



# Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

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## Committee against Torture

### List of issues prepared by the Committee prior to the submission of the third periodic report of the Republic of Moldova (CAT/C/MDA/3)\* adopted by the Committee at its forty-eighth session, 7 May–1 June 2012

#### Specific information on the implementation of articles 1 to 16 of the Convention, including with regard to the Committee's previous recommendations<sup>1</sup>

##### Articles 1 and 4

1. Please provide statistical data on cases, if any, since the consideration of the previous report, of direct application by the courts, of the Convention.<sup>2</sup> Please describe any progress made in amending legal provisions sanctioning torture and ill-treatment.
2. Further to the Committee's previous recommendations (para.14), please provide information on measures taken to ensure that torture is punishable by adequate penalties commensurate with the gravity of the crime. Please provide data reflecting the number of cases during the reporting period in which articles 309(1) and 328 of the Criminal Code were applied, as well as data on cases in which other articles of the Criminal Code were applied against individuals accused of committing acts amounting to torture or ill-treatment, including the number of persons convicted and their sentences.<sup>3</sup>
3. In light of the finding of the European Court of Human Rights in *Paduret v. Moldova* (application no. 33134/03) and the commitment made by the State party in the context of the universal periodic review (A/HRC/19/18/Add.1, para.18), please indicate

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\* The present list of issues was adopted by the Committee at its forty-eighth session, according to the new optional procedure established by the Committee at its thirty-eighth session, which consists in the preparation and adoption of lists of issues to be transmitted to States parties prior to the submission of their respective periodic report. The replies of the State party to this list of issues will constitute its report under article 19 of the Convention.

<sup>1</sup> Paragraph numbers in brackets refer to the previous concluding observations adopted by the Committee, published under symbol CAT/C/MDA/CO/2.

<sup>2</sup> HRI/CORE/1/Add.114, para. 29.

<sup>3</sup> A/HRC/10/44/Add.3, paras.69-70.

whether the criminal law has been amended to eliminate any statute of limitations for crimes of torture, and if it has not, when this is expected to occur.<sup>4</sup>

#### Article 2<sup>5</sup>

4. Please provide information regarding the status of the reform of the criminal justice system and the adoption by the Government of the Strategy for Justice Sector Reform for 2011-2016, insofar as they pertain to the rights guaranteed by the Convention. Please indicate whether Parliament has adopted the National Action Plan on Human Rights for the period of 2011-2014, and if it has, provide the commitments in the chapter entitled “prevention and fight against torture” and any steps taken to implement them to date.<sup>6</sup>

5. Further to the Committee’s previous recommendations (para.8), please provide updated information on steps taken to prevent torture and other forms of ill-treatment in police custody, in particular with regard to any measures to bring perpetrators to justice as well as substantive reform of police and other security structures.<sup>7</sup>

6. Further to the Committee’s previous recommendations (para.9), please update the Committee on the measures taken to prevent torture and other forms of ill-treatment in temporary detention facilities and prisons. Has the State fully transferred the responsibility for temporary detention facilities from the Ministry of Internal Affairs to the Ministry of Justice? If not, please explain why and describe any reforms taken in this regard.

7. Please provide statistical information about the current number of pretrial and convicted prisoners, disaggregated by crime, sex, age, ethnicity and region of the country. What actions have been taken to increase the use of non-custodial measures before and after trial, to ensure that pretrial detention is only used as an exceptional measure, to implement alternatives to pretrial detention, and to separate convicted prisoners from those held in pretrial detention?<sup>8</sup>

8. In light of the recommendations in relation to legal safeguards and effective measures to prevent torture, made by the Committee (para.10) and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment (A/HRC/10/44/Add.3, para.90(b)), please provide information on:<sup>9</sup>

(a) Whether every detainee, including any person detained under the administrative law, is afforded all fundamental legal safeguards during his/her detention, inter alia, the right to access a lawyer, to have an independent medical examination, and to

<sup>4</sup> A/HRC/19/18, para. 76(14); A/HRC/10/44/Add.3, para. 90(a); A/HRC/19/61/Add.3, paras.116 and p.313.

<sup>5</sup> The issues raised under article 2 could imply also different articles of the Convention, including but not limited to article 16. As general comment No. 2 (2007) on implementation of article 2 by States parties, paragraph 3, states “the obligation to prevent torture in article 2 is wide-ranging. The obligations to prevent torture and other cruel, inhuman or degrading treatment or punishment (hereinafter “ill-treatment”) under article 16, paragraph 1, are indivisible, interdependent and interrelated. The obligation to prevent ill-treatment in practice overlaps with and is largely congruent with the obligation to prevent torture ...In practice, the definitional threshold between ill-treatment and torture is often not clear.” See further chapter V of the same general comment.

<sup>6</sup> A/HRC/19/61/Add.3, para. 114.

<sup>7</sup> A/HRC/WG.6/12/MDA/2, paras.29 ff; A/HRC/10/44/Add.3, paras.26-27; concluding observations of the Human Rights Committee (CCPR/C/MDA/CO/2), para. 9; CPT/Inf (2012) 3, paras.15-18; letter from the Council of Europe Commissioner for Human Rights to Prime Minister of Moldova (CommDH(2012)3), para.7.

<sup>8</sup> A/HRC/10/44/Add.3, paras.16 and 90(b); A/HRC/19/18, para.76.14; A/HRC/19/18/Add.1, para.20.

<sup>9</sup> A/HRC/10/44/Add.3, paras.15 and 75; CPT/Inf (2012) 3, paras.21-31.

notify relatives from the actual moment of deprivation of liberty and to be informed of his or her rights, including grounds for the detention. Please comment on allegations that detainees have been frequently denied the right to meet confidentially with their lawyers, in particular at the early stages of police custody (A/HRC/10/44/Add.3, para.67(3)), and that detainees are frequently not permitted to contact family members until several hours have passed from the commencement of deprivation of liberty.<sup>10</sup> What measures has the State party taken during the reporting period to monitor the implementation of these fundamental safeguards? Please provide data on the number of law enforcement officers disciplined or otherwise punished for failing to respect them, and indicate the sanctions imposed;

(b) Measures taken to ensure that arbitrary detention does not take place and that all detained persons are brought promptly before a judge and able to challenge effectively and expeditiously the lawfulness of their detention through habeas corpus;

(c) Whether the State party has introduced a procedure of mandatory and regular medical examination for detainees, including following all transfers between facilities;

(d) Whether reports of independent doctors are given the same evidentiary value by the State party's courts as reports issued by medical service staff of places of detention. Please also indicate whether the State party is taking steps to ensure the independence of the National Forensic Centre from the General Prosecutor. (A/HRC/19/61/Add.3, p. 316)

(e) Whether the State party has adopted regulations requiring use of registers in all police premises in conformity with international standards, particularly the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment. What information is contained in such registers? How does the State party ensure that all detainees, including minors, are included in a central register? Please indicate what actions the State party has taken to respond to the finding of the Council of Europe's Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) that in some cases, the police failed to observe the three hour time limit for drafting a custody report following the taking into custody of an individual and that they failed to accurately reflect the time and place of detention.<sup>11</sup> Please indicate whether any law enforcement officers have been disciplined or otherwise punished for failing to properly register detainees.

(f) Whether the State party is considering, as recommended by CPT, instituting mandatory audio (and possibly video) recording of all interrogations, including a record of the names of all those present at each interrogation?<sup>12</sup>

9. Further to the Committee's previous recommendations (para.11), please provide information on conformance of the judiciary of the Republic of Moldova with the United Nations Basic Principles on the Independence of the Judiciary.<sup>13</sup> Please elaborate on measures taken to effectively address the concerns raised by the Special Rapporteur on the question of torture (A/HRC/10/44/Add.3, para.67), which referred to, inter alia, the lack of independence of judges. Please indicate whether the Ministry of Justice is empowered to remove judges, the grounds on which judges can be removed, and the number of judges removed during the reporting period.

10. In light of the recommendations made by the Committee (para.22), the Special Rapporteur on violence against women, its causes and consequences (A/HRC/11/6/Add.4,

<sup>10</sup> CPT/Inf (2012) 3, para.21.

<sup>11</sup> Ibid., para.13.

<sup>12</sup> Ibid., para.18 (iii).

<sup>13</sup> A/HRC/10/44/Add.3, para.90(c); CAT/C/CR/30/7, para. 6(f); CAT/C/CR/30/7, para.7; CCPR/CO/75/MDA, para.12; E/C.12/1/Add.91, para.12; CommDH(2012)3/11, para.7.

para.86), and the Working Group on the Universal Periodic Review (A/HRC/19/18, paras.73.35 ff), please provide information on the measures taken to combat trafficking in person, by, inter alia, strictly applying relevant legislation, prosecuting and punishing perpetrators, raising awareness of the problem, and providing training for law enforcement personnel and other relevant groups. What steps have been taken to broaden the implementation of measures to assist the social reintegration of victims and to provide genuine access to health care and counselling?<sup>14</sup> Please provide detailed information, including statistical data, on tendencies in trafficking and on court cases, prosecutions and victims assisted, as well as the results achieved in prevention.

11. Please provide statistical data on any complaints, investigations, and resulting prosecutions and convictions, and any sentences applied relating to domestic violence, including marital rape and abuse, during the reporting period. Please provide information regarding any investigation into allegations made by Lidia Mudric and Lilia Eremia, who allege that they repeatedly sought assistance regarding domestic violence by their ex-husbands, and that the authorities of the State party failed to react appropriately to their complaints. Additionally, in light of the recommendations made by the Committee (para.23), the Special Rapporteur on violence against women, its causes and consequences (A/HRC/11/6/Add.4, para.86), and the UPR working group (A/HRC/19/18, para.73.30ff), please provide updated information on measures taken to combat domestic violence, in particular to:<sup>15</sup>

(a) Ensure the effective implementation and monitoring of the Law on Preventing and Combating Domestic Violence, including the allocation of adequate budgetary and human resources. Did the State party elaborate a Plan of Action in that regard?<sup>16</sup>

(b) Support victims of domestic violence by establishing additional shelters, the provision of free counselling services and such other measures for the protection of victims;

(c) Address impunity in this area by, inter alia, taking appropriate preventive measures and providing training on the handling of domestic violence to professionals involved in such cases, including police officers, prosecutors, judges and social workers, with emphasis on the gender aspects of domestic violence. Please elaborate on the impact of such measures;

(d) Address the root causes of domestic violence in order to carry out awareness campaigns on violence against women and their rights, especially in rural areas.<sup>17</sup>

12. While acknowledging the State party's information that its inability to exercise effective control over the territory of Transdniestria continues to impede the implementation of the Convention in that region, please indicate measures that the State party is taking or has taken to ensure full respect for the Convention in Transdniestria,

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<sup>14</sup> Concluding observations of the Committee on Economic, Social and Cultural Rights (E/C.12/MDA/CO/2), para.13; A/HRC/11/6/Add.4, paras.30-39 and 86; A/HRC/10/44/Add.3, paras.49-52, and 90(e); A/HRC/19/61/Add.3, para.114; A/HRC/19/18, paras.73(35)-(42); CRC/C/MDA/CO/3, para.69; CEDAW/C/MDA/CO/3, para.25.

<sup>15</sup> E/C.12/MDA/CO/2, para.14; A/HRC/11/6/Add.4, paras.20-29 and 86; A/HRC/10/44/Add.3, paras.53 and 90(e); A/HRC/19/61/Add.3, para.114; A/HRC/19/18, paras.73(35)-(42); concluding observations of the Committee on the Rights of the Child (CRC/C/MDA/CO/3), para.49(a); concluding observations of the Committee on the Elimination of Discrimination against Women (CEDAW/C/MDA/CO/3), para.23; A/HRC/19/18, paras.73(30)-73(34).

<sup>16</sup> A/HRC/11/6/Add.4, para.86(a).

<sup>17</sup> A/HRC/19/18, para.73.33.

including on urgent appeals transmitted to it by the Special Rapporteur on Torture (A/HRC/16/52/Add.1, paras. 175 and 176).

### Article 3

13. Please provide information on the measures taken to fulfil all obligations under article 3 of the Convention, in particular to consider all elements of an individual case, and provide, in practice, all procedural guarantees to the person expelled, returned or extradited. Has article 3 been directly applied in cases of expulsion or return of foreigners? Is there any training of judges or border guards, or other law enforcement personnel on the absolute nature of non-refoulement of article 3 as well as on the non-derogability of the prohibition of torture and ill-treatment?

14. Please provide statistics by region of the country and disaggregated by age, sex, and country of origin of the asylum seeking population, on:

- (a) The number of asylum applications registered;
- (b) The number of applicants in detention;
- (c) The number of applicants whose application for asylum was accepted;
- (d) The number of applicants whose application for asylum was accepted on grounds that they faced a risk of torture if returned to their country of origin;
- (e) The number of cases of refoulement or expulsion.

15. Has the State party relied on diplomatic assurances? Please provide detailed information on what the State party's requirements are for such assurances and whether there are post-return monitoring mechanisms. Also, please provide information on all cases where diplomatic assurances have been provided since the consideration of the previous report. Has the State party signed any regional or bilateral agreements related to the return of asylum seekers?

### Articles 5, 6 and 7

16. Since the consideration of the previous report, please indicate whether the State party has rejected, for any reason, any request for extradition by another State of an individual suspected of having committed an offence of torture, and has started prosecution proceedings as a result. If so, please provide information on the status and outcome of such proceedings.<sup>18</sup>

17. Please provide information on whether the State party's domestic legislation establishing universal jurisdiction applies to the offences referred to in article 4 of the Convention.<sup>19</sup> What measures have been taken to ensure that acts of torture are considered universal crimes? Please update the Committee on any progress made during the reporting period in ensuring full respect for the Convention in all territory under its jurisdiction.

### Article 10

18. In light of the Committee's previous recommendations (para.17), please provide updated information on the instruction and training provided for medical and law enforcement personnel, judicial officials and other persons involved with custody, interrogation or treatment of persons under State or official control on matters related to the

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<sup>18</sup> CAT/C/MDA/Q/2/Add.1, para.230.

<sup>19</sup> Ibid., para.229.

prohibition of torture and ill-treatment.<sup>20</sup> Please specify who conducts and who undergoes the training, if the Convention is made known in the course of such programmes, and how the State party evaluates the effectiveness and impact of the programmes. Furthermore, please elaborate on:

(a) Training of professionals involved in the investigation and documentation of torture, especially medical personnel such as forensic doctors, on the “Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment and Punishment” (Istanbul Protocol). Is the Istanbul Protocol applied in practice? If so, how?

(b) Training on the employment of non-violent means, crowd control and the use of force and firearms. Has the State party adopted a Manual on the Use of Force in conformity with the relevant international agreements, such as the United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials?

(c) Information on any training that ensures appropriate and respectful treatment of women, juveniles, ethnic/religious minorities, or persons with different sexual orientation, particularly regarding forms of torture that disproportionately affect members of these groups.

#### **Article 11**

19. Please provide information on any new interrogation rules, instructions, methods and practices, as well as arrangements for the custody of persons subject to any form of arrest, detention or imprisonment that may have been introduced since the consideration of the last periodic report, and the frequency with which they are reviewed.

20. In light of the Committee’s previous recommendations (para.18), please provide information on the measures taken to improve the material conditions of detention, including the financial resources allocated. Please provide information on:<sup>21</sup>

(a) Current conditions in penitentiary institutions. Please provide updated information, including statistics, disaggregated by sex, age, ethnicity and crime, on the number of imprisoned persons and the occupancy rate of the institutions, for the entire reporting period. Please also indicate whether food and drinking water are made available to individuals held in police custody for significant periods of time, and the regulations governing this;

(b) Measures taken by the State party to alleviate conditions of detention amounting to torture or ill-treatment, including severe overcrowding, poor quantity of quality of food, poor hygiene, sanitary facilities, lack of furniture, lack of ventilation, prevalence of tuberculosis, and lack of necessary materials, such as bedding. Please particularly discuss measures taken to implement decisions of the European Court of Human Rights finding the State party in violation of article 3 of the European Court of Human Rights due to detention conditions. Please also particularly describe measures taken to alleviate the overcrowding of penitentiary institutions through the application of alternative measures to imprisonment;

(c) Measures taken to ensure that conditions of detention are not discriminatory to women and particularly that adequate medical and reproductive care is available in all detention facilities where women are held.

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<sup>20</sup> A/HRC/10/44/Add.3, para.90(c) and (h); CCPR/C/MDA/Q/3, para.7; concluding observations of the Committee on the Elimination of Racial Discrimination (CERD/C/MDA/CO/8-9), para.11.

<sup>21</sup> A/HRC/10/44/Add.3, paras.30-41 and 72-74.

21. Please provide data on the number of persons detained at the Migrants Accommodation Centre, the average length of detention, and indicate the basis on which the occupants have been detained. Please provide information on measures the State party is taking to ensure that individuals are not detained solely on the grounds that they would otherwise be homeless.

22. Please provide information regarding measures taken by the State party to protect detainees from inter-prisoner violence, including sexual violence and intimidation. Please provide information on the number of investigations and prosecutions into inter-prisoner violence carried out by the State party during the reporting period, disaggregated by sex of the victim, age of the victim, and immigrant status of the victim. Please also indicate whether any prison staff have been disciplined or subject to criminal penalties for tolerating, encouraging, or aiding and abetting such inter-prisoner violence during the reporting period. Please comment on actions taken in response to CPT's report of such violence at prison No. 11 Bălți and prison No. 17 Rezina.<sup>22</sup> Please also comment on instances noted by CPT of prison staff responding to complaints of such violence by placing the complainant in solitary confinement.

23. Please provide detailed information on the mandate and activities of monitoring commissions established under Act No. 235-XVI and the outcomes of their monitoring visits.<sup>23</sup> How often and to how many places of detention have these commissions undertaken unannounced visits since the consideration of the previous report?

24. Please provide up-to-date information on the current status of the implementation of the Committee's previous concluding observations (para.13) in relation to the National Preventive Mechanism (NPM) established under the Optional Protocol to the Convention against Torture, including any measures taken to strengthen the independence of NPM from the Office of the Parliamentary Advocate. Please provide:

(a) Information on whether all members of the Consultative Council enjoy an equal status as part of NPM.<sup>24</sup>

(b) Information on whether members of the National Preventive Mechanism are able to conduct regular and unannounced visits to all places of detention including those in the Transnistrian region, without restriction. Please provide data on the number of visits that members of NPM have made to places of detention, whether the visit was announced in advance or unannounced, the detention centre visited and the location of the detention centre, the date of the visit, whether a report was issued, and whether it was made public. Have NPM members been denied prompt access to places of detention or detention registries during the reporting period? If so, please describe measures the State party is taking to discipline the officials responsible.

(c) Examples of measures taken by the authorities in response to reports of NPM, and on any investigations into torture or ill-treatment, in line with the information provided in the State party's follow-up submission to the Committee (para. 14).

(d) Any measures taken to increase the financial resources of NPM and public awareness of its work.

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<sup>22</sup> CPT/Inf (2012)3, paras.63-65.

<sup>23</sup> CAT/C/MDA/Q/2/Add.1, paras.250 ff.

<sup>24</sup> CAT/C/MDA/CO/2/Add.1, paras.4-17; A/HRC/10/44/Add.3, paras.73-74; CCPR/C/MDA/CO/2, para.10; CPT/Inf (2012)3, paras.7-9.

**Articles 12 and 13**

25. In light of the Committee's previous concluding observations (para.28), please provide detailed statistical data on complaints relating to torture and ill-treatment submitted during the reporting period, disaggregated by body receiving the complaint, crime committed, ethnicity, age and sex. Please indicate how many of these complaints were investigated, how many led to criminal prosecution, and how many prosecutions resulted in convictions, and the penal or disciplinary sanctions applied. Please also include data regarding sanctions imposed for the crimes of attempting to commit torture and complicity in torture. Please indicate whether such statistics are made available to the general public, and if so, where they are published. Please also provide information on steps taken by the State party to make confidential complaints mechanisms accessible to all persons, including those in detention.

26. In light of the Committee's previous recommendations (para.19), please provide updated information on the measures taken to ensure prompt, impartial and effective investigations into all allegations of torture and ill-treatment committed by law enforcement, security, military and prison officials, including those in positions of command responsibility.<sup>25</sup> Please indicate whether any measures are being taken to ensure that investigations into all allegations of torture and ill-treatment are undertaken by an independent body, and not under the authority of the Prosecutor General's office or another law enforcement agency.

27. CPT reported, following its visit in June 2011, that a significant proportion of detained persons interviewed by its delegation complained of police ill-treatment during the months preceding the visit.<sup>26</sup> What actions have been taken to implement the recommendations made by CPT and to investigate allegations of torture and ill-treatment communicated in its report, particularly allegations of abuse at prison No. 17 Reznia and prison No. 11 Balti.<sup>27</sup>

28. With reference to the Committee's previous recommendations regarding the need for all law enforcement officers on duty to wear identification (CAT/C/MDA/CO/2, para. 16) and the State party's follow-up submission, please indicate the number of law enforcement personnel who have been disciplined for violating Order no. 35 of 22 February 2007 of the Department of Penitentiary Institutions during the reporting period. Please also indicate whether the State party has investigated the allegations recounted in the CPT report that detainees at Reznia prison were subjected to torture and ill-treatment by prison staff and members of the special forces whose identities were obscured by hoods.<sup>28</sup> Please indicate if the State party's legislation specifically prohibits the wearing of hoods or masks by law enforcement personnel, how the implementation of this requirement is monitored, and whether any law enforcement personnel have been disciplined for violations during the reporting period.

29. Please describe any measures taken to prohibit intimidation and reprisals by officials against complainants, family members, lawyers, doctors, and others who allege torture, ill-treatment, denial of safeguards, or improper conditions of detention. Please provide data on any disciplinary or criminal measures instituted against State officials for intimidating, threatening, harassing, or otherwise attempting to dissuade individuals from filing

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<sup>25</sup> A/HRC/10/44/Add.3, paras.65-68; A/HRC/WG.6/12/MDA/3, paras.39-41; European Court of Human Rights, *Pădureț v. Moldova* (application no. 33134/03, judgment of 5 January 2010); CommDH(2012)3, para.5.

<sup>26</sup> CPT/Inf (2012) 3, para.16.

<sup>27</sup> *Ibid.*, paras.60-61.

<sup>28</sup> *Ibid.*



complaints with the authorities during the reporting period, and indicate the nature of any such sanctions imposed. Please also comment on the cases of detainee G. V. at Chisinau Penitentiary no. 13, as documented by the officials of the Center for Human Rights Gheorghe Bosii and Lilian Tudosan in their report on behalf of the National Preventive Mechanism against Torture of 3 February 2012; and of Mr. Jereghi Simione, the subject of an urgent appeal by the Special Rapporteur on the question of torture (A/HRC/16/52/Add.1, para.178).

30. Please indicate any steps taken by the State party to develop an effective witness and victim protection system that would not require persons alleging torture or ill-treatment by law enforcement personnel to seek protection from members of the same law enforcement body as the alleged perpetrator(s). Please describe measures taken by the State party, in accordance with the decision of the European Court of Human Rights in *Paduret v. Moldova* (application no. 33134/03), to ensure that any State agent charged with torture or ill-treatment is suspended from duty during the subsequent investigation and trial, and dismissed if convicted. Please provide the total number of law enforcement officers suspended from duty pending investigation of a claim of torture or ill-treatment during the reporting period, and comment on reports that two police officers convicted of the torture of Viorica Plate in 2007 were never imprisoned.

31. In light of the Committee's previous recommendations (para.15) and the State party's follow-up response (paras.18-32), please update the Committee regarding the progress of investigations into allegations of torture and other ill-treatment stemming from the post-election events in Chişinău in April 2009.

(a) Please provide the total number of complaints of torture or ill-treatment submitted to the Prosecutor General's office in connection with the events. Please also provide updated information on the status of the 29 criminal cases of torture, the 17 criminal cases of abuse or power or breach of duty, and the four cases of negligence mentioned in the State party's follow-up response, indicating how many investigations remain on-going, how many have been completed, how many have resulted in trial, and the decision reached and any criminal sentence imposed in each case. Please indicate whether any persons have been prosecuted on grounds of command responsibility, and if so, the articles of the Criminal Code under which they were charged. Please also indicate how many individuals have been dismissed from the staff of the Ministry of the Interior or law enforcement bodies in connection with the April 2009 events, the duration of any such dismissals, and whether any were permanently dismissed from public service;

(b) Please indicate the steps the State party is taking to ensure the resumption of investigations into the 25 criminal cases suspended by the Prosecutor's office on the grounds that the alleged victims of torture were unable to identify the perpetrators, as described in the State party's follow-up response to the Committee, and specifically indicate the status of any investigation into the beating of Damian Hincu by police officers, which was reportedly resumed in 2011 following the publication of CCTV footage depicting him being beaten;

(c) Please describe measures taken to respond to reports of persons being pressured to withdraw complaints related to abuses during the April 2009 events;<sup>29</sup>

(d) Data on the compensation awards made to individual victims of torture or ill-treatment by law enforcement officials in connection with the events of April 2009, including the number of persons who have received compensation and the amounts they have received;

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<sup>29</sup> A/HRC/19/61/Add.3, p.314.

(e) Please describe any other ongoing measures to effectively address the remaining human rights consequences of the events of April 2009, including any measures to monitor the implementation of the recommendations of the ad-hoc Parliamentary Inquiry Commission into the events of 7 April 2009 and any measures taken to fully implement the decision of the European Court of Human Rights in *Taraburca v. Moldova* (Application no. 18919/10) on ill-treatment by police during and after the protests and the authorities' failure to investigate.

#### Article 14

32. In light of the Committee's previous recommendations (para.20) and the State party's follow-up responses to the Committee (paras.40-47), please provide up-to-date information on:<sup>30</sup>

(a) The number of requests made for compensation, including the means for rehabilitation, and the amount ordered by the courts and actually provided to victims of torture, or their families, since the examination of the last periodic report in 2009.

(b) The compensation paid to victims of torture and ill-treatment following decisions of the European Court of Human Rights finding a violation of article 3 of the European Convention on Human Rights by the State party during the reporting period, including *Arseniev v. Republic of Moldova* (no. 10614/06); *Buzilo v. Republic of Moldova* (no. 52643/07); *Hadji v. Republic of Moldova* (nos. 32844/07 and 41378/07); *Feraru v. Moldova* (no. 55792/08); *Pascari v. Moldova* (no. 53710/09); *Taraburca v. Moldova* (no. 18919/10); *Lipencov v. Moldova* (no. 27763/05); *Parnov v. Moldova* (no. 35208/06); and *Gavrilovici v. Moldova* (no. 25464/05).

(c) How victims of torture and ill-treatment are informed of available rehabilitation services, the extent of available rehabilitation services in the State party, and the number of individuals who have used such services during the reporting period. Has the State party has increased funding for rehabilitation of victims of torture since the consideration of the previous report. Has the State party taken any measures to establish a domestic fund for victims of torture and allocate sufficient financial resources for its effective functioning?

#### Article 15

33. In light of the Committee's previous recommendations (para.21), please provide information on the measures taken to ensure that, in practice, evidence obtained by torture shall not be invoked as evidence in any proceedings, in accordance with article 15 of the Convention.<sup>31</sup> Please provide information on cases in which a court applied the relevant national provisions, including article 94 of the Criminal Procedure Code, and excluded evidence from consideration in a court case on the basis that it was obtained through torture. Please indicate whether the State party is investigating the cases of Adrian and Constantin Repesco, who were sentenced to imprisonment for 16 and seven years, respectively, for murder, by the Court of Appeal of Chisinau on 6 June 2011, on the basis of a confession that Adrian Repescu alleges he made under torture in August 2007. Please also indicate whether the State party is investigating the allegations of Ivan Orlioglo, Ivan Caracet, Dmitrii Covic, and Vitalii Orlioglo that they were convicted of armed robbery and assault on 30 June 2011 on the basis of testimony they alleged was obtained through torture, despite the fact that the judge allegedly noted serious "infractions" by investigating

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<sup>30</sup> CCPR/C/MDA/Q/3, para.5; A/HRC/10/44/Add.3, paras.79-80 and 90(d); A/HRC/19/61/Add.3, p.385.

<sup>31</sup> A/HRC/10/44/Add.3, para.76; CAT/C/MDA/Q/2/Add.1, para.296; CAT/C/MDA/2, paras.266-267.

officers, suggested that the men should receive compensation, and reduced their sentences of imprisonment by three years as a result.

#### Article 16

34. Please provide information on the prevention, investigation, and prosecution of acts of torture directed against juveniles in detention. To what extent has the State party implemented the recommendations on the administration of juvenile justice by the Committee on the Rights of the Child (CRC/C/MDA/CO/3, para.73) and the Human Rights Committee (CCPR/C/MDA/CO/2, para.20)?<sup>32</sup> In particular, please provide information on measures taken to establish a juvenile justice system in compliance with international standards; to protect the rights of children in detention and monitor their conditions of detention; to ensure that juveniles and adults are separated in all situations of detention; to provide child-sensitive and accessible complaints mechanisms for children deprived of liberty; and to implement alternatives to the deprivation of liberty for minors, such as probation and mediation. Also, please clarify commitment procedures for juveniles in detention or psychiatric facilities and whether such decisions can be appealed. Please provide statistics on the number of juveniles in detention, including length of sentences being served, number of appeals made and their outcomes.

35. Considering the recommendations by the Committee on the Rights of the Child (CRC/C/MDA/CO/3, para.38), what measures have been taken to enforce the legislative prohibition against corporal punishment in all settings, including in families, the school system and other educational settings? How has the State party engaged civil society in its efforts?

36. Please clarify how the State party is ensuring enforcement of all protections as required by the law against child labour, particularly in light of the recommendations of the Committee on the Rights of the Child. (CRC/C/MDA/CO/3, para.64)

37. Please provide information on solitary confinement in detention, including for persons sentenced to life imprisonment as well as detainees on hunger strike. Please describe measures by the State party to limit use of solitary confinement as a measure of last resort, for as short a time as possible under strict supervision and with a possibility of judicial review.<sup>33</sup>

38. In light of the Committee's previous recommendations (para.25), please provide information on the measures taken to eradicate hazing in the armed forces (*dedovshchina*). Please provide information on measures taken by the state party to effectively investigate and prosecute such conduct during the reporting period, and to prevent hazing in the future, including information about any prosecutions involving such conduct by the Martial Court during the reporting period. Please also provide information about measures to guarantee the rehabilitation of victims of hazing, including appropriate medical and psychological assistance.

39. In light of the Committee's previous recommendations (para.26),<sup>34</sup> please provide information on the measures taken to improve living conditions for patients in psychiatric institutions, such as Orhei psychiatric hospital and the secure ward of Chişinău psychiatric hospital;<sup>35</sup> develop alternative forms of treatment; ensure that all places where mental

<sup>32</sup> A/HRC/WG.6/12/MDA/2, paras.52-53; A/HRC/WG.6/12/MDA/3, para.38.

<sup>33</sup> A/HRC/10/44/Add.3, paras.37, 46, 60, 89, and 90(g); A/63/175, paras.77-85; A/HRC/19/61/Add.3, p.357.

<sup>34</sup> A/HRC/10/44/Add.3, paras.42-44 and 90(f); E/C.12/MDA/CO/2, para.24.

<sup>35</sup> CPT/Inf (2012) 3, paras.111-118.

health patients are held for involuntary treatment are regularly visited by independent monitoring entities to guarantee the proper implementation of their basic legal safeguards; and implement the European Court on Human Rights' decision in case of *Gorobet v. Moldova* (Application no. 30951/10). Please comment on reports that in 2010 there were 60 persons involuntarily detained in hospitals under article 28 of the Mental Health Law and that persons detained in psychiatric care have no access to procedures for their release. Please describe measures taken to ensure that psychiatric detention is not imposed as a retaliatory measure against individuals seeking to bring criminal complaints, including victims of torture and rape.<sup>36</sup> Please provide information on any investigation into reports that Mr. Evgenie Fedoruk was involuntarily transferred to a psychiatric hospital following his arrest and detention by police in April 2011, during which time he alleged he was tortured.

40. In light of the Committee's previous recommendations (para.24) and the State party's follow-up responses (paras. 48-53), please provide data on the number of persons detained for "avoiding treatment" of tuberculosis, how long they were detained, the number of persons presently detained and the location of detention. Please indicate the measures taken by the State party to ensure that persons detained for "avoiding treatment" benefit from adequate safeguards, particularly access to legal counsel and contact with family members, and procedural rights.

41. Please provide the following:

(a) Data on the number of women who underwent contraceptive sterilization during the reporting period. Please indicate measures the State party is taking to ensure that all women undergoing contraceptive sterilization do so, on the basis of free and informed consent, and to address allegations that many sterilized women subsequently reported not being informed of alternatives to sterilization or the permanence of the procedure.

(b) Information on whether abortion is a criminal offence in the State party, the punishment for women who undergo abortion and the number of women currently imprisoned for charges relating to abortion, disaggregated by location. If the State party does not intend for women who obtain abortions to be subjected to criminal liability, please discuss measures taken by the State party to make this clear to police, prosecutors, and judges. Please also indicate whether any law enforcement personnel have been disciplined or prosecuted for interrogating or arresting women who have been hospitalized for complications resulting from abortion.

(c) Data on the number of men who have been forcibly subjected to chemical castration as a criminal penalty. Please describe the conditions under which such castration may be ordered and any regulations governing the practice.

42. Please indicate measures taken to prevent and punish violence against members of religious, racial, and ethnic minority communities. Please provide

(a) Information on whether the State party incorporated in its Criminal Code an offence to punish acts of intolerance and incitement to hatred and violence based on sexual orientation as hate crimes, and if it has, provide statistics on the number and type of prosecutions under this provision and the sentences imposed;

(b) Data on violence, harassment, and related acts against members of religious minority communities, including Muslims, Jews, Jehovah's Witnesses, and Protestants, and indicate the status of any investigations into these incidents. Please comment on measures taken to investigate the report communicated by the Special Rapporteur on the question of

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<sup>36</sup> A/HRC/10/44/Add.3, para.44.

torture (A/HRC/16/52/Add.1) that in 2010, Mr. Grigori Djoltaili was assaulted and intimidated because of his family's membership in the Christian Evangelical Baptist Church;

(c) Data on racially-motivated violence, harassment, and related acts during the reporting period, measures taken to prevent racially-motivated violence and to investigate and prosecute perpetrators, and clarify the provisions applied and sentence imposed in any prosecutions during the reporting period;

(d) Data on violence against or harassment of Roma during the reporting period, indicate whether any prosecutions or convictions have occurred, and describe measures to prevent violence and discrimination against Roma by law enforcement officials.

43. Please provide updated information on measures taken by the State party to respond to any threats of terrorism. Please describe if, and how, such antiterrorism measures have affected human rights safeguards in law and practice. Please describe relevant training given to law enforcement officers; the number and types of persons convicted under such legislation; the legal safeguards and remedies available to persons subjected to antiterrorist measures in law and in practice; whether there are complaints of non-observance of international standards; and the outcome of these complaints.

**General information on the national human rights situation, including new measures and developments relating to the implementation of the Convention**

44. Please provide detailed information on the relevant new developments on the legal and institutional framework within which human rights are promoted and protected at the national level that occurred since the previous periodic report and any relevant jurisprudential decisions.

45. Please provide detailed relevant information on the new political, administrative and other measures taken to promote and protect human rights at the national level, that have occurred since the previous periodic report, including on any national human rights plans or programmes, and the resources allocated thereto, their means, objectives and results.

46. Please provide any other information on new measures and developments undertaken to implement the Convention and the Committee's recommendations since the consideration of the previous periodic report in 2009, including the necessary statistical data, as well as on any events that occurred in the State party and are relevant under the Convention.

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