



# UNFINISHED BUSINESS

COMBATting TORTURE AND  
ILL-TREATMENT IN MOLDOVA

**AMNESTY  
INTERNATIONAL**



Amnesty International Publications

First published in 2012 by  
Amnesty International Publications  
International Secretariat  
Peter Benenson House  
1 Easton Street  
London WC1X 0DW  
United Kingdom  
[www.amnesty.org](http://www.amnesty.org)

© Amnesty International Publications 2012

Index: EUR 59/001/2012  
Original Language: English  
Printed by Amnesty International, International Secretariat, United Kingdom

All rights reserved. This publication is copyright, but may be reproduced by any method without fee for advocacy, campaigning and teaching purposes, but not for resale. The copyright holders request that all such use be registered with them for impact assessment purposes. For copying in any other circumstances, or for reuse in other publications, or for translation or adaptation, prior written permission must be obtained from the publishers, and a fee may be payable. To request permission, or for any other inquiries, please contact [copyright@amnesty.org](mailto:copyright@amnesty.org)

Cover photo: Parliament building in Chişinău,  
which was damaged during the April 2009 events,  
repairs are still unfinished © Amnesty International

Amnesty International is a global movement of more than 3 million supporters, members and activists in more than 150 countries and territories who campaign to end grave abuses of human rights.

Our vision is for every person to enjoy all the rights enshrined in the Universal Declaration of Human Rights and other international human rights standards.

We are independent of any government, political ideology, economic interest or religion and are funded mainly by our membership and public donations.

**AMNESTY  
INTERNATIONAL**



# CONTENTS

1. Introduction .....	5
2. Impunity for April 2009 events.....	6
The Events.....	6
Government Response.....	6
Progress of Prosecutions.....	7
Low number of prosecutions .....	7
Inadequate sentencing.....	7
Excessive Delays .....	7
Updates to cases highlighted by Amnesty International.....	8
3. Impunity .....	10
Suspension of police officers .....	11
Independent body for the Investigation of violations by Police Officers .....	12
4. Inadequate Safeguards for Detainees .....	13
Compulsory medical examinations .....	13
Excessive Time spent in police detention .....	13
Monitoring of Places of Detention.....	14
5. Conclusion and Recommendations.....	15
End Notes .....	16



# 1. INTRODUCTION

On 7 April 2009, post election demonstrations in the capital of Moldova, Chişinău, escalated and a few hundred violent individuals among thousands of peaceful demonstrators violently stormed the Presidential Palace and the Government Building. Police detained over 600 demonstrators indiscriminately, and hundreds were beaten on arrest and in overcrowded police stations.<sup>1</sup> Three years on from these events the victims of police brutality are still waiting for justice. Of the 108 complaints of torture and other ill-treatment that were sent to the General Prosecutor's office following the events in April 2009, 58 cases reportedly reached the courts.<sup>2</sup> Only three of the cases that have reached the courts to date have resulted in convictions and in those cases three police officers have received suspended sentences, and one has been fined. To date 19 police officers have been acquitted.

The traumatic events of April 2009 exposed many underlying systemic problems that facilitate torture and other ill-treatment in Moldova. The ongoing failure three years on to deliver justice in respect of the blatant violations that took place in April 2009 is clear evidence that the fundamental problem of impunity for torture and other ill-treatment has not yet been solved. Amnesty International has repeatedly raised the problem of torture and other ill-treatment and impunity for such acts in Moldova. In a report published in 2007<sup>3</sup> Amnesty International highlighted systemic problems and an entrenched culture among police officers in Moldova that hampered efforts to eradicate torture and other ill-treatment in police detention. A briefing published in November 2009<sup>4</sup> drew attention to the human rights violations that took place in April. The Moldovan government has taken steps to address some of the structural causes of torture and other ill-treatment, but it has not gone far enough to tackle the underlying problems of impunity and inadequate safeguards for detainees.

As long as justice for the victims of April 2009 remains unfinished business, the perpetrators of torture and other ill-treatment receive the signal that they can continue with impunity. In this briefing Amnesty International updates information and cases that have featured in previous reports and makes recommendations to assist the Moldovan government in tackling the problem of torture and other ill-treatment and in combating impunity.

## 2. IMPUNITY FOR APRIL 2009 EVENTS

*“These kinds of things will keep happening because nobody takes responsibility. Cases go to the European Court. The government pays. That is all.”*

Lurie Craciuneac, victim of police violence in April 2009

### THE EVENTS

Demonstrations broke out in the capital of Moldova, Chişinău, following parliamentary elections on 5 April 2009 when the ruling Communist Party announced that it had won. Many believed that the elections had been rigged and a demonstration began on 6 April initially sparked by information on social networks. On the 7 April a few hundred violent demonstrators in an otherwise peaceful crowd of thousands stormed the Presidency and Parliament buildings. Despite having done little to control the violence during the day, on the evening of 7 April the police began to detain suspected demonstrators indiscriminately, and over the next couple of days at least 600 people including children were detained and at least one person died following police beatings.

Many of those detained alleged that they had been subjected to beatings and other forms of ill-treatment. There were reports of beatings using police batons and other objects; in one case a metal shoe-horn was used. Some reported that groups of detainees were made to walk down “corridors” of police officers who beat, punched and kicked them as they passed. A young man who had been detained in Ciocana police station reported that this was done because one detainee had complained to the judge about having been beaten by police. The Council of Europe Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) visited Moldova in July 2009 and reported that the delegation heard a “a remarkably large number of credible and consistent allegations of police ill-treatment in the context of the post-election events in April 2009.”<sup>5</sup>

### GOVERNMENT RESPONSE

Following the events of April 2009, the new government appeared willing to turn a new page and took steps to investigate the events. A hot line was established to receive complaints about police actions during the April 2009 and a public appeal was issued for information relating to the events. In October 2009 a commission was set up to investigate the causes and consequences of the events of April 2009, and in May 2010 the Commission presented its report to Parliament. The Commission condemned the police actions, found that police officers had responded with disproportionate force, had detained people indiscriminately and unlawfully, and had ill-treated and tortured people in their custody. The Commission recommended that all those found guilty should be punished including those who gave orders, and those who witnessed offences by police officers but failed to stop them. A Special Committee was set up in April 2010 “to identify civilians and police officers who suffered from the event of 7 April”,<sup>6</sup> and to ensure that they were paid sufficient compensation.

The Council of Europe Commissioner for Human Rights, who visited Moldova on 25 – 28 April 2009, recommended a series of measures to protect detainees and to prevent torture and ill-treatment but warned: “even if all the above steps are diligently taken, they will have only a

limited effect if impunity is permitted for those who have ill-treated persons deprived of their liberty. The Commissioner therefore recommends that decisive action be taken to adopt and enforce a firm attitude of “zero tolerance” of ill-treatment throughout the criminal justice system”.<sup>7</sup>

The low number of prosecutions for acts of torture and ill-treatment perpetrated during the events of 2009, and the lenient sentencing of those responsible are incompatible with a “zero tolerance” approach to torture and other ill-treatment.

## PROGRESS OF PROSECUTIONS

Of the 108 complaints received by the Prosecutor General’s office only 58 reached the courts. Of the 58 criminal proceedings that have been launched, in 29 cases police officers were charged under Article 309/1 for torture, 19 were charged under Article 328 (Exceeding powers or official duties), and 10 for other offences, such as Article 309 (Forcing people to give testimony), and Article 308 (Illegal arrest). To date there have been 19 acquittals.

## LOW NUMBER OF PROSECUTIONS

It has been estimated that as many 600 people were detained by police during the events, yet the General Prosecutor’s office reported that it received only 108 complaints. Many victims chose not to complain citing lack of confidence that their complaint would be successful or fearing the personal cost and trouble of pursuing a complaint. For those victims who have persevered it has been a long and difficult struggle to find justice. Among those cases that did not reach the courts was the case of Andrei Taraburca. He subsequently applied to the European Court of Human Rights, which ruled on 6 December 2011 that he had been subjected to torture and other ill-treatment (see below) and awarded him compensation.

## INADEQUATE SENTENCING

In the few cases to date that have resulted in convictions the sentences given to police officers do not reflect the grave nature of the offences. Article 309/1 of the Criminal Code criminalizes torture and defines torture in line with Article 1 of the Convention against Torture, however, it allows for suspended sentences, which is not in line with the requirement of the Convention against Torture that torture should be punished by adequate sentences that take into account its grave nature. In its consideration of the state report in 2009, the Committee against Torture expressed concern at the inadequacy of penalties available for torture and called on the government to “ensure that torture is punishable by adequate penalties which take into account its grave nature”.<sup>8</sup> Amnesty International calls on the Moldovan government to make the necessary changes to Article 309/1 to exclude the possibility of suspended sentences.

## EXCESSIVE DELAYS

In many cases investigations into torture allegations were delayed as victims were forced to appeal against decisions by prosecutors not to initiate criminal proceedings against police officers. The delays meant that vital evidence was lost.

## ANDREI TARABURCA

Andrei Taraburca was detained late at night on 7 April when he was about to board a taxi with a friend after having peacefully observed the demonstrations in Chişinău. He was taken to Botanica police station, and at about 1 a.m. on 8 April four police officers entered the cell and started beating him for no apparent reason. The European

8 Unfinished Business:  
Combatting Torture and Ill-treatment in Moldova

Court of Human Rights found that there had been a violation of Article 3 because Andrei Taraburca had been subjected to ill-treatment while in police detention, but also because the Moldovan authorities had failed to carry out a prompt impartial and effective investigation into his allegations of ill-treatment.<sup>9</sup> The European Court of Human Rights found that the investigation was compromised and failed to satisfy the requirements of impartiality because the initial verification of the case was carried out by the Ministry of Internal Affairs: “the institution for which a large number of those accused of ill-treatment worked”. There were a number of unexplained delays: despite the fact that Andrei Taraburca lodged his complaint on 14 April, he did not receive an answer from the prosecutor until 29 May, the prosecutor then decided not to initiate a criminal investigation on 12 June, but only informed Taraburca on 16 July 2009. The court found that “the various unexplained delays mentioned above are incompatible with the notion of promptness of investigation, as required by Article 3 of the Convention, since there is a risk that evidence of ill-treatment disappears as time goes by and injuries heal.” It was also surprising that despite the fact that Taraburca had visible injuries on his face, none of the officials who saw him reacted.

Some lawyers complained that court decisions are being sent out as much as six months after the final hearing, and as parties can only lodge an appeal upon receipt of the written court decision, their appeals are also delayed. In addition, the drawn out nature of the proceedings themselves lessens the chances of reaching decisions because many of the witnesses and victims are no longer attending court sessions. They cannot afford to keep paying the cost of travel to court or they simply give up, losing faith that they will ever receive justice.

#### UPDATES TO CASES HIGHLIGHTED BY AMNESTY INTERNATIONAL

Of the seven people that featured in an Amnesty International briefing published in November 2009<sup>10</sup> only the case of Oxana Radu resulted in the conviction of two police officers concerned and they were given suspended sentences. In two cases the police officers were acquitted, one case was closed on the grounds that the police officers could not be identified, and one was closed because the complainant moved abroad, and two other cases are still ongoing. Evghenii Tanasiev complained that he had been beaten while in custody in Ciocana police station, but the police officers concerned were acquitted in December 2010. Evghenii Tanasiev appealed against the acquittal, but the decision of the court of first instance was upheld in July 2011. He has now appealed to the Supreme Court. Iurie Craciuneac complained that he was beaten, forced to strip naked and ordered to do exercises while the police jeered at him. The case was closed in May 2010 on the grounds that the police officers could not be identified, despite the fact that it should have been clear which policemen were on duty at the time. Iurie Craciuneac was not informed of the fact that the case had been closed, and informed Amnesty International that he sent as many as 13 letters to the prosecutor asking for information about the progress of his case, but it was only in April 2011 that his lawyer was informed that the case had been closed. Since receiving that information he has appealed to the judge and the prosecutor against the closure of the case, but the decision to close the case has been upheld. His case is now pending with the European Court of Human Rights.

#### **OXANA RADU**

Oxana Radu was among a group of 36 young people who travelled in two minibuses from Cahul, in the south of Moldova, to Chişinău to join the demonstrations on 7 April 2009. The minibuses were stopped as they set off to return to Cahul close to midnight on the night of 7-8 April. Oxana Radu, her younger sister and one other woman were taken directly into the police station on arrival. She told Amnesty International: “They led me to a room where there was a policeman and a policewoman. They forced me to strip naked and I covered myself with my arms because I was embarrassed and they laughed at me and said: “You’re cold, we will warm you up.” They made me

do squats. I don't remember how many.”

On 15 July 2011 two of the three police officers who had been accused of torturing Oxana Radu and her sister were given suspended sentences. The written decision was only issued in December 2011, which meant that Oxana Radu and her sister could not appeal against the sentence until then. Until the verdict is final, the police officers concerned are still working at the same police station.

The failure to prosecute perpetrators of torture and other ill-treatment creates a culture of effective impunity in Moldova and will hamper any efforts by the government to eradicate the problem. The only way to deliver an unequivocal message that such conduct will not be tolerated is to ensure that all officials who order, authorise, condone or perpetrate torture and ill-treatment are brought to justice for their acts or omissions.

## 3. IMPUNITY

The difficulties experienced by the victims of police violence during the events of 2009, who have tried to pursue their complaints, highlight long standing structural problems within the criminal justice system in Moldova that contribute to impunity. These include low rates of conviction of police officers, the difficulties that victims face in lodging complaints and the failure of the Prosecutor General's Office to conduct prompt thorough, independent and impartial investigations.

In the 2007 report Amnesty International drew attention to the problem that prosecutors are not sufficiently functionally independent from the police to guarantee independent and impartial investigations as required by international human rights standards. In Moldova, prosecutors are responsible for overseeing criminal investigations carried out by police officers as well as being responsible for the investigation of police misconduct.

At a meeting in October 2007 the Deputy General Prosecutor admitted to Amnesty International that investigations into torture allegations failed to satisfy the requirements of impartiality, and in an attempt to address this problem the General Prosecutor's Office has taken various measures. Following the April 2009 events, military prosecutors were employed to investigate torture allegations on the basis that they did not work closely with police on ordinary criminal cases and would be less liable to protect their colleagues in the Ministry of the Interior. In May 2010 a Department for Combating and Preventing Torture was set up within the Prosecutor General's Office. The department has a staff of four in Chişinău and approximately 70 prosecutors based in regional prosecutor's offices throughout the country. In theory these prosecutors do not work on regular criminal cases and do not have close collegial links with police officers, however, in practice, as they are subordinated to the regional prosecutors they are called on to work on high profile criminal cases.

Amnesty International has repeatedly highlighted the problem that the majority of torture complaints are rejected as unfounded after cursory and superficial checks. In some cases victims have been forced to go the European Court of Human Rights before their complaints of torture have been investigated.

### THE LONG WAIT FOR JUSTICE

Sergei Gurgurov was tortured in 2005, but it was only in July 2009, after the European Court of Human Rights had ruled against Moldova in the case, that the Prosecutor opened an investigation into his case. Until then the Prosecutor General's office had responded to all requests for a criminal investigation saying that Sergei Gurgurov's injuries were self-inflicted. On 16 June 2009, in the case of Gurgurov v. Moldova (Application no. 7045/08), the European Court of Human Rights ruled that Moldova had violated Article 3 of the European Convention on Human Rights and Fundamental Freedoms, because Sergei Gurgurov had been tortured by police officers and because the state had failed to conduct an effective investigation into the allegations of torture. The court also ruled that there had been violation of Article 13 on account of the lack of effective remedies in respect of the acts of torture. Sergei Gurgurov has received the compensation ordered by the European Court of Human Rights, but to date, according to the information available to Amnesty International, the perpetrators have still not been named in the context of the investigation.

According to Article 274 of the Criminal Procedural Code prosecutors have up to 15 days to carry out a preliminary check and to decide whether to start criminal proceedings. According to Ion Caracuian, the Director of the Department for Combating and Preventing Torture, this preliminary check is cursory and prosecutors will make this decision on the basis of documentation provided by the victims and the police. In a situation where prosecutors are biased in favour of the police this preliminary procedure provides a loophole for prosecutors to reject complaints of torture on the basis of police statements denying torture and other ill-treatment. Statistics provided by the Department for Combating and Preventing Torture in the General Prosecutor's office show that a very small number of complaints received actually lead to investigations and prosecutions for torture. Out of the 958 complaints made in 2011, only 108 resulted in the opening of criminal prosecutions. In 775 cases the complaint was judged to be unfounded.

<b>Statistics on investigation the torture cases in Moldova<sup>11</sup></b>	<b>2010</b>	<b>2011</b>
Complaints made to prosecutors	829	958
Prosecutions started	91	108
Complaints rejected	570	775
Cases sent to the court	19	36
Judicial decisions (sentences)	4	9

Article 12 of the UN Convention against Torture requires states to carry out "a prompt and impartial investigation, wherever there is reasonable ground to believe that an act of torture has been committed". The Moldovan system is currently failing to carry out prompt and impartial investigations because torture complaints are rejected after a preliminary and biased examination. It is clear that the system of preliminary checks is not appropriate for torture complaints and should be reviewed.

## SUSPENSION OF POLICE OFFICERS

In the 2007 report Amnesty International called for the suspension of police officers while under investigation for torture and other ill-treatment. According to the UN Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, "[t]hose potentially implicated in torture or ill-treatment shall be removed from any position of control or power, whether direct or indirect, over complainants, witnesses and their families, as well as those conducting the investigation."<sup>12</sup> In most of the cases monitored by Amnesty International over the past seven years, police officers have continued to carry out their duties while under investigation for torture and other ill-treatment, in some cases victims and witnesses have been put under pressure by police officers to withdraw their testimony. There is no provision in law for police officers to be suspended on full pay, however, there is a procedure whereby prosecutors can request the Ministry of Interior to suspend police officers. In connection with the April events Ion Caracuian of the Prosecutor General's office informed Amnesty International that 14 police officers were suspended in this way, but that five of them were reinstated when they appealed to the courts. The police officers who tortured Oxana Radu and

12 Unfinished Business:  
Combating Torture and Ill-treatment in Moldova

her sister (see p.8) in April 2009 have been sentenced to suspended prison terms for torture, but they continue to work pending appeal.

Amnesty International is concerned that the failure to remove police officers from active duty while under investigation contributes to impunity. Amnesty International calls on the Moldovan authorities to make the necessary changes to legislation and practice to make this possible.

### **INDEPENDENT BODY FOR THE INVESTIGATION OF VIOLATIONS BY POLICE OFFICERS**

In the 2007 report Amnesty International recommended that an independent body should be set up to investigate complaints about human rights violations by police officers and to make recommendations to the prosecuting authorities on whether to bring a prosecution or not. In its consideration of the government report in 2009 the UN Committee against Torture called on the Moldovan government to ensure prompt, impartial and effective investigation into all allegations of torture and ill-treatment, and recommended: "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."<sup>13</sup>

Amnesty International recognizes the steps already taken to address the problem of impunity for torture and other ill-treatment, but urges the Moldovan government to take the next step and set up an independent body for the investigation of complaints against the police. Such a body should have no hierarchical or institutional links with the police and operate completely independently from the government, and the police. It should be adequately resourced and staffed, including with its own body of independent expert investigators, and headed by individuals of acknowledged competence, expertise, independence, impartiality, and integrity. It should have all necessary powers, including that of immediate access to police premises or other relevant locations and the power to summon witnesses and to order the production of evidence and documents. It should refer matters to the criminal prosecutor and/or to the police internal disciplinary body, as appropriate, and have the power to order the initiation of disciplinary proceedings and to require the disciplinary body to report back to it on the outcome of such proceedings. Finally, it should recommend appropriate action in respect of the police system overall.

Amnesty International recognizes that the establishment of such an institution has cost implications, but the government of Moldova has already invested significant resources in the establishment of the Department for Combating and Preventing Torture within the General Prosecutor's office with a staff of 70 prosecutors throughout the country. Amnesty International believes that it would not require significantly greater resources to establish a truly independent body that would deliver significantly better results.

## 4. INADEQUATE SAFEGUARDS FOR DETAINEES

The government has taken a number of measures to improve safeguards for detainees and to prevent torture and other ill-treatment. In December 2009 a Joint Order between the Ministry of Health and the Prosecutor General's Office was published which obliges all employees of the Ministry of Health to inform the local prosecutor and the Ministry of Internal Affairs of every case where they suspect torture has been used. A project is underway with the UNDP to install video cameras in all police stations. The project includes training and the creation of an archive capable of storing material for two years. The cameras will feed directly to the archive via internet. In theory all interrogations will be on video, however, as many police stations do not have designated interview rooms, and suspects are often interviewed in crowded and ill-equipped offices, it remains to be seen how effective this will be in preventing torture and other ill-treatment. In May 2009 a new Contravention Code replaced the Code of Administrative Offences. The new Code strengthens safeguards for detainees by making it obligatory for those detained under this code to have access to a lawyer, something that was not guaranteed under the previous Code of Administrative Offences.

### COMPULSORY MEDICAL EXAMINATIONS

International human rights bodies and mechanisms state that independent medical examinations on admission to a place of detention are particularly important as a safeguard against torture. However, in Moldova there is no mandatory requirement to carry out medical examinations on arrival at the place of detention. The Council of Europe Committee for the Prevention of Torture has drawn attention to the importance of carrying out medical examinations of detainees as soon as possible, and found that those detained in the context of the April 2009 did not have their injuries recorded until after release or transfer to a remand prison (SIZO). In a meeting with Amnesty International delegates in March 2007, the Deputy Prosecutor General stated that it would be of great assistance to prosecutors investigating torture allegations if medical examinations on admission were compulsory. Amnesty International calls on the Moldovan authorities to introduce obligatory medical examination on admission to a place of detention.

### EXCESSIVE TIME SPENT IN POLICE DETENTION

All detainees are held in police isolation cells (IDP – acronym from the Moldovan, *izolatoare de detenție preventivă*) for up to 72 hours until they are brought before a judge. At that stage they are either transferred to a remand prison (*Instituția penitenciară* – IP or the Russian acronym SIZO) run by the Ministry of Justice, or their detention in the IDP may be extended.

In Moldova detainees continue to be kept for an excessive amount of time in IDPs before being brought before a judge. In the 2007 report Amnesty International drew attention to the fact that this had a negative impact upon detainees who were held in substandard conditions for too long, and it was during this period that they were likely to be subjected to torture and other ill-treatment. Amnesty International calls on the government to reduce this period from 72 hours to 48 hours, with the possibility of extension in exceptional circumstances.

14 Unfinished Business:  
Combating Torture and Ill-treatment in Moldova

One important safeguard against torture and ill-treatment is to ensure that the authorities responsible for interrogation are separate from those in charge of detention. In the 2007 report Amnesty International urged the Moldovan government to take action without delay to ensure that the responsibility for IDPs was transferred to the Ministry of Justice. This has been an action point in successive National Human Rights Action Plans including the Action Plan for 2011 – 2014. For this to take place, a number of new pre-trial detention facilities (*casele de arest* - houses of arrest) need to be built throughout the country. Moldova has failed to implement this plan despite repeated promises. Most recently, in the National Report submitted to the Human Rights Council in October 2011 as part of the Universal Periodic Review Moldova undertook to build new houses of arrest and transfer the management to the Ministry of Justice. Plans to transfer responsibility for pre-trial detention to the Ministry of Justice are long overdue, and Amnesty International calls on the Moldovan government to proceed with these plans as soon as possible.

### MONITORING OF PLACES OF DETENTION

A system for regular and unannounced visits to places of police detention by independent observers is a key safeguard for detainees. Torture and other ill-treatment is more likely to take place when the perpetrators feel confident that they are not being monitored. Such a mechanism of independent experts is provided for under the Optional Protocol to the UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment (OPCAT), which Moldova ratified in July 2006. By March 2008, following amendments to the Law on the Parliamentary Ombudsmen, a Consultative Council (the Council) was set up within the Ombudsmen's office to monitor places of detention in accordance with Moldova's obligations under the OPCAT. However, there have been concerns that the Council was not adequately funded or sufficiently independent from the Parliamentary Ombudsman's office. In 2009, the UN Committee against Torture drew attention to the fact that "serious legislative and logistic constraints"<sup>14</sup> were impeding the effective functioning of the Consultative Council. The government responded in February 2011 that "the structure did not provide, until now, a distinctly specialized and adequately equipped division",<sup>15</sup> and has set up a working group to restructure the centre to create a distinct structure that will carry out the task of monitoring places of detention in line with OPCAT. Amnesty International urges the government to ensure that the mechanism is fully in line with the requirements of the OPCAT by guaranteeing its functional independence and the independence of its personnel, ensuring that the experts have the required capabilities and professional knowledge, and making available the necessary resources for it to function.

## 5. CONCLUSION AND RECOMMENDATIONS

As a state party to the International Covenant on Civil and Political Rights, the European Convention for the Protection of Human Rights and Fundamental Freedoms, the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, the Optional Protocol to the Convention against Torture and the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment Moldova has committed itself to eradicate torture and other ill-treatment. The continuing impunity for the violations that were perpetrated during the April 2009 events demonstrates that recent changes to legislation and practice have not gone far enough to eradicate torture and other ill-treatment. Amnesty International proposes the following recommendations to assist Moldova in overcoming the problem of impunity for human rights violations by the police and in fulfilling its international human rights obligations:

### Measures to Combat Impunity

- All those responsible for the violations that occurred in April 2009 including those who gave orders and those who failed to prevent violations from taking place must be brought to justice as a matter of priority;
- Consider establishing a fully-resourced independent agency to investigate all allegations of human rights violations by law enforcement officers, including the police;
- Ensure that all allegations of police ill-treatment or torture are subject to prompt, thorough, independent and impartial investigation, including interviewing the victim and any witnesses. Make the necessary legislative changes to ensure that torture allegations are not rejected after cursory preliminary checks;
- Make the necessary legislative changes to ensure that any police officer or law enforcement official who is under investigation for having committed acts of torture or other ill-treatment can be suspended on full pay for the duration of the investigation;
- Comply with the recommendations of the Committee against Torture and make the necessary legislative changes to ensure that torture cannot be punished with suspended sentences.

### Safeguards for Detainees

- Ensure that the Consultative Council which acts as the National Preventative Mechanism is fully in line with the requirements of the OPCAT by guaranteeing its functional independence and the independence of its personnel, ensuring that the experts have the required capabilities and professional knowledge, and making available the necessary resources for it to function;
- Introduce a system of obligatory medical examination upon arrival at all places of detention including police stations;
- Proceed without delay to implement plans to transfer responsibility for pre-trial detention facilities from the Ministry of the Interior to the Ministry of Justice;
- Detention in criminal cases before the detainee comes before a judge should be reduced from 72 hours to 48 hours, and this should be viewed as a maximum rather than an allowed period of time;
- All interrogations should be held in designated interrogation rooms. There should be no interrogations in investigators' offices.

## END NOTES

---

<sup>1</sup> See Amnesty International, *Police Torture and other Ill-treatment: It's still "just normal" in Moldova* (Index: EUR 59/009/2009), available at: <http://www.amnesty.org/en/library/info/EUR59/009/2009>

<sup>2</sup> Press Release from the Prosecutor General's Office, *Combaterea torturii în anul 2011: rezultatele obținute de procurori* (Combating Torture in 2011: results achieved by Prosecutors), 2 March 2012, <http://www.procuratura.md/md/com/1211/1/4434/>

<sup>3</sup> Amnesty International, *Moldova: Police torture and ill-treatment: 'It's just normal'* (Index: EUR 59/002/2007), available at: <http://www.amnesty.org/en/library/info/EUR59/002/2007/en>.

<sup>4</sup> Amnesty International, *Police Torture and other Ill-treatment: It's still "just normal" in Moldova* ( Index: EUR 59/009/2009), available at: <http://www.amnesty.org/en/library/info/EUR59/009/2009>

<sup>5</sup> Report to the Moldovan Government on the visit to Moldova carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 27 to 31 July 2009, <http://www.cpt.coe.int/documents/mda/2009-37-inf-eng.pdf>

<sup>6</sup> National Report to the 12th session of the Human Rights Council Universal Periodic Review, July 2011, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G11/150/08/PDF/G1115008.pdf?OpenElement>

<sup>7</sup> Report by Thomas Hammarberg, Commissioner for Human Rights of the Council of Europe Following his visit to Moldova - 25 to 28 April, Strasbourg, 17 July 2009 (CommDH(2009)27), <https://wcd.coe.int/ViewDoc.jsp?id=1469277&Site=CM>

<sup>8</sup> Concluding observations of the Committee against Torture, Republic of Moldova, Forty-third session, Geneva, 2–20 November 2009, paragraph 14, <http://www2.ohchr.org/english/bodies/cat/docs/co/CAT.C.MDA.CO.2.pdf>

<sup>9</sup> Case of Taraburca v. Moldova (Application no. 18919/10) Strasbourg, 6 December 2011, <http://cmiskp.echr.coe.int/tkp197/view.asp?item=1&portal=hbkm&action=html&highlight=Taraburca%20%20Moldova&sessionId=87649213&skin=hudoc-en>

<sup>10</sup> Amnesty International, *Police Torture and other Ill-treatment: It's still "just normal" in Moldova* (Index: EUR 59/009/2009), available at: <http://www.amnesty.org/en/library/info/EUR59/009/2009>

<sup>11</sup> Press release from the Prosecutor General's Office, 26 January 2012, *Rezultatele activității Procuraturii în domeniul prevenirii și combaterii torturii pentru anul 2011*, available at: <http://www.procuratura.md/md/com/1211/1/4371/>

<sup>12</sup> Principle 3 (b), Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, GA resolution 55/89, 4 December 2000.

<sup>13</sup> Concluding observations of the Committee against Torture, Republic of Moldova, Forty-third session, Geneva, 2–20 November 2009, <http://www2.ohchr.org/english/bodies/cat/docs/co/CAT.C.MDA.CO.2.pdf>

<sup>14</sup> Concluding observations of the Committee against Torture, Republic of Moldova, Geneva, 2–20 November 2009, <http://www2.ohchr.org/english/bodies/cat/docs/co/CAT.C.MDA.CO.2.pdf>

<sup>15</sup> Follow-up responses of Moldova to the concluding observations of the Committee against Torture, 14 February 2011, <http://www2.ohchr.org/english/bodies/cat/docs/followup/CAT.C.MDA.CO.2.Add1.pdf>