

Torture in Moldova

Impunity for Torture

Previous UPR recommendations:

During the first cycle of the UPR, Moldova received several recommendations (from Germany, The United Kingdom, Austria, France, Norway, Spain and Slovenia) aiming at improving the national legislation, reinforcing the fight against torture and against impunity, by ensuring effective investigation of cases and prosecution of perpetrators; and to guarantee sanctions commensurate with the gravity of the crime.

Overview

Since the first cycle of the UPR of the Republic of Moldova, there have been some changes and developments concerning torture and ill-treatment in the country. There has been consistent work from international community, parliament, national security forces and civil society in order to reduce torture and ill-treatment. Promo-LEX and RCTV Memoria have participated in these efforts by advocating for the implementation of the concerned recommendations, raising awareness with law enforcement personnel, and promoting implementation of the Istanbul Protocol as an investigative standard in Moldova.

However, the transitional socio-political context in Moldova has contributed to the creation of major internal challenges such as the ongoing political crisis, political control over judicial institutions, and a lack of security and stability. A considerable number of detainees and ex-detainees alleged that they have been tortured and ill-treated mainly during the period of investigations by national security forces.

Since 2009, the General Prosecutor's office has registered the following number of complaints:



From 38 cases sent to courts in 2015, on the basis of Art. 166/1 (Torture), 13 judgments of conviction were issued and 5 persons were acquitted. The discrepancy between the number of complaints, prosecutions and acquittals indicates significant gaps in the system of investigating and prosecuting torture cases. Since 2006, the ECtHR has found violations of Article 3 in over 80 cases against Moldova.

Even if the number of complaints has decreased recently (according to GP statistics), it is estimated that this is mainly caused by under reporting due to lack of trust in the judicial system as a reaction to the persistent impunity.

In relation to the issue of impunity, RCTV Memoria and Promo-LEX have the following key concerns:

1. Torture is still in use in the Republic of Moldova, including in the Transnistrian region, despite efforts to prevent it.
2. Domestic law is not in accordance with UN standards in the field of torture prevention, and do not regulate in detail the conditions and limits of the application of physical force and special means by Law enforcement institutions. According to the statistics of the General Office of Prosecution for 2015, the application of special means, use of a weapon, other objects adapted to this purpose (sticks, water bottles, books etc.) were registered in 55 complaints or 8.3% from the total number of 633.

3. Moldovan law and public policy is not in compliance with key elements of the Convention against Torture. There definition in art. 166/1 of the Criminal Code is unclear, there is no system in place for effective investigation and prosecution and the Istanbul Protocol is not systematically applied in torture investigations, and there are serious shortcomings in the protection against torture in places of deprivation of liberty including in psychiatric facilities.

4. The Government does not ensure implementation of art. 15 of UNCAT. Thus, statements which are established to have been made under torture are, in some cases, invoked as evidence in the criminal proceeding (e.g. case Repesco and Repescu vs Moldova examined by ECHR).

Recommendations

1. The General Prosecutor's office shall ensure that all complaints regarding acts of torture and ill-treatment receive a prompt, impartial, and effective investigation in accordance with the Istanbul Protocol.

2. Ensure ongoing and appropriate training of medical, psychological, social and legal professionals and students in the use of the Istanbul Protocol.

3. Ensure provisions for effective forensic evaluations, protection against reprisals for victims and witnesses and psycho-social support to victims in legal proceedings.

4. Ensure that medico-legal reports and statements produced by non-state actors are afforded equal evidentiary value to those provided by government officials.

5. The government shall ensure that art. 15 of UNCAT is respected and that any statement which is established to have been made under torture shall not be invoked as evidence in any proceedings, except against a person accused of torture as evidence that the statement was made in those circumstances.

Rehabilitation

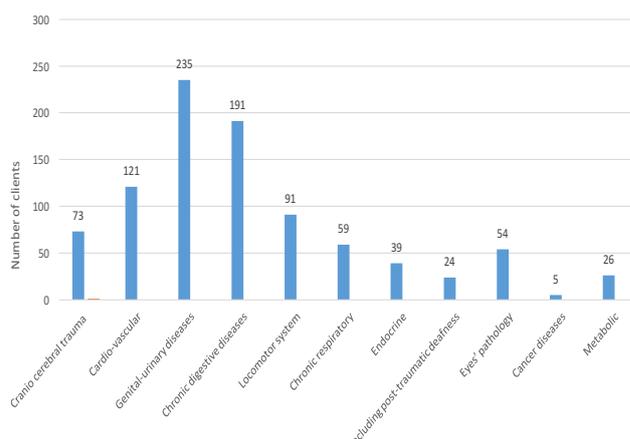
Previous UPR recommendations:

Despite the high number of torture victims and ill-treatment in Moldova and their documented trauma, no recommendations on victims right to rehabilitation were made during the last UPR session. We believe that it is critical that this cycle of the UPR addresses the issues in order to enhance international pressure on the Moldovan Government to create a framework where victims can start to rebuild their lives after torture.

Overview

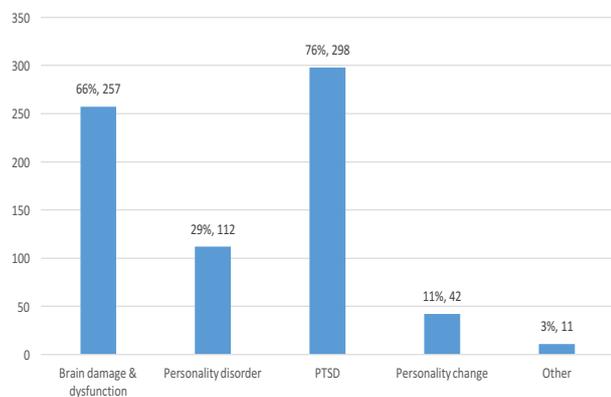
Over time, State torture practices have created a significant number of torture victims in Moldova. Between 2009 and 2015, the General Prosecutor's Office has received between 500-1,000 complaints per year. The consequences of torture are devastating for individuals, families, and communities and it impacts the broader society. In 2015, RCTV Memoria supported a total number of 419 victims (189 female and 230 male) and registered the following main physical effects in the their clients:

Physical trauma



Among Memoria's clients, 94% suffered different forms of psychological trauma as a result of torture.

Breakdown of psychological trauma



In addition, victims experience a number of consequences to their social functioning including decreased functionality with limited capacities to start or continue their studies or to find and to keep a job; inter-personal problems, social isolation and withdrawal; and negative effects on the family life. Many also experience being forced to change their testimonies during the investigation process, to withdraw their complaints, or to leave country, because of the fear of reprisals.

Unfortunately, the access of victims to Justice, reparation and compensations was limited for years because of inappropriate documentation of cases, injustice, impunity or lack of funds for legal support to victims. Beyond helping victims to re-build their lives with dignity, appropriate rehabilitation programs are crucial in eradication of torture and impunity. Rehabilitation provides important and relevant data for documentation and investigation of cases and for designing preventive measures.

Today, the only rehabilitation services in Moldova are provided by RCTV Memoria and they have insufficient resources to address the needs of all victims in the country. Since 2000 RCTV Memoria supported over 2000 beneficiaries though its team is composed of seven medico-social staff. Despite being the only rehabilitation provider in Moldova, RCTV Memoria has continued to face constant financial constraints, limited funds for direct services and pressure, intimidations and the risk of being targeted by perpetrators. This has a very negative effect on its ability to effectively assist torture victims in rebuilding their lives.

Even if some progress is made in Moldova and a 'Law for rehabilitation of victims of crime' has been adopted in 2016, RCTV Memoria and Promo-LEX have some major concerns:

1. Medical and other relevant professionals are not trained for properly and timely assessing, documenting and managing the impact of torture on health and wellbeing of the survivors and their families.

2. The law for rehabilitation of victims of crime is not consistent with the requirements for right to rehabilitation for torture victims as outlined in Article 14 of the UNCAT and General Comment Nr. 3 of the Committee against Torture (2012). The Art. 2 of the Law states that the victims will receive support only in form of information about existing services, psychological and legal counseling and compensation thus disregarding medical and social assistance. Further, Art. 9 of the Law restricts the length of psychological assistance only to three months. In relation to torture victims, this raises a number of concerns including the fact that the law fails to take a holistic and long term approach to rehabilitation. However, more importantly 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.

3. The Committee against Torture has proposed that State delivery of torture victims' right to rehabilitation can be implemented through adequate funding of non-State service providers. However, this is not the case in Moldova where non-State services receive no government support or compensation for the services they provide.

Recommendations:

1. Ensure ongoing and appropriate training of medical, psychological, social and legal professionals and students in timely assessing, documenting and managing the after effects of torture on the health and wellbeing of the survivors and their families.

2. Adopt a comprehensive rehabilitation law which will include prompt access to appropriate reparation and equitable and holistic rehabilitation services for all victims of torture and ill-treatment, in accordance with Art. 14 of UNCAT, the UN CAT General Comment No 3 to art. 14 and HRC resolution 22/21 (19.03.2013).

3. Secure a safe environment for human rights defenders who support torture victims and ensure there is sufficient support for civil society organisations who work in the field of rehabilitation of torture victims.

Detention conditions

Previous UPR recommendations:

During the first cycle of the UPR, Austria, Australia, Canada, Hungary, Norway and Spain made recommendations to improve detention conditions and eliminate ill-treatment.

Overview

From all 17 prisons in the Republic of Moldova, five institutions have the status of criminal investigation isolators (preventive detention). The number of detainees as of April 1, 2016 is 7,881 (6,359 sentenced and 1,522 in pretrial detention). Of the total number, there are 491 women and 67 minors (65 boys and 2 girls). According to reports by the CPT, Ombudsman office (CHRM) and of the National Preventive Mechanism (NPM), the majority of persons are detained in overcrowded facilities with unsanitary conditions and fall short of international standards. The exception is the Goian prison for minors, whose premises have been renovated.

Detainees' access to medical services continues to be limited and deficient, despite improved legislation. Formal medical examinations are undertaken upon arrival. However, there is insufficient medical care and very limited possibilities to support potential or alleged victims of torture or other persons suffering from physical and psychological trauma.

In this general context, the situation of women in detention is particularly worrying. The timely access to additional medical services (performed outside prison facilities) is almost never available to them. Based on assisted and documented cases, the medical history of many detained women includes trauma from sexual and physical abuse, domestic violence, mental illness, and drug or alcohol abuse. Prior to detention, many of them experience chronic diseases and affected health conditions that result from living in poverty, premature pregnancy, malnutrition and poor health care. In this context, the national authorities should take into consideration their specific needs in accordance with recommendations of the Kyiv Declaration on Women's Health in Prison.

For example, there are about 20 women who are pregnant or with babies in detention. They need medical care, adequate nutrition, a healthy lifestyle, fresh air and exercise and have more hygiene requirements such as access to regular showers and sanitary items. Unfortunately, these essential services are generally not available due to lack of

budgetary appropriations. Consequently, the women rely on the limited support they receive from family members, NGOs or other private actors.

We believe that the detention conditions and issues related to women in prisons are very important and that the following concerns are worthy of consideration:

1. The detention conditions for all detainees, but especially for women, remain below international standards, with a highly destructive effect on their physical and mental health.

2. The medical service in the national prison system is still under control of the prison administration and not reformed under the Ministry of Health.

3. The medical services in prisons are underfunded and this situation disproportionately affects women.

4. The specific needs of women, in particular women with small children in detention, are not taken into account, as they should be according to the gender-based approach.

Recommendations:

1. Improve detention conditions in police stations and prisons, according to article 16 of UN CAT.

2. Improve access to equitable evidence-based medical, psycho-social and mental health services for all persons in prisons, especially for those belonging to vulnerable groups including juveniles, women, women with children or pregnant women.

3. Implement the principles and recommendations of the Kyiv Declaration on Women's Health in Prison.

4. Establish an independent and effective NPM for monitoring the conditions, services and medical treatment of persons in arrest or detention.

About the data in this report:

The data presented in this briefing note is based on the clinical records of Memoria. The data is currently being processed into a global database aimed at fighting impunity through clinical data collection supported by the European Union.

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The Rehabilitation Centre for Torture Victims “Memoria” (RCTV Memoria) is the only Moldovan NGO dealing with the rehabilitation of torture victims, including from the Transnistrian region. RCTV Memoria is registered with the Ministry of Justice (7.12.99) and has been granted Certificates of Public Utility (2008-2012-2015). RCTV Memoria is a plenipotentiary member of the General Assembly of IRCT and had an elected representative in IRCT Council from the European region (2003 - 2006, 2012 - 2015). So far, comprehensive rehabilitation services have been provided annually in about 450 or even 600 cases, in dependence of available resources. However, the number of beneficiaries is much higher when indirect ones are considered, including relatives of victims, their lawyers, and various professionals dealing with investigation, legal defense or assistance of cases. We have also experience in conducting research studies on torture prevention against juveniles.

The Promo-LEX Association is a non-governmental organization that aims to advance democracy in the Republic of Moldova, including in the Transnistrian region, by promoting and defending human rights, monitoring the democratic processes, and strengthening civil society through a strategic mix of legal action, advocacy, research and capacity building. Promo-LEX Association has NGO consultative status with ECOSOC and is member of FIDH.

The International Rehabilitation Council for Torture Victims (IRCT) is a health-based umbrella organisation that supports the rehabilitation of torture victims and the prevention of torture worldwide. Our members comprise more than 150 independent organisations in over 70 countries. Our work is governed by these member organisations. Today, we are the largest membership-based civil society organisation to work in the field of torture rehabilitation and prevention.

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www.irct.org

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