



THE PEOPLE'S
ADVOCATE
OMBUDSMAN

REPORT

ON THE OBSERVANCE
OF HUMAN RIGHTS AND FREEDOMS
IN THE REPUBLIC OF MOLDOVA IN 2018

www.ombudsman.md



REPORT

**ON THE OBSERVANCE
OF HUMAN RIGHTS AND FREEDOMS
IN THE REPUBLIC OF MOLDOVA IN 2018**

CHISINAU, 2019

THE OFFICE OF THE PEOPLE'S ADVOCATE

16 Sfatul Tarii street
MD-2012, Chisinau, Republic of Moldova
Tel.: (+373 022) 23 48 00
Fax.: (+373 022) 22 54 42
Web: www.ombudsman.md
E-mail: ombudsman@ombudsman.md

CONTENTS

PREFACE	5
ACCREDITATION OF THE OFFICE OF THE PEOPLE'S ADVOCATE WITH „A” STATUS	7
OBLIGATIONS OF THE STATE ON THE OBSERVANCE OF HUMAN RIGHTS	9
I. OBSERVANCE OF HUMAN RIGHTS IN THE REPUBLIC OF MOLDOVA IN 2018	11
Right to a fair trial.....	11
Individual freedom and personal security.....	13
Legal status of foreign citizens and of stateless persons	14
The right to vote and the right to be elected.....	15
Freedom of expression	17
Freedom of assembly	18
Right to health protection.....	19
Right to assistance and social protection.....	21
Situation of human rights defenders in the Republic of Moldova.....	22
Observance of the rights of persons with disabilities.....	24
Observance of human rights and freedoms in the administrative-territorial localities of the left bank of the Dniester river and bender municipality (Transnistria).....	26
Resetting the work of the human rights subgroup.....	27
Evaluation visit of the Human Rights Expert Thomas Hammarberg	27
II. OBSERVANCE OF CHILD RIGHTS IN THE REPUBLIC OF MOLDOVA IN 2018	29
Right to life, survival and development.....	30
Right to health.....	31
Right to education.....	32
Violence in schools.....	33
Access to education for children with special needs	34
Hygiene and sanitation conditions in schools.....	35
Right to opinion and civil liberties	35
Situation of children in penitentiary institutions.....	36
III. TORTURE PREVENTION	37
Summary of prevention activities.....	37
Recommendations of the European Committee for the Prevention of Torture, 2018	39
CPT rules on the transfer of persons deprived of their liberty, 2018.....	39
Summary of the situation in the places of deprivation of liberty.....	39
Penitentiary Institutions.....	40
The police.....	42
Public Custody of Foreigners.....	43
Local Commissions for Monitoring Places of Detention.....	44

IV. HUMAN RIGHTS EDUCATION AND ACTIVITY OF PROMOTION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS OF THE OFFICE OF THE PEOPLE'S ADVOCATE	45
Human rights education.....	45
The activity of promoting the human rights and freedoms of the Office of the People's Advocate	46
Promoting human rights and fundamental freedoms through information actions	46
Promoting human rights through training	48
Website of the Office of the People's Advocate	49
External cooperation	49
Established partnerships	50
V. ACTIVITY OF THE OFFICE OF THE PEOPLE'S ADVOCATE IN 2018	51
Managing and investigating applications.....	51

PREFACE

The year 2018 was an important year for the field of human rights at national and international level.

The international community marked the 70th anniversary of the Universal Declaration of Human Rights and human rights defenders – 20 years from the adoption of the UN Declaration on Human Rights Defenders, 25 years from the adoption of the Paris Principles, which set the international standards for the functioning of national human rights institutions.

At the same time, at the national level it is necessary to note the fact of marking of the 20th anniversary of the establishment of the National Human Rights Protection Institute of the Republic of Moldova, currently the Office of the People's Advocate, as well as its accreditation with the „A” status by the Subcommittee for Accreditation of the Global Alliance of National Human Rights Institutions.

In 2018 the Republic of Moldova was visited by the United Nations Special Rapporteur on the Status of Human Rights Defenders, Michel Forst, and the OSCE Representative on Freedom of the Media, Harlem Désir.

This Report reflects the views expressed by them, but also by other dignitaries, European and international officials, of national experts the overall state of affairs in the field of human rights observance in our country in 2018. The report also contains the People's Advocate's estimates on the developments in the field of human rights in the Republic of Moldova.

The overall assessment is that, despite a number of efforts made by the authorities, the situation in the field of human rights has not improved, and some areas have even worsened. Thus, we can talk about a continuing degradation of the state of affairs in terms of access to justice, freedom of expression, observance of the rights of detainees, the right to vote and to be elected, the right to health care. The People's Advocate's findings are also confirmed by the citizens, who expressed their views in a poll conducted last year, at the request of the Office of the People's Advocate, for assessing the perceptions on the observance of human rights in the Republic of Moldova.

When drawing up the Report, were taken into account both the conclusions reached by the People's Advocate following the monitoring of the human rights situation last year, the more sensitive segments on the observance of certain rights enshrined in the Constitution of the country, as well as on the observance of the rights of certain categories of persons, such as those with disabilities and human rights defenders.

The report contains five chapters. The first chapter refers to the observance of human rights and includes several paragraphs: Right to a fair trial, Individual freedom and personal security; The right to vote and the right to be elected, Freedom of expression, Freedom of assembly, Right to health protection, Right to social assistance and protection, Situation of human rights defenders in the Republic of Moldova, Observance of the rights of people with disabilities, Observance of human rights and freedoms in administrative-territorial settlements on the left bank of Dniester river and Bender municipality (Transnistria).

Chapter II reflects the state of affairs on the observance of the rights of the child, and Chapter III reflects the developments related to torture prevention. Chapter IV covers the situation on human rights education and the activity of promotion of human rights and fundamental freedoms of the Office of the People's Advocate and Chapter V includes data on the work of the Office of the People's Advocate. The novelty of this Report is addressing human rights defenders' issues, on human rights education.

Mihail COTOROBAI
People's Advocate

ACCREDITATION OF THE OFFICE OF THE PEOPLE'S ADVOCATE WITH „A” STATUS

In 2018, the Office of the People's Advocate (Ombudsman) was accredited with the „A” status by the Office of the Global Alliance of National Human Rights Institutions (GANHRI), which represents the recognition of the compliance of the Ombudsman's Institution from the Republic of Moldova with the Principles of Paris, a document that includes the basic standards for the functioning of national human rights institutions.

The accreditation of a national human rights institution (NHRI) with „A” status is an international appreciation, of the credibility, performance, professionalism, the fact that it is seen as a worthwhile partner that can be treated with consideration by the authorities, civil society, people.

The „A” status provides a national human rights institution (NHRI) with the opportunity to engage fully in the activity of various international and regional human rights structures, including through the use of the right to vote.

A National Human Rights Institution (NHRI) accredited with the „A” status can cooperate very closely with the United Nations structures, in particular the Human Rights Council, by participating in its sessions and presenting messages on any agenda item, written and oral statements, including video, or documents relevant to the issues in question.

The representatives of a national human rights institution (NHRI) with „A” status may use the platform of UN Human Rights Council sessions on special procedures and the EPU to present their views and draw the attention of the international community to human rights issues. Also, collaboration with UN committees is more consistent, enhancing the role and possibilities of engaging in the work of international ombudsmen organizations.

Upon re-accreditation of the Office of the People's Advocate, consideration was given to the institution's and the authorities' compliance with the recommendations made by the Accreditation Subcommittee in 2009 when the Center for Human Rights was then accredited with the „B” status, which implies partial compliance with the Principles of Paris.

In 2009, GANHRI's Accreditation Subcommittee objected to the founding law of the institution and on its functionality. Appreciating the „efforts made by the Office of the People's Advocate (OPA) to implement the 2009 recommendations, increasing the capacity to promote and protect human rights in collaboration with civil society representatives, and recognizing the political challenges and economic context in which it operates,” the Accreditation Subcommittee (ASC) proposed in 2018 that the institution be re-accredited with A status¹.

Accreditation Subcommittee (ASC) welcomed the adoption of the Law number 52, the founding law of the Office of the People's Advocate, expressing the hope that after re-accreditation with „A” status, the Ombudsman's Institution from Moldova will take the necessary steps to continue to increase its efficiency and independence, in line with the Paris Principles and recommendations made in the 2018 assessment.

¹ <https://nhri.ohchr.org/EN/AboutUs/GANHRIAccreditation/Documents/SCA%20Report%20May%202018%20-%20ENGLISH.pdf>

In order to further enhance the effectiveness of the Office of the People's Advocate, the Accreditation Subcommittee (ASC) has also made some recommendations that the institution, the authorities are going to meet. These relate to the process of selecting and appointing the People's Advocate, ensuring pluralism and diversity in the Ombudsman's team, adequate funding of the Office of the People's Advocate (OPA), cooperation with the international human rights system.

Thus, the Accreditation Subcommittee (ASC) encouraged the Office of the People's Advocate (OPA) to continue to promote the amendment to the Law number 52 for establishing the condition for the People's Advocate to be appointed by the Parliament with the absolute majority of votes based on a transparent and participatory process. The Accreditation Subcommittee (ASC) further encouraged the Office of the People's Advocate (OPA) to promote the idea of including in the founding law of the requirement that the Ombudsman's team be broadly reflected on all segments of the Moldovan society.

The Accreditation Subcommittee (ASC) urged the Office of the People's Advocate (OPA) to continue to advocate for an adequate funding to effectively carry out its mandate, including the Mechanism for the Prevention of torture. The Accreditation Subcommittee (ASC) stressed that in order to guarantee independence and capacity to freely determine its priorities and to function effectively, a national human rights institution must be provided with an adequate level of funding.

In particular, adequate funding must, at a reasonable level, gradually and progressively improve the operational work of the institution and the fulfillment of its mandate, it is mentioned in the recommendations of the Subcommittee.

The Accreditation Subcommittee (ASC) has acknowledged that the Office of the People's Advocate has stepped up its collaboration with structures in the international human rights system and encouraged the institution to strengthen its capacity to do so by advocating additional resources.

The Accreditation Subcommittee (ASC) noted that monitoring the observance of human rights and collaborating with the human rights institutions / structures in the international human rights system, in particular the Human Rights Council and its mechanisms (special procedures and EPU), UN committees, can become a national institution protection of human rights an effective tool in promoting and protecting human rights at national level.

The Office of the People's Advocate has also been urged to continue to monitor independently the implementation of the National Human Rights Action Plan by the government in cooperation with other human rights structures including civil society, but also to undertake systematic and rigorous follow-up activities the fulfillment of its recommendations, promotion and advocacy for the implementation of its recommendations and findings, the protection of those whose rights have been violated.

At the same time, public authorities have been called upon to respond in due time to the recommendations of the Office of the People's Advocate and to provide, where appropriate, detailed information on the practical and systematic measures taken to comply with the Ombudsman's recommendations.

OBLIGATIONS OF THE STATE ON THE OBSERVANCE OF HUMAN RIGHTS

International law is a body of laws governing the conduct of States and the relations between them.

There are two sources of international law:

- agreements between States known under the generic name of Treaties
- customary law.

The treaties are negotiated by states and provide for the legal obligations of the states to each other. They link only those states that become parties to the Treaties, through processes known as „accession” and „ratification”.

- **Accession** is a unique process by which a state accepts the obligations of a treaty and becomes a state party to it.

- **Ratification** is the second one in a two-stage process. The first step is the *signing* whereby a state indicates its intention to become a party to a treaty at some point in the future and undertakes not to act in the meantime in a way that would undermine the implementation of the treaty. Following the ratification of the second phase, the State accepts all the obligations of the treaty and is fully related to its provisions.

Upon accession or ratification, a state becomes party to a treaty. A treaty links only the States Parties to it, and a State Party has obligations only towards other States Parties, and not to States not party to the Treaty.

The States Parties have three main obligations that have been defined in the human rights treaties:

- **the obligation to respect;**
- **the obligation to protect;**
- **the obligation to fulfill.**

The obligation to respect requires the State to ensure that none of its officials acts to violate human rights or the obligations contained in that treaty.

The obligation to protect requires the State to take action to ensure that no one violates the terms of a human rights treaty (parties / third parties).

The obligation to fulfill requires the State to take positive action to ensure that everyone in its jurisdiction is in a position to fully enjoy the rights recognized in the Treaty.

Each treaty has its own monitoring mechanism that promotes the fulfillment of treaty obligations by the Contracting Parties.

The functions of the monitoring mechanisms are set by each treaty apart and they differ from the treaty to the treaty, but in general the monitoring mechanisms have the following functions:

- to promote the ratification and implementation of the Treaty;
- to receive regular reports from States Parties and to examine the States Parties on the basis of these reports;
- to issue recommendations to States Parties on the interpretation and implementation of the Treaty;

- receiving and delivering opinions on individual complaints about breach of the treaty if the State Party has accepted this competence of the Commission;
- organizing days of general discussion on issues arising from the treaty.

Monitoring mechanisms are legal, technical bodies, and not political bodies. Their members are independent human rights experts working on a voluntary basis. They are not representatives of the state and cannot be guided by governments or by anyone else.

Thus, the recommendations which are issued by the mechanisms for monitoring the level of implementation of the treaty provisions to which the State is a party, although they have the status of a „recommendation”, are practically binding, as it results from the obligations assumed by the State by the ratification of a treaty human rights.

In the context of these, the People's Advocate draws the attention of the authorities to analyze and make every effort to implement the recommendations issued by the monitoring mechanisms under the human rights treaties to which the Republic of Moldova is a party. These recommendations refer to the shortcomings and arrears our country has on the implementation of treaties that our country has ratified and committed to respect and achieve them.

I. OBSERVANCE OF HUMAN RIGHTS IN THE REPUBLIC OF MOLDOVA IN 2018

RIGHT TO A FAIR TRIAL

The situation in the field of observance of the right to a fair trial demonstrates that during 2018 no essential progress has been registered to contribute to the effective realization of this right. We have found that the process of developing a legal framework to combat phenomena such as hate crimes has stalled, that there are situations in which some mechanisms that should ensure the realization of this fundamental right are not properly enforced and are therefore recorded violations of the fundamental right in question. At the same time, the state of affairs in the field of justice remains an essential issue.

The provisions of this right are also found in Articles 20, 21, 26 of the Constitution of the Republic of Moldova. These articles regulate free access to justice, the presumption of innocence and the right to defense.

The People's Advocate recalls the recommendations of the UN committees in the context of ensuring the realization of the right to a fair trial. Among the most relevant recommendations are listed the strengthening of the capacity of the judiciary system to respond to corruption acts and to ensure effective protection of victims of corruption, their lawyers, anti-corruption activists, denouncers and witnesses²; ensuring a sufficiently long mandate to guarantee the independence and integrity of the court, ensuring de jure and de facto protection of judges from any sanctions or retaliation for unpopular judgments³; to adopt comprehensive legislation to incriminate hate criminal offences and to ensure that such legislation complies with the Convention and that racial motivation is listed as an aggravating circumstance; to strengthen the role of prosecutors in supporting victims of racial discrimination for reporting violations.⁴

The previous recommendations of the People's Advocate are largely convergent with the recommendations of international human rights bodies.

During 2018, as a result of examining applications, hearing people and information appeared in the media, several issues were identified that refer to the violation of the right to a fair trial.

The most frequently cited issue remains the **delay in examining** both civil and criminal **causes**. The petitioners most often invoke the disagreement with the length of the case examination, which sometimes reaches 24 – 36 months due to frequent delays.

Another issue that has been raised remains the delay in the enforcement of the court decisions remaining final on the payment of the maintenance allowance for minors.

The issue of the quality of legal aid guaranteed by the State is also referred to.

The People's Advocate is concerned that further appeals are being made in which

² UN Committee on Economic, Social and Cultural Rights;

³ UN Committee on Civil and Political Rights;

⁴ UN Committee on Racial Discrimination, recalling its General Recommendation Number 35 (2013) on combating racist hate speech;

state-guaranteed legal aid seekers report situations when, due to lack of defense and defense strategy, expire legal terms in which they have the opportunity to defend their rights and legal interests. The fact that detainees do not have the possibility to independently choose another defender, or to announce in close proximity to the court the absence of the defender, worsens even more the situation of these persons.

The People's Advocate considers it imperative to strengthen the mechanism for monitoring the activity of lawyers appointed to provide state-guaranteed legal assistance as well as quality control of the services rendered. In this context, it is necessary to involve the Union of Lawyers more actively in order to solve this problem.

Another issue brought to the attention of the People's Advocate by lawyers concerns their access to the Anticorruption Prosecutor's Office, the National Anti-corruption Center, the National Anticorruption Center (NAC) isolator, the penitentiaries, etc.

Lawyers complained about the fact that at the entrance to the nominated institutions lawyers are asked to hand over the mobile phone and the bag in which there are working materials. These limitations have been examined from the point of view of observing the right to a fair trial, implicitly to the right of defense.

Another problem faced by lawyers is the limitation of lawyers' immediate access to their clients and the lack of offices for lawyers' meetings with detainees.

The removal of unjustified barriers to the execution of the functions of lawyers is a prerequisite for ensuring the realization of the fundamental right to a fair trial of all parties to the process to the full exercise of their procedural rights

The People's Advocate was notified about the delay in the examination of the requests from the detainees regarding the granting of permissions for the meeting by the courts. The applications for the permission to meet are not related to the substance of the criminal case in which the detained person is investigated, for which reason their examination should not be related to the substantive examination of the criminal case. The People's Advocate called for a clear regulation of the court's examination procedure for applications from the detainees requesting the provision of short and long-term meetings as well as therapeutic, surgical, psychiatric and dental care for them.

There remains a problem – providing free linguistic assistance in the justice system.

According to the decision⁵ of the Constitutional Court victims of torture and their representatives must have access to all the criminal case materials during the criminal prosecution, unless the access in question can be restricted by the prosecutor, through a reasoned order if the following conditions are met cumulatively.

At the same time, the Constitutional Court decided that the obligation not to leave the settlement or the obligation not to leave the country, may not exceed 60 days and, as the case may be, can only be prolonged with motivation.

The People's Advocate warns that even in the reference year, the legislature did not adopt comprehensive legislation criminalizing hate crimes, in line with the provisions of the UN Convention on the Elimination of Racial Discrimination.

In the context of the above, we find that the problems related to the realization of right to a fair trial are mostly due to the non-compliance of the existing legal framework. Another issue related to this fundamental right is the adoption of a legal

⁵ Number 31 of 29.11.2018.

framework that complies with the provisions of the international treaties to which the State is a party, such as the UN Convention on the Elimination of Racial Discrimination, including the recommendations of international human rights protection mechanisms. But the most serious issue remains to be an effective, impartial, independent and inclusive justice system.

INDIVIDUAL FREEDOM AND PERSONAL SECURITY

During 2018 there were no significant developments on the respect for the individual's freedom and safety, the specific problem remains to be the excessive application of preventive arrest. However, we note some state efforts to develop and implement alternative measures for preventive detention, by using a number of modern technologies, which we consider to be a positive aspect.

The fundamental right to freedom and the security of the person is provided by Article 25 of the Constitution of the Republic of Moldova

The rules on the application of preventive arrest, the conditions of deployment and measures to prevent abuse are also contained in the Recommendation of the Committee of Ministers of the Council of Europe, Rec (2006) 13 on investigation in the state of preventive arrest. According to the said document, the preventive arrest of persons suspected of committing the criminal offense should be an exception rather than a rule. In separate cases, preventive arrest must be applied only in strictly necessary cases and as a last resort and should not be applied as a punishment measure. In order to avoid inappropriate enforcement of preventive arrest, the widest possible range of alternatives, less restrictive measures relating to the behavior of the person suspected of committing the criminal offence must be accessible.

In the Report on the observance of human rights and freedoms in the Republic of Moldova in 2017, the People's Advocate submitted to the authority's recommendations for ensuring the individual's freedom and safety. Regarding individual freedom and personal security, the Republic of Moldova received recommendations from international human rights organizations.

Moldova received recommendations from UN Committee on Civil and Political Rights and UN Committee on the Rights of Persons with Disabilities, to take measures in order to ensure the fulfillment of the liberty and security of the person.

Regretfully, the People's Advocate notes that these recommendations have not been implemented.

One of the most serious issues of the observance of individual freedom and security is the excessive application of preventive arrest. This issue has been addressed much more closely with the investigation of the Braguta case. In order to remedy the problem of excessive application of preventive arrest, the Government approved new legal provisions that would contribute to the development of alternative measures, such as electronic monitoring.

On June 26, 2018, over 100 lawyers organized a protest in front of Chisinau Court of Appeal. The protest comes as a reaction against the excessive practice of preventive arrest application by the courts.

The People's Advocate expressed his support for this lawyer's protest action and

stated that he supported the efforts to encourage courts to comply with the provisions of national law on the application of preventive measures in the form of arrest and Article 5 of the Convention for the Protection of Human Rights and Fundamental Freedoms⁶.

The European Court found problems concerning detention in arrest against the national law; arbitrary detention in the Clinical Hospital of Psychiatry; the lack of a legally predictable ground for arrest for maintaining an erotic video chat; unlawful detention and the granting of inadequate compensation for unlawful detention; insufficient motivation for arrest; failure to grant access to materials submitted by the prosecutor to justify the arrest; excessive review term of the request to revoke the arrest; the lack of an effective remedy for violation of Article 5.

In the context of the above, we find that the observance of the individual's freedom and safety of the person is conditioned by the development of alternative measures of preventive arrest, but also by the way in which the national courts understand the importance of applying alternative measures to the detriment of the application of preventive detention, which must remain, as all human rights standards provide, an exceptional measure.

LEGAL STATUS OF FOREIGN CITIZENS AND OF STATELESS PERSONS

Article 19 of the Constitution of the Republic of Moldova stipulates that foreign citizens and stateless persons have the same rights and duties as the citizens of the Republic of Moldova, with the exceptions established by the law.

At the same time, under Article 18 of the Law on the People's Advocate (Ombudsman), his attributions extend to „individuals, irrespective of their nationality, age, gender, political affiliation or religious convictions, who live permanently, are or have temporarily been in the territory of the country whose rights and freedoms are presumed to have been violated by the Republic of Moldova”.

As a result, the People's Advocate intervened in the case of the group of people of Turkish origin from the administration of the Moldovan-Turkish Theoretical Lyceum „Orizont” expelled by the Moldovan authorities under the pretext of threats to national security.

The People's Advocate, Mihail, condemned the decision in question because, in his opinion, this action was flagrantly debunked by the international commitments on respect for human rights assumed by the Republic of Moldova, mainly by acceding to the Convention for the Protection of Human Rights and Fundamental Freedoms; the UN Convention against Torture and Other Treatments; the Convention relating to the Status of Refugees, signed at Geneva on July 28, 1951.

The information appeared in the public space gave grounds to assume that the legal provisions stipulated in the Constitution of the Republic of Moldova (Article 19), Law number 270 of 18.12.2008 on asylum in the Republic of Moldova; Law number 200 of 16.07.2010 on the regime of foreigners in the Republic of Moldova have not been observed.

⁶ <http://old.ombudsman.md/ro/content/avocatul-poporului-sustine-pozitia-avocacilor-referitor-la-aplicarea-excesiva-arestului> ;

In the opinion made public by the People's Advocate on the subject concerned, but also in the note subsequently sent to the President of Parliament, reference is made to Article 1 of the European Convention on Human Rights, which obliges states to guarantee the rights provided for by it to „any person under their jurisdiction”. These people also include foreigners.

The People's Advocate argued his position by referring to the ECtHR case-law. Thus, in the case of *Soering v. The United Kingdom*, (July 7, 1989).

The Convention for the Protection of Human Rights and Fundamental Freedoms absolutely prohibits any form of return of a person who might be exposed to a real risk of treatment contrary to Article 2 and 3 of the ECHR, was mentioned in the opinion of the People's Advocate.

Also, according to the Law on Aliens' Regime in the Republic of Moldova number 200 of 16.07.2010, the decision on the declaration of the alien's undesirable person shall be brought to the knowledge of the competent authority for foreigners so that it can appeal to the court „within 5 working days from the date of its communication”.

The People's Advocate did not contest the fact that the State, on the basis of a well-established public international law principle and without prejudice to the commitments assumed under the international treaties, has the right to control the entry, stay and removal of foreigners from their territories. However, this does not mean that aliens who are legally or even illegally in the territory of a state cannot rely at least on some of the rights and freedoms guaranteed by the Convention and / or its additional protocols.

In this context, the State authorities are obliged, before taking an expulsion decision, to thoroughly analyze the risks to which the person may be subjected and the consequences of his expulsion.

In Turkey, however, the risk for people expelled to be subjected to torture, inhuman and degrading treatment is imminent, according to multiple international reports⁷, mentioned the People's Advocate.

The People's Advocate submitted to Parliament his conclusions on international norms and standards that are applied in similar situations.

THE RIGHT TO VOTE AND THE RIGHT TO BE ELECTED

Achieving the right to vote and the right to be elected was marked by the improvement of the legal framework for some vulnerable groups. At the same time, the development partners and the international and regional human rights protection bodies, besides the appreciation of the positive evolution of the legal framework, have also criticized the invalidation of the local elections in Chisinau municipality, but also the modification of the electoral system.

The right to vote and the right to be elected is guaranteed by the Constitution of the Republic of Moldova by the provisions of Article 38.

In 2016, the UN Special Rapporteur on the Rights of Persons with Disabilities visited the Republic of Moldova. In his findings, the Special Rapporteur notes that

⁷ https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CAT%2f-C%2fTUR%2fCO%2f4&Lang=ru, <https://www.coe.int/en/web/cpt/turkey>

under Article 29 of the Convention, persons with disabilities have the right to participate in political and public life, and governments are obliged to ensure the accessibility of all voting procedures, facilities and material.

During the 2014 parliamentary elections in the Republic of Moldova, the Central Electoral Commission piloted a series of measures to make voting procedures accessible to people with disabilities, for example by installing ramps at polling stations, availability of ballot papers in Braille language, as well as engaging people with disabilities as members of election observation teams. Support was also provided to make local general elections accessible to people with disabilities, such as the installation of private voting booths.

The Special Rapporteur has welcomed these initiatives and encouraged the Government to implement measures to make polling stations and voting procedures accessible to all types of elections as these measures are a prerequisite for people with disabilities to exercise their right to vote.

However, the Special Rapporteur noted that further efforts are needed to ensure that people with intellectual and psychosocial disabilities have the right to choose and be elected as part of their wider efforts to recognize the legal capacity of people with disabilities.

In this context, the People's Advocate reminds of the decision of the Constitutional Court of the Republic of Moldova to declare the unconstitutionality of Article 13 paragraph (1) letter (b) of the Electoral Code restricting the right to vote for persons declared to be incapacitated.

Changes introduced into electoral law have prompted the parliamentary elections of February 24, 2019 to take place under conditions other than previous elections.

Despite national achievements in harmonizing the legal framework, development partners and regional human rights mechanisms voiced their concerns about ensuring the right to vote and the right to be elected.

Thus, the Parliamentary Assembly of the Council of Europe (PACE) expressed its deep concern about the degradation of basic democratic standards in the Republic of Moldova, namely the rule of law, democracy, the independence of the judiciary system and the freedom of the press, as well as the harassment of the opposition.⁸

PACE invited the Government of Chisinau to respect the vote expressed by the citizens of Chisinau in the municipal elections, as respected by the national and local authorities and the international observers, as it reflects the will of the voters.

PACE also called for electoral law to be adjusted and aligned with the main proposals and recommendations of the OSCE / ODIHR and Venice Commission on electoral reform, warning that „there is a risk that in the current electoral system, elections will not be recognized by international organizations”.

Meanwhile, the members of the Parliamentary Assembly of the Council of Europe have asked the Government of Chisinau to create conditions for the citizens of the Republic of Moldova living abroad to express their right to vote in future parliamentary elections.

The problem of deficiencies in the right to vote by citizens of the Republic of

⁸ Written statement, number 664, document 14648. of October 11, 2018; <https://cotidianul.md/2018/10/12/pace-expresses-concern-over-degradation-of-democratic-values-in-moldova-says-parliamentary-elections-might-not-be-recognized/>

Moldova abroad was approached by the People's Advocate after the presidential election in 2016. The People's Advocate stated that the authorities failed to fulfill the positive obligations for ensuring the effective exercise by the Moldovans of the diaspora of the right to vote and recommended to the authorities to provide effective mechanisms for the plenary exercise of this right⁹.

The People's Advocate has submitted to the Constitutional Court the Notification on the constitutionality control of the provisions which forbids the citizens of the Republic of Moldova to vote in the polling sections (stations) abroad with identity cards, temporary identity cards (as citizens vote at home) or with ballot papers or expired passports.

By the decision of January 14, 2019, the Constitutional Court declared the notification inadmissible.¹⁰

The People's Advocate appreciates the efforts to harmonize the legal framework to ensure the participation of all members of the society in the decision-making process in line with international standards, and in particular the provisions of the UN Convention on the Rights of Persons with Disabilities.

However, the People's Advocate considers that the authorities should draw the necessary attention and make every effort to meet the recommendations of development partners and international and regional human rights protection mechanisms.

FREEDOM OF EXPRESSION

Freedom of expression includes freedom of opinion and the freedom to receive or communicate information or ideas without the interference of public authorities and without taking into account the borders. Individuals have the right to say their point of view, even if their opinions are offensive or shocking for others – provided they do not incite violence or hate. Freedom of expression, supported by a diversity of independent media, allows citizens to make informed choices and ensure that power representatives take into account their major interests.

On the basis of his own observations, the synthesis of views expressed by national and international experts, European and international dignitaries, the People's Advocate found that in 2018 the state of affairs regarding respect for the right to free expression has not improved.

The year 2018 was marked by hate speech in the public space, by attacks on mass-media and lack of adequate responses from relevant institutions, restrictions imposed on journalists for access to events and some information of public interest. There have been more cases of manipulation¹¹ of the information and the distribution of counterfeits. The editorial independence of the mass media continued to be affected by the pressure exerted by mass media owners, political or commercial interests.

⁹ http://ombudsman.md/wp-content/uploads/2018/10/raport-ombudsman_2016.pdf;

¹⁰ Constitutional Court Decision number 5 of January 14, 2019; <http://www.constcourt.md/ccdocview.php?l=ro&tip=decizii&docid=587>;

¹¹ A Monitoring Report of the Independent Journalism Center conducted between October and December 2018 found that all 12 monitored mass media institutions admitted at least one manipulation technique and the majority showed their predilection for a political party: <http://www.media-azi.md/ro/stiri/raport-cji-mai-multe-institu%C8%9Bii-media-autohtone-transmit-%C8%99tiri-politizate-cu-etichet%C4%83ri-%C8%99i>

The Moldovan mass media sector continued to face the same challenges as in previous years: a partially outdated legal framework; the monopolization of media institutions by some political groups; attacks and intimidation against journalists; unfair competition on the advertising market; the limited independence of the broadcasting regulatory authority.

The state of affairs on access to information has also not improved. Individuals, journalists or civil society representatives continue to encounter the same difficulties in obtaining information of public interest, such as the difficult procedure for obtaining information; non-compliance by public servants with the legal terms for offering it; partial disclosure of the requested information or failure to submit it; application of the law on petitions in cases of request for information; the refusal to disclose information on the grounds of the protection of personal data or because it would present a state secret.

People's Advocate's opinions coincide with those of the mass media community¹², of European officials¹³ and international¹⁴.

On the other hand, the results of the sociological study „Perceptions on the observance of human rights in the Republic of Moldova, carried out in the autumn of 2018 at the order of the Office of the People's Advocate, attest to the maintenance of the state of affairs in 2016 when a similar poll was conducted. Like then, 62.8% of respondents consider that the journalist's right to free expression is not respected. In 2018 fewer respondents than in 2016 believed that the right to free public expression is respected (41.7% in 2016 and 38.4% in 2018). At the same time, respondents' perception of the right to receive information from public authorities improved in 2018: 44.2% in 2018 compared to 2016 (29.3%).

Compared to 2017, the country has lowered its position in the 2018 press freedom list, produced annually by the „Reporters Without Borders”. Republic of Moldova ranks 81 among 180 countries.

FREEDOM OF ASSEMBLY

During the year 2018 there have been several large-scale demonstrations. The People's Advocate has always made public appeals to urge participants in these

¹² In the Resolution of the Mass Media Forum of the Republic of Moldova, edition 2018, it is noted „the degradation of mass media freedoms in the year 2018; the worsening of the journalists' activity conditions, manifested by the decrease of the transparency degree of the public institutions and the limitation of the access to certain categories of public interest information; intensifying cases of intimidation and harassment of journalists in connection with their professional activity, as well as the lack of an adequate response to these cases from the part of public institutions”: <http://api.md/news/view/en-resolution-of-the-2018-media-forum-of-the-republic-of-moldova-1910>

¹³ In the EU Parliament's resolution on the implementation of the EU-Moldova Action Plan of November 2018, the European deputies voiced their concern about the attested regression on the mass media and advertising market, the weakening of independent media bodies. The EU has repeatedly expressed its concern about the deterioration of democratic standards by increasing the number of human rights violations specifically targeting independent judges, journalists and political opponents. https://ru.scribd.com/document/393190046/Rezolutia-PE-la-adresa-Moldovei#fullscreen&from_embed

¹⁴ In his Statement on the Visit to the Republic of Moldova in June 2018, the UN Rapporteur on the Status of Human Rights Defenders expresses his concern about the regress in the mass media freedom and independence.

meetings to exercise freedom of peaceful assembly. As a result of monitoring these actions, the People's Advocate did not identify violations of the freedom of assembly.

The Constitution of the Republic of Moldova enshrines this right in Article 40, which states that „meetings, demonstrations, manifestations, processions or any other assembly are free and may be organized and conducted only peacefully and without the use of any kind of weapon”.

During the year 2018, several large-scale meetings took place, and the People's Advocate interfered with a public appeal to the organizers of the demonstrations, but also to the authorities.

In his appeals, the Ombudsman noted that the peaceful expression of the point of view on subjects, events with social impact during demonstrations, is the proof of the maturity of a democratic society. The civilized dialogue, with the exclusion of violence, is a defining condition for the free assembly, an important premise for ensuring free exchange of ideas, opinions and a guarantee of respect for democratic principles and the rule of law.¹⁵

At the same time, the People's Advocate urged all participants in the protest actions to maintain peacefulness without allowing their passage into violent actions that would jeopardize public order, body integrity and people's lives, as well as the integrity of property.

Whenever mass demonstrations were announced, crisis cells were organized within the Office of the People's Advocate to monitor the conduct of the assemblies, and in the event of violent degeneration of peaceful actions, to intervene, according to the People's Advocate mandate, established by the Law on the People's Advocate (Ombudsman), number 52, of 03.04.2014.

In this context, the Ombudsman is keen to express his appreciation for the openness of the institutions responsible for ensuring public order, to ensure respect for human rights in the context of the demonstrations that took place during 2018.

RIGHT TO HEALTH PROTECTION

In spite of changes in the health system, the implementation of various reforms aimed at improving this area, health care beneficiaries continued to invoke human rights violations in health care, notably as regards: failure to comply with the condition of obtaining informed patient consent; non-observance of professional ethics by doctors; lack of correct information; faulty doctor-patient communication; lack of discretion while providing medical assistance (confidentiality); limited access to specialized treatment; poor quality of medical services; limited access to cost-effective treatments; lack of legal framework for malpractice and so on.

The Constitution of the Republic of Moldova stipulates in Article 36 paragraph (1) that *the right to health protection is guaranteed*.

Recommendations referring to the realization of the right to health were submitted to the Republic of Moldova as a state-party to several international treaties on human rights. Thus, on this chapter, we find recommendations from the

¹⁵ <http://old.ombudsman.md/ro/content/avocatul-poporului-mihail-cotorobai-indeamna-autoritatile-statului-precum-si-0>

Committee on Economic, Social and Cultural Rights¹⁶, Committee on Human Rights¹⁷, Committee on the Rights of Persons with Disabilities¹⁸, Council for Human Rights¹⁹, Council for Human Rights²⁰.

By ratification of the Convention on Human Rights and Biomedicine²¹, the Republic of Moldova committed to „take appropriate measures to ensure fair access to good quality health services”.

Equally important is the obligation of the state to ensure the right to the highest standard of health, which refers to the fact that all health services must be: *available, affordable, acceptable and qualitative*.

The year 2017 marked the health care system through a series of reforms designed to implement changes in this sector, to provide high-quality primary care, to improve health management and healthcare funding.

Throughout 2018, health care issues continued to be invoked in applications filed with the Office of the People’s Advocate and at Citizens’ Audiences.

Most of these requests related to the problems of not receiving medical assistance on time; infringement of the patient’s right to information; the insufficiency of the competent medical staff or the acute lack thereof in rural areas; reduced access to emergency medical services (with the occurrence of cases of deaths); failure to provide adequate / personalized treatment for the patient diagnosed with rare disease; Respect for patient time; Damage to the honor and professional dignity of medical workers; deficiencies in the provision of medical services provided by the Single Program of Compulsory Health Insurance.

During the year 2018, the Ombudsman was also informed by doctors who requested data confidentiality. They mentioned that remuneration, working conditions, obsolete devices, migration of specialized labor force, financial crisis, inequities towards patients and the provision of doctors for medical errors are the most common reasons why doctors leave the public health system.

As a result, shortage of medical workers often creates problems and doctors fail to provide quality medical services.

There is a need to develop medical malpractice insurance for medical workers, which is an indispensable component of the health field. Our country could take over from the experience of other states the principles and methods of applying mandatory medical malpractice insurance, adapting them to our conditions.

Also, it is necessary the stringent creation of a structure that protects the rights and dignity of physicians from all attacks from outside.

The People’s Advocate considers that the Republic of Moldova needs a law on medical negligence, in the context of numerous scandals in the health care system.

¹⁶ Final Observations on the III-rd Periodic Report of the Republic of Moldova on the Implementation of the International Covenant on Economic, Social and Cultural Rights, October 6, 2017.

¹⁷ Final Observations on the Third Periodic Report of the Republic of Moldova on the Implementation of the International Covenant on Civil and Political Rights, November 18, 2016.

¹⁸ Final Observations on the Initial Report of the Republic of Moldova on the Implementation of the Convention on the Rights of Persons with Disabilities, April 12, 2017.

¹⁹ The Report of the Special Rapporteur on Rights of Persons with Disabilities on his mission in the Republic of Moldova, February 2, 2016.

²⁰ Recommendations for the Republic of Moldova issued during the II-nd cycle of the Universal Periodic Assessment, November 8, 2016.

²¹ Law on the Ratification of the Additional Protocol to the Convention on Human Rights and Biomedicine which targets biomedical research number 271 of 30.11.2012.

Roma people sometimes face a discriminatory attitude when requesting medical assistance. The study showed that this category of socially vulnerable people often does not benefit from proper health care.

Respondents also mentioned that the right to quality medical services is violated in penitentiary institutions.

And last but not least, we find that human rights are not sufficiently integrated into the public policies of the state in the part of the health system, which requires the review of state policies through a human rights based approach so that the health system to be adapted to people's needs, and not vice versa.

RIGHT TO ASSISTANCE AND SOCIAL PROTECTION

The right to assistance and social protection is not the area where there is significant human rights progress. The causes that affect the proper realization of this right lie in the need to improve the legal framework, to provide the social protection system with adequate financial resources and properly qualified human resources.

The Constitution of the Republic of Moldova enshrines this right in the provisions of Article 47.

The Republic of Moldova received recommendations from different human rights bodies regarding the right to social protection, such as recommendations from the UN Committee on Economic, Social and Cultural Rights, The Committee for the Protection of Persons with Disabilities, the European Committee for Social Rights in its conclusions on monitoring the implementation of the European Social Charter (revised) by the Republic of Moldova²².

In the process of examining applications, the People's Advocate found some cases of violation of the right to social assistance and protection.

Thus, the contracted soldiers could not benefit from paternal leave. As a result of the intervention of the People's Advocate, was completed the Law number 162/2005 on the status of the military with Article 14¹ „social leave”, which eliminated the causes and conditions that gave rise to violations of human rights and freedoms.

Another problem identified in the individual case study is that the rehabilitated victims of political repressions during the period 1917-1990 who live in the Republic of Moldova but benefit from a pension in another state cannot claim to pay the monthly state allowance established according to the legislation in force²³ for this category of people.

Further, there are insufficiencies in the realization of the right to social assistance and social protection of the elderly.

Although in recent years there has been a slight increase in the coverage of the subsistence level for pensioners (by 9.6% in the first semester of 2018 as against the first semester of 2017), the minimum age limits remain below the minimum of living for pensioners and covers only 64.5% of this or 48.4% in the case of the minimum pension of persons with severe disabilities. In comparison, the average pension size for other categories of pensioners²⁴ exceeds the subsistence level almost three times.

²² https://www.ecoi.net/en/file/local/1425569/1226_1519804343_cr-2017-mda-eng.pdf

²³ The Regulation on the way of setting and paying the monthly state allocations to certain categories of population, approved by the Government Decision of the Republic of Moldova, number 470 of 02.05.2006;

²⁴ People with public functions and / or public dignity are considered.

The Constitutional Court declared as unconstitutional the provisions of Article 36 paragraph (1) of the Law number 156 of October 14, 1998 on the public pension system²⁵, which provided for the non-granting of the pension entitlement to the insured who establishes his domicile abroad.

On 22.11.2018, the Constitutional Court found that the right to a disability pension in the event of a severe disability caused by a general disability should not be granted according to the actual contribution actually made.

People's perception of respect for the right to social assistance and protection demonstrates that the level of achievement of this fundamental right is not at an appropriate level, not only in terms of respecting human rights standards.

The rights of socially vulnerable people continue to be perceived as the least protected or not at all protected by state authorities (43.7% of respondents). And only 23.3% of respondents believe that the respective rights are protected to an appropriate level.

In the context of what has been said, it is noted that the right to social assistance and protection is not the area in which significant human rights progress. The reasons that affect the proper realization of this right lie in the need to improve the legal framework, to ensure the social protection system with adequate financial resources and properly qualified human resources.

SITUATION OF HUMAN RIGHTS DEFENDERS IN THE REPUBLIC OF MOLDOVA

Between June 25-29, 2018, United Nations Special Rapporteur on the Status of Human Rights Defenders Michel Forst paid a visit to the Republic of Moldova to assess whether the Republic of Moldova provides the basics for a safe and favorable environment for human rights defenders. To this end, the legal and institutional framework has been estimated; access to justice; protection policies and mechanisms that would pay attention to groups at risk; the conditions of activity of independent national and empowered human rights defenders, non-state actors who respect and support the work of defenders, the community of human rights defenders.

On February 28, 2019, at the 40th session of the UN Human Rights Council, the Special Rapporteur presented his conclusions on the state of affairs at this compartment in our country.

According to the Special Rapporteur's findings²⁶, the Republic of Moldova has a good set of laws that, in most aspects, create an appropriate environment for the functioning of human rights defenders. However, despite a satisfactory global regulatory framework, the situation of human rights defenders in the Republic of Moldova requires improvements.

Michel Forst mentions in the report that human rights defenders and journalists are victims of denigration campaigns, lawyers face politically motivated criminal charges or are threatened whenever they defend inconvenient voices, journalists are confronted with limitations in terms of access to information, and national institutions for the defense of human rights feel ignored in practice. The Special Rapporteur

²⁵ Decision of the Constitutional Court number 10 of 08.05.2018

²⁶ <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G19/007/23/PDF/G1900723.pdf?OpenElement>

teur refers to concrete cases and offers names of human rights defenders who have been harassed, dismissed, or unjustifiably charged for reasons such as knowingly taking an illegal or wrong decision.

The report also shows that some groups of defenders are particularly vulnerable due to the very nature of the rights they defend, their own identity or the particularities of their work. It is noted that because of the atmosphere in the country that hinders their work in the field of human rights, some human rights defenders have had to leave the country for requesting asylum abroad.

Also, in the Report it is noted that in the Transnistrian region, legislation on non-profit organizations is causing serious concerns, and human rights defenders sometimes do not feel that they operate in a safe and permissive environment.

The UN Rapporteur stresses that civil society has no practical tools to influence the decision-making process. The process of policy development and implementation is often not inclusive and transparent. The principles of participation and responsibility are not part of the interaction between authorities and human rights defenders.

The Special Rapporteur makes a number of recommendations to the authorities, including examining the possibility of drafting and adopting a special law on human rights defenders, as well as ensuring the adoption of a law on NGOs that respect international human rights standards.

Michel Forst calls on the authorities to ensure the independence, impartiality and transparency of the judiciary by protecting judges against any interference in their work and by ensuring independent, impartial and prompt investigations into any allegations of interference with the independence of the judiciary.

The Rapporteur recommends to the authorities to promote media diversity and pluralism, to ensure transparency in media ownership and to strengthen efforts to combat excessive media ownership, support independent media and ensure a favorable environment for journalists.

Michel Forst also drew attention to the importance of adopting a zero tolerance policy in cases of intimidation and stigmatization of human rights defenders, journalists and lawyers; to investigate promptly, independently, impartially and effectively any act of retaliation, intimidation or stigmatization against them.

The rapporteur also referred to the importance of guaranteeing the right to a fair trial, in particular by taking immediate and effective measures to ensure that unjustified or disproportionate criminal proceedings are not brought about by accusations made; that selective justice should not be used against political opponents, independent judges, lawyers and human rights defenders; that civil society groups, international and regional organizations and the general public have the right to monitor these processes.

The UN Rapporteur emphasized the role of the Office of the People's Advocate as a national human rights institution in providing a safe and empowered environment for human rights defenders, guiding and advising the Government on its human rights obligations, including related to the harmonization of the internal legislation with the international standards and their integration into the public policies, implicitly those of the human rights defenders. In this regard, Michel Forst has recommended also at the Equality Council that the authorities ensure adequate funding for the Office of the People's Advocate (OPA).

Some of the Special Rapporteur's recommendations concern the strengthening of the Ombudsman's role in terms of closer collaboration with human rights defenders and involvement in the protection of the risk group. This protection could be provided in a number of ways, including through formal complaints mechanisms and protection, advocacy and awareness programs, providing public support when violations are committed against defenders, and capacity building.

The People's Advocate took into account the UN Rapporteur's preliminary recommendations made shortly after the visit to the Republic of Moldova and decided to include issues related to the protection of human rights defenders among the priority areas of activity. On December 6, 2018, the Office of the People's Advocate organized a **Forum of Human Rights Defenders**, discussing the situation and the difficulties they face.

The People's Advocate also sent a written **Declaration** for the 40th session of the UN Human Rights Council, which was heard by the UN Special Rapporteur on the Status of Human Rights Defenders on the visit to the Republic of Moldova on June 25-29, 2018.

OBSERVANCE OF THE RIGHTS OF PERSONS WITH DISABILITIES

The Constitution of the Republic of Moldova guarantees the Protection of Disabled Persons through the provisions of Article 51.

In 2010, through Law Number 166 of 09.07.2010, the Republic of Moldova ratified the United Nations Convention on the Rights of Persons with Disabilities²⁷.

This implies that our country has undertaken to implement its provisions by adjusting national legislation and practices.

According to the official data of the National Bureau of Statistics, **people with disabilities represent about 5 percent of the country's population.**²⁸

The estimated number of persons with disabilities in the Republic of Moldova is 180.6 thousand people, including 11.7 thousand children aged 0-17 years.

People with disabilities represent 5.1% of the country's total population and children with disabilities make up 1.7% of the total number of children in the Republic of Moldova.

During 2018, in the Addresses to the People's Advocate, persons with disabilities from the Republic of Moldova mostly invoked the violation of the right to information, and when a person does not have access to the correct information, he is unable to claim other rights.

Even though in the previous reports the People's Advocate submitted recommendations to the authorities regarding the obligation of the state to respect the rights of persons with disabilities, gaps continue to exist in this area in terms of ensuring accessibility conditions.

Other issues raised by the people with disabilities, which remain current every year, are the accessibility to the physical and informational environment and the lack of a mechanism of sanction for non-observance of the provisions of the Law

²⁷ <http://lex.justice.md/md/335376/>

²⁸ <http://www.statistica.md/newsview.php?l=ro&idc=168&id=6191>

on Social Inclusion of Persons with Disabilities Number 60 dated 30.03.2012 by the public institutions, economic agents, construction companies, medical institutions, educational institutions, etc.

Access to public transport is also a current problem for people with disabilities, and it is not adapted for those with visual impairment, locomotor or hearing impairment.

The People's Advocate was frequently perceived by people with disabilities in the part related to the realization of the right to social assistance and protection. In the applications addressed to the Ombudsman, it has been very frequently invoked the malfunctioning of the social service „Personal assistance”.

In 2018 there took place a **reform of the process of determining the degree of disability**²⁹. This reform aimed at improving the process of determining disability and establishing inclusion measures for people with disabilities in order to provide them with the possibility of easier employment in society.

However, the People's Advocate has been repeatedly informed of the difficult procedure for determining the degree of disability. Citizens claim disagreement with the long-term review of dossiers submitted to establish or reconfirm the degree of disability. The competent authorities state that these situations occur due to the lack or insufficiency of employees.

It is worrying that citizens cannot benefit from the medical care covered by the compulsory health insurance policy during the examination of the disability status dossier by the National Council for Dissolution Determination, and for a person with disabilities these services are often vital and may be needed at any time.

The People's Advocate appreciates the harmonization of the provisions of Article 51 of the Constitution of the Republic of Moldova with the standards of the UN Convention on the Rights of Persons with Disabilities by changing the notion of „handicapped persons” to „persons with disabilities”, as repeatedly recommended in previous reports.

In the reference year was approved the National Program of deinstitutionalization of persons with intellectual and psychosocial disabilities from the residential institutions. This Program aims at reforming the residential care system for persons with intellectual and psychosocial disabilities by developing and delivering community social services in order to ensure their right to independent living and community living.

Also, the People's Advocate welcomes the achievements of the State in the context of the approval of the minimum package of social services that is financed within the limits of the funds of the Population Support Fund³⁰.

In the perception of the population is violated, in particular, the right to education of persons with disabilities. The right to work of persons with psychosocial disabilities is the most offended (30.7%) compared to persons with physical disabilities (29.1%). These people are hardly accepted to work.

²⁹ <http://lex.justice.md/md/375089/>

³⁰ Government Decision of the Republic of Moldova number 800 of 01.08.2018 on the approval of the minimum package of social services and the amendment of the Regulation on how to set and pay the material aid.

OBSERVANCE OF HUMAN RIGHTS AND FREEDOMS IN THE ADMINISTRATIVE-TERRITORIAL LOCALITIES OF THE LEFT BANK OF THE DNIESTER RIVER AND BENDER MUNICIPALITY (TRANSNISTRIA)

The rights of persons living in the administrative-territorial settlements on the left bank of the Dniester River and Bender municipality (Transnistria) are particularly at risk of human rights violations, given the presence of political and other tensions, as well as the long-standing nature of the conflict.

Even if the state does not have effective control over these localities, the state does not cease to have jurisdiction, and therefore it still has obligations under international law with reference to the persons within that territory.³¹

In most cases, the institution perceives the essence of the systemic problems existing on the left bank of the Dniester River, as a result of the examination of the oral and written applications received from persons living on both banks of the Dniester River, through the regional Office of The Peoples Advocate Office from Varnita.

The study and analysis of the situation from the open sources and the information appeared in the press, from the reports of civil society organizations and the views of activists in the region.

At the same time, the People's Advocate also reacts in cases where the national authorities admit human rights violations through their actions or inactions.

On October 17, 2012 our institution to open a representative office in the Varnita village – a settlement in the area with enhanced Security regime, under the jurisdiction of the constitutional authorities, considered by Tiraspol as part of the self-proclaimed Transnistrian republic.

Thus, it has increased the accessibility of the People's Advocate for the inhabitants of the administrative-territorial settlements on the left bank of the Dniester River and Bender municipality (Transnistria), and the representation from Varnita has become a platform of discussion for the representatives of the civil society in the region.

Most often, the persons ask for advice / assistance on issues related to: maladministration with national and civil status documents, especially minors; interference with free movement and non-respect of the right to private property; forced enrollment of young people in so-called „armed forces of the Transnistrian Moldovan Republic” or the pursuit of young people who „avoided” their service in the „Armed Forces of the Transnistrian Moldovan Republic”; the serious situation of the people placed in the Psycho-neurological hospital.

At the regional office from Varnita, four requests were received from relatives or directly from detainees from penitentiary institutions subordinated to the secessionist authorities on the left bank of the Dniester River, who invoked illegal detention, torture and inhuman or degrading treatment in places of detention. At the same time, over the years, the People's Advocate has made several demarches to the „human rights officer” in the Transnistrian region asking for joint visits to the places of detention. Unfortunately, this initiative was not followed.

In the opinion of the People's Advocate, the right to free movement in the Trans-

³¹ *Ilascu and Others v. Moldova and Russia*, 48787/99, European Court of Human Rights, July 8, 2004, § 333.

nistrarian region is affected by the presence of the police, customs and border posts installed unilaterally by the Tiraspol authorities³².

Up to now, the traffic between the two banks of the Dniester River is difficult, because the Transnistrian authorities allow the passage of persons on the controlled territory in a discretionary manner. Official delegations wishing to move to the districts on the left bank of the Dniester River are obliged to notify the Transnistrian authorities in advance for obtaining the authorization, even if such authorization can be revoked at any time.

Access of farmers to their agricultural land located along the Ribnita-Tiraspol permanent route.

The citizens of the Republic of Moldova benefiting from pensions established by the National Pay Office of Social Insurance of the Republic of Moldova, residents of the localities under the control of Tiraspol, do not have full and equal access to social assistance, social assistance benefits and services.

In the year 2018, 190 addresses (12 written) were registered at the Varnita representation, out of which 163 (86%) from citizens residing in the localities under the control of the secessionist authorities in Tiraspol.

RESETTING THE WORK OF THE HUMAN RIGHTS SUBGROUP

In 2018, the work of the human rights subgroup for protection human rights in the Transnistrian region was resumed.

This subgroup was established under the auspices of the Ministry of Justice of the Republic of Moldova, where the Office of the People's Advocate where it is represented by the People's Advocate.

During the year 2018 there were 4 meetings of the subgroup, during which various issues related to the observance of human rights from the perspective of good practices and international standards in the field of human rights were discussed. Thus, issues related to the respect of children's rights, the protection of the rights of HIV + people and people with tuberculosis, the rights of persons with physical disabilities, and the prevention and combating of domestic violence.

EVALUATION VISIT OF THE HUMAN RIGHTS EXPERT THOMAS HAMMARBERG

Between May 28 and June 1, 2018, the Human Rights Expert Thomas Hammarberg made a visit to assess the implementation process of the Human Rights Report in the Transnistrian region of the Republic of Moldova, drawn up by the expert as a result of the study visit in May, September and November 2012.

The UN Human Rights Expert's follow-up report found³³ an increase in the level of human rights awareness in the Transnistrian region.

According to the expert in several key areas such as the rights of people with disabilities, the prevention and treatment of HIV / AIDS, tuberculosis, the situation

³² despite the article 5 of the Agreement on the Principles of peaceful settlement of the conflict in the Transnistrian region of the Republic of Moldova of July 21, 1992.

³³ <http://md.one.un.org/content/unct/moldova/ro/home/presscenter/press-releases/statement-by-senior-un-human-rights-expert-thomas-hammarberg-on.html>

has generally improved. Changes in perception regarding disability and recognition of the rights of persons with disabilities are obvious. The emergence of a dynamic platform for the people with disabilities in civil society, as well as of successful initiatives focusing on increasing the accessibility of public buildings and spaces, are among the positive developments that deserve to be mentioned.

The phenomenon of domestic violence is widely treated as a violation of human rights. The opening of a crisis and temporary shelter for victims of domestic violence as well as the construction of a permanent shelter for such persons offers the hope that further progress will be made in the field of preventing and combating the phenomenon of domestic violence.

In his report, Thomas Hammarberg also mentioned that civil society representatives in the region are worried about the consequences and interpretation of „Transnistrian law on the activity of non-commercial organizations”³⁴ recently approved on NGOs.

The expert found a serious and very worrying situation for Roma people. Many of the Roma people in the Transnistrian region are illiterate, undocumented and vulnerable. Roma children are marginalized in kindergartens and the absenteeism rate is very high. Most Roma in the region are not employed and those who are employed are discriminated against at work. Most Roma people do not have access to quality and accessible health services, and older Roma, Roma with disabilities and Roma women are among the most affected.

In the end of his follow-up report, the Human Rights Expert Thomas Hammarberg noted that bilateral political negotiations, as well as the „5 + 2” format have advanced and led to solving problems arising from the recommendations of the 2013 report³⁵, such as recognition of diplomas³⁶ and the functioning of schools with teaching in Romanian.

However, in the opinion of the People’s Advocate, the situation regarding the observance of human rights and freedoms in the administrative-territorial settlements on the left bank of Dniester river is worrying.

³⁴ <http://president.gospmr.org/pravovye-akty/zakoni/zakon-pridnestrovskoy-moldavskoy-respubliki-o-nekommercheskih-organizatsiyah.html>

³⁵ http://www2.un.md/key_doc_pub/Expert_Superior_Hammarberg_Raport_TN_DrepturileOmului.pdf

³⁶ <http://gov.md/ro/content/procesul-de-apostilare-actelor-de-studii-din-regiunea-transnistreana-demarat>

II. OBSERVANCE OF CHILD RIGHTS IN THE REPUBLIC OF MOLDOVA IN 2018

The People's Advocate for the Children's rights, appreciates the state's effort to ensure respect for the rights of the child. The national child protection system is viable and meets the rigors of international standards in the field, including the policies and legislation adopted.

Throughout 2018, there took place important interventions in the field of education through the re-evaluation of the National Curriculum and the elaboration of the National Curriculum Reference Framework in the health and social protection system by developing social and health services, increasing the amount of allowances and other social benefits for children and families with children, as well as in the child protection and security system.

Taking into account the findings of monitoring the child's rights, the Children's Ombudsman notes that the main failure of state policies lies with their faulty implementation. If, in the normative plan, the established mechanisms are good enough, in practice, there are a number of problems and impediments generated in the most cases by the lack of attitude and professionalism of the employees.

At the same time, it points out that not in all actions of the public authorities and persons of public dignity, state officials (judges, prosecutors, lawyers, social workers, etc.) give priority to the best interests of the child.

Regarding the respect of the **child's right to name and citizenship**, the People's Advocate for the Rights of the Child states that the problems regarding the documentation of the children, especially of the children from the left bank of the Dniester River, have not been solved, a major impediment being the human factor which delays the documentation procedure and / or the knowledge of both the regulatory framework and the failure to comply with internal working procedures.

Respecting children's rights of the regions from the left bank of Dniester River has been and remains one of the priorities of the People's Advocate for Children's Rights mandate, as there have been no positive changes in this segment.

De jure, the situation of children from the left bank of Dniester River is unknown to the constitutional authorities of the Republic of Moldova. No statistics on the actual number of children in the region, including children at risk are available. There is a lack of information on the number of children in conflict with the law and the conditions of their detention, the ways of resocialization of children who were in conflict with the law, etc.

It is worth mentioning the lack of access to the Children's Ombudsman on the left bank of the Dniester River, the People's Advocate for Children's Rights recalls and regards this as a serious obstacle in monitoring the observance of children's rights in this region.

The People's Advocate for Children's Rights reiterates the urgent need to identify an effective solution to assess the situation of children on the left bank of the Dniester River and to intervene when necessary.

A particular concern is the situation of children left without parental care and other children in risk situation who are in the custody of the state. During the year

2018 the Children's Ombudsman initiated cooperation with some non-governmental organizations on the left bank of the Dniester River, registered under the national legal procedure, to identify the possibilities of intervening in the interests of children in solving the problems and ensuring respect for the rights.

At the compartment **children's rights to family**, the People's Advocate for the Children's Rights notes the perpetual issue for the Republic of Moldova, namely the establishment of the meetings schedule in the case of the parents' divorce and establishing the child's domicile with one of the parents.

The Children's Ombudsman reminds to the public authorities and parents that any child is not the property of the parents and the principle of the best interests of the child.

Another problem in this compartment is the illegal exit of the child from the country without the consent of the other parent, that is violation of the right of child to communicate with the second parent. The authorities did not find an efficient solution for this problem.

RIGHT TO LIFE, SURVIVAL AND DEVELOPMENT

At national level, the right to life and development of the child is guaranteed by the Constitution of the Republic of Moldova, Article 24³⁷ and the Law on the Child Rights number 338 of December 15, 1994³⁸.

The People's Advocate for Children's Rights notes with concern that the recommendations on the right to life of the child stipulated in the Report on the observance of child rights in the Republic of Moldova in 2017³⁹, have not been taken into account by central and local public authorities. The Child Ombudsman also notes that the State has not taken any action on the implementation of the UN Committee on the Rights of the Child's Recommendations on the Fourth and Fifth Periodic Combined Report of the Republic of Moldova⁴⁰. As a consequence of those related, the situation regarding respect for the child's right to life, survival and development did not change and the situation at national level remained constant.

In the year 2018, the People's Advocate for the Children's Rights analyzed the situation regarding respect for the child's right to life through the **prism of birth and demography in the Republic of Moldova**. Following the subject's monitoring, the following problematic issues were identified: Insufficient policies in the field of family planning; Economic decline and emigration of the population aged between 16 and 35; The amount of the unique childbirth allowance (MDL 5645⁴¹), is too small and does not cover the minimum consumption basket; The amount of the monthly childcare allowance, of uninsured persons, (MDL 540⁴²), the net below the daily needs for childcare and care.

³⁷ http://lex.justice.md/document_rom.php?id=44B9F30E:7AC17731

³⁸ <http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=311654>

³⁹ http://ombudsman.md/wp-content/uploads/2018/10/raport_copil_2017def.pdf

⁴⁰ https://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/Countries.aspx?CountryCode=MDA&Lang=EN

⁴¹ <http://www.cnas.md/slidepageview.php?l=ro&idc=560&t=/Alte-prestatii-sociale/Indemnizatii/Indemnizatii-adresate-familiiilor-cu-copii/Indemnizatie-unica-la-nasterea-copilului/>

⁴² <http://www.cnas.md/slidepageview.php?l=ro&idc=560&t=/Alte-prestatii-sociale/Indemnizatii/Indemnizatii-adresate-familiiilor-cu-copii/Indemnizatie-unica-la-nasterea-copilului/>

We appreciate the state's effort to increase the amount of social benefits for children and families with children in 2019.

Also, according to the latest statistical data, the birth rate in the Republic of Moldova is in a continuous decrease⁴³.

Another issue addressed by the People's Advocate for the Children's Rights in the field of the right to life in 2018 is **the deaths of young children due to the negligence of their parents / legal representatives or other persons in whose care they are**. The year 2018 has been marked by many cases of child death due to the negligence of parents or caregivers (frozen children in the streets, children fired in homes, newborn babies thrown at the tombstone, children who have fallen from a height, etc.)⁴⁴.

In the context presented, the Children's Ombudsman emphasizes the set of identified issues: Insufficient intervention by public authorities to prevent and mitigate major risk factors, including alcohol / drug abuse, domestic violence, child abuse, neglect of parental responsibilities; Insufficiency of specialized community services; Insufficiency of pre-school institutions in some localities, including lack of nursery groups; Lack of safe sources of income, as well as inability of families setting the priorities for addressing the identified issues; The irresponsibility of some families / parents towards the lives of their own children; Insufficient parenting skills in raising and educating children, managing family budgets of state financial support; Lack of control on the part of the authorities to spend the allocated money.

Another aspect addressed in this compartment is **respect for the right to life, the prematurely born child**. According to statistical data, premature births are in the average around 2000 yearly, representing 7% of the total births⁴⁵.

The problematic issues identified are as follows: Insufficiency of professionals specializing in the provision of qualified medical assistance to children born prematurely; The unequal distribution of family doctors and pediatricians throughout the Republic of Moldova; Under-assessment of child's condition and late hospitalization; Poorly developed early prevention system; Lack of cooperation between the early intervention service with the social protection specialists in the territory.

RIGHT TO HEALTH

At national level, the right to health of the child is guaranteed by a multitude of legislative acts starting with the Constitution of the Republic of Moldova (Article 36)⁴⁶, Law number 338 of December 15, 1994 on the rights of the child (Article 4)⁴⁷, Law number 411-XIII of March 28, 1995 of health care etc.

The national health care standards are largely in line with national standards in the field. At the same time, he denotes that central and local public authorities did not take into account the recommendations stipulated in the Report on the obser-

⁴³ <http://statbank.statistica.md/pxweb/pxweb/ro/20%20Populatia%20si%20procesele%20demografice/20%20Populatia%20si%20procesele%20demograficePOP030/POP030100.px/table/tableViewLayout1/?rxid=2345d98a-890b-4459-bb1f-9b565f99b3b9>

⁴⁴ <http://www.jurnaltv.md/news/70d2635f78e659a5/neglijenta-parintilor-costa-vieti.html>

⁴⁵ <http://ombudsman.md/news/fiecare-copil-are-dreptul-la-cea-mai-buna-stare-de-sanatate-si-a-beneficia-de-servicii-medicale-de-inalta-calitate-tratament-si-recuperare/>

⁴⁶ http://lex.justice.md/document_rom.php?id=44B9F30E:7AC17731

⁴⁷ <http://lex.justice.md/viewdoc.php?id=311654&lang=1>

vance of child rights in the Republic of Moldova in 2017, so the situation regarding the respect of the right to health did not undergo any essential changes.

We recall that respecting the **principle of the best interests of the child** is a priority **in protecting the right to health**. Thus, the Children's Ombudsman finds an erroneous understanding of the principle given by health workers.

Following the monitoring carried out by the staff of the Office of the People's Advocate and following the consultation of the children's opinions in the national children's forums, the following shortcomings were found: Poor involvement of the child in decision-making process about treatment and/or administered preparations; Exclusive consultation of parents' opinion on treatment and/or administered procedures; Intimidation of children, especially in the situations where the health problem is related to the intimate areas of the body.

The **child vaccination** is a question of ensuring the right to health in the context of ensuring the compulsory vaccination of children was addressed by the Children's Ombudsman in the Report on the observance of the rights of the child in the Republic of Moldova in 2017⁴⁸. Issues that affect this process are: failure to inform parents about the fact that the children are to be vaccinated and the children were vaccinated without their consent; vaccination of children in areas inappropriate for the vaccination procedure, lack of control of pre-vaccinating and post vaccination child health status, etc.

The People's Advocate for Children's Rights reminds line public authorities that such deviations have a negative impact on children's health and generates parents' reluctant attitude towards vaccination.

The Constitutional Court issued a Decision by which it recognizes as constitutional the existing legal provisions, thus recognizing the obligation of vaccination.

In the year 2018, the People's Advocate for Children's Rights continued to monitor the observance of the right to health of children **suffering from rare diseases**.

In 2018 in the Republic of Moldova there were identified 1370 cases of rare diseases⁴⁹. No disaggregated data on children are available.

Following the follow-up, the Children's Ombudsman found the following shortcomings in this area: Lack of data system, including disaggregated by children; The poorly developed preventive diagnostic system; Low number of qualified staff, especially in rural areas of the country; Lack of social services disaggregated on the type of disability / affection, including for empowerment of children with rare diseases; Total or partial lack of RETT prenatal diagnostics of high-risk families;

RIGHT TO EDUCATION

Right to education at national level is regulated by the Article 35 of the Constitution of the Republic of Moldova.

The Children's Ombudsman reiterates that the issues addressed in the Report on the observance of children's rights for previous years (2016, 2017) remain current, being inadequately addressed by the relevant institutions, without identifying solutions and missing the visible results of these solutions.

⁴⁸ http://ombudsman.md/wp-content/uploads/2018/10/raport_copil_2017def.pdf

⁴⁹ <https://msmps.gov.md/>

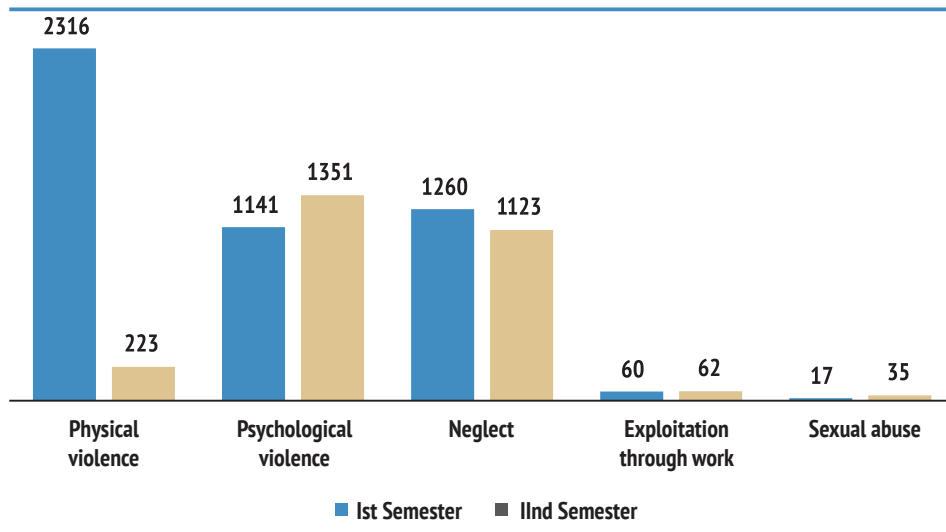
During the year 2018, the People’s Advocate for the Children’s Rights identified at level of preschool education the problem of low quality of the educational services, the lack of qualification of the teaching staff and collecting money without issuing tax vouchers.

VIOLENCE IN SCHOOLS

As in previous years, acts of violence are committed between student-student, teacher-student, student-teacher. Of the most frequently mentioned forms of violence, the violence committed by the teachers towards the students persisted.

The most important causes of violence in school include, in addition to family, socio-economic or individual factors, a number of school causes: Lack of an adequate level of awareness of the danger of violence amongst pupils, of didactic strategies and / or effective managerial decisions, misinformation about the obligations of the educational institution, teachers, auxiliary staff, pupils, parents. The procedure for registering, examining and reporting alleged cases of abuse and neglect is unknown or ignored, which places some educational institutions in a situation where they are not able to prevent and combat the manifestations of violence caused by certain extracurricular factors.

According to the data submitted by the MECC, 4794 cases were identified in total in the report for the first semester of the 2017-2018 (September-December 2017). During January – May 2018, employees of the education system reported 4802 cases of child violence that occurred in the family, school, or other places and services in the community.



The People’s Advocate for the Children’s Rights considers that generally the normative framework in the field of child protection against abuse and violence is good but reticence is found in its implementation, including the prevention actions and rehabilitation services.

Another factor that prevents the eradication of the phenomenon of violence in

schools is **the lack of the psychologist in the institutions** and / or the superficial involvement of the psychologist in the institutions where it exists.

The People's Advocate for the Children's Rights has also found in this section the indifference of the managers of the educational institutions towards the cases of violence and abuse in the institutions that they lead. Most situations remain unresolved, more serious, are considered natural.

ACCESS TO EDUCATION FOR CHILDREN WITH SPECIAL NEEDS

Another weakness in the realization of the right to education was the access of children from auxiliary schools to compulsory state guaranteed education, a positive obligation assumed by the Republic of Moldova with the ratification of the UN Convention on the Rights of the Child, „to ensure primary education and free for all.”

The problem of admission of students from auxiliary schools in the 9th grade was approached by the People's Advocate for Children's Rights several times during meetings and working sessions with officials and dignitaries in the field, including the Minister of Education, Culture and Research, Monica Babuc.

As a result of the actions taken by the People's Advocate for the Protection of the Children's Rights on June 27, 2018, the Minister of Education, Culture and Research issued the Order number 993, which allowed the graduates of the auxiliary schools, the 2018 promotion, to choose to continue their studies at the parents' request, both in secondary vocational technical education establishments and in the ninth class of auxiliary schools.

Also, Braille alphabet textbooks are not widely available to school children with visual impairments, learning from textbooks that do not meet state educational requirements, being left alone to deal with themselves, by purchasing textbooks, or identifying people who would write these textbooks to their needs. Likewise, the hearing-impaired or late-deaf children are not insured by the state with hearing aids and maintenance products, there are no pedagogues, translators who know the mimic-gestural language.

And children with reduced mobility continue to have restricted access to education through lack of ramps and other ways of accessing the most educational institutions.

The Children's Ombudsman reiterates that social inclusion and the right to education of children, regardless of necessity, should not be a barrier to the realization of his or her rights, no child should be stigmatized or marginalized because of the diagnosis.

HYGIENE AND SANITATION CONDITIONS IN SCHOOLS

Most of toilet was located outside the educational institution. Although the institutions have functional toilets indoors, they are denied access and have to go to the outside toilet throughout the school year. The outside toilets are common, there are no conditions that would ensure their protection and privacy, they do not have the windows through which the light penetrates and it is possible to be airy, obviously lacking the necessary hygienic paper, soap, sinks. Often, outdoor toilets are used by

strangers and children are afraid of being abused, they also mention that there are many cases of tobacco and alcohol use in the toilet.

Similarly, problems are also found in cases where sanitary groups are located within the educational institution: lack of soap, toilet brush and detergents indispensable for maintaining hygiene, lack of handwashing water, permanently damp floor on which you can slip, lack of privacy in cabins, some booths have no doors, the number of insufficient functional cabins relative to the number of students in the school, the lack of centralized water supply in the sanitary blocks, etc.

Urban students have also indicated as a major problem the access to indoor sanitary blocks, the poor quality sanitation and the non-insurance of sanitary blocks, which are opened only when commissions are in the institutions.

RIGHT TO OPINION AND CIVIL LIBERTIES

Thus, during the year 2018, being an electoral period, the Children's Ombudsman has been repeatedly informed of the cases on the involvement of children in street activities / street demonstrations. This issue has been examined by the Ombudsman in the light of international standards on respect for the rights of the child to free expression of opinions, freedom of association and participation in peaceful demonstrations.

The Children's Ombudsman points out that, under the Convention on the Rights of the Child, the State has an obligation to guarantee children **the right not to participate in public events** in which they do not wish to be involved, otherwise it can be considered violation of the Convention on the Rights of the Child and National Law on the Protection of the Rights of the Child.

A similar situation was the involvement of children in the protest action against the expulsion of teachers of Turkish origin from the Republic of Moldova⁵⁰.

The Children's Ombudsman reminds that the European Court has explicitly confirmed that children have the right to participate in meetings taking place in the public space (in the *case Christian Democratic People's Party vs Moldova*).

As a defender and promoter of child rights, the Children's Ombudsman contributes a multitude of activities to promoting respect for civil liberties and the right of the child to opinion. One of them was the traditional **Children's Forum**, organized in November 2018, within the decade dedicated to the 10th anniversary of the creation of the Ombudsman's Office in the Republic of Moldova⁵¹ and of 25 years from the entry into force for the Republic of Moldova of the UN Convention on the Rights of the Child. During this event, there were organized different workshops on different topics where the children had possibility to express their opinion.

⁵⁰ https://www.prime.md/ro/directorul-liceului-lucian-bлага-din-capitala-valentina-olaru-a-fost-sanctionat-disciplinar-cu-mustr_81491.html

⁵¹ <http://ombudsman.md/news/conferinta-nationala-10-ani-pentru-drepturile-copiiilor-in-republica-modova-forumul-copiiilor-editia-a-patra/>

SITUATION OF CHILDREN IN PENITENTIARY INSTITUTIONS

The issue of respecting the rights of children in penitentiary institutions is one of the priorities of the People's Advocate for the Rights of the Child. Thus, since the beginning of the mandate, several activities have been carried out (monitoring visits, representation of children's interests in the courts, investigation of conflict situations between children, supervisors and the administration of penitentiary institutions, day-to-day child attendance, promotion and training in the field of children's rights and freedoms, etc.) in order to improve the national child protection system that is serving the prison sentence.

The Child Ombudsman notes that the national legislation in the field, largely in line with the minimum international standards, however, highlights the fact that public authorities have ignored the People's Advocate Recommendations for the Rights of the Child in the Report on the observance of child rights in the Republic of Moldova in 2017⁵². We point out that the number of convicted children in the Republic of Moldova remains constant with small deviations, which shows that the state policy in the field of preventing and combating child crime is inefficient and requires improvements.

Years	2013	2014	2015	2016	2017	2018
Number of Children	32	27	31	30	36	32

Source: National Administration of Penitentiaries

Following the monitoring carried out by the Office of the People's Advocate and on the basis of reports prepared by the Torture Prevention Council, the following issues were identified: Poor level of security insured or children's life and health; The services of psychological assistance and assistance in diminishing conflict situations, poorly developed; Dwellings do not meet standards of child health and development; Sanitary blocks are an outbreak of bacteria and infections; Children are required to pay for medical services; The educational system does not meet the needs of children; Staff trained in daily penitentiary activities are bruising and aggressing the detainees; The process of reintegration into society is a poorly developed one; Lack of adequate growth and development conditions for 0-3 year-old children in penitentiary institutions together with their mothers sentenced to serving the prison sentence.

The Children's Ombudsman also drafted the Thematic Report on „The Status of Observing the Rights of Children of 0-3 Years in Penitentiaries with Their Mothers serving Their Prison in Child Rights Institutions in the context of Monitoring the National Implementation of the UN Convention on the rights of the child”⁵³, on the basis of which a set of Recommendations was developed in order to improve the existing situation.

Another issue examined by the Children's Ombudsman is the **situation of persons detained who have reached the age of 18, but calls for further punishment to be made in the juvenile penitentiary**. Thus, although the legal framework allows for the possibility of punishment by adults in prison for children up to the age of 23, out of 3 cases examined in court involving the Children's Ombudsman during 2018 and another 3 during 2017, **no request from detained children was admitted**.

⁵² http://ombudsman.md/wp-content/uploads/2018/10/raport_copil_2017def.pdf

⁵³ <http://ombudsman.md/avocatul-copilului/>

III. TORTURE PREVENTION

SUMMARY OF PREVENTION ACTIVITIES

In 2018, torture prevention continued to be a priority for the Ombudsman's institution. More than 60 preventive visits were carried out in the places of deprivation of liberty.

80% of visits were focused on monitoring the situation of people detained and in police custody. Thanks to the institutional support provided to the Office of the People's Advocate by the Soros-Moldova Foundation within the Project „Retention and Detention Management in the Police Inspectorates of the Republic of Moldova”, the team of the Prevention of Torture Department monitored all territorial subdivisions of the General Police Inspectorate (38 police inspectorates) with / without preventive detention isolators⁵⁴. The final conclusions of the monitoring process will be reflected in the Ombudsman's special report on the situation of people detained and in custody of the police. The summary of the observations is described in the relevant subchapter.

Therefore, deriving from the conclusions of the Special Report of the People's Advocate on the results of the ex officio investigation of the case of death in state custody of the citizen Andrei Braguta / 2017⁵⁵, the Ombudsman proposed to carry out a wide-ranging monitoring of the decision-making process for detention; detention of the person by the police; the transportation and escorting of the detained person, as well as the mechanism of detention of detained persons. The Office of the People's Advocate attempted to observe the stages of the deprivation of liberty of the detained person from the first contact with the police employee until his placement in the penitentiary institution, disregarding the activity of monitoring the conditions of preventive detention. In this way, the Ombudsman monitored the mechanism for the implementation of the obligations assumed by the General Police Inspectorate following the „anti-torture reform”⁵⁶.

Regarding the situation in penitentiary institutions, the People's Advocate pursued the process of implementing the recommendations on immediate return to rights, improving behavior towards prisoners, improving conditions of detention and preventing torture. In general, the monitored penitentiary institutions have accepted the Ombudsman's recommendations and have responded in due time to the acts of reaction. The People's Advocate appreciates the opening of the National Administration of Penitentiaries and territorial subdivisions in order to prevent torture in the penitentiary system. In this regard, the Ombudsman reaffirms that the penitentiary authorities are to finalize their criminal-law policies, actively continue the process of ensuring minimum conditions of detention in all penitentiary institutions, and adopt standard operational procedures on escort, placement in detention, the application

⁵⁴ The Grant Contract number 14856 of 02.04.2018 signed between the Office of the People's Advocate and the Soros Foundation-Moldova;

⁵⁵ Special report on the results of the ex officio investigation of the death case in state custody of the citizen Andrei Braguta, <http://ombudsman.md/rapoarte/tematice/>;

⁵⁶ Action plan on reducing ill-treatment, abuse and discrimination against persons in police custody for 2017-2020 (further anti-torture reform);

of special means, reporting, evidence, conflict prevention and management, extreme situations, etc. At the moment, there exist only general provisions.

As an accessory intervener in civil cases in relation to the finding of violation of Article 3 ECHR (detention in inhuman conditions), the People's Advocate participated in three such cases.

In July 2018, the Office of the People's Advocate reanimated the process of information on cases of death, suicide / attempts, abuses, injuries or litigation in psychiatric institutions and temporary placement centers for people with disabilities (ex-psycho-neurological hospitals).

The situation of aliens in public custody has been seen by the Ombudsman's Institution. During the monitoring period, five preventive visits and three further documentations were made at the Center for Temporary Placement of Foreigners within the Migration and Asylum Bureau of the Ministry of Internal Affairs.

On September 25 and October 31, 2018, the employees of the Prevention of Torture Department of PAO assisted the representatives of the Parliamentary Commission on Human Rights and Inter-Ethnic Relations during two monitoring visits at Cahul Penitentiary Number 5, Penitentiary Number 1 of Taraclia, Penitentiary Number 4 and Number 15 from Cricova. Deputies are convinced that there are overcrowding in penitentiaries, insufficient prison staff, especially medical qualified; lack of jobs for inmates / low wages, and the efforts of the penitentiary institutions in this respect.

For the first time, the Office of the People's Advocate has founded the Anti-Torture Student Forum. With the support of the Torture Prevention Department, three study visits were carried out in penitentiary institutions and two public lectures at the Faculty of Law for 140 students. Prevention through experience transfer will continue throughout 2019.

The „training” prevention activity aimed at training professional skills in the field of prevention of torture and ill-treatment in the process of accomplishing the tasks and duties of over 300 employees of the penitentiary system, the police. For the first time, 19 heads of penitentiaries and heads of National Penitentiary Administration (NPA) leadership were initiated by the Office of the People's Advocate (OPA) trainers on the Nelson Mandela Rules.

In order to strengthen the associative sector effort in the field of torture prevention, on request, training, mentoring and assistance was provided to the representatives of the Civic Platform for the Prevention of Torture in the Transnistrian Region and to the Regional NGO Network for the Prevention of Torture.

Throughout the monitoring period, the employees of the Directorate organized, assisted 15 meetings and coordinated 21 Council Monitoring visits to prevent torture.

In 2018, actions to obstruct the access of the Office of the People's Advocate (OPA) staff to places of detention took place. The persons responsible for this were sanctioned.

Access to Transnistrian Liberty Deprivation Areas continues to be restricted to the Office of the Ombudsman. Although, he received complaints about allegations of ill-treatment, the People's Advocate was denied access to privative places. The *de facto* administration has mentioned that the rights of the defendants are respected, avoiding any form of discussion for this purpose. The dialogue on preventing torture remains tense. Restricting access to detention facilities in the Transnistrian region is a serious impediment to torture prevention activity.

RECOMMENDATIONS OF THE EUROPEAN COMMITTEE FOR THE PREVENTION OF TORTURE, 2018

From June 05 to 11, 2018, the European Committee for the Prevention of Torture (*further CPT*) carried out a follow-up visit „required by certain circumstances”⁵⁷. The delegation visited the Penitentiary Number 13 Chisinau (P13), Penitentiary Number 10 Goian (P10) and Penitentiary Number 6 Soroca (P6). The report was presented on December 13, 2018.

The CPT was noted with deep concern that Moldova has made little or no progress in the areas identified in previous reports. These include, in particular, overcrowding, the predominant informal hierarchy between detainees and interpersonal violence, the quality of medical care, poor conditions of detention for adults (including those prevented) and the lack of prison staff (Penitentiaries Number 13 and Number 6). At Penitentiary Number 10, the delegation received several complaints about the physical maltreatment of minors detained by prison staff. The CPT urged the Government to take concrete steps to respond to the recommendations made in the 2018 and earlier reports.

The People’s Advocate recommends NPA and GPI to implement correctly and according to the CPT’s suggestions the content of medical examinations in particular in the part of allegations of ill-treatment in detention or at retention. NPA will integrate the CPT’s recommendations throughout the penitentiary system as specific to its subdivisions.

CPT RULES ON THE TRANSFER OF PERSONS DEPRIVED OF THEIR LIBERTY, 2018

On June 26, 2018, the Secretariat of the European Committee for the Prevention of Torture published the CPT Rules on the transfer of persons deprived of their liberty⁵⁸.

The CPT argues that whatever the reason for transferring (escorting) of the persons deprived of their liberty from a place of detention to another place (e.g. from a police station to a prison, from a prison in another prison, from a court or hospital or immigration detention center) – transport should always be done in a safe, human and secure manner.

By listing the above-mentioned Rules, the People’s Advocate recommends NPA and GPI to adapt their internal rules on the transportation, escorting of persons held in accordance with international standards in the context of the implementation of the initiated reforms. In the course of time, the Ombudsman’s Office will monitor the conditions of transportation of detainees in order to comply with the criteria highlighted.

SUMMARY OF THE SITUATION IN THE PLACES OF DEPRIVATION OF LIBERTY.

At the time of drafting the Report, the Government of the Republic of Moldova did not respond to requests from the UN Committee Against Torture in 2017⁵⁹ on

⁵⁷ <https://www.ecoi.net/en/countries/republic-of-moldova/>;

⁵⁸ <https://www.coe.int/en/web/cpt/-/cpt-factsheet-on-transport-of-detainees?fbclid=IwAR2mBAjpasd-VhCGfXFDkZwV5Ae-LAPMMg5RjsRpFzrAwoT0alFtLkziZgVU>;

⁵⁹ https://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/countries.aspx?CountryCode=M-DA&Lang=RU, point 33 CAT/C/MDA/3.

clause 16 (c) of the concluding Observations on the National Prevention Mechanism, clause 9 on the provision of fundamental legal guarantees to persons deprived of their liberty and 14 (i) on the death of Andrei Braguta, clause 33 CAT/C/MDA/3.

The Ombudsman is fully convinced that the Moldovan authorities will not ignore the Geneva Committee's requests and will strongly advocate this important exercise in preventing torture.

In this way, the People's Advocate supports and encourages the Government to make continuous efforts to improve the material conditions of detention in the 19 penitentiaries, 21 police isolators, 3 psychiatric hospitals, the isolator of the National Anti-Corruption Center and the 7 temporary placement centers for persons with disabilities, etc., as well as to ensure full guarantees against the custodial persons. In addition, **the Ombudsman concludes that the situation in the detention system can progress in the face of a clear, responsible and conscious political will. The new legislative forum is to take responsibility for the continuity of reforms initiated by NPA and GPI.**

Following his remarks, the People's Advocate noted minor progress. However, in general, the situation in places of detention remains worrying (inadequate detention conditions, lack of personal space, overcrowding, shortages of sleeping areas, limited access to light and clean air, lack of privacy during the use of sanitary facilities, etc.).

The Ombudsman found in many individual cases that the penitentiary authorities failed to implement the standards implementation processes laid down in Articles 2 and 3 of the ECHR.

PENITENTIARY INSTITUTIONS

Virtually all penitentiaries are of an old, Soviet organization and unadjusted to the detention of man as such. Large spaces (barracks) influence both prisoners' compliance with detention regime, their health and their ability to participate in re-socialization programs. More than 80% of convicts spend time in institutions due to lack of jobs and other forms of occupation. In their own right, prisons do not have / have limited occupational domains specific to and useful to detained persons. The aspect of „resocialization” is reduced to the process of recording written documentation, rather than a succession of actions in the given field.

At the moment, the detention of persons can be qualified as detention to the detriment of Article 3 of the Convention and the European case law. These findings have been repeatedly drawn up by the UN Committee Against Torture (2014, 2017), the European Committee for the Prevention of Torture (2015, 2018), the People's Advocate (2002 – 2018) and the Torture Prevention Board (2017 – 2018).

On May 16, 2018 Law 300/2017 entered into force on the penitentiary administration system. On the same day, Government Decision 437/2018 on the organization and functioning of NPA was approved. The new regulations aimed at establishing an efficient model of penitentiary system administration, strengthening the institutional framework, developing operational capacity, including motivating penitentiary staff.

On average, between 7-12 positions were vacant in penitentiary institutions, out of the limits set for the staffing. Investments in human resources (especially skilled) must be a priority for the NPA.

Another impediment envisioned by the penitentiary system staff is that the criminal **offense of attacking a collaborator** is reduced to a fine, either a small-term prison. This encourages detainees to continue their illicit actions and the employee has to bear them.

At the same time, the penitentiary authority is liable to ensure the **safety and security of the persons in custody**. In 2018 there were 790 cases of body injuries, 779 protest actions (hunger strike) and 612 cases of auto-offense. Employees applied physical force and special means in 354 cases (rising by 2017).

The Office of the Ombudsman has received a greater number of requests. Part of the requests constituted the request to carry out documentary visits in the cell for the initiation of civil cases for detention contrary to Article 3 ECHR.

Summary of applications

Nr	The right claimed	Explanations
1	Poor detention conditions (P13)	Detainees under protection regime, hunger strikes, or HIV are placed in cold half-basement cells with increased humidity, non-functional sanitary system, ventilation does not work, non – insurance with bed linen, parasitic insects, opaque lighting, mold, etc.
2	Right to health	The roentgen devices do not work, either lacking a roentgenologist, lack of specialist doctors, inadequate or delayed medical care; lack of medical assistance; long retention in preventive arrest with acute illness
3	Right to food	Inappropriate nutrition, lack of dietary food; non-observance of meals for escorted detainees, the prevented during the escort and decision to apply the preventive measure do not receive food ration.
4	The right to external communication	Limiting the ability to make a phone call to relatives in case of transfer; Missing meetings for disciplinary sanctions; delaying the process of challenging disciplinary sanctions; refusal to interview for spouse prisoners who are in different penitentiaries
5	Right to defense	Limited access to case materials; Limited access to lawyers and defense training; limiting the length of meetings with the lawyer (1-2 hours); Lawyers do not have access to client cells; Lawyers cannot take pictures of the place of detention for specific civil action.
6	The Right to Physical and Mental Integrity	Maltreatment among detainees
7	The right to conditional release	The out-of-court procedure is inappropriate and detrimental to the purpose of Article 91 of the Criminal Code. The penitentiary has no power to release before the deadline, respectively the institution may participate as an intervener. Practically, the penitentiary claims the rejection of the request for release, although its role is to prepare and stimulate release from penitentiary and not vice versa.

THE POLICE

The Police is a specialized state institution under the subordination of the Ministry of Internal Affairs, which has the mission of defending the fundamental rights and freedoms of the person by maintaining, securing and restoring public order and security, preventing, investigating and detecting crimes and contraventions⁶⁰. In the process of performing service duties, police officers are empowered by law to apply to persons suspected of committing offenses or administrative contraventions procedural coercive measures which may limit certain freedoms (the right to individual freedom, the right to personal safety, etc.).

In 2018, employees of the Torture Prevention Directorate carried out 36 monitoring visits to Provisional Detention Isolators (IDPs) within the General Police Inspectorate (GPI) Territorial Inspectorates. As I mentioned, the Ombudsman proposed to carry out a wide-ranging monitoring of the decision-making process for detention application; detention of the person by the police; the transportation and escorting of the detained person, as well as the mechanism of placing in detention of detained persons. The Office of the People's Advocate has tried to observe the stages of the deprivation of liberty of the detained person from the first contact with the police employee until his placement in the penitentiary institution, disregarding the activity of monitoring the conditions of preventive detention. In this way, the Ombudsman monitored the mechanism for the implementation of the obligations assumed by the GPI following the „anti-torture reform”.

On March 30, 2018, thanks to the support of Soros Foundation-Moldova, 3 standard operating procedures were developed and approved:

- The standard operating procedure for the placement of the detained person in the preventive detention facility (*Order of the GPI number 193/2018*;
- The standard operating procedure for escorting and transporting the person deprived of its liberty (*Order of the GPI number 194/2018*;
- The standard operating procedure for retaining (*Order of the GPI number 195/2018*)

Operating procedures are to fill in several gaps in the process of apprehending, escorting and detaining the detainees. But on the territory, these procedures were perceived differently. Most territorial Police Inspectorate have accepted them as information. Similarly, the visiting team found the following:

- The Code of Criminal Procedure contains general provisions on the trial, stages and detention procedure. However, for police officers, these procedures must be found in clear, explicit instructions, so that no derogations and deviations are allowed;
- CPT safeguards on the rights of the detained person (notification, access to the defense and examination by a doctor) are largely met by necessity title and less of the content. De facto, the detainee signs all the documents presented / refused, but the essence of detention, rights, etc. are passed to the defense.
- The MIA / GPI have no clear procedures on the procedure and detention process.
- Territorial Police Inspectorates carry out detention in a different way (procedural acts) while maintaining customary traditions;

⁶⁰ Law number 320 of 27.12.2012 on police activity and police status.

- Territorial Police Inspectorates do not have standardized and up-to-date reports. Each territorial PI has its own minutes;
- The rate of detentions is relatively small compared to 3 years ago;
- The period of detention in IDP is less than 24 hours. Territorial PIs escort detainees at IUP within the Prisons;
- The PI escorts the prevention;
- IDP do not meet the minimum standards of detention;
- 10 IDPs are in general repair, meanwhile, PI premises are deplorable, thus creating an imbalance between police officers and detainees;
- Territorial PIs do not know / do not have / clear procedures for detaining minors, people with disabilities (especially intellectual, deaf-mute, etc.);
- Territorial PIs lack interpreters (especially from / in mimic-gestural language);
- Territorial PIs do not have sufficient staff (escort, guard and supervision), especially hired doctors, which influences the assurances provided by the European Anti-Torture Convention;
- Territorial PIs, partly have adequate means of transport for quality escort. Even if to some PIs have been assigned transport means (minibus type), they appear to be inadequate (narrow spaces for the seated person); they also do not have room for storing personal belongings;
- Most interviewees reported that they did not understand the reasons for the arrest and that the detention procedure had not been followed.

The CPT emphasizes that electronic recording of police interrogations is an useful measure of security against ill-treatment of detainees (and a significant advantage for the police). The existence of an independent mechanism for examining complaints about the treatment of time spent in police custody is an essential safety measure.

In 2018, 7496 people were detained, of which 155 were women and 105 minors. In total, 6289 persons were placed in the preventive detention isolators, of which only 2242 in the Chisinau Isolator.

Still substantial material conditions persist; poor cell condition, lack of mattresses, cloths and hygiene items; eating only 2 times / day; lack of feldsher; formal medical examination; lack of privacy in the sanitary block; insufficient artificial and natural light, penetrating odor, moisture; detention over 72 hours.

PUBLIC CUSTODY OF FOREIGNERS

In 2018, the People's Advocate carried out five monitoring visits at the Center for Temporary Placement of Aliens (3 to the Torture Prevention Council and 2 to the Prevention of Torture Directorate). CPTS capacity is 138 beds. In the middle, 100 foreigners are detained. Placement takes place only through the conclusion of the courts. And, release can also take place through the Migration and Asylum Bureau's decision.

Generally, the material conditions are good. The doors of the chambers are loosened and closed by an electronic system by the supervisors, which in fact implies a similar detention to the penitentiary institution. The Ombudsman has received allegations of ill-treatment, which have been partially confirmed. For fear of persecution, aliens could not realize their right to defense.

The most serious issue concerns the keeping in custody of asylum seekers (aliens who have filed asylum applications with the CPTS). National and international regulations prohibit the detention of asylum seekers. At the same time, the Migration and Asylum Bureau has argued that asylum seekers actually prevent the return decision, etc. or use it as a means of defending and delaying. Although the custody term cannot exceed 6 months, cases of aliens have been recorded over this term. The BMA avoids applying alternatives to the public detention of aliens.

Similarly, during the visits, the Ombudsman was informed about the detention of a foreign minor with adults. At the time of developing the authorities did not identify a solution to transfer the minor from detention.

The People's Advocate received complaints about the failure to draw up the minutes of detention of foreigners at the border; failure to communicate reasons / insufficient communication about detention, including foreigners' rights; initiating files for illegal crossing despite the request / proposal for protection; foreign detainees are held for long periods in office chairs, on the hallway in the BMA offices until the adoption of the placement solution; etc.

LOCAL COMMISSIONS FOR MONITORING PLACES OF DETENTION

In order to ensure the observance of human rights through the adoption of the Law on Civil Control on the Observance of Human Rights in Institutions Enforcing the Detention of Persons Number 235 of 13.11.2008, in each level-two administrative-territorial unit, monitoring committees were set up to monitor the conditions of detention of the detainees and treatment applied to them.

According to the Law number 235, each monitoring committee is to be composed of 7 members on a two-year mandate, representatives of civil society. The nominal composition of the monitoring committee is approved by the decision of the appropriate local council.

Members of the monitoring committees may not be members the persons holding public dignity, civil servants, judges, prosecutors, workers of the national defense bodies, of state security and public order, lawyers, notaries and mediators.

The Monitoring Committee has the task of verifying and supervising the conditions of detention and the manner in which detainees are dealt with in the institution that detains the persons within the administrative-territorial unit in which the commission was established and its conclusions are expressed in a report on the facts found.

In July 2018, the Office of the People's Advocate conducted a questionnaire that showed that there are no commissions created at local level.

IV. HUMAN RIGHTS EDUCATION AND ACTIVITY OF PROMOTION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS OF THE OFFICE OF THE PEOPLE'S ADVOCATE

HUMAN RIGHTS EDUCATION

The Republic of Moldova has arrears in the implementation of the Global Program for Human Rights Education. There are gaps in the integration of human rights education in higher and university education, implicitly the training in human rights of teachers, civil servants, employees of the law system. Employees of the Office of the People's Advocate have repeatedly encountered situations where civil servants, justice professionals and representatives of different levels of authority have shown a misunderstanding of the role and attributions of the Office of the People's Advocate as a national institution for the protection of human rights, did not know or misinterpreted international standards in the field of human rights. This is deduced from the answers to the approaches and recommendations of the People's Advocates.

Also, the practice of drafting normative and legislative acts, national policies and strategies, based on the Human Rights Based Approach (HRBA) principles, it is not yet rooted in the Republic of Moldova⁶¹. The Office of the People's Advocate has proposed the creation of a human rights training center next to the institution, whose work is to be focused on training of civil servants, including on the application of the Human Rights Based Approach.

Meanwhile, the Office of the People's Advocate has identified several target groups of professionals who will be trained on the principles of the Human Rights Based Approach.

The low degree of knowledge of the mission and functions of the People's Advocates, as well as of the national mechanisms for the protection of human rights, is also apparent from the large number of appeals to the Office of the People's Advocate that do not fall within its competence. Most addressees do not know where to turn to claim their injured rights.

The same has been confirmed in polls made lately. Thus, according to the results of the study „Perceptions regarding the observance of human rights in the Republic of Moldova” performed at the order of the Office of the People's Advocate in autumn 2018⁶², only 10% of respondents think they are well informed about their own rights. People in socially vulnerable groups are also least well-informed about human rights.

The study also demonstrates the low accessibility of information. More than half of respondents believe that there are some language barriers to human rights information.

⁶¹ Human Rights Based Approach is a way of thinking and approaching of the state, of the relations between public authorities and people, as well as the development process centered on people and their rights. Human Rights Based Approach demands that the state, the public authorities pursue the aim of ensuring full human dignity, fundamental human rights, the free development of human personality, social justice and pluralism. Human Rights Based Approach demands that the objectives of the state and of the authorities be „about people” and „for people”, and their activity to focus on creating and expanding opportunities for people.

⁶² http://ombudsman.md/wp-content/uploads/2018/12/Perceptii-DO_Romana-1.pdf

Authorities are working to change the situation and promote the culture of human rights, but so far without achieving the expected results ⁶³.

The People's Advocate proposes in 2019 the monitoring of the state of affairs regarding the training of the People's Advocate and in the perspective of teaching the subject of national and international mechanisms for the protection of human rights at law schools in the country.

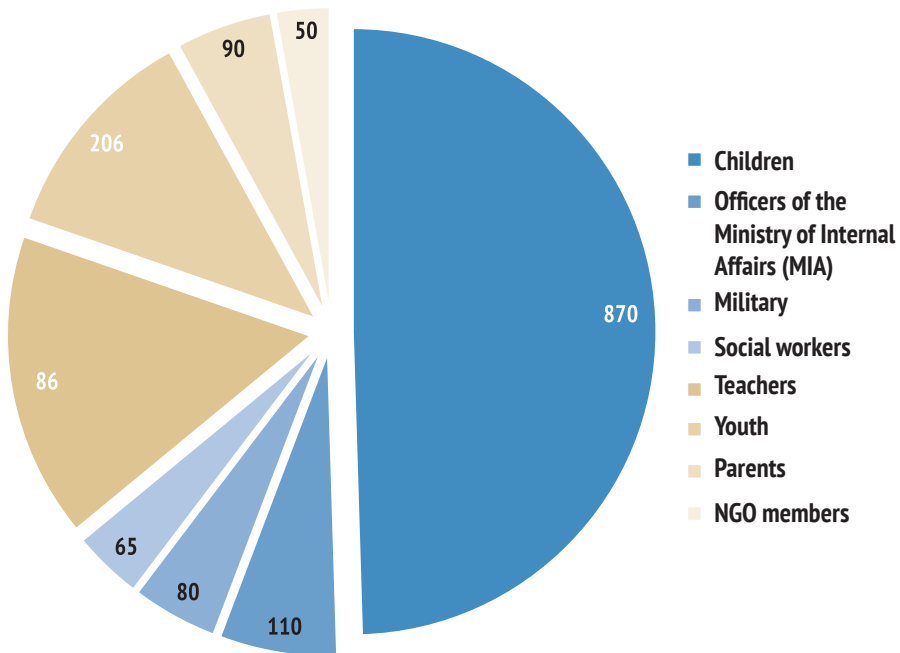
THE ACTIVITY OF PROMOTING THE HUMAN RIGHTS AND FREEDOMS OF THE OFFICE OF THE PEOPLE'S ADVOCATE

In order to carry out its tasks of promoting human rights, the Office of the People's Advocate carried out 104 training and information actions, other events involving 3700 people, the promotion of human rights being also one of the priorities of the Office of the People's Advocate in 2018.

PROMOTING HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS THROUGH INFORMATION ACTIONS

In 2018, the Office of the People's Advocate organized 49 information activities (*meetings where lectures, discussions were held*) in the field of human rights, attended by more than 1700 people: children, youth, pedagogues, MIA officers, members of non-governmental organizations, military, social workers, etc.

Categories of people who participated in information activities in 2018, total – 1757 people



⁶³ In the National Action Plan on Human Rights for the years 2018-2022, Education Development Strategy for the years 2014-2020 „Education-2020” provides for several actions on human rights education.

Last year, the Office of the People's Advocate also organized 1 international and 25 national conferences, roundtables, workshops, contests, public awareness activities, with over 1640 attendees.

Several events were held by the Office of the People's Advocate in the context of the International Day for the Rehabilitation of Torture Victims, with the participation of members of the Torture Prevention Council, representatives of NGOs active in the field, the National Penitentiary Administration (NPA).

The Office of the People's Advocate transmitted to the National Penitentiary Administration 18 panels of informative materials in the field of torture prevention and stickers with the message „People's Advocate-Supervised Space”, which will be located in penitentiary institutions in the country.

Various activities included the Decade on Human Rights, organized by the Office of the People's Advocate on December 3-14. The 2018 edition of the Decade was dedicated to the 70th anniversary of the Universal Declaration of Human Rights.

On International Human Rights Day on December 10, the Office of the People's Advocate presented the results of the sociological study „Perceptions of Human Rights in the Republic of Moldova”, second edition.

The Office of the People's Advocate has proposed to carry out such studies every two years to assess the dynamics of perception of respect for human rights. A similar research was carried out in 2016.

Year 2018 was a jubilee year for the National Human Rights Institution, which marked 20 years since its creation. On this occasion, **on September 27-28, the Office of the People's Advocate organized an international conference on the topic „Evolution and Role of National Institutions for the Protection of Human Rights in Modern Society”.**

In 2018, it was also 10 years since the institution of the Ombudsman for Children's Rights. The anniversary moment was recorded within the National Conference „10 Years for the Rights of the Child in the Republic of Moldova” and the Children's Forum.

In 2018, the People's Advocate for Children's Rights organized with the financial support of UNICEF Moldova two regional forums to discuss the issue of violence against children.

Traditionally, on the occasion of the International Children's Day, June 1, the People's Advocate for the Protection of Children's Rights organized in Stefan cel Mare si Sfânt Park a raffle dedicated to children entitled „Know Your Rights”.

Considering the concern of the Children's Ombudsman to respect the rights of children in penitentiary institutions together with their mothers, on July 31, 2018, in collaboration with the „Vitae” Public Association, the People's Advocate for the Children's Rights organized the National Conference with the topic „Respecting the rights of the child who are in penitentiary institutions together with their mothers in terms of international standards and good practices. An exchange of views on this issue was carried out in order to identify the solutions for the problems existing in the Republic of Moldova in the field.

PROMOTING HUMAN RIGHTS THROUGH TRAINING

Promoting human rights through training has become a priority for the Office of the People's Advocate over the past years.

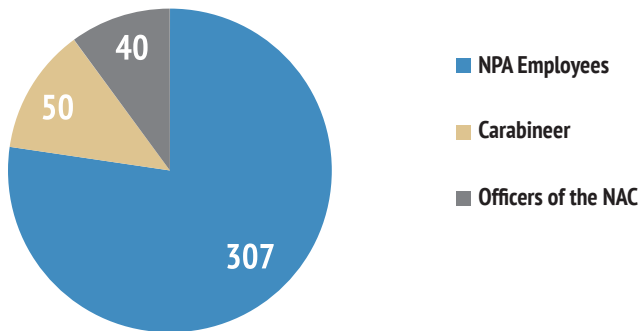
In order to successfully implement the training programs, which will be designed on the basis of the training activities methodology developed by the Office of the People's Advocate (OPA), it has become necessary to strengthen the skills of the Office of the People's Advocate as trainers.

In 2018, the Office of the People's Advocate strengthened its human rights training capacities and at the beginning of the year staff training was organized.

In order to achieve the proposed objectives, the representatives of the Office of the People's Advocate worked in 2018 in the framework of several training partnerships: with the National Administration of Penitentiaries, the Department of Carabineer Troops, the National Anti-Corruption Center.

In 2018, the employees of the Office of the People's Advocate organized 29 training activities with the participation of 397 people.

Professional groups trained in 2018, a total of 397 people



According to the results of the questionnaires proposed for completion in the trainings, the rate of persons who have improved their knowledge of the training constitutes 66%.

Promotion activity through the development and dissemination of informative materials on human rights and fundamental freedoms

The development and dissemination of information material is one of the ways of human rights propagation used by national human rights institutions.

In 2018, the Office of the People's Advocate published 10 titles of informative materials.

Collaborating with the mass media for information and raising awareness of the importance of respect for human rights

People's Advocates held three press conferences (on the findings of ombudsmen on the observance of human rights in 2017, on the occasion of the International Street Children's Day, on the situation of children in detention), in the country's mass media there were just over 400 appearances on the work of ombudsmen or the Office of the People's Advocate.

In the reference period, the People's Advocates have responded to several mass media signals about possible violations of human rights.

In order to strengthen the relationship with the mass media, the Office of the People's Advocate aims to create a network of journalists specialized in human rights issues, while remaining open for collaboration with all journalists interested in human rights issues.

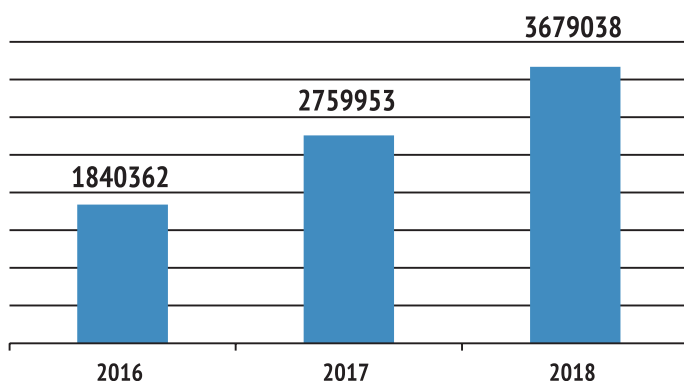
WEBSITE OF THE OFFICE OF THE PEOPLE'S ADVOCATE

In 2018, the Office of the People's Advocate produced a new version of the institution's web site within the project „Strengthening the technical capacities of national institutions for the promotion and protection of human rights” funded by the Ministry of Foreign Affairs of Denmark and implemented by the United Nations Development Program.

The site has all the arsenal of adaptations needed for visually impaired people, the text can be seen in contrast, black and white, and can be heard.

In 2018, the site had 973 085 more visitors than the previous year, **reaching the 3 679 038 visitors.**

Number of visitors on the web page www.ombudsman.md



EXTERNAL COOPERATION

In 2018, the People's Advocates and the Office of the People's Advocate as a whole actively collaborated with the institution's external partners. The Ombudsmen participated in most events held by the international security profile structures to which the Office of the People's Advocate (OPA) is a party or by international institutions of human rights, such as the Global Alliance of National Institutions for the Protection of Human Rights (GANHRI), the European Network of National Institutions for the protection of Human rights (ENNHRI), the Association of Mediators and Francophone Ombudsmen (AOMF), the International Ombudsman Institute (IOI) and the European Ombudsman Institute (EOI), European Network of Ombudsmen for child protection (ENOC), ECRI, OSCE. People's Advocates also participated in events organized by their counterparts in Armenia, Georgia, France, Bulgaria, presenting information on the human rights situation in the Republic of Moldova and the challenges faced by ombudsmen in their work.

For the first time, the institution hosted an event organized by an international organization – the European Network of National Institutions for the Protection of Human Rights (ENNHRI). The event took place on March 5-7, in Chisinau, in the framework of a project funded by the European Union and implemented by ENNHRI with the support of the Danish Institute for Human Rights. The seminar was attended by 14 representatives of the national human rights institutions from 11 ENNHRI member countries.

Also, the representatives of the institution actively participated in the activities of the ENNHRI working groups in the field of the protection of the rights of persons with disabilities, communication, on the role of national institutions for the protection of human rights in conflict and post conflict situations.

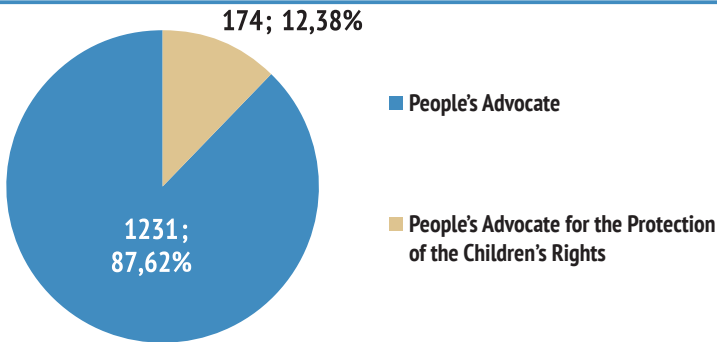
ESTABLISHED PARTNERSHIPS

In 2018, the Office of the People's Advocate signed a cooperation agreement with the Human Rights Commissioner of Ukraine, cooperation agreements with the civil society organizations RCTV „Memoria”, the Institute for Democracy of Comrat and the „Media Center” Association of Tiraspol. Cooperation partnerships have been established with the Department of Carabineer Troops; the National Anti-Corruption Center, the Interethnic Relations Bureau and the Council for the Prevention and Elimination of Discrimination and Equality.

V. ACTIVITY OF THE OFFICE OF THE PEOPLE'S ADVOCATE IN 2018

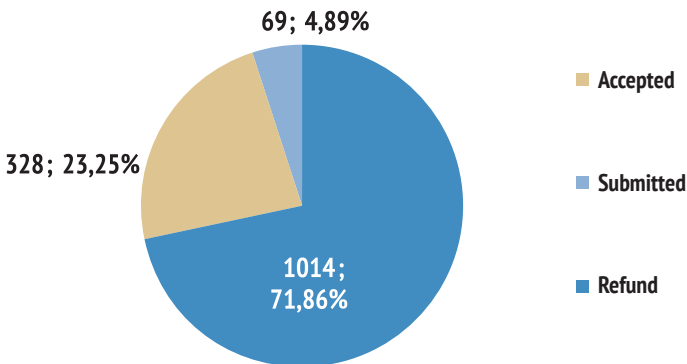
MANAGING AND INVESTIGATING APPLICATIONS

In 2018, the Office of the People's Advocate received **1405 applications**. Of the total number of applications (1405) received during the year 2018, **1231 (87.62%)** were addressed to the People's Advocate and **174 (12.38%)** addressed to the People's Advocate for the Protection of the Children's Rights.



Of the 1405 registered applications, 328 (23.25%) were accepted for examination, about 69 applications (4,89%) have been handed over to the competent authorities for examination under their jurisdiction, (71,86%) have been restituted to the petitioners indicating the procedures they are entitled to use to defend their rights and freedoms.

Classification of requests, depending on the decision taken



In accordance with the applications received, the most frequently invoked rights are constituted:

**Classification of appeals according to the allegedly injured right,
as compared to 2015, 2016 and 2017, 2018**

Themes of Addresses	2015	2016	2017	2018
Free access to justice	259	296	171	237
Right to life and to physical and mental integrity	195	230	316	271
Right to social assistance and protection	91	133	96	98
The right to private property and its protection	80	49	61	101
The right to information	75	116	88	203
Right to work and work safety	48	74	33	34
Intimate, family and private life	65	72	81	114
Right to defense	35	35	63	81
Right to education	4	20	32	40
Right to petition	19	8	9	9
The right to free movement	8	2	4	19
Right to health protection	33	40	62	62
Personal liberties	7	5	3	13
Right to administration	6	6	22	20
Right to citizenship	2	2	19	13
Right to vote and to be elected	-	-	-	-
The right to a healthy environment	4	6	4	2
Other	9	8	72	89

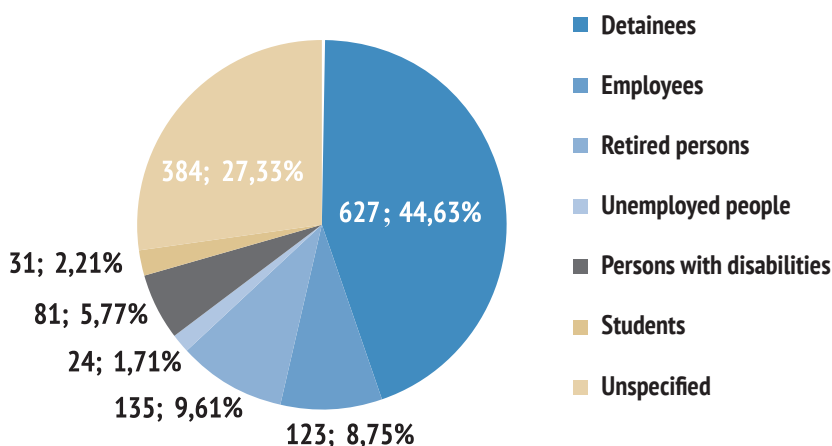
Note: „Other” includes applications where no violation of a constitutional right is invoked and cannot be included in the automated bookkeeping system addressed to the Office of the People's Advocate, such as consumer rights, requesting legal consultations, and so on.

The persons who during the reported period had addressed to the Office of the People's Advocate are as follows:

During 2018 the People's Advocate was notified in 12 cases and the People's Advocate for the Children's Rights reported in 22 cases.

In the process of investigating the applications accepted for examination, the People's Advocate is empowered to undertake certain procedural actions and to issue certain types of acts, specific to the mandate as follows:

Analysis of the requests received according to the categories of petitioners:



Dynamics of procedural actions / reaction acts, compared to 2015, 2016 and 2017

Procedural actions	2015	2016	2017	2018
Report with recommendations on the measures to be taken for immediate restoration of rights of the petitioner (Article 24 of the Law number 52 of 03.04.2014)	62	65	129	57
Demarche (for initiating a criminal / disciplinary proceeding in respect of the person in charge of committing the offenses that caused the considerable damage to human rights and freedoms (Article 25 paragraph (1) letter b) of the Law number 52	4	9	13	9
Referral to the case of violation of service ethics, delay and bureaucracy (Article 25 paragraph (1) letter d) of the Law number 52	11	19	6	9
Actions in court / intervention in the process to submit conclusions (Article 25 paragraph (2) and (3) of the Law number 52	2/2	9/7	13	1/11
Conciliation agreement (Article 23 paragraph (3) of the Law number 52	1	2	2	1
Proposals to improve the operation of the administrative apparatus pursuant to subpoint 6 of point 7 of Chapter II of the Regulation on the organization and operation of the Office of the People's Advocate (OPA)	2	1	4	-
Request for carrying out judicial expertise (Article 11 letter m of the Law number 52)	1	1	-	-
Proposals and recommendations for improvement of legislation (Article 27 letter (a) of the Law number 52)	8	15	14	12
Referral of the Constitutional Court in order to control the constitutionality of the normative acts (Article 26 of the Law number 52)	2	3	3	-
Opinions on draft normative acts (Article 27 letter (b) of the Law number 52)	60	80	59	42
TOTAL	155	211	245	142

Throughout 2018, the Office of the People's Advocate organized the audience of people, daily from 09.00 a.m. to 03.00 a.m. The same regime is organized for the audience of citizens within the representations. Throughout 2018, the Office of the People's Advocate received **3244 people**.

According to Article 24 of the Law number 52 / 03.04.2014, in cases where there are violations of the petitioner's rights or freedoms, the People's Advocate shall submit to the authority or person responsible, whose decision, action or inaction, in his / her opinion, violates human rights and freedoms, an opinion which will include recommendations on the measures to be taken for immediate restoration of rights of the petitioner

In the year 2018, the People's Advocate drafted 57 opinions containing recommendations on the measures to be taken for the immediate restoration of rights of the petitioner, which were sent to the central and local public authorities as follows:

Institutions targeted in the People's Advocate's reactions acts:

The institution concerned	2018
Ministry of Health, Labor and Social Protection, including subordinate institutions	6
Ministry of Education, Culture and Research and subordinate institutions	9
Ministry of Internal Affairs, including the subordinated institutions	5
Ministry of Justice, including the subordinate institutions	27
Local public authorities	5
The judiciary system	1
General Prosecutor's Office	1
State Enterprise „Post Office of Moldova”	1
SIS	1
The People's Assembly of Gagauzia	1
Total	57

Demarche for bringing disciplinary proceedings or criminal liability on official person who committed violations that led to violation of the human rights and freedoms (Article 25 letter b) of the Law Number 52 on the People's Advocate (Ombudsman))

Thus, in 2018, the People's Advocate demanded the initiation of disciplinary or criminal trials in 14 cases involving persons with responsibility who committed violations that caused the violation of human rights and freedoms.

Notification of persons with responsible functions of all levels on the cases of negligence in service, on the breach of service ethics, delay and bureaucracy (Article 25 letter d) of the Law Number 52 on the People's Advocate (Ombudsman)).

According to Article 25 letter d) of the Law number 52, the People's Advocate has the right to notify persons with responsible positions at all levels on the cases of negligence in service, breach of service ethics, delay and bureaucracy.

Based on this provision, 3 notifications were submitted in 2018: National Penitentiary Authority; Local public administration; Council for the Protection of Child Rights of Causeni.

Child's Phone Line Activity

During the year 2018 at the Hot Line „Child's Phone” at the Office of the People's Advocate were recorded **143 telephone calls**. Out of the total number of calls, **140 came from adults and 3 from children**.

Calls received to Hot Line „Child's Phone” for the period 01.01.2018 – 31.12.2018

The allegedly infringed right	Adult	Child	Urban	Rural	Total
Right to life and to physical and mental integrity	2		2		2
Individual freedom and personal security					
Right to defense	11		7	2	11
The right to free movement					
Right to intimate, family and private life	37	1	30	8	38
Inviolability of the home	1			1	1
The Secret of Correspondence					
Freedom of creation	1		1		1
The right to information	4		2	2	4
Right to education	20	1	10	11	21
Right to health protection	3		3		3
Right to work	1			1	1
The right to private property and its protection	3		2	1	3
Right to social assistance and protection	27	1	14	14	28
Protection of the family and orphaned children	9		5	4	9
Right to petition	1			1	1
Right to the child's opinion	1			1	1
Protecting abuse and neglect	18		11	7	18
Torture and deprivation of liberty	1		1		1
Total – 143					