

Moldova

**Assessment of the Implementation of the Previous Concluding Observations on Moldova
(CCPR/C/MDA/CO/2) at the time of the Adoption of the List of Issues Prior to Reporting for the
Third Periodic Report**

Legal Resources Centre

Geneva, 26/07/2011

Article(s)/issues	Concluding Observation*	Implementation	Current Status or Additional Comments
<p>Articles 2, 6, 7, 9 and 21 (Human rights violations during the post-election demonstrations in April 2009)</p> <p><i>[CCPR/C/MDA/CO/2 paragraph 8]</i></p>	<p>Thoroughly investigate allegations of abuse by law enforcement officials during the April 2009 demonstrations through an independent and impartial body and make the findings public</p> <p>Ensure that law enforcement officers found responsible for the torture and ill-treatment of protestors, including those with command responsibility, are held accountable through prosecution and appropriate disciplinary measures and that, during the conduct of the investigation, officers implicated are suspended from duty</p>	<p>Partially</p>	<p>In November 2010, the General Prosecutor issued an order establishing specialized prosecutors to investigate allegations of ill-treatment in all territorial and specialized prosecution offices. According to this order, the prosecutors dealing with investigation of ill-treatments should not be engaged in any other investigating activity, to ensure their independence.</p> <p>The prosecution recorded 108 complaints about alleged cases of torture and inhuman or degrading treatment or punishment from police officers, as a result of April 2009 events. In 58 cases criminal proceedings were initiated, including 29 cases in which criminal investigation was ordered under Article 309/1 of the Criminal Code (torture), and in 17 cases criminal prosecution was ordered under Article 328 paragraph (2) point a) of the Criminal Code (excess of power).</p> <p>According to data provided by the Government in February 2011, 27 cases against 43 police officers have been completed and sent to the indictment in court.</p> <p>14 police officers were temporarily suspended from office, and 5 of them have been reinstated after appealing the suspension decision to the investigative judges. In April 2011, the mayor of Chisinau declared that 30 police officers that tortured people during April 2009 were advanced in functions instead being dismissed.</p>

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	<p>Ensure that adequate compensation is paid to the victims irrespective of the outcome of criminal prosecutions against perpetrators, and that adequate medical and psychological rehabilitation measures are made available to them</p> <p>Ensure respect for the right to freedom of assembly, including through the enforcement of the 2008 Law on Assemblies and put in place safeguards, such as appropriate training, to ensure that such violations by law enforcement officers do not occur again</p>	Partially	<p>In December 2010 two police officers were convicted for “excess of power” (Article 328 (2) (c) of the Criminal Code) in respect of April 2009 events and sentenced to 4 and 2 years of imprisonment respectively, with a suspension of imprisonment. On 27 April 2011, the Chisinau Court of Appeal acquitted both police officers. The decision was contested to the Supreme Court of Justice.</p> <p>On 4 May 2011, 3 police officers were convicted for “excess of power” in respect of April 2009 events and sentenced each to 2 years of imprisonment, with a suspension of imprisonment. This judgment is not final.</p> <p>On 15 July 2011, 2 police officers were convicted for “torture” in respect of April 2009 events and sentenced to 6 and 5 years of imprisonment, with a suspension of imprisonment. The General Prosecution Office declared that they will challenge this decision to the Chisinau Court of Appeal. By 22 July 2011, 11 police officers were acquitted and 5 were sentenced in respect of April 2009 events. The court decisions are not final yet.</p>

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<p>Articles 2, 7, 10 (Torture and ill-treatment in police stations and other detention facilities)</p> <p><i>[CCPR/C/MDA/CO/2 paragraph 9]</i></p>	<p>Take urgent measures to put an end to torture in police custody and other places of detention</p>	<p>Partially</p>	<p>A specialized anti-torture unit was created within the GPO. It is still not clear what the responsibilities of this unit are and if this unit will supervise or conduct criminal proceedings in cases of torture.</p>
	<p>Provide training to police and prison officials Investigate all complaints of torture or ill-treatment Prosecute and punish those responsible</p>		<p>According to the 2010 prosecution service annual report, in 2010 prosecutors initiated 110 criminal investigations concerning ill-treatment. The prosecution service submitted with the trial courts 45 cases concerning ill-treatment. Other 59 investigations have been discontinued. On 1 January 2011, 87 criminal investigations concerning ill-treatment were pending investigation.</p>
	<p>Enforce the law prohibiting the admission of evidence obtained through torture</p> <p>Ensure the availability of effective avenues of redress, with provision for compensation, as appropriate, for victims of torture and ill-treatment</p>		<p>In practice, the ill-treatment is rather qualified as “excess of power” than “torture”. The crime of torture (Article 309/1 CC) is classified as a less serious or serious crime (depending on aggravating circumstances).</p> <p>Although the CC provides that ill-treatment should be sanctioned with imprisonment exclusively; in practice the judges suspend the execution of imprisonment. Such a mild sentencing practice runs contrary to international and ECtHR standards.</p> <p>Statute limitations of 5 or 15 years are applicable to torture. This runs contrary to international standards.¹</p>

¹ Where a State agent has been charged with crimes involving torture or ill-treatment, it is of the utmost importance for the purposes of an “effective remedy” that criminal proceedings and sentencing are not time-barred and that the granting of an amnesty or pardon should not be permissible. (see Conclusions and Recommendations of the United Nations Committee against Torture: Turkey, 27 May 2003, CAT/C/CR/30/5)

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<p>Articles 19 and 26 (Prosecution of journalists) <i>[CCPR/C/MDA/CO/2 paragraph 26]</i></p>	<p>Protect the exercise, by journalists and the media, of the right to freedom of expression</p>	<p>Partially</p>	<p>On 2 August 2011 ‘Ziarul e Garda’ (The “Reporter on Guard”) newspaper was obliged to pay 250,000 MDL (approx. 22,000 USD) for moral damage of two prosecutors. This is so far the highest some of money a mass-media institution was obliged to pay. This judgment is not final.</p> <p>The minister of Justice declared he examines this case as to initiate the disciplinary procedures against the judge Ion BUSUIOC from Centru district court from Chisinau.</p> <p>On this case, a letter of concern was sent by Dunja Mijatovic, The Representative on Freedom of the Media, OSCE.²</p>
<p>Articles 2, 25, 26 (Situation of the Roma) <i>[CCPR/C/MDA/CO/2 paragraph 27]</i></p>	<p>Strengthen all the necessary measures to ensure the practical enjoyment by the Roma of their rights on an equal basis with all other social groups, including those aimed at their inclusion and integration into broader society, enforcement of the ban on racial discrimination, and raising public awareness of Covenant rights</p>	<p>Partially</p>	<p>The Roma continue to face prosecution and exclusion in virtually all fields of public life and exercising their rights. Some effort has been made to foster equality and combat discrimination (Article 6, Article 4, paragraph 1 and 2); but difficulties are encountered in practice. The rights most violated are social rights, the right to property, personal security, free access to justice and the right to a fair trial. However, it must be noted that the Moldovan Government has adopted an ‘Action Plan to support the Roma of the Republic of Moldova for the period 2007-2010’; yet the ‘Action Plan does not foresee specific measures to combat racism and racial discrimination, even though they appear to play a role in the difficulties met in the field of access to employment or education for the Roma. There also appears to me no mechanism of implementation.³</p>

² <http://www.zdg.md/stiri/ministrul-leanca-a-primit-apelul-osce-pe-cazul-zdg>

³ Roma National Centre, Report on the situation on Roma Rights, Republic of Moldova, January 2011

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Involvement of Civil Society [CCPR/C/MDA/CO/2 paragraph 28]	Facilitate the participation of civil society organizations in the preparation of future reports	Partially	The Moldovan Government encourages Civil Society engagement with the UPR process the , the UN Committee Against Torture and reporting for ICESCR, but not with any other UN Treaty Body or mechanism (as of yet).

Summary

The Human Rights reviewed the Second Periodic Report of the Republic of Moldova in October 2009.

The Concluding Observations adopted at that time included the 65 recommendations or concerns identified above.

Of these:

- XX have not been implemented
- XX have been partially implemented
- XX have been fully implemented

*The recommendations listed here paraphrase and summarise rather than quoting the Committee’s Concluding Observations (CCPR/MDA/CO/2). Every effort has been made to accurately reflect the Committee’s concerns and recommendations, but this should not be treated as an authoritative summary of the Concluding Observations