



CENTRE FOR HUMAN RIGHTS OF MOLDOVA

REPORT
ON HUMAN RIGHTS OBSERVANCE
IN THE REPUBLIC OF MOLDOVA IN 2005

CHISINAU, 2005

CONTENTS

Preamble

Justice

Detainees

Discrimination

Access to information

Freedom of movement

Right to education

Juvenile delinquency

Social assistance and protection

Disabled persons

Activity of the Centre for Human Rights

Annexes

PREAMBLE

In accordance with Article 34 of the Law on Parliamentary Advocates, the Centre for Human Rights of Moldova presents the Report on the observance of human rights in the Republic of Moldova in 2005.

This Report covers the most frequent infringements of human rights invoked in the petitions addressed to the Parliamentary Advocates.

The analysis and classification of issues appealed to by the petitioners have determined us to make the conclusions that, actually, the rate of human rights observance in the Republic of Moldova has not qualitatively changed. The same group of issues persists, irrespective of the fact that the State has undertaken measures to improve the situation at this chapter. This situation has been also stated by the co-reporters to Moldova of the Parliamentary Assembly of the Council of Europe.

The Republic of Moldova, by accessing to the European Union, signed the EU-Action Plan, an important strategic and political document that should be implemented during the next years. The fundamental human rights and freedoms are enclosed in a separate chapter.

Taking into account the importance of observing the commitments assumed by the Republic of Moldova, the Centre for Human Rights of Moldova has assume the obligation to promote the traced objectives as one of the conditions of achieving the set goals for European integrity.

The impossibility of Parliamentary Advocates to defense the human rights and freedoms of the population from the Left Bank of River Nistru is still an open issue. This situation forced us to ask the international organizations to support the establishment of branches of the Centre for Human Rights of Moldova in the conflict zone, which would favour effectively the objective and impartial monitoring of the situation in the field of human rights and would foster the population from this region to defense its legal interests.

The implementation of the objectives described in the National Action Plan in the field of human rights, as well as of the European Union – Republic of Moldova Action Plan depends to a great extent on the capacity and efficient cooperation between the central and local public authorities, state institutions and the civil society as a whole and each citizen in part. This is the only way to achieve the assumed commitments and to join the European standards.

Raisa Apolschii,
Parliamentary Advocate,
Director of the Centre for Human Rights of Moldova

JUSTICE

In 2005, about 27.7% of the total number of petitions received by the Centre for Human Rights of Moldova invoked the issue of free access to justice. Regretfully, it is still critical having with small exceptions the same impediments as in previous years:

- Tergiversation of penal and civil causes;
- Lack of financial means for purpose of civil proceedings' initiation or impossibility to assume court expenses for appeal lodging;
- Access of the prisoners or detainees to the services of counsels *ex officio*;
- Right to an effective appeal;
- Right to an equitable process;
- Non-execution of court decisions.

The national legislation stipulates the services of counsels *ex officio* during the criminal trial granted to the suspect, defendant, injured party, civil party, to the civil responsible party.

Anyway, due to some objective and subjective factors, the guaranteed legal assistance *ex officio* is extremely weak. The fees, which are just symbolic, are paid from budgetary means. Hence, the highly professional and experienced lawyers are not among the lawyers guaranteed the free legal assistance.

In the civil suits, a lawyer can be appointed *ex officio* if the injured party is deprived of or is limited of the responsibility and have no legal representatives. In other cases, the citizens can benefit from the qualified legal assistance only by concluding a contract with a lawyer whose services are quite expensive.

If the persons do not have the necessary financial means, the free access to justice is illusory for those who cannot pay a defender or a representative.

In the same line, it should be mentioned that the access to justice and the right to defence are fundamental rights guaranteed by the Constitution and international conventions and which cannot depend on the economic level of the person or on the amount of resources considered sufficient by the State.

Basing on the addresses to the Centre for Human Rights of Moldova we can draw the conclusion that a large number of citizens need legal assistance in claiming the right supposedly infringed in Court. Most of these persons are from the socio-vulnerable category and have no possibility to benefit from qualified legal assistance due to lack of financial means and necessary

information, the petitioners address to the institution of Parliamentary Advocates to benefit from free legal assistance.

The Parliamentary Advocates and the jurists of the Centre on the strength of their obligations and competence do not have and do not substitute the attributes of the lawyers. Or, in many cases, for example, writing a motion on instituting legal proceedings or an appeal, request to represent the interests in Court, the petitioner is discouraged by the impossibility to exercise its right to justice.

The general principles for granting free legal assistance stipulate that:

- *“No one shall be impede by economic barriers to defend its rights in court either in civil and administrative trials or social or fiscal”* (Resolution 78(8) of Ministry Council on legal assistance and counseling of 02.03.1978);

- *“The poor are defined as persons in especially difficult situation, marginalized by or excluded from the society economically, socially and culturally. It is recommended that legal assistance shall cover all the types of legal procedures and shall be granted to any poor person. The request for free legal assistance should be simplified, and the only reasons to reject the motion on free legal assistance shall be the inadmissibility, evident failure or when it prejudices the Justice itself”* (Recommendation R (93) 1 of the Ministry Council on the effective access to justice for very poor persons of 08.01.1993).

Giving the importance of granting the access to justice, the Parliamentary Advocates consider appropriate the modification of the Code of Civil Procedure to expand the category of the beneficiaries to legal assistance ex officio.

Non-execution of court decisions is still one of the most important issues in the agenda of the Centre for Human Rights of Moldova.

According to the jurisprudence of the European Court, *the right to institute legal civil proceedings would be delusive, if the national legal system of a Contractor State allows the exaction of a court decision in the detrimental of a party in the end of the trial. It would be inadmissible for Article 6 of the Convention to describe in detail the procedural guarantees offered by parties in trial without guaranteeing the execution of court decisions to consider the provisions of Article 6 as referring exclusively to the access to a court and instituting legal proceedings, a fact that although, would generate situations incompatible with the principles of a state of law which the Contracting States have obliged to observe when ratified the Convention. At the same time, a state authority cannot use the lack of funds as an excuse not to execute a court decision. A delay in non-executing a court decision could be justified only in certain circumstances, but this delay should not be of such*

kind only to achieve the essence of the right guaranteed by Article 6 par. 1 of the Convention (Bocancea and others v. Moldova).

It is known the fact that at the end of October 2005 the European Court for Human Rights notified the Government of the Republic of Moldova of 39 sentences on the non-execution of final court decisions, and another 35 petitions are under the examination at the European Court.

Although the Code on Decision Execution, which task is to defend and achieve the rights and freedoms of physical and legal persons through forced execution of decisions, regulations, orders, civil sentences of courts has entered into force on 01 July 2005, the issues at this chapter haven't decreased. On the contrary, in some cases, for creditors the situation has become more complicated.

Basing on the information of the Department for Decision Execution, 287035 executory documents (court decisions and decisions of other entities) have been considered in 42 offices of decision execution during January - September 2005. According to Article 82 of the Code on Decision Execution, 26668 documents of the total documents under consideration were forwarded to the plaintiffs due to different reasons. About 28039 of executory documents were forward for corresponding conclusion in accordance with the requirements of Article 16 of the Code on Decision Execution.

The new Code on Decision Execution stipulates that in case of non-execution of court decisions, the guilty persons can be penalized. Since the Code on Decision Execution has been in force and until the end of 2005, the chiefs of offices for decision execution imposed 25 fees.

Although the State takes measures to improve the situation at this chapter, non-execution of civil court decisions remains one of the most frequent issues claimed by petitioners in their addresses to the Parliamentary Advocates.

The petitioners refer mostly to salary debts, reinstatement in employment, arrears recovery from physical and legal persons collecting of alimonies, etc.

The causes are as follows: the debtors lack goods or income and cannot be subject to forced proceedings according to the legislation in force; a large part of the population left abroad where work illegally, increased unemployment rate and, consequently, the impossibility to track the income of debtors; the possibility to create sham companies without the patrimonial protection which in case of arrears can not be summon to pay them; cash payments between legal persons; skipping contractual clauses that would assure the eventual forced execution of the contract; lack of efficient co-operation between the Department for Decision Execution and institutions that have the information about the patrimony of debtors.

While examining the abovementioned petitions we can state that the so-called “professional precedent” to hand back the executory title without execution, if the debtor has no goods or financial means has formed abreast of court executors, infringing, thus, the provisions of Article 25, par. (5) of the Code on Decision Execution of the Republic of Moldova, which stipulates that the executor cannot hand back the executory document unless he receives a written statement from the plaintiff or after the execution of the executory document.

According to provisions of Article 82 of the Code on Decision Execution, the executory title can be presented repeatedly to the execution at the plaintiff’s request, if the debtor has no goods or income or his goods or income are not enough to cover the expenses, if the debtor does not reside or work or there are no goods at the address mentioned by the plaintiff, etc.

From the existing practice, the executor, contrary to legal stipulations, by handing over the executory title due to the impossibility to execute it, shall explain to the plaintiff the right to present repeatedly the executory document specifying the need of information on the goods of the debtor, which can be seized to execute the court decision. Thus, the executor passes over his obligations to the plaintiff, who being a simple citizen, has no possibility to find out new information about debtor’s welfare.

Sometimes, the petitioners invoke the tergiversation of the execution of court decisions, procedure that lasts a lot.

The petitioners also invoke the issue of the refusal of debtor to execute the court decision for one reason or another. Although the Code on Decision Execution stipulates expressly in Article 26 the consequences of non-execution the court requirements, including a fine or even the possibility to be called to penal account, we can state that the executors do not use fully the named provisions. This fact can be generated both by non-knowing the provisions of the Code on Decision Execution in force since 01 July 2005 or by deliberate dodging from their application.

Once the phenomenon of labour force migration has been increased, the number of non-executed decisions regarding the alimonies has grown. This issue is very often unsolved on the strength of the lack of bilateral agreements between the Republic of Moldova and the respective state or due to the illegal residence of the debtor on the territory of other state.

Taking into account the migration flow of the population abroad, this situation has considerable impacts, first of all, on the minor children, who are brought up by one parent.

In the same line, the issue of non-executing the decision on alimonies shall became a key issue at the state level for all institutions and organization in the field, and we consider appropriate to speed up the ratification of UNO Convention on Collection the Alimony Abroad.

Every year the petitioners invoke the restriction of the right to justice also because of the lack of financial means for state tax for instituting civil proceedings and submitting the appeal motions.

Since the Code of Civil Procedure has entered into force (modification of 2002), it has been attested a considerable growth of the number of persons who addressed to the Centre for Human Rights of Moldova due to the impossibility to pay the state tax for the appeal. The petitioners, who are mostly poor, express their discontent with being deprived of the possibility to claim a tax exemption, especially, if it is not recovered in the situation of appeal inadmissibility.

Since the state tax is a component part of the budget, the Parliamentary Advocates consider appropriate to revise the provisions of the Code of Civil Procedure that regulates the payment of state tax at the initiation of the appeal, a fact that would help a category of citizens to use the appeal stipulated by the legislation.

While examining this category of petitions, we also discovered a discrepancy with respect to legal aspect and practical aspect of applying the legal norms that regulates the state tax paid when the motion on administrative contentious is submitted (Code of Civil Procedure No.225-XV of 30 May 2003, the Law on Administrative Contentious No. 793-XIV of 10.02.2000, the Law on State Tax No. 1216-XII of 03.12.1992).

Overlapping the provisions of the abovementioned laws, we found out that there is a conflict of norms that promote different solutions for the same object of regulation.

Undertaking a selective examination of 46 administrative contentious cases by many courts of the Chisinau Municipality, the following was set: in 30 cases the state tax was not paid, in 7 cases it amounted to 18 lei, in 5 cases – to 360 lei, once it was 9, 18, 90 and 202 lei.

This situation proves that the legal norms are applied from case to case by not observing the principles of coherence, consecutively and equilibrium between the competitive regulations.

Taking into account this situation, the Parliamentary Advocates addressed to the Parliament the proposal to revise Article 85 par. (1) let. a) of the Code of Civil Procedure, Article 16, par. (3) of the Law on Administrative Contentious, and Article 3 let. c) of the Law on State Tax in order to harmonize and unify the legal norms that regulates the collection of state tax for passing a sentence on the principles arisen from administrative contentious relations.

In a considerable number of petitions received from the penitentiary institutions, the petitioners invoked the infringement of the right to an effective appeal generated by some dispositions of the Criminal Code, which stipulate the appeal and cancelled appeal in the presence of the lawyer. Although, the Decision of the Constitutional Court No. 16 of 19 July 2005 declared

those as unconstitutional, the flow of petitions at this chapter has been reduced, claiming the disapproval of compulsory requirement to appeal in typed form.

In the same line, we can conclude that the requirement to appeal in typed form is formal and unjustified, which restricts the person's free access to justice. Taking into account these arguments, the Parliamentary Advocates addressed to the Parliament the proposal to revise Articles 429 and 455 par.(1) of the Criminal Code in order to exclude the syntagma collocation "typed". At the moment, this compulsory requirement to appeal and to cancel the appeal is excluded.

The Parliamentary Advocates receive petitions both from the citizens and the lawyers regarding the examination procedure of the Appeal Court of Chisinau Municipality of the appeal regarding the legality of applying the preventive measure of preventive arrest or extending its duration. While examining this issue, it was established that the Appeal Court of Chisinau Municipality has set a practice that when appealing the preventive measure the court ceases the procedure of examining the appeal if the case file was forward to examination in court.

In the opinion of Parliamentary Advocates, the appeal court, according to the provisions of Criminal Code, is always obliged to examine the appeal and to pass a sentence on all reasons invoked in it.

Assuming that in this context it is noted an infringement of fundamental human rights and freedoms guaranteed by the Constitution of the Republic of Moldova and the international treaties at which the Republic of Moldova is a party, the Parliamentary Advocates addressed to the Supreme Court of Justice to pass a sentence with respect to this issue.

DETAINEES

The process of establishing a democratic and lawful state imposes a radical state reform in the field of executing the criminal sentences, as well as settlement of many issues related to socio-political, economical and ideological measures on exerting influence upon the convicts and persons arrested preventively by reducing their liberty, by isolating them from the society, as well as by restricting the achievement of other rights.

In order to achieve these objectives, the entire system of penitentiary institutions has to be reformed: the normative frame on serving the deprivation of freedom sentence, the creation of decent detention conditions, the increase of the level of medical assistance, and the detainee's education re-organization have been gradually improved.

The penitentiary system is reforming and it was registered a decrease of the morbidity rate of the convicts. At present, the penitentiary institution is not able to offer the minimum conditions of living in accordance with the international standards to the convicts.

According to the Department of Penitentiary Institutions, the penitentiary institutions were financed insufficiently in 2005. The State Budget allotted only 94.6 million lei out of planned 179 million, which is only 52.3% of the need.

In 2006, the budget of DPI will cover about 46.7%. The allowance will be 91 million lei, although the real needs are 195 million.

Due to the lack of money and over-population in the penitentiaries, the convicts do not have the necessary space, a normal food ration, person hygiene objects and proper medical assistance. The daily food ration of the convict is 4.21 lei out of which only 3.37 lei from budgetary allowances and 0.84 lei are covered by humanitarian aid.

Assuming that Article 3 ("Torture") of the European Convention for Protection of Fundamental Human Rights and Freedoms does not refer exclusively to physical pain, but classifies the psychological pain that creates panic, stress and state of anxiety as inhuman or degrading treatment, the Centre for Human Rights of Moldova has set the following:

According to statistics, during January-December 2005, the Parliamentary Advocates received 704 addresses from the detainees. 380 petitions were registered at the chapter security and personal dignity.

Year by year, the field of approached issues has not changed. The situation is critical at the following chapters:

- detention conditions;

- inadequate behavior of the guardians in the penitentiaries and temporary isolators;
- access to information;
- access to appropriate medical assistance.

Once the Code on Decision Execution adopted through the Law No. 443-XV of 24.12.2004 entered into force on 01.07.2005, the penitentiary system of the Republic of Moldova has faced a series of impediments in practical achievement of its provisions.

One of the core issues is the practical achievement of provisions of Article 172 par.9 of the Code on Decision Execution according to which the penitentiaries, including the criminal investigative isolators, should guarantee the preventive arrest execution. For this purpose, the need to transfer the temporary detention isolators (TDI) under the jurisdiction of the Ministry of Internal Affairs in the jurisdiction of the Department of Penitentiary Institutions of the Ministry of Justice has become much more stringent.

At the same time, this transfer implies the existence of special rooms which would correspond with the requirements of the Code on Decision Execution and minimum standards of detention. Taking into account the budgetary austerity, the Government of the Republic of Moldova has accepted the proposal of the Ministry of Justice on establishing Arrest Houses for 200-400 places, if the already constructed but not used due to their location spaces (buildings) can be used for these purposes in 12 rayons of the Republic. The authorities of local public administration have proposed some buildings, but after their evaluation it was concluded that those did not correspond with the requirements for detention.

Taking into account that only land plots were proposed for the construction of arrest Houses, the penitentiary system needs considerable additional financial means to be allotted to achieve all provisions of the Code on Decision Execution.

Due to the lack of necessary financial means, the following provisions of the Code on Decision Execution are difficult to achieve:

- creation of appropriate conditions for separate detention of convicts depending on their criminal offences, previously held positions, as well as personal security of the convicts in accordance with the provisions of Articles 224 and 225 of the Code on Decision Execution;
- informing the convict's family, lawyer or other person about the place of detention (in written form or by phone free of charge), in accordance with the provisions of Article 244 par. 4 of the Code on Decision Execution;

- observing the space norm for one person, which in accordance with Article 244 par.2 of the Code on Decision Execution should not be smaller than 4m²;
- safe storing of arrested goods and other staff of the detainees until the completion of the sentence, in accordance with the provisions of Article 223 of the Code on Decision Execution;
- equipping and filling in the libraries of the penitentiaries with books for all categories of detainees, in accordance with Article 259 par. 5 of the Code on Decision Execution;
- compulsory general secondary education as well as conditions for higher education, in accordance with the provisions of Article 259 par.6 of the Code on Decision Execution;
- free of charge clothes for the detainees of the shape set by the Department of Penitentiary Institutions in accordance with the provisions of Article 246 par.2 of the Code on Decision Execution.

Moreover, namely the issue of detention conditions is addressed more frequently by the detainees. In 2005, the Ombudsman Office registered petitions at this chapter from the detainees of Penitentiary Institutions No.13 Chisinau (23 petitions), No.9 Pruncul (11 petitions), No.5 Cahul (6 petitions), No.6 Soroca (17 petitions), No.4 and No.15 Cricova (5 and 4 petitions respectively), No.17 Rezina (5 petitions) and of Temporary Detention Isolators of Criuleni, Basarabasca, Ceadir-Lunga, Hincesti etc.

Therefore, in July 2005, the Parliamentary Advocates received petitions from a group of detainees from the Penitentiary Institution No.29/3 of Leova, which invoked the improper detention conditions as well as inadequate conduct of the administration of the institution towards the detainees.

During the petitions' examination, a representative of the Centre visited the mentioned institution, talked to the authors of the petitions and with the Prime Deputy Chief of the Penitentiary Institution, inspected the meeting rooms, kitchen, laundry, bathrooms, workshops, and other rooms and discovered that some of the rooms were insufficiently supplied with water; in cold period of the year, the rooms were not practically heated and the detainees were forced to sleep dressed up; the sanitary treatment was not undertaken; the central entrance for the detainees from the second floor was closed, and the access to the cells was possible only by the fire escape, which was very dangerous. Altogether, the detainees have no possibility to read the provisions of the Code on Decision Execution; some detainees are ungrounded deprived of the right to meeting.

Admitting the existing problems of the Penitentiary No. 3, its administration approved the "Plan for Removing the Shortcomings in the Activity of the Penitentiary No. 3 Discovered by the Representative of the Centre for Human Rights of Moldova on 28.07.2005", which described the planned measures, responsible persons and deadlines.

At the end of 2005, the administration of the Penitentiary No. 3 informed the Parliamentary Advocates that all possible measures were undertaken to remove the shortcomings discovered by the representative of the CHRM; the DPI made some inspections; the activity of the Penitentiary was subject to a complex ordinary verification; the institution was visited by a Parliamentary Commission, representatives of the organizations in the field and the mass-media.

In order to exercise the constitutional right to information, the administrations of penitentiaries are obliged to ensure the convicts with the access to the information broadcasted through different means of media.

According to the provisions of Article 227 of the Code on Decision Execution, the convict can use the radio, TV set, personal tape recorder or any other devices authorized by the administration of the penitentiary, on the condition of paying the consumed electricity.

But no financial means were allotted to exercise the provisions of this article, and the way of paying the electricity by the convicts is under elaboration and will be implemented together with the approval of new Statute of serving the punishment by the convicts. Practical impossibility of applying this article has generated a considerable number of addresses to the Centre for Human Rights of Moldova.

Since the Code on Decision Execution has entered into force, the persons serving the deprivation of freedom sentence were deprived of the possibility to pay the material and/or moral prejudice set forth through the court decision, because the administrations of the penitentiaries have no legal basis to take the respective amounts.

This situation has resulted from the fact that the executory title, according to the provisions of Article 14 of the same Code, is issued to the petitioner by the first instance, who in its turn, presents it for execution, in accordance with the provisions of Article 17 par. 1 of the Code on Decision Execution. Respectively, the executory titles are de facto kept by the petitioners or by the executors.

It should be mentioned that in order to benefit from some facilities regarding the possibility to obtain the liberty or to reduce the sentence stipulated in the Criminal Code, the convict should pay integrally all the damages caused by the offence he is condemned to.

The abovementioned situation hinders the application of the provisions of Article 91 (Liberty caused by punishment before the date) and 107(Amnesty) of the Criminal Code.

Analyzing this issue, as well as the information of the Department of Penitentiary Institutions on the application of provisions of the Code on Decision Execution, the Parliamentary

Advocates have submitted the proposal to revise and to complete Article 17 with norms which shall enable the executory title issued by the court after settling the civil action in criminal trial to be sent for execution ex officio.

Human dignity is the basis of fundamental rights, first of all, of the right to live and to personal integrity, as well as those regarding torture, inhuman or degrading treatment or punishment prohibition. Generally, human dignity is defined as the respect towards the other persons, as well self respect.

Regretfully, in the Republic of Moldova the respect towards the person's dignity under custody is far to be ideal. The torture, inhuman or degrading treatment are usual phenomena, which led to the introduction of Article 309/1 "Torture" in the Criminal Code.

Most severe infringements are registered in the field of criminal prosecution. The arrested persons are treated as potential criminals by ignoring the principle of presumption of innocence. The necessary evidence and testimonies are obtained through constraint and excess of power, threats, and interdictions. The methods of psychological influence are usually applied on persons, by infringing the right to petition. Due to the situation of the persons in custody, they do not have the possibility to address petitions to the Centre for Human Rights of Moldova or to other institutions describing the cases of inadequate treatment of criminal prosecutors. This possibility appears later after the event had happen and the things invoked by the petitioners cannot be proved.

Abuses in applying sanctions for infraction of discipline, carrying out corporal searches, and receiving and sending parcels and mail have been registered in the penitentiary institutions.

The quality of medical assistance, the prophylaxis of tuberculosis and other infectious diseases, observance of sanitary and hygiene norms, living conditions and treatment of patients with tuberculosis and other sick persons in the medical institutions of the penitentiary system is another category of difficult problems faced as well by the administration and the detainees of the respective institutions.

The convicts' petitions describe many aspects of these problems, among which the impossibility to carry out the medical examination of the vitality to receive an invalidity degree.

Once the Code on Decision Execution has entered into force, it was suspended the activity of the Medical Commission of the Department of Penitentiary Institutions vested with the authorization to set the invalidity degrees of the detainees from the penitentiary system.

Assuming that the Department of Medical Examination of Vitality is the only institution with plenipotentiary authorization in this field, the National House of Social Insurance, at the request of

the Department of Penitentiary Institutions, considered possible the examination of detainees by the Phtyso-Pneumological Departmental Council and by the Council of Medical Examination of the Vitality of Ciocana sector.

The examination process of detainees except for CMEV Phtyso-Pneumological and CMEV Psychiatry has been launched on 9 December 2005 and is implemented in the Penitentiary Institution No. 16, Pruncul (penitentiary hospital).

In the future, the disabled detainees will be sent for examination in penitentiary hospital, on the basis of the conclusion of the Consultative Medical Commission within the medical unit of the institution, and when there are evident signs of disturbing functioning of the body caused by diseases, consequences of other trauma and affections.

Tuberculosis and HIV/AIDS are the most serious diseases of the penitentiary system.

According to data presented by the medical service of the Department of Penitentiary Institutions as of 1 January 2006, 160 detainees were registered with HIV/AIDS, out of which 26 persons are under antiretroviral treatment.

333 new cases of tuberculosis and 191 of recurrence were registered in 2005, and the total number of the sick persons was 524 at the end of the year.

Although the detainees are isolated from the society, they are still a part of our community. After a period many of them leave the penitentiaries and return into the community. In the same line, the penitentiary systems have the responsibility to make everything is possible to counteract the spreading of infectious diseases between the detainees and to offer them healthcare, treatment and support, services similar to those offered by the community. Effective prophylaxis actions in penitentiaries are useful for everyone – detainees, personnel and members of the society.

The materials published under the National Programme on Prophylaxis and Fighting HIV/AIDS and STD supported by the Global Fund for Combating Fighting HIV/AIDS, TB and Malaria, as well as by the World Bank, Soros Foundation Moldova show that if the problem is not considered seriously, the HIV infection would spread in the penitentiaries.

National Programme on Prophylaxis and Fighting HIV/AIDS and Sexually Transmitted Diseases for 2006-2010, approved through Government Decision No. 948 of 05.09.2005, helps in mobilizing the forces to implement the strategies and priorities in preventing, monitoring and controlling HIV/AIDS infection, including between detainees, who shouldn't, due to their imprisonment, be subjected to an incurable disease. These measures will protect the personnel of the penitentiaries, because by reducing the incidence of infections in penitentiaries, the risk of being infected would be reduced. .

In the opinion of Parliamentary Advocates, some of the measures with positive impact on detainees' health protection and promotion would be transfer of the control of the Ministry of Health and Social Protection onto the medical sector in the penitentiaries, the implementation of some educational programs for detainees and the personnel, and last but not least, many of problems arisen due to HIV infection and drug consumption in penitentiaries could be reduced, if there are alternatives for imprisonment, especially for drug offences.

2551 citizens were released in 2005. On the basis of the addresses to the Centre for Human Rights of Moldova, we certify that their social adaptation is difficult. At the moment of their release, many persons do not have identity cards, decent cloths, financial sources to travel to their permanent residence, place of living.

Incontestably, the State takes concrete measures to ameliorate their situation. The modification of the Law No.297 on Social Adaptation of Persons Released from Prison of 24.02.1999, which stipulates that persons that served their sentence shall benefit from a sole indemnity that is paid on the release day by the respective penitentiary, has entered into force on 01 January 2006. The Government approved the Regulation on way of payment the sole indemnity for released persons. Until these modifications have entered into force, only those who had identity cards could receive the indemnity.

Lack of identity cards is another impediment for complete integration in the society, temporary identity cards (model F-9) issued by the Ministry of Informational Development are just a temporary solution.

Lack of money is not the only reason of difficult obtaining of identity cards, but also the residence and respectively, the permanent place of living is a serious barrier in social reintegration. It is known that in many cases close relatives of detainees make different real estate transactions, as a result of which the detainees lose the right to living space, and the direction of monitoring the population ask for the residence permit for issuing identity cards. This vicious circle does not permit the settlement of many problems and the realization of the rights of this category to freedom of movement, labor, and health protection.

The situation of persons in custody is even more difficult. This problem is still under the monitoring of Parliamentary Advocates.

The Parliamentary Advocates have informed the Superior Council of Magistracy since 2004 about some severe infringements committed by the justice and which cannot be tolerated in a lawful and democratic state.

If 362 acquittal sentences were adopted in 2005, the tergiversation of examining the case files and tardily sending of copies of sentences constitutes a severe infringement of the right to an equitable process recognized by the Convention for Protection of Human Rights and Fundamental Freedoms.

In order to reflect more objectively and veraciously this situation, on the basis of the registered petitions, the Parliamentary Advocates requested the informational contest of General Procuracy, of the Department of Penitentiary Institutions and Penitentiary Institutions. As a result of the investigations, the following has been attested:

Contrary to the provisions of Article 399 of the Criminal Code to hand over the copy of the sentence to the defender within 3 days from its delivery, the convicts wait for it from 1 to 6-8 months. The cases when the sentence was handed to the convict during a month after the conviction are extremely rare. For example, the citizen V. convicted by Buicani Court on 11.05.2005 received the copy of the sentence only on 16.09.2005; the citizen T. convicted by the Court of Stefan Voda on 15.12.2004 received copy only on 14.07.2005.

According to the situation as of 15 November 2005, the copy of the sentence and the decision to execute the sentence were not handed to 8 and 17 convicts respectively of Penitentiary No. 5 (Cahul); 9 and 37 convicts, respectively of Penitentiary No.13 (Chisinau); 3 convicts from Penitentiary No. 17 (Rezina) awaited the copies of the sentence; 10 convicts of Penitentiary No. 11 (Balti).

According to Criminal Code, the trial of criminal case shall be made in a reasonable period of time, the case complexity, behavior of parties in the process, the conduct of the court being the level of appreciation.

By virtue of some objective and subjective factors, the definition of “reasonable period of time” is appreciated differently, a fact that generates the tergiversation of the examination of criminal cases, especially in courts.

In accordance with the situation of 15 November 2005, the number of persons whose cases were in the first instance procedure and the period of detention was more than one year varies from case to case. A critical situation was registered in the courts of Cahul (7 persons); Comrat (9 persons); courts of Chisinau Municipality – Centre jurisdiction (24 persons); Riscani jurisdiction (25 persons); Buiucani jurisdiction (26 persons). There is no similar case registered in many courts, among which the court of Ciocana jurisdiction.

Therefore, the causes of these defaults are not just objective – lack of session rooms, insufficient technical equipment, insufficient interpreters - but are also subjective – unsatisfactory organization of judges’ agenda, irrational management of court rooms.

DISCRIMINATION

Taking into account the primordial obligation of a democratic lawful state to observe the personal dignity, human rights and freedoms, the Republic of Moldova, through its accession to the international instruments, has assumed certain obligations in this field.

The equal right under the law and protection against the discrimination for all persons is a right universally recognized by the Universal Declaration of Human Rights, the European Convention for Protection of Human Rights and Fundamental Freedoms and other international and regional instruments.

In the opinion of Parliamentary Advocates, the honorable observance of the existing legal frame would permit the benefic achievement of Article 16 of the Constitution, according to which the State protects and respects every person. Additionally, it is timely the ratification of European Charter for Regional or Minority Languages and the Protocol No. 12 of the Convention for Protection of Human Rights and Fundamental Freedoms signed by the Republic of Moldova on 04.11.2000.

On the basis of addresses received by the Centre for Human Rights of Moldova, we discovered some gaps in the existing legislation, such as discriminatory conditions for some categories of persons in exercising their rights, thus, the constitutional principles on equity and equality before and under the law being contradictory.

An eloquent example is the Law on the Privatization of Locative Spaces No. 1324-XII of 10.03.1993, which stipulates in its provisions that the price of locative space for privatization shall be reported to the length of service accumulated only by 10.03.1993 (date of entering into force of the abovementioned law). Or, the discriminatory conditions of obtaining the property for an imposing number of citizens who mostly represent the socio-vulnerable strata (first- and second-degree of disability; sole citizens; orphanages; young families without considerable sources of existence) contribute to the achievement of the principle of equal opportunities which a person has socially (equal chances in finding a property). While examining a concrete address regarding the abovementioned issue, the Parliamentary Advocates having no other possibilities to solve the petitioner's problem, have addressed to the administrative contentious court, the request to reverse the Decision of the Republican Commission on the Privatization of Locative Spaces and to force it to pass a new decision with the direct application of the norms of the Constitution of the Republic of Moldova, in order to transfer the locative space for free private property. The Parliamentary Advocates made their request on the basis of the dispositions of the Constitution of the Republic of

Moldova, the Decision of the Constitutional Court No. 28 of 27.10.1997 on Constitutional Verification of the Law No.1069 of 26 December 1996 to complete Article 5 of the Law on the Privatization of Locative Spaces and the Decision of the plenum of the Supreme Court of Justice No. 2 of 30.01.1996 „On the Practice of Applying Some Provisions of the Constitution of the Republic of Moldova by the Courts”.

It should be mentioned that the Law on the Privatization of Locative Spaces is not the only normative act, which, in the opinion of Parliamentary Advocates, consists of discriminatory norms. The provisions of Law No. 289 on Indemnities for Temporary Disability and other Social Insurance, of the Fiscal Code, etc shouldn't be omitted at this chapter.

The situation in the field of discrimination based on race, colour, language, religion or national minority is also unfavorable.

On the basis of addresses received by the Centre for Human Rights of Moldova and the information collected by the Bureau of Interethnic Relations during the Progress Report on the phase of Applying the International Convention on the Elimination of All Forms of Racial Discrimination, we discovered that all types of discrimination is relatively frequent in the Republic of Moldova.

Some citizens and non-government organizations classify the cases of non-observance of the provisions of linguistic legislation and Civil and Criminal Codes as discriminatory.

According to the information of the Bureau of Interethnic Relations, there are many cases when persons who address to public authorities, other institutions in Russian language (oral or written) receive the answers in the official language, which limits the realization of their rights.

The same situation is stated in the audiences and addresses registered at the Centre for Human Rights of Moldova, the petitioners insisting on receiving the answer in Russian language.

The situation in this field is becoming more alarming when the procedural rights of the citizens or the respective violations are committed by the law entities.

An example of this is the petitions invoking non-observance of constitutional and procedural rights, when the courts do not follow the legal provisions regarding the procedural language. In the same line, the Parliamentary Advocates considered appropriate to inform the Superior Council of Magistracy on these cases and requested the opinions regarding the correctness of interpreting and applying the provisions of Article 24 of the Code of Civil Procedure by the judges.

In the Republic, there is the problem of partial exercising of the rights of Ukrainian minority to study their maternal language, which unlike Russian, Gagauz and Bulgarian languages, is studied in less than half of the Ukrainian localities.

A considerable part of gypsies of the Republic of Moldova have a difficult socio-cultural situation, which influences negatively the realization of their economic, social, and cultural rights.

The cases when citizens of evidently different nationality (gypsies, persons from Africa and Asia) invoking the increased interest from the enforceable entities, representatives of public authorities are very usual.

According to Article 14 of the Convention for Protection of Human Rights and Fundamental Freedoms, the realization of rights and freedoms should be guaranteed without any distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

In this context, the recognition of the universal rights and freedoms of every person, including the observance of the rights of sexual minorities shall be imposed as a need.

The Resolution No. 1465 of 16 September 2005 of the Parliamentary Assembly of the Council on the functioning of democratic institutions in the Republic of Moldova recommends the full guarantee of fundamental rights of sexual minorities.

Even if some democratic reforms on guaranteeing the rights of sexual minorities have taken place in Moldova in recent years, the situation is that the conduct of authorities and the society do not reflect at all the international standards.

Or, the discrimination of a certain category of citizens disfavors the image of the Republic of Moldova in the context of assessing the democratic reforms and observing the assumed commitments.

The problem does not only refer to national legal frame or to the international conventions on human rights to which the Republic of Moldova is a party, but more to the stereotypes and prejudices of the members of our society.

A convincing example is the open letter of the collaborators of the Center of Information “GenderDoc-M” addressed in October 2005 to the Centre for Human Rights of Moldova, where this organization drew the attention on a concrete case of discrimination of a collaborator of the MFA based on sexual orientation and at the same time invoked the issue of personal security of gays and lesbians of Moldova.

The Supreme Law of the Republic of Moldova recognizes that the “personal dignity, human rights and freedoms represent the supreme values and are guaranteed (Article 1), “It is the foremost duty of the State to respect and protect the human person” (Article 16). The Constitution guarantees to all citizens of the Republic of Moldova the constitutional rights and freedoms guaranteed by the

international law. As well, the State recognizes the equality of rights and freedoms, irrespective of the criteria stipulated in Article 16, which list is not exhaustive.

The public declaration of an employee of the MIA made during a seminar organized for policemen that for him as a head of a non-government organizations the “fundamental Law is the Law of God, according to which the homosexuality is a sin, and the one who commits it deserves to die” proved once again the negative attitude and intolerance of the society members towards this category of plenipotentiary citizens of our State.

In the opinion of Parliamentary Advocates, the conduct of the policeman during the seminar and respectively during the working hours is inadmissible and unacceptable, because that person took part in this meeting as an employee of a public institution and not as a head of non-government organizations of Christian policemen. Therefore, it is obvious that his actions were appreciated basing on the position he holds in the law-enforcement bodies.

According to Law No. 416-XII of 18.12.1990 on Police, in its activity, the police shall observe the personal dignity of the citizens because it is considered a guaranty of their dignity, rights, freedoms, and legitimate interests. The police shall protect the citizens, irrespective of their social, patrimonial, nationality, race, sex and age, education and language, religion, political opinions and other situations. At the same time, the Constitution guarantees to every one the freedom of conscience and opinion, including to the policeman. This right implies the freedom to think, of opinion and the freedom to have or to adopt a religion or a belief, as well as the freedom to manifest the religion or the belief both in public and particularly, through a form of worship and rituals, through practices and education.

But, the freedom of opinion and the freedom of religion can be restricted by the law for public security, order and health or for the moral, fundamental freedoms and interests of others. The freedom of expression shall not prejudice the honor, dignity or the right of other person to personal opinion, and the religious believes of a person shall not be the main activity of an institution where the individual works, and so much the more, it should not be the fundament of the State policy.

In the same line, being a representative of an authorized body to protect the public opinion and being vested with certain authorities stipulated by legal and normal acts, the policeman shall not commit actions that would prejudice the public interests, legal rights and interests of other citizens.

The exercise of the police forces has implication on the fundamental human rights, among which the right to live, freedom, personal security, etc. It can facilitate the consolidation as well as the undermining of the essential rights in a lawful and democratic state and in a democracy, such as the right to an equitable trial, freedom and peaceful meeting. It leads to the realization of individual important rights like: the right to private life which has positive or negative impacts on the

community, to the extent the policemen show or not the proper respect towards the fundamental human rights.

Thus, it could be ascertain that through their attributions, the policemen are part of law system and respectively are obliged to contribute directly to human rights protection in a democratic society.

At the request of Parliamentary Advocates, it was carried out an investigation of the facts described by the Centre of Information “Gender Doc-M”, and the Ministry of Internal Affairs concluded that it does not consider the opinion of the police worker expressed during the seminar on the sexual minority as discriminatory and his behavior does not contravene the general accepted norms and especially the ethics.

From the abovementioned and on the basis of the competencies vested by the law, the Parliamentary Advocates recommended the Ministry of Internal Affairs to take attitude to avoid in future situations that would prejudice the rights and freedoms of sexual minorities and would generate conflicts between the policemen and this group of citizens.

ACCESS TO INFORMATION

In their petitions to the Centre for Human Rights of Moldova, the citizens ask – to what extent our State guarantees the realization of constitutional obligations to “make all laws and normative acts accessible” to the citizens and to “ensure the right to know one’s rights and duties to every one”.

It is known that normative acts are published in the *Official Monitor* of the Republic of Moldova. The maximum edition shall not exceed twenty thousand copies (in both languages). If it to be reported to the number of population, the accessibility of published normative acts is questionable. Another issue is the cost price of a number, which is not excluded, is settled arbitrarily. In spite of the fact that the *Official Monitor* consists also of advertising (so a part of editing costs is covered by beneficiary economic agents), the price is still high and that is why makes it inaccessible for a big part of the potential readers.

It is also necessary to stress out the importance of the *Official Monitor* of the Republic of Moldova as a source of information for realizing other constitutional rights and freedoms of the citizens. For instance, the *Official Monitor* publishes subpoenas, notification on enterprises’ liquidation, on auctions with sequestered goods, etc. Consequently, the State in the person of authorized bodies shall guarantee the accessibility of the *Official Monitor*, ensuring the financial contribution necessary to its publication.

A library in work in each locality with a reading hall with access to the legal database of the country, with an ensured subscription to the *Official Monitor* and other publications with juridical theme are important for the development of human personality.

At present, it is very important to introduce in the staff of Mayoralties, irrespective of the number of population, the position of legal consultant. Thus, the activity of a specialist being permanently at inhabitants’ disposal (an advocate of locality financed by the State) shall be vested with the aid of local public administration (maybe initially with the financial support from the state budget). The citizens would have the possibility to clarify their problems at local level, without bearing financial and time costs, and will receive consultations in filling up a petition or an application to a competent dispute settlement entity, etc. (the number of petitions addressed to incompetent local and central courts will be diminished, which would influence positively their activity). This fact will develop the citizens’ habit to solve civilized and legally their daily problems.

At their turn, the legal consultants being aware of the acute problems faced by the citizens from the localities could ask for the informational and didactic help necessary to public or state institutions. They will also have the obligation to ensure the record and development of legal

database, including electronic basis of the locality, the opportune information of inhabitants on legislative novelties. It is also important the fact that the training of such person will allow the appearance of a lot of jobs for Bachelors of Law.

A large number of petitions, including from the convicts, ask the Parliamentary Advocates information about laws, treaties, and international covenants. Most frequently, the applicants ask the integrated texts of the legal acts to be sent by mail, invoking the right of access to information and the provisions of the Law on Access to Information and the Law on Parliamentary Advocates, especially Article 33, which stipulates that Parliamentary Advocates shall organize public education/information about protection of constitutional human rights and freedoms.

The Centre for Human Rights of Moldova offers the requested information but it does not have technical and financial possibilities to mail the requested documents to every detainee.

In the conditions when simple citizens have many sources of information as much as reliable (Public Law Library, Centre of Legal Information of the Ministry of Justice, non-government organizations in the field of human rights), then the convicts are disadvantaged.

The Code of Decision Examination of the Republic of Moldova (in force since 01 July 2005) stipulates some ways of access to information and of protection of the access to legal documents and documents on execution of deprivation of freedom-related punishments.

The Republic's penitentiary institutions make an effort as far as possible to assure the convicts' access to information through different acceptable methods.

There are libraries in the majority of penitentiary institutions that ensure the free access of convicts to legal literature, among which the Constitution, the Code of Decision Examination, Civil, Criminal, Family, Labor Codes, Codes of Criminal and Civil Procedures, the Statute of punishment serving by the convicts. The penitentiaries are subscribed to *Official Monitor* in both languages and to other periodic editions.

Some penitentiaries intercept radio and TV shows.

The situation is much more favourable in the penitentiaries that benefit from extra-budgetary means.

For example, the Penitentiary No. 2 of Lipcani due to the support of the Institute of Criminal Reforms publishes monthly the newsletter *AerZona*, which has a special column *Legal Consulting*.

The library of Penitentiary No. 6 of Soroca was completed with special literature on the basis of a book donation from OSCE to the Republic of Moldova, while the Penitentiary Institution No. 10 of Goian is equipped insufficiently with special literature: there are only 22 copies of Code of Decision Execution, 5 copies of Criminal Code, 5 copies of Code of Criminal Procedure, 2 copies of

Code of Civil Procedure, 2 copies of Civil Code, 2 copies of Family Code, 2 copies of Labor Code and 4 copies of the Constitutions per 596 convicts, although such library was possible only with the support of the OSCE Mission to Moldova.

Basing on the mail received by the Centre, we can conclude that the undertaken measures are not enough.

It is very concerning the fact that the temporary detention isolators do not have libraries or at least copies of Code of Criminal Procedure, of Decision Execution, on Administrative Contraventions, etc. Consequently, the convicts do not have the possibility to take knowledge of elementary information on their rights, do not know that have the right to *ex officio* counseling, to inform their relatives on their detention place. In such situations, the realization of detainees' rights to information, to defence, etc. depends on discretionary behavior of criminal prosecution bodies.

FREEDOM OF MOVEMENT

In 2005, the Parliamentary Advocates examined the petitions of a group of citizens whose children were studying abroad and who were forbidden to leave the country on the basis of non-observing the rules of leaving the territory of the Republic of Moldova in force since 01.09.2004.

For the purpose of removing the impediments in exercising the right of freedom of movement, the Parliamentary Advocates submitted to the Parliament the proposal to modify the Law of the Republic of Moldova No.269-XIII as of 09.07.1994 on Leaving and Entering the Country, which would simplify the leave of minors – pupils and students studying abroad. This issue was not settled for one and a half year creating impediments in exercising the constitutional rights. But the modifications and changes were made, and on 23 December 2005 it was finally adopted.

The citizens of the Republic of Moldova have the right to leave and entry in the Republic of Moldova with passport, which is issued by relevant entities on the basis of documents stipulated by the Law.

During the verification of data presented by the solicitor in the application form, the territorial sub-division of the Ministry of Informational Development interpellates the Direction of Operative Evidence and Information of the MIA, which manage the Central Database of the MIA regarding the criminal antecedents of the citizens.

If the circumstances enumerated expressly in Article 8 of the Law No.269 of 09.11.1994 on Leaving and Entering the Country are detected, the passport and travel document are not issued or their validity period is not extended.

In many cases the citizens do not receive passports due to erroneous data on criminal antecedents in the Central Database of the MIA.

As a result of Parliamentary Advocates' intervention, each concrete case was solved, and respectively the corresponding corrections were made in the Central Database.

The implication of Parliamentary Advocates in each similar case is not a solution, because it needs time and additional effort from solicitors to conclude passports. It has been concluded that these situations are generated in some cases by the negligence of persons responsible for the evidence, in other cases due to the lack of an efficient mechanism of collaboration between the institutions responsible for information on criminal antecedents of citizens.

The Parliamentary Advocates addressed to relevant entities to monitor this situation and to take the proper measures to remove the shortcomings that lead to the use of wrong information on penal antecedents of the citizens.

Another disadvantageous aspect of the procedure of issuing the identity cards is the residence permit. Or, the Constitutional Court set in the Decision No. 16 of 19.05.1997 that the existence of “residence permit” in the legislation of the Republic of Moldova, its use in social relationships is contradictory with the constitutional norms and principles, being an impediment in exercising the right of citizens of the Republic of Moldova to freedom of movement.

Contrary to the Decision of the Constitutional Court, the Bureaus of population evidence refuse to accept the necessary documents to conclude the identity cards if the citizens do not present documents confirming the residence permit.

At the directly intervention of the Parliamentary Advocates, the problem was solved in the favor of the petitioners. It should be mentioned that such situations cannot be tolerated, because it is a flagrant violation of constitutional rights of the citizens and the Ministry of Informational Development shall take attitude towards the activity of the Bureaus of population evidence.

The refugees have the right to leave and entry the Republic of Moldova on the basis of travel document issued by competent entities.

Issuing a travel document does not imply the citizenship to a refugee. However, these documents are very important for the refugees, because these make possible their movement to other countries to study, to work, to cure or to change the residence.

The tergiversation of issuing the identity cards and passports for refugees implies the non-observance of the commitments assumed by the Republic of Moldova at its accession in 2001 to the Convention relating to the Status of Refugees, as well as to the Protocol relating to the Status of Refugees.

For the purpose of fulfilling the Law No. 1286 of 25 July 2002 relating on the Status of Refugees, the Government approved the model of the identity card and its annex and the travel document for the refugees only on 28.06.2005. By the end of 2005, the identity cards were issued to 61 refugees.

The refugees who have not yet received the identity cards posses a formal act which confirms the status of refugees, but is not accepted as an identity card by any of the institutions.

According to the Ministry of Informational Development, the “travel document” project is at the elaboration level and it should be set a date for receiving the respective application forms to be printed, a responsibility vested with the National Bureau of Migration.

Along the same line, we can draw the conclusion that until all the technical issues, which would allow the issuing of refugee documents are not settled, the refugees will be deprived of the right to cross the border of the Republic of Moldova.

RIGHT TO EDUCATION

In 2005, the Centre for Human Rights of Moldova analyzed the observance and fulfillment of child' rights and freedoms declared and guaranteed by the Constitution of the Republic of Moldova and the international acts to which the Republic of Moldova is party.

Talking about the child's rights we will focus on the relation between the State and child's personality which implies not only ensuring the rights to child but the State's compulsoriness to contribute with all means to settle the child's problems.

The education represents one of the fundamental factors of a modern society and offers to every person the chance to develop own maximum potential. The major objective that should be achieved, when we talk about children, is equal chances of development through free access to education on quality basis.

The right to education is an essential right for child's development being directly connected to the right to work and other fundamental rights. The right to education covers the compulsoriness of secondary education, free education and everyone's access to vocational and high education. The State is also obliged to ensure a modern and efficient educational process.

The lack to primary education for specific groups of population has become more acute, and the education in the republic is in danger to contribute more to the inequality rather to equality of possibilities promotion.

It is important to mention the abandonment of school (for example, leaving abroad to work) in the secondary educational system.

A number of factors that "contribute" to children's deprivation of the right to education were registered: small salaries of teachers, deficit of teaching staff, disastrous conditions of school buildings, etc. These are difficulties in guaranteeing the access to a qualitative education for all categories of children.

Moreover, the price of didactic materials is too high in comparison with the medium income of a family. Consequently, many families cannot afford to buy them.

In order to optimize the process of ensuring the state educational institutions with didactical literature and setting facilities for children from socio-vulnerable families, through Parliamentary Decision No.1531-XIII the extra-budgetary fund for manuals was created on 25.02.1998. The Government adopted the Decision No.448 "On Ensuring the Pupils from Primary and Gymnasium Education with Manuals" on 09.04.1998 and the Scheme of renting the books for lyceum was introduced through Government Decision No.777 on 30.06.2003.

The problem of insuring with manuals is a usual problem addressed by the citizens in the audience of the Parliamentary Advocate Institution. Although the Government Decision RM No.448 of 09.04.1998 “On Ensuring the Pupils of Primary School and Gymnasium with Manuals” stipulates expressly the fact that the children from socio-vulnerable families, with one parent, or from vulnerable families with more than three children under school age can benefit from a discount for renting the manuals, and Article 11 of the abovementioned Decision stipulates the fact that the local public administration, departments on education and the heads of education institutions shall set the criteria and select the pupils that benefit from a discount from the rent tax, however, the Centre for Human Rights of Moldova still receives petitions that invoke the impossibility to pay the tax for renting due to bad financial condition of the families.

An assessment of the number of illiterate children, of the skilful degree of the educational institutions for the academic year 2005-2006 and the most stringent problems faced by the education institutions of the Republic was carried out.

Regretfully, it was discovered that in majority of localities, there is a number of illiterate children, who from one reason or another, are deprived of the exercise of the right to education.

Poor progress, parents’ refusal, bad financial situation, leaving abroad, working abroad are the most usual causes of illiteracy.

There is a large gap between the access to education in rural and urban localities.

Insufficient financial means were allotted from the state budget for the adequate technical and material equipment of pre-university institutions (for instance, heating the schools from Cimislia, for insufficient supply of gas for Riscani, Ungheni rayons, schools disconnection from the electric power in Edinet rayon, lack of school furniture, lack of teaching staff (in many localities), lack of didactic materials (acute lack of equipment, materials, chemical substances in the Physics, Chemistry, Biology, and Technological Education cabinets, lack of computers); insufficient equipment of school libraries with didactical, artistic literature, and methodology for curriculum, imposing renting tax of manuals, poor meals of pupils (poor menu in school canteens), low rate of attendance during autumn-spring, insufficient psycho-pedagogical preparation of teaching staff, unsatisfactory activity of commissions for minors’ problem in the mayoralities that have illiterate children are among the major problems.

Small salaries of teachers, weak capacity of state services to stop the deterioration of teaching environment have lead to the loss of most qualified teaching staff. It was set that during January-August 2005, the teaching staff were paid on average with 875 lei, including the general

education – 759 lei. Small salaries of simple teachers and symbolic state allocation in this field have generated the situation when the majority of school costs are covered by parents.

There are also cases that contribute significantly to modest quality of the education, such as technical assistance and weak monitoring, out-of-date methods of teaching and low cooperation of children and parents. Therefore, many young people employed in the education system do not have the corresponding training to teach in accordance with the new curriculum.

Regretfully, the professional training is neither accessible for all due to high costs nor offers the necessary abilities to find a satisfactory job. As well, there is no viable mechanism of coordination between the education institutions and private sector in assessing the current requests of abilities on the labor market. But the lack of human and financial capacities impedes the testing of the qualified active force at national level. Hence, many young people face an instable future, with unemployment risks, which implies the growing objectivity of labor forces migration.

Although, the State has undertaken some measures in improving the situation created in the education field (project elaboration, action plans, strategies – Strategic Plan on Expenses in Education for 2006-2008), free assurance with manuals for I-IV grades, free meals for I-IV grades, etc.), however, the analysis of working condition shows that the undertaken measures are not enough.

The pre-scholar education is especially affected. Thus, it was discovered that the number of pre-scholar units has decreased by one third in the last few years; the number of teachers by 70%, and social inequalities in comparison with urban and rural regions is worsening. The decline is due to close of kindergartens managed by state enterprises and impossibility of public services to offer the necessary support for their functioning.

The tendency of parents' implication in solving issues of the educational institutions (including through the establishment of associations of parents) has been registered lately. Many parents affirm that there are different compulsory payments even at the registration. These payments, including for renting the books, are taxes for education which collection contravene with the constitutional norms of public free education.

According to the information presented by the City Hall of Chisinau Municipality, there are 83 public associations of parents that contributed essentially during the activity period to the consolidation of didactical and material basis of educational institutions in Chisinau. The parents support essentially the preparation of institutions for the new school year by procuring the artistic, methodical literature, didactic manuals, and additional meals for pupils, etc. At the same time, the

City Hall of Chisinau Municipality does not have precise information on the management of material fund of the associations.

Basing on frequent addresses received from the parents on the infringement of statutory provisions (for example, imposed additional funds, illegal collection of money, implication of teaching staff, and even of children in collecting the funds, etc.), the General Direction of Education, Youth and Sport of Municipal Council of Chisinau has issued a series of orders on the prohibition of implication of teaching staff, children in illegal collection of money. However, these had a formal character and haven't influenced positively the situation.

It is welcome the modifications of the legislation currently in force, being instituting a more efficient mechanism of controlling the public organizations that activate under the pre-university educational institutions.

JUVENILE DELINQUENCY

During the last decade, the Republic of Moldova has registered a negative social experience and economic development when all welfare indexes of children have been diminished. General consequences of unemployment, income inequalities and reduction of investments in all spheres of the life have led to juvenile delinquency.

According to the data of the Ministry of Internal Affairs of the Republic of Moldova, 2181 crimes were committed in 2005 (in 2002 - 2976 crimes; in 2003 - 2508 crimes, in 2004 - 2770 juvenile offences), however, it is registered a growing tendency of the number of serious crimes.

Out of total number of juvenile offences, there were registered 10 criminal homicides, 8 intentional damages, 20 rapes, 23 plunders, 149 robberies, 1632 thefts, 73 hooliganism actions.

The phenomenon of juvenile criminality is catalyzed to great extent by the economic and social factors, including: difficult financial situation (about 80% of minor offenders are from socio-vulnerable families); diminishing the parents role in child's protection and education; systematic lack of support and resources, many families being incapable to ensure a favorable environment for children education; unemployment, alcoholic abuse (225 minors); drug abuse (789 minors registered); school abandonment; vagabondage (978 minors registered); unsupervised children (about 25000 children whose both parents are abroad, and about 41000 minors are supervised by one parent); insufficient activity of councils for the protection of child's rights (on the basis of the provisions of item 10 of Government Decision No.566 of 15.05.2003 on approving the special measures for combating the juvenile criminality, the local public authorities, the Ministry of Labor and Social Protection (at present the Ministry of Health and Social Protection) were appointed as being responsible for the creation of the abovementioned councils).

In the opinion of the Ministry of Internal Affairs, the local public authority does not completely fulfill their obligations, the councils for the protection of child's rights do not activate at all, and the efforts undertaken in the past years by the state institutions and international structures in the field of economic and social reforms (economic and administrative reorganizations, revision of legal frame, revision of health, social, and educational programmes) did not produce any expected results a fact that shows that the child and the family are the most socio-vulnerable groups.

Episodic provision of services on child's assistance in difficulties by focusing mainly the assistance on urgent problems of the child and family, and less or at all on the prevention of risk factors has determined the need to develop a service protection system of the child and family at all

levels of public administration, the amplification of the mechanisms of their monitoring and financing.

Along the same line, a series of conclusions and recommendations can be drawn that would be necessary to diminish the juvenile criminality phenomenon in the Republic. First of all, new approaches of social and methodical policy and reexamination and completion of legal and institutional frame are needed to deal with the existing traditional categories of children in difficulties (orphans, abandoned children, children with disabilities), as well as to identify the new categories of socio-vulnerable children and families at risk (children – citizens of the Republic of Moldova abandoned abroad, illiterate children, street children, children infected with HIV/AIDS, etc.).

It is necessary a more active implication of intermediary local services directed to social reintegration of the child and the family basing on their needs. Every child suspected, accused or guilty of infringing the criminal law should be treated as to favor the sense of dignity and personal value, to develop the respect for personal rights and fundamental freedoms of others taking into account the age of the child, the needs of promoting and integrating him/her in the society.

In the opinion of the Ministry of Internal Affairs, it is especially important the establishment of a Center for temporary sheltering of minors in Balti Municipality, which would cover the North region of the country.

The frequency of juvenile criminality results from the decreased role of the family in the society, of the teaching staff in educating the children, insufficient activity of relevant entities in settling the problems of the minors, passivity of civil society towards the problem of young generation, as well as combating juvenile delinquency, etc.

It should be mentioned that the international standards set directive principles at this chapter. These are based on the obligations of the State to ensure the superior interest of every child and to guarantee that the measures taken towards children are proportional to the gravity of committed offence, taking into account the circumstances of every minor in part.

Thus, Article 40 par.1 of the Convention on the Rights of the Child sets forth that States Parties recognize the right of every child alleged as, accused of, or recognized as having infringed the penal law to be treated in a manner consistent with the promotion of the child's sense of dignity and worth, which reinforces the child's respect for the human rights and fundamental freedoms of

others and which takes into account the child's age and the desirability of promoting the child's reintegration and the child's assuming a constructive role in society.

The same Article 40 par.2 of the Convention stipulates that every child alleged as or accused of having infringed the penal law has at least the following guarantees: to be presumed innocent until proven guilty according to law; to be informed promptly and directly of the charges against him or her, and, if appropriate, through his or her parents or legal guardians, and to have legal or other appropriate assistance in the preparation and presentation of his or her defence; have the matter determined without delay by a competent, independent and impartial authority or judicial body in a fair hearing according to law, in the presence of legal or other appropriate assistance and, unless it is considered not to be in the best interest of the child; to have his or her privacy fully respected at all stages of the proceedings, etc.

In accordance with the provisions of Article 69 par.1, item 4 of the Code of Criminal Procedure of the Republic of Moldova, the legal assistance of the minor accused is compulsory during the entire trial. In case when the minor does not have a defence lawyer or does not have possibility to hire a lawyer, the criminal prosecution officer is obliged to offer him ex officio canceling.

According to studies carried out by the Institute of Criminal Reforms, a large part of minors benefit from qualified legal assistance. Although Article 479 par.2 of the Criminal Code stipulates expressly the fact that “the assistance of the defender, teacher or psychologist during the hearing of the minor suspect, accused, defendant is compulsory”. Regretfully, their presence is formal. The investigations carried out at this chapter show that the defender or legal representative didn't take part in hearings or in other actions, and almost in all examined cases, the lawyers do not practically have meetings or discussions with the clients. Many children say that they meet their lawyer in court room or during other actions of criminal prosecution. A child declared that during the criminal investigation he had more than one lawyer but he did not meet with any in the isolator and he did not know their names. Article 68 par.2 item 1 of the Code of Criminal Procedure stipulates that “for the purpose of efficient legal assistance, the defender has the right to meet with the suspect, accused, defendant without a limitation of the number and duration of meetings”. This provision is an obligation for defender and a necessary component to guarantee the right to qualified legal assistance.

Due to this lack of communication, the children are completely uninformed not only about the defense position and strategy but also about elementary moments such as their rights.

Unfortunately, there are a lot of cases when the minor is treated as a potential criminal having infringed, thus, the most elementary rights: presumption of innocence, free access to justice, etc.

The subdivisions of the Department of Execution employed one or two collaborators in charge with the execution of non-deprivation of liberty punishments. Their average volume of work reaches 300 convicts, and in some offices up to 500-600 convicts. In rayons, where the subdivisions activate, the covered localities are placed at 50-60 km from the office. The travel to these localities is very difficult due to the lack of official transport. In specialists' opinion, it is necessary to meet frequently with the child, to collaborate with local public authorities, different government and non-government organizations in order to achieve this goal of re-socialization and re-education of the minor.

According to the provisions of Article 290 par.1 of the Code of Decision Examination, "The court decision on freedom deprivation punishment of minor, on the basis of Article 93 of the Criminal Code, shall be submit to the office of execution under the territorial jurisdiction where the minor resides, which shall ensure the transportation and placement of the minor in the special educational and re-educational or in the medical institution". The Ministry of Justice states that this activity is hindered by the fact that at the creation of the Department of execution in 2002, two services with different functions were combined: the Service of Judiciary Executors, which executed the decisions on civil and administrative cases and the Service of the Inspectorate of Correctional Affairs of the Department of Penitentiary Institutions with the task to supervise the persons convicted to freedom non-deprivation punishment. The practice has shown that the combination of the abovementioned services do not permit the achievement of all measures necessary to execute the freedom non-deprivation sanctions. Therefore, in specialists' opinion, it is useful the separation of these activities and creation of a special service of punishment execution, which would include the probation elements.

In the opinion of Parliamentary Advocates, a decrease of the juvenile criminality phenomenon can be achieved by settling many issues such as: improving the legal frame, permanent functioning of juvenile courts, training of persons involved in criminal trial with the minor (judges, prosecutors, lawyers, criminal investigators, etc.), development of the system of alternative methods regarding the preventive detention of minors, launching and implementation of post freedom deprivation, educational, social and mental rehabilitation programmes, which would facilitate the minor's integration in the society.

SOCIAL ASSISTANCE AND PROTECTION

The great number of petitions received by the Parliamentary Advocates proves that the undertaken measures are not enough to guarantee the exercise of the right to social assistance and protection and confirms that social protection system is not always directed to the needs of the poor.

572 addresses regarding the problems of pensioners and other categories of physical persons regarding possible infringements of the right to a decent standard of living were examined in 2005.

The key aspects described in the petitions referred to the payment procedure of nominative compensations; the quantum of indemnity for children up to the age of 16; to the reinstatement of the right to social state allocations; to the way of calculating the pensions and revision of the right to pension on the basis of the Law No.156 of 14.10.1998 on Social State Allocations, etc.

An important issue considered by the Parliamentary Advocates is the revision of the right to pension and namely the re-examination of pensions of persons working after the retirement.

The Law No. 156 on Social State Pensions stipulates an additional rate of pension for every completed calculated year after the retirement age only for the persons who fulfilled the conditions of the retirement and continue to work without exercising the right to pension.

In the opinion of Parliamentary Advocates, the re-examination of the right to pension should not limit to the re-examination of the right to pension only at the stage of its calculation, it should permit the examination of the right to pension in the working period or at the appearance of all new circumstances regarding the calculation rate and insured income.

One of most usual problem is the pension for the pensioners of the Ministry of Internal Affairs and ex-collaborators of penitentiary institutions within the Ministry of Justice.

Once the Code on Decision Execution of the Republic of Moldova No.443-XV of 24.12.2004 has entered into force, the Parliamentary Advocates have been receiving petitions from detainees regarding the provision that stipulates the insurance of convicts with pension.

The Parliamentary Advocates has noted a discrepancy regarding the legal and practical aspect of applying the norms which regulate the insurance of convicts with pensions.

On the basis of Article 10 of the Law No.156 on Social State Pensions that stipulates that the right to pension is imprescriptibly and by overlapping the provisions of legal acts regulating the insurance with pensions and by considering that such conflict of norms promoting different solutions for the same object of the regulation, the Parliamentary Advocate addressed to the

Parliament the proposal to revise Article 17 par.(3) of the Law No. 156 on Social State Pensions and Article 57 of the Law No.1544 on Pensions for Militaries and Persons of Command Corps and Troops of Internal Affairs in order to harmonize, adjust and unify them with Article 258 of the Code of Decision Examination of the Republic of Moldova to remove the discrepancies limiting the convicts' guaranteed right to pension. In this context, a draft project has been prepared.

Persons who are breadwinners of first degree invalids and do not have the possibility to pay the compulsory medical insurance premium also addressed to the institution of the Parliamentary Advocates.

The petitioners underlined that in the actual system of compulsory medical insurance they are not included in the list of persons insured by the Government.

Having the opinion that depriving the persons who take care of first degree invalids of the right to State medical assistance is a violation of the constitutional provisions because these persons exercise actually the rights of disabled persons, who cannot do it by themselves, the Parliamentary Advocates addressed to the Parliament the proposal to complete Article 4 par (4) of the Law No.1585 on Compulsory Medical Assistance by including the list of persons insured by the Government and persons who take care of first degree invalids.

DISABLED PERSONS

Each society faces the complexity of these issues. Only their volume varies depending on the level of socio-economic development of the society.

Disabled persons are a category of population with a much more disadvantaged statute in comparison with other categories of persons. The State's social policy describes the level of democracy and of humanity in the given society.

The statute of a person with special needs have been always existed, irrespective of historical period, culture, environment, and the attitude regarding this category of persons has been changed from social marginalization and exclusion to communitarian acceptance and integration.

Disabled persons and their families, very often cases, are part of socio-vulnerable categories. Their vulnerability is caused, first of all, by the economic situation in the country connected to the issues of access to information, social infrastructure, etc. The situation shows that our community does not actually offer equal chances of social integrity to disabled persons.

In general lines, the disabled persons enjoy special protection. The State does its best to ensure the implementation of the policy of equal chances, treatment and integrity in communitarian life.

The harmonization of social assistance system with the requirements of the development of a democratic regime imposes the achievement of social assistance concept, as well as of the acceptable institutional objectives.

The field of disabled person has a special place in the social protection mechanism because the disability is considered as an disadvantage in the socio-economic, legal and affectively psychological aspect.

Alongside with the consequences of the transition period to the market economy that influenced considerably the socio-economical situation of the members of the society, the disabled person is also affected by the incapacity to satisfy his/her needs.

In order to diminish this phenomenon, children and grownups with mental and physical disabilities should be assisted by the State. In other words, the State should ensure a decent life guaranteeing the dignity and independency of the disabled persons allowing them to participate in the social life and communitarian integration.

At the moment, the State offers institutionalization or limited material contributions to these persons.

The rights and needs of a number of 146.600 citizens with disabilities are not addressed adequately, a fact that leads to the exclusion of this vulnerable category of population from the economic and social life of the country. Although, the *National Program on Protection, Rehabilitation, and Social Integration of Disabled Persons for 2000-2005* was implemented, there is no coherent social policy on the integration of disabled persons on the labor market or for their assurance with professional training services. The employers are not eager to offer special conditions and places of work for this category of persons.

The Law No. 547 on Social Assistance adopted in 2003 stipulates the positions for social assistants in each territorial administrative unit. The social assistants are currently employed in 45 localities of the Republic.

The NGOs provide different services for disabled persons, including day centers for children and youth, employment offices, temporary shelters, transportation services and home assistance, services of reintegration in the working environment, mental and social assistance services. However, these have a temporary character with low or free finance from public resources.

Many families face extraordinary difficulties of home care of disabled members. Thus, the disabled persons are subject to major risk of being abandoned due to financial and social reasons. Many disabled persons are placed in residential institutions having small chances to be with their families or to be reintegrated in the community.

Adult disabled persons are placed in such institutions as psychoneurotic hospitals, the Republican Asylum for Invalids and Veterans and the Rehabilitation Center for Invalids. In these institutions, the persons who cannot be supported by their families receive socio-medical assistance.

Social institutions have been conformed with the main principles of social assistance and key objectives. Thus, the disabled person is hosted receiving the complete assistance and treatment at functional, rehabilitation and social existence level.

Although the invalids are under full support of the State, they invoke the fact that do not benefit from a minimum of financial sources to buy the elementary personal objects, which are not provided by the institutions.

It should be mentioned that there are 9 institutions in the administration of the Ministry of Health and Social Protection of the Republic of Moldova, which covered about 2750 citizens – disabled persons, including children and adults at the beginning of II quarter of 2005. On the basis of the collected information, about 1740 persons do not benefit from allocations.

The reinstating of the right to allocation would have not a financial but a moral importance for these persons. Because by appreciating this step, the persons would understand that are not

marginalized by the society and that the State is willing to help them as far as possible to have a constitutional treatment.

The Constitution guarantees through separate regulations the protection of disabled. According to which, these persons benefit from a special protection from the whole society. The State is obliged to ensure the normal conditions of treatment, readaptation, education, training and social integration (Article 51 Protection of Disabled Persons).

As for the existing legal frame, especially the Law RM No.190 on the Veterans of 08.05.2003, Article 8 par.(1) stipulates that the persons whose disability has been caused by wound, contusion, mutilation or by an action from the period of the Second World War or struggles in peace time shall be considered veterans. In the same context, Article 8 par.(2) stipulates the categories of persons accepted as veterans.

Article 15 of the abovementioned Law sets the social protection measures of the invalids, according to which the veterans benefit from additional facilities, in accordance with the existing legislation. All in all, the children who were presented involuntarily in the radius of actions and who suffered in war or as a result of armed conflicts do not benefit from these facilities because they are placed in the category “infancy-related disability”.

The Parliamentary Advocates addressed the proposal to revise the existing legal frame regarding the social protection of this category of population in order to harmonize it with the constitutional provisions on social protection and on the equality towards and under the law. By connecting this frame with the realities of social life, all persons who suffered during the Second World War or armed conflicts will obtain an adequate care from the State.

The Law of the Republic of Moldova No.289-XV “On Indemnities for Temporary Work-Related Disability and Other Social Insurance” of 22 July 2004 stipulates the right to social insurance for preventing, restricting, removing the social risks and financial support to persons in case of such risks.

The Parliamentary Advocates requested the Constitutional Court to pass a decision on the constitutionality of the provisions of Article 9 par. (3), which stipulates that *the temporary disability indemnity to insurants with individual labour contract for a determined period, including those employed for seasonal works and unemployed shall be granted for a period of not more than 30 days during a calendar year, and respectively, during the unemployment indemnity* and on Article 11 of the Law No.289-XV which stipulates that *in case when the HMEC decided on the invalidity*

degree, the indemnity for temporary work-related disability shall be paid by the date of granting the disability degree without exceeding the maximum period for the indemnity set by the legislation.

In the opinion of the Parliamentary Advocate, the period for temporary work-related indemnity should be equal for all employees, irrespective of the type of labour contract.

Although, the Constitutional Court declared through the Decision No. 21 of 22.11.2005 the abovementioned provisions as constitutional, the judges of the Constitutional Court had two different opinions that support fundamentally the opinion of the Parliamentary Advocate.

ACTIVITY OF THE CENTRE FOR HUMAN RIGHTS OF MOLDOVA

According to the provisions of Article 15 of Law No.1349-XIII of 17.10.1997 on Parliamentary Advocates, the Parliamentary Advocates shall consider complaints about the decisions or actions (or lack thereof) of central and local public administration, institutions, organizations and enterprises irrespective of their type of ownership, public associations and officials at all levels that in opinion of the complainant have violated his/her constitutional rights and freedoms.

One of the main activities of the Parliamentary Advocates while examining oral and written petitions of the citizens of the Republic of Moldova, foreign citizens and stateless persons residing permanently or temporary in the territory of the country.

In 2005, the Centre for Human Rights of Moldova and its branches received 1422 petitions (Annex No.1) from physical persons in the country and abroad, out of which, 70 petitions were submitted to examination to the Parliamentary Commission for Human Rights.

3194 of complaints relating to the infringement of the rights of physical and legal persons were considered during audience and out of which 136 petitions were settled (Annex No.2).

Alongside with the individual and collective petitions received from signatories and the Parliamentary Commission for Human Rights, the Centre for Human Rights of Moldova examined petitions submitted by some ministries, departments, OSCE Mission, the UNDP, Helsinki Committee for Human Rights, Amnesty International Moldova.

1411 persons received information and legal consultations through the telephonic service "Hot Line" on the infringement of constitutional rights and freedoms and eventual ways of reinstatement in rights.

Oral petitions and addresses to the Parliamentary Advocates have the objective to consider the infringements of some rights and freedoms, as well as public authorities' abuses.

For example, the breakdown of petitions by rights violation is as follows: the infringement of the right of free access to justice (about 27.7%), the right to social assistance and protection (about 16%), the right to private property and its protection (about 14.9%), personal security and dignity (about 10.6%) (Annex No.3).

Like in previous years, a large part of petitions are not directly related to authorities vested to Parliamentary Advocates. In these cases the petitioners receive information on the issues they invoke and the claims are delivered further on to the relevant entities, institutions and organizations.

At the same time, the number of addresses that expose the disagreement to the court decisions or sentences is growing.

Comparative analysis of statistic data from the past years shows that the situation on human rights observance in Moldova has not changed.

Some supposed infringements of rights and freedoms that were not previously invoked – equality, freedom of conscience, freedom of opinion and expression, freedom of meeting – were seized lately.

In 2005, the Parliament and the Government received 11 proposals on improving the existing legislation. As well, the Parliamentary Advocates informed the Constitutional Court about the control on constitutionality of some provisions of the Law No.289 of 22.07.2004 on the Indemnity for Temporary Work-Related Disability and Other Social Insurance, of some provisions of Annex No.1 of the Government Decision No. 956 of 28.12.1994 “On Compulsory Civil Insurance of Owners of Urban Electric Vehicles”.

The main objective of the Parliamentary Advocates is the assurance of their efficiency of their interventions in settling the petitions. The procedures and means of specific intervention of the Centre for Human Rights of Moldova are essential in this context. 2 conciliations, 27 notifications with recommendations on undertaken measures for immediate reinstatement in the infringed rights of the petitioner, 4 addresses on work-related negligence, tergiversation and bureaucracy were carried out in 2005.

According to the provisions of the Law No.1349, the Parliamentary Advocates have the rights to submit to courts notifications on the protection of petitioners’ rights, whose constitutional rights and freedoms were infringed. In the same period, at the request of Parliamentary Advocates, 2 legal proceedings were instituted in the administrative contentious court.

The Parliamentary Advocates instituted an administrative proceeding against the Chief of Locative Fund of Durlesti for committing the administrative contraventions stipulated in Article 174/19 of the Code on Administrative Contraventions “Interfering with the Activity of Parliamentary Advocates” (Annex No.5).

Promoting and protection of human rights and fundamental freedoms is the utmost duty of the State, civil society, especially of the institutions and organizations in the field. A good knowing of these rights and freedoms permits their proper exercise. From this point of view, it is important for citizens to be informed on human rights and to create necessary conditions to know and exercise them.

The education in the field of human rights is a complex process which covers many aspects among which the *basic information* on rights, freedoms, obligations and responsibilities of the

person in the community - transmitting the knowledge regarding national, regional and international standards, and the mechanisms of exercising the human rights and fundamental freedoms; *skills development* in this process – assuming the responsibility, seizing and tolerating the diversity (of opinions, beliefs) in inter human relations, accepting the compromise, use of existing mechanisms of achieving the observance and protection of constitutional rights; *attitudes establishment* regarding the self esteem, self-discipline and law observance, responsibility in social action (assuming the consequences of own actions), solidarity, etc.

Resuming the abovementioned, we would like to mention that the education on human rights constitutes the process of informing and training the community regarding the universal values: equality, liberty, human rights. These values and aptitudes can be transformed in real conducts of an active citizen only through this process. These also form the key component of the efforts of the institutions in the field of human rights which offer informational possibilities in forming the civic attitude.

Legal informing and training of the population on constitutional human rights and fundamental freedoms stipulated in the national legislation and legal international acts at which the Republic of Moldova is a party are one of the objectives of the Centre for Human Rights of Moldova. Its achievement would be possible only by understanding the human rights and fundamental freedoms in accordance with the constitutional provisions and offering the possibility to know them, as well as of the exercising means for their protection.

In 2005, the Centre for Human Rights of Moldova focused on the following actions: informing and training actions of the community in the field of human rights; elaboration and publishing activity; collaboration with different social local and foreign partners; contribution to the achievement of the provisions of the National Human Rights Action Plan for 2004-2008.

It has been worked on some informative materials on human rights; selection of information in the field requested more frequently by teaching staff, pupils, students, representatives of non-government organizations, etc., on the completion of database on the non-government organizations in the field of human rights in the Republic of Moldova, informational means on human rights; the monitoring of articles regarding the human rights and cases of their infringements, information used by institutions, organizations and persons involved in the field of human rights.

The constitutional rights and freedoms cannot be exercised if they are not known. In this context, as for *informing and training of the community in the field of human rights*, the CHRM organized Round tables “Observance and protection of the rights of disabled persons”, “Legal

Aspects on Preventing and Fight against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment”.

It has become a tradition to organize the Decade of Human Rights during 1-10 December and to celebrate the International Day of Human Rights. Some aspects of the observance and protection of human rights were reflected in the mass media. At the request of some educational institutions, the collaborators of the Center presented information on human rights.

The mass media, a result of modern era, is a source of freedom through which it is possible the supply of objective and diverse information to every citizen giving them the possibility to approve or criticize publicly; is a force that contributes to the formation of individual and group opinion by broadcasting the information, thus, modifying the believes, attitudes and behaviors.

Considered as mediator between the citizens and their representatives in government institutions, the Institution of Parliamentary Advocates collaborated with the mass-media in 2005 through press releases, participations in radio and TV shows, by presenting information on the problems of the human rights.

21 pres releases on the actions of the Parliamentary Advocates to guarantee the observance of human rights and fundamental freedoms in the Republic of Moldova were distributed through the press agencies Basa-Press, Infotag, Interlic, Info-Prim, Informational Agency Novosti Moldovy, and Moldova Press Review. It was analyzed the national legislation in the field of human rights, its improvement and harmonization with the requirements of international legal acts to which the Republic of Moldova is party.

Our collaboration with mass media has been developed. The Centre for Human Rights of Moldova published information materials reflecting certain activity domains of the Centre in *Moldova Suverana*, *Timpul*, *Modavskie Vedomosti*, *Economicheskoe Obozrenie* newspapers, local press of Balti, Cahul and Comrat.

In 2005 we continued the collaboration with *Radio Moldova*, *Antena C*, *Europa Libera*, *TV Nationala*, *Rif TV*, *Euro TV*, *TVC 21*. During the year the staff of the CHRM participated at broadcasting and TV.

In the same year, at the chapter *collaboration with social local and foreign partners*, the CHRM took part as a partner in the achievement of informational and educational actions on human rights organized by the *National Centre of Studies and Information for Women's Problems* in order to implement the project “School of Legal Liquidation of Illiteracy” for site visits – 16 localities of the Republic – for the purpose of carrying out meetings with different categories of population regarding the issues of human rights and audiences for citizens of respective localities; *Organization of War and Labor Veterans of Ialoveni* organized under the project of the USA Embassy

“Informational and Consultancy Service” the Round Table *Encouraging Communitarian Discussions with Vulnerable Category of Beneficiaries* during 2004-2005; the Alliance of Elder Persons NGOs in the field of Social Protection of Elder Persons celebrated on 7 October 2005 the International Day of Elders in the Asylum for Elder Persons of Chisinau; the Non-Government Organization “*Collegium of Democracy*” of Balti organized on 8 December 2005 the International Symposium “Democracy and Human Rights” under the International Day of Human Rights (celebration of the Universal Declaration of Human Rights, 57 years from the adoption).

The Parliamentary Advocates and the staff of the CHRM took part in informing and training activities on human rights organized by public institutions such as the Ministry of Justice, the Ministry of External Affairs and European Integration, the Ministry of Health and Social Protection, the Department of Penitentiary Institutions, National Bureau of Migration, the Standardization and Metrology Service, etc and in different activities held by non-government organizations such as International Society of Human rights – Republic of Moldova Division, CReDO, Centre for Promoting the Freedom of Expression and Access to Information (Acces-Info), Amnesty International Moldova, Helsinki Committee for Human Rights of Moldova, the Alliance of Active NGOs in the field of Social Protection of Child and Family, the Alliance of Active NGOs in the field of Social Protection of Elders, etc.

The Centre for Human Rights collaborated also with the Non-Government Organization “Centrul de resurse”, which supported financially the re-edition of the brochure “Your Rights” (the previous edition appeared with the financial support of the UNDP Moldova), which was very popular among the readers, a fact confirmed by their request to take part in different activities of informing and training in the field of the rights of the child.

It should be mentioned the financial support of the OSCE Mission to Moldova, the Centre succeeded to publish the Newsletter Parliamentary Advocate and the guide *Helping the Petitioner*.

The Newsletter Parliamentary Advocates was designed as a source of information of citizens regarding the main legal provisions on human rights, freedoms, obligations, on reflecting the current situation in this field and most relevant activities of the CHRM.

The newsletters designed and published in 2005 were distributed free of charge to the population, state institutions, non-governmental organizations in the field of human rights.

In the same year, as for the chapter “Contribution to the achievement of the objectives of National Human Rights Action Plan for 2004-2008”, the Centre for Human Rights supported the informational telephone line “Hot Line” launched in 2004 with the financial support of the Project Support to the Implementation of National Human Rights Action Plan in the Republic of Moldova”.

The meetings of Parliamentary Advocates with the representatives of international organizations which visited the Republic of Moldova were efficient in the context of international relationships and exchange of advanced practices with similar institutions from other states.

Especially, it is important the experience obtained from the meetings organized by the International Institute of Ombudsman, European Institute of Ombudsman, the Association of Ombudsmen and Francophone Mediators attended by the Parliamentary Advocates and some representatives of the Centre for Human Rights of Moldova.

The role and mandate of the ombudsman was reflected within the 9th Round Table of European Ombudsman organized during 31 March –1 April 2005 in Copenhagen. The right to property protection and the relations of the Institution of Ombudsman and the detainees were topics discussed during the International Round Tables of Ombudsmen from European and CIS countries held in the Czech Republic between 11-13 May and 28-30 November 2005. An exchange of experience on the relationships between the Institute of Ombudsman and judicial system was undertaken. The draft guidelines of examining the petitions of discriminatory aspect and planning the activities further to the regional project were discussed during this meeting.

The representative of the Information Service, Instructive Programmes and International Relations participated during 28-30 November in the 4th Statutory Congress of the Association of Ombudsmen and Francophone Mediators held in Paris.

In 2005, the Parliamentary Advocates took part in a series of meetings organized by the Centre for Human Rights with the representatives of some international organizations, among which the Council of Europe, European Union, International Francophone Organization, OSCE, as well as with the representatives of some international non-governmental organizations in the field of human rights.

The activity experience of the Parliamentary Advocate Institution shows its possible growing capacity in achieving the main objectives set by the law.

One of the priority directions of the activity of Parliamentary Advocates in reinstating the citizens in their rights is the application of preventive measures for creating the conditions when the human rights and freedoms would not be infringed or the probability of their infringement would be considerably limited.

Most cases of reinstatement in rights are examined on the basis of petitions mailed to the institution. As a rule, the petitioner is informed during 10 days about the acceptance or rejection of the petition. The citizens have the right to audience at the Centre for Human Rights of Moldova or at

its branches in Balti, Comrat and Cahul, to call the “Hot Line” to benefit from urgent consulting and information.

The experience shows that in some cases the public authorities have no reaction at the citizens’ addresses. This implies additional actions for mediation including through the mass-media of the severest cases of human rights and freedoms violation in Moldova.

An important working method that would permit the estimation of the degree of observing the human rights in country’s regions is the field audience. This practice should be developed further.

It is necessary to increase the population access to the Parliamentary Advocates, which suggests the extension of informational field, information of the population from all rayons of the republic on the working methods, goals and authorizations of the institution. Although, there have been registered some progresses regarding the monitoring of Parliamentary Advocates’ activity in the mass media, we cannot state that every citizen of the Republic of Moldova knows about the existence of the institution and knows how to defend his rights and freedoms with the help of the Parliamentary Advocates.

The process of shaping the juridical culture should be started. The citizens should know their rights and freedoms guaranteed by the law and how to defend them via state institutions and non-government organizations. The legal education should be appreciated as an integrated part of the training process of all groups of population, especially, of the youth. The young generation should understand that the human rights and freedoms are the key element of the civil society.

The State and the society should undertake some concrete measures directed to the growth of efficiency of Ombudsman Institution.

The consciousness aspect towards the state institution of human rights protection and towards the democratic values which it worships should be priority. In such conditions faced by Republic of Moldova, the Parliamentary Advocates should have a real and not declarative weigh. It is the only way of achieving the real role of the mediator between the state and civil society, as in many countries of the world. Therefore, the paternalism and nihilism attitude towards the authority and the statute of the Ombudsman Institution is inadmissible. It is necessary the complete uprooted of ignoring the interpellations of the Parliamentary Advocates or presenting formal answers, blamable practices in a democratic state.

Consequently, it should not be omitted the formal attitude or absolute lack of reaction of the Superior Council of Magistracy to many addressed of the Parliamentary Advocates, formal answers presented by the Ministry of Internal Affairs, National House of Social Insurance, National Bureau of Migration, Chisinau Municipal City Hall, municipal companies of managing the locative fund.

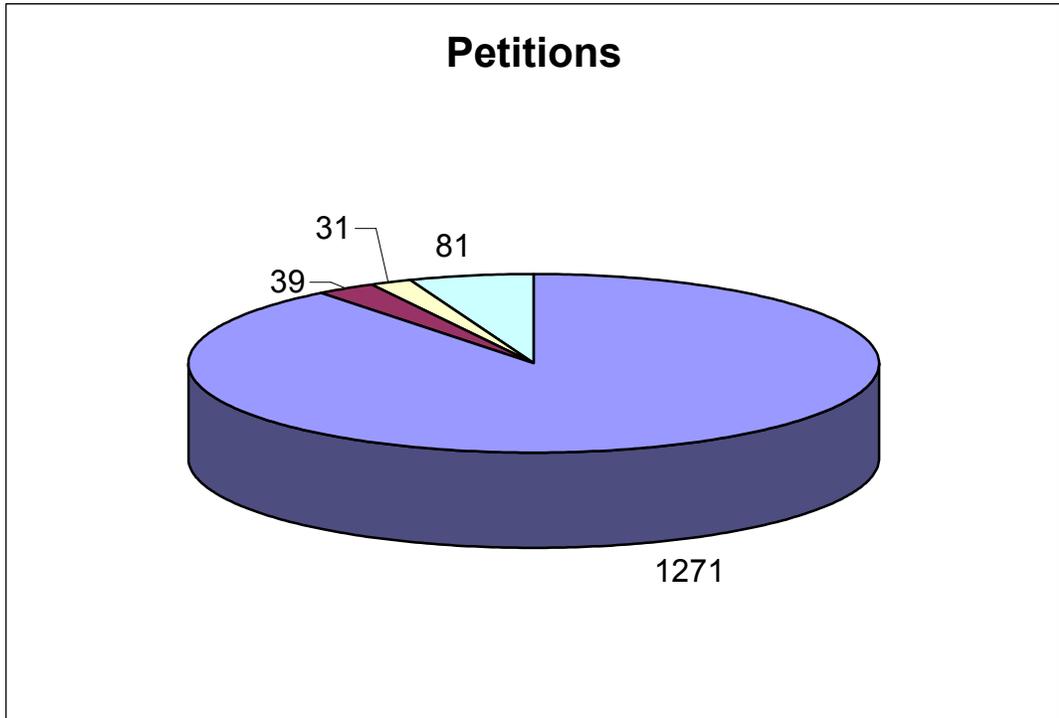
It is welcome that the mass-media reflects the activity of the Centre for Human Rights of Moldova. It is regretful the fact that many cases when the institution succeed to remove step by step the infringements and to reinstate the citizens in their rights are not related to the community because the press does not consider them interesting and worth to be published.

It is welcome the support from the non-government organizations in the field of the protection of human rights, other organizations and institutions, including the state ones, as well as common citizens.

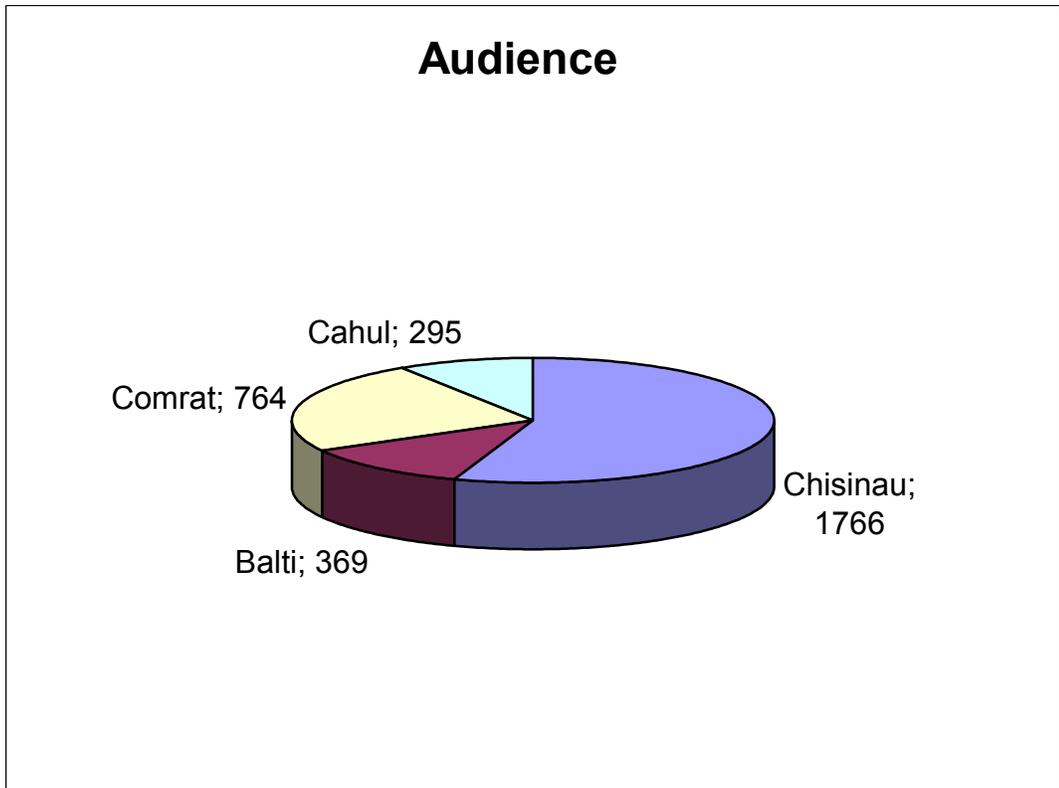
While exercising their functions, the Parliamentary Advocates discovered a series of issues related to the imperfection of existing legal frame that limits somehow the full achievement of the provisions of the Law No.1349 on the Parliamentary Advocates. An essential impediment is the fact that the Parliamentary Advocates have no right to legislative initiative. In these conditions, many proposals on improving the legislation addressed to the Parliament and the Government are not examined at all or the Parliamentary Advocates are not informed on the results. There were registered cases when the same submitted proposal, the Parliamentary Advocates received different answers from the Parliament, Government and line ministries, a fact that it is very strange. It should be mentioned that the proposals are also submitted by the citizens who ask the help of the Centre for Human Rights of Moldova for solving their problems faced in the exercise of their constitutional rights.

We are aware of the fact that the Centre for Human Rights of Moldova cannot be extended. However, the need to improve the activities of the institution has determined the Parliamentary Advocates to submit to the Parliament the proposals on modifying the structure and functions of the Centre for Human Rights of Moldova.

Annex No.1



Annex No.2



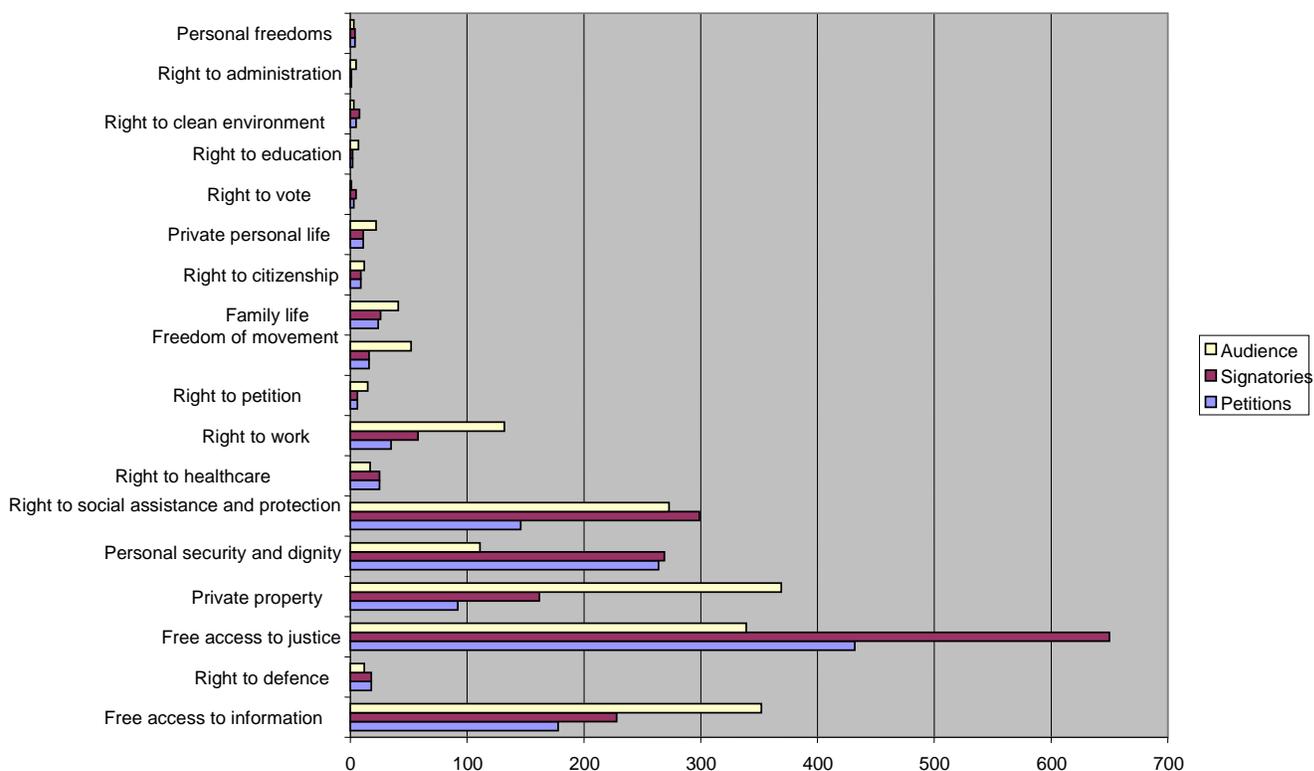
Annex No.3

Claims	Petitions	%	Signatories	%	Audience	%	Total	%
Free access to justice	178	14.00	228	12.69	352	19.88	580	16.28
Private property	18	1.42	18	1.00	12	0.68	30	0.84
Personal security and dignity	432	33.99	650	36.17	339	19.20	989	27.76
Free access to information	92	7.24	162	9.02	369	20.89	531	14.90
Right to work	264	20.77	269	14.97	111	6.29	380	10.67
Right to social assistance and protection	146	11.49	299	16.64	273	15.46	572	16.05
Private and intimate life	25	1.97	25	1.39	17	0.96	42	1.18
Right to healthy environment	35	2.75	58	3.23	132	7.47	190	5.33
Right of petition	6	0.47	6	0.33	15	0.85	21	0.59
Right to defense	16	1.26	16	0.89	52	2.94	68	1.91
Right of citizenship	24	1.89	26	1.45	41	2.32	67	1.88
Personal freedoms	9	0.71	9	0.50	12	0.68	21	0.59
Right to health care	11	0.87	11	0.61	22	1.25	33	0.93
Right to training	3	0.24	5	0.28	1	0.06	6	0.17
Family life	2	0.16	2	0.11	7	0.40	9	0.25
Freedom of movement	5	0.39	8	0.45	3	0.17	11	0.31
Right of elections	1	0.08	1	0.06	5	0.28	6	0.17
Right of administration	4	0.31	4	0.22	3	0.17	7	0.20
Total	1271	100.00	1797	100.00	1766	100.00	3563	100.00

Annex No. 4

Reactions	Number
Proposals to Parliament	8
Proposals to Government	3
Address to Constitutional Court	2
Notification (according to Article 27 of the Law No. 1349)	30
Address (according to Article 28 of the Law No. 1349)	4
Counseling (according to Article 23 of the Law No. 1349)	2
Instituting legal proceedings (according to Article 28 of the Law No. 1349)	2

Annex No. 5



Annex No. 6

Categories	Petitions	%	Signatories	%	Audience	%	Total	%
Pensioner	135	10.62	184	10.24	328	18.57	512	14.37
Detainee	658	51.77	658	36.62	48	2.72	706	19.81
Unemployed worker	87	6.85	131	7.29	268	15.18	399	11.20
Invalid	85	6.69	89	4.95	167	9.46	256	7.18
Employed	293	23.05	722	40.18	815	46.15	1537	43.14
Pupil	5	0.39	5	0.28	5	0.28	10	0.28
Rehabilitated	6	0.47	6	0.33	1	0.06	7	0.20
Student	2	0.16	2	0.11	17	0.96	19	0.53
Unemployed	0	0.00	0	0.00	93	5.27	93	2.61
Owner	0	0.00	0	0.00	17	0.96	17	0.48
Civil servant	0	0.00	0	0.00	2	0.11	2	0.06
Farmer	0	0.00	0	0.00	5	0.28	5	0.14
Total	1271	100.00	1797	100.00	1766	100.00	3563	100.00

Annex No. 7

