

Center for Human Rights of Moldova

Observance of Human Rights in the Republic of Moldova in 2014

Chisinau 2015

CONTENTS

PREAMBULE	3
------------------------	----------

CHAPTER I

The Rights of Future Generations

Responsibility towards Future Generations.....	4
---	----------

CHAPTER II

Observance of Human Rights in the Republic of Moldova	16
--	-----------

1. Free access to justice.....	16
2. The right to health care.....	18
3. The right to social assistance and protection.....	22
4. Protection of persons with disabilities.....	29
5. The right to work and labour protection.....	35
6. Non-discrimination and the principle of equality.....	40
7. Freedom of expression and the right to information.....	45
8. The right to vote and to be elected.....	48
9. The right to property and its protection.....	52
10. Observance of human rights in the Transnistrian region and bordering localities	55

CHAPTER III

Powers of the National Ombudsman Institution through the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment.....	62
--	-----------

CHAPTER IV

Observance of Child's Rights in the Republic of Moldova.....	108
---	------------

CHAPTER V

Activity for the Promotion of Human Rights in the Community.....	127
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CAPITOLUL VI

Other Aspects of the Activity of the Center for Human Rights in 2014.....	137
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PREAMBULE

In 2000, along with other 189 countries, the Republic of Moldova joined the „*United Nations Millennium Declaration: human development – paramount objective*” pledging thereby to contribute to the achievement of the eight Millennium Development Goals (MDGs). The document affirms the commitment of the international community to the fundamental values of humanity – freedom, equality, solidarity, tolerance, respect for nature and shared responsibility – and emphasizes the importance of solving major issues related to peace consolidation, observance of human rights, ensuring sustainable development and protection of environment.

The Millennium Development Goals have the year 2015 as deadline. However, 2015 is not the terminus for international development – currently an intensive dialogue on the post-2015 development framework is taking place globally.

Thus, the year 2015 is becoming a symbolic and essential one, as it is the year when major international decisions are to be taken on the development framework to replace the MDGs over the coming decades. For this reason, by the decision of the European Parliament and the Council of Europe of April 16, 2014¹, the year 2015 was designated as „*European Year for Development*”, the motto being „*Our world, our dignity, our future*”. One of the objectives of the European Year for Development is to reach a broader understanding of policy coherence for development, as well as to foster among citizens in Europe and developing countries a sense of joint responsibility, solidarity and opportunity in a changing and increasingly interdependent world.

As it is a first approach to the rights of the future generations, in terms of the powers of the Ombudsman in the Republic of Moldova, I prefer not to come with recommendations for remediation, as they are easy to deduce, but to ask a few questions to which to look for and, most importantly, find answers together:

Does the Republic of Moldova wish to be more respectful and generous towards its future generations?

Is the protection of generally human values of the future generations a fully aware priority in the Republic of Moldova?

Where is the concern for the rights of future generations placed on the list of priorities of each of us?

**Director of CHRM,
Anatolie MUNTEANU**

¹<http://eur-lex.europa.eu/legal-content/RO/TXT/PDF/?uri=OJ:L:2014:136:FULL&from=EN>

CHAPTER I

THE RIGHTS OF FUTURE GENERATIONS

RESPONSIBILITY TOWARDS FUTURE GENERATIONS

*"We act so that nobody will hold us accountable:
future generations do not vote, they have no political or financial power;
they may not oppose our decisions"*
(from the Report of the World Commission on Environment and Development
„Our Common Future“)

Nobody doubts that humanity has responsibilities to children and grandchildren at least morally if not legally. Caring for the future generations is a characteristic of humankind, this care is an aspect of cultural diversity, a universal value and a basic principle of international treaties and of the Constitutions of many states.

However, the concept of responsibility for the future generations is relatively new to the fields of law and politics from the theoretical, but more importantly from the practical point of view. It is believed that scientific and technical progress has led to the understanding of the fact that future generations are the tributaries of current actions and policies. Due to scientific research, the society is able, if it wants, to understand the long-term consequences of its actions, while the technical advances offer opportunities to reduce the destructive effects of such actions.

The responsibility and obligations towards previous generations, present and future are among the constitutional values listed in the Preamble of the Constitution of the Republic of Moldova. State public policies must be developed based on these principles, to seek the restoration and maintenance of a rational balance, in the long term, between the economic and social development and the integrity of the natural environment, as understood and accepted by society.

The moral aspects of this principle are formulated in the Declaration on the Responsibilities of the Present Generations Towards Future Generations adopted by the United Nations Educational, Scientific and Cultural Organization (UNESCO) in 1997: the needs and interests of future generations, freedom of choice, maintenance and perpetuation of humankind, preservation of life on Earth, protection of environment, human genome and biological diversity, cultural diversity and

cultural heritage, common heritage of humankind, peace, development and education, non-discrimination.

Every generation must seek the satisfaction of its own needs without leaving the future generations in financial liabilities – long-lasting large loans, foreign and domestic; social liabilities – neglecting investment in the human factor; demographic debts by unchecked population growth and environmental liabilities – natural resources depletion or pollution of soil, water and air.

Population aging, being an unprecedented process in human history, which is slow but persistent, and according to experts irreversible for at least the next hundred years, indicates serious warning signals for future generations.

In the national context, demographic aging is specific. It is caused by low fertility and high rates of mortality and exacerbated by the effects of large-scale emigration, the continuing impact of economic transitions, and more recently by the global economic crisis.

The phenomenon of aging has a profound impact on all generations and over most areas of economic and social activity: the labour market, social protection, education, culture, politics. The decline of the working population and the aging of the labour force raise issues of particular economic and social development: the cost of pensions, strategies in education and training, health care and social assistance, adapted housing.

Only in the last 20 years, the average age of the population increased by almost 5 years, life expectancy by about 3 years, the increase of the proportion of adult population of over 60 years related to the decrease of people under the age of 15, denotes a **noticeable demographic crisis**. The critical threshold of aging by 12 %² (the percentage of people of 60 and older in the total population) was exceeded back in 1988 and reached the amount of 15.7 % in 2013.

The index of demographic charge, i.e. the number of old people unable to work related to 100 people of working age is constantly increasing, reaching 51.5 people in 2014, from 49.9 people in 2011.

The age structure of the population reveals an intense demographic aging phenomenon mainly due to declining birth rates in recent years, which resulted in absolute and relative reduction of the young population. Compared to January 1, 2000 on January 1, 2013, the drop in the share of children (0-14) from 23.8 % to 16.1 % is remarked and the increase of elderly population (60 and over) from 13.6 to 15.3 %.

²According to G. Bojio-Garnier scale, the indicator 12 and over qualify as “demographic aging”.

On January 1, 2014, 559, 5 thousand people of the age of 60 and over lived in the Republic of Moldova (in 2013 – 527, 6 thousand; 2012 – 527, 6 thousand; 2010 – 512, 3 thousand; 2009 – 500, 4 thousand).

Thus, the youth of tomorrow, fewer in number, will have to support not only the evolution of the human society, but also to maintain many more elderly.

According to demographic forecasts, considerable aging wave will occur since 2014, when the percentage of children aged 0 -14 will be equal to the percentage of people aged 60 and over, after which, as forecast, the first variable will decrease, and the second, on the contrary, will steadily increase till 2050. Thus, the population aging coefficient would reach 16 % in 2015, 18.5 % in 2020 and 30.3 % by 2050. The number of people in retirement age will annually increase by 2 – 2.6 %, in 2020 by about 25 %, compared to 2010. In the decades immediately following, the intensity of population aging will increase by the expansion of the elderly, who come from the numerous generations born in the 70s – 90s of the previous century, and the parallel decrease of working population that comes from the less numerous generations born in the 90s of the previous century³.

Birth rate occupies a decisive place in the evolution of the number and age structure of the population. According to official statistical data, on January 1, 2004, the number of resident population was of 3,607.4 thousand inhabitants and on January 1, 2013 – 3,557.6 thousand inhabitants, the difference being of 49, 8 thousand. In the same period, the urban population increased by 25,1 thousand, and the rural population decreased by 74,9 thousand.

The total number of children born in 2004 was of 38,2 thousand decreasing by 2013 up to 37,8 thousand, though there has been a slow growth in 2008-2012.

The decline of the birth rate was triggered and amplified on the background of political, economic and social changes, which have occurred since 1990. the socio-economic crisis in the period 1990-1999 generated lower living standards, rising unemployment, increased migration process, uncertainty and social instability, which contributed significantly to the decline of birth rates. At the same time, the impact of non-economic factors cannot be overlooked. The right to freedom of movement and information, access to contraception means, contemporary models of marriage, the child's place in the hierarchy of values and preferences of the young people, the rules of market economy are also factors that have significantly contributed to low birth rates. The role of these factors is increasing.

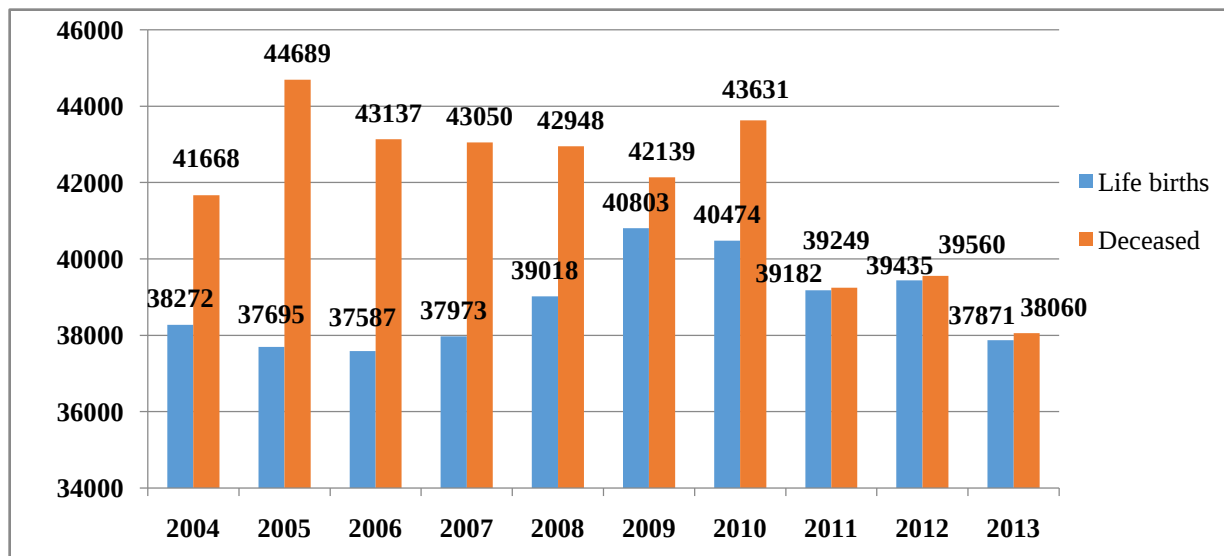
³ Government Decision No. 406 of 02.06.2014 on approval of the Program on the integration of aging issues into policies.

Population **mortality** has a direct or indirect impact on the demographic process. Changes in mortality rates largely determine the birth rate, the natural increase, life expectancy, births, marriages. In turn, mortality is influenced by socioeconomic and biological factors (the environment, the lifestyle), the level of health services.

In the Republic of Moldova, there are major differences in mortality rates in urban and rural areas. The tendency of increasing the gender gap in mortality is maintained. Male mortality rate is by 1-2 % higher than female. In youth and adults, male mortality rate is increasing compared with female mortality. This indicator in the age group of 25-39 in men is 3 times higher than in women and in the age group between 40-69 years is 2 times higher.

Mortality by cause of death indicates a rising trend in the number of deaths caused by acute myocardial infarction and malignant tumors, homicides and suicides.

Vital statistics



The marriage indicators decrease and first marriage age increases. The patriarchal family model, characteristic of Moldova, undergoes essential changes. Alternative models such as co-living and the number of children born out of wedlock or in incomplete families are growing. The rate of extramarital birth rate is high, the share of children born outside marriage being of 22 %.

The family, as the fundamental social institution, has been deeply shaken by the migration process that led to increased divorce, which grew in recent years by 1.5 times in urban areas and by about 2 times in rural areas. The children are increasingly being raised and educated in incomplete families, but with living parents.

Both emigration and immigration have profoundly amended the demographic situation: emigration reduces the long-term economic, demographic and social potential of the society. A painful consequence of emigration is the demographic loss of economically active population, the

diminishing gene pool, disintegration of families through formal or informal divorce when one of the spouses has emigrated for a long period.

Moldovan youth (15-29) formed 25 % of the stable population on January 1, 2014. During the last years, the young generation is falling steadily, especially the 15-19 age category whose share decreased from 31.8 % on January 1, 2009 to 26 % on January 1, 2014. The number of persons aged 20-24 also decreased by 48,5 thousand people or by 2.3 %. Only in the case of young people aged 25-29 an increase of 8.2. % is observed.

The health of young people is affected by several factors, the most important being the lifestyle, the conditions in which young people live, study and work. Nutrition, tobacco, drugs and alcohol consumption cause health problems, which occur at an early age. The adoption of a healthy lifestyle could prevent chronic diseases.

According to the survey results of 2012 on „Public access to health services”, the share of smokers among youth was of 14.3 %.

Young people are one of the target group subjected to risks associated with HIV/AIDS. The incidence of infection with human immunodeficiency virus (HIV) decreased in young people in recent years by 9 % compared to 2008. The structure of HIV incidence among young people in the age group 15 -29, each second youth in between 25-29 years old, followed by the age group 20-24 (36.8 %). Thus, the incidence rate increases with age from 7 cases per 100,000 young people aged 15-19 to 28 cases per 100,000 people aged 25-29.

The education level of young people is one of the factors determining the employment and respectively social security of this category of population. In the context of reducing the population of school age (3-23 years) in the period 2008-2013 by 15.2%, a decrease in the number of children / young people included in the national education system is observed. Thus, school enrollment rate for persons in the age group 3-23 years was a continuous upward trend and reached 64.4% in the 2013-14 school year. However, the rate of enrollment in education of people in the 16 - 23 age group had a fluctuating dynamic, registering a more pronounced decrease in the 2013-14 academic year - 1.6 percentage points. The reduction of enrollment rate in most countries takes place after completion of the compulsory education, in the Republic of Moldova this being the gymnasium.

Education is a complex sector that records an ambiguous development as well. PISA+⁴ test, conducted in 2012, revealed a low level of skills in education obtained by pupils from Moldova compared with pupils in other countries. The test was conducted on a sample of 74 states, and

⁴ By administering the PISA tests, the preparedness of students for integration into active life is identified.

Moldova was among the "laggards" and obtained poor results: position 65 in reading, 59 in math and 57 in science. Poor training of young people in schools is a factor that increases over time, negatively affects the educational process in universities or vocational educational institutions and determines the final low level of skills and knowledge of graduates. In the Republic of Moldova, low education levels and insufficient qualification are considered by economic agents important constraints for business. Thus, 69.2% of businesspersons believe that education vocational / technical does not meet the needs of companies and 67.8% of business agents qualify higher education as less compatible with business needs. On the other hand, the public is not aware of these problems, and 80% of the population are satisfied with the quality of education in Moldova⁵.

Unemployment among youth registers higher values compared with other age groups or the country average. Four out of ten unemployed are young people. Thus, in 2013 the unemployment rate was of 8.7 % in youth aged 15-29, and of 12.2 % in youth aged 15-24, while the national average was 5.1 %. 13 % of the total unemployed aged 15-29 were in a long period of unemployment (12 months and longer), the value of this indicator is decreasing in recent years.

The youth are involved both in internal migration (rural-urban, big towns-small towns), and emigration. There are no clear mechanisms in the Republic of Moldova regarding the registration of internal mobility of the population. The majority of the young people live in urban areas with permanent residence in the countryside.

As regards the external migration of the young people, several categories are identified:

a) Youth gone to study abroad: their share is difficult to estimate, but it is about several tens of thousand (30-40 thousand young people, according to the unofficial estimates, based on the scholarships offered by host countries and the young people enrolled at universities abroad);

b) Young people gone for work abroad: about 15 % of the young people aged 15-29 are abroad for work or looking for work. The estimated number of the young people who emigrated in search of a job is about 135,500. Of this total, 78.2 % are young people from villages and 73.8 % are men. If urban youth represent 31.3 % of the total number of emigrants, in the rural areas this share is significantly higher (44.5%).

c) Young people who have emigrated for permanent residence in the host country: a number of countries such as Canada, the USA, and Russia have immigration governmental programs attractive to young people from the Republic of Moldova. Their share is also difficult to estimate, as

⁵ Republic of Moldova: National Human Development Report 2014 – Corporate genuine citizens. Public and private objectives in the service of human development, www.md.undp.org

there is no mechanism for quantification. For example, only in 2010, about 2,000 people settled in Quebec (Canada), the majority being young people⁶.

Reproductive health is recognized as one of the fundamental components necessary for human development, being the promoter of the general health of the population, but also of prosperity and development. Healthy reproductive behavior ensures a positive impact on future generations.

Despite the efforts made in recent years the reproductive health indicators in Moldova have improved very little. Improving the situation in this area is a difficult process, which exacerbates the problems of society having negative consequences on the demographic behavior of the whole population.

The access of the population to family planning services is limited, the right to education and adolescent reproductive health services are not provided everywhere. Abortion continues to be a fairly common method of family planning, causing serious risks for women's health. The consequences of domestic violence, sexual abuse and human trafficking, which also impact the reproductive health, are not yet fully estimated. Male sexual problems are ignored; they need proper attention and specialized assistance. Models of youth-friendly health services follow to be strengthened in order to maintain the health and development potential of adolescents and youth.

The **quality of drinking water** and access to it continues to be one of the most important problems facing The Republic of Moldova.

Economic development increases the degree of negative influence on the environment, which in turn has an impact on the quality of human life. Given the conditions of our country, water influences most on people's health. Both surface and ground water is heavily polluted by the communal households, agriculture and energy sectors. Most groundwater sources do not meet the standards and quality requirements of drinking water, maximum allowable concentrations to nitrites, ammonium ions, etc. being exceeded. Underground water sources are affected most by livestock farms, landfills, manure and waste deposits, and the lack of sewage and treatment systems.

National Center for Public Health (NCPH) specialists describe the water quality in Moldova as „consistently low”. The worst situation is observed in rural areas where wells are the main source of water. According to NCPH, about 61% of aqueducts related to underground water sources and about 84% water wells do not meet the sanitary standards by chemical composition. Thus, the water contains an increased amount of fluoride, sulphates, hydrogen sulphide and other chemicals. The

⁶ National Development Strategy of youth sector 2020, approved by Government Decision No. 1006 of 10.12.2014.

quality of drinking water from underground sources does not correspond to bacteriological indexes either.

The water currently **available** in Moldova is approximately 500 m³ per capita per year or less, which places Moldova in the category of countries where „water is insufficient”, which can create a resource stress, which in turn will be affected by future climate changes.

The recommended thresholds of safe level availability of renewable fresh water. If the volume of water available is less than 1.000 m³ per capita per year, water scarcity can impede the economic development and can harm the health and the living standards of the population. Currently, in Moldova, available water resources are at a critical level, which affects the country's development capacity.

Water resources in the Republic of Moldova are sensitive to climate changes, both in terms of quantity as well as quality. According to the estimation, available surface water resources will decrease by 16-20% until 2020. This means that security of supplying all users with water will be endangered in 2020, when the intensity of water use will reach 100%⁷.

Because of poor air quality, limited access to drinking water and improved sanitation, poor quality infrastructure and high exposure to the agricultural sector of the economy, the Republic of Moldova records a high degree of sensitivity to climate changes.

Air pollution is another current environmental problem. One of the main factors contributing to the intensification of air pollution are gas emissions from different sectors of the economy, including those of greenhouse effect. Auto transport is the main source of pollution in the air.

The atmospheric emissions of harmful substances are detrimental not only because they destroy nature and affect human health; they can also change the properties of the atmosphere, leading to adverse climatic and ecological consequences. Medical and ecology specialists have established a direct link between environmental degradation and the increasing number of people suffering from allergies, asthma, cancer and other diseases. Nitrogen oxides, sulfur dioxide, ground-level ozone, carbon monoxide, formaldehyde, phenols, particulate matter⁸ are the main pollutants that negatively act on the human body.

Waste management in the Republic of Moldova is a difficult issue and remains unresolved. Improper waste management affects local communities, threatens the environment and contributes

⁷National Report on Human Development in Moldova – Climate changes in the Republic of Moldova. Socio-economic impact and policy options for adaptation, <http://www.undp.md>

⁸<http://www.meteo.md/mold/influenta.htm>

to global emissions of greenhouse effect gases. Currently, the most widely used method of treating waste is landfill, which is often a major source of soil and groundwater pollution.

The current statistical system with respect to waste management reflects only part of the picture on household waste management. The information about specific hazardous waste streams such as waste oils, old vehicles, worn tires, electrical and electronic equipment waste generated by consumers, waste resulting from construction and demolition activities, is uncertain. Over the years, little attention has been paid to this issue in the absence of systems for collecting and treating these waste streams.

The problem of persistent organic pollutants is considered one of the most pressing environmental problems. A representative analysis indicates that POPs pesticides category constitutes 20-30% of the total stock of obsolete and forbidden pesticides in Moldova. In 2013, this amount was estimated at 3000 tons. Studies conducted in the vicinity of the deposits indicate that ground and surface waters are contaminated by such substances⁹.

Medical waste produced by medical institutions are made up of food debris, waste medicines (pills, powders, reagents), antigen-laboratory tests, disinfectants, detergents, organic waste (culture media, biochemical and immunological materials, biological substrates, blood, serums, organic tissue), medical devices and radioactive materials, household waste. All these waste streams are defined as medical waste originating from healthcare centers. Approximately 10-25% of medical waste are hazardous wastes requiring special treatment. They pose a higher risk for both human health and the environment being divided into 5 categories: infectious waste, cutting and pungent waste, chemical and pharmaceutical waste, pathological waste and body parts, radioactive waste. For lack of special ovens, these wastes are accumulated together with household waste or are stored in medical institutions. According to the study „*Health without any damage*”¹⁰, the annual generation of medical waste is of 15.7 thousand tons, of which 2.750 tons is considered infectious waste and 314 tons hazardous waste. These calculations do not include medical waste from other hospitals, such as pharmacies and medical offices. Another problem is the lack of centralized network to collect used syringes.

The UN Special Rapporteur on the adverse effects of the movement and dumping of toxic and dangerous products and wastes on the enjoyment of human rights noted in his Report¹¹ that for the

⁹Waste Management Strategy in the Republic of Moldova for the period 2013-2017, approved by Government Decision No. 248 of 04.10.2013.

¹⁰Ibidem

¹¹ UN Report of the Special Rapporteur on the adverse effects of the movement and dumping of toxic and dangerous products and wastes on the enjoyment of human rights, <http://www.un.org/Docs/journal/asp/ws.asp?m=A/HRC/18/31>

management of medical waste there is much to be done to ensure effective realization of the right to life, enshrined in Article 6 of the International Covenant on Civil and Political Rights and the right of everyone to enjoy the best physical and mental health attainable enshrined in Article 12 of the International Covenant on Social, Economic and Cultural Rights. All persons exposed to hazardous medical waste influence are at risk of injury and / or risk of infection. These include medical staff, patients, people involved in the management and processing of waste and people living near places where such wastes are incinerated, stored or buried illegally.

We are witnessing **a climate change**, whose consequences for future generations are already manifested, and humanity is responsible for the process. It is recognized that climate change is a priority challenge facing humanity in the XXI century and which is no longer a distant prospect. Some consequences of climate change are already being felt - increased frequency and greater intensity of natural disasters. For the Republic of Moldova, this meant the latest catastrophic drought in 2007 and the devastating floods in 2008.

By their nature, climate change is global, but the poorest countries are most vulnerable, because many of them will be disproportionately affected and their adaptive capacity is very limited. Therefore, immediate and coordinated actions are needed not only internationally but also nationally to mitigate the consequences of climate change by reducing emissions of greenhouse gases and to help both developed countries, as well as developing ones, to adapt to these effects, which have already become inevitable. Unfortunately, in the Republic of Moldova, climate changes are sometimes perceived as a distant and irrelevant concept¹².

Currently the Republic of Moldova does not contribute significantly to accelerating climate change through emissions of greenhouse gases. However, climate change will affect Moldova's prospects of achieving its development goals. It needs to be aware of the risks posed by climate change on the objectives, to readjust them or capitalize on adaptation policies that will allow continued pursuit of the development agenda of Moldova. The issue of climate change should be included on the agenda of national policy measures that provide solutions to climate change and ensure a secure future for future generations.

Moldova's biodiversity loss will continue and will even escalate, unless effective adaptation measures are taken, integrated into environmental policy areas and in other areas. Although climate change is happening on a global scale, national and local actions aimed at biodiversity conservation

¹²National Report on Human Development in Moldova – Climate Change in the Republic of Moldova. Socio-economic impact and policy options for adaptation, <http://www.undp.md>

and rational use of natural resources, water, forest and soil are essential to prevent the degradation of the ecosystem in Moldova.

In 2000, along with other 189 countries, the Republic of Moldova joined the „*United Nations Millennium Declaration: human development – paramount objective*” pledging thereby to contribute to the achievement of the eight Millennium Development Goals (MDGs). The document affirms the commitment of the international community to the fundamental values of humanity – freedom, equality, solidarity, tolerance, respect for nature and shared responsibility – and emphasizes the importance of solving major issues related to peace consolidation, observance of human rights, ensuring sustainable development and protection of environment.

The eight goals reviewed and adapted to national development priorities which concisely define the eight goals to be achieved by 2015 are: eradicate extreme poverty and hunger; achieve universal primary education; promote gender equality and empower women; reduce child mortality; improve maternal health; combat HIV/AIDS, TB, malaria and other diseases; ensure environment sustainability; develop a global partnership for development.

The Millennium Development Goals have the year 2015 as deadline for achievement. But 2015 is not the terminus for international development – currently an intensive dialog on the post-2015 development framework is taking place globally.

In the Synthesis Report of UN Secretary-General on the post-2015 sustainable development framework „The road to dignity by 2030: ending poverty, transforming all lives and protecting the planet”, disseminated on 4 December, 2014, a new universal and revolutionary agenda in the field of sustainable development, based on human rights, centered on people and our planet is proposed. An integrated set of six essential elements is proposed called to help identify and strengthen sustainable development and ensure the implementation at national level of ideals and perspectives concerning: a) dignity: to end poverty and fight inequality; b) people: to ensure healthy lives, knowledge and the inclusion of women and children; c) prosperity: to grow a strong, inclusive and transformative economy; d) planet: to protect our ecosystems for all societies and our children; e) justice: to promote safe and peaceful societies and strong institutions; f) partnership: to catalyze global solidarity for sustainable development.

In the coming months, Member States of the United Nations will negotiate definitive parameters of sustainable development framework post - 2015, which will contain 17 goals in eradicating poverty, fighting hunger, healthcare, ensuring gender equality, climate change, access to quality education at all levels, economic growth, access to renewable energy services, reliable and

affordable, conservation of biodiversity and forests, oceans and seas, access to water, sanitation and hygiene, etc.

These new priorities have been globally established and completed following the obtained conclusions and recommendations at the national level of each UN member state.

Thus, the year 2015 is becoming a symbolic and essential one, as it is the year when major international decisions are to be taken on the development framework to replace the MDGs over the coming decades. For this reason, by the decision of the European Parliament and the Council of Europe of April 16, 2014¹³, the year 2015 was designated as „**European Year for Development**”, the motto being „**Our world, our dignity, our future**”. One of the objectives of the European Year for Development is to reach a broader understanding of policy coherence for development, as well as to foster among citizens in Europe and developing countries a sense of joint responsibility, solidarity and opportunity in a changing and increasingly interdependent world.

Meanwhile, the concerns and aspirations of today and tomorrow of the Moldovan citizens, their views on the risks of long-term development for our country and the future that they want after 2015 contained in the „Post-2015 Development Agenda”¹⁴ serve as a platform for the dialogue between the UN and Moldova regarding the Post-2015 Development Agenda (*see Annex*).

The topic of responsibility to future generations is for the first time tackled by the National Institution for the Protection and Promotion of Human Rights from the perspective of Ombudsman’s powers in the Republic of Moldova. We will not make recommendations, because they can be easily deduced from the suggestive data specified in this chapter. We address only a few questions for which we need to seek answers together:

- ***Does the Republic of Moldova wish to be more respectful and generous towards its future generations?***
- ***Is the protection of generally human values of the future generations a fully aware priority in the Republic of Moldova?***
- ***Where is the concern for the rights of future generations placed on the list of priorities of each of us?***

¹³<http://eur-lex.europa.eu/legal-content/RO/TXT/PDF/?uri=OJ:L:2014:136:FULL&from=EN>

¹⁴Post-2015 Development Agenda: Final Report on the Consultations in the Republic of Moldova, <http://www.md.undp.org/content/moldova/ro/home/library/mdg/post2015/>

CHAPTER II

OBSERVANCE OF HUMAN RIGHTS IN THE REPUBLIC OF MOLDOVA

1. FREE ACCESS TO JUSTICE

In 2014, the issue of respect for the right of access to justice was in the attention of the National Ombudsman Institution. That is because the alleged violation of this right remains the most current issue addressed by the petitioners. In particular, delays in the examination of cases, infringement of the process, disagreement with the pronounced sentence/judgment, non-enforcement of court decisions are among the complaints¹⁵.

The Justice Sector Reform Strategy for the years 2011-2016¹⁶ continues to be the main policy document that focuses on the major issues of the justice sector in the Republic of Moldova. It created a common framework that includes all reform efforts to ensure sustainable development of the sector through realistic and concrete actions. By implementing the Strategy, the authorities aim to strengthen the independence, accountability, impartiality, efficiency and transparency of the judiciary system; to streamline the pre-trial investigation in order to guarantee respect for human rights, to ensure the safety of every person and to diminish the level of criminality; to improve the institutional framework and processes that ensure effective access to justice (effective legal assistance, examination of cases and enforcement of judgments in reasonable time, to modernize the status of some legal professions related to the justice system); to promote and implement the zero tolerance principle for manifestations of corruption in the justice sector; to implement measures through which the justice sector would help create a favorable climate for sustainable economic development; to ensure effective respect for human rights in legal practices and policies.

Thus, building an accessible, efficient, independent, transparent, professional and accountable to society justice sector that meets European standards, and which is to ensure the rule of law and respect for human rights and to help ensure society's trust in the judiciary is, at least at the policy level, one of the top priorities of the government.

The term „justice sector” used in the Strategy includes, first of all, the judiciary, as well as all the authorities and the relations between them, that contribute to the execution of justice, and namely: the prosecution, legal professions (lawyers, notaries, mediators, bailiffs, legal experts, administrators of insolvency proceedings, translators / interpreters) related to the justice sector, the

¹⁵See Chapter VI

¹⁶Law No. 231 of 25.11.2011 on approval of the Justice Sector Reform Strategy for the period 2011-2016.

probation system, the system of enforcement of court decisions, the penitentiary system, the Ministry of Justice, the Ombudsman Institution, the Constitutional Court. Other authorities, such as the Parliament, the Government, the Superior Council of Magistracy, to the extent to which their activity is linked to the adoption and implementation of relevant normative acts for the justice sector are also referred to in the Strategy.

Thus, over 32 institutions and structures have main or auxiliary input in the implementation of about 475 actions of the Strategy.

Besides the monitoring mechanism for Strategy implementation provided for by Law No.231, the associative sector monitors the development of reforms from the outside¹⁷.

The fact that the confidence index of the public in the justice slightly increased compared with previous years gives hope¹⁸. For example, bi-annual surveys conducted by the Public Policy Institute contain a constant question regarding the degree of public trust in state institutions, including justice. The answers to the question „How much trust do you have in justice?” from November 2014, show a slight increase in the level of public trust in justice. The analysis of the answers like „much trust” and „some trust” attest that this indicator constituted 23% in November and 22% in April, compared to 16% in November 2013 and 13% in April 2013. The fact that 11 % of respondents consider an independent judiciary as one of the three most important problems to be solved in Moldova, compared to 6% - in April 2014 and 6.3% - in November 2013, is encouraging.

We consider that it is for the benefit of the country and of every citizen that, the authorities have registered tangible results in some areas in a short term: several laws in the context of ensuring the integrity of the judicial actors were adopted and amended; the judges’ salaries were increased; the random distribution of cases and digital audio recording of court hearings is being implemented; new criteria for the selection, promotion and transfer of judges have been developed.

Despite the measures taken to restructure the system, there is a disproportion between the made efforts in some certain segments and the overall immediate results. The deficiencies in reforming the Ministry of Internal Affairs, the lack of progress in reforming the prosecution condition the overall view on the dynamics of the change for the better in the justice sector.

Besides the fact that the transformations are met with reluctance by professionals within the system, differentiated treatment of key justice sector institutions has a deterrent character: for

¹⁷The Study “Success and failures in the justice reform in the Republic of Moldova 2012- July 2014”, prepared by the Center of Legal Resources from Moldova, <http://crjm.org/wp-content/uploads/2014/09/Studiu-reforma-justitiei-web.pdf>; Quarterly reports of monitoring the implementation of Justice Sector Reform Strategy, developed by Promo-LEX Association, <http://www.promolex.md/index.php?module=publications>

¹⁸ http://www.ipp.md/public/files/Barometru/Brosura_BOP_11.2014_prima_parte-r.pdf

example, the gradual increase of the judges' salaries opposed to the constant vulnerability of other, no less important, actors in this area.

We are convinced that the indicator of convictions with real execution for corruption acts is really important in order to set new standards of the system. However, it is certain that this indicator is not decisive. The key to success in reforming the justice sector lies in removing the causes and not in a perpetual struggle with the consequences of corruption.

We encourage the whole society to engage in the processes of preventing and combating corruption in the judiciary not for indicators, but for the country's future.

2.THE RIGHT TO HEALTHCARE

The World Health Organization defines health as „a state of complete physical, mental and social well-being, and not simply the absence of disease or infirmity”. This formula shows a range of factors determines population's health: economic, social, environmental, hereditary, individual characteristics, including the lifestyle of each individual. Health requires, economic and social security, harmonious interpersonal and social relations, safe and healthy working and living conditions, adequate quality of water, air and soil, sufficient and rational nutrition, supplemented by a healthy lifestyle and access to quality health services as indispensable prerequisites.

The European Convention for the Protection of Human Rights and Dignity of the Human Being with regard to the Application of Biology and Medicine (Convention on Human Rights and Biomedicine) - the first international legal instrument capable of generating an obligation to protect the dignity, human rights and freedoms against any improper application of developments in biology and medicine - sets out a series of principles and prohibitions concerning genetics, medical research, the consent of the person to interventions in health, the right to privacy and the right to information, the removal of organs and tissues.

By ratifying this Convention¹⁹, Moldova has assumed once more its commitment „to take appropriate measures in order to ensure equitable access to appropriate quality health care.” At the request of the Secretary General of the Council of Europe, the state must provide an explanation of how its internal law ensures the effective implementation of any of the provisions of this Convention.

¹⁹Law No. 1256 of 19.07.2002

Currently, the Moldovan healthcare system is undergoing reforms and aligning to European standards. New legislation in the field, which is intended to implement changes in this sector, to provide high quality primary health care, to improve governance and financing of healthcare, is being revised and adopted.

It is regrettable to note that, despite the changes of the system, health service users continue to invoke human rights violation in health care, referring especially to: lack of respect on behalf of health care providers; lack of discretion during medical assistance; inequity and poor quality of care; examination, treatment and maintenance in conditions inadequate to sanitary and hygienic norms; disclosure of information related to medical secrecy. Numerous allegations against the professionals of the system on medical errors and the scale of the phenomenon of informal payments raise particular concern.

The European Court of Human Rights has developed an extensive jurisprudence on many of these sensitive issues under Articles 2, 3, 5, 6 and 8 of the Convention for the Protection of Human Rights and Fundamental Freedoms. Along with other countries, the Republic of Moldova was condemned by the Strasbourg Court for failure to provide necessary medical care in detention facilities, disclosure of information concerning the medical secrecy, surgical intervention without therapeutic necessity, offering allowances related to damage caused to health and bodily integrity.

We are convinced that ensuring human rights in the health services system, respect for the dignity of the patient and the increasing participatory role of people in the health decision making must become a real priority. However, health is not only a social, economic and political problem, but also a matter of human rights. ***Human rights violations can lead to poor health, or may result in poor health.***

In the previous reports on the observance of human rights in Moldova, the Center for Human Rights notified of some deficiencies in the system and detected irregularities which, in our opinion, present direct or indirect hazard for the proper realization of the right to health. Thus, there are reservations about the fairness of the compulsory health insurance system; the procedure for examining petitions and medical errors; the effectiveness and objectivity of the accreditation procedure in the health system and certification of doctors and pharmacists; the degree of observance of the right to privacy of the patients by health workers; the effectiveness of the control and prevention of tuberculosis system, prevention and control of diabetes, reproductive and sexual

health. The persistence of corruption in the health system has become an imminent threat to our society in terms of poverty and poor state of health²⁰.

During the investigation of claims regarding violations of the right to health, some administrative shortcomings and cases of mismanagement have been attested.

The finality of urgent medical assistance requests is not pursued; these are transferred to the primary health care sector. In particular, the correctness of requests reception, triage of calls according to the degree of priority of emergency and operative servicing of patients is not verified. There are no clear regulations on how emergency medical services should record and cooperate with the primary health care sector.

The provisions of Order No. 828 of 31.10.2011, which approved the list and model forms of primary medical evidence, are not observed. These forms were to be filled out by all public and private health institutions since 1 January 2012, aiming to improve the efficiency of the activity of medical and sanitary institutions, the unification of evidence, and full and authentic information reflecting the activity of health care institutions.

It was found the failure to observe the human rights in the system of health services, according to the Law on patient rights and responsibilities No. 263 of 27.10.2005, and especially regarding the poor implementation of the provision „Extrajudicial protection of patient’s rights” of this law. Thus, contrary to Art. 16, paragraph (4), the Ministry of Health has not created an independent committee of medical professional expertise to examine the applications and complaints of the patients. According to ministry officials, such a committee was not established and no special regulation was approved on the grounds that no complaints were submitted. In this situation, the patient’s right to fully benefit from the extra-judicial mechanism for the protection of patient’s rights established by law remains illusory.

It should be mentioned, in this context, that the examination and settlement of complaints coming from the recipients of medical services is shallow and the responses to the complaints are usually formal. This is confirmed by the National Anti-Corruption Center, which in the process of considering the petitions and complaints in several public medical institutions, has identified some shortcomings: lack of an efficient and unique mechanism for the examination of petitions; petitions

²⁰http://ombudsman.md/sites/default/files/rapoarte/raport_cpdom_2013_0.pdf;
<http://ombudsman.md/sites/default/files/rapoarte/raport2012-final.pdf>;
http://ombudsman.md/sites/default/files/rapoarte/cpdom_raport_2011anexe_0.pdf

repeatedly addressed to both healthcare institutions and the hierarchically higher institutions; unresolved complaints; deviations regarding the registration of complaints.

The control and improvement of the quality of care is a less developed area in the Republic of Moldova. There are only certain elements of quality management. For example, the National Health Insurance Company shall exercise control (expertise) of the quality and quantity of care for policyholders, or the National Council for Evaluation and Accreditation in Health is entitled to submit proposals to the Ministry of Health in order to improve the normative acts on the quality of services provided by health and pharmaceutical facilities.

In order to ensure the monitoring process of the exercise of the medical profession, on 10 March 2014, the Law on the College of Doctors from the Republic of Moldova No. 261 of 01.11.2013 came into force. Under the law, the College of Doctors is a professional organization of the medical staff in the country, which has the monitoring and supervision of the medical profession exercise as main objective of its activity. The responsibilities of the College in the training and professional development of doctors include: assessment of the professional qualification level of doctors; examination of petitions and appeals of individuals and legal entities on cases of doctors' deviation from the rules of professional ethics, medical ethics and the rules of good professional practice; application of professional disciplinary sanctions to its members as required by law.

De jure, a structure with responsibilities in the areas of professional, scientific and educational activity; of professional ethics and medical ethics; professional and jurisdictional disputes; notifications and accreditations; economic and social; administrative and organizational attributions has been created. *De facto*, the College was not created, and Law No. 261 seems to be inoperable. On the one hand, the professional organization of the medical staff in the country, responsible for monitoring and supervising the exercise of the medical profession, is vested with the right to assess the level of professional qualifications of doctors, to examine the petitions and, on cases of breaches of the rules of professional ethics, medical ethics and the rules of good professional practice, to apply or to waive disciplinary professional sanctions. On the other hand, membership of the College of Physicians is obtained by submitting an application based on the free consent of the doctor and confirmed by the certificate of membership to be issued after the registration fee established under the College Statute is paid.

Under this law, it was clear from the start that the structure in question will be inefficient, at least in the segment „professional ethics, medical ethics and good professional practices”, and will not have the initially desired impact.

The training and promotion of an appropriate professional culture is prerequisite for the existence and applicability of a CODE OF CONDUCT. Although in 2007, the Framework Code of Ethics of the Doctor and Pharmacist was developed, which provides and includes the values, principles and mandatory norms of conduct for the staff in the healthcare system, it has not been approved by a legislative act and it was not published in the Official Monitor. The lack of legal force causes its non-uniform application and enforcement.

One of the main priorities of the healthcare system is ensuring access to safe and quality medicines. Ensuring fairness and efficiency, which includes proper use of scarce resources to improve population's health, but also satisfaction of patient needs, are among the main objectives of the health system.

However, the scarcity of medicines that hospitals from the country periodically face certifies the inefficiency of the procurement process of pharmaceutical products for the needs of public health institutions.

The current mechanism for conducting the procurement of drugs and other medical products for the needs of the health system is geared towards ensuring the efficient and optimal use of available funds in the health system, one of the priorities in the health system and, namely, ensuring patient access to safe and quality medicines is being left in the shadows.

The overall inefficiency of this mechanism, the deficiencies in the planning, selection and estimation of drug requirements by public medical institutions and in monitoring the execution of procurement contracts has direct consequences on the health status of the population and the achievement of human rights in the health system services.

The fact that the Drug and Medical Equipment Agency is the structure responsible for the expertise, approval and registration of drugs, as well as of their quality control, and at the same time for the centralized purchasing of pharmaceutical products for the needs of the medical institutions and national programs, may be considered, in our opinion, an obvious sign of conflict of interest and, in this sense, a favorable environment for corruption or cartel deals. The whole process of planning, organizing and conducting procurement procedures, monitoring contract assignment, presents concerns in terms of vulnerability to corruption.

We strongly believe that in a society where respect for human rights, in general, and the fundamental right to health, in particular, is a priority for public authorities, the social impact of the process of purchasing medicines and other health products must take precedence over the economic one.

For this reason, we advocate for urgent action to streamline the mechanism for the purchase of medicines and medical products for the health system to lower the negative impact on the public health.

3. THE RIGHT TO SOCIAL ASSISTANCE AND PROTECTION

The achievement of the obligations of the state to guarantee a decent standard of living to people that will ensure their health and welfare is still a challenge for the competent public authorities on the background of price and tariffs evolution for consumer goods and services of first necessity. A testimony to this is the large number of petitions submitted to the Centre for Human Rights on issues related to social protection and welfare, these ranking third among the appeals to the National Ombudsman Institution in 2014.

As in previous years, the petitioners are unhappy with the low income and social benefits, which do not cover the subsistence level; by the manner of granting social assistance /aid for the cold period of the year; the method of determining and calculating pensions. They complain, in particular, that local authorities do not sufficiently inform the public about the facilities provided to socially vulnerable groups etc.

Along with extremely low incomes, the continued growth of prices and tariffs for consumer goods and services affect the living standards of the population and contribute to deepening poverty for the most vulnerable population groups (*see Table*).

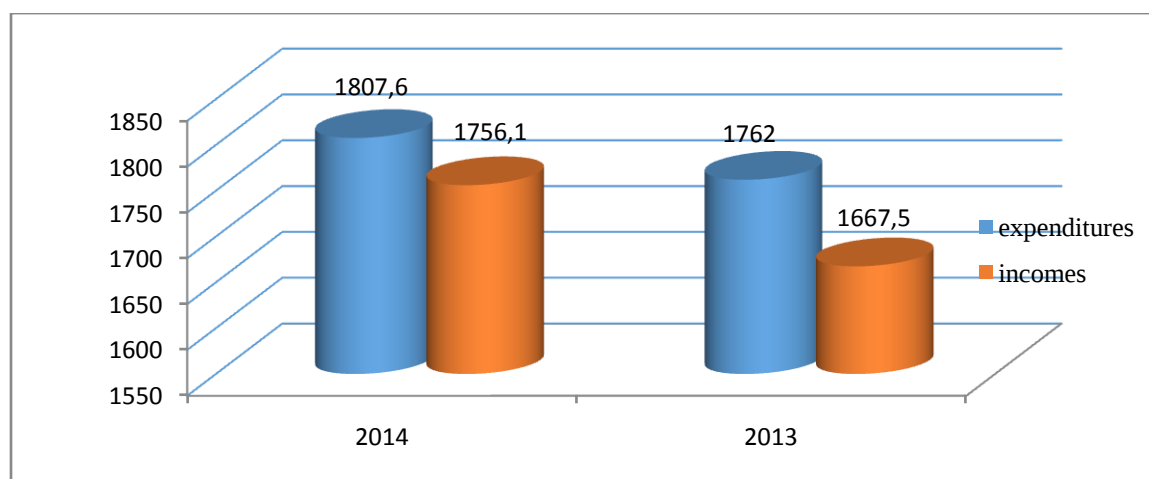
Evolution of prices and tariffs for consumer goods and services in the period 2013-2014

Goods and services	December 2014 in % compared to:	December 2013 in % compared to:
	December 2013	December 2012
TOTAL	4.7	5.2
Food	5.1	7.6
Bread	1.9	3.1
Fresh vegetables	13.3	15.5
Fresh fruits	19.7	-2.3
Meat, meat products canned meat	2.2	5.0
Milk and milk products	6.2	8.3

Sugar	-11.9	3.7
Eggs	13.6	12.9
Non-food goods	6.5	4.6
Ready-made clothes	5.6	6.1
Footwear	6.2	5.6
Drugs	5.6	4.2
Fuels	6.4	3.4
Building materials	5.4	4.7
Services	1.6	2.9
Housing services	0.8	1.5
Drinking water and sanitation	0.0	6.9
Network natural gas	0.0	1.8
Passenger transport	0.9	15.8
Catering	5.6	3.4

Source: National Bureau of Statistics²¹

The official data on the proportion between the population incomes and expenditures show that expenses exceed incomes in 2014 (*Table 2*). In this situation, we cannot talk about significant changes with regard to the citizens' quality of life.



Source: National Bureau of Statistics

Salary payments are the most important source of income - 40.7% of the total available revenue of the population, registering a slight decrease compared to 2013 (1.1%). As for social benefits, they increased by 1.1%.

²¹<http://www.statistica.md/newsview.php?l=ro&idc=168&id=4609>

Money transfers from abroad remain to be an important source of household budgets (18% or by 0.5% more against the same period of the previous year).

People, whose income is made up of only social benefits, the majority being under the subsistence level, are in a particularly difficult situation.

Social insurance

The current pension system in the Republic of Moldova faces two main challenges: the low quantum of benefits and low replacement rate²².

Official data show that in the first term of 2014 the size of the subsistence minimum in average per month per person was of 1,667.7 lei, and for pensioners – 1,390.9 lei. Thus, the average monthly pension represents 78% of the subsistence minimum (*see table*).

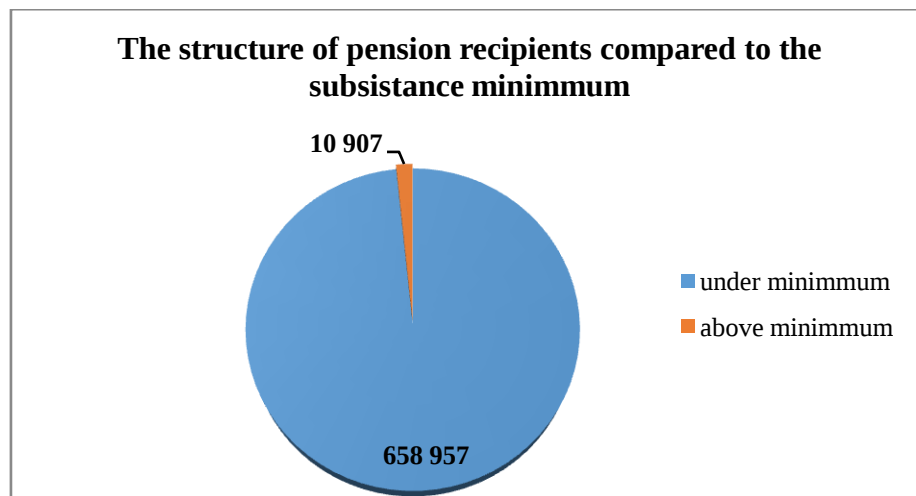
Ratio between average pension and subsistence minimum in the first term of 2014

	2013	2014
Average size of monthly established pension, lei	1020.8	1084.6
Average size of old age monthly established pension, lei	1052.5	1115.4
Ratio between the size of average monthly established pension and average of subsistence minimum for pensioners, in %	76.1	78.0
Ratio between the size of old age average monthly established pension and average of subsistence minimum for pensioners, in %	78.5	80.2

Even worse is the fact that about 98% of pension recipients get a pension under the subsistence level. The data presented by the National House of Social Insurance, as of 01.01.2015²³, show that this indicator remains at the same level compared to 2013.

²² The replacement rate is the ratio between the average retirement age pension and average salary recorded in the economy

²³ <http://www.cnas.md/lib.php?l=ro&idc=244&nod=1&>



The 56,276 recipients of state allowances, whose average size was of 339.18 lei, as of 01.01.2015, should be added to the number of pension beneficiaries with the average pension under the subsistence level (658,957).

It should be noted that in support of these individuals, starting July 1, 2014, the pension ceiling was increased from 1,300 lei to 1,500 lei for people who qualify for state financial support, also increasing the fixed amounts²⁴ of this support (from 50 lei to 100 lei, 60 lei - 120 lei, 90 lei - 180 lei). At the same time, it was decided to increase the amount of monthly state allowance of pension beneficiaries residing in the villages Cocieri, Corjova, Cosnita, Molovata Noua, Firladeni, Copanca, Dorotcaia, Pirita, Varnita, Hagimus²⁵.

The policy document „Proposal to Reform the Pension System” (February 2014)²⁶ states that the average pension level is very low in absolute terms but also in comparison with the average salary. This is due to the replacement rate of just 28.4%²⁷.

Experts warn that if the current conditions of system operationis maintained, the replacement rate will continuously decrease and will reach the critical value of 14% in 2040. The decrease of the replacement rate is due to the pension indexation method, but also by not updating the insured income when determining the pension.

²⁴ Law on amending and completion of certain legislative acts No. 147 of 17.07.2014 //Monitorul Oficial 223-230/505, 08.08.2014

²⁵ Law on amending and completion of Law No. 1591-XV of 26 December 2002 on additional social protection of some pension beneficiaries, established in the public system of social insurance No. 148 of 17.07.2014 //Monitorul Oficial No. 223-230/507 of 08.08.2014.

²⁶ http://get-moldau.de/download/policypapers/2014/PP_01_2014_ro.pdf

²⁷ The European Code of Social Security considers a replacement rate of 40 %.

Therefore, the pension system fails to achieve its main objective of providing a sufficient income to pensioners who have contributed to the system. Moreover, if the system is not reformed, the pension level will continue to decline. In this situation, many people are forced to work beyond retirement age.

The pension system is not sustainable with the current specifications. Social sustainability, pension levels and the perspective for a continued decrease in the replacement rate suggest that if changes are not made in the pension system, the poverty of the elderly will become a more serious problem in the future. According to experts, the main challenge for the pension system is to provide an adequate level of pensions and to increase the number of taxpayers by transferring the workers in the informal economy and (re) activate their participation in the social insurance system. Moreover, current challenges will become greater as the population ages.

In the appeals addressed to the Center for Human Rights, the petitioners alleged problems in the calculation / determination of old-age pension. We reiterate that any error, which affects the amount of the pension, further worsens the situation of the elderly. For this reason, we recommend the responsible employees in the field to prove maximum diligence in examining each file.

The spouses E. complained that the error made in calculating the old-age pension, especially when determining the contribution period and the selection of the most favourable 60 consecutive months of work for establishing the individual coefficient (K), had a negative effect on the size of their pensions. The Expertise Report of the National Centre of Judicial Expertise that examined the given dossier confirmed the technical calculation problems.

Another problematic aspect identified in such notifications relates to the deficiencies in accumulating the necessary documents to confirm the length of service, salary certificate, especially, in cases where the enterprises are liquidated / reorganized, etc.

Social assistance

Regarding social assistance, we can mention that some progress has been achieved, the creation and development of social services for socially vulnerable groups, in particular.

We also appreciate the adoption of the Regulation on the manner and conditions of the implementation of the Project for construction of housing for socially/economically vulnerable

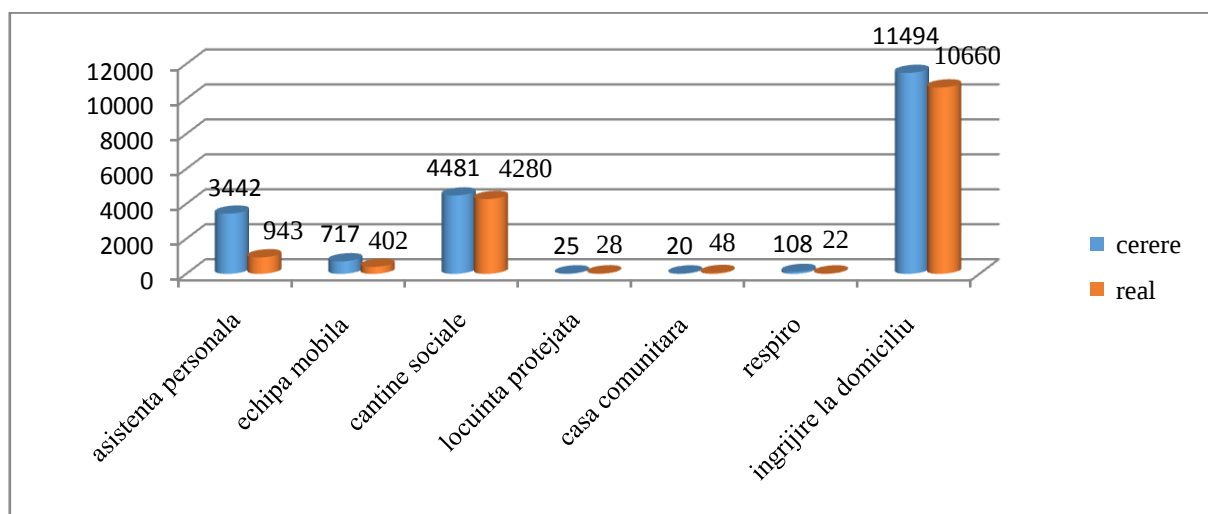
people²⁸, which aims to provide social housing to socially/economically vulnerable people who are unable to secure satisfactory living conditions.

In the report of the Center for Human Rights for 2013²⁹, we warned the competent authorities on the need to develop social protection measures for the homeless. Although we were informed that the regulatory framework regarding the organization and operation of social services for housing and social adjustment of the homeless and providing minimum quality standards of life for this category of people has started, the issue remains unresolved.

To identify the problems that local authorities face in creating and developing social services, as well as in determining the degree of coverage of the needs of the socially vulnerable groups, the Ombudsman Institution carried out an assessment of the situation in this area in the reporting period.

According to data provided by the departments/ divisions of social assistance and family protection, a good part of the existing social services does not cover the number of requests. The reason most often cited is the financial incapacity of the local authority to create/develop social services to cover all requests.

Co-relation between the demand for social services and possibilities offered



Source: Departments/divisions of social assistance and family protection, except the left bank of the river Nistru

²⁸By Order No. 75 of 14.05.2014, the Ministry of Regional Development and Construction of the Republic of Moldova approved the Regulation on the manner and conditions of the implementation of the Project for construction of housing for socially/economically vulnerable people

²⁹http://ombudsman.md/sites/default/files/rapoarte/raport_cpdom_2013.pdf;

If progress has been made regarding the development of the regulatory framework on the organization and functioning of social services for providing the necessary support to individuals / families at risk, then serious drawbacks exist in its implementation. We consider particularly important that the issuing authority should monitor the implementation of the regulatory framework, to establish indicators for assessing the impact of the given social services on the beneficiaries for adjusting and improving the policies in the field.

The existing problems, regarding the manner of offering social aid/aid for the cold season of the year, were constantly tackled in the reports of the Center, starting in 2011. This is also because many citizens address this topic in the petitions submitted in recent years to the National Ombudsman Institution.

It should be noted that in the meantime changes in the legal framework have been made³⁰ intended to improve the mechanism of granting social aid. Improvements have also been made by taking into account the recommendation of the Ombudsman Institution to exclude some indicators (goods) from the PROXY test in evaluating the welfare of family, etc.

Despite this fact, the people in need continue to request the Ombudsman Institution to intervene by the competent authorities in order to obtain the right to social assistance / aid for the cold season. In most cases, the requests are justified in full measure, given the precarious situation in which the petitioners' families are. Therefore, we encourage the competent authorities to make concerted efforts to intervene and find optimal solutions in each case.

4. PROTECTION OF PERSONS WITH DISABILITIES

For an objective presentation of the degree of observance of the rights of persons with disabilities, their assessment would be relevant, although it is not positive. However, the problems these people face do not greatly differ from year to year and remain unresolved: social benefits under the subsistence level; insufficient social services at community level; poor accessibility to social infrastructure, transport and information environment, poor job placement and reduced motivation for hiring people with disabilities; barriers in realizing the right to vote; society tolerance towards the problems of these people.

³⁰ Government Decision on the modification and completion of the Regulation regarding the manner of setting and paying social aid No. 821 of 07.10.2014 // Monitorul Oficial No.313-318/870 of 17.10.2014

Data from the Ministry of Labour, Family and Social Protection show that 183,500 people with disabilities are registered in the Republic of Moldova, which represents approximately 5% of the total population.

We appreciate the progress made in the promotion of policies, development of programs tailored to international standards of disabled people, but we cannot talk about a significant improvement of the situation of persons with special needs yet.

After more than two years after the entry into force of Law No. 60 of 30.03.2012 on the social inclusion of people with disabilities, its impact on people with disabilities is not felt. Law No.60 enforces the UN Convention, establishing a general framework for security and social services in accordance with international standards on social inclusion of this category of persons. One reason why Law No. 60 is not having the desired effect is the lack of mechanisms that are late to appear.

Accessibility of public space for people with reduced mobility

Due to lack or inadequate ways of ensuring access to public institutions, but also to housing, people with locomotion deficiencies and those with impaired hearing and vision live almost isolated in their homes or are helpless because they are dependent on a third person.

The National Ombudsman Institution had several consultations with representatives of the civil society in the domain of protection of people with disabilities, and some urgent issues, people with disabilities face, have been discussed.

One examined subject had as topic: ***Ensuring accessibility to public transport for people with locomotion, hearing and sight disabilities.***

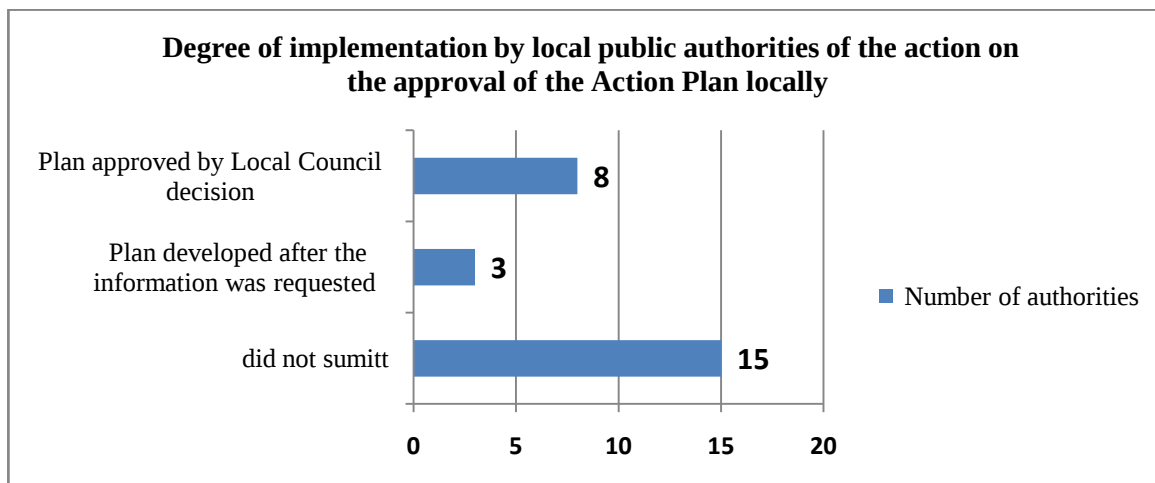
To ensure the operability of the approved laws, but also the monitoring of their implementation is a challenge that requires consolidated efforts from public authorities.

In this context, we mention the Action Plan on the implementation of measures to ensure accessibility for people with disabilities to social infrastructure³¹, which includes concrete short-term actions, the responsible authorities and well-defined indicators. Prior assessment by the National Institute of Ombudsman found that the degree of implementation of this plan leaves to be desired.

According to the Action Plan approved by Government Decision No 599, local authorities shall draft and approve action plans locally on adapting buildings to the needs of people with disabilities that would contain information on financing the actions from the budgets of the

³¹ Government Decision No. 599 of 13.08.2013 on the approval of the Action Plan on the implementation of measures to ensure accessibility for people with disabilities to social infrastructure

administrative-territorial units, building owners, and so on (Action No. 2) until December 2013. From the information presented at the request of the CHR on the situation in January 2015, it appears that many local authorities have not approved such a plan. However, some local governments have ignored the request of the Ombudsman Institution. The information on the degree of implementation of this action is shown in the chart, which reflects the information submitted by 24 districts, seven districts have not responded to the request.



The fact that some local authorities (Hincesti, Ungheni, Taraclia) provided in the Action Plan measures (concrete objects), financial resources and measurable indicators of progress at the local level is laudable. Others included in the developed Action Plan general actions or those, which were taken from Government Decision No 599. Some authorities either have not developed a plan locally or did not submit the requested information.

The Ministry of Regional Development and Construction³² sent letter No.03 / 1-2664 of 17.12.2013 to local authorities, which requested the preparation and presentation of the „Local Action Plans on adapting buildings to the needs of people with disabilities”, including actions providing funding from the budgets of administrative-territorial units, building owners, sources from development partners. The described situation leads us to conclude that the Ministry of Regional Development and Construction, which is responsible for monitoring and coordinating the execution of the decision in question, has not made sufficient effort to ensure that the envisaged measures are carried out.

³² www.mdrc.gov.md, compartment ”architecture and urbanism”

Also, according to the generalized Report on the inventory of existing public and social institutions developed by the Ministry of Regional Development and Construction³³, out of the 5,137 objects subjected to the inventory in terms of accessibility, 3,440 are not adapted or do not meet the standards.

At the same time, the responsible central public authority gave assurances that „starting in August 2014 the State Construction Inspectorate requests information and weekly reports in this regard from local inspectorates”.

The Ministry of Education, the authority responsible for developing curricula for the specialty „Architecture” within higher educational institutions on designing objects by observing the accessibility and/or reasonable accommodation³⁴ has not provided information on the implementation of the action concerned.

However, the ministry said that „at the end of 2014 about 950 general education institutions provided an inclusive educational process for children with special educational needs (291 institutions in the school year 2012-2013; 400 institutions in 2013-2014) assisted by 603 support teachers (100 in 2012; 360 in 2013)³⁵.

In order to harmonize the regulatory framework with the UN Convention on the Rights of Persons with Disabilities, Article 20³⁶ of Law No. 60 establishes several provisions aimed at ensuring access of disabled people to public transport. We note, however, that the majority requirements of Article 20 are not respected. Only in Chisinau, according to the statements of the representatives of nongovernmental organizations concerned with the problems of persons with disabilities, more than 3,000 people with disabilities are affected due to lack of specialized transport/unsuitable transport units. We reiterate that accessibility should be considered a prerequisite for the exercise by people with special needs of their civil, political, social, economic

³³ Action No. 1 of the Action Plan approved by Government Decision No. 599 of 13.08.2013, deadline for completion April, 2014.

³⁴ Action No. 4 of the Action Plan approved by Government Decision No. 599 of 13.08.2013, deadline for completion April, 2014.

³⁵ Letter No. 10/15-11592 of 29.01.2015 of the Ministry of Education

³⁶ According to Article 20, in order to facilitate unimpeded access of disabled people to transport and travel, the Ministry of Transport and Road Infrastructure, other central and local authorities, economic agents regardless of type of property, with the participation of public associations, have the obligation to:

- a) adapt the means of public transport in circulation;
- b) re-equip vehicles according to the needs of the people with locomotion disabilities (manual guidance);
- c) adapt the stops of public transport, including by tactile pavement, marking of access spaces to the entrance door of the means of transport;
- d) display panels for the needs of people with visual and hearing disabilities in the public transport;
- e) to mark in large print and contrasting colors the route number of the urban public transport;
- f) to adapt pedestrian crossings and intersections of streets and public roads to correspond to the needs of people with visual and hearing disabilities;
- g) install audible and signaling systems at intersections with heavy traffic.

and cultural rights. This goal is extremely up-to-date in the context of European integration aspirations of the Republic of Moldova.

This topic has regularly been addressed in previous reports and it remains a vulnerable one. For this reason, the National Ombudsman Institution has launched the idea of applying the tactics of small steps in creating an environment without barriers for people with disabilities and proposed the adoption of some immediate action³⁷:

- Local authorities shall designate responsible persons for ensuring the implementation of the UN Convention on the Rights of Persons with Disabilities but also of the Law on social inclusion of people with disabilities No. 60 of 30.03.2012 (in force since 27.07.2012).
- The Ministry of Labour, Social Protection and Family together with the Ministry of Health shall create a disaggregated database on persons with disabilities and their needs for adapting the physical environment to their needs and determine how they interact on the issue.
- In the context of the reform implemented on the organization of public transport in Chisinau, we require the adoption of urgent measures to establish a schedule of public transport operation (trolleybuses, buses) adapted for transporting persons with locomotion disabilities and to inform them about the possibility of benefiting from transport services (*upload them on the sites of Chisinau City Hall and Sector Halls*).
- The competent authorities shall strictly monitor compliance to paragraph 2 of article 20 of Law No. 60³⁸ by taxi operators.
- Local and municipal authorities, the Ministry of Transport and Road Infrastructure shall take real actions to adapt public transport units and public stations to the needs of people with locomotion disabilities, to install panels to correspond to the needs of people with visual and auditory disabilities in the means of public transport; to print in large characters and contrasting colours call signs, information about routes and urban public transport. In this sense:
 - ✓ The Ministry of Transport and Road Infrastructure shall provide, as a first stage that on each route in the country there is at least one means of adapted public transport.
 - ✓ Chisinau authorities shall install, as a first stage, audible and visual warning systems at intersections with heavy traffic in the perimeter of the streets where people with impaired vision and hearing live.

³⁷ <http://www.ombudsman.md/ro/stiri/institutia-nationala-ombudsmanului-lanseaza-ideea-aplicarii-tacticii-pasilor-mici-crearea-unui>

³⁸ According to paragraph (2) of article 20 “all taxi operators must provide at least one car adapted to transport people with disabilities who use a wheelchair”.

- Local authorities shall provide the adoption of curbs on pedestrian crossings according to the needs of people with disabilities who move in a wheel chair (in Chisinau, at the first stage, at least on the boulevards of the capital).

Also, the National Ombudsman Institution continues to advocate the adoption of measures to improve the current situation regarding the reduced availability to public space in Moldova, such as: to develop midterm local action plans for the gradual removal of existing barriers and full inclusion of people with special needs in society; better enforcement of laws on the obligation of making the physical and information environment accessible, along with the establishment of a strict control on behalf of competent institutions; to appoint officials from the State Construction Inspectorate to verify compliance with accessibility requirements at the stage of placing into service of buildings/facilities. Another problem, which, by the way, is mentioned by people with disabilities,³⁹ is ignorance of the rights and passivity in demanding to be respected.

People with disabilities are more visible when they become active members of the society. In 2014, people with disabilities denounced several cases of violation of access to places providing entertainment services.

The current situation on providing technical aids and special footwear to people with physical disabilities was the subject of further discussions with representatives of NGOs active in promoting the rights of

persons with disabilities. We appreciate the fact that the problem of providing free footwear to children who have orthopedic degree of disability was solved, this was achieved also due to the CHR recommendations.

A young man with disabilities from Hîncești was denied access to an entertainment facility. Although the young man had a reserved seat, the administrator of the club did not allow him to enter on a wheel chair suggesting to his friends to carry him in their arms. "I felt very bad and humiliated. I hoped that he would call and apologize for the incident the next day. We left sad and perplexed", the young man affirmed.

The young man was contacted by the administrator of the nightclub to apologize and settle the conflict only after the intervention of the Center for Human Rights representatives, who went there and solved the case through mediation.

³⁹<http://deca.md/?p=18755>

As described by CREPOR⁴⁰ officials, who also attended the meeting organized by the Center, about 700 prostheses are made annually, the need for prostheses is of about 950-1000 and the request for pushcarts or wheelchairs is of about 1000 units. It was also noted that due to limited financial possibilities, the company cannot produce pushcarts and wheelchairs, special footwear, prostheses, bandages of high quality and latest make. Besides insufficient financial means, CREPOR activity is affected by the lack of a database on disabled people and their needs. This information is collected with the support of social protection staff within local authorities.

A problematic aspect, according to the representatives of the Society of the Blind, is providing ocular prostheses. In this context, it is recommended:

- to examine the possibility of extending the services provided by the State Enterprise CREPOR to also provide touching means for the blind (sticks);
- to examine the possibility of providing people with visual disabilities with ocular prostheses of local production or importing ophthalmic prostheses affordable for the beneficiaries in the Republic of Moldova.

The adoption of the Regulation on communication services by using sign language with the help of an interpreter⁴¹ was another topic examined in consultation with civil society representatives. They pleaded for improving the document so that the Regulation to fully answer the needs of this category of persons⁴². In context, it was also proposed to the Ministry of Education, the Ministry of Finance jointly with the Association of the Deaf to work together in order to establish an officially accepted sign language so as to teach people with hearing impairments, to develop manuals, and train interpreters in sign language.

Employment of disabled people is one of the major challenges of social inclusion policies for people with disabilities promoted internationally. Inclusion in employment of disabled persons in Moldova remains among the problematic concerns. Providing employment opportunities to people with disabilities but also information about existing opportunities would help partially solve their financial problems and improve their life quality.

The problems mentioned in this regard in the report of the Centre for Human Rights two years ago, were largely reiterated by the participants in the National Conference „Inclusion in

⁴⁰ CREPOR- Republican Center for Experimental Prostheses, Orthopedics and Rehabilitation

⁴¹ Government Decision No. 333 of 14.05.2014 on approving the Regulation on delivering communication services using sign language with the help of an interpreter.

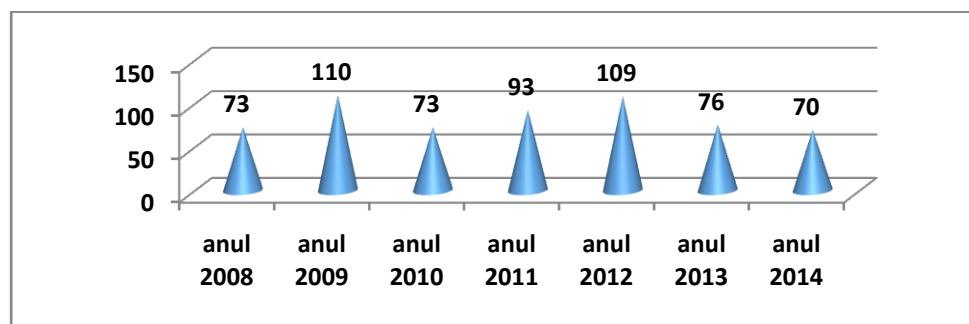
⁴² <http://www.ombudsman.md/ro/stiri/implementarea-regulamentului-privind-prestarea-serviciilor-comunicare-prin-utilizarea>

employment of persons with disabilities: successful models and growth prospects in the Republic of Moldova” on October 22, 2014.

In conclusion, we mention the need for the joint efforts of central and local public authorities in order to establish mechanisms for implementing the regulatory framework aimed at people with disabilities, to monitor their implementation, and to involve/consult people with disabilities. This will solve many other problems that people with special needs face.

5. THE RIGHT TO WORK AND LABOUR PROTECTION

The number of appeals to the Centre for Human Rights related to violation of the right to work and labour protection was relatively constant in the period 2008-2014.



In most cases, the petitioners alleging the infringement of this right are involved in pending lawsuits in courts. For this reason, they are advised to follow all legal procedural stages.

Mostly, the notified problems remain the same as in previous years: the low level of remuneration; salary arrears; failure to comply with labour laws; insufficient involvement of the representatives of the State Inspectorate of Labour in examining applications on labour relations and occupational accidents research; discrimination in employment, unemployment and undeclared work.

Salary is generally the main source of income for the petitioners and, therefore, its size has a major impact on their ability to spend or save.

Moldova remains one of the countries with the lowest remuneration of labour in Europe –these are the latest data contained in the report released by EUROSTAT⁴³.

From 1 October 2014, the minimum wage at country level is of 1,000 lei⁴⁴ although its size should be at least at the subsistence level. Relevant to this context is the recommendation of the UN

⁴³http://www.publika.md/raport-eurostat-moldova-este-in-continutare-unul-dintre-statele-cu-cele-mai-mici-salarii-din-europa_2117141.html

⁴⁴ Government Decision No. 550 of 09.07.2014 on setting the quantum of minimum salary at country level

Committee on Economic, Social and Cultural Rights⁴⁵ by which the State is urged to intensify its efforts to guarantee a national minimum wage sufficient to ensure an adequate standard of living for employees and their families. The Committee recommends the State party to introduce a mechanism to determine and regularly adjust the minimum wage in proportion to the cost of living.

Moreover, given the trend of substantial increase in prices of consumer goods and tariffs for services, people will hardly meet the expenses necessary to ensure a minimum standard of living.

We remind that by 30 June 2016 the state will have to submit to the UN Committee on Economic, Social and Cultural Rights the third periodic report on the implementation of the International Covenant on Economic, Social and Cultural Rights. Until then the authorities will have to identify opportunities for implementing the latest recommendations and observations of the UN Committee on Economic, Social and Cultural Rights.

One problem, frequently mentioned by the petitioners in the reference period, was the one related to salary arrears. For solving such cases, the CHR officials have made use to the most of the mediation mechanism, and in the situations when this was not possible they addressed the competent authorities: the State Labour Inspectorate or law enforcement bodies.

We recommend, in this context, that competent authorities exercise their duties with utmost diligence making use of all levers assigned by law to examine each case so as not to undermine the right to work.

Any delay in the payment of salaries due to some failure in the system, either administrative or economic/financial, cannot be justified **when it affects human rights and implicitly the right to a decent living**. We reiterate that the rights to salary are part of the right to property provided by Article 1 of Protocol No. 1 to the Convention for the Protection of Human Rights and Fundamental Freedoms.

The payment of wage arrears is a more difficult problem when the enterprises are in insolvency proceedings. It is relevant in this context the situation in the SA „Alimentarmas”⁴⁶ whose employees have not received money for work during the last 8 years, the salary arrears exceed 1 million 700 thousand lei. Although some employees have tried to obtain the unpaid wages through court, their efforts had no chance of success. With reference to this case, the State Labour Inspectorate noted that the company, which is under bankruptcy, is not able to operate with the means available on the company's bank accounts, the latter being blocked by the State Tax

⁴⁵ UN Committee on Economic, Social and Cultural Rights, Session forty-six, Geneva, 1-20 May 2011

⁴⁶ <http://cms4.jurnal.md/ro/import/2014/4/16/-i-au-cer-it-salariile-in-fa-a-guvernului-1167870/>

Inspectorate due to debts to the state budget. An insolvency administrator was appointed and the resolution of the given dispute is in the competence of the trustee company.

The reason for a collective appeal to the CHR was the delay in the release of the writ of execution on the payment of wages by Riscani Sector Court from Chisinau. In this case, the unconscientious execution of functional duties was found; the irregularities being removed only after the intervention of the National Ombudsman Institution.

Several cases of non-insurance of employee's safety and health at the workplace came into the attention of the CHR in 2014. In the reporting year, several accidents with fatalities that occurred at construction sites were covered. Following the analysis of data on occupational accidents in construction, the State Labour Inspectorate issued the Disposition „On carrying out check-ups at all construction sites” No. 03 of 10.03.2014.

In addition, the State Labour Inspectorate⁴⁷ informed the Ombudsman Institution of the existence of impediments in conducting operative inspections in the field of labour and labour safety. The supervisory body can only undertake the checks of businesses that are included in the schedule of planned checks⁴⁸, drawn based on risk criteria and coordinated with the authority on control supervision (the State Chancellery).

Another problem faced by labour inspectors in the process of accident research is directly related to the promptness with which employers communicate the accidents⁴⁹. Of the total number of accidents, employers announced with delay to the State Labour Inspectorate 23%, and in some cases, medical institutions or police authorities do not promptly communicate these facts. This contravenes the Regulations on the investigation of accidents at work, approved by Government Decision No. 1361 of 22 December 2005.

The employees of the kindergarten from the village Budai, Taraclia district, complained that they had not received the salary for four months, lack of financial means being invoked. The petitioners referred to competent authorities (Territorial Labour Inspection, the Prosecutor's Office from Taraclia) but the problem was not solved. Only after the intervention of the CHR, the salary arrears were paid in full.

⁴⁷ The Letter of the State Labour Inspectorate No. 388/531 of 18.04.2014.

⁴⁸ Article 16 of Law No. 131 of 08.06.2012 on state control on the entrepreneurial activity

⁴⁹ http://www.ism.gov.md/?lang=ro&menu_id=18

The situation remains alarming in the case when employers admit undeclared work, payment of wages „in envelopes”, do not perform the evaluation of risk factors at the workplace, and do not provide individuals with protection equipment. All these generate the violation of the right to labour.

In this context, we mention the Conclusions of the European Committee on Social Rights (CEDS)⁵⁰ on the Republic of Moldova: public authorities' involvement in research relating to occupational health and safety, as well as, in the training of qualified professionals is inefficient (3§1)⁵¹; the occupational accident reporting is inefficient, the measures taken to reduce the excessive number of fatal accidents are insufficient; the labour inspection system is inefficient (3§3).

Unemployment and undeclared work are other issues related to the achievement of the right to work. **The unemployment rate** in the country in the third quarter of 2014 was of up to 3.3%, much lower than in the third quarter of 2013 (3.9%). There were recorded significant disparities between urban unemployment rates - 4.6%, compared to rural areas - 2.3%. More alarming quotas were among young people (15-24 age group) the unemployment rate being of 9.5% and in the age group 15-29 this index was of 7.2%.⁵² When looking for a job, the youth frequently face the refusal of employers to hire them because they have no work experience. We believe that the lack of skills and not lack of experience should be a reason for not hiring a person.

Therefore, the problem of youth employment in the labour market continues to remain current. We are of the opinion that youth employment incentive policies should be complementary to other policy instruments aimed at the educational system and the private sector.

The experts beat the alarm⁵³: the gap between demand and supply of skilled labour is growing. The evolution of this index for the Republic of Moldova shows that the labour market in the last decade was characterized by an increase in nonconformity between labour supply and demand.

The increase of the inadequacy of qualifications in the labour market can be redressed by changing the structure of labour supply. In this regard, the main role is assigned to the education sector, whose connection to market requirements can be achieved by modifying curricula and a closer cooperation with businesses.

Therefore, it is extremely important to continue the educational reforms. Without changing the situation, the labour market is likely to turn into one with overqualified unemployment.

⁵⁰ <http://www.infoeuropa.md/politica-sociala/carta-sociala-europeana-revizuita-concluzii-2013-republica-moldova/>

⁵¹ European Social Charter (revised), Article 3 The Right to security and labour hygiene

⁵² <http://www.statistica.md/newsview.php?l=ro&idc=168&id=4570#idc=34&>

⁵³ <http://www.eco.md/index.php/rss/item/2690-constr%C3%A2ngerile-pie%C5%A3ei-muncii-%C5%9Fi-riscul-unui-%C5%9Fomaj-%E2%80%99Esupracalificat%E2%80%99D>

Aligning the educational system to labour market needs has become even more necessary with the signing by our country of the Association Agreement with the European Union and the opening of new investment opportunities that require skilled labour.

Another group of experts⁵⁴ claims that in the poorest country in Europe, as Moldova is catalogued, the number of foreigners, who get work permits in our country, grows year by year. Also, the number of foreigners working illegally in different areas almost doubled in 2014, according to data from the Bureau of Migration and Asylum. On 31 December 2014, 1,866 foreigners were registered in Moldova settled for the purpose of employment.

Another aspect highlighted by the Ombudsman institution is the interpretation by CNAS of the provision of the Labour Code⁵⁵ on the remuneration of part-timers at the expense of the person for whom the allowance at childbirth and parental allowance until the age of 3⁵⁶ is set. In particular, concern is raised in connection with the expression in Article 155 paragraph (2) of the Labour Code „The tariff salary size or the wages for part-timers, as well as the size of awards, bonuses, additions and other rewards, determined by the conditions of payment ...*shall not exceed the amount provided for other employees in that unit*”.

6. NON-DISCRIMINATION AND THE PRINCIPLE OF EQUALITY

The monitoring of the observance of human rights in the Republic of Moldova under the principle of equality is a priority of the Ombudsman Institution. It is important that this process reflect the effects of the national law policies and mechanisms implemented to protect the rights of all categories of citizens, and, not in the least, of all minority groups. Although the state guarantees to everyone equality before the law, we often convince ourselves that this principle is not respected in full. As a result of the Ombudsman meetings with representatives of the Roma ethnicity⁵⁷, we have concluded that the problems faced by this minority group persist. Although the Ombudsman Institution previously highlighted a number of difficulties encountered by representatives of this ethnic group in the process of their social inclusion⁵⁸, these difficulties have not been overcome.

⁵⁴<http://ziarulnational.md/migratie-strainii-vin-cu-miile-la-munca-in-r-moldova/>

⁵⁵ Article 155 of Labour Code

(2) The size of tariff salary or wages for part-timers, as well as the size of awards, bonuses, additions, and other rewards, determined by salary conditions of payment established in the individual or collective labour contract, shall not exceed the amount provided for other employees in the unit.

⁵⁶ Decision of Buiucani Court, Chisinau of 2 July 2014

⁵⁷ <http://www.ombudsman.md/ro/stiri/diverse-probleme-ce-tin-respectarea-drepturilor-persoanelor-social-vulnerabile-aufost>

⁵⁸ Report on observance of human rights in the Republic of Moldova in 2013, pages 7-8;

The issues concerning social assistance to the elderly, material aid for the cold season, and legal assistance for this group remain current, and according to local government representatives, the given issues cannot be resolved to a great extent due to lack of identity cards of the Roma people. Also, during the discussions, it was identified that some Roma children are not enrolled in preschool institutions because they are not vaccinated, one reason being the doctor's contraindication after examining their health status. Analysing the legislation in force, we concluded that it follows to be improved to include exceptions

Family S. is a Roma family in which three minors are raised, two boys and a girl, who should attend kindergarten. The girl was born with physical disability and the boys have physical development problems. Having examined their health status, the doctor contraindicated vaccination for all three children until their full recovery. According to the parents, the children are able to attend the kindergarten for inclusion and faster development if admission to kindergarten was not conditioned by compulsory vaccination. One of the boys is to go to school next year, but because he does not attend the kindergarten, he could be deprived of this opportunity.

from vaccination, such as religious and medical contraindication in case of prescribed treatment. The given proposal was also submitted by the Ombudsman Institution to the Sector Commission on combating discrimination in health under the Ministry of Health.

Violation of the right to health and social protection, access to education, access to public health services, and the right to a decent life in terms of discrimination was the subject of a Roma young couple's complaint from Bulboaca village, Anenii Noi district. They said that they had two minor children, one of whom has physical disability. The family faces difficulties regarding access to social assistance and decent life, largely because the local authority secretary refuses to perform the secretarial work required by them because they are Roma. The same reason was invoked in the refusal of local authorities to enrol their children in the kindergarten. In order to solve the raised problems, a working meeting with decision makers from Bulboaca Village Hall and Anenii Noi District Council was held⁵⁹. Following the carried out discussions, it was found that among the causes of the problems raised is also the limited access to information on social assistance to this category of persons, as well as the discriminatory attitude of some representatives of the local public authority. Given the fact that representatives of such minority groups do not always have the ability to read and write, it is necessary that representatives of local authorities inform them clearly on the

⁵⁹ <http://www.ombudsman.md/ro/stiri/intilnire-lucru-ombudsmanului-tudor-lazar-reprezentantii-administratiei-publice-locale-satul>

necessary steps to be made in order to use the social services provided by the state. Because of the intervention of the Ombudsman Institution, the case was settled positively, the authorities reacted promptly and consistently⁶⁰. The conclusion dictated by such cases is obvious: on the one hand, the state promotes through its policies at national level the need to determine Roma representatives to send their children to educational institutions, including pre-school, on the other hand, some officials impede the realization of the given policies. The principle of equality and fairness, in our view, means that rights must be provided on an equal basis and everyone should strive to benefit of a right, otherwise, we cannot talk about equality and fairness.

The principle of equal treatment is a fundamental value of all international human rights instruments. It condemns executions, arbitrary detention or human rights violations based on sexual orientation or gender identity. With the adoption of the Law on Equality No. 121/ 25.05.2012, our country has confirmed the guarantee of equal rights to all people. Its provisions suppose tolerant and non-discriminatory attitude towards all members of society, including towards LGBT group representatives. Although the Ombudsman Institution has previously qualified as alarming the actions of some state authorities regarding the LGBT minority group⁶¹. The year 2014 showed that the society is not ready to tolerate this minority group to a great extent yet, while the authorities often resort to the indulgence of the representatives of this group when they try to achieve their rights⁶². In this context, we emphasize the importance of compliance to the law, dignity and fairness on behalf of the state when it has to protect and contribute to the development of a truly inclusive society in which everyone can live without fear and discrimination.

In 2014, twenty people notified the Ombudsman Institution on acts of domestic violence, of which 3 were telephone appeals, 2 – written applications and 15 – requested legal assistance during audiences.

Another aspect of monitoring the observance of human rights in the light of the principle of equality refers to the situation of the woman in society.

⁶⁰ <http://www.ombudsman.md/ro/activitate/situatia-grava-unei-familii-anenii-noi-s-schimbata-rezultatul-interventiei-ombudsmanului>

⁶¹ Report on the Observance of Human Rights in the Republic of Moldova in 2012, pages 10-11; Report on the Observance of Human Rights in the Republic of Moldova in 2013, pages 8-9;

⁶² The LGBT march was organized this year on Grigore Vieru boulevard, not on Ștefăncel Mare, as it was requested in the application submitted by them to the local authority. Supporters of LGBT community came with placards and slogans reading „It's time to be yourself”. However, some of them were wearing masks not being ready to show their identity. Across the street, the march was waited by an initiative group of young homophobic with slogans „Okupați Pedofilii” and „Zero Tolerance”. These young people chanted denigrating messages at the address of LGBT.

Although this issue was previously addressed by the Ombudsman Institution⁶³ under various aspects, in 2014 the situation has not changed considerably. Based on the contents of appeals received by the Centre for Human Rights from women-victims of domestic violence in the previous years, it was evident that these women, on the one hand, did not know enough about the protection mechanisms guaranteed by the state and, on the other hand, they were afraid to address the relevant authorities to seek protection under the law. In 2014, core focus of the petitions was on the lack of promptness in the interventions on behalf of the bodies empowered with responsibilities to prevent and combat the phenomenon.

During several working meetings and seminars organized by the Ombudsman Institution on the given subject⁶⁴, it was established that today the women-victims of domestic violence have become more open in reporting the

Petitioner O.V., submitted a complaint to the Ombudsman Institution regarding the violent actions of her mother-in-law, citizen V.V., against the petitioner's children, one of whom is a minor. The petitioner reported that V.V. intimidated the children by watching them in places of personal hygiene (bath, WC) thus creating their discomfort and calling them obscene words. In addition, citizen V.V. has an aggressive behaviour with the other members of the family and often, in the presence of the family, demonstrates her intimate parts of the body as a form of protest. Such behaviour psychologically affected the children, the minor one in particular.

actions of domestic violence, but a positive resolution of the cases is sometimes delayed because of the impassive attitude on behalf of police officers. Thus, during the trainings conducted by the Ombudsman Institution employees it was attested that some policemen from Police Inspectorates do not properly understand the specifics of the phenomenon of domestic violence; they could not correctly identify the manifestations of this phenomenon and have taken a reluctant, unprofessional position formed under the influence of traditions and outdated concepts. In this respect, police officers should be the first to uproot the misconceptions lingering in the society through decisive actions based on law and using the mechanisms provided for by law. Lack of police training to firmly and consistently work in this area often leads to delayed examination or inefficient examination of the appeals coming from the victims of domestic violence. Moreover, when the victims file the complaint, some police inspectors look suspiciously at them, behave rudely to them

⁶³ Report on the Observance of Human Rights in the Republic of Moldova in 2013, pag.8-9;

⁶⁴ <http://www.ombudsman.md/ro/stiri/seminarul-violenta-domestica-si-preintimpinarea-ei-satul-avdarma-raionul-comrat>; <http://www.ombudsman.md/ro/stiri/intilnire-locuitorii-satului-capaclia-cantemir-cadrul-campaniei-familie-fara-violenta>; <http://www.ombudsman.md/ro/stiri/cadrul-campaniei-familie-fara-violenta-societate-fara-violenta-functionarii-cpdom-utag-au>; <http://www.ombudsman.md/ro/stiri/prelegere-cadul-campaniei-familie-fara-violenta-societate-fara-violenta-inspectoratul-politie>; <http://www.ombudsman.md/ro/stiri/intilnirea-reprezentantului-cpdom-angajatii-inspectoratelor-politie-taraclia-si-vulcanesti>;

and create a psychological climate devoid of overall trust and trust in the effectiveness of intervention on the part of public order enforcement bodies.

Although the Ombudsman Institution has a special hotline for people-victims of domestic violence, the number of appeals on the topic of domestic violence was enough to understand that this phenomenon persists in our country, especially in rural areas. The intervention of the Ombudsman Institution in settling the claims allowed us to conclude that not only the police are guilty of the results of superficial examination of cases of domestic violence, but also social assistance bodies, who are also empowered to intervene and solve such cases.

The case of citizen. O.V. from Danceni village, Ialoveni district has confirmed the absence of such cooperation. For the detailed examination of cet. O.V.'s application, the Ombudsman Institution held a working meeting, where the circumstances that created the crisis in the given family, as well as the actions of the authorities responsible for preventing and combating domestic violence were discussed. During the discussion, it was found that there was lack of collaboration between the social assistance service and the police, which resulted in the superficial examination of the case. To optimize the examination of the case, the Ombudsman forwarded recommendations both to the social worker, as well as to the sector police inspector. The Ombudsman requested the involvement of a psychologist and the execution of an expertise in order to obtain a report on the degree of alcohol, narcotic, or of other nature, addiction of the persons involved in the conflict.

Such cases make us understand that the practice of examining cases of domestic violence contradicts the theory of law applicability on preventing and combating this phenomenon. The police are most often notified on the actions of domestic violence and often they are the only ones struggling with this phenomenon, social assistance employees and representatives of local authorities leave the entire burden on the shoulders of the police to combat the phenomenon of domestic violence. Police inspectors intervene to remove the abusers from the scene. During the organized meetings, the police mentioned that coercive measures (applied when the actions of the aggressor present an imminent danger to life, health and property of the victims, or may be resulting in grave consequences) are often contested by abusers in court, despite the fact that the coercive measures had been applied in accordance with the law in force.

We believe that a more intensive cooperation between social assistance and the police bodies in the fight with domestic violence would ensure adequate protection and would remove the uncertainty and the lack of confidence of domestic violence victims.

As in previous years, the situation regarding the provision of guarantees for pregnant women remains precarious. The Parliament of the Republic of Moldova adopted the Law on the amendment and completion of Law No.289-XV of 22 July 2004 on allowances for temporary disability and other social security benefits No. 332 of 23/12/2013, which operated a number of legislative amendments on lowering the payment of childcare allowances. These changes were made at the period of setting the monthly allowance, which was to be calculated from the income earned in the last worked 12 months, taking into account the period of holidays when the income was smaller. If the mother, who is on maternity leave, resumes work, the allowance is cancelled or only 50 percent of salary can be paid, and, if a woman on maternity leave gets pregnant with a second child, she will receive an allowance of 30 percent of the minimum wage of 1,600 lei and not the income she had before the first birth, as previously prescribed. All these changes have created dissatisfaction among pregnant women⁶⁵, and as a result, the law in question has been contested in the Constitutional Court. Given that on 28.03.2014 the Parliament passed Law No.50 which introduced amendments to Law No. 332 of 23.12.2013, part of the contested legal norms were modified, which resulted in partial modification of the notified object, so the Court is to examine the case taking into consideration the manner in which the relevant Ministry reacted.

Petitioner S.D., appealed to the Ombudsman in order to defend her right to social benefits for temporary disability (pregnancy). While working for Limited Liability Company, she got pregnant with her first child. The employer was notified about this by a certificate on her state submitted by the petitioner. Given the pregnancy, the petitioner was to be granted a childcare allowance provided by the law in force, an obligation that for unknown reason was not honoured by the employer. A similar situation occurred when the petitioner got pregnant with her second child. The employer refused to pay her childcare allowance. When she addressed the employer about receiving the allowance, she was informed that she was fired. As a result of CHR intervention by the concerned authorities, including the General labour Inspectorate, the case was resolved without suing.

In our opinion, such an approach towards the subject of maternity protection on behalf of state authorities does nothing but deepen the existing social stereotype that a pregnant woman is a burden, when it comes to employment, granting social benefits, etc. She is involuntarily granted an inferior role in society, respectively she is discriminated in relation to other categories of people. It is the shared responsibility of government and society to take into account the situation of women

⁶⁵<http://protv.md/stiri/actualitate/mamicile-si-gravidele-din-nou-la-protest-ce-inca-le-nemultumeste---489971.html>

who work and of the need to protect pregnancy. The benefits provided by the state shall be at a level, which ensures that the woman can maintain herself and her child in proper conditions of health and with a suitable standard of living⁶⁶.

7. FREEDOM OF EXPRESSION AND THE RIGHT TO INFORMATION

Article 10 of ECHR guarantees everyone's right to freedom of expression. The right itself includes the freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers.

Thus, vertically, state authorities have positive obligations to ensure concrete equal opportunities of expression of ideas and opinions through various means, as well as receiving information without any interference, but those subject to a legitimate aim.

However, it is not sufficient that there is a legitimate purpose to declare that an interference is in conformity with the Convention. Any restriction of the freedom of expression must be provided by the law, as it involves in itself „*apressing social need*”.⁶⁷

*Although the press must not exceed beyond the limits fixed, in particular concerning the protection of the reputation of another person, it still bears the mission to communicate information and ideas on matters debated in the political arena, as well as those targeting other public interest sectors. To the mission of the press, which is to disseminate information, is added the public's right to receive it*⁶⁸ and the obligation of state authorities to provide adequate means and conditions in this regard.

By observing the requirements of pluralism, tolerance and broadmindedness without which there is no democratic society, journalists grant access to individual and minority opinions in the press. In exercising its role as guarantor of democracy, the press has the primordial duty to respect human rights and the state, in its turn, is to ensure, through various legal measures, the rights of journalists.

⁶⁶ Convention No. 183/2000 concerning the revision of Maternity Protection Convention of 1952, ratified by the Republic of Moldova by Law 87/20.04.2006 Law on the ratification of International Labour Organization Convention No. 183 concerning the revision of the Maternity Protection Convention (Revised), 1952 // *Monitorul Oficial* 75-78/320, 19.05.2006

⁶⁷ *Case Autronic AG v. Switzerland*, ECHR Decision of 22 May 1990;

⁶⁸ *Case Lingens v. Austria*, Decision of 8 July 1986;

In this context, the Ombudsman Institution found alarming the exclusion in 2014 of the TV station *JurnalTV* from the list of TV stations obligatorily retransmitted by cable operators⁶⁹. This would have meant an attack on the freedom of expression. In the letter addressed in this regard to the President of the Coordinating Council of the Audio-visual (CCA), the CHRM reiterated the imminent role of the press in a state of law, the pluralism of views, which eventually provide the citizen with the opportunity to establish a correct attitude towards the provided information. Any restriction must be reasonable and have an objective justification. The Ombudsman Institution welcomed the CCA intention to subject to public debate the project on mandatory inclusion of retransmitted program services and given the negative experiences of this kind⁷⁰, it urged for a thorough analysis of the created situation in order to adopt a decision in the spirit of democratic rules and principles by respecting the plurality of views. Even if the positive outcome of the case was fully appreciated by the Ombudsman Institution, yet, we believe that such an attempt to challenge the media is worrying, especially since this is not the only one during the recent years. The cancellation of NIT channel license in 2012, and the exclusion of Accent TV and RTR Moldova channels in 2014 from several packages of cable operators raised the suspicious of the civil society and of the international community regarding the independence of the media and of the

The evaluation of the legislation in force and of the existing practices related to discrimination contributed to the fact that in 2014 the Ombudsman Institution identified the essential aspects of procedural and legal nature, which underlie the failure of investigation of criminal offenses motivated by bias. This led to a timely submission to the Ministry of Justice of a proposal to create a working group to draft amendments to improve the legal framework in this area. The Ombudsman Institution appreciates the positive result of its examination.

CCA⁷¹. The Ombudsman Institution urges the state authorities to review their attitude towards the role of the freedom of expression, which stimulates the development of an open and tolerant society, so that it could remain an absolute and unconditional freedom.

In the context of freedom of speech, we also want to highlight the pronounced character of speeches containing discriminatory, xenophobic and racist content delivered by some political dignitaries and public

⁶⁹ <http://unimedia.info/stiri/Sase-operatori-de-cablu-din-moldova-au-exclus-jurnal-tv-din-ofertele-de-baza-70646.html>

⁷⁰ <http://radioorhei.info/ambasada-sua-ingrijorata-de-excluderea-a-unor-canale-tv-din-retelele-operatorilor-prin-cablu/>

⁷¹ <http://ipn.md/ro/societate/59397> ; <http://cca.md/news/declaratia-organizatiilor-mass-media-privind-retragerea-licentei-de-emisie-postului-de-televizi> ; <http://cms4.jurnal.md/ro/import/2012/4/9/onu-cere-autorita-ilor-rm-sa-intoarca-urgent-licen-a-nit-218420/>;

officials⁷². The expression of views on issues and events related to the public is proof of the maturity of a democratic society. In this context, the institution reiterates that the State authorities and representatives of political parties are to review their attitude towards the exercise of such rights as the right to freedom of speech, protected by the Constitution and international acts, in order to show respect and tolerance towards every human being, regardless of the criteria that distinguish them or their political views.

In the Ombudsman's view, a civilized dialogue, with the exclusion of intimidation and aggression, is a defining condition when it comes to freedom of speech. Violent manifestations of intolerance have a negative impact and provoke feelings of hatred not only on a single victim, but also on an entire group the victim is identified to and, consequently, could lead to committing of certain crimes, crimes that would affect community cohesion and the stability of society.

It is also necessary, in this dialogue, that the state have the role of defending the personality, the honour and dignity of the individual in the light of a well-defined legal framework. Often the conflict between *morality* and freedom of expression leaves room for the interpretation of the principle of proportionality, thus the Court confers to the national authorities a larger margin of justified appreciation through a specific approach to the term *morality*, and stresses the need to include a its uniform concept in the legal systems and the social order of the member states⁷³. Therefore, the Ombudsman Institution considers opportune the improvement of the national legislation through clear defining of the concepts of *honour and dignity*, which would entail an objective assessment of the circumstances by the courts when examining cases related to violating the dignity of the person.

⁷²<http://discriminare.md/renato-usatii-invinuit-de-rasism-dupa-ce-l-a-facut-pe-filat-tigan-murdar-si-imputit/> ; <http://www.lgbt.md/rom/story.php?sid=793>; <http://curentul.md/social/fiodor-ghelici-si-a-cerut-scuze-publice-de-la-comunitatea-lgbt.html> ;

⁷³Case Muller v. Switzerland; ECHR decision; 1998;

8. THE RIGHT TO VOTE AND TO BE ELECTED

In 2014, the political life of Moldova was marked by parliamentary elections that allowed the citizens to express their will through free elections. According to international observers, the election took place in accordance with the requirements of the OSCE and the Council of Europe standards⁷⁴. Despite the general opinion about a „calm” campaign, the Ombudsman Institution, detected a few worrying signals on the concept of freely expressed vote.

On 23 June 2014, the Ministry of Justice registered the political party *the Reformist Communist Party of Moldova* by Decision No. 173⁷⁵.

Political parties are guaranteed the opportunity to contest any violation of their rights and freedoms that limit their formation and activity⁷⁶. The Communist Party of the Republic of Moldova has notified the competent court. The action was based on several reasons, including the fact that the decision „contravenes the provisions of article 66 par. (3) CC, according to which the legal person cannot be registered if its name coincides with the name of another legal person already registered. Also, the provisions of Article 4 paragraph (2) of Law no.294 / 21.12.2007 on political parties, whose full name, abbreviated name and symbols of the political party must be clearly distinguished from those of previously registered parties in the Republic of Moldova, were invoked”.

On 4 October 2014, the Court of Appeals suspended the decision in question, issued by the Ministry of Justice, until the examination of the merits of the case. Thus, until the final decision of the court, the Reformist Communist Party from Moldova had no right to function and the Central Election Commission, as the body responsible for implementing the electoral law, was to take into account the legal act implementing it according to the rule of law.

According to the Ombudsman Institution, the fairness of the organization and management of the electoral process is directly proportional to the degree of observance of the right to vote. Political pluralism is unthinkable without a wide variety of political doctrines and ideas available to the voter.

By decision of the Central Election Commission (CEC) No. 2749 of October 13, 2014 the electoral candidate with the name the Political Party PATRIA” was registered.

⁷⁴Declaration on preliminary statements and conclusions of 1 December 2014 of the International Mission of Observing the Elections of 30 November 2014, Republic of Moldova;

⁷⁵<http://unimedia.info/stiri/pcrm-declara-ca-partidul-comunist-reformator-a-fost-scos-in-afara-legii-84027.html>

⁷⁶Guide on Political Party Regulation made by OSCE/ODIHR and Venice Commission, Adopted by the Venice Commission at its 84th Plenary Session (Venice, 15-16 October 2010.)

Under Article 38, paragraph (8) of the Election Code, candidates present financial reports to the election bodies every two weeks, which contain information on incomes and expenditures according to destination. Having verified the given party's financial report on cash flow during the election campaign, a few days before the election, CEC, under paragraph (2), Article 36 of the Electoral Code⁷⁷, requested the Court of Appeals to annul Decision No. 2749 of October 13, 2014 regarding the registration of the political party „PATRIA”. On 27 November 2014, the Court of Appeals accepted the application submitted by CEC and decided to remove the mentioned political party from the list of candidates. Subsequently, on 29 November 2014, the Supreme Court upheld this decision as well.

International treaties state the importance of preventing any act of corruption in the context of financing the election campaign and specify that the states are to encourage a balanced and transparent system of financing political parties. The Ombudsman institution considers such situations as alarming and having a negative impact on the citizen's right to express his political choice⁷⁸. The state should also require that any violation of the legislation on campaign financing should be subject to effective and proportionate sanctions.

The exceptions provided in article 11 of ECHR, which enshrines the freedom of assembly and association with regard to political parties, shall be interpreted strictly and only some convincing and compelling reasons can justify the restrictions on the freedom of association. In other words, any disruption of the electoral competition affecting the contestants will undoubtedly affect the citizens' right to express their political choice.

The political parties are an essential means of enhancing freedom of association, necessary for the proper functioning of democracy. It is imperative, however, that this democracy to be perceived by society as a genuine one. The political debates on the election programmes, the confrontation of various doctrines, the launching of „alluring” messages for the people, as part of *demos cratis*, are impossible in principle in the absence of electoral competition, which, of course, can and is ensured by candidates. In this logic of ideas, it is applicable to shift the stress in the phrase „politician - people” on the last component. It is namely the *demos* that offers the zealous vote.

⁷⁷Art.36, paragraph (2) of the Electoral Code provides that in the case when the electoral candidate intentionally used funds from abroad, the Central Election Commission submits an application to the Chisinau Court of Appeals to annul its registration

⁷⁸<http://www.ombudsman.md/ro/stiri/directorul-cpdom-anatolie-munteanu-orice-perturbare-competitiei-electorale-efect-asupra;>

According to the Ombudsman, lack of attitude towards an irrevocable court decision on the suspension of the registration of a political party having a direct impact on the electoral process, the exclusion from the race „on the last mile” of another party, constitutes the technical part of the issue. Concern is connected with the risk that such an exercise diminishes the citizen’s perception of democracy.

The organization of the electoral campaign in an impartial manner is based on the obligation of the states to offer to voters proper civic education to meet their needs, including by timely distributing materials. In this context, the National Office of the Ombudsman intensified its work with the Central Electoral Commission⁷⁹ in order to create optimal conditions for the Moldovan citizens to exercise their right to vote focusing on informing the population about the electoral process and the participants in the electoral race. Aiming at an education on the exercise of the right to vote, the Ombudsman Institution published a brochure „I want to vote”, which is a practical guide for the citizens from the Republic of Moldova. It aims to inform them about the legal aspect of the exercise of the right to vote, the authorities responsible for organizing and conducting elections, the stages of voting, as well as the legal liability of the persons who create impediments in the exercise of the right to vote and the authorities that can be notified in this respect. The presentation of the Guide was initiated within the context „My first vote” conducted by the Independent Press Association with the support of the Council of Europe. Media representatives together with employees of Ombudsman Office went to lyceums to bring to the attention of the pupils, who come of age, how to exercise their voting rights⁸⁰.

In the context of this year’s legislative elections, the Ombudsman institution wished to analyse, in the limits of its jurisdiction, the creation of conditions for ensuring physical access of disabled people to polling stations, the information of the persons with impaired hearing and vision about the electoral process, the provision of the principle of equal opportunities and non-discrimination. Democratic elections cannot be obtained unless a large number of other fundamental rights and freedoms are exercised on an existing basis without discrimination or other obstacles that hinder participation in the electoral process based on political or other opinion, gender, race, colour,

⁷⁹<http://www.ombudsman.md/ro/stiri/parteneriat-intre-oficiul-national-al-ombudsmanului-si-comisia-electorala-centrala;>

⁸⁰<http://www.ombudsman.md/ro/stiri/ombudsmanul-tudor-lazar-s-alaturat-campaniei-primul-meu-vot;>
<http://www.ombudsman.md/ro/search/node/primul%20meu%20vot;>

ethnicity, language, religion, national or social origin, property, birth or other status, such as physical disabilities, and without arbitrary and unreasonable restrictions⁸¹.

According to the preliminary findings of the international observers, a limited number of violations was revealed during the election campaign, mostly related to unequal access to public venues⁸². In this regard, the National Ombudsman notes, however, a deficiency of attitude on behalf of public authorities towards people with disabilities in terms of ensuring adequate conditions for exercising the right to vote. Despite installing polling booths specially adapted for disabled people in some polling stations, room for manoeuvring, necessary for the movement of people with mobility impairments, was not provided.

According to CICDE (Continuous Training Centre in the Electoral Domain) statistics, the presence of ramps for people with disabilities that allow accessibility to polling stations is of 15 % to 85%.

It is also necessary to identify solutions for the problem of access to electoral information of blind people and those with hearing disabilities. Although this problem has previously been highlighted by the Ombudsman Institution⁸³, it still remains unresolved. During the meeting of the ombudsman with the Deputy President of the Central Election Commission, we were informed that CEC realizes that the targeted categories of individuals get insufficient information during electoral campaigns, but due to limited financial resources, they cannot ensure the implementation of voting by ballot papers with Braille characters.

The National Ombudsman Office was informed by telephone by the Mayor of Sărata Nouă village, Leova district, who invoked an alleged violation of the right to vote of the inhabitants of Bulgărica village. There are about 100 people with the right to vote in the given village for whom a polling station was formed. However, according to the statements of the representatives of Leova district electoral council, the votes of the inhabitants from Bulgărica were not supposed to be validated, because in the sheet listing the identity card their residence visa is in the village Sărata Nouă, not in the village Bulgarica. The Ombudsman Institution referred the matter to the CEC.

⁸¹ Declaration of principles for International Election Observation, July, 2005.

⁸² Statement of Preliminary Findings and Conclusions of December 1, 2014 of the International Election Observation Mission of Parliamentary Elections, 30 November 2014, the Republic of Moldova

⁸³ Report on the observance of human rights in the Republic of Moldova, 2012, page 23.

There is also the problem of acute shortage of people who know the sign language. In our opinion, the lack of financial resources should not constitute grounds for restricting the exercise of the rights of persons with disabilities. It should also be noted that currently there is a database on the number of disabled people per community, which would allow calculating the financial needs in the organization of electoral procedures. In our view, a starting point for solving this problem would be investing in the infrastructure of the polling stations, including by fundraising involving the private sector etc., and by carrying out a preliminary study on the accessibility of persons with disabilities in the voting.

The conduct of democratic elections is a current concern of the Ombudsman Institution and cooperation, in this regard, with the Central Election Commission allowed the positive solution of some technical shortcomings in the election process. An example is the case of Bulgarica village residents, whose voting rights were restricted because of technical deficiencies. The Ombudsman Institution praised the prompt intervention of the CEC in this case and its positive solution.

9. THE RIGHT TO PROPERTY AND ITS PROTECTION

In the legal aspect, the right to property is a complex of legally protected attributes, by virtue of which the right holder can satisfy his interests related to ownership of a thing. The interests are determined and conditioned by the existence of economic ownership relations corresponding to a company at a given time.

Since 2012, the issue of building lofts has aggravated, thus being current in 2014 as well. The arguments of the petitioners underlying disagreement for the construction of lofts, are: poor condition of old and damaged apartment buildings; agreement only with the tenants of the top floor; failure to comply with contractual requirements of businesses involved in the construction works; lack of adequate documentation of the process of loft building; lack of rigorous monitoring on behalf of the authorities on compliance with contractual requirements and construction norms on behalf of economic operators carrying out the building of lofts.

The private property is inviolable⁸⁴ under the law, while public property enjoys a legal protection regime, in the sense that the goods, which form the object, are inalienable. Often the two forms can be condominium property that can be used conditionally.

⁸⁴Article 46 of the Constitution of the Republic of Moldova

The Ombudsman Institution notes an obstructed merging of these two property elements, when it comes to the building of lofts, so actively developed in Chisinau, and, therefore, which leaves room for interpretation of the right to common ownership.

With reference to the phenomenon of loft building, we consider it the duty of both the public authority as well as private property owners to commonly dispose and administer the shares on common property. However, according to article 358 of the Civil Code of the Republic of Moldova, the division in order of cessation of joint property to satisfy certain profitable interests is inadmissible in the cases covered by art.355 of the Civil Code of the Republic of Moldova⁸⁵.

Over the past few years, the Ombudsman Institution monitored the phenomenon of loft building, even participated in court hearings, when groups of residents, who manifested their disagreement with such construction, notified it. Unfortunately, the Ombudsman states that the public authority, which grants urbanism certificate to this effect, does not recognize the right of joint ownership of mansard roofs of residential blocks, and indicates that there is no share quota on that and only the local government has the right to decide on how to use and dispose of them. But on the other hand, by the approved documents the public authority indicates that the main support for the building lofts on multi-storey residential blocks on the territory of Chişinău is the agreement of the top floor tenants⁸⁶, which makes us believe that, although indirectly, it recognizes the right of condominium on apartment buildings subject to loft construction.

Such contradictory situations happen because some aspects of privatization, such as obligations of owners to maintain common spaces, delimitation of responsibilities between owners of housing, energy suppliers and local authorities were not operated in the Law on housing fund privatization of 1993 and

***In the period 2010- 2014, the CHR registered a total of 485 of complaints on the violation of the right to private property;
31,34%- collective complaints regarding land ownership;
48,65% - collective complaints on construction of residential blocks;
20% - collective complaints on loft construction.***

remained unclear. Inconsistencies in the legal framework on performing loft construction are also obvious when we refer to the technical expertise. For example, according to the regulatory document CP C.01.03 -2004 „Loft design and construction”, approved by the Ministry of

⁸⁵“If there are spaces in a building for housing or another destination having different owners, each of them holds common ownership interest shares, forced and perpetual on the parts in the building, which is intended for the use of premises, can be used only in common.” Civil Code of the Republic of Moldova. Second Book – Property rights

⁸⁶ Decision of Chisinau Municipal Council No. 16/5 of 02.08.2001.

Construction, in order to start the loft construction, it is necessary to perform the technical expertise of the entire apartment bloc, while, according to the Concept of construction of lofts on residence blocks, Decision No. 16/5 of 02.08.2001 of Chisinau Municipal Council, only the technical expertise of the roof is sufficient. In addition, it is not expressly provided who are the loft beneficiaries under the concept of common ownership.

In this context, we point out that the normative acts of local interest should not contradict the national legislation, but contain specific provisions designed to streamline the work locally. Thus, we reiterate that the Ombudsman Institution has previously requested the City Council to adopt a new regulation on the design of loft floors, loft bunk annexes. The Provisional Regulation on the design of loft floors No. 14/2 of 10.08.2001 is outdated. Unfortunately, the City Council have not met local elected officials vote on the issue so far.

Following the working meeting⁸⁷ with representatives of the authorities responsible for the construction of the Ministry of Regional Development and Construction, meeting organized by the Institution of the Ombudsman, it was found that the buildings of lofts cannot be performed in residential buildings erected until 1980. At the same time, the Ministry said that they were currently developing a new technical normative document on the construction of more qualitative attics with more detailed stipulation of how to execute the works and the use of construction products (materials, products, components), which represent low risk of fire and are characterized by incombustible materials and substances in cold condition. The situation is valid for the fire produced in Botanica sector of Chisinau⁸⁸ resulting in the destruction of the loft apartments of one building. In case of approval of such a technical normative act, it will not be necessary for the local authorities to develop other regulations.

In this context, the Ombudsman institution is addressing an appeal to the central and local authorities to jointly revise the existing legal framework in the field of construction and improve it in the light of European standards.

Another aspect of the right to property is related to lease. Thus, during 2014 the Ombudsman Institution continued to receive complaints about land allocation, lease of land plots and failure to observe contract clauses on land lease. Despite the fact that these problems were signalled in the previous reports of the CHR⁸⁹, they are still unresolved.

⁸⁷<http://www.ombudsman.md/ro/stiri/avocatul-parlamentar-tudor-lazar-problema-mansardelor-dreptul-proprietate-trebuie-sa-fie>

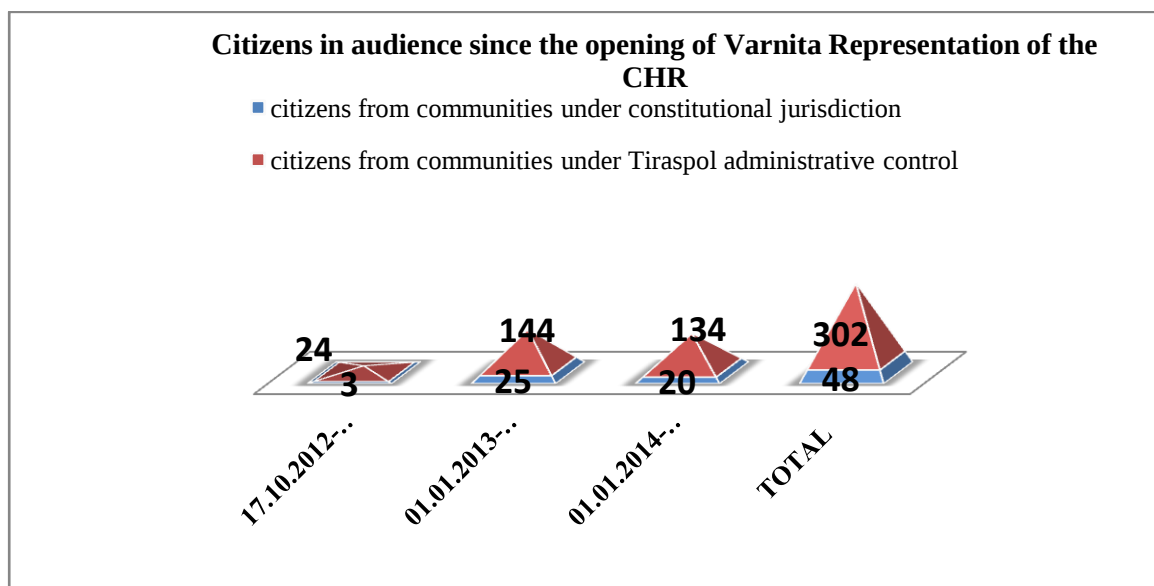
⁸⁸<http://protv.md/stiri/actualitate/oficial-iata-cauza-incendiului-care-a-mistuit-o-mansarda-de-pe---547731.html>;

⁸⁹Report on the observance of human right in the Republic of Moldova in 2012, pag.56; Report on the observance of human right in the Republic of Moldova in 2012, pag.21;

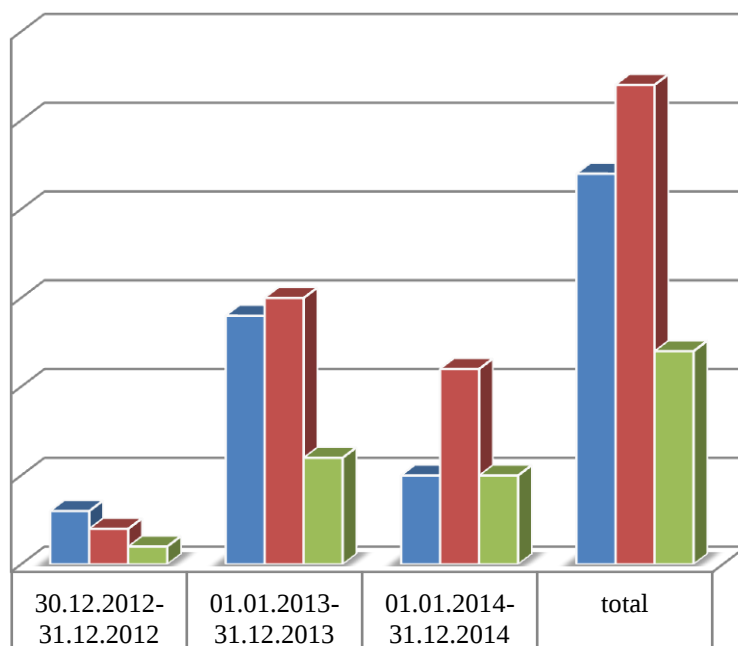
10. OBSERVANCE OF HUMAN RIGHTS IN TRANSNISTRIA AND ADJACENT LOCALITIES

The issue of human rights observance in the Transnistrian region is the focus of the Centre for Human Rights since the institution was founded. Depending on the factors that generate an infringement, the most appropriate methods to address the problem are chosen, so that citizens feel as little as possible the shortcomings of negotiations for the Transnistrian conflict settlement.

On 17 October 2012, the Human Rights Centre opened an office based in the village VarnițaAneniiNoi district. Since the beginning of the activity of the Varnița Representation of the CHR, 411 people appealed, of whom 61 submitted applications to the ombudsman. In 2014, 175 people appealed to Varnița Representation, of whom 21 have submitted applications.

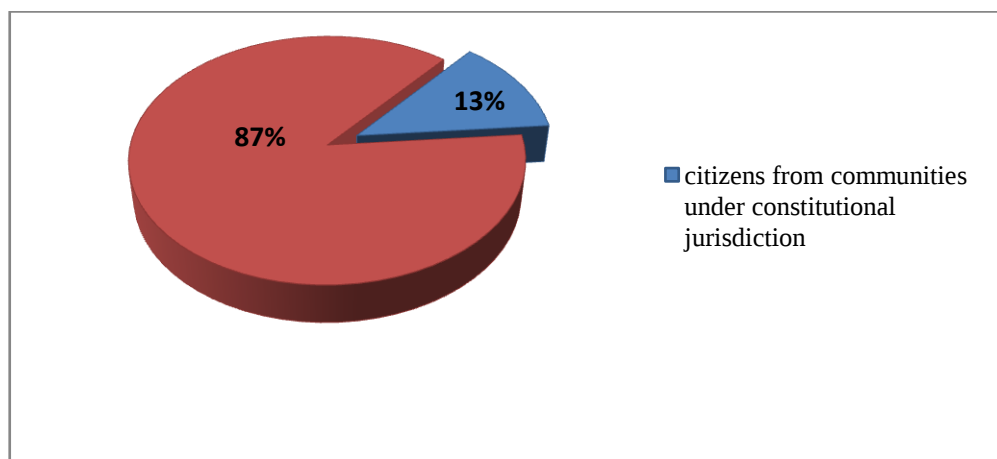


Applications examined since the opening of Varnita Representation of the CHR

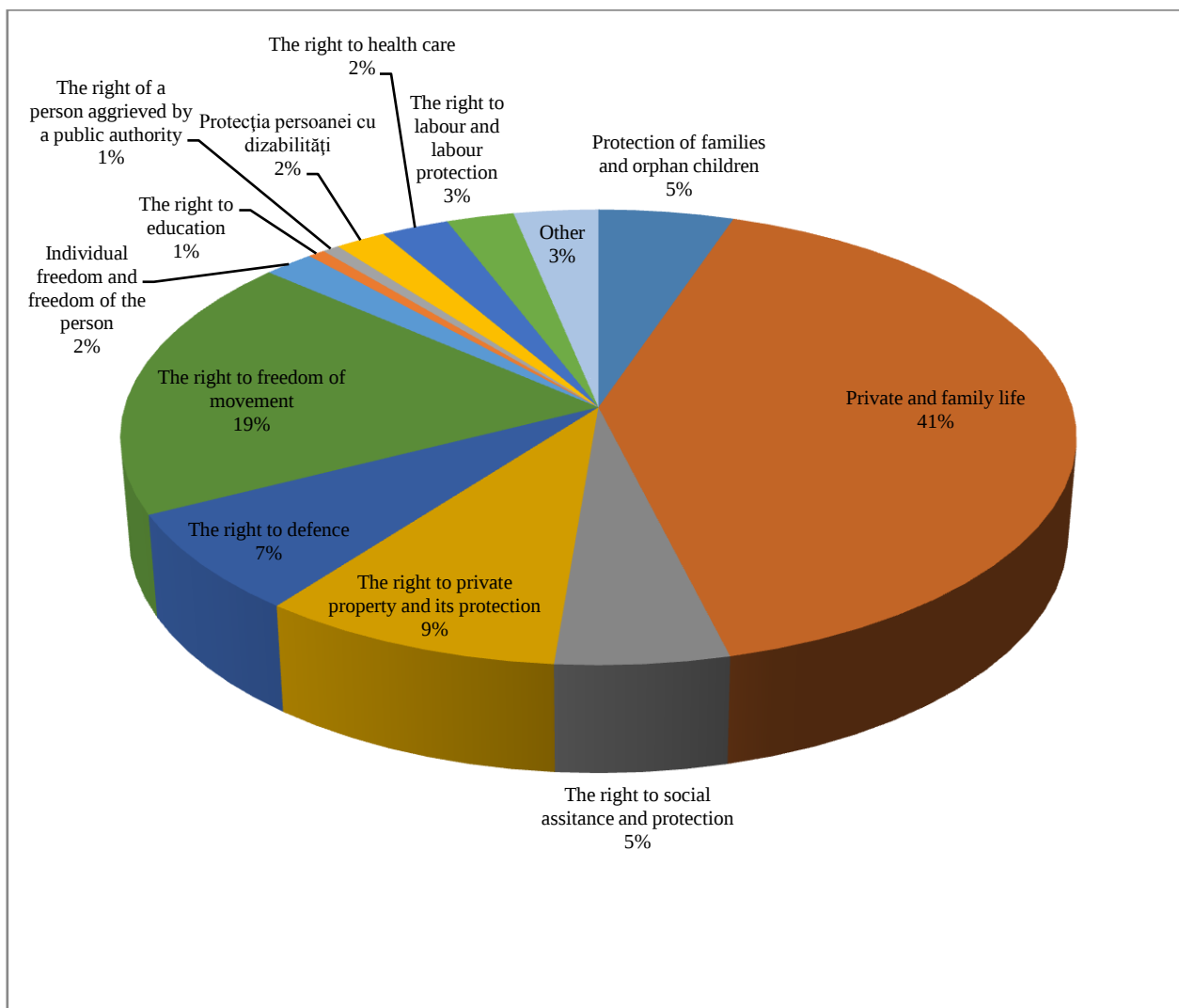


	30.12.2012-31.12.2012	01.01.2013-31.12.2013	01.01.2014-31.12.2014	total
■ addressed by prisoners kept in penitentiaries No. 8 and 12 from Bender	3	14	5	22
■ addressed by citizens from communities under Tiraspol administrative control	2	15	11	27
■ addressed by citizens from communities under constitutional jurisdiction	1	6	5	12

As in previous years, the majority of applicants are citizens residing in communities from Transnistria, which constitutes 86% of the total number of appeals.



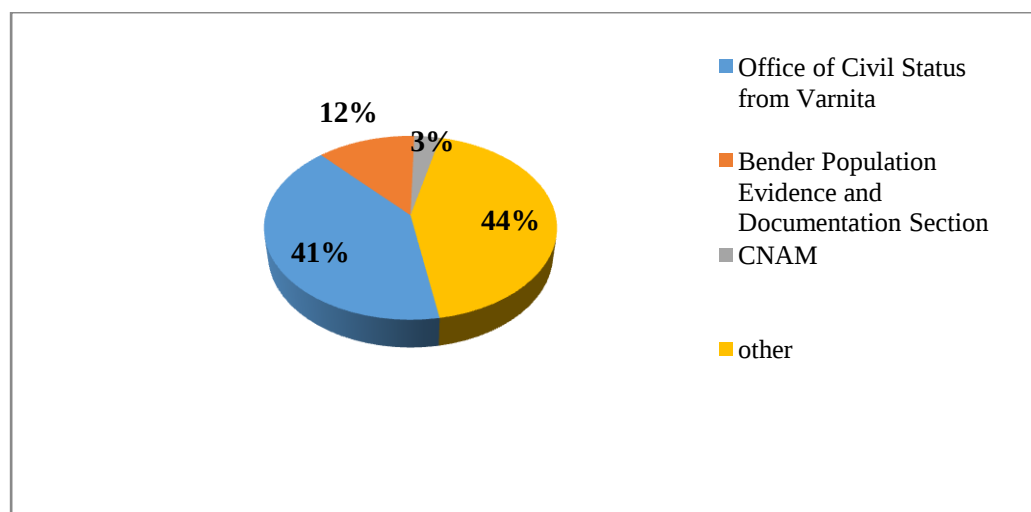
People have approached different issues that, in their opinion, create impediments in achieving their constitutional rights and freedoms. Depending on the nature of legal relations, the most common complaints of people in Transnistria and adjacent communities are related to faulty realization of the child's rights, the rights to citizenship, freedom of movement, private property, labour, social assistance and protection, health, individual freedom and personal security, physical and mental integrity.



As for the types of institution, most deficiencies were alleged in the work of the Office of Civil Status from Varnita (35% of the persons received in audience raised this issue, which was also contained in 20% of submitted applications); deficiencies related with the operation of Varnita Population Evidence and Documentation Section claimed by 13% of those received in audience.

Compared with previous years⁹⁰, in 2014 about 12% of people received in audience complained about the activity of Population Evidence and Documentation Section, but no applications were submitted in this regard. This is despite the fact that the number of requests to change documents has increased by 36.44%. However, 41% of the people expressed their dissatisfaction with the work of the Office of Civil Status from Varnița village during audiences and 20% submitted applications to the ombudsman. However, it was found, during the audiences and in the process of examination of the applications, that the citizens' perception about the inefficiency of these institutions is generated by the difference in the regulatory framework in force in the Republic of Moldova and Transnistria.

Rates of appeals in relation to the type of institution



Observance of the right to physical and mental integrity, freedom and security of the person in Transnistria remains a vulnerable topic. According to the Report on Human Rights on the left bank of the Dniester River, made by the expert Thomas Hammarberg, the conditions in the penitentiary institutions subordinated to Tiraspol do not meet the minimum standards of detention.

Because of limited access for government representatives and officials of the Republic of Moldova in Transnistria, the prevention of torture does not extend to detention facilities in this region. In this context, in 2014 it was a priority for us to establish a common mechanism for periodic monitoring of detention conditions in detention institutions in Transnistria (action under the

⁹⁰Report on the observance of human rights in the Republic of Moldova in 2013, http://ombudsman.md/sites/default/files/rapoarte/raport_cpdom_2013_0.pdf

National Action Plan on Human Rights for the period 2011-2014⁹¹). We decided to create a working group to identify the best solutions to ensure achievement of this objective. Besides the fact that the Centre for Human Rights had its own opinion on the quality of the formulations in view of the success of the action, it is regrettable to note that it was not carried out as we had planned.

At the same time, we managed to establish relations with the third sector representatives from Transnistria interested in the given question. In 2014, we signed a partnership agreement with a nongovernmental organization that promotes the establishment of the mechanism for torture prevention in the Transnistrian region under the “commissioner for human rights” in Tiraspol. Within this partnership, the National Ombudsman Institution provides informational and methodological support in the field of promoting standards and international mechanisms of human rights observance in the Eastern districts of the country, including in detention facilities. Thus, a cycle of workshops on the topic „National and International Standards in Preventing Ill-treatment” was launched at the end of the year. The National Ombudsman Institution employees have trained civil society representatives from Transnistria regarding the minimum detention standards set by international instruments to which Moldova is part, as well as the European Court of Human Rights jurisdiction. In turn, the Tiraspol partners were interested in the process of establishing the National Mechanism for Prevention of Torture in the Republic of Moldova and reported on attempts to establish a mechanism to prevent torture in Transnistria.

The issue of respecting the right to education is still in the attention of the National Ombudsman Institution, which is not provided in full for all the children in the villages of the Transnistrian region. Despite the efforts to solve the problems, faced by the schools with instruction in Romanian using the Latin script, there has not been substantial progress in this area.

In Transnistria, there are eight schools with instruction in Romanian (5 lyceums and 3 gymnasiums), in which about 1,500 students are enrolled. The authorities of the region restrict their activity demanding to be registered in Tiraspol, to pay for the rent of buildings, to carry out the educational process according to the Transnistrian laws, and the teachers to pay taxes to the local budget⁹².

⁹¹Parliament Decision no. 90 of 12.05.2011 regarding the approval of the National Action Plan on Human Rights for the period 2011-2014, as amended by Parliament Decision no. 271.12.2012 327: objective No. 80 “to ensure access to justice for the inhabitants of Transnistria” Action 3) “To establish a joint mechanism (involving international bodies) for regular monitoring of detention conditions in places of detention in Transnistria”, funding – within the limits of budgetary allocations; responsible – the Centre for Human Rights, the State Chancellery (Bureau for Reintegration), Ministry of Justice; partners - UN, EC; indicators of progress - mechanism established, number of made visits.

⁹²<http://president.gospmr.ru/ru/news/press-konferenciya-prezidenta-pridnestrovyya-ev-shevchuka-chast-iii>

On 19 October 2012, the European Court of Human Rights pronounced a judgment in the case of *Catan and others vs Moldova and Russia*⁹³, admitting that violations of the right to education occur and that the Russian Federation is held responsible for the situation of the schools in Transnistria. The Republic of Moldova was not found responsible for the violation of the right to education in these cases.

The Interim Resolution CM / ResDH (2014) 184, adopted by the Committee of Ministers at the meeting of 1208e of 23 -25 September, strongly reiterated the unconditional obligation for each respondent State to comply with the final judgment in the cases, to which they are parties, and urged the authorities of the Russian Federation to take all possible measures to stop the violation of the applicants' right to education and decided to resume the examination of this case at its meeting in December 2014.

Free movement in the area with increased security regime of the Transnistrian conflict is limited, due to the presence of military peacekeeping posts installed under the Agreement on the principles of peaceful settlement of the conflict in the Transnistrian region of the Republic of Moldova, signed on 21 July 1992 by the President of the Republic Moldova, Mircea Snegur, and the Russian President, Boris Yeltsin. According to art. 5 of this Agreement, "the parties to the conflict consider sanctions or blockades inadmissible. In this context, any obstacles to the movement of goods, services and people will be promptly removed...".

The wording stated in this agreement is welcome, but at the same time, it is affected by a lack of implementation mechanisms. In such conditions, the inhabitants of the security zone, being part of different social relations involving trips to Transnistria, are in a perpetual state of uncertainty and discomfort.

Social protection should be the cornerstone of the state policy, the main mechanism through which society intervenes to prevent, limit or eliminate the negative effects of events considered to be „social risks”. Local authorities play an important role in the organization of social assistance. They have to organize territorial social assistance services and ensure enforcement of the laws at the local level.

Since the Law on basic provisions of the special legal status of communities on the left bank of Nistru (Transnistria) No. 173 of 22.07.2005 remained unenforced, the local administration bodies are not guided in their activity and do not enforce the legislation of the Republic of Moldova and do

⁹³[hudoc.echr.coe.int/sites/eng/Pages/search.aspx#{"languageisocode":\["RON"\],"appno":\["43370/04","18454/06","8252/05"\],"documentcollectionid2":\["GRANDCHAMBER"\],"itemid":\["001-124596"\]}](http://hudoc.echr.coe.int/sites/eng/Pages/search.aspx#{)

not implement national programs on socio-economic development. Consequently, persons residing in Transnistria do not benefit of insurance for risk situations, determined and granted on the basis of several national acts in healthcare and social protection, such as: material aid, social assistance / aid for the cold season of the year, social services - support for families with children, personal assistance for persons with severe disabilities, social assistance and support at home for people with disabilities, foster family care provided to orphans or children without parental care, specialized social services for people with mental disabilities⁹⁴.

During 2014, the Tiraspol administration continued to intervene unilaterally in the exercise of the right to property by agricultural land owners from the villages Dorotcaia, Pohrebea, Cosnita, Pirita, Molovata, Cocieri and MolovataNoua. Thus, in March, the farmers' and business agents' access to the land located beyond Tiraspol-Kamenka route was restricted by representatives of the Transnistrian authorities. The landowners were threatened with the confiscation of agricultural machines and application of administrative sanctions. The secessionist administration argued that they own these lands and insisted on the adoption of a mechanism for the lease of about 6,400 ha of agricultural land. The constitutional authorities tried to intervene, discussed the farmers' problems during the negotiations with farmers and international actors, partly compensating the damage suffered by the farmers from Dubasari. However, the situation remains uncertain. Businesses still have no access to their own land; allege enormous losses and part of the land belonging to them is abusively treated by unauthorized persons.

The lack of significant progress in the Transnistrian settlement imposes us to reiterate that the dynamics and the results of consultations in the format „5+2” of Transnistrian conflict settlement requires clear strategies for the future, the review and adoption of the strategy of sectorial working groups, approved by Government Decision on the fulfilment of the President of the Republic of Moldova's initiatives to strengthening confidence and security in the context of the

⁹⁴Law on the Republican and local funds for social support of the population No.827 of 02.18.2000; Law on social assistance No.133 of 13.06.2008; Law on social assistance No. 547 of 25.12.2003; Law on social services No. 123 of 18.06.2010; The Framework Regulation on the organization and functioning of social support for families with children, approved by Government Decision No. 889 of 11.11.2013; The Framework Regulation on the organization and functioning of Social Service „Personal Assistance” and minimum quality standards, approved by Government Decision No. .314 of 23.05.2012; Regulation on family-type children's house, approved by Government Decision No..937 of 12.07.2002; The Framework Regulation on the organization and functioning of the social service „Protected House” and minimum quality standards, approved by Government Decision No. 711 of 09.08.2010; Regulation on conditions of setting, calculation and payment of temporary disability allowances and other social security benefits, as amended by Government Decision no. 544 of 08.07.2014; The Framework Regulation on the organization and functioning of social service “Mobile Team” and minimum quality standards, approved by Government Decision No.722 of 22.09.2011; Regulation on conditions of setting and payment of allowances for adopted children and children under guardianship / trusteeship, approved by Government Decision No. 581 of 25.05.2006.

Transnistrian problem settlement No. 1178 of 31.10.2007. However, we reiterate the need to train sector working group for human rights, which should be one of the priority of this process.

CHAPTER III

THE POWERS OF THE NATIONAL OMBUDSMAN INSTITUTION THROUGH THE OPTIONAL PROTOCOL TO THE CONVENTION AGAINST TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT

1. GENERAL CONSIDERATIONS

The powers of the National Ombudsman Institution through the Optional Protocol to the convention against torture and other cruel, inhuman or degrading treatment or punishment (OPCAT)

The argument of state authorities, concerning the lack of funds to ensure appropriate detention conditions, the inadequate training of staff, the state of affairs, according to which, the respect of the rights of persons deprived of their liberty fully depends on the authorities responsible for the detention institutions, have imposed the establishment of an independent monitoring of places of detention, which aims to help improve the situation of persons in custody.

In this sense, the founder of the Association for the Prevention of Torture (APT) Jean-Jacque Gautier said: "Visits to places where people are deprived of their liberty is one of the most effective ways to prevent torture and ill-treatment".

The United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment has been recognized as one of the main instruments to prevent and combat torture. The Convention defines torture as *„any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity”*.

In 2002 on 18 December, the UN General Assembly adopted the Optional Protocol to the Convention (OPCAT) - an innovative instrument because it is based on establishing a system of preventive visits by an international organ and by „one or more national preventive mechanisms that the States Parties are obliged to create after ratification”.

Complying with these provisions, the Parliament of the Republic of Moldova adopted Law No. 200 of 26.07.2007 on amending and supplementing the Law on Parliamentary Advocates No.1349 of 17 October 1997⁹⁵, and in this way attributed the National Preventive Mechanism against Torture to the Ombudsmen. The European Committee for the Prevention of Torture noted the progress made by our country in this field in its report of 2009⁹⁶.

By investing the Ombudsman with the mentioned mandate, it was taken into account that it fully corresponds to the criteria put forward by the Optional Protocol to the National Preventive Mechanism:

- functional independence (the ombudsmen, appointed by the Parliament for a term of 5 years, enjoy immunity and are separated from the legislative, executive and judicial powers);
- professional skills and knowledge necessary for exercising the mandate and extensive powers to inspect places where people are, or may be held, in detention.

Under the Centre for Human Rights, a Consultative Council was also created which is meant to „offer advice and assistance in the exercise by ombudsmen of their powers as National Preventive Mechanism”, having in this capacity equal powers with those of the Ombudsman. The Director of the CHR on 31.01.2008 approved the Regulation on the operation of the Council. De facto, the Council started its activity in the second term of 2008. (*Members of the Advisory Council from 2008: Veaceslav Ursu, Vanu Jereghi, Serghei Ostaf, Gheorghe Cuțitaru, Nicolae Rădița; Advisory Council Members of 27 July 2011: Veaceslav Ursu, Gheorghe Cuțitaru, Oxana Gumenai, Ion Guzun, Ion Schidu, Alexandru Covalschii, Tatiana Cermomorîț, Constantin Gonța, Alexandru Belibov*).

The wording of Law No. 52 of 04.03.2014, effective from 05.09.2014, was edited and the attributions of the National Preventive Mechanism against Torture have been transferred to a collegial body consisting of individuals whose work is to be ensured by the Office of the Ombudsman.

⁹⁵ Law No. 200 of 26.07.2007 on amending and supplementing the Law on Parliamentary Advocates No.1349 of 17 October 1997, Monitorul Oficial No..136-140/581 of 31.08.2007

⁹⁶ Paragraph 42 of the Report of the European Commission on Prevention of Torture of 27-31 July, 2009
<http://www.cpt.coe.int/documents/mda/2009-37-inf-eng.pdf>

According to Article 30, paragraph (1) of the Law, „*in order to protect individuals against torture and other cruel, inhuman or degrading punishments, **the Council for the Prevention of Torture, as national mechanism to prevent torture, is created under the Office of the Ombudsman***”.

The Council shall be composed of seven members. The Ombudsman and the Ombudsman for the Child's Rights are rightful members of the Council. The other members are nominated by the civil society and are selected through a competition organized by the Office of the Ombudsman.

*The Ombudsman **ensures** that the members of the Council make preventive and monitoring visits in places where there are, or might be, persons deprived of freedom.*

*The Council is assisted in its work by a specialized division within the Office of the Ombudsman. The resources required for carrying out the functions of the Council to contract specialists and experts are included **in a separate budget line** and is an integral part of the budget of the Office of the Ombudsman.*

Board members, excluding the rightful members, are entitled to remuneration in the amount of 10% of the average salary per economy for each day, when they visit places of detention or participate in Council meetings.

*The Annual Report on Observance of Human Rights and Freedoms, submitted to the Parliament by the Ombudsman, should include **a chapter on the prevention of torture.***

In other words, by including the Ombudsman in the Council composition, by financing it through a „separate budgetary line”, as part of the budget of the Office of the Ombudsman, and by providing operational assistance by „a specialized division within the Office of the Ombudsman”, the legislature has actually „grafted” on the structure of the National Institution for Protection and Promotion of Human Rights a National Mechanism for monitoring places of detention, in accordance with the provisions of the Optional Protocol to the Convention against Torture and Inhuman or Degrading Treatment or Punishment (OPCAT).

Thus, we believe that in this situation the Ombudsman and the Ombudsman for Child's Rights, being members of a collegial body, lose part of their functional and decision-making independence under the Paris Principles. In such circumstances, the right / duty of the Ombudsman to have an independent opinion regarding the findings of the Annual Report in the chapter on Prevention of Torture is *latosenso* prejudiced.

The National Institution for the protection and promotion of human rights must be perceived by the society as independent, as well as in its Annual Report - a document that reflects the „vision”

of the institution on the situation in the field of human rights. In this context, in order to avoid the overlapping of the images of these two *independent* entities in the field of human rights protection, we consider it necessary that the Report on the Prevention of Torture should be an autonomous document from the Report of the National Ombudsman Institution.

The fact that the law governing the obligation of the Office of the Ombudsman to support financially and logistically the work of the Advisory Council from the resources of the institution and that the employees of the Ombudsman Institution shall provide assistance to its members, impairs the independence of the Office of the Ombudsman. Moreover, there may appear difficulties in putting into action the provisions in question, in what regards the regulations related to the budget system, as well as normative acts that stipulate how to assess the performance of the officials in the subdivision that will to assist the work of the Council.

In this context, we consider that the Ombudsman and the Ombudsman for the Child's Rights, along with a defined number of representatives of the civil society, who are members of a collegial body, could become a Mechanism for Torture Prevention within the meaning of the Optional Protocol to the Convention against Torture and Inhuman or Degrading Treatment or Punishment (OPCAT) provided that this collegial body is autonomous and independent in itself and does not preponderantly "nourish" on the independence of the Ombudsman.

Comparative analysis of the activities realized by the National Institution of the Ombudsmen in the period 2008-2014 in guaranteeing the right to physical and mental integrity

Starting from the functional duties of Ombudsman stipulated in Law No. 52 of 03.04.2014 on the Ombudsman, published in the *Monitorul Oficial* 110-114 / 278 of 05.09.2014, the prevention of torture and the implicit guarantee of the right to physical integrity remains a priority.

Although new legislation has been adopted, a national mechanism to prevent torture has not been created. However, in 2014 the Centre for Human Rights has continued its work to prevent and combat torture, the ombudsmen being assisted by the employees of the institution in these actions. The mandate of the last member of the old Council for Torture Prevention - George Cuțitaru expired in April 2014.

In 2014, visits were especially made to prisons, police establishments, and less to the structures subordinated to the armed forces. The targets of the unannounced monitoring visits have been established by taking into account that there are premises for committing maltreatment in the police institutions. The most obvious risk, that the persons in the custody of the police are

abused for various reasons, both for obtaining confessions, which would make possible the discovery of crimes, as well as for revenge or revolt for the crimes that were committed by detainees, is namely in the first hours of detention in police establishments⁹⁷.

In 2014, monitoring visits weremade at psycho-neurology boarding houses⁹⁸. The administration and the staff of the residential institution have been instructed on the need to ensure the rights of people with mental disabilities placed in these institutions.

As regards the data on the visits made both within the Mechanism for to Torture Prevention, as well as within the activity for ensuring the rights and fundamental freedoms of the ombudsmen in the period January to November 2014, 128 preventive and monitoring visits were made. During the reporting period.CHRM ombudsmen and its employees, including from Representations, made the visits. The Advisory Council was idle during the reporting period, since the mandates of all 10 members elected in 2011expired.

The employees of the Representations of the Centre for Human Rights made the following amount of visits:

- Bălți Representation – 22 visits
- Comrat Representation – 39 visits
- Cahul Representation – 35 visits
- Varnița Representation – 2 visits
- Central Office, Chisinau – 30 visits

The situation on the made visits in the period 2008-2014 in different categories of institutions is the following:

Visited Institution	2008	2009	2010	2011	2012	2013	2014
Institutions under MIA (<i>temporary isolation facilities</i>)	27	73	83	155	155	148	78
Institutions under MJ (<i>penitentiaries</i>)	13	44	39	70	60	53	40
Institutionsunder MH (<i>psychiatric hospitals</i>)	2	6	2	4	3	1	-
Institutionsunder MLSPF	1	3	1	-	6	10	6

⁹⁷Annex No. 1, List of visits made in 2014

⁹⁸Annex No. 1, List of visits made in 2014

(neurological boarding houses)							
Military units	-	2	2	9	27	15	4
Total	44	128	127	238	251	227	128

The statistical data show a positive trend in terms of visits to places of detention since 2008 until now.

Analytical data in dynamics of activity of CHR officials responsible for monitoring detention facilities for the period 2010 - 2014 are the following:

Year	Visits Bălți Representati on	Visits Comrat Representation	Visits Cahul Representatio n	Visits Varnița Representation	Visits Central Office
2010	22	9	53	-	31
2011	25	67	80	-	55
2012	66	85	83	-	17
2013	54	85	57	-	31
2014	22	39	35	2	30

Ensuring functional independence of the NPM and the independence of its staff is one of the safeguards for the National Preventive Mechanism to fulfil its basic functions. The Paris Principles emphasize the need for adequate funding of the National Ombudsman institutions to enable them to have their own staff and offices, in order to be independent of the government and not to be subject to financial control.

The inclusion in the Justice Sector Reform Strategy⁹⁹ of the provisions related to streamlining and optimizing the operation of the NPM is appreciated. In accordance with the provisions of the Strategy, in 2014 the personnel involved in the NPM activities was provided with

⁹⁹Law No. 231 of 25.11.2011 on the approval of the Justice Sector Reform Strategy for the period 2011 -2016, Monitorul Oficial No. 1-6/6 of 06.01.2012.

Parliament Decision Bo. 6 of 16.02.2012 on the Approval of the Action Plan for the Implementation of the Justice Sector Reform Strategy for the period 2011-2016, Monitorul Oficial No. 109-112/371 of 05.06.2012

special equipment for measuring the indicators of temperature and humidity, with cameras, personal protective means, which contribute to a better implementation of the functions of the torture preventive mechanism.

2. ACTIVITIES FOR PREVENTION OF TORTURE IN THE REPUBLIC of MOLDOVA

THE ACTIVITY OF THE CENTRE FOR HUMAN RIGHTS FROM MOLDOVA

- **Procedural actions of the Ombudsman**

The activity of the Ombudsman in the Republic of Moldova consists in monitoring the observance of human rights and freedoms by public authorities, by organizations and enterprises, regardless of the type of property and the legal form of organization, by non-profit organizations and by persons in positions of responsibility at all levels.

In 2014, in accordance with the invested powers, the ombudsmen submitted to different institutions 22 notices, with recommendations to improve the situation of detainees, and 4 notifications, related to the proposal for instituting criminal or disciplinary proceedings against officials, who have committed acts that led to the violation of the fundamental human rights.

Procedural actions of ombudsmen (situation in the period 2008 -2014)

Type of procedural action	2008	2009	2010	2011	2012	2013	2014	Total (2008 - 2014)
Notices¹⁰⁰	2	11	34	28	35	19	22	151
Recommendations¹⁰¹	-	-	-	4	3	2	-	9
Notifications¹⁰²	2	17	17	9	13	10	4	76
Proposals to modify the normative framework	-	-	-	-	2	-	-	2

¹⁰⁰ Art.27 of Law No.1349 of 17.10.1997 on Parliamentary Advocates,since 09.05.2014 - Art. 24 of Law No. 52 on the Ombudsman

¹⁰¹ Art.29 paragraph (1) letter. b) of Law No. 1349 on Ombudsmen

¹⁰² Art.28 paragraph (1) letter. b) of Law No. 1349 on Parliamentary Advocates, since 09.05.2014 – article 25 paragraph (1) letter b) of Law No.. 52 on the Ombudsman

Total	4	28	51	41	53	31	26	234
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Regarding the submission of procedural documents, a decrease in their number can be seen. This was due to the lack of provisions on submission of recommendations to improve the administrative apparatus in Law No. 52 on the Ombudsman. However, multiple deficiencies found during checks are removed after verbal recommendations made directly during visits. In this sense, it can be remarked the openness manifested by the representatives of the monitored institutions, who, in some cases, request support from CHR employees.

As for the notices on the improvement of the situation of the detainees, 22 such acts were submitted in 2014.

Analysing the type of institution to which these notices were submitted, we emphasize the following:

Authority in whose subordination the institution is	Type of institution	No. of notices
Ministry of Justice (MJ), Department of Penitentiary Institutions (DIP)	Penitentiaries	13
Ministry of Internal Affairs	Temporary Detention Isolators	8
Ministry of Labour, Social Protection and Family	Asylum, boarding house	1

The main flaws identified during the visits and, which were the subject of recommendations for the improvement of the situation of persons in custody in detention institutions, are the same as in the previous years:

- overcrowding in prisons;
- insufficient lightening in in detention facilities;
- lack of minimum necessary conditions in food distribution premises in the temporary detention isolators of the police inspectorates;
- lack of minimum necessary conditions in the showers of the police inspectorates;
- lack of minimum conditions for providing medical assistance in the institutions under the police;
- the persons detained in prisons and in police bodies are not provided with mattresses, pillows, clean sheets, seasonal clothing, etc.;

Rights and invoked violation of the right to physical and mental integrity (Article 24 of the Constitution of the Republic of Moldova) by employee F.M. of Penitentiary No. 9, which happened in March – April 2014.

The petition states that A. A. M. worked as a nurse in the medical service in Penitentiary No. 9 and that after being hired in the prison, F. M. began to mistreat him, to threaten and persecute him in different situations. This attitude, according to the detainee, originated in the hostile relations F. M had with the prisoner since he was free and worked in the Buiucani Police Station. In his application, A. A. M. mentioned that in early April F. M. would have punched him in the abdomen, reminding him that the latter complained about him when he was working as a policeman. Also, at the indication of F. M., A. A. would have been persecuted and punished for various formal reasons. That is why, the prisoner requested the investigation of the alleged aspects and for the necessary measures to be taken in order to guarantee him the right to physical and mental integrity while serving his prison sentence.

In the context of the above mentioned by A. A. M., under European Court of Human Rights jurisdiction if a person were caused injury during the stay in detention, any such injury would give a strong presumption that the person was subjected to ill-treatment. It is the duty of the State to provide a plausible explanation of how the injuries were caused, and if the state fails to do so there may be a situation, which falls under article 3 of the Convention. It should be noted that this obligation derives from the provisions of Art. 10, paragraph (3¹) of CPP of the RM, according to which the task to prove that non-application of torture and other cruel, inhuman or degrading treatment rests with the authority in whose custody the person is deprived of freedom, placed at the disposal of a state body or at its indication or with its tacit agreement or consent.

Having investigated the invoked circumstances, the Prosecutor of Buiucani Sector found no offense and decided not to initiate criminal proceedings.

On December 5, 2014 the Centre for Human Rights received citizen R.O.'s complaint. He was held in Leova Penitentiary No. 3 and complained of a violation of the right to physical and mental integrity.

In his application, the convict R.O. mentioned that he is detained in Leova Penitentiary No. 3 and that he was repeatedly beaten by other convicts from the penitentiary being imposed to give them money. Since he did not have the possibility to give them money, on 1 December 2014 he was forced to ask for isolation and personal security under Article 206 of the Execution Code of the Republic of Moldova. On an unspecified by the prisoner date, he went to collect his belonging from the room where he was previously held. He was accompanied by an employee of the security service from the penitentiary. Although there was an employee of the penitentiary, he was beaten by some convicts whose names are not specified in the complaint. R. O. requested an objective investigation of the invoked circumstances and the prosecution of persons guilty of violating his rights.

The fact reported by the convict R. O. raises a question mark about the manner in which his right to physical and mental integrity was secured while being in state custody in the sense of Article 3 of ECHR.

To achieve the positive obligation of the state aimed at effective, complete and timely investigation of complaints of maltreatment under Article 25, paragraph (1), letter b) of Law No. 52 of 02.04.2014 on the Ombudsman, it was requested the disposal, under Article 274 CPC of RM, to verify the circumstances of causing physical and mental suffering to prisoner R.O. The case was in the process of investigation at the moment of writing the present Report.

Appeals received by CHR in which the right to physical and mental integrity is alleged

Often, the facts mentioned in the petitions submitted to the CHT of alleged application of ill-treatment are not within the format of appeals likely to be examined by the ombudsman. However, in the registered complaints, there are elements that provide the basis for Ombudsman intervention in terms of protecting the right to physical and mental integrity.

Analysing the content of appeals examined by the CHR on violation of the physical or mental integrity for the period 2008 - 2014, we attested the following situation concerning compliance with Article 24 of the Constitution of the country:

Fundamental right (art. 24 of the Constitution of the Republic of Moldova)	Years						
	2008	2009	2010	2011	2012	2013	2014
<i>The right to physical and mental integrity</i>	264	536	422	280	217	224	167
Alleged torture	25	75	93	50	35	36	23
Alleged inadequate detention conditions	169	226	249	155	114	131	106

Thus, petitioners often invoked disagreement with or inadequate conditions of detention in the prisons where they were placed. At the same time, there were registered complaints about inadequate healthcare, violation of ethical norms by police or prison employees.

When examining the complaints, priority is given to those invoking ill-treatment on behalf of employees of the institutions in whose custody the persons deprived of freedom are kept.

In most cases, the complaints registered by the CHR are investigated through a complex set of measures that include discussions with the people, who have filed the complaints, field trips, consultation of relevant materials, request for explanations from the involved persons, and rarely requests for forensic examination.

In cases when the petitioners invoke inadequate conditions of detention, visits to detention facilities are made, whose purpose is de facto monitoring the existing conditions. Thus, during 2014, 25 documentation visits were made for objective investigation of the circumstances alleged in the petitions. The most visited detention institutions from where petitions were received in which inadequate conditions of detention were alleged, were Penitentiaries No. 13 from Chişinău, No. 2 from Lipcani, No. 15 from Cricova, No. 18 from Brăneşti.

Some petitioners invoked the placement in inappropriate conditions of detention by the penitentiary administration, although the national courts have previously described as inhuman and degrading the detention of prisoners in such conditions.

The convict S. N. invoked a case, which took place in Penitentiary No. 7 from Rusca, on 27 January 2014. Following a search made by an

The convict D.V. complained of being detained in cell No. 46 of Penitentiary No. 13 in inadequate detention conditions. To check the facts alleged by the petitioner (deliberate subjection to inhuman and degrading treatment by being held in inadequate detention conditions, causing distress of increased intensity) the CHR employees visited cell No. 46 where petitioner D. V. was held, on May 28, 2014. According to the information received in Penitentiary No. 13, the given cell has a surface of 9, 87 sq. m. As for the detention conditions, the following was stated: natural light penetrated with difficulty, the window was barred by 4 rows of metal bars. The bay of the window was dusty and filled with poplar fluff, which easily got into the cell. No Measures were taken to remove it. Also, poor hygienic conditions were found – a concrete floor, mould, presence of rats. It is worth mentioning that by an earlier decision of the Centre Sector Court (file No. 2-4109/13) the holding of the convict in cell No. 46 of Chisinau Penitentiary No. 13 is a violation of the fundamental human rights – article No. 24 of the Constitution of the Republic of Moldova and article 3 of ECHR.

Other petitioners complained about the abusive actions of the employees of the institutions in whose custody they were and alleged failure to respect the ethical rules by DPI employees.

Following the above mentioned, the Centre reminds the desiderates of the European Committee for the Prevention of Torture (CPT)¹⁰³. The basis for a humane prison system will always be the staff recruited and trained seriously, the real professionalism of prison staff asking them to be able to deal with prisoners in a decent and humane manner, while paying attention to matters of order and security.

One of the topics raised in petitions is **deficient medical care** offered to prisoners.

The Centre for Human Rights from the Republic of Moldova examined convict A. G.' petition, held in Penitentiary No. 13, who invoked lack of medical care and necessary treatment for chronic calculus cholecystitis, reason for which he suffered of unbearable physical pain. Following the CHR intervention, he was offered necessary consultations to diagnose the illness and to prescribe necessary treatment.

In T.A. convict's petition, the topic of negligence on behalf of the penitentiary medical staff was invoked as well. After surgery, T.A. was immediately placed in a regular prison cell of Chisinau Penitentiary No. 13. After CHR intervention, the given convict was transferred to a ward of the prison medical block where he was given medical care necessary for the postoperative period.

¹⁰³ CPT Standards, the Council of Europe, CPT/Inf/E (2002) Romana, p. 16.

The tackling in the petitions of the issue on the activity of the State Protection Service related to the detainees, who are part of some government programmes for witness protection, is another topic that raises reasonable doubt with regard to ensuring the right to physical and mental integrity of the prisoners.

Convict M. S. notified CHR about the illegalities admitted by representatives of the penitentiary system, as well as about the unsatisfactory detention conditions during the execution of punishment and for ensuring the witness protection measures. The only possibilities for ensuring state protection is a telephone line connecting with the officer on duty of one of the departments of the Ministry of Internal Affairs and an alarm button. The given convicts are quite vulnerable against the prison staff employees who offered support to the sentenced convicts based on their testimonies

Activities for promotion of human rights and freedoms and mechanisms for their protection

Several activities were carried out in 2014 to promote human rights and freedoms, to combat torture and ill-treatment. However, the incidence of cases of torture can be reduced in an informed society with well-trained officials.

In this context, the CPT stressed the special importance that it attaches to the training of law enforcement officers¹⁰⁴ (which should include education on human rights in accordance with Article 10 of the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment). It can be argued that there is no better guarantee against the ill-treatment of persons deprived of liberty than a police officer or prison officer properly trained. Skilled officers will be able to successfully fulfil their responsibilities without resorting to ill-treatment and assuming the existence of fundamental safeguards for detainees.

For the training of law enforcement bodies representatives in the field of fighting against torture and ill-treatment, the National Institution of the Ombudsman conducted several activities in

¹⁰⁴ The phrase “law enforcement officers” includes in this Report the police and prison staff.

2014. The CHR employees were also involved in activities organized by other institutions and organizations.

1. Minors in detention: solutions for their integration into society. Observing the right of juveniles in detention, of their human dignity and the stimulation of motivational activities that offer real opportunities for reintegration into society were the topics discussed within the round table „Is the community ready to receive the child from prison?” organized by the Department of Penitentiary Institutions from the Republic Moldova **on February 20, 2014.**

2. On 19 March 2014, the seminar „Guarantees against torture (relations between employees and inmates), international and national standards that ensure respect for the right not to be subjected to torture or cruel, inhuman or degrading treatment or punishment” took place at the Training Centre of Penitentiary Department Institutions from Goian.

3. On 21 March 2014, the seminar „International and national standards that ensure respect for the right not to be subjected to torture or cruel, inhuman or degrading treatment or punishment. The cases and the limits of applying physical force, special means and firearms” took place in the Carabineer Military Unit. In the context of numerous convictions of our state to the European Court for violation of Art. 3 of ECHR (prohibition of torture), the military of the Carabineers Troops were informed about the need to respect the legal provisions and ethical norms in their work. The key elements in mitigating risk situations are the lawfulness and professionalism of law enforcement bodies employees, observance of the dignity and physical and psychological integrity of all people.

4. On 26 June 2014, the Centre for Human Rights held a press conference on the occasion of the International Day in Support of Victims of Torture. During the briefing ombudsman, Anatolie Munteanu mentioned that the statistics on the reduction by 26 percent of the complaints registered by law enforcement bodies on cases of torture are both eloquent as well as deceptive. However, the Director of the Centre for Human Rights believes that the high number of appeals to the ECHR does not necessarily mean more violations, but indicates that Moldovans have become more combative and know where to turn to claim their rights.

5. The campaign for the prevention of torture and support of the victims of torture, launched by the Centre for Human Rights in the period 26 June to 25 July, included several actions that were held both in the capital and in several districts of the country. **On 26 June 2014,** a training seminar was organized in Comrat at Carabineers Military Unit. **On June 26,** a lecture on the same subject was delivered for the employees of Comrat Police Inspectorate.

In the framework of the anti-torture campaign, Cahul Representation employees of the Centre for Human Rights delivered a lecture on **June 30, 2014** for the staff of Cahul Penitentiary No. 5. At the same time, the CHR official from Balti Representation had a meeting with the employees of the Penitentiary No.11 from Balti on **July 3, 2014**. On **July 9, 2014** the Head of Cahul Representation of the Centre for Human Rights, Anatolie Cravcenco, delivered a lecture for the employees of Taraclia penitentiary No. 1. On **July 24, 2014** a seminar on the topic „Guarantees Against Torture (relations between employees and inmates), international and national standards that ensure respect for the right not to be subjected to torture, inhuman or degrading cruel treatment or punishment” and „National and international mechanisms of human rights protection. The role, functions and duties of the Ombudsman Institution in the Republic of Moldova” was held at the Training Centre of the Department of Penitentiary Institution from village Goian, Chisinau municipality.

In the context of the actions within the anti-torture campaign launched by the Centre for Human Rights, in the period between 14 and 25 July, a radio contest on the topic „Stop the Torture” was held at the public station Radio Moldova Tineret (Youth) in the programme „Fierbinte Show”. The contest was launched to enhance the legal culture of young people, to inform them about the basic safeguards against torture, the national and international mechanisms to combat torture; promoting the idea of zero tolerance of torture and ill-treatment.

On **August 13, 2014**, the Department of Penitentiary Institutions, the employees of the CHR delivered lectures on the topics: „The phenomenon of torture in the institutions under the Ministry of Justice” and „International and regional mechanisms to protect human rights. The detention conditions and treatment of detainees in the jurisprudence of the ECHR” for DIP staff.

6. On **October 2, 2014**, a seminar on the topic „Human rights and fundamental freedoms – their protection and guarantee by Carabineer Troops” took place on the premises of the Military Unit No. 1001 of the Carabineer Troops of the Ministry of Internal Affairs. The event took place within the activities of the Office of the Ombudsman to promote human rights.

7. On **October 7, 2014**, a seminar on the topic „Universal Declaration of Human Rights and national and international mechanisms of human rights, role, functions and tasks of the Office of the Ombudsman in the Republic of Moldova.” was held in the Training Centre of the Penitentiary Institutions Department from Goian.

ACTIVITY OF STATE INSTITUTIONS RESPONSIBLE FOR THE PREVENTION AND CONTROL OF ILL-TREATMENT

To assess the level of achievement and guarantee of the right to physical and mental integrity, it is very important to follow the activities of the state institutions with powers in this area. Thus, the CHR analysed the work of the police, the Department of Penitentiary Institutions and the General Prosecutor's Office.

The Police has the difficult task of safeguarding the legal activity, which involves certain circumstances with the application of physical force, special means, sometimes exceeding the limits imposed by law. The activity of prisons is also quite important. These institutions are empowered with the task of holding persons on remand or those imprisoned for committing crimes or administrative offenses. Not least important is the role of the prosecutor who has the task to effectively investigate cases of ill-treatment and requests to punish persons guilty of such acts.

POLICE

According to data provided by the Ministry of Internal Affairs¹⁰⁵, 34 temporary detention isolators were functioning at the end of 2014 in the country. The operation of 4 isolators, from Dubasari, Dondușeni, Ialoveni and Straseni police stations, was stopped. According to the MIA data, in the period 2012 - 2014, MIA received complaints that alleged ill-treatment, as follows:

- in 2012 – 19 petitions;
- in 2013 – 46 petitions;
- in 2014 – 68 petitions.

The main mechanism to prevent ill-treatment in MAI vision is the police training and organization of thematic seminars that propagate the attitude „zero tolerance for torture”.

PENITENTIARY SYSTEM

The Penitentiary System in the Republic of Moldova has the following tasks¹⁰⁶:

- a) to execute custodial punishment;
- b) to enforce preventive measures in the form of custody;
- c) to enforce administrative arrest sanction;
- d) to provide legal order and legality in prisons, the security of detainees themselves, and of those who escort them, of the personnel and of the citizens on the premises of these institutions;
- e) to carry out investigative operational activities and participate in common with the state authorities in detecting and preventing crime;

¹⁰⁵ Information provided by the MIA to the Center of Human Rights (letter No. 4/39 of January 15, 2015)

¹⁰⁶ Law No. 1036 of 17.12.96 on the Penitentiary System – article 2// *Monitorul Oficial* 15/154, 06.03.1997

f) to involve prisoners in work, to provide them with the possibility to get general secondary education and vocational education, to contribute to their spiritual and cultural-aesthetic education, and to implement measures for social adaptation of persons released from detention;

g) to ensure healthcare for the prisoners;

h) to develop the technical and material bases and the social sphere of the institutions and bodies of the penitentiary system;

i) to provide the penitentiary system with personnel and to create adequate working conditions;

j) to provide the escort of detainees, including the ones transferred to/from abroad.

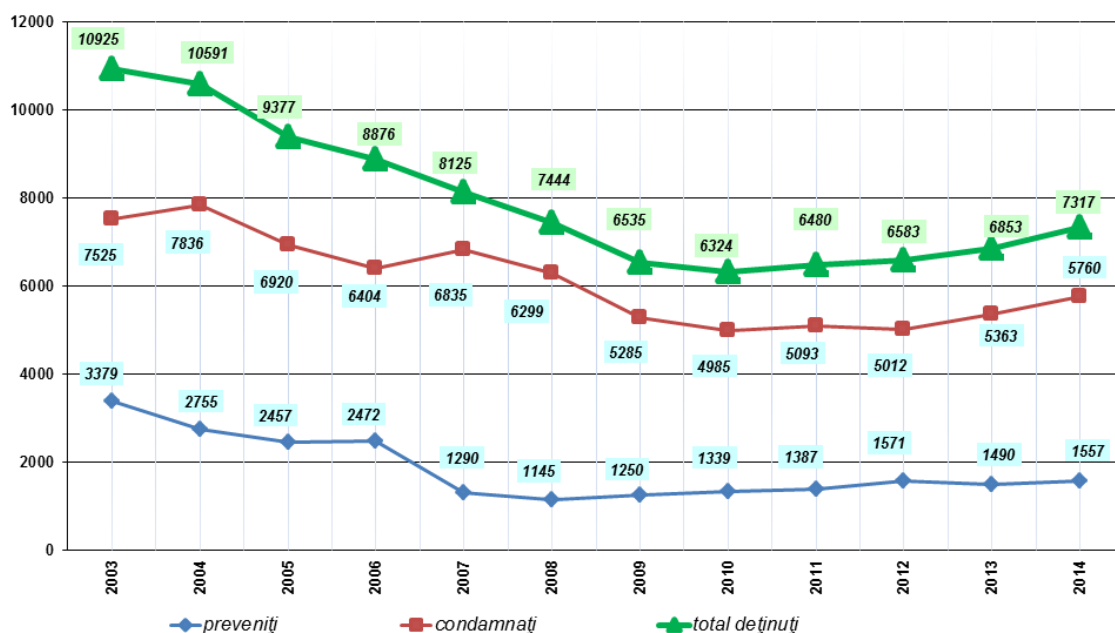
Following these provisions, the administrations of penitentiary institutions are to enforce the legal provisions for achieving the purpose of criminal punishment¹⁰⁷:

- Criminal punishment is a state coercive measure and a means of correction and re-education of the convict, which is applied by courts, in the name of law, to persons who have committed offenses causing some deprivations and restrictions of their rights.
- Punishment is aimed at restoring social justice, correction of the convict, and prevention from committing new crimes both by convicts as well as by other persons. The execution of punishment must not cause physical suffering or to demean the dignity of the convicted person.

Thus, execution of imprisonment proved ineffective, as the number of inmates in recent years has increased and state authorities must undertake concrete measures to reduce the population of prisoners.

The schematic evolution of the number of inmates in prisons in the period 2003 -2014, according to DIP data, is as follows:

¹⁰⁷ Criminal Code of the Republic of Moldova of 18.04.2002 art. 61 // *Monitorul Oficial* 128-129/1012, 13.09.2002



Unlike the situation in Moldova, in Sweden, for example, the number of prisoners dropped by more than a thousand in the period 2005-2014, as result of the implementation of some criminal policies and of the program prisoners' re-education launched by the prison management¹⁰⁸. Director General of the Swedish Prison Administration Nils Öberg said: "Our role is not to punish prisoners. The punishment is the conviction itself, i.e. the imprisonment. The punishment is that he is here." Recidivism rate in Sweden is 40% lower than that in the United States or other European countries. Also, Nils Öberg mentioned that "some people have to be imprisoned, but the main purpose of a prison must be to integrate them into society and bring them in a much better shape than the one they were in, when they came here".

The efficient activity of the Department of Penitentiary Institutions and of the 17 prisons is hampered by organizational and normative deficiencies. The CHR noted the negative impact on the normal functioning of the prison system of introducing prohibited articles into prisons. Thus, according to the DIP only in 2014 the following prohibited items were detected on prison premises:

№	Prohibited items	Total	Detected on institution premises	Removed at security checkpoints
1	Sharp/spongy objects	677/641	673/636	4/5

¹⁰⁸ <http://ro.blastingnews.com/stiri/2015/02/suedia-inchide-mai-multe-penitenciare-din-lipsa-de-clienti-00261145.html>

2	Alcohol/ millet beer (litters)	1132/15665	901 l	230 l
3	Money (lei/currency)	31558 lei/940 euro/503 USD/46670 Rouble FR/544 Ukrainianhryvnes / 3 Romanian lei		
4	narcotic substances (hr.)	2942 gr. marijuana/31 gr. hashish/72 ml. diazepam/3,4 gr methamphetamine/ 0,53 gr. red phosphorus /0,73 gr. amphotamine/ 0,076 ubrenophine/2 gr cicloborb	275 gr. marijuana/ 3,7, gr. hashish/o,2 gr. heroine	2666 gr. marijuana/9,3 gr. heroine/72 ml. diazepam/27 gr. hashish/3,4 gr metamphetamine/ 0,53 gr. red phosphorus/0,73 gr. amphotamine/ 0,076 ubrenophine/2 gr cicloborb
5	mobile phones (pieces)	3860	3564	296

The presence in prisons of a large number of prohibited items substantially disturbs the normal functioning of the prison system because it favours ill-treatment between different categories of prisoners and the prison officers' biased attitude towards some detainees.

The approval in 2014 of the organizational plan for implementing the public policy proposal „Quality medical services for detainees in prisons” is laudable. This plan is expected to ensure functional independence of health workers from the local administration of the prison.

In 2014, the positive practices to improve detention conditions in prisons also continued. It is worth mentioning the proactive role of the Centre for Human Rights in this process. In this context, the following actions deserve to be appreciated:

- a) Rebuilding of the regime block no. 1 of Prison No. 1 from Taraclia, including the setting of the detention cell system and individual sanitary blocks. The kitchen and the residence area for the inmates, who are employed, were refurbished. A new water tower was built to supply the prison with potable water;
- b) The reconstruction of a detention block of Prison no. 3 from Leova started; the setting of the detention cell system is being planned;

- c) In prison no. 4 from the town Cricova, the rooms of the disciplinary isolator were renovated. The dining-room and the kitchen were repaired, the engineering networks were changed and the roof was repaired;
- d) A new tower that provides drinking water to the institution was built in penitentiary No. 9 from Pruncul;
- e) In prison no. 10 from Goian, the detention block was repaired and the reconstruction of three blocks of detention started;
- f) In Prison no. 16 from Pruncul, repairs were made to the roof of the detention block for the convicts who are under tuberculosis treatment; the detention conditions have been improved.

In conclusion, it should be mentioned the role of the prison administration and of the staff in achieving the purpose of criminal punishment and guaranteeing the rights of prisoners. Just by observing the law, the dignity of detainees, and the manifestation of the managerial spirit in the administration of the affairs in prisons, it will be able to ensure the reintegration of prisoners into society and avoid criminal recidivism.

PROSECUTOR'S OFFICE

The prosecutors have an especially important role in preventing and combating ill-treatment. This is deduced from the legal provisions according to which:

- The prosecutor carries out the prosecution in cases of crimes of torture, inhuman or degrading treatment under the provisions of article 166¹ of the Criminal Code¹⁰⁹.
- The Prosecutor's Office controls the observance of laws in places of preventive detention and in prisons¹¹⁰.

Analysing **the complaints about torture and other ill-treatment** received by the Prosecutor's bodies in 2014 in relation to the previous years (see Table), the General Prosecutor's Office, found that quantitatively the situation has changed insignificantly, registering a slight decrease in the number of complaints (only by 56 notifications less) compared with 2013. This reduction achieved the lowest level in the period 2009-2013 (see diagram on the dynamics of complaints).

	Categories of registered notices (under the articles of the Criminal Code):	
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¹⁰⁹ Art. 270 paragraph 5) Code of Criminal Proceedings of the Republic of Moldova (special part) No. 122 of 14.03.2003 // *Monitorul Oficial* 104-110/447, 07.06.2003

¹¹⁰ Art. 5 letter i) Law on the Prosecutor's Office 294/25.12.2008 // *Monitorul Oficial* 55-56/155, 17.03.2009

Period	<i>art.309 (coercion to testify)</i>	<i>art.166¹ par.(1), (2) (art.328 par.(2), (3))</i>	<i>art.166¹ par.(3), (4) (art.309¹)</i>	<i>art.368 (violence acts committed against the military)</i>	<i>art.370 (with application of violence)</i>	Total:
2009	22	630	310	-	30	992
2010	19	491	284	2	32	828
2011	43	587	295	26	7	958
2012	18	518	391	37	6	970
2013	20	533	130	36	-	719
2014	7	534	88	34	-	663

A similar tendency of steady decline, also in all categories, is observed in the analysis of categories of complaints on whose basis criminal proceeding was initiated:

Period	Categories of complaints on whose basis criminal proceedings was initiated (under the articles of the Criminal Code):					Total initiated criminal cases:
	<i>art.309</i>	<i>art.166¹ par.(1), (2); art.328 par.(2), (3)</i>	<i>art.166¹ par.(3), (4); art.309¹ (torture)</i>	<i>art.368</i>	<i>art.370 (with application of violence i)</i>	
2009	1	97	40	1	20	159
2010	-	54	46	2	24	126
2011	-	58	28	19	3	108
2012	1	55	54	27	3	140
2013	2	86	37	32	-	157
2014	-	73	18	27	-	118

During 2014, prosecutors ordered the refusal to initiate criminal proceedings in **527** cases compared with *540 in 2013, 796 in 2012, 775 in 2011, 671 in 2010, and 837 in 2009.*

In 2014, after examining the allegations, criminal prosecution was ordered in **118** cases. *In 2013 – in 157 criminal cases, in 2012 - in 140 criminal cases, in 2011 - in 108 criminal cases, in 2010 - 126, and in 2009 - 159 cases.*

In the course of 2013, the prosecutors of the Department against torture analysed the normative acts regarding the functioning of institutions responsible for deprivation of liberty in relation with the obligation to report immediately cases of torture or other ill-treatment to the prosecutor. As several legal provisions govern this issue differently, it was concluded on the need to improve the regulatory framework in force, in order to impose certain obligations on the staff of the places of detention or the health worker, to immediately inform the prosecutor, when the prisoner complains that he was subjected to torture, cruel, inhuman or degrading treatment, or when there are other circumstances providing grounds for believing that the person was subjected to such mistreatment. This requirement is necessary in order to ensure the prompt, full and objective investigation of all aspects of alleged torture or ill-treatment. From this point of view, it is regrettable the exclusion of par. (3) of art. 232 of the Execution Code on the obligation to notify the ombudsman about cases of detection by prison doctors of prisoners with visible signs of torture, inhuman or degrading treatment.

During 2014, 46 criminal cases, in total, were submitted with indictment to the court, an index similar to that achieved in 2013, when 49 criminal cases were submitted for review by the court.

In 2014, trial courts have pronounced 11 sentences concerning 19 persons, including seven conviction sentences concerning 12 police officers **under Article 166/1 of the Criminal Code**. Of these, six police officers were sentenced to actual prison sentence, the other three police officers were sentenced to prison under Article 90 of the Criminal Code, conditional suspension of sentence on a probation period. Another three police officers were sentenced to a fine. All 12 police officers were also sentenced to complementary punishment, deprivation of the right to work within MIA for certain periods of time. One sentence was pronounced to cease criminal proceedings concerning two defendants - police officers (under art. 391 of CPP) and one policeman was acquitted. At the same time, there were pronounced two acquittals concerning four people, including one sentence

concerning a high school teacher and one concerning three penitentiary employees. The acquittals were appealed by the state accusers.

On 31.12.2014, 22 criminal cases under art.166/1 of the Criminal Code concerning 43 persons were pending in courts of first instance.

The situation in this respect is reflected in the table below:

Art. of the Criminal Code	TOTAL sentences / persons	Conviction sentences / persons			Cessation sentences / persons	Acquittal sentences / persons
		actual punishment	Under article .90 of CC	Fine		
art.166/1	11/9	3/6	/23	2/3	1/2	3/5
art.309	-/-	-/-	-/-	-/-	-/-	-
art.309/1	6/10	3/6	2/2		1/1	0/1
art.328 alin.2, 3	6/10	2/2	1/2		1/2	2/4
art.368	20/23	-/-	17/20	2/2	1/1	-/-
TOTAL	43/62	8/14	22/27	4/5	4/6	5/10

Deficiencies in the system of custodial institutions

Restricting access to ombudsman and members of the NPM (Advisory Council for preventing torture) in places of detention

CHR officials and members of the NPM have experienced this issue at the beginning of the activity of the torture prevention mechanism, a situation reflected in the NPM report for 2009. Thus, the ombudsman and the Advisory Council members had delayed access to places of detention in the visited police commissariats and delayed access to required materials, information and documents. Two members of the second composition of the Advisory Council also encountered such barriers in their activity. With the growing activism of the monitoring groups, the given problem disappeared and, this was possible thanks to the active involvement of Balti, Cahul and Comrat Representations in monitoring the places of detention.

- „Camouflaged” administrative detention of persons in whose regard there was reasonable doubt that they committed crimes, but there were no grounds for criminal procedure detention. Thus, until 2008 most people kept in places of detention in the police stations of Chisinau Municipality sectors were detained for committing not too serious hooliganism (art.16⁴¹ CCA of RM), to which resistance to the police officer was added (art. 17⁴⁵ CCA of RM) or insulting the police officer (art. 17⁴⁶ CCA of RM). Currently, police officers do not use the right to retain a

person for alleged offenses and do not perform actions to collect evidence that would allow to incriminate the person. The phenomenon disappeared with the adoption and entry into force of the new Contravention Code of 16 January 2009.

➤ **Overcrowding of detention facilities**

The reforms initiated in criminal law have allowed the authorities to solve the problem of overcrowding of prisons. Since 2005, the number of inmates has been reduced considerably. Thus, in 2005, 9,452 people were held in prison, in 2006 - 9,042 people, in 2007 - 7,895 people, in 2008 - only 6,830 people. However, overcrowding remains current and measures are to be taken to resolve it. Generally, the problem is specific for the prisons with remand status, as well as for disciplinary isolator facilities in most prisons. This phenomenon is observed especially in Prison no. 13, where instances have been found when detainees had less than 2 m². Currently, the number of convicts is increasing.

➤ **Physical aggression against convicts**

Signals about previous such cases came from prison No.4 from Cricova, No. 17 from Rezina, No. 18 from Brănești, Orheidistrict. The National Ombudsman Institution was informed that similar experiences are, in particular, applied in prisons No. 6 from Soroca, no. 13 from Chisinau, No. 5 from Cahul.

➤ **Unqualified legal assistance**

The results of the visits in the period 2008 - 2009 showed that the lawyers, appointed ex officio, formally and improperly performed their duties of defenders. The lawyers, appointed ex officio, usually do not show initiative in protecting the rights and interests of the accused, the defendant. The examination of the appeals received by the CHR gives us the basis to assert that there is a tendency of submitting petitions in the interest of all prisoners on behalf of more lawyers, including those appointed ex officio. Most often, they request the control of detention conditions, in which their clients are placed, and the delay in examining the appeals of ill-treatment by the prosecution.

➤ **Ill-treatment in the early hours of detention**

Most people held in remand facilities under the Ministry of Internal Affairs reported that they were subjected to physical and psychological pressure immediately after their arrest, in the first interrogation that usually occurs on the top floors of police stations. Members of visiting groups did not register such allegations in the past 3 years. This is appreciated, as it is namely the preventive effect that is one of the primary purposes of the NPM.

Among the main directions of the activities to promote the human rights realized by the team of the Ombudsman National Institution is the fight against torture and ill-treatment. Various activities are organized annually for this purpose. Information boards about CHRM activity and NPM, the main tools for preventing torture, are located in most police stations. It is expected the location of such panels on the premises of the Prosecutor's Offices in the country.

➤ **Physical or psychological coercion to determine to testify**

The purpose of the criminal trial is to find out the truth, of finding those who are guilty and set criminal liability to those who are guilty of committing the crimes. However, this goal should not be achieved by any means. The European jurisprudence prohibits the obtaining of evidence by violence. This process is accepted neither in the event of terrorism nor crimes in wartime. Many of remand prisoners complained that they were ill-treated by police employees to be induced to confess to crimes, for which they were detained, or crimes that they have not committed. Those who claimed that they were not ill-treated stated that this is because they agreed to testify from the very start. This situation remains valid today. That is why the relevant authorities have to intensify the training activities for police officers in the use of best practices for gathering evidence and operative data without resorting to violence. Also, it is necessary that police officers are provided with working tools that would allow them to collect all evidence necessary to establish the circumstances of committing the crimes operatively.

➤ **Insufficient illumination of detention facilities**

In most police detention facilities, this problem was resolved after the repairs made in 2010. Then, on the recommendation of ombudsmen, the Government allocated 2 million lei for the repair of detention facilities of territorial police inspectorates. A negative example in this regard could serve the remand of the Police Inspectorate from Anenii Noi, the cells use inadequate natural and artificial lighting. At the same time, this issue remains unresolved in prisons. A radical change will be produced only after the construction of new prisons that will meet the standards of detention. A certain progress, in terms of lighting the detention facility, was certified in Prison no. 13 from the city Chisinau. This institution was provided with stronger artificial lighting bulbs. However, the access of light in the cells of this penitentiary is reduced due to several rows of bars.

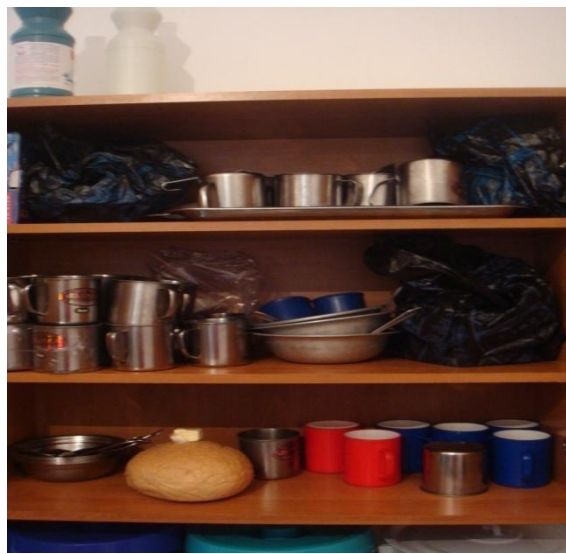
Photo of Penitentiary No. 13. Here the windows have 4-5 rows of bars, which hinder the access of light in the cells



➤ **Unsatisfactory conditions in food distribution facilities and bathrooms in remands from Police Inspectorates**

After the repairs made in 2010, the majority of temporary detention isolators have been provided with appropriate conditions, both in food distribution facilities and in most bathrooms. The situation is different in Comrat Police Inspectorate, where no administrative and organizational action has been taken to provide the necessary equipment for the reception and distribution of food, sanitary equipment for maintaining the hygiene of dishes and of the respective room. In this context, the CHR has repeatedly stated that invoking lack of financial resources is a formal reason. Most times, in order to change the existing situation, certain organizational measures and the proper administration of the affairs of the institution are necessary.

Photo from IDP Ștefan Vodă Police Inspectorate (situation- model of how rooms for food distribution should look)



➤ **Lack of minimum necessary conditions for healthcare in the institutions subordinated to the police**

In most police stations, basic conditions for medical assistance were created. Refrigerators, cupboards and kits for primary medical aid were bought. However, the Comrat Police Inspectorate does not meet these requirements. It was only in 2014 that a doctor was hired here. Mandatory medical examination of detained persons is a guarantee of the right to physical and mental integrity, along with ensuring the right to defence and the right to inform relatives about the detention. Providing real guarantee to be examined by a doctor is defected and poorly applied in practice in most police inspectorates. Although almost all police stations employ medical workers, they are not always present when detainees are brought. In the opinion of ombudsmen, the presence of the medical worker would be beneficial at every request with compulsory examination both at the moment of the placement and exit from police custody. Some inspectorates do not hire medical staff. This is the case of Basarabeasca Police Inspectorate. Here, detainees are examined in the casualty ward of the district emergency medical service.

➤ **Failure to provide the detainees in prisons and police stations with an appropriate quantity of mattresses, pillows, clean sheets, seasonal clothes**

This deficiency has been observed from the beginning of the monitoring of detention facilities and should be eliminated as soon as possible. In this context, the standards require maintaining the hygiene of persons held in custody as a guarantee of their health and avoiding detention in inappropriate conditions.

➤ **failure to provide three meals a day to people detained in IDP of police inspectorates**

In all detention facilities, there are problems in this area. Furthermore, persons detained in prisons and, whose presence is requested either by the prosecution or by the courts, are not provided with food during the day. That is even if sometimes they are to remain the whole day without food and access to drinking water.

➤ **Inadequate working conditions for the employees of the institutions, where individuals are detained or restricted in personal freedom**

There has been progress in terms of ensuring adequate working conditions for the personnel of detention facilities in recent years. In the last two years, no registered cases of disease among prison system employees were registered, although previously they were quite common. The mentioned situation denotes the care manifested for the safety and health of DIP employees.

Ombudsman's procedural actions to prevent and combat ill-treatment carried out in 2014 and the authorities' response to them

- Lipcani Penitentiary No. 2
- Brănești Penitentiary No. 18
- Chișinău Penitentiary No. 13

In 2014, as in previous years, according to a plan of the organization, the Centre for Human Rights scheduled the monitoring of the prisons, in which most deficiencies were detected. Thus, in order of priority, monitoring visits were planned at Prison No. 13 from the city Chișinău, Prison No. 2 from the town Lipcani and Penitentiary No. 18 from Brănești village, Orhei district.

Lipcani Penitentiary No. 2

On October 10, 2014, the director of the Centre for Human Rights, Anatolie Munteanu, and the employee of the institution, George Bosi, conducted a monitoring visit to Penitentiary Institution No. 2, located in the town Lipcani, in order to verify the existing conditions of detention and treatment of detainees.

There were 119 prisoners in the prison at the moment of the visit, of whom 54 people were former employees of law enforcement bodies and 64 convicts transferred from other prisons, as of July 2014, a measure designed to solve the overcrowding problem of prisons in the country.

During the visit, the disciplinary isolator, the quarantine and the dwellings facilities in the two detention sectors were monitored. The members of the Working Group also visited the offices of the staff and long-term meeting rooms for inmates.

Dwelling facilities

The two residential areas were monitored, aiming at the prisoners' living space. In both residential areas, detainees are placed in rooms, though not too large, but corresponding to the norm of 4 m² per person, most of them equipped with new beds and mattresses. The cells are provided with the necessary furniture. However, the windows of the bedrooms are of glass blocks and do not allow full penetration of sunlight and adequate ventilation of the bedrooms. In some bedrooms, prisoners pulled out some glass blocks to facilitate the entrance of fresh air in the room. This situation remained unchanged since the ombudsmen's visits to Lipcani Penitentiary, made on 29.09.2009, 29.10.2010 and 24.03.2011. The creation of decent living conditions in penitentiary involves major financial expenditures. However, we believe that in these circumstances it is possible to provide a minimum

acceptable standard of living for prisoners. This is on condition that the relevant factors within the penitentiary institutions will manifest responsibility, determination and managerial spirit to ensure minimum detention conditions.

During the visit, it was also found the inadequate condition of the toilets in residential block No. 1. They are located in the yard and are not provided with minimum necessary privacy. The hygienic-sanitary condition of the toilets does not meet the requirements either. The same situation of the sanitary and hygiene conditions was attested by the members of the International Federation Delegation of human rights who paid a documentation visit to the Republic of Moldova, including at the given institution, in November 2012¹¹¹.

Cells of health facilities for the investigation and isolation of persons and of the disciplinary isolator

No convicts were in the quarantine and disciplinary isolator cells at the moment of the visit. Prior, the CHR received petitions from some prisoners who, complained about being kept for a time in inadequately maintained rooms - quarantine cells of Prison no. 2. According to the petitioners, the toilets in the healthcare isolator were not fully functional, did not ensure the privacy of the detainees and were in a poor hygienic condition. Also, detainees complained, that during their stay in quarantine cells, the walk was restricted to 20 minutes a day. The convicts also complained that the former head of the prison, Alexei Pleșcan, wanted to impose his authority among prisoners in an improper manner. The situation attested in quarantine cells of the prison confirms the inmates' affirmations, which in a certain degree of intensity would be regarded as circumstances inconsistent to art. 3 of ECHR.

Among the documented irregularities during the visit, it was also stated that the windows of the quarantine cells are either covered with glass blocks or with plastic. Accordingly, placing convicts in such cells in the cold season of the year poses a risk to the health of prisoners.

It was also found that the necessary furniture: chairs, bedside tables, as well as mattresses and bed linen were missing in the quarantine cells of the prison. The hygienic conditions of toilets are unsatisfactory.

Conditions in the prison kitchen and canteen

¹¹¹FIDN Report on the visit made in the Republic of Moldova
<http://www.fidh.org/IMG/pdf/moldavie611roumain2013.pdf>

From the discussions with the inmates, we have established that they are satisfied with the food in the prison. Furthermore, they noted that in this detention facility the food is tastier than in the prisons from which they were transferred. The furniture and equipment in the canteen and kitchen is obsolete. The food is prepared on an open fire in big pots. Although at the moment of the visit, contemporary cooking installations were placed in the kitchen, they were not functional. The floor was dirty inside the food preparation room and in the dishwashing room. The dishwashing facilities were not connected to the drainage system. The cutting tools are kept contrary to the provisions of **item 29 of the Order of the Minister of Justice No. 512 of 26.12.2007 on approval of the Regulations on detainees catering in prisons**. According to it, „sharp kitchen inventory (knives, axes, etc.) must be marked with numbers, recorded in a register of an established type and be kept in a metal box with a padlock. This inventory is distributed by the head of the supervisors guard for the use by the person responsible for the kitchen (canteen head), it is signed for and returned by him after work, upon signature in the register mentioned above ”.

The canteen staff consisted of inmates and a civilian. During the visit, only the latter was wearing a white gown.

Bathrooms

The conditions in bathrooms leaves much to be desired, their sanitary and hygienic condition is precarious.

Relations between the staff and prisoners and the relations between inmates, their re-socialization

During the visit made to Prison no. 2, it was determined that things were rundown in this institution: after transferring inmates from other prisons, an action, which started in July 2014, their specific was not taken into account. From the confidential discussions with the prisoners, it was found that there is a state of conflict inside the prison caused by some convicts who try to impose hierarchy rules, which could lead to unrest and violent actions among inmates, formally separated into two camps. Thus, when we visited the prison, a group of employees of the Department of Penitentiary Institutions was sent to stabilize the situation. The new leadership of the prison has the mission to alleviate the difficult state of affairs and establish a new order in the institution in respect for the rule of law, to ensure the fundamental rights of all detainees and to exclude the informal relations between inmates.

It is worth mentioning, in this context, that the positive relations between prison staff and inmates is the basis of the normal activity of the institution and will contribute to the full realization of the goals of criminal punishment. Imprisonment, besides the function of isolating prisoners from society, has the role to prepare prisoners for integration into society after release.

The re-socialization of convicts and the undertaking of some activities and interventions that would involve supervision, guidance and assistance to prisoners, with a view to their social inclusion, which contributes, as consequence, to the community safety, remains also current.

The general impression was that the activity for the re-socialization of prisoners has a formal character. The Centre for Human Rights wishes to warn the prison administration about the need to train inmates in educational activities by facilitating and offering them the possibility to work. This can be successfully implemented in the conditions of Penitentiary No. 2 because the institution has a large territory and production facilities that can be reanimated.

Prisoners should have access to a range of purposeful activities (work, preferably vocational, education, sports, recreation, and joint activities). Moreover, they should be able to hold a certain degree of freedom in choosing how they want to spend their time. Additional measures should be taken to give a meaning to the time they are incarcerated. Thus, according to the ombudsman, it is necessary to offer psychological support to help prisoners confront their incarceration and, when the time comes, to prepare them for release.

In the order of the ideas above, and based on the recommendations of the CPT, the director of the Centre for Human Rights believes that improvement of the relations between inmates and prison staff and the creation of suitable sports facilities could contribute to the social inclusion of the prisoners.

Thus, the prison staff is to treat inmates equally, not to distinguish between categories of prisoners and to fulfil their professional duties, by paying attention to the prisoners' problems.

On the other hand, in the opinion of the group of monitors, it is imperative to improve the conditions in which prison employees work. These represent major health risks: the prison employees may get infested with infectious diseases, especially tuberculosis.

CONCLUSIONS

The analysis of the certified, during the given visit, situation related to the situation observed during previous visits made by the CHR, makes us conclude that some failures occurred in the activity of Prison no. 2, which affected the activity of the institution as a whole. A proof in this sense is the situation regarding the detention conditions, the general atmosphere inside the prison, and the

careless and irresponsible exercise of the work duties by the employees of the institution. Thus, in order to ensure and guarantee the fundamental rights of prisoners, of the rule of law, it is necessary to undertake urgent measures to stabilize the situation in the prison. Given the findings of the visit and with the purpose of improving the attested state of affairs, of ensuring compliance with the constitutional right to physical and mental security, guaranteed by art. 24 of the Constitution, of ensuring the exercise of fundamental human rights in Prison no. 2 from the town Lipcani, the Centre for Human rights has sent to the DIP several recommendations.

Following the recommendations submitted on 11.10.2014, the Department of Penitentiary Institutions¹¹² has developed an Action Plan on the removal of the revealed violations and improvement of detention conditions for prisoners:

- *The repairs of the sanitary blocks of the sectors were carried out; the rooms of sector 2 were equipped with nightstands, bed linen;*
- *The repair of the quarantine and disciplinary isolator cells started;*
- *The plastic tape was removed from the windows and replaced by glass in the residence sectors, the quarantine, the disciplinary isolator, and school;*
- *The canteen, the kitchen and the residence blocks were cleaned. The washing of the dishes in the kitchen is done according to the sanitary norms;*
- *The bathroom – laundry facilities were adequately equipped. An automatic washing machine was installed to do the laundry of all the prisoners;*
- *To ensure positive relations between the staff and the prisoners, it was decided to create the detention service and the psychological service in the penitentiary. Also, it was decided to start occupational and re-socialization programmes such as „Adaptation to the detention conditions of newcomers”, „Prosocial”, „Preparation for release on parole”. The book stock of the prison was renewed.*
- *To raise the training level of the penitentiary staff, lectures on topics such as „Minimum detention standards for convicts”, „European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment” were delivered.*

¹¹² DIP Informative note of 10.11.2014 No. 9/1548 on the execution of the recommendations to Lipcani Penitentiary No. 2 made by CHR representatives following the visit made on 10.10.2014.

PENITENTIARY NO. 18 FROM BRĂNEȘTI, ORHEI DISTRICT

On 1 September 2014, the CHR officials paid a visit to Prison no. 18 from Brănești. They aimed to monitor the conditions of detention in the disciplinary remand as response to prisoner B. S.' petition. B. S. invoked inhuman and degrading treatment applied by prison authorities, because from May until August 29, 2014, he was detained in cell no. 13 in conditions that were sublevel standards. On the day of the visit, the petitioner was already in cell no. 9. For this reason, the situation was verified in both cells - 9 and 13 of the remand.

Regarding the detention conditions in cells 9 and 13, the following deficiencies were found:

- *The source of drinking and sanitary water, without a sink, was situated above the toilet. The placement of the tap above the toilet is a degrading fact, the detainees having to maintain their personal hygiene and wash the dishes above the toilet.*
- *Detainees are not provided with seasonal clothing or beddings. The convict B. S. has complained that he has no relatives and there is no one to provide him with necessary things.*
- *According to prisoner B.S.' statements, the administration provides toilet paper once in three months, which is contrary to Annex 7 of G.D. No. 609 on minimum daily standards of food, cleaning and toiletries for detainees. According to this legislation, prisoners are to be provided a roll of toilet paper per month.*
- *B.S. invoked poor feeding, dirty food preparation and sometimes the presence of worms and insects in the food. Lack of margarine or fats was confirmed: during food distribution the polenta was served without fat or margarine. The canteen and the kitchen were in a dirty state.*
- *Prisoner B. S.'s signal about the degrading conditions in cell no. 13, where he was placed from May to August 29, 2014 was also confirmed. The status of the cell does not categorically allow the detention of persons in the said cell even for one day. Placing prisoners in such conditions can be classified as inhuman or degrading treatment. The window of 20 X 20 cm, is located in a corner, it does not allow the penetration of light into the cell. The floor was severely damaged and the walls were dirty. Previously, the ombudsmen recommended not to place detainees under any circumstances in this cell, regardless of the administration's arguments that as if prisoners themselves want to stay there.*

Based on the results of the visit, the following recommendations, meant to improve the situation of prison inmates in the disciplinary isolator of Penitentiary no. 18, were submitted:

- ***to close cell No. 13;***
- ***to create adequate conditions in cell no. 9, to fix a sink and provide electricity with 220 voltage;***
- ***to ensure hygienic and sanitary conditions in the prison kitchen and in the food storage room of to prison.***

The head of Penitentiary no. 18¹¹³ responded to the notification submitted by the ombudsman on 11.10.2014 ~~thus removing the violations detected and improving the detention~~ conditions of the prisoners

- *Cell No. 13 was closed.*
- *A sink was installed in cell No. 9.*
- *Measures were taken to improve the hygienic and sanitary state in the penitentiary kitchen.*

PENITENTIARY NO. 13 FROM THE CITY CHIȘINĂU

On December 22, 2014, a monitoring visit was made to the Penitentiary Institution No. 13, from Chisinau. The purpose of the visit was to verify the existing detention conditions and the treatment of detainees.

The prison kitchen, the administrative buildings, the residential blocks and the quarantine cells were visited, as well as the disciplinary isolator cells, the juvenile block, and the block for women.

Specialists of the Public Health Centre from Chisinau were involved in the monitoring visit, so as to provide conclusions on prison health norms compliance.

General information about the prison

Prison no. 13 from Chisinau is subordinated to the Department of Penitentiary Institutions, a subdivision of the Ministry of Justice. According to the Minister of Justice Order no. 327 of 18.08.2005, Penitentiary No. 13 has the status of prosecution isolator, in addition a semi-closed sector for the detention of adult male prisoners was created.

¹¹³ The answer of the head of Penitentiary No. 18 of 30.09.2014 No. 5/2853 on the execution of the recommendations addressed to Penitentiary No. 18 from Branesti by CHR Representation following the visit made on 03.09.2014.

Prison no. 13 was regularly visited during the period of operation of the Mechanism for Prevention of Torture. Thus, four visits were made in 2008; 19 visits in 2011; 5 visits in 2012; 4 visits in 2013; and 8 visits in 2014.

Prison no. 13 was visited 3 times by the delegations of the European Committee for Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT): CPT visit from 11 to 21 October 1998; CPT visit from 10 to 22 June 2001; CPT visit from 20 to 30 September 2004¹¹⁴. Following these visits, the CPT submitted to the Government of the Republic of Moldova a number of recommendations designed to improve the situation of inmates in prison no. 13.

On 3 October 2012, a group of experts on Prevention of Torture (SPT) of the United Nations Subcommittee visited Penitentiary No. 13.

Detention conditions

Residence blocks

Situation attested in the previous visits made by NPM and CHR

According to the information provided by the management of the institution at the time of the visit, 1,231 people were held in Prison No. 13. Under detention standards, only 710 people should be held.

Penitentiary No. 13 has 3 detention blocks, where there are 163 cells and 7 medical wards. All the cells, as well as the prison cafeteria, the rooms for meetings, the medical wards were visited.

As regards the situation concerning the detention conditions, during the visits made by the CHR, numerous irregularities were found. The main weaknesses, attested and which are to be removed, are failure to ensure sufficient illumination of the detention facilities and adequate ventilation in the cells, disconnection of electricity in some rooms throughout the day¹¹⁵.

The main problems found were included in the recommendations submitted by the Centre:

- *Overcrowding of detention facilities.* Thus, at the moment of the visit of June 2013 in Penitentiary No. 13, there were 16 prisoners in a 33 sq.m. cell; a person having less than 1.5 sq. m¹¹⁶.
- *Disruption of power supply during the day.*
- *Poor provision of drinking water to prisoners, as well as lack of sinks in most cells.*

¹¹⁴ <http://www.cpt.coe.int/documents/mda/2000-20-inf-fra.pdf>; <http://www.cpt.coe.int/documents/mda/2002-11-inf-fra.pdf>; <http://www.cpt.coe.int/documents/mda/2006-07-inf-fra.pdf>

¹¹⁵ Annual Report 2013 NPM, page 12 http://ombudsman.md/sites/default/files/rapoarte/raport_mnpt_2013.pdf

¹¹⁶ Annual Report 2013 NPM, page 12 http://ombudsman.md/sites/default/files/rapoarte/raport_mnpt_2013.pdf

- *failure to comply to ventilation, sanitary-hygienic conditions, lack of elementary conditions for maintaining personal hygiene, insufficient illumination of detention facilities.*
- *Lack of washing conditions for prisoners' personal laundry.* It is important to offer to prisoners conditions to wash their personal clothes and bed linen. Most penitentiaries have been equipped with automated washing machines; but there are institutions that have not created conditions for the detainees to wash their clothes. In Penitentiary No. 13 from Chisinau, several prisoners told the NPM visitors that they do not know about the existence of a prison laundry or that they have no possibility to wash their clothes. However, is it almost impossible to hold prisoners in clean and decent conditions in the rooms where a detainee is given two square meters and the clothes are stored in bags or on the margin of the bed. It should also be noted that in prosecution remands, prisoners are forced to dry their clothes in the detention facilities, increasing the moisture level in the cells and creating a favourable environment for mould growth or spread of tuberculosis.

After numerous recommendations made by national and international institutions on improving the detention conditions in Penitentiary No. 13, by Law No. 295 of 12.12.2013, the Loan-Framework Agreement between Moldova and the Council of Europe Development Bank was ratified for the Project of Construction of a new prison with a capacity of 1,500 seats in Chisinau. The project will be realized by the year 2018. Although there are many opponents of the construction of the new prison, who consider costs related to construction (700 million lei) excessive, we hope that this objective will be achieved as planned and will contribute to improving the situation of detainees. This will also reduce the incidence rate of Moldova's convictions related to inadequate conditions of detention. The poor conditions of detention in Prison no. 13 served as a basis for convicting the Republic of Moldova to the ECHR in 12 cases for the violation of Art. 3 of ECHR¹¹⁷.

The decisions of the European Court of Human Rights related to violations of art. 3 ECHR (improper detention conditions in Penitentiary No. 13)

The Constitution of the Republic of Moldova¹¹⁸ guarantees everyone's right to obtain effective protection from competent courts against acts that violate his legal rights, freedoms and interests.

¹¹⁷ Annual NPM Report 2013, page 16 http://ombudsman.md/sites/default/files/rapoarte/raport_mnpt_2013.pdf

¹¹⁸ Constitution of the Republic of Moldova, adopted on 29.07.1994// Monitorul Oficial 1, 12.08.1994, art.20 ;

Thus, if the person, who has gone through all the courts and believes that he has not been restored into the infringed rights, he is offered the opportunity to address the European Court.

So far, the ECHR ruled on 17 cases of violations of Article 3 of the Convention.

1. Following the examination of the mentioned cases, it was found that the violation of art. 3 of the Convention for the Protection of Human Rights and Fundamental Freedoms is manifested by the following facts:

- ***violation of the right not to be subjected to inhuman and degrading treatment as a result of poor detention conditions;***
- ***poor quality food and poor hygiene conditions;***
- ***prison overcrowding;***
- ***infringement of the right to a lawyer during initial detention;***
- ***forced feeding;***
- ***censorship of correspondence;***
- ***violation of the right to confidential meetings with the lawyer and family;***
- ***subjection to passive cigarette smoke and existence of parasites and rats in cells;***
- ***holding prisoners suffering from tuberculosis and other infectious diseases with healthy ones;***
- ***Denial of healthcare;***
- ***Insufficient legal grounds for detention.***

2. In most of the invoked cases, the European Court stated that if the suffering endured by the applicant in detention exceeds the level of suffering inherent in detention, there is danger of violation of art. 3 of the Convention. The suffering inherent in detention must attain a minimum level of severity to fall within the scope of Article 3.

“Assessment of this minimum is inherently relative; it depends on all the circumstances of the case, such as duration of ill-treatment, its physical and mental health consequences, and, in some cases, the sex, age and state of health of the victim (see *Kudla v. Poland* [GC], no. 30210/96, § 91, ECHR 2000-XI and *Sarban*, cited above, §§ 75 etseq.). While the purpose of maltreatment is a factor to be taken into consideration, especially if it was intended to humiliate and debase the victim, the absence of any such purpose does not lead inevitably to the conclusion that there had been a violation of Article 3 (*Peers v. Greece*, no. 28524/95, § 74, ECHR 2001-III)”. (Case *Istratii and others v. Moldova*¹¹⁹).

¹¹⁹ Case *Istratii and others v. Moldova*, applications No. 8721/05, 8705/05 and 8742/05 ;

The Court classifies the treatment to be:

- „inhuman” in the case when it was premeditated, applied for hours and either actual bodily injury or intense physical or mental suffering was caused;
- „degrading” in the case when the victims are caused feelings of fear, anguish and inferiority capable of humiliating and debasing them (see, for example, *Kudla v. Poland* [GC], No. 30210 / 96, § 92, ECHR 2000 XI), (*Ostrovar v. Moldova*¹²⁰).

3. In terms of ensuring the confidentiality of the meeting between the client and the lawyer, the Court considers that “its non-contesting in national courts equals to non-exhaustion of domestic remedies”. The Court also notes that the impediments created by the glass wall for the confidentiality of discussions and exchange of documents between attorneys and clients prejudice the rights of defence. (Case *Ipati v. Moldova*¹²¹, case *Modârcă v. Moldova*¹²²).

4. As regards the meetings with the family, the Court stated “any detention that is lawful in accordance with Article 5 of the Convention, by its very nature, requires limits on private and family life. However, it is an essential element of the prisoner’s right to family life that the prison authorities shall assist him in maintaining contact with his family (see, for example, *Messina v. Italy* (no. 2), no. 25498/94, § 61, ECHR 2000-X). At the same time, the Court recognizes that some measure of control over the prisoners’ contacts with the outside world are necessary and are not themselves incompatible with the Convention (see, for example, *mutatis mutandis*, the *Silver and Others v. The United Kingdom*, cited above, § 98)”. (Case *Ostrovar v. Moldova*).

5. In terms of healthcare, the Court considers that the lack of medical assistance in circumstances, where such assistance is not required, cannot in itself constitute a violation of Article 3 of the Convention. But failure to provide immediate medical assistance to the applicant in an emergency situation, and his transfer to another hospital before complete recovery, combined with humiliation by being handcuffed during the stay in hospital, constituted inhuman and degrading treatment under Article 3 of the Convention (see *Kudla v. Poland*, cited above, § 94; *Farbtuhs v. Latvia*, no. 4672/02, § 51, December 2, 2004; *Nevmerzhitsky v. Ukraine*, no. 54825 / 00, § 106, 5 April 2005) (Case *Istratii and Others v. Moldova*).

6. Another issue often raised by the Court is overcrowding. The Court considers “the conditions of detention in Prison no. 13, especially, overcrowding, insufficient quantity and quality of food, lack of adequate bedding and very limited access to daylight, as well as insufficient sanitary conditions in

¹²⁰ Case *Ostrovar v. Moldova*, (Application No. 35207/03);

¹²¹ Case *Ipati v. Republic of Moldova*, Application No.55408/07;

¹²² Case *Modârcă v. Moldova*. Application No.14437/05);

the cell, as inhuman and degrading treatment under Article 3 of the Convention.” (Case Istratii and Others v. Moldova).

7. At the request of finding a person guilty, the Court stated that “the Court’s role is not that of a “fourth court” to decide on the guilt or innocence of a person as requested by the applicant”. (Case Culev v. Moldova¹²³, Case Mitrofan v. Moldova¹²⁴).

8. Following the examination of the 17 cases against Moldova on the violation of the right of prohibition of torture, the Government of the Republic of Moldova was obliged to pay moral and material damage amounting to 174,250 euros.

ANNEX

The amount of damage paid by the Government of the Republic of Moldova following the convictions of our country to the European Court of Human Rights for violation of art. 3 of the Convention

	Case	moral damages (euro)	costs (euro)	
1	c. Hadji	3000	100	
2	c. Haritonov	4000	1200	
3	c. Arsenev	15000	100	
4	c. Modârca	0	0	
5	c. Segheti	5,000	1,500	
6	c. V.N. Roşca	30,000	4,000	
7	c. Ciorap	20,000	1,150	
8	c. Culev	4,500	300	
9	c. Ipati	9,000	1,500	
10	c. IstratiişiAlţii	15,000	4,000	
11	c. Mitrofan	5,000	1,500	
12	c. Modîrca	7,000	1,800	
13	c. Ostovar	3,000	1,500	
14	c. Plotnicova	4,500	100	
15	c. Străisteanuşialţii	10,000	100	
16	c. Struc	8,000	1,400	
17	c. Turcan	9,000	2,000	
	TOTAL	152,000	22,250	174,250

¹²³ Case Culev v. Moldova, (Application No. 60179/09);

¹²⁴ Case Mitrofan v. Moldova (Application No. 50054/07);

Reports of the European Committee for the Prevention of Torture (CPT) concerning the visits to Penitentiary No. 13.

Penitentiary No. 13 was visited 3 times by the delegations of the European Committee for Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT): CPT visit from 11 to 21 October 1998; CPT visit from 10 to 22 June 2001; CPT visit from 20 to 30 September 2004¹²⁵. Most of the recommendations submitted by the CPT have been fulfilled; however, the main problem about overcrowding in detention facilities remained valid at the end of 2014.

Detention conditions found during the visit of 12.22.2014 made by CHR employees to Penitentiary No. 13

Initially, the CHR employees were informed that cells no. 28, 50 and 51 are no longer used on the recommendation of the National Ombudsman Institution because the conditions within them were not adapted to the standards of detention.

The monitors involved have checked all conditions of detention in these prison cells. The monitoring results are reflected in a table attached to this Report.

The worst conditions of detention were found in the basement of the prison, namely in the cells located in the basement of resident block no. 1. These cells are overcrowded; the natural light penetrates with difficulty. Although in most cells cosmetic repairs were performed, the vast majority of the cells located in the basement, do not meet the national and international standards.

Causes of inadequate conditions of detention:

- Overcrowding

In the vast majority of cells a disproportionate number of people were placed, standards of detention space of 4 m² per person are not respected. In some cells (for example, cell no. 22) 16 people were placed on a surface of 24 m², thus a prisoner had 1.41 m². Only in a few cells, there were at least 3 m² per person - cells 01 (3 m²); 99 (7,5 m²); 109 (3 m²); 110 (3 m²); 138 (5 m²); 143 (3.5 m²) 144 (3.5 m²); 147 (4.75 m²). *According to the CPT Norms¹²⁶, an overcrowded prison entails cramped and unhygienic accommodation; a constant lack of privacy (even when performing such basic tasks*

¹²⁵<http://www.cpt.coe.int/documents/mda/2000-20-inf-fra.pdf>;
<http://www.cpt.coe.int/documents/mda/2002-11-inf-fra.pdf>;
<http://www.cpt.coe.int/documents/mda/2006-07-inf-fra.pdf>

¹²⁶ CPT Standards, page 16

as using a sanitary facility); reduced out-of-cell activities, due to demand outstripping the staff and facilities available; overburdened health-care services; increased tension and hence more violence between prisoners and between prisoners and staff.

- **Unsatisfactory hygienic and sanitary status of detention spaces**

According to art. 226 of Execution Code, the convict shall be provided with the opportunity to satisfy his physiological needs in clean and decent conditions and according to needs. However, in the penitentiary institution concerned, the toilets are located right beside the beds and are separated from the rest of the cell by a curtain. Only in the cells 75, 76, 99, 105, the toilets were totally isolated from the rest of the cell. Although the standards do not require that the toilet be isolated, the toilets in cells No. 65, 90, 108-110, 166 need to be urgently repaired. It is also necessary to keep under control the hygienic conditions of most cells.

- **Permission to smoke**

According to item 90 of the Statute of Punishment Execution (Government Decision no. 583 of 26.05.2006), smoking is prohibited in cells. However, prisoners smoke in cells and non-smokers are forced by circumstances to endure the dense cigarette smoke. This fact also leads to the degradation of the hygienic status of the residence facilities.

- **Supplying mattresses with a high degree of wear, torn and dirty**

At the moment of the visit, the mattresses were worn. All persons mentioned that they transmit the underwear to the relatives to be washed because they have no access to the centralized prison laundry. This proves the longer-term placement of people in this cell, despite the norms of detention provided for the given prison. Prisoners are forced to wash and dry the clothes in the cell or in the walking boxes on ropes hanging chaotically. This raises the humidity level and the odour in the cell.

Another deficiency attested in the mentioned institution is the general **insanitary condition of many cells**: mould in cells No. 88, 96, 108, 144, 163 - 165; **damaged walls** in cells No. 66, 89, 102, 103, **yellowed walls** because of smoke in cells No. 63, 67, 74, 79, 81, 83, 85, 87, 90. The following cells need to be urgently repaired: 01, 15, 23, 24A, 25, 26, 29, 30, 38, 52, 55, 56, 57, 58, 71, 115 - 123b, 125, 126, 146-151, 157. In cell No. 62, the toilet needs to be repaired. In cell No. 78 the valve is defective and must be repaired. In 60 cells, the taps without sinks are placed above the toilets. However, the effort made by the new head of the prison should be appreciated, who, since 2012, has changed the state of things for the better, in terms of ensuring detention conditions. The 4 quarantine cells of the prison were repaired, many cells were equipped with sinks, the cells, where the prison household maintenance detachment live were provided with mattresses and good beds. Also, the halls were adequately arranged in the detention blocks, actions have been taken to

provide the prison staff with offices and working conditions that comply with safety rules and occupational health. Cell no. 73 can serve as a model cell improved according to the standards.

The situation of detainees is worsened by **lack of sufficient lighting of the cells** - 61-67, 73-92, 95, 98, 99, 100, 164, and 165. Thus, the location of cells in the basement and the small size of the windows and their location in the cell, does not allow sufficient natural lighting. At the moment of the visit, the detainees have alleged that they are unable to benefit of permanent artificial light. The penitentiary set a schedule to stop electricity supply between 9.30 – 11.30 a.m. and 14.00-16.00 p.m.

Detention conditions in residence facilities in the quarantine cells

In accordance with Art. 200, paragraph (5) of the Execution Code of the Republic of Moldova, on receipt, the convicted is placed in quarantine facilities for a period of up to 15 days, during which he is subjected to medical examination to determine the state of his health and the ability to work, and is prescribed, if necessary, individual treatment.

Cells no. 17, 60, 81 intended for quarantine facilities were seen during the visit. Following the visit, the following can be stated:

- Overcrowding was found in all cells intended for quarantine: in cell No. 17 with a surface of 31, 2 m², 14 people were held (2.2 m² per prisoner); in cell no. 60 with an area of 24 m² there were 14 people (1.72 m² per prisoner); in cell no. 81 with an area of 25.44 m² there were held 14 people (1.82 m² per prisoner).
- The sanitary condition in quarantine cells has been improved substantially. However, due to the large number of prisoners in the cells, an unpleasant smell is felt.
- Another problem detected in the quarantine cells is the lack of direct access to sunlight, because the cells are placed inside the prison.

Conditions of detention in the disciplinary isolator

Conditions in the disciplinary isolator:

- Penitentiary No. 13 has a disciplinary isolator, which is located in the basement of the prison. Individuals, in whose respect disciplinary sanctions are applied in the form of incarceration (isolation), are held in it. During the visit, there were no people in those cells, but the cells are not sealed so as not to allow their use.
- The members of the monitoring team found, with reference to cells No. 4 and 5 of the disciplinary isolator that despite the fact that these cells were apparently cosmetically repaired, the detention conditions remain inappropriate and cause concern.

- First, it should be noted that the condition of the walls and of the ceiling (plastered), the sanitation (toilet /sink), the deplorable state of folding beds, create a sense of insalubrity and general degradation of the respective rooms.
- The non-correspondence of the disciplinary isolator cells to minimum detention standards has been previously established. Following the monitoring visit in March 2011, the ombudsman, recommended to the administration of Penitentiary Institution no. 13, as well as, to the Ministry of Justice, as a hierarchically higher institution, to stop the activity of the isolator, but the situation has not changed for the better.
- Thus, after the visit of 16.04.2010 to Prison No. 13, made by the former Minister of French Justice, Robert Badinter, the current ambassador of UNICEF, publicly demanded the then Minister of Justice, Alexandru Tanase, to close the disciplinary cells of the Institution. Subsequently, NPM was informed on ceasing the activity of the disciplinary isolator of the penitentiary institution no. 13 from Chişinău¹²⁷.

Condition of boxes for walking

CPT standards stipulate the need for prisoners to be allowed outdoor exercise at least one hour as a basic guarantee (preferably, it should form part of a broader program of activities). The CPT wishes to emphasize that all prisoners without exception (including those punished through isolation) must be given the opportunity to do outdoor exercise every day. Equally, it is obvious that outdoor exercise facilities should be reasonably spacious and whenever needed, to provide shelter from inclement weather. The boxes for walking of Penitentiary No.13 are equipped with dumb-bells, sports equipment, parallel and horizontal bars, thus the detainees have the possibility to practice sport. However, it is necessary to maintain the cleanliness of the place, as when we visited the boxes we noticed trash.

2.1.8. Catering of prisoners

The storage rooms of the prison, where the food is stored, are untidy and the products are kept according to the provisions of Order, 512 of 26.12.2007 on the approval of the Regulation on catering detainees in prisons, the preparation, distribution and receiving of food by dependents

¹²⁷ On 16.04.2010, during a visit to the penitentiary institution no. 13 from Chişinău, the former Minister of French Justice Robert Badinter, the current ambassador of UNICEF, publicly demanded the Minister of Justice Alexandru Tanase to close the disciplinary cells. The Moldovan Minister of Justice confirmed that the prison conditions correspond to the medieval period, stating that the situation on detention institution is a systemic problem. According to the minister, these problems are targeted by the Governmental Commission for strategic planning and measures will be taken to remedy them in the future.

(hereinafter Order no. 512). The deposit is permanently kept clean, the walls were freshly whitewashed, the meat and fish products are kept separately in the refrigerator

The kitchen is located in a separate block. Although the hygienic condition of the kitchen was satisfactory, according to the ombudsman, the situation must be essentially changed by equipping a modern kitchen that would allow cooking in adequate sanitary conditions and keeping food hygienically. In this context, according to point 13 of the **Ministerial Order 512**, *prisons shall have canteens with the following sections: preparation and distribution of hot food, cold food preparation section, section for the preparation of fish and meat dishes, section for vegetables, washing rooms for canteen dishes and kitchen utensils, space for cutting bread, warehouse for storage of dry products, office for the head of the canteen, a rest room for cooks, dining room sinks and a wardrobe. In large cafeterias, shower rooms and separate toilets are set. Inscriptions with the names of the respective rooms are hung and fixed on the outside.*

Doctors of the Public Health Centre from Chisinau¹²⁸ detected the following irregularities in the cafeteria and food storage facilities:

- *Food preserving compatibility - margarine and poultry products (eggs) - is not observed;*
- *There is no running water in the storage facility and it is impossible to maintain the personal hygiene of the storage facility employees;*
- *The inventory used in the sanitation of the refrigerating equipment is inadequate;*
- *The preliminary processing of fish products and vegetables is carried out in a room where there are no tables;*
- *There are no detergents and disinfectants approved by the Ministry of Health and authorized for use in performing daily treatment after work;*
- *The preliminary processing of meat is also done in the same space and it is not secured that the flow goes in one direction to avoid crossing between clean and unclean spaces;*
- *The tables for preliminary processing and cutting of products are corroded. The ceiling and the walls of the room are covered with mould;*
- *Before being distributed to the prisoners, the pots with cooked dishes are kept on the floor in a hallway, there are no stands;*
- *A part of the used inventory requires renewal – the knives;*
- *There is no hot water for washing.*

¹²⁸Annex to the present Report

The findings of the Public Health Centre on the conditions in cells

According to the Public Health Centre from Chisinau, in some cells, one or two glasses are missing from the windows, in some cells the windows are partially blocked with personal items. The internal engineering networks are sometimes damaged and water is leaking on the walls and ceilings of the cells. As a result, in some cells, there are traces of mould on the walls and the plaster is falling. The walls of the toilets are not finished with washable materials to do the cleaning. The toilets are not separated by capital cell walls, which can influence the microclimate parameters of the detainees' lives. The ventilation system in the cells on the 1st and 2nd floors do not allow the evacuation of the air. There are no drainage systems on the roofs of the blocks. Over 90 percent of the cells are overcrowded, which cannot ensure the exchange of oxygen in the cells. There are cells where a prisoner has 1.5 m², including the toilet. In about 10% of the cells, it is necessary to repair the walls, ceilings and the floors. Also, 70% of the cell toilets have to be repaired. The living conditions in the household detachment block are good; here it is necessary to repair the sanitary and engineering networks.

Informative Note of the Public Health Centre on compliance with hygienic conditions in the Inpatient Medical Service Facilities of Penitentiary No. 13 from Chisinau

The Inpatient Medical Service Facility of Penitentiary no. 13 offers the diagnosis, medical assistance and specialized treatment for 1,231 inmates.

At the moment of the assessment, the inpatient section for 180 beds (100- tuberculosis, 80- somatic) in 23 wards was operating. The medical staff includes specialists in internal medicine, pulmonology, gynaecology, dentistry, ophthalmology and psychiatry. The clinical-biochemical, bacteriological and pharmaceutical laboratory services were functioning.

The blocks are connected to the urban networks of water supply, sewerage and heating. Hot water is provided in a centralized manner and from local power sources (boilers). Lighting is mixed and the ventilation is natural. The areas of epidemiological importance (procedure halls, the dentistry) are coated with tiles and terracotta. All rooms are equipped with the necessary things as intended for the activity of the unit.

The surfaces of inpatient section rooms are small and do not correspond to the Sanitary Regulations on hygiene in medical institutions approved by GD No. 663 of 23/07/10. The

normative area of a bed is not observed. The patients are accommodated from 6 to 12 persons in a ward, the maximum norm being of 4.

The are two separate procedure rooms in the prison inpatient section, one for tuberculosis and another for somatic illnesses, a dentist's office with one installation and a room for processing and sterilization of the instruments, an examination office shared by the ophthalmologist, psychiatrist, and therapist and the clinical-diagnostic and bacteriological laboratories. The rooms are placed incorrectly and admit the crossing of „clean-dirty” flows. ***The dressing room is missing; dressings are performed in the procedure rooms.***

The sanitary-technical and hygienic state of the procedure room for patients with tuberculosis, the pulmonary doctor's office, the laboratories, and of the patient wards is unsatisfactory: the floors, the doors, the windows, and the walls are worn and cracked. The furniture, the sanitary-technical and medical equipment are outdated.

The sanitary-hygienic regime in wards is partially observed. These are equipped with a sink, toilet, some of which are broken.

The bactericidal lamps in the treatment rooms do not have documentation attesting their validity.

Disposable syringes, dripping systems, gynaecological mirrors are in sufficient quantities to perform medical manipulations.

There are no dental instruments and necessary equipment to perform dental assistance.

The provisions of the Regulation on healthcare waste management No 06.8.3-45 of 10.12.2001 are not observed (vessels for medical waste management categories are not labelled, the inscriptions "infectious waste", "sharps", "biohazard" are missing). Medical waste is subjected to burning.

CONCLUSIONS AND RECOMMENDATIONS

According to international standards on minimum conditions of detention, in all places, where prisoners are required to work or live, the windows must be sufficiently large to enable prisoners to read or write without affecting their vision, and enjoy natural light in normal conditions. The same requirements relate to artificial light. At the same time, the windows shall be constructed to allow fresh air into the cell.

The European Court of Human Rights condemned the Republic of Moldova 17 times for violation of article 3 of the ECHR for inhuman conditions of detention in Prison no. 13, namely for similar violations documented during the visit. Also, the Reports ***of the European Committee for***

*the Prevention of Torture*¹²⁹, based on repeated visits made to this prison, the ombudsman's notifications drew attention to the fact that the conditions of detention in the concerned institution can be attributed to degrading and inhuman.

In order to improve the situation of inmates in Penitentiary no. 13 and take the necessary measures in this regard, the Prison Administration of Penitentiary no. 13 from Chisinau have been sent recommendations designed to improve the situation in which persons in prison custody are held. In this context, the Director of the CHR repeatedly calls for ceasing the activity of Penitentiary no. 13, given the conditions of detention in this institution that are not compliant to detention standards.

CHAPTER IV

OBSERVANCE OF CHILD'S RIGHTS IN THE REPUBLIC OF MOLDOVA IN 2014

Juvenile justice

Juvenile delinquency

The analysis of statistics over several years reveals that frequently, juveniles commit crimes against property, which highlights the need for material support of minors/ their families. Most juvenile delinquents come from vulnerable families or single parent families; those left without the supervision of a parent or of both parents, minors from families with many children.

In the Republic of Moldova, there is neither national plan on preventing juvenile delinquency, nor a legislative framework. The policies in this field do not pay due attention to the matter. The actions undertaken by the authorities in this respect lack continuity, are occasional, and possess an informative character related to the liability that comes from committing crimes and are neither in form nor in content a system designed to prevent juvenile delinquency.

The Ombudsman considers that Resolution No.45 / 112 of 14 December 1998, adopted by the General Assembly of the United Nations, known as the „United Nations Guidelines for the Prevention of Juvenile Delinquency”, or „Riyadh Guidelines”¹³⁰ should serve as a milestone in the development of such a policy document.

¹²⁹ Relevant parts of the CPT Report following the visit made in the Republic of Moldova between 11 -21 October 1998 are provided on the website <http://www.cpt.coe.int/documents/mda/2000-20-inf-fra.pdf>

¹³⁰ 1. The prevention of juvenile delinquency is an essential part of crime prevention in society. By engaging in lawful, socially useful activities and adopting a humanistic orientation towards society and outlook on life, young persons can develop non-criminological attitudes.

We also consider that the educational system does not do enough in the aspect of preventing and combating juvenile delinquency. The school is the institution with which the child is in regular contact, which would foster child supervision and early identification of manifestations of inappropriate behaviour. Simultaneously, the development of psycho-pedagogical services would facilitate professional intervention to provide the necessary assistance for child rehabilitation and re-socialization.

We believe that the educational system should involve children in extra-curricular activities¹³¹, which would encourage them to develop additional skills and enable more effective supervision of children, of their activities, to ensure that they are not involved in antisocial activities. This need stems from the fact that after classes the children spend a large part of their free time without being supervised by parents. However, these extra-curricular activities should be mandatory (currently they are optional for all children), and take into account the children's interests and age.

In this context, we must recall the lack of specialized institutions for the rehabilitation and social reintegration of children who have committed offenses, which do not fall under the Criminal Code. This problem occurred with the closing of the boarding school for children with behavioural deviations from the village Solonet, Soroca district, which did not meet the standards. Currently, there are no other similar institutions in Moldova.

Minors in detention

During 2014, the detention facilities for the preventive arrest of minors were monitored. Thus, we found that the legal provisions concerning the remand measures in the Republic of Moldova do not essentially differ from the practice of other countries. On the contrary, in some aspects, the national legislation norms are more permissive regarding the measure of remand. For example, in

2. The successful prevention of juvenile delinquency requires efforts on the part of the entire society to ensure the harmonious development of adolescents, with respect for and promotion of their personality from early childhood.

3. For the purposes of the interpretation of the present Guidelines, a child-centred orientation should be pursued. Young persons should have an active role and partnership within society and should not be considered as mere objects of socialization or control.

4. In the implementation of the present Guidelines, in accordance with national legal systems, the well-being of young persons from their early childhood should be the focus of any preventive programme.

5. The need for and importance of progressive delinquency prevention policies and the systematic study and the elaboration of measures should be recognized. These should avoid criminalizing and penalizing a child for behaviour that does not cause serious damage to the development of the child or harm to others.

6. Community-based services and programmes should be developed for the prevention of juvenile delinquency, particularly where no agencies have yet been established. Formal agencies of social control should only be utilized as a means of last resort.

¹³¹Recreational and skill-developing activities

Germany and the USA the arrest warrant can be issued by the court even at the existence of a suspicion of committing a crime of increased gravity without the need to establish the existence of grounds for arrest. Otherwise, committing a particularly serious crime is, under law, a ground for arrest when the facts indicate to the risk that, before the punishment is applied, the accused might commit other such crimes or continue committing the one he is charged with.

The Romanian legislation does not establish special conditions for children related to applying preventive remand measures; instead, it takes into account the defendant's age and the proportionality between the effects of deprivation of liberty and the purpose by taking action.

Although, in principle, the reasons for arrest mentioned above are the same as those of the Code of Criminal Procedure, we found that the German federal legislation pays more attention to balance, usually precarious, between the individual's freedom and the needs to properly conduct criminal proceedings by removing some too broad or unjustified conditions like relapse or flagrant offense. Once the judge ruled that the issued arrest warrant is legal and solid, it is not necessary to extend or maintain the warrant beyond the passage of a period of three months and not every 30 to 30 days or every 60 days, as is common practice in Moldova.

One of the current shortcomings of the justice system regarding the application of remand is the weak and insufficient reasoning of the judge's decisions. In one of the judge's ruling, it is affirmed that the court considers reasonable the prosecutor's suspicions on the risk of leaving the town by the minor and that he might commit other crimes. This conclusion was derived from the characteristic of the accused, who had no education or job. The court concluded that the accused could obstruct the establishment of the truth or commit other crimes.

Another identified problem is related to the monitoring of the remand period. We found that the authorities are unable to provide disaggregated information according to the length of the remand, because currently there is an electronic monitoring system to ensure the link between all the relevant institutions in this field. However, the current electronic system of the Department of Penitentiary Institutions has no such technical possibilities.

In the same context, it was found a case when the DIP asked the court to clarify the length of the remand of a minor in order to correctly calculate the time to be included in the term for penalty execution. This case highlighted the gaps related to the cooperation between authorities, in particular the submission of files, rulings and sentences, stressing once again the need for an electronic database to ensure the connection / transfer of information between all responsible institutions.

The use of the term 'maximum period of custody' during criminal prosecution in most cases with minors and lack of regulation on the maximum period, for which a minor can be held in

custody at the trial stage, is another issue. However, we believe that the legislation, which would establish a fixed term for the examination in court of cases involving minors, who are detained in custody, is not an optimal solution because it could have an effect on the quality of the materials of the case, etc. In our view, it would be sufficient to enable courts to determine independently the fastest term for the examination of cases and only, in exceptional cases, to accept the extension. However, to interest prosecutors to investigate the case in short terms, we believe that the court should be more responsive to the requests of the defenders not to extend the remand period if the prosecution had not progressed between two hearings by summoning / bringing in witnesses, drafting certain documents, the taking of evidence.

According to legal provisions, the request for extension of remand, must be submitted by the public prosecutor five days before the expiry of remand period. We found instances when the request was filed just one day before the expiry of that period.

We believe that the rate of approximately 3% of minors, in whose respect preventive detention was imposed, of all juveniles who have committed crimes, is reasonable and shows a positive trend in the use of this coercive measures to juveniles.

Referring to the respect of the right to education of children in detention, several irregularities were detected such as: the impossibility of continuing the studies after completion of the gymnasium, not all classes and compulsory subjects are taught¹³², there are not enough teaching materials. The classes are taught to the juveniles in separate cells, and to each inmate, appropriate to age and level of development, which makes the teaching difficult.

Finally, measures are necessary to be taken to improve the preventive detention applied to minors as regards the conditions of detention, re-socialization and re-education.

The relevant institutions were submitted the following recommendations:

1. The courts shall make the decision regarding the application of coercive measure of preventive detention on juveniles only as a last resort.
2. When deciding for the arrest, both the prosecutor, in his request, as well as the court, in its judgment, are to motivate not only the need to apply or, where appropriate, to extend the pre-trial detention of the juvenile, but also to explain why they consider the situation as exceptional and why other preventive measures will not ensure the presence of the juvenile during prosecution or in court.

¹³²Order of the Ministry of Education 679 of 04.06.2013 on the framework plan for the primary, gymnasium and lyceum schools for the academic year 2013-2014.

3. It is also necessary to motivate why they opt for arrest, by indicating to the file materials that would generate the obligation and efficiency of applying the remand. In this way, the adversarial principle, according to which the suspect, the accused minor, and their representatives have the right to inspect, the materials of the case that are submitted by the prosecution, and express their own opinions and objections, will be respected.
4. Reasoned and balanced decision-making is very important for the court to require compulsorily the report on the juvenile from the probation office¹³³.
5. Not to hold a minor in custody, for more than a year before receiving the sentence, the court should be more responsive to the requests of defenders not to extend the custody period if the prosecution has not managed between the two hearings to summon / bring in witnesses, to draft certain documents, to administer the evidence. This is true in the light of ECHR legislation that puts an emphasis on the speed and diligence in the examination of such cases by national courts.
6. It is necessary to ensure access to education for children, gymnasium graduates, who are in preventive detention in remand facilities.

Minors who have served prison sentence

All minors must benefit of support on behalf of specialized services to help them return to society, family life, school or work after release. For this aim, special trainings and procedures, including release on parole, must be provided.

Competent authorities should provide or ensure assistance services to help juveniles reintegrate into society and reduce the prejudices they face. These services should ensure, to the extent possible, that the child enjoys decent living, employment, clothing and sufficient means to support themselves after release, to facilitate their successful reintegration. Representatives of institutions providing such services should be consulted and should have access to juveniles, while in detention, in order to help them return to the community.

The right to education

We appreciate the fact that the authorities contribute to ensuring the respect for the rights of children with disabilities by developing and implementing social inclusion programs.

¹³³ Art. 23, letter h) of the Law on Probation No. 8 of 14.02.2008 provides that in the exercise of his duties, the probation officer participates in the hearings at the request of the court, upon presentation of the pre-sentence report of the psychosocial assessment of the person.

A further step in ensuring the respect for children's rights was also the creation of pedagogical support services¹³⁴ (PSS) and the working tools for professionals (methodologies, guidelines, plans, etc.). Although under Government Decision no. 732 of September 16, 2013 the implementation of such decisions was left to the discretion of the local government within the approved financial means, the local authorities have realized the importance of psycho-pedagogical assistance service at district and municipal levels and issued dispositions for the creation of services, identifying the financial resources.

However, for a better functioning of PSSs, it is necessary that all institutions, involved in the inclusion, join their efforts for a common and noble purpose such as ensuring the rights of the children with special needs, regardless of origin, degree of disability, ethnicity, etc.

Thus, we believe that to improve the situation in respect of the provision of conditions for developing the potential of children with SEN, the Ministry of Education in collaboration with the Institute of Science and the Republican Pedagogical Assistance Centre follow to develop working tools for PSS specialists, but also for the multidisciplinary committee members within school.

In addition, because specialists in the territory have invoked many difficulties¹³⁵, the central authorities jointly with local partners, educational directorates shall organize the training of specialists in the field, to overcome situations of this kind, but also to develop informative materials for public awareness.

Another identified problem is lack of provisions in the legal framework concerning the status of PSS specialists, their method of remuneration, promotion, certification, etc. Therefore, it is necessary that the Ministry of Education submit to the Government draft amendments to the legal framework in the listed matters.

This is because, in the opinion of some specialists, the school curriculum is not flexible and is not geared towards harnessing the potential of every child, as for children with SEN, there are not developed appropriate materials (textbooks, notebooks, atlases, etc.). We consider it necessary that the Ministry of Education jointly with the Quality Assurance Agency review the curriculum and develop or adapt learning materials to children with special needs.

Besides the mentioned issues, we identified lack of services for inclusive education for children with severe / multiple disabilities, who do not attend school, and for preschool children

¹³⁴ Further PSS

¹³⁵ Reticence and poor special training of teachers and managers of educational institutions in terms of promotion and development of inclusive education; failure to fulfil the functional tasks by the multidisciplinary committees within school; incompetence of the teachers to develop and implement individualized education plans; lack of regulation on complex evaluation process of the child's development; uneven provision of educational services in institutions and communities.

with SEN. The large number of children in kindergarten groups does not allow early identification and support of children with SEN. There are no specialized services for supporting children with autism, with Down syndrome and other associated or specific disorders. Therefore, the Ministry of Education should draw attention to this aspect so that children with severe and multiple disabilities, who do not attend school be created conditions for development; the number of children in kindergarten groups shall be reduced to identify children with SEN at an early age and provide them with necessary assistance.

Shortage of qualified specialists for supporting children with SEN (psychologists, speech therapists, psychotherapists, etc.) is another problem identified in several administrative units that can be solved by providing professional retraining at the Institute of Education Sciences.

It is recommended to the Ministry of Health to alert health workers on the need to adequately fill in the children's medical certificates so as to facilitate the development by PSS specialists of individual working plans corresponding to the child's needs.

Other problems identified, such as lack of transport, offices and appropriate conditions for PSS specialists can be remedied by the local government through adapting the premises in the educational institutions, providing them with special equipment, by planning funds in the annual budget and by attracting projects and grants. But this, of course, requires more perseverance.

It is also necessary that the Departments of Social Assistance and Family Protection and local community halls (as guardianship authorities) work individually with the parents, in whose families children with SEN are reared, so as to make them accountable and to ensure the social inclusion of children, while the tutors / guardians or other caretakers of children with special needs be provided with the necessary support for the care and education of this category of children.

We found that there is a problem of adapting the education system to the needs of children with disabilities. The National Examination Commission refused to offer the possibility to pass the exams at home to a student who suffered of a stroke, which left her disabled of first degree. The pupil completed the lyceum by receiving training at home but the Commission considered that the submitted application does not fall under the regulatory framework¹³⁶. It has decided to give additional 60 minutes for each exam the candidate had to take.

¹³⁶ Refusal to convene a District Examination Commission that would go to the pupil's home was argued by the fact that the student is not **immobilized**, as provided by item 18 of the Methodology on organizing and holding the Baccalaureate in the school year 2013-2014. In the answer received from the Ministry of Education, the following reason is given: *"Taking the baccalaureate exams at home can be allowed only to immobilised persons, under item 18 of the Methodology on organizing and conducting the baccalaureate, in the school year 2013-2014"*.

The Ombudsman is of the opinion that the decision to offer the candidate additional 60 minutes to the time for completion of a written paper is a formal one and is in the detriment of the person to whom the first degree of disability was assigned. Also, the „offering of the possibility” to the candidate to move to the baccalaureate centre located in another village (situated at a distance of about 30 km) in the situation when she cannot do without the help of a companion, raises a big question mark regarding observance of the rights of persons with disabilities.

The Ombudsman considers that each case must be looked into individually and requires an objective approach adequate to the situation. Therefore, it recommended that the Minister of Education, who is president of the National Examination Commission to immediately reinstate the student into her rights, and other candidates, who are in similar situations, by creating district / municipal examination commissions for taking the exams at home. The Ombudsman emphasized that the constitutional rights of persons with disabilities must be guaranteed and respected, as well as the right to education. The state should make consistent efforts to ensure all necessary conditions for the social integration of this category of citizens.

On 31 October 2014, the Ministry of Education approved Order No. 1118 by which the methodology for organizing and conducting the baccalaureate in the school year 2014-2015 was approved. Despite the ombudsman's recommendations to take into account situations like the one shown above, this methodology has not changed, which inevitably creates conditions for the recurrence of such cases.

The Ministry of Education must continue to pay particular attention to the topic of school fees, which need to be removed completely from the educational system, or at least for the period that there is no legal framework to provide for the conditions necessary for exercising the right to parents' association in a proper and transparent manner. Otherwise, the current situation favours unequal treatment, favouritism and pressure on parents, which also affects the relations with students.

The right to physical and psychological integrity

Violence in schools

Despite the made efforts to create new mechanisms for preventing and combating violence in schools, this phenomenon is still present in our society.

We have been informed of a case in which a teacher exhibited aggressive behaviour towards students, but also towards his colleagues, for which he was sanctioned twice. At the parent's notification, the Department on Education had not taken adequate measures on the ground that it was the end of the academic year. The Police Inspectorate did not react in any way either to the notification of the deputy director of the educational institution.

The facts mentioned by the petitioner were confirmed in the discussions between CHR employees and the director of the educational institution. Subsequently, the teacher was sentenced under the provisions of the Labour Code and the Code of Administrative Offences for inappropriate behaviour, but meanwhile his labour contract with the educational institution expired. The school manager explained that the educational institution has decided not to dismiss the teacher concerned because of shortage of specialists.

Domestic violence

The cases when children have been victims of domestic violence were in the attention of the Ombudsman. These cases highlighted problems related to the work of the competent authorities, which did not intervene accordingly to protect children and to ensure their rights.

A case examined by the ombudsman relates to two minor children living with the biological mother and her concubine. The latter drank alcohol. The family lived in unsanitary conditions that prevent the normal physical and mental development of the children. The family enjoys a single indemnity benefit for parental care, financial help on the International Day of the Child, other aid in the form of food and clothing from the local authorities. The employees of the CHR have found that the mother's concubine physically assaulted one child and criminal prosecution was initiated on this case. Later, the mother with the children were urgently placed in the maternal centre because of the violence displayed by the woman's concubine. The woman with the children repeatedly left and returned to the maternal centre. The specialists of the institution had closed the case only when they received a refusal in written from the children's mother.

The specialists of the placement centre have requested the intervention of the local authorities to take all necessary measures to protect the children¹³⁷, a request that was also made by Head of Social Assistance and Family Protection Department.

Despite all the requests and signals, we noted with regret that the local authorities did not intervene in any way for about two years.

¹³⁷Under the provision of article 12 of Law No. 45-XVI on preventing and combating domestic violence of 1 April 2007

In the light of the above, the Ombudsman submitted a notification¹³⁸ to the Social Assistance and Family Protection Department in which requested objective examination of the execution of duties by the community social worker; immediate reinstatement of the children into their rights, and psychological rehabilitation assistance to the child victim and the child witness. In the answer to the complaint, it was stated that the perpetrator was sentenced by the court to unremunerated community work for 120 hours on charges of domestic violence against a minor child. It was further added that the children continued to live with the abuser, but the social worker systematically monitored the family to avoid conflict situations among family members that can lead to violence.

A notice with recommendations was also submitted to the Mayor for reinstatement of children into their rights. In the answer, which was late in coming, it was noted that the minors were in foster care and arrangements were made for termination of the perpetrator's parental rights (father of one of the children) on the ground of criminal history on domestic violence. The Ombudsman considers that this might not be the best solution because their mother can return to cohabiting, which presupposes that the minors may return to the same environment with the aggressor.

Local governments are the ones that hold powers and functions¹³⁹ required to solve citizens' problems at community level and have sufficient leverage in this regard. Therefore, lack of response on behalf of the authorities to solve the problem is inexplicable and uncompliant to the status, function and powers of these authorities.

Abuse towards children

Respecting the right to the physical and mental integrity of the child also requires preventing and combating sexual exploitation and sexual abuse against children. In this regard, the Republic of Moldova ratified¹⁴⁰ the Council of Europe Convention for the Protection of Children against Sexual Exploitation and Sexual Abuse, also known as the Lanzarote Convention.

For the implementation of the Convention, the Council of Europe has produced a guide for MPs. Among the topics addressed, the given document refers to preventive measures, measures for protection and assistance of the victim and the intervention measures that we consider very important in the context of the Republic of Moldova as well.

¹³⁸ Provisions of articles 1, 2, 17, 25 of Law No. 52 of April 3, 2014 on the Ombudsman

¹³⁹ Art. 6, 8 of Law No. 140 of 14 June 2013 on special protection of children at risk and children separated from parents; art. 13, 14 of the Law on Social Assistance No. 547 of 25 December 2003; art. 50 of the Constitution of the Republic of Moldova; art. 53 of the Family Code; art. 3, 19 of UN Convention on the Rights of the Child.

¹⁴⁰ Ratified by the Parliament of the Republic of Moldova by Law No. 263 of 19.12.2011.

Thus, to protect children from all forms of sexual exploitation and sexual abuse, a number of measures to raise the awareness of specialized staff and the public, to train persons working for children and to inform children in schools, strategies to outreach and inform the public, etc. are listed.

While the main objective of the fight against sexual abuse and exploitation is to prevent them, it is also essential to ensure that both children-victims of these crimes, as well as all persons close to them will get the best support and the best possible assistance. For these reasons, it is essential to report suspected sexual exploitation or sexual abuse. The Convention offers the possibility, without obligation to such behaviour, that people, who regularly or occasionally work with children, violate their professional secrecy to signal to social services any situation, where there are reasonable grounds to believe that a child is a victim of sexual exploitation or sexual abuse. It is essential to develop the means by which people can safely report such cases or simply speak with a person outside their usual environment, to be developed support and assistance services for the victims.

The intervention measures involve the creation of treatment programs for sex offenders. As public awareness on sexual abuse increases in the context of a trend towards harsher sentences, it is also important to develop treatment programs for sex offenders, with allocation of resources necessary for this purpose. Without this, real protection for victims, present and future, is inconceivable. Although, the acts themselves should not be tolerated at all, it should not be forgotten that perpetrators of such crimes are people who need help, patients who need treatment.

Protection of children at risk or without parental care

Throughout 2014, we identified several issues related to the protection of children at risk and children without parental care. During the examination of some cases, the ombudsman found inconsistent approaches related to the status and duties of the guardianship authority.

In one case, the child was in the care of a person for a period of about 5 years, after which the authorities decided to establish guardianship. Two years later, the guardianship authorities decided to cancel the guardianship, based on the statements made by the neighbours, who said that the child had been subjected to emotional abuse by the guardian, a fact that was not found true. We note that in social questionnaires of the guardianship authority on matters concerning the family atmosphere, the relations between the guardian and the child, the guardian and the experts of the office, attention was paid very shortly before the decision to cancel the guardianship. This raises questions about the quality of the evaluation documents made by the guardianship authorities previously, when the aspects of the financial situation of the tutor were focused on more.

In the case of another minor, the guardianship authority representatives have admitted obvious negligence by which the child's right to grow up in a favourable environment for harmonious physical and mental development, the right to social assistance and protection, the right to education, etc. guaranteed by art. 47¹⁴¹ 49¹⁴², 50¹⁴³, 35¹⁴⁴ of the Constitution of the Republic of Moldova; art. 3¹⁴⁵, 20¹⁴⁶, 19¹⁴⁷ provided by the UN Convention on the Rights of the Child, as well as art. 3, 5 of the European Convention of Human Rights were violated. The Ombudsman was informed on this case ex officio.

The child suffered of a severe psychological trauma in early childhood, being witness to the murder of his mother. Given that his biological father was serving the term of imprisonment execution and the mother died, the child was placed under the guardianship of a relative for a long period, from 2005 to 2012. Because of the psycho-physiological peculiarities of adolescence, but also of the psychological trauma experienced, the child began to display antisocial behaviour: he ran from home, wandered, was involved in petty theft etc. The aggressive behaviour of the child was also observed by the teachers, who developed an individual plan of behavioural rehabilitation of the child, and even though the aggression against teachers and classmates declined, he continued to misbehave.

Therefore, the guardian has requested termination of guardianship and the guardianship authority granted the request to the detriment of the child. Later, in a period of about two years, the child was moved from one institution into another, so that eventually the child got to the Psychiatric Hospital, based on the decision of the village mayor in order to receive treatment for a period specified by the physician.

As stated during the examination of the case, an erroneous reference was made to the legal provisions in the administrative act. The minor child was placed in the Psychiatric Hospital for a period of 21 days but after completion of the treatment, the minor stayed in hospital for another four months. That is because the Village Hall representatives did not get interested in the fate of the child nor did they respond to the repeated requests of the psychiatric institution to come and take the child from the hospital after treatment completion.

¹⁴¹ The right to social assistance and protection

¹⁴² Protection of family and orphans

¹⁴³ Protection of the mother, children and youth

¹⁴⁴ The right to education

¹⁴⁵ Best interest of the child

¹⁴⁶ Protection of the child without family

¹⁴⁷ Protection of children against abuse and negligence and provision of rehabilitation assistance

The administration of the psychiatric institution requested the CHR intervention to resolve the case and only after action undertaken as response to the requests of the National Ombudsman Institution, the minor was placed in the care of relatives, the former tutors.

The identified problems are obvious. The guardianship authorities have admitted that the minor be placed in a residential institution, while the state is making efforts working to deinstitutionalize children in residential care, because it is not in the best interests of the child to be raised and educated in such an environment. In the same context, we should mention that, even though it was an emergency situation that the child had been placed in a residential institution, he should have benefitted of a placement planned in accordance with Law no. 140 of 14 June 2013 on special protection of children at risk and children separated from their parents. However, for about two years the guardianship authorities have failed to create an alternative service for placing the child in a family environment, which demonstrates lack of action on behalf of the authorities. In addition, it was noted the inability of the local authorities to intervene effectively and under the law and their faulty collaboration locally.

We believe that, if in both cases, assessments on the situation of the minor child were properly conducted, it would have been possible to resolve any problems and nonconformities to respect the best interests of the child. In our opinion, the blame rests mainly on guardianship authorities, which did not provide adequate support to the guardian.

It is necessary that when the authorities decide to establish guardianship, they should assess the situation properly not to admit conflicting decisions because it primarily affects the child, who is repeatedly subjected to emotional shocks, first having to adapt to the tutor and then being removed and placed in another type of care. Also, guardianship authorities must not admit hasty decisions just to show positive results on the activity, the quality service of the guardianship authority is more important, which is measured by the well-being and the harmony in which the child is raised and educated. Therefore, guardianship authorities must pay more attention to the degree of training of specialists in the field, to plan complex actions to assess the situation of children in the administrative units they manage, to keep strict records of all vulnerable children.

Social protection

Monitoring the activity of Social assistance Departments

In order to ensure that the constitutional rights and freedoms of the child are observed, an analysis on the performance of the guardianship authorities in the area of child protection was performed.

The analysis covered such areas as: compliance with the rules for recording petitions, preparing notices; hearing the child's opinion during the examination of disputes concerning him; filling in the act of examination of the living conditions; compiling dispositions establishing guardianship / trusteeship; the agreement of the guardianship authority on disposal of housing arrangements involving minors indirectly; the establishment of the schedule of meetings between parents and child.

One of the most important mechanisms of interaction with citizens is the reception and registration of petitions. In most guardianship authorities, this mechanism malfunctions; there are serious violations of relevant legal provisions¹⁴⁸. Thus, it was determined that the process is different in each institution, in some - petitions are received and recorded by the secretary of the department, in other – they are recorded in district council chancelleries. Not all complaints are registered in the Register of Petitions or the Register of Incoming Documents, no registration stamp is applied, the date of receipt of the petition and the record index are not indicated. Specialists receive the petitions directly without being duly signed by the Head of the department of social assistance. The register or other record of audiences carried out by the specialists from the Department is missing. For these reasons, no record and control of these is made, which, in the final instance, affects the overall coherence of the activity of the subdivision.

It was also found that it is not possible to determine with certainty how many complaints were received in a certain period of time, which were the subjected requests and whether the period and the manner of their examination was met. The records of the persons received in audience and the notes on the addressed problems and their solutions are also missing,

During the investigation, it was also established that for most types of acts mentioned above there is no prescribed form that would unify and streamline the work of employees in the field and ensure a general practice applied throughout the country, which would increase the quality of the given documents. In the case of documents issued by the guardianship authorities, the elementary criteria established by law for each type of such documents are not respected either.

¹⁴⁸The unique way of keeping secretariat works on recording and examining petitions on behalf of individuals and legal entities, which are submitted in written or electronic form, as well as the control on the examination and of the hearing of petitioners in audiences in governmental bodies, enterprises, institutions and organizations is provided under the Law on Petitioning no. 190-XIII of 19 July 1994, Government Decision no. 618 of 05 October 1993 and Government Decision no. 208 of 31 March 1995.

However, guardianship authorities are reluctant to express opinions on sensitive issues that concern the minors directly, leaving the adoption of decisions to the discretion of the courts, they do not express opinions on a series of documents issued by other authorities but which have an impact on minors¹⁴⁹.

Another important aspect, which was monitored, refers to the right of the child to express his opinion in solving family problems that touch his interests and to be heard in judicial or administrative proceedings. The opinion of the child, who has reached the age of 10, must necessarily be taken into account if it is not contrary to his interests¹⁵⁰. Contrary to the above, it was found that during the examination of disputes, in which the guardianship authority shall exhibit its advice / opinion, children are not always respected the right to express their opinion on issues that concern them.

The Ombudsman considers it appropriate that the Ministry of Labour, Social Protection and Family, as the central authority that develops policies in the field, should impose its own models of documents and procedures. In this way, the mentioned problems will be avoided and the drafting of documents will be done according to the legal norms.

The execution of court decisions regarding the payment of alimony

The issue of paying alimony and providing the child with a decent living was addressed in the citizens' requests in 2014 as well. Both the national legal framework¹⁵¹ and the international commitments¹⁵² assumed by the Republic of Moldova require to guarantee this right of the child.

The greatest difficulty is related to the execution of court decisions on enforcement, because of financial inability of debtors or because of illegal work, which does not identify their official income.

¹⁴⁹ Also, the guardianship authority does not express opinions on the certificates received from the institution, where the child studies, and from medical institution, where he is registered, characteristics from the place of residence and work of the parents, the local authority certificate, the certificate on arrears of alimony, the certificate from the State Register of Population, Republican Narcotic Centre, the examination act of living conditions, as well as other acts depending on the forwarded action.

¹⁵⁰ Pursuant to Art. 12 of the UN Convention on the Rights of the Child, art. 54 of the Family Code and art.8 of the Law on the Rights of the Child No. 338-XIII of 15 December 1994.

¹⁵¹ The Constitution of the Republic of Moldova, articles 48,49, and 50; the family Code of the Republic of Moldova, article 74; the Law on the Rights of the Child No. 338 of 15.12.1994, art. 18.

¹⁵² The Universal Declaration of Human Rights, International Covenants in the area proclaim the right of children to support and special assistance. Social protection should be the cornerstone of the state policy, the main mechanism by which society intervenes to prevent, limit or eliminate the negative effects of events considered to be "social risks"; the UN Convention art. 27, paragraph (4) provides that States Parties are obliged to take appropriate measures to ensure recovery of maintenance for the child from its parents or other persons having financial responsibility towards him, whether within their territory or abroad.

However, although the mechanism for the recovery of the child's alimony is provided, its practical application is difficult in the cases when the debtors are abroad¹⁵³, either because of lack of information about the debtors, because of their illegal work or lack of interest on behalf of bailiffs to initiate such a procedure. Moreover, even though Moldova acceded to the Convention on the Recovery Abroad of Maintenance, a bilateral agreement between our country and the country, where the debtor is, must also be signed.

The payment of the allowance for adoption

In the course of 2014, the CHR was notified about cases of non-observance of the payment of social benefits as compensation for adopted children or children under guardianship / trusteeship by guardianship authorities.

In one of the cases examined, it was found that in 2010, the adoption of a minor child was affirmed. In June 2010, the adopter submitted an application, under the Regulation on the conditions of setting and payment of allowances for the adopted children and children under guardianship / trusteeship, approved by Government Decision no. 581 of 25 May 2006, to benefit from the adoption allowance. No answer was received at the adopter's request. Later, in 2014, he addressed the guardianship authorities with the same request repeatedly, which was rejected by the local council (although the adopter met all the conditions stipulated by the law) motivating the lack of financial means to be used in this purpose and that the adoptive parents should perform their obligations of educating and maintaining the child.

In a similar case, which concerns the adoption of a child in 2011, the adopter raised the same claims, noting that when he addressed the Centre for Human Rights, he did not receive compensation.

Thus, we find that like in the previous years, the authorities invoke the same reason - lack of financial resources, although according to their powers, they approve the local budgets, the use of the reserve fund and special funds, approve loans and the final account of the budget year; make changes in the local budget", "contribute to achieving social protection measures and ensure the protection of the child's rights"¹⁵⁴.

¹⁵³ Law no. 88 of 20.04.2006 for Moldova's accession to the Convention on the Recovery Abroad of Maintenance, concluded in New York on 20.06.1956

¹⁵⁴ According to art. 14, paragraph (1), letter n) and y) of the Law on local public administration No. 436-XVI of 28 December, 2006

In one of the cases examined by the CHR, the decision of local authorities was made in a period of over six months, while the beneficiaries were informed in about four years, at the insistence of the adopters. In this context, we mention that according to the law, the local government shall make the decision on the setting and payment of the compensation or on the refusal to establish and pay compensation within two weeks from the date of submission of the application and communicate the results of the examination of the application to the applicant within 3 days from the date of issuance of the decision to¹⁵⁵.

In examining the petition, we found that the families involved in the two mentioned cases were not registered with the guardianship authority and the adopters were not informed about the right to receive compensation for the adopted child.

Based on the above information, a notice with recommendations was submitted to the local government for reinstatement into rights of the adopted children. Subsequently, a decision was made on the payment of monthly allowance for the adopted children in the amount of 600 lei, since the approval of the decision. Referring to the period since 2010, the guardianship authority did not give an answer.

In the context of the above said, an application was submitted to court on recovery of moral and material damage.

Observance of the right of the child in Transnistria

Following the Ombudsman's intimation by the citizens of the region, we found that in terms of observance of the children's rights in Transnistria, the problem related to the perfection of identity cards¹⁵⁶ of the children residing in the eastern part of the country still persists. The Moldovan constitutional authorities do not recognize the documents issued by the authorities of the unrecognized Transnistrian region. Otherwise, the constitutional authorities, in whose jurisdiction these districts are, do not have access to the territory, when the documentation procedure provides compulsory visits to these places.

This issue was addressed by the ombudsman in 2012, when at his insistence, the Bureau for Reintegration held a working meeting attended by representatives of the National Ombudsman Institution, the Ministry of Justice, the Ministry of Labour, Social Protection and Family.

¹⁵⁵ Under section. 11 and 12 of the Regulation on the conditions of setting and payment of allowances for adopted children and children under guardianship / trusteeship, approved by Government Decision No. 581 of 25 May, 2006.

¹⁵⁶ It is about establishing guardianship / trusteeship, adoption, determination of the place of residence, deprivation of parental rights, assessment of child's situation, etc.

Following the consultation process with representatives from Transnistria, it was agreed on measures to build closer cooperation in terms of obtaining data records of children at risk and children left without parental care; of correlating the procedures for the identification, initial assessment, complex evaluation, assistance and the monitoring of the children at risk and children separated from their parents by using case management as a single instrument and the conditions for granting the status of a child without parental care by the guardianship authorities in Transnistria.

In this context, the Ministry of Labour, Social Protection and Family has offered to the representatives from Transnistria the appropriate regulatory framework and the methodology that will ensure uniformity of procedures applied in the eastern districts of the country with the provisions of the legislation of the Republic of Moldova.

In 2014, MLSPF proposed a draft supplementing Article 18 of Law no. 140 of 14 June 2013 on social protection of children at risk and children separated from their parents, by which it was proposed that the documents issued by the guardianship authorities from Transnistria for the registration of the children at risk should be recognized as valid if they have been prepared in compliance with the Moldovan legislation.

The Moldovan Parliament has not examined this draft amendment so far, although, in the ombudsman's opinion, this is imperatively necessary to de-block the situation and provide the protection of rights of the children residing in Transnistria.

The right to healthcare

The problem of limiting the access to education of non-vaccinated children returned to the attention of the Ombudsman in the course of 2014.

One of the examined cases refers to the situation of 13 children from a school located in Congaz, who were not admitted to the educational institution on the ground that they were not vaccinated according to the Calendar of mandatory vaccinations.

On 25 September 2014, the chief state sanitary doctor of Comrat issued the medical prescription by which he warned the managers of the educational institutions not to allow unvaccinated students into the educational institutions.

In the adoption of the medical prescription, the chief state sanitary doctor was guided by art. 52, paragraph (6) of Law No. 10-XVI of 3 February 2009 on state supervision of public health, which provides that *„admission of children in communities, educational and recreational institutions is conditioned by the fact of their systematic prophylactic vaccination”*.

Also, the medical prescription refers to the Constitutional Court decision of 22 January 2013 which, in the opinion of the chief state sanitary doctor, declared as constitutional the provision of paragraph (6), art. 52 of the Law on state supervision of public health.

The Ombudsman notes that on January 22, 2013 the Constitutional Court ruled „*to cease the proceedings on the notification for reviewing the constitutionality of Article 52, paragraph (6) of Law no. 10-XVI of 3 February 2009 on the state supervision of public health*” „because there was a tie in the adoption of the decision under Art. 60 letter f) of the Code of Constitutional jurisdiction¹⁵⁷. The magistrates of the Constitutional Court had declared the provision contested by the ombudsman neither as constitutional nor unconstitutional.

Based on the examined materials, we found that on 3 December 2014, in the answer sent to the Head of the Department on Education of Gagauzia TAU, the Deputy Head of the Department of Health reiterates: legal provisions have a binding character and the admission of children in educational institutions is conditioned by their prophylactic vaccination.

It was also stated in the given letter that the right to education is secondary to the right to health.

Please note that, in our view, both the right to education and the right to health are constitutional rights to be ensured and respected equally and according to art. 54 of the Constitution, laws should not suppress or diminish the rights and fundamental freedoms, as noted in the provision of Law no. 52 of 3 February 2009.

Bearing in mind, that the Moldovan Parliament has not considered the proposal submitted by the Centre for Human Rights in Moldova on amendments to legislation¹⁵⁸, the ombudsman, whose role is to ensure human rights and freedoms, believes that there must be a compromise in the situation that has created a confusion both in the educational as well as in the medical domain, because the limited access of healthy children to educational institutions also constitutes discrimination.

The Ombudsman believes that in a state of the rule of law the situation when an authority argues that a constitutional right prevails over another constitutional right should not be accepted. The human fundamental rights and freedoms must be unanimously respected. Children must be healthy and educated.

¹⁵⁷ Article 60: the Constitutional Court orders the cessation of proceedings if: a) the notification is withdrawn; b) the notification is not in the competence of the bodies and individuals who have made it; c) the resolution of the notification is not in the competence of the Constitutional Court; d) the exception of the unconstitutionality of the contested normative act is resolved; e) there is a previous decision of the Constitutional Court on the issue; f) there is a tie in the adoption of decision, decision or the review in the cases provided for in Article 66, paragraph (5).

¹⁵⁸ http://ombudsman.md/sites/default/files/activitate/vaccinare_propunere.pdf

The Ombudsman made the following recommendations to the chief state sanitary doctor: to review the medical prescription; to examine individually each case of the parent's refusal to vaccinate the children so as to ensure his right to education and health care in an equal measure; not to prohibit unvaccinated healthy children to attend classes in educational institutions.

The Ministry of Health was recommended: to find solutions for ensuring the right to health and not to restrict access to educational institutions of unvaccinated children, given their parents' state of health, religious, philosophical or moral beliefs, until the Parliament will decide on the proposal to amend the legislation submitted by the ombudsman; to warn family doctors and workers in the public health centres on the need of individual examination of each child to be vaccinated, and to ensure compliance with articles 2 and 12 of the Law on patient rights and responsibilities no. 263 of 27 October 2005.

The right to a name

The issue of undocumented children was targeted by the ombudsman in 2014 as well. In the previous report for 2013, we noted that in the current state of border security on the Transnistrian segment, undocumented minors can easily become victims of trafficking. One of the cases examined by the ombudsman in 2014 confirms the concerns expressed previously. A minor from the Republic of Moldova arrived in 2010 in the city of Krasnoyarsk in the Russian Federation without being accompanied by family and without documents on her. The case came into the attention of the ombudsman through the commissioner for children's rights in the Krasnoyarsk region under the Russian president, Irina Miroshnikova, who requested support for the documentation and repatriation of the child. In turn, the Ombudsman requested assistance in this case from the Ministry of Labour, Social Protection and Family, given its powers as central guardianship authority.

Another similar case, that needed the attention of the ombudsman, was when the children were repatriated from the Russian Federation together with their alleged parent; it highlighted the same problem. Therefore, because of non-documented children, it is not known exactly in whose care they are, whether their biological parents are or are not among the persons in whose care the minors are, etc.

However, it is unclear how it is possible for these children to be born without the registration of the birth by the authorities in the Register of civil status acts, either in the Republic of Moldova or in the Russian Federation.

Thus, we reiterate the need to streamline the mechanisms responsible for the local population register. Negligence in the registration of the future mother and later the registration of the civil

status documents have adverse consequences for some children, who become invisible citizens, deprived of all rights and vulnerable in every respect.

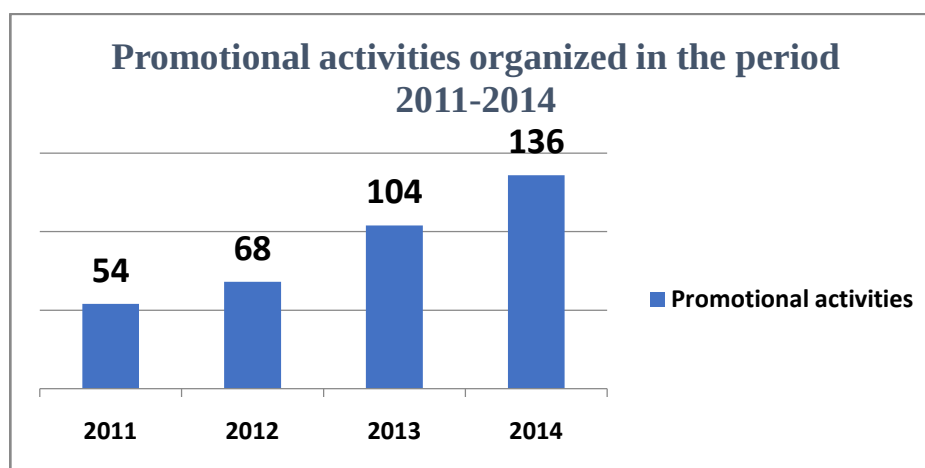
CHAPTER V

ACTIVITY FOR PROMOTING HUMAN RIGHTS IN THE COMMUNITY

The year 2014 was an effective one for the National Ombudsman's Office in promoting human rights in the community. This results from the number of carried out events, which has increased compared to the previous years. We also strengthened the relations with several civil society partners.

The reporting period was not favourable for collaboration with the media, the coverage on the ombudsmen and of the CHR activity in the press decreased compared with the previous two years. The increase of the activism in the promotion of human rights was driven, among other things, by the financial factor. The Office of the Ombudsman has been allocated about 300,000 lei for the activities to promote human rights and the institutional reform from the budget of Justice Sector Reform Strategy. The greatest amount of the money was used.

In 2014, the CHR organized **two public opinion awareness campaigns: the campaign to combat torture and ill-treatment “Violence-free Family, Society without Violence” and the campaign to inform young people about their right to vote and the electoral process.** We also held a weekly for promoting the children's rights, the Decade of human rights on the topic of promoting the rights of persons with disabilities. In total, 136 promotion and training events were organized. A social spot on the theme of promoting the rights of mentally disabled persons was created, 70 panels on the promotion of the Office of the Ombudsman and 50 panels on the theme „Zero tolerance to torture!” were made.



The weekly for the promotion of the child's rights

„Different but equal” was the slogan of the Weekly for the promotion of the child's rights held from 25 May to 2 June. It included 12 activities that took place in Chisinau, in the village of Varna and Comrat¹⁵⁹: meetings with children, workshops, lectures. A press conference was organized within the Weekly with the participation of the head of the Service for Protection of Child's Rights, Tatiana Crestenco, the principal consultant George Bosii, the head of Penitentiary No. 10 from Goian, LiubaJignea, on the theme „Respecting the rights of juveniles in detention.”¹⁶⁰

Also, on June 1, CHR director, AnatolieMunteanu, together with the director of RCTV „Memoria”, LudmilaPopovici, participated in an activity organized in Prison no. 10 from Goian on the occasion of the International Children's Day¹⁶¹. On the same day, members of the “NicolaeDumitrescu” Academy, partner of the CHR, organized workshops with the minors in the prison.

Actions to combat torture

In the period, 26 June to 25 July, a campaign to combat torture was organized, which was launched at a press conference on June 26, the International Day in Support of Victims of Torture. The campaign ended on July 25, when we celebrated 7 years of the ratification by the Republic of Moldova of the Optional Protocol to the UN Convention against Torture and Inhuman or Degrading Treatment or Punishment (OPCAT).

In the context of the actions within the anti-torture campaign launched by the Centre for Human Rights, together with "Teleradio-Moldova" IPNA, the Ombudsman Institution held the radio contest on the topic "Stop torture " at the public station Radio Moldova Youth in the period July 14 to July 25. The competition was launched to enhance the legal culture of young people, to inform them of the basic guarantees against torture, national and international mechanisms to combat torture; promotion of the idea zero tolerance of torture and ill-treatment.

Within the anti-torture campaign, several meetings were held with employees of prisons and police stations in the capital and on the sites: Penitentiary no.11 in Balti, Cahul

¹⁵⁹<http://www.ombudsman.md/ro/stiri/saptamina-promovarea-drepturilor-copilului-organizata-oficiul-national-al-ombudsmanului>

¹⁶⁰<http://www.ombudsman.md/ro/stiri/conferinta-presa-respectarea-drepturilor-minorilor-aflati-detentie>

¹⁶¹<http://www.ombudsman.md/ro/stiri/ombudsmanul-anatolie-munteanu-vizitat-minorii-penitenciarul-goian-ziua-copiiilor>

Penitentiary No. 5; Penitentiary No. 1 in Taraclia; Carabineers Unit No. 1045 in Comrat; the Police Station in the same town.

At the initiative of the Centre for Human Rights, the regional TV stations „1 Narodnîi TV” and the public television in Gagauzia – „GRT” broadcasted anti-torture advertisements.

CHR employees delivered lectures on the topic „Guarantees against torture (relations between employees and inmates), international and national standards that ensure respect for the right not to be subjected to torture, cruel, inhuman or degrading treatment” at the Department of Penitentiary Institutions and at the Training Centre of the Department of Penitentiary Institutions from Goian and Chisinau.

In 2014, a new application – „National Mechanism for Prevention of Torture” began to function on the website of the institution. It functions in the form of an interactive map with information compiled to date on the NPM visits to every institution in the country where detainees are held. The information is presented in accordance with the territorial-administrative structure and contains data about each penitentiary in part: reports prepared on the visits made within the NPM, the notifications and responses of the concerned authorities.

Campaign to combat domestic violence „Violence-free Family - Society without Violence!”

The campaign „Violence-free Family- Society without Violence” was launched on October 15 and ended on November 25 on the International Day for the Elimination of Violence against Women. It was organized by the Centre for Human Rights in partnership with Promo-LEX and the Support Centre for victims and potential victims of human trafficking (CAP). IPNA „Teleradio-Moldova” was the media partner of the Campaign.

Twenty-six events were conducted during the campaign. These included meetings with villagers from **Cojusna, Straseni district, Capaclia, Cantemir district, village Budeşti, a suburb of the capital, Avdarma from Gagauzia.** In these meetings, the team of CHR employees, Promo-LEX and CAP representatives spoke to people about the legal mechanisms of protection and the existing institutional framework to prevent and combat domestic violence. The CAP psychologist referred to the impact of domestic violence on the victims, children and community members. The situation in this regard, the problems that the district police officers and social workers face in law enforcement, the issuing of protection orders to protect the victims of domestic violence were discussed with the mayors in the respective communities.

Employees of the Centre have lectured to students in eight educational institutions and to district police officers from seven districts, namely, **Cahul, Comrat, Cimislia, Taraclia, Vulcanesti, Basarabasca, Floresti.**

On November 24, officials of Comrat CHR Representation held a round table on the topic „Combating domestic violence and promoting women's rights”, with the participation of the General Inspectorate of Police representatives, social workers, representatives of the civil society.

The campaign was concluded on the **International Day for the Elimination of Violence against Women** on November 25, in a meeting **„Mechanisms to combat domestic violence in the Republic of Moldova, problems and solutions”¹⁶².** The meeting brought together 35 participants - representatives of the Parliament, the Prosecutor General and the General Police Inspectorate, of some district directorates of social assistance, of 11 rehabilitation centres for victims of domestic violence, of several NGOs working in the field of promoting women's rights. The event was also attended by the Head of UN Women Moldova Office, Ulziisuren Jamsran, representatives of the OSCE, the Council of Europe Mission in Moldova.

The Office of the Ombudsman, Promo-LEX Association, the Centre for Assistance and Protection of Victims and Potential Victims of Human Trafficking (CAP) called for the signing and ratification by the Republic of Moldova of the European Council Convention on preventing and combating violence against women and domestic violence, effective from 1 August this year.

Campaign „My first vote” (38 events)

Since October 7, Ombudsman Tudor Lazar and the principal consultant of the ombudsman, Carolina Cazaciuc, joined the campaign "My first vote" carried out by the Independent Press Association, continuing the outreach activities even when the API ended its campaign.

The campaign aimed to stimulate the youth activism and to increase their involvement in the local community life and of the country as a whole through activities of civic and electoral education. Thus, in the period from October 7 to November 31, the ombudsman, accompanied by the principal consultant, Cazaciuc Carolina, as well as other employees of the Centre for Human Rights, made visits to different districts of the country, where they met young people, future voters,

¹⁶²<http://www.ombudsman.md/ro/stiri/masa-rotunda-mecanisme-combatere-violentei-domestice-republica-moldova-probleme-si-solutii>

and have presented ample information on electoral rights to them. The brochure published by the Office of the Ombudsman „I want to vote!” was distributed to the public

The CHR team held such activities at „Elada” Lyceum from the village Măcărești, Ungheni district, the Theoretic Lyceum from the village Hirtopul Mic, Criuleni district, the Lyceum from the village Sipoteni, Calarasi district, the Lyceum “Mihai Eminescu” from Ungheni, the Theoretical Lyceum “Ioan Voda” from Cahul, the Lyceum “Mihai Eminescu” from Dondușeni, the Lyceum “George Cosbuc” from Balti, the Lyceum “Ion Creanga” from Florești, the Lyceum “Mihai Eminescu” from Fălești.

23 meetings and seminars have been held in the Administrative-Territorial Unit of Gagauzia by the Head of Comrat Representation of the Centre for Human Rights, Svetlana Mironova.

The brochure „I want to vote!” was distributed at the Psychiatric Hospital in the capital, Penitentiary No. 13 from Chisinau and Penitentiary No. 11 from Balti.

Decade for Human Rights - 2014 Edition

In the period December 1 to 10, 2014, the National Ombudsman Institution organized for the first time a Decade of Human Rights with a narrow theme: promoting the rights of persons with disabilities.

The purpose of the Decade 2014 was to draw the attention of the public opinion and of the concerned authorities on the problems faced by this category of citizens. In this regard, both promotion actions, as well as meetings have been conducted, where sensitive topics about the situation of persons with disabilities were debated.

On December 2, 3, 4 and 5, 2014 the CHR held **four meetings** having as themes: Access for people with locomotion disabilities, impaired vision and hearing to public transport¹⁶³; Assessment of the impact of social services on persons with disabilities and their integration into the community¹⁶⁴; Providing prostheses, special footwear for persons with physical disabilities¹⁶⁵; Implementing the Regulation on communication services using sign language with the help of the interpreter¹⁶⁶.

¹⁶³<http://www.ombudsman.md/ro/stiri/asigurarea-accesului-transportul-public-al-persoanelor-dizabilitati-locomotorii-dizabilitati>

¹⁶⁴<http://www.ombudsman.md/ro/stiri/reprezentantii-ong-urilor-dialog-angajatii-cpdom-tema-protectiei-sociale-persoanelor>

¹⁶⁵<http://www.ombudsman.md/ro/stiri/asigurarea-persoanelor-dizabilitati-locomotorii-mijloace-ajutatoare-tehnice-si-incaltaminte>

¹⁶⁶<http://www.ombudsman.md/ro/stiri/implementarea-regulamentului-privind-prestarea-serviciilor-comunicare-prin-utilizarea>

The meeting was attended by representatives of the Association „Motivation” from Moldova, the Moldovan Union of Invalids Organizations, of the Association „Humanitas”, the Society of the Blind from Moldova, the Association of Rehabilitation of Invalids, of AO „Keystone Moldova”, AO „SperantasiSanatate (Hope and Health)”, of CMC „SufletsiSanatate (Soul and Health)”, the Association of the Deaf from Moldova, of the Centre for Legal Assistance for Persons with Disabilities.

The meeting was also attended by representatives of the Ministry of Labour, Social Protection and Family, the Ministry of Education, the Ministry of Transport and Road Infrastructure, district Social Assistance Directorates from AneniiNoi, Criuleni, Strasenii, Cimislia, of CREPOR State Enterprise.

A resolution was adopted within the mentioned meetings, which was made public within a press conference and was sent to the concerned decision-makers. The document contains recommendations on actions needed to be undertaken operatively by central public authorities and Chisinau municipality to redress the situation in which the disabled are.

The Decade included workshops and lectures on the topic in several educational institutions in the country, seminars, and meetings with representatives of NGOs from the territory.

In order to promote the reform of the mental health system, as required by the UN Convention on the Rights of Persons with Disabilities, the CHR has developed a social spot on this topic. This, as well as the published brochure *„Article 12 of the UN Convention on the Rights of Persons with Disabilities”* follow to be used in the context of actions planned for 2015 to promote the rights of persons with disabilities.

Promoting tolerance in society

A number of actions have been undertaken to promote tolerance in educational institutions, whose students participated in the radio contest „Tolerance is democracy”, organized in December 2013 by the Centre for Human Rights in collaboration with Radio Moldova. Activities to promote human rights entitled „Persons with disabilities: between discrimination and tolerance” were held in Prison no. 10 from Goian; the Theoretical Lyceum „Alecu Russo” from Cojușna; the Theoretical Lyceum from Pleșeni, Cantemir district; the Theoretical Lyceum from Ghindești, Florești district and the Theoretical Lyceum „A.Mateevici” from Șoldănești. The best

essays and drawings of the participants in the contest were used in the booklet „**Tolerance is democracy**” published in 2014.

The provisions of the national legislation on crimes based on hatred were the subject of discussion at the round tables held in Chisinau and Balti by the Centre for Human Rights, the United Nations Office of the High Commissioner for Human Rights (OHCHR), the American Bar Association / Initiative for the Rule of Law (ABA ROLI). The event was attended by actors involved in the investigation and examination of hate crimes - prosecutors, judges, representatives of the prosecution, of the Supreme Council of Magistrates, the Supreme Court of Justice, the Court of Appeals, the Ministry of Justice, and representatives of the Council for the Prevention and Elimination of Discrimination and Ensuring Equality, of NIJ, of the civil society, representatives of the OSCE mission, IOM, UNDP Moldova, of the scientific community in the country.

„Crimes based on hatred and integration of foreigners: challenges and solutions” was the theme of a seminar held by the CHR on June 24 jointly with the International Organization for Migration and the National Institute of Justice¹⁶⁷. A study carried out on the topic, to which CHR experts contributed as well, was debated in the seminar.

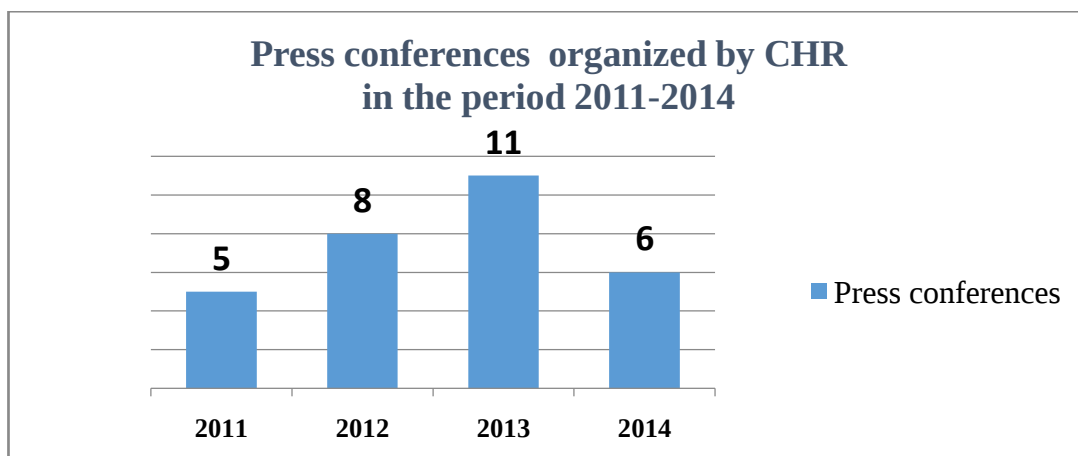
Publishing activity

In 2014, the National Ombudsman Institution published **eight titles**: CHR Report on the Observance of Human Rights in Moldova in 2014, Report on the Work of the CHR in 2013 for the Achievement of OPCAT Tasks, the booklet “The Child’s Rights” (in Romanian and Russian), as well as the brochures “Guide of the Tolerant Youth”, “The Right to Vote”, “What the agricultural land owner should know” (published in Romanian and Russian), “Article 12 of the UN Convention on the Rights of Persons with Disabilities”, “Guide for Victims of Domestic Violence”.

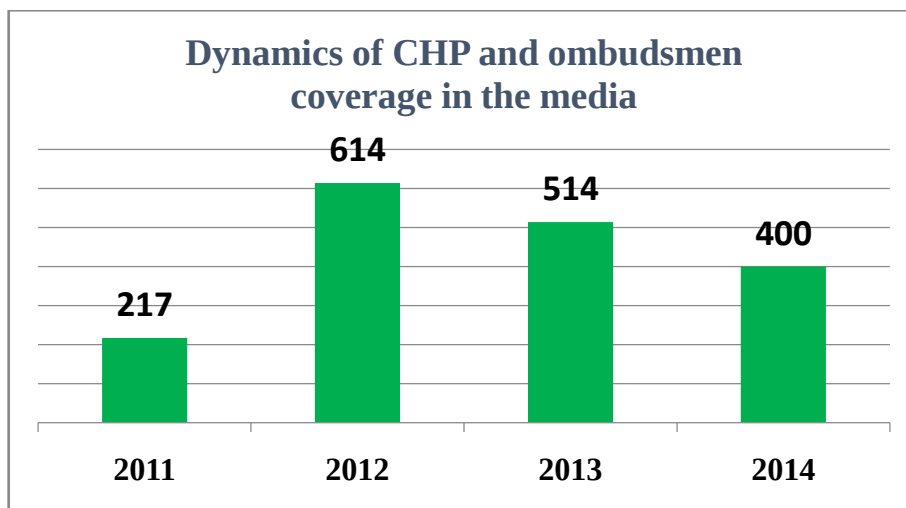
Cooperation with the media

Six press conferences were carried out in 2014, in whose framework the following themes were discussed: „*The phenomenon of violence in schools*”; „*Documentation of children in the Republic of Moldova*” (public presentation of the study „Analysis on documenting children with birth certificates at country level”); „*Respect for the rights of juveniles in detention*”. Press conferences were held on the *International Day in Support of Victims of Torture*, at the launch of the *Campaign to Combat Domestic Violence*; at the conclusion of the *Decade for Human Rights*.

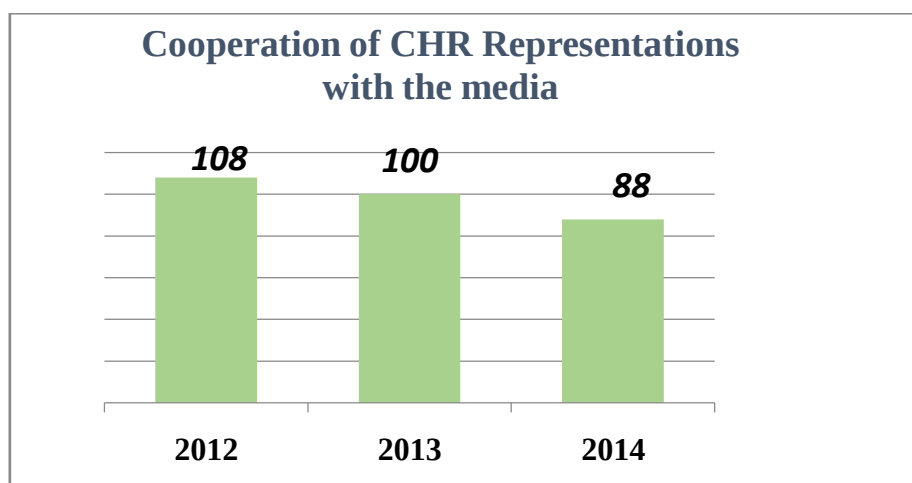
¹⁶⁷<http://www.ombudsman.md/ro/stiri/atelierul-lucru-crimele-bazate-pe-ura-si-integrarea-strainilor-provocari-ti-solutii>



In 2014, **400 appearances in the mass media** were registered, which is in decrease compared to the previous year.



The number of appearances in the regional media also decreased compared to previous years - 88 topics in the press, compared to 100 in 2013 and 108 in 2012. As in the previous years, the Comrat Representation of the CHR has most appearances in the media – 80. This is due to the efficient work carried out by the Head of the Representation, Svetlana Mironova, By the way, she was designated laureate of UN 2014 edition for active promotion of human rights in the community.



Among the over 50 ombudsmen's notifications, 19 were reactions to the topics appeared in the media regarding violation of human rights. The **case of discrimination against a disabled person, A.G., from Hincesti** was of greatest resonance. The youth was denied access to a nightclub in the town, where he had come with a group of friends¹⁶⁸. The case was settled by the Ombudsman Tudor Lazar through the conciliation procedure.

Another resonance topic in the press on cases examined by the CHR was that of the thirty-three year-old woman, who remained bedridden after medical care, allegedly due to medical errors. The case of an orphan minor, sent to the psychiatric hospital and forgotten there by the mayor of the village, was intensely publicized. A spectacular number of views have accumulated the Centre's news releases on the consultations held in 2014 Decade with representatives of NGOs in promoting the rights of persons with disabilities uploaded on *comunicate.md* portal. These were read by over 600¹⁶⁹, 800¹⁷⁰ and even 2,000¹⁷¹ one-time visitors. Other press releases placed on the same site, including those of the CHR, usually accumulate up to 200 views.

Updating the web page

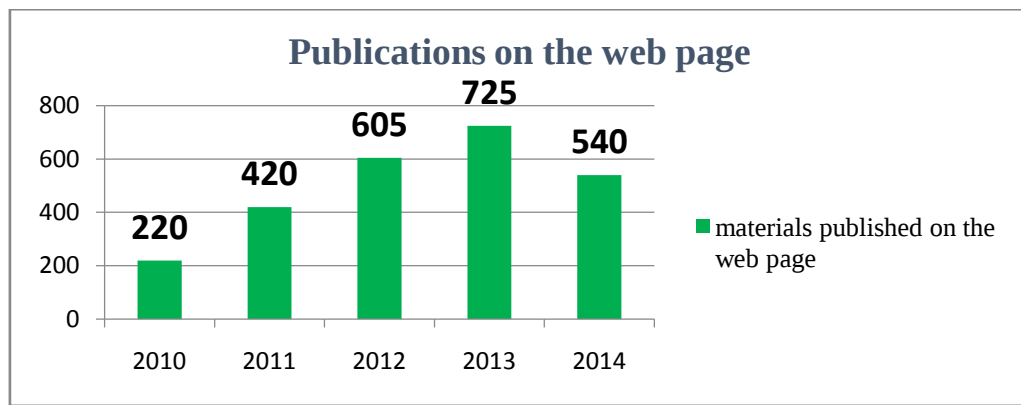
In 2014. 540 materials were uploaded on the official web page of the Institution, compared to 725 last year.

¹⁶⁸<http://www.ombudsman.md/ro/stiri/caz-discriminare-unui-tinar-orasul-hincesti-examinat-ombudsmanul-tudor-lazar>

¹⁶⁹http://comunicate.md/index.php?task=articles&action=view&article_id=8482

¹⁷⁰http://comunicate.md/index.php?task=articles&action=view&article_id=8468

¹⁷¹http://comunicate.md/index.php?task=articles&action=view&article_id=8468



The statistics of 2014 views is the following: 110,868, of which 12,560 are one-time visitors. The website is more frequently accessed from Moldova - 82%, from Romania - 4.5%, from the US - 2%, from France - 1.5; from Russia - 1.35%.

Since 2014, the website has provided access to specialized annexes - NPM interactive map and the page for children. With the entry into force of the Law on the Ombudsman and correspondingly the suspension of NPM activity in the old formula, the interactive map of the NPM could not be updated. The page for children has not been updated as planned either.

Strengthening and extending partnerships with the civil society

During the reporting period, progress has been made in regards to collaboration with the civil society and partners of public institutions. The two campaigns „Violence-free Family – Society without Violence” and „My First Vote” were organized and conducted jointly by the CHR with NGOs. The Promo-LEX Association has been a partner to the ombudsman institution in the national campaign to combat domestic violence and the Independent Press Association in the campaign „My First Vote”. The experience of this collaboration inspires confidence in jointly achieving other new projects in the future. Also, traditionally, IPNA „Teleradio-Moldova” supported the CHR in the campaign against domestic violence, in this context cooperative relations were established with the Centre for Victim Support and Potential Victims of Human Trafficking (CAP), which also deals with combating domestic violence. The consolidated effort of the CHR and its partners has allowed both, good organization of events in the two campaigns, providing them with appropriate information materials and logistics, as well as conferring to the broadcast message more relevance and credibility.

The dialogue with the civil society has been strengthened during the Decade for Human Rights, which this year, for the first time, was one with a very narrow theme: promotion and protection of the rights of persons with disabilities. The four consultation meetings organized by the Ombudsman Office have provided sufficient grounds for believing that the discussions carried so far have strengthened the existing relationships with several NGOs working in this field. In fact, the consultations held could be qualified, without reserves, as a forum of the Ombudsman and of the civil society. The problems of persons with disabilities have been discussed in a less usual format during the four meetings. The interest manifested during the meetings held within the Decade and the active participation of representatives of several NGOs confirms the fact that the implemented method of dialogue is a successful one and the experience deserves to be implemented in the future as well. It should be noted that one of the objectives of the mentioned meetings with the representatives of non-governmental organizations was precisely the Ombudsman's cooperation with the civil society, which should be consolidated in the future within a national forum with the participation of NGOs working in the sphere of protection and promotion of the rights of persons with disabilities.

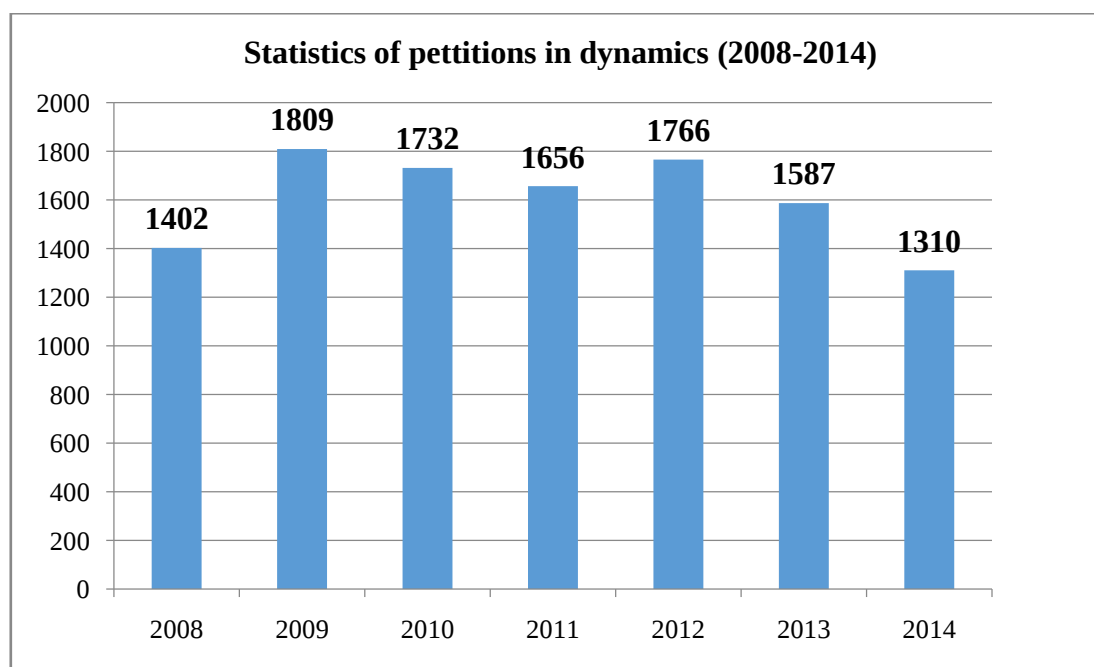
During the reporting period, four cooperation agreements were signed: with the portal “E-Health Platform”, with the Institute of International Relations from Moldova, with the NGO “Centre for Law and Democratic Initiatives” and the NGO “Media Centre” from Tiraspol.

CHAPTER VI

OTHER ASPECTS OF THE ACTIVITY OF THE CENTRE FOR HUMAN RIGHTS IN 2014

ANALYTICAL AND STATISTICS INFORMATION ON THE EVOLUTION AND ACTIVITIES OF THE CHR IN 2014

During the period 1 January to 31 December 2014, the Centre for Human Rights had received 1,310 applications. The Central Office (Chisinau) received 1,140 petitions, the CHR representations recorded complaints as follows: Cahul - 55; Balti - 55; Comrat - 39; Varnița -21.



The statistics of petitions addressed to the Centre for Human Rights in recent years shows a relatively constant number of complaints. The most common reasons for addressing petitions remain largely the same: alleged violations of the right of access to justice, of the right to personal security and dignity, of the right to social assistance and protection, and violation of the right to private property.

We note that in 2010 the most frequently addressed topic by the applicants was alleged violation of the right of access to justice, the number of addresses being relatively constant, varying insignificantly from year to year. In 2014, the rate of appeals on this subject, related to the total number of recorded complaints, was of about 20%, in 2013 of 23%, and in the years 2012, 2011 of 22%.

For example:

- in 48 cases (18,11%) the alleged delay of the examination of cases is claimed;
- in 49 cases (18,5%) – non-enforcement of court decisions;
- in 23 cases (8,6%) disagreement with the judgment / pronounced decision;
- in 145 cases (54.7%) - infringement of the process.

The general analysis of appeals to the Centre, since 2008, according to the claimed violated right (see Table) shows a decrease in the number of addresses concerning the security and personal dignity, an evident trend since 2011. Although the dynamics of petitions addressing this issue has

been decreasing in the last years, the fact that they are placed second in the total number of petitions shows that the phenomenon of ill-treatment persists in society.

In 2014, the most reported aspect in the petitions on this topic concerns the conditions of detention in prisons, which is cited in 137 complaints; in 2013 in 150 cases and in 2012 in 133 cases. In 2014, torture and inhuman or degrading treatment was alleged in 24 cases; in 2013 in 32 cases and in 2012 - 40 complaints were registered; 18 complaints relate to violation of personal dignity in 2014, 32 cases in 2013 and 28 complaints on this topic were received in 2012.

Violations of the procedure of detention or arrest were invoked in 11 complaints registered at the CHR in 2014, compared to 10 cases in 2013 and 12 cases in 2012.

On the other hand, there is a clear tendency of an increased number of complaints of alleged violations of the right to health and social protection, and the right to private property in the last 3 years

Classification of appeals by the allegedly violated right

Topic of appeals	2014	2013	2012	2011	2010	2009	2008
Free access to justice	265	368	397	361	429	392	401
Personal dignity and security	190	224	217	280	422	536	264
Right to social assistance and protection	154	181	187	190	172	177	127
Private property	148	80	144	113	148	136	78
Access to information	78	121	93	130	160	146	131
Right to labour	70	76	109	93	73	110	73
Family life	92	81	116	92	117	88	27
Right to defence	40	45	45	54	39	69	12
Intimate and private life	6	7	6	21	12	12	4
Right to education	20	24	39	25	16	9	2
Right to petition	21	12	17	25	37	15	23
Right to freedom of movement	6	11	12	10	30	18	10

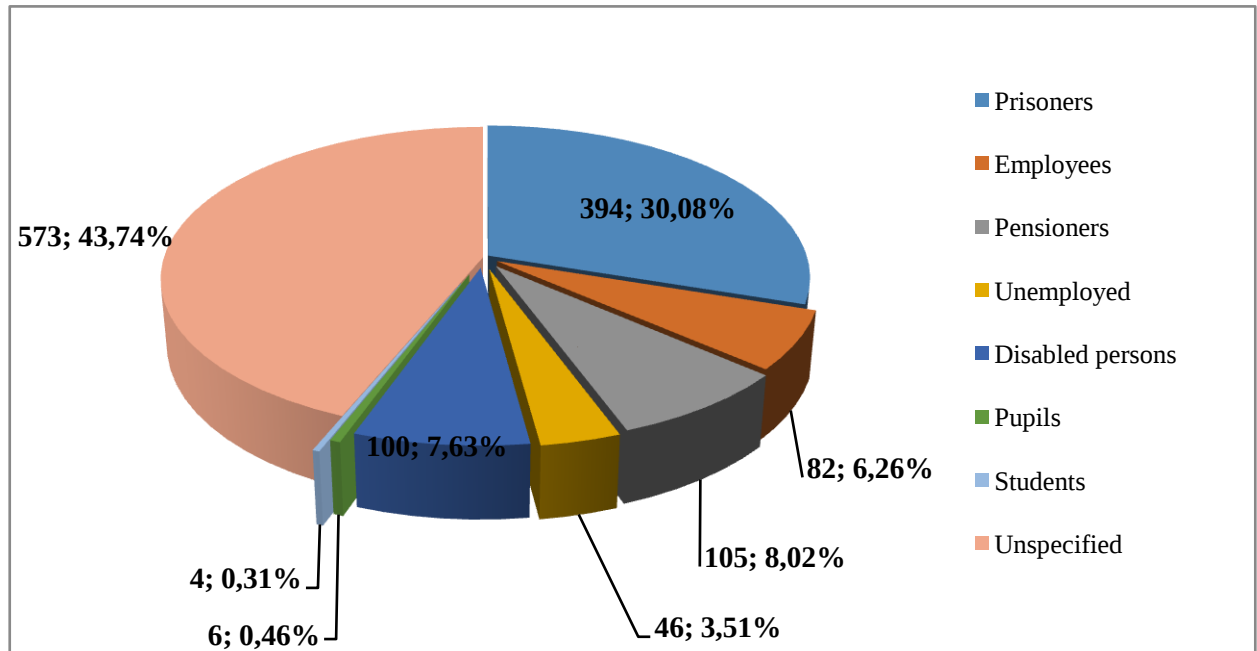
Right to healthcare	49	52	59	50	45	43	44
Personal freedoms	8	35	35	16	4	9	11
Right to administration	7	17	12	13	10	2	5
Right to citizenship	9	14	7	7	3	5	6
Right to vote and to be elected	-		1	2	1	-	-
Other	147	239	270	170	5	98	178

Note. Under the heading "Other" are included applications that do not allege infringement of a constitutional right and cannot be classified in the automated registration system of appeals received by the Centre, such as consumer rights, requests for legal advice, interpretation of normative acts and requests containing alleged violations that occurred outside the territory of the Republic of Moldova.

The discontent of persons from social groups with a high risk of vulnerability refers to failure of the right to social assistance and protection. They are constantly ranked on the third place. In particular, the petitioners in 77 cases claim that they are not provided proper social facilities, 48 persons consider that they are not guaranteed the right to a decent life, and in 29 cases the calculation of benefits is claimed. Although solving the raised issues in this regard can be accomplished in most cases by developing / revising public policies in the social-economic field, the ombudsmen intervene in cases when some errors in determining the social benefits occur and when alternative solutions can be found.

Of the total number of persons, who addressed the Centre for Human Rights during the reporting period, 30.08% are prisoners, 6.26% - employed persons, 8.02% - pensioners 3.51% - unemployed persons, 7.63% - people with disabilities, 0.46% - pupils, 0.31% - students and other groups less numerous, these data are reflected in percentage in the diagram below.

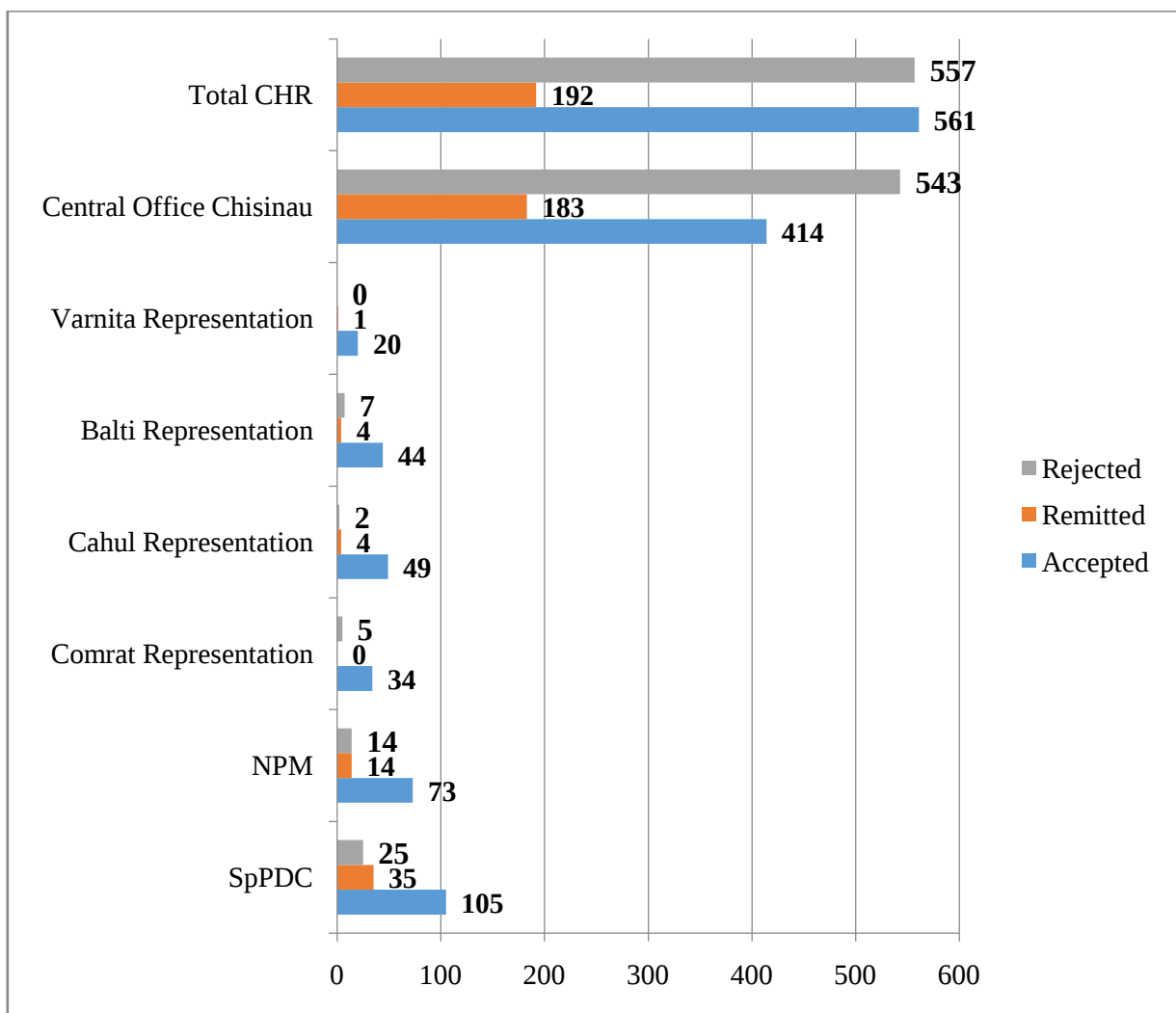
Categories of petitioners



The analysis of categories of petitioners from previous years reveals that first are placed appeals that come from prisoners (an exception being 2008 when this place was occupied by employed people), followed by employees. Also, the Centre states a permanent increase in appeals coming from disabled persons and pensioners.

The examination of applications is aimed at identifying the allegedly violated right, checking the solidity of the application in relation to the legal and regulatory national and international framework, examining the possibility of ombudsman's involvement, and if the alleged by the petitioner act in the application is beyond the competence of the Ombudsman Institution, the institution with powers necessary to solve the case is identified.

Classification of petitions based on adopted decision



Of the 1,310 complaints registered by the institution, 561 (42.8%) were accepted for examination. In these cases, reactionary acts were issued; the help of authorized bodies and persons in positions of responsibility was requested; information, documents and materials were required, monitoring visits were made and proposals for amendments to legislation were submitted, etc.

In 192 (14.7%) of cases the requests were remitted to the competent authorities with reference to the provisions of Article 21, paragraph 1, letter c) of the Law on the Ombudsman No. 52 of 03.04.2014. The ombudsman established control over the results of examination. Explanations under Article 18 of the Law named above were offered in the other 557 (42.5%) applications, the petitioners were indicated the procedures that they are entitled to use to defend their rights and freedoms.

In recent years, compared with the previous years, the Ombudsman Institution has changed the way it acts by getting more actively involved in the issues raised by citizens. Thus, if in 2008, 21% of petitions were accepted for consideration, and about half of the total being remitted, the number

of complaints continuously increasing over the years, then in 2014 a share of 42.8% of petitions were admitted for consideration.

**Distribution of applications according to Article 21, paragraph (1) of the Law on the
Ombudsman No. 52 of 03.04.2014**

Petitions	2014	2013	2012	2011	2010	2009	2008
Admitted	42.8%	45.43%	57.59%	44.87%	42.96%	34.48%	21.07%
Remitted	14.7%	19.28%	16.08%	18.12%	26.91%	33.47%	43.75%
Returned	42.5%	35.29%	26.33%	37.02%	30.14%	31.65%	35.17%

Legal instruction in audience carried out by ombudsmen and CHR employees

(in accordance with paragraph 5, letter c) of the Regulation of the Centre for Human Rights, structure, staff positions and its financial arrangements approved by Parliament Decision No. 57-XVI of 20.03.2008)

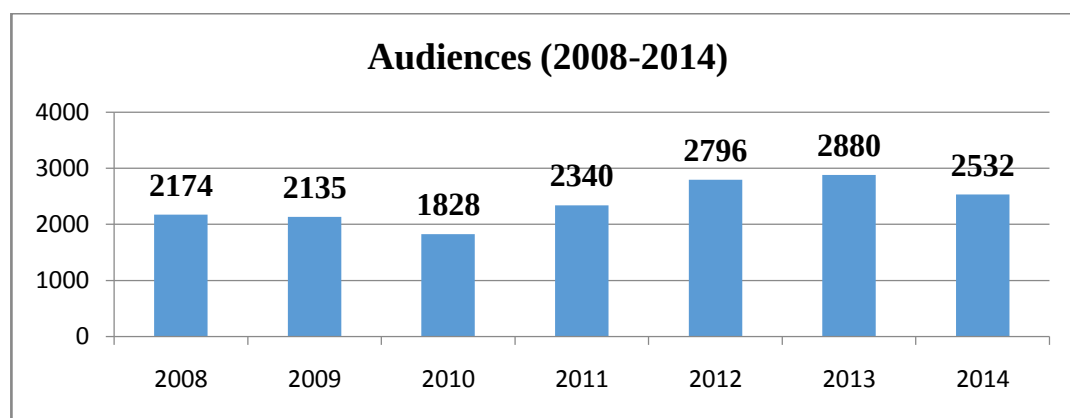
Citizens' complaints and the information received in audience remain for the ombudsmen to be one of the important sources for identifying system problems and legislative gaps.

Receiving in audience of citizens takes place daily in the headquarters of the CHR and the CHR Representations from Balti, Cahul, Comrat and Varna, as well as in local authorities' offices or in institutions and organizations indicated by the ombudsmen.

According to Art. 19, paragraph (5) of the Law on the Ombudsman No. 52 of 04.03.2014, the Ombudsman receives in audience no less than once a month, according to the Regulation approved by the Ombudsman. On other days, the complainants are received in audience by the employees of the institution.

During 2014, the CHR employees received in audience 2,532 citizens, of whom 914 (36%) of complainants alleged that they have been violated the rights and freedoms guaranteed by the Constitution.

Citizens addressed the territorial Representations as follows: CHR Representation from ATU Gagauzia, Comrat - 836 (33 %) people; Cahul Representation – 483 (19 %) petitioners; Balti Representation – 145 (5.7 %) people; Varnita Representation – 154 (6 %) petitioners.



Reaction acts

Following the examination of accepted applications, the following acts of reaction were prepared and submitted to the competent authorities related to the violations of citizens' constitutional rights:

Type of reaction action/act	2014	2013*	2012*	2011*	2010*	2009*	2008*
Notice (pursuant to art.24, paragraph1 of the Law on Ombudsman) No. 52 of 03.04.2014) *in the period 2008-2013 pursuant to art.27 of the Law on Parliamentary Advocates No. 1349 of 17.10.1997	99	74	77	95	144	68	13
Notifications (to initiate criminal/disciplinary proceedings against officials who committed violations that generated considerable damage of the human rights and freedoms (art. 25, letter b) law No. 52 of 03.04.2014) *in the period 2008-2013 under art.28, letter d) of the Law on Parliamentary Advocates No. 1349 of 17.10.1997	19	18	22	13	32	33	8
Intimations on cases of breaches of service ethics, delay and bureaucracy, under art.25, paragraph (1), letter d) Law No. 52 of 03.04.2014) * in the period 2008-2013 under article 31 of Law No. 1349)	13	45	15	14	59	2	-
Intimations to the Constitutional Court (under art.26 of Law No. 52) of 03.04.2014) * in the period 2008-2013 under art.31 of Law No. 1349 of 17.10.1997	4	8	6	7	10	-	2

Legal proceedings/inquires about intervening in the process to submit conclusions (in accordance with art. 74 CPC)	12/12	26/15	15/44	6	6	-	-
Thematic reports	4	9	6	9	24	-	-
Conciliation agreements	3	5	4	8	1	-	-
Self-notification	52	43	52	22	-	-	-
Proposals for improving the legislation on human rights (submitted to the Parliament and the Government under art.27, letter (a) of the Law on the Ombudsman No. 52 of 03.04.2014 * in the period 2008-2013 submitted to the Parliament and the Government under art.29 letter a) of the Law No. 1349 of 17.10.1997	7	8	11	11	28	5	10
Proposals to improve the administrative apparatus under art.29, letter b) of Law No. 1349	13	19	19	7	-	-	-
Referrals for expert investigations (art.24, letter e) of the Law on Ombudsman No. 52 of 03.04.2014	3						
Total	241	270	271	192	304	108	33

**Notice with recommendations
(article 24 of the Law on Ombudsman)**

In situation when breaches of the rights of petitioners are found, the ombudsmen submit to the institutions or officials whose decisions or actions (inactions), in their view, violate the constitutional human rights and freedoms, notices containing recommendations on measures to be taken for the immediate reinstatement of the violated rights of the petitioner.

In 2014, 99 notices with recommendations were drawn up and submitted to the central and local government authorities. For comparison: in the previous year 74 notices with recommendations were submitted, and in 2012 - 77.

Concerned institution	2014	2013	2012	2011
Government and central public authorities	-	4	1	7
Ministry of Labour, Social Protection and Family, including subordinated institutions	8	8	13	18
Ministry of Education and subordinated institutions	5	3	7	11
Ministry of Internal Affairs, including the subordinated subdivision and decentralized services	8	3	16	18
Ministry of Justice, including subordinated institutions	18	22	16	23

The Judiciary	-	3	-	1
General Prosecutor's Office and prosecution bodies	-	1	-	3
Local Public Authorities	38	12	11	5
Mayor's Office/ Chisinau Municipal Council	5	9	1	7
Legal entities	2	7	7	1
Ministry of Defence and subordinated institutions	-	1	3	1
Ministry of Finances	-	-	1	-
Ministry of Culture	3	1	-	-
Ministry of Agriculture	1	-	-	-
Ministry of Regional Development and Construction	1	-	-	-
Ministry of Health	10	-	-	-
Total	99	74	77	95

Of the total number of notices, 38 were submitted to local authorities. The topics addressed to these authorities in the notices are diverse: issues related to accessibility of people with disabilities to public institutions, especially those in the social sphere; provision of the right to a decent living; restriction to the citizens' right to information, violation of the constitutional right to social protection of persons with disabilities, respect for private property rights, ensuring conditions in educational institutions, reinstatement of minors, as well as taking measures to combat the phenomenon of domestic violence.

As in previous years, of the total of sent notices, the notices submitted to the Ministry of Justice, including to its subordinated institutions, related to the

need to improve the conditions of detention, to provide room in police detention facilities in accordance with the standards for prisoners and on other issues related to ensuring minimum standards for prisoners.

E., resident of the village Miclesti, Criuleni district addressed the Office of the Ombudsman.

The petitioner requested the intervention of the Ombudsman to resolve the problem related to acts of violence against her minor grandchildren. The aggressor M. was the mother of the children.

The petitioner stated that on 05/08/2014, when minor N. was returning home from school, she was hit with a hoe by M., on one of the village streets, and again on 09.07.2014, the minor was physically assaulted by M.

The ombudsman submitted a notice to Criuleni Police Inspectorate with a request to prosecute the perpetrator. In examining the case, the mentioned facts have been partially confirmed. Contravention proceedings were started against citizen. M, she was fined with 25 c.u. (500 lei).

The ombudsmen addressed several notices to the Ministry of Health. The addressed topics related to the right to health by restricting access to qualitative health services; respect of the child's right to a healthy environment and healthy nutrition in educational institutions; violation of the right to education, manifested by the fact that family doctors refuse to issue certificates on the child's health status, if he is not vaccinated; respect of the patient's right to information; as well as protection of children from abuse, neglect and providing their rehabilitation assistance.

A.C, resident of the village Măgdăcești, Criuleni district addressed the CHR. The petitioner invoked the violation of the constitutional right to health. At the Ombudsman's request, the prosecution investigated the circumstances of this case and ordered that criminal proceedings against the medical staff of Chisinau Municipal Hospital No.1 be initiated for failure to provide the petitioner with adequate medical aid in the required volume and period of time. The new-born was injured during birth due to negligence, as a result, the child has a severe degree of disability. In this case, criminal proceedings were instituted on the fact of negligent violation of rules and methods of medical assistance.

In most cases, the institutions concerned have taken into account the Ombudsman's recommendations and have taken the necessary measures, within the limits of allocated financial resources, or offered assurances that the recommendations will be met within proximity.

Notification to initiate disciplinary or criminal proceedings (art. 25 letter b) of the Law Ombudsman)

During 2014, the ombudsman intervened 19 times (in 2013 - 14 times) with requests to competent authorities to institute disciplinary or criminal proceedings against officials who have committed violations, which generated considerable damage to the human rights and freedoms, as follows:

- General Prosecutor's Office and District Prosecution Offices – 15
- State Labour Inspectorate– 3
- Ministry of Internal Affairs– 1.

In this context, the General Prosecutor's Office and District Prosecution Offices have been submitted 12 requests for instituting criminal proceedings, consequently, three criminal proceedings were initiated, five requests of initiating criminal proceedings were denied, and four requests are under examination. Within the National Mechanism for Prevention of Torture, three requests were submitted to the General Prosecutor's Office in which cases of torture and inhuman and degrading treatment were reported. In two cases, it was ordered not to prosecute; a case is in the process of examination. Three requests for filing criminal cases were submitted to the State Labour Inspectorate; two cases have been taken under control and one case is still pending.

Also, four requests were submitted for instituting disciplinary proceedings, which were sent to the Ministry of Internal Affairs (1), the General Prosecutor's Office and to District Prosecutor's Offices (3), as a result, in one case disciplinary proceedings were denied and three cases are still pending.

The case of two children, seven-year-old S.A and two-year-old S.C. came into the ombudsman's attention. For an objective examination of the situation of the mentioned children, the ombudsman got notified and accumulated necessary information and materials. The Ombudsman found that the children are raised by their mother, S. T. and her concubine D. G, and that the family situation is in the attention of the authorities since 2012. It was established that the minor child S. A. came to school hungry and dirty. The mother and her concubine consumed alcohol abusively, the family lives in a dirty room, in misery, darkness and disorder. In 2012 the child S. A. was assaulted by D. G., and criminal proceedings were started on this case. In March 2014, the mother with the children were urgently placed in the Maternal Centre in Cahul, because the child was again assaulted by the concubine. On 06.26.2014 the Cahul District Court issued a decision by which D. G. was found guilty and penalty was established in the form of unpaid community work amounting to 120 hours.

Intimation (art.25, letter d) of the Law on Ombudsman)

Pursuant to Art. 25, letter d) of the Law on the Ombudsman, 13 intimations were submitted to officials of all levels on cases of negligence in work, of breaches of work ethics, delay and bureaucracy. For comparison, in 2013, 11 intimations were submitted. The intimations were submitted as follows:

- Ministry of Labour, Social Protection and Family - 1
- Ministry of Education - 2
- Government of the Republic of Moldova - 2

- Agency for Land Relations and Cadastre -1
- Ministry of Justice - 1
- Local public authorities -2
- Bailiff - 1
- Ministry of Internal Affairs - 1

The following system problems were highlighted:

- Negligence and breach of work ethics;
- Disagreement with the actions of local government representatives;
- The conditions of detention in prisons;
- Violation of the right to private property;
- Failure to pay child allowance adopted by the local administration in the second degree;
- Violation of the right to family;
- Violation of the child's right to grow up in an environment for harmonious physical and mental development, the right to social assistance and protection, the right to education;

Cases of negligence and irresponsibility of people in positions of responsibility, established by the CHR, generate serious violations of human rights. Children, the disabled, and the elderly are affected most often in such cases.

Conciliation of parties (art. 23, paragraph (3) of the Law on Ombudsman)

Mediation is an alternative way of amicable settlement, using a third party, of the dispute between the parties. During 2014, the ombudsmen, as mediators, settled three cases through the conciliation of parties. In these cases, the reconciliation ended with the signing of agreements for conciliation, which served as ground for termination of the review of applications. We believe that materialization through this process of the mediating powers should be used more broadly in cases liable of such conflict settlements.

- 1 S. C., who is disabled of the second degree, addressed a petition to Balti Representation, claiming that he submitted to the Municipal Fund of Population Social Support from Balti a written application, but the authorities refused to accept it. After several actions undertaken by the Ombudsman Institution in the mediation process, the parties in the conflict signed a conciliation agreement. The Municipal Fund of Population Social Support from Balti accepted and examined the petitioner's request.

- 2 In the mediation of a case from Hincesti, the ombudsman resolved the conflict between A. G. , a young man with locomotion disabilities, who travel in a wheelchair, and the administration of the night club „Rubin” from Hincesti, which restricted the young man’s access to the club on the ground that he was moving in the wheelchair. The parties agreed to settle amicably the incident that took place on 07.12.2014 and signed a conciliation agreement.
- 3 The editor of the magazine „Нашепоколение”(Our Generation) addressed the CHR invoking unjustified refusal by the management of the State Enterprise, the Complex „Casa Presei” to extend the lease agreement. The conciliation procedure was initiated and on 29.10.2014 a conciliation agreement was signed. The parties have agreed to extend the lease contract.

Citizens G. and D. residents of Negrești village, Strășeni district addressed the Ombudsman. The petition stated that on 25.05.2010, by the Decision of Strășeni Court it was decided the adoption of the children A. and G. by the petitioners. On 29.06.2010, G. and D. submitted to Negrești Village Hall an application for setting and payment of the allowance for the adopted child, according to the Regulation on conditions for establishing and paying allowances for adopted children. Petitioner G. stated that she had not received any response to the submitted application. It was only on 05.13.2014, after having repeatedly addressed the guardianship authority with the same request that she was handed a copy of Negrești Village Council, Decision of 17.12.2010, by which it was decided to reject the application. The situation was the same with the second child. The Ombudsman examined the case and the parties reached a consensus. The Conciliation Agreement signed by the parties, provides that the Negrești Council will issue another decision on the determination and payment of retroactive allowance without any limitation in time to the adoptive parents. In addition, the Ombudsman filed a lawsuit claiming the compensation of material and moral damage, the annulment of the decision of 17.12.2010 „On setting the allowance for the adopted child”, issued by the Negrești Village Council, Strășeni district and oblige Negrești Council to issue another decision on the determination and payment of retroactive allowance without any limitation in time to the adoptive parents

(pursuant to art. 25 of the Law on Ombudsman)

After examining the applications, the ombudsmen have the right to submit applications to courts to defend the interests of the petitioners. This mechanism is applied in cases of serious or massive violation of constitutional human rights and freedoms, in cases of particular social importance, or in cases when it is necessary to defend the interests of people, who cannot independently use the legal means of defence.

During the reporting period, 12 applications for lawsuits to defend the interests of petitioners and 12 applications on intervening in the civil trial in order to submit conclusions pursuant to art. 74 of the Code of Civil Procedure were sent to court.

The following aspects of human rights violations were invoked in the applications submitted in the interests of petitioners by the ombudsmen:

- related to preventing the restriction to the fundamental rights and freedoms enshrined in Articles 20, 46 and 47 of the Constitution, but also in the international acts to which Moldova is a party;
- related to the defence of the rights provided for in Articles 48 and 50 of the Constitution of the Republic of Moldova;
- related to the defence of the right to private property;
- on the recovery of moral and material prejudice and cancellation of Riscani Sector Mayor's Disposition of 21.01.2014;
- on the annulment of the decision for the reorganization of the Gymnasium in the village Troița Nouă, Anenii Noi district;
- on granting housing to returnees from orphanage;
- on the annulment of the decision of 17.12.2010 on „The determination of allowance for the adopted child”, issued by the Negrești Village Council, Strășeni district and on obliging the Negrești Council to issue a decision on the determination and payment of retroactive allowance without any restriction term to the adoptive parents;
- on the annulment of the Decision of 07.07.2014 of the Commission for protection of children in difficulty within the Directorate for Protection of Child's Rights, Riscani sector of 07.07.2014;
- on recognizing the pretended right, with the obligation of Lapusna Village Hall, Hincești district to authenticate the signatures of the founder and of other members on the Declaration for the Establishment of the Peasant Farm;

- on determining the residence place of the child.

2. Development Dynamics and CHT Team potential

Analysis of team structure

At the end of 2014, 40 employees were hired by the Centre for Human Rights instead of 55 units approved under the personnel functions.

Regarding the dynamics of human resources in 2014 compared to the situation in 2008, there is a significant increase in the number of employees by 37.9%, mainly due to employment in public office execution positions, a fact motivated by the increasing attractiveness of the institution for the potential candidates for the public vacancies in the institution.

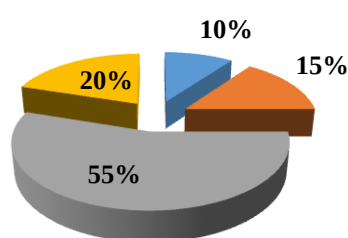
Dynamics of the number of CHR employees

Indicators	2008	2014	Absolute dynamics (persons)	Relative dynamics
			2014/2008	2014/2008
Units approved under personnel functions	55	55	-	-
Number of employees	29	40	+11	137,9

Depending on the position held within the CHR, the personnel structure at the end of 2014 was as follows:

- Officials who hold public positions– 4 persons
- Civil servants in leadership positions - 6 persons
- Civil servants in execution positions - 22 persons
- Technical Service Personnel who assist the functioning of the public authorities and auxiliary personnel - 8 persons

Structure of personnel according to positions



- Officials who hold public positions
- Civil servants in leadership positions
- Civil servants in execution positions
- Technical service personnel who assist the functioning of the public authorities and auxiliary personnel

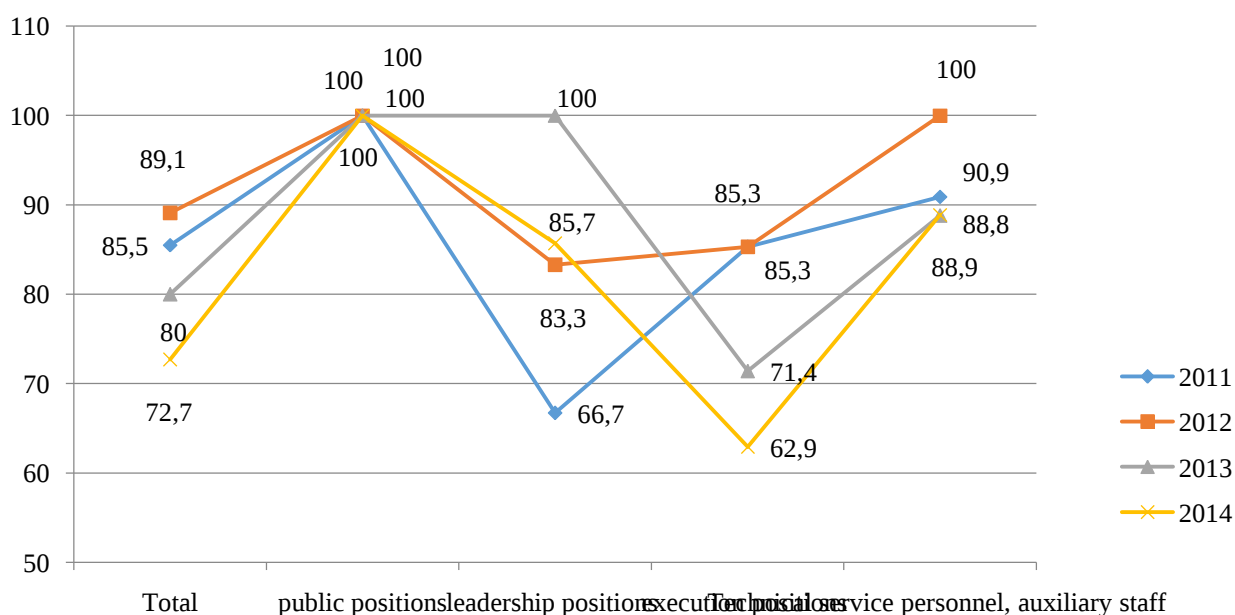
Civil servants, including officials who hold public positions, constitute the majority in the team structure of the Centre for Human Rights.

Within the structure of public functions of the Centre for Human Rights, the share of public execution functions is of 55%. The number of public management functions (including political positions) is of 25%, which corresponds to the Regulation for the establishment of structural subdivisions of the public authority, approved by Annex No. 2 to the Government Decision No. 1001 of 26.12.2011 on the implementation of some legislative acts. Thus, for a public function in leadership position, 2.2 public function in execution positions corresponds in average per public authority.

Degree of occupancy of public functions and positions

Occupancy of personnel units was calculated as the ratio of employees to maximum number staff by category.

Degree of occupancy of staff units, in per cent

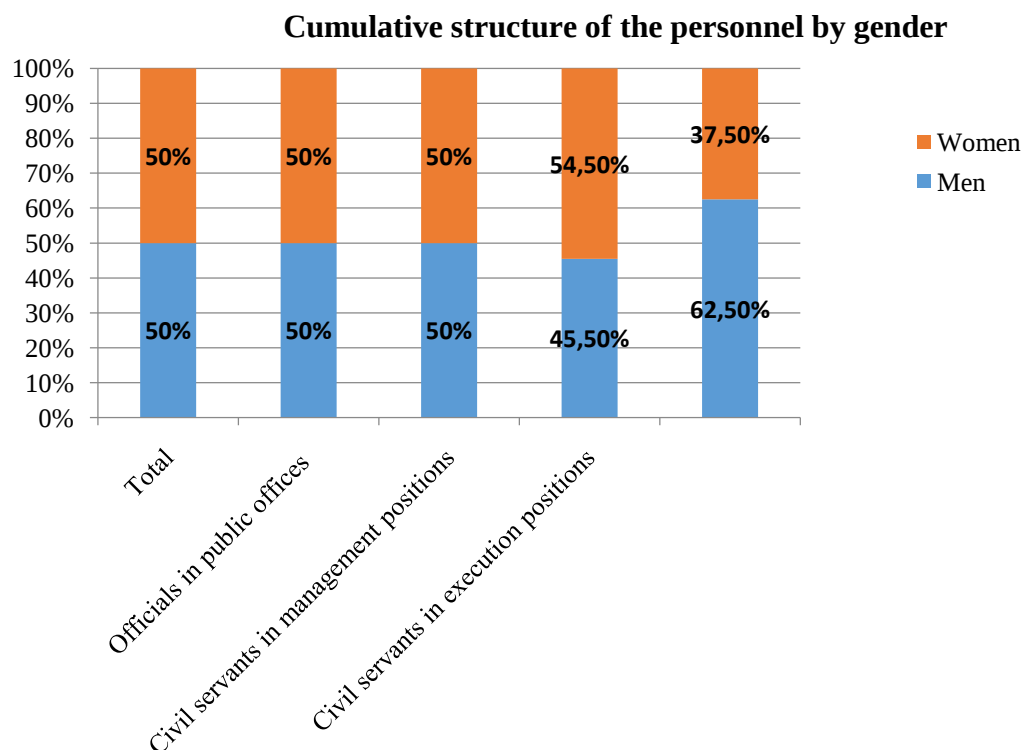


Data analysis shows that degree of occupancy of public offices and positions within the institution corresponds to a reasonable limit. The high degree of filling public positions and

technical service positions, who assist the functioning of the public authority, is relevant for the analysed situation. An increase in the occupancy of public leadership functions by 19.0% was registered in 2014 compared to 2011.

Analysis of gender and age factors in public servants and other categories of employees

The number of employees by gender and category of staff in the Centre for Human Rights is shown in the diagram below:



The aggregate data show a uniform structure of the personnel by gender, so both men and women share is of 50% in the total number of employees. The share of men who occupy public execution positions is of 45.5% and that of women - 54.5%. Technical service positions that assist the functioning of public authorities and the auxiliary staff are mostly occupied by men (62.5%).

Structure of staff by age, persons

Category of position	Under 25	Between 25-54	55 and over	Total
Staff (total)	-	40	4	44
Civil servants	-	34	2	32
Technical service personnel that	-	6	2	8

assist the functioning of public authorities and auxiliary staff				
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As it can be observed from the data reflected in the table, most employees fall into the age category ranging between 25 and 54 years, which eventually reveals the existence of a high potential of the workforce.

Analysis of the level of professional training of the staff

The following table shows the structure of the level of professional training of the employees, grouped by occupied position.

Personnel structure by level of professional training

	Officials who hold public offices, persons	Civil servants who hold managerial positions, persons	Civil servants who hold execution positions, persons	Technical service personnel who assist the functioning of public authorities and auxiliary personnel, persons	Total, persons	Structure, %
Total	4	6	22	8	40	100,0
PhD	1	1	1	-	3	7,5
Master Degree	1	-	10	-	11	27,5
Bachelor Degree	2	5	11	4	22	55,0
Specialised secondary education	-	-	-	4	4	10,0

As observed, 90% of employees have higher and graduate education, which confirms that those who occupy the given positions meet the requirements to occupy a public office, conditions provided by Article 27, paragraph (2) of Law No. 158 of 04.07.2008 on the public position and the status of the civil servant.

Employees with specialized secondary education have a share of 10% of the total staff and operates in the Administrative Service, working as drivers.

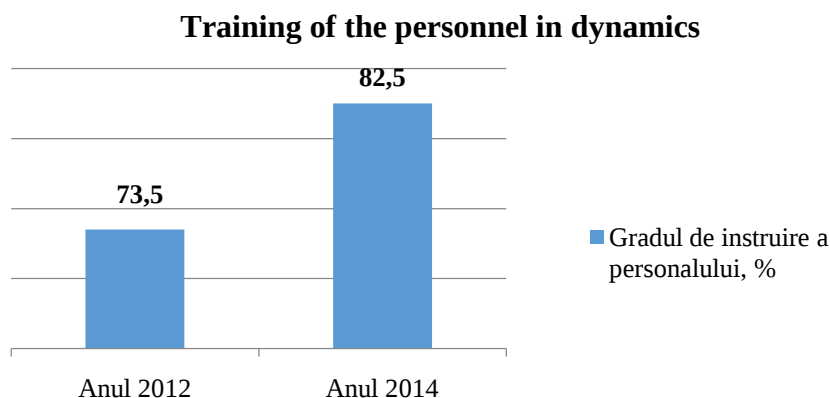
35% of employees have postgraduate education, so the institution has well trained staff for the areas corresponding to the positions that they occupy.

Information on the professional development of the employees

Training is a planned process that enables the provision of information, knowledge, skills necessary for performing an activity by any employee in the position he occupies. According to art. 37 of the Law on public function and status of the civil servant No. 158 of 04.07.2008, the public authority must ensure the professional development of its staff or to take action to meet these needs.

Thus, one of the key priorities in the work of the institution on short and medium term is to enhance the managerial and professional skills of the staff. This is achieved by identifying and offering training programs for different categories of staff in relation to their needs and the requirements imposed by the standards in the field.

33 employees (of whom 28 civil servants) benefited of trainings in 2014. They participated in a total of 3,691 training hours. The professional capacities of the employees have been developed both within internal and external trainings.



In 2014, a significant increase of about 9% compared to 2012 of the number of employees who received trainings is observed, i.e. of the level of staff training, which shows that one of the priorities of the institution's personnel policy is the professional development of the staff.

Implementation of personnel policies

During 2014, the implementation of the system of management by objectives was carried out in the Centre for Human Rights. This system consists in setting objectives at all levels (organization, subdivision, public servant), planning actions to achieve them, followed by a performance assessment. In this way, the set objectives and the outcomes outlined at institutional level can be distributed at the level of each subdivision and civil servant, depending on their contribution. In addition, the policy of non-financial motivation of the staff, favouring the emergence of an effective internal communication process, the establishment of positive interpersonal relationships and minimization of staff fluctuation was implemented. Among other

motivational measures, the employees were involved in activities that were consistent with the interests of professional growth, which gave everyone the opportunity to demonstrate his/her full potential.

The BUGET of the National Ombudsman Institution and its execution

The Centre for Human Rights is an independent state institution with the status of legal entity and has its own budget, which is part of the state budget.

In the second session of the Subcommittee on Accreditation of the International Coordination Committee of National Human Rights Institutions (ICC) (from 16 to 18 November 2009, Geneva), the Centre for Human Rights was accredited with B status, which means that the institution partly complies to the Principles on the Status of National Institutions for the Promotion and Protection of Human Rights (the Paris Principles).

The Accreditation Subcommittee of the ICC expressed in the Recommendation its appreciation of the work of the Centre for Human Rights *„that it takes place in difficult conditions, especially due to lack of financial resources allocated to the institution, which affects the capacity of the Centre to achieve its powers effectively”*.

Also, the Subcommittee noted that the lack of adequate funding is a structural problem of the CHR. Despite the outstanding efforts made by the institution, the inadequate funding undermines the capacity to employ staff, to benefit of equipped spaces and to carry out activities.

More recently, following the evaluation of the Republic of Moldova through the Universal Periodic Review mechanism, within the framework of the 19th session of the UN Human Rights Council in the period 14-16 March 2012, **a Final Report on the Assessment of the Republic of Moldova (A / HRC / 19/18)** was adopted.**122 recommendations**, which were accepted in part or in full, were made for our country. Based on these, in 2016, Moldova will have to submit a comprehensive report on their implementation and achievement at national level. ***Of the 122 recommendations,4 refer to ensuring the independence of the Centrefor Human Rights and increasing the funding of the institution, so that it can realize its responsibilities effectively.***

Under the Funding Plan approved by the Ministry of Finance for 12 months of the year 2014, the Centre for Human Rights was approved financial sources for the basic component in the amount of 5,989,300 lei and for the component Justice Strategy -1,999,300.

The execution of the Funding Plan for the 12 months of 2014 according to the budget classification is as follows:

Analysis of CHR budget execution for the year 2014, the basic component

Indices	2014 planed, thousand lei	2014 executed, thousand lei	Ratio of budget execution, %
Labour remuneration	3445.7	3445.6	100.00
Payment for goods and services	1518.4	1215.5	80.05
Purchase of fixed assets	28.8	28.8	100.00
Business trips	27.5	27.5	100.00
Contributions to state social insurance budget	755	754.9	100.0
Contributions to medical insurance	129.6	129.5	99.9
Allowances for temporary work incapacity paid from employer's funds	30.9	30.9	100
Transfers abroad	53.4	52.7	98.7
TOTAL	5989.3	5685.4	94.93

The information presented above reflects the fact that for the main component non-execution of the budget in 2014 was of 303,900 lei. At the end of 2014, the institution could not fulfil more contractual payments. The cause is the remission by the State Treasury of not executed payment orders for 274,800 lei, with an explanation for failure to execute - not achieving income levels approved (specified) by the State Budget Law for 2014. The remaining 29,100 lei consists of unused balances on contracts and reserve funds planned for expenses related to the change of the Institution's title, panels, stamps and other expenses related to the reorganization of the institution, which were planned to take place in 2014. Because of failure to adopt the legal framework that would regulate the operation of the Office of the Ombudsman, these changes have not occurred.

Execution of CHR budget per component parts in dynamics (2009-2014)

Indices	2009	Share in the budget, %	2010	Share in the budget, %	2011	Share in the budget, %	2012	Share in the budget, %	1 2013	Share in the budget, %	2014	Share in the budget, %
Labour remuneration	1867.7	59,2	1980.5	61.9	1916.8	57.8	2723.8	59.3	3413.4	58.5	3445.6	60.6
Payment for goods and services	736.1	24.2	586.9	18.3	695.1	20.9	1090.3	23.7	1367	23.4	1215.5	21.4
Purchase of fixed assets	51	1.6	72.7	2.3	133	4.0		0.0	59.8	1.0	28.8	0.5
Business trips	32.4	1.0	37.4	1.2	50.9	1.5	61.4	1.3	66.1	1.1	27.5	0.5
Contributions to state social insurance budget	373	11.8	435.9	13.6	421.6	12.7	590.8	12.9	746.3	12.8	754.9	13.3
Contributions to medical insurance	56.7	1.8	66.2	2.1	63.7	1.9	88.8	1.9	111.8	1.9	129.5	2.3
Allowances for temporary work incapacity					1	0.03	5.9	0.13	24.3	0.42	30.9	0.54
Transfers abroad	12	0.38	19.1	0.60	36.1	1.09	33.7	0.73	45.7	0.78	52.7	0.93
TOTAL	3156	100	3198.7	100	3318	100	4595	100	5834	100	5685	100

From the table above, it can be seen that many of the resources allocated for the maintenance of the Centre for Human Rights over the years, and namely about 60%, have been used for employees' labour remuneration paid under the provisions of the Law on civil service pay system No. 48 of 22.03.2012 and Government Decision No. 331 of 28.05.2012 on remuneration of civil servants.

The salaries of CHR civil servants are smaller in comparison with the salaries of civil servants working for the Parliament Secretariat, the State Chancellery, the Constitutional Court, CNA, etc. The salaries of CHR civil servants have not been raised to the level of pay of the employees in the institutions mentioned above, although the tasks of the Centre's employees are very important and contribute directly to achieving complex and important objectives.

About 15% of resources are used to pay the contributions to the state budget of social insurance and the compulsory health insurance premiums.

About 1% of the money is used to pay membership fees in specialized international organizations (Ombudsmen Association and Francophone Mediators, International Ombudsman Institute, European Ombudsman Institute, ENOC Association (European Network of Ombudsmen for Children) in which the Centre for Human Rights is a voting member.

One of the problems is related to the amount of funds allocated for the maintenance of the institution, which constitutes only 20 - 25% of the total and that provided for the purchase of fixed assets - about 1%. The costs to maintain the institution is distributed to lease premises (head office and representations), the payment for telecommunication and postal services, maintenance of vehicles, IT works, interdepartmental security, for current repair of equipment and inventory, for the purchase of books and subscription to periodicals, publishing services: printing informational brochures, which are later distributed to beneficiaries, promotional materials, reports, for office supplies, household materials and objects necessary in the activity.

Although over the years, funds are planned for trips abroad, to participate in international events in the field of human rights, we often refused to go in order to save the means to cover other necessary and obligatory expenses of the institution.

As for the purchase of fixed assets, only 1% of the total amount allocated under the State Budget Law is left. An important financial support to solve the material problems of the institution are the financial means allocated from the account of the Justice Reform Strategy.

The Centre for Human Rights capacity building is one of the strategic directions of Pillar VI "Respect for human rights in the justice sector" of the Justice Sector Reform Strategy for the years 2011-2016, approved by Law No. 231 of 25.11.2011.

According to the specific area of intervention 6.2.2. Action 2, the Human Rights Centre has the task of developing and implementing the institutional development plan.

To implement this action at the end of 2012, a group of independent experts has developed the Strategic Development Program of the Centre for Human Rights for the years 2013-2017, which included the Analysis and Institutional Assessment Report of the CHR.

Within the negotiations on the Financing Agreement between the Government of the Republic of Moldova and the EU on Justice Reform Support Program, a precondition for granting additional support amounting to 8 million euros, according to the principle „*more for more*” (depending on the level of advancement of expected reforms) is the capacity building of the Centre for Human Rights. For this reason, the support for immediate start of the implementation of the Strategic Development Program of the Centre for Human Rights to subsequent reporting to external partners has been a priority for the Government.

**Analysis of CHR budget execution for 2014,
Justice Reform component**

Indices	2014 planned, Thousand lei	2014 executed, thousand lei	Ratio of budget execution, %
Payment for goods and services	612.6	595.3	97.2
Purchase of fixed assets	1386.7	1386.7	100.00
TOTAL	1999.3	1982	99.1

Regretfully, the efforts of the administration to provide the Institution with new headquarters were unsuccessful.

The offices, in which the ombudsmen and employees work (Chisinau, Sfatul Tarii street, No. 16), is located in a building that does not meet the construction regulations and technical standards. The building is damaged, which presents an increased danger to the life and health of those working in it. By letter **no. 16-3 no. 4** of 14 January 2014, the Moldovan Parliament Secretariat reconfirmed that further exploitation of the building could create security problems for the life and health of employees and admitted the acute need of another premises for the work of the institution.

In answer to the previous requests of the Centre for Human Rights to provide another building according to the needs of the institution, the Government informed us about the lack of available premises (letters no. 1904-200 of 15.03.2012 and no. 1904-394 of 23.05.2013).

In these circumstances, buying a property is the only way of solving the problem, followed by the state's inability to provide the Centre for Human Rights with adequate premises.

The Centre for Human Rights operates since 1997 and is the only National Institution for the Promotion and Protection of Human Rights in our country accredited under the Paris Principles.

2. AUDIT by the Court of Accounts on the financial statements of the Centre for Human Rights on 2013 budget

In 2014, the Court of Accounts has audited the financial statements of the Centre for Human Rights on 2013 budget.

The financial audit report of the Centre for Human Rights on the budget for 2013 was examined at a public sitting of the Court of Accounts on July 10, 2014.

In the Report of the Court of Accounts, it is noted, among others, that the resources provided for the maintenance of the institution in 2013 were executed in a proportion of 95.4%. The means planned for the justice reform were used only in the amount of 2.9%. In 2013, within the Strategy for the Justice Reform were planned funds in the amount of 9,768,900 lei to purchase a new office for the institution. However, de facto, the money came into the account of the CHR in November. The procurement of the office lasts more than a month that is why the National Ombudsman Institution failed to use this money.

Thus, from the financial means allocated by the SRJ, only 281,500 lei were executed

In the Court of Accounts Report, it is also noted that since the creation of the Centre and up to date, the institution does not have its own building, the activity being carried out in a free loan building received from the Moldovan Parliament Secretariat. The auditors of the Court of Accounts also note that the building is damaged, with an almost zero level of seismic resistance and does not meet the construction regulations and technical standards. Moreover, the Court of Accounts found that the employees of the Centre operate under risk, not being provided the necessary protection and safety. The Court of Accounts Report also states that at the audit stage the tenancy agreement between Parliament Secretariat and the CHR was not extended.

According to the conclusions of the representatives of the Court of Accounts, although most operational processes of the Centre for Human Rights correspond and comply with the legal and regulatory framework, there are some processes that pose problems or irregularities in its activity. Thus, the deficiencies in setting the accounting system generated a number of errors and non-conformities in the accounting of the public funds, which served as the basis for expressing a reserved opinion on the institution's financial report as of 01.01.2014.

The Court of Accounts auditors also found irregularities in the implementation of the Law on Internal Public Financial Control No.229 of 23.09.2010.

The Court representatives have also stated that the organizational structure of the Centre is with double subordination and the delegation of responsibilities is unclear. At the same time, they

stated that this results from the contradictory provisions of the institutional legal framework. Although the Centre staff has the status of civil servant, certain provisions of the legislative and normative documents, regulating its activity, have not been applied. Haziness was found regarding the setting of structural units, compliance with the proportions setting the positions, as well as the completion and endorsement of the staff¹⁷².

At the public sitting examining the Audit Report of the CHR, it was noted that during the audit, the National Ombudsman Institution has taken steps to liquidate the attested errors and deficiencies: the active accounts totalling 50,600 lei were reflected in the accounts; assets and items of small value and short period in the amount of 724,300 lei were reported to the component special means; corrections were made in the accounts in the amount of 20.4 thousand lei; the accounting policy was developed and approved¹⁷³.

The Court of Accounts recommended to the CHR:

- to approve and submit to the Ministry of Finance the Accounting Policy for coordination in accordance with the legislation in force;
- to carry out annual inventory procedure of the institution heritage with mandatory compliance with the requirements of the regulatory framework;
- to carry out the correction of accounting records and financial report for the year 2013;
- to implement within the institution the financial management and control system;
- to clearly divide tasks and responsibilities of the structural subdivision within the entity composition when creating a new structures;
- to revise the composition of the Working Group on procurement by clear division of responsibilities of its members;
- to establish control procedures in public procurement to ensure the planning and reporting of public procurement under the legal framework.

As required by the Court of Accounts, within 6 months from the adoption of the Audit Report, the Centre informed the Court of Accounts about the implementation of the actions recommended by the Court. The recommendation related to the creation of a new structure of the institution has not been fulfilled due to the imperfection of the legal framework.

¹⁷²<http://www.ccrm.md/hotarireview.php?idh=707&l=ro#rec>

¹⁷³<http://www.ccrm.md/downloadserv.php?file=NzYyL1JPXzE4MjZfSjZfSDM3XzIwMTRfRHJlcHR1cmlsZU9tdWx1aV9SLmRvYWw==>