



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

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## Committee against Torture

### Forty-third session

Geneva, 2–20 November 2009

## Consideration of reports submitted by States parties under article 19 of the Convention

### Concluding observations of the Committee against Torture

#### Republic of Moldova

1. The Committee against Torture considered the second periodic report of the Republic of Moldova (CAT/C/MDA/2) at its 910th and 912th meetings (CAT/C/SR.910 and 912), held on 11 and 12 November 2009, and adopted, at its 922nd meeting (CAT/C/SR.922) held on 19 November 2009, the conclusions and recommendations as set out below.

#### A. Introduction

2. The Committee welcomes the submission of the second periodic report of the Republic of Moldova, which, while generally following the Committee's guidelines for reporting, is submitted with a delay of almost three years, and lacks statistical and practical information on the implementation of the provisions of the Convention. The Committee also welcomes the submissions of the replies to the list of issues (CAT/C/MDA/Q/2/Add.1), in which the State party provided additional information on the measures it has taken to implement the Convention. The Committee regrets, however, that the State party has not responded in the framework of follow-up to the questions that it raised in the course of consideration of the initial report of the Republic of Moldova (CAT/C/32/Add.4), despite the reminder sent on 7 March 2006 by the Committee Rapporteur on follow-up with regard to the concluding observations to the Republic of Moldova (CAT/C/CR/30/7).

3. The Committee notes with satisfaction the constructive dialogue held with the high-level delegation of the State party.

4. The Committee also notes the State party's assertion that it cannot be held responsible for violations of human rights committed on the territory over which it "does not exercise a real jurisdiction", as is the case with the left bank of the Dniester river (HRI/CORE/1/Add.114, paras. 33–34). The Committee nonetheless reiterates that the State

party has an ongoing obligation to ensure that acts of torture and other forms of ill-treatment are prohibited in all parts of its territory.

## **B. Positive aspects**

5. The Committee welcomes the fact that, in the period since its consideration of the initial report, the State party has ratified or acceded to the following international and regional instruments:

(a) The Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, in 2006;

(b) The Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, in 2004;

(c) The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, in 2005;

(d) The Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, in 2006;

(e) The Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty, in 2006;

(f) The Council of Europe Convention on Action against Trafficking in Human Beings, in 2006;

(g) The Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, in 2007;

(h) The Optional Protocol to the International Covenant on Civil and Political Rights, in 2008.

6. The Committee welcomes the ongoing efforts of the State party to reform its legislation in order to ensure better protection of human rights, including the right not to be subjected to torture and other cruel, inhuman or degrading treatment or punishment, in particular:

(a) The revision of the Criminal Code and, in particular, the inclusion of article 309/1, which brings the State party's legislation into line with article 1 of the Convention against Torture with regard to the definition of torture;

(b) The inclusion in the new Code of Criminal Procedure of article 94, paragraph 1, which makes statements obtained through the use of torture inadmissible as evidence, and the inclusion of section 3/1 to article 10, which states that the burden of proof in cases of torture rests with the institution in which the detainee was held and which must disprove the act of torture;

(c) Reforms of the criminal justice system and the introduction of probation and community service and other forms of alternative punishment, leading to a decrease in the total population incarcerated and the improvement of conditions of detention;

(d) Law No. 270-XVI of December 2008 on asylum in the Republic of Moldova, which is largely in line with international and European standards;

(e) Law No. 45-XVI of March 2007 on preventing and combating domestic violence.

7. The Committee also notes with satisfaction the following developments:

(a) Direct reference to articles 12 and 13 of the Convention by the Supreme Court of Justice in cases examined in February 2006 and March 2008;

(b) The allocation by the State party of additional resources to improve standards in places of detention, in particular with respect to access to health, activities, training and living conditions.

## C. Main issues of concern and recommendations

### Torture and ill-treatment

8. The Committee is concerned about the numerous and consistent allegations of widespread use of torture and other forms of ill-treatment in police custody, corroborated by the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment in his report (A/HRC/10/44/Add.3, para. 82). The Committee is also concerned about allegations of torture and ill-treatment being used to extract confessions or information as evidence in criminal proceedings, despite legislative and organizational changes made by the State party (arts. 2, 15 and 16).

**As a matter of urgency, the State party should take immediate steps to prevent acts of torture and ill-treatment and to announce that no forms of torture and ill-treatment will be tolerated. The State party should, in particular, publicly and unambiguously condemn practices of torture in all its forms, directing this especially to police and prison staff in positions of command responsibility, accompanied by a clear warning that any person committing such acts, as well as instigating, consenting or acquiescing in torture or other ill-treatment, will be held personally responsible before the law for such acts and subject to penalties proportional to the gravity of their crime.**

9. The Committee is particularly concerned about the numerous, ongoing and consistent allegations of torture and other forms of ill-treatment in temporary detention facilities under the jurisdiction of the Ministry of Internal Affairs. The Committee is also concerned that, despite the State party's plan to transfer responsibility over temporary detention facilities to the Ministry of Justice in the context of implementation of the Plan of Action for Human Rights for 2004–2008, the transfer did not take place and is now made conditional upon the construction of eight new remand centres (arts. 2 and 16).

**As recommended in the previous concluding observations of the Committee (CAT/C/CR/30/7, para. 6 (i)), the State party should take immediate steps to fully transfer the responsibility for temporary detention facilities from the Ministry of Internal Affairs to the Ministry of Justice as a measure to prevent torture and ill-treatment.**

### Fundamental legal safeguards

10. The Committee is concerned about allegations that fundamental legal safeguards for persons detained by the police, such as unrestricted access to lawyers and independent doctors, are not being observed, particularly at the early stages of detention, despite existing legal guarantees of articles 64 and 167 of the Code of Criminal Procedure and the adoption of the Law on State Legal Aid and of the Code of Offences. In addition, the Committee notes with concern that there is no system of mandatory use of registers in all police premises, and that, in practice, detainees are not always registered in police stations, depriving them of an effective safeguard against acts of torture. Furthermore, medical reports of independent doctors do not have the same evidentiary value as medical reports issued by medical service staff of the places of detention (arts. 2 and 16).

**The State party should:**

(a) Ensure in practice that every detainee, including when detained under the administrative law, is afforded all fundamental legal safeguards during his or her detention. These include, in particular, from the actual moment of deprivation of liberty, the right to have access to a lawyer and to have an independent medical examination, to notify relatives in a timely manner and to be informed of his or her rights, including grounds for the detention. The State party should ensure that arbitrary detention does not take place, that all detained persons are brought promptly before a judge and are guaranteed the ability to challenge effectively and expeditiously the lawfulness of their detention through habeas corpus;

(b) Introduce a procedure of mandatory medical examination for detainees on each entry and departure from the temporary detention facilities, similar to the one established under article 251, section 1, of the Enforcement Code, for convicted persons in penitentiary institutions;

(c) Ensure in practice that the findings and medical reports of independent doctors whose medical opinion may be requested on the basis of article 5, paragraph (e), of the 2005 Law on the Rights and Responsibilities of Patients and/or article 251, section 4, of the Enforcement Code, are given the same evidentiary value by the State party's courts as medical reports issued by medical service staff of the places of detention;

(d) Adopt regulations requiring mandatory use of registers in all police premises in conformity with the relevant international agreements, particularly the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment. Registration should contain information on the identity of the detainee, date, time and place of the detention, the identity of the authority that detained the person, grounds for the detention, date and time of admission to the detention facility, state of health of the detainee upon admission and any changes thereto, time and place of interrogations, with names of all interrogators present, as well as the date and time of release or transfer to another detention facility. The State party should also ensure that all detainees, including minors, are included in a central register that functions effectively.

#### **Independence of the judiciary**

11. The Committee remains concerned at the dysfunction of the judiciary in general and of the criminal justice system in particular, firstly, because of the lack of independence of the judiciary, and secondly, because of the lack of security of tenure for judges (arts. 2, 15 and 16).

**The State party should take effective and efficient measures to ensure the independence of the judiciary in accordance with the Basic Principles on the Independence of the Judiciary, if necessary by recourse to international cooperation.**

#### **Pretrial detention**

12. The Committee expresses its concern at the system of pretrial detention, in which lengthy periods are set by reference to the penalty for the offence of which the person stands accused (arts. 2, 11 and 16).

**The State party should take appropriate measures to ensure that its pretrial detention policy is appropriate to the unconvicted status of persons in detention, meets international standards, inter alia, the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, and that such detention is used as an exceptional measure for a limited period of time. Furthermore, the**

Committee encourages the State party to apply non-custodial measures as an alternative to pretrial detention.

**Parliamentary advocates and national preventive mechanism**

13. The Committee notes with concern that serious legislative and logistic constraints impede effective functioning of the national preventive mechanism established under the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The Committee is particularly concerned about the lack of clarity as to what constitutes the national preventive mechanism (arts. 2, 11 and 16).

**The State party should clarify what constitutes the national preventive mechanism, and strengthen the independence and capacity of parliamentary advocates and the national preventive mechanism, including its consultative council, to carry out regular and unannounced visits to all places of detention. In particular, the State party should:**

(a) Clarify the legal provisions in relation to the rights of members of the national preventive mechanism to conduct regular and unannounced visits to all places of detention, without restriction, and to ensure that all members of the consultative council enjoy equal status as part of the national preventive mechanism, to enable it to fulfil its role effectively as a torture-prevention mechanism;

(b) Provide the national preventive mechanism as a whole, including the consultative council, with adequate support and resources, including logistic and secretarial support;

(c) Provide training and take relevant measures to ensure that all persons conducting visits under the Optional Protocol to the Convention are able to fulfil their role in documenting treatment of individuals in detention;

(d) Ensure that all persons involved in the administration of places of detention are aware of the rights of all members of the national preventive mechanism to have unhindered and unaccompanied access to all areas in all places where persons are deprived of their liberty, without any form of prior notice; these powers should include the possibility for the national preventive mechanism to examine, on demand, detention-related registries, including medical registries, taking due account of the rights of the persons concerned;

(e) Initiate disciplinary proceedings against officers who interfere with the free access of all persons conducting visits under the Optional Protocol to the Convention to all places where people are deprived of their liberty, or otherwise deny them private and confidential access to detainees, restrict their ability to review and copy registries and other relevant documents, or otherwise interfere with the performance of their duties;

(f) Ensure that, as a rule, and unless there are compelling human rights reasons to the contrary, the report and recommendations of each individual visit of the national preventive mechanism are made public and posted on the Internet website of the Centre for Human Rights of Moldova shortly after the visit, following measures to ensure rights of personal security of person and privacy for detainees, and following collegial approval within the national preventive mechanism as a whole;

(g) Develop other measures to ensure public awareness of torture and other forms of ill-treatment in detention facilities in the Republic of Moldova.

**Appropriate penalties for acts of torture in the Criminal Code**

14. While acknowledging the efforts made by the State party to enact article 309/1 of the Criminal Code, incorporating a definition of torture that contains all the elements of article 1 of the Convention and makes it a specific criminal offence, the Committee is concerned about the inadequacy of the penalties applicable to torture and the frequent use of suspended sentences for persons found guilty of having committed acts of torture. The Committee is also concerned about the low rates of convictions and disciplinary measures imposed on law enforcement officers in the light of numerous allegations of torture and other acts of cruel and inhuman or degrading treatment, as well as the lack of public information about such cases (art. 4).

**The State party should ensure that torture is punishable by adequate penalties which take into account its grave nature, as set out in article 4, paragraph 2, of the Convention, and that statistics on convictions and disciplinary measures are regularly published and made available to the general public. The Committee considers that by doing so, the State party will directly advance the Convention's overarching aim of preventing torture by, inter alia, alerting everyone, including perpetrators, victims and the public, to the special gravity of the crime of torture and by improving the deterrent effect of prohibition itself.**

**Excessive use of force by law enforcement officers**

15. The Committee is concerned about credible reports on the excessive use of force by law enforcement officers, with particular reference to the post-election demonstrations in April 2009. The Committee is particularly concerned about reports of arbitrary arrest, failed crowd control methods, including beatings, and torture and ill-treatment of persons detained in connection with post-election demonstrations (arts. 2, 10, 11, 12, 13, 14 and 16).

**The State party should:**

**(a) Promptly, impartially and effectively investigate all complaints and allegations of misconduct by law enforcement officers during the post-election demonstrations in April 2009 by establishing an independent, impartial and credible body that should comply with relevant international standards in this area, particularly the updated Set of Principles for the Protection and Promotion of Human Rights through Action to Combat Impunity, the findings of which should be made public;**

**(b) Ensure that law enforcement officers found responsible for acts of torture and ill-treatment of protestors and detainees, including those in positions of command responsibility, are prosecuted and, if found guilty, convicted with appropriate penalties. In connection with prima facie cases of torture and ill-treatment, implicated officers should as a rule be subject to suspension or reassignment during the process of investigation, especially if there is a risk that he or she might interfere with or impede the investigation;**

**(c) Ensure that an official apology is given and adequate compensation is provided to all victims of torture and other forms of ill-treatment that took place in connection with the post-election demonstrations in April 2009, irrespective of the outcome of criminal prosecutions against the perpetrators, and that adequate medical and psychological rehabilitation is given to victims.**

16. The Committee is concerned at reports that police and other law enforcement officers wore masks and did not carry identification badges during the post-election demonstrations of 7 April 2009, and that people were apprehended by officers in plain

clothes, making identification impossible when complaints of torture or ill-treatment were presented (arts. 12 and 13).

**The State party should enact and enforce legislation that requires all law enforcement officers on duty, including riot police and members of the special forces, to wear identification, and provide all law enforcement officers with uniforms that include appropriate visible identification to ensure individual accountability and protection against acts of torture and ill-treatment.**

### **Training**

17. The Committee notes the wide range of educational programmes for police officers, criminal investigation officers and prosecutors, staff of penitentiary institutions, staff of legal departments and other State officials working in the field of human rights currently in place, but regrets the lack of information on training on the employment of non-violent means, crowd control and the use of force and firearms, as well as on any training programmes for judges, prosecutors, forensic doctors and medical personnel dealing with detained persons, to detect and document the physical and psychological sequelae of torture. The Committee also notes with concern the lack of programmes to assess the impact of the trainings conducted and their effectiveness in reducing incidents of torture, violence and ill-treatment (art. 10).

### **The State party should:**

(a) **Ensure that all law enforcement officers are adequately equipped and trained to employ non-violent means and only resort to the use of force and firearms when strictly necessary and proportionate to the specific situation. In this respect, the State party's authorities should conduct a thorough review of current policing practices, including the training and deployment of law enforcement officials in crowd control and the regulations on the use of force and firearms by law enforcement officials. In particular, the State party should consider the adoption of a manual on the use of force in conformity with the relevant international agreements, such as the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials;**

(b) **Also ensure that all relevant and, especially, medical personnel receive specific training on how to identify signs of torture and ill-treatment, and that the Manual on Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Istanbul Protocol) of 1999 becomes an integral part of this training;**

(c) **Develop and implement a methodology to assess the effectiveness and impact of all training/educational programmes on the reduction of cases of torture, violence and ill-treatment.**

### **Conditions of detention**

18. The Committee welcomes the amendment in December 2008 of the Criminal Code, which reduced minimum and maximum penalties, prompted a general review of penalties and reoffending, and provided for alternatives to detention, thus contributing to the reduction in the total prison population in the State party. The Committee also welcomes the reconstruction, repairs and maintenance work carried out in a number of penitentiary institutions starting from 2007. Despite the State party's efforts to improve the conditions of detention, the Committee remains concerned at overcrowding in certain facilities and that conditions remain harsh, with insufficient ventilation and lighting, poor sanitation and hygiene facilities and inadequate access to health care. The Committee is concerned about reports of inter-prisoner violence, including sexual violence and intimidation, in places of detention (art. 10).

**The State party should:**

(a) Take the measures necessary to alleviate the overcrowding of penitentiary institutions through, *inter alia*, the application of alternative measures to imprisonment and initiating at its own initiative a review of sentences with a view to bringing them into compliance with the December 2008 amendments of the Criminal Code. The State party should continue to make available the material, human and budgetary resources necessary to ensure that the conditions of detention in the country are in conformity with minimum international standards;

(b) Take prompt and effective measures to protect detainees from inter-prisoner violence. The State party should also establish and promote an effective mechanism for receiving complaints of sexual violence, including in custodial facilities, and ensure that law enforcement personnel are trained on the absolute prohibition of sexual violence and rape in custody, as a form of torture, as well as on receiving such type of complaints.

**Complaints and prompt, effective and impartial investigations**

19. The Committee is concerned:

(a) At the limited number of investigations carried out by the State party in view of the high number of alleged acts of torture and ill-treatment by law enforcement agencies reported, and at the very limited number of prosecutions and convictions in those cases;

(b) That the dual nature and responsibilities of the prosecution authorities for prosecution and oversight of the proper conduct of investigations are a major barrier to the impartial investigation of allegations of torture and other forms of ill-treatment by police;

(c) At the absence of an independent authority with no connection to the law enforcement agency investigating or prosecuting the criminal case against the alleged victim of torture and ill-treatment that could investigate promptly and thoroughly all allegations of torture and ill-treatment by police *ex-officio*;

(d) At the State party's acknowledgement that the complaints committee established under article 177 of the Enforcement Code is not empowered to monitor inmates' treatment for the use of torture or inhuman or degrading treatment by penitentiary institution staff (CAT/C/MDA/Q/2/Add.1, para. 254);

(e) At the State party's acknowledgement that frequently investigations fail to confirm that the alleged victims in the criminal cases have been subjected to ill-treatment by police officers, and that, in such instances, the prosecutor's office halts the criminal prosecution on the ground of lack of evidence that an offence has been committed (CAT/C/MDA/Q/2/Add.1, para. 46). Notwithstanding that documenting physical signs of torture may become more difficult with the passage of time, the Committee is concerned at information that cases may not be investigated in a sufficient manner on the grounds that the prosecutor's office is unable to establish evidence that a crime of torture has been committed;

(f) At the reports of intimidation and reprisals against those who report acts of torture or ill-treatment, including doctors and lawyers. The Committee notes with particular concern that, in June 2006, the general prosecutor's office sent a letter to the College of Lawyers with a recommendation to examine activities of certain young lawyers who were "damaging Moldova's image" by sending "unverified information on torture" to international organizations "in violation of the national procedures for human rights" (arts. 11-13).

The State party should strengthen its measures to ensure prompt, impartial and effective investigation into all allegations of torture and ill-treatment committed by law enforcement, security, military and prison officials, including those in positions of command responsibility. In particular:

(a) Such investigations should not be undertaken by or under the authority of the Prosecutor General's office or any other law enforcement agency, but by an independent body. In connection with prima facie cases of torture and ill-treatment, the alleged suspect should, as a rule, be subject to suspension or reassignment during the process of investigation, to avoid any risk that he or she might interfere with or impede the investigation or continue to perpetrate acts in violation of the Convention;

(b) Investigate acts of torture and ill-treatment, prosecute the alleged perpetrators and, if found guilty, convict them with appropriate penalties;

(c) Amend the Code of Criminal Procedure to specify a time frame within which action should be taken to open a criminal investigation into any credible allegation of torture and ill-treatment, and clarify that the individual and cumulative physical and mental impact of treatment or punishment should be considered;

(d) Effective measures should be taken to ensure that those who report acts of torture or ill-treatment, including doctors and lawyers, are protected from intimidation and possible reprisals for making such reports. In particular, the letter of June 2006 sent by the Prosecutor's Office to the College of Lawyers should be publicly renounced as a matter of urgency and necessary safeguards should be introduced to prevent similar abuses from occurring in the future.

#### **Redress, including compensation and rehabilitation**

20. The Committee notes that, while the 1998 Law on Procedure for Compensation for Damage Caused by Unlawful Actions of Criminal Prosecution Bodies, Prosecutor's Offices and the Courts and article 1405 of the Civil Code contain provisions regarding the right to compensation for victims, there is no explicit law that provides for full redress, including forms of psychosocial treatment and rehabilitation. The Committee regrets the lack of centralized statistics on the number of victims of torture and ill-treatment who may have received compensation and the amounts awarded in such cases (CAT/C/MDA/Q/2/Add.1, paras. 294–295), and information on other forms of assistance, including medical or psychosocial rehabilitation, provided to victims of torture and ill-treatment. The Committee also regrets the lack of information on the measures taken by the State party to execute the judgements rendered by the European Court of Human Rights with a finding of a violation of article 3 of the European Convention on Human Rights against the Republic of Moldova, and on compensation given to the victims (art. 14).

#### **The State party should:**

(a) Strengthen its efforts to provide redress and compensation to victims of torture and ill-treatment, including the means for as full rehabilitation as possible and to develop health and rehabilitation services for them;

(b) Take measures to execute judgements rendered by the European Court of Human Rights with a finding of a violation of article 3 of the European Convention on Human Rights against the Republic of Moldova;

(c) Provide in its next periodic report information on any reparation programmes, including treatment of trauma and other forms of rehabilitation provided to victims of torture and ill-treatment, and on the allocation of adequate resources to ensure the effective functioning of such programmes. The State party is

**encouraged to adopt the necessary legislation, establish a domestic fund for victims of torture and allocate sufficient financial sources for its effective functioning.**

#### **Coerced confessions**

21. While noting that article 94, paragraph 1, of the code of criminal procedure prohibits the admissibility of evidence obtained through torture, the Committee is concerned at reports of several cases of confessions obtained under torture and ill-treatment and at the lack of information on any officials who may have been prosecuted and punished for extracting such confessions (art. 15).

**The State party should take the steps necessary to ensure inadmissibility in court of confessions obtained under torture and ill-treatment in all cases in line with domestic legislation and the provisions of article 15 of the Convention. In particular, it should improve methods of criminal investigation to end practices whereby confession is relied on as the primary and central element of proof in criminal prosecution, in some cases in the absence of any other evidence. The Committee requests the State party to submit information on the application of the provisions prohibiting admissibility of evidence obtained under duress and whether any officials have been prosecuted and punished for extracting such confessions.**

#### **Trafficking in persons**

22. The Committee welcomes the variety of legislative, policy and other measures, including the adoption in October 2005 of Law No. 241-XVI on Preventing and Combating Trafficking in Persons and the establishment of the Rehabilitation Centre for Victims of Trafficking in Human Beings. However, the Committee expresses its concern at persistent reports that the State party continues to be a country of origin and transit for trafficking in persons, particularly women and children (arts. 2, 10, 12 and 16).

**The State party should continue to strengthen its efforts to combat trafficking in women and children and take effective measures to prosecute and punish the alleged perpetrators, including by applying strictly relevant legislation, raising awareness of the problem and training law enforcement personnel and other relevant groups. The State party should also broaden the implementation of measures to assist the social reintegration of victims and to provide genuine access to health care and counselling.**

#### **Domestic violence**

23. While noting various measures taken by the State party, including the decision of 25 September 2009 by a court in Anenii Noi to issue a protection order in favour of the victim in a case involving domestic violence, the Committee remains concerned about the persistence of violence against women and children, including domestic violence, the rarity of intervention measures by the judiciary, the limited number and capacity of shelters for victims of domestic violence, and at reports that domestic violence is deemed to warrant the intervention of the police only in cases where it has resulted in serious injury (arts. 2, 13 and 16).

**The State party should enforce the Law on Preventing and Combating Domestic Violence and provide support for victims through the establishment of additional shelters, the provision of free counselling services and such other measures as may be necessary for the protection of victims. The Committee urges the State party to address impunity in this area, to take appropriate preventive measures and to provide training on the handling of domestic violence to all professionals involved in such cases, including police officers, prosecutors, judges and social workers, with emphasis on the gender aspects of domestic violence. The State party should also provide**

**information, in its next report, on the incidence of domestic violence, on the measures taken to address it, including the use of restraining orders, and on the impact, if any, of such measures.**

#### **Forcible detention of persons with tuberculosis**

24. The Committee notes with concern that, under a regulation promulgated in August 2009, persons with tuberculosis may be subjected to forcible detention if deemed to have “avoided treatment”. In particular, the regulation is unclear as to what constitutes the avoidance of treatment and fails to provide for, inter alia, adequate safeguards in the areas of regular access to legal counsel, upon request, as well as procedural rights, in particular with regard to regular review of the reasons for detention or for maintaining continued detention, privacy, family and correspondence, confidentiality, data protection, non-discrimination and non-stigmatization (art. 16).

**The State party should urgently review the regulation on forcible detention of persons with tuberculosis and related policies, and bring them into compliance with the Convention, in particular guaranteeing independent regular review of detention measures, patient confidentiality and privacy, as well as non-discrimination in their application.**

#### **Violence in the armed forces**

25. While the Committee acknowledges the progress made by the State party in decreasing the number of cases of hazing (*dedovshchina*) in the armed forces and the measures taken to prevent such phenomena, it remains concerned at the persistence of cases of torture and other cruel, inhuman or degrading treatment or punishment in the armed forces (arts. 2 and 16).

#### **The State party should:**

**(a) Take effective measures to eradicate hazing in the armed forces; reinforce the measures of prevention and ensure prompt, impartial and effective investigation and prosecution of such abuses; and report publicly on the results of such prosecutions;**

**(b) Guarantee the rehabilitation of victims, including through appropriate medical and psychological assistance.**

#### **Psychiatric facilities**

26. The Committee is concerned about the treatment of psychiatric patients, including the lack of legal safeguards and the poor living conditions in places where persons are held for involuntary treatment, as well as about the lack of independent monitoring of such places of deprivation of liberty (arts. 11 and 16).

**The State party should improve the living conditions for patients in psychiatric institutions and ensure that all places where mental health patients are held for involuntary treatment are regularly visited by independent monitoring entities to guarantee the proper implementation of the safeguards set out to secure their rights, and that alternative forms of treatment are developed.**

#### **Minorities and marginalized groups**

27. The Committee notes with concern reports of violence and hatred towards minorities, especially Roma, and other vulnerable groups in the Republic of Moldova, including alleged recent manifestations of hate speech and intolerance against homosexuals (art. 16).

The Committee recalls in the light of its general comment No. 2 on the implementation of article 2 (CAT/C/GC/2, 2008) that the special protection of minorities or marginalized individuals or groups especially at risk is part of the State party's obligation to prevent torture or ill-treatment. In this respect, the State party should:

(a) Incorporate in its Criminal Code an offence to punish hate crimes as acts of intolerance and incitation to hatred and violence based on sexual orientation. Moreover, the State party should continue to be vigilant in ensuring that relevant existing legal and administrative measures are strictly observed and that training curricula and administrative directives constantly communicate to staff the message that incitation to hatred and violence will not be tolerated and will be sanctioned accordingly;

(b) Provide detailed information and statistics on the number and type of hate crimes, as well as on the administrative and judicial measures taken to investigate and prosecute such crimes and the sentences imposed.

#### Data collection

28. The Committee requests the State party to provide in its next periodic report detailed statistical data, disaggregated by crime, sentence, ethnicity, age and sex, on the number of persons deprived of liberty; on the complaints relating to torture and ill-treatment allegedly committed by law enforcement officials; on the related investigations, prosecutions and penal or disciplinary sanctions; and on pretrial detainees and convicted prisoners. The Committee also requests information on the compensation and rehabilitation provided to the victims.

29. The Committee recommends that the State party consider making the declarations under articles 21 and 22 of the Convention.

30. The Committee recommends that the State party also consider becoming a party to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the Convention relating to the Status of Stateless Persons and the Convention on the Reduction of Statelessness. The State party is also encouraged to ratify the International Convention for the Protection of All Persons from Enforced Disappearance, the Convention on the Rights of Persons with Disabilities and the Rome Statute of the International Criminal Court.

31. The Committee invites the State party to submit its core document in accordance with the requirements of the common core document in the harmonized guidelines on reporting, as approved by the international human rights treaty bodies (HRI/GEN/2/Rev.5).

32. The State party is encouraged to disseminate widely the reports it has submitted to the Committee, its replies to the list of issues, the summary records of meetings and the conclusions and recommendations of the Committee, in appropriate languages, through official websites, the media and non-governmental organizations.

33. The Committee requests the State party to provide, within one year, information in response to the Committee's recommendations contained in paragraphs 13, 15, 16, 20 and 24 above.

34. The State party is invited to submit its next periodic report, which will be the third, by 20 November 2013 at the latest.