

MOLDOVA

The Republic of Moldova became an independent state in August 1991 and is a Parliamentary Republic. Moldova has been a member of the Council of Europe since 1995, and is a Participating State of the Organization for Security and Cooperation in Europe (OSCE). In 2014, an association agreement was signed with the European Union.

A 2014 census found Moldova's population to be 2,913,281, with another 505,153 living in Transnistria, a region not under the control of the central government. The population is currently declining with a negative growth rate of 1.02%¹, due to a low fertility rate of only 1.46² and other factors.

Ethnic Moldovans constitute over 75% of the population, with the balance being Ukrainians, Russians, Gagauz, and Bulgarians. Eastern Orthodox Christians comprise over 93% of the population. Of the remaining population, minority groups include Baptists, Pentecostals, Jehovah's Witnesses, atheists, and others.

According to a 2011 global Gallup survey on religion, the most recent available, the predominant religion is Orthodox Christianity, with 96% of the population belonging to one of the two Orthodox groups: 86% to the Moldovan Orthodox Church (MOC), which is subordinate to the Russian Orthodox Church, and 13% to the Bessarabian Orthodox Church (BOC), under the Romanian Orthodox Church. According to a 2012 Gallup poll, 83% of the population considers itself religious, while 5% declares itself atheist. A 2012 poll conducted by the Human Rights Information Center, a nongovernmental organization (NGO), estimates active membership in non-Orthodox religious groups at 150,000. The largest non-Orthodox religious groups, comprising between 15,000 to 30,000 adherents each, are Roman Catholics, Pentecostals, Seventh-day Adventists, Jehovah's Witnesses, Baptists, Jews, Evangelical Christians, and Muslims.

Smaller religious groups include Baha'is, Molokans, Messianic Jews, Lutherans, Presbyterians, members of the Unification Church, other Christians, and Krishna Consciousness followers.

In the separatist Transnistria region, the largest religious group is the MOC. The Tiraspol-Dubasari diocese is part of both the MOC and the Russian Orthodox Church, and an estimated 80% of the Transnistrian population belongs to the MOC. Other religious groups in the region include Catholics, followers of Old Rite Orthodoxy, Baptists, Seventh-day Adventists, evangelical and charismatic Christians, Jews, Lutherans, Muslims, and Jehovah's Witnesses.

¹ Population growth rates for Moldova can be tracked at <http://www.indexmundi.com/g/g.aspx?c=md&v=24>

² Fertility rate of 1.46 as of 2012

Members of the Unification Church in Prison

Oleg Savenkov and **Mihail Calestru**, two members of the Unification Church, were arrested on 30th October 2015 and kept in pre-trial detention until the end of January 2016 before being put under house arrest. They were charged with alleged trafficking in human beings (Article 165 of the criminal code), a charge punishable by jail terms of six to twelve years.

The Prosecutor's allegation against the two men was deeply flawed. It claimed that they established the Unification Church in Moldova in 2008 as an "organized criminal group."

The charges against Oleg Savenkov and Mihail Calestru were brought as the result of a dispute within the Unification Church that led to the exclusion of several members. The Prosecutor's allegations against the two men were based on assertions made by excluded members of the Church claiming that the activities organized by the defendants were criminal activities as defined by the anti-trafficking law.

While the allegations claimed that the defendants were guilty of organizing a criminal group (the Unification Church), Oleg Savenkov, a Ukrainian citizen, was not in Moldova when the Church was founded and Mihail Calestru has never been part of the Church leadership.

Their pre-trial detention was postponed three times by one month. On 3rd February 2016, their detention was converted to house arrest. They recovered full freedom at the end of March but the charges were not dropped.

HRWF considers that some judicial authorities misused the anti-trafficking legislation to deal a fatal blow to a minority religion of foreign origin in a country where Orthodoxy is dominant.

Detention conditions

Prior to their release to house arrest, both Calestru and Savenkov were held in pre-trial detainment in Prison No. 13 in Chisinau. They have since reported poor prison conditions, including inadequate heating, overcrowding, poor food and sanitary conditions, and unresponsive assistance in terms of health and other issues.³

Their complaints are corroborated by other accounts. The conditions faced by Calestru and Savenkov as well as other prisoners sharing the same fate represent cruel and inhumane treatment.

³ See their full testimony about their detention conditions and pictures in Annexes I and II of HRWF Report "Religious Freedom: Moldova in the Dock": <http://hrwf.eu/wp-content/uploads/2016/03/2016-Religious-Freedom-Moldova-in-the-Dock.pdf>

Laws Used to Criminalize Religious Activities

Moldova's anti-trafficking legislation

Oleg Savenkov and Mihail Calestru were charged with violating Moldova's anti-trafficking law, specifically Article 165 paragraph 3 of the Criminal Code.

The legislation has been promulgated on the basis of international standards adopted by the United Nations in the Palermo Protocol, the Council of Europe, the Organization for Security and Cooperation in Europe (OSCE), and by the European Union, which has broadly defined four required steps to combat trafficking in human beings: prevention, protection, prosecution, and partnership. The Palermo Protocol requires States to criminalize intentional acts of trafficking as defined by Article 3 of the Protocol and Article 4 of the Council of Europe Convention.

Under Article 3 paragraph a) of the Palermo Protocol and Article 4 paragraph a) of the Council of Europe Convention, trafficking in persons/human beings is

the recruitment, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation.⁴

The Moldovan anti-trafficking legislation goes beyond the main international standards in defining exploitation through trafficking.⁵ Article 2 paragraph 3 defines exploitation, *inter alia*, as “abuse of a person in order to obtain profit, namely (i) compelling [others] to engage in begging...” [and] “(k) compelling [others] to engage in other activities that violate fundamental human rights and freedoms.”

HRWF considers that these two elements of the definition of exploitation need to be scrutinized by Moldovan and international legal authorities as posing a threat to religious minorities and other civil society groups that raise funds.

National Standards for Detention Conditions

The Constitution of the Republic of Moldova was adopted on 29 July 1994. The Constitution guarantees basic individual rights and freedoms of citizens.

⁴ OSCE ODIHR, Review of the legislation combating trafficking in Human Beings of the Republic of Moldova, 2011, p 24

⁵ Ibid, p 25

Article 24 guarantees the right to life and prohibits torture and other cruel, inhuman, and degrading treatment.

Article 25 guarantees the inviolability of personal liberty and security of person. It limits custody to twenty-four hours, requires that arrests be made only pursuant to a warrant and for a maximum of thirty days, and that persons detained or arrested be informed of the reasons for their detention or arrest as soon as possible. Accusations and reasons for detention must be brought to his/her attention in the presence of a lawyer.

Article 26 guarantees the right to a defense and assistance of a lawyer during trial.

National and International Reports on Prison Conditions in Moldova

European Court of Human Rights

The European Court of Human Rights (ECtHR) dealt with a number of cases relating to detention conditions in Moldova: *Sarban v. Moldova* (4 October 2005), *Holomiov v. Moldova* (7 November 2006), *Istratii and Others v. Moldova* (27 March 2007), *Mitrofan v. Moldova* (15 January 2013), *Segheti v. the Moldova* (15 October 2013), *Shishanov v. Moldova* (15 September 2015), and two recent cases relating to Prison No. 13 specifically: *Mescereacov v. Moldova* (16 February 2016) and *Cristioglo v. Moldova* (26 April 2016).⁶

All of these cases allege overcrowding, with two square metres and poor sanitary conditions. Squat toilets that are not fully separated from the sleeping quarters create a foul-smelling environment, exacerbated by large amounts of second-hand smoke and poor air circulation.

According to the 1957 Standard Minimum Rules for Treatment of Prisoners from the Office of the High Commissioner on Human Rights (OHCHR) of the United Nations, Article 10:

“All accommodation provided for the use of prisoners and in particular all sleeping accommodation shall meet all requirements of health, due regard being paid to climatic conditions and particularly to cubic content of air, minimum floor space, lighting, heating and ventilation.”

Reports on Detention Conditions

Moldova has faced widespread and crosscutting criticism for its inadequate detention facilities, from the International Society for Human Rights (ISHR) to the European Union and the National Ombudsman.

The 2015 Civil Rights Defenders report on Human Rights in Moldova states:

⁶ For of individual cases

The situation in most of Moldova's 17 prisons is poor and inadequate. The majority of facilities are in need of urgent repair. Many lack adequate structural and sanitary conditions to accommodate the number of persons, especially in pre-trial facilities. Prisoners with infectious diseases are generally not separated from others in the prison population and do not have adequate access to qualified medical professionals. In general, psychological assistance for prisoners is also unavailable. However, international pressure has made a positive impact on provisional detention centres, where conditions have reportedly improved. In addition, international aid has allowed for some reconstruction leading to some improvements in facilities.

For prisoners in Transnistria, the situation is critical. Water is unsanitary and contributes to disease and poor dental health among prisoners. There is no access to qualified medical care; there is a high rate of prison population with tuberculosis, HIV/AIDS and dental problems. As a result prisoners are often forced to turn to their families for assistance, who, in turn, seek help from private doctors, placing the burden of costs on relatives.⁷

Similarly, in 2013, the National Office of the Ombusman put a spotlight on the situation in Prison No. 13 in Chisinau and sent five recommendations to the Moldovan Department of Penitentiary Institutions (DIP) demanding the improvement of detention conditions. However, there have not been any vast improvements made in the following years, and Prison No. 13 is not alone in its inadequate facilities.

The Ombudsman's national report of 2015 reiterates problems such as: overcrowding in the penitentiary institutions; insufficient illumination of detention spaces; poor conditions in the pre-trial detention facilities of the police inspectorates; lack of minimal conditions for provisions of healthcare within the institutions subordinate to the police; insufficient provision of mattresses, pillows, clean underwear, season clothes, etc. to the persons detained in the penitentiaries and pre-trial detention facilities, of which these issues were identified in previous years. Petitions regarding the alleged improper detention conditions remained startlingly high between 2008-2015, with a marked increase since 2013.⁸

Conclusions

The constitution stipulates all citizens shall be treated equally before the law regardless of religion and guarantees freedom of conscience, manifested in "a spirit of tolerance mutual respect," and freedom of religious worship. It states religious groups may organize and operate according to their own statutes, independent from the state. In addition, the constitution prohibits all actions instigating religious hatred and states relations between religious groups must be free of discord.

⁷ The full report can be read at <https://www.civilrightsdefenders.org/country-reports/human-rights-in-moldova/>

⁸ The national report can be found at <http://www.ombudsman.md/en/content/torture-prevention-activity-2015> and includes figures highlighting that complaints of improper treatment have remained constant over the year, with minimal fluctuation.

The law states every person has the right to belong or not to a religion, to hold individual beliefs or not, to change religion or beliefs, and to practice religion or beliefs independently or as a group, in public or in private, through teaching, religious practices, or rituals. According to the law, religious freedom can be restricted only if necessary to ensure public order and security, protect public health and morality, or protect personal rights and freedoms. The law also prohibits discrimination based on religious affiliation.

Moldova is not known to imprison people belonging to minority religious groups. The case of two members of the Unification Church was clearly instrumentalized by former members and local antisect Orthodox actors to weaken or destroy the movement in Moldova.