

Moldova

NGO PROGRESS REPORT
ON THE FOLLOW-UP OF THE CONCLUDING
OBSERVATIONS
(CCPR/C/MDA/CO/2)

NGOs Submitting the Report

Legal Resources Centre (LRC)
La Strada

Doina Ioana Straisteanu Human Rights Lawyer
Promo-LEX Association

With the support of:



Paragraph 8

The Committee expresses its concern at credible reports of grave human rights violations committed against protesters following post-election demonstrations in April 2009. In this regard, the Committee takes note of the delegation's statement that law enforcement officers "acted outside of their powers". It is particularly concerned at reports of arbitrary arrests, violent crowd control tactics, including beatings, and the torture and ill-treatment of persons detained in connection with the post-election demonstrations. (arts. 2, 6, 7, 9 and 21)

Committee Recommendation	Action taken by the State	Further Actions needed	Other comments from the NGOs
<p>The State party should:</p> <p>(a) Thoroughly investigate allegations of abuse by law enforcement officials during the April 2009 demonstrations through an independent and impartial body, whose findings should be made public.</p>	<ul style="list-style-type: none"> -Authorities have withheld the last data on cases on April 2009 events. -No state institution can provide the exact number of the victims of April 2009 events.(including the alleged suicide and deaths under suspicious circumstances of Ion Tibuleac, Maxim Canisev, Radu Ciobanu, Eugen Tap, Melenti Ruslan, etc.). -Judges/prosecutors were not sanctioned for illegal decisions taken in police stations. -Only one judge (Dorin Popovici) was dismissed for illegal actions. 	<ul style="list-style-type: none"> -All necessary steps should be taken to ensure that information concerned with the events of April 2009 are made public. -State institutions should provide a list of the exact number of victims of the April 2009 events. -A thorough investigation of police officers' role in the April 2009 demonstrations is necessary. The investigation process should move at a faster pace. 	<ul style="list-style-type: none"> -Only 45 of the 128 complaints received by the Prosecutor General have reached the courts. Moreover, there is a tendency to separate the cases and the lawyers are not always kept informed. -Investigations were slow and lawyers complained of several drawbacks .¹
<p>(b) Take measures to 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>	<ul style="list-style-type: none"> - February 2, 2010, the Interim President signed a decree on the dismissal of Mihai Drosu from the position of magistrate at Buiucani Court. The above judge examined the cases of the participants of April 2009. -The state continues to refuse the requests of the witnesses' protection (Article 5). 	<ul style="list-style-type: none"> -Instruments should be put in place in order to ensure the protection of judges. -Emphasis should be placed on the torture used against the victim(s). -All necessary resources should be used to protect witnesses. 	<ul style="list-style-type: none"> -From our prospective, the lack of arrests/ trails of police officers cannot be accepted as an affective mechanism in cases of the complaints against policemen in torture cases specifically. -In "<i>the case Boboc</i>" for instance, a case that resulted in the death of the victim, the lawyer solicited witness protection measures, but the judge denied it.²
<p>(c) Ensure that adequate compensation is paid to victims of torture and other forms of ill-treatment which occurred during the April 2009 demonstrations irrespective of the outcome of criminal prosecutions against the perpetrators, and that adequate medical and psychological rehabilitation measures are made available to</p>	<ul style="list-style-type: none"> - Based on Government Decision 956 from 15.10.2010, only 18 persons received compensations, including 4 policemen. -The Government doesn't provide 	<ul style="list-style-type: none"> -Appropriate remedies should be provided to ALL the victims of April 2009 events. -Particular care should be provided to victims whose cases are under 	<ul style="list-style-type: none"> -During April 2009 events, national human rights NGOs recorded more than 856 victims of illegal arrests, ill treatment and torture. -Centre for Rehabilitation of

¹ The note submitted by Natalia Molosag, Veronica Mihailov and Olesea Doronceanu, Public defenders, Public Defender Office, Chisinau, to the Prosecutor General, 25 October 2010.

² The Report "Entrenching Impunity. Moldova's Response to Police Violence During the April 2009 Post-Election Demonstrations", page 63-64. Key Findings.

victims.	any psychological support and medical care, to those whose cases are under examination before national courts.	examination before national courts.	torture Victims "MEMORIA" is the only NGO which provide support.
(d) Ensure respect for the right to freedom of assembly in accordance with article 21 of the Covenant, including through the enforcement of the 2008 Law on Assemblies and put in place safeguards, such as appropriate training, to ensure that such violations of human rights by its law enforcement officers do not occur again.	-No steps have been taken towards strengthening the National Preventive Mechanism (NPM), particularly the legal framework to clarify what constitutes the NPM, the rights of the NPM members and the technical and financial support necessary for the functioning of the NPM.	-The State should strengthen the National Preventive Mechanism (NPM), particularly the legal framework to clarify what constitutes the NPM, the rights of the NPM members and the technical and financial support necessary for the functioning of the NPM.	

Paragraph 9

The Committee notes with serious concern the incidence of torture and ill-treatment in police stations and other detention facilities in the State party. Despite the delegation's information that the law requires prosecutors to conduct daily inspections of temporary holding facilities, during which time the State party has indicated that detainees may speak freely with the prosecutor, the Committee is concerned that the use of torture is widespread. The Committee expresses its concern that complaints of torture are often not properly recorded or investigated and that there is a tendency to reject complaints as being "manifestly unfounded". In addition, the Committee notes the inadequacy of existing avenues for redress, namely in that the Complaints Commission is not functional and the Parliamentary Advocate to whom complaints may also be made has very limited means of addressing complaints. (arts. 2, 7 and 10)

Committee Recommendation	Actions taken by the State	Further action needed	Other comments from the NGOs
<p>The State party should:</p> <p>(a) Take urgent measures to put an end to torture in police custody and other places of detention, including through the provision of appropriate training to police and prison officials, the investigation of all complaints of torture and other forms of ill-treatment, the prosecution and punishment of those responsible and the enforcement of the law prohibiting the admission of evidence obtained through torture.</p>	<p>-No independent authority has been created to investigate thoroughly allegations of torture and ill-treatment.</p> <p>-In November 2010, the Prosecutor General issued an order establishing specialized prosecutors to investigate allegations of torture and ill-treatment.</p>	<p>-District courts have not held any decision of conviction based on torture (art. 309/1 Moldovan Criminal Code). In December 2010 the first two judgments were issued based on abuse of power and excess of power (art. 327 and 328 Moldovan Criminal Code).</p> <p>-The General Prosecutor's Office and Supreme Court of Justice has to opt for applying the custodial sanctions against the sanctions with blind or sentence with suspension.</p> <p>-To be taken appropriate measures to analyze immediate and serious any complaints on torture and ill treatment cases.</p>	<p>-We consider the training on torture can't be considerate as a urgent step to eradicate the torture cases.</p> <p>-According to a recent survey, 4 out of 10 detained men experience physical abuse or maltreatment.³</p> <p>-Sentences and investigations against high-level official will be an impulse to prevent ill treatment and torture for subordinates and police in general.</p> <p>-The state, especially the Ministry of Interior should provide for policemen an appropriate specialized medical care – psychological and psychiatric, especially to those who work in shifts of 12 and more hours per day.</p> <p>-The State should implement systematic strategies in the legal framework in order to efficiently deal</p>

³ See 2010 Victimization and Public Confidence Survey. Key Findings, Implications and Recommendations, Soros Foundation – Moldova, launched on 14 December 2010, www.soros.md.

			with the various problems arising from police detention facilities.
(b) Ensure the availability of effective avenues of redress, with provision for compensation, as appropriate, for victims of torture and other forms of ill-treatment.	<p>-The state doesn't provide compensations except when written in the national courts and ECHR's judgments.</p> <p>-The state doesn't provide any services or compensations for relatives of torture victims.</p> <p>-A specialized anti-torture unit was created within the Prosecutor General Office. Given the history of lack of effective investigations by the Prosecution office, the effectiveness of this initiative is highly questionable.</p>	-The state should provide services or compensations for relatives of torture victims.	

Paragraph 16

The Committee welcomes the decision on 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. Nevertheless, it expresses its concern at domestic violence in the State party, 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. 3, 7 and 26)

Committee Recommendation	Actions taken by the State	Further action needed	Other comments from the NGOs
The State party should enforce the law on 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.	<p>-The state has a good mechanism for the law 45. Tens of protection orders were issued. However, many protection orders are not executed by police.</p> <p>-The attitude of law enforcement, social workers and courts are still accusatory towards the women suffering of domestic violence.</p>	<p>-The state should enforce the execution of protection order in 24 hours and improve the monitoring mechanism of execution.</p> <p>- Criminal procedure law should be amended to allow prosecutor' office to continue the investigation into the domestic violence crimes in absence of a victim's complaint where the interest of justice requires it.</p>	<p>-It is really important to create and develop the services for aggressors. So protection orders should be visualised as only one element from a holistic protection mechanism.</p> <p>- The pressure exercised by the aggressors, coupled with death threats and with children being taken away from her, pushes women to withdraw their complaints of domestic violence.</p>
The Committee urges the State party 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.	-Some training were organised for social services and for law enforcement by OSCE mission in Moldova and UNFPA. But the essence of the trainings has been focused on Law 45, but not on gender aspect of domestic violence, social stereotypes and cultural attitudes. The consequences are the attitudes of professionals have not changed.	-To continue the trainings to all professional groups including medical staff and to put more emphasis on gender aspects of domestic violence.	-To reduce the number of trainers involved in the training and to extend the duration of the training at least for 2 days (one day is not insufficient enough for such a complex problem).

<p>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.</p>	<p>-The government has persistently failed in the execution of protection orders .</p>	<p>-In order to ensure the adequate protection of victims the government needs to implement protection orders, so as to assure the victim that they will be protected from their perpetrator.</p>	<p>-Moldova legal system does not know of restraining orders. It only provides for protection orders . -In rare occasions do prosecutor’s or policemen file a request with the court for protection orders. The failure to enforce protection orders is an endemic problem.</p>
---	--	---	---

N.B For further information and examples of the failure to protect women from domestic violence refer to Annex 1.

Paragraph 18

The Committee welcomes the adoption of the 2005 Law on Preventing and Combating Trafficking in Persons and the establishment of the Rehabilitation Centre for Victims of Trafficking in Human Beings. However, it remains concerned that the State party continues to be a country of origin and transit for trafficking in human beings, particularly women and children, despite the adoption of legislation and policy in this area. (arts. 3, 7, 8 and 26)

Committee Recommendation	Action by the State	Further Action Needed	Other Comments from the NGOs
<p>The State party should strengthen the implementation of its trafficking laws and policies, including through more concerted efforts to prosecute offenders and to protect victims.</p>	<p><u>The coordination of implementation of anti-trafficking laws and policies</u> -National Committee to Combat THB (NCCTHB) – an inter-institutional agency. The Secretariat of the NCCTHB is not activating on the permanent basis, and its members perform duties on their main workplace. <u>Data collection</u> -In order to fulfil its coordination duty, the NCCTHB should operate with specific information on trafficking phenomenon as well as on actions against THB and their impact. <u>Victims -witnesses protection</u> -The Law of the Republic of Moldova on Witness Protection envisages different measures for protection of participants of the criminal proceedings, including victims of THB, but the legislation does not contain any provision regarding protection of child victims.</p>	<p>-The Secretariat of the NCCTHB should operate on the permanent basis . <u>Data collection</u> -Define a body responsible for centralised data gathering. <u>Monitoring and evaluation of state efforts</u> -A monitoring and evaluation of realization of the state policy in the field (strategy, national action plan) should be in place. <u>Victims -witnesses protection</u> -It is recommended to elaborate the standards on legal interview of child victims during criminal proceedings aimed at avoiding re-victimization of the child. -It is recommended to organize the professional training of the law enforcement staff on legal interview of children who suffered from sexual exploitation/abuse.</p>	<p><u>Data collection</u> -Some actors in anti-trafficking domain in Moldova gather specific data. But this data is not gathered systematically. As a result, statistical data of different organisations appear to be inconsistent at the national level. <u>Monitoring and evaluation of state efforts</u> -The reports on monitoring and evaluation should serve as a basis for elaboration of recommendations for the improvement of the state policy in actions against THB. <u>Victims -witnesses protection</u> However, the practical use of the settled by law protection measures of witnesses and other participants of the criminal proceedings is complicated by lack of the state financial resources for its realization.</p>
<p>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 in all areas of the country.</p>			

Annex 1: Cases demonstrating the lack of protection against domestic violence

There is an endemic failure of the Moldovan authorities to enforce protection orders and to prevent further ill-treatment of victims. Two cases have been lodged with the European Court of Human Rights with the request for interim measures – Mudric v. Moldova No. 74839/10 and Eremia v. Moldova No. 3564/11, following victims' despair from being left to deal with the violence by themselves. In both cases women had protection orders that were ignored by policemen who were reluctant to evict the aggressor from common dwelling and prohibit him to approach them. In both cases, after being issued protection orders, women were beaten up again and threatened with death. Both cases reached the European Court and as interim measure they asked that the Court indicate to the Government to execute the protection orders as issued by the domestic courts. Both cases have been urgently notified to the Moldovan Government which prompted various reactions.

In the first case the applicant, Mudric Lidia, is 71 years old and at the time of having lodged the application were under the risk of another beating. A third protection order was requested and issued by the court on 16th December 2010 but not executed. Local policemen denied she was beaten since she has no forensic expertise on this last incident. It was ignored completely that she had two protection orders issued in June and July 2010 and several expertise on previous occasions. The lady was known to the local police as being a victim of domestic violence and yet the aggressor was evicted and detained in psychiatric hospital only after the case has been lodged with the European Court and the Government was immediately notified of the case.

In the case of Eremia Lilia and her two daughters Doina and Mariana, the aggressor is the local policeman who violated protection order issued on 9th December 2010 on numerous occasions and the authorities reacted only after an application was lodged with the European Court of Human Rights on 16th January 2011. Eremia Lilia and her two daughters Doina and Mariana were suffering domestic violence for many years, in particular Mrs Eremia Lilia. After the incident in November 2010 she filed a request for protection order through her lawyer and was awarded one on 9th December 2010. The aggressor violated the protection order and every incident was communicated to the local police in charge of order's execution. The prosecutor, in the presence of the aggressor, advised the victim to withdraw her complaint for their family's sake which she did. Later that day, the aggressor ill-treated the victim for 1,5 hours, being fully clothed in his policeman uniform. Her injuries were documented by a forensic expert the next day on 14th January 2011. There were no prompt reactions from the authorities on her complaints about his violating the protection order and only after having lodged the application with the European Court, the aggressor was charged with criminal offence "family violence"- art. 201/1 Criminal Code. He continues to exercise pressure on the victim to have her withdraw her complaints. He continues to work as policeman that, inter alia, responds to domestic violence calls coming from inhabitants. He continues to violate the protection order and no actions are taken by the police to put an end to the continuing pressure and psychological violence.

The case of Uretea Ludmila, 65 years old, is another example of endemic failure to execute protection order. The victim was severely beaten up by her ex-husband who broke into her house in May 2010, beaten her up and remained to leave there. She left the house and asked for help at local police station. She was advised to get a lawyer and since she could not afford to pay a lawyer, she remained to leave on the streets. In August 2010 Mrs Uretea approached an official from Ministry of Interior who filed the request for protection order on her behalf to a domestic court. The protection order was issued only on 15th November 2010, although the law obliges the court to examine such requests in 24 hours. The protection order was never enforced. A pending court decision in a civil case against the aggressor ordering his eviction from Mrs Uretea's flat, came handy. It was scheduled for enforced on 11 February 2011. After being evicted from her flat, the police concluded that the problem is solved. The aggressor however, remained to sleep at the door steps, preventing Mrs Uretea to return and use her flat by threatening her with bodily harm. The policeman does not react to her complaints and ignores the neighbours statements that confirm his threatening behaviour. The victim continues to leave on the streets as she did after May 2010 when ran from the house to save herself. She is in disbelief that no authority cares about her wellbeing and security.

The press has recently reported the case of Gheorghe Clipca, charged with grave body injuries that resulted in the death of the victim. The facts of the case illustrate the negligence on the part of the policemen to consider the seriousness of the domestic violence threat to the wellbeing of women and children. Gheorghe Clipca is known to the authorities to have had beaten up his wife on numerous occasions. Entire village knew. On 17 July 2010, after another beating, he killed his wife in front of their three children aged 4, 3 and 2 years old (Singerei district). The case is now in court and his pleading for release argues that he needs to return and take care of his children.