



HAUT-COMMISSARIAT AUX DROITS DE L'HOMME • OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS

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Excellency,

In my capacity as Rapporteur for Follow-up on Concluding Observations of the Committee against Torture (CAT), I refer to the examination of the second periodic report of the Republic of Moldova on 11-12 November 2009. The Committee's Concluding Observations (CAT/C/MDA/CO/2, para. 33) requested further information from your Government in relation to recommendations in paragraphs 13, 15, 16, 20 and 24.

On behalf of the Committee, thank you for your Government's response of 14 February 2011 (CAT/C/MDA/CO/2/Add.1) providing the Committee with comments on those recommendations. I have reviewed them with care. The information provided assists the Committee in its ongoing analysis of the implementation of measures identified for follow-up. I would be grateful for clarification of the following items, as sufficient information is not yet provided to enable completing analysis of the progress made.

National preventive mechanism (paragraph 13)

The Committee appreciates the State party's additional clarifications regarding the national torture prevention mechanism (NTPM), including its composition, efforts to strengthen its independence and to enable it to carry out regular and unannounced visits. We understand the NTPM consists of the ombudsman/parliamentary advocate, who is advised and assisted by a Consultative Council consisting of civil society representatives and organized within the Centre for Human Rights (CHR). The Committee is pleased to learn that initial steps have begun to address the financial independence of members of the NTPM, including by paying members of the Consultative Council from the budget of the CHR. Please indicate whether measures have similarly been taken to strengthen the independence of the NTPM from the Office of the Parliamentary Advocate, so as to ensure that the NTPM avoids actual or perceived conflicts of interest.

The Committee also appreciates the information that a working group is developing a new draft law on ombudsmen which may create a specialized division within the CHR on torture prevention and alter arrangements for remuneration of staff. Please provide updated information on the status of this draft law, indicate whether all members of the Consultative Council enjoy an equal status as part of the NTPM, and describe any measures taken to increase the financial resources of the NTPM. Please also indicate if trainings have been carried out for members of the NTPM by experts in torture documentation.

.../...

H.E. Mr. Victor MORARU
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The Committee is also pleased to learn that the authorities have reportedly taken steps in reaction to the recommendations of the ombudsman following visits of NTPM representatives to places of detention. Please provide data on the number of visits that members of the NTPM have made to places of detention, whether the visit was announced in advance or unannounced, including the names of those who participated, the detention center visited, its location, the date of the visit, whether a report was issued following the visit, and whether it was made public. Additionally, please provide additional examples of measures taken by the authorities in response to reports of the NTPM, and particularly indicate whether any investigations into alleged torture or ill-treatment were initiated.

The Committee is also pleased to learn that all police commissariats have created information desks tasked with providing data on the NTPM and the rights and obligations of persons detained by law enforcement authorities, and that the administrators of penitentiary facilities have been given regulatory and legal guidance regarding the powers of the NTPM. Please indicate if any additional measures have been taken to increase public awareness of the NTPM's work.

The State party indicates that no disciplinary proceedings have been initiated against officers for interfering with the free access of NTPM members to places of detention. Please clarify whether the State party has become aware of any cases in which NTPM members were denied prompt access to places of detention or to detention registries, and if so, please provide relevant details. Has the State party taken any steps to discipline officials responsible for any such delays since the submission of its follow-up report?

Excessive use of force (paragraphs 15 and 16)

The Committee thanks the Government of the Republic of Moldova for the information provided regarding measures taken thus far to investigate allegations of excessive use of force by law enforcement officers in response to the post-election demonstrations in April 2009, including that at least 108 complaints of torture have been registered and investigated, and that 58 criminal cases, involving at least 43 members of the law enforcement forces, have been initiated on the basis of these complaints. The Committee appreciates learning of the measures already taken as well as the efforts to address future prevention, including the creation of a new division of the General Prosecutor's Office with a mandate to combat torture in May 2010. The Committee would appreciate updated information on the status of the investigations and prosecutions, including the total number of complaints of torture and ill-treatment submitted to the Prosecutor General's office in connection with the April 2009 events to date.

Please also provide updated information on the status of the 29 criminal cases involving allegations of torture, 17 cases involving allegations of abuse of power or breach of duty, and four cases of negligence mentioned in paragraphs 19, 20, and 24 of the State party's follow-up submission. Please indicate how many investigations remain on-going, and of those that are completed, how many have resulted in trial. Please indicate the decision reached by the court and any criminal sentence imposed in each case. Please elaborate on the "severe consequences" imposed following the criminal investigation into the death of Veleriu Boboc, referenced in paragraph 19 of the follow-up submission, and please also indicate if any investigation or prosecution is ongoing regarding the death of Ion Tibuleac.

With regard to paragraph 24 and other relevant cases regarding the April 2009 events, please indicate whether the courts have proceeded with prosecutions of any persons whose cases were forwarded on grounds of command responsibility and if so, the articles of the Criminal Code under which each was charged, the outcome of any trials, and any criminal or disciplinary



sanctions imposed. Please also describe any measures taken to fully implement the decision of the European Court of Human Rights in *Taraburca v. Moldova* (Application No: 18919/10).

The Committee regrets to learn, in paragraph 23 of the follow-up submission, that investigations into 25 criminal cases resulting from complaints of torture were suspended by the Prosecutor's Office on the grounds that the alleged victims of torture were unable to identify the perpetrators. Please describe any efforts by the State party to ensure the resumption of any of these criminal investigations. Please particularly discuss the status of any investigation into the beating of Damian Hincu by police officers, which was reportedly suspended in May 2011 on the grounds that he could not identify the perpetrators, but resumed thereafter after publication of CCTV footage depicting Hincu's beating and the perpetrators.

The Committee appreciates the information provided by the State party in paragraph 22 indicating that 14 Ministry of Interior staff members were suspended from duty in connection with criminal investigations related to the April 2009 violence, and that nine staff members remain suspended. Please clarify why, if 43 police staff were incriminated in the criminal cases stemming from the violence as indicated in paragraph 21 of the follow-up submission, only 14 staff members were suspended from duty, noting the Committee's recommendation that officers implicated in prima facie cases of torture and ill-treatment should, as a rule, be subject to suspension or reassignment during the process of investigation. In this regard, please provide updated information on the total number of individuals who have been dismissed from the staff of the Ministry of Interior of law enforcement bodies in connection with the April 2009 events to date, the duration of all such dismissals, and whether any individuals have been permanently dismissed from public service. Please also comment on measures taken by the State party in response to reports of persons being pressured to withdraw their complaints related to torture and ill-treatment.

The Committee is pleased to learn that the State party has created a special committee to identify and assist victims of the post-election violence which has recommended compensation awards and other redress measures, and that many victims of the violence have separately petitioned the State party's courts for redress. Please provide additional information on the compensation awards made to individual victims of torture or ill-treatment by law enforcement officials, whether by the special committee or by the courts, and include the amount of compensation that each individual has received. Please also provide the number of staff of the Ministry of Interior who have received compensation for injuries incurred during the events and provide the amount of compensation awarded.

Please also provide information on the steps taken by the State party to establish an independent, impartial and credible body to investigate the allegations of misconduct by law enforcement officers during the April 2009 events, as recommended by the Committee in paragraph 15(a) of its Concluding Observations. The Committee understands that an ad-hoc Parliamentary Inquiry Commission was created to investigate the events. Please provide information regarding the composition of this commission, any measures taken to establish the independence of the Commission, whether the full report of the Commission has been made available to the public, and what measures are being taken implement any recommendations made by the Commission and to monitor the progress in this regard.

Regarding the Committee's recommendations in paragraph 16 of the Concluding Observations, the Committee appreciates the information provided by the State party regarding the regulations governing the mandatory use of identification badges by prison staff and law enforcement bodies reporting to the Ministry of Interior. However, the Committee regrets the lack of information provided by the State party regarding the enforcement of these regulations. Please indicate the number of law enforcement personnel who have been disciplined for violating these regulations. Please also indicate if the State party prohibits the wearing of hoods or masks by all law enforcement officers on duty, how the implementation of any such



regulations is currently monitored, and whether law enforcement personnel have been disciplined for wearing masks or hoods while on duty during the reporting period. Please particularly indicate whether the State party has investigated allegations recounted in the January 2012 report of the European Committee for the Prevention of Torture regarding torture and ill-treatment of detainees at Reznia prison by official personnel whose identities were obscured by hoods.

Redress, including compensation and rehabilitation (paragraph 20)

Notwithstanding the information provided above, the Committee regrets the lack of precise information provided in the State party's follow-up submission regarding specific measures taken to provide redress to victims of torture and ill-treatment, including health and rehabilitation services for victims. Please provide information on the number of requests made for redress by alleged victims of torture or ill-treatment, the amount of compensation or other redress ordered by the courts, and the amount actually provided in each case. Please clarify how victims of torture and ill-treatment are informed of available rehabilitation services, and the extent of available rehabilitation, both that which is state-organized and that which is organized by others, such as non-governmental organizations. Please also clarify the number of individuals who have used such services.

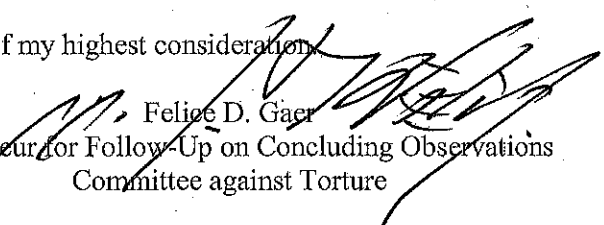
The Committee appreciates the State party's clarification that actions have been taken at the national level to implement decisions of the European Court of Human Rights, with regard to both individual complainants and the general public. However, the Committee regrets the lack of specific information on these matters. Please provide information on the compensation actually paid to victims of torture and ill-treatment by the State party in response to decisions of the European Court of Human Rights that have found violations of article 3 of the European Convention on Human Rights. Please also provide information on any actions other than the provision of compensation taken by the State party to implement ECHR decisions with regard to individual complainants or to the general public.

Forcible detention of persons with tuberculosis (paragraph 24)

The Committee appreciates the information provided by the State party regarding the legal regime governing the internment and forced treatment of persons determined to have "avoided treatment" for tuberculosis. However, the Committee notes with regret that the State party has not reviewed the regulations governing forcible detention of persons with tuberculosis, as recommended by the Committee in paragraph 24 of its Concluding Observations. Please also provide data on the number of persons detained by the State party for "avoiding treatment" for tuberculosis, the length of detention, and the number of persons presently detained and location of detention. Please clarify whether the laws governing internment for "avoiding treatment" guarantee safeguards including independent, regular review of detention measures and access to legal counsel and contact with family members. Please also indicate whether all places where persons are detained for "avoiding treatment" are regularly reviewed by independent monitors, and provide data on the number of visits made and the visiting authority.

Upon receipt of the requested information, the Committee will assess whether further information is required. The Committee looks forward to continuing a constructive dialogue with the Republic of Moldova on the implementation of the Convention and looks forward to receiving these clarifications.

Accept, Excellency, the assurances of my highest consideration.


Felice D. Gaci
Rapporteur for Follow-Up on Concluding Observations
Committee against Torture