



**THE HUMAN RIGHTS CENTER OF MOLDOVA**

# **REPORT**

**ON HUMAN RIGHTS OBSERVANCE  
IN THE REPUBLIC OF MOLDOVA IN 2003**

**CHISINAU, 2004**

## PREAMBLE

*“The Center for Human Rights submits to the Parliament a relevant Report on Human Rights Observance in the Republic of Moldova for the previous year (Article 134 of the Law on Parliamentary Advocates)”.*

Human rights are universal and everybody is born equal in front of law. However, everyday life, considering its objective diversity, does not ensure equal possibilities for every individual to enjoy and exercise established rights and liberties in full as needed. Thus, the risk of inequality is always present. Within this context it is very important for the state and the society to provide and ensure all relevant acceptable chances and opportunities for individuals to claim their own rights, by creating favorable environment for all the people and primarily for those who might get disadvantaged as to prevent them from being dragged out of social life.

It won't be relevant to limit the problem of human rights to the simple dilemma: bread or liberty - bread meaning economic and social rights and liberty – political, civil and cultural rights. Every member of the community should dispose of all categories of rights, these ones being, in fact, interconnected. The realization of vested rights forms a separate domain of activity and ultimately represents a product of the whole society.

We can state out that Moldova follows the path of establishing a relevant environment for the realization of human and civil rights and liberties based on the crystallized model accepted within countries with democratic traditions.

It is obvious that there are plenty of unsolved problems. Yet, the country has traced out its targets. However, the achievement of set objectives and values depends on the implementation of economic, social and cultural reforms assumed by the Republic of Moldova.

The year 2003 was a special year with regard to the context of human rights, especially considering its inclusion in the education decade 1995 - 2004 on human rights, proclaimed following the resolution of the UN General Assembly. 2003 was also a jubilee year - 55 years from the adoption of the Universal Declaration of Human Rights (UDHR), an international document of exceptional value, the adoption of which marked the beginning of a new era in the relationship within the international community. Used as pillar normative act and source of inspiration for the establishment of the constitutional and legislative framework of a number of countries of the world, the stipulations of the UDHR have been recognized as common ideals to be striven for by every state aiming at developing progressive

actions at national and international levels with the view to ensuring efficient implementation of human rights and liberties, as proclaimed in the Declaration.

The Declaration, together with other international acts, stayed at the basis of the elaboration of the Supreme Law of our state – the Constitution of the Republic of Moldova. Article 4 of the Constitution clearly establishes that the constitutional provisions with regard to human rights and liberties are interpreted and applied in conformity with the Universal Declaration of Human Rights and other pacts and treaties ratified by the Republic of Moldova.

We should also mention that the year 2003 registered positive results on internal side, especially in bringing the national legislation in line with international standards and in establishing the institutional framework required for the increase and consolidation of state democratic capacities. We refer here to the approval and implementation of the Penal Code and Code of Penal Procedure, which institute a new conceptual consideration of penal proceedings; of the Civil Code, Code of Civil Procedure and Labour Code, which establish new regulation modalities with regard to relationship in the civil environment and labour domain, etc.

Also in 2003 the Parliament adopted the National Actions Plan in the field of human rights for the years 2004 – 2008. This document, worked out with the participation of the UN Development Program, has been approved with the view to harmonizing the legislative framework, to increasing the role of central and local public administration and especially, of the role of non-governmental organizations in the implementation of constitutional provisions with regard to human rights and liberties.

This Report is not aimed at reflecting the situation of all rights and liberties warranted by the Constitution. Such task is almost impossible to be fulfilled. We referred only to those rights, which, in our opinion, are more difficult to be realized due to a number of objective and subjective reasons and problems frequently raised within petitions delivered to the Center for Human Rights and during audiences of citizens by the parliamentary advocates.

The Report includes three chapters: Civil Rights; Economic and Social Rights; and Activities of the Center for Human Rights.

## CHAPTER I

### CIVIL RIGHTS

*“(1) It is the foremost duty of the State to respect and protect the human person.*

*(2) All citizens of the Republic of Moldova are equal before the law and the public authorities, without any discrimination as to race, nationality, ethnic group, language, religion, sex, political choice, personal property or social origin.”*

*(Article 16 of the Constitution of the Republic of Moldova).*

It is obvious that, largely, the national legislative framework guarantees to all citizens under the jurisdiction of the Republic of Moldova same equal civil, political, social, economic and cultural rights and liberties proclaimed in the Constitution and stipulated in the international legal acts ratified by the Republic of Moldova.

Within the context of stipulations of Article 16, special attention should be drawn upon the situation of women in the social life of the society, i.e. the observance of the principle of equality irrespective of sex. Although the internal legislative framework and the adherence of the Republic of Moldova to a number of international acts in the filed (the Convention on Elimination of All Forms of Discrimination towards Women, the Convention on Political Rights of Women, the ILO Conventions on Discrimination in Labour Forces Placement and Profession Practicing and on Equal Remuneration of Males and Females, etc.) guarantee equal rights of males and females, including equal chances and opportunities for employment and profession practicing without any sex discrimination and equal remuneration conditions and social security, the realization of all these principles leaves much to be desired. The public opinion polls, statistic data and investigations conducted by a number of decision-taking authorities and non-governmental organizations, the analysis of certain international organizations, the petitions received at the Center for Human Rights during the reported year show that the situation of women in our society is highly impacted by unemployment, poverty, economic and family supporting difficulties and overall male's mentality with regard to the place and role of women in the family and society in general.

During the last ten year there is a tendency of increasing disproportion in the number of poor women as compared to that of men. As in accordance with statistics, women account for 52% of the country population and for 54% of labour forces, as well as for 65% of unemployed people. Women's labour is less paid. Almost three-quarters of women having the same professional qualification as men do are

employed at works with reduced qualification; their salaries by 20%-30% lower than men's salaries.

Women are also discriminated as with regard to age. Many economic agents independently establish the age ceiling for women. Although veiled, there are cases when employers refused to hire women because of reasons of pregnancy, care of small children, single mothers, etc.

Petitions received by the Center for Human Rights confirm once more the state of facts within this issue.

Cases of "voluntary" discharge of aged women become more frequent. The mechanism is very simple. In order not to run counter to legislation, employers force these women to write discharge requests from their own initiative. There are different methods "to convince" women to resign. Here is a vivid example of M.T., employee of a large shop in the city of Chişinău. The administration of this entity proposed her to resign voluntarily considering the fact that she is going to pension soon. The woman had to apply for the assistance of parliamentary advocates in order to solve the problem.

Violation of women's rights could be observed not only within economic units. The citizen L. from the district of Orhei, mother of three children, was illegally dismissed for four times from her position of economist in the town hall and re-established in function following court decision for same number of times. However, so far, the administration refuses to execute the court decision and to pay implied material damages.

The participation of women in the political life of the state and women promotion to public positions is not yet satisfactory. Very often women are limited in showing their full capacities because of traditional social pre-dispositions with regard to women status, lack of confidence in own powers and abilities, burden of family obligations.

There are still many cases of violence towards women. Practically, women have to suffer from all types of violence: sexual harassment, verbal mutilation, economic, psychological, physical violence, etc. Family violence, which incorporates all the other types of discrimination towards women, is situated on the first place.

The traffic with human beings, which primarily implies the exploitation of women, represents another utmost problem.

All these problems determines the majority of women consider, including within different sociological polls, that women do not benefit from the status they deserve in the society and the everyday life.

The state undertakes a number of measures aimed at solving such problems. We can mention here the approval by the Government of the National Plan on Promotion of Equality of Human Sexes in the Society in 2003 – 2005. One of the

basic targets of this document is to ensure the increase of public employment and the promotion of the concept of equal opportunities and elimination of sex discrimination in the labour market. With the view to implementing the Actions Plan on revision and modification of current legislation as to bringing it in line with the provisions of the Revised European Social Book, the Parliament adopted on 19.06.03 the Parliamentary Decision no. 253 with regard to the Concept on Orientation, Preparation and Professional Training of Human Resources. This document reflects the need to improve the legislation in order to ensure equal opportunities for males and females in the field of professional training at all levels, during lifetime, in accordance with held capacities and abilities, to establish equal possibilities within the society and economy, as well as to modify the traditional attitude towards the role of males and females in the family and professional life.

Unfortunately, following the implementation of the administrative territorial reform, all entities (gender centers) responsible for ensuring equal opportunities and settlement of relevant problems within the field have been reduced.

In our opinion, measures aimed at improving the current situation could be initiated by completing the Constitution with the view to ensuring gender equality. These modifications should explicitly provide that men and women have equal rights ensured by the State; that the State does not admit any differentiation, exclusion and restriction as to gender, which might lead to compromising or annihilation of the recognized benefit and execution by women of human rights and fundamental liberties within political, economic, social, cultural and civil sectors, irrespectively of their parental status.

The opportunity of such constitutional amendments is determined by the need to adjust the current constitutional framework with international norms and practices, paying also due consideration to the recommendations of the UN Committee on Elimination of Discrimination towards Women, approved with the initial Report of the Republic of Moldova on Implementation at National Level of Convention Requirements with regard to elimination of all forms of discrimination towards women.

It is worthwhile mentioning that a draft law in the field has been already worked out. The approval of this law would be another important step forward that would contribute to the improvement of the gender situation and would specifically establish a relevant framework in line with international democratic values and facilitate the application of both general and national norms and practices by public authorities and courts. Based on gender equality, the law would serve as legal pillar for the application of positive discrimination measures and would provide certain instruments and tools to observe and supervise the situation of gender discrimination.

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*“(1) Every citizen has the right to obtain effective protection from competent courts of Jurisdiction against actions infringing on his/her legitimate rights, freedoms and interests.  
(2) No law may restrict the access to justice.”  
(Article 20 of the Constitution of the Republic of Moldova)*

Citizens may exercise their fundamental right of free access to justice only in conditions of existent relevant legal system and efficient mechanisms for the examination of cases of rights’ presumed violation.

The implementation of the Judicial and Legal Reform Concept determined the approval of a series of laws that served as cornerstone for the process of reforms in the judicial system.

At the same time, reforms were also initiated in the judiciary procedure (approval of the Civil and Penal Codes and Procedures); the judicial system started to be vertically consolidated (three levels in legal proceedings); the execution of court decisions has been re-considered (the establishment of the Department for the Execution of Court Decisions); etc.

Unfortunately, the execution of the right of free access to justice still creates acute problems. Like in previous years, the same impediments within the field, with small exceptions, have been registered during the reported year:

- tergiversation of the examination of penal and civil causes;
- lack of financial means in cases of patrimonial litigation for purpose of civil proceedings’ initiation or impossibility to assume court expenses for appeal lodging;
- effective deprivation of protection of defendants, prisoners or detainees by counsels ex officio;
- non-execution of court decisions on civil causes.

Out of the total number of appeals received by the Center for Human Rights, almost 24% petitions claim the issue of free access to justice. A large part of these petitions is related to the tergiversated examination of causes within law establishments. The issue provides a two-folded problem: direct tergiversation and non-direct one. The first problem is usually the result of conscious non-fulfillment of vested obligations by certain judges. The second one might be “justified” by long expertise, default at court proceedings of parties, advocates, experts in the field and other formal legal reasons. Nevertheless, the judge is authorized to apply different instruments and tools to influence the examination of relevant causes within reasonable time framework.

The non-direct tergiversation phenomenon may be explicitly reflected with the following case. The citizen P.B. from Stauceni village has been trying for four years already to receive the recompense for the loss of working capacity from the wine College, which decided to claim the act on work accident after ten years. The general law court under examination and re-examination for reason of repeal by the hierarchically higher institution of decisions approves the cause. The file of citizen C.O. from Leova district has been kept in the district court without examination for eleven months. Only after the implication of the Center for Human Rights the tribunal delivered its judgement of amnesty based on Article 119 paragraph 2 of the Penal Code. Was this long time really needed to establish the amnesty relevancy? No comment.

The number of non-executed court decisions continues to increase, accounting for 65.8 thousand last year. The establishment of the Department for the Execution of Court Decisions was expected to change the situation. In fact, it was not the case. As on 1 November 2003, writs of executions under the control of the Ministry of Finance amounted to 4.241.460 lei owing to citizens by public institutions and authorities.

Over 800 persons applied for the professional assistance of parliamentary advocates for re-establishment in legitimate rights. The Center for Human Rights contacted a number of economic agents, state establishments, public administration authorities, including the Department for the Execution of Court Decisions, the Ministry of Justice, even the General Prosecutor's Office in order to initiate penal proceedings against executors failing to honor vested service obligations.

Thus, following the initiative of a parliamentary advocate, the Prosecutor's Office of the Orhei district initiated penal proceedings against two judicial executors responsible for the fulfillment of the court decision of 14 April 1999 in the case of the citizen E.I.

The management of the Floresti-Gaz Ltd. has refused for three years to conform to the court decision on re-establishment in position of the citizen N.A. This significant violation was possible only "due" to the tacit consent of judicial executors. The Prosecutor's Office intervened following the proposal of the parliamentary advocate and the solicitor was re-established in his position.

There are quite a number of similar examples. Partially, tergiversation may occur because certain judiciary executors do not consciously fulfill their attributions and the Department has not managed yet to efficiently organize, co-ordinate and control the activity of its territorial sub-divisions. Such situations also occur because the average monthly obligation of one judicial executor increased in 2003 by around 34%.

Special attention has been paid to the fulfillment of executor collection documents to the state benefit. Out of the total number of decisions received for

execution, only 32% is related to decisions of court establishments; the other 68% decisions have been issued by other establishments vested with the decision right (that are obviously related to budget collections). At the same time, 88% of documents under executor procedure includes collection documents to the state benefit. Thus, the concentration of time and effort on execution of budget collection decisions to the detriment of decisions related to individual claimants generates the increase of the volume of applications, which amounted in 2003 to 3294 letters, or by 1050 more than in the previous year.

The revival of the specialized police activity aimed at facilitating the fulfillment of vested functions and attributions by judicial executors, as well as the elaboration of the Deontology Code of the Judicial Executor may be considered as steps forward in the field of judicial reform.

In many claims received by the Center for Human Rights applicants refer to the restriction of the right of access to justice because of lacking financial means by individuals. Within this context, in order to facilitate the access to justice of socially vulnerable people, the Legislator provided the possibility of exemption from state fee in cases of suit delivery (additionally to provisions stipulated in Article 85 paragraph 1 of the Civil Procedure Code (CPC). Thus, as in accordance with Article 85 paragraph 4 CPC, the individual may be fully or partially tax exempted, depending on his/her financial situation, by the judge (court establishment). However, this provision does not provide the eligibility criteria related to such exemption; the whole matter rests on judge discretion, which, obviously, implies subjective issues.

To a large extent judges do not apply these provisions and the huge majority of potential beneficiaries is not even aware about their existence. However, it is to be mentioned that the Parliament operated relevant modifications within Article 437 paragraph 2 of the Civil Procedure Code of the Republic of Moldova following Law no. 544-XV of 19.12.2003.

According to the Center for Human Rights, the fact that a significant part of the population is not informed about this right could partially explain the current state of facts. The final conclusion is based on claims received at the Center for Human Rights. Within this context, the institution of parliamentary advocates assumed to further undertake a number of relevant actions and judicial training activities of citizens. Moreover, this commitment is provided in the Law on Parliamentary Advocates.

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*“(1) Every one has the right to an acknowledged legal status.*

*(2) The State ensures the right of everybody to know his/her rights and duties. For that purpose the State shall publish all its laws and regulations and make them accessible to everybody”*

*(Article 23 of the Constitution of the Republic of Moldova)*

A democratic society should unquestionably ensure a warranty system capable to protect and promote human rights and fundamental freedoms.

One of these warranties could be realized following the insurance of high-level informing channels to civil society with regard to its rights and duties. Such informing determines the individual's behavior in a democratic society. According to the Constitution, the state has the ultimate impact upon the judicial training of the population by means of publishing and providing access to any law and normative act, including international accepted norms.

It is obvious: unknown things could not be observed. That is why the State publishes all national judicial acts in the Official Monitor of the Republic of Moldova. Unfortunately, considering the financial situation of a large part of the population, this publication is nor affordable for all the citizens. Even quite a number of lawyers cannot allow themselves to individually buy the publications of the Official Monitor.

Regretfully, the text of the Constitution with the modifications and completions of 2002 were not published in a separate edition in a circulation enough to cover relevant needs.

National and international legislation is also brought to public notice through channels of written press, radio broadcasting and TV. Certain ministries and departments, state institutions and non-government organizations use to publish different booklets, folders, and guides with legal content, to organize seminars, round tables, conferences within which relevant categories of citizens are trained. However, this activity is not sufficient. To a large extent, the public is not aware about its rights and duties, this situation determining the low-level judicial culture and the judicial nihilism.

Furthermore, even public officers do not know their constitutional rights and duties at a due level. The analysis of claims received by the institution of parliamentary advocates demonstrates that such “illiteracy” also generated cases of violation of human rights and freedoms. The consequent and continuous training of these public officers would contribute to the reduction of the number of petitions submitted to different court institutions.

The propagation of judicial knowledge among citizens should imply a more active participation of local public administrative authorities by establishing special places or accessible stands with professional literature.

In 2003 the Parliament approved the National Actions Plan in the field of human rights, which inclusively provides as follows: getting the public informed

about its rights and duties; increasing the public judicial culture; getting the national and international legislation as much accessible as possible. In our point of view, the implementation of this Actions Plan shall largely contribute to the settlement of the problem.

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*“(1) The State guarantees everybody the right to life, and to physical and mental integrity.*

*(2) No one may be subject to torture or to cruel, inhuman or degrading punishment or treatment.”*

*(Article 24 of the Constitution of the Republic of Moldova)*

By adhering to the UN Convention against torture and other punishment or cruel, inhuman or degrading treatment, the Republic of Moldova assumed its commitment to undertake all relevant legislative, administrative, judicial and other measures to prevent commitment of acts of torture, to systematically and continuously exercise surveillance over provisions related to the security and treatment of persons subject to any form of arrest, detention or imprisonment within the territory under its jurisdiction.

As for now, our state promotes quite a progressive legislation within this field, which is largely harmonized with international standards. Within the judicial and legal reform the Parliament adopted a number of relevant laws, including the Code of Penal Law, the Code of Penal Procedure, the Code of Penal Law Sanction Execution, the Law on Preventive Arrest and other acts with the view to preventing and punishing infractions against life and physical and psychological integrity, to counteracting cases of cruel, inhuman or degrading treatment or punishment.

However, much is still to be done within this area. On a particular basis, parliamentary advocates consider that the Code of Penal Law should be completed with a separate article on Torture, which should comply with provisions of Article 1 of the Convention against Torture and Other Cruel, Inhuman or Degrading Punishment or Treatment. The Article should provide penal responsibility for the “organization or instigation of acts of torture by any officer of a public institution or any other officer acting an official position and stipulate “torture” with the following qualifying signs: repeatedly committed; resulted in large damage; resulted in demise of the victim; resulted in other consequences. In our opinion, such stipulation would be a step forward in preventing and fighting against psychological torture, the latter being paid insufficient consideration.

Of course, a tougher penal law shall not exclude cases of torture. The improvement of the situation implies the stipulation of other legislative, administrative and economic measures, which, if applied in a complex manner, may lead to concrete positive outcome.

The investigation of claims received by the Center for Human Rights shows that torture becomes more and more applicable, especially in cases of penal proceedings. Concrete and explicit measures are deemed necessary in order to prevent cases of inhuman treatment of persons under penal proceedings. First of all, Isolators of Provisional Detention should be liquidated (by completely excluding this notion from the legislation); and Investigation Isolators under the Ministry of Justice should be established. We consider that the current situation, when the arrested or detained person rests at the discretion of the penal investigation body, even for a short period of time, is not admissible any more, especially if considering the large accepted supposition that testimonies by persons under penal investigation are more important than other proofs (the first among equals).

The supposition mentioned above stroke its roots in the general practice of proof collection. Even Article 93 of the Code of Penal Procedure (Proofs) starts the enumeration of proofs with the testimonies by parties at process and not, for example, with material evidence, expertise reports, or technical and scientific findings, etc.

The necessity to transfer isolators from the Ministry of Internal Affairs to the Ministry of Justice does not imply the lack of confidence in the activity of the first institution. The principle of ensuring objective case investigation, as well as the elementary logic provides that persons under detention should be under the surveillance of an institution not authorized to collect proofs and evidences. Such a situation would increase the security of arrested or detained persons and shall ensure a more efficient exercising of the right of defense, especially if considering that advocates' admission to clients shall not depend on the will of accusers. Within this context, p. 57 of the State Program on Fight against Criminality and Corruption for 2003 – 2005 should be subject to modification, too. Same ideas are reflected in the National Actions Plan in the area of human rights for 2004 – 2008, approved by the Parliament of the Republic of Moldova.

In our point of view, certain legislative norms include contradictory or inequitable stipulations and do not stimulate treatment of arrested persons in line with international norms and standards. Thus, Article 11 paragraph 3 of the Law on Preventive Arrest (hereinafter referred to as Law no. 1226) provides that the detention of persons in places of preventive arrest should be conducted in conformity with the principle of observance of the Constitution, of the Universal Declaration of Human Rights (UDHR) and other international instruments and

standards related to treatment of detainees. So, such detention should not be treated as action intended to cause physical or moral suffering or to hurt human dignity.

Within this context, deemed modifications of this law would highly contribute to a stronger insurance of relevant treatment conditions for detainees under penal investigation in line with Constitution provisions and international instruments ratified by the Republic of Moldova.

In fact, such step forward has been already made. Based on petitions received by the Center for Human Rights from persons under preventive arrest, the Parliament was proposed to exclude Article 33 of Law no. 1226, which provided forced nourishment of detainees.

The Parliament agreed with the proposal of the parliamentary advocate and operated relevant modifications (Law no. 390-XV of 09.10.2003).

Human traffic represents another negative phenomenon for the physical and psychic integration of society members. In fact, this issue is closely interrelated with the illegal labour migration.

Currently it is not possible to ensure everybody with working places with acceptable remuneration, this situation leading to citizens' migration. The state does all effort to improve the situation by undertaking different actions, like the institution of transparent arrangements for employment abroad and insurance of an official status for individuals working abroad, etc.

The fighting against human traffic registered in 2003 a significant revival. The National Committee for Fighting against Human Traffic intensified its activity by continuously and systematically mobilizing all possible resources needed to improve the situation in close cooperation with state relevant institutions, local public administration, international and national non-governmental organizations acting in the field.

The methods applied in our country within the framework of fighting against human traffic are highly appreciated by a number of foreign states and international organizations; these entities act not only as passive observers, but are also active in problems settlement. The fruitful activity of the OSCE Mission in Moldova, of the USA Embassy in Moldova, of the International Organization for Migration, of UNICEF, of the Alliance War against Traffic and International Shared Hope, etc. could serve as best examples of this cooperation. Beyond their everyday activity, these institutions provided in 2003 substantial assistance in a high-level organization of the international Conference on Further Steps towards Innovative Strategies within Fighting against Human Traffic for Sexual Exploitation in Moldova. The Conference highly appraised the activity of the National Committee and proposed concrete further steps to be undertaken with the view to uprooting human traffic with Moldovan citizens. Participants mentioned also the necessity to ratify certain international acts within the field, including the UN Convention against Organized

Trans-national Crime and the additional Protocol on Prevention, Suppress and Punishment of Human Traffic, especially of women and children, the Optional Protocol to the Convention on Children's Rights with regard to sale, prostitution and pornography of children.

However, it is well known that for some decision-taking factors, especially territorial ones, fighting against human traffic is limited to the application of certain restrictive measures towards persons leaving for work abroad. We think training measures and not restrictive ones should be further stirred to activity.

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***“(1) Individual freedom and personal security are declared to be inviolable”  
(Article 25 of the Constitution of the Republic of Moldova).***

With the view to ensuring individual freedom and personal security, the internal legislation of the state provides certain basic principles. The principle of legality and punishment establishes that only the person found guilty of infraction commitment is subject to penal liability and punishment. The principle on non-retroactivity of the penal law establishes that no one can be condemned for actions or omissions that did not constitute punishable act at the moment of infraction commitment. The principle of presumption of innocence provides that a person accused of an offence shall be presumed innocent until his/her guilt is proved legally during public judicial proceedings within which such person is ensured with all guarantees necessary for his/her defense.

The Center for Human Rights still receives petitions claiming violation of provisions of Article 25 of the Constitution. The largest part of these claims refers to living conditions within detention institutions. Serious concern within this context is expressed also by international organizations, which qualify the current situation as an inadequate state of facts running counter to recognized general standards. This condition is mainly determined by the lack of financial means. Thus, isolators of preventive detention are over-populated, many of them being located in the basement of buildings of Police stations. There is no necessary furniture; the sanitary and hygienic conditions are far from relevant, if any; food is bad; the deficiency of medicines is very acute.

As in accordance with the information delivered by the Department of Penitentiary Institutions, during the last years the penitentiary system has been financed only in proportion of 30%-40% of established needs. In 2003 the daily food budget per capita amounted to 2,4 lei (in 2000 – 2,62 lei; in 2001 – 2,29 lei; in

2002 – 2,73 lei). This situation is registered despite the Government Decision no. 246 of 13 May 1993, which provides the minimal daily amount of 6,74 lei.

Let's consider an example. The Center for Human Rights received the petition of citizen P.A. who was detained in the Isolator of Provisional Detention from Cantemir district. He wrote that he was suffering from tuberculosis and he needed qualitative caloric food. In practice, he was not given any food at all and was not allowed to receive any parcels. Following the conducted control, the petitioner's statement was confirmed. Agreements on food insurance concluded with public food units have been cancelled for a number of times. The last time the contract was annulled on grounds of lack of financial means. Because of that, detainees were not provided with food in due volume.

Almost the same situation could be observed with regard to other issues. The Center for Human Rights proposed to revise the State Budget for 2004 as to ensure the needs of penitentiaries as in accordance with the minimal general standards accepted in international instruments. The Ministry of Finance informed us that it would return to this issue during the year depending on the level of collected receipts.

Let's hope the implementation of the Concept of Penitentiary System Reform and of the Actions Plan for 2004 – 2013 with regard to this Concept shall improve the situation.

Here is another example from the post box of parliamentary advocates. In his petition citizen C. requested professional assistance as, according to his opinion, officers of the Police station of Botanica district have illegally arrested him, accused and detained for a year in an isolator on charge of supposed murder. Following conducted investigation, it has been established that the "assassinated" person used to live unmolested for all that period of one year. The penal proceeding was disposed of definitely.

According to data of the Supreme Court of Justice, in 1998 – 2003 court establishments delivered acquits in deed to 2700 citizens.

Article 186 of the Code of Penal Procedure provides the maximum time framework for keeping the accused person under preventive arrest (up to 1 year) only at the stage of penal proceedings. However, after the cause is delivered for examination to court establishments, an explicit term is not provided. As a result, the accused person is subject to degrading detaining conditions for the whole period of cause examination under judicial proceedings. The so-called "reasonable terms" provided for cause examination sometimes last very long. According to some statistic data, in 2002 around 22% of cases (out of 9000 incarcerated persons) were examined from 6 to 12 months, and 18% - more than a year. The time period established for penal investigation should also be mention. However, Article 25 of

the Constitution provides the maximum arrest time of 12 months without specifying the reference of this term to only the stage of penal proceedings.

It is quite regrettable, but the society is still not fully aware about the fact that the person under detention is still a member of the community. We cannot stay indifferent about the individual that is going to come back to social life after sentence servicing.

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*“(1) The right of defense is guaranteed.*

*(2) Everybody has the right to respond independently by appropriate legitimate means to an infringement of his/her rights and freedoms.”*

*(Article 26 of the Constitution of the Republic of Moldova)*

As in accordance with the Constitution and Code of Penal Procedure, every person accused of an offence is presumed innocent until his/her guilt is legally proved during a public judicial process within which the accused is ensured all relevant guarantees of defense. The person conducting the penal inquest, the investigator, the prosecutor and the court entity are obliged to inform the suspect or the accused about the fact he/she is suspected or accused of, and about the judicial framework of this fact; to guarantee the individual's possibility to defend himself/herself by applying all legal means and methods; and to protect his/her personal and patrimonial rights. These provisions to a large extent are in line with international judicial acts ratified by Moldova.

However, these stipulations are not always observed. The petitions received by the Center for Human Rights very often refer to two principles that limit the full exercising of the right of defense: suspects are declared and treated as offenders, including through mass-media, before the court delivers its sentence; advocates are not allowed to take part at conducted investigations and are refused to have meeting with defendants.

Let us consider a vivid example of such situation. Policemen of Odessa region have arrested brothers G., as suspected of a number of crimes committed on the territory of the Republic of Moldova and given under penal action. During the arrest one of brothers has been shot in his leg with the service revolver. In the petition submitted to the Center for Human Rights the brothers state that after extradition they are maltreated and moreover, not given the necessary medical assistance; at the same time the advocate is not allowed to meet with them. The parliamentary

advocates made great effort to get relevant authorities involved in the insurance of primary rights of solicitors. Meanwhile, one brother committed suicide.

As in accordance with the International Pact on Civil and Political Rights and the European Convention of Human Rights and Fundamental Freedoms, each individual has the right to be recognized as having individual judicial personality and to be listened to in an equitable and public manner by an independent and impartial trial. All people are equal in front of the law and benefit from equal legal protection. However, such situation can be guaranteed only if a certain relevant order is established, allowing for a full exercising of declared rights and freedoms.

The Constitution provides that every individual has the right to independently respond to the infringement of his/her rights and freedoms. At the same time, parties at trial have the right to be assisted by a lawyer. So, the alternative situation is admitted and parties may decide whether to be represented at trial or to independently protect the presumed prejudiced personal rights. Within this context, the parliamentary advocate requested the verification of the constitutionality of Article 416 paragraph 3 and Article 444 paragraph 3 of the Code of Civil Procedure, according to which in the recourse institution parties should be represented by a lawyer or another representative of law; in such a way the right of free access to justice is restricted and the principle of selection of defense, warranted by the Constitution is infringed.

The Constitutional Court declared the provisions of claimed norms of the Code of Civil Procedure as non-constitutional.

## CHAPTER II

### SOCIAL AND ECONOMIC RIGHTS

*“(1) The right of access to education is put into effect through the compulsory comprehensive public school system, lyceum (public secondary school) and vocational education, as well as the higher education system, and other forms of instruction and training.”  
(Article 35 of the Constitution of the Republic of Moldova)*

As in accordance with the information delivered by the Department of Statistics and Sociology of the Republic of Moldova, the number of children ageing 7 to 16 years beyond the compulsory comprehensive public school system amounts in Moldova to thousands. Out of this number, almost 0.6 thousand children do not attend school because of illness and deficiencies in intellectual development, certified by medical and pedagogical statements.

The number of children within this age category that do not attend school but could be included in the compulsory comprehensive public school system amounted to 1,9 thousand pupils, of which 79% accounts for the rural sector.

The precarious condition of families is the main reason of this situation.

We should mention that currently 2,5 thousand pupils graduated the 9<sup>th</sup> form but do not continue their education.

The deficiency of textbooks or the absolute lack of any written materials for certain subjects is another acute problem of the educational system. Within this context, many teachers requested the assistance of parliamentary advocates with the view to solving the problem of textbooks of civic education. The education process within this field is based only on the Curriculum of Civic Education and the Teacher's Guide on Civic Education for the 5<sup>th</sup> – 9<sup>th</sup> forms. The Ministry of Education informed the Center for Human Rights that this issue couldn't be currently solved because of the deficit of financial means.

Generally speaking, the problem of textbooks is a priority problem. Pupils use to hire books by paying from 60 lei in primary forms to 140 lei in lyceum. At certain subject 2-3 pupils use the same textbook. Because of missing financial means not all the parents could afford themselves to pay for hiring of textbooks.

According to national and international legislation, every child has the right of access to education and training through the state guaranteed education system, free of charge, based on equal chances. The small number of education places financed from the state budget does not satisfy the needs of the young generation for higher or vocational education. The majority of students study on contract basis, which is quite costly.

During the last years there is a tendency of increasing number of budgetary students in higher education institutions.

The situation in the transnistrian part of the Republic of Moldova is noted to worsen. This worsening is generated by the actions and declarations of the Tiraspol administration with regard to schools teaching as in accordance with programs and textbooks approved by the Ministry of Education of the Republic of Moldova (general schools no. 20 from Tiraspol, no. 19 from Bender, no.12 from Rabnita, no.1 from Grigoriopol, the Moldovan school from Dubasari, gymnasiums from villages of Roghi and Corjova, the boarding school for orphans from Bender).

Upon request, the Ministry of Education informed the Center for Human Rights of Moldova that experts in the education field representing the Republic of Moldova and Transnistria took part in 2002 – 2003 at 15 meetings with the participation of the OSCE Mission in Moldova with the view to solving the problems faced by Moldovan schools. The transnistrian side assumed itself as in accordance with signed protocols to establish all relevant conditions for the due functioning of these schools. However, such relevant normal conditions have not been set until now. Moreover, the transnistrian administration undertakes new actions to liquidate these schools.

This is a direct and flagrant violation of the children's right of access to education, of the parents' right to choose the studying language for their children, as well as of the children's right to study in the mother tongue, which is stipulated in a series of international acts, like the Universal Declaration of Human Rights of 10 December 1948, the European Convention for the Defense of Human Rights and Economic Freedoms and the additional protocols of 4 November 1950, the International Pact on Economic, Social and Cultural Rights of 16 December 1966, the International Convention on Children's Rights of 1989.

The Center for Human Rights firmly condemns the illegal actions of Tiraspol authorities, which flagrantly violate the parents and children's rights to choose the education language and to study in the mother tongue.

\* \* \*

*“(1) Every person has the right to freely choose his/her work, and to benefit from equitable and satisfactory working conditions, as well as to be protected against unemployment”  
(Article 43 of the Constitution of the Republic of Moldova).*

During the reported year the Center for Human Rights received petitions from 202 persons invoking the following problems:

- lack of working places and reduction of existent working places;
- low salary quantum;
- failure to pay salaries in due time;
- arrears of wage indebtedness, in certain cases even ignoring of court decisions;
- dismissal following administration initiative, presumed ungrounded and illegal;
- irrelevant working conditions, especially within private sector;
- hidden discrimination at employment based on age, sex, social origin, etc.

The parliamentary advocate may get involved only within the limits of vested attributions and may refer only to certain problems related to the re-establishment in right of work. However, in the majority of cases, invoked circumstances require the implication of state entities authorized to supervise and control the observance of the relevant legislation.

Another stringent problem that needs immediate actions is the issue of unemployment.

In 2003 the economically active population of the Republic of Moldova amounted to 1528 thousand persons, which is by 8.1% less than in the previous year. The occupation rate of men is higher than the one of women. According to data submitted by the International Labour Bureau the total number of unemployed persons exceed 100 thousand people.

According to data of the National Agency for Labour Forces Occupancy, as on 1 January 2004 almost 20 thousand registered unemployed persons were seeking for job. Every fifth of those was dismissed from economic entities. Unemployment affected first of all men – 61.2% of total unemployed persons; unemployed women accounted for 48%.

Regretfully, the lack of acceptable working places determines the exode of labour forces abroad. The current situation needs alternative ways out. Actions undertaken within this context by the Government of the Republic of Moldova related to temporary hiring of our citizens wishing to work abroad are very important. The bilateral agreement concluded between the Government of the Republic of Moldova and the Government of Italy provides a step forward in this problem clarification. The establishment of relevant transparent procedures and the insurance of an official status to these citizens are aimed at excluding the criminal side of this activity and at mitigating the unemployment rate.

Besides, positive outcome, though still modest, could be noticed also in the field of avoidance of staff fluctuation. According to data of the Department of Statistics and Sociology (DSS), the average monthly salary increased in 2003 by around 30%. At the same time, wages paid to employees within culture, health and

social assistance, education and agriculture continue to stay at a modest level occupying the last places in the wage hierarchy.

The approval of the new Labour Code, which, with certain reserves, could be assessed as in line with current requirements of international instruments may be considered as one of the last achievements of the reported year.

\* \* \*

*“(1) The right to possess private property and the debts incurred by the State are guaranteed.*

*(2) No one may be expropriated except for reasons dictated by public necessity, as established by law and against just and appropriate compensation made in advance.”*

*(Article 46 of the Constitution of the Republic of Moldova)*

Despite Constitutional warranties and established legal regulation mechanisms, cases of violation of the right of private property and its protection continue to be very frequent. Such situation is demonstrated and proved by the significant number of petitions received by the Center for Human Rights in 2003 on these issues (15% of total number of claims). As a rule, same aspects of the problem are stated from year to year by the same categories of persons:

- owners of land parcels with regard to restitution of value shares, of other goods from collective agricultural farms;
- deported and rehabilitated persons, as well as members of their families with regard to return of confiscated and nationalized estate;
- individuals suffering from illegal confiscation and sequestration of estate;
- deponents of the Savings Bank of Moldova, as well as of other commercial banks;
- individuals cheated by different persons and companies to be hired abroad;
- citizens owners of winning state internal debt obligations;
- other categories.

Here are some examples from petitions received by parliamentary advocates.

Many citizens considered that the refuse to be returned previously confiscated or nationalized estate represents a violation of their constitutional right of private property. According to the current legislation, persons that had suffered from political repression and have been further rehabilitated should be returned, upon personal request, the confiscated, nationalized or illegally taken in any other manner estate. In cases when such estate could not be returned, solicitors should receive the

value equivalent evaluated based on prices in effect as on the date of request satisfaction. If such value could not be determined, the damage is to be paid by compensation. The Government has established the manner to be applied for the execution of legislative decisions; all relevant payments in all cases mentioned above are to be assumed by the local budget or budgets of enterprises, institutions and organizations that were initially delivered the claimants' estate free of charge.

However, the relevant normative framework does not regulate situations when subjects obliged to return the claimed estate are in condition of execution default. Yet, such stipulation providing the use of state budget resources for mentioned purposes is very important, as estate confiscation and nationalization had a general state character.

The current legislation and normative acts within the field should be brought in line with constitutional provisions, as to ensure the right for private property of mentioned categories of citizens. The parliamentary advocate submitted these proposals to the Parliament and the Government.

The Ministry of Finance informed the Center for Human Rights that currently state indebtedness towards persons that have suffered from repression and that have been further rehabilitated amount to 10.810.6 thousand lei and that this amount should be provided in the state budget for 2004. Unfortunately, this was not the case. In conclusion, relevant compensations are further paid from local budgets and budgets of enterprises that long ago were transmitted such estate for use.

The citizen C.A. has been claiming his right for property from state internal loan since 1992 (Government Decision no. 162 of 31 March 1992). The conditions of this state loan, placed through obligations based on strictly voluntary principles among the population, provided drawing of lots, 40 in total. The real figure accounted for 39.

The Ministry of Finance considers that the performance of the last drawing is not convenient for the state, as in 1993 – 2003 owners of such obligations were transferred incomes five times exceeding the loan nominal value. Indexation is not the best solution. The way out would be to deliver the remained obligations to the state at a rate of 1 leu for 1000 roubles. Obligation owners obviously do not support this idea. The Parliament was proposed to allocate in the state budget for 2004 the relevant amount to settle the issue and to re-establish the citizens in their constitutional rights. The proposal was not supported because of money means deficiency.

With the view to protecting the rights of depositors of the Savings Bank, the Parliament adopted the Law on Indexation of Money Deposits of Citizens of the Savings Bank (no. 1530 of 12.12.2002) and the Government – Decision no. 179 of 20.02.2003. According to the information of the Ministry of Finance, 66 thousand citizens benefited in 2003 from repayment of such deposits. The budget for 2004

provides for this purpose 48 million lei for persons born until 1930. The total value still amounts to around 1.7 billion lei.

Depositors of other commercial banks that got bankrupted face difficult situation also. These individuals have been looking for justice at different court entities and legal authorities, including the Center for Human Rights for quite a number of years.

Many citizens are deprived of their patrimony by different individuals and legal persons following swindle, frauds other illegal operations. The largest part of such citizens is those wishing to leave for work abroad by hook or by crook. Thus, under this pretext, the director of one company collected from a series of individuals 600 USD per person and disappeared afterwards, now being under police search.

Insufficient judicial culture, lack of information and credulity ultimately lead to loss of estate.

\* \* \*

*“(1) The State is obliged to take action aimed at ensuring that every person has a decent standard of living, whereby good health and welfare based on available food, clothing, shelter, medical care, and social services are secured for that person and his/her family.”*

*(Article 47 of the Constitution of the Republic of Moldova)*

The guarantee and observance of the right for social assistance and protection could be realized under conditions of a stable and sustainable functional economy.

During the last year a number of actions have been undertaken aimed at ensuring citizens with a decent standard of living. The Government increased the salaries for certain categories of persons, pensions, and indemnities for disabled persons and children. New poverty reduction programs and plans are in process of approval.

Nevertheless, the living standard within the Republic of Moldova has not registered yet a significant improvement. Larger salaries, scholarships and pensions do not cover the effects of price increases. According to statistics data, in 2003 prices of food products increased by 20% on an average; of industrial goods – by 11,5%; of services – by 12.6%.

The unfavorable situation is confirmed by the large number of petitions received by the parliamentary advocates (20% of total post). These petitions raise different issues within social protection policy.

For example, the Center for Human Rights was requested to get involved in solving the problem of inequitable payment of nominative compensations to spouses

of participants of the II world war within Romanian army after the demise of one of spouses. According to the Law on Social Protection of Certain Categories of Population, beneficiaries of nominative compensations (Article 3 paragraph 5) may be wives (husbands), depending on the case; at the same time, this stipulation is skipped over in paragraph 6. Parliamentary advocates proposed the modification of this Article. The Ministry of Labour and Social Protection also supported this idea.

Victims of political repression invoked in their claims the fact that nominative compensations are provided only if the relevant individual is included in the 3<sup>rd</sup> category of disability. With the view to re-establishing social equity, the parliamentary advocate proposed the Parliament to modify the relevant law. The Government was ordered to find the necessary financial means as to provide, after completion of the Law on Social Protection of Certain Categories of Population, payment of nominative compensation to all victims of political repression, no matter the disability status.

The introduction of the new system of state social insurance through social contributions has significantly modified the pension calculation method, which is now based on the individual's insured income in relation to length of service. Many persons that used to work within institutions on the left side of the Nistru River claim that their rights have been seriously prejudiced. The Center examined the issue and traced out a judicial error: the National House of Social Insurance based the calculation of these persons' pension on the provisions of the inter-governmental Agreement concluded between the CIS countries, assigning to these persons the "status of foreign citizen". The Ministry of Labour and Social Protection executed the order of the Government and proposed the inclusion of these individuals' working period on the left bank of Nistru in the length of service, no matter the social insurance contributions to the state budget. Unfortunately, the National House of Social Insurance refused to accept these proposals, determining the parliamentary advocates to address the court institution for reestablishment of these citizens in their constitutional rights.

The investigation of certain petitions traced out the violation of the right for social assistance and protection in case of many citizens working within the military domain. Following a relevant investigation of the problem, the parliamentary advocate requested the Government to review relevant approved normative acts, bringing them in line with constitutional provisions and international legal acts ratified by the Republic of Moldova. The Ministry of Finance worked out a draft law that is expected to solve the problems claimed by petitioners. As for now, this draft law is with the Government.

The right for decent living is also affected by the imperfection of the communal services system. These services are not always provided based on direct bilateral agreements concluded between consumers and providers. That is why very

often the consumer has to pay for losses arisen as a result of actions or lack of actions by the provider. The quality of rendered services represents another problem. In our opinion, the problem might be settled by establishing counters directly with service providers.

The imperfect legislative framework with contradictory stipulations and ambiguous interpretations of certain norms creates many difficulties in application, including within judicial establishments. As a result, consumers get indignant and initiate interminable litigation. In 2003 the Parliament approved a new Law on Protection of Consumers aimed at improving the situation.

Nevertheless, we think that the state should financially intervene in order to establish counters for rendered services to the most vulnerable layers of the population.

Medical care largely depends on allocated financial assistance. Unfortunately, the state cannot provide sufficient required means to equitably cover health services by ensuring curative and preventive measures and by establishing equal possibilities to increase the health level of citizens.

According to UNICEF data on health sector, the average index registered in the Republic of Moldova is 50% worse than the European one. The report on incidence of mammary and intestinal cancer states that the Republic of Moldova occupies the lowest places among European and CIS countries.

Citizens of Moldova face illnesses characteristic both for poor countries, like infectious diseases and for developed countries, like cancer and cardiovascular diseases.

However, due to actions undertaken during the last years the situation has somehow improved. The incidence of certain contagious diseases, especially tuberculosis, measles and rubella reduced. Maternal mortality and infantile mortality reduced, too.

However, high indices are registered for morbidity from viral hepatitis (by 1.6 times more than in 2002), morbidity from acute intestinal infection, bacterial dysentery (by 2.6 times more than in 2002), from grippe and other diseases.

Poverty, alcohol consumption, tobacco, drugs, environment pollution and insufficient hygienic culture are the main factors that affect public health.

High prices on medicines also have a negative impact upon the current situation.

Prevention of diseases and inadequate quality of medical services leave much to be desired. Moreover, in some localities medical staff is completely missing.

Parliamentary advocates receive many petitions from detainees who claim the restriction of access to medical services and missing relevant medical treatment.

Insufficient prophylactic activity, reduced education level with regard to healthy living, restricted access to medical services, insufficient nourishment,

including of pregnant women lead to the increase of the number of persons invalid from childhood.

The effects of poverty affect also the number of births. Although in 2003 statistics shows a slight birth-rate increase (36559 persons), the discrepancy as compared to 1990 is very significant (85 thousand persons).

The current difficult situation is expected to improve following the implementation of compulsory health insurance. Recognizing the necessity of such compulsory insurance, parliamentary advocates are still concerned about the fact that on 01.04.2004 the Parliament abrogated the Law of the Republic of Moldova on the Minimum Free Medical Assistance warranted by the state in the Constitution and that the minimum of medical services provided by the state free of charge is included in the Unique Program of Medical Assistance through compulsory insurance. Thus, we consider that this minimum medical insurance provided by the state free of charge and ensured following Article 36 of the Constitution of the Republic of Moldova shall be available only to individuals insured by the Government, children under school age, children not covered by the education system until the age of 18, pupils of general comprehensive public school, secondary vocational education and medium education, students of higher education institutions at day studying, disabled persons, pensioners and officially registered unemployed persons. The other categories of the population shall benefit from medical services based on agreements of compulsory medical insurance.

Yet, the number of unemployed persons that may not be covered by above-mentioned categories of persons is very significant. According to the Law on Compulsory Medical Insurance these individuals are obliged to personally buy the insurance policy, which is not affordable for them considering implied costs. The majority of rural population - owners of agricultural plots, whose low income do not allow the acquisition of policies, faces the same problem. In such a way, the right of many persons to medical services, including to urgent and primary medical assistance has been prejudiced and medical services are not equally provided.

The observance of the right for residence is also a very important feature of the decent living insurance. As for now, the state of facts within the field is quite deplorable. The construction of locative space on account of budgetary means, including of social space is not available. Young families and budgetary employees are very limited in the possibility to buy separate apartments. The same problem is relevant for citizens of Moldova that have been forced by objective reasons to leave the conflict zone on the left bank of Nistru. The number of requests for provision of locative space only in the city of Chişinău amounts to 130 families.

\* \* \*

*“(1) Mothers and children have the right of receiving special protection and care. All children, including those born out of wedlock, shall enjoy the benefits of the same social assistance.*

*(2) Children and young people enjoy a special form of assistance in the enforcement of their rights.”*

*(Article 50 of the Constitution of the Republic of Moldova)*

Despite efforts aimed at improving the situation, there are many problems related to the protection of mothers, children and young people. These problems persist from year to year. Lower real incomes determined the worsening of these citizens' living standards. In condition of social and economic insecurity families with children, single parent families and young families are subject to a high poverty risk. The observed tendencies of family breaking up, the larger number of divorces, the increase of the number of children born out of wedlock – all these together with high migration in search of working places, have a serious negative impact upon the child. Many children are deprived of a normal relevant family environment.

Institutionalization became the basic modality of abandoned child protection. However, despite such measures, this modality cannot replace the family.

Unfortunately, the number of children determined to go in the street because of abuse and negligence significantly increased.

The level of juvenile criminality is very high. The implication of juvenile offenders becomes a priority problem.

Because of poverty, sub-nutrition, unhealthy environment, etc., the reproductive capacity of women within reproductive age is not sufficient. The precarious situation of future mother's health has negative impact on new-borns, as possible diseases of these children may become chronic. According to certain statistical data, almost 30% of children and 20% of women suffer from anemia. Every tenth child under ten years old is under-developed.

Considering these and other realities, the Government approved the National Concept on Protection of Children and Families, the Strategy on Young People. These instruments provide concrete measures aimed at developing the normative, legislative and institutional framework and required relevant services.

The policy on the implementation of a family focused social assistance services system promoted within the context of the social assistance system reform generated the increase by approximately 50% of all types of indemnities for children. Relevant increase is registered also for the single indemnity at childbirth.

Nevertheless, there is much to be done to ensure relevant and due observance of the constitutional right of special protection of mothers, children and young people.

\* \* \*

***“(1) Disabled persons shall enjoy a special form of protection from the whole of society. The State shall ensure that normal conditions exist for medical treatment and rehabilitation, education, training and social integration of disabled persons.”  
(Article 51 of the Constitution of the Republic of Moldova)***

With the view to exercising constitutional guarantees provided for disabled persons the State adopted a series of laws and normative acts that include several domains: health protection, special social protection, economic and legal protection, employment, education and professional training, rehabilitation and social integration, etc. Concrete measures within this context are stipulated in the National Program for the Protection, Rehabilitation and Social Integration of Handicapped Persons for 2000 – 2005. The implementation of this Program is under the responsibility of the Government Council for problems of handicapped persons (Government Decision no. 674 of 19 July 2001). There are also other adopted short- and long-term programs and concepts.

Unfortunately, because of the long-term economic crises not all provisions could be implemented and many good intentions shall remain only on paper if sufficient financial coverage would not be provided.

Following the received petitions and conducted audiences, the Center for Human Rights traced out a number of problems and possible proposals, especially on as follows:

- low quantum of pensions for invalidity and of state allocations, which vary from 33 to 35 lei;
- reporting indemnities for invalid children to average monthly salary within the republic;
- providing the right of pension under advantageous conditions from the age of 50 to persons that raised and educated invalid children until the age of 8 years old at least;
- including the time period related to care of invalid children in the pension contribution length;
- equating the time period for care of invalid children with the work of a social employee;
- establishing a home social assistance network with medical, psychological and pedagogical support;

- providing the pensioners' right of access to medical expertise for invalidity establishment in cases of vitality reduction, etc.

Parliamentary advocates analyze these problems and proposals and propose different initiatives to complete and modify the legislative framework and normative acts.

For example, the Center was addressed by a group of parents raising and maintaining disabled children. These parents complained of the precarious situation of their children, of the lack of conditions for their integration in the society, etc. Principles and modalities of handicapped persons' insurance are subject to the Law on Social Protection of Invalid Persons. Yet, though providing regulations of specific relevancy, this Law does not stipulate the implementation mechanism. Moreover, the Law, unlike the Constitution, does not establish special regulations with regard to specific social protection of disabled children. Parliamentary advocates proposed to regulate this social relationship with specific regard to handicapped children in a separate law. Although these children face conditions and problems specific to all handicapped persons, they need special care with well-grounded educational aspect; education, the most essential element of a developed society, has a specific unrepeatable efficiency especially in the immature period of childhood.

According to Article 11 of the Law on Social Protection of Invalids, invalids should benefit from facilities for payment of locative space and communal services as established in the legislation. The relevant regulation states that handicapped persons should benefit from individual compensations of payments for electricity. At the same time, another law - the Law on Special Social Protection of Certain Categories of Population of 14.04.2000 implies discords with regard to this issue. Thus, in accordance with Article 7, paragraph (1), the quantum of nominative compensations of payments for communal services and electricity is calculated based on the cost of these services per person. At the same time, paragraphs 2 and 7 provide that payment for electricity should consider the monthly normative consumption of 60 kWh per meter. Thus, if within a family there are two or more handicapped persons, only one such person shall benefit from mentioned facilities. Considering that based on constitutional provisions and the Law on Social Protection of Invalids handicapped persons should benefit from individual compensations also of payments for electricity, the Center for Human Rights proposed the Parliament to modify the current effective legislation adjusting it to constitutional norms.

Invalid military men participants at armed conflicts raise another specific problem. Their pensions are established as in accordance with the provisions of the Law on Insurance with Pensions of Military Men and Officers of Command Corps and Troops of Internal Affairs Entities. Thus, these pensions are not subject to

indexation and the relevant military men are prejudiced in their rights and discriminated. However, the current legislation stipulates that only pensions paid from the account of social fund financial means are subject to indexation. The Center for Human Right proposed the President of the Republic of Moldova to launch a legislative initiative to modify the mentioned Law with the view to increasing these pensions' quantum based on a higher individual coefficient and to adopt normative acts with regard to re-calculation of pensions set based on this Law.

### **CHAPTER III**

#### **ACTIVITY OF THE CENTRE FOR HUMAN RIGHTS**

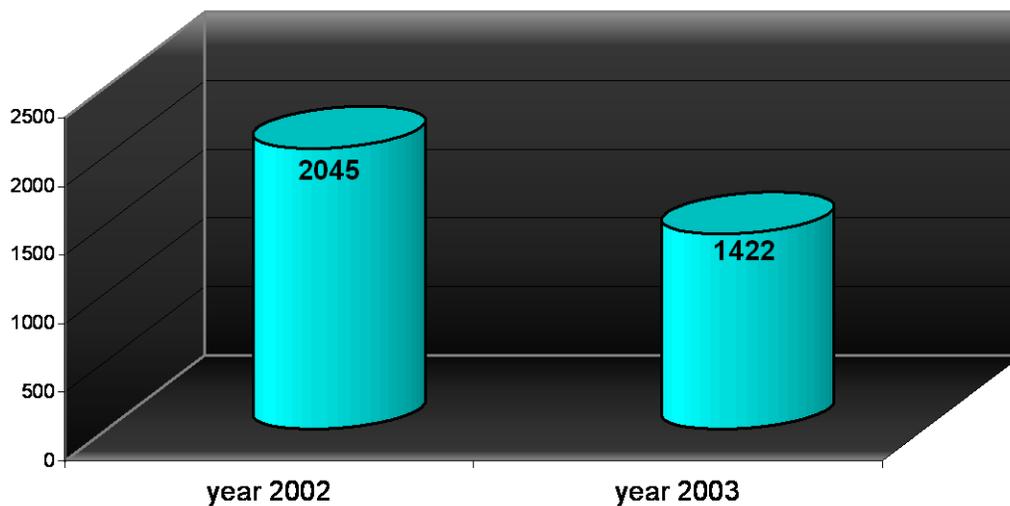
According to Article 15 of Law no. 1349-XIII of 17.10.1997 on Parliamentary Advocates, parliamentary advocates examine received petitions on decisions or action / lack of actions by central and local public authorities, institutions, organizations and enterprises, irrespective the property form, public associations and

public officers at all levels, claimed by petitioners to violate constitutional rights and freedoms.

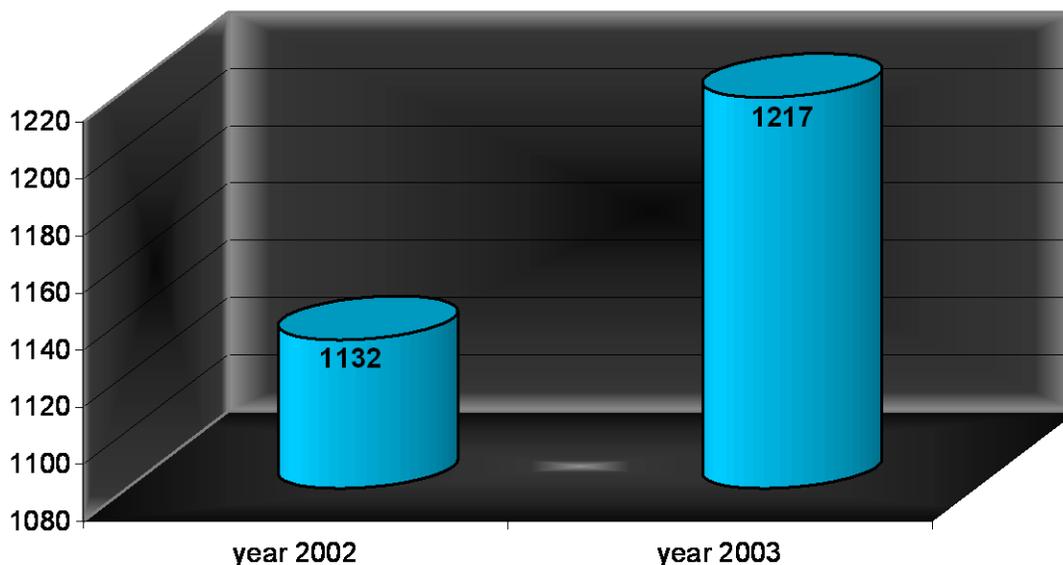
In 2003 the Center for Human Rights received 1217 petitions from 1907 signatories. This is the largest volume of petitions received by the Center since the establishment of the institution of parliamentary advocates (1998).

1422 persons have been auditioned. All in all, 3329 citizens or by 125 citizens more than in the previous year requested to be re-established in their constitutional rights and freedoms. On an average, one employee of the Center was responsible for around 369 citizens. This situation denotes, first of all, that human constitutional rights continue to be violated in the Republic of Moldova. At the same time, we are happy to observe an increased number of citizens expressing their disagreement with established unfair conditions. Such a situation makes us believe that the institution of parliamentary advocates becomes more and more popular with the population, the citizens seeing the Center as the ultimate place for getting supported or informed. This situation makes the parliamentary advocates and the Center staff to assume higher responsibility for conducted activity.

**Audience of citizens**



## Received petitions

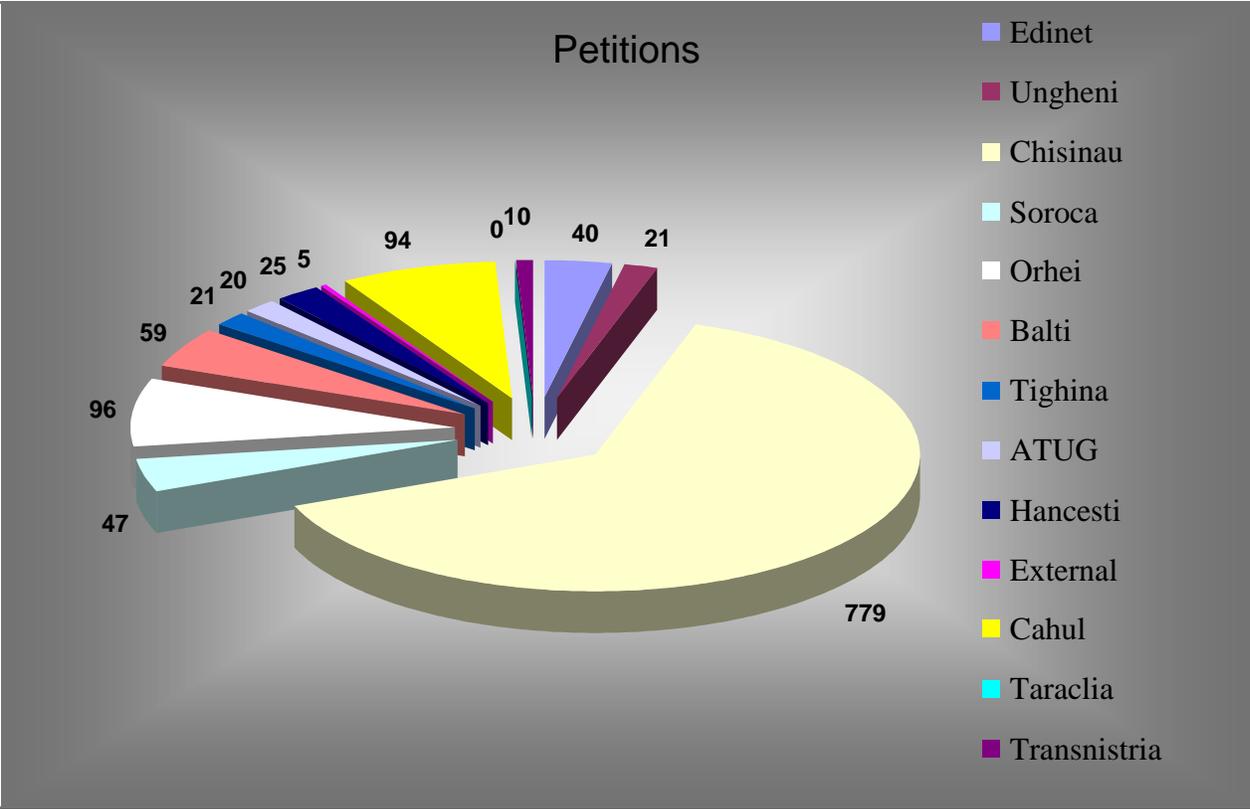


The largest majority of petitions received by the Center for Human Rights come from citizens from the city of Chişinău – 64%, followed by citizens from districts of Orhei and Cahul – 7.9% and 7.89% respectively. Inhabitants of the town of Balti submitted 4.8% of total volume of petitions. Petitions from the districts of Soroca accounted for 3.8%; of Edinet and other places – for 3.0%; of TAU Gagauzia – for less than 2.0%.

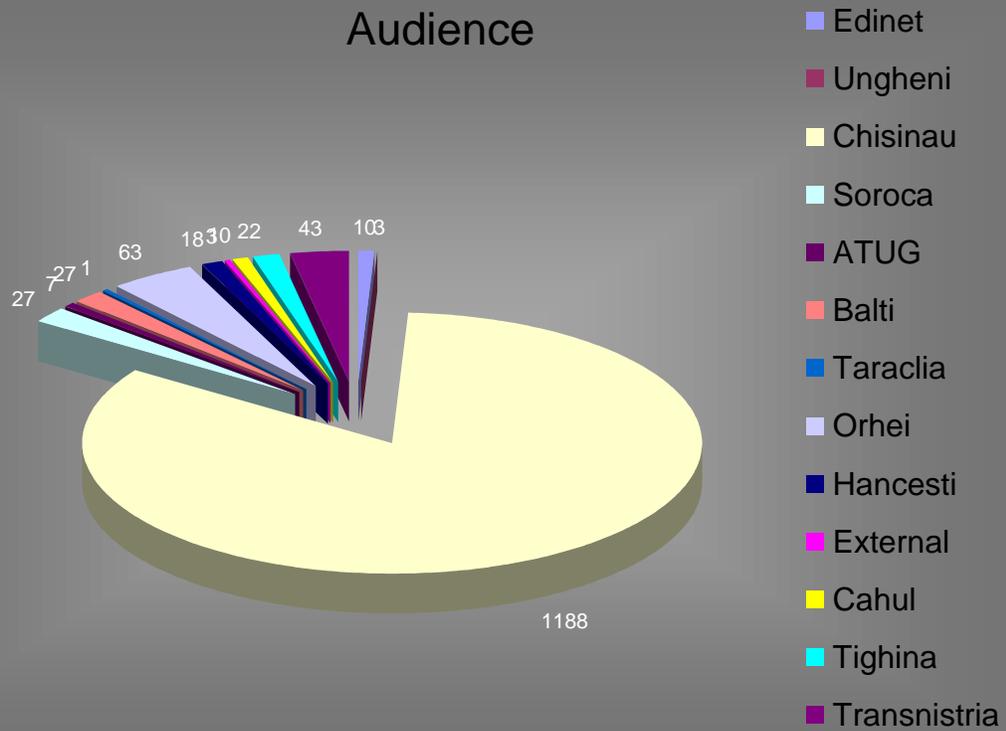
The reduced request for audience or the restricted number of petitions from certain regions does not denote the high observance of constitutional rights and freedoms, but the fact that affected persons do not dispose of relevant possibilities, especially financial ones, to personally come to the Center or to deliver petitions.

Considering this situation and with the view to creating relevant favorable conditions for all citizens from all parts of the republic, the center has established 3 branches with the headquarters in Balti, Cahul and Comrat (for TAU Gagauzia).

At the same time, parliamentary advocates submitted legislative proposals to the Parliament of the Republic of Moldova to ensure a more efficient activity of regional branches.

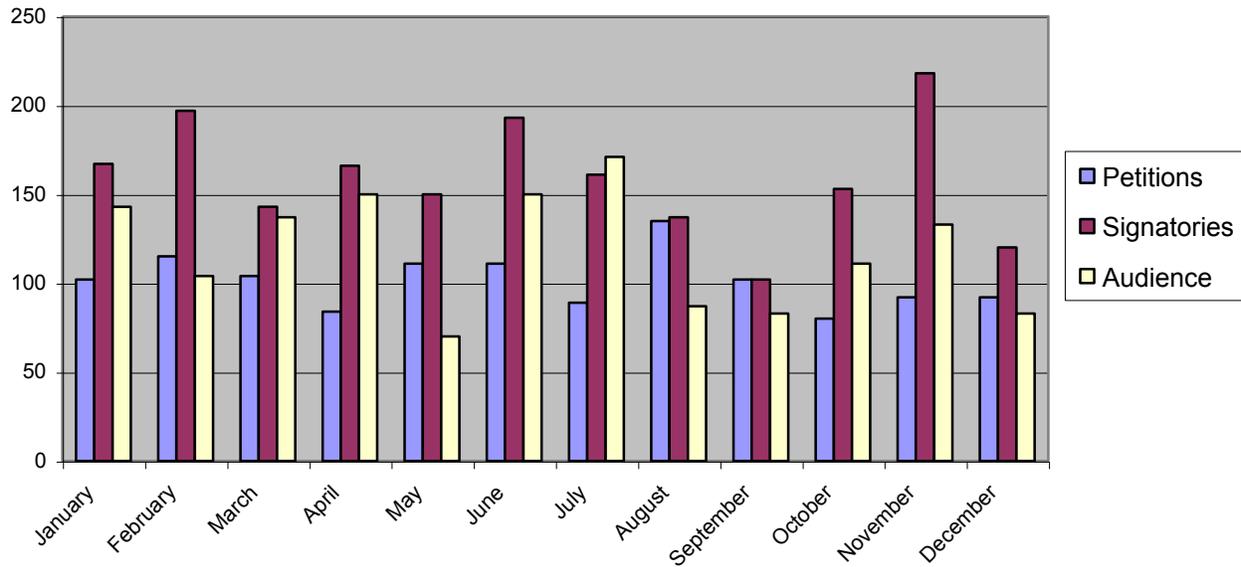


## Audience



Months	Petitions	Signatories	Audience	Total
January	102	167	143	310
February	115	197	104	301
March	104	143	137	280
April	84	166	150	316
May	111	150	70	220
June	111	193	150	343
July	89	161	171	332
August	135	137	87	224
September	102	102	83	185
October	80	153	111	264
November	92	218	133	351
December	92	120	83	203
<b>Total</b>	<b>1217</b>	<b>1907</b>	<b>1422</b>	<b>3329</b>

### Statistics by months



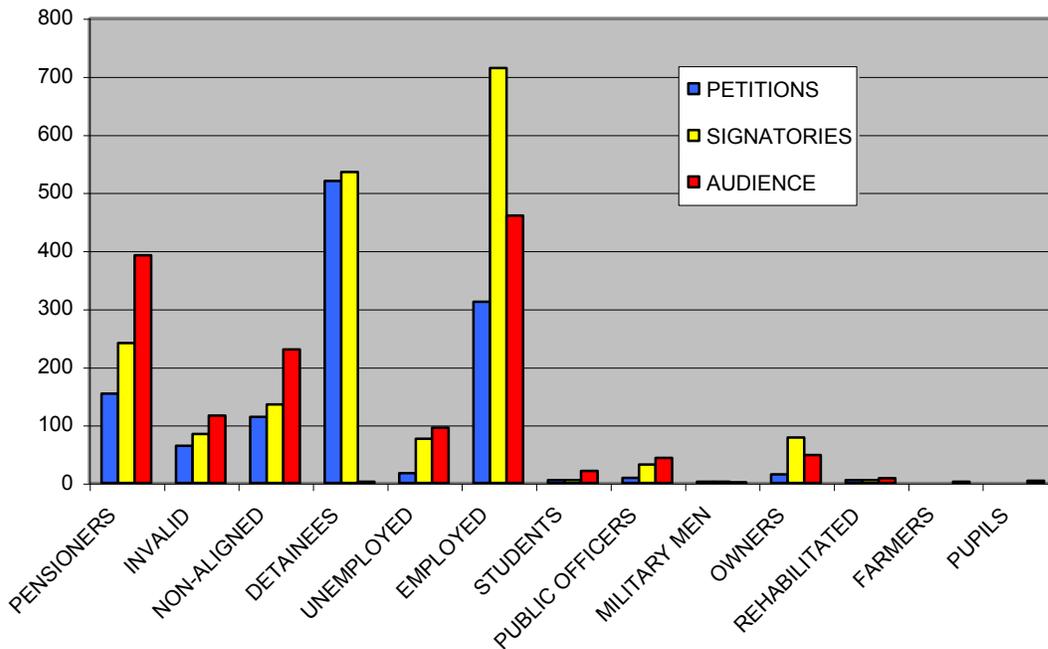
Out of the total number of petitioners, around 35% are employed persons, 19% - pensioner, 16% - detainees, 11% - non-aligned persons, 6% - invalid persons. Other percentage includes unemployed, students, owners of agricultural plots, public officers, military men, pupils, etc.

### Statistics by categories of citizens

Categories	Petitions	%	Signatories	%	Audience	%	Total	%
Pensioners	154	12.65	241	12.64	392	27.57	633	19.01
Invalid persons	64	5.26	84	4.40	116	8.16	200	6.01
Non-aligned	114	9.37	135	7.08	230	16.17	365	10.96
Detainee	520	42.73	535	28.05	2	0.14	537	16.13
Unemployed	17	1.40	76	3.99	95	6.68	171	5.14
Employed	312	25.64	714	37.44	460	32.35	1174	35.27
Student	5	0.41	5	0.26	21	1.48	26	0.78
Public officers	9	0.74	32	1.67	43	3.02	75	2.25
Military men	2	0.16	2	0.10	1	0.07	3	0.09
Owners	15	1.23	78	4.09	48	3.38	126	3.78
Rehabilitated	5	0.41	5	0.26	8	0.56	13	0.39
Farmer	0	0.00	0	0.00	2	0.14	2	0.06

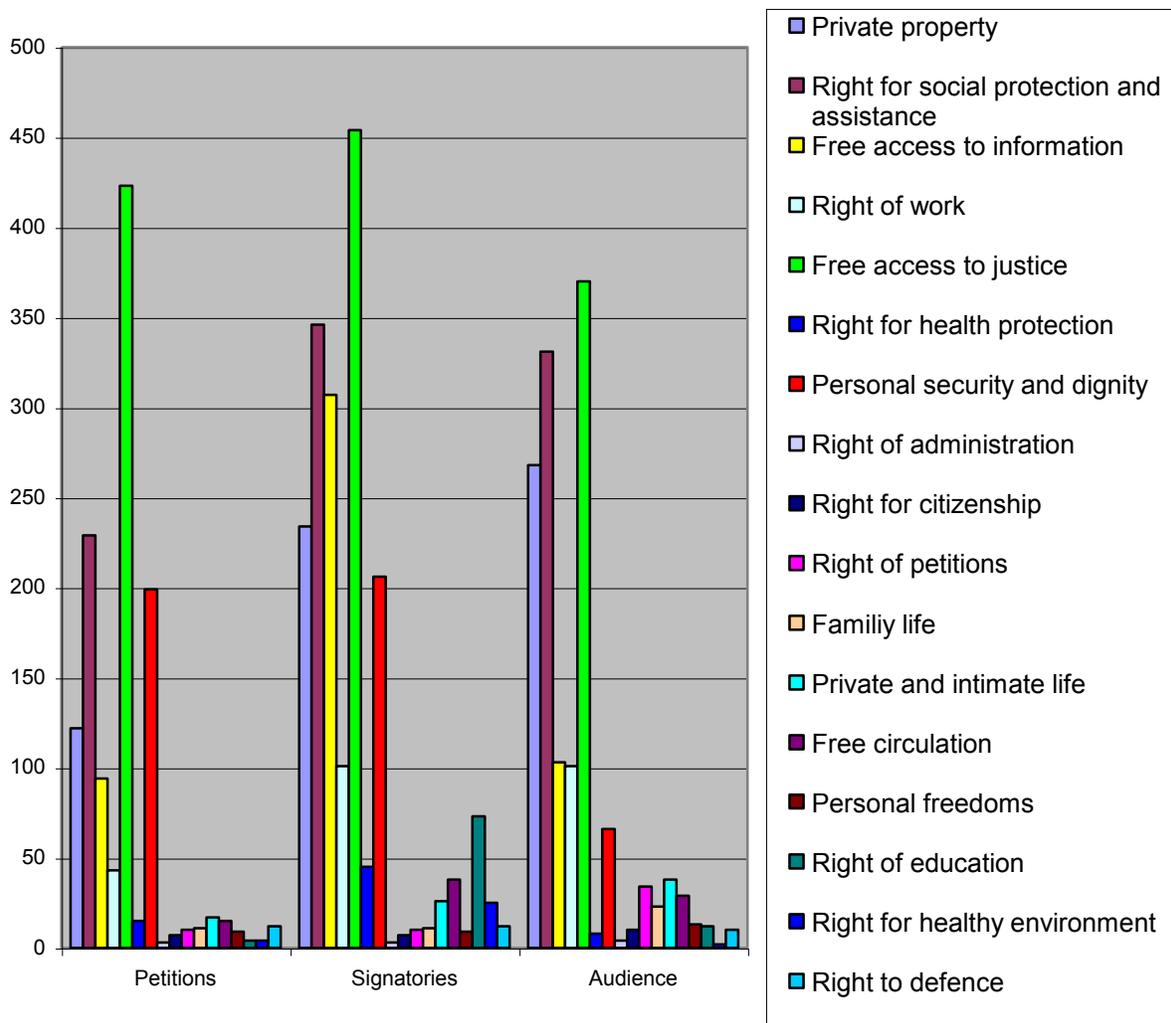
Pupils	0	0.00	0	0.00	4	0.28	4	0.12
<b>Total</b>	<b>1217</b>	<b>100.00</b>	<b>1907</b>	<b>100.00</b>	<b>1422</b>	<b>100.00</b>	<b>3329</b>	<b>100.00</b>

### Statistics by categories



The breakdown of petitions by rights violation is as follows: violation of the right of free access to justice was claimed in the majority of petitions – in around 25%, the right to social protection and assistance – in around 20%, the right of free access to information – in around 12%, security and personal dignity – in around 8.2%, the right for work – in around 6%.

These figures confirm once more the fact that the society has not established yet a tolerant and respectful atmosphere with regard to rights and freedoms of other persons. The principle of coexistence based on mutual respect and esteem is not yet a component of the judicial culture. Furthermore, such state of facts is affected by the regional crisis conditioned by the transition period of our country. Despite the state efforts to improve the situation, the irrelevant level of insurance of citizens' economic and social rights determined the large volume of petitions claiming economic, financial and legal issues received by the Center for Human Rights of Moldova.



Claims	Petitions	%	Sign.	%	Aud.	%	Total	%
Private property	122	10.02	234	12.27	268	18.85	502	15.08
Right for social protection and assistance	229	18.81	346	18.14	331	23.27	677	20.33
Free access to information	94	7.72	307	16.10	103	7.24	410	12.32
Right of work	43	3.53	101	5.30	101	7.10	202	6.07
Free access to justice	423	34.76	454	23.81	370	26.02	824	24.75
Right for health protection	15	1.23	45	2.36	8	0.56	53	1.59
Personal security and dignity	199	16.35	206	10.80	66	4.64	272	8.17
Right of administration	3	0.25	3	0.16	4	0.28	7	0.21
Right for citizenship	7	0.58	7	0.37	10	0.70	17	0.51

Right of petition	10	0.82	10	0.52	34	2.39	44	1.32
Family life	11	0.90	11	0.58	23	1.62	34	1.02
Private and intimate life	17	1.40	26	1.36	38	2.67	64	1.92
Free circulation	15	1.23	38	1.99	29	2.04	67	2.01
Personal freedoms	9	0.74	9	0.47	13	0.91	22	0.66
Right of education	4	0.33	73	3.83	12	0.84	85	2.55
Right for health environment	4	0.33	25	1.31	2	0.14	27	0.81
Right to defense	12	0.99	12	0.63	10	0.70	22	0.66
<b>Total</b>	<b>1217</b>	<b>100.00</b>	<b>1907</b>	<b>100.00</b>	<b>1422</b>	<b>100.00</b>	<b>3329</b>	<b>100.00</b>

Like in previous years, a large part of petitions are not directly related to authorities vested to parliamentary advocates. These claims are delivered further on to other entities, institutions, and organizations or are sent back to petitioners. 654 petitions have been subject to legal proceedings and put under investigation; out of this number 157 cases have been positively settled.

The examination and investigation procedures conducted by parliamentary advocates imply all attributions and authorities vested by the legislation. Advocates made interpellation, delivered notes, writs of summon, recommendations and proposals on reestablishment of citizens in their legitimate rights and interests and on modification and completion of legislative acts.

<b>Feedback</b>	<b>Petitions</b>	<b>%</b>	<b>Signatories</b>	<b>%</b>	<b>Audience</b>	<b>%</b>	<b>Total</b>	<b>%</b>
Proposals to Government	9	0.74	9	0.47	0	0.00	9	0.27
Notes	35	2.87	53	2.78	0	0.00	35	1.59
Proposals to Parliament	13	1.07	13	0.68	0	0.00	13	0.39
Writs of summon	9	0.74	78	4.09	0	0.00	7	2.34
Sues	1	0.08	1	0.05	0	0.00	2	0.03
Applications ->penal process	2	0.16	2	0.10	0	0.00	2	0.06
Others	1149	94.33	1752	91.82	1422	100.00	3174	95.32
<b>Total</b>	<b>1217</b>	<b>100.0</b>	<b>1907</b>	<b>100.0</b>	<b>1422</b>	<b>100.0</b>	<b>3329</b>	<b>100.0</b>

In 2003 the Center delivered two applications for summon. Thus, in June 2003 the parliamentary advocate submitted summons with regard to the protection of individuals' interests, including collection of prejudice for damage to health

condition and protection of consumer's right. As for now, applications are under relevant proceedings.

Parliamentary advocates addressed the Constitutional Court with the view to exercising control over the constitutionality of certain legislative acts. The Parliament and the Government have been directly addressed 20 proposals with regard to the modification and completion of certain legislative and normative acts with the view to re-establishing a number of categories of citizens in their legitimate rights, to removing drawbacks overlooked in the approval of relevant normative acts or acts running counter to constitutional dispositions and international instruments ratified by the Republic of Moldova.

Article 47 paragraph (1) of the Constitution of the Republic of Moldova, provides that the State is obliged to take action aimed at ensuring that every person has a decent standard of living, whereby good health and welfare based on available food, clothing, shelter, medical care, and social services are secured for that person and his/her family. The same Article paragraph (2) provides that all citizens are insured against unemployment, disease, disability, widowhood, old age or other situations where, due to causes beyond personal control the individual loses the source or means of obtaining relevant necessities of life. Based on this Article, parliamentary advocates proposed the Parliament and the Government to re-examine Law no. 121-XV on Additional Social Protection of War Invalids, of Participants of 2 World War and Their Families. This proposal was based on the fact that the Law provides insurance means for a number of categories of persons not able to ensure own existence; at the same time, the Law does not ensure the rights of parents in divorce whose children demised during military actions in peace time and military actions for the defense of the territorial integrity and independence of the Republic of Moldova.

Parliamentary advocates proposed to equally divide the established quantum of the monthly allocation for parents between parents that are in divorce and do not live together. The Ministry of Labour and Social Protection and the Ministry of Economy supported the proposal.

The Center proposed the Government to re-examine the Law on Rehabilitation of Victims of Political Repression and the Government Decision on returning of estate, payment of estate value and payment of compensations to persons that suffered from repression as to bring these instruments in line with constitutional norms with the view to unconditionally ensure the right of citizens' private property. This proposal is based on the assumption that the current normative framework does not regulate the situations when persons established to pay confiscated estate are in condition of execution default. We consider that such regulation to provide the modality of ensuring property rights of rehabilitated persons on the account of state budget means is deemed required. The necessity of

such regulation is provided by the same Law, which refers to the confiscation and nationalization of estate, assuming these actions as having general state character.

The Parliament and the Government were proposed to re-examine the Law on Preparation of Citizens for Defense of the Motherland no. 1245-XV of 18.07.2002 as to exclude the wording “accredited by the State” from paragraph (4) of Article 31 with the view to establishing equal conditions for all persons studying in higher education institutions.

Article 33 of the Law on Parliamentary Advocates states that the propagation of knowledge within the field of defense of human constitutional rights and freedoms is one of the prerogatives of the national institution of parliamentary advocates.

Unfortunately, because of missing financial support, in 2003 the Center for Human Rights could not directly conduct a sufficient number of activities. Thus, in March the Center held a training seminar for didactic staff teaching in schools the subject of civic education. In December, within the Decade “ Human Rights – Warrantor of Democracy” the Center organized the scientific-practical conference under the credit “The Universal Declaration of Human Rights – Legal Edifice of Human Protection”.

Following the request of a number of didactic staff and representatives of non-government organizations, the Center for Human Rights has prepared a set of methodical informative and illustrative materials for the subject of civic education, as well as for the organization of training courses by the NGOs acting within the field of human rights promotion.

The staff of the Center for Human Rights has actively participated at training courses conducted in cooperation with a number of state authorities and non-government organizations, including the Ministry of Labour and Social Protection, the Ministry of Foreign Affairs, the Department for Inter-Ethnic Relations, the National Council for Children’s Rights Protection, the Helsinki Committee for Human Rights, the International center for the Protection and Promotion of Women’s Rights “La Strada”, ARF “Atena”, the Center for the Promotion of the Freedom of Expression and Access to Information “Acces-Info”, etc. The Center participated also at training of children within hours of civic education.

The Center for Human Rights of Moldova published during the reported year the following publications: The Report of the Center for Human Rights for 2002; the folder “The Center for Human Rights”. The Center has also prepared and submitted to OSCE for approval the informational folder on HRCM objectives, attributions of parliamentary advocates and requirements on petition writing to the Center for Human Rights and OSCE.

Mass media received from the Center for publication purposes different materials that reflect certain activity domains of the Center; raise a series of

problems related to the observance and promotion of human rights in the Republic of Moldova. During the year the staff of HRCM participated at broadcasting and TV (National Radio, Radio “Antena C”, national television and Euro TV). The Center maintained cooperation relationship with a series of newspapers, including “Dreptul”, “Vocea Poporului”, “Независимая Молдова”, etc.

Practically the whole staff of the Center was implied within activities related to the organisation of the radio-marathon “Human Rights and Freedoms – Supreme Values” conducted with the occasion of the Human Rights Decade and the International Day of Human Rights. Issues related to the activity of the institution of parliamentary advocates, actions with regard to the observance, protection and promotion of civil rights within the Republic of Moldova have been reflected in the written press, within the cycle of radio broadcasting and hours at schools and lyceums.

The issue of human rights remains one of the most dominant problems of the political life and public debates in the 3<sup>rd</sup> millennium. The history of mankind is also the history of human rights, meaning that the promotion and observance of human rights shall be always a modern actual issue. Human rights observance is obviously a very important pre-requisite of peace, national and international security and the *sine qua non* condition of a sustainable development.

The process of institutional framework establishment and adjustment is under continuously development in the Republic of Moldova.

However, an elementary executor discipline is missing as for now, bringing even the best intentions into disrepute. Such state of facts has an ultimate impact upon the insurance of constitutional rights and freedoms observance in our country. Even the parliamentary advocates have often received formal responses to raised interpellation, generating repeated addressing and long examination of citizens’ petitions.

During the last years the Republic of Moldova adopted a series of legislative acts of high importance for the society; not less important draft laws, including the code of judicial acts execution, the contravention Code, etc. are under examination. Thus, parliamentary advocates and the staff of the Center for Human Rights of Moldova should stay among people and hold dialogue with the population as to inform the society about undertaken action, on the one hand and, based on public complaints, to prepare necessary proposals to authorized state authorities with the view to liquidating drawbacks and to ensuring the realization of constitutional rights, on the other hand.

Within this context, the role of the Center for Human Rights as a connecting link with the most active members of the civil society is of an utmost importance. The institution of parliamentary advocates is also implied in the monitoring of certain action implementation, like insured medicine, processes within education,

situation of persons within asylum, of children's houses, of detainees, etc. The development of cooperation relationship with similar institutions from abroad is deemed also necessary.

Unfortunately the activity within these domains leaves much to be desired, as the activity of the Center for Human Rights of Moldova is based on budget financing and this budget elaboration does not consider the tasks of parliamentary advocates to be under permanent relationship with the population and does not provide financial means for the organization of different informing and training actions. The informational support granted to the parliamentary advocate is not sufficient. There are no due channels and financial sources for library operation. Because of all that, parliamentary advocates are restricted in their activity.

The support by the civil community, by state establishments and mass media shall have a favorable impact upon the authority of the parliamentary advocate within the country and beyond its boundaries.