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No. _____
of _____



ALTERNATIVE REPORT
on measures giving effect to the provisions of Council of Europe Convention
on preventing and combating violence against women and domestic violence
(initial assessment)

This report has been developed by the People's Advocate Office (Ombudsman) of the Republic of Moldova in its capacity as National Human Rights Institution accredited with the "A" status.

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About the People's Advocate Office of the Republic of Moldova

The People's Advocate Office is an autonomous institution, independent from any public authority, legal person, regardless of the property type and legal form of organization, and from any decision-makers at all levels. The People's Advocate work is governed by the UN General Assembly Resolution no. 48/134 of December 20, 1993, the Principles relating to the Status of National Human Rights Institutions (the Paris Principles)¹ and other international treaties in the field of human rights, as well as the Constitution² and other laws of the Republic of Moldova.

The People's Advocate contributes to the protection of human rights and freedoms by preventing their violation, by monitoring and reporting on the situation of fundamental human rights and freedoms at national level, by improving the legislation related to human rights and freedoms, by promoting human rights and freedoms and mechanisms aimed to protect them and through international cooperation.

It should be noted that the People's Advocate Office was accredited with an "A" status in 2018 by the Sub-Committee on Accreditation of the Global Alliance of the National Human Rights Institutions (GANHRI), recognizing that the Ombudsman institution in Moldova is fully complying with the Paris Principles, which set out the minimum standards for the operation of national human rights institutions.

The Office of the People's Advocate protects, monitors and promotes human rights in the Republic of Moldova through research, counseling and awareness-raising.

Its mandate also includes monitoring the implementation of the international/regional instruments related to human rights and freedoms and promoting the international/regional instruments and recommendations related to human rights and freedoms submitted to the national authorities. One of such instruments used by the People's Advocate to fulfill its mandate is alternative reporting to bodies established under international treaties, including GREVIO.

In this report, the People's Advocate Office addresses the most urgent issues related to the Istanbul Convention, focusing primarily on those issues that require immediate action. The People's Advocate will continue to monitor the implementation of the Istanbul Convention and provide relevant methodological support to the national authorities in this regard.

¹ www.ohchr.org/en/instruments-mechanisms/instruments/principles-relating-status-national-institutions-paris

² www.constcourt.md/public/files/file/Actele%20Curtii/acte_en/MDA_Constitution_EN.pdf

It should be noted that the report prepared by the People's Advocate Office covers only the right side of the Nistru River. Despite the cooperation efforts of the People's Advocate Office representation in Varnita, the situation in the Transnistrian region remains unknown.

I. Introduction (art. 1 – 6)

Purposes, definitions, equality and non-discrimination, general obligations

The People's Advocate Office of the Republic of Moldova (PAO) is submitting this report to the Group of Experts on Action against Violence against Women and Domestic Violence (hereinafter referred to as GREVIO) under article 68, paragraph (5) of the Council of Europe Convention on preventing and combating violence against women and domestic violence. The report contains PAO's assessment of the implementation of the Istanbul Convention and also makes reference to the information reported by the Moldovan Government to the Secretary General of the Council of Europe.

Ombudsman's comments in this report are based on the claims received by PAO, the information obtained during the official meetings of the Ombudsman with civil society representatives and the monitoring conducted by the National Human Rights Institution as part of its mandate.

It is also important to note that the Council of Europe Convention on preventing and combating violence against women and domestic violence entered into force on May 1, 2022 in Moldova, following ratification. Moldova became the 35th member state to ratify the Convention.

The analysis of the national legal provisions indicates that the principle of equality is a fundamental of the social policy, while equality of opportunity represents the framework for implementing the social policy at national level. For a society to be inclusive, it is crucial to have efficient legal safeguards against discrimination and discriminatory practices in place. Therefore, by becoming a party to multiple international instruments, the Republic of Moldova has assumed important and critical obligations to respect the dignity and human rights of every person under its jurisdiction, which however have not been fulfilled yet to the highest standard.

The Ombudsman notes that discrimination is prohibited by the Constitution of the Republic of Moldova, which enshrines the principle of equality. The essence of the constitutional norm on equality is supported by the provisions which stipulate that all citizens have the same rights, fundamental liberties and duties and the state protects them without discrimination.

Additionally, the Republic of Moldova, by the Law no. 5 of February 9, 2006 on equal opportunities for men and women³, seeks to guarantee equal rights for men and women to participate in political, economic, social, cultural life and other fields of life in order to prevent and eliminate all forms of gender discrimination.

Furthermore, the Equality Law⁴ passed in 2012 aims to ensure equality for all people, including equality between men and women.

It is worth mentioning that while the Convention defines domestic violence as physical, sexual, psychological or economic violence, the Law no. 45 on preventing and combating domestic violence⁵ mentions an additional form of domestic violence, more specifically the spiritual violence, clearly defining all these forms of violence.

II. Integrated policies and data collection (art. 7-11)

A. Comprehensive and coordinated policies (art.7)

Under article 7 of the Istanbul Convention, the Parties must ensure effective cooperation and involve all relevant stakeholders, such as government agencies, parliament and national, regional and local authorities, national human rights institutions and civil society organizations, in policy making on preventing and combating all forms of violence.

Cooperation of the public administration authorities with the civil society and international organizations lies at the core of the efforts to prevent and combat domestic violence.

In accordance with article 7 of the Law no. 45 on preventing and combating domestic violence⁶, the authorities and institutions in charge of preventing and combating domestic violence are: a) the central specialized state bodies (Ministry of Labor and Social Protection; Ministry of Health; Ministry of Education and Research; Ministry of Internal Affairs; Ministry of Justice); b) the specialized authorities of the second-level local public administration and deconcentrated entities (social assistance and family protection sections/departments; general education, youth and sport departments; health protection entities; territorial police units); c) first level local public administration; d) assistance and protection centers/services for victims of domestic violence and their children and assistance and counselling centers/services for perpetrators of domestic violence; e) other organizations operating in this field.

³ https://www.legis.md/cautare/getResults?doc_id=133167&lang=ro#

⁴ https://www.legis.md/cautare/getResults?doc_id=106454&lang=ro

⁵ https://www.legis.md/cautare/getResults?doc_id=122823&lang=ro

⁶ https://www.legis.md/cautare/getResults?doc_id=122823&lang=ro

The Ministry of Labor and Social Protection is the central specialized body authorized to develop and promote policies aimed at preventing and combating domestic violence and provide social assistance for victims and perpetrators of domestic violence.

The Government of Moldova adopted the 2018 – 2023 National Strategy on preventing and combating violence against women and domestic violence through its Decision no.281 on April 3, 2018⁷. The Strategy is grounded on the four pillars of and is, therefore, aligned with the Council of Europe Convention on preventing and combating violence against women and domestic violence. Its purpose is to provide a systemic approach to preventing and combating violence against women and domestic violence and ensure an efficient response by relevant authorities to cases of violence.

The Strategy also provides for cultivating zero-tolerance for all forms of violence, raising public awareness of the gravity of violence against women, aligning legislation to the international standards and developing specialized services for the victims of domestic violence. According to the State Report on the implementation of the 2021-2022 Action Plan of the 2018-2023 National Strategy on preventing and combating violence against women and domestic violence in the period of January – June 2022⁸, the Government implemented most of the planned actions. Yet, there are actions that were only partially implemented.

In particular, there are delays related to the approval of the Response Methodology and Response Instructions for sexual violence response teams, and partial implementation has been reported with regard to the adjustment and testing of the data collection methodology for the “Violence against Women and Domestic Violence” study and annual collection of administrative statistics related to domestic violence in the medical sector.

In this context, the People’s Advocate calls for a closer cooperation among agencies like the Ministry of Internal Affairs, Ministry of Justice, Ministry of Health, General Police Inspectorate and non-governmental and other relevant organizations dealing with protection and support of victims of violence.

We believe that the cooperation of government authorities and the involvement of law-enforcement institutions can lead to improvements concerning the safety of victims of violence.

B. Financial resources (art.8)

This article requires that the state allocates appropriate financial and human resources both to public authorities and non-governmental organizations.

⁷ https://www.legis.md/cautare/getResults?doc_id=128809&lang=ro

⁸ <https://social.gov.md/wp-content/uploads/2022/10/Raport-monitorizare-Strategie-VF-I-semestru-2022-c.pdf>

As mentioned in the state report submitted by Moldova, the funding for prevention and combating domestic violence is not included in the budget as a separate line and is not present in all sectoral budgets. Therefore, it is difficult to identify what financial resources have been allocated for this sector.

The overall legal framework on public finances in Moldova is provided by the Law on public finance and fiscal responsibility.⁹

It should be noted that the policies on domestic violence cannot be successfully implemented without the financial involvement of the state in sectors like justice, social, health and education, which play a critical role in preventing and reducing violence against women.

The Ombudsman emphasizes that this article requires that funds must be allocated for the implementation of integrated policies, measures and programmes to prevent and combat all forms of violence, including those carried out by non-governmental organizations working on prevention and combating of all forms of violence covered by the scope of the Convention.

Furthermore, the Ombudsman considers effective and useful the financial support from the state for the civil society projects that contribute to preventing and combating violence against women and domestic violence.

The Law no. 86 on noncommercial organizations¹⁰ stipulates that the state can provide financial support to non-governmental organizations mainly as non-reimbursable financing, works and service contracts or earmarked financing, including social order. The material support provided by the state mainly includes the right to use public property either free of charge or under preferential conditions.

Moreover, the Law no. 45¹¹ requires that the state central specialized bodies, such as the Ministry of Labor and Social Protection, Ministry of Health, Ministry of Education and Research, Ministry of Internal Affairs and Ministry of Justice, cooperate with the non-governmental organizations, individuals and legal entities involved in violence prevention and response activities.

A positive example in this sense is the Ministry of Labor and Social Protection, which in its capacity as the central public authority promoting domestic violence policies contracted in 2017, through the public procurement procedure, the toll free telephone hotline for the victims of domestic violence and violence against women from the non-governmental organization International Center “La Strada”.

⁹ https://www.legis.md/cautare/getResults?doc_id=126152&lang=ro

¹⁰ https://www.legis.md/cautare/getResults?doc_id=129338&lang=ro

¹¹ https://www.legis.md/cautare/getResults?doc_id=122823&lang=ro

According to a study conducted by IDIS “Viitorul”¹², financial sustainability is one of the three major challenges faced by Moldovan non-governmental organizations. This challenge is also reflected in the CSO Sustainability Index, according to which grants are the main source of revenue for SCOs and financial sustainability continues to be one of the major challenges they face.¹³

The 2019 study on direct state funding for civil society organizations in Moldova revealed that despite the Government’s commitment to cooperate with the civil society in all development areas, direct funding is allocated only in a few of them. Among the major deficiencies of the financing system for civil society projects, the study indicates shortage of programs and resources for financing projects.¹⁴

Additionally, according to a study conducted by the United Nations Population Fund¹⁵, the funding allocated by the Moldovan Government for the prevention services and programs and financial assistance of victims of violence is insufficient. The Government does not have separate budget lines for gender-based violence prevention. Budget allocations often seem to be given to local authorities without specific guidance, while many services, such as shelters and helplines, are run by NGOs that are poorly supported by the state, if at all, making those services unsustainable in the long run. Moreover, training for the relevant institutions and professionals, such as police, judges, social and healthcare workers, who often do not have the necessary skills to fulfill their obligations, is underfunded.

Therefore, financing of social services related to domestic violence is still an issue in Moldova.

In order to guarantee the long-term access of victims and survivors of violence against women, whose protection is absolutely necessary, to efficient services, adequate funding must be provided to make sure there is sufficient staff and appropriate capacities to prevent violence against women and protect victims and survivors of violence.

C. Cooperation with non-governmental organizations and civil society (art.9)

Article 9 of the Istanbul Convention aims to stress the important contribution of the non-governmental organizations in preventing and combating all the forms of violence covered by the scope of the Convention. One of the key principles guiding the efforts in the field of

¹² <http://www.viitorul.org/files/4684299>

¹³ <https://management.md/indexul-sustenabilitatii-osc-urilor-din-republica-moldova-pentru-anul-2021/>

¹⁴ https://ivcmoldova.org/wp-content/uploads/2019/12/PPP_Finatarea-OSC_Liliana-PALIHOVICI.pdf

¹⁵ https://menengage.unfpa.org/sites/default/files/resource-pdf/Issue_Brief_Combatting_VAWG_in_EECA_UNFPA.pdf

domestic violence is cooperation of the public administration authorities with the civil society and international organizations.

Although the Convention stresses the importance of cooperation of all actors in this sense, it dedicates a separate article for the cooperation with the non-governmental organizations. From our point of view, a democratic, inclusive and peaceful society is based on the interaction between stakeholders in all sectors, and the emergence and development of civil society organizations proved to have a positive impact on the Moldovan society.

It should be noted that the work of the non-governmental organizations advocating for a world without violence is focused to a large extent on providing legal and psychological assistance to the victims of domestic violence, and even shelter.

The civil society organizations beyond doubt play a significant role in preventing and combating violence against women in Moldova, while the Moldovan legislation provides for Government support for NGOs and civil society. Yet, although the legal framework does not prohibit local governments to contract works and services, including related to reducing violence, the budgets of the territorial-administrative units provide allocations only for the operation of the public institutions. According to the Law on local public finance, the local budgets provide only for allocations necessary to fulfill the functions of local public administration authorities. Thus, the local governments cannot allocate funds from their budgets for contracting works/services other than those necessary for the operation of public institutions.¹⁶

It is commendable that the partnerships between the civil society and public authorities have proven to be effective over time in addressing issues related to preventing and combating domestic violence and advancing multiple protection arrangements for victims of violence. Moreover, with the support of the development partners, the civil society, supported and implemented multiple projects aimed at preventing and eliminating violence against women and domestic violence in Moldova.

E./F. Data collection and research (art.11)

The Istanbul Convention requires that parties collect at regular intervals disaggregated statistical data on cases of all forms of violence covered by the scope of the Convention (physical, psychological, sexual and economic violence against women).

¹⁶ https://www.legis.md/cautare/getResults?doc_id=121302&lang=ro

Research is an essential element in the development of evidence-based policies, and such evidence can help improve the daily and practical response of the judiciary and law-enforcement system to cases of violence against women and domestic violence.

The parties to the Convention must support research in the field of all forms of violence covered by the scope of the Convention in order to study its root causes and effects, incidences and conviction rates, as well as the efficacy of measures taken to implement the Convention. Parties should also conduct population-based surveys at regular intervals to assess the prevalence of and trends in all forms of violence covered by the scope of the Convention.

According to the State Report on the implementation of the 2021-2022 Action Plan of the 2018-2023 National Strategy on preventing and combating violence against women and domestic violence in the period of January – June 2022, the annual collection of administrative statistical data in the medical sector on cases of domestic violence was only partially implemented in Moldova.¹⁷

It should also be noted that the latest study on domestic violence against women was conducted by the National Bureau of Statistics jointly with the development partners in 2010 and was published in 2011.¹⁸

The main findings of the study concern the extremely poor public awareness that there is a legal framework and victim support services in Moldova.

In this sense, the experts that had worked on this study recommended cultivating zero-tolerance for domestic violence through outreach campaigns and introducing legal provisions to require the National Bureau of Statistics to systematically collect data through surveys and to design and put in place an integrated system to register reported cases.

Therefore, 13 years after the last report, improvements are urgently needed in terms of data collection through surveys on domestic violence.

III. Prevention (art.12 - 17)

A. Awareness raising (art.13)

Under art.12 of the Istanbul Convention, parties shall take the necessary measures to promote changes in the social and cultural patterns of behavior of women and men with a view to eradicating prejudices, customs, traditions and all other practices which are based on the idea of inferiority of women or on stereotyped roles for women and men.

¹⁷ <https://social.gov.md/wp-content/uploads/2022/10/Raport-monitorizare-Strategie-VF-I-semesteru-2022-c.pdf>

¹⁸ https://statistica.gov.md/files/files/publicatii_electronice/Violenta/Raport_violen_fem_eng.pdf

Therefore, to raise public awareness, Moldova as a party to the Convention must promote or conduct awareness raising campaigns or programs, including in cooperation with the national human rights institutions and bodies working in the field of equality, civil society and non-governmental organizations, in particular women's organizations.

To this end, several campaigns to raise the public awareness of violence against women and domestic violence were conducted with the participation and involvement of the territorial probation offices in 2022, including "Stop Domestic Violence", "Violence is the Weapon of the Weak", "End all Forms of Domestic Violence", "Stop Domestic Violence! Don't be an Abuser! Change your Future!", "Violence is not part of my family!".¹⁹

Moreover, as part of the efforts to promote human rights and raise public awareness of violence against women, the People's Advocate Office joined the international campaign "16 days of activism against gender-based violence" organized every year between November 25 and December 10.

The Ombudsman welcomes the annual social outreach campaigns aimed to raise the public awareness of violence against women and domestic violence conducted in Moldova.

However, rural communities still seem to be insufficiently informed about gender stereotypes and the legal remedies and specialized services available for the victims of domestic violence.

The People's Advocate also notes that few of the campaign actions are designed to prevent violence. Previous campaigns were more focused on the situations where violence already existed or the risk of violence was high.

Hence, the Ombudsman recommends the Government to make prevention of violence against women and domestic violence a priority at national, regional and local levels.

B. Teaching and training material (art.14)

The right to education is a fundamental human right. Undeniably education plays a crucial role in the development of boys and girls. The educational system can help children and young people to live productive lives and prevent them from choosing the wrong ways conducive to violence. Education is also crucial for the humanity as a whole, because it is through education that norms, values and teachings are passed on through generations.

According to the Education Code of the Republic of Moldova²⁰, education is a national priority and the driver of the sustainable development of a knowledge-based society, and the state, through its education policy, guarantees the fundamental right to education, which is

¹⁹ <https://social.gov.md/wp-content/uploads/2022/10/Raport-monitorizare-Strategie-VF-I-semestru-2022-c.pdf>

²⁰ https://www.legis.md/cautare/getResults?doc_id=133296&lang=ro#

indispensable for exercising other human rights; the implementation of the core mechanism for training and developing human capital and the achievement of the educational ideal and objectives; ensures formation of the national identity and consciousness, promotion of general human values and the European integration aspirations of the society.

The current conceptual-strategic framework of the gender education in Moldova includes the Education Code; Code of Ethics for teachers; the Law on equal opportunities for women and men and the Government Decision on the approval of Instructions on the cross-sector cooperation mechanism for the identification, assessment, referral, assistance and monitoring of child victims and potential victims of violence, neglect, exploitation and trafficking.

One of the actions listed as implemented in the executive summary of the Report on the implementation of the 2021-2022 Action Plan of the 2018-2023 National Strategy on preventing and combating violence against women and domestic violence in 2021²¹ is development of educational programs/curricula for topics related to equality between women and men, human rights, healthy lifestyle and prevention of violence. In particular, a number of school curricula and textbooks were revised to include topics related to gender equality, human rights and prevention of violence.

We note in this sense the curriculum for the “Personal Development” subject, which is the normative-regulatory document providing the operational framework for the implementation of education policies based on the development prospect of the Republic of Moldova and focusing on the priorities of educating citizens and achieving high quality in education. This curriculum is designed to help students develop the skills they need in order to know and accept themselves, to be able to live healthy lives on their own, to become informed and active citizens, to relate socially in a safe environment, to be able to make responsible career and personal development decisions throughout life.

The personal development subject is structured in several modules. The first module focuses on personal identity and how to build harmonious relationships, putting emphasis on self-awareness and self-acceptance, exploration and self-assessment of personal resources, family as a value - responsibilities; gender roles; stereotypes; assertive, non-conflictual and non-violent communication; self-education; volunteering etc.²²

The Action Plan for the implementation of the 2018-2023 National Strategy on preventing and combating violence against women and domestic violence also included for the period of January – June 2022 actions related to the introduction of gender equality, human rights and

²¹ <https://social.gov.md/wp-content/uploads/2022/10/Raport-monitorizare-Strategie-VF-anul-2021c.pdf>

²² https://mecc.gov.md/sites/default/files/dp_gimnaziu_2018-08-24_curriculum_ghid.pdf

violence prevention subjects in the initial and ongoing training programs for teachers. To this end, the psycho-pedagogical module, which is part of all the continuous training programs delivered by the Continuous Education Centers to teachers, includes subjects related to violence prevention and gender equality, for instance prevention of bullying in schools or the challenges facing teenagers in the 21st century.

In conclusion, we recommend to Moldovan authorities to continue to develop programs supporting equality between girls and boys and to integrate topics related to violence against women and domestic violence in the initial and continuous training for teachers.

C. Training of professionals (art.15)

The Convention requires the states to provide training to professionals dealing with cases of violence against women, victims or perpetrators of all acts of violence in order to be able to respond to victims' needs and to refer them to other specialized services.

With the help of non-governmental organizations, the Government designed initial and continuous training programs for professionals dealing with prevention and combating violence against women and domestic violence. On the other hand, the training courses have not been institutionalized and their delivery depends on the funding provided by development partners and NGOs. Therefore, this still remains a challenge for the Moldovan authorities.

The Ombudsman considers that human rights based training of professionals dealing with identification of cases and forms of violence against women in Moldova is necessary.

Unfortunately, besides the forensic doctors who have benefited from several training programs, the Government report tells nothing about the training programs for social workers or staff of medical and sanitary institutions.

The Ombudsman also concludes that the Republic of Moldova lacks a concept on specialized training of professionals in the justice and social sectors, like criminal investigation officers, prosecutors, lawyers who deal with cases involving victims of domestic violence and sexual violence.

The People's Advocate regards efficient staff management as an important step, however not decisive, because the value of human resources in an institution should grow over years. Therefore, the Government has the obligation to provide capacity building for professionals. This is why the Moldovan Government must allocate a significant part of the state budget for continuous training of government professionals, thus contributing to supporting the staff dealing with violence against women and facilitating efficient and effective performance of duties.

E. Preventive intervention and treatment programmes (art.16)

To help perpetrators of domestic violence to adopt non-violent behavior in inter-personal relationships, Moldova as a state party to the Convention must take the necessary measures to support the programmes intended for them. Additionally, the state must support the programmes aimed at preventing perpetrators of all forms of violence from re-offending.

Article 10 of the Law no. 45 on preventing and combating domestic violence²³ stipulates the types of centers/services available for the victims of domestic violence and their children. The law also provides for the possibility to set up assistance and counselling centers/services where perpetrators of domestic violence could receive information, individual or group counselling for couples, legal counseling, referral and facilitated access to healthcare, employment and professionalization services.

Article 9 of the above-mentioned law stipulates that the perpetrators who have received contraventional sanctions or were convicted of domestic violence can be obliged by the court to attend probation programs.

Therefore, to reduce the risk of further violent behavior, therapy programs are available for perpetrators of domestic violence where they learn to control their emotions and abusive behavior. Yet, perpetrators are obliged to attend such courses only through protection orders issued by courts and only if there is a request during trial that the judge orders enrollment in such a program.

Moreover, there is no effective mechanism to make perpetrators attend these programs. The only mechanism in this regard is put in place by art. 90, paragraph (6), item c¹) of the Criminal Code²⁴, which stipulates that when applying a suspended sentence, the court can order the convicted person to attend a special treatment or therapy program to reduce violent behavior.

Finally, articles 201¹ of the Criminal Code and 78¹ of the Contraventional Code do not provide for the possibility of compelling perpetrators to attend a special treatment or therapy program to reduce violent behavior if the court orders them to do unpaid community work.

On the other hand, the programs currently available are not sufficient and do not have a country-wide coverage. It should be noted that there are only 4 assistance and counselling centers for perpetrators of domestic violence in Moldova (in the towns of Drochia, Causeni, Ocnita and Chisinau municipality). In 2022 these four counselling centers provided specialized assistance to 117 perpetrators of domestic violence.²⁵

²³ https://www.legis.md/cautare/getResults?doc_id=122823&lang=ro

²⁴ https://www.legis.md/cautare/getResults?doc_id=134866&lang=ro

²⁵ <https://social.gov.md/comunicare/comunicate/centrele-de-asistenta-si-consiliere-pentru-agresorii-familiali-vor-activa-dupa-un-nou-regulament-cadru/>

Therefore, the People's Advocate considers that domestic violence can be addressed in a complementary and integral manner at national level only by expanding these services throughout the country.

Finally, to reduce violent behavior of perpetrators we recommend amending the legal framework so as to oblige perpetrators to attend such programs in all cases of conviction for domestic violence.

G, H, I. Participation of the private sector and the media (art.17)

Mass media plays a major role in shaping and building values and attitudes in society. By reporting on cases of gender-based violence it contributes to promoting positive social and gender norms.

It is an undeniable fact that violence against women and domestic violence in Moldova is driven by stereotypes and social norms, but we believe that covering these issues in media in an appropriate manner can help eradicate them, while the availability of various technologies makes media professionals more responsible and gives them more opportunities to report on these issues.

The Ombudsman supports the recommendations published by GREVIO²⁶ that state parties should encourage media organizations to take concrete steps to eradicate gender-based discrimination, victim-blaming attitudes and violation of the privacy of victims of gender-based violence against women and their children in all their journalistic activities.

Training of media professionals who identify and report on violence against women and domestic violence plays by all means a crucial role in the Moldovan society. Thus, effective mechanisms should be put in place to prevent sexist content, content that promotes violence against women and domestic violence, and content that reinforces the belief that women are inferior to men.

Additionally, the Ombudsman calls on media to pay more attention to violence and hate speech against women, to representation of women in media reports and gender equality to positively influence gender balance and safety of women in society.

Finally, the People's Advocate commends the Moldovan editorial teams that started to use gender-specific job titles. Despite this, national authorities still have a lot of work to do in this field to achieve results aligned with the Convention.

IV. Protection and support (art. 18-28)

²⁶ <https://rm.coe.int/grevio-rec-no-on-digital-violence-against-women/1680a49147>

A. Information on support services and legal measures available to women victims of all forms of violence (art. 19)

Victims need permanent adequate protection against violence, support and assistance to cope with the consequences of violence. Protection and assistance of victims of domestic violence includes protection measures, such as ensuring the access of victims to social, healthcare and legal services according to their specific needs.

Article 23 of the Constitution of the Republic of Moldova²⁷ guarantees to every individual the right to know his/her rights and duties – “*Every individual has the right to an acknowledged legal status and the state shall ensure the right of every individual to know his/her rights and duties*”. To protect this right, all pieces of legislation and regulations in Moldova are made public and accessible.

Article 16 of the Criminal Procedure Code²⁸ acknowledges the right of individuals who do not speak the state language to request translation of the case files, or interpreter for communication with the criminal investigation body and in court. A similar procedure is stipulated in the Civil Procedure Code²⁹ for civil trials.

Given these regulations, victims apparently should have a general understanding of what is going to happen, what rights they have and how they can safely use them. The criminal investigation body also has the obligation to update victims after each procedural action and provide them with the contacts of the persons that could give them more information about their cases. Despite this, victims of domestic violence are not always familiar with the legislation and aware of their rights. Therefore, as a first step to facilitate their access to justice, it is necessary to familiarize all the categories of victims with the types of available support services and legal measures. Finally, the key obligation to inform victims about the status of their cases should not confine to just informing victims and witnesses about the trial dates, but also about other important case developments³⁰.

A. General support services (art.20)

Article 20 of the Convention requires that Moldova, as a state party, takes the necessary legislative or other measures to ensure that victims have access to services facilitating their recovery from violence. These measures should include, when necessary, services such as legal

²⁷ www.constcourt.md/public/files/file/Actele%20Curtii/acte_en/MDA_Constitution_EN.pdf

²⁸ https://www.legis.md/cautare/getResults?doc_id=96049&lang=ro

²⁹ https://www.legis.md/cautare/getResults?doc_id=134478&lang=ro

³⁰ <https://cdf.md/wp-content/uploads/2021/11/CDF-Raport-compatibilitate.pdf>

and psychological counselling, financial assistance, housing, education, training and assistance in finding employment.

Protection of victims of domestic violence includes securing and taking all protection measures, including the access of victims to legal, healthcare and social services according to their specific needs. These services should include legal and healthcare assistance, placement, social assistance, psychological counselling, telephone helpline for the victims of domestic violence.³¹

According to article 8, paragraph (1) of the Law no.137 of July 29, 2016 on rehabilitation of crime victims³², crime victims must receive, upon request, psychological counselling, provided under the law by the psychologists of the territorial social assistance units, non-governmental organizations or legal entities dealing with the rehabilitation of crime victims who have been contracted for this purpose by the local governments or by the Ministry of Labor and Social Protection.

However, even if the law stipulates that victims can receive psychological counselling paid by the state, such services are not yet accessible, because there is no regulatory framework in Moldova to regulate the work of psychology practitioners. The authorities tried a couple of times in 2009, 2015, 2018 and 2020 to draft law on psychology profession to regulate among other things the licensing and accreditation of psychologists, but for some reasons those efforts have not yielded results. Currently, this gap in the Moldova legislation hinders provision of counselling and psychological assistance.

The Ombudsman notes that to address this issue Moldova needs a law to regulate the psychology profession, including licensing and accreditation of psychology practice.

To ensure free and effective access of all victims of violence to quality services, Moldovan authorities implemented between 2018 and 2023 the National Strategy on preventing and combating violence against women and domestic violence³³, which provides for the revision of the sector instructions in the healthcare and social sectors and designing of the cross-sector mechanism for preventing and combating domestic violence; setting up and development of specialized services for victims of crimes related to sexual life; improved regulation of services intended for victims of violence against women and domestic violence, including mental health and drug treatment services responding to the rehabilitation needs of the subjects of domestic violence. These actions, however, have not been fully implemented.

³¹ <https://cdf.md/wp-content/uploads/2021/11/CDF-Raport-compatibilitate.pdf>

³² https://www.legis.md/cautare/getResults?doc_id=110484&lang=ro

³³ https://www.legis.md/cautare/getResults?doc_id=128809&lang=ro#

Finally, although non-governmental organizations provide housing, counselling and support services, the Report on the compatibility of the legislation of the Republic of Moldova with the Council of Europe Convention on preventing and combating violence against women and domestic violence³⁴ reveals that the legal assistance and representation services are insufficient because of the limited financial resources. In these circumstances, a regulatory framework needs to be put in place to facilitate the operation of the day centers for the victims of domestic violence, which are currently supported by non-governmental organizations either in partnership with the Moldovan authorities or, most often, with donor support.

D. Specialist support services for women (art. 22, 23, 25)

According to the Council of Europe Convention on preventing and combating violence against women and domestic violence, the parties must set up appropriate, easily accessible shelters in sufficient number to provide safe accommodation for and to reach out pro-actively to victims, especially women and their children.

Besides shelters, Moldova must provide or arrange for specialist women's support services to all women victims of violence and their children.

Most often, victims of domestic violence are women. In Moldova, there are 9 public institutions currently providing specialist services. These centers offer shelter for crime victims and other services to a diverse group of victims and are funded from the state budget. The Ombudsman welcomes that the placement and counselling services provided by these centers to victims of violence are free of charge.

Additionally, there are 10 non-governmental organizations in Moldova that provide psychological and legal assistance services to victims of domestic violence at local, regional and national levels. On the other hand, there are no specialized centers in Moldova to provide assistance to victims of sexual violence.

According to the state report submitted to GREVIO, the number of accommodation places in shelters and specialized support centers for victims of violence is not sufficient in Moldova. The Explanatory Report to the Council of Europe Convention on preventing and combating violence against women and domestic violence³⁵ recommends in relation to article 23 (Shelters) that safe accommodation in specialized women's centers should be available in every region, with one family place per 10 000 head of population. Given that the estimated population

³⁴ <https://cdf.md/wp-content/uploads/2021/11/CDF-Raport-compatibilitate.pdf>

³⁵ <https://rm.coe.int/ic-and-explanatory-report/16808d24c6>

of Moldova is approximately 2,603,813 people, there should be at least 261 accommodation places.³⁶

Hence, to comply with the Council of Europe recommendations, Moldova must have 261 accommodation places in line with the European standard – one place for victims of violence per 10 000 people.

The People's Advocate notes that the specialized services for the victims of domestic violence are insufficient. This deficiency is caused by the poor sustainability of the financing mechanism of social services. In addition, the Ombudsman notes with concern that the victims of violence at local level are more affected by the limited financial resources, because the legal assistance and representation services are insufficient at local level, especially that most of the support centers do not have a nation-wide coverage.

Hence, the Ombudsman is concerned that the number of the specialized support centers for the victims of violence is inadequate given the domestic violence statistics and, therefore, recommends that such centers should be set up in all the rayons of the Republic of Moldova.

In conclusion, we note that the services stipulated in the Convention intended to respond to the specific needs of the victims of violence, such as shelters, psychological and legal counselling, and the capacities of shelters are limited and are provided *a fortiori* by the civil society with donor support.

Hence, we are of the opinion that to comply with the Council of Europe recommendations Moldova must set up at least 261 shelter places in line with the European standards.

E. Telephone helplines (art.24)

The only 24/7 telephone helpline which currently provides guidance to women and girls victims in Moldova has been subcontracted by the Moldovan authorities from the NGO International Center “La Strada” since 2017 and is run by “La Strada”.

In addition, the International Center “La Strada” Moldova and the Single National Emergency Call Service 112 signed a cooperation agreement in 2020 aimed at joining and intensifying the efforts of the two institutions to improve the support services provided to the victims of domestic violence.

Unfortunately, no public or local authority in Moldova has a hotline to provide round-the-clock support and counselling services to victims or to potential victims of violence, except

³⁶ <https://rm.coe.int/prems-090120-gbr-2573-good-practices-in-the-progress-of-ratification-c/1680a06c79>

for police and only for the victims of domestic violence. Nor have any specialized support centers been set up in Moldova so far for the victims of sexual violence.

The Ombudsman supports the purpose of the helpline and considers that promotion of a non-violent lifestyle in the family and protection of rights of victims of domestic violence is crucial.

In this context, the People's Advocate considers that legislation should be put in place to regulate provision of support services by public institutions outside working hours and on holidays.

V. Substantive law (art. 29 – 48)

D. State compensation for the women victims of violence (art.30)

The benefits ascribed to the financial compensation provided by the state to victims of violence against women and domestic violence are both practical and symbolical. Naturally, no money would do to compensate the victims of violence for their suffering. Yet, the financial compensation is an important symbol and is necessary in order to send the message that the community cares about the victims of violence. Another benefit of the financial compensation for the women victims of domestic violence is that it can help them to leave the abusive relationship.³⁷

Paragraph 2 of this article stipulates the subsidiary obligation for the state to compensate appropriately the victims of violence. Thus, the national legislation offers victims the opportunity to claim compensation for the harm caused by acts of violence, both in civil and criminal proceedings.

Moreover, according to the Explanatory Report to the Convention, as many victims of the forms of violence covered by the scope of the Convention may not have the nationality of the Party in whose territory the crime was committed, subsidiary state compensation should extend to nationals and non-nationals. The Moldovan legislation in this regard is in line with the provisions of article 30 of the Convention. More specifically, the Law no.137, article 13, stipulates that any citizen of the Republic of Moldova, foreigner or stateless person who is a victim of a crime committed on the territory of the Republic of Moldova and who was legally staying on the territory of the Republic of Moldova at the time the crime was committed and claims financial compensation has the right to such compensation.

The analysis of legislation in light of article 30 of the Convention has revealed that according to paragraph (4) of the Criminal Procedure Code, to determine the amount of

³⁷ https://csd.bg/fileadmin/user_upload/publications_library/files/2019_08/Financial_Compensation_Guide.pdf

pecuniary reparation of the moral damages the court must take due consideration of the physical suffering of the victim, loss of amenity and aesthetic damage, loss of hope in life, loss of honor by slander, psychological suffering caused by the death of close relatives etc.³⁸

Yet, these provisions say nothing about the psychological suffering of crime victims including fear, humiliation, abasement, disappointment and frustration caused by the inability to defend themselves. The impact and severity of these sufferings directly influence the moral damage caused to victims.

The Ombudsman notes that the state report describes rules, without providing information about the practice, and refers to only two claims submitted for state financial compensation, which however did not meet the legal conditions.

Finally, it should be noted that in spite of the available legal safeguards which provide for state financial compensation for specific forms of damage suffered by victims, available data show that there is little likelihood to receive such compensation.

E. Custody, visitation rights and safety (art.31)

The Explanatory Report to the Istanbul Convention acknowledges the necessity of this provision in order to make sure that authorities in the determination of custody and visitation rights of children will take into account the incidents of violence both against children and the child's non-violent caretakers. The measures taken in relation to parental rights or the perpetrator should not lead to endangering the victims. Protection of victims and children from any threat of violence is imperative.

Yet, neither the Family Code, nor the Law no. 45 clearly regulate that the decision on the place of residence (custody) of children or visitation rights of the perpetrator of domestic violence must take into account the cases of violence against children or their custodians.

Moreover, there is no regulation to oblige the child welfare authority to prohibit or limit the contact with the child, including by making changes in the visitation schedule based on the restrictions imposed on perpetrator of domestic violence through a protection order issued by the court.

To align the national legislation to the provisions of the Istanbul Convention and to provide more efficient protection for children, we recommend amending legislation so as to require that the child welfare authority is notified of every case of domestic violence involving

³⁸ https://www.legis.md/cautare/getResults?doc_id=113967&lang=ro

minor children and regulate better the competences of the child welfare authority related to the management of situations involving children from families affected by violence.³⁹

F. Criminalization of forms of violence (art.33-39)

- psychological violence

The consequences and impact of violence against women can be severe, long-lasting and not always immediately noticeable. The anthropological study “Domestic Violence and Women from Rusca Prison: Past, Present and Future”⁴⁰ shows that survivors often experience short term psychological reactions, such as fear and anger (71%), and long-term reactions, such as self-doubt, inability to make important decisions, post-traumatic stress disorder, anxiety, depression, sleep and eating disorders (82%), as well as physical and physiological consequences (one in five women who survived intimate partner violence reported to have suffered concussion, fractures, internal bleeding, loss of teeth, miscarriage, infertility, hormonal imbalance etc.).⁴¹

The study was also based on interviews with women detained in the Rusca Prison, whose stories revealed that the desire of the women victims of domestic violence to stop violence, the attempts to protect their children from violence, as well as the negative emotions accumulated over years caused by the frequent acts of violence from abusers were the triggers that made them commit crimes. Hence, the consequences of domestic violence against women are twofold.

The Explanatory Report to the Convention mentions that drafters agreed to criminally sanction any intentional conduct that seriously impairs another person’s psychological integrity through coercion or threats. With regard to psychological violence, the Explanatory Report explains the abusive behavior pattern as something occurring over time and referring to a course of conduct, rather than a single event.

Psychology and sociology experts define psychological violence as any behavior that instills fear or uncertainty in the relationship between partners or in a family.⁴²

According to the OSCE-led survey on violence against women, the most prevalent form of violence committed by an intimate partner is psychological violence, mentioned by 71% of the respondents. The survey revealed that psychological violence is a widely spread form of intimate partner violence in Moldova, indicating that women experienced it with the current or previous partner.⁴³

³⁹ <https://cdf.md/wp-content/uploads/2021/11/CDF-Raport-compatibilitate.pdf>

⁴⁰ https://files.nettsteder.regjeringen.no/wpuploads01/blogs.dir/223/files/2017/07/Anthropological_study.pdf

⁴¹ https://ombudsman.md/wp-content/uploads/2021/06/Raport-2020-FINAL-RED_18-iunie-1.pdf

⁴² <https://cdf.md/wp-content/uploads/2021/11/CDF-Raport-compatibilitate.pdf>

⁴³ https://www.osce.org/files/f/documents/2/1/424979_0.pdf

The Ombudsman notes that the national legislation does not regulate protection from psychological violence against women and domestic violence in a comprehensive manner. The regulations on combating various forms of discrimination and violence against women are scattered and most of the time are too general.

Moreover, despite the high incidence of psychological violence, which often severely affects the mental integrity of the victims of domestic violence, the current judicial practice indicates that very few criminal cases end with sentences for psychological violence.

In general, psychological abuse is rarely prosecuted in Moldova. Although lack of cases sent to court could be seen as an indication of high protection against psychological abuse, this most likely happens because it is very difficult to prove it.

The People's Advocate expresses concern in relation to the above, because these acts committed repeatedly or frequently can seriously affect the victim's mental state, causing depression and even mental disorders, and lack of action can have tragic consequences for the victim. Psychological violence is as harmful as the physical or sexual one and, therefore, must be punished with similar severity.

- Sexual violence, including rape

Although Moldova recognizes the rights of all citizens, there are some gaps in legislation and in its enforcement in relation to the victims of sexual violence, who often continue to face multiple cultural, economic, social, legal and other barriers, which hinder their access to justice.

The number of victims of sexual violence who seek legal assistance and social protection is low. Some reasons for this are the stereotypes in a society that continues to blame victims instead of abusers; victim's lack of trust in the surrounding people and professionals, in justice; victim is dependent on and fears the abuser; lack of information about the places, institutions where victims could get help and poor legal knowledge.

Even when criminal proceedings are initiated, the victims of sexual violence are often intimidated by the perpetrator or perpetrator's relatives to withdraw the complaint. Extremely vulnerable emotionally, they are easily influenced and, if not encouraged and supported, most of them withdraw their complaints.⁴⁴

It should be mentioned that rape and sexual harassment are not among the offences requiring a complaint to be filed by the victim listed in article 276 of the Criminal Procedure Code.⁴⁵ However, this list includes other offences that can involve sexual violence. For instance,

⁴⁴ https://lastrada.md/pic/uploaded/Peculiarities%20of%20SV%20in%20RM_EN.pdf

⁴⁵ https://www.legis.md/cautare/getResults?doc_id=110260&lang=ro

the above-mentioned article of the Criminal Procedure Code requires that a complaint be submitted by the victim before criminal prosecution can be initiated for threat of death or serious physical integrity or health. However, this article stipulates that even if the victim files a complaint and a criminal case is initiated, the criminal investigation ends if the victim and the suspect reconcile.

Hence, the Ombudsman notes that the legislation of the Republic of Moldova should clearly stipulate that initiation of prosecution of sexual violence should not be dependent on a complaint filed by the victim, because the law should not allow the termination of prosecution in case of victim-suspect reconciliation as this goes against the requirements of the Council of Europe Convention on preventing and combating violence against women and domestic violence.

Moreover, the Convention clearly stipulates that the proceedings may continue even if victims withdraw their statements or complaints. Therefore, we believe that the national criminal regulations on sexual violence should be revised and aligned to the Istanbul Convention standards.

- Forced marriage

According to the Moldovan Family Code, family and family relations are protected by state and marriage takes place in civil status authority offices. Article 11 of the Family Code stipulates that marriage requires that the parties, the man and the woman who are getting married, give freely their mutual, unvitiated, personally expressed and unconditional consent to marriage and that they have reached the minimum age for marriage fixed by law. The court will declare a marriage null and void if it took place without the mutual, unvitiated, personally expressed and unconditional consent of the man and woman who got married.

Article 14 of the Family Code stipulates that the minimum age for marriage is 18, also providing for some exceptions. Thus, in case of valid reasons, marriage can take place before reaching the marriageable age, but not before 16 and provided that it is permitted by the local child welfare authority which covers the geographical area where the persons who want to get married live, based on their application and consent of the minor's parents.

Yet, currently the Moldovan law does not clearly criminalize forced marriage.

VI. Investigation, prosecution, procedural law and protective measures (art. 49 – 58)

B. Risk assessment and risk management (art.51)

According to the Istanbul Convention, all the relevant authorities must assess the safety risks in every individual case and prepare an efficient plan in order to mutually manage such risks in a coordinated manner, according to a standardized procedure. This work should not be left for the police only. When assessing and managing risks, it is critical that authorities assess the risk of repeated violence, in particular in cases of lethal violence, and the seriousness of the situation. Such assessments are necessary in order to be able to provide coordinated safety and support to victims at all the stages of investigation and application of protection measures.

Article 11 of the Law no. 45 on preventing and combating domestic violence⁴⁶ requires that the authorities responsible for preventing and combating domestic violence respond promptly to any reported case and inform the victims about their rights, about the authorities and institutions dealing with prevention and combating domestic violence; about the types of services and organizations they can go to for support; about the assistance available to them; where and how to submit claims, what happens with such claims afterwards and their role in proceedings; how to claim protection, when and what kind of consultancy and legal aid is available to them; if their life or health is at risk when the offender is released from police custody or prison; about cancellation of the protection order.

In addition, article 12¹ of this law stipulates that if risk assessment conducted at the scene identifies circumstances that give rise to reasonable suspicions that acts of domestic violence have been committed and/or there is imminent threat of repeated violence or that acts of violence might be committed, the police must immediately issue an emergency barring order against the perpetrator to address the crisis situation and concurrently take necessary actions to investigate the act of violence.

B. Emergency barring orders (art.52)

To harmonize the national legislation with the requirements of the Council of Europe Convention on combating and preventing violence against women and domestic violence, Moldovan parliament passed the Law no. 196/2016⁴⁷, which improved the national mechanism for assistance and protection of victims of domestic violence by putting in place a new instrument - the *emergency barring order*.

Thus, in accordance with the Moldovan law and in particular the Law no. 45 on preventing and combating domestic violence, the emergency barring order is an administrative act issued by the police in order to immediately remove the perpetrator of domestic violence

⁴⁶ https://www.legis.md/cautare/getResults?doc_id=122823&lang=ro#

⁴⁷ https://www.legis.md/cautare/getResults?doc_id=95019&lang=ro

from the residence of the victim or the persons at risk and impose prohibitions under law in order to prevent violence from repeating or being committed, thus protecting victims and other persons at risk in and outside their home.⁴⁸

Hence, since March 2017 the police must conduct a risk assessment and based on the identified risks must issue an emergency barring order in order to remove the perpetrator from the residence of the victim and impose specific prohibitions to protect the victim and other family members.

Moreover, according to article 12¹ of the Law no. 45, the police is authorized to apply one or more of the following measures to the perpetrator of domestic violence:

- a) obligation to temporarily vacate the shared home or stay away from the victim's home;
- b) prohibition to come close to the victim, keeping an imposed physical distance between the perpetrator and the victim to ensure the safety of the latter and prohibition of any visual contact with the victim and/or children;
- c) prohibition of any contact, including by phone or any other communication channels with the victim and/or children;
- d) prohibition of keeping and wearing a weapon.

The emergency barring orders are issued by the police for a period of up to 10 days. This protective measure is enforced immediately and the perpetrator of domestic violence and the victim (in the case of children – the victim's legal representative) must be informed about the restrictions it involves, their rights and obligations and about the liability for breach of the barring order. The above-mentioned article also stipulates the perpetrator's right to challenge the emergency barring order in administrative litigation court. Yet, such appeal does not have a suspension effect and the victim is entitled to request under law during the period of the emergency barring order a protection order to be issued. In this case, the emergency barring order is prolonged and ends when the protective measures ordered by court are enforced.

According to the official data provided by the General Police Inspectorate, in 2022 the police issued 5907 emergency barring orders for perpetrators of domestic violence compared to 5851 issued in 2021. Fifteen of them were challenged in the administrative litigation court – 12 appeals were rejected and the other 3 are still pending court review.⁴⁹

For breach of the protective measures imposed through emergency barring orders, contraventional proceedings were initiated under article 318¹ of the Contraventional Code against 729 perpetrators of domestic violence.

⁴⁸ https://www.legis.md/cautare/getResults?doc_id=122823&lang=ro

⁴⁹ https://politia.md/sites/default/files/nota_informativa_privind_violenta_in_familie_12_luni_2022_0.pdf

However, violation of emergency barring orders is not criminalized in Moldova. It is just a contravention according to the Contraventional Code⁵⁰, which stipulates that any intentional violation of the emergency barring order or dodging its restrictions is punishable by 45 to 60 hours of unpaid community service or 10 to 15 days of arrest.

The analysis of the statistical data has revealed that despite the decreasing number of violations of emergency barring orders, the overly lenient penalties do not stop perpetrators from violating them. More often than not, a contraventional punishment for violation of emergency barring orders, most often in the form of a quite small fine, does not discipline offenders.

On the other hand, some perpetrators of domestic violence ordered to leave the home they share with the victim violate the emergency barring orders because they often get in a difficult situation. Deprived of their only shelter through such a measure, they have nowhere else to go.

Therefore, the People's Advocate is of the opinion that if a perpetrator of domestic violence who has been ordered through an emergency barring order to vacate temporarily the shared home or to stay away from the victim's home does not have an accommodation, he/she must be provided immediately, upon request, accommodation at an accommodation center. To this end, the Government must put in place a clear mechanism of intervention in cases when perpetrators of domestic violence ordered to vacate the shared home to protect the victim have nowhere to go.

Hence, we believe that if perpetrators of domestic violence were provided accommodation or guidance on finding accommodation, the emergency barring orders would not be violated.

In conclusion, the Ombudsman recognizes the progress made by the Republic of Moldova in terms of the legal framework on preventing and combating violence against women and domestic violence, noting however that there are still deficiencies related to the understanding and protection of women against violence.

C. Restraining or protection orders (art.53)

According to article 15 of the Law no. 45 of March 1, 2007 on preventing and combating domestic violence⁵¹, the court issues a protection order in 24 hours after receiving the request to provide assistance to the victim and victim's children. Additionally, the court may:

⁵⁰ https://www.legis.md/cautare/getResults?doc_id=135202&lang=ro#

⁵¹ https://www.legis.md/cautare/getResults?doc_id=122823&lang=ro#

- a) order the perpetrator to temporarily leave the shared home or stay away from the victim's home without deciding on property ownership;
- b) order the perpetrator to keep distance from the victim to ensure the latter's safety, banning any visual contact with the victim and victim's children and other dependents;
- c) prohibit any contact, including by phone, mail or in any other way with the victim or victim's children or other dependents;
- d) prohibit the perpetrator to visit places visited by the protected person, such as victim's workplace, education institutions attended by the children, etc.;
- e) order to perpetrator to provide financial support to the common children with the victim for the period of the protective measures;
- g) limit perpetrator's rights in respect of the property owned and used by the victim;
- h) order the perpetrator to attend a special treatment or counselling program to reduce or end violence;
- j) prohibit the perpetrator to keep and wear a weapon.

It is important to note that protective measures can be applied for up to 3 months, cancelled under law or extended upon a repeated request or in cases of violation of the protection order. The responsibility for monitoring the compliance with protection orders lies with the police and the probation authority under law.

In order to align the national legislation with the Council of Europe Convention on preventing and combating violence against women and domestic violence, article 215¹ of the Criminal Procedure Code was amended through the Law no. 316 of November 17, 2022 on amending normative acts on protection of rights of victims of sexual and domestic violence offences⁵², requiring now that in criminal proceedings a protection order is issued for victims of sexual offences not only victims of domestic violence. Therefore, the measures of protection stipulated by the Code apply also to the victims of sexual offences. Thus, according to the new provisions, if during the criminal proceedings there are clear indications that the victims of domestic violence or victims of sexual offences are at risk of being subjected to violence or other illegal action, including property damage, the criminal investigation authority or prosecutor must take immediate action to ensure application of protective measures.⁵³

According to the above-mentioned article, the court will issue a protection order within 24 hours after receiving the request to provide protection to the victim and victim's children, imposing on the suspect, the accused, the defendant one or several measures listed in this article.

⁵² https://www.legis.md/cautare/getResults?doc_id=134400&lang=ro

⁵³ https://www.legis.md/cautare/getResults?doc_id=134475&lang=ro

With regard to the violation of the protection order by perpetrator, article 15², paragraph (6) of the Law no. 45 on preventing and combating domestic violence stipulates that “the refusal or evasion of perpetrator to comply with the measures imposed in the emergency barring order/protection order is punishable under law”.

In addition, article 320¹ of the Criminal Code of the Republic of Moldova clearly stipulates that the punishment for intentional violation or evasion from complying with the measures applied by court through the protection order issued to protect the victim of domestic violence is 160 to 200 hours of unpaid community service or up to three years of imprisonment.

According to the data provided by the National Public Security Inspectorate of the General Police Inspectorate, in 2022 courts issued 754 protection orders to protect victims of domestic violence, 246 of which were issued at the request of the sector officer, 6 – at the request of the criminal investigation body, 5 – at prosecutor’s request, 470 – at the direct request of victims or their legal representatives, 23 – at the request of other authorities and 4 – at the request of child welfare authority in case of child victims.⁵⁴

In 2022, the police monitored compliance with 505 protection orders issued to protect women victims and 206 to protect women victims and children.

The monitoring data reveal that 346 protection orders were violated, leading to initiation of criminal cases under article 320¹ of the Criminal Code.

Hence, our assessment shows that there are regulations in place on the protection of victims of domestic violence, which however need to be amended to align with the Istanbul Convention requirements related to the development of effective national mechanisms for immediate and efficient protection of victims of domestic violence.

F/H. *Ex parte* and *ex officio* proceedings (art. 55)

Article 276 paragraph (1) of the Criminal Procedure Code⁵⁵ stipulates the types of offences which require initiating criminal investigation based on a complaint filed by the victim. According to this article, criminal investigation initiated based on a complaint filed by the victim ceases if the injured party reconciles with the suspect, the accused, the defendant. The serious offences involving life and integrity, including the sexual life of the victim and domestic violence, are not among the types of offences regulated by article 276, paragraph (1) of the Criminal Procedure Code. Therefore, our assessment shows that initiation of criminal investigation for such offences in Moldova does not require a complaint filed by the victim.

⁵⁴ https://politia.md/sites/default/files/nota_informativa_privind_violenta_in_familie_12_luni_2022_0.pdf

⁵⁵ https://www.legis.md/cautare/getResults?doc_id=134475&lang=ro#

The Ombudsman welcomes the actions taken by the national authorities to provide legal safeguards to the victims of sexual violence and domestic violence and to align the national legislation with the Istanbul Convention, in particular by passing the Law no. 316 of November 17, 2022 amending certain normative acts on protection of rights of victims in cases of sexual life and domestic violence offences. To this end, the regulation, according to which criminal investigation of sexual harassment could be initiated only after the victim has filed a complaint in this sense was removed from article 276 of the Criminal Procedure Code.

Moreover, the national legislation, including article 109 of the Criminal Code⁵⁶ on reconciliation of parties, does not mention reconciliation of the victim and perpetrator of domestic violence.

Hence, the People's Advocate notes that the national criminal regulations which require that criminal investigation of domestic violence should continue even if parties reconcile are harmonized and fully in line with the Council of Europe Convention on preventing and combating violence against women and domestic violence.

VII. Migration and Asylum (art.59-61)

A. Residence status (art.59)

The Constitution of the Republic of Moldova⁵⁷ (article 19) states that foreign citizens and stateless persons have similar rights as the citizens of the Republic of Moldova, with the exceptions provided by law, and that the right to asylum is granted and withdrawn under law and in compliance with the international treaties to which Moldova is a party.

In this respect, it is important to make reference to the Law no. 200 of July 16, 2010⁵⁸ on foreigners in the Republic of Moldova, which regulates the entry to, stay in and exit of foreigners from the Republic of Moldova, the granting and extension of the residence status, repatriation, documentation and the coercive measures for noncompliance with the stay regime and specific immigration surveillance measures in accordance with the international treaties to which the Republic of Moldova is a party.

Additionally, article 31 of this law, paragraph 2, item e²) clearly stipulates that the right of residence can be granted “to protect victims of domestic violence”.

Finally, article 39 of the Law no. 200 also guarantees the right of autonomous temporary residence to the family members of the foreigner who holds the right of temporary residence for

⁵⁶ https://www.legis.md/cautare/getResults?doc_id=134866&lang=ro#

⁵⁷ www.constcourt.md/public/files/file/Actele%20Curtii/acte_en/MDA_Constitution_EN.pdf

⁵⁸ https://www.legis.md/cautare/getResults?doc_id=133235&lang=ro#

family reunification or extension of the temporary residence to the victim of domestic violence or if marriage has ended in divorce.

It is worth noting that this law also regulates extension of the temporary residence status for foreigners who are or were victims of domestic violence, provided that:

- a) the foreigner does not pose a threat to the national security and/or public order;
- b) the foreigner confirms his/her status of victim of domestic violence;
- c) the stay of the foreigner in the country is necessary for the purpose of his/her cooperation with the competent authorities in trial or other proceedings;
- d) there are justifiable concerns that the foreigner's life or bodily integrity is at risk or that the foreigner will be subjected to torture, inhuman or degrading treatment if he/she returns to the country of origin.

Besides the application for extension of the temporary resident status, the foreigner – victim of domestic violence must submit the documents stipulated in Law no. 200.

Temporary resident status can be granted to victims of domestic violence, upon application, for up to 6 months with the possibility of further renewals for additional 6 months.

B. Gender-based asylum claims (art.60)

The Asylum Law no. 270 of December 18, 2008⁵⁹ addresses the need to protect human rights and fundamental liberties in accordance with the generally recognized principles and norms of the international law and the provisions of the international treaties to which Moldova is a party, as well as to align the national law with that of the EU, recognizing that regulation of the refugee status is an important human rights safeguard.

Article 10 of the law introduces the principle of non-discrimination and stipulates that the provisions of the national legislation apply to asylum seekers and beneficiaries of forms of protection without discrimination regardless of race, citizenship, ethnicity, language, religion, political affiliation, social status, beliefs, sex, sexual orientation or age. The law also requires that the asylum applications must be considered individually, in a fair and impartial manner.

Article 12 guarantees the right to family unity, so that the family members of a beneficiary of international protection enjoy the same form of protection and status as the beneficiary.

The forms of protection available in Moldova are listed in article 16 of the Asylum Law, in particular:

- a) refugee status;

⁵⁹ https://www.legis.md/cautare/getResults?doc_id=130910&lang=ro#

- b) humanitarian protection;
- c) temporary protection;
- d) political asylum.

Moreover, this law, in article 11⁶⁰, introduces the principle of non-refoulement. Thus, asylum-seekers cannot be expelled or returned from the border or from the territory of the country to a country or territory where their life or freedom would be at risk or where they may be subjected to torture, inhuman or degrading treatment.

D. Other measures

Chapter VII of the Council of Europe Convention on preventing and combating violence against women and domestic violence contains specific provisions for refugee and migrant women and girls. In particular, it introduces the possibility of granting migrant women – victims of domestic violence an autonomous residence permit.

As mentioned above, temporary protection is one of the four forms of protection available for foreigners in Moldova. In accordance with the Asylum Law, temporary protection is an exceptional measure designed to provide protection to displaced persons who are unable to return to their country of origin when there is a risk that the asylum system will not be able to cope with a mass and spontaneous influx of such persons. This was the case after February 24 in Moldova.

Since the beginning of the military invasion of Ukraine by the Russian armed forces, the People's Advocate Office has focused part of its efforts on monitoring protection of the rights of the displaced persons from Ukraine. These efforts materialized in the three reports on monitoring the rights of refugees fleeing the war in Ukraine^{61,62,63}.

Thus, to ensure protection of human rights, the staff of the People's Advocate Office undertake regular monitoring visits to relevant institutions, including places of detention, temporary placement centers for foreigners or asylum seekers, the institutions providing social, healthcare or mental health services, special education and re-education institutions, curative and re-education institutions for minors. Monitoring and reporting on the protection of the rights of

⁶⁰ https://www.legis.md/cautare/getResults?doc_id=130910&lang=ro#

⁶¹ <http://ombudsman.md/wp-content/uploads/2022/06/Report-No-1-on-the-monitoring-the-observance-of-the-rights-of-foreigners-from-Ukraine-in-the-context-of-the-state-of-emergency-for-the-period-from-February-25-to-April-30-2022.pdf>

⁶² <http://ombudsman.md/wp-content/uploads/2022/10/Raport-nr.2- eng.pdf>

⁶³ <https://ombudsman.md/wp-content/uploads/2023/02/Report-No-3-on-the-monitoring-of-the-respect-for-the-rights-of-refugees-in-the-context-of-the-armed-conflict-in-Ukraine-for-the-period-August-December-2022.pdf>

refugees is based on the methodologies and instruments developed for this purpose by the People's Advocate Office.

Some of the findings of the monitoring visits include the following: not all the accommodation facilities have separate bathrooms and toilets for men and women, and in some cases their doors could not be locked from inside, which creates potential risk situations. In some accommodation facilities, the bathrooms and toilets were not used only by refugees. Some of them were outdoor and the access to them was not facilitated to all the categories of refugees. Moreover, their use in the cold season is problematic especially for women, children, the elderly or the people with disabilities.

According to the latest Statistical Report published by the General Police Inspectorate, no sexual offence or other forms of violence against girls and women from Ukraine were reported in 2022.

However, to prevent potential risks (human trafficking, violence), the Moldovan authorities should systematically keep watch on the situation of refugees from Ukraine.

One of the main recommendations relating to temporary protection made by the People's Advocate and the Consultative Council following the monitoring exercise mentioned above has been recently implemented. More specifically, on January 18, 2023 the Government approved the Decision on granting temporary protection to displaced persons from Ukraine. This has been a huge effort made by the national authorities and an important decision to provide protection to such people on the territory of the Republic of Moldova. Temporary protection will be granted starting March 1, 2023.

The People's Advocate welcomes this important step made by the Moldovan Government to protect human rights and fundamental liberties.

Finally, from our point of view, the country's efforts to promote and advance gender equality in labor relations have proven to have a positive impact on the displaced women and girls from Ukraine in Moldova.

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