

Rehabilitation Center for Torture victims “Memoria”, Republic of Moldova

(RCTV Memoria, www.memoria.md)

Information for the CAT

1. Foreword

In the last minute, the team of RCTV Memoria decided to submit a short report for the Committee against Torture (CAT) for its examination of Moldova's second periodic report on the implementation of the UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment (the Convention).

We decided to do so in order to bring some clarifications referring to the phenomenon of torture in Moldova, before and after the dramatic events from April 2009.

In the last few years torture has not been approached seriously by the relevant state institutions and some of the non-governmental structures, in spite of our concerns and repeated appeals to join efforts and stop this dangerous and destructive practice.

We appreciate the efforts made by the Republic of Moldova and progress towards improving the protection of Human Rights by ratifying important international human rights conventions, and by making changes to some of its legislation. However, we are disappointed by the lack of political will to take efficient steps to address torture as well as by the lack of mechanisms for the implementation of legal instruments or their ineffective use.

2. Background

RCTV Memoria was established on the 12th November 1999 and registered by Ministry of Justice on 7 December 1999. We started our activity on 15 April 2000, assisting victims of political repression from the totalitarian period, and gradually started to assist recent victims of torture, in spite of the degrading democracy in Moldova and defying the risks and threats to the team members.

Up to present we assisted (for different periods since 6 months up to 2-3 years):

- 1) 202 recent victims of torture from Moldova, including persons from the Transnistrian separatist region (156 primary and 46 secondary victims). Out of the total number, 100 persons are victims of violence from April 2009 (78 primary and 22 secondary victims);
- 2) 168 victims among refugees and asylum seekers in Moldova;
- 3) 872 victims of torture among former political prisoners and those repressed by the totalitarian regime.

The two recent cases of victims (Colibaba and Gurgurov) assisted at RCTV Memoria, heard and considered at ECTHR, became methodical and are used widely in the trainings of various professional groups at national and international levels.

Since the beginning of our activity, our team has been involved in assisting victims of torture, gradually improving their knowledge in medico-social rehabilitation, medical documentation and prevention of this phenomenon, benefiting from support of our colleagues from European and international networks.

Working in stressful and risky conditions during the years, team members of RCTV Memoria have been very concerned about the gravity of the torture phenomenon in the Republic of Moldova and of the failure the Moldovan Government to fulfil of its obligations under the Convention to:

- **Respect the rights** of victims to adequate reparation, restitution and rehabilitation, according to art. 14 of UN CAT.
- **prevent** and
- **absolutely prohibit** torture and other cruel, inhuman or degrading treatment or punishment;

ON another hand, for a long period, RCTV Memoria has been concerned about the inadequate approach of the phenomenon of torture by relevant international institutions accredited in Moldova, by potential donors as well as by some of the HR organizations and Programs, which have been in close cooperation with State institutions. Unfortunately, the rehabilitation of victims and efficient prevention of torture were not among their priorities until April 2009.

As far as the relevant state institutions from Moldova are concerned, such as the Ministry of Interior, Ministry of Justice, the General and Municipal Prosecutor Offices, the Center for Human Rights, the Center for Forensic Medicine, we would like to point out that, in the last years, RCTV Memoria invited their representatives to participate in the organized public events, trainings, Round tables, etc.

The main aim of their participation was to be informed and get involved in the discussions about the phenomenon of torture in Moldova, about its roots and identified problems, about the need for appropriate approach, documentation and investigation of cases.

However, RCTV Memoria was deeply concerned, that despite their active participation, understanding of the problems, the positive steps made at the legislative level and the willingness to admit to the existence of human rights problems and using of torture, **there was an obvious lack of political will to change practice to eliminate torture and other ill-treatments within police detention.**

April 2009

The amount of unsolved problems related to the state system malfunctioning, as well as due to inappropriate behaviours of individuals employed by the police and other various state structures, led to the outburst of unimaginable violence and massive repressions in April 2009. As a result, hundreds of persons, including minors, have been arrested, persecuted and/or subjected to various forms of torture and ill-treatments. Thus, torture was used as a political instrument, aiming to spread fear and terror in society.

From April to October 2009, 78 primary victims, including 9 minors and 22 secondary victims (close relatives, being deeply traumatised) were registered, assisted and had their cases documented at RCTV Memoria.

According to their statements, we registered the following **allegations of torture and ill-treatments:**

A) Circumstances of arrest and detention: the majority of victims were arrested on the 7th and 8th of April, in the street, at home, or in a public place especially by persons wearing civil clothes. According to the situation, place and context, the arrests were made in a discrete manner or very brutally and violently. Usually, they were transported (or escorted) to one of the district police stations from Chisinau (Center, Buiucani, Botanica, Ciocana; Rascani) and after that to the General Police Station (GPS). In some of the cases they were taken directly to GPS. In the majority of the

cases, they were not allowed to inform relatives or solicitors about their arrest and place of detention.

After informal trials which were organized inside of the Commissariat (as during the Stalinist period!) without the assistance of a lawyer or with an informal one, the following procedures were taken:

- a) house arrest;
- b) detention for various periods (5, 10 or 30 days);
- c) Temporary release, with the penal cases remaining opened.

Detention took place in IDPs (Isolators for Preventive Detention) such as Penitentiary N 13 (SIZO) from Chisinau, as well as the police station from Vulcanesti, Taraclia, Drochia and possibly other regions for the cases with serious injuries, as we understood later. Usually, the persons from South were sent to North and vice versa, in order to create impediments for relatives and solicitors to visit them and to acknowledge the signs of violence.

B) Review of the alleged torture methods.

According to the victims' declarations, they have been subjected to torture and ill treatments during arrest, transportation, investigation and even during the trials, mainly by persons in civil clothes. From the related testimonies, victims with serious injuries were condemned to 30 days and usually sent to other police stations out of Chisinau. As a result of torture and beatings, some of them lost consciousness, but were beaten again in order to wake up.

1) The most common physical methods of alleged torture and ill-treatment:

- Simultaneous beating by numerous persons (3-10 or even more), and forced to keep head down in order to prevent them seeing what was happening around; Whoever tried to take a glimpse of anything or his friends, was hit heavily over the face (including girls);
- Passage through the "corridor of death" (several blows applied from both sides over the whole body, while marching through corridors inside the buildings, or from the car to the entrance of the police stations or jails);
- Fist strikes, feet blows, stick blows, water pipe strikes and beatings with other objects, over the whole body, especially over the head (face and neck), epigastria region (solar plexus), back and legs; the victims were not able to defend or avoid strikes, due of forced positions, handcuffs or being sprawled on the floor, etc.
- Blows with the hand palms over the ears (so-called "telephone") or over one ear.
- Cigarette burning (one case);
- Exposure to cold temperature (humid and cold cells) without adequate clothes;
- Restriction of physical mobility (small cells; cages with metal bars, car trunks and transportation of 25 persons in a 10 seats car for about 6 hours);
- Forced position for 2-4 hours and more: near the wall or on the knees on the floor and with the hands up, etc., and forced to stay still. Every movement was associated with beatings and punishment.
- Lack of access to medical care;
- Toilet facilities restrictions;
- Lack of water for 6 to 12 hours up to 3 days;
- Contaminated water or dirty bottles, used by all the detainees;
- Lack of food for 12 hours up to 3 days;
- Sleep deprivation for 3 to 10 days;

2) The most common Psychological methods of alleged torture and ill-treatment:

- Threats to the victim: with long-term detention, death (including "gun to head" threats) and rape;

- Threats to relatives, friends, colleagues: with custody, detention, various “difficulties” such as losing jobs, removal from universities, colleges and high schools, etc;
- Sensorial deprivation (dark cells, without windows and lack of possibility to grasp the moments of the day);
- Perceptual techniques: restriction of communication with the outside world, lack of access to information, disinformation, misinformation, contradictory information and messages, cross interrogations by different persons;
- Restricted access to vital needs and humiliation if such facilities were required;
- Limited or prohibited contacts with family and friends;
- Restriction of participation in political activities (forced to sign a statement that they will never participate in anti-communist protests);
- Restricted access to education (including forced absenteeism from school due to detention or house arrests);
- Humiliation through different techniques: verbal sexual attacks and sexual humiliation, verbal sexual threats (ex: threats with rape);
- Forced to undress completely for a search, as it was “explained”, but in the meantime victims were forced to make some physical exercises (about 30 “flotations” and/or flexion of knees) in a humiliating manner. If a person was not able to do 30 exercises, he was beaten, in spite of injuries or previous traumas. In some of the cases the man were stroked with legs over the genitals. Similar ill treatments or even worse were used towards girls.
- Witness the sexual aggression of others (some of the boys reported hearing the rape of a girls in the next cell);
- Witnessing torture of others;
- Techniques of coercion: forced signature of false testimonies;
- Impossible choices / carrying out incompatible actions (dilemma, tragic conflict, etc);
- Forced to revealing information;
- Blind obedience;
- Lack of possibility to help others (especially in the “corridor of death”);
- Sleep deprivation: night interrogations or transportations from police station to detention centers from North to South, involving 300 km trips;
- Limited or lack of access to medical examination;
- Inadequate medical examination and assistance; forbidding of hospitalization in the cases of serious injuries;
- Refusal of medicines: in a case of asthma, during the inquiry a police man discovered a recipient with *Salbutamol* and demonstratively broken it when the patient asked to allow its using, if needed;
- Any response provoked opposite reactions; any refusal for cooperation was used as a reason to continue torture;
- Influencing detainees to proceed in a certain way, using persuasion and manipulation of the victims by their appointed lawyers;
- Pavlovian conditioning: some favors could only be gained only through a specific behavior.

The difference between the methods of torture used in sporadic cases and in the massive violent attacks during the events of April 2009:

- a) In sporadic cases, victims are subjected during a longer period to different physical and psychological methods of torture, aiming to break down their personality and force them to sign various papers and recognise even uncommitted crimes. In sporadic cases police was using various instruments such as gas-masks, electrical appliances or generators and methods such as beating or forced standing, without leaving visible damage or traces. Moreover, the perpetrators were not pressed as the weaknesses of the national legislation allowed them to keep victims in custody for as long as they needed, inclusively by using the

new and “fabricated” cases against those who claimed torture. In some of the cases they were using psychological pressures to the family members of detained victims or their solicitors.

- b) During the violent events from April 2009, the aim of torture was to inspire fear in the Moldovan society and it was used **as a political instrument** to help the former governors to keep control by breaking down the enthusiasm of the youth who protested against the communist rulers and fought for the instauration of a democratic society. The perpetrators were well organized, fully equipped, armed and possibly encouraged by superiors to create as much terror and chaos as possible by using physical and psychological torture openly and widely, even against innocent and peaceful protesters. Moreover, even persons who have not been involved in the organised protests or actions of vandalism were arrested and tortured.

Psychological consequences of the violent events from April: 78 persons (100%) met the clinical criteria for PTSD (Post Traumatic Stress Disorders), as well as symptoms of increased anxiety and depression.

The main **physical consequences** are cranial-cerebral traumatisms – 64 cases (83%) caused by cruel beating over the head with various objects. Moreover, Memoria has registered:

- 7 cases of bone fractures, including one with pneumothorax who required a surgical intervention;
- 6 cases of post-traumatic deafness (caused by the torture method “the telephone”);
- 2 cases of kidney concussion

Some of victims are still in period of diagnostic investigation.

3. Our answers by articles and LOI (list of issues):

Articles 1 and 4

1. Even if Moldova ratified the UN Convention against Torture in November 28th 1995, up to present it has not established a State unit for the effective implementation of this important document. The actions taken are sporadic (or from Report to Report) and uncoordinated, lacking continuity, serious approach and visible results.
2. The Legislation was improved, but the needed and effective implementation mechanisms were not established or implemented, in order to investigate torture and to help victims.
3. The definition of torture is not used properly, according to the Convention, and the psychological torture and consequences are not taken into consideration and are not included in the majority of the medico-legal reports.

Recommendations:

1. The establishment of a State unit (preferable inter-departmental, inter-ministerial, etc.) dedicated to the Implementation of the UN CAT in Moldova.
2. Setting up effective implementation mechanisms for the legislation in force.

Article 2

1) Access to solicitors:

According to Memoria beneficiaries, they have not been informed about their rights and had no access to a lawyer immediately after their arrest. In some of the cases, inappropriate legal assistance has been recorded during the events from April 2009 as well as before and after this period.

Moreover, in April 2009, some of the solicitors used the critical situation of arrested protesters in order to ask more money from their relatives, promising to “save” them from long-term detention, as they have been threatened by communist authorities.

Recommendations:

- To revise the activity of the Bar Association from Moldova, in order to ensure adequate legal assistance for victims of torture
- To organize trainings and periodic evaluations of lawyers' knowledge in the field of torture.

2) Unannounced inspections of pre-trial detention centres:

Usually the majority of the visits of NGOs and other actors, reported by the State were previously **announced** and performed mostly in the penitentiaries being under the responsibility of the Ministry of Justice. Actions were planned and some projects implemented *for* and *with the participation* of detainees.

During the last years, the access **has been restricted**, especially in the cases where these visits were inconvenient and “problematic” for the administration of penitentiaries.

Usually and preferentially, the announced visits were accepted conditionally, for example, only if the following aims were declared by the visitors:

- To provide services to detainees;
- To perform informative actions and trainings ;
- To make donations ;
- To expand libraries, sports halls, etc.;

During these actions, if it was possible, the representatives of some NGOs (including RCTV Memoria) used the opportunity to monitor the HR situation. That was the reason for which the administration of some institutions decided to introduce restrictions even for announced visits. In the same time, visits aiming to identify potential cases of ill treatments or meetings with alleged victims, have been regularly postponed, restricted or prohibited.

3) Gender issues and monitoring of sexual violence.

RCTV Memoria considers that sexual violence in detention is not monitored, possibly with the exception of serious alleged cases of rape. On another hand, we have noticed the lack of knowledge in the area of investigation and documentation of sexual and/or gender based violence among prosecutors from Chisinau, dealing with cases from April 2009.

E.g.: The girls arrested in April 2009 were forced after their release, to sign a declaration, that they they have not been raped. However, sexual abuses such as forced nudity, verbal sexual threats, groping, abuse, mock and humiliation have not been taken into consideration as torture methods.

Recommendation:

- To organize trainings on gender based and sexual violence for relevant professionals, investigators, members of NPM and those who will perform the prevention visits to places of detention.

4) The judiciary situation in Moldova

In the last years, the judiciary system from Moldova, including the Constitutional Court, demonstrated a total dependence upon the governing communist party and its leader. A few number of judges attempted to keep their verticality and to use the Law stipulations, but some of them have been dismissed or demoted.

Some of the judges are delivering even currently the mandates for arrest in a deliberate way, “at the requirement” of investigators. In April 2009, some of the judges performed speedy trials (from 8 to 12 cases per hour) inside police stations, against protesters and other detainees.

Recommendation:

- To organize trainings and periodic evaluations of judges’ knowledge in the field of torture legal provisions.
- 5) The dramatic events from April 2009, demonstrated that even peaceful protests have been used to create chaos, acts of vandalism and destructions, in order to have **justifications** of torture, which was used as a political instrument against a part of non-obedient society.
- 6) **The cases addressed to ECtHR** are only the peak of an iceberg, named “torture in Moldova”. The alleged policemen in the cases Colibaba and Gurgurov, were not taken to Courts, even if torture was proved and recognized at ECtHR in Strasburg.

7) The Centre for Human Rights (CHR):

- Resources of CHR have been deliberately limited, after its involvement as a part of the NPM (National Preventive Mechanism);
- Between 2006 and 2007, the former Ombudsman started to be more active in the field of torture, presenting adequate reports. However, the suspicious death of Mr Cucu (one of them) reduced others to passive waiting of the end of their mandate. Some of the new nominated Ombudsman (in November 2008) demonstrated from the start a visible loyalty to authorities.
- During the last 3 years, CHR referred only one case of torture to our center have been referred only a case of torture. Unfortunately, the death of Mr. Cucu who monitored this case, contributed to the stopping of the initial stage of this investigation, and the cases have been re-opened in 2009 with support of OMCT.

Article 10

We discovered a very limited or lack of essential knowledge regarding torture and its consequences among relevant representatives of state institutions, from various professional groups.

The Istanbul Protocol is applied in practice for adequate medical documentation and certification of torture only at RCTV Memoria, while delivering “Excerpts from the client’ files”, Memoria’s equivalents of medico-legal reports. We used till present this *modus operandi* in order to avoid difficulties and misunderstandings with the Ministry of Health and the National Center for Medico-Legal Expertise. This was because up the present day, some of the state representatives consider that our center it’s not entitled to deliver “Medical Reports”.

Memoria organized 2 seminars: “The presentation of the Istanbul Protocol” in 2007 and “The implementation of the Istanbul Protocol” in 2008. We tried to invite and involve the representatives of relevant state institutions. We explained the role and importance of the IP in the appropriate investigation and documentation of torture. Unfortunately, our proposals have not been taken into consideration by state institutions.

After the events from April 2009, the lack of basic knowledge of the state representatives with regard to adequate documentation and investigation of torture became very obvious. Our team members were forced to work intensively to assist the victims, to share our knowledge and experience with other NGOs and to work with solicitors to help them assist their clients. Moreover, after a while, various interested prosecutors asked for copies of the Istanbul Protocol from Memoria, in order to be able to face the difficulties appeared suddenly.

At present, we are working on editing and adapting the Romanian version of the Istanbul Protocol (IP), which will be ready by the end of November 2009.

Recommendations:

- To organize trainings on the implementation of the Istanbul Protocol of all the relevant professional groups: lawyers, forensic and medical doctors, prosecutors, judges as well other HR defenders and relevant actors.
- To create a state working group on the Implementation of the Istanbul Protocol in Moldova.

Article 14. (Referring to rehabilitation of torture victims)

1. In Moldova, the **need for assistance and rehabilitation** of numerous victims of torture and other inhuman and degrading treatments is **stringent**.
2. **RCTV Memoria is the only rehabilitation center** from Moldova which has a good experience and the potential to become a national or even regional **Resource Trauma Center**. In the last few years we have worked in difficult and dangerous conditions, making efforts to survive in a hostile environment and to raise money internationally for the assistance of torture victims.
3. In spite of the reported cases of torture and ill-treatments, **no victims have been referred to RCTV Memoria for rehabilitation and assistance by the state institutions** or by organizations being under the state protection and support, such as “The Committee for Complaints”.
4. The Republic of Moldova **did not contribute to the United Nations Voluntary Fund for Victims of Torture (UNVFVT)**, not even with a symbolic amount, in order to show an interest to the needs and difficulties faced by the victims.

Articles 2 and 16 (Torture and other cruel, inhuman or degrading treatments or punishments)

Up to present, in 28 of cases, the European Court of Human Rights concluded that Moldova had violated its obligations to prohibit torture and other ill-treatments in the police custody under the Article 3 of the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR).

In our opinion, this number is only the peak of a big iceberg. In reality, in Moldova there are numerous cases of non-alleged torture. We suppose that in various prisons from Moldova there are still detained victims from the previous years.

Among the **causes and roots of the phenomenon of torture in Moldova**, we quote:

1) Systemic problems:

- Using torture as a political instrument against opponents;
- Corruption in police and other state institutions;
- Impunity, added to consenting, encouraging or concealing of torture cases by superiors;
- Old and inappropriate methods of investigation and documentation of torture, including collecting of medical evidences;
- State monopoly on forensic medicine and medico-legal reports;
- Insufficient knowledge regarding torture and its consequences among medical professionals working in police stations, penitentiaries and other relevant institutions;
- Obedience towards the State and partiality of judges added to inappropriate knowledge and professionalism;
- Insufficient knowledge of relevant professionals (lawyers, prosecutors, judges, forensic and medical doctors, etc.) regarding torture, its prevention and rehabilitation as well as international legislation with regard to torture prohibition and human rights protection;
- Insufficient awareness and inadequate approach of the torture phenomenon by relevant state institutions – ministries, prosecutor offices, state departments, etc;
- Lack of effective domestic remedies against torture and inexistence of implementation mechanisms of the national legislation;

2) Individual problems of collaborators from police stations and other state structures:

- Difficult and stressful work conditions added to the lack or insufficiency of the necessary equipment, low salaries, other social problems;
- Insufficient and inadequate conditions for continuing professional development and training;
- Psychological distress disorders and lack of adequate psychological services for policemen;
- Overwhelming indicators for the evaluation of the performed activity;
- Job restrictions or imposed internal rules in extremely politicized and militarized structures;

3) Societal problems:

- Limited interest and knowledge among the Moldovans about the fundamental Human Rights and the international prohibition of torture;
- Reticence of normal citizens towards victims and their problems;
- Tolerance of torture as a practice for a long period in the Moldovan society;
- Unending crisis and poverty in Moldova;
- Vulnerable situation of victims and lack of financial means to hire solicitors;

Other issues:

1. **The National Preventative Mechanism (NPM)** for monitoring places of detention, in compliance with Moldova's obligations under the Optional Protocol to the Convention against Torture, became operational in April 2008, however, it was not effective in the adopted formula.

The Moldovan NPM was created “after consultations with the civil society organizations”, but in fact, the most important suggestions and proposals have not been taken into consideration for the final decisions.

The Moldovan NPM was not effective, because it was created using a superficial approach by state institutions, without the needed financial support, and without the involvement of experts and well-trained professionals. From the initial number of 11 members, 6 resigned from the Consultative Council, after some months of activity.

The Moldovan NPM was not independent, due to the State’s structures interference and the lack of a special budget line for its activity.

The Moldovan NPM was forced to take a certain position in support of the governmental structures and to be oriented towards “positive” reports and results.

Recommendations:

1. To revise the legal framework and Regulation about the activity of the NPM created according to OpCAT, in order to increase its independency and effectiveness.
2. To divide the responsibilities, in order to have 3 separated, but interactive independent components of the NPM:
 - A) An independent and effective working group, as a local Council for the Prevention of Torture (CPT), whose members would be well-trained experts and monitors – dedicated to visits in detention centers and preparation of reports;
 - B) A Consultative Council, comprised of NGOs representatives – for monitoring and consultations, etc;
 - C) The Ombudsman office in Moldova – for hosting, coordination, reporting activities related to torture prevention and rehabilitation.