

*MOLDOVAN HELSINKI COMMITTEE
FOR HUMAN RIGHTS*

February 2003

PUBLIC DRAFT

ALTERNATIVE REPORT TO THE
INITIAL AND FIRST PERIODIC REPORT OF THE
REPUBLIC OF MOLDOVA
On THE STAGE OF IMPLEMENTATION OF THE
CONVENTION AGAINST TORTURE AND OTHER
CRUEL, INHUMAN OR DEGRADING
TREATMENT OR PUNISHMENT

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About Moldovan Helsinki Committee for Human Rights

Moldovan Helsinki Committee for human rights is independent, non-for-profit human rights organizations founded by a group of human rights activists in Tiraspol, Transdnistria region of the Republic of Moldova in 1992 in the wake of dissolution of the Soviet Union.

Moldovan Helsinki Committee monitors the respect for human rights obligations undertaken by the Republic of Moldova before OSCE, United Nations, Council of Europe. It advocates for respect, protection and promotion of human rights values through providing independent expertise of human rights legal and practices compliance, public interest advocating and litigation, raising awareness of specific groups and general public of the serious human rights concerns guided by understanding of universal superior values of individual freedoms, social justice, equality and nondiscrimination. Moldovan Helsinki Committee is a full member of the International Helsinki Federation for Human Rights (Vienna).

Moldovan Helsinki Committee comprehensive subject based and overall reports on the respect of human rights in the Republic of Moldova are known as good and professionally prepared information, solicited and relied by many specialized entities, including those of the Council of Europe, as for instance, the Council of Europe High Commissioner for Human Rights (<http://www.commissioner.coe.int/documents/translsanshighlights.doc>), European Committee on Prevention of Torture (<http://www.cpt.coe.int/fr/rapports/inf2000-20fr.htm>), PACE Monitoring Committee on the observance of obligations by the Republic of Moldova.

Additional and detailed information can be accessed at <http://chdom.ngo.moldnet.md> or obtained mailing to chdom@moldnet.md.

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Objectives

Alternative report covers the human rights concerns related to acts of torture and other cruel, inhuman and degrading treatment or punishment throughout the period of 1996-2001, where information and data had been available. **It presents a compilation of the findings and the assessment of the variety of situations researched and investigated by the Moldovan Helsinki Committee (MHC)** can be found at <http://chdom.ngo.moldnet.md> – the web-page of MHC. Other relevant reflections could be found elsewhere in the Committee's reports.

The findings are based on the activities and knowledge of Moldovan Helsinki Committee based on information of more than 100 various case specific and aggregate reports produced since 1995 and observations, information comprehensive reports, researched, investigated, monitored, advocated cases and situations since 1996. Information contained in this report reflects solely the position of the Moldovan Helsinki Committee for Human Rights.

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Introduction

This alternative report has been prepared by the Moldovan Helsinki Committee for Human Rights. The report is presented in the attention of the UN Committee Against Torture (CAT) in connection with the CAT's review of the Moldovan Republic's first initial report, scheduled for 8 May 2003. The purpose of this report is to determine Republic of Moldova to eliminate torture and other cruel, inhuman and degrading treatments and punishments, to promote correct attitude towards this dangerous for democracy practice, by filling the gaps in the official initial report and providing a more comprehensive coverage in the question of Moldova's implementation of the Convention, based on the torture case studies of our own organization.

Since the ratification¹ of the UN Convention Against Torture, Moldova has not made very significant progress in bringing its legislation, and particularly its law-enforcement practice into compliance with the Convention's requirements. To this day, the practice of torture and cruel, inhumane and degrading treatment in Moldova is extraordinarily widespread, with little or no remedy. The most acute problems in this area are:

1. The use of torture and cruel treatment by law enforcement agents in the pre-trial investigation, especially during first period of detention, 72 hours.
2. Ill-treatments applied to the detainees by the penitentiary personnel and Special Forces under the Ministry of Justice.
3. Conditions of detention in pre-trial detention facilities fall under the qualification of a degrading and inhumane treatment and punishment.

Moldovan Helsinki Committee would like to draw the attention in particular to the established practice by law enforcement agents to use torture in order to extract confessions from the suspects. Committee have registered and monitored around 300 cases of torture from 1998 till present and we can state that torture and cruel treatment are widely used in the initial stage of the criminal procedure, pre-trial detention and administrative procedure. The charges brought against the suspect and put on the base of penal cases are thus obtained by illegal means and constitutes illegal proves. However public prosecutors and judges don't prove to be enough impartial and independent to obstruct the evidences obtained through torture. Such practice undermines the rule of law, strengthens the impunity of law enforcement officials and serves as an obstacle to the construction of an effective system of the protection of the rights of the individual against torture in Moldova.

¹ Republic of Moldova has ratified the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment on 31 May 1995 by Parliamentary Resolution no. 473-XIII, which entered into force on 28 December 1995;

Moldovan Helsinki Committee welcomes the penal reforms and adoption of new: Code of Criminal Procedures, Criminal Code and Code on Administrative Offences, being in the present debated in Parliament. ***However Moldovan Helsinki Committee notes that these Codes are not made public, the access to these drafts of law is more difficult then ever, and civil society haven't been consulted on the content of new drafts.***

Despite widespread practices of torture in Moldova, only a small number of cases of torture and cruel, degrading treatment have been investigated, and even less have reached the stage of conviction and punishment.

Recommendations for Moldovan Government to meet the requirements of the Convention:

1. To ensure that it brings all persons suspected of a crime promptly before a judge, as required by its obligations under articles 12 of the Convention. In order to comply with articles 12 and 13, the detention of persons awaiting trial should also be reviewed periodically and their trials secured without undue delay;
2. To enable persons in administrative detention to initiate proceedings in order to test the legality of their detention;
3. To make the declaration under the art.22 paragraph 1 of Convention Against Torture giving possibility to individuals to introduce complaints under art.22 of Convention;
4. To establish an effective procedure, which would provide the necessary information on the existing of flagrant or mass human rights violations in the country of expulsion or extradition, ensuring the access to a complete data for the public officials evolved in the procedure of extradition or expulsion;
5. To recognise the acts of torture, and the attempt to commit torture, as criminal offence under the national criminal law by introducing in New Criminal Code, adopted in 18.04.02, prohibition of torture where public officials should be considered liable for punishment;
6. To examine the possibility of introducing in national legislation the procedure by which detainees could appeal the disciplinary punishments applied to them by penitentiary administration;
7. To improve the reporting system and policemen activity estimation in order to prevent application of unreasonable violence and falsification of investigation results;
8. To introduce in temporary detention isolators of police one unit of doctor, that will provide medical care for the detainees from police custody and that will trace out the injuries of detainees that was tortured during their detention.
9. To establish an independent commission to investigate cases of torture, cruel, inhumane and degrading treatment committed by public officials and persons acting with their consent;
10. To establish directly into the law the minimum amount of moral compensation, and the procedure of its determination in the cases of moral compensation for the victims of torture;

List of questions for the Government of Moldova on the official report:

