



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

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Committee against Torture

List of issues prior to submission of the fourth periodic report of the Republic of Moldova*

Specific information on the implementation of articles 1–16 of the Convention, including with regard to the Committee’s previous recommendations

Issues identified for follow-up in the previous concluding observations

1. In its previous concluding observations (CAT/C/MDA/CO/3, para. 33), the Committee requested the State party to provide information on follow-up to the Committee’s recommendations on issues of particular concern, namely the provision of fundamental legal safeguards to persons deprived of their liberty, the death in custody of Andrei Braguta, and the national preventive mechanism (see paras. 9, 14 (i) and 16 (c)). The Committee expresses its appreciation for the State party’s follow-up response on those and other matters contained in its concluding observations and the substantive information on the follow-up issues provided on 31 July 2019 (CAT/C/MDA/CO/3/Add.1). The Committee considers that the recommendations included in paragraphs 9, 14 (i) and 16 (c) mentioned above have been partly implemented (see paras. 2, 12 (a) and 6 of the present document).

Article 2¹

2. With reference to the Committee’s previous concluding observations (paras. 8–9) and the follow-up information provided by the State party,² please indicate:

(a) Any steps that were taken during the period under review to ensure that arrested persons and those in pretrial detention are afforded all fundamental legal safeguards from the outset of their deprivation of liberty, including the rights to have prompt and confidential access to a qualified and independent lawyer or legal aid immediately after arrest and during all stages of detention, including at all hearings; to request and receive a medical examination conducted in confidentiality by an independent doctor; to inform family members or other persons of their choice of their detention; to be informed of the charges against them and their rights; and to have information concerning their detention, including the application and duration of special measures and transfer to other facilities, recorded consistently in a register at the place of detention and in a central register of persons deprived

* Adopted by the Committee intersessionally on 2 December 2020.

¹ The issues raised under article 2 could also touch on issues raised under other articles of the Convention, including article 16. As stated in paragraph 3 of the Committee’s general comment No. 2 (2007) on the implementation of article 2, 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 under article 16 (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 also chapter V of the same general comment.

² CAT/C/MDA/CO/3/Add.1, paras. 1–5.



of their liberty, to which their lawyers and family members have access. In addition, please indicate whether detention registers are properly kept in relation to cases of persons held in 72-hour detention in police isolation cells, particularly that their apprehension and their transfer to pretrial detention facilities are recorded, and whether steps have been taken to ensure that their detention is not recorded in the visitors' register;

(b) Whether the application of the statute governing the fulfilment of punishment by convicts, whereby the administration of the penitentiary, "within 15 days from receiving the convict, informs the court about this, communicate to the spouse, to one of the relatives of the detainee or to another person indicated by him/her, ... the list of objects and foodstuffs of prime necessity that they may have on them, have them delivered or buy in the penitentiary stores,"³ means that the State party's penitentiary system does not provide persons deprived of their liberty with even the basic necessities, in accordance with international standards;

(c) Whether routine medical examinations upon deprivation of liberty continue to be carried out in some cases on the second day after arrival in police isolation cells and are conducted by paramedics and not by independent qualified medical doctors;⁴ whether police officers continue to distribute medicines; whether medical check-ups can take place after 5 p.m. and on weekends; whether Registers on the Use of Physical Force and Special Means are filled in correctly in all police isolation cells; and whether detainees undergo medical check-ups after being subjected to the use of special means;

(d) The outcome of the work of the two working groups set up within the framework of the Council of Europe project "Promoting a Criminal Justice System based on Respect for Human Rights in the Republic of Moldova" to review the regulation on the provision of medical examinations to detainees in penitentiaries and the regulation on the presentation of seriously ill detainees for release from the execution of punishment;⁵ if so, please provide details. In addition, please indicate whether medical records are compiled for every detainee in accordance with General Police Inspectorate order No. 444, and whether they mention any medicines received from detainees' relatives, including supplies of vital medicines such as antiretroviral drugs;

(e) Whether the medical services in the penitentiary institutions of the State party that, at the time of submission of the State party's follow-up reply, had not complied with the evaluation and accreditation standards set out in the provisions dated 12 February 2019 of the National Administration of Penitentiaries have now done so.⁶ In this context, please explain why the hospital in Penitentiary No. 16 in Pruncul has continued to function despite losing its status as a hospital under the National Administration of Penitentiaries and despite the fact that it does not have a health authorization and that its medical services are not in compliance with national standards;

(f) Any measures taken, including monitoring activities, to ensure compliance in practice with the fundamental legal safeguards afforded to persons deprived of their liberty.

3. With reference to the Committee's previous concluding observations (paras. 10–11), please provide information on:

(a) Steps taken to ensure that persons who are arrested on criminal charges and held in police isolation cells are brought before a judge within 48 hours; and that no one is held in pretrial detention for periods longer than those prescribed by law;

(b) Reports received by the Committee that juveniles can be held in pretrial detention for up to eight months; and that children are incarcerated together with adults;

(c) Any amendments made to legislation with a view to shortening the duration of pretrial detention; specific steps taken to reduce the number of cases of preventive arrest and

³ Ibid., para. 4.

⁴ https://tbinternet.ohchr.org/Treaties/CAT/Shared%20Documents/MDA/INT_CAT_FUL_MDA_39765_E.pdf.

⁵ CAT/C/MDA/CO/3/Add.1, para. 2.

⁶ Ibid., para. 3.

detention, in particular for minor crimes; and any consideration given to replacing pretrial detention for minor crimes with non-custodial measures, including electronic surveillance;

(d) The introduction of protocols and the appointment of qualified staff in police isolation cells and pretrial detention facilities to interact with persons with mental disorders and psychosocial disabilities;

(e) The outcome of the implementation to date of the National Public Order and Public Security Strategy for 2017–2020 and of the relevant Action Plan to reduce abuse and discrimination against people in police custody.⁷

4. With reference to the Committee's previous concluding observations (paras. 23–24), please provide information on:

(a) Steps taken during the period under review to ensure that all allegations of violence are registered by the police and promptly investigated; and that victims benefit from protection, including the prompt issuance of emergency protective orders and the effective overseeing of their implementation by the police;

(b) The establishment of an independent complaints mechanism for victims of domestic violence; and the steps taken to ensure that victims of domestic violence have access to medical and legal services, including prompt State-guaranteed legal aid of appropriate quality, and to safe and adequately State-funded shelters throughout the country;

(c) The provision of mandatory training to police and other law enforcement officials, social workers, lawyers, prosecutors and judges in order to ensure that they are able to respond promptly and effectively to cases of domestic violence;

(d) The compilation of statistical data on domestic and other forms of gender-based violence, including marital rape; and the number of complaints concerning and investigations into cases of such violence, prosecutions of alleged perpetrators, convictions obtained and the sentences handed down.

5. With reference to the Committee's previous concluding observations (paras. 25–26), please provide information on measures taken during the period under review to: prevent trafficking in persons in the Republic of Moldova; prosecute alleged perpetrators and, if they are convicted, punish them in a manner commensurate with the gravity of the crime under appropriate articles of the Criminal Code; and provide victims with effective remedies.

6. With reference to the Committee's previous concluding observations (paras. 15–16) and the follow-up information provided by the State party,⁸ please provide updated information on:

(a) Any amendments made during the period under review to Law No. 52 with a view to resolving any ambiguities in the legal framework governing the work of the Council on the Prevention of Torture; any steps taken to formalize the process used for the selection and appointment of Council members⁹ in order to allow all the components of the national prevention mechanism to work in a collaborative manner; and any steps taken to implement the recommendations of the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;

(b) The actual amount of funding specifically allocated for and received by the national preventive mechanism;¹⁰

(c) The ability of the national preventive mechanism to carry out regular, unhindered and unannounced visits to all places where persons are deprived of their liberty, including psychiatric hospitals, psychoneurological institutions and residential institutions for children. Please also indicate whether it is able to hold individual and unsupervised interviews, as outlined in the report on the visit made by the Subcommittee on Prevention of

⁷ Ibid., para. 6.

⁸ Ibid., paras. 28–32.

⁹ https://tbinternet.ohchr.org/Treaties/CAT/Shared%20Documents/MDA/INT_CAT_FUL_MDA_39765_E.pdf.

¹⁰ Ibid.

Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment for the purpose of providing advisory assistance to the national preventive mechanism of the Republic of Moldova (CAT/OP/MDA/2, para. 27).

Article 3

7. With reference to the Committee's previous concluding observations (paras. 27–28), please provide information on steps taken during the period under review to: facilitate rapid and equitable access to an individualized refugee status determination procedure; promptly provide information on the right to seek asylum; refrain from detaining asylum seekers; detain undocumented migrants only as a measure of last resort; and ensure full respect of the principle of non-refoulement. In addition, please provide information on steps taken to ensure early identification, treatment and counselling of asylum seekers, refugees and stateless persons who are survivors of torture, sexual, gender-based violence or domestic violence; and on the establishment of any response mechanisms to provide assistance and protection to such vulnerable persons.

Article 10

8. With reference to the Committee's previous concluding observations (paras. 14 (d) and 18 (e)), please provide information on:

(a) Specific steps taken by the State party to establish protocols and train police staff, prosecutors, judges, prison staff and all staff involved in providing health services on methods of interaction with persons with mental disorders and psychosocial disabilities, and incorporate the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol) into all training programmes for law enforcement officials;

(b) Steps taken to provide continuous training to custodial staff and persons in the administration of detention facilities on the provisions of the Convention and the absolute prohibition of torture.

Article 11

9. With reference to the Committee's previous concluding observations (paras. 14 (e) and 17–18) and the follow-up information provided by the State party,¹¹ please indicate whether responsibility for temporary detention facilities has been transferred from the Ministry of Internal Affairs to the Ministry of Justice, as a measure to prevent torture and ill-treatment. Please also provide information on:

(a) Specific steps taken to reduce overcrowding in places of detention, which significantly exceeds the European average, in particular in Penitentiary No. 2 in Lipcani, Penitentiary No. 6 in Soroca, Penitentiary No. 7 in Rusca, Penitentiary No. 15 in Cricova, Penitentiary No. 18 in Branesti, and Penitentiary No. 13 in Chisinau (and consider closing Penitentiary No. 13); the level of compliance with the capital investment objective of reconstructing the remaining Provisional Detention Complexes, namely Balti, Chisinau, Criuleni and Comrat; and the construction of a penitentiary in Chisinau municipality and the reconstruction of Penitentiary No. 3 in Leova and of Penitentiary No. 10 in Goian municipality;¹²

(b) Steps taken to improve material conditions in places of deprivation of liberty by, inter alia, ensuring that detainees are provided with adequate material and hygienic conditions, including: sufficient natural and artificial light; adequate sewage systems and sanitary installations, including toilets and showers; heated cells; sufficient ventilation; an adequate quality and quantity of food, bedding, blankets and items for personal hygiene; health care; outdoor activities; and family visits;

¹¹ CAT/C/MDA/CO/3/Add.1, paras. 7–8, 16–17, 21 and 32.

¹² Ibid., para. 7.

(c) Follow-up given to the eight judgments of the European Court of Human Rights against the Republic of Moldova regarding conditions of detention.¹³

10. With reference to the Committee's previous concluding observations (paras. 19–20), please indicate whether responsibility for penitentiary medical units has been transferred from the Department of Penitentiary Institutions to the Ministry of Health, Labour and Social Protection. Please also provide information on:

(a) Specific steps taken during the period under review to improve health care in penitentiary facilities, including by hiring adequate numbers of qualified medical staff and providing them with training on the Istanbul Protocol;

(b) Steps taken to establish rules allowing inmates to obtain private medical assistance and enabling referrals to outside specialist services for those inmates who require them; to provide for the needs of inmates with disabilities and those who require mental health and psychosocial services; and to adequately address the health care and hygiene needs of women;

(c) Specific steps taken during the period under review to improve the material conditions in penitentiary health-care facilities, including by renovating and equipping patient's rooms; providing adequate food and medicines; and ensuring the provision of individualized treatment plans and medicines, including anti-psychotic drugs, for psychoneurological patients;

(d) Steps taken to separate healthy prisoners from those suffering from infectious diseases such as active tuberculosis; the provision of specialized medical care to prisoners suffering from infectious diseases; and the introduction of appropriate measures to prevent and control the further spread of infectious diseases such as tuberculosis and HIV in penitentiary facilities.

11. With reference to the Committee's previous concluding observations (paras. 21–22), please provide information on:

(a) Specific steps taken to: reduce the number of deaths in custody during the period under review; investigate all deaths in custody; ensure that independent forensic examinations are conducted, provide the autopsy reports to family members and allow private autopsies to be conducted. In this context, please explain why, according to the 2019 Activity Report of the National Penitentiary Administration, the State party had the second highest mortality rate per 100,000 inmates in Europe in 2019 (36 cases), which represents a 19.44 per cent increase over the figure for 2018 (29 cases);

(b) The acceptance by courts in the State party of reports of independent forensic examinations and autopsies as evidence in criminal cases;

(c) Steps taken to ensure that custodial staff are required to record all cases in which physical force and other special measures have been used against inmates; to ensure adherence to the rules on the use of force in the penitentiary system; and to allow a system of regular independent monitoring;

(d) Any training provided to custodial staff on the management of prisoners in order to prevent the commission of inter-prisoner violence.

Articles 12 and 13

12. With reference to the Committee's previous concluding observations (paras. 12–14) and the follow-up information provided by the State party,¹⁴ please indicate whether the authorities of the State party have issued public statements at the highest level unambiguously reaffirming zero tolerance of impunity for acts of torture and ill-treatment committed by police officers, law enforcement and penitentiary personnel. Please also provide information on:

¹³ Ibid., para. 20.

¹⁴ Ibid., paras. 24–27.

(a) The full and reasoned judgment handed down by the court in the case of death on 26 August 2017 of Andrei Braguta, which was expected to have been pronounced on 19 August 2019; any other court decisions in connection with this case, noting whether prison sentences have been imposed on all seven defendants, including on counts of torture, as initially requested by prosecutors; any appeals regarding the sentences;¹⁵ and any steps taken to prevent such incidents in the future;¹⁶

(b) Any additional steps taken during the period under review to investigate the 108 complaints registered by prosecutors concerning the post-election violence of 7 April 2009 that resulted in more than 600 injuries and four deaths; as well as on ensuring that all reports of torture and ill-treatment involving public officials and non-official accomplices are investigated and prosecuted and that alleged perpetrators are immediately suspended from their duties for the duration of the investigation;

(c) The approval of the Regulation on the procedure for the identification, registration and reporting of alleged cases of torture, inhuman and degrading treatment;¹⁷ steps taken to address reported collusion by custodial staff with criminal gangs in the prison system; and specific steps taken by the employees of Prison No. 13 in Chisinau and of Penitentiary No. 16 in Pruncul to implement necessary and compulsory measures in the cases of inmates, injured persons and others requiring medical attention;¹⁸

(d) The outcome of the 2,010 complaints made regarding violations of the fundamental rights of persons deprived of their liberty, including 564 complaints regarding assurance of the right to life, physical and psychological integrity; 486 complaints regarding the provision of medical assistance; 340 complaints regarding the regime of detention; 121 complaints regarding torture; and 152 complaints regarding inhuman or degrading treatment;¹⁹ and on the outcome of the 947 petitions registered in 2018 regarding the relations between the penitentiary administration system and detainees.²⁰ In addition, please provide information on any measures taken to address the issues raised and violations found by the Council on the Prevention of Torture and the Office of the People's Advocate in 2019 and 2020; as well as on why only one criminal case related to acts of torture reached court in 2018;

(e) Steps taken to ensure that there is no institutional or hierarchical connection between those investigating acts of torture and ill-treatment and the alleged perpetrators, including with regard to replies to calls on the National Penitentiary Administration's telephone line (022 636-968) for communicating alleged cases of torture and ill-treatment and their forwarding to the Office of the General Prosecutor,²¹ and on specific steps to establish a system to effectively protect persons denouncing acts of torture.

Article 14

13. With reference to the Committee's previous concluding observations (paras. 29–30), please indicate whether:

(a) Any amendments have been made to Law No. 137 with a view to ensuring that victims of torture and ill-treatment have access to redress, including restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition;

(b) A rehabilitation programme for victims of torture and ill-treatment has been developed during the period under review, together with rules on the procedure for the reporting and registration of cases; a specific referral mechanism has been designated for early identification of victims of torture and ill-treatment by State institutions; specialized service providers have been identified; adequate budgetary resources have been allocated;

¹⁵ Ibid., para. 24.

¹⁶ https://tbinternet.ohchr.org/Treaties/CAT/Shared%20Documents/MDA/INT_CAT_FUL_MDA_39765_E.pdf.

¹⁷ CAT/C/MDA/CO/3/Add.1, para. 23.

¹⁸ Ibid., para. 22.

¹⁹ Ibid., para. 19.

²⁰ Ibid., para. 20.

²¹ Ibid., para. 16.

and a data collection system has been set up to identify the number of victims of torture and ill-treatment and determine their specific needs.

Article 16

14. With reference to the Committee's previous concluding observations (paras. 31–32), please provide information on:

(a) The timing and type of specific steps taken to ensure that independent monitoring mechanisms have access to psychiatric hospitals and neuropsychological institutions; and to provide for an independent complaints mechanism;

(b) Specific steps taken to ensure that investigations are conducted into all allegations of abuse and violence, including any violence inflicted or condoned by administrative and medical staff in such institutions; and that alleged perpetrators are prosecuted and victims are provided with redress;

(c) Specific measures taken to ensure that no one is placed in such institutions forcibly for non-medical reasons; that patients have the right to be heard in person by a judge; that the resulting decisions can be appealed; and that all persons placed forcibly in psychiatric hospitals for non-medical reasons have the opportunity to be released and receive redress.

Other issues

15. Please provide updated information on the measures taken by the State party to respond to threats of terrorism. Please describe whether those measures have affected human rights safeguards in law and in practice and, if so, how they have affected them. Please also describe how the State party has ensured that the measures are compatible with all its obligations under international law, especially the Convention. Furthermore, please indicate what training is given to law enforcement officers in this area; the number of persons who have been convicted under legislation adopted to combat terrorism; the legal remedies and safeguards available in law and in practice to persons subjected to anti-terrorism measures; and whether there have been complaints of the non-observance of international standards in applying measures to combat terrorism and, if so, what the outcome was.

16. Given that the prohibition of torture is absolute and cannot be derogated from, including within the framework of measures related to states of emergency and other exceptional circumstances, please provide information on any steps taken by the State party during the coronavirus disease (COVID-19) pandemic to ensure that its policies and actions comply with its obligations under the Convention. In addition, please specify the measures taken in relation to persons deprived of their liberty and in other situations of confinement, such as in homes for the elderly, hospitals or institutions for persons with intellectual and psychosocial disabilities.

General information on other measures and developments relating to the implementation of the Convention in the State party

17. Please provide detailed information on any other relevant legislative, administrative, judicial or other measures taken to implement the provisions of the Convention or the Committee's recommendations, including institutional developments, plans or programmes. Please indicate the resources allocated and provide statistical data. Please also provide any other information that the State party considers relevant.