

2022 Index on Torture

Moldova

In the Republic of Moldova, progress made in addressing torture and ill-treatment remains limited. This is particularly evident in the penitentiary system, which continues to face major issues resulting in systematic violations:

- harsh conditions of detention in penitentiary institutions
- high rates of violence among prisoners (383 registered cases¹)
- negative impact of the criminal subculture
- lack of qualified medical care, leading to a significant number of suspicious deaths within the prison environment and a high mortality rate resulting from untreated diseases (23 registered deaths²)

Furthermore, Moldova has been slow in implementing the recommendations put forth by international organisations. Specifically, the reconstruction of a new penitentiary institution, despite having its design developed and funded by the authorities, has been consistently postponed.

The practice of using physical force and riot control devices against women in places of detention is still prevalent and needs to be addressed. Although prison officials assert that they use physical force and riot control devices against detainees only as a last resort, after exhausting all other means of resolving conflicts, according to reports of the People's Advocate (Ombudsman — ed.), these means have sometimes been used disproportionately and without a valid legal basis. This practice not only inflicts physical suffering upon prisoners but also causes them to experience a perpetual sense of humiliation and fear.

Throughout 2022, a series of protests organised by prisoners took place within the penitentiary system. One such incident occurred in prison no. 17 in the city of Rezina, which houses prisoners serving life sentences. The prisoners initiated a collective hunger strike, demanding legislative and practical measures to improve the conditions of their detention. The prison administration neglected to take any measures to address and resolve the conflict. The prisoners protested against human rights violations and discriminatory treatment of inmates based on the severity of their criminal sentences, and highlighted serious problems with their detention conditions. Considering the magnitude of the protests, a delegation of MPs visited the facility and promised to address the demands put forth by the prisoners.

Shortcomings persist in the police practices, such as violations and disproportionate use of physical force.

In one instance, two persons were tortured on police premises. These individuals sought assistance from the police to resolve a conflict between them but were instead assaulted by the officers who found their call to be an inconvenience. Upon arriving at the scene in response to the phone call, the police proceeded to beat these individuals and then to take them forcibly to the police station without any legal justification. In one of the offices at the police station, the individuals were again beaten by the police, only to be released the following morning. The police officers neglected to make an entry in the visitors' logbook about the individuals forcibly delivered to the police station. The national authorities failed to conduct a thorough investigation and only imposed disciplinary sanctions on the police officers.

In 2022, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) carried out an ad hoc visit to the Republic of Moldova. The very fact of such a

¹ <http://ombudsman.md/wp-content/uploads/2023/04/Raport-privind-respectarea-drepturilor-%C8%99i-libert%C4%83%C8%9Bilor-omului-%C3%AEEn-Republica-Moldova-pentru-Anul-2022.pdf>

² Ibidem

visit serves as an indication of the Committee's assessment of the human rights situation in terms of torture prevention, as the CPT conducts ad hoc visits solely in cases where there are substantial concerns of severe human rights violations within a specific country.

During the visit, the CPT called upon the authorities to undertake five urgent measures (the specifics of which remain confidential until the report is published) to address and rectify the situation. The CPT report on the Republic of Moldova will be provided to the national authorities in June 2023 (at the time of writing, the report has not been published).

Another indicator of the current state of compliance with the prohibition of torture in practice is the number of reports received by the Prosecutor General's Office, with 453 cases alleging ill-treatment and 14 cases alleging torture. (The acquittal rate in torture cases stands very high). In 12% of cases, the proceedings have been terminated. In certain cases, it was obvious that the judges were reluctant to convict police officers for acts of ill-treatment³).

In 2022, a few concepts of legislative acts aimed at minimising the prevalence of torture were adopted, including those which proposed:

- implementing a progressive and individualised system for the execution of criminal punishment;
- reorganising healthcare provision in penitentiary institutions to enhance the independence of medical personnel;
- strengthening the capacity of prison staff;
- strengthening the role of civil society in monitoring the penitentiary system.

While acts of torture in the traditional sense may not be employed within the prison environment, the penitentiary personnel fail to effectively intervene and prevent dangerous acts of aggression and violence among inmates. Moreover, prison colony administrations tend to tolerate and condone such incidents. Prisoners who file complaints and report issues within the penitentiary to the authorities are subjected to punishment by other inmates, illustrating the enduring presence of the prison subculture.

It should be noted that prison staff are not actively working to eradicate informal hierarchies within the prison environment. In certain cases, they take advantage of the criminal subculture as a means of controlling troublesome prisoners.

Therefore, it can be concluded that torture persists, and the issue encompasses various dimensions.

The following are key causes and factors that undermine efforts to combat and eradicate torture and ill-treatment:

1. The inadequacy of medical services provided within the penitentiary environment and the lack of independence among the medical personnel who report to the Ministry of Justice rather than the Ministry of Health.

No dynamic monitoring for somatic and mental illnesses is undertaken in prison, resulting in delayed and minimally effective treatment. Even the penitentiary facility designated as a hospital lacks proper sanitary and medical accreditation. Furthermore, there is a severe shortage of medical personnel within the prison environment. The sole penitentiary institution with the status of a hospital is at risk of closure due to its inadequate staffing. In certain penitentiary institutions, the ratio of prisoners to physicians exceeds 600 to one.

According to a report by the Office of the People's Advocate, the medical services provided in prisons fall short of the standards for effective medical care and are unable to deliver proper treatment. The poor quality of healthcare in prisons directly contributes to the deterioration of prisoners' health.

³ <https://crjm.org/category/publicatii/>

0. Prison staff are not held legally accountable for encouraging verbal and physical aggression among prisoners.

Guards and security officers at prison colonies fail to effectively suppress acts of violence among prisoners. The medical personnel fails to provide adequate assistance to the victims following incidents of violence and neglects to properly document such acts. Furthermore, there is a lack of psychological assistance for individuals who have experienced acts of violence. The only recourse available to prisoners to protect themselves from verbal and physical aggression is by requesting personal safety measures, which leads to complete isolation, preventing them from engaging in productive activities and socialising.

0. Cases of violence among prisoners are often left without proper investigation.

Penitentiary officers fail to initiate internal investigations into cases of violence among prisoners and neglect to notify the Prosecutor's Office for further investigation of such incidents. The Office of the People's Advocate has repeatedly highlighted in dedicated reports the issue of violence in the penitentiary environment, attributing its prevalence to a persistent criminal subculture.

0. Arbitrary disciplinary penalties imposed on inmates

In the prison environment, severe disciplinary penalties are often applied arbitrarily without any factual grounds, leaving inmates without effective remedies to challenge such decisions. Prisoners are often unable to seek assistance from external institutions, while these institutions rarely investigate incidents occurring within the prison environment. Furthermore, complaints regarding disciplinary penalties are not subject to any further appeal process. Prisoners lack a reliable avenue to seek external assistance as their correspondence is censored by the criminal subculture, and those who exhibit significant activism and bravery are subjected to violence and intimidation.

It is important to highlight that strict isolation can be imposed as a disciplinary punishment in prison. This form of punishment is particularly restrictive by completely denying prisoners essential privileges and opportunities, such as access to medical services, participation in social activities, engagement in paid or unpaid work, and receiving parcels from relatives. Disciplinary isolation has also come under criticism because prisoners are confined to primitive cells that lack basic amenities.

0. Non-compliance with Order no. 77 of the Prosecutor General's Office of 31 December 2013

This order regulates the procedure for reporting alleged cases of torture. Employees of the penitentiary system have a duty to report to the prosecutor's office any incidents that may be presumed to constitute torture. However, in practice, prison officials consistently fail to report such incidents. This indicates the existence of collective solidarity within the prison environment, which prevents the prosecution of this type of crimes and effectively makes prison employees complicit in, and witnesses to, human rights violations.

0. Legislative changes in the functioning of the prosecuting authorities, removing them from oversight over places of deprivation of liberty.

Excluding the prosecuting authorities from the oversight of the penitentiary system can undermine efforts to ensure effective monitoring of detention conditions by an external and impartial body.

The oversight function has been transferred to the National Administration of Penitentiary Institutions, but this arrangement creates a classic conflict of interest, given the presence of collective solidarity and the potential inclination to conceal system shortcomings.

0. The prosecutor's offices, which are the sole entities authorised to investigate acts of torture, lack institutional specialisation at the practical level and are faced with an insufficient number of specialists to handle the workload effectively.

The territorial prosecutor's offices have only two or three prosecutors specialising in torture investigations, which is insufficient to handle the volume of complaints and take necessary steps in a timely manner.

Furthermore, these specialised prosecutors, despite their designated role of investigating cases of torture, are often unlawfully burdened with additional tasks which divert their time and effort away from the specific category of cases assigned to them.

0. Impunity of officials responsible for allowing the use of torture.

Torture perpetrators who have confessed their guilt are rarely punished by imprisonment. The rate of acquittals in cases of torture stands seriously higher than the average rate of acquittals within the judicial system. Furthermore, certain cases involving acts of torture remain stagnant and unresolved due to termination of criminal proceedings on procedural grounds.

0. The Centre of Forensic Medicine, the sole institution responsible for examining crucial evidence in torture cases, conducts superficial rather than in-depth examinations.

The Centre of Forensic Medicine, tasked with conducting research and providing opinions on the causes of bodily injuries, relies heavily on documentation provided by the penitentiary institution concerned. Unsurprisingly, prison officials tend to provide selective and often distorted information in order to conceal the true causes of an inmate's injuries.

Another cause for concern is that the Centre of Forensic Medicine does not conduct direct physical examinations and tests of the alleged victims but instead relies exclusively on documentation.