

**2019 HDIM Session / Factsheet  
submitted by Promo LEX  
Associaton**

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Since the last HDIM meeting, some progress has been achieved in the field of prevention of torture, due to joint efforts of civil society, international institutions, State authorities and their external partners. However, in spite of the efforts made, torture and impunity persist, while victims' access to justice is difficult and limited. In practice, many of these problems are related to ineffective investigations of torture allegations and the inability or unwillingness to identify perpetrators for prosecution. For many years, the culture of impunity and lack of accountability of perpetrators has been recognized by international and regional torture monitoring bodies, as key factors contributing to the prevalence of torture and ill-treatment in the Republic of Moldova

EMERGING ISSUES

**THE NEED FOR EFFECTIVE INVESTIGATION OF CRIMES OF TORTURE**

**DESCRIPTION**

**RECOMMENDATION TO THE MEMBER STATE:**

Torture is still in use in the Republic of Moldova, along with the Transnistrian region, despite increased government efforts to crack down on perpetrators. The number of reported torture acts has decreased recently. However, it is estimated that the number of acts remains higher than reported due to lack of trust in the judicial system.

**The victims of torture are both** national and foreign citizens, including children and female victims, and those from poor economic backgrounds and vulnerable communities. In the majority of cases, torture is committed against those over 18 years old, though some minors are also victims.

**The perpetrators are** law enforcement agents, in particular, police officers, who were reported in connection to the majority of torture cases during the 2009 civil unrest and more recent allegations. Typically, law enforcement agents fail to respect the conditions in the application of force and special means and do not report excessive use of force, in spite of the fact-specific regulations were adopted.

**Methods of torture** alleged by complainants, and those registered, monitored, and documented by Promo-LEX: beating (blunt trauma) and psychological torture.

There were **687 officially**<sup>1</sup> recorded complaints of torture in 2018, though unofficial estimates suggest that torture is more widespread. Out of the total number of the complaint, the criminal investigation started just in 93 cases. The numbers mentioned above make us believe the phenomena of torture and ill-treatment in some cases, are investigated superficially. For example, in the case of Trocin Evgheni, the prosecutor office refused to investigate his complaints of ill-treatment committed in prison. He submitted in the spring of 2019 a complaint to the ECtHR. The case is pending for examination<sup>2</sup>.

The judicial practice of torture examination is also incoherent. In 2018, out of the total 24 Court Judgements, the judges issued acquittal sentences in 9 cases. In such circumstances, the acquittal rate in torture cases is more than 35 %. In the same time, the overall acquittal rate in the Republic of Moldova is less than 5%, according to the public data. For example, in the case of Andrei Brăguta, a victim of torture, the Chisinau District Court decided to issue an acquittal judgement in his case, in spite of the fact relevant proof was provided by the prosecutor office and the

- The Prosecutor General shall ensure that complaints regarding acts of torture and ill-treatment that are not *prima facie* unfounded receive a prompt, impartial, and effective investigation following the Istanbul Protocol;
- Ensure training of medical and legal professionals in the use of the Istanbul Protocol and that medico-legal reports produced by non-state actors are afforded equal evidentiary value to those provided by government officials;
- Ensure the Judges specialized on criminal cases are sufficiently trained to deal with the torture cases and to refer and comply with the relevant ECHR and UN standards then reasoning a judgement on a torture case;