

## Country File

# REPUBLIC OF MOLDOVA



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<b>Region</b>	Europe
<b>Legal system</b>	Civil Law
<b>UNCAT Ratification/ Accession (a)/ Succession (d)</b>	28 November 1995 (a)
<b>Relevant Laws</b>	<ul style="list-style-type: none"> <li>• Constitution of 29 July 1994</li> <li>• Criminal Code of 2002 (Law No. 985-XV, 18 April 2002)</li> <li>• Criminal Procedure Code of 2003 (Law No. 122-XV, 14 March 2003)</li> </ul>
<b>Relevant Articles</b>	<ul style="list-style-type: none"> <li>• <b>Prohibition of Torture:</b> <ol style="list-style-type: none"> <li>1. Article 24 of the Constitution</li> <li>2. Article 4 of the Criminal Code</li> <li>3. Article 10 of the Criminal Procedure Code</li> </ol> </li> <li>• <b>Definition of Torture:</b> Article 309/1 of the Criminal Code</li> <li>• <b>Penalties:</b> Articles 137, 151, 152, 309, 309/1 and 328 of the Criminal Code</li> <li>• <b>Others:</b> <ol style="list-style-type: none"> <li>1. <b>Compensation and Reparation:</b> Article 10 of the Criminal Procedure Code</li> <li>2. <b>Extradition:</b> Article 546 of the Criminal Procedure Code</li> <li>3. <b>Participation in torture:</b> Article 309/1 of the Criminal Code</li> <li>4. <b>Lawful sanctions:</b> Article 309/1 of the Criminal Code</li> <li>5. <b>Prohibition of coerced confession:</b> Article 309 of the Criminal Code</li> </ol> </li> </ul>
<b>Languages Available</b>	<ul style="list-style-type: none"> <li>• Moldovan (official language)</li> </ul>

Association for the Prevention of Torture (APT) [www.appt.ch](http://www.appt.ch)

For any suggestions and/or comments, please contact us at [laws@appt.ch](mailto:laws@appt.ch).

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	<ul style="list-style-type: none"><li>• English</li></ul>
<b>Other Relevant Information</b>	

## Relevant Articles – REPUBLIC OF MOLDOVA

### MOLDOVAN

#### Constitutia 29 Iulia 1994

##### ***Articolul 24 Dreptul la viata si la integritate fizica si psihica***

- (1) Statul garanteaza fiecarui om dreptul la viata si la integritate fizica si psihica.
- (2) Nimeni nu va fi supus la torturi, nici la pedepse sau tratamente crude, inumane ori degradante.
- (3) Pedeapsa cu moartea este abolita. Nimeni nu poate fi condamnat la o asemenea pedeapsa si nici executat.

### ENGLISH (Translation)

#### Constitution of 29 July 1994

##### ***Article 24 The Right to Life and Physical and Mental Integrity***

- (1) The State guarantees everybody the right to life, and to physical and mental integrity.
- (2) No one may be subjected to torture or to cruel, inhuman or degrading punishment or treatment.
- (3) Until its final prohibition, capital punishment may be applied only if it is based on a sentence passed in a court of justice, as foreseen by law.

#### Criminal Code of 2002 (Law No. 985-XV, 18 April 2002)

##### ***Article 4 the principle of humanity***

- (1) The legal regulations in their entirety have as their main purpose the protection of the person as the supreme value of the society, and of his/her rights and freedoms.
- (2) The criminal law does not have the purpose of inflicting physical suffering or infringing human dignity. No person can be subjected to torture or cruel, inhuman or degrading punishment or treatment.

##### ***Article 137 inhumane treatment***

- (1) The subjecting, by any methods, to torture or inhumane treatments, for the purpose of deliberately inflicting severe pain or severely injuring the bodily

integrity or the health of wounded or sick persons, prisoners, civilians, members of civil medical staff or members of the Red Cross and similar organizations, shipwrecked persons, as well as any other person fallen to the enemy, or their subjection to medical, biological or scientific experiments not justified by a medical treatment to their benefit, shall be punished by imprisonment for a term of 8 to 15 years.

(2) ...

(3) The torturing, mutilation, extermination or execution without legal trial of persons indicated at paragraph (1), shall be punished by imprisonment for a term of 16 to 25 years or by life imprisonment.

**Article 151 Intentional infliction of severe injuries to the bodily integrity or health**

(1) The intentional infliction of severe injuries to the bodily integrity or health, which endanger life or have caused a loss of vision, hearing, speech or other organ, or the cessation of the functioning of an organ, mental illness or some other form of health impairment, involving the permanent loss of at least one-third of the capacity to work, or resulting in a loss of pregnancy, or an untreatable disfigurement of the face and/or adjacent areas,

shall be punished by imprisonment for a term of 5 to 10 years.

(2) The same action, when committed:

a) ...

e) by mutilation or torture;

f) ...

shall be punished by imprisonment for a term of 6 to 12 years.

(3) The actions set forth at paragraph (1) or (2), when committed:

a) repeatedly;

b) against two or more persons;

c) by an organized criminal group or by a criminal organization;

d) for the purpose of removing and/or using or selling the victim's organs or bodily tissues;

e) at someone's order,

shall be punished by imprisonment for a term of 8 to 15 years.

(4) The actions set forth in paragraphs (1), (2) or (3), which resulted in the death of the victim, shall be punished by imprisonment for a term of 10 to 15 years.

**Article 152 Intentional infliction of average injuries to the bodily integrity or health**

(1) The intentional infliction of average injuries to the bodily integrity or health, which do not endanger life and do not lead to the consequences indicated at art. 151, but which resulted in a prolonged health impairment, or a significant and permanent loss of less than one-third of the capacity to work,

shall be punished by arrest for a term of up to 6 months or by imprisonment for a term of up to 4 years.

(2) The same act, when committed:

a) ...

f) by mutilation or torture;

g) ...

shall be punished by imprisonment for a term of 3 to 7 years.

### **Article 309 Coercing to testify**

(1) Coercing a person, by threats or other unlawful acts, to testify during an interrogation, coercing, in the same way, an expert to give a conclusion, or coercing a translator or an interpreter to provide an incorrect translation or interpretation, committed by the person carrying out the criminal investigation,

shall be punished by imprisonment for up to 3 years with a deprivation of the right to hold certain positions or to practice a certain activity for a period of up to 5 years.

(2) The same action, when involving:

a) the use of force;

b) cruel, inhumane or degrading treatment;

c) the conclusion of a plea bargain agreement,

shall be punished by imprisonment for 3 to 8 years with a deprivation of the right to hold certain positions or to practice a certain activity for a period of up to 5 years.

### **Article 309/1 Torture**

(1) Deliberate infliction of severe physical or psychic pain or suffering to a person, specifically for the purpose of obtaining from that person or from another person information or confessions, for the purpose of punishing the person for an act which he/she, or another person, has committed or is suspected of having committed, for the purpose of intimidating or pressuring that person or another person, or for any other purpose based upon a form of discrimination, of any kind, if such a pain or suffering is inflicted by an official person or by any other person acting on the basis of an official title, or at the incitement or with the consent, either express or tacit, of such a person, except for the pain or suffering which results exclusively from legal sanctions and which is inherent to such sanctions, shall be punished by imprisonment for 2 to 5 years with a deprivation of the right to hold certain positions or to practice a certain activity for a period of up to 5 years.

(2) The organizing of, or the incitement to, acts of torture, shall be punished by imprisonment for 3 to 8 years with a deprivation of the right to hold certain positions or to practice a certain activity for a period of up to 5 years.

(3) The actions set forth in paragraph (1) or (2), when committed:

a) knowingly against a pregnant woman;

b) against a juvenile;

- c) by two or more persons;
  - d) by taking advantage of the victim's helpless state;
  - e) with the use of special tools for torture, or other objects adapted for that purpose;
  - f) by a high official person,
- shall be punished by imprisonment for 5 to 10 years with a deprivation of the right to hold certain positions or to practice a certain activity for a period of up to 5 years.

**Article 328 Excess of power or exceeding the job prerogatives**

(1) The commission by an official person of actions which manifestly exceed the limits of the rights and prerogatives granted by law, when resulting in considerable damages to the public interests or to the legally protected rights and interests of individuals or legal entities, shall be punished by a fine in the amount of 150 to 400 conventional units or by imprisonment for up to 3 years, in both cases with (or without) a deprivation of the right to hold certain positions or to practice a certain activity for a period of up to 5 years.

(2) The same actions, when involving:

a) ...

c) torture or actions which abase the dignity of the injured party, shall be punished by imprisonment for 3 to 10 years with a deprivation of the right to hold certain positions or to practice a certain activity for a period of up to 5 years.

(3) The actions set forth in paragraph (1) or (2), when:

a) committed repeatedly;

b) committed by a high official person;

c) committed in the interests of an organized criminal group or a criminal organization;

d) resulting in severe consequences,

shall be punished by imprisonment for 8 to 15 years with a deprivation of the right to hold certain positions or to practice a certain activity for a period of up to 5 years.

**Criminal Procedure Code of 2003 (Law No. 122-XV, 14 March 2003)**

**Article 10 Respect for human rights, freedoms and dignity**

(1) All authorities and persons participating in criminal proceeding shall be bound to respect human rights, freedoms and dignity.

(2) Temporary restrictions on rights and freedoms of a person and the application of constraints by competent authorities shall be admitted only the cases and strictly in the manner provided for in the present code.

(3) During criminal proceedings, no person shall be subject to torture or to cruel, inhuman or degrading treatments, shall not be detained in humiliating conditions, and shall not be forced to participate in procedural actions that harm human dignity.

- (4) Each person shall be entitled to defend by all means not forbidden by the law his rights, freedoms and dignity unlawfully violated or restrained during criminal proceedings.
- (5) The damage caused to human rights, freedoms and dignity during criminal proceeding shall be repaired pursuant the legislation.

**Article 546 Refusal of extradition**

- (1) The Republic of Moldova shall not extradite its own citizens and the persons it has granted the right to asylum.
- (2) Extradition will also be refused, if:
  - 1) the crime was committed on the territory of the Republic of Moldova;
  - 2) regarding the respective person a domestic court or a court of a third state already delivered a sentence of conviction, acquittal or discontinuation of criminal proceedings for the crime for which extradition is requested, or if the criminal investigating authority issued an order on the discontinuation of the criminal proceeding or if the national authorities are investigating the commission of this crime;
  - 3) the term of limitation for holding criminally liable for that kind of crime has expired, according to the national legislation or, in case of amnesty act's intervention;
  - 4) according to the law, criminal investigation may be started only on the basis of the preliminary complaint of the victim and such a complaint is missing;
  - 5) the crime for which extradition of the person is solicited is considered by the domestic law as political or connected to a political one;
  - 6) Prosecutor General, the Minister of Justice or the court examining the extradition case have well-founded reasons to believe that:
    - a) the request on extradition was lodged with the aim to pursue or punish a person for race, religion, sex, nationality, ethnical origins or political opinions considerations;
    - b) the situation of this person risks to worsen for one of the reasons mentioned at the letter a);
    - c) if the person is extradited he will be subjected to torture, inhuman or degrading treatment in the soliciting state.the requested person was granted the status of political refugee;  
the state soliciting extradition does ensure mutuality in the field of extradition.
- (3) If the deed for which extradition is requested is punished by the legislation of the soliciting state with capital punishment, extradition of the person may be refused, unless the soliciting party gives enough guaranties that the capital punishment will not be executed in respect of the extradited person.