of torture

Torture is still used in Moldova, as well as in the Transnistrian region, despite increasing government efforts to crackdown on the perpetrators of torture.

While the number of reported torture acts has decreased throughout the years, it is estimated that the number of instances remains higher than reported due to lack of trust in the judicial system.

A continuing issue is that of people remaining in detention who were arrested during the communist period, and forced to plead guilty under torture. A specific group of recent victims are those tortured during the violent post-electoral events of 2009.

Due to joint efforts of authorities and civil society, the number of torture acts perpetrated in recent years has somewhat decreased. However, anti-torture efforts fail noticeably with regards to victims' ability to access justice. Rehabilitation services are not provided by the state. The only body addressing this issue is RCTV Memoria, which due to limited resources, can only assist a limited number of victims.

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When does torture take place?

According to the testimonies of our beneficiaries, torture occurred:

- At arrest
- During interrogation
- During pre-trial detention
- In detention (where often the conditions are also degrading, out of accepted international norms)

The overall situation of torture rehabilitation

The Rehabilitation Centre for Torture Victims “Memoria” was the first and remains the only centre in Moldova focused on the rehabilitation of individuals subjected to torture and inhuman and/or degrading treatment.

The Moldovan anti-torture policy focuses on preventing torture and combating impunity, mainly through the strengthening of state institutions, thus ignoring victims’ need for rehabilitation, re-integration and for the required support to be able to defend their rights within the judicial system.

There are neither sufficient rehabilitation services available in Moldova nor are the existent ones (RCTV “Memoria”) sufficiently resourced. RCTV aids over 400 beneficiaries even though its team is solely composed of 8 people. Treatment is comprehensive as the centre provides social, medical, legal, psychological and psychiatric support.

Forensic documentation of torture and ill-treatment

Torture victims’ right to medical examination is assured mainly on paper, in spite of improved legislation. According to Moldovan legislation, every detention centre is obliged to have a psychologist, a doctor and a dentist (the medical service provided in penal institutions is organized by the Justice Ministry), yet visiting external missions to the country, have concluded these minimum standards are often not fulfilled. Medical examinations are carried out upon arrival but there is not sufficient medical care to support potential victims under arrest.

Doctors conducting medical examinations in detention centres are not directly connected to the Department of Forensic Evaluations and lack appropriate training to conduct such evaluations. Medical evaluations are often postponed thus reducing their effectiveness. There is no overall system to monitor or evaluate the quality and effectiveness of medical examinations.

The Istanbul Protocol has not yet been implemented widely in Moldova. Torture victims at times receive medico-legal reports issued by government authorities which contain conclusions focused solely on visible signs of torture and violence. RCTV “Memoria” remains the only institution where it is possible to obtain a medical certification, based on a complex approach of suffered traumas, in accordance with the Istanbul Protocol. Nevertheless, only the medico-legal reports provided by government officials are accepted in national courts to prove the evidence of torture.

What regional and/or international treaties/conventions are applicable?

- European Convention on Human Rights – ratified in 1997
- European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment – ratified in 1997
- International Covenant on Civil and Political Rights (ICCPR) - ratified in 1993
- Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) - ratified in 1995
- Optional Protocol to the CAT - ratified in 2006
- 1st Optional Protocol to the ICCPR - ratified in 2008

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Legal framework for reparation, accountability and prevention

REPARATION:

The law covers the right to redress against injury to rights, freedoms and human dignity which result from the criminal process. A person who has been subjected to acts of torture has two options to seek compensation: the initiation of a civil action in the criminal procedure or the initiation of an action in the civil procedure.

However, both procedures are very complex and it is hard for victims to benefit from appropriate reparation in the full meaning of this word – restitution, satisfaction, rehabilitation, compensation and guarantees of non-repetition while going through national procedures. The law fails to be implemented in practice and until now, the ECtHR remains the only hope for the majority of victims who decide to pursue a case for being subjected to torture.

ACCOUNTABILITY:

The crime of torture is framed in the Criminal Code in chapter “Offences against justice”. Article 309 of the Criminal Code prohibits coerced confessions. However, these are still common practice. A Romanian translation of the Istanbul Protocol is available to all relevant authorities. However, further training on the application of the IP is necessary, with involvement of well trained and experienced trainers. Judges’ and prosecutors’ ability to apply the IP in practice must be strengthened also.

PREVENTION:

Moldova adopted a hybrid model of a National Preventive Mechanism (NPM): the National Centre for Human Rights was designated as the NPM together with a Consultative Council.

Priorities and concerns

Recommendations from the IRCT and its member centre

- Stress the issue of the rehabilitation of torture survivors as the key element to restoring of the peace in post conflict communities, and in the implementation of the reforms in justice.
- Promote a victim-centered approach to torture prevention and combating impunity by providing medical and legal assistance to torture survivors, without whom the prosecution of perpetrators is impossible.
- Ensure training of medical and legal professionals in the use of the Istanbul Protocol.
- Stress the need to ensure access of independent medical experts to places of detention and the role of medico-legal reports to combat impunity.
- Ensure that medico-legal reports produced by non-state actors are afforded equal evidentiary value to those provided by government officials.

Recommendations from international bodies

LEGAL SYSTEM:

- Ensure prompt, impartial and full investigations into the many allegations of torture reported to the authorities, the prosecution and punishment of the perpetrators, as appropriate, and the provision of just compensation for the victims.
- Ensure that information obtained under torture is not admissible in courts.
- Take effective measures to ensure a fully independent prosecution and an independent judiciary in conformity with the United Nations Basic Principles on the Independence of the Judiciary, if necessary by calling for international cooperation.
- Remove the statute of limitations for the crime of torture.
- Ensure that the fundamental safeguards against torture and ill-treatment of

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*('Recommendations
from international bodies'
continued)*

detainees, including those held for administrative offences, are available in practice, including their right to medical assistance and legal counsel and to contact with their families from the earliest stages of their detention.

- Ensure that torture cannot be punished with suspended sentences

PLACES OF DETENTION:

- Improve the conditions of detention in police stations and prisons so as to bring them into conformity with article 16 of UN CAT, and establish an independent and systematic system to monitor the treatment in practice of persons arrested, detained or imprisoned.
- Issue directives on the proper conduct of interrogations of persons in police custody, including the total prohibition of ill-treatment and torture.
- Introduce a system of obligatory medical examination upon arrival at all places of detention including police stations.
- Provide an information sheet in the appropriate languages in all police stations to inform all detainees of all their rights immediately after their arrest;
- Discontinue the practice of administrative police detention.
- Reduce the length of police custody subsequent to arrest to a maximum of 48 hours.
- Establish an independent administrative body competent to deal with complaints against the police and law enforcement personnel.
- Transfer the responsibility of detained persons in temporary holding facilities from the Ministry of the Interior to the Ministry of Justice.

OTHER:

- Take measures to ensure that the requirement of article 3 of UN CAT is taken into consideration when deciding on the expulsion, return or extradition of aliens.
- Reinforce human rights education and promotion activities regarding the prohibition of torture, particularly for law enforcement and medical personnel, and introduce training in these subjects in official education programmes.
- Provide statistical data on complaints relating to torture and ill-treatment allegedly committed by law enforcement, as well as related investigations, prosecutions and disciplinary sentences and redress offered to victims.
- All those responsible for the violations that occurred in April 2009, including those who gave orders and those who failed to prevent violations from taking place, must be brought to justice as a matter of priority.

Member contact details

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The International Rehabilitation Council for Torture Victims (IRCT) is an independent, international health-based human rights organisation, which promotes and supports the rehabilitation of torture victims, promotes access to justice and works for the prevention of torture worldwide. The vision of the IRCT is a world without torture.

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