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Justice at home for victims of torture and other ill-treatment in Moldova

Five years ago, on 7 April 2009, post-election demonstrations escalated in the capital of Moldova, Chişinău. The Presidential Palace and Parliament Building were stormed by several dozen individuals from amongst thousands of peaceful demonstrators. Police detained over 600 people, many of them arbitrarily, including peaceful demonstrators and passers-by, and hundreds were beaten on arrest and in overcrowded police stations. There were significant and widespread violations of the right to fair trial.

It is now five years since those events. The Presidential Palace and the Parliament Building have been renovated, but the victims of police ill-treatment are still waiting for justice. The failure to deliver justice is clear evidence that Moldova has not yet solved the problem of impunity for torture and other ill-treatment. Only a third of the complaints of torture and other ill-treatment which were made have reached the courts and, in the rare cases where police officers who were identified as perpetrators were criminally prosecuted, their penalties appear largely symbolic. In all, 108 complaints were received, of those 71 criminal cases were initiated but only 29 cases were heard in the courts. The court cases resulted in 14 policemen receiving suspended sentences and 22 acquittals.

On 24 December 2013, a police officer was acquitted of having beaten to death a young student, Valeriu Boboc, on 7 April 2009. The Prosecutor General's Office initially claimed that Valeriu Boboc died from poisoning, but a report by an independent forensic expert stated that he had died as a result of injuries inflicted by the police. Subsequently released video images captured by surveillance cameras also confirmed that Valeriu Boboc was beaten by police officers. The judge reportedly ignored this recriminating evidence.

Those who complained have faced years of legal battles in their fight for justice. Sergiu Cretu was arrested on 7 April and taken to the Police Central Commissariat in Chişinău where he was beaten by officers. The injuries he sustained required months of treatment including complicated reconstruction work on one of his hands which was badly broken. The police officer who tortured Sergiu Cretu received a two year suspended sentence in June 2011. Sergiu Cretu and his lawyer, Natalia Moloşag, continue to battle for a sentence which they see as commensurate with the crime. The case has now been sent for the third time to the Supreme Court of Appeal for re-examination. Natalia Moloşag told Amnesty International "I won't find the truth here. I am going to the European Court of Human Rights. I have always said that you need to find justice at home, but now I think it is better if they refuse us and we go to the European Court. They didn't gather the evidence correctly. They didn't do anything."

Of the seven people that featured in an Amnesty International briefing published in November 2009, only the case of Oxana Radu resulted in the conviction of two police officers concerned, and both were given suspended sentences. Oxana Radu was detained on the night of 7-8 April along with a group of 36 young people from Cahul, in the south of Moldova. 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 accused of torturing and otherwise ill-treating Oxana Radu and her sister were given suspended sentences.

So far, the European Court of Human Rights (ECtHR) has ruled in seven cases relating to the events of April 2009 and found violations of Article 3 (prohibition of torture) in each case. In all cases, the Court found that the investigations were heavily flawed because of repeated refusals to start criminal cases, and the failure to take into account vital evidence. In the case of Sergiu Buhaniuc, an investigation was only launched more than a year after the events and prosecutors only started to carry out vital investigations on the prompting of the ECtHR. Vitalie Iurcu had to wait six months until any action was taken on his complaint and, even then, only one police officer was questioned.

In a report on his visit to Moldova in March 2013, the Council of Europe Commissioner for Human Rights expressed concern that those police officers convicted for torture and other ill-treatment during the events of April 2009 had all been issued with suspended sentences. He called on Moldova to ensure that investigations into torture and other ill-treatment comply with Council of Europe principles of independence, adequacy, promptness, public scrutiny, and victim involvement.

Impunity for torture and other ill-treatment in Moldova remains a problem. In 2013, the Prosecutor General's Office received 719 complaints of torture and other ill-treatment. Of those, 62 led to investigations and 39 resulted in court cases. Of the 39 cases that went to court one police officer was sentenced to a prison term and eight received suspended sentences. The remaining cases are still ongoing.

Moldova has taken important steps towards eradicating impunity for torture and other ill-treatment, but more needs to be done. In November 2012, parliament passed amendments to the Criminal and Criminal Procedural Codes which increased the maximum sentence for torture from 10 to 15 years, abolished the statute of limitations for torture, and prevented those convicted of torture from receiving amnesties or suspended sentences. However, many police officers committing acts amounting to torture and other ill-treatment are often convicted under other articles of the Criminal Code such as Article 328 "exceeding power or official authority". A special department was set up within the Prosecutor General's Office to investigate torture and other ill-treatment. However, specially designated prosecutors working on torture cases continue to work on ordinary criminal investigations and retain close links with the police, causing a conflict of interest when they then investigate police officers. The National Preventive Mechanism has been established in accordance with Moldova's obligations under the Optional Protocol to the Convention against Torture, but it is underfunded and the status of that body within the Ombudsperson's Office does not provide sufficient independence.

Amnesty International calls on the Moldovan authorities to take the following measures to combat impunity for police torture and other ill-treatment:

- Through independent and impartial investigations, identify and bring to justice all those law enforcement officers responsible for the human rights violations that occurred in April 2009, including those who gave orders and those who have condoned or otherwise wilfully failed to prevent violations from taking place;
- Consider establishing an adequately resourced independent agency to investigate all allegations of human rights violations by law enforcement officers, including the police;
- Ensure that all allegations of torture or other ill-treatment by police are subject to prompt, thorough, independent and impartial investigation;
- Ensure that the Consultative Council which acts as the National Preventive Mechanism is set up fully in line with the requirements of the OPCAT by guaranteeing its functional, financial and operational independence from any official agencies, and making available all the necessary resources as required for it to function effectively.

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