

To:
***The Government of the Republic of Moldova,
The Parliament of the Republic of Moldova,
Law institutions of the Republic of Moldova,
Embassies and international institutions in the Republic of Moldova***

**DECLARATION FROM 26 of June 2019
of the organizers and participants of the round table:
IMPLEMENTATION OF THE UN CONVENTION AGAINST TORTURE (UNCAT)
AND OF THE OPTIONAL PROTOCOL (OPCAT) IN THE REPUBLIC OF MOLDOVA**
Organized

In the context of the United Nation International Day in Support of Victims of Torture

The article 5 of the Universal Declaration of Human Rights stipulates: *"No one shall be subjected to torture or cruel, inhuman or degrading treatment or punishment"*.

The Constitution of the Republic of Moldova, in its article 4, regulates the principle of the supremacy of international obligations assumed by the ratified conventions against internal laws, the obligation to create the effective mechanisms for prevention and eradication of torture, inhuman or degrading treatment.

At the occasion of the 26th of June, the signatory organizations express their solidarity with the thousands of victims of torture and other inhumane and / or degrading treatment in the Republic of Moldova and their families, recalling that victims have the right to justice, truth and rehabilitation.

In this context, we come up with the following findings on the implementation of the UN Convention against Torture in the Republic of Moldova:

Regarding art 2:

- 1) In the last years, torture continued to be used (including as a political instrument) and detention conditions are well below international standards, approaching torture, according to the extent of the damages and sufferings caused to persons in state custody.
- 2) A serious situation represent violence between detainees and the criminal subculture, which makes many human victims, as is mentioned in the CPT report on the visit to the Republic of Moldova from 5 to 11 June 2018 (<https://rm.coe.int/16809022b9>) and in the Criminal Subculture Study in Prisons in the Republic of Moldova, presented in 2018 by the Council of Europe (<https://rm.coe.int/criminal-subculture-md-en-/1680796111>).

Regarding art 3:

- 3) On September 6, 2018, the Moldovan authorities violated art. 3 by the kidnapping and immediate extradition of seven Turkish citizens from the "Orizont" High School Network. Moreover, the situation of many other asylum seekers and refugees in the Republic of Moldova requires increased attention from the authorities in order not to be returned to the country of origin, where they are at risk of being tortured.

Regarding art 4:

- 4) Impunity in the cases of torture still persists in the Republic of Moldova.

- 5) Investigations of the cases of torture, inhuman and/or degrading treatments need to be improved. The number of initiated files is well below the number of complaints filed.
- 6) Documentation of torture and other inhuman and/or degrading treatments is not carried out efficiently and promptly, making it difficult to investigate cases lawfully and the access to justice to victims.
- 7) The courts do not consider other medical evidence, in addition to Forensic Reports, which cannot cover all aspects of the consequences (acute and delayed) of trauma and damage caused by torture and inhuman or degrading treatment.
- 8) The courts of RM and other Law institutions do not show an attitude centered on victims of torture or of various forms of violence, nor on their traumas, as required by international recommendations and standards.

Regarding art 10:

- 9) University study programs for the training of various professionals from civil or military fields, law enforcement, healthcare of any levels, of public officials and other professionals are not updated, adapted and do not include sufficient information on prohibition of torture or on working with victims.
- 10) Continuous training of employees of places of detention on the documentation of the consequences of torture, psychological, social and medical rehabilitation, is not carried out in a methodical and systematic way.

Regarding art 14:

- 11) In the Republic of Moldova, the rights of victims are constantly ignored and their comprehensive rehabilitation has not been and is not yet among the priorities of state institutions.
- 12) The Law “On the Rehabilitation of victims of crimes” (including torture), approved by the Parliament as the Law no. 137 (29.07.2016), is not effective and is not in line with the article 14 of the UNCAT and with the General Comment No. 3 of the Committee against Torture (2012).
- 13) The rehabilitation of victims of torture is not included in the National Action Plan on Human Rights 2018-2022 (NAPHR III), when in the reports on the previous Plans, the achievements in this area were almost null.

Regarding art 15:

- 14) This article remains ignored by the authorities. The application of different methods of torture (physical or psychological) to make the victims to sign testimonies or statements against themselves was also recorded among the cases brought to the ECtHR. Certain “evidences” obtained under torture have been used by the courts against persons in custody of the state, including for sentencing them to years of detention.

Regarding Conditions of detention:

- 15) The old Penitentiary N 13 is found by all international bodies as one "*which does not meet the minimum standards for preventing and combating torture, inhuman or degrading treatment and must be closed*". The persons in pre-trial detention should be transferred to a new prison in accordance with the requirements of the Council of Europe CPT, including the application of alternative non-privative preventive measures.
- 16) The Moldovan prisons are over-populated because of the excessive application of the pre-trial detention and punitive character of the courts activity. The Moldovan' authorities have been warned several times that they do not apply other alternative forms of prevention, in the context of poor detention conditions.

- 17) In its latest report (CAT/C/MDA/CO/3), the UN Committee against Torture (CAT) was concerned about the situation on: the quality of medical services in the penitentiary institutions; the fact that the medical staff is not sufficiently qualified to provide medical services to detainees; cases when detainees were not allowed to receive private healthcare of their own choosing or to contact outside specialists when necessary; lack of decent accommodation for prisoners with special needs or those who should receive mental and psychosocial health services; sanitary needs of women detained in the prison system, which are not adequately addressed. The Committee also expressed concerns about reports of particularly poor material conditions, poor quality of medical services and disciplinary sanctions against patients at the penitentiary hospital (Prison No. 16) and the fact that the medical staff in the penitentiary system is not independent from the Administration of the penitentiary system (Articles 2, 10 and 11).
- 18) In the Republic of Moldova there are still cases of dubious deaths in the penitentiary system. According to the [Council of Europe Annual Penal Statistics for 2018](#) (SPACE), the Republic of Moldova ranked first among the member states of the Council of Europe (CoE) for the number of deaths in the penitentiary system reported to 10,000 detainees.
- 19) The National Action Plan on Human Rights (NAPHR III) for the years 2018-2022 does not include some key recommendations formulated by the Council of Europe's CPT on "*ensuring the independence of medical staff in detention centers for removing the premises of the potential abuse of service and the administrative influence of the Department of Penitentiary Institutions towards the medical service in detention centers*".

Regarding the ECtHR jurisprudence:

- 20) Moldova is constantly condemned by the European Court of Human Rights for violating art. 3 (prohibition of torture, inhuman or degrading treatment). So far, hundreds of thousands of Euros have been paid out of the state budget as compensation, only for convictions under this article.

Regarding the Optional Protocol to the UN Convention against Torture (OpCAT):

- 21) Even if since 2016, some positive evolutions and better results were recorded in the activity of the National Preventive Mechanism against Torture, there are concerns that may affect its full independence and functionality in the light of the Optional Protocol. In particular, the limited position of civil society representatives within the Council for the Prevention of Torture is among the concerns.
- 22) The National Preventive Mechanism against Torture is still not in its full capacity to effectively carry out its mission, in accordance with the OpCAT requirements.

Based on the above mentioned facts and findings:

BY THIS DECLARATION, THE SIGNATORY ORGANIZATIONS COME WITH THE FOLLOWING RECOMMENDATIONS:

- 1) To secure an unconditional observance and implementation of all undertaken international recommendations and commitments, in order to support victims and to prevent torture.
- 2) To adopt and to promote the *victims' and trauma-centered approaches* along with human rights-based approaches in all activities focused on victims' assistance and torture prevention programs.
- 3) To assure the practical application and implementation of all measures from the National Action Plan on Human Rights, to effectively combat torture, inhuman or degrading treatment.
- 4) To establish an inter-ministerial mechanism of analysis, monitoring and implementation of the UNCAT provisions and recommendations.

- 5) To strengthen the independence and capacities of the Anti-Torture Division and of the prosecutors involved in investigating cases of torture, inhuman or degrading treatment.
- 6) To increase the knowledge and strengthen the capacities of all professionals involved in direct work with victims, in legal investigation of cases and prevention of the phenomenon, for early identification of victims and effective documentation of the physical, mental, social and legal consequences of torture.
- 7) Revision of the *Regulation on the procedure for the identification, registration and reporting of alleged cases of torture, inhuman or degrading treatment* (Order No. 77 of General Prosecution Office from 31.12.2013) with the extension of its application to all places of detention, the inclusion of psychological torture (including white torture), with protection from reprisals of medical personnel for their involvement in documentation and reporting, as well as the elaboration of reporting indicators and more efficient inter-ministerial implementation mechanisms.
- 8) To ensure an objective and exhaustive investigation into the circumstances of the illegal extradition of the seven Turkish citizens from the Orizont High School Network on September 6, 2018, in the light of the recent decision of the European Court of Human Rights (ECtHR), which states that the Republic of Moldova has violated the provisions of articles 5.1 and 8 of the European Convention on Human Rights. All those who are guilty in taking the illegal decisions and / or applying them in this case, have to be accountable.
- 9) To transfer the medical services of detention centers in subordination of the Ministry of Health, Labor and Social Protection.
- 10) To ensure the adequate and the needed conditions for comprehensive rehabilitation of all victims of torture, inhuman and degrading treatment, with securing their protection during the legal investigations and trials.
- 11) To ensure the unconditional access to Justice for all victims of torture, inhuman and degrading treatment, in order to benefit from reparation and compensation for the caused damages the sufferings.
- 12) To urge the building of a new pre-trial penitentiary, in accordance with the requirements of the Council of Europe' CPT.
- 13) To respect the standards of physical accessibility in the cases of persons with special needs/ physical disabilities.
- 14) To respect the rights to information, the access to the needed information and to a translator (in the cases of detainees who speak different languages).
- 15) To secure the application of non-deprivation preventive measures instead of preventive detention.
- 16) To strengthen the capacity, functionality and the financial independence of the Council for the Prevention of Torture in its role of National Preventive Mechanism against torture, with ensuring of the active involvement of civil society' representatives.
- 17) To ensure the free and unrestricted access of the Ombudsman and CpPT members to all the detention facilities.
- 18) Taking into account the CAT's findings and recommendations in its latest report (2017), the Government of the Republic of Moldova should as a priority:
 - a) Intensifying of the efforts to improve medical services and healthcare in penitentiary institutions, including through securing of an adequate number of qualified medical staff and by providing of training, including according to the provisions of the Istanbul Protocol;
 - b) Adoption of a gender-sensitive approach and ensuring the personal sanitary needs and medical assistance of women detained in the penitentiary system, in line with international standards.

- 19) To introduce the alternative measures instead of detention, for persons who have committed minor crimes;
- 20) To improve the conditions (with adequate funding and human resources) for more efficient medical assistance in the penitentiary system in order to improve the quality of services for detainees, including for drug addicts.
- 21) Ensuring the rights and needed protection for the human rights defenders from Moldova, as well as to all specialists providing services and support to victims of torture.

As a priority and in good faith, we request the Government of Moldova, along with other States Parties to the UN Convention against Torture,

- 22) To contribute to the United Nations Voluntary Fund for Torture Victims (UNVFVT), which in over 35 years of activity, is often the only hope for rehabilitation centers worldwide, which documents the consequences of torture for access to justice, and provide services and support to victims and their families.

Only through direct support to victims of torture, inhuman treatment, and other forms of violence, we can prove unequivocal determination and a clear commitment to fight against these phenomena and impunity!

The signatories:

Rehabilitation Center for Torture Victims “Memoria” (RCTV Memoria)

Human Rights Embassy

Amnesty International Moldova,

Promo-LEX Association

Legal Resources Centre from Moldova

Institutul pentru Drepturile Omului din Moldova (IDOM)

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