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REPORT

**ON THE OBSERVANCE
OF HUMAN RIGHTS AND
FREEDOMS IN THE
REPUBLIC OF MOLDOVA
IN 2021**

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FOREWORD

UNIVERSAL PERIODIC REVIEW

In 2021, the Republic of Moldova was evaluated in *the third cycle of Universal Periodic Review (UPR)*.

The Universal Periodic Review is a mechanism of the United Nations Human Rights Council created on March 15, 2006, by UN General Assembly Resolution 60/251. The Universal Periodic Review is a unique process that involves a regular review of the human rights situation in all 193 UN Member States, based on equal treatment for all States. The goal of the Universal Periodic Review is to assess the fulfilment of the human rights commitments and obligations of the UN Member States, as set out in the UN Charter, the Universal Declaration of Human Rights, and the human rights instruments to which the State is a party, the voluntary human rights obligations and commitments of the State. The mechanism also provides an opportunity for each Member State to state what actions it has taken to improve the human rights situation and to overcome the challenges to the exercise of human rights.

The Universal Periodic Review is a State-led peer review mechanism, which is carried out through the Working Group of the Human Rights Council on UPR, which consists of the 47 member states of the Council. However, any Member State of the United Nations may ask questions, make comments and/or make recommendations to the State concerned. The analysis is based on three important sources of information: the national report prepared by the State under review, the summary of recommendations and observations made by the UN human rights mechanisms, as well as the UN agencies and the summary of the information provided by the National Human Rights Institution and civil society organizations.

As a National Human Rights Institution, accredited in 2018 with an “A” status according to the Paris Principles, the People’s Advocate Office submitted to the UN Human Rights Council the third alternative report, participating in the previous cycles of the Universal Periodic Review of the Republic of Moldova in 2011 and 2016.

The most serious, in the institution’s view, problems in the Republic of Moldova and the areas that require more interventions to improve the situation are mentioned in the Report. The Document reflects the opinion of the People’s Advocate Office on developments or involutions in the observance of human rights in the Republic of Moldova since the last universal periodic review on the issues addressed in 2016, but also includes other issues that have come to the attention of the institution, raise concerns and involves urgent recovery actions.

Issues concerning the situation in the field of justice and observance of human rights in Transnistria; civil society and human rights defenders; prohibition of torture; combating hate crimes; freedom of expression and the media; the right to an adequate standard of living and a decent living; the right to water and sanitation; observance of the rights of people with disabilities and LGBT; observance of child rights; the working conditions of activity of the People's Advocate Office, as a National Human Rights Institution were addressed in the Report.

On December 7, 2021, the representative of the People's Advocate Office participated in the pre-session of the third cycle of the Universal Periodic Review, organized in Geneva in an online format, during which the representative made a statement on the main human rights issues in the Republic of Moldova. The official of the People's Advocate Office also participated in the national pre-session organized on December 17 by the Office of the UN High Commissioner for Human Rights – OHCHR in Moldova. The pre-sessions of the Universal Periodic Review, attended by representatives of national human rights institutions and civil society organizations, are organized to inform the permanent missions of the UN Member States based in Geneva and the diplomatic missions in the Republic of Moldova about the situation in the field of human rights in the State subject to review and advance recommendations for observance of human rights in Moldova issued by participants.

To promote the recommendations made, the People's Advocate, within the organized advocacy activity, addressed the accredited diplomatic missions in the Republic of Moldova and the permanent missions in Geneva (a total of 35 missions contacted) with information about the situation in the field of human rights and encouragement to take his/her recommendations and forward them to the State during the review session. It is worth mentioning that a large part of the recommendations made by the People's Advocate was found in the recommendations addressed to the Republic of Moldova by the UN Member States during the 40th session of the Working Group of the Universal Periodic Review Mechanism of the State, held on January 28, 2022, in Geneva.

By the mandate he holds, the People's Advocate will monitor the implementation by the State of the recommendations issued within the third cycle of Universal Periodic Review and will report to the international mechanisms on the situation in the field.

CHAPTER I.

OBSERVANCE OF HUMAN RIGHTS IN THE REPUBLIC OF MOLDOVA IN 2021

HUMAN RIGHTS DEFENDERS

The topic of Human Rights Defenders (HRDs) is widely discussed both internationally and in the Republic of Moldova. This phenomenon spread especially during the Covid-19 pandemic, during which human rights and fundamental freedoms have been restricted, often unjustifiably. Public health measures and extensive government powers amid a global pandemic have also affected the rights of human rights defenders.

Certain governments and other entities are using this crisis to assault defenders in other new ways, repress human rights and impose restrictive measures. Defenders become easier to target when they are isolated, which makes them much more vulnerable in the absence of media attention to their situation. Externally, the HRDs are facing an unprecedented assault - pressure on civil society and aggressive control.

Several international structures have set out to take action to monitor the state of affairs in this regard and remedy it. These include organizations of national human rights institutions, such as the Global Alliance of National Human Rights Institutions (GANHRI), and the European Network of National Human Rights Institutions (ENNHRI), of which the People's Advocate Office of the Republic of Moldova is a member. They are aiming for the adoption of a Global Action Plan this year to support the protection and promotion of human rights defenders and the civic space.

Human rights defenders play a key role in documenting acts of violence; providing legal, psychological, medical or other assistance to victims of human rights violations; combating the impunity of those responsible for human rights violations and raising awareness of human rights and their defenders at nationally, regionally and internationally. The HRDs make a major contribution, in particular through their organizations, to the implementation of international human rights treaties. Another significant action taken by the HRDs concerns human rights education and training.

International Standards on Human Rights Defenders

Internationally, the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and

Fundamental Freedoms, known as the Declaration on Human Rights Defenders, has been adopted. The Declaration provides for the support and protection of Human Rights Defenders in the context of their work. Following the adoption of this instrument in 2000, the appointment of a Special Rapporteur on human rights defenders aimed at monitoring the implementation of the Declaration concerned by examining urgent appeals and conducting ad hoc or regular visits to the relevant States has been decided.

At the European level, in 2008, the Council of Europe adopted a Declaration on Human Rights Defenders. According to it, the Commissioner of the Council of Europe is empowered to ensure the protection of Human Rights Defenders. Therewith, the European Parliament Resolution of 18 April 2012 states that the issue of Human Rights Defenders requires the utmost attention, “as human rights defenders are key players in protecting and promoting human rights and strengthening democracy”.

Although the UN Declaration on Human Rights Defenders, as well as other international documents, does not provide a clear definition of Human Rights Defenders, the approach derived from them consists in defining the Defenders of Human Rights through their activities for the promotion and protection of human rights.

The term “human rights defender” refers to any person who, individually or in association with other persons, works for the promotion or protection of human rights. First of all, human rights defenders identify with what they do, and the best way to explain this expression is to present their work and the context in which they work, the list of their activities not being exhaustive. Defenders can be of any gender, of different ages, from any part of the world and from all kinds of professional or other environments. The HRDs are not only found in non-governmental organizations but could in some cases also be government officials, civil servants or members of the private sector.

To be considered a Defender of Human Rights, a “certain qualification” is required. The Declaration on Human Rights Defenders more specifically that such a person must act peacefully. Therewith, the “standard” required of a human rights defender is a complex issue, and the Declaration clearly indicates that defenders have responsibilities as well as rights.

Therefore, Human Rights Defenders must accept the universality of human rights, as defined in the Universal Declaration of Human Rights. A person cannot deny some human rights, but at the same time claim to be a human rights defender.

Another important aspect refers to the validity of the arguments presented. A human rights defender doesn’t have to be correct in his/her arguments to be a true defender. The critical test is whether or not the person defends a human right, or whether or not his or her concerns fall within the scope of human rights.

The interaction between the National Human Rights Institutions (NHRIs) and the HRDs is essential in ensuring their protection, as the NHRIs have certain levers and tools to assess the situation and can work together to defend and promote human rights. The NHRIs can receive and investigate complaints about violations of HRDs, raise systemic and constitutional issues in the legal system, and help train the HRDs on their rights and security.

Special Report on the Situation of Human Rights in the Republic of Moldova

A special Report on the situation of human rights defenders in the Republic of Moldova was presented by the United Nations Special Rapporteur on the situation of human rights defenders at the 2019 session of the UN Human Rights Council. Details on this subject are contained in the Report on the observance of human rights and freedoms in the Republic of Moldova in 2018.

According to those reported by the Special Rapporteur, the HRDs in the Republic of Moldova are active in many areas, including justice, freedom of expression and other civil and political rights, gender equality, and promotion of the rights of persons with disabilities, Roma and other minorities, etc. The Republic of Moldova has a good set of laws that, in most aspects, create an adequate environment for the functioning of human rights defenders. But, despite a satisfactory legislative framework at the global level, the situation in the Republic of Moldova needs to be improved. The report states that in Moldova, human rights defenders are often intimidated, frustrated and harassed. Not once have they been subjected to discriminatory situations or situations in which their rights have been violated.

On the visit to the Republic of Moldova, the Special Rapporteur made several recommendations which could help to improve the situation in the field, thereby, the State must develop legal provisions and practices to protect the principles of genuine civil society participation in decision-making at the central and local levels. The conditions must be also ensured for the mass media of non-profit organizations and other human rights defenders to have practical tools to hold politicians accountable and to influence the decision-making process and policy implementation. Therewith, the Government was recommended to develop viable mechanisms for civil society to be involved in monitoring legal proceedings and to inform society about developments in these cases.

Concerning the Institution of the Ombudsman, the Report states that the authorities should also extend the scope of the People's Advocate Office so that he can serve as the person responsible for the protection of human rights defenders. Human rights defenders could be considered a specific risk group and therefore a group within the Ombudsman's mandate.

At the same time, the authorities were advised to examine the possibility of drafting and adopting a special law on human rights defenders. The latter recommendation has not been implemented.

Currently, the situation does not seem to have changed significantly, also attesting, during 2021, cases of intimidation of journalists. Non-profit media organizations have warned of intimidation of NewsMaker members by police employees when after the publication of an article about the existence of a criminal case against two police officers, the editorial office was sued by the protagonists of the article. The non-commercial media organizations requested the Ministry of Internal Affairs to take note of the actions contrary to the law of the head of the Police Sector no. 1 and to communicate publicly the measures taken concerning the data subject. Therewith, the organizations urged the law enforcement bodies to conduct themselves exclusively by the provisions of the law and to give up the abusive and illegal practices of intimidation of journalists.

The Report on the situation of human rights in the Republic of Moldova in the 3rd cycle of the UN Universal Periodic Review in 2021¹ noted that the harassment and intimidation by politicians of the most important and representative non-governmental organizations have hurt the activity of the associative sector, which has an important role in promoting democratic change, through their activity in various spheres in areas not covered by the State and through their ability to transform society. In his public statements, the People's Advocate drew the attention of politicians to the fact that civil society belongs to the category of human rights defenders, who have a positive, important and legitimate role in contributing to the fulfilment of human rights at the local, national, regional and international level, including through dialogue with the authorities and supporting their efforts to implement States' obligations and commitments in this regard.

The situation of HRDs is even worse in Transnistria. The rights of human rights defenders in Transnistria are restricted, approving, under the pretext of ensuring information security, various "rules", "laws" that restrict the right of residents to alternative information and the right to criticize the Transnistrian authorities.

In this context, freedom of expression, as an important tool of HRDs is subject to threats, which are attested in 2021 through a series of arrests, arrests and intimidation. These abusive actions threaten the freedom of opinion, to receive or communicate information or ideas, without the interference of those who administer the uncontrolled territory on the left bank of

¹ This Report was prepared by the People's Advocate's Office (Ombudsman) of the Republic of Moldova, as a National Human Rights Institution accredited with "A" status, <http://ombudsman.md/wp-content/uploads/2021/10/raportUPR2021.pdf>

the Dniester. To date, the Tiraspol authorities continue to develop policies/mechanisms that seriously affect the right to assembly, opinion and expression.

The People's Advocate has always intervened with recommendations on urging the state authorities, mediating representatives and observers in the 5+2 format to apply diplomatic, legal or other measures, which are in force and are per international law, to ensure the fulfilment of human rights and freedoms in the administrative-territorial localities on the left bank of the Dniester and Bender Municipality (Transnistria), so that human rights and freedoms are complied with throughout the territory of the Republic of Moldova.

In 2021, the People's Advocate Office drafted the Concept of the draft law on human rights defenders and proposed it for examination and debate to representatives of civil society, professional groups, trade unions, media, and any interested person who may be a human rights defender.

The draft concept refers to the need to create regulations on HRDs that converge with the commitments made by the Republic of Moldova by supporting all joint resolutions and declarations on human rights defenders at the UN General Assembly and the Human Rights Council.

The concept put forward by the People's Advocate Office is based on a model law on the recognition and protection of human rights defenders, developed by 27 world-renowned experts who conducted comparative legal research and identified both good and restrictive practices in the recognition and protection of lawyers. The draft model law takes into account approximately 40 national jurisdictions. More than 500 human rights defenders from more than 110 countries around the world were also consulted.

The People's Advocate advocates for the establishment of regulations on HRDs in the Republic of Moldova based on the standards and recommendations of international bodies, including the recommendation of the UN Special Rapporteur, Michael Forst.

After elaborating on the Concept of the need for the legal regulation of HRD protection, in case of supporting this initiative, the People's Advocate Office aims to draft a special law with the support of civil society. In case of reaching a consensus on the subject, the People's Advocate will plead for its discussion in working sessions with the participation of the state authorities.

The Ombudsman argues that, although the national framework includes laws on categories of persons falling within the concept of Human Rights Defenders, the laws in question do not specify that they may be Human Rights Defenders, nor do they contain provisions on their protection as Human Rights Defenders. In general, the notion of Human Rights Defenders does not exist in national legislation.

The adoption of a special law or the completion of the legal framework with express regulations on Human Rights Defenders would be the recognition that there is a category of people who need special security guarantees. Recognizing and ensuring effective protection of human rights defenders by law will help to promote democracy, good governance, sustainable development and the rule of law.

In the context of building the concept of law on HRDs, we mention that the Campaign to support children - defenders of Roma rights is also growing. Thereby, the phenomenon of children-human rights defenders is spreading and is supported by society, the voice of these children must be heard and they must also benefit from protection and certain guarantees. The People's Advocate for Child's Rights proposes the inclusion in the discussed law concept of a chapter with provisions on children-defenders of human rights and the Child's Ombudsperson as a mechanism for the protection of children-defenders of human rights.

CONCLUSIONS

There have also been reports of intimidation of journalists as human rights defenders in 2021. Legal recognition and protection of human rights defenders are crucial to ensure that they can work safely, have a supportive environment and are free from assaults, retaliation and unreasonable restrictions. And when their rights are violated, they have protection and defence mechanisms at their disposal in the Moldovan justice system. The HRDs' legal regulation would at the same time help to achieve the broader objectives of defending human rights and promoting democracy, good governance, sustainable development and compliance with the rule of law.

RECOMMENDATIONS:

Elaboration, in consultation with all stakeholders, and adoption of specific regulations within the existing normative framework or adoption of a special law on human rights defenders to guarantee them a safe environment of activity.

THE RIGHT TO A FAIR TRIAL

The right to a fair trial is enshrined in the Constitution of the Republic of Moldova in Articles 20, 21 and 26. These articles regulate free access to justice, the presumption of innocence and the right to defence.

A person's right to a fair trial is guaranteed in Articles 8, 10 and 11 of the Universal Declaration of Human Rights, Article 14 of the Covenant on Civil and Political Rights, Article 6 of the Convention for the Protection of Human Rights and Fundamental Freedoms and Article 13 of the UN Convention on the Rights of Persons with Disabilities.

The right to a fair trial is also found in the Sustainable Development Goals, under Goal 16 - Peace, Justice and Strong Institutions. Specific elements of this fundamental right refer to the examination of the case fairly, within a reasonable time, by an independent and impartial tribunal, established by law, observing the right to privacy, the principle of the presumption of innocence, the right to defence, including by providing free legal aid, as well as other procedural rights intended to contribute to the fulfilment of this right.

In previous reports, the People's Advocate recommended continuing efforts to reform the justice system, implementing the recommendations of regional and international human rights authorities relating to the justice system and adopting comprehensive legislation to criminalize hate crimes, in line with the provisions of the UN Convention on the Elimination of Racial Discrimination.

Despite several public appeals from the People's Advocates and civil society and the Council for Preventing and Eliminating Discrimination and Ensuring Equality to finalize draft law no. 301 of July 1, 2016,² on the regulation of prejudicial crimes, so that the law is functional and protects victims of these types of crimes, the project in question has not yet been adopted.

Public Policies and Legislation

The Constitutional Court ruled on the assessment of the result of the test of professional integrity by the court without the participation of the tested person and the impossibility of challenging the court decision on the assessment of the test result and declared unconstitutional Article 343/8, the text “and assessment of the result of the test of professional integrity” in Article 343/6 of the Civil Procedure Code and paragraphs (2), (3) and (4) of Article 17 of Law no. 325 of December 23, 2013, on the Assessment of Institutional Integrity. Thereby, after communicating the test result, the tested public agent will have the possibility to: 1) contest the result of the professional integrity test in the court in the order of the administrative contentious; 2) to participate in the court in the examination of the result of the integrity test, ensuring the confidentiality of the testers, of the means and methods of testing; 3) to have access to the test materials, ensuring the confidentiality of the testers, of the means and methods of testing; 4) to use the remedies regulated by the Administrative Code.

The Constitutional Court also declared unconstitutional Law no. 244 of December 16, 2020, for amending some regulatory documents (competencies of the National Integrity Authority). The intrinsic criticisms of unconstitutionality concerned: the term within which

²<https://www.parlament.md/ProcesulLegislativ/Proiectedeacteleislative/tabid/61/LegislativId/3349/language/ro-RO/Default.aspx>

control of declarations of assets and personal interests can be performed and, respectively, the term within which the corresponding sanctions can be applied; and making the initiation of criminal proceedings for some categories of offences conditional on the existence of an act issued by the National Integrity Authority on the finding of a violation of the relevant legislation.

Important amendments have been made to the legislation on the National Integrity Authority and the declaration of wealth and personal interests. The amendments provide for several innovations, such as: extending the verification to family members, parents/in-laws and older children of the person under control, concubines and dependents; declaring the goods at their real value at the time of purchase; the introduction of the obligation to declare virtual values; reversal of the burden of proof - the subject of the verification or relatives/donors will have to clarify doubts about the justification of the assets held; increasing the number of members of the Integrity Council.

By Law no. 120 of September 23, 2021, on the amendment of the Constitution (in force as of April 1, 2022), constitutional amendments concerning the judicial system were made. The amendments made aim to strengthen the independence of the judicial system and cover the term, method of appointment and immunity of judges, and the composition and powers of the Superior Council of Magistracy.

On December 6, 2021, the Parliament of the Republic of Moldova approved the Strategy for ensuring the independence and integrity of the justice sector for 2022–2025 years. The strategy contains three strategic directions: the independence, responsibility and integrity of authorities in the justice sector; access to justice and the quality of the justice act; efficient and modern administration of the justice sector.

The proposals of the People's Advocates to review the provisions of the Enforcement Code, which regulate the list of the debtor's assets that cannot be traced in the case of forced enforcement, were taken into account and can be found in the amendments made on October 7, 2021, to the Enforcement Code.

Examination of applications

In 2021, in the addresses to the People's Advocate problems related to *the quality of the judicial act, the excessive duration of the judicial process, unsatisfactory legal aid, non-execution and/or late execution of the judicial title, the impossibility of benefiting from conditional release before the deadline* were addressed.

Recognizing the right of a person *to a fair, public and reasonable trial*³, the People's Advocate intervened in the settlement of cases in which he found unjustified the actions of the court to deny the person the release of the full court decision to exercise the ordinary appeals. Other cases of violation of the right to a fair trial in which the persons were restored to their rights referred to the failure to communicate the procedural documents in the language spoken by the person, the unjustified refusal of the court to release the person, a party in the judicial process, the audio recordings of the court hearings, the “summoning” of the person by the criminal investigation body without communicating the full content of the subpoena, the procedural quality attributed to the person and his rights, but with the attention of the person on the procedure of forced bringing.

Complaints about the procrastination of the examination of the cases by the courts continued in 2021. In the application review process, the Ombudsman found unjustified the procrastination of the examination by the criminal investigation body of a complaint on the admitted acts of torture, addressed in 2016 and on which at the time of addressing the Ombudsman there was no final decision. In this context, the People’s Advocate pointed out that during the six years of the criminal investigation, the criminal investigation body ordered orders not to start the criminal investigation, the judicial courts annulling them, with the obligation to remove the identified deficiencies and/or initiate further legal proceedings. The analysis of the ten conclusions of the judicial court issued on the case, made the Ombudsman intervene with the General Prosecutor’s Office, but the latter did not recognize certain deviations in the process of conducting the criminal investigation.

In another examined case, the People’s Advocate considered unjustified the eight-month term established to rule on the request on the compensatory mechanism (detention of the person deprived of liberty). Following the intervention of the People’s Advocate, the term was reduced to 1.5 months, the date of the meeting being revised. These, as well as other cases, led the People’s Advocate to conclude that the claims submitted on the procrastination of the term of investigation and examination of criminal cases are often justified.

Costs for judicial expertise constitute another problematic aspect that limits the right of access to justice for people from vulnerable groups. The People’s Advocate established in the examined cases that the persons are unable to pay the costs for carrying out the judicial expertise, in this case, to establish paternity, given that they are persons with disabilities and/or have dependent minors with special needs, the cost of the expertise being excessive to their incomes. In this regard, the Ombudsman notes that if the applicant has a precarious material situation, he/she is a person with disabilities or is a beneficiary of an old-age pension,

³Article 6 of the European Convention on Human Rights;

by the decision of the head of the public institution of judicial expertise or of the judicial expert, who was ordered to perform the judicial expertise, in case he works in a judicial expertise office, fees for forensic expertise can be reduced by up to 50%. In this sense, the Ombudsman considers that this exception from the law is not able to ensure access to judicial expertise for people from vulnerable groups who are unable to pay the fees for expertise in a proportion of even up to 50%.

The People's Advocate notes that the State must deal particularly with the protection of vulnerable groups who are in an exceptional situation, especially those who are in a precarious material situation, offering them additional financial support to ensure access to services related to judicial and extrajudicial expertise. In such conditions, the Ombudsman recommends the revision of the legal norm, to ensure access to justice for all persons.

State-Guaranteed Legal Aid

One of the main guarantees of the right to a fair trial is that every person who goes to court is provided with all "reasonable tools" of the law to plead their case under conditions that do not disadvantage either party. The Ombudsman considers it imperative to ensure the right to defence, especially for vulnerable groups. By the guarantees provided by law⁴, the People's Advocate continues to reiterate the issue of the quality of State-guaranteed legal aid. Petitioners who turn to the Ombudsman often cite formal representation in court, the low quality of documents drawn up, neglected procedural deadlines, and requests for remuneration for services contrary to their free nature. In such circumstances, the People's Advocate considers that the State-guaranteed legal aid remains to be provided to an insufficient extent.

One of the problems identified in the Gagauzia Autonomous Territorial Unit region concerns the inability of lawyers to provide free legal aid, given the language spoken by the beneficiary. The inability of lawyers from the Autonomous Territorial Unit of Gagauzia to speak and draw up procedural documents in the state language is often grounds for a refusal to grant legal aid outside the region, or beneficiaries are recommended to translate procedural documents on their own. In this context, the Ombudsman recommends providing courses to study the languages that work in this region with legal specialization for lawyers who provide free legal services to ensure access to justice for the beneficiaries of this service.

Enforcement of court decisions

To ensure the effective fulfilment of human rights and freedoms, court decisions and other executive acts must be applied strictly, promptly, and in a unitary manner, without discrimination and influence. Failure to enforce court decisions limits access to justice, essentially affecting the rule of law. One of the problems reported by the Ombudsman in 2021

⁴Law no. 198/2007 on State-Guaranteed Legal Aid;

is the non-execution of the enforcement title, either because of the complexity of the enforcement procedures, because of the conduct of the parties involved in the process, or because of the amount and nature of the claims established by the court decision.

A special subject in this sense was the delay in the execution of the court decisions that remained final on the payment of the maintenance pension for minor children, due to the impossibility of the bailiffs to establish the location of the debtor. In such conditions, the bailiffs are put in a position to suspend the execution of the court decision until the location of the debtor is identified, which generates a debt for the payment of the maintenance pension. The official non-employment in the labour field also makes it impossible to fulfil the obligation of the debtor to pay the maintenance pension, in the meantime accumulating debts.

The People's Advocate also established a vicious practice admitted by bailiffs of applying seizure on all debtors' accounts/cards, without first verifying their character, as a result of which access to debtors' salaries, allowances or pensions is limited, people being deprived of sources of livelihood.

Another problem identified and resolved as a result of the intervention of the Ombudsman consisted in the non-communication of procedural documents by the bailiff, as well as not ensuring the right of access to the file of the enforcement procedure in full volume.

Reports/studies

The multitude of interventions by the People's Advocate in cases concerning enforced execution determined the need to evaluate the observance of human rights in the enforcement procedure. The thematic report⁵, commissioned by the People's Advocate Office, shows the urgency of the need for the correct application of the enforcement mechanism, implicitly forced enforcement, to make it functional and fair for all parties involved in the enforcement procedure, ensuring a fair balance between the rights of creditors and debtors.

Broadly speaking, national procedural regulations are in line with international standards in the matter and, to a large extent, are similar to good practices in European countries. However, some problems are based on either legislative or institutional deficiencies/deficiencies, or dysfunctions in the correct application of the normative framework, which degenerate into violations of the rights of the parties/participants of the enforcement procedure.

Thereby, deficiencies were detected in the process of initiating and carrying out the enforcement procedure, being invoked (including by the respondents surveyed online and

⁵Thematic Report "Review of observance of human rights in the process of execution of enforceable documents" available here: <http://ombudsman.md/wp-content/uploads/2021/12/rt11.pdf>

interviewed) the insufficient/brief information or failure to inform the participants of the enforcement procedure by the bailiffs about the measures taken and the procedural documents drawn up, about the enforcement expenses related to the enforcement procedure and the bailiff's fee, about the legal possibilities to contest the bailiff's acts in court, etc.

Therewith, the absence of a uniform interpretation of the legal provisions and the faulty practices implemented by some bailiffs were found, which shows “excessive zeal” in the pursuit of the debtor's assets by applying the seizure of movable and/or immovable assets and by their forced sale or administration, by pursuing the debtor's salary, pension, social allowances and other income. Even worse is the situation when the attachment is applied to the assets jointly owned by both spouses and to the assets of minor children, without taking into account the amount of the adjudged/pursued claim or resorting to alternatives in tracking the goods and ensuring the observance of the rights of the participants in the enforcement procedure.

The problems and deficiencies identified are of particular sensitivity when we talk about the procedure for the execution of executive documents in the Transnistrian Region of the Republic of Moldova, where effectively the judicial executors cannot exercise their powers.

The gaps, identified at the legislative and practical levels, which condition difficulties in observing the rights and freedoms of the creditor and the debtor, of other participants in the enforcement procedure (by taking into account the impact of the measures ordered on the vulnerable categories) and generate impediments to the bailiffs in the enforcement process, can be remedied by the gradual implementation of the recommendations proposed in this report.

Bureaucracy, corruption and lack of trust in the justice system are considered important barriers in addressing the population when their rights are violated. These are the findings of the “Human Rights Perceptions in the Republic of Moldova” Study (2021), commissioned by the People's Advocate Office”.⁶ The degree of confidence concerning the assurance of the right to a fair trial for different groups of the population remains quite low, with answers to a very high/high degree varying between 28-48%, and in terms of observing the rights of people with low incomes and other vulnerable groups – below 20%. The participants in the study believe that the rights of vulnerable groups (Roma, religious minorities, LGBT, etc.) are the weakest ensured with only 27.6% statements with a positive connotation, followed by those of the poor people (with 29.2%) and the unemployed (30,4%).

⁶<http://ombudsman.md/wp-content/uploads/2021/10/Studiu-PERCEPTII-DO-2021.pdf>

Distrust in the judiciary in the Republic of Moldova persists among the interviewed respondents. It was mentioned that justice is selective and marked by acts of corruption, and people with higher incomes, those with socio-political support and informed people increase their chances for a fair trial. In the opinion of several experts, the right to a fair trial is a right little known by the population, but, at the same time, it is one of the most frequently violated rights (only 36.1% believe that it is observed to a very large and large extent).

The interviewed experts emphasized the following backlogs, and urgent needs concerning the improvement of observance of human rights in the Republic of Moldova: non-functional justice system; political involvement in judicial acts; organized crime controls all decision-making processes in the judiciary, the political institutions of the State. In the opinion of several experts, as long as justice does not work, people cannot benefit from their rights, because the mechanism for applying sanctions is dysfunctional, and the consequences are found in the population's lack of trust in state institutions, in the fact that they can guarantee their security.

The good quality of judicial decisions is an essential condition for a fair judicial system. A judicial system that allows the adoption of poorly reasoned decisions not only increases the likelihood of injustice but also always faces overload and public distrust. Court decisions are often long, incoherent texts that are difficult to read and understand. This is one of the conclusions of the Study launched by the Legal Resources Centre of Moldova and publicly presented at the end of September 2021⁷.

According to the research results, the main cause that negatively affects the quality of reasoning of court decisions is uneven judicial practice. Another factor that influences the adoption of poorly reasoned decisions is the workload, but also its unequal distribution among judges. The deadlines for examining cases or making procedural decisions are also a factor that negatively affects the quality of reasoning in court decisions. Judges tend to adhere to the procedural deadlines provided by law and often neglect other requirements, including the reasons for their decisions. The quality of the motivation is also related to the performance of other participants in the process (lawyers and prosecutors).

In 2021, in the 68 decisions pronounced in 2021 in the cases concerning the Republic of Moldova, the ECtHR found 69 violations of the European Convention on Human Rights (ECHR), most referring to the activity of judges, and 23% - to a single article of the ECHR - Article 6 Right to a fair trial⁸. The violations refer to: insufficient reasoning of the court

⁷ https://crjm.org/wp-content/uploads/2021/11/2021-22-10-De-la-hotarari-judecatoresti-la-justitie_2021-RO_FINAL.pdf

⁸ https://crjm.org/wp-content/uploads/2022/01/2022-01-26-Nota-Analitica-Republica-Moldova-la-CtEDO-in-2021_RO.pdf

decision; conviction on appeal or appeal without the direct hearing of witnesses; non-execution of the court decision within a reasonable time; admitting late appeals or appeals; the failure to properly cite in the court of law and the adoption by the Supreme Court of Justice of a new solution per case, based on arguments that had not been invoked previously; insufficient compensation for violation of Article 6.

CONCLUSIONS

In the year 2021, no significant progress can be found in the field of observing the right to a fair trial. Citizens' addresses to the People's Advocate in the field of the right to a fair trial mostly concerned problems and topics that have been addressed for years. Even in 2021, problems invoked by citizens remain current, such as: the procrastination of the examination of cases by the courts, as well as the investigation of criminal cases, the unsatisfactory quality of legal services in the provision of State-guaranteed legal aid, but also institutional legislative deficiencies/shortcomings and/or dysfunctions in the process of forced execution of executive documents. The latter is caused, by the lack of uniform work practices and unique quality standards on the legal-informational content of the documents used by the bailiffs.

The data of the study commissioned by the People's Advocate Office shows that the degree of confidence in ensuring the right to a fair trial for different groups of the population remains quite low.

The People's Advocate reiterates the need for consolidated and continuous efforts to achieve progress in observing the right to a fair trial, but also to increase the population's confidence in the justice system. The inclusion and transparency of the reforms, but also the independence of the judiciary must be ensured for the sustainability of these reforms and the observance of human rights.

RECOMMENDATIONS

- The objective review of the workload of the courts to determine the efficient management and allocation of additional resources, a fact that would contribute to avoiding the procrastination of the examination of files;
- Permanent monitoring and review of State-guaranteed legal aid services, which would influence the quality of services provided to beneficiaries;
- Revising/improving the legal and regulatory framework on the enforcement procedure, to effectively ensure the legal guarantees inherent in a fair, efficient and proportionate enforcement procedure throughout its duration;
- The development of unique quality standards on the legal-informational content of the documents used by the bailiffs, aimed at the clear presentation, without leaving room

for abusive interpretation, of the rights and freedoms of the parties to the enforcement procedure, as well as the consequences of the conduct adopted by one party or another;

- Continuing efforts to reform the justice system, implementing the recommendations of regional and international human rights protection authorities that refer to the justice system and adopting comprehensive legislation criminalizing hate crimes, taking into account the proposals from the public consultations, to ensure effective protection for the victims of these types of crimes.

THE RIGHT TO VOTE AND THE RIGHT TO BE ELECTED

The right to vote and the right to be elected is guaranteed by the Constitution of the Republic of Moldova through the provisions of Article 38, according to which” (1) *The will of the people shall constitute the basis of the State power. This will is expressed by free elections which are periodically conducted by way of a universal, equal, direct, secret and freely expressed ballot.* (2) *The citizens of the Republic of Moldova having attained the age of 18 on or by the voting day inclusively are entitled to vote, except for the persons banned from voting by the law.* (3) *The right to stand for election is guaranteed to all citizens of the Republic of Moldova enjoying the right to vote, according to the law.”*

The right to vote and the right to be elected as provided for in Article 21 of the Universal Declaration of Human Rights, Article 25 of the International Covenant on Civil and Political Rights, Article 29 of the UN Convention on the Rights of Persons with Disabilities and Article 7 of the Convention on the Elimination of All Forms of Discrimination against Women.

Early parliamentary elections were held in 2021, citizens were called to vote for a new composition of the legislature. The events related to the election were monitored by the People's Advocate, based on his general mandate to monitor the degree of observing human rights, but also by his role as a promoter and defender of democracy and the rule of law.

At the beginning of the electoral campaign, the People's Advocate made a public appeal in which it called officially registered participants in the electoral race for the parliamentary poll to run a fair and democratic campaign, observe human rights and avoid manipulation, harassment of opponents, distribution of falsehoods, promotion of xenophobic, racist, homophobic, discriminatory and hate⁹ speech messages.

During the pre-election period, the People's Advocate came up with various reactionary acts, to ensure the citizen's right to choose and be elected. Thereby, the investigation was launched based on the ex officio notification of the issuance by the Central Electoral Commission of Decision no. 4966 of 05.06.2021. Noting with the speed that the Decision in question contravenes the standards in the field of human rights and will not ensure the fulfilment of the right to vote for all citizens, the People's Advocate submitted his conclusions in the process of examination of the administrative litigation case by the Civil and Administrative Litigation Board of the Court of Appeal and the Civil, Commercial and Extended Administrative Litigation Board of the Supreme Court of Justice, on the increase in

⁹<http://ombudsman.md/news/avocatul-poporului-cheama-la-corectitudine-si-respectarea-drepturilor-omului-in-campania-electorala-pentru-alegerile-parlamentare-anticipate-si-scrutinul-din-11-iulie-curent/>

the number of polling stations outside the country, for the satisfaction of the requests of the citizens of the Republic of Moldova.

The People's Advocate noted that ensuring the right to vote of all citizens and the right to be elected, regardless of location, is an obligation of the State resulting from the Constitution of the Republic of Moldova and the international treaties to which the Republic of Moldova is a party. The Republic of Moldova assumed a positive obligation concerning the immediate fulfilment of all the rights found in the ratified international treaties.

The People's Advocate recommended¹⁰ to the Central Electoral Commission (CEC) the urgent review of the list of polling stations abroad for the parliamentary elections of July 11, 2021, by increasing the number of polling stations according to the assessments presented by the Ministry of Foreign Affairs and European Integration and the initial list of the CEC of June 4, 2021. Therefore, the People's Advocate recommended the Central Electoral Commission take into account the real needs and assessments of the Ministry of Foreign Affairs and European Integration, so that equal chances are offered to all citizens of the Republic of Moldova who has expressed their will to exercise their right to vote regardless of their domicile.

It is necessary to mention the laconic legal framework in electoral matters, which has not been improved per the addresses of the Constitutional Court in 2016 and 2020 and with the recommendations of the national election observation missions, the OSCE/ODIHR and the Venice Commission¹¹. The draft law no. 263 of June 19, 2020, developed to make Addresses of the Constitutional Court and perfect the electoral procedures¹², is currently under examination¹³ in the Parliament. As a result, the early parliamentary election held based on the flawed electoral framework, in the opinion of the People's Advocate, led to the occurrence of incidents likely to affect the smooth running of the campaign for the early parliamentary elections.

Several findings and recommendations of the Ombudsman were presented in the *Synthesis of observing human rights in the electoral campaign for the early parliamentary*

¹⁰The notice issued pursuant to Article 24 of Law no. 52/2014 on the People's Advocate (Ombudsman) <http://ombudsman.md/wp-content/uploads/2021/06/07-4-25-din-24.06.2021-aviz-cu-recomand%C4%83ri-CEC.pdf>

¹¹Promo-LEX | STATEMENT | Partially free and partially fair elections in a climate marked by hate speech, biased coverage, suspicions of political influence on electoral authorities (promolex.md)

¹²The position of the People's Advocate on the draft law reflected in the Report on the observance of human rights and freedoms in the Republic of Moldova in 2020, pages 23-24; <http://ombudsman.md/wp-content/uploads/2021/04/RAPORT2020romana.pdf>

¹³<https://www.parlament.md/ProcesulLegislativ/Proiectedeactelegislative/tabid/61/LegislativId/5118/language/ro-RO/Default.aspx>

*elections of July 11, 2021*¹⁴, made by the People’s Advocate Office. This is an integrated product of the monitoring activity carried out by various entities¹⁵, based on information from available open sources, data received from various institutions, and organizations, recommendations of the People’s Advocate on the campaign for the parliamentary election and notifications from the beneficiaries.

Ensuring the citizens of the Transnistrian Region have the right to vote

The July 11 poll revealed the same problems and impediments in achieving the right to vote by citizens residing on the left bank of the Dniester, which were complained about during the previous elections: limited or even lack of access of the residents of the Transnistrian Region to objective and truthful information about the electoral processes and events in the Republic of Moldova; lack of access or limited access to the main media sources in the Republic of Moldova; the impossibility of carrying out the political activity/electoral agitation by electoral contestants; lack of transparency in the process of forming polling stations for voters on the left of the Dniester; organized transportation of voters to polling stations and their corruption.

Hate speech in the electoral campaign for the parliamentary elections

The People’s Advocate attested to several cases of discriminatory and intolerant messages, including the signals received from the beneficiaries. They are particularly concerned about the intolerant speeches concerning sexual minorities, placed on social networks by the leaders of some political formations participating in the elections.

During the electoral campaign for the parliamentary elections of July 11, 2021, the People’s Advocate Office launched an action on social networks with the hashtag #CampanieElectoralăFărăUră (Hate Free Election Campaign). The institution also jointly developed with the Council for the Prevention of Discrimination and Ensuring Equality and Promo-LEX, with the support of the Council of Europe, a spot “What is hate speech?”, which was distributed online.

Observing the rights of people with disabilities

Despite the actions to make voting stations accessible for people with disabilities undertaken by the CEC, the People’s Advocate believes that even in the parliamentary election of July 11, 2021, it was not possible to create adequate conditions for realizing the right to vote for people with special needs. Being located in schools, houses of culture or

¹⁴http://ombudsman.md/wp-content/uploads/2021/09/Nota_alegeri-11-iulie-2021_NV_-20-septembrie-1.pdf

¹⁵The Civic Coalition for Free and Fair Elections, the Promo-LEX Mission to observe the early parliamentary elections of July 11, 2021, observers from the International Election Observation Mission (ENEMO), observers from the OSCE/ODIHR International Mission;

other edifices with steps at the entrance, most devotional sections were once again difficult to access for people in wheelchairs or with mobility difficulties.

The reflection of the election campaign in the mass media

The People's Advocate has repeatedly addressed in the annual reports of the last 5-6 years¹⁶ issues on the situation on media freedom. They referred, including, to the high degree of concentration of property rights over national television stations, controlled by natural persons affiliated with political parties, which affects editorial independence and the ability of the mass media to ensure balanced coverage.

The People's Advocate also dealt with the phenomenon of manipulation, disinformation, propaganda and the distribution of falsehoods, calling on the representatives of the journalistic community to comply with the rules of the Professional Code of Ethics, without which there can be no question of the quality of journalism. The People's Advocate mentioned that ethical journalism serves the public interest, and is based on good faith and the ethics of the profession provide accurate and verified information that complies with the principles of fairness, independence, transparency and public responsibility.

Ensuring gender equality

During the July 11 electoral ballot, the observance by electoral competitors of the double-gender quota when drawing up the lists of candidates had a positive impact on ensuring equal opportunities for women and men in Parliament. Thereby, all registered listings were judged to have complied with the statutory 40% gender quota for each gender and placement requirement. Therefore, in the election results, out of 101 deputies elected, 40 were women, which represents 39.6%, which exceeded the record set in 2019 – by 25.7%. Thus, the Republic of Moldova is among the European countries that recorded a high share of women members in Parliament.

Observing freedom of assembly and expression

The study Perceptions of human rights in the Republic of Moldova, 2021 edition¹⁷, commissioned by the People's Advocate Office, presents additional evidence on the existence of actions to influence the opinion of public service employees and to restrict the right to free expression. In different contexts, the participants of the Study mentioned that it is risky, especially for civil servants, to express their opinions on the leadership of the State, and the politicians. Although it is considered that in the last two years the fears of people employed in state institutions to express their opinions publicly have decreased, it is found that there is still pressure in this regard.

¹⁶<http://ombudsman.md/rapoarte/anuale/>

¹⁷<http://ombudsman.md/wp-content/uploads/2021/10/Studiu-PERCEPTII-DO-2021.pdf>

The use of children's images in the election campaign

The issue of the use of children's images in recent years has been constantly under the attention of the People's Advocate for Child's Rights, and not only in the context of some electoral campaigns. The People's Advocate for Child's Rights took several stances on the given topic, warning politicians, dignitaries and civil servants not to use children to promote their image and obtain political dividends and sympathies on their account ¹⁸.

The People's Advocate for Child's Rights addressed the electoral contestants and other authorities involved in the electoral campaigns with the exhortation to treat children with observance of their human dignity and not to admit actions that affect their private lives. Media service providers were called not to distribute advertising based on images of children but to ensure the provision of truthful, correct and maturity-appropriate information. To parents and teachers, other people involved in the upbringing and education of children, the People's Advocate for Child's Rights urged them to correctly inform children about the electoral processes, with the assurance of explaining the rights derived from them.

The elections for the People's Assembly of Gagauzia

Also in 2021, the elections were held for the People's Assembly of Gagauzia - representative and legislative authority of the autonomy. In the framework of the electoral campaign and the election itself, we note the following particularities and deficiencies identified:

The participation of women candidates in the elections in the region was 14.6% or 18 out of the 123 candidates, and in the composition of the 35th People's Assembly of Gagauzia, only 2 women were elected from the total number of 35 deputies, their share in the legislative authority being only 5,7% ¹⁹. The low number of female candidates is also caused by the specifics of the majority electoral system, which excludes the obligation to ensure compliance with the double-gender quota and makes it difficult to apply positive measures to improve the gender balance in the elected authority.

The Central Electoral Commission of Gagauzia, responsible for creating the Register of voters in Gagauzia, does not have access to the State Register of Voters, which is in the records of the Central Electoral Commission of the Republic of Moldova. Voter lists are drawn up for each constituency by the local public authorities and subsequently submitted to

¹⁸<http://ombudsman.md/news/ombudsmanul-isi-reitereaza-apelul-catre-concurentii-electorali-privitor-la-neadmiterea-utilizarii-imaginii-copiilor-in-interese-politice-indemnul-este-adresat-tuturor-formatiunilor-politice-si-nu-pre/>

¹⁹http://alegeri.md/w/Alegerile_%C3%AEn_Adunarea_Popular%C4%83_a_G%C4%83g%C4%83uziei_din_2021

the constituency electoral councils for public accessibility and verification, no later than 20 days before voting.

The Central Electoral Commission of Gagauzia is not part of the national election administration system and is not found in the national electoral rules. As a result, difficulties arise in the administration of voter data, the registration of candidates and observers, as well as in the remuneration of constituency council staff.

Changing the place of residence shortly before the elections is perceived as a tool to manipulate the voter lists and ensure the victory of a specific candidate. In particular, during the elections in the People's Assembly of Gagauzia, more than 500 citizens were found registered in an uninhabitable building in Bugeac village.

The electoral campaign for the elections of deputies to the People's Assembly of Gagauzia took place at a minimum level of activism, which led to the declaration of invalid elections in six constituencies. According to the changes in the Electoral Code, in this case, the second voting round takes place, where the presence of voters does not play a major role. As a result, the principle of representativeness has been violated.

In conclusion, the Ombudsman considers that the conduct of the electoral campaign and voting for the anticipated parliamentary elections of July 11, 2021, and for the elections in the People's Assembly of the Gagauzia Territorial Administrative Union took place, in general, complying with the fundamental human rights and freedoms, but they were also marked by some irregularities, which affected their fulfilment to a certain extent.

Local elections in Balti Municipality

Major interest from the procedural point of view and the observance of human rights to choose and to be elected was presented by the local elections for the position of mayor in Bălți Municipality. In the context of the holding of local elections for the position of mayor of Bălți Municipality²⁰, at the request of the Central Electoral Commission, the candidate Marina Tauber was excluded from the electoral race, being accused of using undeclared funds to attract supporters in the electoral campaign and for exceeding the ceiling of financial means established by the legislation. After the Supreme Court of Justice upheld the decision to cancel the registration of candidate Tauber, the Central Electoral Commission decided to suspend the second round of voting in the Bălți Municipal Electoral Constituency, finding it impossible to hold elections with a single candidate²¹.

²⁰Decision of the CEC no. 5243 dated 07.09.2021 on the establishment of the date of the new local elections for the position of mayor of Bălți Municipality; https://a.cec.md/ro/cu-privire-la-stabilirea-datei-alegerilor-locale-noi-pentru-functia-2751_100022.html

²¹Decision of the CEC no.195 dated 05.05.2021 the suspension of the enforcement of the decision of the Central Electoral Commission no.170/2021 on the establishment of the date of December 5, 2021 for the holding of the

The decision of the Central Electoral Commission to suspend the elections in Balti was also criticized by non-commercial organizations. The election observation mission "Promo-Lex" expressed its bewilderment, stating that the electoral legislation does not provide for the procedure for suspending the conduct of the second round of voting on the grounds indicated in the CEC decision. In addition, the interpretation of the CEC on the impossibility of holding the second round of the new local elections for the position of mayor with only one candidate does not correlate with the previous practice. Previously, single-candidate elections were also held, and the results were confirmed by the court and the Central Electoral Commission²².

CONCLUSION

In the opinion of the People's Advocate, the free and democratic nature of the 2021 election was also affected this time by the imperfection of the legal framework regarding the elections; the use of hate speech and intolerance during the election campaign; maintaining the phenomenon of discrimination against people with special needs; the biased coverage of electoral competitors in the mass media; the faulty process of creating polling stations abroad and those for voters on the left of the Dniester; obstructing the exercise of the right to vote for persons domiciled in the Transnistrian Region; examination of electoral appeals in a deficient manner; delays in resolving complaints, as well as some inconsistent decisions in key aspects of the electoral process; the continuation of the practice of using the image of children and the exploitation of child labour in the electoral campaign.

RECOMMENDATIONS:

- Amendment of the electoral legal framework per the addresses of the Constitutional Court of 2016 and 2020 and with the recommendations of the national election observation missions, the OSCE/ODIHR and the Venice Commission;
- Completing the normative framework, especially the electoral legislation, with express regulations regarding the prohibition of the use of the image of children (minors) without the consent of the parents/legal representative in electoral campaigns, referendums, in actions of political agitation/propaganda. Prohibition of the involvement of children and actions that pose a danger to the life and health of the minor or harm the honour and dignity of the minor;
- Ensuring the full fulfilment of electoral rights by persons with disabilities;

second round of the new local elections for the position of mayor in some localities; https://a.cec.md/ro/privind-suspendarea-executarii-hotararii-comisiei-electorale-centrale-nr-1702021-2751_100921.html

²² <https://promolex.md/21443-opinia-misiunii-promo-lex-de-observare-a-alegerilor-locale-noi-cu-privire-la-suspendarea-desfasurarii-turului-doi-de-scrutin-la-5-decembrie-2021-in-circumscriptia-electorala-municipala-balti/?lang=ro>

- Ensuring the realization of the right to vote of citizens outside the country by creating a sufficient number of polling stations abroad, under prior registrations and data regarding the participation of citizens abroad in previous elections, and increasing the maximum ceiling of ballots per section;
- Examining the possibility of establishing alternative voting methods (electronic voting, by mail), for exercising the right to vote for people with special needs, citizens outside the country's borders;
- Consolidation of the mechanisms regarding the publication and monitoring of electoral campaign funds, so that they contain models of effective prevention of the use of funds/finances that could undermine the free expression of the voters' will;
- Improving the appeals mechanism, to ensure the coherence and continuity of the stages of the electoral process, in particular, by regulating with sufficient clarity the role and prerogatives of the judicial authority and the electoral authorities.

THE RIGHT TO WORK AND LABOUR PROTECTION

According to Article 43 of the Constitution of the Republic of Moldova, "(1) *Every person shall enjoy the right to work, to freely choose his/her profession and workplace, to equitable and satisfactory working conditions, as well as to protection against unemployment. (2) All employees shall have the right to social protection of labour. The measures of protection shall bear upon labour safety and hygiene, working conditions for women and young people, the introduction of a minimum wage per economy, weekly rest and annual paid leave, as well as difficult working conditions and other specific situations. (3) The length of the working week shall not exceed 40 hours. (4) The right to hold labour bargaining and the binding nature of collective agreements is guaranteed.*"

Therewith, the right to work and to work protection is guaranteed by Article 23 of the Universal Declaration of Human Rights; Articles 6 and 7 of the Covenant on Economic, Social and Cultural Rights; Article 27 of the UN Convention on the Rights of Persons with Disabilities; the conventions of the International Labour Organization; The revised European Social Charter.

The right to work is an individual right that belongs to every person and it is collective. The right to work includes the opportunity to earn a living through freely chosen or accepted work. In the progressive realization of this right, States are obliged to ensure technical and vocational guidance and take appropriate measures to develop an environment conducive to productive employment opportunities. States must ensure non-discrimination in all aspects of

work. Forced labour is prohibited under international law and is a serious violation of human rights.

Closely related to the right to work is the right to fair and favourable working conditions and trade union rights. States are obliged to ensure fair wages, equal pay for equal work and equal remuneration for work of equal value. Workers should be guaranteed a minimum wage that allows a decent living for themselves and their families. Working conditions must be safe, healthy and not degrading to human dignity. Employees must be provided with reasonable hours of work, adequate rest and time off, and periodic paid holidays.

The right to work also includes the right of people to associate and bargain for better working conditions and living standards, the right to join a trade union of your choice and the right to strike, as long as it is under national law.

Public Policies and Legislation

The People's Advocate recommended the modification of the normative framework that regulates the activity of the State Labour Inspectorate and the state control over the entrepreneurial activity²³, to eliminate legislative deficiencies that reduce the efficiency of control authorities, observe the right to work and implement policies to prevent work accidents and encourage employers to comply with occupational health and safety regulations, which ultimately contribute to changing their attitude and valuing the life and health of employees.

The People's Advocate welcomes the authorities' intention to amend a series of legislative acts which introduce measures to make the salary system more transparent and oblige all employers to use a fair review system for positions, observing the principle of equal pay for equal work or work of equal value. We believe that the new provisions will have a positive impact on the reduction of discrimination and gender inequalities existing in the labour market, will ensure the right of women to a favourable and fair remuneration based on non-discrimination principles, and will influence the change of attitudes towards the role of women in society and will allow the reconciliation of family and professional life. Statistical data show gender differences in wages that have been showing a negative trend for several years in a row. The discrepancy between the average salary of women and men is constantly increasing, in 2020 constituting 13.7%, and in some sectors, such as that of information technology and communications, even reaching 38%.

In 2020, the People's Advocate came up with some proposals to improve the regulatory framework in the labour field. One of the proposals concerned the revision of the provisions

²³Law no.131/2012 on state control over entrepreneurial activity, Law no. 140/2001 on the State Labour Inspectorate;

of article 76 of the Labour Code no. 154/2003, Article 52 of Law no. 158/2008 on public office and the status of civil servants, article 14 paragraph (4) of Law no. 289/2004 on the allowances for temporary work incapacity and other social insurance benefits and, respectively, article 36 of Government Decision no. 108/2005 on the approval of the Regulation concerning the conditions for establishing, calculating and paying allowances for temporary incapacity for work to ensure the right to quarantine allowance.

Another proposal to improve the legal framework aimed at amending paragraph (4) of Article 80 of the Labour Code, to eliminate the ambiguities on the granting of the technical unemployment allowance. The People's Advocate finds that the authorities did not take into account the submitted proposals and maintains his recommendations.

Examination of applications

Analogous to those of previous years, the claims concerning the violation of the right to work and the protection of work remain current, in some segments they are increasing. Petitioners often cite the issue of the refusal to hire people with pensioner status due to the age limit. In this sense, the Ombudsman notes that *the individual employment agreement, in the case of pension beneficiaries for age limit or length of service or holders of this right who are not employed, can be concluded for a fixed period, for a period of up to two years²⁴, with the possibility of its conditional extension²⁵*. Following the analysis of the applications examined during 2021, the Ombudsman observed a tendentious practice of employers to conclude and extend such contracts by admitting favouritism, a fact that does not respond to measures to ensure institutional integrity²⁶. Recognizing the right of individuals to work on fair principles²⁷, the People's Advocate considers it the obligation of the central public authorities to take the necessary measures to distinguish the criteria that allow the contracting of people with pensioner status for the age limit, to avoid ambiguity and arbitrary interpretation of the legal law by employers.

In the context of the decision of the National Public Health Commission²⁸, by which employers were to ensure *a safe environment for activity at the workplace, as well as the facilitation and active encouragement of subordinate staff for vaccination against COVID-19, as the only public health measure to prevent and control the infection*, the People's Advocate was notified by several citizens. They invoked the employers' refusal to continue their employment, harassing and intimidating them by making vaccination mandatory. The created

²⁴ Labour Code, article 55 paragraph (1) letter f);

²⁵ Idem, article 54 paragraph (2) and article 68 paragraph (1) and paragraph (2) letter a);

²⁶ Integrity Law no. 82/2017, article 10 paragraph (1) letter e);

²⁷ European Social Charter, Part 1 Article 2;

²⁸ Decision of the National Public Health Commission, no. 57/21, point 4;

situation was assessed as inadmissible by the People's Advocate who intervened with the relevant authorities and pointed out that *the dismissal of an employee on the grounds of refusal to be vaccinated is illegal*²⁹.

Harassment in the labour field is a widespread phenomenon in Moldovan society, during 2021 it became more intense compared to previous years. One of the criteria on which harassment is carried out is *the active civic position*, an activity similar to the trade union one. The People's Advocate was notified by a group of petitioners who reported that, despite the existence of the harassment finding a document, issued by the relevant body³⁰, the employer does not take any attitude and does not have any reaction to the fact of harassment and the finding, preferring to contest the action in court, rather than to review its policy of ensuring equality within the entity. This hostile approach of employers to non-discriminatory workplace policies creates a negative impact, as a whole, on interpersonal relationships and the psycho-emotional climate of the workforce. **In the Ombudsman's opinion, it is important to implement and strengthen the internal policies of public institutions regarding ensuring equality in the context of labour relations.**

Another problem in the field of observing the right to work in the context of strengthening the actions to prevent and control the Covid-19 infection, through the financial motivation of the staff involved in the supervision, treatment and control of the infection, concerns the establishment and correct payment of the payment supplement established in the amount of 100% to the salary of the position (50% each - for pre-hospital emergency medical care staff and primary medical care staff)³¹. Although the guarantee given is clear, not all medical workers have benefited from this supplement, the Ombudsman questions *the personal responsibility*³² of the leaders of the medical institutions concerned, for which the need for a more demanding control in this sense from the authorities responsible for inspecting the implementation of legal rules in the field of work would be imposed.

Fair remuneration

One of the fundamental human rights is the right to fair remuneration, which ensures a dignified human existence. Although no universally accepted value defines such remuneration, it can be described as a salary from full-time work that allows people to live a decent living that is considered acceptable by society.

²⁹ <http://ombudsman.md/news/avocatul-poporului-orice-eliberare-din-functie-a-unui-angajat-pe-motivul-refuzului-de-a-se-vaccina-este-ilegala/>

³⁰ Decision of the Council for Equality of 23.06.2020; case 35/20;

³¹ https://msmps.gov.md/sites/default/files/legislatie/ordin_msmps_nr.466_din_15_mai_2020_-_supliment_covid-19_pt_toater_institutiile_dupa_stare_urgenta.pdf

³² Order no. 466 of 15.05.2020 of the Ministry of Health, point 3;

In 2021, the average monthly salary in the economy increased by 15.8% compared to 2020, and in 2022 by 13.58%³³. Starting from January 1, 2021, the guaranteed minimum amount of salary in the real sector was 2935 lei³⁴, an increase of 5.8% compared to the value established on May 1, 2019³⁵. Thereby, during 20 months, which included the peak of the COVID-19 crisis from the point of view of the restrictions imposed on the economy, this value underwent non-essential changes.

Although we see a positive trend of salary growth, its value is quite low and insufficient to guarantee a decent living for employees who benefit from a minimum salary in both the budgetary and real sectors. According to statistical data, the minimum wage covers the subsistence minimum for a person³⁶, but in reality, it is not enough to cover the minimum needs of this person, especially if the person has other family members to support (children, disabled people, spouses on childcare leave and who have no income, etc). The purchasing power of the population has decreased, due to the increase in the prices of food products and consumer goods and tariffs for energy resources and communal services. And the mechanism of indexation of the minimum wage on the economy, based on the annual increase of the consumer price index, does not ensure a correlation of the increase of the minimum wage with the cost of living.

Under these conditions, it is necessary for the State to urgently review the value of the subsistence minimum, to take into account the real needs of a person or family, the prices of products, goods and services, the real adjusted tariffs, but also the structure of the subsistence minimum. Moreover, to achieve the goal of ensuring a decent standard of living, the authors of the Study "Situation of employees from the Republic of Moldova: a structural crisis"³⁷ believe that the authorities should introduce the notion of a minimum basket for a decent living, which would replace the notion of the subsistence minimum. It must include several components that are part of the decent standard of living: health care, personal care, housing and equipment, services, education, culture, personal development, recreation and vacation, expenses in case of exceptional situations, etc. The People's Advocate draws attention to the fact that the estimation of the minimum basket for a decent living should be carried out with

³³ In 2021, the amount of the average monthly salary for the economy was 8716 lei, and for 2022 - 9900 lei, increasing compared to 2021 by 13.58%;

The average salary in the economy in 2021 increased by 15.8%

³⁴ https://www.legis.md/cautare/getResults?doc_id=124910&lang=ro

³⁵ Idem;

³⁶ The subsistence minimum for the able-bodied population was 2 276,9 lei; National Bureau of Statistics Statistical Databank: <https://statistica.gov.md/>

³⁷ Marcel Spatari, Ștefan Guga, "The situation of Employees in the Republic of Moldova: a Structural Crisis", 2019; http://moldova.fes.de/fileadmin/user_upload/2020/Publications/Syndx_-_Situatia_Salariatilor_din_Republica_Moldova_O_Criza_Structurala_1_.pdf

the participation of various groups of people with different socio-economic situations and with different needs, under the principles of the human rights-based approach³⁸. **The People's Advocate also highlights the need to estimate the subsistence minimum/minimum basket for a decent living for persons with disabilities, taking into account their special needs and the type of disability.**

The People's Advocate reminds us about the commitments assumed by the State in the field of wage policies by ratifying the *Minimum Wage Fixing Convention, 1970 (No. 131)*, which, in article 3, establishes the elements that are taken into account to determine the level of minimum wages and which include, as far as possible, and taking into account national practice and conditions: a) the needs of workers and their families concerning the general level of salaries in the country, the cost of living, social security benefits and the living standards of other social groups; b) economic factors, including the requirements of economic development, productivity and the interest that exists to achieve and maintain a high level of labour force utilization.

The UN Committee on Economic and Social Rights points out in this context: “A minimum wage is *“the minimum amount of remuneration which [...] provides a means of ensuring a decent living wage for workers and their families. [...] The minimum wage should be recognized in legislation, set concerning the requirements of a decent living and applied consistently. The elements to be taken into account when setting the minimum wage are flexible, taking into account the general level of wages in the country, the cost of living, social security contributions and benefits and the relative standard of living. The minimum wage could represent a percentage of the average wage as long as this percentage is sufficient to ensure a decent living for workers and their families”*³⁹.

In his previous reports on the observance of human rights in the Republic of Moldova⁴⁰, the People's Advocate emphasized that the minimum wage in the country, of 1000 lei, has not been changed since October 1, 2014⁴¹ and that it is clearly lower than the subsistence minimum established for a person able to work. In the given context, the Ombudsman constantly recommended strengthening the State's efforts to guarantee a national minimum wage, sufficient to ensure an adequate standard of living for employees and their families and to establish a mechanism to determine and regularly adjust the minimum wage proportional to the subsistence minimum.

³⁸ National Bureau of Statistics Statistical Databank;

³⁹ General comment no. 23 (2016) on the right to fair and favourable working conditions (art. 7 of the International Covenant on Economic, Social and Cultural Rights);

⁴⁰ http://ombudsman.md/wp-content/uploads/2018/10/raport-ombudsman_2016.pdf, pages 50, 53; <http://ombudsman.md/wp-content/uploads/2018/10/raport2017redfmal.pdf>, page 47

⁴¹ Government Decision no. 550/2014 on the establishment of the amount of the minimum wage per country;

In the opinion of the People's Advocate, the introduction of an effective minimum wage is an essential and viable action that the State/Government must undertake to fulfil its international commitments and European aspirations and to firmly support human rights and the perspectives of sustainable economic development. Likewise, he considers it necessary to strengthen the legislation on minimum wages that clarifies the use of minimum wage amounts and to establish a guaranteed minimum wage, targeting both the budgetary and the private/real sector.

Safety in work

Safety in the workplace continues to be a major issue. Data from the State Labour Inspectorate show a 29% increase in occupational injury events recorded during 2021 compared to 2020. As a result, 654 people suffered, and 77 cases resulted in death⁴². In the reference period, out of 17,957 established violations, 7,523 are part of the occupational health and safety field.

The increase in the number of work accidents is caused, to a large extent, by legislative deficiencies that affect the operational nature and efficiency of inspection activities, and frustrate the efforts of control authorities to identify violations of worker safety measures at work, the latter being subject to an increased risk of injury which, in about 12% of cases, results in death⁴³. The procrastination of legislative changes by the State results in the violation of the right to work, safety and health at work and the right to life of workers.

CONCLUSIONS

The right to work, neglected for several years, during the pandemic brought to the surface a series of legislative loopholes and required the adoption of urgent measures. The inaction on the part of the authorities or the procrastination in taking measures resulted in serious prejudice against the people's right to life, safety and health at work, the right to a decent living and the right to equal participation in some categories of people in socio-economic life. The State should implement consistent comprehensive policies in the field of labour and labour protection, which include measures for active and inclusive labour force employment, with equal opportunities to participate in the labour market, and measures to ensure health and safety at work that is based on prevention and early intervention, adequate, fair and transparent wage policies that are linked to the real cost of living, to combat poverty and social exclusion and ensure a decent living for every citizen.

⁴²State Labour Inspectorate | The Government of the Republic of Moldova (gov.md)

⁴³The calculations were made for 2020, based on the data of the State Labour Inspectorate;

RECOMMENDATIONS:

- Amending the regulatory framework that regulates state control over the activity of an entrepreneur to ensure compliance with the right to work and the protection of work and bring it into line with the standards of the International Labour Organization; the implementation of consistent policies to prevent work accidents, to stimulate and sanction employers for cases of violation of occupational health and safety regulations;
- Reviewing the value and structure of the subsistence minimum for different categories of people, as well as the mechanism for indexing the minimum wage on the economy to ensure a correlation with the cost of living and a decent standard of living for each worker and their families;
- Elimination of unjustified discrepancies between minimum salaries in the real and budget sectors;
- The adoption of the draft law (no. 404 of December 17, 2021) for the amendment of some regulatory documents, introduces the obligation for all employers to use a system of a fair assessment of positions, to reduce inequalities between women and men and observe the principle of equal pay for equal work or work of equal value;
- Ratification of the provisions of article 4 of the Revised Social Charter on Fair Wages, not accepted by the Republic of Moldova.

THE RIGHT TO SOCIAL ASSISTANCE AND PROTECTION

The right to social assistance and protection is guaranteed by the Constitution of the Republic of Moldova (Article 47), which stipulates that *The State shall be bound to take actions so that every person has a decent standard of living that would ensure him/her and his/her family members health protection and welfare including food, clothing, shelter, medical care, as well as necessary social services. All citizens have the right to be insured in case of: unemployment, disease, disability, widowhood, old age or other situations where, due to causes beyond one's control, one loses the source or means of obtaining the necessities of life.*

The right to a decent living presupposes that every human being must enjoy, at least, the necessary subsistence rights while preserving human dignity.

The Republic of Moldova has ratified the main international instruments in the field of human rights, through which it is committed to ensuring a decent standard of living. Thereby, the right to social protection and, respectively, the right to social protection are enshrined in the Universal Declaration of Human Rights (Articles 22 and 25), the International Covenant on Economic, Social and Cultural Rights (Articles 9 and 11), the UN Convention on the Rights of Persons with Disabilities (Article 28) and other UN human rights instruments, the revised European Social Charter and several International Labour Organization conventions ratified by the Republic of Moldova⁴⁴.

Social protection is the fundamental element of state policies, the main mechanism through which society intervenes to reduce, prevent or eliminate poverty and vulnerability throughout the entire life cycle. Social protection has a central role in achieving development, promoting social justice and realizing the right to social security for all people. Thereby, social protection policies are central elements of national development strategies to reduce poverty and vulnerability and support inclusive and sustainable growth by increasing household incomes, promoting human development, facilitating the structural transformation of the economy, and promoting decent work.

The Republic of Moldova has undertaken to eliminate all forms of poverty by 2030, according to targets 1.1 and 1.2 of the 2030 Sustainable Development Agenda, to combat inequalities and ensure an adequate social protection system for all, including the poor and vulnerable (target 1.3), to reduce the vulnerability of the poor and those in vulnerable situations through increased access to goods, resources, services and information (target 1.4 and 1.5).

By ratifying the *Revised European Social Charter*, the first international treaty that enshrines the right to protection against poverty and social exclusion, the Republic of Moldova

⁴⁴https://www.ilo.org/dyn/normlex/en/f?p=1000:11200:10021027793778:::P11200_INSTRUMENT_SORT:2

is committed to ensuring social standards, and the implementation of reforms in all areas of social life, to ensure real social protection of citizens. It should also be noted that Article 30 *The right to protection against poverty and social exclusion* and Article 23 *The right of the elderly to social protection* from the European Social Charter revised to date have not been ratified by the Republic of Moldova, despite the recommendations addressed to the authorities by the People's Advocate over several years.

The main obligation for States Parties to the revised European Social Charter under Article 30 is to adopt a “comprehensive and coordinated approach” which explicitly aims to combat poverty and social exclusion by taking measures, especially in terms of employment, housing, education, culture and social and health care, specifically targeting the most vulnerable groups and regions. The measures taken for this purpose should be appropriate, in quality and quantity, to the nature and level of poverty and social exclusion in the country and should be reviewed and adapted to new situations. And allocating adequate resources is essential to enabling people to become self-reliant.

In his previous report, the People's Advocate submitted several recommendations in the segment of the right to social assistance and protection: the development of public policies and the normative framework per international recommendations, taking into account the needs of the vulnerable population; the identification of financial resources and the significant increase of public spending for social protection measures that ensure a decent living for all people; the adoption of the draft law on establishing the amount of the minimum pension for the age limit at the level of the subsistence minimum; revising the “Social Aid” Programme and strengthening social assistance so that it better targets vulnerable people and those in difficulty, to ensure them a minimum level of existence; adoption of amendments to article 33, paragraph (4/1) and (4/2) of Law no. 156/1998 on the public pension system, to change the pension review procedure (*ex officio*); eliminating legislative ambiguities by adjusting the provisions of Law no. 436/2006 on local public administration, to establish clear powers of the commission for social problems; amending the provisions of article 80 of the Labour Code regarding the allowance for the period of technical unemployment, to ensure the right to social protection of employees during the period of technical unemployment⁴⁵.

Most of the recommendations of the People's Advocate converge with the recommendations submitted by the international mechanisms as a result of the review of the State's implementation of international treaties relevant to the field: UN Committee on Economic, Social and Cultural Rights (2017), UN Committee on the Protection of Persons

⁴⁵<http://ombudsman.md/wp-content/uploads/2021/04/RAPORT2020romana.pdf>, Report on the Observance of Children's Rights in the Republic of Moldova in 2020, page 42;

with Disabilities (2017), UN Committee on the Elimination of Discrimination against Women (2020), European Committee on Social Rights of the Council of Europe (2017), Council of Europe Commissioner for Human Rights (2020), recommendations of UN Member States submitted to the 40th session of the Universal Periodic Review Working Group (2022).

Public Policy and Legislation

In terms of legislative measures, the People's Advocate appreciates the adoption of the draft law on establishing the amount of the minimum pension for the age limit at the minimum level of existence and urges the state to continue to ensure the progressive realization of the population's right to a decent living by increasing public spending and increasing social security benefits.

The issue on the provisions of Article 33 paragraph (41) and (42) of Law no. 156/1998 on the public pension system, to amend the ex officio pension review procedure, the People's Advocate maintains his recommendation.

The provision of pensions and social benefits on the left bank of the Dniester represents a side of social security in legal matters highlighted by the Ombudsman in previous reports as well, for which it was recommended to identify financial resources and initiate the process of amending Law no. 156/1998 on the public pension system, so that the periods in which the persons who worked in the economic entities on the left of the Dniester, subordinated to the constitutional authorities, are included in the contribution period when calculating and determining the pension. Regrettably, however, the state of affairs has not improved, the Ombudsman finding it necessary to further examine the opportunity to include Bender Municipality in the list of localities that fall under the scope of Law no. 1591/2002 on the additional social protection of some pension beneficiaries and some categories of the population⁴⁶.

During the reference period, the Constitutional Court addressed some issues concerning the right to assistance and social protection, taking into account the opinion of the People's Advocate. Thereby, on September 23, 2021, the Constitutional Court established an unjustified differential treatment between old-age pension holders and disability pension holders⁴⁷. The Court constitutionally recognized article 33 paragraph (1) letter c) of Law no. 156 of October 14, 1998, on the public pension system, to the extent that disabled people also benefit from the pension review.

⁴⁶<http://ombudsman.md/wp-content/uploads/2021/04/RAPORT2020romana.pdf>, pag.40;

⁴⁷<https://www.constcourt.md/libview.php?l=ro&idc=7&id=2287&t=/Media/Noutati/Curtea-a-stabilit-un-tratament-diferentiat-nejustificat-intre-titularii-pensiei-pentru-limita-de-varsta-i-titularii-pensiei-de-dizabilitate>

In his opinion, *Amicus Curiae*⁴⁸, the People's Advocate specified that both old-age pension beneficiaries and disability pension beneficiaries must enjoy the right to pension re-examination. Although in the field of social protection the legislator enjoys a wide discretionary margin, this competence must be exercised in compliance with the principles of social equity and equal treatment. In this sense, because Article 33 paragraph (1) letter c) of the Law on the public pension system excludes the beneficiaries of the disability pension from the pension re-examination, the People's Advocate claims that the disputed provision establishes an unjustified differential treatment, failing to ensure the achievement of a fair balance between the competing principles.

Before the examination of the notification by the Constitutional Court, the rigorous proposals were addressed to the Ministry of Health, Labour and Social Protection⁴⁹, which mentioned that it submitted to the Medium Term Budgetary Framework (MBF) for 2022-2024 as a new policy measure (for the Social Protection sector), the proposal regarding the re-examination of disability pensions, for pensioners who work or have worked after realizing the right to a disability pension, which is to be presented to the Ministry of Finance.

On January 12, 2021, the Constitutional Court declared unconstitutional the text "the children of persons subject to repression who was born in the places of repression or on the way to them have considered children from the marriage concluded before the repression." from article 1 of Law no. 296 of November 23, 1994, for the interpretation of some provisions of Law no. 1225 of December 8, 1992, on the rehabilitation of victims of political repressions⁵⁰. The Court found that the differential treatment of persons born in the places of repression or on the way to them admitted by the contested norm lacks a legitimate purpose and does not have an objective and reasonable justification. Similar arguments were invoked by the People's Advocate in the *Opinion/Amicus Curiae*⁵¹ presented at the request of the Constitutional Court.

Previously, the People's Advocate proposed the remedy of this problem by making changes in the provisions of art. 2 of Law no. 1225 of December 8, 1992, on the rehabilitation of victims of political repressions, as well as art. 1 of Law no. 296 of November 23, 1994, for the interpretation of some provisions of the law regarding the rehabilitation of victims of political repressions, to include in the category of victims of political repressions all the

⁴⁸ <http://ombudsman.md/wp-content/uploads/2021/09/04-1-07-din-21.09.2021-Opinie-CC.pdf>

⁴⁹ <http://ombudsman.md/wp-content/uploads/2021/02/04-2-03-din-25.02.2021-MSMPS-Propunere-recalcularea-pensiei-2.pdf>

⁵⁰ <https://www.constcourt.md/libview.php?l=ro&idc=7&id=2061&t=/Media/Noutati/Curtea-a-examinat-constitutionalitatea-unui-text-din-articolul-1-din-Legea-nr-296-din-23-noiembrie-1994-pentru-interpretarea-unor-prevederi-ale-Legii-nr-1225-din-8-decembrie-1992-privind-reabilitarea-victimelor-represiunilor-politice>

⁵¹ <http://ombudsman.md/wp-content/uploads/2022/01/04-1-10-din-11.08.2020-Curtea-Constitu%C8%9Bional%C4%83-Opinie-la-sesizarea-nr.-109a-2020.pdf>

people who suffered from the repressions, without any discrimination⁵². The proposal was not accepted.

In this context, it is important to draw the attention of the authorities to the fact that it is not the first time that the People's Advocate addresses subjects with the right of legislative initiative with problems identified or about which it has been notified hurting the rights of certain categories of citizens, and, by the mandate, the People's Advocate submits proposals to improve the legislation to remove these problems, but which are not accepted by the responsible authorities. In these circumstances, the People's Advocate is put in a position to resort to other ways of solving the problem, to ensure the observance of human rights: either referral to the Constitutional Court, or the submission of the Opinion to the Constitutional Court to the referrals under examination, which requires additional resources, but also has a longer resolution period.

In 2021, the People's Advocate submitted to subjects with the right of legislative initiative several proposals to improve the normative framework aimed at the field of social protection. Among these, we highlight the proposal to improve the Law on the public social insurance system no. 489/1999 by identifying and developing a mechanism to ensure the right to social protection for people whose social security contributions, deducted from their salary, were not transferred to the state social security budget due to the fault of the employer.⁵³ The Ombudsman considers that the current provisions are detrimental to the social protection of the person and did not have an approach based on human rights, which assumes that the state exists for people, to satisfy people's needs, and state policies must not undermine human dignity and ensure that no person is left without adequate protection.

This proposal, however, was not supported by the Ministry of Health, Labour and Social Protection (at that time)⁵⁴, mentioning that the proposal to amend the legislation by which "non-payment of the social insurance contribution by the employer does not affect the payment of the rights due to the insured" distorts the principles of organization and operation of the public social insurance system. Moreover, will demotivate payers (employers) who pay contributions to the state social insurance budget within the terms established by law and will favour the intensification of the process of non-execution of the obligation to calculate and pay social insurance contributions by the employer, and as a result, would hurt the sustainability of the social security system. The People's Advocate further claims that the

⁵²http://ombudsman.md/wp-content/uploads/2020/09/Avocatul-Poporului_Raport-_aprobare-pentru-tipar.pdf, page 42;

⁵³ Proposal no. 04-2/9 of June 16, 2021

<http://ombudsman.md/wp-content/uploads/2021/07/04-2-9-din-16.16.21-Guvernul-RM-si-MSMPS-al-RM.pdf>

⁵⁴ Response no. 16/3993 of 23.07.2021

<http://ombudsman.md/wp-content/uploads/2021/07/Demers-Avocatul-Poporului.semnat.pdf>

State is to identify a mechanism to ensure the right to social protection for the situations described.

The issue of people with severe disabilities, beneficiaries of the allowance for care, accompaniment and supervision, remains unresolved, in the context of the need to choose between the allowance offered and admission to the social service “*Personal Assistance*” with the salary of the person who provides support. Despite the Ombudsman's recommendations on the review of the legal framework in this regard⁵⁵, the situation remains unchanged. The People’s Advocate reiterates that these two social payments have different purposes, are addressed to different beneficiaries and are financed from different budgets⁵⁶, therefore they do not overlap according to any criteria. Thereby, the allowance for care, accompaniment and supervision is granted to ensure the needs of the disabled person, while the salary of the personal assistant comes to cover the needs of the person and the family of the employee who provides personal assistance services. Therefore, we consider this rule unjustified and we reiterate the need to review the legal framework of rigour.

Examination of applications

The People’s Advocate intervened in the resolution of several problems related to the violation of the right to social assistance and protection, caused by abusive actions or inactions on the part of the authorities, including: the refusal to establish and order the payment of the homeless person’s pension, while the legal periods for the homeless person to be in the Placement Centre have expired; the unjustified refusal to include periods of activity as a personal assistant in the contribution period, a fact that contributed to the significant reduction of the pension amount; requesting the territorial social insurance bodies to refund the amount collected as old-age pension for the entire collection period, in connection with the fact that the person was receiving an old-age pension from the budget of another State, despite the existence of the documents that confirmed the fact of renouncing the last one; the refusal to pay the single financial aid for connection to the public water network, despite the fact that the person met the legal conditions; the refusal to issue the death certificate, on the grounds that the applicant is not related/married to the deceased person, as a result of which he is denied the payment of the death benefit for not presenting the death certificate; the unjustified request of the authorities to reimburse the amount for the spa ticket by a person with disabilities, citing the violation by the beneficiary of the ticket distribution procedure.

⁵⁵http://ombudsman.md/wp-content/uploads/2020/09/Avocatul-Poporului_Raport-_aprobare-pentru-tipar.pdf; <http://ombudsman.md/wp-content/uploads/2021/04/RAPORT2020romana.pdf>;

⁵⁶The allowances established in accordance with Law no. 499 of 14.07.1999 on State Social Allowances for some categories of citizens are paid from the means of the state budget, through the social insurance budget, and the financing of the “*Personal Assistance*” social service is made from the budget of local public authorities;

And in the reference year, in the requests addressed to the People's Advocate, the problem of limited access to social assistance and care services for persons/children with disabilities was reflected, especially the social service “*Personal Assistance*”, which is caused by the fact that the number of requests exceeds the number of personal assistants employed, due to lack of financial resources. Even though the authorities communicate about hiring more personal assistants, their number remains insufficient, either due to the local public authorities not requesting financial resources from the state budget or due to their insufficient allocation to social service providers.

In the context where many times the personal assistants employed are also relatives of the people receiving the service, who have to leave the workplace to take care of a family member⁵⁷, the family risks being left without a source of livelihood that would ensure their basic needs, but also the special needs of the disabled person. There is still the problem of personal assistants not being entitled to annual leave, and access to “Respiro” services is very limited. In this context, the People’s Advocate reiterates the recommendation from previous reports⁵⁸ on **the continuation of actions to support local public authorities in the development of community services for people with disabilities by expanding the social services included in the minimum package⁵⁹, including the inclusion of the “Respiro” service.**

The People’s Advocate identified the low capacities of local authorities to ensure the budgeting of services intended for people with disabilities according to their needs, complying with the approach based on human rights. An example can serve as the liquidation of the “Mobile Team” service from the Ialoveni district, intended for people with disabilities to provide social assistance and support at the beneficiaries’ homes based on their identified needs. According to the information presented by the Ialoveni District Council, the liquidation of the service was conditioned, first of all, by the number of beneficiaries not corresponding to the number established by the minimum standards (25 beneficiaries per month), but also by the insufficient funding of the service, over 85% going to salary expenses in 2021⁶⁰. Given the fact that problems have already been identified in 2020, the People’s Advocate finds the

⁵⁷For example: the parent of the disabled person was on the waiting list for a long time (3.7 years) to be employed as a personal assistant;

⁵⁸http://ombudsman.md/wp-content/uploads/2020/01/RAPORT_2018_final.pdf, pag.6;

⁵⁹Government Decision no. 800/2018 for the approval of the minimum package of social services and the amendment of the Regulation on the method of establishing and paying material aid;

Currently, the minimum package of social services includes the monetary support social service addressed to disadvantaged families/persons, the social support service for families with many children, the “Personal Assistance” social service;

⁶⁰Reasoning note for the Decision of the Ialoveni District Council: <https://www.ialovenionline.md/serviciul-echipa-mobila-din-raionul-ialoveni-a-fost-lichidat/>

increase in the budget for 2021 to ensure the operation of this service inexplicable and recommends the authorities optimize the budgeting process and organize training activities for local authorities regarding the development of budgets for services intended for people with disabilities, emerging from their needs and ensuring the participation and consultation of target groups in the process.

In conclusion, the People's Advocate highlights the problem of faulty management of the process of providing social services, which does not always correspond to the purpose for which they were created, connected to the number of beneficiaries, the degree of training of the staff, the estimation and accessibility of the financial means which, sometimes, are calculated in excess, other times, at the expense of real needs, especially concerning the administrative-territorial authorities, as well as the level of involvement of civil society in this process. The People's Advocate finds it opportune to rationalize social services according to the specifics, requirements and needs of people in each administrative-territorial unit based on a preliminary assessment. **Streamlining the provision of social services would provide a clearer strategy for determining initial and continuing training programmes for social assistance staff, which would increase their quality.**

Disagreement with the refusal to establish and pay social benefits was also reported by people in state custody. Thus, as a result of the intervention of the People's Advocate, the territorial social security body reconsidered its decision to refuse to establish the disability pension for the person in the custody of the penitentiary institution, because he does not meet the necessary internship following the legislative changes in the matter. For the most part, the requests received from people in state custody, in which issues of stopping the payment of a social allowance or material aid for their family members were addressed, indicate a low degree of information among the population about their rights, especially under conditions of deprivation of liberty.

The national legal mechanisms for determining the right to grant a guaranteed minimum monthly income to disadvantaged families often create impediments to its acquisition and is a topic addressed by petitioners for years. The legal rule establishes that the right to social assistance is obtained based on the applicant's application submitted for a period that will not exceed 2 years, being revised upon the intervention of any change that could influence the right itself or its amount⁶¹. Thereby, the Ombudsman observed a tendency of arbitrary interpretation of the notion of "any change" by territorial social assistance structures, or potential beneficiaries are often denied social assistance on unjustified grounds, such as used goods in the household, considered as an indicator of well-being. The People's

⁶¹Law no.133/2008 on Social Aid;

Advocate, in his previous reports, made recommendations to revise the eligibility criteria, including the list of assets, with the possibility of examining the exclusion of the welfare indicator score and the assessment based only on family income, to ensure that all disadvantaged people benefit from the “Social Aid” Programme.

In this context, the People’s Advocate appreciates the facilitation of beneficiaries’ access to aid for the cold period of the year, by temporarily suspending (between January 1 and March 31, 2022) the application of the score of welfare indicators when assessing eligibility for granting the right to aid for the cold period of the year and reviewing decisions not to grant the right for people whose score of welfare indicators exceeded the prescribed ceiling but are eligible on the other criteria.⁶² However, the People’s Advocate maintains the recommendation regarding the review of the characteristics for the assessment of family well-being, at the legal level.

The population’s standard of living

It is worth noting that during the reference year the state undertook a series of measures to support the population. The People's Advocate appreciates the following among them: the initiative to increase the amount of the minimum wage in the real sector by 19.25% (at the project stage); increasing the amount of old-age pensions⁶³ to correspond to the subsistence minimum for pensioners⁶⁴; the increase of the single allowance at the birth of the child from 9459 lei to 10068 lei⁶⁵; increasing the guaranteed minimum monthly income based on which disadvantaged families will be able to request social aid and aid for the cold period of the year; increasing the amount of aid for the cold period of the year from 500 lei to 700 lei; establishing the compensatory mechanism for the price difference for the consumption of natural gas/thermal energy during the cold period of the year⁶⁶.

Despite these measures, the absolute poverty rate in the Republic of Moldova remains high (26.8% in 2020, registering an increase of 1.6 percentage points compared to the

⁶² Government Decision no. 60 of February 2, 2022;

By way of derogation from the provisions of points 28 and 29 of the Regulation on the method of establishing and paying social aid, approved by Government Decision no. 1167/2008, during the period January 1, 2022–March 31, 2022, when establishing the right to aid for the cold period of the year, the characteristics for the review of the family's well-being expressed by points according to annex no. 5 to the mentioned Regulation and the welfare indicators score is not applied;

⁶³ Government Decision no. 162 of September 8, 2021 on the indexation of social insurance benefits and some state social benefits;

⁶⁴ For pensioners, the subsistence minimum in the first semester of 2021 was 1796,5 lei, (National Bureau of Statistics Statistical Databank, <https://statistica.gov.md/>);

⁶⁵ By Government Decision no. 457 of December 29, 2021 for the amendment of annex no. 1 to the Regulation on the method of establishing and paying allowances addressed to families with children, approved by Government Decision no. 1478/2002;

⁶⁶ Law on the compensation of the price difference for the consumption of natural gas/thermal energy in the cold period of the year no. 192 of November 25, 2021;

situation in 2019), and 10.8% of the population is below the threshold of extreme poverty⁶⁷. The existence of widespread extreme poverty inhibits the full and effective exercise of human rights; its immediate mitigation and eventual elimination must remain a priority for the State. The pandemic crisis, the economic crisis and the energy crisis generated an increase in prices and further deepened the level of poverty in the year 2021. The consequences of these crises and the government's response to them have already been felt by the population, with devastating effects on the poor and vulnerable, disproportionately affecting the elderly, people with disabilities, people with no income or low-income families.

While several countries of the world have moved to measure poverty by access to goods, services, and participation in society – essential elements of human rights, in the Republic of Moldova poverty continues to be measured using consumption expenses and the absolute poverty threshold, which includes the monetary value of the consumption basket, which no longer provides the minimum basic needs of the population.

Despite the increase in the population's income⁶⁸, its purchasing power decreased, due to the increase in consumer prices, tariffs for energy resources and communal services. Recipients of pensions, especially disability pensions, beneficiaries of social allowances, parents raising their children alone, those on childcare leave or unemployed and families with children and those with disabled children are the most affected categories of people. Although increased, the amount of social benefits, for the most part, does not cover the subsistence minimum, which, being revised annually, does not satisfy the real needs of the population (food needs, service fees, medicine and health care expenses, children's education and development expenses) according to age categories and their specific needs, social status and other criteria. Moreover, the subsistence minimum for disabled people and disabled children is not estimated⁶⁹. It should be noted that the majority of people with disabilities⁷⁰ and other beneficiaries of social allowances suffer from poverty, as well as 11.3% of children⁷¹, compared to 10.8% of the total population.

⁶⁷National Bureau of Statistics Statistical Databank: <https://statistica.gov.md/>

⁶⁸The amount of the average monthly salary per economy in 2021 increased by 15.8% compared to 2020, and in 2022 by 13.58% (9900 lei in 2022 compared to 8716 lei in 2021);

⁶⁹The People's Advocate submitted the proposal to initiate the review of Law no. 152/2012 on the subsistence minimum, to assess the efficiency and effectiveness on vulnerable groups and to examine the opportunity of revision to complete the provisions of Article 4 with the distinct groups, persons with disabilities and children with disabilities; <http://ombudsman.md/wp-content/uploads/2021/10/Propunere-minim-existent-semnat.pdf>

⁷⁰ According to NOSI data, 54,126 people with disabilities beneficiaries of social allowances (approx. 31% of the total number of people with disabilities) are below the extreme poverty threshold;

As of 01.01.2022, the amount of the minimum pension in the case of a severe disability was 1500 lei, and of the minimum pension in the case of an accentuated and medium disability - 1400 lei and 1000 lei, respectively;

⁷¹ Data from the Analytical Report "Analysis of monetary poverty and the well-being of households with children, based on the results of the 2019 Household Budget Research", Chisinau, 2021;

In these circumstances, the need to revise the value of the subsistence minimum is imposed, taking into account the real needs of a person or family, the prices of food products, consumer goods and services, real adjusted tariffs, but also the need to revise the structure of the subsistence minimum. The minimum basket for a decent living should be estimated with the participation of different groups of people with different socio-economic situations and different needs and should include several components that are part of the standard of decent living (health care, personal care, housing and its equipment, services, education, culture, personal development, recreation and vacation, expenses in case of exceptional situations, etc.). Therewith, there is an urgent need to estimate the subsistence minimum/minimum basket for a decent living for persons with disabilities, taking into account their special needs and the type of disability.

The People's Advocate also believes that additional measures are needed, both in the medium and long term, aimed at ensuring social protection and the effective support of vulnerable groups, in the context of the continuous increase in tariffs for energy resources and communal services, food and consumer prices.

Reports/studies

In the population's perception, the right to social protection is considered one of the most current and important rights, which requires increased attention from society in the Republic of Moldova (33.1% of respondents), but also one of the least observed.

The data of the study "Perception on Human Rights in the Republic of Moldova", conducted in 2021, commissioned by the People's Advocate Office⁷², show that the right to social protection of the population, evaluated through the prism of monetary income, remains to be still to a small or very small extent ensured in the Republic of Moldova in the opinion of more than half of the respondents. Also, the level of protection provided by the size of pensions (about 63.8% of the answers) and the size of social assistance (61.6%) is estimated to be the worst. About 3/4 of the respondents (74.5%) believe that a possible salary increase would ensure, to a relatively large extent, the right to social protection, and about 64.3% - have the same opinion concerning their allowances and pensions. Only 25% of the respondents reported that the rights of socially vulnerable persons are ensured to a large extent by the state authorities.

CONCLUSION

In 2021, we again note a modest level of implementation of the recommendations of the international mechanisms and those of the People's Advocate in matters of social protection. At the same time, we observe an effort on the part of the state to undertake measures to

⁷²<http://ombudsman.md/wp-content/uploads/2021/10/Studiu-PERCEPTII-DO-2021.pdf>

support the population, in conditions where the consequences of the pandemic crisis and the economic crisis that have amplified and deepened the poverty level of the population continue to be felt, disproportionately affecting people with low incomes and people with special needs.

According to the Study on the perception of the population, the level of protection provided by the size of pensions (about 63.8% of the responses) and the size of social assistance (61.6%) is estimated to be the worst. These findings lead to the conclusion that the right to a decent living must remain a priority for the state authorities. The State should continue to make efforts to improve the regulatory framework and identify financial resources for the implementation of appropriate measures to support the population, according to the principle of leaving no one behind, to guarantee every person the right to a minimum income throughout life that is adequate, affordable and conducive, supported by a social and human rights approach, and a decent standard of living.

RECOMMENDATIONS:

- Development of public policies and the normative framework, per international recommendations, taking into account the needs of the vulnerable population (constantly repeated recommendations);
- Identifying financial resources and significantly increasing public spending for social protection measures, to ensure a decent living for all people (constantly repeated recommendation);
- Reviewing the value and structure of the subsistence minimum, taking into account the real needs of a person/family, which includes the elements of the decent living standard; estimating the subsistence minimum for people and children with disabilities, taking into account their special needs and the type of disability;
- Revising the “Social Assistance” Programme and strengthening social assistance, so that it better targets vulnerable people and those in difficulty, to ensure a minimum level of existence for them; revising the eligibility criteria for “Social Assistance” service, to ensure that all disadvantaged people benefit from it (repeated recommendation);
- Revision of the legal framework to eliminate the condition of granting the right to allowance for the care and supervision of a person with severe disabilities for admission to the “Personal Assistance” social service (repeated recommendation);
- Adoption of the amendments to article 33, paragraph (4/1) and (4/2) of Law 156/1998 on the public pension system, for the modification of the ex officio pension review procedure (repeated recommendation);

- Examining the opportunity to ratify Article 23 regarding the right of the elderly to social protection and Article 30 regarding the right to protection against poverty and social exclusion from the revised European Social Charter (repeated recommendation).

OBSERVANCE OF RIGHTS OF PERSONS WITH DISABILITIES

The Constitution of the Republic of Moldova guarantees the protection of persons with disabilities through the provisions outlined in Article 51: (1) The disabled persons shall enjoy special protection from the whole of society. The State shall ensure normal conditions for medical treatment and rehabilitation, education, training and social integration of disabled persons. (2) No one can be subdued to forced medical treatment unless for the cases provided by the law.

At the international level, the rights of persons with disabilities are protected by the UN Convention on the Rights of Persons with Disabilities, ratified by the Republic of Moldova through Law no. 166/2010. At the regional level, the Republic of Moldova partially ratified the revised European Social Charter, articles 15.1 and 15.2, relating to persons with disabilities, being accepted.

In the *Reports on the observance of human rights and freedoms in the Republic of Moldova* from previous years⁷³ the People's Advocate found a series of problems concerning the rights of persons with disabilities and recommended to the authorities: to eliminate the discriminatory provisions of Law no. 60/2012 on the social inclusion of people with disabilities and the Regulation on establishing the differentiated amount of compensation for transport services granted to people with disabilities, depending on the place of residence; to ratify the Optional Protocol to the Convention on the Rights of Persons with Disabilities regarding the receipt and examination of communications, including individual complaints; to make every effort to implement policy documents that provide for the realization of the rights of persons with disabilities, including by providing financial and human resources; to urgently undertake the necessary measures to ensure the implementation of the obligations assumed by ratifying the UN Convention on the Rights of Persons with Disabilities and the recommendations of the UN Committee on the Rights of Persons with Disabilities, regarding ensuring access to social infrastructure and services, including electronic ones, that meet the standards and needs of people with disabilities.

Public Policy and Legislation

⁷³ The Report on the observance of human rights and freedoms in the Republic of Moldova in 2020 and the Report on the observance of human rights and freedoms in the Republic of Moldova in 2019, available at: <http://ombudsman.md/rapoarte/anuale/>

In the context of the issued recommendations, the People's Advocate appreciates the state's effort to ratify, on November 4, 2021, the Optional Protocol to the UN Convention on the Rights of Persons with Disabilities, thus demonstrating good faith for the observance of human rights, the implementation of the commitments made in the field, but also care for people. The Optional Protocol is an additional mechanism provided to persons with disabilities to address the UN Special Committee with individual complaints regarding the alleged violation of their rights and benefit from specific solutions to the problem invoked.

In the Report on the observance of human rights in the Republic of Moldova in 2020, the People's Advocate requested the elimination of discriminatory provisions in the way of establishing compensation for transport services for people with disabilities depending on the place of residence. The People's Advocate mentioned that art. 49 of Law no. 60/2012 on the social inclusion of persons with disabilities guarantees the right of persons with disabilities to compensation for transport services, but paragraph (4) makes the establishment of transport compensation dependent on the place of residence (districts/municipalities). This phrase was the basis for the differentiated determination of the amount of compensation for transport services in point 9 of the Regulation on the method of establishing and paying compensation, which is proposed to be revised.

The Ombudsman considers that the regulations in question are discriminatory and contradict the provisions of article 16 combined with articles 47 and 51 of the Constitution of the Republic of Moldova. The mentioned provisions disadvantage people with severe disabilities and children with disabilities aged up to 18, as well as people with severe disabilities who live in other localities than Chisinau and Balti.

Given that the authorities did not follow through on that proposal, the Ombudsman requested the Constitutional Court to express himself on this issue.

The People's Advocate proposed to the Government of the Republic of Moldova to revise the provisions of point 4/2 sub-point 2) of the Government Decision on the employment placement of graduates of post-secondary and non-tertiary post-secondary technical higher education institutions no. 923/2001, not to admit differential treatment towards people with disabilities. More specifically, to exempt from the reimbursement of training expenses not only to persons classified as a severe and accentuated disability but also to those with a medium disability, in case they refuse, after graduation, to work according to the allocation.

This proposal was supported by the Ministry of Education and Training, which gave assurances that it will revise the mentioned provision so that this norm includes resources for any type of disability.

On February 7, 2021, the amendments to Law no. 105/2018 regarding the promotion of employment and unemployment insurance entered into force, which introduced the concept of “assisted employment” for people with disabilities to increase better inclusion of these people in the field of work. To facilitate the effective implementation of several measures related to the improvement of the quality of services in the field of employment and the field of labour migration, the Government approved a draft Decision, which allows social service providers in the private and associative fields to offer assisted employment services for people with disabilities. The social service “assisted employment” will allow increasing the chances of employment, promote sustainable employment and sustainable integration into the labour market of people with disabilities and, respectively, will contribute to improving the quality of life and independence of people with disabilities, supporting them in the development of social relations in the community.

According to the State Budget Law for the year 2021 no. 258/2020, as well as to mitigate the economic damage caused by the exceptional situation as a result of the infection with the SARS-CoV-2 virus, the Government approved, on April 29, 2021, Decision no. 49 for the approval of the Regulation on subsidizing jobs. The Regulation provides for the establishment of the mechanism for subsidizing jobs in the case of hiring certain categories of people. Subjects of the subsidy are legal and natural persons practising entrepreneurial activity, non-commercial organizations, persons carrying out a professional activity, and residents of the Republic of Moldova, who obtained approval for subsidizing the creation or adaptation of jobs as a result of their employment of certain categories of vulnerable persons, including persons with disabilities. Subsidies for the creation or adaptation of jobs for people with disabilities are granted to employers who hire unemployed people with disabilities, for an indefinite or determined period, with a duration of at least 18 months. The amount of the subsidy is determined according to the category of the employee and the degree of disability and cannot exceed 10 average monthly wages in the economy for the previous year for each job created or adapted. As of January 1, 2022, based on the job subsidy mechanism, three people with disabilities were employed.

Another positive measure adopted by Parliament was the amendment of Article 17 of Law no. 60/2012 on the social inclusion of people with disabilities. Thereby, to ensure the accessibility of people with disabilities, a quota of 4% of the total number of parking spaces, but not less than two spaces, was introduced for the free parking of means of transport for people with disabilities. Contravention sanctions were also introduced for the failure of vehicle drivers to observe the international sign for persons with disabilities in parking spaces.

Examination of applications

Based on the principle of equality, through which persons with disabilities enjoy all civil, political, social, economic and cultural rights, as well as fundamental freedoms, the People's Advocate reiterates the need for their participation and full integration into society but remains concerned about the problems faced by this category of vulnerable people.

In 2021, the Ombudsman assessed the process of deinstitutionalization of persons with disabilities as defective. There is no significant progress in terms of the social inclusion of people with disabilities. The claims often invoked in the requests received on the problems of people with disabilities do not reflect an improvement in their access to support and protection measures in the community, which would allow them to integrate properly into society and to realize their right to an independent life in society.

Considering the problem of inefficient collaboration between local and central public administration authorities, as well as other public institutions in the process of implementing national programmes, to be unsolved, the Ombudsman reiterates the difficulties faced by local authorities, given the major responsibilities of planning, development and implementation of community services relative to their weak capacities (financial, human and other) actually existing.

Despite the adopted policy documents and regulatory documents, the access of people with disabilities to community services, the accessibility of medical and rehabilitation services, as well as access to housing have not improved⁷⁴.

The claims examined by the People's Advocate, for the most part, referred to limited access to community social services, caused by their insufficient funding and poor development. The lack of financial resources, housing, food, etc., which would presuppose the necessary support to be granted to people with disabilities from the local public authority, conditioned repeated referrals of people left outside of placement services. The reasons why people with special needs had to return to placement centres or specialized curative institutions, giving up housing or the possibility of living with the extended family, was the lack of reasonable housing accommodation and the ability to offer them rehabilitation services appropriate to the type of disability, which conditioned the reduction of the physical and mental capacities of the people, compared to the period when they were in the specialized institution. In such situations, we draw attention to the weak involvement of local public authorities in the development of community services that meet the needs of people with disabilities and their inability to ensure adequate social protection measures in the absence of

⁷⁴ <https://msmps.gov.md/wp-content/uploads/2021/03/Raport-privind-implementarea-%C3%AEn-anul-2020-a-Programului-na%C8%9Bional-de-incluziune-social%C4%83-a-persoanelor-cu-dizabilit%C4%83%C8%9Bi-Final.pdf>

a mechanism for quantifying social services and due to the reduced budget estimation capabilities, often citing the unpredictability of local budget expenditures for this purpose.

Another side of the identified problem refers to the lack of security policies for the employees of the placement centres in situations of behavioural problems, manifested by the beneficiaries, for which the latter are often denied such services. The authorities are to take appropriate measures to protect the staff employed in such institutions, which include: the adoption of standards and guidelines regarding the behaviour of employees and beneficiaries, guaranteeing the workplace safety of the institutions' staff; staff training measures regarding the management of aggressive behaviours and protective techniques; training measures for beneficiaries to prevent violence, etc.

In 2021, the petitioners also invoked the disagreement with the procedure for determining the degree of disability. People describe cases when, being classified primarily as severely disabled, after reassessment, they are classified in lower degrees (medium or accentuated), which would not correspond to reality, or the loss of capacity in the amount of 80% or even 100%, represents a high severity of functional deficiencies. Moreover, this downgrading decision also affects the amount of the pension, which is determined according to the person's insured income from which social insurance contributions are calculated, the degree of disability and the contribution period⁷⁵. The People's Advocate established that the petitioners are not sufficiently informed about the procedure and deadlines for contesting the decision of classifying/not classified in a certain degree of disability, for which he considers it mandatory that this information be included in the decision of the issuing body. The Ombudsman also finds it necessary to facilitate the accessibility of people to claim the right in this regard, through the National Council for State-guaranteed Legal Aid.

People with disabilities continue to encounter difficulties in accessing information, when information of public interest is missing in Braille or the availability in the mime-gestural language is reduced, despite the previous recommendations of the People's Advocate⁷⁶.

The standard of living

According to statistical data, on January 1, 2021, the number of people recognized as disabled in the Republic of Moldova was 174.5 thousand people, which is 6.7% of the total population of the country. Almost every seventh disabled person (15.0%) was classified as severely disabled.

⁷⁵ Article 21 of Law no. 156/1998 on public pension system;

⁷⁶ Report on the observance of human rights and freedoms in the Republic of Moldova in 2020, page 52;

The living standards of people with disabilities remain low. The additional measures to support the population taken by the Government did not have a direct impact on the living standards of people with disabilities. The minimum amount of pensions for people with disabilities⁷⁷, even if increased on October 1, 2021, does not cover the subsistence minimum for people with special needs, the coverage rate being 70.5% in the case of pensioners with severe disabilities, and only 47% in the case of medium disability⁷⁸. Even lower is the rate of coverage of the subsistence minimum in the case of beneficiaries of state social allowances granted to persons with disabilities, **persons with severe childhood disabilities and children with disabilities, these persons being below the limit of extreme poverty.**

The lack of complete statistical data on the number of beneficiaries of the minimum pension in the case of different types of disabilities and those who benefit from state aid makes it difficult to estimate the real number of people living below the absolute or extreme poverty line. Disaggregated statistical data would contribute to the development of better targeted social protection policies that would respond to the needs of people with disabilities and their families to have an adequate standard of living in society.

The mechanism for determining the number of benefits for people with disabilities does not take into account their individual needs, based on the type and severity of the disability, the cost of drugs and rehabilitation services and other criteria, to make it possible to develop policies to eradicate poverty among them, and the subsistence minimum for people with disabilities are not even estimated.

Data from the National Bureau of Statistics⁷⁹ reveal that in 2020 only 9.3% of households with disabled people rated their standard of living as good or very good, a decrease of 3 p.p. compared to the situation in 2019. Households, where there are people with disabilities, live in less good conditions in terms of the level of equipment and comfort of the homes. Thereby, these households are connected to public water supply networks in proportion to 69.3%, and the sanitary group with water inside the house is available only for 54.2%. The level of provision of households with disabled people in rural areas is even lower, with 57.4% being connected to public water supply networks, compared to 93.7% in the urban environment and only 40.7% have a sanitary unit with water inside the house compared to 81.8% in the urban environment.

Occupancy rate

⁷⁷ According to NOSI data, the minimum amount of pensions for people with severe disabilities is, on 01.01.2022, 1500 lei, almost double compared to 848.6 lei in 2020;

⁷⁸ Calculations are made based on NOSI and NBS data;

⁷⁹ <https://statistica.gov.md/newsview.php?l=ro&idc=168&id=7194>

People with disabilities still face difficulties in employment. Their access to the labour market is limited. According to statistical data for 2020⁸⁰, the employment rate of people with disabilities is three times lower than that of people without disabilities, constituting only 13.6%, with a decreasing trend. This, to a large extent, is caused by ineffective state policies, the lack of effective mechanisms for implementing legislation in the field of employment, the lack of sanctions for employers who do not respect the 5% quota for hiring people with disabilities, established by law⁸¹, but also because of the stigmatization and discrimination of people with disabilities at work.

According to the data of the Council for Preventing and Eliminating Discrimination and Ensuring Equality⁸², 67% of the population believes that discrimination against people with disabilities is very widespread in Moldova, in the field of work the criterion of disability or health status is among the top three based on which differentiated treatments were applied. 53% of the population associates people with intellectual and psychosocial disabilities with “mentally ill/mentally challenged people” and “disabled” people, unable to take care of themselves and think logically (27%)⁸³.

In these conditions, additional measures are required to address the stigmatization and discrimination of people with disabilities at work, the development of a mechanism to implement the mandatory quota for the employment of people with disabilities, and the efficiency of employment programmes for this category of people.

CONCLUSION

In conclusion, we emphasize an insufficiency of social protection measures for people with disabilities that have a direct positive impact on their standard of living. The situation of financial vulnerability of this category of people continues to be worrying, being deepened by the socio-economic situation in the country, even taking into account the positive measures undertaken by the Government to mitigate the consequences of the economic crisis on vulnerable groups. Under these conditions, the State should reorient disability compensation policies towards policies of active integration of people with disabilities into society, to increase their independence in society; to ensure people's access to information, quality public services, and social infrastructure, to alleviate inequality; to continue to take measures to support people with disabilities, to reduce their poverty, vulnerability and social exclusion and ensure a decent standard of living in society.

⁸⁰ Idem;

⁸¹ Law no. 60 of 30.03.2012 on social inclusion of persons with disabilities;

⁸² Discrimination in the Republic of Moldova, 2020; <http://egalitate.md/wp-content/uploads/2016/04/final-infografic-COE-discriminare-RO-1.pdf>

⁸³ Study on perceptions and attitudes towards equality in the Republic of Moldova 2018; <http://egalitate.md/wp-content/uploads/2016/04/Studiu-privind-percep--iile.pdf>

RECOMMENDATIONS:

- Ensuring that universal design and reasonable accommodation are taken into account in the development of all sectoral policies, for the full and effective participation of persons with disabilities and their integration into society;
- Taking additional measures to address stigma and discrimination at work; increasing employment opportunities for people with disabilities, including through information measures about existing employment opportunities;
- Ensuring access to information, adapting public services and social infrastructure to ensure the access of people with disabilities, their full integration into society and their ability to realize their right to an independent life in the community.
- Expanding, developing and diversifying community services and increasing access to them, through increases in budget allocations, to ensure that all people who need them benefit from accessible and quality services;
- Revising the mechanism for calculating benefits for people with disabilities and estimating the subsistence minimum for people with disabilities, which takes into account their individual needs, according to different types of disabilities, to develop policies to eradicate poverty among them.

THE RIGHT TO HEALTH CARE

The right to health protection is guaranteed by the Constitution of the Republic of Moldova in Article 36. The right to health is provided for and guaranteed through both national and international acts. Article 12 of the International Covenant on Economic, Social and Cultural Rights provides: “The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health”. Therewith, this right is mentioned in Article 25 of the UN Convention on the Rights of Persons with Disabilities and Articles 11 and 13 of the Revised Social Charter. The right to health is also approached from the perspective of observing the 14 rights of the patient, provided by the European Charter of Patients’ Rights.

In the Report on the observance of human rights and freedoms in the Republic of Moldova in 2020, the People’s Advocate recommended the authorities adopt the necessary framework regarding medical malpractice. And in 2021, this problem remains unresolved. Another recommendation addressed to the authorities referred to ensuring the necessary investments in the medical system, to provide all patients with modern, accessible, acceptable and quality health services and medical treatments.

In the context of monitoring the recommendations previously addressed to the competent authorities in the medical field regarding the accessibility of the treatment of rare diseases, the People’s Advocate maintains their intact positioning concerning the imperative demands that need to be implemented, such as the development of health policies appropriate to rare diseases, including their early diagnosis; developing the rehabilitation and resocialization methodology of patients diagnosed with a rare disease, to get out of the state of immobility of the problems detected in this regard. Although certain actions⁸⁴ have been registered to solve the problems related to the treatment and diagnosis of rare diseases, a National Programme for the Control of Rare Diseases, which includes an exhaustive list of them and financial planning adapted to the needs of patients, as well as an action plan on the screening and prevention of rare diseases, does not exist so far.

Public Policy and Legislation

At the end of 2021, the Ministry of Health announced the holding of public consultations on the National Health Strategy 2022-2031⁸⁵. The draft strategy aims to develop the health system under the Sustainable Development Goals 2030 (hereafter SDGs).

⁸⁴ According to the information available on the official page, in 2019 the Ministry of Health, Labour and Social Protection ordered the creation of a working group to solve problems related to the treatment and diagnosis of rare diseases;

⁸⁵ <https://msmps.gov.md/comunicare/ministerul-sanatatii-anunta-despre-desfasurarea-consultarilor-publice-privind-strategia-nationala-de-sanatate-2022-2031/>

The draft of the National Health Strategy 2031 represents the public policy document of strategic planning for the health system. The project aims to strengthen the management of the healthcare system in the Republic of Moldova, by improving the policy-making process from the perspective of an integrated vision, which includes provisions in all sectoral policies. The priority objective is to develop and strengthen a modern and efficient health system, organized based on the principles of universal coverage with quality health services and to achieve the Sustainable Development Goals (SDGs).

The Ombudsman supports this initiative and recommends taking into account the recommendations from the studies/reports developed by the Office of the Ombudsman regarding various aspects in the field of health, but also other non-commercial organizations concerned with health issues.

In 2021, the People's Advocate examined several legislative issues concerning the field of the right to health.

The People's Advocate considers it unfair that people with disabilities, who, are eligible for medical insurance from the state, cannot benefit from this right only because they do not receive the pension from the Republic of Moldova. Even more so, if the person with disabilities opts for the benefit of the right to the social benefit from another state, this relieves the Republic of Moldova of a financial burden (of paying the respective social benefit). The People's Advocate notes that people with disabilities, by their increased degree of vulnerability, were included in the category of beneficiaries of free medical insurance, and the place of receipt of the respective social benefit cannot justify or constitute a determining factor for whether or not to benefit from medical assistance at the expense of the State. Subsequently, he submitted to the Government the proposal to supplement Article 4 paragraph (9/2) Law no. 1585/1998 on compulsory health care insurance, so that all disabled persons specified in Article 4 paragraph (4) letter i) can benefit from the right to insurance from the Government, regardless of whether or not they receive the disability pension from another State or from the Republic of Moldova. The Ministry of Health assured that after identifying the financial coverage of this initiative, will develop and submit proposals for the adjustment of the legislative acts that would regulate the granting of the status of an insured person to persons with disabilities specified in Article 4 paragraph (4) letter i), regardless of whether or not they receive the disability pension from another State or the Republic of Moldova.

Another issue in the sights of the People's Advocate refers to the provision of dental services to persons in the custody of the state, namely, those in Placement Centres. The unique programme of mandatory health care insurance does not include dental prosthetics

services, which puts it at a disadvantage, especially for the disabled, the elderly and other vulnerable groups who do not have the financial resources to pay for dental prosthetics services. Analysing the normative framework in force, it was established that the people who suffered as a result of the Chernobyl disaster⁸⁶ benefit from free dental prosthetics, but in the Single Programme, there are no provisions regarding these categories of people. Thereby, the People's Advocate came up with the proposal to examine the opportunity to initiate the procedure to complete the list of medical services from point 19 of the Single Programme of mandatory medical assistance insurance, approved by Government Decision no. 1387/2007 with provisions on the provision of dental prosthetics services for certain categories of persons: persons with disabilities, including those in residential institutions, elderly persons, etc. In the response of the Ministry of Health, Labour and Social Protection⁸⁷, it is mentioned that for any initiative to expand medical services included in the Single Programme of mandatory medical assistance insurance, the financial coverage of this initiative is to be identified. Thereby, the Ministry is examining the possibilities, including financial ones, of implementing from 2022 a special Programme for the provision of dental prosthesis services for veterans, deported and politically repressed persons, and persons with disabilities.

The subject of the confidentiality of personal data has been in the sights of the People's Advocate for a long time. In 2021, the People's Advocate analysed this aspect from the perspective of observing the confidentiality of personal data regarding doctors. During some information sessions with the medical staff, several doctors expressed their concern about the security of their personal data. This concern is determined by the fact that when issuing the prescription for compensated drugs, filling out the extract from the history of the medical card or the recommendation for the patient, it is necessary to fill in the doctor's IDNP (identification number) in special sections. Doctors being aware of the need to keep the patient's data confidential, do not have the same security, given that the patient has direct access to this data when the prescription or other documents are issued where the doctor's IDNP is specified.

The People's Advocate emphasizes that the confidentiality of the personal data of doctors must be preserved in the same way as that of patients. The right to respect personal data is fundamental and generally recognized.

⁸⁶According to art. 7 para. (1) of Law no. 909/1992 on social protection of citizens who suffered from the Chernobyl disaster: "to make and repair dentures for their teeth free of charge (with the exception of dentures made of precious metals)";

⁸⁷<http://ombudsman.md/wp-content/uploads/2021/07/Propunere.pdf>

Subsequently, the People's Advocate recommended to the Ministry of Health⁸⁸ the review of all document-type models (prescriptions, forms) that contain mentions of the doctor's IDNP or other personal data, to avoid violating the right to the protection of personal data of medical workers. Also, as an alternative solution, the establishment of a database with the assignment of personalized codes or the stamp with the name/surname of the doctor and the number of his license or the graduation diploma of the University of Medicine, so that the veracity of the issued document can be verified, without disclosing personal data, and in the case of forms that leave the institutions (to other medical institutions or third parties), an internal procedure (a virtual internal programme) could be provided for communication between the institutions.

Examination of applications

Similar to previous years, the right to the highest standard of health, through the lens of ensuring availability, accessibility, acceptability and quality, continued to remain the subject of a referral to the People's Advocate. The maintenance of the state of emergency in public health has exacerbated the problems in the exercise of this right by citizens. Thereby, reduced access to health services and medicines, including expensive ones; the lack and/or deficiency of personalized treatment; faulty patient-doctor communication; low quality and conditions of treatment in medical institutions; the lack and/or misinformation of patients regarding diagnostic methods, treatment, etc.; poor provision of palliative care; problems in granting consent for the provision of certain medical services; the impossibility of claiming the right to health following malpractice actions continued to represent problems in the field of health, also in 2021.

Patient's right to access

The limitation of access to medical services through the unjustified refusal of some representatives of the Centres of Family Doctors, to provide medical assistance, constituted grounds for the intervention of the Ombudsman. Thus, the People's Advocate intervened with positive solutions, in case the person was refused registration by the Centres of Family Doctors because he has a residence visa temporarily established in the locality. Respectively, the person was unable to obtain the family doctor's prescriptions, to access medical treatment. In this regard, the People's Advocate notes that the citizens of the Republic of Moldova have the right to freely choose the doctor, the medical institution and the form of medical assistance, and any unjustified refusal in this regard entails legal liability.

⁸⁸<http://ombudsman.md/wp-content/uploads/2022/01/04-2-21-3230-din-22.12.2021-Propunere-de-modificare-a-legisla%C8%9Biei-MS.pdf>

In the context of limited access to medical services, the People's Advocate highlights the unjustified and discriminatory refusal of a hospital medical institution to admit a person for treatment, given his ethnic origin, for which he also intervened with positive solutions.

Patient's right to consent

Another problem identified is consent, in the case of persons against whom a judicial protection measure is instituted, including minors. According to the legal provisions, the consent of the patient in respect of whom a judicial protection measure is instituted is given by a person in charge of protection⁸⁹, and in his/her absence - by the closest relative. Thereby, the People's Advocate considered unjustified the refusal of the administration of the hospital medical institution to admit the disabled person for the provision of medical services, only because his/her grandmother did not have the necessary documents to represent her in the process of providing medical services, and the person was unable to express his/her consent. The Ombudsman intervened in the case with positive solutions but remains convinced of the fact that the provision of medical assistance must not be dependent on legal representation for providing medical services. The provider must primarily take into account the seriousness of the health condition, including psycho-emotional and the patient's opinion, the consent of the legal representative or a third person, not being a priori decisive in this regard.

The right to be informed

The problem of ensuring the patient's right to information was also the subject of a referral to the People's Advocate during the past year. In this regard, the Ombudsman notes that *health service providers ensure the unlimited access of the patient, his/her legal representative (close relative) to the information on his/her own medical data, to the results and files with investigations, to the treatments and care received, with the issuance of a written summary upon discharge. The patient can obtain a copy of any part of his/her own data and medical records in the manner established by the Ministry of Health*⁹⁰. Therefore, the Ombudsman considered the hospital medical authority's refusal to issue medical certificates to the person, on the grounds of non-presentation of the military passbook, or such a condition is not found in the normative framework, to be unfounded. An abusive condition of access to the medical file materials was, in the opinion of the People's Advocate, the mandatory consent of the chief physician of the medical institution. Thus, the person was denied access to personal medical materials (ambulatory), including the making of photocopies, given the confidentiality of personal data and for which the approval of the chief

⁸⁹ Article 23 paragraph (3) of Law on Health Protection;

⁹⁰ Article 11 paragraph (4) of Law 263/2005 on Patient Rights;

physician would have been requested. In this regard, the Ombudsman notes that *information that is considered confidential can only be provided if the patient explicitly consents to this*⁹¹. The diversity of abusive conditions makes the People's Advocate conclude on an arbitrary interpretation of the right to information, by the representatives of the medical system, for which the consolidation of their knowledge regarding the exercise of the right in question would be required.

Access to essential medical services in the pandemic period

In the context of the pandemic, the Ombudsman's concern for the problems of access to medical services led to the realization of an review, which highlighted the impediments and shortcomings in the process of ensuring continuous medical assistance for some groups of diseases. The People's Advocate repeatedly states that the existence of a high burden of an illness overlapping with the definition of a case of COVID-19, which leads to life-threatening conditions for patients, should not delay the request for medical assistance, or the State needs to find that balance between the provision of medical services provided individually and the protection of public health.

And in this Report, the People's Advocate reminds the State's obligation to provide the necessary services to different population groups, without discrimination, under their needs and at the appropriate time to promptly help the disease situation, equitably.

The thematic report "Access to Essential Health Services in the Context of the Covid-19 Pandemic"⁹² determined that during the restrictions imposed by the COVID-19 pandemic, the necessary measures were insufficiently organized to ensure compliance with the right to health of individuals, especially access to essential health services. These include:

1. Ensuring the fulfilment of the patients' right to preventive measures was unsatisfactory, as screening and prophylaxis actions (e.g.: detection of tuberculosis in different population groups, screening of oncological diseases, prophylactic checks of new-borns and pregnant women, etc.) were found to be insufficient.
2. Mobility restrictions and the fear of exposure to COVID-19 have decreased the active detection of Tuberculosis cases, as well as the early detection of oncological diseases.
3. Situations of insufficient patient access to essential health services, necessary according to the state of health, especially those with chronic diseases, were frequently determined. The health system focused its attention and resources on the

⁹¹ Idem, Article 12 paragraph (3);

⁹² <http://ombudsman.md/wp-content/uploads/2021/12/Varianta-FINAL%C4%8211111.pdf>

assistance of patients infected with the Sars-Cov-19 virus, being less attentive to other categories of diseases. Some medical institutions have created discriminatory conditions in the hospitalization process of chronic patients, requiring the Sars-Cov-19 test, performed at the patient's expense, a fact that has become an essential financial burden for many patients.

4. In particular, the assistance of patients from vulnerable groups with chronic diseases (elderly people, palliative patients, etc.) was affected. Patients in rural areas could not pick up their compensated medicines, either due to the lack of a family doctor, his absence due to illness or the refusal to receive patients during the pandemic. Quarantine conditions and the lack of public transport limited the movement of patients to both medical institutions and pharmacies. The lack of monitoring of chronic diseases, and the limited access to investigations resulted in the deterioration of the health of many patients in these groups.

The analysis of the level of access to essential medical services during the pandemic showed that people with symptoms of tuberculosis (TB) faced difficulties due to the blocking and restriction of movement, loss of income, and fear of infection directly in medical institutions. During the pandemic period, there was a 38.9% reduction in the notification of TB cases, a blockage of the process of active identification and prevention of TB due to the restriction of mobility, as well as the impossibility of patients to order and comply with TB treatment, because they did not manage to reach the treatment centres. Thereby, the People's Advocate considered it appropriate to come up with a series of recommendations, including in the context of the immunization process.

Concluding on accessibility to essential medical services during the COVID period, the Ombudsman established, that it was largely affected by the phenomenon of re-profiling both doctors and departments within medical institutions to treat the virus.

According to the *“Perceptions of Human Rights in the Republic of Moldova” Study*⁹³, the largest percentages of respondents believe that children are best assured of their right to health protection, with 59.3% saying that it is fully or to a large extent ensured, with a continued increase in these views compared to 2018 and 2016. The people aged 30-44 are the ones who in the majority, about 70%, claim that the right of children to health is ensured by the State. And about 54.7% of the interviewees believe the same is the case with women, the increase in the weight of those opinions concerning the data of previous studies being over p.p.

⁹³http://ombudsman.md/wp-content/uploads/2021/07/DO_raport_raport_OAP-2.pdf; pag.33-34

In terms of access to health services, in general, a predominantly negative attitude of the respondents towards how the rights to health services are observed, at the same time, an improvement of the opinions in the current study concerning the previous ones is recorded. Only 1/3 of the respondents (33.2% in 2020 compared to 11.9% in 2016) agree (forms 7-10) with the fact that the state ensures everyone equal access to quality medical services, only 1/5, (19.9% in 2020 compared to 9.3% in 2016) confirm that the medical insurance policy allows its holder an adequate level of medical services. Although opinions have improved compared to those of 2018 and 2016, they indicate that there is still a high degree of dissatisfaction with the services provided and with the health system in general.

In the context of the COVID-19 pandemic, during the group discussions, two aspects were primarily noted: on the one hand, the fact that during the pandemic period, the right to protect the health of people with chronic diseases was violated, by restricting access to medical services, and on the other hand attention was paid to covering the costs of the treatment of COVID-19 by patients who were treated at home.

Therewith, further, the phenomenon of informal payments in medical institutions significantly limits the access of people with low incomes to medical services regardless of whether they have a medical insurance policy or not. In this context, reference was often made to people with modest incomes and the elderly.

Implementation of recommendations from previous thematic reports

Being declared one of the priorities of the People's Advocate, the problems in the medical system were found in previous years in 2 thematic reports, and in 2021, the Ombudsman requested information from the concerned authorities regarding the level of implementation of the recommendations from the mentioned Reports.

The Thematic Report on the assessment of the level of assurance of the patient's right to the safety and quality of medical equipment⁹⁴ reflects the systemic problems faced by medical institutions regarding the maintenance of medical equipment, and the quality of medical devices which, consequently, affects the quality of the medical act and patient safety.

The People's Advocate notes that the authorities responsible for implementing the submitted recommendations recognize the need to develop an efficient management system for medical devices, which is an indispensable part of the medical needle, and their effective use ultimately implies a qualitative treatment. In this regard, the Ministry of Health, Labour and Social Protection communicated about the elaboration at that stage of the National

⁹⁴<http://ombudsman.md/wp-content/uploads/2019/04/RAPORT-MEDICINA-RED.pdf>

Health Strategy 2030 project, which included the field of “*medical devices*”. Therewith, the authorities communicate about the simplification of the procedure for purchasing medical equipment and devices according to the annual plan developed by the public medical sanitary institutions, being centralized by the Centre for Public Procurement in Health, responsible for carrying out procurement procedures, according to Government Decision no. 1128/2016 on the Centre for Centralized Public Procurement in Health.

In the second *Thematic Report “Consolidation of Palliative Care, as a Component of Integrated Treatments throughout Life”*⁹⁵, publicly presented on October 11, 2019, by the **People’s Advocate Office**, a high risk of human rights violations is found, determined by limited access and insufficient palliative care services at all levels of assistance. In general, the Report indicates that palliative care in the Republic of Moldova is insufficiently developed and fragmented, and patients in need of palliative care have limited access to palliative care services.

In the part related to the implementation of palliative care recommendations, the People’s Advocate welcomes the inclusion of this type of service, for the first time, in the List of priorities for 2022⁹⁶, which will allow the expansion of the pharmaco-therapeutic groups of drugs compensated from the mandatory healthcare insurance funds, for this category of patients. Therewith, for 2022, when estimating the expenses of the AOAM (compulsory health care insurance) funds, the account was taken of covering the expenses strictly necessary to ensure the good functioning of the medical service providers to provide timely and qualitative medical care to the population.

It is also worth noting that in the Government's Action Plan for 2021-2022⁹⁷, one of the actions of the Ministry of Health planned for 2022 is the development and approval of the Regulation on the activity of palliative care services, the Nomenclature of palliative care services and the Minimum Quality Standards for palliative care services.

The Nicolae Testemitanu State University of Medicine and Pharmacy communicates about the development and approval of Continuing Medical Education Programmes for managers of Public Health Institutions, specialists in the field of the health system, family doctors, and internists, with the theme “Palliative care in primary health care”. Therewith, the “Palliative Care” module was included in the Postgraduate Residency Study Programme in the “Family Medicine” speciality, second year.

CONCLUSIONS

⁹⁵ http://ombudsman.md/wp-content/uploads/2020/01/RAPORT_PALIATIVE.pdf

⁹⁶ The joint order of the Ministry of Health and the National Medical Insurance Company no. 266/59-A/2021;

⁹⁷ Decision of the Government of the Republic of Moldova no. 235/2021;

The conditions imposed by the COVID-19 pandemic have limited some activities carried out by the health system services with the aim of prevention, screening and prophylaxis of various diseases. During the restrictions imposed by the COVID-19 pandemic, the necessary measures were insufficiently organized to ensure the observance of people's right to health, especially access to essential health services. The health system was forced into a regime of activity that led to ignoring the health of people with chronic diseases. It was necessary to redistribute existing resources to combat the effects of the COVID-19 pandemic, when in fact additional resources should have been allocated for this, without limiting the resources needed for other categories of patients. Assistance to patients from vulnerable groups with chronic diseases (elderly, palliative patients, etc.) was affected.

Although it has been consistently addressed over several years, the issue of medical malpractice remains unresolved.

The People's Advocate also identified in the reference period deficiencies in the accessibility, availability and quality of medical services for different groups of patients, especially those who are part of more vulnerable groups, as well as in the observance of patient rights. At the same time, the People's Advocate reported problems regarding the safety of the personal data of doctors, given that the patient and other third parties have direct access to this data when they are issued a prescription or other documents where the IDNP of the doctor is specified.

An insufficient degree of implementation of the recommendations of the People's Advocate from the reports/studies carried out in recent years regarding compliance with various aspects in the health field is attested.

RECOMMENDATIONS:

- Giving increased attention to the problems identified in the context of monitoring the situation regarding the observance of the right to health protection by the People's Advocate and ensuring the effective implementation of his recommendations, as well as the recommendations of international and regional human rights protection authorities;
- The People's Advocate reiterates his previous recommendations to adopt the necessary framework regarding medical malpractice, as well as to develop the appropriate health policies for rare diseases;
- Ensuring the necessary investments in the medical system, to offer all patients health services and modern, accessible, acceptable and quality medical treatments,

including ensuring the implementation of the legislative proposals submitted by the People's Advocate;

- Reviewing the review and accreditation criteria of medical and sanitary institutions through the lens of respect for human rights;
- The development of a comprehensive concept, based on human rights, for the organization of health services in the context of the restrictions imposed by the pandemic and the identification of the patient's clear path, to ensure medical assistance in the necessary time and volume, according to health needs, regardless of the group and type of illness they suffer from;
- Attracting specialists in the field of human rights, for consultation, in the process of developing policies and strategic decisions related to the organization of health services and, respectively, ensuring the right to health, to avoid the occurrence of situations with the risk of violating patients' rights;
- Mandatory inclusion of human rights study courses in the field of health at the level of university medical training (Nicolae Testemitanu State University of Medicine and Pharmacy).

PROTECTION OF WHISTLE-BLOWERS

On November 12, 2018, *Law no. 122 on the whistle-blowers* entered into force, the purpose of which is to increase the number of cases of disclosure of illegal practices and other disclosures of public interest by: promoting the climate of integrity in the public and private sectors; ensuring the protection of whistle-blowers from retaliation in the context of examining public interest disclosures of illegal practices; preventing and sanctioning reprisals against whistle-blowers.

Law 122/2018 establishes that in case of external and public disclosures of illegal practices, the protection of whistle-blowers shall be provided by the People's Advocate, as per the provisions of Law no. 52/2014 on People's Advocate (The Ombudsman).

The Ombudsman's Office has created with the support of the United Nations Development Programme⁹⁸ a special section on the website of the Ombudsman's Office⁹⁹, the application for studying online e-learning <http://ombudsman.md/courses/>. The first course on this platform is the "Whistle-blowers". The course provides information about whistleblowing, whistle-blower action conditions and protection offered to whistle-blowers. By completing the online course, users have the opportunity to check their knowledge on the same platform. The course is developed in Romanian and Russian.

Also, on the web page, the application "Submission of the online request for the protection request by the integrity whistle-blower" was developed and launched, intended for people who wish to request protection¹⁰⁰, ensuring the confidentiality and safety of the information provided.

Review of requests for protection of whistle-blowers

In the period 2019-2021, 11 requests were registered at the Office of the Ombudsman (7 requests in 2021) by which people who consider themselves integrity whistle-blowers requested protection from the People's Advocate. Out of all the applications examined, only in one case was the solution achieved by restoring the rights of the person. Following the recommendations of the Ombudsman, the employer "realized the mistake" and ceased any form of retaliation against the whistle-blower.

From the primary examination of several requests by which whistle-blower protection was requested, based on the guarantees provided by Law no. 122/2018 on the whistle-blowers, insufficient knowledge of the specifics, purpose of the mechanism of whistle-blowers and the possibility of using this tool can be found. Most of the time, applicants

⁹⁸ The "Fighting Corruption by Strengthening Integrity in the Republic of Moldova" project, implemented with the support of the United Nations Development Programme and the Ministry of Foreign Affairs of Norway;

⁹⁹ www.ombudsman.md;

¹⁰⁰ <http://ombudsman.md/avertizari-de-integritate/>

confuse the mechanism of integrity whistle-blowers with the mechanism of improper influences or aspects of labour disputes. *Cases of late addressing to the Ombudsman were also registered. Thereby, in 11 requests addressed to the People's Advocate, the applicants for protection were informed about the tools they are going to use to defend their rights and freedoms.*

Restoring the rights of whistle-blowers is a complex and long-lasting process, so **6 such cases** are under-examined by the People's Advocate for more than a year. Employers were sent *Notices with recommendations for the immediate reinstatement of whistle-blowers* under the guarantees provided by the whistle-blower mechanism. The recommendations were not implemented by employers and whistle-blowers contested the sanction orders in court. In 6 cases, the People's Advocate intervened in the process, to submit conclusions to defend the rights, freedoms and legitimate interests of individuals, and in one case the employer has not yet provided an answer regarding the implementation of the recommendations addressed to him.

Concerning the whistle-blower's first case examined by the People's Advocate, the Supreme Court of Justice annulled the decisions of the first two courts, which ruled in favour of the whistle-blower and ordered the cancellation of the dismissal order and the reinstatement of the person in the previously held position. At present, the request submitted by this integrity whistle-blower is pending at the ECtHR.

It should be noted that in this case, but also in others, the courts, although they accepted the submission by the People's Advocate of the conclusions, in their decisions do not refer to the protection mechanisms offered by the Law on the whistle-blowers.

Deficiencies in the implementation of the Law on whistle-blowers

The People's Advocate notes that carrying out the attribution of protection of integrity whistle-blowers requires additional resources (time, human, etc.). Even if requests from whistle-blowers are examined under the terms of the *Law on the Ombudsman no. 52/2014*, according to standardized procedures that apply to all requests received in the institution, the examination of requests in the field of granting whistle-blower protection requires additional training of the staff involved in their examination. This, in the absence of good practices - at the international level there are very few national institutions for the protection of human rights that are responsible for the protection of whistle-blowers. That is why the first years of implementation of Law no. 122/2018 were a period in which several levers available to the People's Advocate were tested, to ensure the protection of whistle-blowers, and to identify the most effective intervention mechanisms.

The employees of the People's Advocate Office benefited from some training organized within the EU Project "Support to Police Reform in the Republic of Moldova", which also included whistle-blower training. However, these are insufficient, because training specific to the needs of the National Human Rights Institution is needed. Therefore, there is a need to strengthen the protection mechanism for integrity whistle-blowers by the People's Advocate, by increasing the number of employees, who are to be trained and specialized in this field and, obviously, by allocating the budgetary resources necessary for the exercise of the duties and the promotion activities, etc.

It is also of major importance that disclosures are scrutinized by the responsible institutions so that the whistle-blower mechanism is not treated with formality. However, *in the process of examining the requests of integrity whistle-blowers, for the most part, the concerned authorities do not accept the constructive dialogue with the People's Advocate, to trigger the procedure of mediation and amicable resolution of the conflict that has arisen and avoid an obvious retaliation against the integrity whistle-blower.*

The different interpretation of Law no. 122/2018 by different authorities that are or may be involved in its implementation, or in monitoring its application in practice, is also attested.

The task of awarding whistle-blower status has proven to be quite difficult. Applications have been registered in which the persons who requested protection, claiming to be whistle-blowers, made the disclosures regarding some illegal practices after they became the subjects of disciplinary procedures and criminal processes, either at the criminal prosecution or judicial investigation phase, initiated in compliance with legal procedures. Such requests need to be handled with the utmost care, a complex examination of the case so that, by assigning the quality of integrity whistle-blower, we do not favour impunity, and do not admit that this mechanism is used by some people to absolve themselves from punishment for certain illegalities committed in the exercise of their duties, which would ultimately compromise the whistle-blower concept.

Another difficulty arising from the aforementioned is the assessment of the good faith with which an alleged integrity whistle-blower acted.

It should also be mentioned that the provisions regarding the sanctioning of violations in Article 18¹⁰¹ of Law no. 122/2018 are not functional due to the lack of adjustment and the

¹⁰¹ Article 18. Liability for violation of the Law

(1) Failure by the employer to take measures to ensure the disclosure of illegal practices within the entity, failure to respect the confidentiality of employees who disclose illegal practices and failure to ensure protection measures for employees recognized as whistle-blowers attract disciplinary and/or contravention liability.

related normative framework¹⁰² for the sanctioning of confidentiality violations. Respectively, these violations can be sanctioned by the application of general rules.

The insufficient knowledge of the concept of whistle-blowers by employees and employers, as well as the mechanisms for the protection of whistle-blowers, constitutes, in the opinion of the Ombudsman, the basic problem for the effective operation of Law no. 122/2018. Likewise, a different interpretation of the procedures established in the law, the competencies of the concerned institutions and the degree of their involvement is found both on the part of civil society and the institutions responsible for examining integrity and protection warnings.

These, as well as other factors, influence the degree of implementation of the Ombudsman's recommendations by employers, the examination, for the most part, of lawsuits through the lens of the Labour Code and less through the lens of Law 122/2018 on the whistle-blowers.

Following the analysis of whistle-blower cases by the courts, the People's Advocate addressed the National Institute of Justice with the recommendation to include a module on the protection of the integrity of whistle-blowers in the professional training programme for judges. This initiative was accepted by the National Institute of Justice, which included a separate module for the integrity whistle-blower mechanism in the subject of the training.

In 2021, the Centre for Analysis and Prevention of Corruption (CAPC) substantially contributed to the effective implementation of whistle-blower protection mechanisms in the Republic of Moldova by:

- Strengthening the capacities of employers, representatives of the National Anticorruption Centre, employees of the People's Advocate Office and civil servants in the management of whistle-blower disclosure cases and for the protection of whistle-blowers through pieces of training based on customized programmes, developing models for the examination of whistle-blower requests by the protection authorities.
- Elaboration of the Manual for whistle-blowers¹⁰³, well as the Guide on the specifics of the whistle-blower institution for judges and prosecutors. The Guide provides detailed and comprehensive information on the specifics of judicial review of cases

(2) Disclosure by the representative of the employer or other examining authorities of the whistle-blower's identity to the persons allegedly responsible for the illegal practices he invokes attracts disciplinary and/or contravention liability;

¹⁰² Article 19(2) Within 3 months from the date of entry into force of the law, the Government will bring its regulatory documents in accordance with its provisions;

¹⁰³ <https://avertizori.capc.md/Ghidul-avertizorului-de-integritate-pentru-cet%C4%83%C8%9Beni.pdf>

involving whistle-blowers and the jurisprudence of the European Court of Human Rights (ECtHR) on whistle-blowers.

- Consulting and encouraging, including through social media, potential whistle-blowers to report cases of corruption. Supporting whistle-blowers and providing them with legal protection and representation in court - CAPC lawyers examined and represented the interests of 7 whistle-blowers (1 woman and 6 men).
- Informing employees about whistle-blower institution opportunities - CAPC has developed the blog version which can be accessed here: www.avertizori.capc.md.
- Organizing thematic cafes for informal whistle-blower debates with the National Anticorruption Centre and the People's Advocate, representatives of the central public authorities responsible for the implementation of the Law on Whistle-blower, representatives of the private sector and business associations. CAPC assisted the debates on the challenges and solutions in keeping track of the disclosure of illegal practices; taking measures to stop reprisals, applying protective measures, the regulatory framework regarding whistle-blowers, and the obligations of implementing authorities (employers) on the part of registration, examination of disclosures, ensuring the protection of whistle-blowers.

CONCLUSIONS

After three years of implementation of the mechanism to ensure the protection of whistle-blowers, a low degree of acceptance in society of the institution of the whistle-blower can be found. The ignorance of its protection mechanism is also attested, the low degree of implementation of the recommendations of the People's Advocate regarding the granting of guarantees to whistle-blowers, frequent treatment of cases of disclosure of misconduct and recognition of integrity whistle-blowers as litigation, classic labour relations. The People's Advocate believes that they are not yet fully aware of the importance and effect of the Law on Whistle-blowers, which is why its provisions are rarely used.

RECOMMENDATIONS

- Continuous training of groups of professionals regarding the mechanism of whistle-blowers, as well as the continuation of public awareness actions regarding the institution of the whistle-blower.
- Review of the regulatory documents related to the institution of whistle-blowers for the development of changes to the normative framework in force, including the adjustment of the related normative framework through the prism of compliance with European standards in the field.

VIOLENCE AGAINST WOMEN AND DOMESTIC VIOLENCE

The Constitution of the Republic of Moldova guarantees equality between women and men in Article 16, paragraph (2): *(2) All citizens of the Republic of Moldova are equal before the law and public authorities, regardless of race, nationality, ethnic origin, language, religion, sex, opinion, political affiliation, property or social origin.*

The main international and regional instruments through which equality is protected, to which the Republic of Moldova is a party, are the International Covenant on Civil and Political Rights (1966), the International Covenant on Economic, Social and Cultural Rights (1966), UN Convention on the Elimination of All Forms of Discrimination against Women (1979), Revised European Social Charter (1996), Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (2011).

Gender-based violence is a form of discrimination that severely inhibits women's ability to enjoy rights and freedoms on an equal basis with men. Gender-based violence affects women disproportionately. Traditional attitudes that view women as subordinate to men or as having stereotypical roles perpetuate widespread practices involving violence or coercion, such as domestic violence and abuse, sexual harassment, rape, forced marriage, etc. Such prejudices and practices can justify gender-based violence as a form of protection or control over women. Violence against women is one of the crucial social mechanisms by which women are placed in a position of subordination to men and constitutes a major obstacle to achieving substantive equality between women and men. This prevents women from enjoying their fundamental rights and freedoms and contributes to their low level of political participation, education, skills and employment opportunities¹⁰⁴. Therefore, the achievement of *de jure* and *de facto* equality between women and men is a crucial element in preventing violence against women, and the State has the primary obligation to pursue, by all appropriate means and without delay, a policy to eliminate discrimination against women, including gender-based violence against women. This obligation is immediate by its nature; postponements cannot be justified for any reason, including economic, cultural or religious reasons¹⁰⁵.

In the Report on the observance of human rights and freedoms in the Republic of Moldova in 2020, the People's Advocate submitted a series of recommendations to the authorities, highlighting some of them: accelerating the ratification of the Council of Europe

¹⁰⁴ CEDAW general recommendation no. 19 (1992) on violence against women and CEDAW General Recommendation no. 35 (2017) on gender-based violence against women, updating General Recommendation no. 19;

¹⁰⁵ CEDAW general recommendation no. 35 on gender-based violence against women;

Convention on preventing and combating violence against women and domestic violence (Istanbul Convention); amending article 78/1 of the Criminal Code, to eliminate the provisions exempting the perpetrators of violence against women from criminal liability; raising awareness among the general public to eliminate discriminatory gender stereotypes regarding the roles and responsibilities of women and men in the family and in society; allocating sufficient resources to provide financial compensation to victims of domestic violence and victims of other gender-based violence crimes; ensuring that victims of violence have access to shelters and support services, including medical treatment, psychosocial counselling and legal aid in any part of the country.

The People's Advocate appreciates the ratification by the Republic of Moldova of the Council of Europe Convention on preventing and combating violence against women and domestic violence¹⁰⁶, the first European-level instrument to set legally binding standards specifically for preventing gender-based violence, protecting victims of violence and punishing perpetrators. The People's Advocate urges the authorities to comply with their commitments and to make consolidated efforts to ensure the effective implementation of the Convention.

Domestic violence against women continues to be a problem in our society, both due to stereotypes and insufficient and ineffective action by the authorities. It is the opinion of some experts expressed in the "Perceptions of human rights in the Republic of Moldova (2021)" Study¹⁰⁷, commissioned by the People's Advocate Office. The experts highlighted the existence of some functional gaps concerning the protection order, which in the end does not fully protect the victim of domestic violence. About 43% of respondents claim that women are frequently and very frequently discriminated against in the family, in cases of physical, mental, and economic violence - 40%, about 1/4 respondents (24.8%) - in political life, about 1/5 - in employment, at the workplace, but also concerning the access to justice. Some women, victims of domestic violence, noted that their partners/ex-partners continue to abuse them psycho-emotionally, even if they live separately, have cut off communication, and the aggressors find ways to put pressure on the victim. And police calls are not effective¹⁰⁸.

According to the data presented by the General Inspectorate of Police, in 2021, 2609 cases of domestic violence were detected, an increase of 1.56% compared to 2020, of which: 947/866 +0.81% cases met the constitutive elements of the crime composition, and 1662/1587 +0.75% cases met the constitutive elements of the contravention component (Article 78/1

¹⁰⁶ Law no. 144 of October 14, 2021 on the Ratification of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence;

¹⁰⁷ <http://ombudsman.md/wp-content/uploads/2021/10/Studiu-PERCEPTII-DO-2021.pdf>

¹⁰⁸ Idem;

Contravention Code). The percentage of women and women with children, victims of domestic violence, is around 83%¹⁰⁹.

The number of telephone calls from women to the Domestic Violence and Violence Against Women Helpline in the first quarter of 2021 was 64%. Out of 420 calls received from victims, 97.3% of them were made by female victims¹¹⁰.

According to the Decision of the Constitutional Court of November 22, 2018, the sanctions provided for in Article 78/1 of the Contravention Code include unpaid work, which can only be applied with the consent of the offender, and administrative arrest, which cannot be applied to persons who have reached retirement age. The Court found loopholes in the legislation that do not allow punishing those who have reached retirement age and who refuse to perform unpaid work for the benefit of the community.

The Court finds that the issue referred to in its judgment denotes a legislative omission in the State's punitive system, in the context of committing acts of domestic violence. To remove this omission, Parliament must amend the tort law in such a way as to ensure that this system works. The People's Advocate notes the current lack of significant changes in this area.

Examination of applications

Examining the applications concerning acts of violence against women and family violence made the People's Advocate further note the lack of awareness of this phenomenon as a serious one, especially on the part of the authorities involved in ensuring the victim protection mechanism. In this context, the Ombudsman emphasizes that *the authorities empowered to prevent and combat domestic violence are obliged to react promptly to any notification and inform the victims about their rights, about the authorities and institutions with positions to prevent and combat family violence; about the type of services and organizations they can turn to for help; about the assistance available to them, etc.[...]; the police are obliged to respond immediately to communications about cases of domestic violence and not to underestimate the importance of actions to counter any forms of domestic violence, and the representatives of the authorities empowered to prevent and combat family violence are prohibited from taking actions aimed at discouraging the victim from reporting acts of violence to which he/she is subjected to*¹¹¹. Thereby, in some cases examined, the Ombudsman considered the inactions of the local public authorities, as well as the protracted

¹⁰⁹ https://politia.md/sites/default/files/ni_privind_infractionsile_ce_atenteaza_la_viata_persoanei_si_cele_5.pdf

¹¹⁰ Activity Report of the Domestic Violence and Violence Against Women Helpline 0 8008 8008, January - June 2021;

http://lastrada.md/pic/uploaded/Raport%20TIFF%20sumar%20sem.%201_2021.pdf

¹¹¹ Article 11, Article 12 paragraphs (5) and (2) of Law no. 45/2007 on preventing and combating domestic violence;

actions of the criminal investigation body in the context of the detection of acts of domestic violence and the application of protective measures, to be worrying.

In a pending case, the People's Advocate established inaction on the part of the police inspectorate and local public authorities regarding the establishment of protection measures for victims of domestic violence, inactions that endangered her safety and that of other family members and that led to the repetition of violent actions by the aggressor. During the casework meeting with the public authorities, the People's Advocate concluded that the local public authority, being aware of the acts of violence, as well as of their repetitive character, did not take any action, *recommending the victim to contact the territorial public authority to settle the conflict*, tacitly admitting both the separation of the children and the encouragement of the aggressor to continue his abusive and derogatory actions towards their mother. Therewith, the Ombudsman reported a lack of impartiality and objectivity of the representatives of the local public authorities concerning the case, manifested by veiled protection of the aggressor, or, the recommendations addressed to them during the working session to apply the protection mechanism for the victim and her children, as well as the urgent prosecution of the aggressors, were questioned and conditioned by the “*good faith intention*” to settle the case by reconciling the parties. Despite the Ombudsman's recommendations addressed to the authorities, they chose the path of mediation between the parties, the victim expressing his agreement in this regard and refusing any intervention.

The intervention of criminal investigation bodies and the police in cases of violence, other than physical, in the opinion of the People's Advocate, is even less. In this regard, there is a tendency to overlook the abusive actions of potential aggressors, which presuppose acts of psychological or economic violence. Thereby, the Ombudsman found unjustified the lack of intervention of the police inspectorate at the request of a petitioner who has two minors to support and who, being in the process of divorce due to acts of physical violence against her and the minors, was subjected to economic and psychological violence by her father-in-law. Following the analysis of the circumstances of the case, the People's Advocate established that, although the victim invested the financial means obtained before the marriage in the common home with property rights of the husband, later alienated from his father, the latter requested through the court to evict the victim and the minor children from the home. Despite a court order in favour of the petitioner, the father-in-law created impediments to access the home for the children and their mother, as well as requested the electricity distribution company to stop supplying electricity to the apartment. Addressing the petitioner to the sector police body resulted in a formal response, which recommended addressing the court, given the existing civil reports, or, *the contravention process cannot be started or, if it is started, it*

will be terminated, due to the lack of the contravention deed¹¹². Following the intervention of the People's Advocate in the case, the victim and the minors were restored their rights. However, the officials from the legal bodies that examined the application were not held accountable, despite the request of the People's Advocate.

In the context of the examined cases, the Ombudsman also considered the refusal of the relevant body to initiate criminal prosecution based on the victim's complaint, regarding which domestic violence was applied, as unfounded, the refusal order as a result being cancelled and the criminal prosecution initiated. The People's Advocate also considered unjustified the refusal of the investigating agent addressed to the victim of acts of abuse to have access to the materials of the contravention process, the argument being the confidentiality of the violator's personal data. In such conditions, the victim was unable to exercise his right of access to justice in a civil action, to repair the damage caused by the offender.

The Ombudsman's analysis and intervention in such cases drew attention to the way of supervising the mechanisms for the protection of victims, in addition to the inability of some authorities to identify and recognize acts of violence as serious. In this regard, the People's Advocate notes that *the police body orders the issuance of the emergency restraining order on the aggressor for 10 days, as well as addresses the judicial authorities to obtain the protection order in the crisis, ensuring the supervision of the execution of the protection order*¹¹³. Data from the General Inspectorate of Police Report show that, although the number of protection orders issued increases annually, their implementation is deficient. Thereby, the share of protection orders violated by the aggressor is high, in 2021 constituting 48.69% of the total number of issued orders, and the share of violated emergency restriction orders was 12,4%¹¹⁴.

During the examination of the requests, the Ombudsman highlights the disagreement of the victims of domestic violence with the supervision of the execution of the emergency restriction order and/or the protection order. In this regard, the insufficiency of surveillance actions is invoked, as the aggressors often violate them, not being held legally responsible. Thereby, in a case examined, the People's Advocate established the violation of the protection order issued by the judicial court, which established the aggressor's obligation to stay away from the victim's home. The victim's address to the police body resulted in a formal response, by which the examination of the case was terminated because there is no contravention.

¹¹² The response of Botanica Police Inspectorate of Chisinau Municipality no. 19565 of 01.09.2021;

¹¹³ Article 6 letters (f) and (g) Law no. 45/2007 on preventing and combating domestic violence;

¹¹⁴ https://politia.md/sites/default/files/ni_privind_infraclunile_ce_atenteaza_la_viata_persoanei_si_cele_5.pdf

Another aspect of the applicability of protective measures concerns the sometimes confusing interpretation by the courts of domestic violence actions. Thereby, the Ombudsman considered insufficient the issuance of the protection order by the judicial court only regarding the aggressor's wife and intervened with her with strict conclusions. Establishing with certainty the existence of hostile relations between the parties, as a result of which the victim is subjected to physical and psychological violence, the trial court considered accepting as “normality” the verbal violence with educational purposes of the aggressor declared during the judicial process. Moreover, the judicial court established that the existing conflicts between the spouses take place in the presence of minor children, which denotes a harmful family atmosphere that, in the opinion of the Ombudsman, endangers the positive psycho-emotional state of the latter.

An important segment in the process of intervention in cases of family violence is the assistance and counselling services for the victims of violence, as well as the rehabilitation activity of the aggressors. The cases examined by the People’s Advocate, for the most part, point to the limited access to services for victims, who are often put in a position to find a refuge on their own. Thereby, as a whole, the Ombudsman considers the intervention of the authorities involved in preventing and combating domestic violence still lacking in firmness, or the preconceived approach, social stereotypes, as well as the weak ability to identify possible acts of violence, remain dissuasive factors.

CONCLUSIONS

The authorities have taken important actions in the field of preventing violence against women and domestic violence, but further comprehensive efforts are needed to ensure full respect for women’s rights, including by ensuring the implementation of the commitments assumed by ratifying the Istanbul Convention, so that it is possible to achieve real equality between women and men. Violence against women and violence in the family is a continuation of a large-scale phenomenon found in our society, and the requests received by the People's Advocate reaffirm once again the need to strengthen the mechanisms to prevent and combat it. The People’s Advocate notes a low level of implementation of the recommendations addressed to the authorities, maintaining most of them in this Report.

RECOMMENDATIONS:

- Establishing a viable mechanism for implementing the provisions of the Istanbul Convention;

- The operation of amendments to the Criminal Code and the Contravention Code, to increase the sanctions applied in cases of domestic and sexual violence, per international standards and under the Decision of the Constitutional Court of November 22, 2018;
- Ensuring the effective investigation of all complaints regarding cases of violence against women, the criminal prosecution of the aggressors and the application of punishment proportionate to the gravity of the offence committed;
- Raising the awareness of women, including those belonging to vulnerable groups (ethnic minorities, disabled, migrants, elderly women, from rural areas, etc.), about their rights and the remedies available to claim these rights;
- Removing barriers and stigma that discourage women from reporting cases of gender-based violence to the competent authorities, including by raising awareness and training representatives from the field of justice or the police;
- Raising awareness among the general public to eliminate discriminatory gender-based stereotypes regarding the roles and responsibilities of women and men in the family and society;
- Allocation of sufficient resources to grant financial compensation to victims of domestic violence, under Law no. 196/2016, and to victims of other crimes of gender-based violence, under Law no. 137/2016 on the rehabilitation of crime victims;
- Increasing cross-sectoral collaboration and the efficiency of multidisciplinary teams in cases of family violence, by establishing a cross-sectoral collaboration mechanism with the establishment of clear responsibilities for each member of the team;
- Allocation of appropriate human, technical and financial resources to ensure victims of violence access to shelters and assistance services, including medical treatment, psycho-social counselling and legal aid in any part of the country.

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

Today, *frozen armed conflicts* represent an undeniable reality. They are so called because the cease-fire agreements concluded between the parties involved did not regulate the political status of the region that still claims its independence today.

Most of these conflicts are not (*officially*) between States, but within them, which often complicates their resolution based on the principle of observing national sovereignty. In these situations, intervention becomes increasingly unaccepted, but the need to monitor the resolution of the conflict through peaceful means is legitimized by the principle of respect for human rights.

In the *Report on Human Rights in the Transnistrian Region of the Republic of Moldova*¹¹⁵, UN human rights expert Thomas Hammarberg noted that the Transnistrian “constitution” contains a list of internationally recognized human rights.

In addition to customary international law that obliges *de facto* authorities to uphold fundamental rules in the field of human rights, *de facto* authorities have unilaterally committed themselves to respect some of the international treaties including the International Covenant on Civil and Political Rights; International Covenant on Economic, Social and Cultural Rights; The European Convention on Human Rights and the Convention on the Rights of the Child.

Transnistria is not internationally recognized as a state, it cannot be a party to international human rights treaties. This, however, does not release the secessionist authorities from their obligations under international human rights and international humanitarian law to apply standards that are consistent with important international rules, and the coercion applied by the Tiraspol entities must not nullify human rights and must comply with the principle of proportionality and temporality and not involve any derogation from human rights standards.

According to generally accepted international standards, in the case of human rights restrictions imposed on a certain territory, the People’s Advocate (Ombudsman) continues to monitor the observance of human rights throughout the country, including the Transnistrian Region.

In the exercise of his basic duties, such as monitoring, documenting, reporting, and raising awareness of human rights in territories outside government control, the People’s

¹¹⁵https://www.undp.org/content/dam/unct/moldova/docs/pub/Expert_Superior_Hammarberg_Raport_TN_DrepturileOmului.pdf

Advocate, being independent of the government, applies a variety of approaches taking into account aspects related to safety and security, access and strategic priorities.

Any interaction of the People's Advocate with the representatives of the Tiraspol structures is undertaken under the Paris Principles and can in no way be interpreted as a legitimization of these entities.

In the situation where the People's Advocate (Ombudsman) does not have free access to the administrative-territorial localities on the left of the Dniester and the municipality of Bender, a territory effectively not controlled by the state authorities, to intervene in various situations related to ensuring rights and freedoms in this region of the country, communication with the entities from Tiraspol is vitally important.

In the conditions of an unresolved/frozen armed conflict, control of words and concepts in the communication process usually leads to control of the processes and ultimately the goal we want to achieve. Communication is necessary to support the interests of the citizen beneficially and to maintain relations between the parties in the process of negotiations on the settlement of the armed conflict. Effective and convincing presentation in the communication process of a case/problems related to the observance of human rights and freedoms, as well as the application of appropriate communication methods ultimately ensure the expected result. The communication process must comply with the general rule of "no harm" and not jeopardise the negotiation process for the peaceful settlement of the Transnistrian conflict.

Currently, the Varnița Representation of the People's Advocate Office, which operates in the area with an increased security regime maintains a dialogue with Veaceslav Kosinschii¹¹⁶, empowered for human rights in Transnistria, on cases with increased social resonance, but also on topics related to access to people illegally detained in this region of the country¹¹⁷. In the situation where the independence of the so-called "Transnistrian Human Rights Commissioner" is declarative, this dialogue is frequently blocked by the so-called "Minister of Foreign Affairs of the Republic of Moldova"¹¹⁸. The de facto authorities on the left bank of the Dniester continue to ignore human rights and freedoms in this region of the country, they impose on the constitutional authorities various rules deliberately invented to hold the residents of the region hostage.

¹¹⁶ Veaceslav Kosinschii, the current so-called "Transnistrian Human Rights Commissioner";
(https://promolex.md/wp-content/uploads/2018/03/1-Promo-LEX_lista_persoanelor_02.03.2018.pdf)

¹¹⁷ <http://ombudsman.md/news/angajatul-oficiului-avocatului-poporului-a-facilitat-intalnirea-rudelor-lui-adrian-glijin-cu-imputernicitul-pentru-drepturile-omului-din-stanga-nistrului/>

¹¹⁸ <http://mfa-pmr.org/ru/Shr>

The phenomenon of impunity, limited access to monitor the situation, as well as the lack of any negative guarantees reflect on human rights and freedoms in the administrative-territorial localities on the left bank of the Dniester and the Bender municipality.

Freedom of movement. Internally displaced people

As of April 30, 2021, the free movement of citizens to/from the left bank of the Dniester was restored, which targeted people who, between March 16, 2020, and April 30, 2021, were blocked in the region as a result of the artificial self-isolation under alleged pandemic pretexts and the intensification of the infrastructure of unauthorized control posts in the security zone. Restrictions for medical staff living in the region and working on the right bank were also excluded, and the mechanism of prior written notifications regarding the officials and civil servants of the Republic of Moldova who make private visits or pass through the localities of the Transnistrian Region was cancelled. Tiraspol, however, maintains lists of undesirable persons in the region, some of whom do not have basic access to their own homes, families, close relatives, human rights promoters, journalists from the right bank, civil servants exercising their duties and others¹¹⁹ cannot travel in the region.

The Transnistrian conflict, which in 1992 degenerated into a military confrontation, which in turn led to human, humanitarian, social and economic losses until now leaves its mark on the residents of the Republic of Moldova, Ukraine.

After the end of the active phase of hostilities, almost all internally displaced persons registered on the right bank of the Dniester returned to their homes - 95.5%, in September 1992¹²⁰, and the regulatory documents granting assistance to internally displaced persons were repealed by the Government Decision no. 74/2001¹²¹. Thereby, the residents of the Transnistrian Region, involuntarily displaced due to violence, and violation of human rights and freedoms were left without support and assistance from the State.

More than 29 years after the cessation of the active phase of the conflict and the transition to the frozen phase, cases are recorded when some people domiciled on the left bank of the Dniester are recognized as undesirable by the secessionist authorities¹²², they cannot return to their own home in the region, as well as cases when citizens, in order not to be detained,

¹¹⁹ <https://gov.md/ro/content/bilantul-anului-2021-activitatea-biroului-politici-de-reintegrare-si-prioritati-pentru-anul>

¹²⁰ “The costs of the Transnistrian conflict and the benefits of its solution”, the study conducted as part of the “Impact” project (Expertise Centre for the Advancement of the Peaceful Process on the Side of the Moldovan-Transnistrian Conflict);

<http://www.cisr-md.org/pdf/Report%20ROM%20Master%20Draft%20vEG.pdf>

¹²¹ HG74/2001 (legis.md) Decision of the Government of the Republic of Moldova No. 74 of 29-01-2001 on the allocation of financial means and the repeal of some decisions of the Government of the Republic of Moldova;

¹²² <https://zonadesecuritate.md/deportati-de-regimul-de-la-tiraspol-de-aproape-trei-luni-doi-veterani-nu-pot-intra-in-propria-casa/>

arrested, convicted, have to flee from the Transnistrian Region under the control of the secessionist authorities to the localities under the control of the constitutional authorities, where however they do not benefit from any adequate protection from the State. Among these people most frequently are young people who escaped/avoided “military service” in the so-called “Armed Forces of the Pridnestrovian Moldavian Republic”.

Although the Republic of Moldova has made significant progress in the field of asylum with the accession to the Convention Relating to the Status of Refugees of 1951 by adjusting the national legislation in the field of asylum to international standards, concerning internally displaced persons, there is no normative framework guaranteeing the rights and freedoms of internally displaced persons, and official figures regarding internally displaced persons are missing.

Law no. 270/2008 on asylum in the Republic of Moldova¹²³, does not provide for the notion of an internally displaced person, only the notion of displaced persons, which, according to the definition, refers only to foreign persons displaced from their country of origin to other countries, i.e. refugees.

The right to social assistance and protection

The problem of pensions and social benefits in the administrative-territorial localities on the left bank of the Dniester and the Bender municipality¹²⁴ reflected in the Report on the Observance of Human Rights and Freedoms in the Republic of Moldova in 2020¹²⁵ remains unresolved.

It is important to note that on October 14, 2021, the European Court of Human Rights (ECtHR) issued a decision on the case of *Şutac vs. Republic of Moldova*, by which it took note of the amicable settlement agreement reached by the Government of the Republic of Moldova and the applicant Oxana Şutac. According to Promo-LEX, in the case of Oxana Şupac, the authorities of the Republic of Moldova refused to grant a single allowance at the birth of the child, allowance for raising and caring for the children, because the applicant was receiving such allowances from the de facto administration of the Transnistrian Region.

On 3 January 2012, the applicant submitted an application to the ECtHR and claimed the violation of Article 1 of Protocol No. 1 to the Convention (property right). Additionally, the applicant claimed violation of Article 14 in conjunction with Article 1 of Protocol no. 1 to the Convention because she was a victim of discriminatory treatment. After the ECtHR

¹²³<http://www.justice.gov.md/file/Centrul%20de%20armonizare%20a%20legislatiei/Baza%20de%20date/Materiale%202008/Acte/L%20privind%20azilul.pdf>

¹²⁴Law on the basic provisions of the special legal status of the localities on the left bank of the Dniester (Transnistria) no. 173 of 22.07.2020.

¹²⁵<http://ombudsman.md/wp-content/uploads/2021/04/RAPORT2020romana.pdf>

communicated the case to the Government of the Republic of Moldova, the Government Agent initiated the procedure for an amicable settlement of the case and requested the Supreme Court of Justice to review the case. On 08 July 2020, the Supreme Court of Justice found a violation of Oxana Șutac's rights guaranteed by Article 1 of Protocol no. 1 to the Convention and Article 14 in conjunction with Article 1 of Protocol no.1.

Following the retrial of the case, by the Decision of the Chisinau Court, Râșcani headquarters on January 27, 2021, the illegal administrative acts were annulled, and the National Social Insurance House was obliged to retroactively establish the social allowances requested in 2010, being subsequently upheld, on May 25, 2021, by the Chisinau Court of Appeal¹²⁶. The refusal to grant some social benefits by the constitutional authorities of the Republic of Moldova because the person would have received a similar benefit from the secessionist authorities from Tiraspol represents a discriminatory treatment based on domicile, but also a violation of the right to property. The so-called Transnistrian pension or any other payment offered as a social allowance cannot be qualified by the constitutional authorities of the Republic of Moldova as a pension within the meaning of national legislation. However, these amounts come from a private budget, not controlled by the Chisinau authorities. Accordingly, these payments cannot constitute an impediment to receiving the corresponding allowances from the constitutional authorities. This position has been repeatedly confirmed by national courts. The most recent one was adopted in the case of Mrs Oxana Șutac¹²⁷.

The authorities of the Republic of Moldova must immediately stop the practice of refusing social benefits because the person receives a similar benefit from the secessionist authorities in Tiraspol.

These practices are contrary to the positive obligations held by the state of the Republic of Moldova concerning the inhabitants of the Transnistrian Region and contravene the provisions of Article 47 of the Constitution of the Republic of Moldova (The right to social assistance and protection).

The right to health care

After during the Easter holidays, the secessionist authorities from Tiraspol cancelled the exit/entry permits issued by the "crisis centres" in the region, and the residents of this part of

¹²⁶ https://adevarul.ro/moldova/actualitate/guvernul-r-moldova-achita-prejudicii-morale-femei-transnistria-tratament-discriminatoriu-admis-instantele-judecatoresti-1_61692b725163ec427164cdd6/index.html

¹²⁷ Promo-LEX: The Government of the Republic of Moldova will pay non-pecuniary damages to a woman from the Transnistrian region for discriminatory treatment admitted by the courts that rejected her request for the granting of some social benefits, <https://promolex.md/21176-guvernul-republicii-moldova-va-achita-prejudicii-morale-unei-femei-din-regiunea-transnistreana-pentru-un-tratament-discriminatoriu-admis-de-instantele-judecatoresti-care-au-respins-solicitarea-acestei/?lang=ro>

the country are no longer in a position to request consent from the “republican commission for sending the citizens of the “Pridnestrovian Moldavian Republic” for treatment, consultation or examination outside the so-called “republic” and the procedure for sending citizens of the “Pridnestrovian Moldavian Republic” for treatment, consultation or examination outside the so-called “republic” according to the Regulation approved by the Ministry of Health “Pridnestrovian Moldavian Republic” no. 543 dated 2 November 2013. In this way, residents of the region on their own without coordinating/requesting various permits from the “crisis centres” have the opportunity to move to other regions of the country and abroad to receive high-quality medical care.

Major results were marked in the sphere of population immunization and the strengthening of the medical system against the risks generated by the COVID-19 pandemic, the state was proactive in this sector, sending to the residents of the east of the country a lot of batches of humanitarian aid, composed of high-performance equipment and items for the protection of medical staff and recovery of patients, almost 375 thousand doses of anti-COVID-19 vaccine, but also jointly organized with the WHO multiple training courses for health care specialists regarding the effective implementation of clinical protocols and the management of the vaccination process. It is important that the generation of a unique model of a confirmatory vaccination certificate, including in electronic format, has been successfully generated throughout the country, with data collection in a centralized information system and connection to internationally recognized quality standards, and at the request of the person domiciled in the east of the country, the veracity of these certificates can be reconfirmed at medical centres on the right bank¹²⁸.

The People’s Advocate welcomes the efforts of the national authorities to combat the pandemic, including in the administrative-territorial localities on the left of the Dniester and the Bender municipality.

Personal data protection of children left without parental care

According to the statistical data and indicators of the so-called “political direction of social protection, social insurance, control and audit of the direction of protection of family rights, guardianship and social assistance for families at risk” subordinated to the so-called “ministry of social protection and labour” from Tiraspol, in the first 9 months of 2021¹²⁹, there were 1438 children on record in the territorial guardianship organizations of Tiraspol, Bender, Slobozia, Grigoriopol, Dubăsari, Râbnîța, Camenca.

¹²⁸ <https://gov.md/ro/content/bilantul-anului-2021-activitatea-biroului-politici-de-reintegrare-si-prioritati-pentru-anul>

¹²⁹ http://minsoctrud.gospmr.org/statistica_i_pocazateli/

From the total number (1438) of children: children under the tutelage of natural persons - 815 (56.7%); children placed in institutions subordinate to entities from Tiraspol – 503 (35%); children in family-type children's homes - 19 (1.3%); children in vocational secondary educational institutions-101 (7%). In total in 9 months of 2021, 127 candidates are registered as adoptive parents and guardians in the specialized institutions subordinate to the Tiraspol entities, of which: 18 (14.2%) adopted children; 47 (37%) established guardianship; 6 (4.7%) people who visit children selected to be adopted; 56 (44.1%) people are in the process of selecting the child.

All data about children left without parental care and about persons registered as adoptive parents and guardians are stored in the database formed under the so-called law of the Pridnestrovian Moldavian Republic on the state database of children left without parental care.

According to Article 8 of this “Law”, confidential information about children left without parental care can be used by city (district) operators to create derivative information and publish this data in the media or otherwise, to inform the population of the region about children left without parental care, and can be placed in a family.

Derived information about children left without parental care may include information such as sex, age, signs (except for special signs), health status, physical and mental development, character traits of these children, reasons for lack of parental care, the health of their parents, the presence in these children of minor brothers and sisters, their age and state of health, the presence of adult relatives and information about their refusal to accept such children for growing up in their family, as well as the possible forms of placement of these children in families and photographs of such children.

Thereby, based on this “law”, the secessionist authorities publish on the web page of the so-called “ministry of social protection and labour of the Republic of Moldova” the photos and other information regarding about 560 children left without parental care in the Transnistrian Region, data that directly or indirectly identify the child¹³⁰.

The lack of guardianship authorities responsible for ensuring the protection of children from the Transnistrian Region with duties to protect children's rights in/for the localities on the left bank of the Dniester, the lack of mechanisms to ensure the functionality in the administrative-territorial localities and municipality of Bender (Transnistria) of the Law on the legal regime of adoption, no. 99/2010 and the completion by the Embassy of the Russian Federation in Chisinau, contrary to the provisions of the Convention on legal aid and legal

¹³⁰ Annex no. 1 to the Requirements for ensuring the security of personal data when processing them within the personal data information systems approved by Government Decision no. 1123 of December 14, 2010. https://www.legis.md/cautare/getResults?doc_id=16012&lang=ro.

relations in civil, family and criminal matters no. 262 of January 22, 1993,¹³¹ of civil status certificates based on civil status documents issued by the entities from Tiraspol, which are not part of this Convention, constitute an imminent risk for any of these children to be trafficked¹³².

The People's Advocate for Child's Rights reiterates the imperative need to identify/designate a guardianship authority responsible for ensuring the protection of children in the Transnistrian Region and to develop mechanisms to ensure the rights and freedoms of children left without parental care in the Transnistrian Region.

Forced incorporation into Transnistrian military formations

Entities from Tiraspol continue to forcibly incorporate young people for term service in the so-called "Armed Forces of the Pridnestrovian Moldavian Republic". This fact is much more serious in the context where the findings and recommendations of the Ombudsman in his annual reports are practically ignored by the constitutional authorities¹³³.

In 2021, in the process of monitoring the situation regarding human rights and freedoms in the administrative-territorial localities on the left of the Dniester and Bender municipality and providing informational assistance to the beneficiaries, attempts of forced incorporation into the so-called "Armed Forces of the Pridnestrovian Moldavian Republic" of young people who completed their military service and were transferred to the national army reserve were found.

Thereby, because since the beginning of the declaration of the state of emergency in connection with the spread of COVID-19, the soldiers who complete the military service within the term in the Armed Forces of the Republic of Moldova, have had their leaves cancelled, they were put into reserve 7-15 days earlier than 12 calendar months.

According to "Article 23, paragraph 1, letter 6) of "Law of the Pridnestrovian Moldavian Republic on Military Obligations and Military Service", only men who have completed military service in another state are exempt from military service if the term of military service in the term is not less than that in the Transnistrian Region, which is 12 months.

In this way, with the return to the domicile on the left bank of the Dniester, the risk of being forcibly incorporated into the "Transnistrian army" is subjected to young people who have completed their military service within the term in the Armed Forces of the Republic of

¹³¹ https://www.legis.md/cautare/getResults?doc_id=116625&lang=ro

¹³² Case of Greciuşchin, <https://www.kp.md/daily/24410.5/584730/>
<https://www.kp.ru/daily/24356/542869/>

¹³³ Report on the Observance of Human Rights and Freedoms in the Republic of Moldova in 2020, page 84, <http://ombudsman.md/wp-content/uploads/2021/04/RAPORT2020romana.pdf>

Moldova, transferred to the reserve before 12 calendar months, as well as young people who have fulfilled, under Articles 4 and 5 of Law no. 1245/2002 on Training of Citizens for Defence of Homeland¹³⁴, short-term military service, students of educational institutions in the field of the military, young people who have passed the preliminary training and training at military departments, citizens trained within the civil protection formations and voluntary sanitary formations of the Red Cross, people who have passed the training in the training centres of the Armed Forces reserve and are exempt from military service in the term, according to Article 32 paragraph (1) point b) of Law no.1245/2002¹³⁵.

In all cases when young conscripts refuse to complete military service in the so-called “Armed Forces of the Pridnestrovian Moldavian Republic”, the territorial military commissariat notifies the investigative committee from Tiraspol to initiate criminal prosecution and prosecution under Article 325 “Criminal Code of the Pridnestrovian Moldavian Republic”.

To prevent the forced incorporation into the so-called “Transnistrian armed forces” of young people who have completed their military service in the ranks of the Armed Forces of the Republic of Moldova, the People’s Advocate for Child’s Rights addressed recommendations to the Minister of Defence, which were implemented by the Ministry of Defence of the Republic of Moldova¹³⁶.

Freedom of expression

The problems related to the restriction of freedom of expression in the Transnistrian Region are reflected in the Report on the observance of human rights and freedoms in the Republic of Moldova in 2020¹³⁷.

The secessionist authorities from Tiraspol and in 2021 under the pretext of ensuring informational security and preventing extremism, limit the right of the inhabitants of the Transnistrian Region to alternative information and prevent any criticism of the de facto authorities on the left of the Dniester, continue to develop policies/mechanisms that seriously affect the right to assembly, opinion and expression.

It is alarming that the educational institutions subordinated to the de facto authorities in Tiraspol are also involved in the implementation of the “Action Plan within the strategy for the prevention of extremism in the Pridnestrovian Moldavian Republic”¹³⁸.

¹³⁴ https://www.legis.md/cautare/getResults?doc_id=110405&lang=ro

¹³⁵ Article 32, paragraph (1) letter b) Citizens who have completed the full training course at the military department are exempted from military service.

https://www.legis.md/cautare/getResults?doc_id=121249&lang=ro#

¹³⁶ No. 07-6/9 dated September 23, 2021;

¹³⁷ Report on the Observance of Human Rights and Freedoms in the Republic of Moldova in 2020, page 85, <http://ombudsman.md/wp-content/uploads/2021/04/RAPORT2020romana.pdf>;

On February 10, 2021, Tiraspol leader Vadim Krasnoselki, by Decree No. 38, implemented the Single Registry of “extremist” publications. On December 31, 2021, no information on extremist publications was entered into the register.

Ensuring the right to vote of the citizens of the Transnistrian Region

The July 11 poll revealed the same problems and impediments in the right to vote by citizens residing on the left bank of the Dniester, that were complained about during the previous elections: limited access or even the lack of access of the inhabitants of the Transnistrian Region to objective and truthful information about the electoral processes and events in the Republic of Moldova; lack of access or limited access to the main media sources in the Republic of Moldova; the impossibility of carrying out political activity/electoral agitation by electoral contestants; lack of transparency in the process of forming polling stations for voters on the left of the Dniester; organized transportation of voters to polling stations and their corruption. The detailed information on ensuring the right to vote of the citizens of the Transnistrian Region is reflected in the Summary Observing human rights in the electoral campaign for the early parliamentary elections of July 11, 2021¹³⁹.

Freedom of thought, conscience and religion

The de facto authorities have not taken measures related to the recommendations of the follow-up report of the UN expert in the field of human rights, Thomas Hammarberg, regarding the implementation of human rights in the Transnistrian Region, which refers to revising the procedures for registering religious organizations to make them fast, non-bureaucratic and non-discriminatory in practice. On the contrary, the authorities continue to reject the requests for registration of local groups of Jehovah’s Witnesses in the Transnistrian Region because the activity of the “Jehovah’s Witnesses” organization is recognized as a destructive organization, whose activity "contradicts" the Transnistrian “constitution”.

The de facto authorities in Tiraspol continue to use a textbook with negative and defamatory content about Jehovah’s Witnesses in the teaching process in schools in the region.

The problem of people who, for religious reasons, request to perform alternative civil service in civil institutions/organizations and refuse to perform alternative service as civilian staff in military formations for religious reasons, remains still unresolved. The attention to this problem was also drawn in the follow-up report on the implementation of human rights in the Transnistrian Region, by Thomas Hammarberg, UN expert in the field of human rights. In this regard, the case of *Bayatyan v. Armenia* is relevant, where the Grand Chamber of the

¹³⁸ <http://minpros.info/files/Molodej/DOViMP/1050061120.pdf>;

¹³⁹ http://ombudsman.md/wp-content/uploads/2021/09/Nota_alegeri-11-iulie-2021_NV_-20-septembrie-1.pdf

European Court of Human Rights ruled on the violation of the right to freedom of thought, conscience and religion by convicting the applicant as a result of refusing to perform military service for religious reasons, the applicant being a follower of Jehovah's Witnesses.

The principle of individualization of criminal liability and criminal punishment

The principle non-bis in idem states that no one can be prosecuted or punished twice for the same crime. This fundamental principle is recognized by both the Charter of Fundamental Rights of the European Union¹⁴⁰ and the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR)¹⁴¹. Currently, the Republic of Moldova does not ensure, on the uncontrolled territory, the principle of individualization of criminal liability and criminal punishment, not to be subject to criminal prosecution and criminal punishment twice for the same act committed. Thereby, the person risks being convicted for the same act not only by the constitutional authorities but also by the de facto authorities.

The right to liberty and security

The People's Advocate for Child's Rights through the Varnița Representation of the People's Advocate Office is holding talks with the human rights representative of the Transnistrian Region regarding the provision of the People's Advocate's access to inmates in prisons subordinate to the secessionist authorities in Tiraspol.

Discussions focus on serious/current cases of human rights violations in the Transnistrian Region: Mihail Petiș – enforcement of the ECtHR's judgement, the right to liberty and security, despite the pronouncement of the ECtHR judgement (September 2019) in which it was found that, concerning the applicants, Articles 5 and 6 ECHR were violated; Oleg Horjan – the right to liberty and security, the prohibition of inhumane treatments, the lack of medical assistance; Glijin Adrian - the right to liberty and security.

On June 28, 2021, the mother and wife of Adrian Glijin, detained in October 2020 by entities on the left of the Dniester for "espionage and treason" were received in the audience by the so-called commissioner for human rights from the left of the Dniester, Veaceslav Cosinschi. The meeting took place with the support of the Varnița Representation of the People's Advocate Office. At the request of the relatives, the commissioner for human rights on the left bank of the Dniester, Veaceslav Cosinschi ensured the transmission to Adrian Glijin of the medicines he needs¹⁴².

¹⁴⁰ Article 50 of the Charter of Fundamental Rights of the European Union;

<https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2010:083:0389:0403:ro:PDF>

¹⁴¹ Protocol no. 7 (Article 4) to the Convention for the Protection of Human Rights and Fundamental Freedoms, <http://ier.gov.ro/wp-content/uploads/2018/11/Protocolul-nr-7.pdf>

¹⁴² <http://ombudsman.md/news/angajatul-oficiului-avocatului-poporului-a-facilitat-intalnirea-rudelor-lui-adrian-glijin-cu-imputernicitul-pentru-drepturile-omului-din-stanga-nistrului/>

On October 28, 2021, the Promo-LEX Association launches the online Campaign “Show him alive” to determine the constitutional authorities, those of the Russian Federation, as well as the authorities involved in the 5+2 format to immediately get involved in the defence and release of a person kidnapped a year ago and about whom nothing is known since that time. The immediate objective of the Campaign was to obtain images and statements of Adrian Glijin, which would prove that he is alive and about his current condition¹⁴³.

In the press release of November 5, 2021, the Political Reintegration Bureau specified the actions taken aimed at the release of Andrian Glijin, arbitrarily detained and deprived of liberty by the representatives of the force structures on the left of the Dniester¹⁴⁴.

Regrettably, despite all the efforts made up to now, the personal contact with A. Glijin of the doctors, the lawyer, and the representative of the People's Advocate has not been ensured, his state of health and the conditions of his detention are unclear due to the lack of specialist assessment, and the prospect of release from deprivation is not communicated, his inalienable rights and freedoms continue to be violated, which causes great concern.

The People's Advocate will continue to hold direct discussions with the so-called Tiraspol human rights commissioner, but also within the Human Rights Working Group of which he is a member to contribute to ensuring the right to freedom and security in the territory outside of effective state control.

Bureaucratization and delay in the provision of services by the Public Services Agency

To regulate the process of certification of civil status facts produced and recorded in the localities on the left bank of the Dniester, by Government Decision no. 286/2019, the Instructions regarding the certification of civil status facts produced and recorded in the localities on the left bank of the Dniester and Bender municipality were approved¹⁴⁵. The approval of these instructions did not remove the issues that generate bureaucracy and delay in the provision of services by the Public Services Agency, mentioned in the Report on the observance of human rights in the Republic of Moldova in 2018.

Thus to date, after receiving the duplicate of the birth certificate (without entering the identification number in it), based on the copies of the civil status documents issued by the civil status authorities subordinate to Tiraspol, a person must go to the territorial subdivisions of Identity Document Issuance Services within the Public Services Agency, where the person's registration (assignment of the identity number) takes place, without the issuance of

¹⁴³ <https://promolex.md/21224-pentru-prima-data-promo-lex-lanseaza-campania-on-line-aratati-l-viu/?lang=ro>

¹⁴⁴ <https://gov.md/ro/content/concretizari-cu-privire-la-eforturile-depuse-de-catre-biroul-politici-de-reintegrare-pe>

¹⁴⁵ Government Decision no. 286 of May 29, 2019 for the approval of the Instructions on the certification of civil status facts produced and recorded in the localities on the left bank of the Dniester and Bender municipality; https://www.legis.md/cautare/getResults?doc_id=114695&lang=ro

identity documents from the National Passport System¹⁴⁶. Afterwards, the person must repeatedly address the territorial subdivisions of the Civil Status Records Service within the Public Services Agency to complete the birth certificate, but in this case with the registration of the identification number in the birth certificate.

The lack of a clear mechanism, the bureaucratization and procrastination of the service delivery process by the Public Services Agency favours the emergence of corrupt schemes in the activity of the territorial subdivisions of the Public Services Agency¹⁴⁷.

The right to education

The problem of providing the 8 educational institutions teaching in Latin script in the Transnistrian Region with their own premises, subordinated to the Ministry of Education and Research of the Republic of Moldova, under the standards established by national and international legislation in the field, is also under the attention of the People's Advocate for Child's Rights.

Out of the 8 educational institutions with teaching in Latin script, 5 are forced to rent premises from the so-called local structures in the region, and 2 temporarily operate in a different locality than the one where students and teachers live.

Although by the Protocol Decision of November 25, 2017¹⁴⁸, several commitments were agreed upon, some of which have been implemented, progress has not been recorded on the issue of providing adequate buildings for educational institutions and putting into use the lands related to those buildings (points 4 and 7 from the Protocol Decision).

The Chisinau delegation in the negotiation process reminds us of the need to fully honour these understandings/backlogs in all the existing dialogue formats regarding the Transnistrian regulation, including at all the meetings of the working groups for education. The authorities have come up with the proposal of phased advancement in the process, for example, in the first stage by returning to their own locations the theoretical high schools "Evricea" in Râbnîța and "Ștefan cel Mare și Sfânt" in Grigoriopol and further by solving the problem of the headquarters for the other educational institutions as well.

The Bureau of Reintegration Policies notes the lack of openness, procrastination and hesitation on the part of Tiraspol, although, at the previous meetings of experts in the field of education, they agreed on the development of a plan with the steps to carry out the process of

¹⁴⁶ https://www.legis.md/cautare/getResults?doc_id=118956&lang=ro

¹⁴⁷ <https://www.jurnaltv.md/news/08d9eee7157e5b74/perchezitii-la-serviciul-stare-civila-varnita-sefa-institutiei-si-alte-trei-persoane-retinute-pentru-corupere-pasiva.html>

¹⁴⁸

https://gov.md/sites/default/files/2017_11_25_protokolnoe_reshenie_o_funkcionirovanii_moldavskih_shkol.pdf

securing their own premises for these educational institutions, promised by the exponents from Tiraspol¹⁴⁹.

The Ombudsman urges the state authorities to continue making efforts for the definitive solution to this problem to ensure the full realization of the right to education, in favourable, predictable and appropriate conditions for the study process in the institutions on the left bank of the Dniester with Romanian language teaching.

In August 2021, as a result of a decision by the entities on the left of the Dniester on the suspension of the registration process of the educational institution, the secessionist authorities from Tiraspol jeopardized the start of the educational process in the “Lucian Blaga” Theoretical High School in the municipality of Tiraspol on September 1, 2021.

By refusing/postponing the registration in the “registration palace” subordinate to the so-called “Ministry of Justice of Pridnestrovian Moldavian Republic” of “Lucian Blaga” Theoretical High School, the secessionist authorities endangered the implementation of the provisions of the Protocol Decision of November 25, 2017, regarding the functioning of Moldovan schools with Latin script teaching¹⁵⁰.

As a result of the ex officio notification of the People’s Advocate for Child’s Rights on the possible suspension of the activity of the “Lucian Blaga” Theoretical High School in Tiraspol, measures were taken to overcome the difficulties encountered and ensure the activity of the educational institution.

The Bureau of Reintegration Policies informed the People’s Advocate for Child’s Rights about the notification of the political representative in the negotiation process for the Transnistrian settlement in Tiraspol, of the mediators and observers from the “5+2” negotiation format, as well as maintaining permanent contact with the OSCE Mission in Moldova, the office of the political representative from Tiraspol and the management of the high school. The call was launched to ensure compliance with previously agreed understandings, to refrain from unilateral actions and remove artificial barriers, and to contribute without delay to the solution of the identified problems.

Thereby, as a result of mobilizing efforts and constructive interaction, it was possible to overcome the indicated difficulties and return to the activity of the institution, with the necessary preparations for the beginning of the school year and the organization of the study process.

¹⁴⁹ <https://gov.md/ro/content/asigurarea-cu-sedii-proprie-pentru-cele-8-institutii-de-invataman-t-cu-predare-grafie-latina>

¹⁵⁰

https://gov.md/sites/default/files/2017_11_25_protokolnoe_reshenie_o_funkcionirovanii_moldavskih_shkol.pdf

The People's Advocate for Child's Rights appreciates the promptness with which the Bureau of Reintegration Policies intervened in the effective solution of the problem in question.

It is gratifying that during the last five years in the 8 schools there is a permanent slight increase in the number of students, the dynamics being 1341 students for the 2016-2017 academic year and 1650 students for the 2021-2022 period¹⁵¹, even if there are no zero-level educational institutions in the region.

Another aspect repeatedly discussed by the People's Advocate for Child's Rights with the administration and pedagogues of educational institutions with teaching in Romanian on the left bank of the Dniester, refers to the lack of zero-level educational institutions in the administrative-territorial localities on the left bank of the Dniester and Bender municipality. During these discussions, it was mentioned that children face difficulties in mastering school subjects after attending Transnistrian zero-level educational institutions because the educational process does not correspond to the national regulatory documents in the field, being mostly provided in Russian and rarely in the "Moldovan" language based on the Cyrillic alphabet.

Taking into account the fact that, since 2000, no child is placed in the boarding school for orphans in Bender municipality, located in a complex of 2 buildings with 3 floors, in which there are bedrooms, a playroom, a bathroom and a shower, which are currently not in use, and the "Alexandru cel Bun" Theoretical High School building and the canteen (which currently provides food for the high school students) are also located in the boarding school yard), *the People's Advocate for Child's Rights proposed to the authorities the creation of a multifunctional educational complex that will ensure the succession of levels and cycles in the education system according to the provisions of the Education Code of the Republic of Moldova, and the children's right to practice recreational activities appropriate to his age, to freely participate in cultural and artistic life, etc.*¹⁵². Both the president of the Parliamentary Commission for Culture, Education, Research, Youth, Sports and Mass Media and the representative of the Ministry of Education and Research supported the initiative of the Child's Ombudsperson. The realization of the proposal in question will contribute to the strengthening of the capacities of the "Alexandru cel Bun" Theoretical High School and the

¹⁵¹<https://gov.md/ro/content/evolutia-numarului-de-elevi-cele-8-institutii-de-invataman-din-regiunea-transnistreana>

¹⁵²<http://ombudsman.md/news/ombudsmanul-copilului-propune-crearea-unui-complex-educational-multifunctional-in-municipiul-bender/>

creation, initially, of a preparatory group from level zero, according to the educational system of the Republic of Moldova.¹⁵³

The People's Advocate for Child's Rights recommends that the authorities continue to use all available mechanisms to implement the provisions of the Protocol Decision of November 25, 2017, on the operation of Moldovan schools with Latin script teaching.

CONCLUSIONS

The issue of human rights and freedoms in the Transnistrian Region remains one of the biggest backlogs of the state authorities, turning into a human rights crisis in this part of the country.

The special parliamentary commission for monitoring and control over the implementation of the reintegration policy of the Republic of Moldova could contribute to the identification of the institutional mechanisms for ensuring the observance of human rights in the Transnistrian Region.

The situation in the Transnistrian Region, outside of effective state control, remains unchanged, so the recommendations from previous reports of the People's Advocate remain current.

RECOMMENDATIONS

- The People's Advocate recommends the continuous involvement of national decision-makers to ensure the protection of human rights and freedoms in the Transnistrian Region.
- The Government is to identify vast legal options, suitable for the protection of the fundamental rights and freedoms enshrined in the Constitution, aimed at creating institutional mechanisms to ensure respect for human rights in the Transnistrian Region.
- The human rights-based approach is essential in the process of drafting final compatible/applicable laws (decisions) in form and content that correspond to the factual circumstances in the Transnistrian Region.
- The Government is going to undertake measures aimed at intensifying the dialogue in the field of human rights at the expert level for human rights issues in the localities on the left of the Dniester.

¹⁵³<http://ombudsman.md/news/propunerea-ombudsmanului-copilului-privind-crearea-unui-centru-pentru-activitati-extrascolare-in-bender-discutata-in-comisia-parlamentara-cultura-educatie-cercetare-tineret-si-mass-media/>

- The People's Advocate reiterates the importance of implementing the international recommendations regarding the protection of human rights that refer to the region on the left of the Dniester and Bender municipality.
- Continuation of efforts to combat systemic violations of human rights in the Transnistrian Region, including by strengthening the actions of the international community.
- Providing systematic support and assistance to victims of human rights violations in the Transnistrian Region.
- The Government should proactively demonstrate its commitment to human rights and encourage greater awareness and support for universal human rights throughout Moldova, including the Transnistrian Region.

CHAPTER II.

OBSERVANCE OF CHILDREN'S RIGHTS IN THE REPUBLIC OF MOLDOVA IN 2021

INTRODUCTION

When people face a real and immediate threat to their lives, they activate their basic flight or fight instincts. When the COVID-19 pandemic broke out in the first quarter of 2020, human societies around the world reacted in this way. First, they fled the pandemic by imposing restrictions on travel and public gatherings. They then fought it by funding scientific research for a cure and vaccine against the virus and supporting those whose lives and livelihoods had been disrupted by the pandemic. Over time, the conditions dictated by the pandemic have become a way of life, and now each of us has to adapt to the new realities to face the new challenges, which most drastically have an impact on children and their rights.

In many ways, this situation characterized the actions during the pandemic period of the People's Advocate for Child's Rights and the People's Advocate Office, in particular, the team of the Child Rights Directorate. Evaluating the seriousness of the situation, we reaffirmed our commitment to children regarding the monitoring of ensuring the observance of rights through the three dimensions: promotion of rights, prevention of rights violations and protection of children. The suspension of the activity of an imposing number of institutions in the field of ensuring and protecting children's rights still represents a major risk for the work of the child rights protection system.

Throughout 2021 we have advocated for all service providers to return to a regular but safe working regime for children and their families and to work towards the safe reopening of services and spaces for children. Our objective was not simply to preserve the *status quo* regarding children's rights that prevailed before the pandemic, but also to restore as quickly and safely as possible all children's rights, in particular ensuring the right to education with a physical presence in safe conditions, ensuring the right to health by ensuring the highest standards of health for all children, including those suffering from rare diseases, children with disabilities or in palliative care. In this context, I strongly reaffirm the need to deepen the children's rights agenda during the pandemic and to strengthen the best interests and opinions of children on a larger scale.

Thereby, although the situation created required the need to establish as a priority the observance of the right to health over other rights in the convention, this cannot in any way argue for the total neglect of the other rights guaranteed in the UN Convention on the Rights

of the Child. In this context, during 2021, I intensively monitored compliance at the national level with all the provisions established by the international treaty, but at the same time I also initiated an extensive process of monitoring the implementation of the Recommendations of the People's Advocate for Child's Rights submitted during the activity mandate in the following fields: *observance of the right to health in educational institutions, observance of the rights of children in detention, review of the situation of children placed in boarding homes for children with mental deficiencies in Orhei and Hâncești in the process of deinstitutionalization, social inclusion of children with sensory disabilities, social inclusion of children with autism spectrum disorders in the Republic of Moldova, the children's participation/involvement in the electoral process, review of the degree of functioning of the psychological assistance services provided to children subjected to abuse, observance of the rights of children from institutionalized tuberculosis foci, review of the impact of Covid-19, measures taken to protect the rights of the child, education for the rights of the child in the national education system.*

The conclusions on the implementation of the recommendations and the insignificant improvement of the situation in the monitored fields come to support the opinion expressed in the previous annual reports that the improvements registered regarding the observance of children's rights are not able to generate the conclusion regarding ensuring the absolute observance of children's rights. I also note that many of the recommendations of the Child's Ombudsperson have not been implemented.

From the perspective of ensuring the sustainability and consistency of actions, I will continue monitoring the observance of children's rights, rights in the mentioned fields, including priority, will be the monitoring of respect for the rights of children with rare diseases, children who are in palliative services, children suffering from cancer or mental illnesses, children born prematurely, children in street situations, juvenile justice, children left without parental care, children victims of violence and abuse.

I propose to evaluate the national child protection system, and how it meets the needs of children, including the quality of social and educational inclusion of children with disabilities.

I will promote and support the concept of "*Children - defenders of human rights*" by ensuring a safe and fair environment and I will persevere on the inclusion of a separate chapter on the *Concept of human rights defenders* elaborated and launched by the People's Advocate Office in 2021.

Likewise, it is very important to create a juvenile justice system and develop a national human/child rights education strategy for all persons, and specialists working in the field of human/child rights.

The right of the future generation will also remain a desire in my activity.

Another dimension that remains in my attention is compliance with the State's obligations regarding the implementation of international documents, the priority being the UN Convention on the Rights of the Child and the Recommendations (final observations) of the UN Committee on the Rights of the Child in this context, as well as the Council of Europe Convention for the Protection of Children from Sexual Exploitation and Sexual Abuse (Lanzarote Convention).

I remind the state authorities about the need and opportunity to ratify the Optional Protocol to the UN Convention on the Rights of the Child regarding the communication procedure.

I present a message of gratitude to my European counterparts and faithful partners of the People's Advocate Office, with whom I have worked to promote the concept and practice of a mechanism for quick intervention to the needs of children who are at risk or any other public danger. Thereby, I highlight UNICEF's support, which was vital for the field of observing children's rights in the Republic of Moldova.

And last but not least, I would like to sincerely thank the team of the People's Advocate Office, especially the Child Rights Directorate, which assisted me in fulfilling my mandate duties.

People's Advocate for Child's Rights
Maia BĂNĂRESCU

I. CHILDREN'S RIGHT TO EDUCATION

Children have the right to receive an education that allows them to develop, in non-discriminatory conditions, their skills and personality.

The right to education is one of the fundamental rights of the International Convention for the Rights of the Child and is regulated by articles 28, 29, 30 and 31. If Article 28 of the Convention mainly concerns the obligation of the States Parties on the creation of educational systems that ensure the exercise of children's rights and access to education, Article 29 emphasizes the individual and subjective rights of the child to quality education (the purpose and objectives of education). Since education must aim at the full development of the children's personality, talents and physical, mental, and emotional, abilities, the implementation of the rights outlined in Article 31 (the children's right to rest, free time, play, recreational activities, cultural and artistic life) is essential to the realization of the provisions outlined in Article 29¹⁵⁴.

At the national level, the right to education is guaranteed by article 35 of the Constitution of the Republic of Moldova, the Education Code and articles 9 and 10 of Law no. 338 of December 15, 1994, on the Rights of the Child.

Analysing the compatibility ratio between the national rules in the field of guaranteeing the children's right to education with international standards, a partial correspondence of the listed national rules is found, which indicates the need to change the regulatory framework.

Therewith, the People's Advocate for Child's Rights finds that in 2021 the situation on the observance of the children's right to education has not seen any essential changes. The Child's Ombudsperson reiterates the issues addressed in the Annual Report on the observance of children's rights in the Republic of Moldova in 2020, as well as brings back into discussion the recommendations regarding children's nutrition reflected in the Annual Report on the observance of children's rights in the Republic of Moldova in 2016. Although recommendations were submitted to competent institutions, still in 2016, the recommendations were either partially or defectively implemented.

Children's nutrition in educational institutions is one of the topics constantly addressed by the People's Advocate for Child's Rights.

The problem of children's nutrition in educational institutions was in the sights of the Child's Ombudsperson in 2021 as well, was found to be a major problem, the composition of

¹⁵⁴ <https://irido.ro/irido/pdf/Drepturile%20Copilului-Dreptul%20la%20educatie.pdf> , page 7;

the approved menu for preschool educational institutions, the quantity and quality of food products.

Following the changes made regarding children's nutrition, the Child's Ombudsperson was notified by several parents and managers of institutions, who cited the fact that the approved menus are not adapted to the real nutritional needs of children, indicating *the total exclusion of table salt, the small weight of the portions per child, the reduction of the amount of meat during the main meals of the day, the reduction of the amount of pasta and bread.* Likewise, it was argued that the authorities responsible for creating the menus did not take into account the fact that children are very active during the day and it is absolutely necessary to include two appetizers between the main meals.

The Ministry of Health has developed recommendations for a healthy diet and adequate physical activity in educational institutions in the Republic of Moldova, this provides: *the recommended food products, the list of those prohibited in general education institutions, and the nutritional needs of children according to age and a flexible set of recipes, to be prepared in schools and kindergartens. The purpose of implementing these recommendations is to improve the health status of children and adolescents by ensuring balanced and rational nutrition in schools and kindergartens. The new menus were developed, for the first time, for the cold and hot seasons of the year. These include a diet richer in fruits and vegetables, promoting the consumption of filtered or bottled drinking water and providing for the creation of opportunities to practice physical activity in schools. Two mandatory days of fish, wholemeal products and dietary food for children with digestive disorders were included in the menus. Therewith, the specialists excluded from the diet meat products with added food additives (sausages and salami), culinary products fried in fat and reduced the amount of bread and pasta.*¹⁵⁵

According to the recommendation of the Ministry of Health *to follow a diet low in salt and it must be iodized*, the People's Advocate for Child's Rights considers that its exclusion would go beyond the positive requirement of the recommendations, including the World Health Organization which states that *the maximum recommended salt intake for adults should be adjusted downward for children aged two to 15 years, based on their energy needs relative to those of adults. This recommendation for children does not address the period of exclusive breastfeeding (0-6 months) or the period of complementary feeding with continuous breastfeeding (6-24 months)*¹⁵⁶. In this context, the Child's Ombudsperson recommended the

¹⁵⁵ https://msmps.gov.md/sites/default/files/legislatie/recomandare_metodica_alimentatia_copiilor.pdf

¹⁵⁶ <https://www.who.int/ru/news-room/fact-sheets/detail/salt-reduction#:~:text=For%20adults%3A%20WHO%20recommends%20that,relative%20to%20those%20of%20adults>

authorities reduce the amount of salt in children's diet, according to the WHO recommendation, but not exclude it.

In the presented context, as well as from the perspective of the quantitative and qualitative assessment of the food ration, the People's Advocate for Child's Rights recalled that *food must be quantitatively sufficient, i.e. ensure the necessary amount of energy, by observing sanitary conditions during the transportation, storage and culinary preparation of food products, to ensure the amount needed to maintain adequate body weight, as close as possible to the ideal. To observe a rational diet, i.e. at certain strictly observed time intervals.*¹⁵⁷ *Thereby, normal physiological functions of the body can be maintained and achieved only in the case of a perfect energy balance, that is if energy intake through energy and energy expenditure because metabolic reactions continue to take place. This energy consumption represents basal metabolism. In an adult, the basal metabolism is 1 kcal/hour per kilogram of body weight. Children and adolescents have a higher basal metabolism than adults*¹⁵⁸.

In the opinion of the People's Advocate for Child's Rights, the allegations regarding the too small amount of food portion per child, invoked by the parents, as well as the children's lack of satiety, would be grounds for a review of the menus, or in the opinion of the Child's Ombudsperson, it is important to comply with the energy balance related to the children's metabolism. Or, under the conditions in which children have the right to survival and physical, psycho-emotional, cognitive, social and cultural development, and in all decisions and actions affecting children, their major interests¹⁵⁹ must be taken into account, it is essential that the State, *by recognizing the children's right to enjoy the best state of health, to undertake appropriate measures to combat malnutrition within the primary health protection measures, by providing food and drinking water, to have access to education being supported in the use of food*¹⁶⁰.

It is eloquent in the discussed context of the ex officio notification of the Child's Ombudsperson on the situation in a children's kindergarten in the Râșcani sector of the capital, where foreign bodies were found in the oatmeal¹⁶¹. Following the intervention of the People's Advocate for Child's Rights, the Rîșcani Directorate of Youth Education and Sport informed that the representatives of the administrations of the preschool education institutions were warned, repeatedly, regarding the following aspects:

¹⁵⁷ <https://library.usmf.md/sites/default/files/2018-10/35.pdf> , pag. 17;

¹⁵⁸ Idem;

¹⁵⁹ http://ombudsman.md/wp-content/uploads/2021/04/Conventia_RO2020%E2%80%94%D0%BA%D0%BE%D0%BF%D0%B8%D1%8F.pdf

¹⁶⁰ Idem;

¹⁶¹ <https://sputnik.md/20211101/terci-viermi-gradinita-chisinau-ion-ceban-46071686.html>

- Intensification of control measures at the reception of food products only based on quality certificates, sanitary-veterinary certificates, harmless certificates;
- Immediate return of non-compliant products and reporting of any violations in the process of purchasing food products;
- Cooperation with the National Agency for Food Safety with a view to promising intervention in the prevention of non-compliance in the organization of children's nutrition.

Concerning this case, it was also mentioned that the employees of the food department of the Rîșcani Directorate of Youth Education and Sport drew up a control report, the decision being taken to return the non-compliant oatmeal to the economic agent; The Directorate of Education, Youth and Sport carried out a special control in about 50 preschool educational institutions in the chapter on the organization of children's meals, being evaluated the aspects related to sorting, ensuring uniform nutritional nutrition for children based on the unique menu.

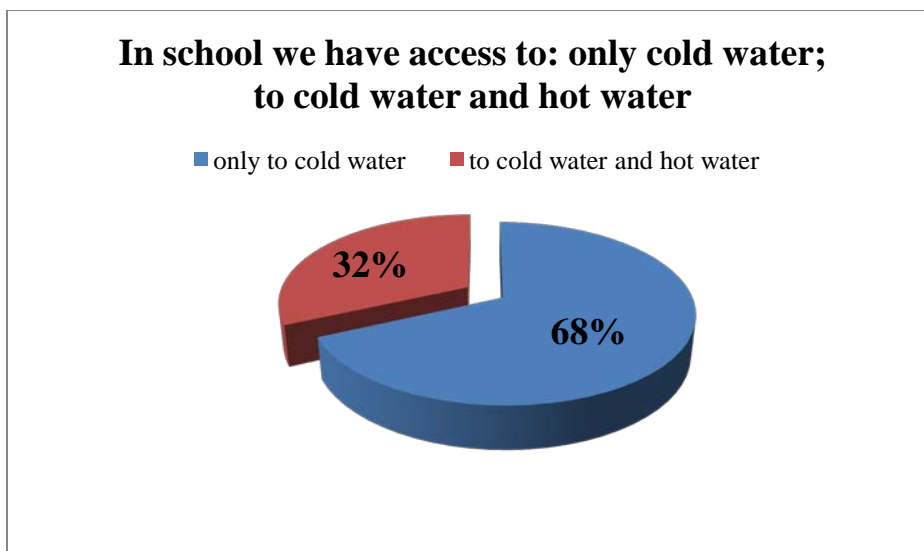
Another topic addressed by the Child's Ombudsperson in 2021, was the **provision of appropriate sanitation conditions and access to quality drinking water in educational institutions in Moldova.**

The Covid-19 pandemic has highlighted the issue of sanitation more and more. Regrettably, the outbreak of the pandemic reminded us of the importance of providing students with water and soap for washing hands and warm water for observing basic hygiene rules.

Following the monitoring carried out, it was found that the situation regarding the provision of drinking water in schools is alarming. In some schools, water from wells and springs is used, this is because the educational institutions are not connected to centralized aqueducts or other local sources of drinking water supply, and in other schools drinking water is procured in bottles, either from the institution's account or from the parents. The cause of such conditions is the lack of the locality of the aqueduct and sewage system and/or the financial resources for connecting to them.

The People's Advocate for Child's Rights recommended the central public authorities complete without delay the implementation of the Protocol on Water and Health in the Republic of Moldova for 2016-2025, especially point 2, ensuring 100% of institutions have children's access to improved water sources in kindergartens and schools.

The Child's Ombudsperson conducted an opinion poll on access to cold and hot water in schools. 1850 children participated in this survey, and the children's responses showed the following proportion:



1262 students (68.2% of the respondents) answered that they only have access to cold water in their schools, only 588 of the respondents also have access to hot water. The situation has become absolutely intolerable in the conditions of the pandemic, when hand washing, not brief, but thorough, is a life-saving recommendation¹⁶².

During the reported period, the Child’s Ombudsperson also found that the requirement of providing medical workers is observed only in some schools (or, out of 1266 educational institutions, only 113 employ medical workers). The same situation was found regarding the provision of medical offices, in most educational institutions they exist, but they are not sufficiently equipped, having only the minimum of medicines, which do not cover the real needs.

Another serious problem found is the failure to ensure adequate sanitary conditions, namely, the condition of the toilets in educational institutions. In this aspect, it was found that most of the toilets in the schools are old rooms, located in the schoolyard, accessible to any foreigner, spaces that do not ensure privacy, have no sewerage and are in the form of a hole in the floor, unsanitary and smelly.

Following what was found on the subject of observing the right to health in schools, the People’s Advocate for Child’s Rights reiterates that access to adequate sanitation and hygiene conditions in educational institutions represents the direct observance of several rights: the right to health, life, safety and contributes to ensuring a healthy learning environment, to reducing the spread of diseases and has a positive impact on the educational process itself, on its quality, but also on the success of pupils.

The observance of the children’s right to health in educational institutions was addressed and discussed by the Child’s Ombudsperson and at the meeting of the

¹⁶² http://ombudsman.md/wp-content/uploads/2021/04/RAPORT_SANITATIE_RED-2021.pdf pag. 59-60;

Parliamentary Commission on Human Rights and Interethnic Relations, which took place on November 3, 2021¹⁶³. During the meeting, the three areas studied in the report were analysed: the provision of schools with a medical specialist and the presence of medical offices, the provision of access to quality drinking water, the state of sanitation in schools and the recommendations of the Child's Ombudsperson presented based on the conclusions of the report. The People's Advocate for Child's Rights also mentioned the importance of the presence of the medical worker in the school and ensuring the appropriate conditions for their activity, which are guarantees for the continuous monitoring of the children's health, a fact that has become obvious in the pandemic conditions.

As a result of the discussions, the members of the Commission ordered the exercise of parliamentary control over the solution of the problems in question and gave assurances that they will submit relevant proposals to the Government, they will undertake other actions in the legislative segment. Following the recommendations submitted to the Government by the Parliamentary Committee on the recommendation "*Identifying the financial resources needed to be included in the State Budget Law for 2022 to allocate them for specific purposes of construction and/or renovation of sanitary blocks in schools, as well as their connection to drinking water sources*" the Ministry of Finance increased the budget of the Ministry of Education by 20.0 million lei, the allocations related to the renovation/construction of sanitary blocks in primary, secondary and high school education institutions in the Republic of Moldova. Therewith, the Ministry of Finance also mentions the fact that in the budget of the Ministry of Infrastructure and Regional Development for 2022 the amount of 25.0 million lei was provided, to renovate/build sanitary blocks in educational institutions¹⁶⁴.

In conclusion of the aforementioned, the People's Advocate for Child's Rights appreciates the attitude and involvement, as well as the openness to collaboration between the authorities to identify optimal solutions to implement the recommendations submitted by the Child's Ombudsperson in the given segment.

The educational process during 2021 was carried out in a combined mode. In the localities where the Code Green or Code Yellow alert level was attested, it was conducted with a physical presence, and in the localities where the Code Orange or Red alert level was attested, it was conducted online or in a combined mode. The COVID-19 pandemic had an unprecedented impact on the national education system in 2021 as well.

¹⁶³

<https://www.parlament.md/LinkClick.aspx?fileticket=T2kinhJhu6w%3d&tabid=130&mid=507&language=en-US>

¹⁶⁴ <http://ombudsman.md/wp-content/uploads/2020/08/rasp.pdf>

In the context of the situation created, the People's Advocate for Child's Rights, during the monitoring of the implementation of the children's right to education during the pandemic, found that even this year **accessibility to the remote learning process** remained one of the main problems faced by both children and parents, as well as pedagogues.

Remote learning via the Internet, with the use of digital technologies, only partially succeeded in replacing learning with a physical presence, because not all children had an internet connection or had the necessary technology available for the educational process.

The remote education process became a burden, especially for children who needed specific equipment, learning materials and adapted curricula to meet their learning needs. This group of children whose needs are difficult to achieve through online education programmes, due to impediments, were subjected to a risk of not achieving the objectives of the educational process and, respectively, the expected results.

In such circumstances, online and blended learning widened the learning gap between children who had adequate resources and conditions and children who did not.

In the context of the circumstances mentioned above, the Child's Ombudsperson notified the Ministry of Education and Research¹⁶⁵ to request information about the measures and actions that were taken to provide children with the necessary technology. Through the response of the Ministry of Education and Research¹⁶⁶, the Child's Ombudsperson was informed that "all the equipment purchased/donated in the context of the pandemic to ensure pupils' access to online studies has been transferred to the management of educational institutions and is on their records. And the educational institutions, **as far as possible**, transmit, free of charge, for a determined period, the computer equipment provided to students and teaching staff who encounter technical problems in participating in studies, especially to children from socially vulnerable families".

Accessibility to the educational process in educational institutions in the Transnistrian area is another quite sensitive topic, addressed by the People's Advocate for Child's Rights, in the segment of observing children's rights to education.

In this regard, it is necessary to mention the ex officio notification of the People's Advocate for Child's Rights on the situation of the "Lucian Blaga" Theoretical High School in Tiraspol regarding the possible suspension of the activity of the educational institution, for three months, following a "decision" issued by the so-called "authorities" of the so-called "Transnistrian Region".

¹⁶⁵ <http://ombudsman.md/wp-content/uploads/2020/03/12-7-17-din-15.04.2021-solicitare-MECC.pdf>

¹⁶⁶ <http://ombudsman.md/wp-content/uploads/2020/03/12-7-17-din-15.04.2021-r%C4%83spuns-MECC-nr.-03-1-09-2004-din-15.04.2021-06.05.2021.pdf>

The People's Advocate for Child's Rights informed the Bureau of Reintegration Policies and the Minister of Education, Culture and Research¹⁶⁷ and requested the urgent taking of the necessary measures to resolve the situation described above, to ensure the observance of children's rights to education and to prevent the occurrence of similar circumstances.

Following the intervention of the Child's Ombudsperson^{168,169}, on the given segment, as a result of mobilizing efforts and constructive interaction, it was possible to overcome the reported difficulties and return to the activity of the institution, with the necessary preparations for the beginning of the school year and the organization of the study process¹⁷⁰.

Achieving the purpose and principles of education, stipulated in the Education Code of the Republic of Moldova, to ensure the inclusion of children in the educational process and the effective realization of children's rights to education, the People's Advocate for Child's Rights filed an ex officio complaint on another issue related to the need to create a multifunctional educational complex in the Transnistrian area.

By the Child's Ombudsperson addressing¹⁷¹, the Deputy Prime Minister for Reintegration, the Minister of Education, Culture and Research, the Minister of Education and the President of the Parliamentary Commission for Culture, Education, Research, Youth, Sport and Mass Media were informed about the issues found in the monitoring of the observance of the right to education of children in the Transnistrian Region. And on the web page of the People's Advocate Office, www.ombudsman.md¹⁷², the appeal of the People's Advocate for Child's Rights was placed, to the relevant authorities to take action to reorganize the boarding school for children left without parental protection in Bender into a level 0 educational institution and create a multifunctional educational complex, based on it and the "Alexandru cel Bun" Theoretical High School in the same locality.

Following the appeal launched by the People's Advocate for Child's Rights, the authorities have reconfirmed their willingness to collaborate to ensure the observance of

¹⁶⁷ <http://ombudsman.md/wp-content/uploads/2021/08/BPR.pdf>

¹⁶⁸ <https://gov.md/ro/content/procesul-educational-cadrul-liceului-teoretic-lucian-bлага-din-or-tiraspol-si-activitatea>

¹⁶⁹ https://gazetadechisinau.md/wp-content/uploads/2021/08/Gazeta_30_13_08_2021.pdf

¹⁷⁰ <http://ombudsman.md/news/in-rezultatul-sesizarii-a-avocatului-poporului-pentru-drepturile-copilului-activitatea-liceului-teoretic-lucian-bлага-din-tiraspol-va-continua/> ; <http://ombudsman.md/wp-content/uploads/2021/08/CSt.pdf>

¹⁷¹ <http://ombudsman.md/wp-content/uploads/2021/08/doc1111.pdf>

¹⁷² <http://ombudsman.md/news/ombudsmanul-copilului-propune-crearea-unui-complex-educational-multifunctional-in-municipiul-bender/>

children's rights to education in Romanian-language schools on the left bank of the Dniester¹⁷³.

In this context, the Child's Ombudsperson reiterates that children have the right to receive an education that allows them to develop, in non-discriminatory conditions, their skills and personality, and in all actions concerning children, undertaken by public or private social assistance institutions, by courts, administrative authorities or legislative bodies, the children's interests will prevail.

Another issue addressed during the reported year was **the quality of the remote education process**. As mentioned above, this year, some educational institutions operated with a physical presence, and others carried out the educational process remotely or in a combined mode. Even if it would seem that optimal ways of carrying out the educational process were analysed and identified, the quality of the educational process was affected. Keeping some schools closed or conducting the educational process in a combined way reduced the interaction between teachers-parents and teachers-students, which made it almost impossible to apply the pupil-focused learning approach. According to the parents' statements, but also the children's opinion, they encountered difficulties in assimilating the subject matter and found deficiencies, in this context, the students had to make greater efforts to keep up with the prescribed curriculum, a fact that had negative consequences on school success, but also the children's well-being. In such a situation, parents had to assume, to a certain extent, the role of pedagogues, a task for which few of them were prepared and could achieve it or had the possibility in the context in which they, too, were included in the work process, often also remotely. Those problems became even more acute if the parents had to go to work, leaving the child without the support but also the necessary supervision. In the situation created, the child was also exposed to various risks regarding ensuring well-being, including safety, both physical and online.

The People's Advocate for Child's Rights appreciates the efforts made by the central authority to identify optimal solutions to overcome moments of crisis, in this context, several policy documents were developed, intended to regulate some processes or procedures "The methodology on a remote continuation of the educational process under quarantine conditions for primary, secondary and high school education institutions" approved by Order no. 351 of 19.03.2020, issued by the Ministry of Education, Culture and Research, which regulates that form teachers are to maintain communication with parents and legal representatives, provisions also regulated by the Education Code.

¹⁷³ http://ombudsman.md/news/propunerea-ombudsmanului-copilului-privind-crearea-unui-centru-pentru-activitati-extrascolare-in-bender-discutata-in-comisia-parlamentara-cultura-educatie-cercetare-tineret-sport-si-mass-media/#_ftn1

From the requests received by the Child's Ombudsperson, it was found that parents did not know how to act and their role in ensuring an efficient and productive remote education process. These gaps, and discrepancies, created conflicts between the educational institution and the parents, a fact directly felt negatively by the children.

In such circumstances, it is recommended to disseminate the materials, including the approved methodologies, and to inform all the authorities involved to avoid situations that would hurt children.

In 2021, the People's Advocate for Child's Rights continued to monitor the situation on **the protection of children from abuse and violence in educational institutions**.

In the reported period, the following were identified among the problems (invoked by teachers, parents, children and representatives of civil society) faced by educational institutions when identifying and solving cases of bullying:

- Lack of open communication about the bullying/violence phenomenon;
- Ignorance of the particularities of bullying;
- Lack of clear and explicit provisions that would regulate the actions to be taken in bullying cases.

In this context, the People's Advocate for Child's Rights submitted to the legislative forum, his Opinion, with some legislative initiative proposals¹⁷⁴ on the amendment of the Education Code of the Republic of Moldova, through which the introduction of the notion of *bullying* was proposed. The Child's Ombudsperson mentioned that it is a vital bill and an important step to ensure the dignity of all children in the Republic of Moldova. This is because the respective regulations *will further contribute to the creation of mechanisms to prevent and combat various forms of violence manifested between students, directly or online, to achieve a safe and positive school climate*.

As a result of these actions, the draft law on the regulation of the notion of bullying in the legislation of the Republic of Moldova was approved, in the first reading, with the vote of 61 deputies¹⁷⁵.

In fact, concerning this topic, the People's Advocate for Child's Rights, still in the Report on the observance of children's rights in the Republic of Moldova in 2019¹⁷⁶, proposed supplementing the Education Code with a new "nonviolence" principle and introducing a new chapter on the elimination of violence in educational institutions, and that

¹⁷⁴ Draft law for the amendment of the Education Code of the Republic of Moldova no. 152/2014, Legislative initiative no. 301 of 25.10.2021;

¹⁷⁵ <https://multimedia.parlament.md/notiunea-de-bullying-va-fi-introdusa-in-codul-educatiei/>

¹⁷⁶ http://ombudsman.md/wp-content/uploads/2020/08/Raport_anual_copii_2020-coperta-20.08.2020.pdf , page 48;

bullying be defined by the provisions of a separate article. Or, *the UN Convention on the Rights of the Child, in Article 19, regulates the children's right to protection against any form of violence shown to them by adults or by other children, and according to article 39, that appropriate measures for the physical and psychological recovery of the child have been ensured.*

Based on the information presented in the section observing the right to education, the People's Advocate for Child's Rights recommends the State allocate sufficient financial resources, which will allow the authorities to fulfil their obligations under the rules provided by the UN Convention on the rights of the child, in the segment of observing the children's right to education.

In the context of what was presented, the People's Advocate for Child's Rights puts forward the following **RECOMMENDATIONS:**

- **to the Ministry of Education and Research:**
- Providing the necessary equipment to children/teachers who **do not have access to remote learning;**
- Revising the educational process within the auxiliary educational institutions, to adapt it to the needs of children with special needs in the online education regime;
- Taking the necessary actions to ensure the children's right to health within the educational process.
- Intensification of control measures when receiving food products, receiving them only based on quality certificates, sanitary-veterinary certificates, harmlessness certificates;
- Revising the menus, so that they are adapted to the real nutritional needs of the children.
- Increasing the effectiveness of educational and training programmes to prevent violence, dedicated to teaching staff, parents and pupils;

- **to the Parliament and the Government**
- The adoption of financial regulations as well as the provision of financial resources to ensure appropriate conditions for the children's development, resulting from the observance of the children's right to health within educational institutions;
- Increasing investment efforts both at the national and territorial level to motivate specialists working in educational institutions, increasing the level of professional training, and attracting young professionals in the field of work through attractive offers.

REVIEW OF THE NATIONAL CURRICULUM IN THE SUBJECTS THAT CONTRIBUTE TO TRAINING THE CHILD FOR ADULT LIFE: PERSONAL DEVELOPMENT; CHILDREN'S RIGHTS AND THE CHILD'S OMBUDSPERSON; SEX EDUCATION.

Another aspect in the sights of the People's Advocate for Child's Rights during the reported period is **the compatibility of the national curriculum with the international standard regarding the development of respect for human rights and fundamental freedoms, enshrined in the UN Convention on the Rights of the Child.**

During visits made by the People's Advocate for Child's Rights to educational institutions, to inform and promote children's rights, it was identified that most students list the rights that they know, but without being able to explain them, without understanding what one right or another means. The respective situation was indicated by the Child's Ombudsperson in the *Report on the observance of children's rights in the Republic of Moldova in 2019*¹⁷⁷.

It was also found that children avoid speaking when aspects related to the discipline of *Sex Education* are addressed. Some children mentioned that they were not told in the education for society discipline about the institution of the People's Advocate for Child's Rights, and others mentioned that they heard something about the existence of the National Human Rights Institution.

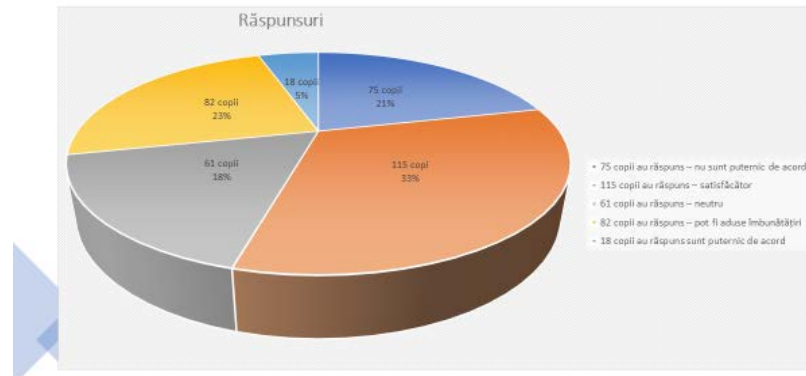
During the reported period, the People's Advocate for Child's Rights developed an **opinion survey among children**¹⁷⁸ regarding some aspects of the educational programmes regarding the rights of the child in the schools where they study.

Pupils of 5-6 and 10-11 forms participated in the survey, who actually managed to study according to the new textbooks, and the answers were distributed as follows:

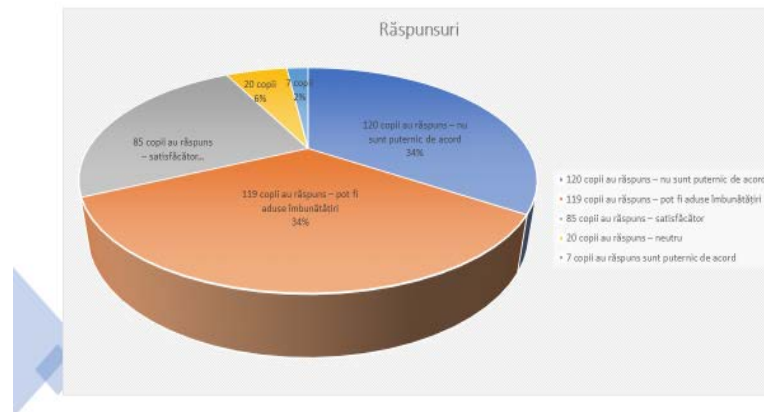
¹⁷⁷ http://ombudsman.md/wp-content/uploads/2020/08/Raport_anual_copii_2020-coperta-20.08.2020.pdf

¹⁷⁸ Carried out within the thematic report, developed by the People's Advocate for Children Rights: "Review of the National Curriculum in the subjects that contribute to the child's training for adult life: Personal Development, Child Rights and the Children's Ombudsman; Sex education";

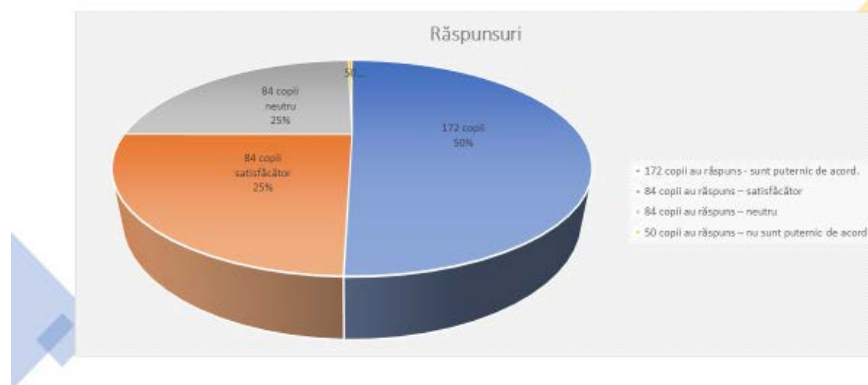
Sunt satisfăcut de cursul Educație pentru Societate?



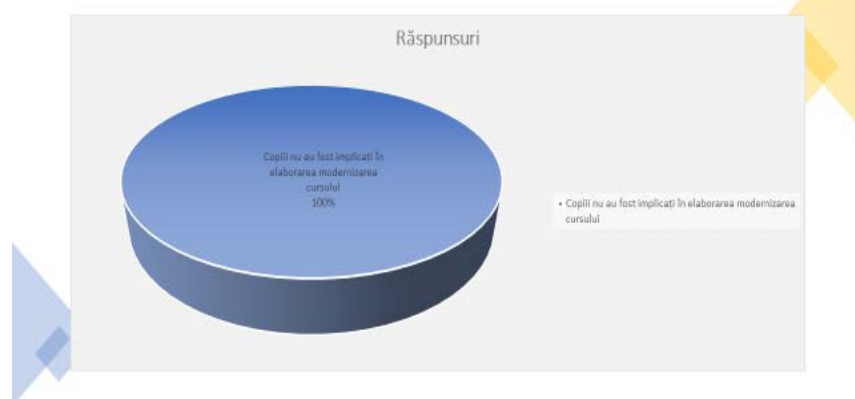
La acest curs am găsit răspuns la toate drepturile care mă interesează?



Profesorul care mi-a predat cursul a fost profesionist, a folosit limbajul adecvat și a utilizat materialul didactic corespunzător?



Am fost implicat în procesul de elaborare/modernizare a cursului?



The mentioned survey confirms what was observed by the Child’s Ombudsperson during the discussions with the children.

The People’s Advocate for Child’s Rights reminds us that the education system has a great responsibility in creating the conditions that lead to the realization of children’s rights defined by the Convention, and the school and teachers are important promoters of children's rights.

According to General Comment No. 1 of 2001¹⁷⁹, a children’s right to education is not only a matter of access but also of content. Education with its content well rooted in the values of article 29 paragraph (1) of the UN Convention on the Rights of the Child, is for every child an indispensable tool for his efforts to achieve a balanced response, friendly to human rights, in the course of his/her life, to the challenges accompanying a period of fundamental change driven by globalization, new technologies and related phenomena.

Therewith, emerging from what was observed in the discussions with the pupils, the People’s Advocate for Child’s Rights also conducted an **analysis¹⁸⁰ of the teaching material** that forms the basis of teaching children about their rights.

In this regard, the People’s Advocate for Child’s Rights mentions that, in 2019, the Ministry of Education and Research, together with a group of non-governmental organizations, teachers and independent experts initiated the reshaping of the concept of *education for the rights of the child* and edited the respective national curricula and textbooks for the subject of study “Education for Society”.

The Child’s Ombudsperson observes that at the current stage the respective textbooks are only available for pupils of 5-6 and 10-11 forms, and the other forms in the middle school

¹⁷⁹ http://ombudsman.md/wp-content/uploads/2020/12/Nr.-1-_-2.pdf

¹⁸⁰ Carried out within the framework of the Report elaborated by the People’s Advocate for Children Rights “Review of the National Curriculum in the subjects that contribute to the child’s training for adult life: Personal Development, Child Rights and the Children’s Ombudsman; Sex education.”

and high school cycle, the teaching takes place according to the old curriculum of the civic education course, i.e. with textbooks edited during 2014.

The People's Advocate for Child's Rights observes that for the primary level of studies in general no educational programme on the rights of the child has been provided, thus, children from the primary level of studies remain outside the respective field. The People's Advocate for Child's Rights believes that the non-inclusion of children from 1-4 forms in the National Curriculum for education in the field of children's rights represents a deficiency on the part of the authorities in the educational system and has a negative influence on the children's development in the future.

Following the analysis of the content of the two existing textbooks for 5-6 and 10-11 forms, the Child's Ombudsperson presents the following conclusions:

- The mentioned manual "*Education for Society*", although represent a modern product resulting from the analysis of several experts in the field of education, does not provide full coverage of the segment of education for children's rights;
- *Education for Society*, in general, represents only a narrow compartment in the system of education for children's rights;
- The analysed manuals do not include all the rights that are presented in the *UN Convention on the Rights of the Child*;
- Not even in a manual is the information about the national institution for the protection of children's rights, the People's Advocate for Child's Rights;
- The specialized courses do not offer comprehensive information that the child can understand about how the child can defend his/her rights, in case of necessity/emergency, and which are the institutions to which the child can turn and which must intervene to protect him/her;
- The teachers who teach the respective courses are mostly teaching staff who teach the respective course by cumulation, the basic discipline usually being history or biology;
- The concept of the national programme and the developed manuals do not fully cover the objectives set out in *Article 29 of the UN Convention on the Rights of the Child*.

Based on the above, the Child's Ombudsperson highlights the fact that the education system has an essential role concerning the rights of the child provided by the UN Convention on the Rights of the Child. Concerning the nature and resources of the **education system, in the context of educational activities, the obligation to inform children about their rights is necessary, as well as to influence the increase in awareness of the importance of observing children's rights in all social aspects.**

The People's Advocate for Child's Rights also points to the **importance of teaching sex education in schools** (i.e. learning about the cognitive, emotional, social, interactive and physical aspects of sexuality). This fact also results from studies carried out in several European countries which indicate that the introduction of long-term national sex education programmes led to the following "direct results", as presented below:

- Reducing the number of pregnancies and abortions among teenagers;
- Reducing the number of sexually transmitted infections among young people aged between 15 and 24;
- Reduction of HIV infection among young people aged between 15 and 24;
- Reducing the number of sexual abuses;
- Reducing homophobia.

As regards the approach and teaching of the topic of sex education in most schools in the Republic of Moldova, the Child's Ombudsperson highlights the conclusions and recommendations reflected in the Report "Sex education in the Republic of Moldova - how does the school do it and what can be different?" created by the Children's Platform, guided by the Centre for Information and Documentation on Children's Rights and supported by OAK Foundation, Workshop for Civic Initiatives Foundation, Sweden and Save the Children¹⁸¹, as follows:

Following the elaboration of the Report, the following **conclusions** were drawn:

- In the rural environment, sex education takes place earlier than in the urban environment;
- Usually, it is discussed in general, without addressing concrete issues in the field of sex education;
- Sex education starts at a rather late stage;
- Parents mostly do not feel able to have discussions with children, in the sex education chapter;
- Society's reluctance is still an impediment to the implementation of sex education;
- The teachers are not equipped with sufficient didactic material to address the compartments related to sex education;

Following the elaboration of the report made by the Children's Platform, the following **RECOMMENDATIONS** were formulated for state institutions:

- To gradually introduce the subject of Sexuality Education as a basic subject, but without an review system. To address topics related to sex education from kindergarten;

¹⁸¹ https://drepturilecopilului.md/files/educatia_sexuala_cum_o_face_scoala_si_ce_poate_fi_diferit.pdf

- To include in the sex education curriculum, the following topics: healthy relationships, sensuality, gender identity, reproductive health, sexually transmitted infections, abuse prevention and others, taking into account the interest and needs of children at each stage of development;
- To develop informational support accessible to all teaching staff regarding sex education;

II. ENSURING CHILDREN'S CIVIL RIGHTS AND FREEDOMS

The UN Convention on the Rights of the Child regulates in Articles 12, 13, 14 and 15, on the one hand, freedoms of the free and full expression of opinion, expression, thought, conscience and religion, as well as of association, and on the other hand, the obligation of the holders of obligations to ensure the exercise of these rights with the direct assurance of respect for the best interests of the child. Thereby, the State should ensure, through all possible measures, that no child will be marginalized in the realization of these fundamental freedoms.

According to UNICEF¹⁸² “Child participation involves encouraging and empowering them to make their views known on issues that affect them. In practice, participation is adults listening to children - in all the many and varied ways they express themselves. Participation ensures their freedom to express themselves and their views are taken into account when it comes to decisions that affect them. Engaging children in dialogue and exchange of views allows them to learn constructive ways to influence the world around them”.

The People's Advocate for Child's Rights also undertook several actions in 2021 intending to consult children's opinions on the observance of children's rights in the Republic of Moldova.

In this context, the Child's Ombudsperson conducted information sessions and consultations on the children's opinions in online meetings and with the physical presence of children and/or teachers, he visited educational institutions in the country, prisons where children are held, temporary placement centres and rehabilitation centres for children, where he had discussions with several categories of beneficiaries - teachers, students and members of student councils, professionals from different fields, who work or interact with children regarding respect for the right to an opinion and civil liberties.

¹⁸² <https://www.unicef.org/moldova/ce-facem/educa%C5%A3ie/implicarea-tinerilor>

During the visits and online sessions/discussions, the children talked about their perception of the right to an opinion and civil liberties, but also how they are observed. The children expressed the following opinions:

“I want to be able to express myself freely about the areas that concern me.”

“I want to decide the optional disciplines myself.”;

“I want to be asked if I can make up on weekends or after hours, cancelled lessons.”

“While our opinion is sought, it is not taken into account.”

“I was not listened to when I tried to expose myself.”

“My opinion was not heard.”

“I did not know about the existence of Pupils’ Councils, about the People’s Advocate for Child’s Rights/the Child’s Ombudsperson/.”

“Not all wannabes can be members of the Pupils’ Councils, only those who show up, participate in more activities and have high marks.”

In the context of the subject addressed, it should be noted that the Committee for the Rights of the Child, in General Comment no. 12 (2009)¹⁸³, stipulates that all processes in which the views or participation of one or more children are sought must meet certain standards of true and ethical child participation. Therefore, processes in which the opinions or participation of one or more children are requested must be: **transparent and informative; benevolent; based on the principle of respect; relevant; child-friendly; inclusive; supported by training; safe and take risks into account; responsible.**

In 2021, the People’s Advocate for Child’s Rights, jointly with the Alliance of NGOs Active in the Field of Social Protection of Children and Families (APSCF) and the Centre for Information and Documentation on Children’s Rights, to inform and train the specialists who organize processes in which the children’s opinion is requested and the correct implementation of the principles of organizing such activities enunciated by the Committee for the Rights of the Child in General Comment no. 12 (2009), they held 22 workshops within the Adult Capacity Development Programme on child participation in the decision-making process. More than 150 professionals who work with children participated in the training process - employees from the fields of education, social assistance, justice, and volunteers from local and national NGOs, to obtain information, knowledge and skills to ensure that they take the children’s opinion into account.

The People’s Advocate for Child’s Rights, emerging from what was observed, but also connecting to international standards in the field of child rights protection, in the segment of

¹⁸³ http://ombudsman.md/wp-content/uploads/2020/12/Nr.-12_.pdf

observing the right to an opinion and the regulations of General Comment no. 2 (2002)¹⁸⁴, intends to create the Children's Advisory Council in addition to the People's Advocate for Child's Rights (Child's Ombudsperson) within the People's Advocate Office.

The Children's Advisory Council will be created alongside the People's Advocate for Child's Rights and the People's Advocate Office as a platform for expressing children's opinions, they voluntarily being involved in activities to prevent the violation, promote and protect the rights and freedoms of the child to fulfil the obligations assumed by the Republic of Moldova based on the UN Convention on the Rights of the Child and the Association Agreement between the Republic of Moldova and the European Union.

In 2021, the Child's Ombudsperson, jointly with the Alliance of NGOs active in the field of Child and Family Social Protection and the Centre for Information and Documentation on Children's Rights, developed the draft Regulation of the Children's Advisory Council attached to the People's Advocate for Child's Rights (Child's Ombudsperson) within the People's Advocate Office.

The draft Regulation was adjusted during 4 workshops for consultation of children's opinions organized by the People's Advocate for Child's Rights between October and December 2021. More than 50 children from different regions of the country, aged between 10-17, participated in the consultation workshops. The children presented their opinions, suggestions, and proposals on the regulation.

The Child's Ombudsperson also initiated an action to consult the opinion of children from the Republic of Moldova on the Council Regulation, by launching an online questionnaire¹⁸⁵, which could be completed for 10 days by all children, aged 10-17, by following a link attached to the ad.

Another effective mechanism of the People's Advocate for Child's Rights for consulting the opinion of children is the National Children's Forum. In 2021, within the Forum, the results of the children's opinion consultation sessions were presented and proposals regarding the Regulation of the Children's Consultative Council, and suggestions for improving the document were advanced. During the event, the results of the questionnaire launched by the People's Advocate for Child's Rights to consult children's opinions regarding the Regulation of the creation and operation of the Council were presented and analysed by the Forum participants.

¹⁸⁴ http://ombudsman.md/wp-content/uploads/2020/12/Nr.-2_-2.pdf

¹⁸⁵ <http://ombudsman.md/news/ombudsmanul-copilului-lanseaza-un-chestionar-pentru-consultarea-opinieii-copiiilor-in-legatura-cu-proiectul-regulamentului-consiliului-consultativ-al-copiiilor-pe-langa-avocatul-poporului-pentru-drepturi/>

As a result of these children's opinion consultation activities, the People's Advocate for Child's Rights adapted the content of the regulation to the proposals submitted by children.

The activities described presently are some examples of forms of participation and expression of the children's opinions. Activities carried out in compliance with international standards, informing children that their participation and opinion matter, that they can express their views on all matters that concern them, under their age and maturity, and to ensure that they are given due weight, a fact, moreover, resulting from the numerous messages sent to the Child's Ombudsperson by children, who participated in the consultations regarding the regulation:

"Thank you for allowing us to express our views on children's rights."

"I think these workshops helped us better understand what rights we children have and it was really nice to hear and know that our opinion really matters."

"At these workshops, I realized that everyone's opinion matters, we are all equal, and children are the future, they know how to make everyone's life more beautiful with ingenious ideas."

"I feel good because we had the opportunity to understand more what a right is. Thank you!"

"I have seen and understood that our opinion matters."

The People's Advocate for Child's Rights reiterates the importance of revising policies to involve children in the decision-making process so that children and adults benefit from training in this segment. However, expressing opinions is a choice for the child, not an obligation, and the responsible persons must ensure that the child receives all the information and has the necessary conditions to decide on the use or refraining from exercising this right.

Another topic that was included on the agenda of the Child's Ombudsperson concerns **the participation of children in electoral campaigns.**

The Child's Ombudsperson monitored the electoral campaigns conducted in the Republic of Moldova through the lens of observing children's rights, warning against the use of the image and work of children by candidates and/or political parties in electoral campaigns, to form the image and promote the political candidate.

In 2001, the People's Advocate for Child's Rights developed the *Report on the use of children's images in election campaigns*¹⁸⁶, during the monitoring, a *questionnaire*¹⁸⁷ was applied to consult the opinion of the children, concerning their participation in the electoral processes. Following the analysis of the data provided, it was found that 44.7% of the

¹⁸⁶ <http://ombudsman.md/wp-content/uploads/2021/05/RaportELECT2021-.pdf>

¹⁸⁷ Idem, page 34

respondents know what an electoral process is, 64.9% said they were informed of their rights in this process at school, and 134 of the children participating in the questionnaire stated that they participated in at least one of the electoral candidates' meetings with voters together with their parents or with one of their parents, while 130 participated at school, at the suggestion of a teacher, and 72 of the respondents participated alone, on their own initiative. 64 of the children state that they were involved in distributing leaflets, brochures, and newspapers of a candidate in the electoral campaign without receiving remuneration, while in exchange for remuneration, 30 children were involved.

In the monitoring process, the Child's Ombudsperson found the lack of clear provisions to sanction electoral authorities who use children and the image of children in violation of international standards and the lack of special training to encourage the development of environments and circumstances in which children can develop political skills.

The People's Advocate for Child's Rights emphasized that international standards prohibit the use of the children's image, but not his voluntary, informed and conscious participation in the decision-making processes concerning him. Comments no. 12, 14 and 20 of the UN Committee on the Rights of the Child expressly provide that the children's opinion and participation are to be taken into account concerning any segment, in any areas in which the child shows interest, under his/her physiological and psychological development and maturity.

The Child's Ombudsperson addressed the electoral competitors and other people involved in the electoral campaigns with the urge to treat children with respect for their human dignity and not to admit actions that affect their private life, sent a letter to the electoral contestants in which he indicated the aforementioned. It should be noted that out of the total number of electoral contestants addressed by the People's Advocate for Child's Rights, only one political party participating in the electoral process sent a response to his address.

Back in 2017, the People's Advocate for Child's Rights proposed to the Government the initiation of the procedure to supplement Law no. 26-XVI on meetings, the Criminal Code, as well as the Criminal Code with provisions that would regulate the sanctioning of meeting organizers for attracting minors (people under the age of 18) to political demonstrations.

As a result of the monitoring findings, the Child's Ombudsperson submitted a Notice with recommendations to the Central Electoral Commission.

In response¹⁸⁸, the Central Electoral Commission noted that the electoral bodies do not have effective legal instruments to be able to investigate and examine situations involving children in the electoral campaigns of electoral competitors, and the only legal rule that establishes the prohibition to involve children in political actions is provided by Article 13 paragraph (3) of Law no. 338/1994 on the rights of the child, and other rules that provide for sanctions for violating this prohibition are not established.

Following the aforementioned, the People's Advocate for Child's Rights presents the following **RECOMMENDATIONS** to several decision-making institutions:

to the Ministry of Education, Culture and Research:

- Reviewing the policies of children's involvement in the decision-making process;
- - Development of a mechanism for consultation and involvement of children in the decision-making process;
- - Organization of a set of pieces of training for children and adults regarding children's opinion and participation in the decision-making process;
- - The inclusion in the Education Code of the legal regulations regarding ensuring the correct political and electoral education of the child, according to the degree of maturity of the children, as well as obliging the electoral contestants to adapt the political programmes to the needs of children, people with disabilities, etc.

to the Parliament and the Government

- Promoting standards for consulting the children's opinion and implementing it;
- Regulating in the national normative framework of the notion of "political activity and political propaganda" and the completion of the Criminal Code with express provisions that would sanction the persons responsible for the attraction/involvement of minors in political activity, propaganda/political agitation;
- Supplementing the normative framework, in particular, of the electoral legislation with express regulations regarding the prohibition of the use of the image of children (minors), without the consent of the parents/legal representatives, in electoral campaigns, referendums, in political agitation/propaganda actions and as well as prohibiting the participation of children in political actions that pose a danger to the life and health of the minor or harm his/her honour and dignity.

III. JUVENILE JUSTICE

Under international standards, justice for children has the task of ensuring, in any situation, the interests of the child, even in the case of deprivation of liberty, as an exceptional measure.

¹⁸⁸ <http://ombudsman.md/wp-content/uploads/2022/01/RCEC.pdf>

Justice for children must be age-appropriate, swift adapted and focused on the needs and rights of the child, including, the right to a fair trial, the right to participate and understand the procedures within it, the right to private and family life, the right to integrity and dignity, the right to education, the right to enjoy the highest attainable standard of health, the right to protection against corporal punishment or other forms of cruel or degrading punishment, etc. Moreover, justice for children also means prevention, including the removal of the causes leading to crimes.

Several international documents set the standards for observing children's rights in the administration of justice. The UN Convention on the Rights of the Child¹⁸⁹, in Articles 37 and 40, establishes some guarantees for the administration of justice for children observing and protecting their rights. Moreover, the UN Committee on the Rights of the Child formulated General Comment no. 10 (2007) on the rights of children in juvenile justice, but also other comments: General Comment no. 1 (2001) "The objectives of education", General Comment no. 2 (2002) "The role of independent national human rights institutions in the promotion and protection of children's rights", General Comment no. 4 (2003) "Adolescent health and development in the context of the Convention on the Rights of the Child", General Comment no. 5 (2003) "General measures to implement the Convention on the Rights of the Child (Articles 4, 42 and 44, paragraph 6)", General Comment no. 8 (2006) "The right of the child to protection against corporal punishment and other forms of cruel or degrading punishment", General Comment no. 12 (2009) "The right of the child to be listened to", General Comment no. 15 (2013) "The right of the child to enjoy the highest attainable standard of health", General Comment no. 17 (2013) "The right of the child to rest, leisure, play, recreational activities, cultural and artistic life", General Comment no. 19 (2016) on "Public budgeting for achieving children's rights", and the General Comment no. 20 (2016) "Implementation of children's rights during adolescence".

There are also recommendatory documents that establish international standards regarding the administration of juvenile justice at different stages of the process: UN Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules)¹⁹⁰, United Nations Rules for the Protection of Juveniles Deprived of Liberty (Havana Rules)¹⁹¹ and United Nations Principles for the Prevention of Juvenile Delinquency (Riyadh Principles)¹⁹². Relevant provisions can also be found in the Body of Principles for the Protection of Persons Against Any Form of Detention or

¹⁸⁹ The UN Convention on the Rights of the Child, adopted by the United Nations General Assembly on 20 November 1989 in New York. In force for the Republic of Moldova as of February 25, 1993.

¹⁹⁰ UN General Assembly, UN Minimum Rules for the Administration of Juvenile Justice (Beijing Rules), adopted by Resolution 40/33 of November 29, 1985, points 3,5,7,8,11;

¹⁹¹ UN General Assembly, United Nations Rules for the Protection of Juveniles Deprived of Liberty (Havana Rules), adopted by Resolution 45/113 of December 14, 1990, points 1,2;

¹⁹² UN General Assembly, UN Principles for the Prevention of Juvenile Delinquency (Riyadh Principles), adopted by Resolution of December 14, 1990, point 60;

Imprisonment¹⁹³, UN Standard Minimum Rules on Non-custodial Measures (Tokyo Rules)¹⁹⁴, and the International Covenant on Civil and Political Rights (Article 14).

Recommendation (2003)20 on the new ways of dealing with juvenile delinquency and the role of juvenile justice¹⁹⁵ constitutes the basic document for guiding the Member States of the Council of Europe. This is complemented by Recommendation (2006)2 on the European Prison Rules¹⁹⁶, Resolution CM/Res/2 on Child-Friendly Justice¹⁹⁷, and Recommendation (89)12 of the Committee of Ministers to the Member States regarding Education in Prisons¹⁹⁸.

It is necessary to mention several specialized conventions of the Council of Europe: the European Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (Lanzarote Convention, 2007), the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment and the European Convention on the Exercise of the Rights of the Child (1996).

For six years (2015 – 2021), according to the official data presented by the Open Data Government Portal¹⁹⁹, **the number of crimes committed by children or with their participation is decreasing** (2015 – 996 crimes, 2021 – 695 crimes). However, even if the number of crimes is decreasing, **the share of cases sent to court is increasing** (from 60% in 2015 to 76% in 2021), relative to the number of cases where criminal prosecution has been completed.

During the period under review (2015 – 2021), it is observed that **the number of children who committed or were involved in committing crimes is also decreasing** (2015 – 1438 minors, 2021 – 851 minors²⁰⁰).

On January 1, 2022, there were **59 minors** in the penitentiary system (prevented – 34%, 20 boys, convicted – 66%, 38 boys and one girl). **It should be noted that the number of children detained in the penitentiary system is continuously decreasing:** in 2017 (31/12/2017) 70 minors were detained (69 boys/1 girl), 2018 - 71 minors (67 boys/4 girls), and in 2019 - 57 minors (55 boys/2 girls), in 2020 - 61 minors (59 boys/2 girls), in 2021 - 59 minors (58 boys/1 girl).

¹⁹³ UN General Assembly, Body of Principles for the protection of persons against any form of detention or imprisonment, adopted by Resolution 43/173 of 9 December 1988

¹⁹⁴ UN General Assembly, UN Standard Minimum Rules for Non-Custodial Measures (Tokyo Rules), adopted on 14 December 1990;

¹⁹⁵ Recommendation (2003)20 on new ways of dealing with juvenile delinquency and the role of juvenile justice, adopted by the Committee of Ministers on September 24, 2003;

¹⁹⁶ Recommendation (2006)2 on the European Prison Rules, adopted by the Committee of Ministers on 11 January 2006;

¹⁹⁷ Resolution CM/Res/2 on Child-Friendly Justice, adopted at the 28th Conference of Ministers of Justice of the Council of Europe (Lanzarote, October 2007);

¹⁹⁸ Recommendation (89) 12 on education in prisons, adopted by the Committee of Ministers on 13 October 1989;

¹⁹⁹ Government Open Data Portal <https://date.gov.md/ckan/ro/dataset/4699-delicventa-juvenila>

²⁰⁰ The data reflect the situation for 9 months of 2021;

https://politia.md/sites/default/files/raport_cu_privire_la_activitatea_politiei_9_luni_2021.pdf

On January 1, 2022, 39 convicted minors were detained in the penitentiary system²⁰¹, among them 43.58% (17 people) with a first conviction, 15.3% (6 people) with a second conviction and 41.02% (16 people) – with 3 convictions and more. Thereby, the share of the number of convicted children (detained in the penitentiary system) who have committed 2 or more crimes (**recidivism**) is **56.32%**.

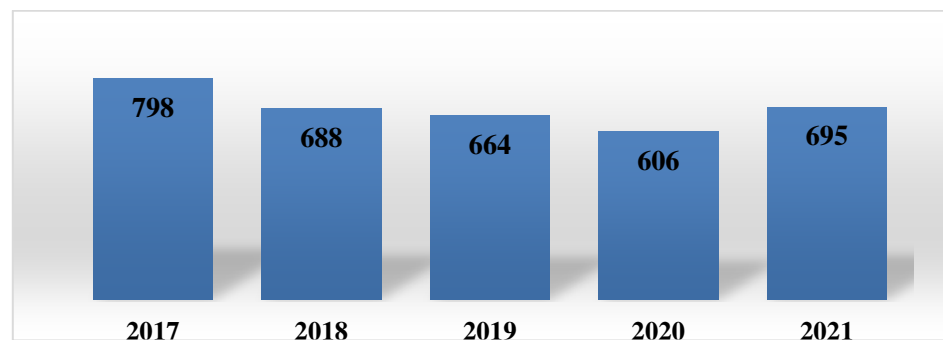
Distribution according to **the seriousness of the crime**: light crimes - 0, less serious crimes - 16 (41.02%), serious crimes - 12 (30.76%), particularly serious crimes - 11 (28.20%), exceptionally serious crimes - 0.

By the **length of the sentence**: sentenced up to 1 year -3 people, from 1 year to 3 years - 13 people, from 3 to 5 years - 10 people, from 6 to 10 years -11 people, from 10 to 15 years - 2 people.

Distribution by **age of convicted juveniles**: from 16 to 17 years - 16 people (41.02%), from 17 to 18 years - 14 people (35.89%), from 18 to 21 years - 9 people (23,07%).

The criminal phenomenon among minors in the Republic of Moldova during the last 5 years (2017-2021) experienced a significant decrease, the variation being marked by a fluctuation in the range of 798 - 606 crimes, except for 2021 which registered a slight increase.

Dynamics of juvenile crime during 2017-2021²⁰²



In 2021, the People’s Advocate for Child’s Rights monitored the penitentiary institutions in terms of the degree of respect for the rights of juvenile detainees and the implementation of the recommendations submitted during the mandate. Following the monitoring of **detention conditions**, the lack of the necessary furniture was found, the common spaces are not lit, because of which, children frequently cause themselves various bodily injuries, there is the phenomenon of overpopulation, personal hygiene products are missing, food is insufficient and of low quality, there is a lack of a diversified menu adapted to the needs of children’s growth and training, fruits are missing from the daily menu, quality drinking water is missing, all as a whole endanger the

²⁰¹ National Administration of Penitentiaries (NAP), Half-yearly/annual balance reports <https://anp.gov.md/rapoarte-de-bilant>

²⁰² Government Open Data Portal, <https://date.gov.md/ckan/ro/dataset/4699-delicventa-juvenila>

sense of human dignity of the detained children, which can consequently generate psychological consequences for them.

The People's Advocate for Child's Rights noted that the minors do not have enough clothes and shoes, they are worn and do not correspond to the season and climatic conditions. Therewith, the administration of the penitentiary institution communicated that the children do not receive clothes and shoes from budgetary sources but only from donations. In an even more difficult situation are minors whose families do not have financial resources or those children who do not have family or relatives to procure and send parcels with personal hygiene products and clothes, food and other necessities.

It is found that the protection of children is not ensured, there are dangers for the health of minors, such as: non-insulated electrical cables; poor ventilation in the room due to which an unpleasant smell persists; used sanitary equipment, with which children can cause various injuries; the sanitary blocks in the cells are unsanitary, dirty, some not being lit; because of the humidity the plaster is falling off the walls.

Following the problems found and the recommendations submitted by the People's Advocate for Child's Rights, the representatives of the Ministry of Justice²⁰³ mention an improvement in the material conditions of detention of minors in the custody of the State, on December 6, 2021, the Parliament of the Republic of Moldova adopted *the Strategy for ensuring the independence and integrity of the justice sector for 2022-2025* and *the Action Plan* for its implementation. The finalization by the Ministry of Labour and Social Protection of *the National Child Protection Programme and the related Action Plan for 2022-2026* is also mentioned.

To guarantee a compliant application of international standards and in particular of the UN Convention on the Rights of the Child, for 2022, the Ministry of Justice²⁰⁴, in collaboration with the National Administration of Penitentiaries, plans to amend Government Decision no. 609/2006 on approving the minimum rules for the daily feeding of inmates and the release of detergents to adapt food rates, norms on clothes, footwear and support of minors in detention to their needs for development and growth, having as a reference the Government Decision no. 1335/2004 on the approval of the natural rules of the provision of food products, clothing, footwear, soft inventory, personal hygiene items, games and toys for orphaned children and those left without parental care in children's homes, schools (gymnasium-boarding schools of all types).

²⁰³ <http://ombudsman.md/wp-content/uploads/2021/12/R%C4%83spunsul-Ministerului-Justi%C8%9Biei-la-Avizul-cu-recomand%C4%83ri-al-APDC.pdf>

²⁰⁴ Idem;

It is important to mention that in the first quarter of 2022, the Ministry of Justice, together with the National Administration of Penitentiaries²⁰⁵, is planning the first transfers of juvenile detainees to the new building within Penitentiary no. 10 Goian, as a result of the repeated recommendations of the Child's Ombudsperson at different administrative levels.

Under *Rule no. 28 of the European Prison Rules*²⁰⁶ Rec(2006)2, all prisons must offer inmates access to the most complete educational programmes that meet individual needs, taking into account their aspirations. As far as possible, **the education of inmates** must be integrated into the national system of education and professional training, so that, after release, they can continue their education and professional training.

In the process of monitoring this compartment during the year, it was found that the study hours were conducted online and with the physical presence of the children in the study room. The connection to the Internet was weak, because of which, the connection was frequently interrupted or the lessons were postponed or it was not possible to master the taught material. Lessons postponed due to technical reasons were not recovered later. There were situations where children did not attend lessons because they were involved in other activities (cleaning in the room, bathroom, on the territory, etc.). It was observed that the classrooms lacked informative materials, textbooks, necessary supplies, as well as other necessities that would favour the easier acquisition of the subject but also for the smooth development of the educational process. The children were not provided with school supplies, with the didactic materials necessary for conducting lessons and preparing homework.

At the same time, the teachers do not give them homework to prepare the minors for the next lesson, thus not evaluating the degree of understanding of the subject but also the formation of educational skills. Therewith, classes were taught only in Romanian, even though there were also Russian-speaking minors in the institution. Russian-speaking minors do not have enough books in Russian, and the ones in the library are old, which qualifies as a criterion of discrimination.

The children do not have the necessary sports equipment for training or to spend their free time usefully.

Children who have completed the secondary school cycle cannot continue their studies in the high school cycle. It should be noted that problems of this kind have also been found previously, and to remedy the situation, the People's Advocate for Child's Rights submitted a series of recommendations that can be found in the thematic reports²⁰⁷ developed in this section, as

²⁰⁵ <http://ombudsman.md/wp-content/uploads/2021/12/Raspuns-aviz-Administra%C8%9Bia-Na%C8%9Bional%C4%83-a-Penitenciarelor.pdf>

²⁰⁶ <https://rm.coe.int/16804c8d9a>

²⁰⁷ http://ombudsman.md/wp-content/uploads/2020/09/Respect_drept_copil_detentie_14.09.2020-.pdf

well as in the annual reports. But until now the recommendations of the Ombudsman remain unfulfilled.

Another serious finding is the fact that the children complained that during the academic year they were not taught history, although for this discipline, at the end of the year, an exam is set. It was established that some children are not included in the educational process or vocational training courses, nor the field of work.

It is worth noting the positive fact that the children appreciate, namely that being in Penitentiary no. 10 Goian, they had the opportunity to benefit from several professional development courses, such as barber, cook, cobbler, etc., which they will later practice. Therewith, the children also want to follow the car locksmith, car mechanic, and welder courses, but, currently, they are not held in the penitentiary institution.

Regarding the strengthening of the educational process in penitentiary institutions, the Ministry of Justice communicated that under the Action Plan for 2022, the elaboration and approval of a joint Order of the Ministry of Justice and the Ministry of Education and Research regarding the professional training of convicts is planned.²⁰⁸

In the context of observing **the family right**, the General Comment no. 10 of the UN Committee on the Rights of the Child states: “Every child deprived of his/her liberty has the right to maintain contact with his/her family through correspondence and visits. To facilitate visits, the child should be placed in a facility as close as possible to his/her family’s place of residence. The exceptional circumstances that may limit this contact should be clearly described in the law and not left to the discretion of the competent authorities.”

In the context of the pandemic crisis, the administration of the penitentiary institutions, as well as the children, stated that visits were prohibited, but maintaining contact with family, and relatives, and communication with them takes place through phone calls lasting 20 minutes, but also via Skype application.

In this section, the People’s Advocate for Child’s Rights attested to some impediments regarding the realization of the minors’ right to family. Some inmates reported that they were unable to call home due to the lack of a special phone card, and others said that letters to their families had not been sent, this having a significant negative impact on the mental and emotional state of the child in detention.

To fully realize the right to communicate with the family, the People's Advocate reiterates the *recommendations* submitted at the beginning of the pandemic period regarding the examination of the opportunity to have increased the number of telephone discussions or conversations through

²⁰⁸ <http://ombudsman.md/wp-content/uploads/2021/12/R%C4%83spunsul-Ministerului-Justi%C8%9Biei-la-Avizul-cu-recomand%C4%83ri-al-APDC.pdf>

online networks on account of the visits that are not carried out during this pandemic crisis period.²⁰⁹

In this section, the National Administration of Penitentiaries mentions that it is in the process of identifying solutions regarding the implementation of new telephone systems in prisons to facilitate the telephone conversations of inmates with their relatives/family.²¹⁰

The Child's Ombudsperson finds that these children are not trained in activities, and effective **resocialization** programmes, to be successfully reintegrated into society/community, they end up not possessing the basic knowledge of interaction with the social environment.

To improve the situation in this compartment, the Action Plan of the Ministry of Justice provides for a specific objective aimed at developing mechanisms for the social reintegration of convicted persons.

In the process of monitoring the situation of children in detention, it is attested that in some cases the sanctioning of detainees by banning visits and parcels, is an aspect that contravenes International Rules and standards. In this regard, and previously, the People's Advocate for Child's Rights recommended finding alternative methods of sanctioning children for violations, which would be consistent with the UN Convention on the Rights of the Child, international rules and standards in the field. Likewise, to identify an appropriate mechanism for the full implementation of the provisions of Law no. 297/1999 on the Social Adaptation of Persons Released from Places of Detention.²¹¹

Problems were also identified in the segment of observance of the **right to health**. During discussions with children, many of them stated that when they have headaches, back or toothaches, as well as sleep disorders, they are not examined by specialist doctors. Likewise, the children who complained of psychiatric and neurological problems noted that previously, when they were at liberty, they received the appropriate treatment, but in the detention institution they are not examined, nor are they offered any treatment. The children mentioned that for any health problem they are given only one type of pill. The request to be transferred within the penitentiary institution no. 16 Pruncul, for investigations and treatment, is usually refused or ignored. At the same time, the children mentioned that when addressing certain health problems to the doctor in the institution, they are not informed clearly and in their understanding about the health problem they have and about the treatment they need to follow, the patient's right to be informed being ignored. The minors also expressed their indignation at the quality of medical care in the penitentiary. Therewith, the fact that children are examined by a specialist only upon entering the penitentiary

²⁰⁹ http://ombudsman.md/wp-content/uploads/2020/03/APDC_ANP.pdf

²¹⁰ <http://ombudsman.md/wp-content/uploads/2021/12/R%C4%83spunsul-Ministerului-Justi%C8%9Biei-la-Avizul-cu-recomand%C4%83ri-al-APDC.pdf>

²¹¹ Idem;

institution was found, and later, as mentioned, even if they request the examination and medical assistance, it is not offered to them, for which reasons the detainees give up requesting medical assistance.

Regarding the failure to provide medical assistance, the penitentiary administration explained that if in the morning at the call, the inmate did not mention health problems and did not request the doctor's assistance, then he/she has no way of knowing this fact.

In this context, the respective arguments are not plausible, because the occurrence of health problems cannot be a controlled or programmed factor. Medical assistance remains an urgent necessity that cannot be postponed or neglected, this fact is totally detrimental to the best interest of the child and ensuring well-being, which includes the children's health.

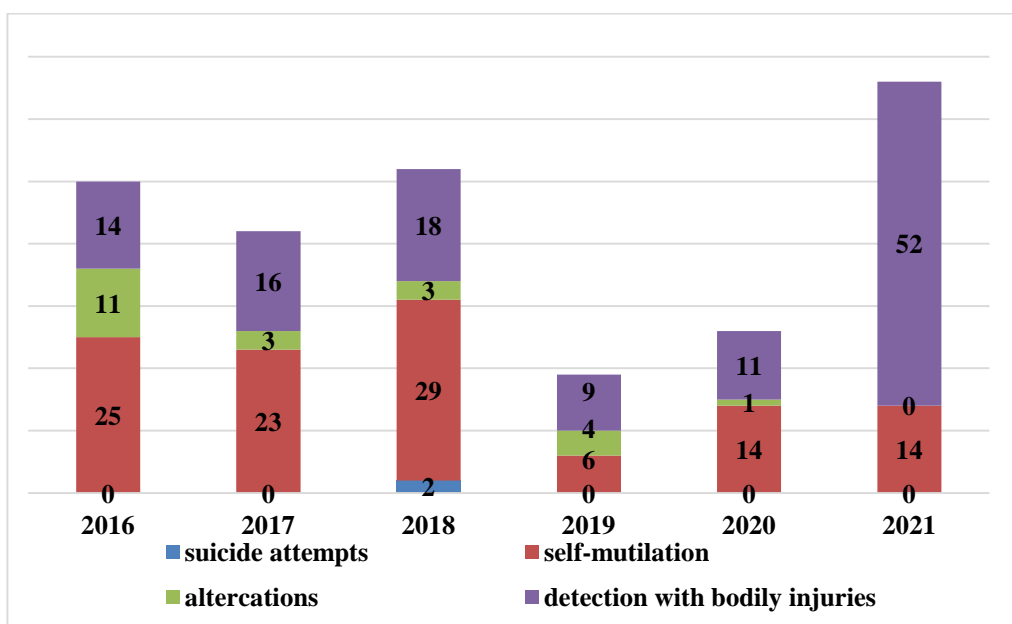
In the section on **protection against torture and other ill-treatment**, cases were found in which minors are abused by other children. Inmates cite frequent cases in which they are threatened, humiliated, humiliated or verbally assaulted by employees of the penitentiary institution. Children who have been victims of abuse do not benefit from psychological assessment and assistance.

Cases of injuries detected in children are frequently reported, and in explaining their origin, the conditions under which minors are detained are invoked, namely: insufficient space, damaged furniture, lack of light source, poor quality of food, limited time (once a week or once in two weeks) for walking, lack of medical assistance, lack of psychological assistance, lack of communication with family members, and information about their situation, as well as lack of opportunities to develop their potential, lack of occupation, etc., and all these together influence their mental and psychological state, creating a state of destabilization and demoralization. However, some inmates report that they did not self-harm or injure themselves, despite operative information in briefing notes to the contrary.

Following examination of the registers of cases of injuries and self-mutilation, it was found that not all cases of abuse are reported or properly recorded and investigated, and this denotes the lack of protection mechanism against abuse and neglect of children in detention. This fact discourages children from reporting cases of rights violations, making them even more vulnerable in the situation they are in, or the existence of a complaint mechanism for children in detention is one of the 15 indicators of the United Nations for Juvenile Justice System Review.

In most of the informative notes received, it is indicated that the minor who self-mutilated, was detected with bodily injuries or had a suicide attempt, has no claims against the prison administration. In this context, concealing the real causes of incidents or pressuring minors to drop their objections is presumed.

During 2016-2021, the cases of self-mutilation, detection of bodily injuries, altercations, deaths and/or suicide attempts among juvenile detainees were also analysed.



The evolution of cases of suicide attempts, self-mutilation, altercations between inmates and detection of bodily injuries during 2016-2021²¹²

Following the monitoring of this compartment and analysing the reasons for self-mutilation among detained minors, they are reflected by the desire to draw attention to his/her own person, citing most frequently the disagreement with the conditions of detention or in general without indicating reasons.

During the year, 52 detected cases of bodily injuries were reported, which remain unexplained, the cited causes being unfounded. In this context, it should be noted that minors are part of a special category of inmates in terms of their mental-emotional state, needing specific treatment from state agents to overcome the state of isolation from society as a result of serving the sentence for the criminal acts committed.

In the context of the aforementioned, a regression was found in the observance of the rights of children in the targeted penitentiary institution in the context of the pandemic crisis.

Following the discussions held and the recommendations submitted, the Ministry of Justice mentioned that in 2021, with the support of the CoE, training was organized on the medical examination upon admission to the penitentiary and the quality of the documentation and the method of reporting bodily injuries.²¹³

²¹² Data provided by the National Administration of Penitentiaries;

²¹³ <http://ombudsman.md/wp-content/uploads/2021/12/Raspuns-aviz-Administra%C8%9Bia-Na%C8%9Bional%C4%83-a-Penitenciarelor.pdf>

To rectify the situation in 2022, the National Administration of Penitentiaries will develop and approve a standardized statistical form for the collection of specific data to reflect injuries, traumas, self-mutilations, hunger strikes and suicide attempts among inmates²¹⁴.

Ensuring **access to justice and the right to defence of children in conflict with the Law** is an obligation of states under international human rights law. Article 37 of the UN Convention on the Rights of the Child states that children must be provided with prompt access to legal and other assistance after detention, and Article 40 paragraph (2) stipulates that states should ensure that every child has access to legal or other relevant aid during the preparation and presentation of a defence.

In this compartment, it was found that children detained in the court process benefited from state-guaranteed legal aid, but they are not satisfied with its quality, noting that the lawyer often does not get to know the materials of the file, does not discuss preventively with the child, to understand important aspects or details for the process. Children are not given the necessary counselling to better understand their rights in the process and the actions they need to take. Lawyers often presented themselves only formally, in this way, children's right to free access to justice is being violated.

Some children do not know the term to which they were sentenced, they are not informed in their own way about the aspects that concern them, such as procedural rights, the right to appeal, to submit applications for parole, alternative punishments, etc. In the institution, there is a lack of informative materials that are useful and understandable for the child, and the ones that are placed are poorly written and not relevant or up-to-date. All this as a whole denotes the violation of the children's right to information.

To implement the recommendations of the People's Advocate for Child's Rights, the National Council for State-Guaranteed Legal Aid approved a series of quality standards to ensure quality performance in defending the rights and interests of children in conflict with the Law. Therewith, for 2022, the National Council for State-Guaranteed Legal Aid plans the continuous training of lawyers who provide state-guaranteed legal aid. To improve the quality of state-guaranteed legal aid services, the Council is in the process of improving the monitoring mechanism of the qualified legal quality guaranteed by the State and granted by lawyers.

During the monitoring, it was found that many minors are detained for a long **time in preventive detention**, from 1-3 years, because the examination of criminal cases is delayed, however, according to the Code of Criminal Procedure, preventive detention cannot exceed the term of 12 months. Thereby, it is recommended to identify the alternatives that must be available

²¹⁴ <http://ombudsman.md/wp-content/uploads/2021/12/R%C4%83spunsul-Ministerului-Justi%C8%9Biei-la-Avizul-cu-recomand%C4%83ri-al-APDC.pdf>

and that deprivation of liberty should only be a measure of last resort. The main aspect that needs to be mentioned is the long detention in Penitentiary no. 13, which has negative repercussions on minors, given the fact that they are influenced by predisposed adults and, as a result, minors may be drawn into criminal subculture relationships, even if they appear to be isolated.

Concerning this aspect, the employees of penitentiary institutions spoke about the need to create a penitentiary where only minors can be placed, because the separation of juvenile detainees in cells cannot completely exclude interaction with adult inmates, but only limits it.

It has been found that juvenile delinquents are often subjected to negative publicity in the media, which contributes to discriminatory and negative stereotyping of these children and often of children in general. This negative portrayal or criminalization of delinquent children is often based on misrepresentation or misunderstanding of the causes of juvenile delinquency and regularly results in a call for a tougher approach.

It is essential to the quality of the administration of juvenile justice that all professionals involved in law enforcement and the judiciary receive appropriate training on the content and meaning of the provisions of the UN Convention on the Rights of the Child, especially those directly relevant to their daily practice. This training should also include information on social and other causes of juvenile delinquency, and psychological and other aspects of child development.

Rule 70 of the European Prison Rules stipulates that inmates have the right to make requests and complaints, individually or in groups, to the director of the prison or any other competent authority for **protection against abuse and neglect**.

For 2022, the National Administration of Penitentiaries has the task of developing a specialized programme for working with children who have committed disciplinary violations.

Minors detained in the penitentiary institutions of the Republic of Moldova show psychological degradation, which represents a step back in the path of their resocialization and integration into society in the post-execution period. This explains the need for frequent **psychological intervention** that would cultivate young people's "social" skills and abilities, which would reduce recidivism among them.

The initiation of various psychological and psychiatric rehabilitation/recovery programmes for minors in detention is indispensable for promoting the idea of preventing juvenile delinquency, reducing recidivism among minors, their reintegration into society and rehabilitation.

Psychological rehabilitation during detention is the factor that was omitted or placed on the back burner by the judge during sentencing when he was extremely pressured by the gravity of the act committed by the minor, which left the personality of the minor in the shadow.

From what the detainees reported, it was found that the young people do not receive the necessary psychological assistance, corresponding to their age and needs.

Detained minors cite frequent cases of neglect and ignoring requests from the institution's employees, for example when they cite: the sewage system does not work; lack of personal hygiene products; the attitude and behaviour of employees; lack of lighting in sanitary blocks, etc. Respectively, these unresolved issues serve as causes for triggering tense situations, and riots on the part of minors.

In the given context, it is important to highlight that there are usually only one or two psychologists working in penitentiary institutions, who usually talk with children and carry out thematic activities, but which are not sufficient to support and rehabilitate minors. Psychologists pointed out that most juveniles need to be included and participate in complex assistance programmes, but because of the large number of inmates, all assistance is limited to discussions with inmates. Detainees cited that they most often go to the psychologist, this being the opportunity to get out of the cell since they have no occupation and are not included in any other activities.

The problematic aspects invoked were also noted by the Council for the Prevention of Torture²¹⁵, whose member is the People's Advocate for Child's Rights. **The situation of children in the Transnistrian Region is also worrying, the children come into conflict with the criminal law.** In particular, the Council is concerned about the lack of a child-friendly justice system in the region, as well as the misinterpretation of the concept of "juvenile justice"; the (low) age threshold at which children are searched/apprehended and detained; the quality and treatment of detention in detention institutions; the lack of protection guarantees against abuses within detention institutions; the lack of effective mechanisms for the rehabilitation and resocialization of former juvenile detainees.

These concerns are also based on the fact that there is no independent monitoring and reporting mechanism in the Transnistrian Region, and the Council for the Prevention of Torture, the People's Advocate, and the People's Advocate for Child's Rights do not have access to the detention facilities under the jurisdiction of Tiraspol.

Taking into account the fact that the members of the Council for the Prevention of Torture did not have access to the detention facilities located in the Transnistrian Region, intended for minors, aspects related to specific physical findings were not analyzed. Thereby, the lack of access, the conclusions of some reports of non-governmental organizations²¹⁶, and ECtHR jurisprudence on the matter outlined the concern of members of the Council for the Prevention of Torture on the treatment of minors in detention facilities located in the Transnistrian Region. In this context, the conclusions of the UN expert in the field of human rights, Thomas Hammarberg, who visited the

²¹⁵ http://ombudsman.md/wp-content/uploads/2021/12/CpPT_Raport-minori-in-penitenciare_2021.pdf

²¹⁶ <https://promolex.md/20280-raport-drepturile-omului-in-regiunea-transnistreana-a-republicii-moldova-retrospectiva-anului-2020/?lang=ro>

Republic of Moldova in June 2018, mentioned in his follow-up report on the implementation of human rights in the Transnistrian Region²¹⁷, point to high rates of arrest and detention, as well as conditions of detention, which remain an area of concern to this day.

From the so-called report of the so-called institution for the protection of human rights for the year 2020 in the Transnistrian Region, we are informed that 6 minors were placed in the detention system in Transnistria. During the reference period, no complaints were received from juvenile convicts. In total, from all the inmates in the Transnistrian Region, during 2020, only 72 complaints were received by the so-called human rights protection institution. This extremely low number of complaints received accentuates the concerns of the Council for the Prevention of Torture on the lack of real and effective complaint mechanisms regarding cases of torture and ill-treatment in prisons in the region not controlled by the constitutional authorities.

The situation of children with special needs is similar to the situation of adults with special needs, in the sense that penitentiary institutions do not respond to the development and living needs of these people.

The Council for the Prevention of Torture **found the lack of a complex review, by a multidisciplinary commission, based on the approved questionnaires regarding the assessment of the social and medical needs of the minor in detention, including for the identification of disability (physical, mental, sensory and intellectual) upon placement in detention and along the way.**

Detention conditions in prisons are not adapted to the special needs of inmates with disabilities. Even though both the People's Advocate for Child's Rights and the Council for the Prevention of Torture, did not receive during the year requests citing problems from juvenile detainees with locomotor, auditory or visual disabilities, however, the attention of the management of the National Administration of Penitentiaries is drawn to the fact that they may arise in the future. The architecture of no prison for juvenile detainees is adapted to the needs of persons with special needs. Minors with locomotor disabilities will not have independent access to walking spaces, places intended for cultural-educational activities (libraries, classrooms, culture rooms), sectors or meeting rooms, or kitchens. Moreover, the sanitary blocks (with Asian-type toilets) in the cells, canteens and medical salons are not accessible. The positions of lower care staff (nurses, stretcher-bearers) in the states of penitentiary institutions are not provided, these duties being delegated to the household service section composed of other inmates employed. Thus, situations may arise when an inmate will take care of another inmate or material goods (clothes, food) will be requested to help people with disabilities from other inmates.

²¹⁷ <https://moldova.un.org/ro/14666-expertul-onu-domeniu-drepturilor-omului-thomas-hammarberg-prezintaraportul-sau-de-follow>

Minors with special educational needs have access to education, but its quality is affected by the formal character, and the lack of professional support, on the other hand, these children often refuse schooling, but the real causes are not objectively assessed by the prison staff and are only attributed to oppositional behaviour.

The criminal subculture greatly influences the situation of children with special educational needs (namely those with mental disabilities) in the penitentiary environment. They are subjected to harassment, they are humiliated and verbally and physically assaulted. Many of them become victims of these relationships because they effectively do not fit into the system of rules dictated by the criminal element.

As mentioned in this Report, the problem related to mental health in minors is very poorly addressed in the penitentiary system. Many of the minors are registered in the risk group at the psychologist or psychiatric register, have depressive disorders, behavioural disorders or are related to anxiety states.

Their problems are neither well diagnosed, nor are they approached multidisciplinary, because the prison staff has the necessary training neither in the normal peculiarities and essential needs of adolescence nor in aspects related to child psychiatry, namely in mental disorders, that often have a specific onset in adolescence. Prison staff (psychologists, psychiatrists) have not received specialized training in the cognitive-behavioural approach to these mental disorders.

OBSERVANCE OF RIGHTS OF CHILDREN AGED 0-3 WHO ARE WITH THEIR MOTHERS SERVING THEIR SENTENCE IN PLACES OF DETENTION

The Bangkok Rules govern the rights of children aged 0-3 who are with their mothers serving time in detention facilities, which indicates that the principle of the “best interests of the child” must be observed as a basis whenever the state authorities are to make decisions about whether children should be left in prison with their mothers. In this regard, children in prison with their mothers should not be treated as inmates.

In 2021, the Child’s Ombudsperson continued to monitor the observance of the rights of children aged 0-3 who are with their mothers in penitentiary institutions. Therefore, monitoring visits were carried out in Penitentiary no. 7 Rusca and the Mother and Child House in Penitentiary no. 16 Pruncul.

The conditions of detention are satisfactory; the sanitary-hygienic rules are being observed. In the rooms where the mothers with children are held, it was observed that they have clothes, shoes and toys as well as other personal items needed by the children. The mothers of the children mentioned that all the necessities for the children are provided by family members or from the aid that comes from various non-governmental organizations.

During the discussions with the mothers and directly with the administration of Penitentiary no. 7 Rusca, they stated that children's products are provided weekly from the institution's budget, this being a solution identified by the institution but which is not regulated in its budget. In the institution's budget, likewise, no funds are provided for the provision of personal hygiene products for children aged 0-3 years.

In terms of the improvement of the food ration for children, according to the Action Plan of the Ministry of Justice for 2022, the action to amend Government Decision no. 609/2006, to establish rules regarding the provision of children born in detention institutions with food ration according to nutritional rules, individual equipment and hygiene and maintenance products.²¹⁸

In the reports of previous years, the People's Advocate for Child's Rights indicated that there is the problem of the playground set up inappropriately for the children's age, which does not provide the necessary protection and safety for the child, with the risk of being traumatized during the game, on that field. Also, the lack of properly arranged play space inside the room of the penitentiary institution represents a violation of the provisions of Article 31 of the UN Convention on the Rights of the Child which stipulates that "States recognize the right of the child to rest and leisure, to play and recreational activities appropriate to his age, to participate freely in cultural and artistic life".

The realization of the *right to rest, leisure and play* are often hindered by the lack of opportunities for children aged 0-3, who are in prisons with their mothers who are serving their sentences. Currently, it has been found that the children's playground shows a slight improvement in the layout, by installing a net for protection from direct sunlight during the torrid period and by removing eminent dangers to the life and safety of children. However, these actions are not enough for the full realization of children's right to play.

With the financial support of an NGO, a playroom for children was set up inside, but it does not fully meet their needs, due to their specific age and interests. Examining the conditions in which the nominated children grow and develop, no age-appropriate books, games or other educational materials were observed.

The Child's Ombudsperson further finds that these children are not trained in effective resocialization activities during their stay with their mothers, which is why they do not possess the basic skills and knowledge to interact with the social environment.

The People's Advocate for Child's Rights emphasizes the fact that state institutions have paid insufficient attention to the implementation of the provisions of Article 31 of the UN Convention on the Rights of the Child. Play is one of the most distinctive features of early

²¹⁸ <http://ombudsman.md/wp-content/uploads/2021/12/Raspuns-aviz-Administra%C8%9Bia-Na%C8%9Bional%C4%83-a-Penitenciarelor.pdf>

childhood. Through play, children enjoy and challenge their current abilities, whether they are playing alone or with other children. The value of creative play and exploratory learning is widely recognized in early childhood education.

The Child's Ombudsperson notes that insufficient *psychological assistance* is given to children aged 0-3 and their mothers. The necessary assistance from specialized staff contributes to appropriate development according to the children's age.

Emerging from the current realities of the involvement and integration of children aged 0-3 years, it is found that Article 31 of the Convention has been ignored. It should be noted that none of the 4 children, who were in this institution in the reported year, attended the nursery, thus violating the right to development and socialization, although international standards recommend creating conditions for these children to benefit from the necessary services in the community, in order not to feel excluded from social life. In this regard, the previous recommendations of the People's Advocate for Child's Rights were also ignored.

In this section, the Child's Ombudsperson recalls its previous recommendations and requests the identification of optimal solutions for these children in the full realization of their rights, reiterating in this sense that the state is encouraged to pay more attention and allocate appropriate resources (human and financial) for the implementation of the right to a normal development according to age, the right to health, education, rest, recreation and play of children aged 0-3, who were in penitentiary institutions together with their mothers.

In the compartment of realization of *the right to family and meetings*, the People's Advocate for Child's Rights certified that there are no impediments regarding the realization of the children's right to family, they communicate regularly with the family (daily or 2-3 times a week). Therewith, it is to be appreciated that the administration of the institution took into account the recommendations of the Child's Ombudsperson, on increasing the number of telephone discussions instead of short-term meetings or replacing them with video-audio calls lasting 45 minutes via the Skype platform. This has a significant impact on the psycho-emotional state of the child in detention, but also on the mother, being allowed to communicate with the children at liberty. According to the inmates' statements, they regularly receive parcels from their families, being provided with the strictest necessities.

During the year, the issue of observing the rights of children in penitentiary institutions was also reflected in the reports of the Council for the Prevention of Torture.²¹⁹

In this context, the People's Advocate for Child's Rights appreciates the efforts of the penitentiary administration in achieving the right to family for children and mothers and reiterates the recommendations made at the beginning of the pandemic period regarding the examination of

²¹⁹ http://ombudsman.md/wp-content/uploads/2021/12/CpPT_Raport-minori-in-penitenciare_2021.pdf

the opportunity to have increased the number of telephone discussions with family and/or relatives on account of visits that are not carried out during this period of pandemic crisis.

According to General Comment no. 15 (2013) of the UN Committee on the rights of the child which aims at “The children’s right to the highest attainable standard of health” states that “Children have the *right to quality health services*, including prevention, promotion, treatment, rehabilitation and palliative care services. At the primary level, these services must be available in sufficient quantity and quality, functional, within the physical and financial reach of all sections of the child population and acceptable to all.”

At the same time, it is inadmissible that the budget of the penitentiary institution does not include financial resources for medicines and treatment intended directly for children, aged 0-3 years, who are together with their mothers in the institution in question. Detainees with children cited the problem of the lack of medicines for children, these being delivered from home, although the head of the medical department, during the discussions, mentioned the opposite.

Mothers who have children aged 0-3 years claimed that they go to the doctor with their children only when necessary, citing the fact that the children do not benefit from preventive health checks, although they requested this fact, repeatedly.

Following the analysis of the situation of children in prisons, the People’s Advocate for Child’s Rights submitted an address to the Parliament of the Republic of Moldova and the Government²²⁰, as well as Opinions with recommendations to the Ministry of Justice and the National Administration of Penitentiaries²²¹, whereby he further recommends the development, implementation, monitoring and review of a comprehensive policy covering all areas covered by the UN Convention on the Rights of the Child, which should be supported by sufficient human, technical and financial resources with concrete actions to cover the needs of minors in detention.

On November 24, 2021, at the meeting of the Parliamentary Commission on Human Rights and Interethnic Relations²²², the People’s Advocate for Child’s Rights presented the findings and recommendations that were also reflected in the thematic reports: “Observance of the Right to Education of Juvenile Detainees in Penitentiary Institutions”²²³, “Review of Observance of the Rights of Children in Detention in Connection with Criminal Prosecution or Execution of Sentence”²²⁴, “Observance of the Rights of Children aged 0-3, who are together with their mothers who are serving their sentence in the penitentiary institutions of Moldova”²²⁵, “Monitoring the

²²⁰ <http://ombudsman.md/wp-content/uploads/2021/12/aviz.pdf>

²²¹ <http://ombudsman.md/wp-content/uploads/2021/12/Aviz-ANP-%C8%99i-MJ.pdf>

²²² <http://ombudsman.md/news/ombudsmanul-copilului-a-prezentat-constatarile-privind-respectarea-drepturilor-copilor-aflati-in-detentie-la-comisia-parlamentara-drepturile-omului-si-relatii-interetnice/>

²²³ <http://ombudsman.md/wp-content/uploads/2021/09/RAPORT-REC-EDUCATIE-3-2.pdf>

²²⁴ http://ombudsman.md/wp-content/uploads/2020/09/Respect_drept_copil_detentie_14.09.2020-.pdf

²²⁵ <http://ombudsman.md/wp-content/uploads/2019/02/RAPORT-COPIIREDACTAT.pdf>

Implementation of the Recommendations of the People's Advocate for Child's Rights on the Observance of the Rights of Children in Detention Institutions"²²⁶ and "Monitoring the Implementation of the Recommendations of the People's Advocate for Child's Rights on the Observance of the Right to Education of Juvenile Detainees in Penitentiary Institutions"²²⁷, drawn up by the Child's Ombudsperson during his mandate.

The Legislature, Legislature, through the exercise of parliamentary control, submitted a Decision²²⁸ to the Government of the Republic of Moldova requesting the implementation of the recommendations submitted by the Child's Ombudsperson.

In a conclusion, following the monitoring of the level of implementation of the submitted recommendations, the People's Advocate for Child's Rights notes major arrears in all chapters, submitting the following **RECOMMENDATIONS:**

- **The Ministry of Justice** will develop and implement a comprehensive juvenile justice policy, which does not limit the implementation of the specific provisions contained in articles 37 and 40 of the Convention on the Rights of the Child, but also take into account the general principles enshrined in articles 2, 3, 6 and 12 and all other relevant articles of the Convention, such as Articles 4, 19 and 39, and which correspond to the United Nations Standard Minimum Rules for the Administration of Juvenile Justice ("Beijing Rules"), the United Nations Rules for the Protection of Juveniles Deprived of Liberty (the "Havana Rules") and the United Nations Guidelines on the Prevention of Juvenile Delinquency (the "Riyadh Guidelines");
- **The Ministry of Justice** will develop, implement, monitor and evaluate comprehensive policies covering all areas regulated by the Convention, which will be supported by sufficient human, technical and financial resources to cover the needs of these children (including clothes and shoes);
- **The National Administration of Penitentiaries** will create a separate budget line within the budget of Penitentiary no. 7 Rusca for the implementation of the right to normal development according to age, the right to health, education, rest, recreation and play of children aged 0-3, who were in penitentiary institutions together with their mothers;
- **The Ministry of Justice** will undertake the necessary measures to amend Government Decision no. 609 dated 29.05.2006 "on the approval of the minimum standards of daily food and toilet and household items for inmates" for the introduction of dietary norms, including fresh fruit according to the season for children aged between 0-3 years, but also for juvenile detainees.

²²⁶ <http://ombudsman.md/wp-content/uploads/2021/09/Raport-dr-penitenciare-red.-1-3-1.pdf>

²²⁷ <http://ombudsman.md/wp-content/uploads/2021/09/RAPORT-REC-EDUCATIE-3-2.pdf>

²²⁸ <http://ombudsman.md/wp-content/uploads/2021/12/24-78-187-10025-din-13.12.2021.semnat-2-8.pdf>

- **The Ministry of Justice in collaboration with the National Administration of Penitentiaries** will carry out operations to modify the budget of penitentiary institutions to review the food ration as per the needs of children's growth, the introduction of fresh seasonal fruits into the daily diet, as well as the adaptation of the daily menu to children's health problems;
- **The National Administration of Penitentiaries** will strengthen the educational process in penitentiary institutions by amending the budget, to provide minors with textbooks, supplies, didactic materials, etc.;
- **The National Administration of Penitentiaries in collaboration with the Municipal Directorates of Education and the Administration of Penitentiary Institutions** will develop the necessary control mechanism over the way of organizing and conducting the lessons, but also identify the necessary resources, to give minors, the opportunity to continue their education cycle;
- **The Ministry of Justice** will undertake the necessary measures to complete the construction and put into operation the new building of the Penitentiary no. 10 Goian to ensure adequate conditions for the children in custody but also separate them from the adult inmates;
- **The Ministry of Justice in collaboration with the National Administration of Penitentiaries** will develop the cooperation mechanism between the penitentiary institution, the local authority and the children's families;
- **The Ministry of Justice in collaboration with the National Administration of Penitentiaries** will develop the necessary and relevant normative framework for diversifying the possibilities of ensuring contact with the family, using current technical solutions, and offering inmates the opportunity to communicate through online platforms and software, especially for children from socially-vulnerable families or families that live at great distances from the penitentiary institution, but also to strengthen efforts to maintain the connection of convicted and prevented children with the family in the context of the pandemic realities and the prevention of the infection of minors with SARS-CoV-2;
- **The National Administration of Penitentiaries** will undertake the necessary measures to eliminate the practice of applying disciplinary punishments with the prohibition of visits, receiving parcels, and sending letters applied to children;
- **The National Administration of Penitentiaries** will carry out extensive monitoring and control activities of the medical system, to eradicate the established deficiencies, especially in terms of ensuring the continuity of treatment for diseases up to the deprivation of liberty and bringing the system in line with international standards by providing minors with the

necessary drugs, organizing and conducting preventive checks by different specialized doctors, etc.;

- **The National Administration of Penitentiaries** will develop an electronic register that includes the date of placing the minor in detention and all actions on/with the minor (self-mutilation, suicide attempts, altercations with other inmates, hunger strike, detection of injuries, assaults on institution employees, psychological reviews);

- **The National Administration of Penitentiaries** will report in due time all incidents among detained minors to the People's Advocate for Child's Rights and the district prosecutor's office;

- **The National Administration of Penitentiaries** will create a mechanism for submitting complaints for children in detention, realizing the United Nations indicator for evaluating the juvenile justice system;

- **The National Administration of Penitentiaries** will co-opt experts and specialists in the field from outside for the development, review and implementation of special assistance and psychological counselling programmes for minors in state custody;

IV. OBSERVANCE OF RIGHTS OF CHILDREN IN STREET SITUATIONS

The term “children in street situations” is regulated in the General Comment of the UN Committee on the Rights of the Child no. 21 (2017) on children in street situations. The term “children in street situations” includes: (a) children who depend on the streets to live and/or work, either independently or with peers or family; and (b) a wider population of children who have formed strong bonds with public spaces and for whom the street plays a vital role in their everyday lives and identities²²⁹. And the term “being in public spaces” means that they spend long periods in public streets or parks, public community spaces, markets and bus and train stations. This does not include public buildings such as schools, hospitals or other similar institutions²³⁰.

In the course of his activity, the People’s Advocate for Child’s Rights initiated several discussions with representatives of local, territorial and central public authorities. The subject of *children in street situations* was also addressed during various round tables, press conferences and meetings with the managers in the field, where it was advocated for: harmonizing the legal framework with international standards; identification of applicable actions/measures concerning children in street situations; creation of social services intended for children - shelter/accommodation; training of specialists who interact with children in street situations; intensifying actions to identify families where children may be at risk; early intervention to avoid home abandonment, etc.

Concerning the phenomenon of children in street situations, the state authorities failed to provide the necessary protection and assistance to these children. In the context of failure, several problems lead to the development of the phenomenon of children in street situations, such as:

- the inefficiency of the cooperation mechanism between public structures at local, territorial and central levels;
- the lack of child protection services developed at the local level;
- the lack of primary social services within the level I local public authorities, aimed at preventing the children’s delinquent behaviour;
- the reluctance of the local and territorial guardianship authorities to get involved to resolve the cases of children originating from the respective localities, who practice a street lifestyle in Chişinău municipality;

²²⁹ http://ombudsman.md/wp-content/uploads/2020/12/Nr.-21-_.pdf

²³⁰ Idem;

- the delayed intervention, or the inaction of the specialists from the street children's place of residence from other territorial-administrative units, regarding family and community reintegration;
- insufficient training of specialists to communicate/interact effectively with children who have deviant behaviour;
- the insufficiency of qualified specialists with experience in the field of working with children in street situations;
- difficulties in applying case management, because there is a lack of information about children from other administrative-territorial units, and the development and implementation of the individualized plan of assistants fail to be carried out and it is particularly complicated to involve the children's families in this process, representatives of the guardianship authority from the children's place of residence from other territorial-administrative units, etc.;
- lack of rehabilitation and treatment services for drug, alcohol or other addictions, etc.;
- lack of a clear intervention mechanism in the case of identifying children in street situations under the influence of drugs, their rehabilitation services, medical treatment, detoxification and long-term therapy leads to the impossibility of changing the situation at the moment.

The current situation indicates that the efforts of the authorities in solving the problems of children in street situations have proven to be insufficient and ineffective.

To improve the situation, the State must take measures to ensure children in street situations access to basic services, such as health, education, access to justice, culture, sports and information. The State is responsible for ensuring that the child protection system provides specialist services on the street, involving trained social workers with a good knowledge of local street connections and who can help children reconnect with family, local community services and wider society²³¹.

In the context of the functional powers available to the Child's Ombudsperson, all avenues of intervention being considered exhausted, it should be recalled that on July 17, 2020, the People's Advocate for Child's Rights requested the president of the Parliament of the Republic of Moldova²³² to organize parliamentary debates on the given subject during the meetings of several parliamentary committees²³³. In this regard, the Child's Ombudsperson

²³¹ http://ombudsman.md/wp-content/uploads/2020/12/Nr.-21-_.pdf

²³² <http://ombudsman.md/wp-content/uploads/2020/07/12-5-15-din-17.07.2020-adresare-c%C4%83tre-Parlamentul-RM-copiii-str%C4%83zii.pdf>

²³³ Idem;

presented to the Parliament the Opinion regarding the non-observance of children's rights in street situations and proposals for restoring the rights of children who lead a star-studded lifestyle²³⁴, however, the said address remained without examination, as a result of its dissolution.

Since the situation of street children remains unresolved, on December 10, 2021, the People's Advocate for Child's Rights addressed the Parliament of the Republic of Moldova, requesting the initiation of parliamentary debates within the responsible parliamentary committees²³⁵.

On December 15, 2021, within the Human Rights and Interethnic Relations Commission, with the participation of representatives of the responsible authorities and civil society, public hearings were held on the observance of children's rights in street situations²³⁶. Following the hearing on the subject of children in street situations, the Parliamentary Commission issued the Decision on the observance of the rights of children in street situations²³⁷, the Government is tasked with concrete actions to be carried out in the respective department.

Also, in practice, the mechanism provided for in Government Decision no. 270 of April 8, 2014 "On the approval of the Instruction on the cross-sectoral cooperation mechanism for the identification, assessment, referral, assistance and monitoring of child victims and potential victims of violence, neglect, exploitation and trafficking".

In the context of the mentioned problems, the People's Advocate for Child's Rights reiterates that the measures are taken by the Government in the context of the Covid-19 pandemic, to stop or reduce the spread of the virus (washing hands, disinfecting surfaces and objects, social distancing, wearing protective masks and gloves), to stop or reduce the spread of the virus, are effective, but they do not achieve their goal in the case of children who lead a street lifestyle. The implementation of these measures requires, at least, water and soap, daily personal hygiene, hygiene that is lacking in street conditions, not to mention disinfectants, masks or gloves. There is a need for the responsible authorities to get involved directly by monitoring the state of health, providing disinfectants, and sanitizing measures in the places where these children usually are.

Another aspect that remains neglected is the observance of the right to education, in this area, the authorities do not undertake sufficient measures for their implementation, and

²³⁴ <http://ombudsman.md/wp-content/uploads/2020/07/12-5-16-din-12.08.2020-Comisia-Parlamentar%C4%83-CECTSMM-Opinia-privind-nerespectarea-drepturilor-copiiilor-%C3%AEn-situa%C5%A3ie-de-strada-%C5%9Fi-propuneri.pdf>

²³⁵ <http://ombudsman.md/wp-content/uploads/2020/07/12-6-23-3120-din-10.12.2021-adresare-Parlamentul-RM-copiii-%C3%AEn-strad%C4%83.pdf>

²³⁶ <http://ombudsman.md/news/subiectul-copiiilor-in-situatie-de-strada-readus-in-discutie-de-avocatul-poporului-pentru-drepturile-copilului-in-cadrul-comisiei-parlamentare-drepturile-omului-si-relatii-interetnice/>

²³⁷ <http://ombudsman.md/wp-content/uploads/2020/07/Decizia-386.pdf>

the state in this sense does not have a clear and forward-looking strategy for educational inclusion of these children.

Concerning the number of children in street situations, according to the information provided by the National Public Security Inspectorate of the Ministry of Internal Affairs, in 2021, 110 children in street situations (practising vagrancy) were identified, also as a result of the activities carried out by Police employees, identified 147 minors who abandoned their home/other forms of placement²³⁸.

Social and economic factors favour the increase in the number of children in conflict with the law. In terms of juvenile delinquency, compared to previous years, in 2021, 583 minors were suspected of committing crimes/misdemeanours, also during the current year regarding minors aged between 16-18 years, 757 minutes were drawn up concerning misdemeanours. Concerning children with deviant behaviour, during the reference period, Police employees identified and targeted 628 children who can be classified in such a category (showing deviant and/or delinquent behaviour), a total of 1242 children with deviant/delinquent behaviour are under the Police's sights²³⁹.

Another aspect to be addressed is children in street situations who commit crimes but are not criminally liable. In this context, the People's Advocate for Child's Rights reiterates that during the entire mandate he has repeatedly mentioned the lack of legal regulations regarding clear procedures for specialists/professionals in the examination of cases of criminal acts committed by children under the age of criminal responsibility. Likewise, the lack of protection and resocialization measures to be applied to these children, in the context in which the child must benefit from specialized support services of care, placement and supervision, guidance and verification, and general and alternative education programmes. In this regard, the Child's Ombudsperson draws attention to the fact that the respective measures must be non-repressive, and the specialized services must apply programmes adapted to the specific needs of each child.

In the context of the implementation of the Law on measures and services intended for children with deviant behaviour no. 299 of November 30, 2018, the following problems were attested: lack of mechanisms for its implementation; lack of services for these categories of children; lack of cooperation between authorities, passing responsibility from one institution to another; lack of specialists for the protection of children's rights at the local level, etc. At the current stage, there is a need to carry out an review/expertise of the law, to see if this legislative act responds to the best interest of the child and his/her needs.

²³⁸ https://politia.md/sites/default/files/nota_informativa_privind_starea_delincventei_juvenile_si_activitatea.pdf

²³⁹ https://politia.md/sites/default/files/nota_informativa_privind_starea_delincventei_juvenile_si_activitatea.pdf

In conclusion, it is found that the lack of legal regulations on the status of the child who has committed a criminal act but has not reached criminal liability and of clear procedures, constitutes an alarming situation for the whole society because the lack of legal framework does not provide full observance of the children's rights and legal guarantees. Following the findings and conclusions on the subject of children in street situations, the People's Advocate for Child's Rights makes the following **RECOMMENDATIONS**:

- Conducting a multi-aspect analysis concerning the limitations of the rights and freedoms of children who lead a street lifestyle;
- Development, implementation, monitoring and review of a comprehensive policy covering all areas regulated by the UN Convention on the Rights of the Child, supported by sufficient human, technical and financial resources to cover the needs of children in street situations;
- Developing a strategy for the protection of children in street situations, to prevent and mitigate the phenomenon;
- Creation of appropriate medical, educational, social assistance services, etc., including programmes to prevent and combat substance abuse, and mental health counselling, for recovery and reintegration of street children, including shelter, education and vocational training;
- Strengthening cross-sectoral cooperation mechanisms to ensure adequate protection of children in street situations;
- Development of the National Clinical Protocol on Drug Detoxification of Children;
- Review by the authorities regarding the degree of respect for the rights of deinstitutionalized children and the child protection system in the post-deinstitutionalization period.

V. MONITORING THE IMPLEMENTATION OF THE RECOMMENDATIONS OF THE PEOPLE'S ADVOCATE FOR CHILD'S RIGHTS

SITUATION OF CHILDREN BORN PREMATURE

Observing the right to life, health and development of **children born prematurely** was in the sights of the People's Advocate for Child's Rights in 2021 as well. According to data from the National Bureau of Statistics, the rate of premature births decreased from 2066 cases in 2015 to around 1600 cases in 2020, which is also due to the decrease in the number of births in general²⁴⁰.

This topic has always been in the attention of the People's Advocate for Child's Rights, the problems, findings and recommendations being reflected in the annual reports on the observance of children's rights^{241, 242}.

During his term of office, the People's Advocate for Child's Rights addressed the problems faced by the families of prematurely born children at different levels and carried out several actions on the given subject. In this regard, the national conference "Prematurity in the Republic of Moldova, Challenges and Opportunities" was held in partnership with the "Vitae" Public Association²⁴³. During the conference, the existing situation was discussed and analysed, and some pertinent solutions were identified, for the implementation of the recommendations by the relevant public authorities. Following the discussions and issues addressed during the conference, a Resolution was submitted, in which they requested the improvement of the diagnosis of pathological conditions that condition premature birth; increasing the quality of medical services in case of premature birth; providing psychological support to parents in case of premature loss of a child, etc.

Following the submitted Resolution, the Ministry of Health, in its letter²⁴⁴, claimed that it was in the process of developing the National Strategy for the health of mothers, children and adolescents for 2020-2030, by which the objective is to ensure universal access to quality medical services for pregnant women, children and adolescents are drawn, through the continuous monitoring and review of results, which also targets prematurely born children.

Although some measures have been taken to improve the situation of prematurely born children and their families, still analysing the situation at the moment, based on the statements of the parents of these children, the Child's Ombudsperson still notes the following aspects of the problem:

²⁴⁰ <https://statistica.gov.md/newsview.php?l=ro&idc=168&id=7002>

²⁴¹ http://ombudsman.md/wp-content/uploads/2020/01/RAPORT_APDC_2019.pdf

²⁴² http://ombudsman.md/wp-content/uploads/2020/08/Raport_anual_copii_2020-coperta-20.08.2020.pdf

²⁴³ <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/>

²⁴⁴ Letter of the Ministry of Health, no. 07/3227 of 30.05.2019;

- Insufficiency of professionals specializing in the field of providing qualified medical assistance to prematurely born children;
- Uneven distribution of family doctors and paediatricians throughout the territory of the Republic of Moldova;
- Underestimation of the children's condition and late hospitalization;
- Poorly developed early prevention system;
- Lack of cooperation between the early intervention service and the specialists in the field of social protection in the territory;
- Lack of specific products for children born prematurely in maternity hospitals, hospitals;

Monitoring the degree of implementation of the findings and rigorous recommendations addressed to the public authorities for the recovery of the situation, the Child's Ombudsperson appreciates the efforts of the public authorities for the measures taken that have had a positive impact on this segment, however, indicates some reservations in this compartment.

The People's Advocate for Child's Rights reiterates that a children's right to life and access to quality health services and their availability, regardless of the period of the children's appearance in the world, but especially in cases of premature birth, is a primary obligation to be implemented by the state and monitored by national institutions in the field of human/child rights protection.

The Child's Ombudsperson also reminds the relevant public authorities of the Recommendations stipulated in the Thematic Report on "Monitoring the observance of children's rights in the process of providing pre-hospital emergency medical assistance"²⁴⁵, referring to the precarious state of equipping ambulances with equipment predestined for children and especially for new-borns.

²⁴⁵ http://ombudsman.md/wp-content/uploads/2018/10/studiu_medicina_0.pdf

According to the data of the Ministry of Health²⁴⁶, during 2016-2021, a decrease in the number of children born dead prematurely, but also of new-borns who died prematurely, was attested.

Year	Number of children born prematurely	Number of children born alive prematurely	Number of new-borns who died prematurely
2016	134	2036	113
2017	130	1786	91
2018	130	1765	93
2019	121	1731	87
2020	133	1599	92
2021*	102	1684	87

**Note: At the time of writing this Report, the Ministry of Health informed us that the data is preliminary*

According to the data of the National Bureau of Statistics of the Republic of Moldova^{247, 248}, during 2016-2021, a data difference was attested in the number of children born dead prematurely, but also of newborns who died prematurely, concerning the data provided by the Ministry of Health.

Year	Number of children born prematurely	Number of children born alive prematurely	Number of new-borns who died prematurely
2016	134	1922	113
2017	130	2036	91
2018	130	1786	96
2019	110	1768	The National Bureau of Statistics has not indicated
2020	131	The National Bureau of Statistics has not indicated	The National Bureau of Statistics has not indicated
2021*	-	-	-

**Note: The National Bureau of Statistics of the Republic of Moldova does not have data, the data will be available in the second quarter of 2022.*

In conclusion of the above, the People's Advocate for Child's Rights makes the following **RECOMMENDATIONS:**

²⁴⁶ Ministry of Health letter no. 12/697 of 23.02.2022;

²⁴⁷ Letter of the National Bureau of Statistics of the Republic of Moldova no. 08-5/28 of 23.05.2019;

²⁴⁸ Letter of the National Bureau of Statistics of the Republic of Moldova no. 08-4/16 of 16.02.2022;

- **The Ministry of Health** is to undertake the following actions: optimizing the diagnosis of pathological conditions that condition premature birth, as well as preconception and prenatal prophylactic measures;
- **The Ministry of Health** will increase the quality of medical services in case of imminent premature births;
- **The Ministry of Health** will increase the quality of medical services and hospitalization conditions for premature babies and their mothers;
- **The Ministry of Health** will increase the capacities of the health system to provide services under the real health and development needs of premature children;
- **The Ministry of Health** will develop quality medical services by providing medical institutions with adequate equipment and continuous training of medical staff.

CHILDREN WITH RARE DISEASES

In 2021, the People's Advocate for Child's Rights continued to supervise the observance of the rights of children **suffering from rare diseases**, monitoring in this regard the implementation of the recommendations submitted during the entire mandate.

Any disease that affects fewer than 5 people in 10,000 in the EU is considered rare. While this might seem small, it translates to about 246,000 people. Most patients suffer from even rarer diseases that affect 1 person in 100,000 or more. Around 5,000-8,000 distinct rare diseases affect 6-8% of the EU population, i.e. between 27 and 36 million people²⁴⁹.

According to the information provided by the Ministry of Health, the List of Rare Diseases in the Republic of Moldova is managed by the Centre for Reproductive Health and Medical Genetics within the Institute of Mother and Child is completed according to case history.

The number of rare diseases also depends on the accuracy of the definition of the disease and its diagnosis. Until now, in the medical field, a disease has been defined as an alteration of the state of health, which presents a unique pattern of symptoms with a single treatment. Whether the pattern is considered unique depends entirely on the accuracy of the analysis. The more accurate the analysis, the better some nuances are noticed²⁵⁰.

Rare diseases have a serious, chronic and progressive course. For some rare diseases, the first signs can be seen at birth or in early childhood, such as in the case of spinal muscular

²⁴⁹ https://ec.europa.eu/health/non-communicable-diseases/steering-group/rare-diseases_en

²⁵⁰ <http://www.orpha.net/national/RO-RO/index/despre-boli-rare/>

atrophy. Rare genetic diseases are often classified into two groups. One group represents rare metabolic diseases, another group represents rare neuromuscular diseases²⁵¹.

The total number of patients included in the List of Rare Diseases in the records of the Centre for Reproductive Health and Medical Genetics within the Mother and Child Institute is 1,200 patients²⁵². In this regard, we conclude that the number of children suffering from a rare genetic disease is not precisely known. As the parents of these children state, some of them are initially misdiagnosed, and in many cases, the correct diagnosis is established abroad.

It should be noted that the diagnosis of rare diseases in children in the Republic of Moldova is a major problem in ensuring the right to health care. In this regard, the lack of early diagnosis and adequate treatment worsens the situation of children with rare diseases. In the absence of a single record, disaggregated by type of disability, policies cannot be developed and implemented in the field of treatment and prevention of rare diseases and positive intervention actions cannot be established.

After monitoring the situation of children suffering from rare diseases, the Child's Ombudsperson found the following deficiencies:

- Lack of disaggregated data on children with rare diseases;
- Poorly developed preventive diagnostic system;
- The list of rare diseases needs to be updated/supplemented;
- The small number of qualified specialists, especially in the rural regions of the country;
- Lack of social services disaggregated by type of disability/condition, including for empowering children with rare diseases;
- The total or partial lack of devices for RETT prenatal diagnosis of high-risk families;

For the compensation of the necessary medicines, for patients with rare diseases, in 2021 the amount of 48 446776, 78 lei was planned²⁵³ which is a positive step from the State. Currently, the selection and treatment of children suffering from rare diseases abroad are carried out according to the Regulation of the Commission on the selection of patients for expensive treatment and/or investigations, approved by the Order of the Ministry of Health, Labor and Social Protection no. 979/2016 "on the selection of patients for expensive treatment and/or investigations". Even if this mechanism is developed, the parents of these children believe

²⁵¹ <https://agora.md/stiri/82352/opinie-bolile-rare-si-parcursul-pacientilor-rari-in-republica-moldova>

²⁵² <https://stiri.md/article/social/cati-pacienti-cu-boli-rare-traiesc-in-republica-moldova>

²⁵³ <https://stiri.md/article/social/lucrul-asupra-programului-privind-bolile-rare-stopat-din-cauza-covid>

that the procedure of the compensation system is overly bureaucratic, due to which the children get assistance and medicines late.

A separate chapter is the problems related to medicines for children with rare diseases, in most cases, they are not on the pharmaceutical market in the Republic of Moldova for the simple reason that *international pharmaceutical companies only come to the market if it is profitable*²⁵⁴. Thereby, parents of these children are forced to identify solutions to procure these medicines from abroad from their own financial means, rarely these medicines are partially compensated by the State.

During the pandemic caused by the Covid-19 virus, the problem of medicines became even more acute, it is felt more acutely by families who have children with disabilities, including those with rare diseases. Due to the lack of the necessary medicines, as was reported in the media, cases of death of children with rare diseases have been attested²⁵⁵.

In this context, the Child's Ombudsperson reiterates that the state must take into account the quality of life of families in which there are children diagnosed with rare diseases, as they are put in a position to procure the necessary medication on their own, consumables are extremely expensive, for the simple reason that they are "rare", in this regard, it is recommended to take over the practices of European countries where these drugs are offered completely free of charge.

Currently, in the Republic of Moldova, the diagnosis and treatment of patients with one of the 13 rare diseases are ensured, by the state budget: Wilson-Konovalov disease, Haemophilia, Phenylketonuria, Pituitary insufficiency, B - thalassemia, Precocious puberty, Epidermolysis bullosa, Juvenile arthritis, Diabetes insipidus, Addison's disease, Non-specific ulcerative colitis/Crohn's disease, Pulmonary hypertension, Duchenne muscular dystrophy (in the draft list of rare diseases from the Republic of Moldova, developed by the Ministry of Health, with 204 names registered).

Another issue facing children affected by rare diseases is educational and social inclusion. The integration of these children in the school, community and society is mostly done formally, the particularities of each child are not taken into account, resulting from the health problem they have. It is noted that at the national level, specialized services for the rehabilitation of children with rare diseases provided by the state practically do not exist. The services provided for these children are few, most of them being provided by non-governmental organizations.

²⁵⁴ <https://newsmaker.md/ro/viata-unui-copil-nu-poate-fi-pusa-pe-pauza-cum-pandemia-a-devenit-un-pericol-pentru-viata-copiilor-cu-boli-rare/>

²⁵⁵ <https://newsmaker.md/ro/viata-unui-copil-nu-poate-fi-pusa-pe-pauza-cum-pandemia-a-devenit-un-pericol-pentru-viata-copiilor-cu-boli-rare/>

In conclusion, as a result of monitoring the situation of children with rare diseases, the People's Advocate for Child's Rights finds that the situation remains unchanged, in this context it reiterates the following **RECOMMENDATIONS:**

- Training of professionals from the medical and educational spheres, to provide quality services to children with rare diseases;
- Providing support in training parents in therapies and taking care of their own children;
- Development of national clinical protocols for all rare diseases that are/will be included in the Register of rare diseases;
- Creation of a clinical laboratory adapted to the standards of modern medicine for the early diagnosis of rare diseases and their prophylaxis (prenatal screening and other forms of diagnosis);
- Training specialists in biomedicine, genetics, molecular medicine and other related fields for the diagnosis, prophylaxis and development of treatments for rare diseases;
- Revision of databases regarding children with rare diseases, disaggregated by type of disability, age, gender, etc.
- Supplementing the list of rare diseases, taking into account the diseases identified in previous years.

CHILDREN WITH SENSORY DISABILITIES

Observing the rights of children with disabilities was and remains a priority in the work of the People's Advocate for Child's Rights. The Child's Ombudsperson monitored the situation of children with sensory disabilities (hearing/vision). In this regard, it was found that the access of children with sensory disabilities to social life remains limited, due to the lack of reasonable infrastructure accommodation: physical access to buildings and public places, access to information, stigma from society as well as discrimination that jeopardizes the process of social integration of children with sensory disabilities.

According to the Government Decision no. 333/2014, communication services through the use of signed languages/mime-gestural language are provided free of charge to people with hearing impairments, including children with sensory disabilities, but, in fact, in most cases, these services are not provided for the simple reason that many children do not know sign language.

The training programme in general schools does not provide for the use of sign language. Emphasis is placed on the development of oral language, to facilitate communication and further integration of hearing impaired children into society.

Access to information and communication remains a problem for children with sensory disabilities, most of the time technological systems, and means of communication do not meet the specific requirements for these children. An eloquent example that can be given, is during the Covid-19 pandemic, the very briefings of the Ministry of Health were not interpreted in sign language. In the case of online education, children with sensory disabilities are the first to encounter problems in acquiring objects due to the lack of adaptation of the educational process to the specific needs of these children.

Concerning the educational inclusion of children with sensory disabilities, most of them are enrolled in general educational institutions. Currently, there are only a few special educational institutions: Theoretical High School with a technological profile for children with poor vision No. 8 in Chisinau, Special Public Institution for Early Education No. 135 for the recovery of vision for children with visual disabilities in Chisinau and Special School No. 12 for hearing-impaired and late deafness children. The State has major backlogs regarding the quality of placement of these children in general institutions. It should be noted that not all educational institutions are equipped with computers that have installed special software for visually impaired children and devices such as: special magnifiers, special monitors that enlarge the image, closed circuit television systems, interactive whiteboards (optical correction devices and visual aids). In general education institutions, there are no special markings.

Although there are positive trends, in the development of different programmes of continuous training of teaching staff by the Republican Centre for Psycho-pedagogical Assistance²⁵⁶, and the municipal/district psycho-pedagogical assistance services that provide methodological support in the process of inclusion of children with sensory deficiencies for teaching staff and children's parents, however, a sensitive point of educational inclusion remains the insufficient training of teachers in the educational process with children with sensory disabilities.

For children with no residual vision or with a residual up to 10%, it is practically impossible to attend general educational institutions under equal conditions with children without such problems. The situation also becomes critical due to the insufficient training of teachers who provide education for visually impaired children. Both parents and teachers cite the insufficient number of support teachers. There is a lack of specialists: defectologists, special education teachers, and psychologists, both in specialized republican institutions and in general education institutions.

²⁵⁶ https://www.legis.md/cautare/getResults?doc_id=22066&lang=ro

Therewith, there are a limited number of didactic materials, both for children with hearing disabilities and those with visual disabilities, most of the materials being with outdated content, and there is a lack of artistic literature edited in the Braille alphabet²⁵⁷. In the Republic of Moldova, there are an estimated 15,000 people with visual disabilities, of which only 2,500 know the Braille alphabet²⁵⁸, in this context “*especially important is the Braille system for children, because the acquisition of writing skills, in addition to literacy, in itself develops and forms the features of mental processes and character traits*”.²⁵⁹

Although the State guarantees the right to health for all children through the system of compulsory insurance, medical assistance and emergencies, however, during the pandemic period it was found that children with sensory (hearing) disabilities do not have full access to these services, the problem lies in language barriers, which are aggravated by wearing masks, which makes “lip-reading” impossible, and the prohibition of sign language interpreter assistance in medical institutions becomes more complicated for these children, due to the rigours imposed by the pandemic situation.

Backlogs also remain at the statistical level concerning visually impaired children, because at the moment there is no data that would represent their real number. There is a lack of disaggregated data classified by all eye diseases, currently only: cataracts, myopia and glaucoma are included. In this regard, specialists recommend including other diseases such as: retina pathology, optic nerve pathology, etc.

Another issue that needs to be addressed is *providing access to infrastructure, transport, information and communications for children with disabilities*. The State has serious delays in adapting pedestrian crossings, sidewalks, access ways to buildings, etc. to specific requirements. Also in this context, the food industry must use embossed symbols on food labels, similarly, these requirements must be met on drug labels. Although at the level of the authorities, the forecast for a series of actions is reported, their implementation is very difficult.

It is necessary to remove the mentioned barriers to facilitate the participation of people with disabilities in different areas of life, increasing their degree of inclusion.

Obviously, the number of social benefits offered to families with children with sensory disabilities often does not cover the consumption basket. This situation is also conditioned by the fact that the minimum subsistence level for a child with disabilities has not yet been

²⁵⁷ <https://ea.md/ce-presupune-alfabetul-braille-si-cat-de-aplicat-este-in-republica-moldova-video/>

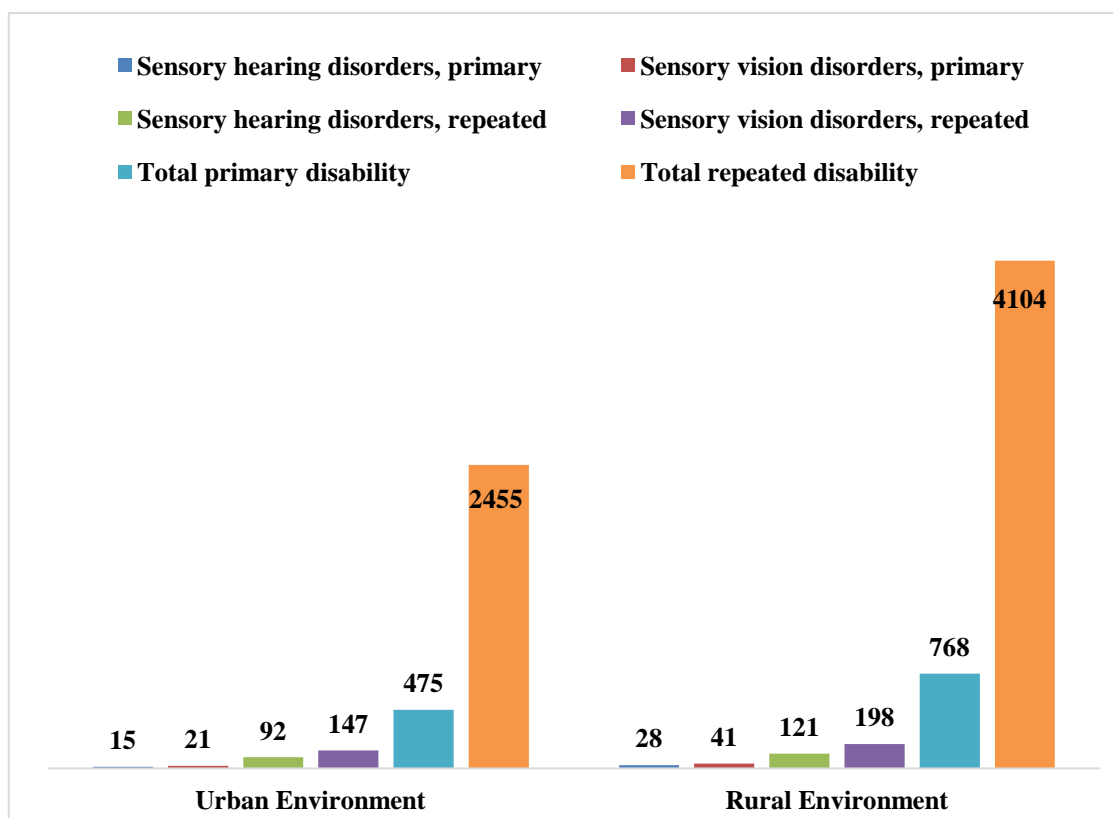
²⁵⁸ <https://medium.com/undp-moldova/alfabetul-braille-utilizat-%C8%99i-%C3%AEn-moldova-pentru-a-oferi-tutoror-acces-egal-la-informa%C8%9Bii-ae5c149b15ca>

²⁵⁹ <https://diez.md/2021/01/04/alfabetul-braille-utilizat-in-moldova-pentru-a-oferi-tutoror-acces-egal-la-informatii-electorale/>

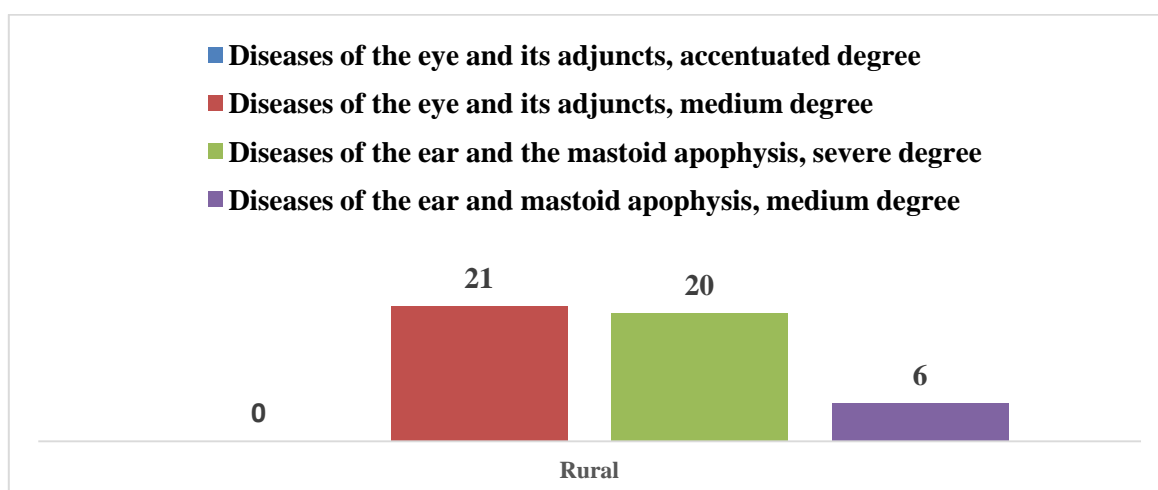
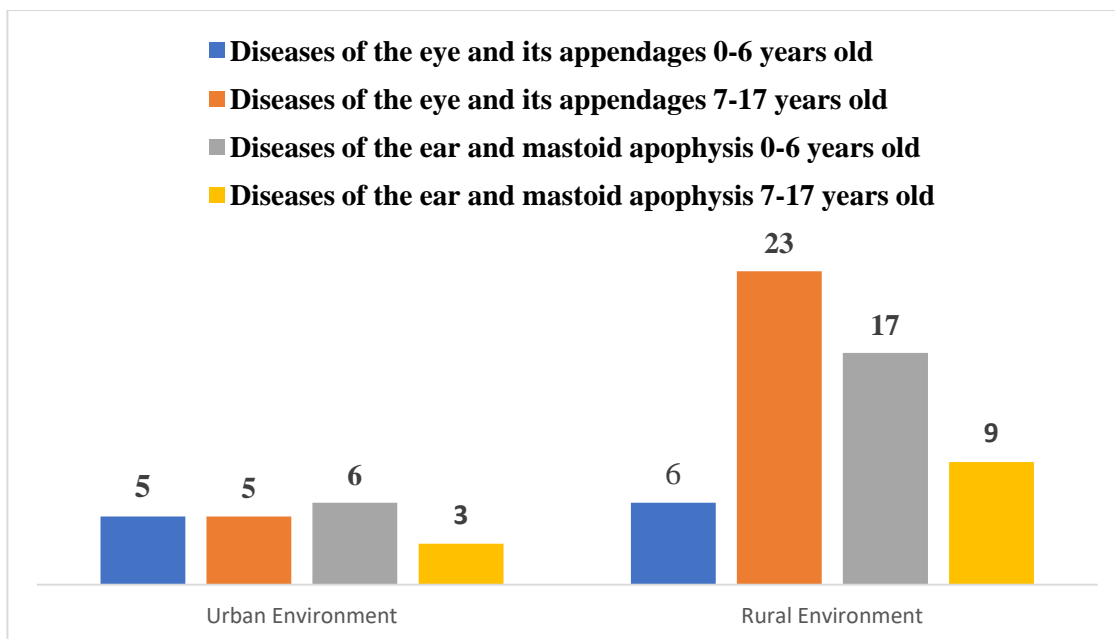
established. In this regard, the Child’s Ombudsperson has warned the authorities responsible for the financial situation of these families several times, submitting proposals to amend the legislation in this regard.²⁶⁰

According to statistical data provided by the Ministry of Health, the number of children with sensory hearing disorders is higher in rural areas than in urban areas. A large number of children with repeated disabilities and the same difference between rural and urban environments were found.

Distribution of children with primary and repeated disabilities by types of functional impairments and living environments



²⁶⁰ <http://ombudsman.md/wp-content/uploads/2021/10/Propunere-minim-existent-semnat.pdf>



Following the monitoring of the implementation of the recommendations of the People's Advocate for Child's Rights, in the segment of social inclusion of children with sensory disabilities, the following was found:

- The Ministry of Education and Research has developed several national policies for educational inclusion, a fact that is positively appreciated, however, there are deficiencies in their implementation.
- The problem of screening remains a current one and, at this moment, most of the time it is carried out formally, which leads to the late detection of sensory disabilities, i.e. the

loss of “precious time”, the subsequent treatment becoming much more expensive and less effective.

- There are still delays in removing the barriers that arise during the movement of people with sensory disabilities. The problems, invoked previously, persist when crossing the streets by people with sensory disabilities (hearing/vision), walking on the sidewalks, during commuting/travelling in/out of the city, because there is no audio information at most traffic lights, but also in public transport, as well as at bus stations, etc.
- Up to now, no calculation formula has been developed for establishing the minimum subsistence level of children with disabilities.
- Backlogs also remain in the creation of day centres for children with sensory disabilities. Currently, they are only in Chisinau and Balti.
- Although the State, through the Ministry of Education and Research in collaboration with international organizations, has made efforts to equip educational institutions with special assistance equipment, children with sensory disabilities face difficulties in purchasing this equipment.
- Difficulties arise in the communication/interaction of teaching staff with children with sensory disabilities, due to insufficient staff training, which leads to failures in terms of inclusive education. There is a lack of specialists: defectologists, special education teachers, and psychologists, both in specialized educational institutions and in general education institutions.
- The lack of supporting teaching staff and the didactic standard much higher than the possibilities to assist children with special educational needs remains one of the most acute problems in this field.
- Lack of teaching materials in the Braille alphabet.
- Most media institutions have not adapted informative, artistic entertainment programmes, etc., for people/children with hearing disabilities (simultaneous captions/translation provided by the mime-gestural interpreter, etc.).
- Lack of disaggregated, real data regarding the statistics of children with sensory disabilities in the Republic of Moldova.

To improve the situation of children with sensory disabilities, the People’s Advocate for Child’s Rights makes the following **RECOMMENDATIONS:**

- **The Ministry of Health** will identify effective measures in excluding the formalism regarding the screening of children, to identify sensory disabilities at the earliest possible stage.

- **The Ministry of Health, the Ministry of Education and Research, the Ministry of Labour and Social Protection, and the National Bureau of Statistics** will streamline the operation of the cross-sectoral cooperation mechanism, including, the implementation of a unique data collection system disaggregated by type and form of disability.
- **The Ministry of Labour and Social Protection, and the National Bureau of Statistics** will develop the calculation formula regarding the establishment of the subsistence minimum for children with disabilities.
- **The Ministry of Labour and Social Protection** will analyse the situation and ensure the creation of placement and rehabilitation services to meet the needs of these people.
- **The Ministry of Education and Research** will identify effective measures to implement national educational inclusion policies, to increase accessibility to materials and equipment needed in the teaching process for children with hearing and visual disabilities, including the editing of teaching materials in the Braille alphabet.
- **The Ministry of Education and Research** will develop training, development and information programmes for teaching staff and supporting teaching staff.
- **The Ministry of Education and Research** will revise the staff policy to reduce the number of children returning to supportive teaching staff or to replace the number of these specialists.
- **The Ministry of Transport and Road Infrastructure**, jointly with local authorities, will streamline social inclusion policies, removing existing barriers for people/children with sensory disabilities (pavement markings, sound signals at intersections, at stations and including in public transport, etc.).
- **The Audiovisual Council** will review its policies to compel media service providers to increase the number of news/artistic/entertainment etc. audiovisual programmes, interpreted in mime-gestural language or by synchronous titration, ensuring access to information for people/children with hearing impairments.

VI. THE RIGHTS OF CHILDREN WITHIN THE TEMPORARY PLACEMENT CENTRE FOR CHILDREN WITH DISABILITIES IN HÂNCEȘTI AND ORHEI

The ratification by the Republic of Moldova in 2010 of the UN Convention on the Rights of Persons with Disabilities²⁶¹ and the Optional Protocol to the Convention in November

²⁶¹ https://www.legis.md/cautare/getResults?doc_id=117839&lang=ro

2021²⁶² marked important changes in the field of social inclusion of people with disabilities. The Republic of Moldova has assumed the obligation to take all the necessary measures so that children with disabilities can fully enjoy all the fundamental rights and freedoms, under conditions of equality with other children.

By applying the procedures regulated by the legislation and to improve the situation of children placed in the respective institutions, the People's Advocate for Child's Rights, but also the Council for the Prevention of Torture, whose member is the Child's Ombudsperson, developed a series of reports: "*Preliminary report based on the visit to the Boarding Home for mentally challenged children (boys) in Orhei dated September 8, 2015*"²⁶³; "*Review of the situation of children placed in the Orhei and Hâncești Boarding Homes with mental deficiencies in the process of deinstitutionalization*"²⁶⁴; "*Report on the preventive visit carried out in the Boarding Home for mentally challenged children (girls) Hâncești dated March 16, 2018*"²⁶⁵; "*Report on the preventive visit carried out in the boarding house for children with mental deficiencies (boys) Orhei dated March 20, 2018*"²⁶⁶; "*Report on the monitoring visits of compliance with basic guarantees during the Covid19 epidemic within the Temporary Placement Centres for Children with Disabilities (Orhei and Hâncești), made on October 6, 2020 and October 20, 2020*"²⁶⁷. Following the monitoring carried out, based on the findings and conclusions reached, the Child's Ombudsperson submitted several recommendations both at the central and local level, and the level of compliance and implementation was also reflected in the Annual Reports on the observance of children's rights in the Republic of Moldova^{268, 269, 270, 271}.

As part of monitoring the implementation of the recommendations submitted during the term of office, to the respective department, in 2021, the People's Advocate for Child's Rights ordered the analysis of the degree of their realization as well as the identification of the problems that led to the creation of impediments in the full implementation of the

²⁶² https://eur-lex.europa.eu/resource.html?uri=cellar:a77c14ef-972e-44cc-81dd-c104c8218c20.0013.02/DOC_3&format=PDF

²⁶³ http://old.ombudsman.md/sites/default/files/document/attachments/raportul_vizitei_orhei_2015r.pdf

²⁶⁴ http://ombudsman.md/wp-content/uploads/2018/10/raport_diz_2017_red_0.pdf

²⁶⁵ <http://ombudsman.md/wp-content/uploads/2019/07/Raport-privind-vizita-preventiv%C4%83-efectuat%C4%83-%C3%AEn-Casa-internat-pentru-copii-cu-deficien%C5%A3e-mintale-fete-or.-H%C3%AEnce%C5%9Fti-din-16-martie-2018.pdf>

²⁶⁶ <http://ombudsman.md/wp-content/uploads/2019/07/Raport-privind-vizita-preventiv%C4%83-efectuat%C4%83-la-Casa-internat-pentru-copii-cu-deficien%C8%9Be-mintale-b%C4%83ie%C8%9Bi-din-ora%C8%99ul-Orhei-din-20-martie-2018.pdf>

²⁶⁷ <http://ombudsman.md/wp-content/uploads/2021/02/08-1-04-din-16.02.2021-CPTCD-Orhei-Raport-p-d-vizita-la-CPTPD-H%C3%A2nce%C8%99ti-la-06.10.2020-%C8%99i-CPTPD-Orhei-la-20.10.2020.pdf>

²⁶⁸ http://ombudsman.md/wp-content/uploads/2018/10/raport_2015_final.pdf

²⁶⁹ <http://ombudsman.md/wp-content/uploads/2018/10/raport2017redfinal.pdf>

²⁷⁰ http://ombudsman.md/wp-content/uploads/2020/01/RAPORT_2018_final.pdf

²⁷¹ http://ombudsman.md/wp-content/uploads/2020/09/Avocatul-Poporului_Raport-_aprobare-pentru-tipar.pdf

recommendations with the subsequent establishment of new viable observations, a report in this sense also being drawn up.²⁷²

Children with disabilities do not fully benefit from the specialized services they need, due to the lack or a limited number of these services, thus children with disabilities are excluded from the activities of everyday life. In this context, the Child's Ombudsperson reiterates that every child, including those with mental disabilities, has the right to a decent life and affection. The nature of mental deficiencies may be different from person to person, however, this fact is not a reason to limit these people's rights and opportunities. Practice and reality prove that, in the condition of social acceptance of people with mental disabilities, the deficiency is not an obstacle to a normal life of the person in society. Only as a result of the full provision of the necessary assistance, people with mental deficiencies can achieve the expected results in various fields.

Some officials, empowered by the State with obligations and responsibilities in the field of social assistance, protection, and integration of the respective category of children, continue to see residential institutions as the best way to care for vulnerable children who require various types of support. In this regard, institutional care has invariably led to lower quality of life outcomes, often equating to segregation, compared to quality services in the community. It is especially worth noting that when it comes to toddlers, even the relatively short period spent in institutional placement can negatively affect their psycho-emotional development and have consequences on their behaviour. In this context, *the People's Advocate for Child's Rights reiterates his view that institutionalization is an ineffective policy and a violation of children's rights.*

According to the data from the National Bureau of Statistics²⁷³, of the total number of children up to 18 years of age, 1.6% are children with disabilities (about 10,700 children).²⁷⁴

In the Republic of Moldova, two residential institutions are active, which are subordinate to the National Agency for Social Assistance within the Ministry of Labour and Social Protection, which provide specialized services to children with mental disabilities: *Temporary Placement Centre for Children with Disabilities in municipality Hâncești (for girls) and Temporary Placement Centre for Children with Disabilities in Orhei municipality (for boys).* The purpose of the mentioned institutions is to provide services and medical and psychological-pedagogical assistance for the growth and development of the children who are

²⁷² <https://ombudsman.md/wp-content/uploads/2021/11/Raport-Orhei-H%C3%AEnce%C8%99ti-final-.pdf>

²⁷³ <https://statistica.gov.md/newsview.php?l=ro&idc=168&id=7194&parent=0>

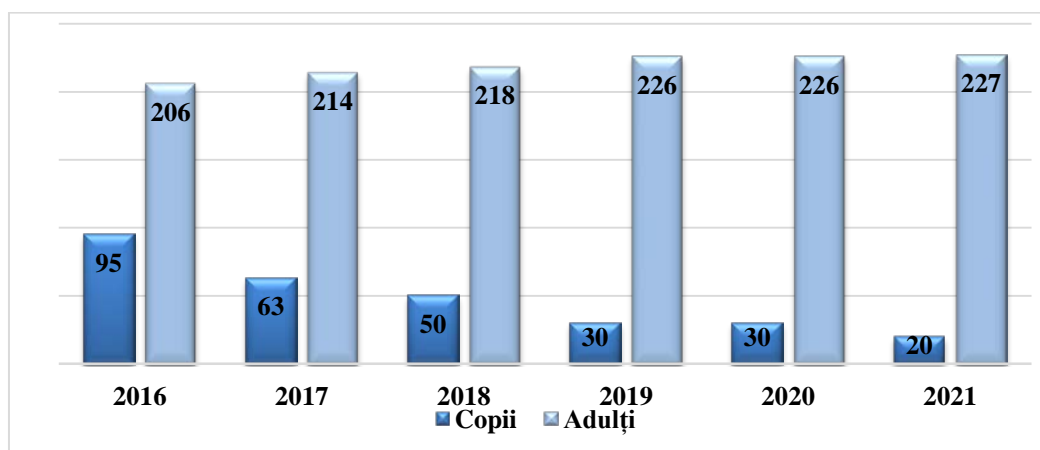
²⁷⁴ The Implementation of the UN Convention on the Rights of Persons with Disabilities report, available here: <https://msmps.gov.md/wp-content/uploads/2020/08/RAPORT-implementare-Conventie-ONU-privind-drepturile-persoanelor-cu-dizabilitati.pdf>

in these institutions, as well as to facilitate the process of reintegration into the family environment and subsequent community and social inclusion.

The reform of the residential system has placed new emphasis on the need to adapt the activity of residential institutions to the needs and wants of children. These will improve their capacity and ability not only to institutionalize children with severe mental deficiencies but also to offer them quality services, which would accelerate the process of deinstitutionalization and inclusion in the community. For these reasons, they insist on perfecting the staff and establishing an effective individual rehabilitation programme for each child in such institutions.

In 2021, these institutions being monitored, it was found that they continue to operate based on the *Framework Regulation on the organization and operation of the Boarding Home for children with mental deficiencies*, although the recommendation to improve these Regulations was submitted by the People’s Advocate for Child’s Rights, in 2017, in the report: “Review of the situation of children placed in the Orhei and Hâncești Boarding Homes with mental deficiencies in the process of deinstitutionalization”²⁷⁵. According to the response of the National Agency for Social Assistance²⁷⁶, the framework regulations of the nominated institutions were in the finalization process.

According to the data presented²⁷⁷ by the Centre for Temporary Placement of Children with Disabilities in Hâncești municipality, from the total number of people in the institution, it is found that the number of children is clearly lower than the number of adults, the same situation has been attested during the last 6 years.



The number of people in the Temporary Placement Centre for Children with Disabilities in Hâncești municipality, during 2016-2021

At the time of the visit in 2021, there were 187 beneficiaries in the Temporary

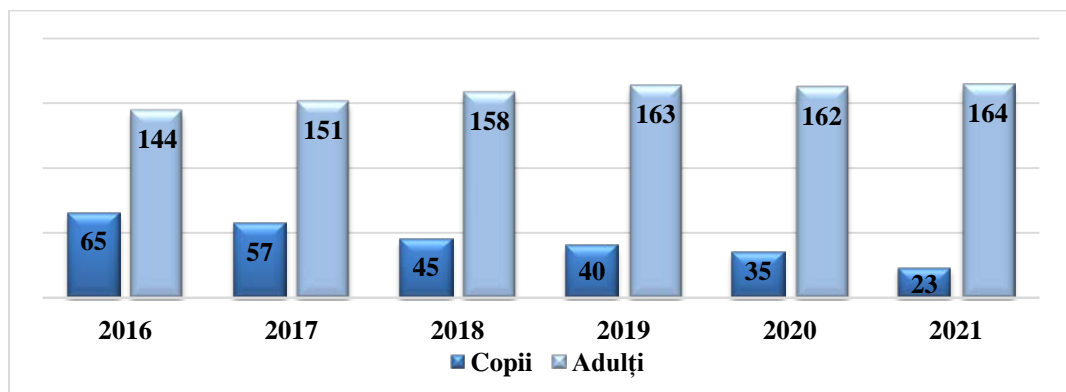
²⁷⁵ https://ombudsman.md/wp-content/uploads/2018/10/raport_diz_2017_red_0.pdf

²⁷⁶ Letter of the National Agency for Social Assistance no. 101/1000 of 25.05.2021;

²⁷⁷ Letter from the Centre for Temporary Placement of Children with Disabilities in Hâncești municipality no. 44 of 06.05.2021;

Placement Centre for Children with Disabilities in the municipality Orhei municipality, of which 23 were children.

Analysing the data provided by the Centre for Temporary Placement of Children with Disabilities in Orhei municipality, it is also worth noting the high numerical ratio between adults and children in the institution during the last 6 years.



The number of people in the Temporary Placement Centre for Children with Disabilities in Orhei municipality, during 2016-2021

In the context of the above, the Child's Ombudsperson notes that in the two institutions predestined for the placement of children with severe disabilities there are currently a much larger number of adults than children, *a fact that goes against the Recommendations of the United Nations Organization²⁷⁸ in the field of child protection and can endanger the life and health of children.* The presence of a large number of adult beneficiaries in this institution is proof of the ineffective actions of the State, to deinstitutionalize and integrate them into a family environment.

According to previous monitoring, the position of *psychologist* was not foreseen in the staff structure. Therefore, in both institutions, there was no psychologist position, which is absolutely necessary for the process of rehabilitation and social (re)integration of the wards. In the given context, the Child's Ombudsperson submitted the recommendation to establish the position of psychologist/psychotherapist on the staff. Analysing the current situation, according to the Staffing Schemes of 2021, currently, in both institutions, the position of a psychologist is provided, a fact positively appreciated by the Child's Ombudsperson.

Analysing the staff, based on the specifics and purpose of the institution, it was found that the number of nannies was insufficient concerning the contingent of beneficiaries, being

²⁷⁸ https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/TBSearch.aspx?Lang=en&TreatyID=5&DocTypeID=11

impossible to satisfy their real needs. The lack of salary motivation is the main cause that generates insufficiency and high staff turnover.

In the process of monitoring the Temporary Placement Centre for Children with Disabilities in Hâncești municipality, it was found that each group of beneficiaries (including children) for social-educational integration has a well-defined educational plan, which takes into account their particularities of intellectual development. Therewith, it is to be appreciated that for 20 beneficiaries (including 4 children) an improvised school is opened that operates according to an individual activity plan and curriculum for each child.

According to the administration of the Centre for Temporary Placement of Children with Disabilities in the municipality of Orhei, 3 children from the centre are enrolled in the gymnasium in the community, in 1st and 2nd forms, benefiting from the support of the educational institution to facilitate social-educational integration.

Based on the degree of severe disability of the other beneficiaries, which serves as an impediment to achieving social inclusion, the People's Advocate for Child's Rights notes that actions have been taken, but there are still some reservations in this compartment.

In the process of monitoring this compartment, the number of children reintegrated into the family and community was also analysed. Therefore, it was found that during the period 2016-2021, within the Temporary Placement Centre for Children with Disabilities in Hâncești municipality, 6 children were reintegrated into their biological families.

Therewith, during 2016-2021, and within the Temporary Placement Centre for Children with Disabilities in Orhei municipality, 3 children were reintegrated into their biological families.

In conclusion, it is found that the small number of children, including in the deinstitutionalization process, demonstrates that the degree of disability of the children is severe, and the process of rehabilitation and preparation of the wards for life in the community is difficult. The biological/extended family is neither morally nor materially prepared to take the child into the family. They are not trained and lack the caregiving skills to meet the needs of these children. Because of the health problems and needs that children have, it is quite problematic to identify another form of protection.

In the given context, the Ministry of Labour and Social Protection informed that to ensure the access of people with disabilities, including children, to different types of social services, regulations and minimum quality standards related to the organization and operation of several types of specialized social services were developed and approved: *Social Service "Casa Comunitară (Community House)"*, *Social Service "Locuința Protejată (Protected Housing)"*, *Social Service "Echipa Mobilă (Mobile Team)"*, *Social Service "Asistența*

Personală (Personal Assistance)", Social Service "Respiro", Social Service "Family Placement for Adults", Mimic-Gesture Interpretation Service For People With Hearing Impairments, and others.

Concomitant, disabled people, including disabled children, benefit, as appropriate, from several types of social benefits: disability pension or state social allowance, allowance for care, accompaniment and supervision, state financial support, compensation for transport services, as appropriate, social aid and aid for the cold period of the year, material aid.

Therewith, the Ministry mentions that the subsistence minimum is calculated for 3 socio-demographic groups: the population of working age, children (different age groups) and people over the retirement age limit. For the categories of disadvantaged persons, including persons and children with disabilities, the state, according to the provisions of the legislation in force, grants them support in the form of benefits and social services, depending on the individual needs and arising from the financial possibilities of the State.

Analysing the information provided by the Ministry, we can conclude that this does not refer to the recommendation that was made by the Child's Ombudsperson in 2016, or the problem was addressed since 2013²⁷⁹, thus the recommendation is considered to be unfulfilled and the problem unresolved.

Obviously, the number of social benefits offered to families with disabled children often does not cover the consumption basket. This situation is conditioned by the fact that the subsistence minimum for a child with disabilities has not yet been established. In the context of the aforementioned, the **People's Advocate for Child's Rights** submitted to the Parliament of the Republic of Moldova a proposal to amend the legislation, to establish the minimum subsistence value for children with disabilities at the national level²⁸⁰.

One of the previous findings of the Child's Ombudsperson concerning the Orhei Boarding Home for mentally challenged children (boys) was the lack of necessary furniture, as well as technical devices (computers, tables for computers, wardrobe for the beneficiaries' clothes).

In the 2021 monitoring process, the administration of the Centre for Temporary Placement for Children with Disabilities in Hâncești municipality claimed that the institution was provided with furniture, equipment, and didactic material according to the needs of the children. Another situation indicated the Centre for Temporary Placement for Children with Disabilities in Orhei municipality, noting that the institution was partially provided with the

²⁷⁹ http://old.ombudsman.md/sites/default/files/document/attachments/raport_temat.pdf, Thematic report "Monitoring the standard of living of families in which there are persons with severe disabilities, who require care from a third person";

²⁸⁰ <http://ombudsman.md/wp-content/uploads/2021/10/Propunere-minim-existent-temat.pdf>

necessary support in the purchase of furniture and equipment, claiming that equipment is needed for people who are horizontally immobilized and are in serious condition.

The National Agency for Social Assistance, in the answer given to the People's Advocate for Child's Rights, informs that in the chapter on providing the institutions concerned with the necessary support, the purchase of furniture and equipment, they arise from the needs of the children in the institution and mentions that this is done according to the approved budget. Thus, we find that the issue of providing children with the necessary equipment remains unsolved.

The People's Advocate for Child's Rights considers it necessary to promote the idea that each child will be in foster care until the moment of reintegration into the biological or extended family or until an alternative service to residential placement is identified. It is unfair to obstruct the possibility of social integration for someone, regardless of the severity of the impairment he/she has.

As per Minimum Quality Standards regarding the care, education and socialization of children in residential institutions²⁸¹: "Children only receive residential care after all efforts have been made and after all family-based alternatives have been exhausted. Institutional placement is the last option for child protection."

The National Agency for Social Assistance mentions that by Government Decision no. 893/2018, on the approval of the National Programme for the deinstitutionalization of people with intellectual and psychosocial disabilities from subordinate residential institutions and the Action Plan on its implementation, for 2018-2026, it aims to reform the residential care system for people with intellectual and psychosocial disabilities by developing and providing community social services, to ensure the right to independent life and community living of people with intellectual and psychosocial disabilities.

We appreciate that despite the existence of the legal framework, the number of people who are in the concerned institutions is relatively large.

According to Article 51 of the Constitution of the Republic of Moldova, disabled persons shall enjoy special protection from the whole of society. The State shall ensure normal conditions for medical treatment and rehabilitation, education, training and social integration of disabled persons.

General Comment No. 9 (2006) of the UN Committee on the Rights of the Child, stipulates that Article 23 of the UN Convention on the Rights of the Child should be considered as the essential principle for its implementation, regarding children with

²⁸¹ Points 28 and 29 of the Minimum Quality Standards regarding the care, education and socialization of children in residential institutions, approved by the Decision of the Government of the Republic of Moldova no. 432 of April 20, 2007;

disabilities benefiting from a fulfilled and decent life in conditions that guarantee their dignity, to favour their autonomy and facilitate their active participation in community life. The measures taken by States Parties regarding the realization of the rights of children with disabilities should be directed towards this objective. The underlying message is that children with disabilities should be included in society. Measures taken to implement the rights contained in the Convention regarding children with disabilities, for example in the fields of education and health, should explicitly aim at the maximum inclusion of these children in society.

The resources allocated to children with disabilities should be sufficient and intended to meet all their needs, including established programmes for the training of professionals working with children with disabilities such as teachers, physiotherapists and decision-makers; education campaigns; financial support for families; income maintenance; social security; assistive devices and related services. In addition, funding must be provided for other programmes aimed at including children with disabilities in mainstream education, including renovating schools to make them physically accessible to children with disabilities.

The People's Advocate for Child's Rights finds that services for children with disabilities are often provided by different government institutions and civil society organizations, most often these services are fragmented, lack continuity and are not coordinated, leading to overlapping functions and repetition of deficiencies. Therefore, establishing an appropriate coordination mechanism becomes essential. This mechanism should be multi-sectoral, including all public or private organizations. It must be empowered and supported with the appropriate financial and human resources required from the highest levels of government to enable it to function to its full potential.

Monitoring the situation of children with disabilities in the targeted foster care centres, as well as the recommendations submitted by the Child's Ombudsperson, it is found that although the care of children with disabilities is an obligation of the state, civil society organizations often perform these functions without proper support, funding or recognition from the authorities. Therefore, they are encouraged to support and cooperate with non-commercial organizations that enable them to participate in the provision of services for children with disabilities, including the training of care and professional staff and to ensure that they operate in full compliance with the provisions and principles of the Convention.

The People's Advocate for Child's Rights reiterates that children with disabilities are best cared for within their own family environment, provided the family is properly provided for in all aspects. Such support for families includes educating the parent(s) and siblings not only about the disability and its causes but also about each children's unique physical and

mental needs; psychological support sensitive to the stress and difficulties imposed on families of children with disabilities; teaching the common language of the family, for example, sign language, so that parents and siblings can communicate with disabled family members; material support in the form of special allowances, as well as necessary supplies and equipment, such as special furniture and mobility devices, which are considered necessary for the disabled child to live a dignified, independent lifestyle and be fully included in the family and community.

During the monitoring process, the lack of a mechanism for post-institutional monitoring of children with disabilities was also found.

To ensure respect for the rights of children with disabilities, the People's Advocate for Child's Rights makes the following **RECOMMENDATIONS:**

- **The Ministry of Labour and Social Protection, and the National Bureau of Statistics** will develop a formula for calculating the subsistence minimum for persons/children with disabilities, including disaggregated by type of disability;
- **The Ministry of Labour and Social Protection** will establish unified cross-sectoral mechanisms for post-institutional monitoring of children with disabilities for the development of cross-sectoral programmes for the protection of children with disabilities at the local and national levels;
- **The Ministry of Labour and Social Protection, and the Ministry of Health** will develop training programmes, including continuous and on-the-job training for all authorities of cross-sectoral cooperation mechanisms that consider a unique approach for the whole country on each mechanism addressed in the field of observing the rights of children with disabilities;
- **The Ministry of Labour and Social Protection, and the Ministry of Health** will develop training programmes, including continuous and on-the-job training for psychologists, care staff, educators, and other representatives involved in the activity with children with disabilities;
- **The Ministry of Labour and Social Protection** will request the competent authorities to lift the moratorium on care functions and auxiliary staff within the Temporary Placement Centres for children with disabilities in Hâncești and Orhei municipalities;
- **The Ministry of Labour and Social Protection, and the National Agency for Social Assistance** will develop the implementation, monitoring and review of a comprehensive policy covering all areas regulated by the Convention, which will be supported by sufficient human, technical and financial resources to cover the needs of

- children with disabilities (including necessary equipment);
- **The Ministry of Labour and Social Protection, and the National Agency for Social Assistance** will establish and develop policies, mechanisms and tools for inter-institutional collaboration between the local guardianship authority and specialized institutions for children with disabilities.

VII. REVIEW OF OBSERVANCE OF THE RIGHTS AND FREEDOMS OF CHILDREN IN THE PHTHISIOPNEUMOLOGICAL REHABILITATION CENTRES FOR CHILDREN IN CORNEȘTI AND TÂRNOVA

In 2021, the People's Advocate for Child's Rights analysed the observance of the *rights of children in the Phthisiopneumological Rehabilitation Centres for Children in Cornești and Târnova*. It should be noted that the respective subject has always been in the sights of the People's Advocate for Child's Rights, and the conclusions and recommendations were presented in the Report on the preventive visit carried out at the Phthisiopneumological Rehabilitation Centre for Children in Cornești, Ungheni district²⁸², developed in 2013.

In 2021, the People's Advocate for Child's Rights analysed the situation of the children placed in the mentioned institutions and therefore developed the Thematic Report "*Review of the observance of rights and freedoms of children institutionalized in the Phthisiopneumological Rehabilitation Centres for Children in Târnova and Cornești*".

As part of the process of monitoring and evaluating the situation of these children, the People's Advocate for Child's Rights is concerned with the issue of observing children's rights during placement in the Phthisiopneumological Rehabilitation Centres for children in Cornești and Târnova, analysing: the legal framework that regulates this segment; services intended for children, which the respective institutions provide and their impact on the rights of the child; as well as the efficiency of social services intended for children who are placed in the respective centres.

The severity of the tuberculosis epidemic in the Republic of Moldova remains conditioned by the diversity of socio-economic problems faced by patients and their families. The needs of the tuberculosis patient are often multidimensional, and the medical and support services provided by the legislation are insufficient to cover them, including social and psychological support.

²⁸² http://ombudsman.md/wp-content/uploads/2018/10/raport_ftiziopneumologic_cornesti_2013-1.pdf

At the international level, from the perspective of the UN Convention on the Rights of the Child²⁸³, which regulates the protection of the rights of children placed in the Phthisiopneumological Rehabilitation Centres for Children in Târnova and Cornești, the provisions of Articles 24, 25 and 26 analysed in conjunction with the other provisions outlined in the international treaty.

In this regard, the UN Committee for the Rights of the Child²⁸⁴ encourages States Parties to adopt the most child-friendly solutions possible for children suffering from this condition. The committee indicates that “tuberculosis as a disease will leave deep consequences in the medical aspect of the child, so the states must ensure that they will take all the necessary measures to not admit torture/stigmatization on a social level”²⁸⁵.

Concerning the normative framework in force in the Republic of Moldova to prevent and combat tuberculosis among children, we primarily mention the Constitution of the Republic of Moldova²⁸⁶ which by Article 36 “Right to social assistance and protection” and Article 50 “Mother, Child and Youth Protection”, protects children suffering from tuberculosis.

From the legislative framework, it is primarily necessary to highlight *Law no. 153 of July 4, 2008, on the control and prevention of tuberculosis*²⁸⁷, which regulates the implementation of the state policy in the field of tuberculosis control and prevention to protect the health of citizens and ensure the sanitary-epidemiological well-being of the population.

However, the law does not regulate the protection of persons who are subject to coercive treatment measures, stipulating only in Article 15 paragraph (2) that “The method of applying the coercive treatment and medical supervision of the category of patients mentioned in paragraph (1) is established by the Government”.

Government Decision no. 295/2012 provides a wide range of actions that must be followed before deciding to hospitalize the patient.

A constant problem, however, in this chapter is the coercive hospitalization of children who are diagnosed with contagious tuberculosis. Although Law no. 153/2008 on the control and prophylaxis of tuberculosis provides in Article 13, paragraph (2) that “Anti-tuberculosis medical assistance is granted to children up to 18 years of age, to persons subject to judicial protection measures in the form of guardianship with the consent of the legal representative,

²⁸³ https://drepturilecopilului.md/files/publications/CDC_2005_final.pdf

²⁸⁴ <https://www.ohchr.org/EN/HRBodies/CRC/Pages/CRCIntro.aspx>

²⁸⁵ https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2fGC%2f2003%2f3&Lang=en

²⁸⁶

file:///C:/Users/OMBUDSMAN/Downloads/Constitutia%20RM%20format%20mic%20Rom%20Tipar%2014-07-2016.pdf

²⁸⁷ https://www.legis.md/cautare/getResults?doc_id=110512&lang=ro

except for the cases provided by this Law and other legislative and regulatory documents in force”²⁸⁸, in Article 16, paragraph (4) establishes that “...children from tuberculosis outbreaks are isolated for preventive treatment in specialized care institutions”²⁸⁹, a fact that allows, on the one hand, the conclusion that coercive internment of children is possible, and on the other hand, it does not offer any legal control mechanism, which would respond to the best interest of the child.

First of all, the stated regulatory document is to be corroborated with the *principle of observing the right to life and development of the child*. Although that principle is a general one and is found in most international treaties, it is noted that this principle is omitted in most national legislative rules.

Another principle to which the national legislation was to be connected is *the principle of non-discrimination*, enshrined in Article 2 of the UN Convention on the Rights of the Child. Although it is highlighted that this is a general principle that is uniformly recognized in all human rights protection instruments, children as a special group should benefit from special protection concerning it.

The principle of the children’s best interest is the third basic element in the protection of the children’s rights. Thus, in the implementation of the provisions of the regulatory documents in the tuberculosis segment, the legislator must ensure that all the actions that will be taken by the holders of obligations will be in strict accordance with this principle and will not harm the interests of the child. Although at first glance it would be logical and correct to consider that in health-related issues the other rights are placed in a secondary place, nevertheless under the provisions of the Convention and the recommendations of the UN Committee on the Rights of the Child, all rights are to be implemented uniformly.

The last principle that was to be incorporated into the analysed national legislation is *the principle of observing the children’s opinions and participation in the decision-making process in the segments that target them*. Thereby, it is obvious that neither Law 153/2008 nor Government Decision 295/2012 provides for a mechanism to train the child in the decision-making process, consequently, the child is excluded from decision-making in this segment. The argument that health-related issues are far too serious to be discussed with children cannot be accepted, because the State must present any type of information in a manner as friendly as possible and in line with the children’s level of development.

In conclusion, it is highlighted that the analysed regulatory documents do not correspond to any of the principles established by the UN Convention regarding the rights of

²⁸⁸ Idem;

²⁸⁹ Ibidem;

the child, the need for a reshuffle of the existing situation is obvious, by modifying the existing regulatory documents.

From the field of social protection of children suffering from tuberculosis, it is necessary to mention Law no. 140 of June 14, 2013, on special protection of children at risk and children separated from their parents. Although that law does not establish a special protection measure for children suffering from tuberculosis or children in tuberculosis outbreaks, it covers their situation through the prism of the provisions of Article 8, letter d) “children are deprived of care and supervision by their parents due to their absence from home for unknown reasons”²⁹⁰. Thereby, in the situation where the children’s parents were diagnosed with tuberculosis and were directed to undergo the treatment procedure in a specialized medical institution, the guardianship authorities of levels I and II are to undertake concrete measures to ensure the protection of the identified children.

The major child protection issue arises when the parents are diagnosed positive and the children test negative. In such situations, once children have left the medical institution, they are considered children at risk, being potential children who can practice vagrancy or begging. That situation happens because of the social stigmatization of families suffering from tuberculosis and because the guardianship authorities of the first level (town halls) are unwilling or unable to provide effective protection for the child coming from the tuberculosis outbreak.

To avoid worsening the risk situation of the child temporarily left without parental care due to the hospitalization of the legal representatives in medical institutions, the representative of the local guardianship authority, the child protection specialist (if there are, according to the latest data there were only 17 specialists in the whole country), or the social worker is to decide on the children’s emergency placement within 72 hours. According to the international and national standards in the field, in such situations priority should be given to emergency placement within the extended biological family (grandparents, uncles, aunts) however, in reality, it is found that these children are placed in the Phthisiopneumological Rehabilitation Centres for Children in Cornești or Târnova.

Determining this category of children as being at risk, we can conclude that Law 140/2013, as in other related situations, did not provide for the “periodic review of the placement of the child”, provided for by the UN Convention on the Rights of the Child in Article 25²⁹¹. As a result, children who are initially to be placed for a maximum period of 6

²⁹⁰ https://www.legis.md/cautare/getResults?doc_id=110518&lang=ro

²⁹¹ https://drepturilecopilului.md/files/publications/CDC_2005_final.pdf

months can be in such institutions for several years, without any relatives or authorities taking an interest in their fate.

In conclusion, the need to amend Law no. 140/2013 in the context of the specific aspects of children who are/were in tuberculosis centres and the provisions related to the review of the placement of institutionalized children in specialized recovery centres.

Analysing Government Decision No. 1160 of October 20, 2016, on approval of the National Tuberculosis Control Programme for 2016-2020, (*the first National Programme being legislated by Government Decision No. 559 of May 28, 2001, for 2011-2005*), although almost 20 years have passed since the adoption of the first national programme, the situation in the field of tuberculosis prevention has not seen positive changes, on the contrary, it has worsened. It should be noted that during the year 2001, when the first National Tuberculosis Control Programme was developed, the number of people who were infected with this disease was 2895²⁹², and in 2020 according to the data of the Institute of Phthisiopneumology, the number of people sick with tuberculosis reached 3255, of which 159²⁹³ were children.

Following the analysis of those documents, we conclude that they do not correspond to the principle of the children's best interest and cannot fully ensure effective protection for children suffering from tuberculosis. Although the legislator has modified over time and adopted four National Tuberculosis Control Programmes, they do nothing but worsen the real situation of the child, focusing only on the health aspect, and the other aspects necessary for the proper development of the child are practically totally neglected.

From the perspective of the legislation analysed on the subject addressed, we conclude that although the Republic of Moldova has relevant legislation to protect people against tuberculosis, its implementation is flawed, requiring changes/adjustments and enforcement mechanisms, to allow specialists to approach a correct policy that responds to the best interest of the child.

In conclusion, the People's Advocate for Child's Rights concludes that the national authorities are to implement a series of actions at the legislative level to raise the level of compatibility between the national and international normative framework.

Cornești Children's Physiopneumological Rehabilitation Centre

Cornești Children's Physiopneumological Rehabilitation Centre was established based on Government Decision no. 212 of February 22, 2002, on the reorganization of sanatoriums

²⁹² https://www.legis.md/cautare/getResults?doc_id=47137&lang=ro

²⁹³ <http://ftiziopneumologie.asm.md/>

for children under the Ministry of Health, based on the former anti-tuberculosis sanatorium for children Cornești, taking over the functions of the latter.

The capacity of the centre is 100 beds, predestined for children aged from 3 to 11 years from all over the Republic of Moldova, children with local tuberculous processes in the involution phase, with post tuberculosis sequelae, in the early or late period of tuberculous contamination, with hyperergic reactions and tuberculin jump, contaminated and uncontaminated from tuberculosis foci, with chronic non-specific diseases of the respiratory organs and children who frequently get respiratory infections.

In its immediate activity, the Cornești Centre is guided by a series of legislative acts, and on March 18, 2002, the Statute of the Cornești Pneumology Rehabilitation Centre for Children was adopted. In the discussions with the Centre's administration, it was mentioned that in 2019 a project of the Activity Regulation was developed, which was sent for *approval and approval to the Ministry of Health, but which has not been tested even to the current stage.*

In 2021, the Centre accommodated 199 children, of which 114 were boys and 85 were girls, a number that is increasing compared to the same period of 2020 when the total number of hospitalized children was 128.

During the monitoring, attention was drawn to the observance of tangential rights of the residential system of the institution. Thus, concerning the observance of **the right to education**, it was concluded that the institution has 12 teachers who ensure the physical exercise of the children's right to education. Because the institution specializes in the institutionalization of children from 3-11 years old, the educational process from the preschool cycle and the primary cycle of general education is mostly ensured here. The Cornești Centre provides the children with the necessary textbooks according to the study curriculum and with the necessary office supplies, from the institution's budget. The education programme is carried out according to the national curriculum, and the taught subjects correspond to the field approved by the Ministry of Education and Research.

However, during the discussions with the administration of the institution, it was highlighted that there is no official collaboration between the district education directorate in whose territorial radius the Cornești Centre is located, which is why there are certain problems regarding the granting of qualification degrees for the teaching staff employed in the residential institution. The respective problem is caused by the fact that the Phthisiopneumological Centre is subordinate to the Ministry of Health and effectively it did not ensure the effective collaboration of subordinate institutions with entities in the field of education. Thereby, analysing the information presented by the Education Directorate of the

Ungheni district, an indifferent attitude towards the educational process that takes place within the given institution²⁹⁴ is attested.

That problem is also maintained by the Ministry of Education and Research, which, although it is the primary institution in ensuring policies in the field of education, has not undertaken concrete measures to guarantee the level of quality of the studies provided within the institution in question. The Ministry of Education and Research claims that the local authorities pass the responsibility and do not want to take responsibility to rectify the created situation²⁹⁵.

It was also found that although the employees of the centre themselves mention the fact that within the institution there are certain cases of abuse and violence between these children, although they have a record of cases of abuse and violence, under the Order of the Ministry of Education no. 77/2013, however, the completion of this register is formal, and a corresponding record is not kept in this regard.

Analysing the observance of the right to education, it is also highlighted that although the residential institution mostly ensures the minimum quality required by the regulatory documents in the respective field, there are still some deficiencies in ensuring the implementation of Article 29 of the UN Convention on the Rights of the Child. The Centre only ensures the conditions for teaching the subjects included in the national education curriculum, leaving aside the general aspect of the right to education concerning the UN Convention, namely the formation of the child as an active individual of society who is aware of his rights and responsibilities and can make use of them in case of need. In this regard, we specify the fact that the centre's collaborators could not present educational programmes dedicated to the rights of the child, which were carried out within the premises of the institution.

In conclusion, we highlight the fact that, although ensuring the right to education reaches the minimum quality standards required by the national curriculum, in general, the

²⁹⁴ From the answer of the Ungheni Education Directorate "according to annex no. 5 to Government Decision on the organization and operation of the Ministry of Health no. 148 of August 25, 2021, the founder of Public Institution "Phthisiopneumological Rehabilitation Centre for Children in Cornești", is the Ministry of Health. According to point 7 sbpct. 11) from the Regulation on the organization and operation of the Ministry of Health, one of its basic functions consists in coordinating and monitoring the activity of subordinate administrative authorities and public institutions in which the Ministry holds the founding status.";

²⁹⁵ From the MECR response no. 03/1-09/125 of January 17, 2022 "Phthisiopneumological Rehabilitation Centres for Children in Cornești and Târnova provides the continuity of the educational process through the teaching staff employed within the institutions. It should be noted that, in accordance with Government Decision no. 148/2021 on the organization and operation of the Ministry of Health, both Phthisiopneumological Centres are included in the list of public institutions in which the Ministry of Health has the capacity of founder. Upon request, the Ministry of Education and Research carries out monitoring visits to the mentioned Centres. An institutional mechanism for cooperation between the Ministry of Education and Research and the Ministry of Health does not exist.";

children's right to education is not connected to the standards set by the UN Convention on the Rights of the Child.

Observance of the family right was another segment analysed in the monitoring because contact with the biological family is essential for the good development of the child. Ensuring contact with the family does not only mean ensuring the contact of the parents/relatives with the child but also their active involvement in the rehabilitation process and the children's training process as long as he is in the respective institution.

From the analysis of the actual situation, it was found that ensuring the children's right to family is superficial, this is mostly due to the lack of interest on the part of the parents. The administration of the institution mentioned that children in most cases are practically abandoned in the respective centres by their relatives citing various reasons such as lack of financial resources, illness, lack of living conditions, long distance, being abroad, etc., to visit their own children. It should be noted that the institution also does not take sufficient measures and does not apply the cross-sectoral cooperation mechanism to involve the family or the guardianship authorities from the children's place of residence, in the most frequent situations this contact is established only in the time of institutionalization of the child and at the time of discharge. The state of affairs became even more critical in the situation created by the pandemic when the institution also had to impose restrictions on meetings in physical format.

During the monitoring visit, it was noted that the institution does not have a specially equipped room, to meet the parents/relatives with the child, these take place in the hall of the institution or the children's living room. The Cornești Centre does not have a separate room where parents could stay with their children in case of long-term visits (1-2 days), the cited reason being the limitation of financial resources.

It should be highlighted that contact with the biological family is mostly maintained through telephone communication. On the premises of the institution, children have the opportunity to talk to their parents from the landline phone that is located in the anteroom of the director of the institution, or from their personal mobile phone, if they have one. But it should be highlighted that the administration of the institution mentioned that to avoid criminal actions and conflicts between children, all mobile phones are stored and kept by the director of the institution. Respectively, from the analysed, we conclude that telephone contact, regardless of the type of stationary/mobile device, is only done with the consent of the institution's administration, a fact that can be qualified as an obstacle to children's communication with their own family. In this regard, People's Advocate for Child's Rights, in his previous recommendations, including in the annual reports, emphasized several times the

importance of free telephone contact, for institutionalized children, whose movement is restricted or prohibited due to the regime of the institution where they are. Contact with the biological family or with people outside the institution is a prerequisite for faster resocialization of the child in the situation when he will finish the treatment and be returned to the family/community/society.

Under these conditions, we conclude that the Cornești Rehabilitation Centre records deficiencies in establishing and maintaining family contact between the child and the biological and extended family, not having ensured the proper implementation of the right to the family guaranteed through the provisions of art. 5, 9 and 10 of the UN Convention on the Rights of the Child²⁹⁶.

Concerning ensuring **the right to health**, it can be noted that the Cornești Phthisiopneumological Centre, being a medical institution in the field of tuberculosis prevention and prophylaxis, carries out its activity per the legislation in the field of health and the previously cited National Protocols. However, from the perspective of ensuring the rights of the child, a series of deficiencies were found that are to be removed both at the local level and through the intervention of the Ministry of Health as the founder that coordinates the Centre's activity. During the monitoring, a discrepancy was found in the process of hospitalization of children. From the discussions held with the administration of the institution, it was found that at the time of admission of the children to the Rehabilitation Centre, which takes place as a result of the opinion of the phthisiopneumologist doctor and the commission for this profile, in many cases he is accompanied to be hospitalized either by the local social worker, a medical collaborator, or a relative. Respectively, following what has been stated, the problem regarding the signing of the agreement regarding the hospitalization of the child and regarding the administration of drug treatment is noted. In this context, we conclude that according to the legislation in force, the legal representatives of the child are the parents, guardians or curators or the persons who replace these persons. In the condition in which the child is brought by a person who does not possess any kind of power of attorney regarding the representation of the child before the public authorities, the signing of the respective agreements is to be interpreted as a void in principle.

Also, another issue related to observing the children's right to health is the period of the administered treatment. The term of the placement is decided by the specialized committee, and then the extension of the treatment is decided by a specialized committee composed of 3 doctors from the Hospital of Public Health Medical Institution "Chiril Draganiuc" Phthisiopneumology Institute. However, the analysed information shows that in several cases

²⁹⁶ https://drepturilecopilului.md/files/publications/CDC_2005_final.pdf

the child was placed in the centre, because for the local public authorities, admission to such an institution or a similar institution, represents rather a form of rest, as a result of which children are left in these institutions for periods that can exceed two years or even more.

Consequently, we support the fact that the authorities are to re-evaluate the procedures for institutionalizing children in the Cornești Phthisiopneumological Rehabilitation Centre.

Non-discrimination and social reintegration were two other areas. Accordingly, it is highlighted that children suffering from tuberculosis, like children who are infected with HIV/AIDS, are still marginalized and stigmatized by the rest of society. Therewith, the pandemic has made the process of social inclusion of children suffering from tuberculosis much more difficult, as they continue to present an unsolved dilemma by the central and local public authorities. It is also highlighted that the Cornești Rehabilitation Centre maintains weak ties with related institutions, the children are not involved in activities other than those that take place on the territory of the institution, with small exceptions when they are donations from outside the institution, from non-governmental partners with whom the institution collaborates.

Another problem identified within the Cornești Rehabilitation Centre is the divergence of admission data. According to the response received from within the institution on December 10, 2021, during the year 2021, of the total number of children hospitalized in the residential institution, most of them came from Nisporeni district– 82, Strășeni district - 39, Chișinău – 20, Anenii-Noi district – 22. However, following the analysis of the responses received from the territorial medical institutions, a considerable divergence is found in the reported data. Thus, based on the response received from the public health institution Nisporeni Health Centre, only 4 children were detected with signs of tuberculosis, who were assigned to Cornești and Târnova Rehabilitation Centres²⁹⁷.

Consequently, it is recommended to establish an efficient monitoring and reporting mechanism regarding the admission of children to the Cornești Rehabilitation Centre.

In terms of observing **civil rights and liberties** (freedom of association, expression, participation), we can state that the centre does not organize activities and has no strategies for involving the child in the decision-making process.

During the monitoring, confidential discussions were held with the children, where the latter mentioned that they are mostly satisfied with the conditions in the Centre, but they want to be returned home sooner.

Târnova Phthisiopneumological Rehabilitation Centre for Children

²⁹⁷ The answer of the Nisporeni Public Health Medical Institution no. 01-14/391 of December 23, 2021;

The Târnova Phthisiopneumological Rehabilitation Centre for Children was established based on Government Decision no. 212 dated February 22, 2002, on the reorganization of sanatoriums for children under the Ministry of Health, based on the former anti-tuberculosis sanatorium for children “Târnova”, taking over the duties of the latter.

The Târnova Centre represents a budgetary, republican institution, thus the budget allocated for 2021 was 23,840,400 lei, and on the date of monitoring (December 14, 2021), a few million more lei remaining from the purchase of food products available in the May budget, for which reason the total number of beds expected for 2021 was not filled. The Child’s Ombudsperson draws attention to the currently inexplicable discrepancy regarding the difference between the allocated budget amounts which is practically 300%, respectively the budget allocated for the Rehabilitation Centre in Târnova is 3 times higher than the budget of the Cornești Rehabilitation Centre, although the number of children placed in the Târnova Rehabilitation Centre in 2021 is lower than the number of children in the Cornești residential institution 135/199. Although an attempt was made to obtain information on this matter, neither the collaborators of the residential institutions nor the central public authority represented by the Ministry of Health offered a plausible answer in this regard.

The Centre is organized for 200 beds, predestined for children aged 7 to 16 from all over the Republic of Moldova, children with local tuberculous processes in the involution phase, with post-tuberculous sequelae, in the early or late period of tuberculous contamination, with hyperergic reactions and tuberculin jump, contaminated and uncontaminated from tuberculosis outbreaks, with chronic non-specific diseases of the respiratory organs and children with frequent respiratory infections.

In the concerned institution, 9 children were found who have been in the respective Centre for more than 4 years, although the recommended hospitalization is the maximum term of 6 months with the possibility of extension upon the recommendation of the Committee made up of 3 doctors. In 2021, most children were institutionalized from the Dondușeni and Anenii Noi districts, 25 and 26 respectively.

Based on the consideration that the observations found in the Târnova Rehabilitation Centre are similar to those listed above in the chapter dedicated to the Cornești Centre, we will highlight the most important aspects.

- The admission of the child takes place in most cases, in the presence of persons foreign to the child who do not have the necessary powers to sign the admission agreement and the agreement on the administration of the drug treatment;

- Agreements and information on the admission are communicated and discussed with adults, without communicating to the child and explaining to him/her in his/her understanding, based on his/her maturity, the real situation in which he/she is;
- Upon admission, the child is examined by the doctor on duty together with the nurse;
- The Centre does not have a concrete mechanism for admitting the patient, which remains largely at the discretion of the doctor on duty;
- The children's contact with the biological family is largely reduced, due to the low interest of the parents, but also due to the poor cooperation of the residential institution with the local guardianship authorities and the family;
- The children's contact with parents or relatives is mostly made through the mobile phone or landline phone. Children do not have increased privacy when talking with close people;
- The Centre has long-term visiting rooms where parents can stay overnight;
- In 2021, the children's contact with the family was quite reduced due to the COVID-19 pandemic conditions;
- The institution does not have a budget article regarding the procurement of clothing for children, this being mostly provided by the children's families or by the philanthropic organizations with which the Centre collaborates;
- The Centre has the necessary teaching staff to ensure the implementation of the study programme for the primary and secondary schools;
- The institution does not provide children with textbooks;
- The institution does not keep records of cases of abuse and violence on/between children;
- The children's participation in the decision-making process is formal, without observing the recommendations of the UN Committee for the Rights of the Child²⁹⁸;
- The Centre does not implement policies for the social reintegration of the child after discharge and to avoid the stigmatization of children who have been treated for tuberculosis;
- During the monitoring visit, the administration of the Târnova Centre did not allow the representatives of the People's Advocate Office to have confidential discussions with the children, who were in the institution;

²⁹⁸ https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fGC%2f12&Lang=en

- During the discussions in the presence of the director of the Centre, the children mentioned that they are satisfied with the conditions, but they want to go home as soon as possible;
- The implementation of the UN Convention on the rights of the child within the Phthisiopneumological Rehabilitation Centre for Children in Târnova is unsatisfactory and requires the intervention of the authorities both at the local and central levels.

In conclusion of the above, the People's Advocate for Child's Rights makes the following

RECOMMENDATIONS:

- **The Ministry of Health** will finalize and approve the Operating Regulations of the Phthisiopneumological Rehabilitation Centres for Children in Târnova and Cornești;
- **The Ministry of Health together with the Ministry of Education and Research** will establish a mechanism for monitoring the educational process and collaboration, to periodically evaluate and accredit the teaching institutions within the Phthisiopneumological Rehabilitation Centres for Children in Târnova and Cornești;
- **The Ministry of Health** will re-evaluate the policy of institutionalization of children in the tuberculosis rehabilitation phase, avoiding as much as possible the placement of the child in the residential system;
- **The Ministry of Health together with the Ministry of Education and Research** will identify solutions for ensuring the book fund of the Phthisiopneumological Rehabilitation Centres for Children in Târnova and Cornești, especially textbooks for teaching subjects from the national education curriculum;
- **The Ministry of Health** in collaboration with the local guardianship authorities will take measures to avoid the long-term placement of the child;
- **The Ministry of Health** will modify/improve the working mechanisms to connect them to the provisions of the UN Convention on the Rights of the Child.

VIII. REVIEW OF THE DEGREE OF OPERATION OF THE PSYCHOLOGICAL ASSISTANCE SERVICES PROVIDED TO CHILDREN UNDER ABUSE

The approach and organization of psychological services for children at risk becomes a current topic at the national level, being in interaction with the need to protect the right of any child to life, survival and development, health, as well as physical and psychological recovery²⁹⁹.

²⁹⁹ Article 39 of the UN Convention on the Rights of the Child;

Violence against children is a current problem for the Republic of Moldova, and psychological assistance offered to victims of abuse at any stage is necessary to increase the quality of children's lives and ensure their harmonious development.

Abuse of any kind and neglect can seriously change the structure of the children's personality, and if they are not detected and treated properly, they can have major repercussions over time, accompanying the subject throughout his entire life.³⁰⁰ Protection and care are both essential to reduce damage and overcome the consequences of trauma, therefore, the provision of assistance and rehabilitation services to children victims of violence, exploitation and trafficking requires increased attention, and their development becomes a priority for state institutions.

By ratifying international instruments on children's rights³⁰¹, the State assumed responsibility for the development of policies, the creation of the institutional framework and the use of effective mechanisms for the protection of different categories of children, as well as the provision of quality services that meet the children's needs and ensure the increase in his/her level of well-being.

In this regard, the most common services for children victims of violence, neglect, exploitation and trafficking are those that provide: medical assistance, legal aid, psychological assistance, educational services and social assistance services.

Psychological assistance services for child victims of violence, exploitation and trafficking in the Republic of Moldova are provided by both state and private institutions. We must highlight the fact that specialized services for this category of beneficiaries exist most often in the case of non-governmental institutions. State institutions that provide psychological assistance, as a rule, have a large number of beneficiaries with a wide spectrum of problems: psychological assistance in school institutions, psycho-pedagogical assistance services, placement centres, day care centres, and mental health centres. Practically specialized are, as I mentioned above, only the Centres for victims and potential victims of human trafficking and the centres for victims of domestic violence.

Analysing the functionality of psychological assistance services offered by government institutions, we can highlight some basic findings:

³⁰⁰ Save the Children. Guide of good practices for the prevention of child abuse, Bucharest, 2003;

³⁰¹ United Nations Convention on the Rights of the Child (adopted by the UN General Assembly on November 20, 1989); European Convention for the Protection of Human Rights and Fundamental Freedoms (adopted on November 4, 1950, ETS no. 5); European Convention on the Exercise of Children's Rights (adopted on January 25, 1996, ETS no. 160); Council of Europe Convention for the Protection of Children against Sexual Exploitation and Sexual Abuse (adopted on October 25, 2007, ETS No. 201);

- Government institutions are making efforts to provide quality psychological assistance services to all vulnerable groups, especially child victims of violence, exploitation and trafficking.
- Even if the legislation, policies, and studies in the field indicate the provision of counselling services and specialized psychological assistance for children victims of violence, neglect, exploitation and trafficking, their provision is fragmented. Psychological services are not evenly distributed at the national level and the operation of many of them depends rather on the support of donors and/or local authorities and, respectively, on local budgets, and is practically not based on needs assessment.
- There is no normative basis concerning the activity of the psychologist and his activities, and the failed attempts to adopt a Law on the practice of the profession of psychologists have a negative influence on the provision of quality services.
- The number of psychological specialists is insufficient in practically all institutions, be they in the field of education or social assistance (and in some, they are completely missing), this problem is mostly observed in rural localities. The need for psychologist units is found in most educational institutions, as well as within the social assistance and territorial family protection departments.
- The impossibility of providing data concerning the cases in which the involvement of the psychologist was needed, is mostly caused by the lack of tools to evaluate the effectiveness of the intervention of specialists in the process of identification, review, referral, and assistance and monitoring of child victims. The existence of some data referring to the psychologist's intervention in the cases of child victims of violence, exploitation and trafficking could argue the need to develop this service within the General Directorate of Social Assistance and Protection.
- The State assumed the commitments and costs for psychological rehabilitation in the case of child victims of crime. However, even if art. 8 of Law no. 137 of July 29, 2016, on the rehabilitation of crime victims, provides that psychological counselling is provided by psychologists within the territorial subdivisions of social assistance, after 5 years, there is still no psychologist unit in most of the General Directorates of Social Assistance and Territorial Protection. Law 137/2016 is the regulatory document that argues for the creation of this service, and the authorities at all levels must provide the necessary resources (financial, methodological, etc.) for its development.
- The impossibility of having specialized services in all localities (public or private service providers), requires the specialization and/or training of psychologists who are involved in the intervention of cases of violence, neglect, exploitation and child abuse, be they from

educational institutions or the field of social assistance, legal bodies, or medical institutions. The lack of sufficient training in this field is felt by the specialists concerned but also by the beneficiaries of these services.

- Higher education institutions that train psychological specialists do not have special courses on assisting children who are victims of violence, neglect, exploitation and trafficking, however, all universities have courses on psychological assessment and psychological counselling in the study framework for both bachelor's and master's programmes.
- The salary of psychologist specialists in educational institutions is non-motivating, even if according to the Education Code, the psychologist is considered a teaching staff, the salary level being lower than that of a teacher. The pay grade is 52 for the psychologist and 56 for the teacher, which makes the work done by the psychologist unfair, and the requests for intervention including his involvement in identifying and assisting cases of violence, neglect, exploitation and trafficking require additional financial efforts for professional development and improvement of the methodological base (many specialists mention that they go to training on their own).
- The difficulties faced by psychologists in educational institutions and in the Psychological Assistance Service in assisting children who are victims of violence, neglect, exploitation and trafficking are due to insufficient training/training of specialists; excessive volume of assignments, restricted time, a large number of students for a psychologist; the role of the school psychologist incorrectly perceived (“dubious status”, “negative image of a psychologist”, “a psychologist can do anything”); lack of practical guides, materials and specialized literature; lack of conditions, of work equipment in many cases; lack of intervention programmes, work standards; lack of assessment tools (tests); the flawed privacy mechanism.

In the context of the above, the People’s Advocate for Child’s Rights, for the development of psychological services offered to children victims of violence, neglect, exploitation and trafficking, makes the following **RECOMMENDATIONS:**

- **The Ministry of Education and Research** will draft the Law on the profession of psychologists and the mechanism of attestation/licensing of the activity of a psychologist, the record of psychologists, and quality standards, which will allow the unification of standards for the provision of psychological services to the population, quality assurance, as well as the availability of counselling, psychotherapy and support;

- **The Ministry of Labour and Social Protection** will facilitate the creation of specialized psychological assistance services for children in risk situations/victims of crimes, depending on the needs of the children and the number of beneficiaries of these services;
- **The Ministry of Education and Research** will develop initial and ongoing training modules regarding the psychological assistance of children who are victims or potential victims of violence, neglect, exploitation and trafficking, which will be integrated into the initial and ongoing training programmes of all specialists in institutions that provide services for children;
- **The Ministry of Education and Research** will review the documents that indicate the number of psychological specialists in educational institutions and identify the optimal number of specialists according to the number of requests, children's needs and work standards;
- **The Ministry of Education and Research** will review the salaried class of psychologists in educational institutions and Psycho-pedagogical Assistance Services;
- **The Ministry of Labour and Social Protection** will introduce the psychologist unit within the Departments of social assistance and family protection (p. 15 chapter VII of the framework regulation for the organization and operation of the territorial social assistance structure);
- **The Ministry of Labour and Social Protection** will develop an instrument for evaluating and monitoring the quality of psychological services provided to children who are victims of violence, neglect, exploitation and trafficking;
- **The Ministry of Education and Research** will develop a Methodological Guide for psychologists regarding psychological intervention in the case of children who are victims of violence, neglect, exploitation and trafficking;
- **The Ministry of Education and Research, the Ministry of Health, the Republican Centre for Psychological Assistance, the Local Public Authorities, and the National Administration of Penitentiaries** will undertake the necessary measures to improve the working conditions of the specialists and will provide the necessary psychological assessment tools, methodologies and materials;
- **The Ministry of Education and Research, the Ministry of Health, and the Ministry of Labour and Social Protection** will take the necessary measures to intensify the cooperation mechanism in the cases of child victims of violence, neglect, exploitation and trafficking and will identify possibilities for the involvement of private psychological assistance services with the examination of the possibility of financing these services from the state budget.

IX. PROPOSALS TO AMEND THE LEGISLATION ON CHILDREN'S RIGHTS SUBMITTED BY THE PEOPLE'S ADVOCATE FOR CHILD'S RIGHTS

In 2021, the People's Advocate for Child's Rights submitted several proposals to amend the regulatory framework, as a result of identified deficiencies regarding the observance of children's rights in several compartments.

Some gaps were identified in the application of the normative framework in force, including the lack of a clear mechanism regarding *the property right*, the process of acquiring the right of succession, the way of managing the patrimony acquired by minor children, but also the requirements for issuing authorizations by the family council or the guardianship authorities, in cases concerning the patrimonial rights of children.

In the context of the aforementioned, the proposal to amend the legislation³⁰² was submitted to the Government of the Republic of Moldova, which recommended the creation of an inter-ministerial working group (Ministry of Justice, Ministry of Health, Ministry of Labour and Social Protection) with the participation/consultation of representatives of the Moldovan Notary Chamber, representatives of territorial guardianship authorities, civil society in the field of children's rights, etc. for the analysis of the legal framework in force regarding the patrimonial rights of the child, including children in risk situations and the intervention with strict amendments; examining the exposed circumstances, including within the working group created and providing rigorous explanations in the Commentary to the Civil Code to ensure the unambiguous interpretation and application by the competent authorities of the provisions of the Civil Code and to eliminate any ambiguities in the law; the development of the methodological framework, the Regulation/Instruction regarding the requirements for issuing authorizations to the guardianship authorities in cases concerning the patrimonial rights of children and other procedural documents necessary for the non-uniform implementation of the relevant provisions of the Civil Code, the regulation of a unified procedure regarding the consideration of the children's opinion, compulsorily, in accordance with his/her age and degree of maturity, as well as the development of methodological guidelines for the representatives of the guardianship authorities regarding the examination of cases concerning the patrimonial rights of the child to facilitate the process of strengthening their professional capacities.

³⁰² <http://ombudsman.md/wp-content/uploads/2021/06/04-2-5-din-26.03.21-prop.-de-modif.-a-leg-tiei.pdf>

By the response of the Ministry of Justice³⁰³, the People's Advocate for Child's Rights was assured that the regulatory deficiencies stated in the proposal will be analysed. Concerning the Commentary on the Civil Code, it was mentioned that it is not the responsibility of the Ministry of Justice, and that, following the adoption of Law no. 133/2018 on the modernization of the Civil Code, through which a series of conceptual changes were made, it is necessary to develop a new commentary, or the existing one includes outdated findings. In this regard, the Superior Council of Magistracy requested the support of development partners for the elaboration of the commentary to the Civil Code of the Republic of Moldova.

In the process of monitoring the observance of the rights of children with disabilities, the People's Advocate for Child's Rights noted the lack of determination of *the subsistence minimum* of this group of people. The Child's Ombudsperson is concerned about the insufficiency of measures in the social protection system for children with disabilities. The established subsistence minimum should constitute the legal basis for the subsequent determination of the number of social benefits and the development of the necessary social services for persons and children with disabilities.

To observe the right to social assistance of children with disabilities, the People's Advocate for Child's Rights submitted the proposal to amend the legislation³⁰⁴ to the Parliamentary Commission for Social Protection, Health and Family, the Parliamentary Commission for Human Rights and Inter-Ethnic Relations and the Prime Minister of the Republic of Moldova, recommending the initiation of the interim review of Law no. 152/2012 on the subsistence minimum for assessing the efficiency and effectiveness of the action of the legal provisions on vulnerable groups and examining the opportunity of revision to complete the provisions of Article 4 with a list of distinct groups, persons with disabilities and children with disabilities. The People's Advocate for Child's Rights proposed examining the opportunity to adjust Government Decision no. 285/2013 for the approval of the Regulation on how to calculate the amount of the subsistence minimum, with the inclusion of some provisions on how to calculate the subsistence minimum for people and children with special needs, as well as the assessment of the situation regarding the statistics available in the field of disability, with the establishment of a disaggregated record, including by type of disability.

³⁰³ <http://ombudsman.md/wp-content/uploads/2021/06/raspunsul-MJ-din-9.06.21-la-nr.04-2-5-21.pdf>

³⁰⁴ <http://ombudsman.md/wp-content/uploads/2022/01/Scrisoare-c%C4%83tre-comisiile-parlamentare-%C8%99i-Guvern.pdf>

The response received from the Ministry of Labour and Social Protection³⁰⁵ mostly refers to the services created for the benefit of people with disabilities, without making concrete references to the situation of children with disabilities and the proposals submitted by the Child's Ombudsperson concerning the assessment of the situation regarding the statistics available in the field of disability, the establishment of a disaggregated record, including the establishment of the minimum subsistence level for these categories of persons/children, by adjusting Law no. 152/2012 on the subsistence minimum and Government Decision no. 285/2013 for the approval of the Regulation on how to calculate the amount of the subsistence minimum for persons/children with disabilities. To prevent and eliminate the premises for the violation of children's rights and freedoms, the People's Advocate for Child's Rights repeatedly requested an exhaustive answer on the issue and the submitted proposals.

To monitor compliance with the right to social assistance for *children at risk*, the People's Advocate for Child's Rights examined the draft Regulation³⁰⁶ on the organization and operation of the Social Service Day Centre for children at risk, developed by the General Directorate for the Protection of Children's Rights of the Chisinau Municipal Council and placed for public consultation.

Following the examination of the draft Regulation, the Child's Ombudsperson came up with an opinion, supporting the initiative of the General Directorate for the Protection of Children's Rights of the Chisinau Municipal Council. The People's Advocate for Child's Rights believes that the regulatory document in this field should respond to the real needs of the beneficiaries with the establishment of clear objectives to streamline the process of evaluating the progress made following its implementation. Following the analysis of the proposed project, the People's Advocate for Child's Rights came up with some suggestions to improve this document from the perspective of the approach based on human rights, and more precisely, children's rights.

Another problem addressed in the appeals to the People's Advocate for Child's Rights refers to *the refusal to pay the allowance established for the child with orphan status*, in the case of continuing studies abroad. Imperfections were identified in Law no. 315/2016 on social benefits for children and the Regulation on how to establish and pay allowances for some categories of children and young people, approved by Government Decision no. 132/2020, in force as of January 1, 2021. The aspect to which the People's Advocate for Child's Rights draws attention is the lack/imperfectness of the provisions in the Regulation

³⁰⁵ <http://ombudsman.md/wp-content/uploads/2022/01/R%C4%83spuns-Ministerul-Muncii-%C8%99i-Protec%C8%9Biei-Sociale.pdf>

³⁰⁶ <http://ombudsman.md/wp-content/uploads/2021/10/opinie-catre-DGPDC-din-26.10.2021.pdf>

regarding the method of establishing and paying allowances for some categories of children and young people, regarding the payment of social benefits for children who were temporarily left without parental protection or left without parental protection and are enrolled in one of the educational institutions from another country, equivalent to educational institutions of level 3-7 in the Republic of Moldova.

In this context, the proposal to amend the legislation³⁰⁷ was submitted to the Ministry of Health, Labour and Social Protection, by which was recommended to initiate the procedure of operating the amendments/ additions to the text of the Regulation on the method of establishing and paying allowances for some categories of children and young people approved by Government Decision no. 132/2020, to remove the limiting rules in relation to children who continue their studies abroad of the Republic of Moldova, as well as to ensure the unequivocal implementation of the respective provisions by the institutions that apply them, as well as the review of point 18 of Government Decision no. 581/2006 for the approval of the Regulation on the conditions for establishing and paying allowances for adopted children and those under guardianship/trusteeship, so that all types of educational institutions are included, according to the Education Code no. 152/2014, to provide the opportunity for all children/young people under guardianship/trusteeship to benefit from the respective monthly allowance.

The Ministry of Health, Labour and Social Protection, in its response³⁰⁸, mentioned that the recommendations in question will be subject to rigorous examination and analysis in the process of elaborating/improving the normative framework in the field of child rights protection.

Child safety and protection against violence, abuse and/or neglect has been and remains a priority topic on the agenda of the People's Advocate for Child's Rights.

In the context of the legislative initiative³⁰⁹ on the amendment of the Education Code of the Republic of Moldova, through which the introduction of the notion of **bullying** is proposed, a phenomenon that *makes its presence felt more and more insistently, as a form of interpersonal violence between students, accompanied by various other forms of abuse*, the People's Advocate for Child's Rights submitted to the legislative forum his Opinion with some proposals to the registered project. The People's Advocate for Child's Rights mentioned

³⁰⁷ <http://ombudsman.md/wp-content/uploads/2021/04/04-2-04-din-02.03.2021-propunere-de-modificare-a-legisla%C8%9Biei-%C3%AEndemniza%C8%9Bii-p-u-unele-categorii-de-copii-%C8%99i-tineri-MSMP.pdf>

³⁰⁸ <http://ombudsman.md/wp-content/uploads/2021/04/04-2-04-din-02.03.2021-r%C4%83spunsul-MSMP-nr.-14-1231-din-09.03.2021-16.03.2021.pdf>

³⁰⁹ The draft law to amend the Education Code of the Republic of Moldova no. 152/2014, Legislative initiative no. 301 dated 25.10.2021;

that it is a vital bill and an important step to ensure the dignity of all children in the Republic of Moldova.

In this context, the Child's Ombudsperson proposed to introduce into the Education Code the regulation that provides that the teaching staff will be trained, in the framework of the training sessions they follow, also regarding psychological violence - bullying. This mention assumes that teachers will be trained on how to identify the phenomenon and how to apply the right strategies and measures.

The People's Advocate for Child's Rights believes that only the definition of the notion of bullying in the Education Code is insufficient, without other clear regulations in the provisions contained regarding the prohibition of bullying actions, the rights and obligations of the staff involved in the educational process, the legal consequences in case of admission or inaction in cases of bullying.

The Child's Ombudsperson notes legislative and procedural deficiencies in the case of marriage dissolution by the civil status body and notary. Consequently, because of these shortcomings, *the children's right to an opinion* is violated, which is part of the process of dissolving the marriage by mutual consent of the spouses. Both the civil status body and the notary, in the procedure for dissolving the marriage by mutual consent, do not take into account the children's opinion regarding the establishment of the domicile, in the absence of legal regulations, procedures and implementation mechanisms.

In this context, the People's Advocate for Child's Rights submitted the proposal to amend the legislation³¹⁰ to the Government of the Republic of Moldova. The proposal recommends revising the provisions of the Family Code no. 1316 of 26.10.2000, Law on notarial procedure no. 246 of 15.11.2018, Law on civil status documents no. 100 of 26.04.2001 to capitalize on the aspect of listening to the children's opinion when dissolving the parents' marriage at the civil status body and notary; elaboration of the rules for completing/amending the Family Code no. 1316 of 26.10.2000, Law on notarial procedure no. 246 of 15.11.2018, Law on civil status documents no. 100 of 26.04.2001 with the stipulation of the hearing procedure of the child upon dissolution of the parents' marriage in the administrative and notarial procedure, the authority responsible for conducting the hearing, the form of the hearing, the circumstances that are against the children's interests and can be invoked as grounds for the notary's rejection of the divorce application; the drafting of law enforcement documents (Family Code no. 1316 of 26.10.2000, Law on notarial procedure no. 246 of 15.11.2018, Law on civil status documents no. 100 of 26.04.2001) for the detailed and clear description of the children's hearing procedure for the dissolution of the parent's

³¹⁰ <http://ombudsman.md/wp-content/uploads/2022/01/propCodului-Fam.pdf>

marriage in the administrative and notarial procedure, with the provision of models of documents to be drawn up at the end of the procedure and in compliance with the best interests of the child.

The Ministry of Justice, in the response³¹¹ sent to the People's Advocate Office, indicated that there are certain possibilities of intervention in the normative framework to increase its clarity and accessibility, without exhaustively indicating the methods of intervention.

The People's Advocate for Child's Rights was informed about some cases when the *right to citizenship* through the application of the provision of Article 11 paragraph (1) letter a) of the Citizenship Law of the Republic of Moldova no. 1024/2000 is against foreign-born persons. The problematic situation was invoked by persons born outside the Republic of Moldova, whose parents or at least one of them at the time of birth were citizens of the Republic of Moldova and who, at the time of requesting the certificate of non-belonging to the citizenship of the Republic of Moldova finds that they hold the citizenship of the Republic of Moldova based on Article 11 paragraph (1) letter a), although they had no legal relationship with the State. The created state of affairs aroused the bewilderment of the people, especially since they did not express any consent in this regard and encountered impediments to obtaining the citizenship of another State, employment in law enforcement, security bodies, etc. Practice shows that to begin with, they have to complete the Moldovan identity documents, after which the stages of the procedure for renouncing the citizenship of the Republic of Moldova will follow. These actions involve financial expenses, but also time.

As a result of the working meeting with the representatives of the public authorities that have attributions in the field of citizenship (Ministry of Foreign Affairs and European Integration, Office of the President of the Republic of Moldova, Public Services Agency and Ministry of Justice), the People's Advocate for Child's Rights came up with the proposal to the Ministry of Justice regarding the creation of an inter-ministerial working group (composed of employees of the Ministry of Justice, the Ministry of Foreign Affairs and European Integration, the Commission for citizenship issues and the granting of political asylum under the President of the Republic of Moldova, with the availability of the participation of the representative of the People's Advocate Office, etc.) for an extensive analysis of the practice of other states and the examination of the opportunity to make amendments/reservations in connection with the application of Article 11 paragraph (1) letter a) to the Law on Citizenship of the Republic of Moldova no. 1024/2000 in respect of children born outside the territory of

³¹¹ <http://ombudsman.md/wp-content/uploads/2022/01/doc17.pdf>

the Republic of Moldova whose parents or at least one of them at the time of birth were citizens of the Republic of Moldova, and who had no legal connection with the State.

The Ministry of Justice, through its response, informed that, if at the stage following analysis the existence of a systemic problem will be attested and communicated, the Ministry will remain open for discussions and analysis of possible legislative interventions.

In the segment of the right to citizenship, the People's Advocate for Child's Rights filed a complaint to the Constitutional Court of the Republic of Moldova to exercise control over the constitutionality of the sentence "provided that, at the time of birth, at least one of the parents has the right of residence or benefits from international protection granted by the competent authorities of the Republic of Moldova or is recognized as stateless by the competent authorities of the Republic of Moldova" from Article 11 paragraph (1) letter c) of the Law on Citizenship of the Republic of Moldova no. 1024/2000, in the wording of the Law no. 132/2017 for the amendment and completion of the Law on Citizenship of the Republic of Moldova no. 1024/2000, in the part related to the conditioning of the granting of citizenship to the child born on the territory of the Republic of Moldova on the legal form of presence of the parents/parent on the territory of the Republic of Moldova.

The identified problem consisted in the fact that the current wording of Article 11 paragraph (1) letter c) of Law no. 1024/2000, a citizen of the Republic of Moldova shall be the child born in the territory of the Republic of Moldova, whose parents possess the citizenship of another state, or one of them is stateless and the other one is a foreign citizen, provided that, at the time of birth, at least one of the parents has the right of residence or benefits from international protection granted by the competent authorities of the Republic of Moldova or is recognized as stateless by the competent authorities of the Republic of Moldova, seems to be discriminatory, because the conditioning of the citizenship of the child born in the territory of the Republic of Moldova on the legal form of his parents being in this territory, as well as the exclusion of the sentence "...if that State does not grant citizenship to the child" from the initial wording of Law no. 1024/2000, can generate stateless children from birth, in cases where the country of origin of the parents/one of the parents does not grant its citizenship to children born on the territory of other states or has reservations about them. The discriminatory character of the legal rule was also found by the Council for Preventing and Eliminating Discrimination and Ensuring Equality through the Advisory Opinion issued at the request of the People's Advocate for Child's Rights. The referral is under examination at the Constitutional Court.

CHAPTER III. PREVENTION OF TORTURE

I. SUMMARY OF TORTURE PREVENTION ACTIVITIES

In 2021, torture prevention activities continued to be carried out under pandemic restrictions. Despite the respective difficulties, the Directorate for the Prevention of Torture of the PAO made **18 preventive visits** (*in 2020 - 22 visits*) to places of deprivation of liberty. Following the visits, the following was developed and submitted to the authorities: **3 opinions with recommendations; 10 visit reports** with 170 recommendations³¹², **6 special reports**³¹³ and **13 thematic reports**³¹⁴. In general, the rate of implementation of recommendations in the medium term is maintained at the level of 60%, and in the long term (*resources and policies*) at a rate of 10-15%. We appreciate that the executive authorities are open and determined in the implementation of the Ombudsman's recommendations in terms of their competence. Interferences in the activity of monitoring private places were not recorded.

For the first time, the employees of the **People's Advocate Office** were trained in monitoring forced return operations according to FRONTEX standards³¹⁵. A series of other activities related to capacity building and institutional development were carried out within the Project "***Development of a system for monitoring forced to return in the Republic of Moldova***" (FReMM), funded by the Polish Ministry of the Interior and Administration and implemented by the International Centre for Migration Policy Development (ICMPD)³¹⁶ in partnership with the Office of the Ombudsman, the Bureau for Migration and Asylum and the Public Association Law Centre of Advocates. Thanks to that project, the Republic of Moldova began to build a national system for monitoring forced returns and lay the foundations of a legislative and procedural framework³¹⁷.

On November 30, 2021, the People's Advocate Office, in collaboration with the Soros Moldova Foundation and the General Inspectorate of Carabineers, launched the "***Carabineers for Human Rights***", a project carried out with the financial support of the Soros Moldova Foundation. The beneficiaries of the project are the General Inspectorate of

³¹² <http://ombudsman.md/rapoarte/prevenirea-torturii/in-baza-vizitelor/>

³¹³ <http://ombudsman.md/rapoarte/speciale/>

³¹⁴ <http://ombudsman.md/activitate/prevenirea-torturii/prevenirea-torturii/>

³¹⁵ <https://frontex.europa.eu/>

³¹⁶ <https://www.icmpd.org/our-work/projects/development-of-a-forced-return-monitoring-system-in-the-republic-of-moldova-fremm>

³¹⁷ <http://ombudsman.md/news/proiectul-fremm-prezinta-cadrul-de-management-al-sistemului-de-monitorizare-a-returnarii-fortate-in-moldova/>

Carabineers, the Training Centre of the General Inspectorate of Carabineers, other subdivisions and employees of the General Inspectorate of Carabineers, as well as the persons detained and in the custody of the Carabineers. The duration of the project is twelve months. The project aims to contribute to an extensive process of monitoring the activities of the carabineers. For the first time, to carry out the monitoring, The People's Advocate Office foresees the involvement of the general public in the process. The monitoring will be carried out by the People's Advocate Office, by capitalizing on the information obtained as a result of other activities. The recommendations will be made known to the public in a thematic report, developed based on the monitoring at the end of the project. Also, the project, through the expected training activities, is aimed at strengthening the professional capacities of 150 carabineers in the field of preventing torture and ensuring fundamental rights when detaining a person. In addition to training the carabineers in carrying out civic monitoring campaigns and raising awareness of public opinion on the observance of human rights by the carabineers, the project foresees the realization of a theoretical-scientific conference on the subject of the project, under the Ombudsman's auspices³¹⁸.

Between June 25-30, 2021, the “**EuNUaplic166/1-EuRespect Demnitatea UMANĂ**”, campaign, the third edition, was carried out. All police inspectorates, penitentiary institutions, placement centres for people with disabilities and other authorities were involved³¹⁹. The campaign aims to promote zero tolerance toward acts of torture by persons in the professional risk group during the International Day in Support of Victims of Torture.

Concerning the activity of preventing torture by training the holders of obligations and the holders of rights, the employees of the OPA Torture Prevention Directorate carried out **39 training** activities (online and physical format) for **715 employees** of the National Administration of Penitentiaries, General Inspectorate of Carabineers, General Inspectorate of Border Police, National Agency for Social Assistance, the Ministry of Internal Affairs and members of the National Association of Paralegals from Moldova in the field of responsibility³²⁰.

In 2021, members of the **Council for the Prevention of Torture**, created under the People's Advocate Office, made **15 preventive and monitoring visits** in places of detention. Following the visits, the Council developed **4 visit reports** that include **81 recommendations** to the central and specialized authorities, as well as **1 thematic report “Deprivation of**

³¹⁸ <http://ombudsman.md/news/lansarea-proiectului-carabinierii-pentru-drepturile-omului/>

³¹⁹ <https://www.facebook.com/hashtag/eunuaplic1661eurespectdemnitateauman%C4%83>

³²⁰ <http://ombudsman.md/activitate/prevenirea-torturii/prevenirea-torturii/>

children’s liberty - deprivation of childhood” with 37 recommendations³²¹. Likewise, the members of the Council for the Prevention of Torture met in **19 meetings**. We note that no actions were recorded to obstruct the access of members of the Council for the Prevention of Torture in the monitored institutions. Likewise, there were no overlapping visits or parallel visits within the mandate exercised by the Council for the Prevention of Torture and the Directorate for the Prevention of Torture of the PAO.

In total, during the 2016-2021 period of activity of the first Council in the new format, adapted to the requirements of Law 52/2014, **128 visits** were made to places of deprivation of liberty (police inspectorates, penitentiary institutions, courthouses, temporary placement centre for foreigners, placement centres for people with disabilities, psychiatric hospitals, the anti-corruption Centre isolation ward and the military garrison); **80 reports** were drawn up with over **1000 findings** and about **880 recommendations** submitted to the national public authorities for their implementation³²².

On November 23, 2021, the new composition of the *Council for the Prevention of Torture for the period 2022-2027* was elected³²³. The new members of the Council for the prevention of torture are: Vadim Aftene, head of the Community Mental Health Centre, Râșcani sector, Chisinau municipality; Iuliana Curea, psychologist, psychotherapist, and director of the IRIS Public Association (Involvement, Rehabilitation, Integration, Support); Ludmila Marandici, doctor, manager in the Day Centre for drug users of the Inițiativa Pozitivă (Positive Initiative) Public Association; Gheorghe Bosfi, jurist at the Public Association “Centre for the Rights of Persons with Disabilities” and Doronceanu Olesea, a lawyer active in the non-governmental organization “Human Rights Institute”.

II. THE SITUATION OF PERSONS DETENTED IN PENITENTIARY INSTITUTIONS

The list of findings and issues raised in previous reports still stands. Although some minor improvements have been noted, the situation of detainees remains worrying. The accumulation of unsolved difficulties over time has been sharply exposed in the penitentiary system. Some aspects reiterated in the observations of international and national monitoring institutions cannot be achieved only by the penitentiary system. These are to be remedied as a whole, in case of prompt, clear, transparent and responsible political will.

³²¹ <http://ombudsman.md/consiliul-pentru-prevenirea-torturii/rapoarte/>

³²² http://ombudsman.md/wp-content/uploads/2021/12/CpPT_Raport-2016-2021.pdf

³²³ <http://ombudsman.md/news/rezultatele-concursului-de-selectare-a-membrilor-consiliului-pentru-prevenirea-torturii-2/>

According to the review of the level of implementation of the 2016-2020 strategy for the development of the penitentiary system and the reorganization of the health system³²⁴, completed by the National Administration of Penitentiaries and the “Promo-LEX” Association, it was found that, for 2020, from the total of 204 actions included in the plan, 104 have been completed, 41 activities have been partially completed and 59 actions have not been completed. The main reasons for the non-realization of the planned actions relate to the allocation of insufficient financial resources, the lack of political will to carry out actions that required the planning of additional budgetary resources, and the weak involvement of other responsible subjects in the process of implementing policies in the penitentiary field³²⁵.

In 2021, the penitentiary institutions continued to notify the People's Advocate regarding the incidents that took place daily in the closed system according to the obligations provided by art. 232 of the Enforcement Code of the Republic of Moldova. Following the operative summaries, the People's Advocate Office received information on **40 deaths; 33 suicide attempts; 407 serious cases of violence** between inmates; **247 cases of self-harm** to bodily integrity; **28 cases of assault** on employees; **1 case of vertical use of a firearm; 13 cases of use of tear gas; 10 cases of physical force applied to female detainees**, etc. Daily, special means or physical force are applied to the detainees. Likewise, **94 incidents were registered against minors** in detention³²⁶. Compared to 2020, the number of deaths decreased by 16 and the number of assaults on employees increased by 8 cases. The number of cases of serious violence and acts of self-harm continues. We note with concern the 10 cases of physical force against women in the Rusca Penitentiary, a rare phenomenon in the penitentiary system. The influence of the criminal subculture, the safety of inmates and employees, improper conditions of detention and the lack of medical care remain among the most noted problems in the penitentiary system. And, inmates from vulnerable groups continue to be subjected to acts of mistreatment, harassment and intimidation for various reasons³²⁷:

On the night of February 5, 2021, more than 30 aggressor inmates from the „*blatnăie*” group hit about 60 inmates from the vulnerable group in sector no. 10 (domestic service) of Penitentiary no. 18-Brănești, Orhei district. The violence was committed to “punish” inmates

³²⁴ Decision of the Government of the Republic of Moldova no. 1462/2016;
https://www.legis.md/cautare/getResults?doc_id=111772&lang=ro

³²⁵ Response of the National Administration of Penitentiaries dated 07.02.2022;

³²⁶ <http://ombudsman.md/rapoarte/anuale/>

³²⁷ <http://ombudsman.md/news/penitenciarul-nr-18-branesti-influenta-subculturii-criminale-conditii-improprii-si-lipsa-ingrijirilor-medicale/>

who used mobile phones without the informal leader's permission. (*Extract from the Special Report "Violence on a group of inmates at penitentiary no.18 Brănești"*)³²⁸.

Another such act of violence against vulnerable inmates took place on July 18, 2021, at Penitentiary no. 6 Soroca. Seven inmates from the vulnerable group were ill-treated by other inmates from the „*blatnâie*” group, causing them moderate bodily injuries. The day after the act of violence, the inmates-victims withdrew their complaints. Examining the materials of the investigation carried out by Penitentiary no.6 Soroca, the People's Advocate Office found that the signatures of the inmates-victims were forged; the aggressors were not punished; the circumstances of the act of violence were covered up and the investigation was not objective. The fact is that the Soroca Prosecutor's Office also found no grounds for the prosecutor's intervention.

The high number of acts of violence between inmates with serious consequences raises questions about the degree of protection and the level of safety in prisons. The violent and oppressive authoritarian structure of the inmate hierarchy that leads to humiliation, extortion and assault of vulnerable inmates or those who do not commit to complying with the “informal rules” is perhaps the most worrying aspect of being in prisons. Several sources claim that this inmate subculture enjoys the tacit approval of management, staff and other decision-makers outside the penitentiary system, all so that “informal leaders” maintain order in prisons in exchange for privileges³²⁹. **The fact that the fight against the criminal subculture and its influence must be a priority remains obvious. However, this commitment belongs not only to the penitentiary system but also to the political factor, which must show a firm, unconditional and prompt will in this regard. On the other hand, ignoring the realization of effective internal investigations and the refusal to initiate criminal prosecution for acts of serious violence in penitentiaries raises confusion regarding the commitments to protect human rights in the privative system, respect for the law and other social-human values.**

A. Dynamics of the number of persons deprived of liberty

The CoE report data for 2020 shows that the Republic of Moldova is among the countries with the highest incarceration rate (197 inmates per 100 thousand people) and the longest average length of incarceration (26 months). About 15% of the penitentiary population represents people under preventive arrest³³⁰.

³²⁸ http://ombudsman.md/wp-content/uploads/2021/04/RAPORTUL_SPECIAL_VIOLEN%C8%9A%C4%82_P18_pe-site.pdf

³²⁹ <https://rm.coe.int/criminal-subculture-md-en-/1680796111>

³³⁰ https://wp.unil.ch/space/files/2021/04/210330_FinalReport_SPACE_I_2020.pdf

On January 1, 2022, on a detention ceiling of 6,735 people in the 17 penitentiary institutions, **6,396 inmates** were held (*in 2020 - 6716 inmates*), of which **1,694 were detained** (*in 2020 - 2527 detained*), **370 women, 58 minors, 1 minor, 87 foreigners, 259 people with special needs, 6 mothers with 6 children under 3 years old, 117 former civil servants and 127 inmates sentenced to life imprisonment.** The data submitted by the National Administration of Penitentiaries per detention institution reveals that the detention ceiling is exceeded in Penitentiary No. 1 Taraclia (with 21 inmates); Penitentiary No. 2 Lipcani (with 3 inmates); in Penitentiary No. 3 Leova (with 53 inmates); in Penitentiary No. 7 Rusca (with 56 inmates); in Penitentiary No. 11 Bălți (with 57 inmates); in Penitentiary No. 13 Chișinău (with 378 inmates) and Penitentiary No. 15 (with 13 inmates). 581 inmates (*in 2020 - 732 inmates*) were held in overcrowding conditions.

Institution	The ceiling on the number of inmates	The actual number of inmates	Difference
Penitentiary 1	336	357	+21
Penitentiary 2	286	289	+3
Penitentiary 3	307	360	+53
Penitentiary 4	713	695	
Penitentiary 5	170	157	
Penitentiary 6	693	697	
Penitentiary 7	231	287	+56
Penitentiary 8	279	105	
Penitentiary 9	467	453	
Penitentiary 10	64	36	
Penitentiary 11	258	315	+57
Penitentiary 12	261	146	
Penitentiary 13	570	948	+378
Penitentiary 15	470	483	+13
Penitentiary 17	516	274	
Penitentiary 18	652	622	

At the same time, 190 inmates-patients were placed in the Penitentiary Hospital No. 16 Pruncul with a capacity of 462 beds (*in 2020 – 222 patients*). Additionally, in

Penitentiaries no. 5, no. 11, no. 13 and no. 17, which have a criminal prosecution cell, 1,694 people were placed on remand (*in 2020 - 2,527 people*).

We can easily observe the constant maintenance of overcrowding and overcrowding of the criminal prosecution cells in Penitentiaries no. 13 and no. 11. In the last four years, the prison population rate is slightly decreasing, starting from the figure of 6990 inmates in 2018 to 6396 in 2021. We mention that for 2022, the release of more than 1,600 inmates is planned, following the application of the amnesty act³³¹. **However, the problem of overcrowding persists, because some penitentiary institutions cannot physically ensure the minimum detention ceiling, established by the CPT rules. Therewith, the state policies are focused more on maintaining the prison population than on depopulation or reducing detention, including through the application of non-custodial measures and/or other types of punishment.**

RECOMMENDATION: The National Administration of Penitentiaries is to revise the detention ceiling in penitentiary institutions³³². At the same time, national courts are to apply non-custodial sentences.

B. Employees of the penitentiary system

As of January 1, 2022, the staff of the penitentiary system, according to the approved staff, constituted 2951 units (*1108 officers, 1615 prison officers and 228 contract staff*). 2635 units (*in 2020 - 2739,75 units*) represent the filled positions and 316 units (*in 2020 - 211,25 units*) are vacant positions. The number of employees is decreasing compared to the previous year. From the category of medical personnel, 87.25 represent occupied positions out of 101.75 medical employees according to the approved states. Of the 87.25 occupied units, 33 are doctors, 44 nurses, 4.25 paramedics and laboratory workers, 2 radiology technicians and 5 housekeepers. We easily notice that the small number of medical employees (especially professionals) is unable to achieve the expected and effective level of medical care for all over 6400 inmates/patients in the penitentiary system. Apparently, increasing the states and occupying them would be a solution to guarantee the safety of the person in detention.

³³¹ https://www.legis.md/cautare/getResults?doc_id=129275&lang=ro

³³² Order of the Ministry of Justice no. 1159/2017 on the approval of the maximum number of persons admitted for detention in penitentiaries

The ratio between the number of inmates and employees who are directly in the prisons is a **critical** one: 1 employee to 4/6 inmates per day. However, at night this indicator is 1 employee per 10/30 inmates or 4 employees per 600 inmates.

Institution	Total number of inmates	Total number of employees
Penitentiary No. 1 Taraclia	348	111
Penitentiary No. 2 Lipcani	319	100
Penitentiary No. 3 Leova	402	107
Penitentiary No. 4 Cricova	724	98
Penitentiary No. 5 Cahul	134	140
Penitentiary No. 6 Soroca	737	193
Penitentiary No. 7 Rusca	290	97
Penitentiary No. 8 Bender	99	89
Penitentiary No. 9 Pruncul	453	122
Penitentiary No. 10 Goian	32	61
Penitentiary No. 11 Bălți	284	176
Penitentiary No. 12 Bender	133	214
Penitentiary No. 13 Chișinău	870	253
Penitentiary No. 15 Cricova	498	140
Penitentiary No. 16 Pruncul	206	178
Penitentiary No. 17 Rezina	267	209
Penitentiary No. 18 Brănești	641	148

This state creates not only impediments in carrying out safety and penitentiary regime activities but also the actual impossibility of preventing acts of violence/other forms of ill-treatment in detention institutions or other major risks.

REPEATED RECOMMENDATION: The People’s Advocate repeatedly encourages the Government/ National Administration of Penitentiaries to provide the penitentiary system with competent, professional and well-motivated staff. The implementation of the human resources policy must become a priority objective as a precondition for preventing the phenomenon of torture in the punitive system.

C. Renovation of the penitentiary infrastructure

For 2021, the penitentiary system's budget was increased by over 42 million lei, compared to the previous year³³³. Accordingly, expenditures for employee wages, social assistance benefits, capital investments, food products, medical services, bed accessories, clothing, construction materials and supplies were increased. Expenditure on current repairs, medicines and sanitary materials remained the same compared to the previous year. Likewise, the expenses for the thermo-energy complex, machines, equipment and fuel were reduced, compared to 2020³³⁴.

In the current year, budget financial resources continued to be allocated for capital investments that have been in progress for 4-9 years. Thereby, for the construction of the Balti Detention Centre, 14,970.8 thousand lei were planned and spent (*20137.6 thousand lei were spent in 2020*) (87% degree of achievement); for the reconstruction of the guard perimeter of Penitentiary No. 10 Goian 5000.0 thousand lei were planned (*in 2020-1000.0 thousand lei, but spent 572.5 thousand lei*) and spend 50.8 thousand lei, and for the reconstruction of the guard perimeter of Penitentiary No.7 Rusca 5000.0 thousand lei were planned and 3373.0 thousand lei were spent (*in 2020 - 4289.0 thousand lei and 4267.5 thousand lei were spent*).

Additionally, the reconstruction of Penitentiary No. 5 Cahul was planned and the sum of 567.2 thousand lei was allocated. The “Penitentiary No. 5” project foresees the reconstruction of a new, modern sector with 300 places. The estimated cost of the project is 145 million lei. When evaluating the procurement offers, it was found that none met the qualification requirements, and the procedure was cancelled. Meanwhile, one of the participating companies filed an appeal, and the reconstruction process was stopped. Accordingly, the financial means expected for the reconstruction of Penitentiary No. 5 were not utilized. The long duration of capital reconstruction of prison buildings is also affected by the arduous process of public procurement. If financial means are allocated, then the actual purchase of services and materials risks not being executed, including due to the processes related to public procurement, appeals and the lack of credible national companies in this regard. Meanwhile, these lawsuits undermine prison needs and the rights of inmates.

The Balti Detention Centre is expected to be put into operation in 2024. Until then, the authorities, in addition to the additional allocation of financial means, will fix with the municipal authorities the ownership of the adjacent land for the construction of the administrative building and the security perimeter. Otherwise, this project will not be able to be implemented.

³³³ <http://anp.gov.md/rapoarte-de-bilant-semestriale-anuale>

³³⁴ <https://drive.google.com/file/d/1zuBbV3TEARTkZPHBsU9zVgE2aTlrk3er/view>

Regarding the situation of the new building within Penitentiary No. 10, NAP assures that it will be put into operation at the end of 2022. The new building includes the detention sector in three levels for 2-3 people per cell, with an accommodation capacity of 105 people; a study sector and a medical sector. The major issue concerns the categories of inmates to be placed in the new building. However, these will only be minors, including those transferred from criminal detention centres or other categories of detainees (ex-public officials, pre-trial detainees, etc.). All scenarios have certain advantages and disadvantages related to prison regime and security. At the moment, there is no consensus on this.

Another 245 residential spaces within penitentiary institutions were repaired. Likewise, the sanitary blocks were isolated by the wall and the door in 54 penitentiary cells; renovated 158 offices and other spaces; rehabilitated 15 roofs and replaced 47 larger windows and 34 doors. 6 penitentiary institutions were equipped with inventory items.

The situation concerning the new Chisinau Penitentiary remains uncertain. Procurement procedures announced in 2020-2021 have failed. However, according to the provisions of the Framework Loan Agreement, the construction works were to be finished on December 31, 2017, and the penitentiary was scheduled to be commissioned on June 30, 2018. Later, the Development Bank of the Council of Europe extended the project implementation deadline until December 31, 2022. Meanwhile, some companies participating in the procurement process contested the procurement cancellation results. This implies that the process of initiating the reconstruction will be delayed, and due to the lack of management at the implementation unit, the project implementation deadline risks not being executed in 2022. The authorities will have to extend the implementation period.

We remind you that in the Report of the Court of Accounts of the Republic of Moldova from 2020 it is indicated that the implementation of the project was delayed by 54 months compared to the established deadlines, as funds of over 153 million lei were not utilized. At the same time, the expenses for the salaries of the UIM staff in the period 2014-2019 exceeded 11.4 million lei ³³⁵. In response, the UIM manager explained that the process of selecting construction companies is too difficult and expensive (*e.g.: a Dutch company requested the sum of 70-80 million euros*) in a context where the budget limit is 44 million euros. He assured the members of the Court of Accounts that the new deadline for the reconstruction of the penitentiary is a real one and that in 2022 it will be put into operation ³³⁶. In 2019, at the request of the Ministry of Justice, the amount of the loan from the Development Bank of the Council of Europe was increased by 10 million euros, the total

³³⁵ https://www.youtube.com/watch?v=wKW6q8VTjEU&ab_channel=CurteadeConturi

³³⁶ <https://newsmaker.md/ro/noul-penitenciar-din-mun-chisinau-ramane-doar-pe-hartie-lucrarile-nici-nu-au-inceput-desi-urmasa-se-incheie-in-2019/>

amount being 49 million euros. Likewise, the Government is going to increase its contribution by 6.8 million euros³³⁷. In total, the amount for the construction of the penitentiary institution starts from **55.8 million euros**. However, according to the report on the implementation of the CPT recommendations, the NAP claimed that the commissioning of the new penitentiary is expected for **December 2022**³³⁸.

At the hearing of the Compliance Audit Report on public procurement in the Ministry of Justice system on July 23, 2021, the Court of Accounts reiterated that the audited situations regarding capital investments in the penitentiary system affect the timely implementation of some government policies in the field of justice, generates a negative financial impact involving additional budget costs, caused by delays in the construction and reconstruction of investment objectives³³⁹.

REPEATED RECOMMENDATION: The People's Advocate reminds us of the need to implement Recommendation no.R (99)22 of the Committee of Ministers regarding prison overcrowding and prison population inflation. According to her, investing considerable sums in the prison infrastructure is not a solution. Rather, existing laws and practices on pre-trial detention, sentencing, and the multitude of non-custodial sanctions available should be reviewed.

D. Material conditions of detention

In 2021, the employees of PAO made monitoring visits to **4 penitentiary institutions** (no. 18, no. 13, no. 15 and no. 10). At the same time, the members of the Council for the Prevention of Torture visited **9 prison institutions** (no. 17, no. 11, no. 5, no. 13, no. 10, no. 16, no. 8, no. 12, no. 2)³⁴⁰. The findings regarding the material conditions of detention remain **alarming**:

The visit report to Penitentiary no. 18 Brănești: During the visit on March 16, 2021, some circumstances could be observed that indicated the effort of Penitentiary no. 18 Brănești to improve the material conditions within Sector no. 10 (double glazing windows, new bunk beds, concrete floor), except for the non-accommodation of spaces for disabled people. However, these are insufficient to improve detention conditions. The precarious conditions in the bedrooms in Sector no. 10 building B, overpopulation, the presence of

³³⁷ <https://unimedia.info/ro/news/486005c6def4680f/cand-scapanam-de-nr-13-trei-companii-lupta-pentru-a-construi-o-puscarie-noua-49-de-milioane-de-euro-sunt-alocati-iar-lucrarile-de-constructie-ar-urma-sa-inceapa-in-toamna.html>

³³⁸ <http://anp.gov.md/cpt-realizare>

³³⁹ <http://www.ccrm.md/curtea-de-conturi-a-depistat-nereguli-si-deficiente-in-sistemul-achizitiilor-publice-al-ministerului-justitiei-1-4035>

³⁴⁰ http://ombudsman.md/wp-content/uploads/2021/12/CpPT_Raport-minori-in-penitenciare_2021.pdf

parasitic insects, the lack of privacy, the lack of adapted lighting, and the presence of used arrangements close to degradation (worn linen, in some places, dirty, a fact caused by age), the amalgam of sounds propagated by different devices (television, radio), frequent disconnection of electricity without good reasons, are contrary to Article 3 ECHR. Accommodation of inmates in the boiler room of the penitentiary institution can constitute a form of ill-treatment. Lack of reasonable accommodation for persons with locomotor disabilities in the penitentiary institution (location far from the access path to the cell, with the bed adjacent to another inmate, making it impossible to move the trolley easily, to park it nearby, to move to the old room in the basement, etc.). Comparing the number of inmates in Sector no. 10 to the number of toilets and sinks in the sanitary room, we can mention that it is insufficient and it is necessary to take urgent measures to replace them. Keeping people on hunger strike in humiliating, degrading and inhumane conditions would constitute an additional punitive action for the intention to protest/or disciplinary sanction³⁴¹.

The visit report to Penitentiary no. 10 Goian (for minors): The poor conditions in the sanitary blocks: visible wear and tear, close to damage, the presence of open showers, the persistence of a specific smell, the absence of appropriate water heating equipment, are contrary to Article 3 of the ECHR. Recently populated or temporarily free cells are not associated with decent detention: the wear of the mattress, the persistence of an unpleasant smell, the lack of arrangements, and the damage to the linoleum are contrary to Article 3 ECHR. Replacing cell doors with ones made of a resistant material. Banging on doors reveals aggressive behaviour on the part of inmates and is a sign of an emotional outburst³⁴².

The visit report to Penitentiary no. 13 Chisinau: At the time of the visit, **Penitentiary no. 13 Chisinau** held 860 people (*19 minors (including 1 minor); 46 women and 795 men*) on a detention ceiling of 570 people. Those indicators suggest severe overcrowding of the institution, with 290 people exceeding the minimum detention ceiling; The continued placement of people in Penitentiary no. 13 is contraindicated, and keeping inmates, especially those detained for long periods in overcrowding conditions, 23 out of 24 hours in the cell, in narrow spaces and unfit for detention as such, represent inhumane and degrading actions. The effects of long-term detention of detainees (from 3 months to over 12 months) undermine human justice. The poor conditions in cell no. 138,142,128, overcrowding, malfunctioning of the ventilation system, the presence of dampness, high humidity and pungent odour in all cells, non-insulated electrical cables, lack of access to natural light, etc. are contrary to Article 3 of the ECHR. The same conditions are attested in

³⁴¹ http://ombudsman.md/wp-content/uploads/2021/03/Raport_P18_16.03.21_FINAL_pe-site.pdf

³⁴² http://ombudsman.md/wp-content/uploads/2021/04/Raport_P10_09.04.2021_pe-site.pdf
<http://ombudsman.md/wp-content/uploads/2021/06/Raport-vizita-P-10-1.pdf>

the cells for the detention of minors no. 160, 162, 145: overcrowding, non-functioning ventilation system, presence of dampness, high humidity and pungent smell in all cells, non-insulated electric cables, damaged sanitary blocks, and the toilet door bent, are contrary to Article 3 ECHR³⁴³.

The visit report to Penitentiary no. 15 Cricova: The overcrowding of the institution (with 28 people) seriously affects the quality of detention conditions, available activities, medical care and psychological assistance, contributes to radicalization, and has negative effects on the health and well-being of inmates, constitutes an obstacle to the social rehabilitation, reintegration and supervision of inmates, and contributes to the creation of a dangerous, complicated and harmful environment, including for prison staff. The continued placement of inmates on hunger strike in the “suspended” cells, or in housing block no. 1, represents a form of inhumane/degrading treatment of persons. And, in cases of protests against the deeds/actions/inactions of the Penitentiary No. 15 administration - the placement of inmates in the respective cells could be considered a form of revenge, which is inadmissible. Moreover, the placement of convicts on hunger strike in the disciplinary isolation cell could also be considered inhuman/degrading deeds; The Ombudsman expresses concern about the operation of the cell for convicts on hunger strike, which is capable of causing degrading and inhumane treatment due to substandard conditions. Moreover, people on hunger strike must benefit from minimum conditions of detention, and be permanently under the supervision of a doctor. In general, solitary confinement cells are dark, damp, unventilated and extremely cramped. The windows are small and covered with metal bars, which considerably limits access to daylight. The inmates are in conditions of permanently connected artificial light because daylight does not penetrate these spaces. The approximately three-month detention of a person in pre-trial detention in Penitentiary No. 15 is contrary to national legislation. The People’s Advocate expresses his concern about the omission of placing the detainees in prisons, directly considering it a rather dangerous precedent for human security and challenging for the entire prison and justice system. In this sense, the People’s Advocate recommends that penitentiary institutions do not admit the placement of detainees, contrary to the legislation in force, in penitentiaries, other than penitentiary institutions with the status of a criminal detention facility³⁴⁴.

At the same time, the Ombudsman received complaints from detainees, addresses containing allegations of being subjected to inhuman and degrading treatment due to improper conditions of detention: *inadequate conditions of detention; overpopulation; poor quality and*

³⁴³ http://ombudsman.md/wp-content/uploads/2021/06/Raport_P13_21.05.21_FINAL_pe-site.pdf

³⁴⁴ http://ombudsman.md/wp-content/uploads/2021/11/Raport_P15_20.10.2021_FINAL_PE-SITE.pdf

insufficient food; lack of effective medical care (lack of medicines, lack of specialist doctors, lack of medical equipment), dental pain; lack of hygiene (parasitic insects, presence of dirt, lack of beds, presence of rodents, lack of proper ventilation, access to daylight, the deplorable state of the clothes, dirty conditions in the bathrooms; lack of privacy in the toilet and bathroom; (some lead to TB disease); insufficient heating in winter; hostile relations between inmates; discriminatory treatment, intimidation and harassment by the administration, treatment of people with epileptic diseases, detention in conditions of pandemic isolation, disagreement with searches and other actions of employees, etc. Even if the State has established a compensatory remedy for detention in poor conditions, this does not mean that prison authorities should not make efforts to optimize detention conditions, at least to bring them in line with minimum detention standards.

In this connection, we repeatedly remind that in its jurisprudence, the ECtHR noted that Article 3 requires the state to ensure that the person is detained in conditions that are compatible with respect for human dignity, so that the manner and methods of execution of the imposed measures or punishment do not cause the person suffering or pain of an intensity that exceeds the inevitable level of suffering inherent in detention and, taking into account the demands of detention, the health and integrity of the person to be adequately ensured, among others, by providing the necessary medical assistance³⁴⁵.

The Enforcement Code of the Republic of Moldova regulates the manner and conditions of the execution of the sentence, determines the means of correction of the convicts, and establishes the manner of execution of safety and preventive measures, intending to protect the rights, freedoms and legitimate interests of the person, as well as providing help to convicts for their social adaptation³⁴⁶. Likewise, the legislator established that the execution-penal legislation is applied under the Constitution of the Republic of Moldova and the international treaties to which the Republic of Moldova is a party. If there are inconsistencies between the regulations of the international treaties in the field of fundamental human rights and freedoms to which the Republic of Moldova is a party and the provisions of this code, the regulations of the international treaties take precedence. Thereby, the provisions of article 167/1 of the Enforcement Code expressly provide that it is forbidden to subject any person serving a sentence to torture, cruel, inhuman or degrading treatment or other ill-treatment.

Among the rights stipulated in the provisions of article 169 of the Enforcement Code at letter b) of paragraph 1) is stipulated the right to the defence and respect by the institution

³⁴⁵ Case of Kudla v. Poland [MC], judgment of 26/10/2000, § 94; Paladi v. Republic of Moldova [MC], id., §71;

³⁴⁶ Paragraph 2, Article 165 of the Enforcement Code of the Republic of Moldova;

or body that ensures the execution of the punishment of the dignity, rights and freedoms that he/she has, including not being subjected to torture or cruel, inhuman or degrading punishments or treatments.

In his previous observations, the Ombudsman mentioned that all the penitentiaries in the country are of old architecture, of an organization not adapted to the detention of man as such. Large (barrack-type) spaces influence both the inmates' compliance with the detention regime, their health and their ability to participate in resocialization programmes. More than 80% of convicts spend time in institutions, due to the lack of jobs and other forms of occupation. Literally, the penitentiaries do not have/have limited occupational fields specific and useful to the inmates. The aspect of "resocialization" is maintained by the process of recording written documentation, rather than by a sequence of actions in the given field. And the effort of the penitentiary authorities in this regard is still minimal.

At the moment, the detention of individuals can easily be qualified as detention contrary to Article 3 of the Convention and European jurisprudence. Those findings were drawn repeatedly by the UN Committee against Torture (2014, 2017), the European Committee for the Prevention of Torture (2015-2020), the Ombudsman (2002-2022) as well as the Council for the Prevention of Torture (2017-2022).

Likewise, we reiterate that in the content of the *Final Observations regarding the third periodic report of the Republic of Moldova*, adopted during the 1600 and 1602 meetings of November 27 and 28, 2017, the Committee against Torture emphasizes that "the Republic of Moldova must intensify its efforts to bring conditions in places of detention up to international standards, such as the United Nations Standard Minimum Rules for the Treatment of Detainees (*The Nelson Mandela Rules*), including by ensuring adequate material and hygienic conditions for inmates, including sufficient natural and artificial lighting, adequate sewage systems and sanitary facilities, including toilets and showers, cell heating, sufficient ventilation, adequate quality and quantity of food, bedding, beds and personal hygiene items, medical care, outdoor activities and visits by family members".³⁴⁷

REPEATED RECOMMENDATION: The Ombudsman reaffirms the Government's commitment to ensuring decent conditions in closed spaces and urges the executive to decide on a global assessment of the situation. Fragmentary and insufficient allocation of financial resources each year may not be the optimal solution. Accordingly, it is probably necessary to revise the concept of the execution of custodial measures, considering the austerity of the public budget.

³⁴⁷ Point 18 (c) of the Final Observations on the third periodic report of the Republic of Moldova, adopted by the Committee against Torture at its 62nd session (November 6 – December 6, 2017);

E. The compensatory mechanism for detention in inhumane conditions

As of January 1, 2022, 5,485 complaints were registered (in 2020 - 5,242 complaints) submitted to the court for finding detention in poor conditions as a result of the application of the preventive and compensatory mechanism. Out of the total number of complaints examined by the courts, 2350 inmates had their sentences reduced, and 434 were released. There is an increase in the number of released inmates compared to 2019 – 53 inmates and 2020 – 200 inmates. The large number of complaints registered for the application of the compensatory appeal shows its value for each inmate (82% of the number of inmates). But the low rate of positive solutions, or the high rate of rejection of actions, shows reservations on the part of public authorities regarding the bad situation in detention. **However, there are several gaps in the applicability of the compensatory remedy, as well as reservations towards certain categories of inmates (e.g. inmates serving life sentences) that urgently need to be remedied.**

A study carried out by the “Promo-LEX” Association indicates the non-uniform practices of applying the compensatory remedy, the inefficiency of the preventive remedy, the excessive duration of the examination of the complaints, insufficient amounts offered as compensations and that the projects to amend the legislation were not approved by the legislature. The experts propose to the authorities to fulfil the international and national recommendations; to ensure the uniform and correct application of the compensatory remedy; to grant additional protection for the severity of conditions of detention, other suffering and risks during detention; the inclusion in the scope of the compensatory mechanism also of persons removed from criminal prosecution and previously held in custody, including that the investigating judges evaluate the material conditions on the spot and not only based on the evidence of both parties³⁴⁸.

According to the decision of the Committee of Ministers on June 9, 2021, the Republic of Moldova is to present additional information by March 31, 2022, concerning: (a) the practical applicability of the preventive and compensatory remedy; (b) information on the alternative measures applied to improve poor detention conditions; (c) measures taken to improve medical care; (d) the practice of the criminal investigation body and the courts of law for examining the requests of detainees regarding the granting of meetings with family members³⁴⁹.

³⁴⁸ https://promolex.md/wp-content/uploads/2021/06/APP_Mecanismul-Compensatoriu_2021.pdf

³⁴⁹ https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=0900001680a2b5b6

F. Deaths in penitentiary institutions

In 2021, **41 deaths** were detected, down by 15, compared to the situation in 2020. The age of the deceased is from 19 to 75, of which 3 are women and 38 are men. Among the preliminary causes of death, we mention: *suicide by strangulation; chronic bronchopneumopathy, cancer; natural death without signs of violence; sudden cardiac death; intestinal bleeding; maxillofacial tumour; major dehydration; liver cirrhosis; renal abscess; acute caranian syndrome, heart failure.*

During the same period, **33 suicide attempts** were recorded (*strangulation; chemical poisoning with chlorine pills; intentional injury to the neck; injury to the abdomen and forearm with a terracotta shard; injury to veins; pill engineering; knife wound in the neck and abdomen region; inserting a sharp object into the abdomen; multiple wounds in the neck region*).

The reasons why the inmates resorted to suicide were stated as follows: *he/she does not want to live; negative emotional and psychological state due to family relationships; wants to be transferred to another penitentiary; due to mental disorders; consent to search; disagreement with detention conditions, medical assistance or placement in solitary confinement; does not agree with the employees' actions and allegedly refused to state the reason.*

The Ombudsman's investigations, in fact, showed that the penitentiary institutions failed to ensure the effective medical treatment of the convicts, including the prevention of diseases and exposed the patients to incurable suffering.³⁵⁰ And, in the case of suicidal acts, the penitentiaries omitted the assessment of suicidal risks, including due to negligence and the lack of suitable tools³⁵¹: -

Extract from the Special Report "Suicide by strangulation at Penitentiary 13":
As for the National Administration of Penitentiaries Instruction on the intervention of prison staff in cases of self-mutilation, attempted suicide and refusal of food declared by detainees, this generally provides for concrete actions, capable of preventing the occurrence of incidents of such a nature, BUT, regrettably, it remains a useful tool ONLY theoretically and does not seem to be suggestive from the practical aspect of its application. On this point, the People's Advocate recommends to the National Administration of Penitentiaries to

³⁵⁰ <http://ombudsman.md/wp-content/uploads/2021/10/sesizareoficiu.pdf>; <http://ombudsman.md/wp-content/uploads/2021/11/rapport-special02.11.21.pdf>

³⁵¹ <http://ombudsman.md/wp-content/uploads/2021/08/08-1-22-1337-din-09.08.2021-ANP-Raportul-special-p-d-suicidul-p-n-strangulare-%C3%AEn-P-13.pdf>

review its Order no. 74 of 06/02/2020 concerning the approval of the Instruction on the intervention of prison staff in cases of self-mutilation, attempted suicide and refusal of food declared by detainees, so that it is useful to the penitentiary staff in the cases highlighted in application and reaction. Sharing the obligations of the subdivisions: medical, social reintegration, security and penitentiary regime do not currently adopt crisis management plans, do not connect to the interests of the inmate and do not work in-depth to examine the issues raised. Superficial research is equated with the total lack of conjugation of efforts, thus becoming a vicious practice, with deeply negative consequences for the penitentiary system, a system that still remains disregarded: the right to life, the right to be protected against torture and ill-treatment.

The failure to ensure the protection of life and integrity was observed in the case of the death of a 40-year-old inmate from Penitentiary no. 3 Leova. *The inmate declared a hunger strike on 05 July 2021 and maintained it for over 3 months!* On September 22, 2021, he was transferred in serious condition to the penitentiary hospital, where he died over 3 days due to *major dehydration*. The penitentiary institutions informed the PAO that they did all the diligence to convince the deceased to stop his hunger strike actions. However, examining the submitted documents, the People's Advocate found actions of negligence and disregard on the part of the competent prison staff: -

Excerpts from the Reports on Penitentiary no. 3 Leova: [...] as long as the convict does not lose the ability to discern or his health condition does not worsen, the decision to refuse to receive food belongs to him. Therewith, it was indicated that the inmate should be actively monitored regarding his state of health and in the case of worsening, 112 should be immediately requested. [...] in the penitentiary hospital, the newly arrived inmate verbally announced that he was giving up his hunger strike. He could not submit a written request due to his serious health condition.

It is unclear, for now, on the omission to act according to the provisions of the Enforcement Code and NAP Order no. 74/2020 on the approval of the Instruction regarding the intervention of prison staff in cases of self-mutilation, suicide attempts and food refusal. We believe that all these actions (including all death certificates) are to be examined promptly and effectively by the criminal investigation bodies, which have the legal diligence to expose themselves.

When the internal instructions/normative acts do not provide clear solutions regarding the case, they are to be changed immediately under the standards in the field.

While waiting for the court's judgements, **9 out of 14 convicts with cancer died**, whose files were presented to the Commission, for release due to illness (Article 95 Criminal

Code), **3 detainees were released from detention, and 2 others are still awaiting the court's judgements.** We observe the positive tendency of the Special Medical Commission to quickly examine patient files for their referral to the courts. But the difference between the date of death and the date of sending the action to the court is 1 day - 2 months. Probably, it is the case that the files of seriously ill patients are submitted to the court long before the critical period. Thus, the courts will have enough time not to delay this process.

As for the commitment to amend the order of the Ministry of Justice no. 331/2006 regarding the presentation of seriously ill convicts for release from the execution of the sentence initiated last year, it was not fulfilled.

RECOMMENDATION: The People's Advocate reiterates the urgent need to amend Ministry of Justice Order no. 331/2016 to improve the situation of seriously ill inmates. At the same time, the courts are to examine with priority the applications of seriously ill convicts and not to allow procrastination or unjustified postponement of hearings.

G. Acts of ill-treatment, other abuses in detention

During the reference period, the following were recorded: **1153** cases of bodily injuries in the inmates' environment (in 2020 – 1024), which is an increase of 11,18%; **144** cases qualified as altercations between inmates (in 2020 – 115), an indicator increasing by 29 cases; **270** cases of injuries to persons detained/brought by the police (in 2020 – 237; indicator increasing by 12,22%; **883** cases of injuries detected in convicts in penitentiary institutions (in 2020-787), an indicator increasing by 96 cases; **711** cases of declaring a hunger strike as a form of protest (in 2020 – 662), a decrease of 49 cases; **839** cases of self-mutilation of bodily integrity (in 2020 - 743), increasing indicator by 96 cases; **475** cases of use of physical force (in 2020 - 377), increasing indicator by 98 cases; **389** cases of use of special means (in 2020 - 296), increasing indicator by 93 cases; **28** cases of assault on employees (in 2020 - 20), increasing indicator by 8 cases; **one case** vertical firearm application; **13** cases of tear gas application; **10** cases of physical force against female detainees and **94** incidents involving juvenile detainees.

As usual, the circumstances of the occurrence of bodily injuries in penitentiaries remain *a fall from level II of the bed; slips on the floor; random hits in cells; following the football game, etc.* Most of the detainees refuse to declare the real circumstances of the acts of violence, including for fear of persecution. The lack of complaints about acts of violence is grounds for not initiating any investigation in this regard. Inmates seem to be aware that they will not have any effective protection inside prisons if they file complaints about abuse,

which is extremely serious (except for personal safety). From the operative summaries received by the PAO, there were *cases of calculations* by some groups of inmates who have power over other inmates. In most cases, victims of physical/psychological abuse are part of the groups of vulnerable inmates. Unfortunately, they are subjected to acts of humiliation both by the inmates with authority and by the employees³⁵².

As for the situation of minors in detention, the employees of the criminal detention facilities continued to apply physical force and special means against minors despite some legal restrictive conditions and the lack of need in this regard. Likewise, the following were recorded: acts of violence between minors; acts of violence against minors by adult inmates; various injuries obtained in the cell; acts of self-harm in protest; suicide attempts; hunger strike actions; thermal burns; removal of prohibited items from minors and escapes. An assessment of the situation regarding the protection of minors in detention was carried out in the Special Report of the Council for the Prevention of Torture “Deprivation of the Children’s Liberty - Deprivation of Childhood”³⁵³ and the reports carried out by the People’s Advocate for Child’s Rights³⁵⁴.

We see an increase in the number of detainees brought to the detention centres by police officers from 306 cases in 2019, 237 cases in 2020 and 270 cases in 2021. According to the request of the People’s Advocate, penitentiary institutions separately register newly arrived inmates with injuries, brought by the police. Most of the detainees with injuries received before detention or during detention were brought from the temporary detention cell of the Chisinau Police Department to Penitentiary No. 13.

At the same time, the National Administration of Penitentiaries registered 6 complaints regarding being subjected to acts of torture, inhuman or degrading treatment; 887 petitions regarding relations between employees and inmates/other persons; 543 petitions on medical assistance in prisons and 1274 petitions on aspects of the execution of the sentence.

People’s Advocate Office received information regarding 9 cases of abuse by employees towards inmates in penitentiary institutions no. 3, no. 4, no. 6, no. 11, no. 16 and no. 17, as follows: *during the search, he was kicked in the leg by an employee; the employees of the medical service do not issue him the requested medicines, a fact for which it is considered that he is being subjected to torture; physical aggression by employees during the search; ill-treatment during the search; injuries caused by employees of the*

³⁵² http://ombudsman.md/wp-content/uploads/2021/04/RAPORTUL_SPECIAL_VIOLEN%C8%9A%C4%82_P18_pe-site.pdf

³⁵³ http://ombudsman.md/wp-content/uploads/2021/12/CpPT_Raport-minori-in-penitenciare_2021.pdf

³⁵⁴ <http://ombudsman.md/avocatul-copilului/rapoarte/>

“Pantera” Special Destination Department; psychological intimidation and excessive use of physical force.

The CPT rules state that the obligation to be responsible for the inmates rests with the penitentiary staff. This task includes the responsibility to protect them from other inmates who might harm them. Violent incidents between inmates are common in all penitentiary systems. They involve a wide variety of phenomena, from subtle forms of harassment to overt intimidation and serious physical assaults. An effective strategy against acts of violence between inmates requires that prison staff be able, including terms of staff, to conveniently exercise their authority and supervisory function. Penitentiary staff must pay attention to signs of agitation and be determined and trained appropriately to intervene when necessary. The existence of positive relations between staff and detainees, based on the notions of security of detention and the responsibility for detainees, is a crucial factor in this context³⁵⁵.

REPEATED RECOMMENDATION: The Ombudsman believes that the National Administration of Penitentiaries must continue efforts to prevent and repress acts of violence and intimidation among inmates, paying special attention to the causes and origin of the phenomenon; to undertake the necessary measures, so that the prison staff does not rely on the informal hierarchy among the inmates, to maintain order and security; to undertake necessary measures to guarantee that the inmates’ right to lodge complaints is effective, ensuring, at the same time, that these complaints do not cause pressure from the prison staff; to start an in-depth examination of the force, in particular, the security service, and review the number of personnel units of the penitentiary institution to expand it and ensure the corresponding number of supervisory personnel; take measures to train prison staff in security and safety, including the concept of dynamic security, the use of force and coercion and the confrontation of violent inmates, taking into account preventive and neutralization techniques such as negotiation and mediation.

H. Use of force and means on detainees

Penitentiary institutions resorted to the use of physical force for disobedience in **475 cases** of use of physical force (*in 2020 - 377*), increasing the indicator by **98 cases** and **389 cases** of use of special means (*in 2020 - 296*), increasing the indicator by 93 cases. The most frequent cases occurred in the Penitentiaries: no. 11-Bălți (66/70 cases), no. 13-Chișinău

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https://www.coe.int/en/web/cpt/standards?p_p_id=56_INSTANCE_rmo9MHZGnl46&p_p_lifecycle=0&p_p_state=normal&p_p_mode=view&p_p_col_id=column-4&p_p_col_count=1&_56_INSTANCE_rmo9MHZGnl46_languageId=ro_RO

(58/30 cases), no. 5-Cahul (51/42 cases), no. 2-Lipcani (45/45 cases), no. 6-Soroaca (40/33 cases), no. 17-Rezina (33/25 cases), no. 12-Bender (25/29 cases) and no. 18 – Brănești (31/16 cases). All these situations were properly documented, with the preparation of the necessary documents to ascertain the facts. This does not include cases of verbal abuse, which are daily.

The firearm was used in a single case in Penitentiary no. 15 Cricova, by vertical application (pre-emptive fire). No inmates or employees were harmed.

Use of “tear gas” as a special means has been used in several prison institutions (Penitentiary no. 3, no. 17, no. 12, no. 15, no. 18 and no. 13) for *disobedience, aggressive behaviour, self-mutilation, suicide prevention, dispersal of violent inmates, restoration of prison order and security, resistance, damage to property, incitement to disobedience and mass disorder*³⁵⁶.

REPEATED RECOMMENDATION: The People’s Advocate thinks that the Intervention Guide should be supplemented/ readjusted with clear actions to apply force and special means in closed spaces. These mechanisms must be applied uniformly by all employees, and inmates must be informed of the consequences of disobedience. The separate regulation of the procedures regarding the use of handcuffs, physical force and tear gas vis-a-vis detainees is a primary one in the context of preventing acts of abuse.

I. Critical self-harm by inmates

In 2021, **839 cases of self-harm to bodily integrity** were registered, an indicator that increased by 96 cases compared to 2020 (in 2020 - 743). Of that number, **247 cases of self-mutilation** were quite critical to the detainee’s life and bodily integrity.

Disagreement with the solutions adopted by the courts, with the actions of the penitentiary administration, the conditions of detention and the level of medical assistance or treatment offered, including the refusal to declare, are specified among the reasons for resorting to serious self-harm of bodily integrity. In this regard, the detainees *have sutured their oral cavity or eyes; swallowed foreign bodies; they engineered substances; had their lower and hind limbs amputated; inflicted various wounds on themselves in life-threatening regions of the body*. Some detainees have resorted to such actions multiple times or periodically. The information provided to the PAO shows that the detainees were given the necessary medical assistance at the time.

The cases reported in the operative summaries show that the detainees continue to resort to self-custom documents quite often, to communicate with the prison administration, either to challenge certain inactions or actions of it or to protest against the solution issued

³⁵⁶ http://ombudsman.md/wp-content/uploads/2022/01/Raport_periodic_sigurantaANP2021.pdf

by the courts. It creates the impression that there are serious communication problems between the administration and the inmates. Either the employees refuse/ignore the problem exposed by the inmates, or the latter exaggerate the use of their rights. Consequently, employees not targeted in the inmates' complaints resort to the application of special or physical means to "calm down" the inmates. As a result, the inmate's problem is not solved but postponed until the next act of self-harm. On the other hand, the proactive involvement of specialized personnel in the situations described (educators, psychologists, doctors, etc.) is necessary. At the same time, the courts do not adopt any measures against the detainee's decision to announce the form of protest.

REPEATED RECOMMENDATION: The People's Advocate reminds us that inmates who self-mutilate as a sign of protest cannot be disciplined. It is the task of the National Administration of Penitentiaries to provide specialized treatment, to make efforts for prevention, counselling, re-education, resocialization, etc. to discourage acts of self-harm and in no way to "punish" the person for supplementing the term of detention or affecting it before "conditional release" or another form of release. Likewise, a comprehensive mental health care strategy must be introduced in each prison. At the same time, prison staff must be trained in assessing the risk of developing self-harm behaviour.

J. Assaults on employees within penitentiaries

We observe an increasing trend in the number of cases of assault on employees (with injuries/other consequences). In 2021, the People's Advocate Office recorded **28 cases of assault**, compared to 2020 - 20 cases and 2019 - 16 cases of assault. Or The prosecutor's office initiated 26 criminal cases based on the assaults. Some inmates were additionally sentenced to prison terms.

Acts of abuse against employees were certified in Penitentiaries no. 2, 3, 4, 5, 6, 7, 11, 12, 13, 15, 17 and no. 18. For example: *hit with the head in the face; outfit pull; knocking to the ground with blows to the head; punching in the face; assaulted with a homemade object; paint throwing; stabbing and other forms of ill-treatment, etc.* Criminal cases were filed in all cases. This does not include cases of verbal abuse, intimidation and offence by inmates/informal leaders.

Also here, we mention with concern 3 cases recorded as assaults on employees by women detainees, namely *slaps on the face or kicks on the forearm*. Analysing the information provided by Penitentiary No. 7 Rusca, we note the fact that among the causes that

led to the fact that the inmates resorted to attempts or acts of “assault” is also the lack of skills* of the employees to manage conflicts, and not immediately the imminence of assaults.

RECOMMENDATION: The People’s Advocate received more information about the ongoing abuses towards employees. It seems that the criminal penalty for disobeying legitimate requirements is not exactly drastic enough to deter the said phenomenon. The lack of mechanisms to protect employees against mental abuse and physical assaults is a major problem for prison human resources. We think that in the conditions of the increase in the influence of the criminal subculture, and the insufficient number of employees, the authorities must return to this subject to overcome the possible risks of proportions. The use of physical force to oppose resistance in favour of Article 233 of the Enforcement Code, likewise, is not the most appropriate and reasonable solution. Next, to effectively protect employees, the legal mechanism for sanctioning those convicted for acts of intentional violence committed against the employees of the system - representatives of the state - is to be revised.

K. Organization of detainees’ work

Approximately more than 5,200 able-bodied convicts are detained in penitentiary institutions. Therefore, based on the accounting record data, **895** (in 2020 - 859) detainees were placed in remunerated work. At the moment, **220** inmates are assigned to paid work in penitentiary institutions (in 2020 - 168 inmates), and **675** inmates are employed in domestic service (in 2020 - 657 inmates), thus only **12%** of the total number of convicts work.

Only in 6 penitentiary institutions (out of 17 institutions) are inmates involved in remunerated work, where the rate of female inmates prevails over the rate of men.

According to the National Administration of Penitentiaries, not all penitentiary institutions have the possibility to organize workplaces, sufficient to train all inmates to work. And, outside of the penitentiaries, the National Penitentiary Administration is facing a lack of security and supervisory personnel. Also here, there is a lack of intention of economic agents to contract labour from among the inmates, as well as a lack of penitentiary infrastructure.

L. Nutrition of detainees

Detainees are fed according to the provisions of Government Decision no. 609/2006 on the minimum norms for daily food and toilet and household items for detainees.

On average, the feeding of 6500 inmates, means approx. 6830 lei/year or 570 lei/month, or approx./over **18 lei/day**, are provided³⁵⁷. Analysing the annual balance report of the National Penitentiary Administration, we note that the planned budget for food procurement in 2021 was 5.8% or 1.1% less than in 2020 (6.9%). Respectively, 38303.2 thousand lei were planned for the procurement of food products and 33955.2 thousand lei were spent, or less than in 2020 - spent 36390.2 million lei.

Detainees continue to inform the Ombudsman about the poor quality of food and/or the food itself, the lack of dietary products or fruit, etc. **RECOMMENDATION: The People's Advocate recommends the Government review its Decision no. 609 of 2006, as this, in addition to being out of date, creates a series of obstacles in providing food in all private institutions.**

M. Physical force against women

In 2021, People's Advocate's received information about 10 cases of use of physical force and special means against women in Penitentiary No. 7 Rusca. The age of the women who were subjected to physical force and handcuffs ranges from 30 to 47 years. And, among the reasons why the employees resorted to the exceptional measure, we mention: *categorical refusal to enter the cell; aggressive behaviour, self-mutilation and attempted hitting of employees; aggressive behaviour; assault on an employee; intent to harm oneself; damage to property and the threat of quarrel*. All female detainees were medically examined. Analysing the information provided by Penitentiary No. 7 Rusca, we note the fact that the causes of resorting to the use of force against women were rather generated by the lack of necessary competence of employees in conflict management, this exceptional measure not being necessary.

In the cases where the Ombudsman reacted, the penitentiary institution's attention was drawn to the fact that according to articles 6 and 8 of Law 218/2012 on the method of using physical force, special means and firearms, the use of physical force against women shall be avoided as far as possible. Including, the use of special means is prohibited, except in cases of attack on the subject of the law or another person, including the use of weapons, the opposition of resistance dangerous to the life and health of people, if actions of this kind cannot be stopped in other ways and by other means.

The ECtHR reminds us that Article 3 of the Convention obliges the state to ensure to any detained person's conditions are compatible with the principle of respect for human

³⁵⁷ <http://anp.gov.md/rapoarte-de-bilant>

dignity, which does not cause him suffering or pain of an intensity that exceeds the level of suffering typical of detention, taking into account the practical demands of deprivation of liberty, the health and well-being of the detainee be adequately ensured. When assessing conditions of detention, it is necessary to take into account their cumulative effects. The State is therefore obliged, despite the logistical and financial problems, to organize its penitentiary system in such a way as to ensure respect for the human dignity of the detainees.

RECOMMENDATION: The People’s Advocate encourages the employees of the penitentiary system to apply correctly, legally, proportionately and only as a last resort, physical force and special means, especially towards women detainees. Any conflict situation is to be resolved through dialogue, compromise and non-offensive measures brought to the integrity and dignity of the person.

III. THE SITUATION OF PEOPLE DETAINED AND HELD BY THE POLICE

A. Dynamics of apprehension and placement in provisional detention

In 2021, 2,334 people were detained for criminal offences and 45 people for misdemeanour offences by the territorial and specialized subdivisions of the General Inspectorate of Police.

Likewise, during the reference period, 4,672 people were detained in police cells, of which 4,269 were men, 262 were women and 51 were minors. 3169 people were detained for 72 hours and 1503 people for a period exceeding the legal period of 72 hours (*due to pandemic restrictions, delay in the documentation of detainees, etc.*).

RECOMMENDATION: The People’s Advocate emphasizes the need to respect the period of provisional detention established by law (72 hours), but this is one of the fundamental guarantees for detention and preventive detention.

B. Allegations of Abuse and Mistreatment by the Police

International and national rules clearly state and prohibit the subjection of persons to torture or other ill-treatment during apprehension or detention. Commitments to eradicate the phenomenon of torture provide for the application of non-offensive techniques for apprehension, the provision of a series of guarantees against abuse, professional attachment to police activity, respect for human dignity as such, and the creation of a professional

environment for police officers, qualitative and protective equipment, clear operational processes, regular training and more.

In nine months of 2021, 471 cases of insulting police employees (*of which 466 were during duty*) were registered concerning 843 police employees. Compared to the analogous period of 2020, there is a 102% increase, with 233 cases of outrage involving 395 employees being registered. For the acts of insulting, insulting, destroying or damaging property, disobeying, preventing legitimate activity, threatening or violence against police employees, 361 contravention minutes and 28 criminal cases were issued to the guilty citizens. In the mistreatment of police employees, there is an increase of 16.66%, compared to the same period of 2020, with 112 cases of mistreatment involving 185 employees, of which 102 cases were recorded during working hours.

In the same period, 72 criminal cases were initiated against 105 police employees (*compared to 78 criminal cases in 2020*). Out of the total number, 17 criminal cases were sent to court, and 7 were dismissed. Therewith, the obvious decrease in criminal cases initiated against police employees is evidenced in the actions of torture, inhuman or degrading treatment by 44.44%, abuse of power or abuse of office by 50%, excess of power or exceeding of the duties by 100%³⁵⁸. The data presented by the police do not show the number of cases of torture or other acts of real ill-treatment recorded at the time of apprehension of all persons. For this reason, it is difficult to perform an exhaustive analysis.

However, **140 cases of torture were registered in the Registers of receipts and transmission of complaints, statements or other information about alleged acts of torture, and inhuman or degrading treatment in the 39 territorial police inspectorates. All reported cases were reported to the prosecutors, who found violations in only 2 cases.** The top police inspectorates with the most reports of torture include: Anenii Noi Police Inspectorate (24 cases); Hâncești Police Inspectorate (24 cases); Căușeni Police Inspectorate (20 cases); Telenesti Police Inspectorate (18 cases); Rezina Police Inspectorate (10 cases); Edineț Police Inspectorate (9 cases); Dondușeni Police Inspectorate (7 cases), Comrat Police Inspectorate (5 cases). We note that these presented data do not represent the real figure, because the respective Register mainly records the cases referred to 112 or the on-call unit of the territorial police inspectorate. At the same time, **661 cases of excessive use of force** to detain people were reported. At the time of drafting the report, the prosecutor's office did not present itself on any of the reported cases.

Despite 801 situations involving allegations of torture and or excessive abuse during detention, the data presented by the General Inspectorate of Police show us that during the

³⁵⁸ https://politia.md/sites/default/files/raport_cu_privire_la_activitatea_politiei_9_luni_2021.pdf

reference period there were 14 notifications regarding torture (166/1 Criminal Code); 8 service inquiries initiated; only **7 criminal cases** were initiated, of which 1 case was closed, 1 was referred to court and no decision was made on the other 5.

Analysing the above data, we understand that there is confusion regarding the horizontal recording, reporting and information of all cases of apprehension abuse. Therewith, criminal practice knows few cases when investigating judges issued interlocutory conclusions on the facts invoked by the defence or suspected regarding torture or other acts of ill-treatment admitted during apprehension. Likewise, we mention an extremely large gap between the number of referrals submitted to the prosecutor's office and the number of criminal cases initiated. It is worth reiterating that an effective investigation must meet five criteria, such as appropriateness, thoroughness, impartiality and independence, promptness and public scrutiny³⁵⁹.

The People's Advocate Office recorded (*following the operative syntheses from the penitentiary system*) **208 cases** of apprehension of persons with injuries before detention and **23 cases** of injuries obtained during apprehension. The respective data represent only the information regarding the persons placed in the criminal prosecution isolation cells and not for all detained persons. Following some steps, the People's Advocate received incomplete reports from the police employees regarding the circumstances of the injuries to the persons detained by them, including the provision of fundamental guarantees upon apprehension.

RECOMMENDATION: The People's Advocate recommends the General Inspectorate of Police and its territorial subdivisions register/report any cases of injury/violence/mistreatment during a person's apprehension and detention under CPT rules. The General Inspectorate of Police must implement correctly and according to the CPT's suggestions the content of the medical examinations, especially in the part related to allegations of ill-treatment upon apprehension or detention. In addition to these, it is necessary to increase joint efforts in the field of preventing and combating torture, but at the moment there is an enormous reserve in this regard.

C. Compliance with the material conditions in provisional detention

In 2021, the activity of the detention centres of the Florești Police Inspectorate³⁶⁰, Fălești Police Inspectorate³⁶¹ and Ceadâr-Lunga Police Inspectorate was definitively suspended, following the fulfilment of the Action Plan on the implementation of the Police

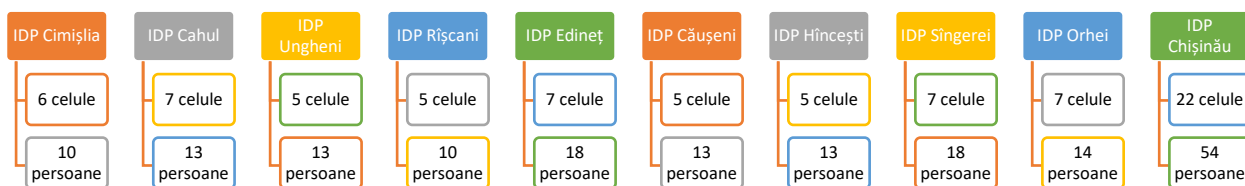
³⁵⁹ <https://rm.coe.int/1680695d6e>

³⁶⁰ http://ombudsman.md/wp-content/uploads/2020/08/IP_Floresti_27.07.20_FINAL_pe-site.pdf

³⁶¹ http://ombudsman.md/wp-content/uploads/2020/11/Raport_vizita_IP-Falesti_08.10.20_FINAL_pe-site.pdf

Development Strategy 2016-2020³⁶² and the recommendations of national and international monitoring bodies.

Thereby, out of the 47 territorial and specialized subdivisions of the General Inspectorate of Police, only 14 inspectorates have preventive detention cells of the Hâncești, Orhei, Cimișlia, Ungheni, Căușeni, Edineț, Sângerei, Râșcani, Cahul Police Inspectorates, the Isolator of the Chisinau Police Directorate, Anenii Noi, Bălți, Comrat and Soroca Police Inspectorates. In 2022, the isolation ward of the Criuleni Police Inspectorate will be put into operation. Each renovated isolator has 5/7 cells, with a capacity of 10/18 people.



In total, in the 14 renovated isolation cells there are 102 cells for the preventive detention of 247 people at the same time. The value of capital investments reaches 64242011,00 lei MDL.

The only working old detention centre is the **Isolator of the Călărași Police Inspectorate**. It is located in the *basement of the Călărași Police Inspectorate* and has 4 functional cells (7 suspended) that can ensure the detention of 11 people. The conditions of pre-trial detention are improper and undignified. In the visit on December 9, 2020, the People's Advocate recommended the immediate suspension of his activity. The continued detention of persons may be considered a form of inhuman or degrading treatment³⁶³. According to the police, there are certain technical difficulties that, once they are resolved, will lead to the definitive suspension of the activity of the Călărași detention centre.

In 2021, the employees of the People's Advocate Office made a preventive (follow-up) visit to the Edineț Police Inspectorate Detention Centre. The members of the visiting team found that: the renovation of the detention centre and its reopening is welcome in the context of ensuring fundamental guarantees against torture and other forms of ill-treatment; the material conditions in the isolator were under the minimum standards; it is to be appreciated that a female employee works as a sentry in the isolator. However, the People's Advocate ordered the management of the Edineț Police Inspectorate to purchase medical equipment and medicines of primary necessity for the medical service in the detention centre; to remove moisture from the bathrooms and the walls of the cells, as well as to ventilate the detention

³⁶² <https://politia.md/ro/content/strategia-si-planul-de-actiuni>

³⁶³ http://ombudsman.md/wp-content/uploads/2020/12/Raport_IP_Calarasi-09.12.2020_FINAL_PE-SITE.pdf

spaces and not to allow the placement of people detained for more than 72 hours in the isolation ward³⁶⁴.

The rate of escorting detainees reaches the figure of 15,533 escorts to penitentiary institutions (3,470 escorts), courts (10,564 escorts); prosecutor's office (211 escorts) and criminal investigation bodies (1288 escorts). As a rule, detainees are taken over by the detention and escort services of police inspectorates that have functioning pre-trial detention cells. They are contacted ahead of time, to present themselves to escort the detainees to the new type of isolation cells. The police claimed that the Detention and Escort Services manage to escort the detainees within the deadline. However, in the Ombudsman's opinion, **the lack of waiting for spaces/temporary detention rooms for detainees** (*until they are taken over by the Detention and Escort Service or the arrival of lawyers or other authorities*) **remains a common problem for all police inspectorates.**

In any police inspectorate that does not have an isolation cell, there is no space for temporary detention (detention room). Detainees can be during the decision regarding the granting of status, or the presentation of the lawyer or the Detention and Escort Service, near the space of the guard unit, in the hallway, chairs, in the courtyard of the police inspectorate, etc. This can last from 10 minutes to 2 hours. Criminal investigation officers, as well as investigative officers, carry out criminal investigation actions in their own offices. Detainees sit in chairs, often unshackled, facing the prosecuting officer. Employee safety is also an issue in these situations. The lack of room for standard hearings as well as for temporary detention creates or may create impediments to police work. At the end of 2020, the General Inspectorate of Police approved Order no. 213/2020 on the approval of the mandatory minimum requirements for setting up within the territorial subdivisions of the police the hearing, presentation for recognition of the person, confidential meeting of suspected/accused persons with the defence counsel and waiting for (transit) rooms.

REPEATED RECOMMENDATION: The People's Advocate encourages the General Inspectorate of Police / Police Inspectorates to continue the reforms initiated regarding the improvement of the material situation in the temporary detention centres; to decide on the setting up of temporary detention rooms in police inspectorates that do not have an isolator; to ensure the medical examination of detainees regarding injuries/other allegations; to continue to record and report any case of abuse in custody/on the premises of police inspectorates, as well as during the escorting of detainees, etc.

³⁶⁴ http://ombudsman.md/wp-content/uploads/2021/12/Raport_vizita_IP-Edinet_18.11.2021.pdf

IV. THE SITUATION OF FOREIGN PERSONS IN PUBLIC CUSTODY

In 2021, the Bureau for Migration and Asylum received **57 asylum applications** and recognized **168 persons** as stateless. On December 31, 2021, 437 people are included in the asylum system, of which 77 are asylum seekers; 173 – were refugees and 187 were beneficiaries of humanitarian protection. In the same reference period, the Bureau for Migration and Asylum issued **347 decisions to return foreigners** from the territory of the Republic of Moldova and returned 48 foreigners under escort. Another **25 foreigners were declared undesirable** on the territory of the country³⁶⁵.

73 foreigners were placed in public custody of the Temporary Placement Centre for Foreigners. A thematic report prepared by the Public Association Law Centre of Advocates shows that of the 73 foreigners placed in public custody in 2021: 11 people were suspects/accused in the criminal files and another 14 people - were asylum seekers³⁶⁶. We support as illegal the placement in the Temporary Placement Centre for Foreigners, who have the status of a suspect/accused/defendant in criminal cases. Moreover, Article 175 of the Criminal Procedure Code expressly provides for the preventive measures that can be applied to this category of persons. Some foreigners are placed in public custody with a preventive measure established by the criminal investigation body: *the obligation to appear at their request and not to leave the country*. The lawyers, who represent the people in the judicial examination of the actions of the Bureau for Migration and Asylum to place them in public custody, informed the Law Centre of Advocates that the judges ignore the fact that the foreigners have already applied preventive measures and order the placement in public custody/extension of the custody term.

RECOMMENDATION: The People's Advocate, jointly with the Public Association Law Centre of Advocates suggests the prohibition of the placement in public custody of foreigners, who are not allowed to leave the territory of the Republic of Moldova, based on the provisions of Article 12 of Law 200/2010 on the regime of foreigners.

In 2021, 14 asylum seekers were in public custody. Only 3 people were released by the courts because these people are asylum seekers, otherwise, the judicial courts continue to ignore the arguments of the Public Association Law Centre of Advocates and, without a legal basis, admit the actions of the Bureau for Migration and Asylum to extend the public custody of asylum seekers. However, the asylum seeker, since he submitted an asylum application, is no longer subject to Law 200/2010 on the regime of foreigners and is to be released

³⁶⁵ <http://bma.gov.md/ro/content/sinteza-activit%C4%83%C8%9Bii-biroului-migra%C8%9Bie-%C8%99i-azil-%C3%AEn-anul-2021-%C3%AEn-cifre>

³⁶⁶ <https://cda.md/ro/2022/02/22/respectarea-drepturilor-solicitantilor-de-azil-beneficiarilor-de-protectie-internationala-solicitantilor-statutului-de-apatrid-apatrizilor-recunoscuti-si-strainilor-aflati-in-dificultate/>

immediately, the authors of the report claim. The Public Association Law Centre of Advocates considers their detention in public custody to be a serious violation of asylum seekers' rights. The Public Association Law Centre of Advocates considers the detention of asylum seekers in public custody, supported by the courts by placing and extending the terms of placing these people in public custody, as intimidation of asylum seekers and pressure on them, which aims to force applicants to withdraw their asylum claim and return to their countries of origin where their lives are at risk.

RECOMMENDATION: The People's Advocate, jointly with the Public Association Law Centre of Advocates, suggests avoiding detention and the immediate release of asylum seekers from detention.

In 2021, the Bureau for Migration and Asylum requested, and the judicial courts continued to unevenly apply the term of placement and extension of placement in public custody. 14 judicial placement decisions for 60 days, 1 placement decision for 90 days and 20 placement decisions for a maximum period of 6 months were issued. We mention that, in Advisory Opinion no. 102/ 2018, the Supreme Court of Justice ruled that due to its intensity and effects, detention deprives the person of physical freedom, guaranteed by Article 25 of the Constitution. The Court established that in the presence of sufficient conditions, the courts will order the application of the public custody measure, for an initial duration of no more than 30 days. Also, the extension of the duration of custody will be ordered for a period not exceeding 30 days, which cumulatively will not exceed 6 months and 12 months respectively, to ensure the exercise of judicial control over the actions of the bodies empowered with powers to execute the decisions to return and remove foreigners from the territory of the Republic of Moldova³⁶⁷.

RECOMMENDATION: The People's Advocate supports the proposal of the Public Association Law Centre of Advocates on the amendment of article 64 of Law 200/2010 on the regime of foreigners, and the re-inclusion in it of the phrases that limited to 30 days the periods of placement and extension of placement in public custody, excluded by the Law 244/2016³⁶⁸.

As for the material conditions of detention in the Temporary Placement Centre for Foreigners, these were reflected in the Report of the Office of the People's Advocate regarding the preventive visit to the Temporary Placement Centre for Foreigners under the

³⁶⁷ http://jurisprudenta.csj.md/search_rec_csj.php?id=158

³⁶⁸ https://www.legis.md/cautare/getResults?doc_id=96732&lang=ro

Bureau for Migration and Asylum, undertaken on December 6, 2018³⁶⁹, and the reports of the Council for the Prevention of Torture³⁷⁰.

In 2021, the People's Advocate Office did not make visits to the Temporary Placement Centre for Foreigners. However, from the information of the Law Centre of Advocates, it follows that detention conditions remained relatively good. Some foreigners have complained that they are fed only 2 times a day, and in the case of Muslims, it is not always taken into account that these people do not eat pork. During the same period there were complaints that people placed were doing "*community work*" - gardening, washing floors, etc., including for certain benefits.

The People's Advocate appreciates the opening of the Bureau for Migration and Asylum, as well as the Centre for Temporary Placement of Foreigners against his recommendations. At the same time, the Ombudsman recalls the need to permanently ensure the rights of foreigners taken into public custody or willing to return.

REPEATED RECOMMENDATION: The People's Advocate reiterates that the recommendations launched in the Thematic Study "Observing the rights of foreign citizens in State custody", launched in 2019, remain valid³⁷¹.

The Republic of Moldova does not have a policy by which it would implement measures to educate the phenomenon of tolerance and acceptance towards foreigners in society; the Republic of Moldova does not always respect the principle of non-return to the country where asylum seekers may be subjected to acts of torture (*the case of returned Turkish nationals, the case of citizens from Iraq, Russia, etc.*); (under the pretext of threatening national security, foreign citizens can easily be declared undesirable, without the motivation of the return decision and access to justice; upon return, the principle of family reunification is not observed (they can be returned, even if they have families in the country); at the border, foreigners do not always receive asylum (the police try to remove them); cases of requesting international protection, are not always thoroughly examined by the border police; at the border, as well as on government websites, the description of asylum procedures and any other sources in the languages of international circulation as an element of ensuring human rights are missing; only 10% of the headquarters of the border police sectors (about 40) have decent rooms for asylum seekers; border police sectors do not have food packages and hygiene products to distribute to asylum seekers until they are taken over by the Bureau for Migration and Asylum (up to 48 hours); the General Inspectorate of Border Police does

³⁶⁹ http://ombudsman.md/wp-content/uploads/2019/04/Raport-CPTS-06.12.18_DpT-1.pdf

³⁷⁰ <http://ombudsman.md/wp-content/uploads/2020/12/08-1-66-din-01.12.2020-MAI-raportul-de-vizit%C4%83-la-CPTS-din-cadrul-BMA-la-28.09.2020.pdf>

³⁷¹ http://ombudsman.md/wp-content/uploads/2019/12/Studiul_Situatia_str%C4%83inilor_FINAL.pdf

not have standard operating procedures concerning detention, escorting and transportation, information, ensuring the fundamental guarantees of uniform detention for all police employees; asylum seekers are not included in the category of free medical insurance and cannot have access to free primary/specialized medical assistance. Likewise, they have a minimum amount of money that does not cover basic needs; the banking system refuses to issue salary cards for foreigners from areas at risk of terrorism; there are cases of taking into public custody exceeding the stipulated term (over 6 months); there is only one Temporary Placement Centre for Foreigners, with the accommodation capacity for 110 people and which is set up according to a detention institution (filtered access, barbed wire). Foreigners are deprived of freedom of movement, they do not have free access to leave/enter the Placement Centre; rarely applied to aliens - alternatives to detention (other than detention in the Temporary Placement Centre for Foreigners); there are problems regarding ensuring the right to an interpreter/translator for foreigners, including in the context of a greater flow of foreigners in the country or with foreigners who speak rare languages; employees of the Temporary Placement Centre for Foreigners have discriminatory and xenophobic attitudes towards foreigners; the Temporary Placement Centre for Foreigners does not have an *Anti-Torture Register*, as well as a protection mechanism in case of reprisals, abuse or any other forms of ill-treatment in the institution and the courts, do not check the term of placement in public custody of foreigners, as well as the administrative control of detention.

V. SITUATION OF PERSONS DETENTED AT THE BORDER

In 2021 the employees of the People's Advocate Office monitored 5 border crossing points and 2 border police sectors during announced joint monitoring visits (General Inspectorate of Border Police, Law Centre of Advocates, Bureau for Migration and Asylum, People's Advocate Office and UNCHR)³⁷². The joint visits were aimed at verifying the situation regarding the observance of the rights of foreign citizens, asylum seekers and/or persons detained for illegal crossing of the state border, formulating recommendations for improving the situation and protecting asylum seekers. Likewise, the People's Advocate Office jointly with the Public Association Law Centre of Advocates made a preventive (unannounced) visit to the Ocnita border police sector and the Ocnita and Otaci border crossing points to check the level of implementation of the previous recommendations³⁷³.

³⁷² <http://ombudsman.md/rapoarte/prevenirea-torturii/in-baza-vizitelor/>

³⁷³ http://ombudsman.md/wp-content/uploads/2021/09/Raport_vizita_PTF_Ocnita_Otaci_SPF_Ocnita_08.09.2021.pdf

Following the visits, the People's Advocate observed **circumstances that indicated the effort of the General Inspectorate of Border Police to implement the respective recommendations. At the same time, the lack of temporary detention rooms at border crossing points is likely to force the General Inspectorate of Border Police to house detainees in inadequate material conditions. In another vein, the lack of record books of persons detained and placed at border crossing points and/or border police sectors regardless of duration raises questions, and in some cases concerns about ensuring guarantees against torture and or other forms of ill-treatment of persons in custody. Complementary, the General Inspectorate of Border Police is to identify solutions to ensure the fundamental rights to food, sanitation, medical assistance, walks in the fresh air, access to luggage, access to translators/interpreters³⁷⁴ and other specific needs of people from vulnerable risk groups (minors, people with special needs, etc.).**

During the reference period, the People's Advocate Office was informed about several cases of banning access through border crossing points of foreign citizens by taking decisions in this regard, which de jure belong to the authority for foreigners and not to the General Inspectorate of Border Police.

Excerpt from the Ombudsman's investigation: On August 23, 2021, the citizen KYA, a native of Coasta de Fildeș notified the Law Centre of Advocates/People's Advocate Office of the refusal of the General Inspectorate of Border Police to allow him access to the country at the Chisinau International Airport. Immediately, the People's Advocate ordered a provisional measure to the General Inspectorate of Border Police to ensure the immediate access of the foreign citizen, or the competence to decide on the validity of the identity document belongs to the Bureau for Migration and Asylum, whose representatives confirmed that the citizen is in a legal procedure to access the country's territory. Likewise, it was found that the citizen was in the airport for more than 73 hours, without sleeping space, water and food, thus being subjected to acts of humiliation. The General Inspectorate of Border Police denied the accusations, and the foreigner was granted access to the territory only after long efforts between the Bureau for Migration and Asylum and the General Inspectorate of Border Police.

The Ombudsman draws the attention of the authorities, the General Inspectorate of the Border Police and the Bureau for Migration and Asylum, that legal inaccuracies and/or ambiguities must not affect fundamental values and human rights and must be remedied.

³⁷⁴ <https://cda.md/ro/2022/02/22/respectarea-drepturilor-solicitantilor-de-azil-beneficiarilor-de-protectie-internationala-solicitantilor-statutului-de-apatrid-apatrizilor-recunoscuti-si-strainilor-aflati-in-dificultate/>

VI. THE SITUATION OF PEOPLE ADMITTED TO PSYCHIATRIC HOSPITALS

Three psychiatric institutions operate in Moldova: Chisinau Clinical Psychiatric Hospital with 740 beds; Orhei Psychiatric Hospital with 145 beds (*SP Orhei*) and Bălți Psychiatric Hospital with 530 beds. They provide complete specialized, curative and recovery medical assistance to patients with mental or behavioural illnesses.

We remind that in February 2020 the *European Committee for the Prevention of Torture* made monitoring visits to psychiatric institutions in the country. Therefore, in its report, concerning the **treatment of persons in psychiatric, psycho-neurological and other residential institutions**, the Committee remained deeply concerned about reports that people with mental disorders and psycho-social and intellectual disabilities are placed in psychiatric hospitals and psycho-neurological residential institutions under inadequate food and hygiene conditions; particularly inadequate conditions being reported in the institutions in Balti and Cocieri; many residents of these institutions were deprived of legal capacity; patients were kept in closed environments in psycho-neurological foster homes, including for disciplinary purposes; the residents of the boarding schools, as punishment were sent to psychiatric institutions, according to what was said in the case of Igor Sandler, some persons deprived of release are subjected to sexual exploitation by the supervision staff and in psycho-neurological institutions the mortality rate is high³⁷⁵.

In this regard, the CPT emphasized that the **State party must: to urgently ensure the access of independent monitoring mechanisms in psychiatric hospitals and psycho-neurological institutions; to provide an independent grievance redressal mechanism for patients in all psychiatric hospitals and psycho-neurological residential facilities, as well as for their families; to ensure that all alleged cases of abuse and violence, including those committed or overlooked by administrative and medical staff employed in these institutions, are promptly, impartially and effectively investigated, that alleged perpetrators are held accountable and that victims are provided with appropriate remedies; to ensure that no one is involuntarily placed in such institutions for non-medical reasons, including ensuring the right of patients to be heard in person by the judge ordering the admission, that judges request the opinion of a psychiatrist and that those decisions can be appealed; to review all cases of persons who have been involuntarily hospitalized for non-medical reasons and ensure their release and, where appropriate, appropriate remedies; to undertake urgent measures to improve material**

³⁷⁵ Articles 2, 11-14 and 16 <https://www.coe.int/en/web/cpt/-/council-of-europe-anti-torture-committee-publishes-report-on-moldo-6>

conditions, including food and hygiene, in all psychiatric hospitals and psycho-neurological residential institutions.

In the same way, local experts in the *“Inclusive Moldova” Study*, in the “Health” chapter, insisted on the elimination of anti-human practices from the regulatory framework for the operation of Psychiatric Hospitals by: (i) Regulation of practices regarding the application of immobilization measures in Psychiatric Hospitals by connecting them to the revised CPT standards in 2017 - standards regarding the means of immobilization in psychiatric institutions for adults. The authors note the application of physical or chemical immobilization measures against the will of the patients, even in cases when legally the persons are institutionalized voluntarily and without having changed the placement status “without consent”. Abuses and inhumane treatment in these situations are to be removed and prevented by transposing the international standard. (ii) Regulation of situations of verbal withdrawal of consent to placement/treatment in Psychiatric Hospitals. The national legal framework does not expressly regulate situations of verbal withdrawal of consent for treatment and placement in psychiatric institutions. Circumstances require the marginalization of disabled or illiterate people. (iii) Development and approval of the clinical protocol for diagnosis and therapy in dementia, which provides the criteria for the diagnosis of different types of dementia and their treatment ³⁷⁶.

In 2021, the People’s Advocate Office made a follow-up visit to Orhei Psychiatric Hospital. The visiting team found certain positive practices, such as re-accreditation with the “brio” indicator; involuntary hospitalization (against the person's will) of the patient(s) is not practiced; the medical staff claimed that they were not applying forced medical treatment to the patient(s); the medical staff claimed that they do not resort to manual immobilization of the patient(s), electric shock therapy, substituting the control process by therapeutic communication and maintaining friendly relations with the patient; the Orhei Psychiatric Hospital does not offer treatment services for contagious diseases and phthisiopneumology; patients have the possibility to use their own mobile phones; patients have access to the mailboxes and contact addresses of the competent public authorities, the People’s Advocate, legal bodies and the hotline; thanks to the support of free materials from some donors (charity foundations, NGOs), the furniture in some halls was partially replaced; the process of complete repair of the building’s roof was initiated (technical expertise and reconstruction project completed); the institution's services are fully financed from the funds of the National Medical Insurance Office for “treated cases”, excluding the requirement according to which the financial allocations are distributed according to the number of days under treatment; there

³⁷⁶ https://progen.md/wp-content/uploads/2021/08/Moldova-Incluziva_FINAL.pdf

is satisfactory cooperation with local public administrations and community centres and Orhei Psychiatric Hospital has not registered cases of SARS-CoV-2 infection among patients in 2021. At the same time, irregularities were attested, such as: the majority of the medical staff is occupied by elderly people or close to retirement age; out of 142 employees, only 8 employees are professional doctors, which is insufficient for the institution's services; Orhei Psychiatric Hospital needs to fill the vacant positions of psychiatrist; employment of the psychologist/s, as well as occupational therapy specialists; due to the lack of occupational therapy specialists, occupying patients' free time, the respective activities do not take place as such or are organized occasionally; the lack of a protective fence around the hospital affects the safety of the building, but also the process of organizing the walk of patients in its yard. Some of the patients have to sit on the common balcony to benefit from fresh air and cannot go outside the building until after being released from the institution (for 21-28 days); the budget allocated for Orhei Psychiatric Hospital is constrained to the strict capacity to purchase urgent services, without offering the possibility of starting some reconstruction projects, redevelopment of the institution; is not equipped with predestined arrangements for people with physical disabilities; in Orhei Psychiatric Hospital, repairs (including capital) of living rooms, sanitary groups, insurance with safe inventory specific to the patient's disability are needed³⁷⁷. At the Orhei Psychiatric Hospital, 13 recommendations of the People's Advocate were formulated, which are to be implemented.

A. Dynamics of patients hospitalized in psychiatric institutions, duration of hospitalization

In 2021, 5712 patients were admitted to Chisinau Clinical Psychiatric Hospital (in 2020: 4937), of which 2689 were women and 3023 were men. Similarly, 263 minors were treated, of which 160 were boys and 103 were girls. In Balti Psychiatric Hospital, 5408 patients were admitted (in 2020: 5218), of which 3397 men, 2011 women and 273 minors (99 girls and 174 boys). At Orhei Psychiatric Hospital, 1682 patients were admitted (in 2020: 1652), of which 1039 were men, 640 were women and 3 were minors. The number of hospitalized people is increasing compared to 2020.

The average duration of hospitalization of patients (including coercive treatment) at Chisinau Clinical Psychiatric Hospital was 36 days (*down by 1 day compared to the situation in 2020*), at Bălți Psychiatric Hospital – 24-68 days (*down by 1.2 days compared to the situation in 2020*) and at Orhei Psychiatric Hospital - 21-28 days.

³⁷⁷ http://ombudsman.md/wp-content/uploads/2021/08/Raport_vizit%C4%83_SP_Orhei_FINAL-28.07.21.pdf

B. Deaths in psychiatric institutions

In 2021, **72 patients** died at Chisinau Clinical Psychiatric Hospital, of which 38 patients died due to SARS-COV-2. At Orhei Psychiatric Hospital, **4 patients** died, and at Bălți Psychiatric Hospital, **65 deaths** were recorded, of which 15 patients died as a result of the disease caused by SARS-COV-2. No suicidal acts were recorded in psychiatric institutions.

In general, the causes of death include: *cardiovascular insufficiency; cerebral oedema; evolution of ischemic heart disease: cardio-pulmonary failure: renal failure, bilateral polynephritis; complications due to SARS-CoV-2 infection*. The People's Advocate Office received no allegations of suspicious deaths. Despite this, **the People's Advocate is concerned about the death rate in psychiatric institutions, highlighting as alarming the occurrence of people dying during psychiatric treatments, either because of the quality of medical services or how the evolution of common diseases is monitored.**

C. The use of means of contention concerning patients

We positively appreciate the approval of the Operational Procedures for the Immobilization of the Psychiatric Patient. They establish the intervention mechanism regarding the contention of patients, to correctly stage the medical intervention for a patient to whom it is impossible to apply the usual treatment due to psychomotor agitation and auto/hetero-aggressive behaviour to avoid the risk of self-harm or injury to the medical staff in the curative departments of psychiatric institutions. Respectively, the application of means of contention, finally, has a normative justification. Law 218/2012 excludes psychiatric institutions from the scope of the use of physical force, special means and firearms³⁷⁸.

In 2021, 171 cases of the application of containment measures were registered at Chisinau Clinical Psychiatric Hospital and 54 at Balti Psychiatric Hospital. The Orhei Psychiatric Hospital did not resort to the application of patient immobilization tools. Accordingly, additional containment measures were applied in 225 cases, or 69 more cases, compared to the situation in 2020. For example, in Chisinau Clinical Psychiatric Hospital, the following was used: *chemical immobilization (administration of medical preparations); immobilization by tying, with wide leather straps with soft padding, fitted with a bed fixing system and adjustable cuffs*. The medical staff resorted to immobilization measures, in cases of a *tendency to attack the medical staff; destruction of property; attempts at self-mutilation; the launch of delusional ideas, unpredictable behaviour; revolt regarding the quality of medical services provided*. The information submitted to the People's Advocate Office, shows that the period of immobilization included from 10 min to 1 hour and that it was applied,

³⁷⁸ https://www.legis.md/cautare/getResults?doc_id=110364&lang=ro

without consequences for the integrity of the patients, in the absence of patient witnesses and only after the dialogue failed.

REPEATED RECOMMENDATION: The People’s Advocate reminds us that recourse to immobilization tools is to be conditioned by passing the test of necessity and opportunity. Immobilization measures cannot be applied as a sanction, in the presence of other patients or to arrange hospital affairs. The application of coercive measures cannot exceed the necessary term and must be carried out in strict accordance with the principle of humanism, respect for human dignity, under the permanent control of the medical staff, to prevent immediate danger to oneself or those around. The legislator is to decide on the inclusion of psychiatric institutions in the list of subjects responsible for the application of physical force and special means on persons undergoing some form of medical treatment.

D. Patients with injuries, institutional abuse

The phenomenon of self-harming incidents, violence between patients, abuse towards patients, but also the attack of patients on the medical staff are not realities detached from psychiatric institutions.

In 2021, 84 cases of accidental injury were registered in Chisinau Clinical Psychiatric Hospital, with the following causes: *psychomotor instability; the accident in the dormitory of the institution; slips in the sanitary block; performing physical exercises; enduring convulsive seizures; accidents in the hall of the institution; fall of the patient from the second floor of the institution.* Next, Balti Psychiatric Hospital reports 14 cases of accidental injury and Orhei Psychiatric Hospital reports no cases.

Following the examination of operative syntheses, **the People’s Advocate attests that the phenomenon of harmful accidents is fuelled by the lack of arrangements necessary for the care of people with special needs; the lack of personnel with adequate professional training capable of dealing with the number of people who require additional assistance and permanent control; the passivity shown in the part related to the renovation and modernization of the housing blocks of the psychiatric institution, etc.**

In the segment of aggressions between patients, **51 cases** are reported, mostly in Clinical Psychiatric Hospital, followed by Bălți Psychiatric Hospital, the latter, registering **22 cases**. In all cases, the incidents were stopped promptly by the medical staff. Likewise, medical care was provided to the requesting parties and legal authorities were notified. The People’s Advocate Office does not have information about the measures taken by law

enforcement agencies. In this context, the People's Advocate is concerned about the existence of dissensions between patients, considering that the formation of a friendly and safe climate in psychiatric institutions is up to the medical staff, who through the monitoring and early warning tools, could prevent the outbreak of conflictual relations.

RECOMMENDATION: The People's Advocate recommends carrying out quality controls of the relationships between patients; additional approach to patients prone to develop aggressive behaviours; the placement of patients per bedroom, taking into account the friendships made between them and the compatibility of visions; the development of programmes to train patients in educational activities, useful filling of time.

In a suggestive measure of the actual conditions in psychiatric hospitals, the indicator also shows: 40 cases of attack on medical personnel and another 3 cases of abuse on patients. **The People's Advocate notes with concern such a reality, associating the attack on the professional staff with a form of protest over the services provided, the conduct and the approaches related to the patients, or any form of aggression is propelled by the existence of hostile, defensive factors.**

RECOMMENDATION: The People's Advocate believes that it is necessary to revitalize the approach adopted about the beneficiaries of psychiatric medical services, focusing on their individuality and dignity. **The People's Advocate promotes sanctioning policies to the extent that the perpetrator of the abuse is proven guilty, to make it possible to discourage, in the future, the admission of such incidents.**

Likewise, during the reference period, 342 cases of injuries to patients were registered at Chisinau Clinical Psychiatric Hospital, of which 258 were detected during hospitalization and 84 cases obtained inside the institution. And, at Bălți Psychiatric Hospital, there were 33 cases of hospitalization of patients with injuries (31 reported to the police and 2 to the prosecutor's office) and another 14 cases of injuries obtained within the premises of the institution. In all the mentioned cases, the psychiatric institutions informed the police and the territorial prosecutor's office.

VII. THE SITUATION OF PEOPLE IN TEMPORARY PLACEMENT CENTRES FOR PEOPLE WITH DISABILITIES

In the Republic of Moldova, there are six *Temporary Placement Centres for people with disabilities (hereinafter CTPD)* for adults and another 3 for children. Temporary placement centres for people with disabilities provide temporary placement services for adults and

minors, under the management and coordination of the National Agency for Social Assistance. Temporary placement centres for people with disabilities are social institutions of public interest, providers of highly specialized social services, with temporary or long-term placement, which focus their concerns on: medical and psychological assistance; palliative care and psycho-social counselling; support for reintegration into the social environment. About 2,064 residents benefit from specialized social services in residential institutions ³⁷⁹.

On August 5, 2021, the People's Advocate Office made a monitoring visit to the Bădiceni temporary placement centre for people with disabilities. The visiting team identified vulnerabilities and challenges that can complicate the rehabilitation process of service beneficiaries, such as: *degrading conditions of housing blocks, together with a building infrastructure unsuitable for accommodating people who require care and permanent control; the access stairs between floors are deeply eroded, thus fuelling the phenomenon of accidental injuries. Similarly, there is no elevator type system for the movement of people suffering from physical disabilities; dysfunctional conditions of sanitary blocks, which, in addition to encountering difficulties in the process of controlling the flow of water, are not accommodated with predestined arrangements for people suffering from physical disabilities; presence of the phenomenon of overcrowding in the beneficiaries' living rooms, the maintenance of large bedrooms, directly threatening the right to privacy; furniture deeply worn and reduced to the presence of beds and some damaged bedside tables; deeply used bedding; lack of artificial lighting system; lack of room ventilation system; deprivation of the possibility of individualizing personal objects; storage of beneficiaries' assets in a chaotic manner, liable to their loss; the absence of entertainment objects of the beneficiaries such as: TV devices, computers; delivery of meals in the living rooms of the beneficiaries in a manner far removed from sanitary and hygienic norms; the lack of nutritional strength in the meals taught, the presence of a menu lacking in variety; the lack of staff with professional training capable of dealing with the number of beneficiaries cared for by the Centre's services, as well as the poor quality of their training*³⁸⁰.

A. Suspicious deaths in residential facilities

During the monitoring started by the People's Advocate Office, the causal relationship between the treatment administered to the residents and their death was noted. Thereby, through the special report "*Suspicious death at the temporary placement centre for people*

³⁷⁹ CPPVPD Chişinău, CPPVPD Cocieri, CTPPD Bălţi, CTPPD Bădiceni, CTPPD Brânzeni, CTPPD Cocieri, CPTCD Orhei, CPTCD Hânceşti and CPTCSP Soroca (www.anas.md);

³⁸⁰ http://ombudsman.md/wp-content/uploads/2021/08/Raport_CPT_Badiceni_FINAL_05.08.21-1.pdf

with disabilities (adults), Cocieri com.” of July 17, 2021, a series of systemic problems were attested³⁸¹. -

Excerpt from the Special Report: On July 17, 2021, around 1:00 p.m., resident E.P. was found unconscious in the sleeping area. the year 1984, in Section III B, room 15. Starting from July 14, 2021, E.P. suffered frequent epileptic seizures, and was subjected to permanent treatment, she refused to take pills, moreover, she refused meals, thus putting her state of health at risk. The Cocieri Placement Centre excludes the version of violent death, given: the lack of physical injuries on the body of the deceased. E.P., was placed in the Cocieri Placement Centre in 2017 with the diagnosis: organic personality disorder against the background of epilepsy. Polymorphic seizures. Psychopathic syndrome. **Following the examination of the medical records, the People’s Advocate notes a deficient provision of the deceased's medical services. The results of the medico-legal conclusion show that the resident died of “pneumonia”, and the Cocieri Placement Centre claimed, in its explanations, that the resident only suffered from “epilepsy”, without mentioning the pneumopulmonary disease. This fact indicates that the Cocieri Placement Centre did not previously carry out an extensive examination of the real illnesses that the resident was suffering from, but, out of negligence, relied on epileptic seizures, which in fact, did not constitute the cause of death. Apparently, the provision of the medical service was consumed only by offering some facade prescriptions, seen to be, including, not observed by the resident.**

Excerpt from the findings of an investigation: In March 2021, the resident of the Cocieri temporary placement centre for people with disabilities named M.N., born in 1960, died suddenly at the Criuleni district hospital, being brought in a serious condition (with traces of violence). She had been placed since 2010, being mentally and physically disabled (blind). She suffered from several diseases, including chronic ones. Although she was blind, the staff of the Placement Centre described her as aggressive and hostile. Previously, the People’s Advocate Office received information regarding acts of violence by other residents on N.M. All were reported to the police. When examining the materials, the People’s Advocate Office notes that the resident’s treatment was focused on mental illnesses, rather than somatic ones, and the drugs administered were probably against her. Moreover, there was no investigation to explain the real causes of N.M.’s death and explain the circumstances of the serious injuries, correlated with the illnesses she was suffering from.

³⁸¹ <http://ombudsman.md/wp-content/uploads/2021/09/Raport-special-Centrul-de-plasament-Cocieri-din-14.09.2021.pdf>

The Ombudsman's observations show that in Temporary Placement Centres, common diseases are not treated by the specialized doctor with specific methods suitable for the treatment of these diseases. Moreover, these diseases are not even subject to the monitoring tool, a fact that allows the outbreak of degrading treatments, due to the medical body's ignorance of the suffering of the residents. Once residents suffer from a range of chronic and somatic ailments, residential facilities should pay more attention to their treatment. However, not granting the necessary treatment admits submission to suffering, respectively acts of ill-treatment. Therewith, residential institutions are to carry out internal investigations into the actual and truthful circumstances of all deaths in the institutions.

RECOMMENDATION: In this context, the People's Advocate suggests revising treatment application methods through individual approaches, risk anticipation, constant assessment of the causal relationship between the adverse reactions of a preparation and the evolution of a disease; initiation of individualized treatments – each pill administered should be linked to a person's characteristics: age, body weight, history of diseases; corroborating the pill administered with another set of preparations offered (*to avoid the installation of an overdose of medical preparations*); periodic review of the treatment plan; informing the patient about the progress made; obtaining the patient's consent during the administration of medical preparations; implementing the concept of drug safety - following, in this context, the effects and aversions of medical preparations; the supervision of common diseases, so that the mental condition does not overshadow the problems that, in a more serious situation, can grind the person's health.

B. Abuses of residents

During the monitoring period, 2 cases of abuse against residents were reported at the Bădiceni and Bălți temporary placement centres for people with disabilities. Although the People's Advocate is aware that such reporting could be removed from the real picture of the facts - regardless of the number of informative notes and the frequency of incidents, the fact itself raises strong alarms about how the dignity and individuality of residents are observed.

The Ombudsman condemns any form of aggression against residents, regardless of the justifications adopted to avoid the initiation of liability for deviant conduct. The vulnerability of people placed in Temporary Placement Centres, and their individual adaptation characteristics in the social environment are elements that must arouse empathy, the intention to assist, support and understanding. Physically punishing them

for certain non-conformist behaviours, verbal aggression is to be excluded from the practical tools of the centres' staff.

C. Assaults between residents

The phenomenon of aggression between residents is another component monitored by the People's Advocate Office. Auxiliary, the actions taken by the administrations of the Temporary Placement Centres for people with disabilities after the incident are verified. Thus, in 2021, 34 cases of serious aggression among residents were reported. In all cases, residents were given medical assistance and law enforcement was notified. Temporary placement centres for people with disabilities hold discussions with the parties involved and try to make efforts to prevent aggression. Most of the conflicts are a result of alcohol abuse (in the institution or outside it). An important sequence is that the residents are aware, plan and knowingly carry out the attack intentions, including that they will not be sanctioned. Some attacks are repetitive, including against the same victims.

The People's Advocate is concerned about the existence of the phenomenon of aggression between residents. In fact, in the operative summaries sent, the severity of the injuries sustained by residents is alarming. Some residents are repetitive in the cases inferred from the fact analysis that demonstrates recidivism in deviant conduct. Moreover, the existence of such incidents is suggestive of the way the residents are supervised by the medical staff; how life skills are formed, pro-social and pro-responsible, given the objective of social inclusion of the Temporary Placement Centres; ability to manage problem residents; familiarizing residents with the content of the Centres' Internal Regulations, but also with contravention and criminal sanctions. The People's Advocate is convinced that the involvement of residents in occupational, educational and entertainment activities could prevent them from committing anti-social actions.

CHAPTER IV.

HUMAN RIGHTS PROMOTION ACTIVITY

The human rights promotion activity performed by the People's Advocate Office in 2021 traditionally included several events: Decade of Human Rights, the Decade of Children's Rights, campaigns, meetings of the Ombudsman with pupils, students, pedagogues, social workers, civil servants, etc., participation in discussions on topics related to human rights, launching such discussions.

On the occasion of the International Day in Support of Torture Victims and marked on June 26, the **Campaign #EuNUAplic1661EuRespectDemnitateaUmană** was carried out. The third edition of the Campaign was traditionally launched by the People's Advocate Office and carried out in partnership with the General Inspectorate of Police, the National Administration of Penitentiaries, the Ministry of Health, Labour and Social Protection and the National Agency for Social Assistance, General Inspectorate of Carabineers. The campaign aimed to promote zero tolerance toward acts of torture by persons in the professional risk group and draw society's attention to the issue of torture, ill-treatment, and inhuman and degrading treatment.

In the context of the parliamentary elections in the Republic of Moldova and based on the experience of previous electoral campaigns, which demonstrated that hate speech, homophobic, racist, xenophobic and sexist messages intensify considerably during the electoral period, the Office of the People's Advocate launched in July the **Campaign #ElectoralăFărăUră!#ElectoralăFărăDiscursDeUră!**.

The campaign was aimed at informing the public about hate speech and sensitizing the political forces participating in the electoral process not to use and accept hate speech.

In December 2021, was launched **the civic monitoring campaign of the carabineers' activity with the title „#ObservCarabinierul”**, which will run until March 2022. The campaign aims to promote the transparency, efficiency and professionalism of the Carabineers in action, from the perspective of the population, with an emphasis on observing their behaviour towards the detained person. The civic monitoring campaign is carried out within the “Carabineers for Human Rights” project, financed by the Soros Moldova Foundation.

The number of promotion activities (91) carried out in 2021, however, remains modest compared to previous years. This is due to pandemic restrictions on gatherings and physical attendance at events. Most of the promotion, information and training activities were carried out online.

THE STUDY ON THE PERCEPTION OF HUMAN RIGHTS OBSERVANCE (2021 EDITION)

The study on the perception of human rights observance³⁸² is the third conducted at the request of the People's Advocate Office in the last six years (similar studies were carried out in 2016³⁸³ and 2018³⁸⁴) and presents the opinion of the population on the observance of human rights in the Republic of Moldova. The research was focused in particular on examining the level of knowledge of human rights, and the perceptions and experiences of the population regarding the observance of fundamental human rights and freedoms. The data are supplemented with qualitative aspects from group discussions with vulnerable categories from the perspective of respect for human rights in the Republic of Moldova and the opinions of experts active in the field. The study was conducted on a sample of 1006 people aged 18 and over, the data collection period being December 24, 2020 – January 25, 2021.

The right to health, education and social protection are considered to be among the three most current and important rights, which require increased attention from society in the Republic of Moldova. Therewith, *the right to health and social protection, according to the respondents, are among the three least observed, along with the right to a fair trial.*

More than half of the respondents believe that the rights of children and women are observed to the greatest extent, these opinions also register an increase concerning the data of previous studies. The least observed are the rights of users of drugs and psychoactive substances, of sexual minorities (LGBT), and the rights of detainees and ex-detainees. The interviewed experts emphasized the vulnerability of the inhabitants of the Transnistrian Region in the observance of human rights.

Corruption can greatly affect the observance of human rights in the Republic of Moldova, about 60% of people agree with this statement.

The right of children to education in schools in Moldova is considerably affected by the financial possibilities of the parents, almost half of the respondents agreed with this statement, and only one in four believes that the state ensures everyone accesses to education and equal conditions and that school graduation offers equal opportunities for students to continue their studies. In the context of Covid-19 and online school, the deprivation of the right to education of children from vulnerable families who did not have access to technologies and/or the Internet was highlighted.

³⁸² http://ombudsman.md/wp-content/uploads/2021/07/DO_raport_raport_OAP-2.pdf

³⁸³ http://ombudsman.md/wp-content/uploads/2021/06/ro-raport_do_final_pentru_tipar_1.pdf

³⁸⁴ http://ombudsman.md/wp-content/uploads/2021/06/Perceptii-DO_Romana-1.pdf

Only 1/3 of the respondents believe that the state ensures everyone equal access to quality medical services, almost 2/3 support the opinion that the economic status of the person affects the right to health care services, and only 1/5 mentioned the agreement with the fact that the medical insurance policy allows its holder an adequate level of medical services. The experts interviewed emphasized the fact that the problem is not in access to medical services, but in ensuring the quality of medical services, with enormous discrepancies between rural and urban areas.

A little over half of the respondents believe that the right to a healthy environment is observed in the localities where they live, and the most serious problems are the lack or poor quality of sewage systems, followed by the issue of waste disposal, water quality, lack of authorized landfills/waste management.

The right of the population to social protection, evaluated by the average amount of monetary income, remains to be still to a small/very small extent insured in the Republic of Moldova, an opinion supported by more than half of the respondents of the current study. Therewith, there was an improvement in the situation concerning all income categories, the share of responses to a small/very small extent decreased significantly compared to 2018 and 2016. And concerning the protection and realization of the rights of socially vulnerable persons by the state authorities, a positive dynamic of the population's opinion is noted, the share of respondents who considered that they are little protected by the state has decreased compared to previous studies.

The degree of confidence in ensuring the right to a fair trial for different groups of the population remains quite low, the answers regarding the assurance very much/to a great extent vary between 28-48% in the current study. Therewith, a continuous increase in the degree of trust in the judicial system is observed in previous studies.

Almost 2/3 of respondents believe that the right to life and physical and mental integrity is ensured to a full extent/ some extent, from all three aspects evaluated: *Against crimes that can affect your life, against inhuman and degrading treatments, against tort.*

Violation of the right not to be subjected to torture and inhuman and degrading treatment of some categories of people persists in the Republic of Moldova, and very often/quite often in the opinion of 45% of respondents, this right is violated in the case of detainees, less so, with 27% saying this refers to young people in military service and children detained or in detention.

40% of the respondents believe that the right to information, freedom of opinion and the right to free expression of the journalist are observed, with some tendencies towards increasing the positive opinion concerning the data of previous studies. Therewith, the

perceptions of risk following free expression are attested, being also increasing in the current study. About 72% of respondents believe that this risk persists to a full extent (68% in 2018 and 63% in 2016). Riskier is the expression of opinion concerning *the state leadership, politicians, rich people, corruption, less risky – about religion, violations of the environment and human rights*.

The pandemic situation has contributed to the worsening of the observance of certain rights, especially the right to health and education, but also the right to free movement, assembly, etc.

In the opinion of the majority of 2/3 respondents in Moldova, women and men have equal rights, and every fifth respondent believes that the situation of men is somewhat better than the situation of women. Equality of opportunity between men and women is also supported in more pronounced proportions by men, young people and the most affluent.

The majority of respondents, 8 out of 10, believe that the improvement of the situation in the field of observing human rights largely depends on the Parliament, the Government, ministries and their departments, but also on the town halls, the President of the Republic of Moldova. Concerning the previous studies, the share of respondents who believe that the improvement of the situation in the field of observing human rights depends on state institutions has increased, while at the same time a trend toward diminishing the responsibility of each citizen has been observed.

It is most frequently considered that human rights are violated by the Government, Parliament, and judges, less so by the church, and religious cults. More than half of the respondents believe that human rights are equally violated both by private individuals and by representatives of various institutions.

According to the respondents, the greatest attention regarding the observance of human rights should be given to *children, elderly people, women, people with disabilities, victims of domestic violence, and victims of human trafficking*.

Mass-media is the institution that, according to the respondents, ensures the observance of human rights the most (40.2% of statements), which means that it ensures or contributes the best to the observance of human rights in Moldova, followed by the country's president (38,3%). The lowest appreciations were recorded for NGOs with only 25% such answers, for Parliament and judges with around 32% appreciations each.

There was a reduction in the civic activism of the population, measured by the decrease in the share of respondents who declared that they felt free to participate or perform a physical action or protest. The study also shows that the population's level of information on human rights remains relatively low, with a slight increase compared to previous years,

this being due to the urban environment. Vulnerable groups remain the least informed, such as the poor, the less educated, the elderly, and rural residents. Access to information about human rights and information possibilities is increasing, and the development of information technologies has essentially contributed to this. In addition to the mass media, the Internet has become the second source of information in this field. The bureaucracy of civil servants is one of the major obstacles to access to information on human rights.

STUDY ON THE REFLECTION OF THE LEGAL INSTITUTE OF THE PEOPLE'S ADVOCATE IN THE CONTENT OF THE COURSE UNITS STUDIED IN HIGHER EDUCATION INSTITUTIONS IN THE REPUBLIC OF MOLDOVA

The People's Advocate Office, having the duties of promoting the culture of human rights, contributing to the formulation of education and research programmes in the field of human rights and participating in their implementation in schools, universities and professional circles, initiated in 2019 a study on the state of affairs regarding training on the functions and duties of the People's Advocate at law faculties in the country and, if possible, also at other faculties where the legal protection of human rights is taught. The need for the Study arose as a result of several findings regarding the low degree of knowledge by professionals of the role and duties of the People's Advocate, which affects their ability to intervene promptly and effectively to ensure the realization of fundamental human rights and freedoms. The purpose of the Study was to evaluate the existing situation and formulate some proposals for improving the situation.

In 2021, *the Study on the reflection of the legal institute of the People's Advocate on the content of the course units studied in the institutions of higher education in the Republic of Moldova* was presented during an event in an online format with the participation of representatives of the Ministry of Education, Culture and Research, as well as teaching staff from 10 higher education institutions in the country.

The study developed by the People's Advocate Office finds that in higher education institutions in the Republic of Moldova, studying the legal institute of the People's Advocate has a general character. Students from law faculties and from other faculties that train specialists for fields close to the legal system do not obtain the full volume of necessary knowledge regarding the mission and specifics of the People's Advocate Office as a National Human Rights Institution (NHRI) so that later they can effectively exercise their professional duties. The university curriculum, regardless of profile and field, does not contain a sufficient number of hours dedicated to training students about the national institution for the protection of human rights. Despite the limited number of hours and students' superficial knowledge of

the role and duties of the People's Advocate, there is a tendency to reduce training hours or to replace mandatory hours on this subject with optional ones. There are no standardized methodological guidelines for the teaching of the NHRI discipline for either the subject sheet or the study programme.

Following the findings presented, several *recommendations* were submitted: the development of methodological support for studying the role and attributions of the National Human Rights Institution that could be used by teachers in higher education institutions, as well as the development of a methodological guide for teaching staff who teach subjects related to the theme of fundamental human rights and freedoms concerning the Institution of the People's Advocate; the promotion of topics regarding fundamental human rights and freedoms within the continuous training sessions of academic staff; the promotion of academic research

THEMATIC REPORTS AND SPECIAL REPORTS

In 2021, the People's Advocate Office developed and launched **25 thematic reports and 6 special reports, published on the institution's website under the Reports section.** The People's Advocate for Child's Rights and the Children's Rights Directorate have developed **12 studies and thematic reports:** Thematic report *Observing the children's right to health in educational institutions*³⁸⁵, Thematic report *Review of the National Curriculum in the subjects that contribute to the children's training for adult life, personal development, Child Rights and the Child's Ombudsperson; sex education*, Special report: *Observing children's rights during the Covid-19 pandemic*³⁸⁶, Thematic report *Monitoring the observance of the rights of children in institutionalized tuberculosis outbreaks*, Thematic report *Review of the degree of functioning of psychological assistance services provided to abused children*, Thematic report *Monitoring the observance of the rights of children in detention institutions*³⁸⁷, Thematic report *Monitoring the implementation of the recommendations of the People's Advocate for Child's Rights on the observance of the right to education of juvenile detainees in penitentiary institutions*³⁸⁸, Thematic report *The use of children's images in electoral campaigns*³⁸⁹, Monitoring the implementation of the recommendations of the People's Advocate for Child's Rights submitted in the Report on *Review of the situation of children placed in the boarding homes for children with mental*

³⁸⁵ http://ombudsman.md/wp-content/uploads/2021/04/RAPORT_SANITATIE_RED-2021.pdf

³⁸⁶ http://ombudsman.md/wp-content/uploads/2021/08/RAPORT_PANDEMIE_COPII.pdf

³⁸⁷ <http://ombudsman.md/wp-content/uploads/2021/09/Raport-dr-penitenciare-red.-1-3-1.pdf>

³⁸⁸ <http://ombudsman.md/wp-content/uploads/2021/09/RAPORT-REC-EDUCATIE-3-2.pdf>

³⁸⁹ <http://ombudsman.md/wp-content/uploads/2021/05/RaportELECT2021-.pdf>

*deficiencies in Orhei and Hâncești in the process of deinstitutionalization*³⁹⁰, Review of the implementation of the recommendations of the People’s Advocate for Child’s Rights in the Thematic Report *Social Inclusion of Children with Autistic Spectrum Disorders in the Republic of Moldova*³⁹¹, Thematic report *Review of the impact of the measures taken in connection with the pandemic generated by the COVID-19 virus on children’s rights* developed in collaboration with ENOC-UNICEF and Thematic report *Education of children’s rights in the national education system*.

The Directorate for the Prevention of Torture has developed and published 13 thematic reports on the website, including the Report "Three years of joint monitoring at the border. People’s Advocate Office – Law Centre of Advocates”; the quarterly thematic reports on safety in the penitentiary system, in the psychiatric and residential system, on safety in police custody and *six special reports*.

THE ACTIVITY OF PROMOTING CHILDREN’S RIGHTS

In 2021, the People’s Advocate for Child’s Rights Maia Bănărescu participated in a series of events, conferences and meetings. Increased attention was drawn to the effective collaboration between the Child’s Ombudsperson and the Parliamentary Committees, which during 2021 organized several joint meetings and public discussions on the phenomenon of bullying in schools in the Republic of Moldova, organized by the Parliamentary Commission for Culture, Education, Research, Youth, Sport and Mass Media and UNICEF Moldova.

At the joint meeting of the Parliamentary Committee on Culture, Education, Research, Youth, Sports and the Committee on Mass Media, and Social Protection, Health and Family, the topic was discussed “*Educational and social inclusion of children and young people with Autism Spectrum Disorders (ASD)*”, based on the conclusions of the 2016 Thematic Report of the People’s Advocate for Child’s Rights “*Social inclusion of children with autism spectrum disorders in the Republic of Moldova*”, as well as at the meeting of the Working Group on the educational and social inclusion of children and young people with Autistic Spectrum Disorders (ASD).

The People’s Advocate for Child’s Rights, Maia Bănărescu, presented at the meeting of the Parliamentary Commission on Human Rights and Inter-Ethnic Relations, the findings regarding the situation of children in detention, reflected in the **Thematic Reports: “Observance of the right to education of juvenile detainees in penitentiary institutions”**,

³⁹⁰ <http://ombudsman.md/wp-content/uploads/2021/11/Raport-Orhei-H%C3%AEnce%C8%99ti-final-.pdf>

³⁹¹ <http://ombudsman.md/wp-content/uploads/2021/11/Raport-privind-implementarea-recomand%C4%83rilor-autism.pdf>

“Review of the observance of the rights of children in detention in connection with criminal prosecution or execution of the sentence”, “Observing the rights of children aged 0-3 years, who are together with their mothers who are serving their sentence in the penitentiary institutions of Moldova”, “Monitoring the implementation of the recommendations of the People’s Advocate for Child’s Rights on the observance of the rights of children in detention institutions” and “Monitoring the implementation of the recommendations of the People’s Advocate for Child’s Rights on the observance of the right to education of juvenile detainees in penitentiary institutions”, developed by the Child’s Ombudsperson during the mandate.

The People’s Advocate for Child’s Rights, Maia Bănărescu, participated in the meeting organized by the Parliamentary Committee for Culture, Education, Research, Youth, Sport and Mass Media to discuss the **Ombudsman’s proposal on the creation of a preschool education institution and a centre for extracurricular activities within the “Alexandru cel Bun” Theoretical High School, through the reorganization of the boarding school for children left without parental protection in Bender.**

The Child’s Ombudsperson participated in the public hearings on the observance of the rights of children in street situations, organized within the Human Rights and Interethnic Relations Commission, with the participation of representatives of the responsible authorities and civil society, at the meeting of the Parliamentary Commission on Human Rights and Interethnic Relations, during which the **Thematic Report “Observance of the children’s right to health in educational institution”** elaborated by the Ombudsman etc. was discussed.

The People’s Advocate for Child’s Rights, Maia Bănărescu, continued in 2021 the collaboration with the public administration, in this regard, she organized several working meetings with the representatives of the General Directorate for the Protection of Children’s Rights, Chisinau municipality, she participated in the Teachers’ Conference from the Strășeni District, organized by the General Directorate of Education and Culture of the Strășeni District Council in collaboration with the “ATU” Public Association, in the Teachers’ and Managers’ Forum with the generic title “The municipal educational system 30 years after the proclamation of the independence of the Republic of Moldova”, organized by the General Directorate of Education, Youth and Sports of the Chisinau Municipal Council under the auspices of the Chisinau City Hall, she participated in the meeting of the Technical Working Group for the elaboration of the *Child Protection Programme for 2022-2026* and *the Action Plan* for its implementation, she participated in the event organized by the General

Directorate for the Protection of Children's Rights of the Chisinau Municipal Council - *the Municipal Forum of Partners in the field of Child Protection*, etc.

At the initiative of the People's Advocate for Child's Rights Maiei Bănărescu, a round table was organized at Comrat with the subject "***Children's right to rest and development in UTA Găgăuzia***" which was attended by the heads of the UTA Găgăuzia Departments, specialists in the protection of children's rights and representatives of the town halls and the deputy of Bașcan.

The People's Advocate for Child's Rights, Maia Bănărescu, had meetings with the leadership of the Ialoveni and Strășeni districts, with the representatives of the territorial and local guardianship authorities, during these events the essential role of both entities in the protection and ensuring the realization of the children's rights was discussed.

The People's Advocate for Child's Rights, Maia Bănărescu, participated in events organized by non-governmental organizations and in common with them, having continuous communication, such as the event devoted to the International Day of Rare Diseases, organized by the „Copiii Ploii” Public Association, the public discussion on access to quality education and the holding of the 2021 graduation exams, organized by the National Youth Council of Moldova, at the launch of the documentary movie „Educația după gratii” (Education behind bars) made within the project “Extension of professional training courses for minors in Goian”, implemented by the “Regina Pacis” Foundation, *round table with the generic “Acceptance of disability. Methods of combating discrimination”*, organized by, SUNSHINE” Public Association within the project „Suntem diferiți, dar la fel” (We are different, but the same) – October – The month of human sensitization and awareness towards people with Down syndrome, the totalization event of the project coordinated by the Social Mission “Diaconia”, in the public discussion organized by the UN Information Centre, next to the National Library, with the title “Access to information and youth participation as a prerequisite for reducing inequalities and promoting human rights”, etc.

In 2021, the People's Advocate for Child's Rights, Maia Bănărescu also participated in several events, including those organized by international organizations, at the meeting of the National Committee for Combating Trafficking in Human Beings, at the consultation workshop on the UNDP (United Nations Development Programme) – IOM (International Organization for Migration) in the field of migration and sustainable development in Moldova, in the **25th** Conference and Annual General Assembly of the European Network of Ombudsmen for Children (ENOC) with the tagline “Covid-19, we learn for the future” addressed in the Conference the subject of ensuring the rights of children in street situations and children in detention, participated in Odesa, Ukraine, at the working meeting with the

representatives of the Ukrainian authorities in the field of the protection of children's rights, regarding the drafting of the bilateral Agreement between the Governments of the Republic of Moldova and Ukraine regarding the repatriation of children to their country of origin.

In November 2021, the People's Advocate for Child's Rights launched the *Decade of Children's Rights between November 10-20, 2021*, in the context of November 20, the date of adoption of the UN Convention for the Rights of the Child by the UN General Assembly, which is marked worldwide as *Children's Rights Day*. In this context, the Child's Ombudsperson recommended that educational institutions of all levels, but also other entities, public institutions, mass media, and non-governmental organizations organize and carry out activities to promote children's rights.

In 2021, the People's Advocate for Child's Rights, Maia Bănărescu, jointly with the Alliance of NGOs Active in the Field of Social Protection of Children and Families (APSCF) and the Centre for Information and Documentation on Children's Rights held workshops within the Adult Capacity Development Programme on child participation in decision-making, attended by over 150 professionals working with children. As a result of the Adult Capacity Development Programme on the children's participation in the decision-making process, the People's Advocate for Child's Rights, Maia Bănărescu, together with the representatives of the civil society participating in the Programme, the Centre for Information and Documentation on Children's Rights and the Alliance of NGOs Active in the Field of Social Protection of Children and Families (APSCF) drafted the Regulation of the Children's Advisory Council in addition to the People's Advocate for Child's Rights (Child's Ombudsperson) within the People's Advocate Office, which was consulted in 3 online workshops with a group of 60 children selected from different regions of the country and adapted according to the children's proposals. The final version of the Children's Advisory Council Regulation was presented at **the National Children's Forum** which is organized annually by the Child's Ombudsperson. At the end of the process of consulting children's opinions regarding the Regulation.

The Children's Advisory Council, in addition to the People's Advocate for Child's Rights (Child's Ombudsperson) within the People's Advocate Office, People's Advocate for Child's Rights had a summary meeting with the group of children participating in the three online workshops.

PROTECTION OF HUMAN RIGHTS DEFENDERS

The People's Advocate Office continued its activity in the segment of human rights defenders. Between 14-17 December 2021, the employees of the People's Advocate Office

benefited from the online training organized by the OSCE Office for Democratic Institutions and Human Rights (ODIHR) and the European Network of National Human Rights Institutions (ENNHRI) on the topic *“Protecting human rights defenders and co-creating inclusive civil society space in Europe: the role of National Human Rights Institutions”*. In the pieces of training, the employees of the People’s Advocate Office learned about the trends and developments of human rights defenders and the civic space, and their legislative and political framework, also the training participants simulated a case study in which they were involved in applying knowledge and experiences in the field of human rights defenders.

The People’s Advocate Office developed the Concept of the draft Law on human rights defenders and launched a public call for consultation of the opinion on the concept in the Republic of Moldova. The need to create regulations on the HRD also emerges from the commitments assumed by the Republic of Moldova by supporting all resolutions and joint declarations regarding human rights defenders at the UN General Assembly and the Human Rights Council. The concept advanced by the People’s Advocate Office is based on a model law on the recognition and protection of human rights defenders, developed by 27 world-renowned experts, who conducted comparative legal research and identified both good and restrictive practices in the recognition and protection of defenders. The draft model law takes into account around 40 national jurisdictions. More than 500 human rights defenders from more than 110 countries around the world were also consulted.

Legal recognition and protection of Human Rights Defenders are crucial to ensure that they can work safely, have a supportive environment and are free from attacks, reprisals and unreasonable restrictions. In the context of the situation of Human Rights Defenders and based on the standards and recommendations of international bodies, including the recommendation of the UN Special Rapporteur, Michael Forst, the People’s Advocate pleads for the establishment of HRD regulations in the Republic of Moldova.

INFORMATION AND TRAINING ACTIVITIES

The training activity carried out by the trainers of the People’s Advocate Office corresponds to the rigours advanced to the promotion activity of the National Human Rights Institution, under the Paris Principles. The People’s Advocate Office Office has a methodology and procedure, approved at the local level, by which certain requirements are submitted to the trainers, their preparation, the curricula and the materials of the courses to correspond to the level in the field of training of a NHRI.

Continued training collaboration with institutions with which the People's Advocate Office had previously signed agreements and established training partnerships, which proved to be useful experiences for both the trainees and the Ombudsman institution.

Traditionally, the training activity of the employees of the National Administration of Penitentiaries has continued, in particular, in the field of torture prevention, within this partnership for several years both new employees and those who previously benefited from the introductory course developed by the trainers of the People's Advocate Office.

Training activities with the carabinieri also continued. The training activities carried out with the staff of the General Inspectorate of Carabinieri covered two thematic areas: respect for human rights in the implementation of the mission of ensuring public order, prevention of torture and aspects of observance of freedom of expression.

Collaboration in the field of promoting human rights through training and information was initiated with the National Agency for Social Assistance, several employees from different subdivisions of the National Agency for Social Assistance participated in training with the following theme: The People's Advocate and his/her duties, the collaboration of the People's Advocate with state institutions, the duties of the People's Advocate for human rights, the approach based on human rights, whistleblowing, the defence of whistle-blowers.

In achieving the objective of developing the training programmes for the taught courses, of accumulating the necessary methodical materials, the People's Advocate Office also provided the possibility to collaborate with experts in various fields and to involve them in the process of developing training programmes or even courses. The People's Advocate Office relied on the knowledge and training of experts in the respective field but came with the rigours advanced by the internal procedures. Thereby, the goal of collaboration in such cases is a course or a training programme, with methodical materials and course support for trainers, as appropriate, developed by an expert in a certain field that corresponds to the methodology and procedure approved in the People's Advocate Office. Here is an example of achieving the goal:

In 2021, the People's Advocate Office signed a collaboration agreement with the public associations "Casmed" and "Homecare". The partnership was made within the project "Equity in health through social responsibility", implemented by the Swiss Red Cross with the financial support of the Swiss Agency for Development and Cooperation.

As a result of the collaboration, the employees of the People's Advocate Office benefited from a training course for trainers. The course aimed to strengthen the capacities of the ombudsman institution in achieving the goal of training professionals from the healthcare system in the Republic of Moldova. The trainers of the People's Advocate Office learned

how to approach subjects regarding patient rights in the context of respect for human rights, legal aspects of medical practice, to promote compliance with high standards in the process of providing quality and correct medical assistance, in the training of medical professionals, observing the rights of the medical worker and the patient, by being aware of existing obligations and responsibilities.

Within the project, the expert Rodica Gramma, a master in legislation and health management, university lecturer, Nicolae Testemitanu State University of Medicine and Pharmacy, developed the *Curriculum for the training course for medical workers in the field of patient rights, the Trainer's Guide and the course support*. The training programme was piloted by trainers from the People's Advocate Office, with the target group being nurses from the Municipal Clinical Hospital "Sfânta Treime" in Chisinau. Prepared materials are to be approved, according to the internal methodology and procedure of the People's Advocate Office, and used by trainers from the ombudsman's institution in training activities.

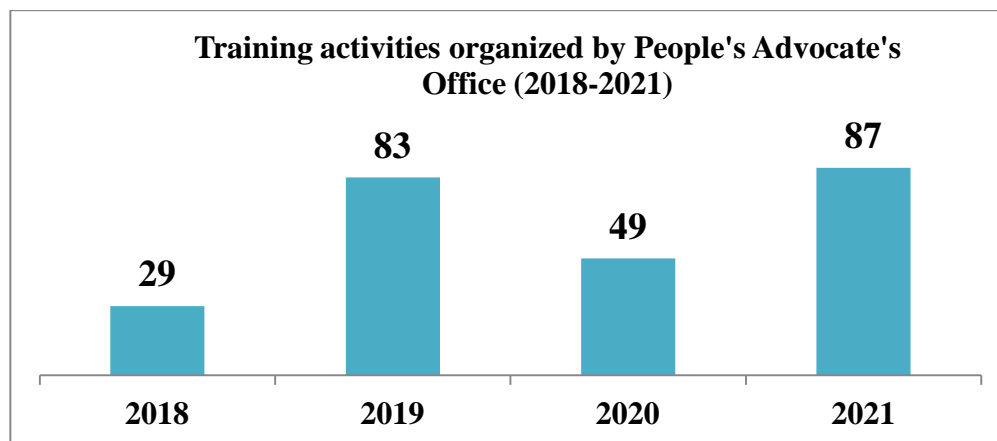
Collaboration with civil society is important for the People's Advocate Office. In the segment of information and training activity, this collaboration is a benefit, because the experience of non-governmental organizations and the opinions of experts bring new ideas to the discussion, which contribute to maintaining a necessary and useful dialogue for both parties.

In 2021, the People's Advocate for Child's Rights jointly with the Alliance of NGOs Active in the Field of Social Protection of Children and Families (APSCF) and the Centre for Information and Documentation on Children's Rights held 22 workshops within the *Adult Capacity Development Programme on child participation in decision-making*, attended by over 150 professionals working with children. The programme aimed to create a space for adults working with and for children to learn, share and be inspired together, identifying realistic and legal processes and methods to ensure they take the children's opinions into account. The participants of the programme studied in two groups: the first group consisting of employees from the fields of education, social assistance, justice, and volunteers from local and national NGOs and the second group consisting of civil society representatives.

As a result of the Adult Capacity Development Programme on child participation in the decision-making process, the People's Advocate for Child's Rights, jointly with representatives of civil society participating in the programme, the Centre for Information and Documentation on Children's Rights and the Alliance of NGOs Active in the Field of Social Protection of Children and Families (APSCF) developed the *draft Regulation of the Children's Advisory Council under the People's Advocate for Child's Rights (Child's Ombudsperson) within the People's Advocate Office*, which was consulted in three online workshops with the participation of a group of children selected from different regions of the

country and adapted according to the proposals submitted by the children. The final version of the Children’s Advisory Council Regulation was presented at the *National Children’s Forum* which is organized annually by the Child’s Ombudsperson.

Statistically, the table of training activities carried out by the People’s Advocate Office in 2021, compared to previous years, looks as follows:

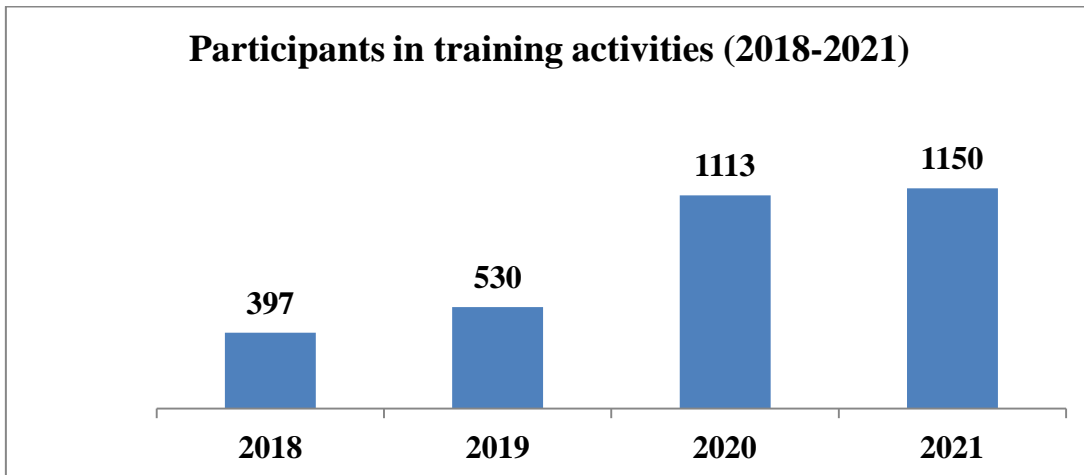


Quantitatively, the number of training activities doubled compared to the previous year but did not exceed the index of 2019. The last two years, when the activity, due to the pandemic, was mainly carried out online, demonstrated the ability of the People’s Advocate Office trainers to adapt to different objective circumstances and to face possible risks. The number of training activities increased thanks to the fact that the People’s Advocate Office was able to provide employees with access to a functional online platform that meets training needs.

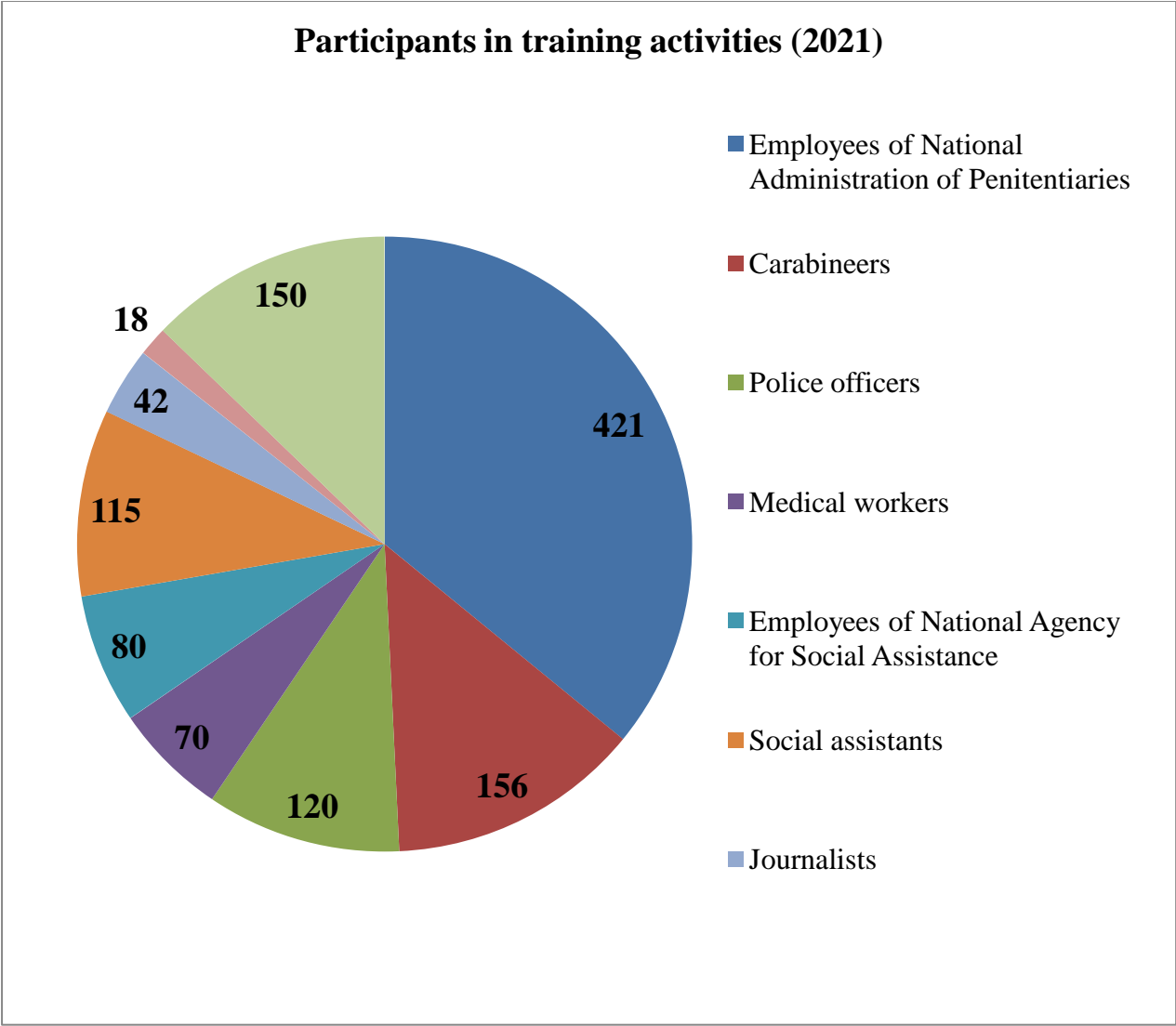
The thematic area of training activities has been widened, in addition to the courses and topics covered in previous years: the duties of the People’s Advocate, the duties of the People’s Advocate for Child’s Rights and his/her cooperation with public authorities, the observance of human rights in the exercise of the functional duties of maintaining public order, the prevention of torture and ill-treatment, whistleblowing and the role of whistleblowers in the fight against corruption, the approach based on human rights, children’s rights, combating hate speech, new topics were also addressed - patient rights and freedom of expression and the Internet.

In 2021, the “Patient’s Rights” Course was developed and successfully piloted, which is a first for the People’s Advocate Office from the perspective of the field addressed. In the Strategic Development Programme of the People’s Advocate Office, the field of the right to health was indicated as a priority for the institution’s activity, other training activities are to be organized on this subject, to consolidate the results obtained.

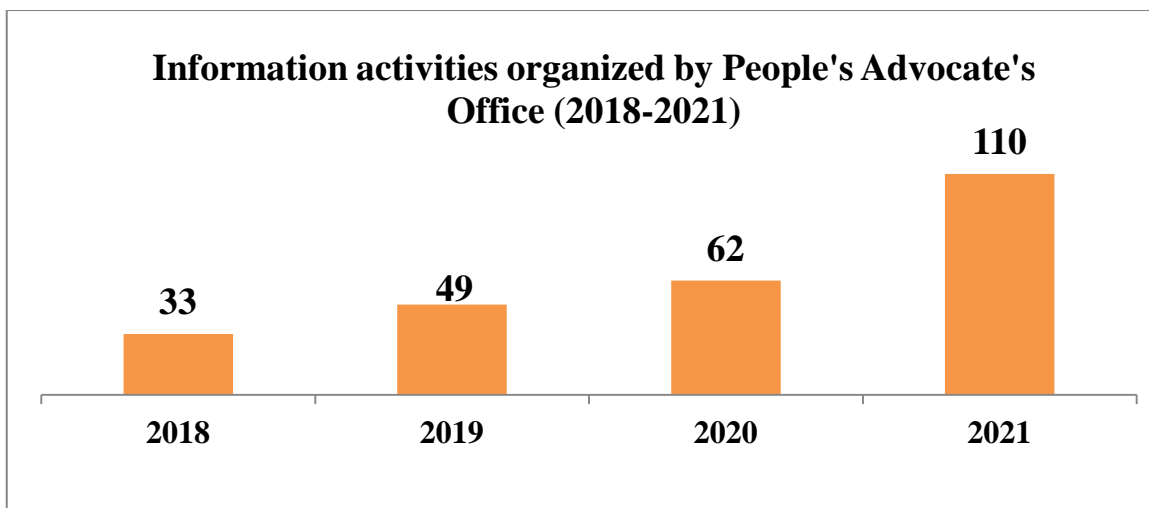
The **87 training activities** organized by the People’s Advocate Office in 2021 brought together **1150 participants**.



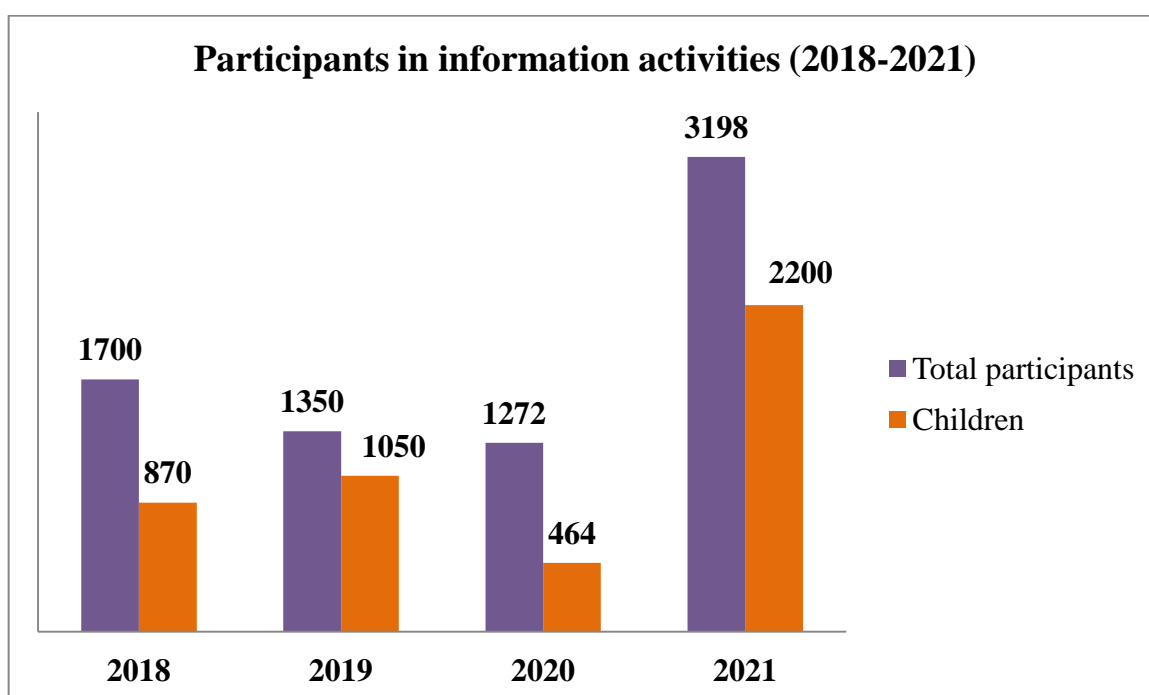
The participants are professionals from different fields: **421 employees of the penitentiary system**, including newly hired specialists, who benefited from the introductory course in the field of preventing torture and ill-treatment, but those who attended this course previously and in 2021 heard the continuation of the course. **156 carabinieri** were initiated in the field of torture prevention but also participated in the continuation of the course “Observance of freedom of expression when exercising the mission of maintaining public order”. **42 journalists** from the south and north of the country were trained in the field of hate speech prevention, approximately **80 employees of the National Agency for Social Assistance** participated in pieces of training on whistle-blowers, the approach based on human rights, also **115 social workers** were trained in the field of ensuring observance of children’s rights. Paralegals, police officers, medical workers, etc. also took part in the training.



The number of information activities doubled compared to the previous year's index. The employees of the People's Advocate Office informed **3198 people, including 2200 children, 80 educators, and 588 civil servants**, about the Ombudsmen's' activity, the cooperation of the People's Advocates with the public authorities, whistleblowing and the role of whistle-blowers in the framework of 110 information activities.

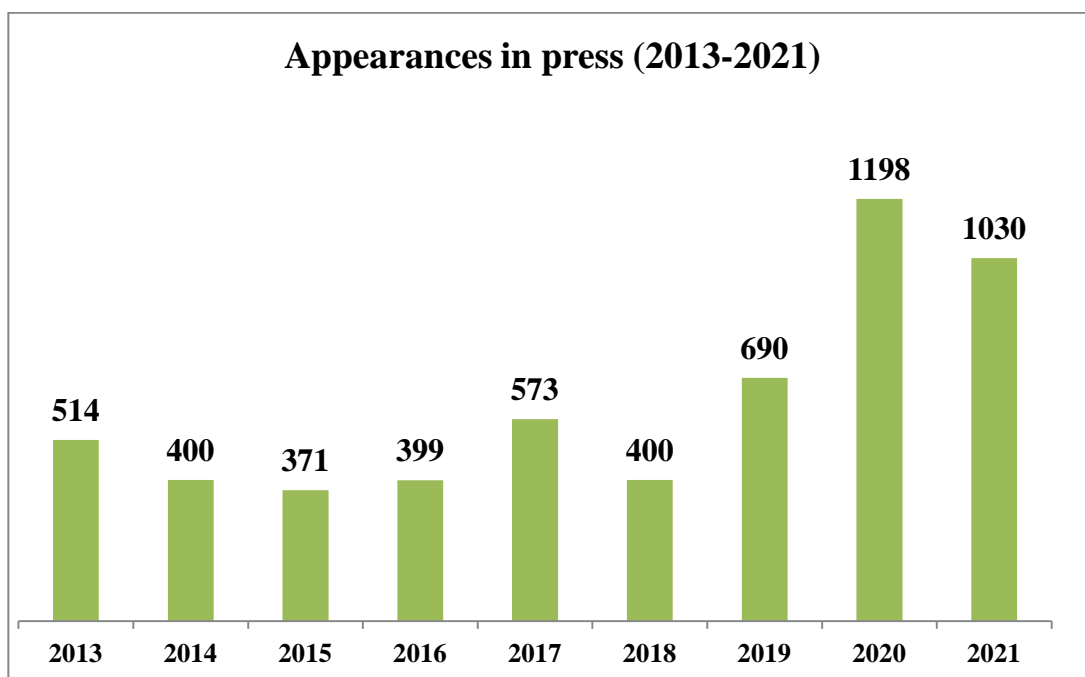


A special place in the list of information activities is occupied by information activities organized for children. Communication with children, which for the employees of the People's Advocate Office constitutes a separate group from the perspective of both approaches and thematic. Employees of the People's Advocate Office, especially the Children's Rights Directorate, maintained an open dialogue with children throughout the year, and when the pandemic restrictions were eased, they also had a series of activities with a physical presence. During information activities, children of different ages learned about the Child's Ombudsperson, what it does, how children can defend their rights, how they can prevent violence and what to do if they have become victims of violence. The children were informed about the dangers of the Internet and how to behave in the online environment and use the Internet, avoiding the dangers.



REFLECTION OF THE OMBUDSMAN'S ACTIVITY IN THE PRESS, ON THE PEOPLE'S ADVOCATE OFFICE'S WEBSITE AND ON THE FACEBOOK PAGE

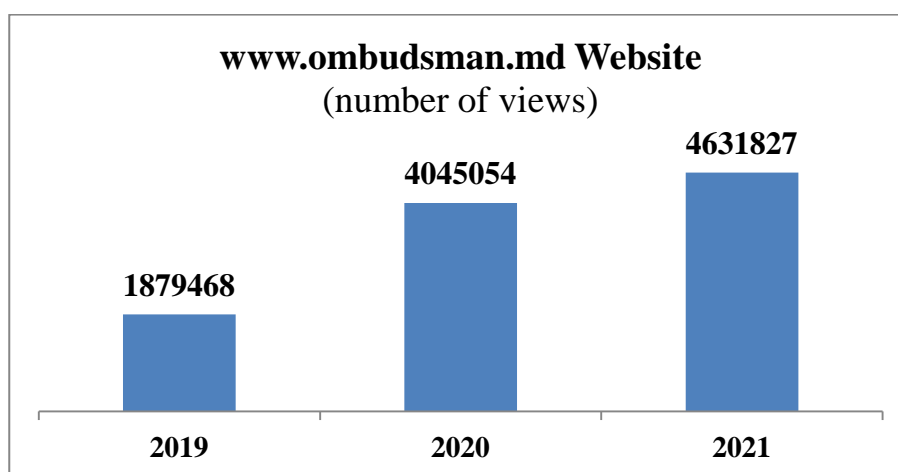
During the year, the interventions, reactions, proposals and messages of the People's Advocates were reflected by the main media institutions in the country in the Romanian, Russian and English languages. The activities and all informational materials developed by the People's Advocate Office were publicized. Also, some materials and reactions of the Ombudsmen were publicized in the media from neighbouring States. In 2021, **1030 appearances in the press were recorded with subjects related to the activity of the People's Advocate and the People's Advocate for Child's Rights**, 168 less than in 2020, but far exceeding the number of appearances in 2019 (683) and 2018 (400). Of the 1030 appearances in the press, 250 had a negative connotation, and 780 had a positive nature.



The institution's official page www.ombudsman.md continued to be a way for the People's Advocates to communicate with society, through the website's columns the positions of the ombudsman on various current issues were brought to the public's attention, the statements of the People's Advocate, information about the current activity of the People's Advocate Office, the reports and addresses of the Ombudsperson, as well as the reaction of the authorities concerned in the recommendations of the People's Advocate were published. The number of site views - 4631827 in 2021, as well as the number of unique visitors - 329797, has constantly increased. In 2021, 1684 materials were published on the website, of which 725 were press releases and news in Romanian, Russian and English. The sections Reports, Documents, Dialogue with the authorities, Monitoring visits, and Reaction acts were

significantly completed. 4 issues of the People’s Advocate Office Bulletin and one issue of the People’s Advocate Office Applications Bulletin were published.

In 2021, the People’s Advocate Office started the development of a new column on the website - a podcast. Podcasting is a new way to communicate effectively with everyone. Audio files on various topics provide useful information that can be listened to and downloaded. The podcast platform can be a resource for anyone who wants to learn about human rights in audio format.



The institution made full use of the resources of the official Facebook page, this being an important tool for prompt communication with the public on social networks. Although the number of followers did not increase slightly - **from 4,200 to 4,800**, the number of views in 2021 reached and remained at record levels: **between 40000 and 20000 views, compared to the previous year’s rate of 5000 -9000, and the annual average is 12000 views**. According to statistics, the page is most often visited by people aged 25-45, 74% of visitors are women, and 26% - are men. Users from Moldova (71%) open the Facebook page most often, and users from other countries also show interest: Romania (11%), Italy (3.4%), Great Britain (2.6%), and Germany (2.5%).

INTERNATIONAL COOPERATION OF THE PEOPLE’S ADVOCATE OFFICE IN 2021

The People’s Advocate Office with the National Institutions for the Protection of Human Rights in several countries, with international organizations/networks in the field of human rights Global Alliance for National Human Rights Institutions (GANHRI), the International Ombudsman Institute (IOI), the Association of Francophone Ombudsmen and Mediators (AOMF), EOI, the European Network of Ombudsmen for the Protection of the Rights of the Child (ENOC) and other external partners (Council of Europe, OSCE Mission to

Moldova, OSCE Office for Democratic Institutions and Human Rights OSCE/ODIHR, etc.). The cooperation is aimed at strengthening the capabilities of the People's Advocate Office team in the defence of human rights and freedoms and the citizens of the Republic of Moldova, as well as at streamlining the activity by corresponding to the international agenda of national human rights institutions.

In 2021, the activity continued to be affected by the coronavirus pandemic. Actions and events within the collaboration process took place mainly online. Representatives of the People's Advocate Office participated in various activities in collaboration with international organizations:

- On **March 20, 2021**, the European Commission for Democracy by Law (Venice Commission) organized the **126th online Plenary Session**, within the event of the People's Advocate for Child's Rights, Maia Bănărescu, had an intervention on the Ombudsperson for entrepreneurs' rights. As a result of the hearings on March 20, the Venice Commission published its opinion on the impact of the establishment of the position of People's Advocate for entrepreneurs on the activity of the People's Advocate Office, which presented strong arguments regarding the inappropriateness of adopting such a decision.
- On **April 7, 2021**, the online webinar on the UN Resolution "*The role of Ombudsman and Mediator institutions in promoting and protecting human rights, good governance and the rule of law and Council of Europe standards*" took place. During this event, organized by the Council of Europe, in collaboration with the Institution of Mediators of the Kingdom of Morocco and the Venice Commission, topics were discussed regarding the concept of the United Nations Resolution on the role of the Ombudsman and Mediators, the Venice Principles regarding the protection and promotion of the institution of mediators, the IOI strategy for strengthening the role of the mediation institution within the bodies of the United Nations, as well as the standards of the Council of Europe. The People's Advocate Office was represented by the employees of the Directorate for the Promotion of Human Rights and Communication.
- On **April 26-27, 2021**, representatives of the People's Advocate Office participated in the high-level meeting "*Council of Europe Recommendation on the development and strengthening of efficient, pluralistic and independent National Human Rights Institutions (NHRIs)*". This Recommendation of the Council of Europe represents an important step for further affirming the decisive role of the NHRIs in the promotion and protection of human rights in Europe, including through effective cooperation

with the Council of Europe. The event was co-hosted by the *European Network of National Human Rights Institutions (ENNHRI)* and the German Presidency of the Committee of Ministers of the Council of Europe.

- On **May 27, 2021**, the *Human Rights Commissioner of the Supreme Rada of Ukraine* organized an international online forum on the protection of Roma's rights. Representatives of the People's Advocate Office participated in the event. The forum discussed the development of effective mechanisms to protect the rights of the Roma, the development and implementation of policies for the integration of the Roma minority in society, and combating xenophobic attitudes and stereotypes towards the Roma.
- On **July 20, 2021**, the regional online conference "*The rights of older people and the role of the Ombudsman/NHRIs*", an event organized by the Ombudsman of Georgia, took place. The objective of the Conference was to raise awareness of the rights of older people in the region, to discuss the challenges and the existing role of the Ombudsman/NHRIs and to share the experience of the regional Ombudsman/NHRIs in promoting and protecting the rights of older people.
- On **September 29, 2021**, the *first General Assembly of the European Network of National Human Rights Institutions (ENNHRI)* took place, which brought together 41 members of the organization, including the People's Advocate Office. During the working sessions, the strategic plan of the European Network of National Human Rights Institutions for 2022-2025 was discussed, the challenges faced by the NHRIs at the national level, the objectives of the European Network of National Human Rights Institutions to support the NHRIs to become stronger in line with the Paris Principles, the European Network of National Human Rights Institutions to become a strong and lasting network for the NHRIs, etc.
- On **October 14-15, 2021**, the 30th-anniversary conference of the Office for Democratic Institutions and Human Rights (ODIHR) was held with the generic "*Three decades and ready for the future - Democracy, Human rights and Security*" within which the numerous achievements of the last decades of the ODIHR were marked, current challenges and opportunities, and discussed the role of the Office in continuing the actions on the promotion of democracy and human rights in the future.
- On **December 3, 2021**, the representative of the People's Advocate Office participated in the second (final) General Assembly of ENNHRI bringing together more than 55 participants members of the European Network of National Human Rights Institutions from all over Europe. The meeting resulted in the adoption of the new Strategic Plan

of the European Network of National Human Rights Institutions 2022-2025 and the election of new candidates for the key governance positions of ENNHRI and GANHRI. Therewith, this meeting provided participants with an overview of ENNHRI's achievements in 2021.

- On **December 8, 2021**, the seminar *“Promoting the participation of independent monitoring bodies of Organizations of Persons with Disabilities and Civil Society Organizations in the activity of the UN Committee on the Rights of Persons with Disabilities during the pandemic”* was held. The event aimed to gather information on the main aspects and various opportunities to work with the UN Committee on the Rights of Persons with Disabilities, the body of independent experts that monitors the implementation of the UN Convention on the Rights of Persons with Disabilities, during the Covid-10 pandemic. The speakers also presented their experiences and best practices regarding their communication with the Committee. As a result, the seminar led to the facilitation and promotion of NGOs, independent monitoring mechanisms, and NHRIs to have an effective and meaningful interaction with the Committee.
- Between **December 16-17, 2021**, the GANHRI Extraordinary General Assembly took place. As a voting member, the People's Advocate Office participated in GANHRI elections through an online voting platform to elect the President and Secretary and members of the GANHRI Bureau.

Meetings of the People's Advocates with external partners:

- On **September 30, 2021**, the People's Advocate for Child's Rights, Maia Bănărescu and the employees of the People's Advocate Office met with the Representative of the Office of the UN High Commissioner for Refugees in Central Europe, Roland Schilling, who was on a working visit to the Republic of Moldova. During the meeting, the participants addressed topics related to monitoring the observance of the rights of asylum seekers, refugees, stateless status applicants and stateless persons in the Republic of Moldova; missions to monitor border crossing points and accommodation of asylum seekers at the border as well as UNHCR's cooperation with the People's Advocate Office.
- On **October 4, 2021**, the People's Advocate Natalia Moloșag, the People's Advocate for Child's Rights, Maia Bănărescu, met with the director of the Office of the Directorate General of Programmes of the Council of Europe (ODGP), Verena Taylor, who was visiting Chisinau. During the meeting, the most important activities carried out by the CoE in recent years were reviewed, as well as the perspectives of the

collaboration of the People's Advocate Office with the CoE in the context of the implementation of the Republic of Moldova - CoE Action Plan for 2021-2024, the promotion and protection of human rights being its basic component.

- On **November 19, 2021**, Natalia Moloșag, the People's Advocate, met with the head of the OSCE mission in Moldova, Claus Neukirch. During the meeting, the current cooperation projects between the OSCE and the People's Advocate Office were reviewed and future directions of collaboration were discussed. Thereby, the common interest for the continuation of cooperative relations in the field of promoting human rights in the Transnistrian Region, the rights of national minorities and combating discrimination and hate speech was emphasized. Among the cooperation priorities, with the involvement of ODIHR/OSCE, was named the monitoring of the reform process in the field of justice, and the developments in the sphere of freedom of expression and mass media.

In 2021, there were several pieces of training organized by external development partners in which the employees of the People's Advocate Office participated:

- Between **October 11-13, 2021**, within the Project "*Strengthening trust on both banks of the Dniester by strengthening local capacity and strengthening the protection of human rights*", implemented by the OSCE Mission in Moldova, the employees of the People's Advocate Office benefited from a training course in the field of research and monitoring based on open sources.
- Between **October 13-24, 2021**, the online training course *General Policy Recommendation 15 of the European Commission against Racism and Intolerance (ECRI) on combating hate speech* was held. The training was organized with the joint financial support of the Council of Europe and the Programmatic Frameworks of the Horizontal Facility for the Western Balkans and Turkey and the Partnership for Good Governance of the European Union (regional project "Strengthening access to justice for victims of discrimination, hate speech and hate crimes in the Eastern Partnership").
- Between **14-17 December 2021**, the online training organized by the OSCE Office for Democratic Institutions and Human Rights (ODIHR) and the European Network of National Human Rights Institutions (ENNHRI) took place. The topic of the training was "*Protecting human rights defenders and co-creating the inclusive civil society space in Europe: the role of National Human Rights Institutions*".

CHAPTER V

ACTIVITY OF THE PEOPLE'S ADVOCATE OFFICE

CONTRIBUTION TO THE PROCESS OF IMPROVING THE LEGISLATION

The contribution of the Ombudsperson to the improvement of the national regulatory framework and alignment with international standards is manifested in the prerogative, stipulated in article 27 of the Law on the Ombudsman (Ombudsman) no. 52/2014, to present to the subjects the right of legislative initiative proposals and recommendations for improving the legislation to eliminate the causes and conditions that create premises for the violation of human rights and freedoms and to issue opinions on the draft normative acts aimed at human rights and freedoms. Article 26 of the law empowers the People's Advocate with the right to refer to the Constitutional Court to control the constitutionality of the laws and decisions of the Parliament, the decrees of the President of the Republic of Moldova, the decisions and ordinances of the Government, as well as the international treaties to which the Republic of Moldova is a party.

In exercising its mandate, the People's Advocates submitted **19 proposals to improve the legislation in force** addressed to both the Government and the legislative forum. The proposals concerned legal issues in the field of the right to social protection, the rights of people with disabilities, the right to education, respect for private and family life, the protection of personal data, as well as observing the children's rights, etc. Out of all the proposals made in 2021, only 5 were accepted by the authorities in full, 5 - partially, 2 were rejected, and 7 are in the process of examination by the recipient authority.

Even in cases where the proposals of the People's Advocates were supported by the subjects with the right of legislative initiative, the process of amending the legal provisions is delayed. In the answers given to the People's Advocates, among the reasons we find the need for a wider analysis/study. For example, the proposal of the People's Advocate for Child's Rights to revise the provisions of the Family Code no. 1316/2000, Law on notarial procedure no. 246/2018, Law on civil status documents no. 100/2001 to capitalize on the aspect of listening to the child's opinion at the dissolution of the parent's marriage at the civil status body and notary.³⁹² In this case, the Ministry of Justice mentioned that there are certain possibilities of intervention in the regulatory framework to increase its clarity and accessibility, but firm actions to implement the proposal were not presented³⁹³.

³⁹² <http://ombudsman.md/wp-content/uploads/2022/01/propCodului-Fam.pdf>

³⁹³ <http://ombudsman.md/wp-content/uploads/2022/01/doc17.pdf>

There are also proposals to which the authorities have reacted positively, assuming the obligation to implement them. Among them is the proposal of the People's Advocate to examine the opportunity to initiate the procedure to complete the list of medical services from point 19 of the Single Programme of mandatory medical assistance insurance, approved by Government Decision no. 1387/2007, with provisions relating to the provision of dental prosthetics services for certain categories of persons: persons with disabilities, including those in residential institutions, elderly persons, etc.³⁹⁴ The Ministry of Health, Labour and Social Protection at the time claimed that it was examining the possibilities, including financial ones, of implementing, starting in 2022, a special Programme for the provision of dental prosthesis services for veterans, deported and politically repressed persons, and persons with disabilities³⁹⁵.

The same authority, concerning another issue addressed by the People's Advocate, stated that he will submit to the Medium Term Budgetary Framework (MBF) for the period 2022-2024 as a new policy measure (for the Social Protection sector) the proposal regarding the re-examination of disability pensions for retirees, who are active or have been active after realizing the right to a disability pension.³⁹⁶ Also, assurances were given by the concerned ministry that it will develop and submit proposals for the adjustment of the legislative acts that would regulate the granting of the status of an insured person to persons with disabilities specified in Article 4 paragraph (4) letter i) from Law no. 1585/1998, regardless of whether or not they receive the disability pension from another State or from the Republic of Moldova³⁹⁷.

Also, the Ministry of Health, Labour and Social Protection at the proposal of the People's Advocate for Child's Rights to initiate the intermediate review of the Law on the subsistence minimum no. 152/2012 for assessing the efficiency and effectiveness of vulnerable groups and examining the opportunity of revision to complete the provisions of article 4 with distinct groups, persons with disabilities and children with disabilities³⁹⁸, offered a rather evasive answer, without referring to the immediate request addressed in the proposal to improve the legislation. Claimed that the project of the government decision for the approval of the SIA Concept "Determination of disability and work capacity" and the Regulation on the organization and operation of the SIA "Determination of disability and work capacity" is in the process of being finalised. Its purpose is to form an informational

³⁹⁴ <http://ombudsman.md/wp-content/uploads/2021/07/Propunere.pdf>

³⁹⁵ <http://ombudsman.md/wp-content/uploads/2021/07/Raspuns-protezare-pacienti-din-Centre-de-plasament.semnat-2-1.pdf>

³⁹⁶ <http://ombudsman.md/wp-content/uploads/2021/05/12-7-26-din-22.04.2021-r%C4%83spunsul-MSMPS-nr.-16-2420-din-30.04.2021-06.05.2021-1.pdf>

³⁹⁷ <http://ombudsman.md/wp-content/uploads/2021/06/Avocatul-poporului-pers-dizab-strain.semnat.pdf>

³⁹⁸ <http://ombudsman.md/wp-content/uploads/2021/10/Propunere-minim-existenta-semnat.pdf>

resource, which will enable the efficiency of the procedures for determining disability and working capacity, as well as ensure the record of all requests in the field and of people who interact with the National Council for Determining Disability and Working Capacity.³⁹⁹

As a subject with the right to refer to the Constitutional Court, in 2021 the People's Advocate presented 3 referrals to the Constitutional Court. The object of the constitutionality control referred to the differentiated establishment of the amount of compensation for transport for people with severe disabilities;⁴⁰⁰ making the granting of citizenship to a child born on the territory of the Republic of Moldova conditional on the legal status of the parents/parent on the territory of the Republic of Moldova;⁴⁰¹ the recalculation of pensions previously established for military personnel and persons in the command body and the troops of internal affairs bodies.⁴⁰² Based on two referrals, the Constitutional Court is to be exposed, one referral was declared inadmissible.

In 2021, the **People's Advocate presented 4 opinions/Amicus Curiae to the Constitutional Court** concerning referrals under examination procedure, with impact in the field of human rights, two of which - at the Court's request, and two others - on own initiative.

In the reference year, the People's Advocates presented their opinion on 19 draft normative acts, of which 4 opinions were elaborated ex officio, and 5 concerned draft normative acts elaborated by the People's Assembly of TAU Găgăuzia. Most requests to issue opinions on draft normative acts come from the State Chancellery, as well as from ministries, the Ministry of Health, Labour and Social Protection, the Ministry of Education and Research, the Ministry of Justice, but also the National Anti-Corruption Centre.

On some projects of normative acts, considered by the People's Advocate to be of increased social importance, the opinion was presented with its ex officio recommendations, including on the legislative initiatives under examination by the Legislative Forum. Thereby, recommendations for improving the projects under examination were presented in the context of the legislative initiative⁴⁰³ on the amendment of the Education Code of the Republic of Moldova, which proposes the introduction of the notion of bullying, but also to the draft law on amnesty in connection with the XXX anniversary of the proclamation of the independence

³⁹⁹ <http://ombudsman.md/wp-content/uploads/2022/01/R%C4%83spuns-Ministerul-Muncii-%C8%99i-Protec%C8%9Biei-Sociale.pdf>

⁴⁰⁰ <http://ombudsman.md/wp-content/uploads/2021/04/04-1-02-din-06.04.2021-Curtea-Constitu%C8%9Bional%C4%83-Sesizare.pdf>

⁴⁰¹ <http://ombudsman.md/wp-content/uploads/2022/02/2021sesizare-Curtea-Constitu%C8%9Bional%C4%83-Legea-cet%C4%83%C8%9Beniei.pdf>

⁴⁰² <http://ombudsman.md/wp-content/uploads/2021/07/04-1-06-din-02.07.2021-sesizare-Curtea-Constitu%C8%9Bional%C4%83-recalcularea-pensiei-colaboratorilor-organelor-afacerilor-interne.pdf>

⁴⁰³ Draft law to amend the Education Code of the Republic of Moldova, no. 152/2014, Legislative initiative, no. 301 of 25.10.2021;

of the Republic of Moldova. Some considerations were translated into the final draft and approved.

Influencing public policies, the normative framework and administrative practices by promoting the integration of international standards in the field of human rights is a priority activity segment of the People's Advocate Office, established in the Strategic Development Programme of the institution for 2018-2022. The People's Advocate relies on an effective dialogue with the Parliament, the Government and the main authorities in the field of justice. Therefore, the actions of the People's Advocates were focused on identifying gaps in the regulatory framework, according to the principles of the Human Rights-Based Approach (HRBA), and contributing to its improvement, participating in the debate on human rights topics in the parliamentary committee meetings, offering opinions concerning the subjects under examination procedure at the Constitutional Court.

Also, in 2021, representatives of the People's Advocate Office were requested to participate in several working groups created for the elaboration of public policies/projects of normative acts, to provide consultancy and expertise from the perspective of observing human rights and freedoms. The active presence of the institution's representatives was ensured in 6 such working groups, including the groups regarding the elaboration of the Action Plan for 2021-2024 on the implementation of the Strategy for strengthening inter-ethnic relations in the Republic of Moldova for 2017-2027; The strategy for the protection of children's rights for 2021-2030; The 2021-2025 Child Protection Programme and the 2021-2026 National Child Development and Welfare Programme 2021-2026.

CLAIMS MANAGEMENT AND INVESTIGATION

According to article 16 of the Law on the People's Advocate (Ombudsman) no. 52 dated 03.04.2014, one of the duties of the People's Advocate is to receive and examine applications on the violation of human rights and freedoms and to submit, within the established terms, written answers regarding the submitted applications.

The People's Advocate examines the applications of natural persons, regardless of citizenship, age, sex, political affiliation or religious beliefs, who live permanently, are or have been temporarily in the territory of the country, whose rights and freedoms are supposed to have been violated by the Republic of Moldova.

The application can be made by mail, e-mail, during the hearing or submitted in person.

According to article 21 of Law no. 52/2014, after receiving the application, the People's Advocate is entitled: to accept the application for examination; return the application without examination, explaining to the petitioner the procedure he is entitled to use to defend his rights and freedoms; to refer the application to the competent bodies, to be examined under the provisions of the legislation regarding petitioning.

Within 10 days from the date of receipt of the application, the People's Advocate notifies the petitioner of the adopted decision. If the application is returned without examination, the reasons for the return must be indicated. The decision to return the application cannot be appealed. The repeated application can be submitted after the removal of the causes that served as grounds for restitution.

For the People's Advocate Office, the activity of examining requests is very important, because it allows direct monitoring, from the primary source, of human rights violation issues. In this regard, the volume of information processed by the institution is quite large. Annually, the People's Advocate Office, including its representatives, receive on average around 1500 applications. About 75% of these applications are returned without examination because they do not fall within the competence of the People's Advocate or do not meet the admissibility conditions set out in articles 19 and 20 of Law no. 52/2014. However, the petitioner is told where to go to settle his/her problem.

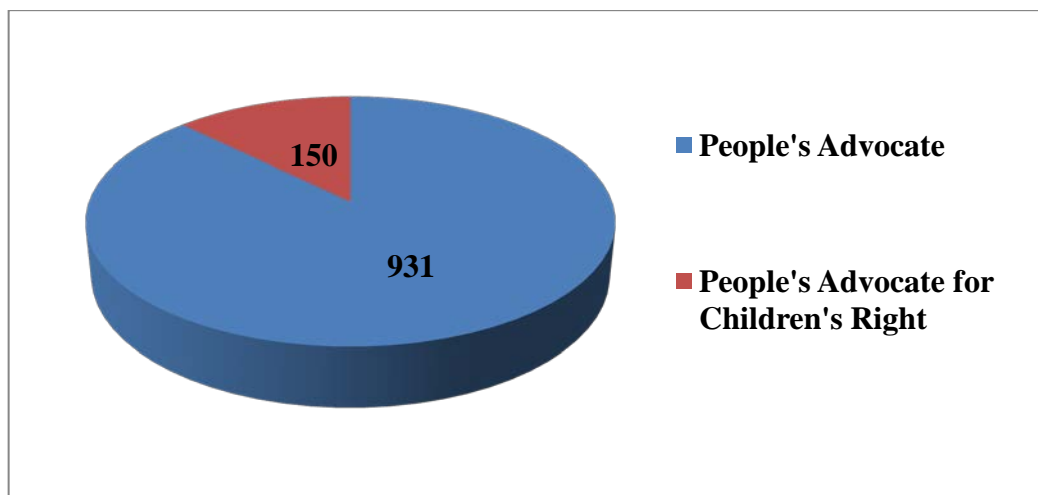
Regarding the applications accepted for examination, the People's Advocate, based on the results of the investigation of a case, has the right to address the court with an application for the defence of the petitioner's interests, whose fundamental rights and freedoms have been violated; to intervene with the competent authorities with an approach to initiate a disciplinary or criminal procedure regarding the person with responsible positions who committed violations that generated the violation of human rights and freedoms; to notify the prosecutor regarding the commission of the contravention provided for in art. 320 of the Contravention

Code of the Republic of Moldova; to notify persons with positions of responsibility at all levels on cases of negligence in the service, violation of service ethics, procrastination and bureaucracy. The People's Advocate may also intervene in the process to submit conclusions to defend the rights, freedoms and legitimate interests of individuals.

Annually, the People's Advocate Office, including its representatives, receives on average about 1300 applications. About 75% of these applications are returned without examination because they do not fall under the competence of the People's Advocate or do not meet the admissibility conditions set out in articles 19 and 20 of Law no. 52/2014.

In connection with the epidemiological situation in 2021, the People's Advocate Office continued to carry out its work mostly remotely. To ensure people's access to the People's Advocate and the People's Advocate for Child's Rights, applications were also taken through the institution's official web page through the application „Depune cererea online” (Submit an online application). Thereby, citizens had the opportunity to address the Ombudsman quickly and confidentially. Information assistance in 2021 was organized by receiving and managing daily telephone calls by the Office's employees.

In 2021, the People's Advocate Office received **1081 applications**. Out of the total number of applications (**1081**) received during 2021, **931 (87%) applications** were addressed to the Ombudsman and **150 (13%) applications** were addressed to the Ombudsman for Child's Rights.

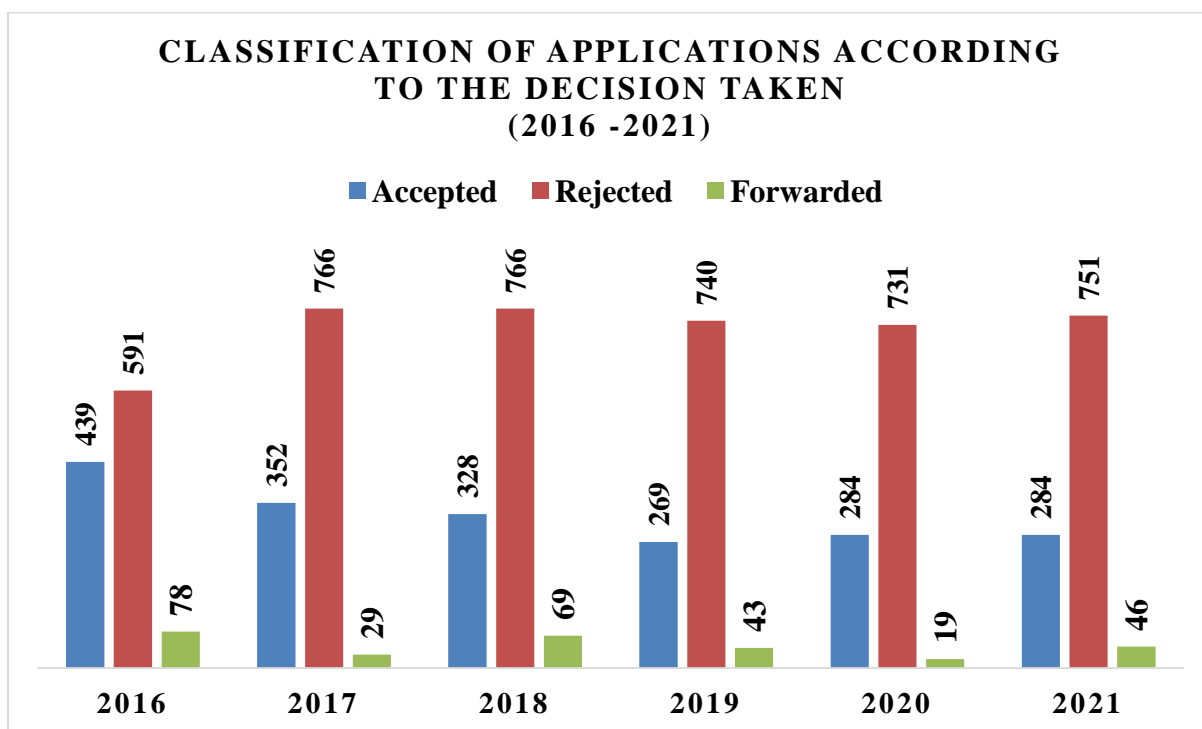
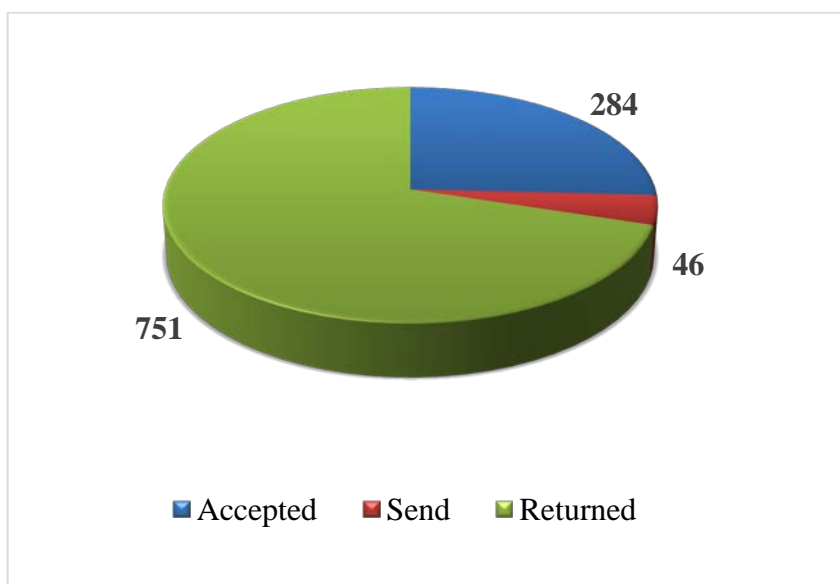


Of the **1081 registered applications**, **284 (26%) applications** were accepted for examination (159 applications accepted for examination by the People's Advocate and 115 applications accepted for examination by the People's Advocate for the protection of children's rights), with the initiation of procedural actions under Article 25 of Law no. 52.

46 (4%) applications (46 applications submitted by the People's Advocate) were submitted to the competent authorities, to be examined according to their competence.

751 (70%) applications were returned based on the provisions of Articles 18, 19, and 20 of Law no. 52, (726 applications returned by the People’s Advocate and 25 applications returned by the People’s Advocate for the protection of children’s rights). In each case, the addressees have explained the procedures they are entitled to use to defend their rights and freedoms.

Classification of applications according to the adopted decision (2021)



According to the applications received, the most frequently invoked and alleged infringed rights were:

The right to a fair trial – 201 applications. The issues invoked by the petitioners were: Disagreement with the judgment (sentence) of the court which remained final; dissatisfaction with the lack of a normative act regulating the possibility of applying amnesty; the right to be assisted by a competent lawyer appointed by the territorial offices of the National Council for State-Guaranteed Legal Aid; judging the case within a reasonable time; bringing the judge to disciplinary responsibility; delaying the prosecution; unfair and biased enforcement of parole; non-execution of the court's decision in full, etc.

Another right allegedly violated is the **right to life, integrity, physical and mental - 193 applications.** As in other years, most petitioners cited poor conditions of detention; several inmates complained about the improper actions of employees in the penitentiary system; many detainees request the input of the People's Advocate for their transfer to another penitentiary; allegations were made regarding the lack of provision of specialized medical assistance to convicts, a fact by which the persons claim that physical and mental suffering is being intentionally caused to them, etc.

Another right allegedly violated **The right to health protection - 146 applications.** The issues addressed: failure to provide medical assistance in full volume during the medical crisis period; the right to compliance with quality standards, the right to personalized treatment, the right to avoid suffering and pain that are not justified; the right to accessibility; the patient's right to be informed.

The right to individual liberty and security was invoked in **92 cases.** Some of the applicants invoked over-term detention within the penitentiary system, although the compensatory mechanism was applied to them through court decisions for detention in poor conditions of detention with the reduction of the term of serving the sentence, the representatives of the penitentiary institutions refuse to release them from state custody; another part of the addressees invokes the dissatisfaction with the isolation of the victims of the conflict between the inmates and leaving the aggressor to continue serving his sentence under the same conditions as before the conflict; the right to short and long-term appointments during the health crisis, as well as others.

The right to assistance and social protection was invoked in **82 applications addressed.** The economic crisis and the permanent increases in prices and tariffs for consumer goods and services continue to affect the standard of living of the population as a whole and generate a deepening of poverty for the most vulnerable groups. The problems addressed were: the competent authority's refusal to recalculate the pension; refusal to grant financial or material aid during the cold period of the year and other social benefits, for people from socially vulnerable groups; the impossibility of paying communal services, the right to insurance in case

of unemployment, illness, disability, old age; loss of means of subsistence. People are still dissatisfied with the low level of income, of social benefits, which do not even cover the minimum of existence; by the retirement system.

The right to private property and its protection was invoked in **71 applications**. The petitioners invoked: respect for debtors' assets in the process of forced execution of enforcement documents - **22** applications, exceeding the powers of bailiffs - **7**, the impossibility of execution of enforcement documents by debtors during the pandemic crisis; obtaining private property – **4**, fair compensation for expropriation -**4**, right to inheritance -**3**, excessive payment for communal services, and so on.

The right to information was invoked in 61 applications, the issues addressed: receiving the information, the vast majority of addressees requested that copies of the People's Advocate's Reports regarding the monitoring of detention conditions in the country's penitentiary institutions be sent to their address; it was requested to receive information regarding the new changes in the legislation, namely the application of Article 385 paragraph 5 of the Criminal Procedure Code and the request for information on the procedure for the execution of court decisions, statistical information, as well as others.

The right to work and to work protection – 60 de applications. Illegal dismissals, non-payment of wages, intimidation and threats by employers, occupational hygiene, unemployment protection, as well as fair and satisfactory working conditions, especially for medical workers, were cited; the lack of contributions or their non-transfer to the social fund of the state; lack of jobs for people in State custody.

About the violation of the right to petition, we were notified by **38 citizens**, who invoke: disagreement with the answer received or its lack, refusal to provide the requested information, violation of the deadline for examining a complaint, as well as the refusal to register the complaint.

Alleged violations of the rights to: education, a healthy environment, free movement, freedom of opinion and expression, freedom of assembly, protection of personal data and others were also invoked.

In 2021, **7 applications were received from people who requested protection, claiming to be whistle-blowers**. Granting protection to whistle-blowers is a new attribution of the People's Advocate, obtained based on the Law on whistle-blowers no. 122 of 12.07.2018.

Out of the 284 applications accepted for investigation, in 152 cases a violation of human rights and freedoms was found and, as a result of the intervention of the People's Advocate and the People's Advocate for Child's Rights, 124 people were reinstated. At the end of the year, 48 applications were still under investigation. In the process of investigating

the applications, certain procedural actions are taken and certain types of documents are issued, specific to the mandate, as follows:

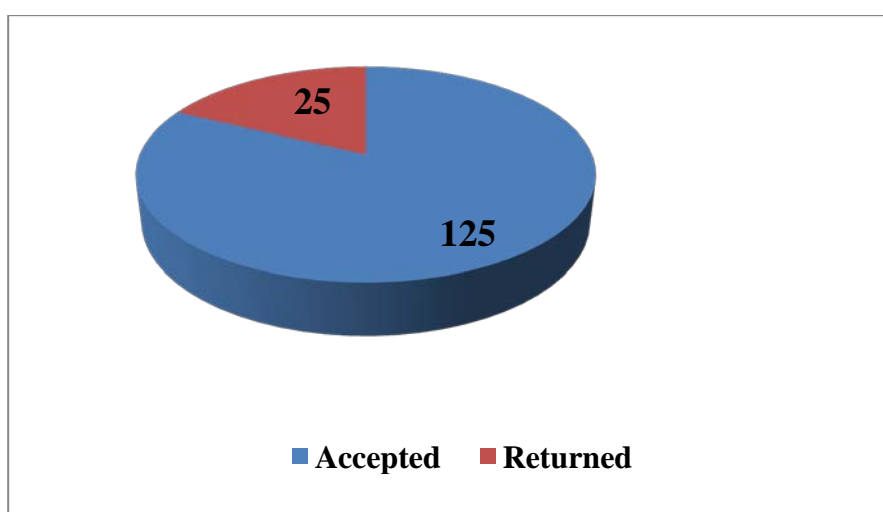
Dynamics of procedural actions/acts of reaction

Procedural actions	2017	2018	2019	2020	2021
Notice with recommendations regarding the measures to be taken for the immediate reinstatement of the petitioner's rights (art. 24 of Law no.52/2014)	129	57	41	71	39
Procedure for filing a criminal/disciplinary process regarding the person with responsible positions who committed violations that generated considerable damage to human rights and freedoms (art. 25 para. 1 letter b) of Law no.52/2014)	13	9	7	10	4
Reporting on the case of violation of work ethics, procrastination and bureaucracy (art. 25 paragraph 1 letter d) of Law no.52/2014)	6	9	1	6	-
Actions in court/intervention in the process to submit conclusions, (art. 25 par. 2) and 3) of Law no.52/2014)	13	1/11	4/12	3/9	15
Conciliation agreement between the parties (art. 23 par. 3) of Law no.52/2014)	2	1	-	-	-
Proposals on the improvement of the activity of the administrative apparatus (par. 6 point 7 of Law no.164/2015)	4	-	8	13	3
Request for judicial expertise (art. 11 of Law no.52/2014)	-	-	-	-	-
Proposals and recommendations to improve the legislation (art. 27 letter a) of Law no.52/2014)	14	12	18	34	19
Referral to the Constitutional Court to check the constitutionality of normative acts/Amicus curiae (art. 26 of Law no.52)	3	-	3	1/11	3/4
Opinions on draft normative acts (art. 27 letter b) of Law no.52/2014)	59	42	42	37	19

APPLICATIONS RECEIVED BY THE PEOPLE’S ADVOCATE FOR CHILD’S RIGHTS IN 2021

In 2021, 150 applications were received by the People’s Advocate for the protection of children’s rights. There is a decrease in the number of addresses compared to the previous year. (2016 – 95 applications; 2017 – 147 applications; 2018 – 174 applications; 2019 – 129 applications; 2020 – 178 applications; 2021 – 150 applications).

Out of the total number of applications, 125 applications met the admissibility conditions and were accepted for examination. Concerning 25 applications, decisions were issued to return the request without examination, explaining to the petitioner the procedure he is entitled to use to defend his/her rights and freedoms.



In the context of the functional attributions, to ensure the observance of the child's rights, the People’s Advocate for Child’s Rights is entitled to act ex officio to assist the child in difficulty or at risk. Following the information appearing in the media, social networks, and the calls received from the “Telefonul Copilului” (The Child's Telephone) (0 80011116), during 2021, the Child’s Ombudsperson notified ex officio, in 24 cases, which the violation of the right to health was certified – 3; the right to education – 4; protection from abuse and neglect – 5; the family right – 4; the right to name – 3; the right to survival and development - 5.

**Classification of claims on the alleged violated right
under the UN Convention on the Rights of the Child**

SUBJECTS OF ADDRESSES	Received applications	Accepted applications	Returned applications	Submitted applications	no. Acts of action	Conclusions in court
The right to identity and citizenship, Article 8	1	1			1	
Violence against children: Article 19	21	19	2		4	
<i>Violence in educational institutions</i>						
<i>Domestic violence</i>	7	4	3		2	
<i>Violence against children in other state institutions</i>	1	1				
<i>Sexual exploitation, Article 34</i>	2	2			1	
Physical, psychological, social recovery/reintegration of children victims of a form of neglect and abuse, Article 39	15	10	5			
The child's family environment/separation and maintenance of relations with parents, Article 9	15	12	3		6	
Responsibilities, rights and duties of the natural parents, Article 5	22	22			3	
Family reunification, the residence of parents in different States, Article 10	4	4				
Joint responsibility of parents to raise the child, child care services, Article 18	6	3	3			
Ensuring a decent standard of living on the part of the parents through material assistance (need for food, clothing, housing, alimony), Article 27	8	5	3			2
Special protection and alternative services from the State for children deprived of a family environment, Article 20	5	5				
Transfer/return of the child from abroad, Article 11	5	3	2			
Social assistance, Article 26	6	3	2		1	
Right to health and medical services, Article 24	3	2	1			
Right to education, Article 28	2	2			2	
The right to a decent life for physically and mentally disabled children, special educational requirements, Article 23	4	4			2	
The child's opinion, including in any judicial or administrative procedure, Article 12	1	1				
Right to freedom of expression, Article 13	1	1				

Protecting the child against information and materials that harm his/her well-being, Article 17	1	1				
Economic exploitation of children, Article 32	2	2				
Trafficking in children, Article 35	2	2				
Prohibition of torture, rapid access to legal aid, and other appropriate assistance, Article 37	1	1				
The rights of children suspected, accused or found guilty of violating the criminal law, Article 40	2	2				
Rights of children belonging to a minority, ethnic, religious or linguistic, Article 30	1	1				
The child's right to freedom of association and freedom of peaceful assembly, Article 15	2	2				1
Total number of applications	150	125	25			6

Dynamics of procedural actions/acts of reaction

Procedural actions	2017	2018	2019	2020	2021
Notice with recommendations regarding the measures to be taken for the immediate reinstatement of the petitioner's rights (art. 24 of Law no. 52 of 03.04.2014)	28	25	14	17	22
Action (for the initiation of a criminal/disciplinary process on a person with a responsible position who committed violations that generated considerable damage to human rights and freedoms (Article 25 paragraph (1) letter b) of Law no. 52)	4	1	1	3	2
Reporting on the case of violation of service ethics, procrastination and bureaucracy (Article 25 paragraph (1) letter d) of Law no. 52)	4	4	2	6	-
Actions in court/intervention in the process to submit conclusions/conclusions (Article 25 paragraph (2) and (3) of Law no. 52)	8	8	3/6/10	1/3/7	8
Conciliation agreement (Article 23 paragraph (3) of Law no. 52)	1	1	-	-	-
Proposals on the improvement of the activity of the administrative apparatus under sub-point 6 of point 7 of chapter II of the Regulation on the organization and operation of the People's Advocate Office	1	1	1	2	-
Request for judicial expertise (Article 11 letter m) of Law no. 52)	-	-	-	-	-
Proposals and recommendations for improving the legislation (Article 27 letter (a) of Law no. 52)	4	1	2	7	6
Referral to the Constitutional Court to control the constitutionality of regulatory documents (Article 26 of Law no. 52)/opinions	2	2 opinions	-/2	2	1
Opinions on draft regulatory documents	1	8	11	8	2

(Article 27 letter (b) of Law no .52)					
T O T A L	53	51	52	57	41

THE RIGHTS OF THE CHILD THROUGH THE PRISM OF APPLICATION

EXAMINATION

Children, holders of rights, remain in the view of the People’s Advocate for Child’s Rights priority in the activity process, especially when it aims to illustrate how the legal norm adapts to their specific interests and needs, the role of parents/legal representatives, as well as of the public authorities responsible for implementing the legal framework for the promotion, assurance and protection of children’s rights, being an essential one, in situations where the responsibilities rest with them to the greatest extent.

Recognizing the fundamental principles of education⁴⁰⁴, the People’s Advocate for Child’s Rights in 2021 monitored the implementation of mechanisms for the protection and intervention of workers of educational institutions in cases of abuse, neglect, exploitation, and child trafficking⁴⁰⁵. In this regard, the Child’s Ombudsperson mentions that *the directors of educational institutions are obliged to stipulate in the activity regulations, contracts and in the employees' job descriptions the obligation to report cases of abuse and neglect, to inform and make available to employees reporting forms, registers, as well as to ensure at the level of each institution the implementation of the intervention procedure of the workers of the educational institutions, to designate a person from among the members of the administration of the institution as the coordinator of the activities for the management of cases of abuse and neglect, as well as to organize information activities for children and parents, caregivers, legal representatives of children, about how to report suspected cases of abuse and neglect.*⁴⁰⁶

Despite the existence of a proactive mechanism, guaranteed by the state, the Child’s Ombudsperson identified an impressive number of cases of psychological and physical abuse⁴⁰⁷ admitted concerning children in early childhood education and high school level institutions, both from the management staff and from the minors themselves. The monitoring and intervention of the People’s Advocate for Child’s Rights led to the establishment of the causes that generate their appearance: the unsatisfactory level of the staff, knowledge of the procedure of institutional organization and intervention of the workers of educational

⁴⁰⁴ Art. 7 of the Education Code of the Republic of Moldova;

⁴⁰⁵ Order of the Ministry of Education no. 77 of 22.02.2013;

⁴⁰⁶ Idem, points 2 and 3;

⁴⁰⁷ During 2021, 39 cases were examined where children were subjected to acts of violence by teachers in general education and preschool institutions;

institutions in cases of abuse, neglect, exploitation, child trafficking⁴⁰⁸ and the methodology⁴⁰⁹, as well as the child protection policy as a whole. In the opinion of the Child's Ombudsperson, the improper approach by the teaching staff and management staff to the process of implementing protection mechanisms is caused by: the phenomenon of collegial protectionism/favouritism, corporate quasi-solidarity, due to the indifference and/or lack of capacity to identify and/or perceive potential abuses/negligence on the part of both staff and pupils, children's fear of expressing their opinion, in order not to be subjected to possible victimization and harassment.

The most serious finding of the Child's Ombudsperson in this regard is *the cover-up of cases of abuse and violence admitted towards minors on the part of the management managers and/or staff of the educational institution, as well as the control bodies, which leads to the avoidance, in most cases, of administrative responsibility and/or criminal, internal service investigations and the intervention of criminal investigation bodies, often having formal purposes.*

In the opinion of the People's Advocate for Child's Rights, the management/teaching staff do not fully ensure the safety of the life and health of children, pupils and students in the education process⁴¹⁰, in some cases being even complicit by tolerating and concealing such acts. In this context, the Child's Ombudsperson highlights the case reported by the mother of a minor on the acts of violence applied to him. The teacher at a preschool institution in Chisinau left the children unsupervised, later signs of strangulation and visible injuries were found around the neck of a child, the assumption arose that these injuries were caused while the teacher was absent and the children were left unsupervised. Although the case was examined by the criminal investigation body, the petitioner requested the intervention of the Advocate for the rights of the child because the administration of the preschool institution creates impediments that lead to the procrastination of the investigation, there were attempts to cover up the case. Following the investigation of the case, the Child's Ombudsperson found the non-compliant application of the intervention mechanism of the educational institution's work in cases of abuse and neglect, or the actions/inactions of teaching staff, manifested by negligence in supervision, which led to slight bodily injury of a minor, were interpreted as being indifferent to the physical and mental integrity of the minor, the examination of the case by the multidisciplinary Commission, lacking an approach based on the rights of the child, the

⁴⁰⁸ Order of the Ministry of Education no. 77 of 22.02.2013;

⁴⁰⁹ The methodology for applying the Procedure for institutional organization and intervention of workers of pre-university educational institutions in cases of abuse, neglect, exploitation, child trafficking (Order of the Ministry of Education no. 858 of 23 August 2013)

⁴¹⁰ Article 35 of the Education Code of the Republic of Moldova;

manager of the institution showed a biased attitude towards the female employees involved in the conflict, the latter being severely reprimanded. Moreover, People's Advocate for Child's Rights established that despite the existence of legal provisions in the internal regulation of the protection mechanism, the institution was unable to present the register and the case notification sheet. The response of the Directorate of Education, Youth and Sports⁴¹¹ to the reported situation, in the opinion of the Child's Ombudsperson, is a formal one, or the manager of the institution was sanctioned for the improper performance of his duties, the people involved continue to act together with the employees who are guilty of the conflict. **Cases of child abuse in educational institutions constitute a serious violation of the law, but in most cases, abusers are subject to other sanctions than dismissal, legally provided for the manifestation of any type of violence against a child, even once⁴¹².**

A similar case is that of the siblings, pupils in a high school in the capital, whose parents notified the Child's Ombudsperson intending to intervene on the fact of psychological abuse and discrimination admitted by the household staff of the high school institution, regarding the children. The petitioners cited the fact that the employee exhibits aggressive behaviour towards their children, verbally harassing them, a fact that led to the children's psychological damage and the fear of attending high school. Considering the actions invoked as discriminatory on ethnic grounds and psychological abuse, the Child's Ombudsperson intervened with the high school administration with notices, requesting the taking of urgent measures found in the child protection policy approved at the state level. Following the answers received from the concerned institution, the Child's Ombudsperson found a lack of knowledge of the methodology for applying the procedure of institutional organization and intervention of workers of pre-university education institutions in cases of abuse, neglect, exploitation, child trafficking, but also a biased attitude of the management staff towards this case, demonstrated through formal actions and subjective analysis of the reported facts, the recommendations not being implemented. Acting in the best interests of the children, the People's Advocate for Child's Rights notified the Ministry of Education and Research, which is the founder of this institution, asking it to take measures to rectify the situation and manage the case positively so that the school environment is a child-friendly one. Therewith, the Child's Ombudsperson also notified the Equality Council to examine the discriminatory circumstances and actions of harassment and victimization. Even though the Republican Centre for Psycho-pedagogical Assistance has supported the high school regarding the implementation of child protection policies against abuse, the high school institution currently

⁴¹¹ Response no. 0118/1716 of 18.05.21 of the Youth Education and Sports Directorate;

⁴¹² Order of the Ministry of Education no. 77 of 22.02.2017;

lacks reliable management, the people responsible for the conflict situation, continuing to operate in the institution, and the faulty management of the case, generating negative effects both on the child victims and their family members. Moreover, the state of affairs made parents unsure of the school environment in which their children study, and to prevent repeated abusive actions, they decided that they should not attend school. Alerting the central authority through numerous notices about the worsening of the situation in the high school institution, the People's Advocate for Child's Rights remains concerned about the procrastination of its actions/inactions, considering that the facts refer to children, and the authorities will have prompt interventions in this regard.

It should be noted that the *school psychologist* has an important role in the management of cases of admitted abuse of children in educational institutions, or he is meant to contribute to the creation of a favourable psychological climate and the reduction of conflict situations, but in the majority of cases examined, it is either missing in the institution or has a superficial training concerning intervention actions. In the process of investigating cases of abuse, the Child's Ombudsperson observes that the psychologists of educational institutions, often even knowing the fact of deviant behaviour or conflicts between pupil-pupil, and pupil-teacher, psychologists remain passive in solving them or the intervention actions are not compliant.

The People's Advocate for Child's Rights traces a tendency of school psychologists to reduce the intervention activity to only observation, interview and conversation, which essentially represents a preliminary stage in solving cases. However, these interventions are aimed at interviewing both parties, understanding the causes, analysing how the conflict/abuse situation could be avoided, analysing the consequences on the students, and the class, and identifying and adopting the necessary measures to maintain the well-being. Thereby, the Child's Ombudsperson seeks to omit the essential interventions to supervise cases of abuse, namely the opinion of the child (victim and/or abuser) regarding the incident created. And if it is admitted that the child is going through an age crisis, an individual plan is not created to work with the child in the future, to overcome the problems characteristic of the age and to overcome similar situations in the future.

The educational purposes of the inclusive education process were also subjects of the requests addressed to the Child's Ombudsperson. Thereby, the lack of tolerance towards children with special needs, both of some groups of parents and the management staff of some educational institutions, in the process of implementing inclusive education, is still observed. The Child's Ombudsperson remains deeply disappointed by the fact that the promotion of inclusive education arouses a negative attitude in education systems. The People's Advocate for Child's Rights arrived at the moment when the requests addressed to him demonstrated

actions of discrimination against children with special needs in the educational process. Reasons such as *“lack of reduced comprehension abilities”*, *“creating impediments and diverting the attention of students in classes, other than those with special needs”*, and *“lack of capacities and training of teaching staff”* were the basis of the referrals to the Child’s Ombudsperson, invoking the fact that inclusive education is a premature process for Moldavian education, arguing for maintaining the education process in special institutions for it. Surprisingly, this approach to the right to education was also manifested in some educational institutions in the private sector, which interprets the inclusive education of children with special needs, as a phenomenon that *“spoils the image”* of such institutions, giving this process an aggressive tone. In this context, the People’s Advocate for Child’s Rights recalled the State’s commitment to the implementation of the education development program⁴¹³, whose purpose is to ensure equal opportunities and chances for exclusive/marginalized people to benefit from fundamental human rights to development and education, in the conditions of human diversity, intervening with prompt actions on individual cases to restore the right to education and exclude the phenomenon of discrimination. However, in the opinion of the Child’s Ombudsperson, the management of inclusive education is flawed, largely because the State’s efforts to strengthen and make inclusive education services feasible at the local level are insufficient. More seriously, there are no adequate financial resources for the positive promotion of inclusive education among teachers, as well as due to the negative perception of the advantages of inclusive education by them, especially at the local level. In this regard, the People’s Advocate for Child’s Rights finds it necessary to strengthen inter-institutional collaboration and provide adequate support from local public authorities, as well as the promotion of inclusive education and tolerance among parents whose children are other than those with special needs, as well as the promotion and development of volunteer services. The Child’s Ombudsperson notes the urgent need for active monitoring of inclusive education and prompt involvement of the authorities responsible for ensuring inclusion, but also for educating a positive perception of the inclusion process among teaching staff, permanently, especially when gaps and/or impediments are identified that make its implementation difficult, or they lead to the non-achievement of educational objectives, guaranteed by the legal rule. Thereby, the People’s Advocate for Child’s Rights further notes the stagnation of the process of inclusive education and urges the state authorities to draw more attention to this subject, to guarantee and ensure the right to education, on non-discriminatory principles.

⁴¹³ Decision of the Government of the Republic of Moldova no. 523/11.07.2011;

Thereby, during the examination of a case, the Child's Ombudsperson found disproportionate the mandatory requirement for *parents whose children reach the age of 7 at the beginning of the school year, to enrol the children in the first form*,⁴¹⁴ compared to the capabilities of children with special educational needs. The People's Advocate for Child's Rights found unjustified the answer of the Directorate of Education, Youth and Sports, by which the child must be enrolled in general school, once he has reached the schooling age, otherwise, he must be schooled in a special institution. However, given that the child's presence in a general early education institution has led to his positive inclusion, the case is to be resolved individually, taking into account psycho-pedagogical and medical recommendations. The Child's Ombudsperson recommended to the central authorities in the field of education, the revision of the mandatory requirement for the registration of the child with special educational requirements, through the prism of the criterion of proportionality, or encouraging parents to institutionalize the child in a special school comes at the expense of his well-being.

In conclusion, the People's Advocate for Child's Rights reiterates that the protection mechanisms guaranteed by the State do not have practical continuity, but on paper, the approach to their implementation is devoid of compliance with the best interests of the child. In this regard, the Child's Ombudsperson considers it important to strengthen the institutional organization regarding the intervention of education workers in cases of abuse, neglect, exploitation and trafficking, by guiding and training them in a uniform and practical way; by training qualified psychologists in handling cases of abuse and violence; by frequently carrying out audit actions concerning the organization of the intervention process; as well as by carrying out disciplinary investigations based on a child rights approach. Thereby, the People's Advocate for Child's Rights considers it valuable to improve and develop the organization of violence prevention activities within educational institutions, by visibly placing information boards and adjusting the web pages of educational institutions with information aimed at preventing and solving cases of abuse and violence; the active involvement of parents and/or legal representatives in information sessions, as well as the permanent monitoring of the psycho-emotional behaviours of children, to establish the positive and/or negative nature of the family environment from which they come.

Reaffirming the obligation of the state to protect children from all forms of maltreatment committed by parents or other persons responsible for the care of children and

⁴¹⁴ The methodology for enrolling children in first grade, approved by order of the Ministry of Education no. 305/2016 and modified by order no. 149 /2017;

to apply preventive and treatment programmes in this regard,⁴¹⁵ the People's Advocate for Child's Rights upholds the principle that *in all decisions and actions affecting children as individuals or as a group, their best interests must be given primary consideration, regardless of whether the decisions are made by the government, administrative or judicial authorities, or by family members themselves.*⁴¹⁶ In this regard, the Child's Ombudsperson draws attention to the important role that the criminal investigation bodies have, as well as the courts in the investigation and examination of cases of violence and abuse admitted regarding the child, or the cases under examination generate concern. Greater attention needs to be given to children without a family, the state being obliged to offer special protection and ensure the possibility of appropriate care from another family or within an institution.⁴¹⁷ The Child's Ombudsperson considered the intervention of the criminal investigation body inadequate concerning the protection actions/inactions carried out by the public authorities, as well as concerning the investigation of the case of sexual abuse admitted to a minor in the custody of a Placement Centre. Following the investigative actions undertaken, the People's Advocate for Child's Rights established a series of circumstances, which indicate formal actions to protect the best interests of the child and/or even inaction by the local public authorities in the village of Larga, Briceni district, as well as the representatives of the Briceni prosecutor's office, which presented the General Prosecutor's Office with the rigorous report. Summarizing the conclusions of the People's Advocate for Child's Rights we state: *the poor quality of the criminal investigation by the Briceni Prosecutor's Office, characterized by a lack of objectivity and complex analysis of the circumstances of the case, not taking into account the serious nature of the actions, considering the fact that they are applied to minors, as well as the lack of action of the criminal investigation body on the facts (in rem and not in personam); the lack of completeness of the actions to ascertain the persons who are presumed to have carried out acts of abuse and harassment, including sexual, on the minor, as well as the persons who were aware of the abusive circumstances; the erroneous legal classification of the crime by the Briceni criminal investigation body, or how correctly the prejudicial act committed is qualified, also depends on the course of examination of the criminal case as a whole, as well as the fairness of the punishment; the lack of examination by the Briceni criminal investigation body of the actions/inactions of the concerned public authorities, including those in charge of SAP Briceni, in the context of ensuring protection measures for the minor-victim. Following the examination of the case, the People's Advocate for Child's Rights established a violation of the provisions of art.3, art.12.art.19, art.20 and art.34 of the*

⁴¹⁵ Article 19 of the UN Convention on the Rights of the Child;

⁴¹⁶ Idem;

⁴¹⁷ Ibidem, article 20;

UN Convention on the Protection of the Rights of the Child, as well as in procedural matters, the provisions of art.3 of the European Convention for Human Rights, in the context of ill-treatment, admitted by the Briceni public authorities on a case-by-case basis, for which he requested the resumption of the examination and investigation of the circumstances, with the initiation of a new criminal case.

The decisions of the judicial courts, likewise, lack an approach based on the rights of the child. In the opinion of the Child's Ombudsperson, the judicial courts often do not take into account the best interest of the child in the process of examining the cases, or the duties of the civil procedure consist of a fair trial, within a reasonable time, of defence cases of violated or contested rights, liberties and legitimate interests of natural persons, which are subjects of civil, family, work and other legal relations,⁴¹⁸ and the cases regarding the defence of the rights and interests of the minor, are judged urgently and as a matter of priority⁴¹⁹.

The People's Advocate for Child's Rights found the examination by hierarchically inferior courts of civil cases regarding the forfeiture of parental rights to be impartial and protracted, which led him to submit, as an exception, his conclusions to the Supreme Court of Justice.

In this regard, the Child's Ombudsperson considered it necessary to emphasize that the courts were to analyse the circumstances multilaterally and carefully, to adopt a proportionate and fair solution, especially when they refer a priori to the safety of the physical and mental integrity of a minor and subsequently to the exercise of parental rights. Moreover, the judicial courts are to take into account the conclusions of the guardianship authorities, the expertise of the specialists involved to establish the psycho-emotional and health status of the children, as well as the actions of the police body, following the intervention to ensure the protection of children. The People's Advocate for Child's Rights found unjustified the 3-year term for the examination of the case by the trial court where a minor is concerned. The Child's Ombudsperson also found the appellate court's interpretation of the element of extraneousness to be erroneous, highlighting that the legal equality of the parties implies, implicitly, the equality of the legal systems to which they belong, and between legal systems "on an equal footing", the applicability of the one that responds positively and primarily to *the best interest of the child* will be determined.

Although in the totality of their circumstances, the civil cases had similar objects and subjects, the exception being the biological fathers, who were to be deprived of parental rights, the decisions of the appellate courts had different finality. In one of the two cases, the

⁴¹⁸ Article 4 Civil Procedure Code of the Republic of Moldova;

⁴¹⁹ Article 192 paragraph (3) Civil Procedure Code of the Republic of Moldova.

court of appeal considered the admissibility of the appeal with the full annulment of the decision of the court of appeal and sent the case for retrial. In the second case, a conclusion was issued that the appeal was inadmissible because the criticisms brought against the decision of the appeal court, in the additional appeal request, cannot be taken into account, as they were formulated after the legal deadline for the appeal,⁴²⁰ although the appeal was established by the same court, as stated within the deadline.

From the findings of the court of appeal, the Child's Ombudsperson emphasizes that the arguments invoked in the declared appeal refer to the appellant's disagreement with the solution pronounced by the court of appeal, but it does not reveal the essential violation or the erroneous application of the rules of material law, respectively it does not constitute grounds for annulment of the contested decision.⁴²¹

The People's Advocate for Child's Rights observes that the conclusion of inadmissibility reproduces in detail the grounds of illegality invoked by the appellant, the conclusion being their declarative nature. Therefore, such an interpretation of the admissibility of the appeal contradicts the essence of its examination, whereby the manifestly unfounded nature of the appeal no longer constitutes grounds for inadmissibility. Such an approach may lead to the reconsideration of the position regarding the compatibility of the institution of the admissibility of the appeal with the European Convention, or ECtHR, was based on the presumption that in this procedure the merits of the case are not examined.⁴²² In other words, the People's Advocate for Child's Rights considers the inadmissibility of the appeal on the given case as one that destroyed the essence of the right of access to justice for the appellant, generating the inapplicability of any legal protection for the minor.

The existence of such cases, in the opinion of the Child's Ombudsperson, reaffirms the need to establish legal bodies specialized in the investigation and examination of cases involving children, or the general approach to criminal investigation and judicial processes, diminishes the positive character of the principle of considering the best interest of the child in all decisions taken in respect of them.⁴²³ The People's Advocate for Child's Rights also finds it important to revise the practice of the Supreme Court of Justice, regarding the inadmissibility of the appeal, especially in the cases regarding the actions of abuse and violence admitted concerning children, so that it does not affect the substance of the appeal and the right in essence.

⁴²⁰ Closure of the Civil, Commercial and Administrative Litigation Panel of the Supreme Court of Justice of 31.03.2021; on civil case no. 2ra-263/21;

⁴²¹ *Idem*;

⁴²² https://ibn.idsi.md/sites/default/files/imag_file/Admisibilitatea%20recursului%20in%20procedura%20civila%20experienta%20Republicii%20Moldova%20in%20contextul%20regional%20%28II%29.pdf

⁴²³ UN Convention on the Rights of the Child;

The unsatisfactory swiftness of the protective actions carried out by the guardianship authorities regarding children at risk is another topic identified by the People's Advocate for Child's Rights in the application review process. In the context of Law no. 140/2013, the Child's Ombudsperson also mentions that children benefit from protection without any discrimination⁴²⁴(..), and the guardianship authorities must undertake all necessary measures for the assistance and support of children⁴²⁵(..), who would be in one of the situations that pose a risk: children subject to violence, neglect; who practice vagrancy, begging, prostitution; children deprived of care and supervision by parents who are absent from home, refuse to exercise parental obligations or have died; children who live on the streets, ran away or were kicked out from home; children were abandoned by their parents; children are victims of crimes, or there is a measure of judicial protection in respect of a parent⁴²⁶.

In the context of the examination of the requests addressed to the Child's Ombudsperson in the previous year, the most frequently encountered risk situations in which the children would have been derived from the impossibility/refusal of the exercise of parental rights or from the admissibility of the abuse of the exercise of parental rights. It is worth noting that both situations were found in cases where the parents are/were in the process of separation or divorce. Because every child has the right to live in a family, to know his parents, to benefit from their care, and to live with them⁴²⁷, it is the parent's obligation to ensure adequate living conditions for their development and psycho-emotional comfort, or the parents bear responsibility, in an established manner, for the exercise of parental rights to the detriment of the child's interests⁴²⁸. An important element of the exercise of parental rights is ensuring the best interest of the child in any action related to his/her development and education, regardless of whether the parents live together or separately, and in any conflict or dispute in family relations, which creates or could create a danger for the normal growth and development of the child, affects his/her legal interests, the guardianship authority recommends family members in conflict or litigation to resolve it in a mediation process⁴²⁹.

The Child's Ombudsperson considers the role of the guardianship authority essential in the process of ensuring the rights of the child, especially when family relations between spouses generate hostile conflicts and acts of psychological and physical violence, this

⁴²⁴ Article 2 of Law no. 140/2013 on the special protection of children at risk and children separated from their parents;

⁴²⁵ Idem, article 5;

⁴²⁶ Ibidem, article 8;

⁴²⁷ Paragraph (2) of Article 51 of the Family Code of the Republic of Moldova;

⁴²⁸ Idem, paragraph (4) of article 62;

⁴²⁹ Ibidem, paragraph (4) of article 7;

destroys the psycho-emotional balance of the child making him/her vulnerable to the family problems he/she faces, placing him in a risk situation.

A problem often addressed in the context of the exercise of parental rights reported by the Child's Ombudsperson during the past year, was to ensure the right of communication of children with parents who are in the process of divorce and/or in respect of whom there is already a court decision to terminate family relations. In the opinion of the People's Advocate for Child's Rights, the investigated cases proved both the inability of parents to maintain positive relationships, regardless of their status and that of public child protection authorities to act firmly to ensure the protection and realization of the child's right to communication. In this context, the Child's Ombudsperson emphasizes that the parent who lives with the child does not have the right to prevent contact between the child and the other parent who lives separately⁴³⁰, the parents in this regard have the right to conclude an agreement on the exercise of parental rights by the parent who lives separately from the child⁴³¹, and in case of divergences between the spouses, the territorial guardianship authority intervenes in their resolution, by establishing a schedule of meetings, which can be contested in court or recommend and entrust the resolution of the case to a mediator. The meeting schedule will be based on several factors⁴³² which need to be taken into account and need to be observed by both parents, regardless of whether the separated person lives in the country or is abroad or the parent in whose custody the child is ensuring communication with the other parent through information technologies or other means, as well as the possibility of visiting the child⁴³³.

Despite the existing legal provisions, the addresses to the Child's Ombudsperson demonstrated that the child couldn't communicate with the parents, given the movement of one of the parents abroad, without the consent of the other parent, or given the hostile relations between the spouses, including those who are in the process of separation/divorce.

The People's Advocate for Child's Rights considered the inactions of the territorial and local guardianship authority unjustified and even worrying, in the context of ensuring the right of the minor child to see his mother, a child in respect of whom a temporary protective measure was instituted. Given the necessity of the biological mother to engage in the field of munitions and to find a stable domicile, to ensure a decent living for the child, the latter was entrusted for a short period to a relative, who was appointed guardian. Later, upon the mother's request that the child returns to her, the guardian refused, the intervention of the

⁴³⁰ Idem, paragraph (1) article 64;

⁴³¹ Ibidem, paragraph (2) article 64;

⁴³² Ibidem, paragraph (2¹) article 64;

⁴³³ Ibidem, paragraph (2³) article 64;

local guardianship authorities being limited only to drawing up a meeting schedule, which could not be carried out. Moreover, the local and territorial public administration mentioned that the guardian is aggressive and does not give access to the representatives of the cross-sectoral mechanism on the territory of his home, and the child during this time is locked in the house and deprived of any communication. Following the intervention of the People's Advocate for Child's Rights, the child returned to his mother.

Lacking positive reasoning, the Child's Ombudsperson also considered the actions of a municipal guardianship authority, when, despite the finding in the multidisciplinary meeting, of acts of violence admitted by the father toward minor children, the Commission continued to prepare a schedule of appointments for them, without considering it necessary to interpret the given situation as one of risk for minors. Considering that the spouses were in the process of divorce, and the approach of the protection mechanism from the guardianship authority was lacking the approach based on the best interest of the child, the People's Advocate for Child's Rights submitted rigorous conclusions in the trial court.

In cases where the parents are in the process of separation/divorce, there are cases of illegal removal of the child from the territory of the country by a parent, which is contrary to the obligation to respect the meeting schedule and to ensure a positive communication of the child with both parents. In the opinion of the People's Advocate for Child's Rights, the illegal movement of minors is an increasingly topical issue in the Republic of Moldova. It is a trauma experienced by many parents and children, in the context of the increase in the divorce rate in which minors are involved and the ever-increasing mobility of people, due to the migration of the population abroad.

The Child's Ombudsperson points out that in many cases the unjustified removal or non-return of a child is caused by a lack of knowledge on the part of the abducting parent. Parents are often unaware of the conditions under which they can travel across the state border with their children or the steps they must take when travelling abroad with their children. There are situations in which one of the parents (most of the time, this happens in marriages with an element of foreignness) moves the child to domicile from the stable place of cohabitation, in his native country, without the consent of the other party. This situation intervenes between the parents of a child, or between parents and grandparents, one of the parties being the one who illegally moves/retains a child in a place other than his usual residence. Considering the detention of minors and/or the refusal to return them a violation of the provisions of the Hague Convention on the civil aspects of international child abduction, in legal disputes whose object was family relations and about which he was notified, the Child's Ombudsperson promptly intervened by submitting conclusions to the courts,

reiterating that for a parent and their child, being together is an essential element of family life, even if the relationship between the parents has ended, and that the internal measures that prevent them from together constituting an interference with the right protected by Article 8 of the ECHR⁴³⁴.

In conclusion, regarding the situations identified in the application examination process, the People's Advocate for Child's Rights considers the inability of the guardianship authorities to correctly interpret and identify a potential risk situation in which a child might be, or due to some socio-human factors⁴³⁵, the avoidance of recognizing the existence of the risk situation, regrettable and for the time being effectively unresolved. In most investigated cases, the guardianship authority considers not to intervene to evaluate the family environment and the well-being of the child, whose parents are in a hostile divorce, noting that it would not be within their competence and that the legal norm does not provide for this. Also, the Child's Ombudsperson notes a lack of awareness of the abuse in the exercise of parental rights, on the part of the guardianship authorities, without subjecting them to the contravention and/or criminal liability, often referring to the fact that their decisions have the title of recommendation. The People's Advocate for Child's Rights believes that the central child protection authorities do not have enough reliable mechanisms to implement the provisions of The Hague Convention.

HUMAN RESOURCES MANAGEMENT

Structurally, the People's Advocate Office is made up of the People's Advocate and his deputies, the People's Advocate for Child's Rights, the Secretary-General, and structural and territorial subdivisions. The general management of the Office is exercised by the People's Advocate, and the organizational and administrative activity of the Office is managed by the Secretary-General.

As per *Article 34 of the Law on the People's Advocate (the Ombudsman) no. 52/2014*, the People's Advocate Office provides organizational, legal, informational and technical assistance to the People's Advocate, People's Advocate for Child's Rights, for them to exercise their mandated powers.

In territory, the institutional activity is carried out through the 4 representations: Balti Representation, Cahul Representation, Comrat Representation, and Varnița Representation.

⁴³⁴ Costreie vs. Romania case, ECtHR;

⁴³⁵ The representatives of the territorial and local guardianship authority are often related and/or friends with one of the spouses, who in most cases is the one who exhibits abusive, hostile and aggressive behaviour in the separation/divorce process;

By Law no. 164/2015 for the approval of the Regulation on the organization and operation of the People's Advocate Office, the maximum staff of the institution was established at 65 units. The effective limit can be changed by the Parliament, at the reasoned proposal of the People's Advocate.

The organizational structure of the People's Advocate Office includes:

Structural subdivisions:

1. Directorate of public policies and legislation;
2. Monitoring and reporting department;
3. Torture Prevention Directorate;
4. Children's rights department;
5. The management and investigation of requests;
6. Human rights promotion and communication department;
7. Financial-administrative section;
8. Internal audit service;
9. Internal management support service;
10. Human resources service;
11. Legal service;
12. Secretariat service.

Territorial subdivisions:

1. Bălți Representative Office;
2. Cahul Representative Office;
3. Comrat Representative Office;
4. Varnița Representative Office.

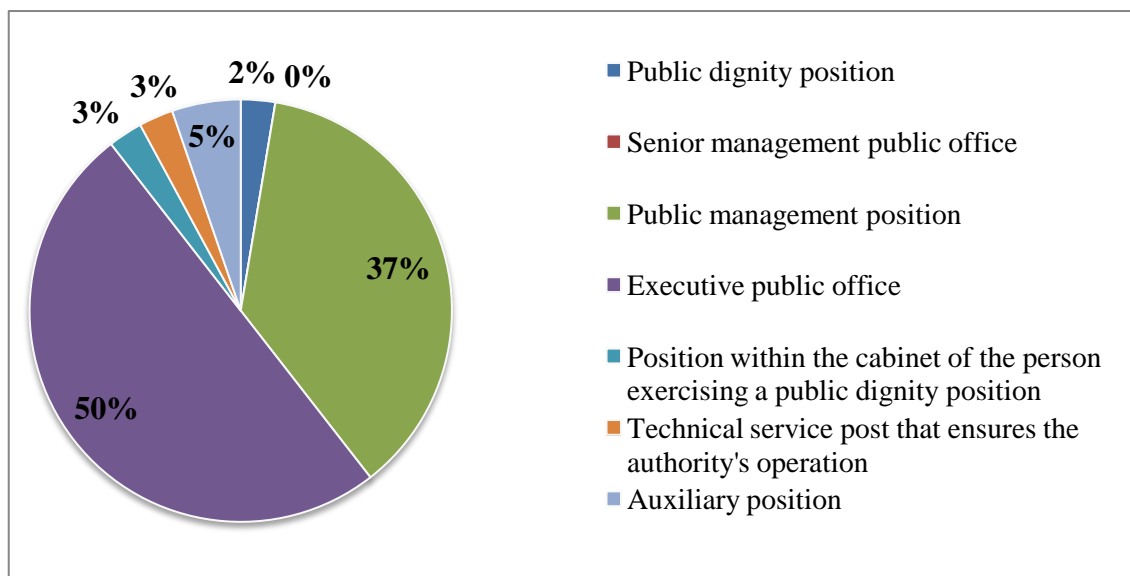
At the end of 2021, 38 employees worked in the People's Advocate Office. The staff of the Office is composed of persons with public dignity, civil servants, staff in the office of the People's Advocate for Child's Rights, technical service staff that ensure the operation of the authority and auxiliary staff.

Staff structure by socio-professional categories

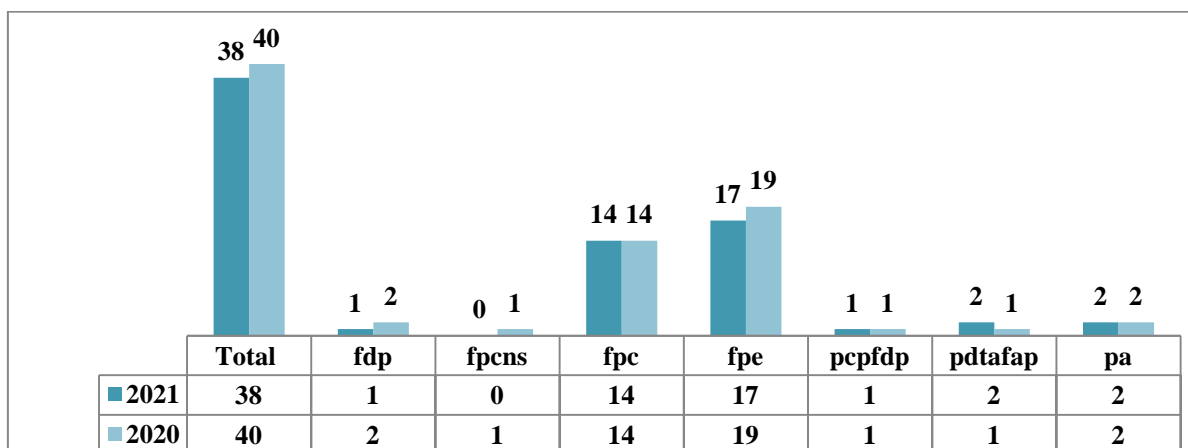
Category of the public position/post	Number of people at the end of 2021
Persons with public dignity position (fdp)	1
Senior management civil servants (fpcns)	0
Management civil servants (fpc)	14
Executive civil servants (fpe)	19
Staff in the Office of the People's Advocate (pcpfdp)	1
Technical service personnel who ensure the functioning of	1

the authority (pdtafap)	
Auxiliary staff (pa)	2
Total	38

The structure of the posts and positions within the People’s Advocate Office

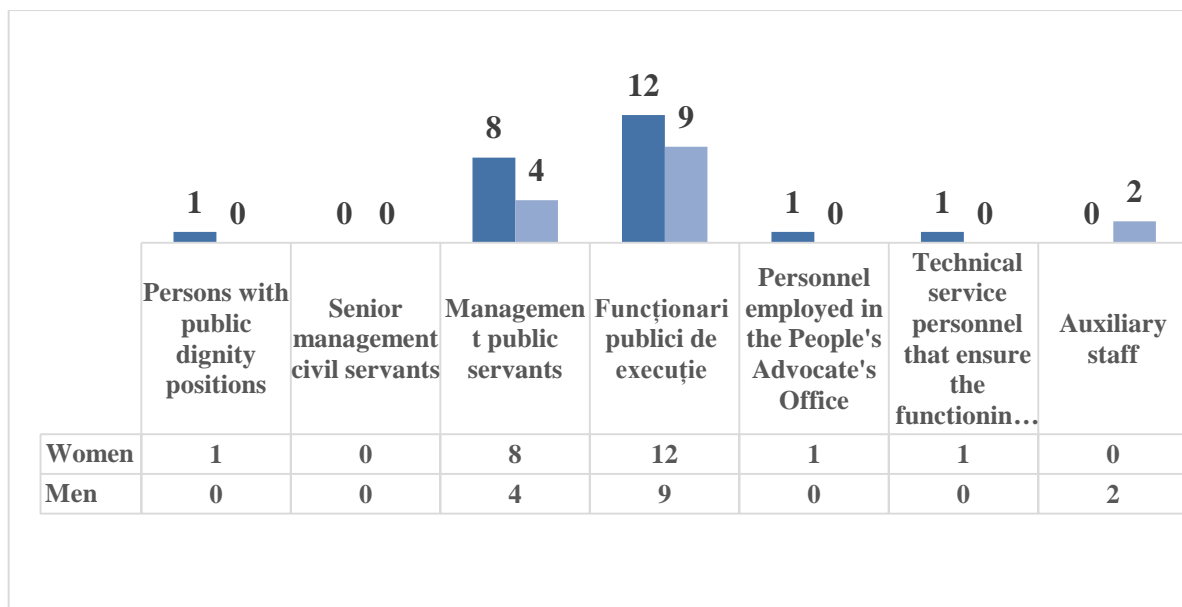


Providing the People’s Advocate Office with human resources involves the dynamic, decreasing study of the number of employees, in total and by category, in 2021 compared to 2020:



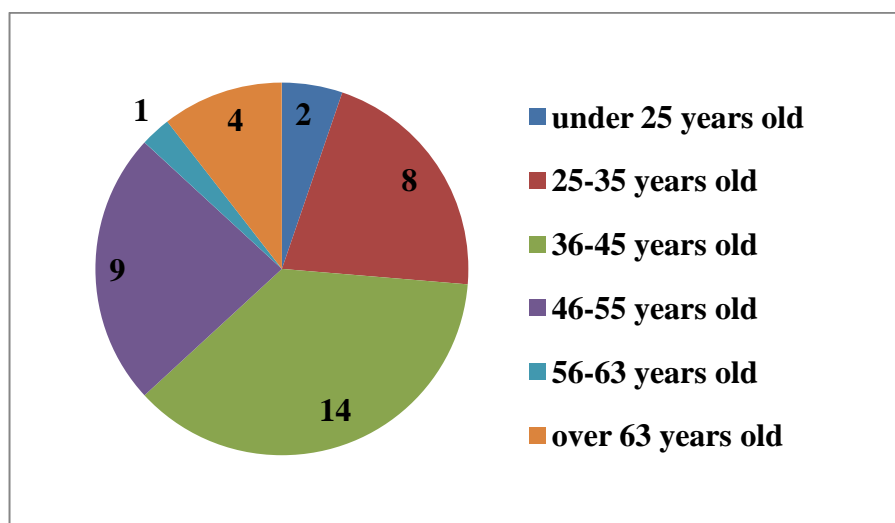
The structure of the collective of employees by gender criterion

The analysis of the structure of the collective of employees highlights the fact that, according to the gender structure, women predominate within the institution, their number is 23 compared to 15 men.

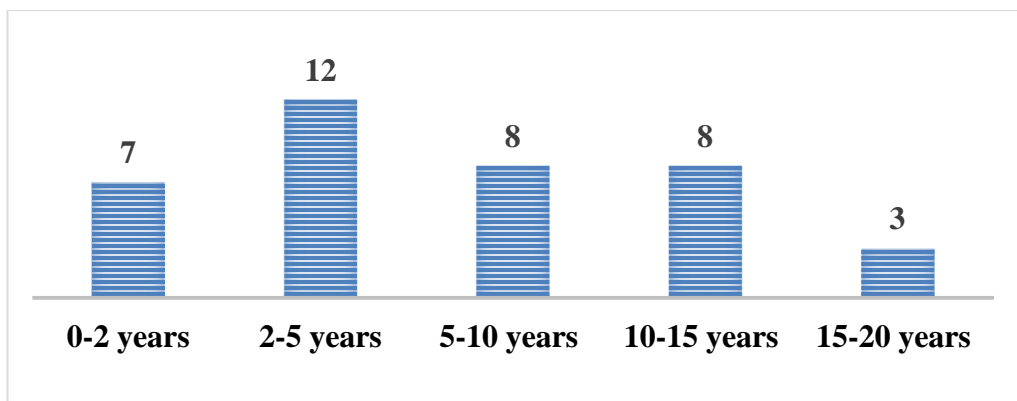


The structure of the collective of employees by age criterion

The analysis of the structure of the collective of employees by age category shows a numerical dominance of people in the 36-45 age range.



The structure of the collective of employees is based on seniority in the People's Advocate Office, persons



Within the People’s Advocate Office, 30 employees have the status of civil servants, and all of them have qualification/professional degrees.

<i>Type of qualification/professional degree</i>	<i>The number of civil servants holding the qualification/professional degree</i>
Counsellor, class I	5
Counsellor, class II	4
Counsellor, class III	4
State Counsellor, class I	9
State Counsellor, class II	3
State Counsellor, class III	5
State Counsellor of the Republic of Moldova, class I	0
State Counsellor of the Republic of Moldova, class a II	0
State Counsellor of the Republic of Moldova, class III	0

The occupation of public positions is carried out under the provisions of *Law no. 158/2008 on the public office and the status of the civil servant*, of *Government Decision no. 201/2009 on the implementation of the provisions of Law no. 158/2008 on the public office and the status of the civil servant*.

The employment of personnel in other categories of socio-professional positions is carried out under the mandatory rules of the labour legislation.

In 2021, due to the provisions of Government Decision No. 942/2020 for the establishment of the temporary moratorium on the placement of staff from the budget sector in registered vacant positions, a competition was announced to fill the vacant public position, and four others completed from the number of competitions initiated in 2020.

As a logical consequence of the above, during the reference period, **six people were appointed/hired**, including:

- 4 executive civil servants were appointed by competition (following the competitions initiated in 2020);

- by transfer from another authority and promotion, a civil servant of execution was appointed;
- an executive civil servant was appointed for a fixed period, after reaching the age of 63.

In 2021, the service/work relationships were terminated by resignation, dismissal by transfer of **five people**, thus the staff turnover rate was 12.5%, and the employee retention rate was 58.5%

Continuous professional development

The professional training of employees increases the level of achievement of the mission/strategic and operational objectives of the public authority, including performance management.

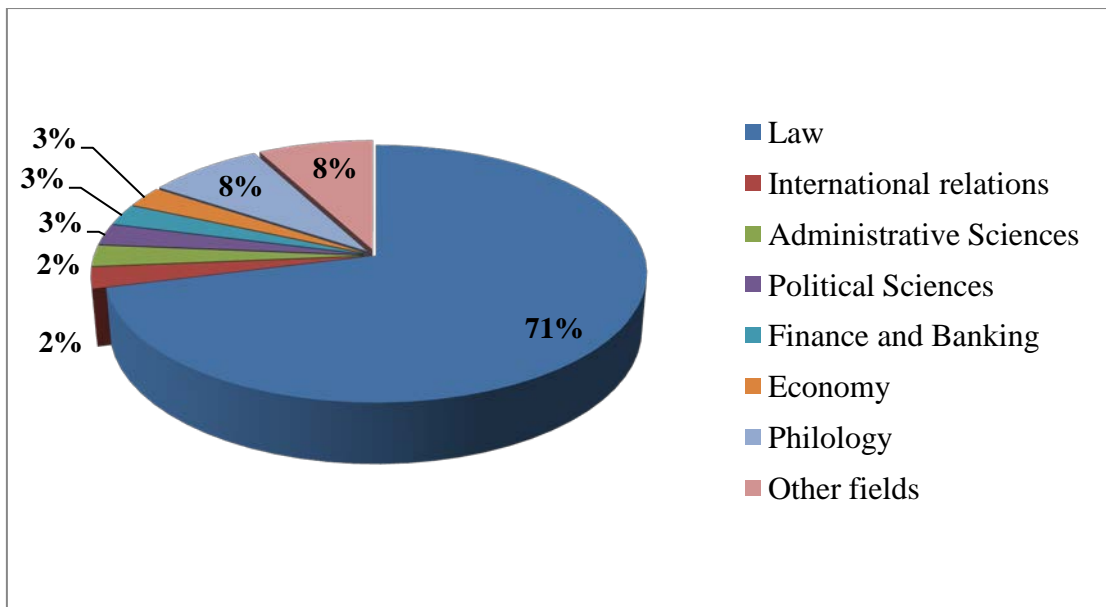
The institutional development of the People's Advocate Office and the improvement of procedures and work systems depends, to a large extent, on the initial training of employees and their continuous professional development.

Within the People's Advocate Office, from the number of categories of functions/positions, only the auxiliary personnel have studied professional technical education, the other categories have higher bachelor's studies, first cycle and higher master's studies, second cycle:

The number of employees with vocational training in technical vocational education	The number of employees with a single field of professional training in higher education	The number of employees with several fields of professional training in higher education	The number of employees with a field of professional training in bachelor's and master's higher education	The number of employees with several fields of professional training in higher education, bachelor's and master's
2	10	3	20	3

Depending on the field of professional training, the ranking determines:

Field of professional training, cycle I – higher undergraduate studies	Number of employees
Law	27
International relations	1
Administrative Sciences	1
Political Sciences	1
Finance and Banking	1
Economy	1
Philology	3
Other fields	3

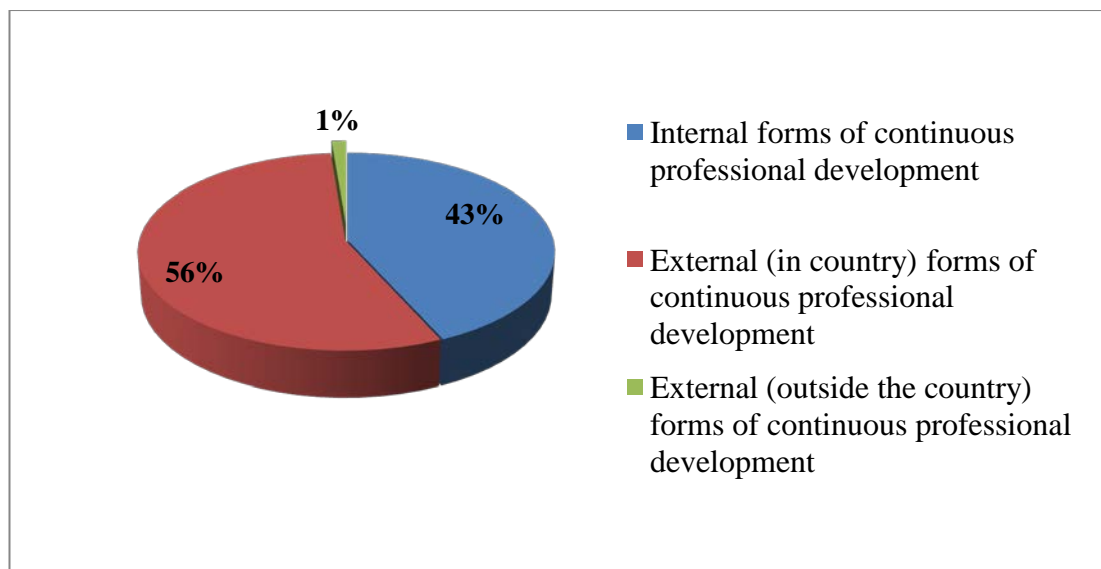


The continuous professional development process within the People’s Advocate Office is organized and carried out according to the following principles:

- observing the civil servants’ right to professional development;
- mandatory professional training;
- orientation towards training needs;
- decentralization of the continuous professional development process;
- liberalization of training services.

The continuous professional development of the employees of the People’s Advocate Office is carried out through various forms of training, to deepen and consolidate knowledge, develop skills and model the attitudes/behaviours necessary for the effective exercise of service duties.

In 2021, in connection with the pandemic situation caused by the COVID-19 infection, the People’s Advocate Office motivated and ensured the participation of 40 employees in training activities, mostly carried out online, including civil servants, whose service/work relationships subsequently ceased, for a total of **6200 hours**, of which **external** (organized by partners, non-governmental organizations, international organizations) in the country -**3440 hours**, external outside the country (80 hours) and **internal**, i.e. organized by the People’s Advocate Office with funding from the institution’s budget - **2680 hours**.



To effectively achieve the mission/strategic objectives of the public authority, the People's Advocate Office establishes specific requirements for training programmes, correlated with the institution's fields of activity.

Depending on the professional development needs of different categories of employees, concrete objectives are established, for the achievement of which training programmes are necessary:

- 1) of a **general nature**, including public office and civil servant status, organizational management/leadership (for the heads of the structural/territorial subdivisions), studying the English language for all employees, depending on the individual level of foreign language proficiency, according to the Common European Framework of Reference for Languages, training provided by the People's Advocate Office, including with the support of the institution's partners.
- 2) with a **specialized nature**, of which:
 - a) in the field of the mandate;
 - b) in the field of human rights.

The main partners of the People's Advocate Office in the process of professional development in the field of the realization of the mandate and human rights are the Council of Europe, the United Nations Development Programme - within some institutional development projects.

BUDGET OF THE PEOPLE'S ADVOCATE OFFICE

Under the limits of the state budget approved for the year 2021, financial means of 12747.2 thousand lei were allocated to finance the activity of the People's Advocate Office. During the year, when the state budget was rectified, this amount was reduced by 930 thousand lei. The decrease in the number of allowances was a voluntary response of the

People's Advocate Office to the Government's call to revise the budget allowances by reducing them to improve the use of public money. Therewith, emphasis was placed on the need to estimate the estimated execution for the entire budget year, so that, following the reduction of the allocations, the functionality of the institution is not jeopardized. Following these changes, the specified pan of allocations for the 2021 budget year constituted 11817.2 thousand lei. The available allocations were distributed to finance the expenses in two components:

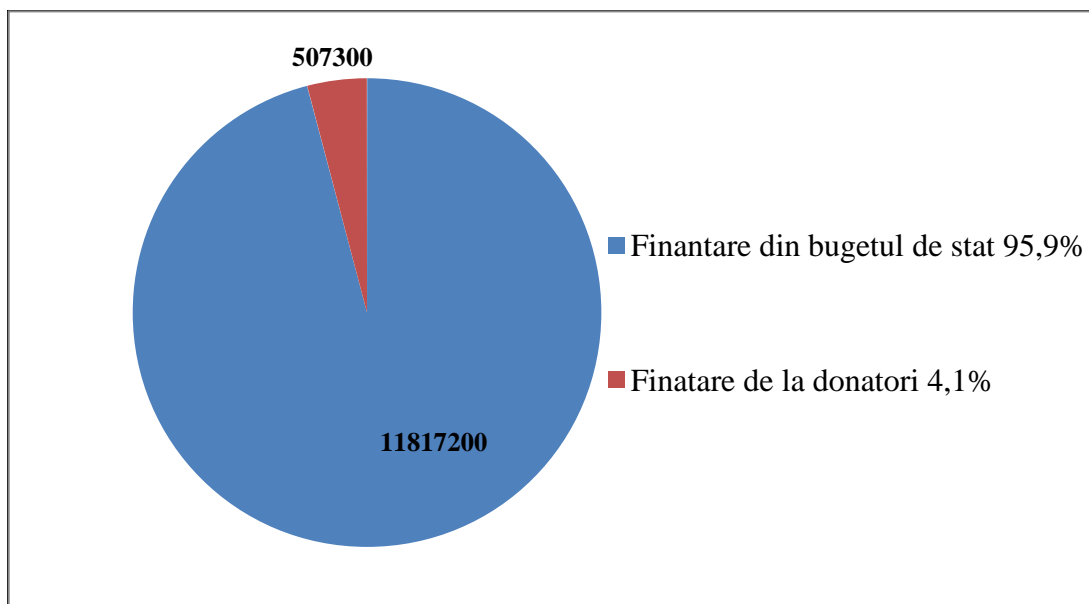
-00101 Control over the observance of human rights - allocations in the amount of 11656.8 thousand lei

-00453 National mechanism for the prevention of torture - allocations in the amount of 160.4 thousand lei.

Additionally, in 2021 the institution received voluntary donations for 507.3 thousand lei from:

- UNICEF Moldova, for the implementation of the provisions of the collaboration agreement MOL/G/SSFA2021/01, signed by the parties on 11.02.2021, entitled "Support for the People's Advocate for Child's Rights in increasing the capacities of independent monitoring and reporting in achieving the protection of children's rights in the Republic of Moldova"- 337.9 thousand lei
- SOROS Moldova, for the implementation of the provisions of Grant Contract No. G15134 of 30.09.2021 "*Carabineers for human rights*" - 169.4 thousand lei. Following the increase in allocations from the donations account, the amount available for execution was 12391.90 lei.

Funding of the People's Advocate Office, 2021



The level of execution of the People's Advocate Office budget on each budget line at 31.12.2021 is represented as follows:

Denomination of expenses by components	Specified, thousands lei	Done, thousands lei	% completion
Control over the observance of human rights			
Staff expenditure	8557.1	8326.2	97.3
Goods and services	2941.5	2272.6	77.2
Social benefits	130	127.2	97.8
Other expenses (membership fees in international organizations)	243.0	241.8	99.5
Procurement of fixed assets	120	40.8	34.0
Procurement of stocks of circulating materials	239.9	201.7	84.1
Total per component	12231.5	11210.3	91.7
The National Torture Preventive Mechanism			
Remuneration of the members of the National Torture Preventive Mechanism Council (for visits and meetings)	160.4	124.8	77.8
Total per component	160.4	124.8	77.8
TOTAL	12391.9	11335.1	91.5

The execution rate of the People's Advocate Office budget for 2021 is **91.5%**. This is at a high level compared to the established objective, but it is due to the reduction in the

volume of budget allocations during the budget year and the suspension of some promotional activities, travel within the country and abroad, and the cancellation of the purchase of computing equipment, etc.

The reduction of the allocated budget took place in response to the letter of the Ministry of Finance no. 06/1-17/33 of 11.08.2021 on the need to revise the budget allocations. The management of the People's Advocate Office, together with the decision-makers in the subdivisions reviewed their priorities and decided to postpone or abandon some purchases and voluntarily accepted the reduction of budget allocations, keeping the volume of allocations at a minimum level necessary to cover the essential expenses of the institution. Therefore, the annual activity plans of the subdivisions were analysed and it was decided to abandon some activities that are impossible to carry out in pandemic conditions, such as, for example, some activities to promote respect for human rights organized with the physical presence of several people.

The non-execution of the budget for some economic expenditure codes is explained by the difficulties created by the COVID-19 pandemic and the impossibility of carrying out some activities under the conditions of the establishment of the state of emergency and the state of emergency in public health on the territory of the Republic of Moldova and the world. In 2021, one of the priorities of the institution's management was the protection of employees' health in the context of the restrictions imposed by the epidemiological situation in the country and the current state of the building where the institution's employees work (damaged building and walls contaminated with mould and mycelia, a fact proven by the results of the expertise carried out by specialists). So some employees continued to work remotely in a mixed mode in healthy and safe environments.

Accordingly, the planned expenses for the payment of communal services were significantly reduced: electricity (execution percentage – 56.3%), water and sewage (execution percentage – 20%), expenses for employees' business trips within the country (percentage of execution - 0%) and business trips outside the country (percentage of execution – 16.6%).

Therewith, compared to previous years, the expenses for the payment of benefits for temporary incapacity for work paid from the employer's financial means are kept at a low level. From the planned amount of 50 thousand lei - the amount actually executed was only 31.2 thousand lei.

Instead, it was necessary to increase the number of allowances by about 50 thousand lei to the economic code of expenses - 273200 Indemnities upon the termination of the

employment contract action, in connection with the need to pay social guarantees upon the termination of service to 4 former civil servants who resigned from the institution.

The low percentage of budget execution in expenditure chapters 314110 Procurement of machinery and equipment, economic code 316110 Procurement of tools and equipment, production and household inventory and 222500 Current repair services is explained by the fact that in the situation when employees work remotely and the building is damaged, we do not see the investment activity in new technology as a priority, in household inventory and repairs. Therewith, we must mention the fact that in July 2021 the OSCE Mission from the Republic of Moldova donated to the institution a batch of computer equipment - notebooks and printers in the amount of about 345.9 thousand lei.

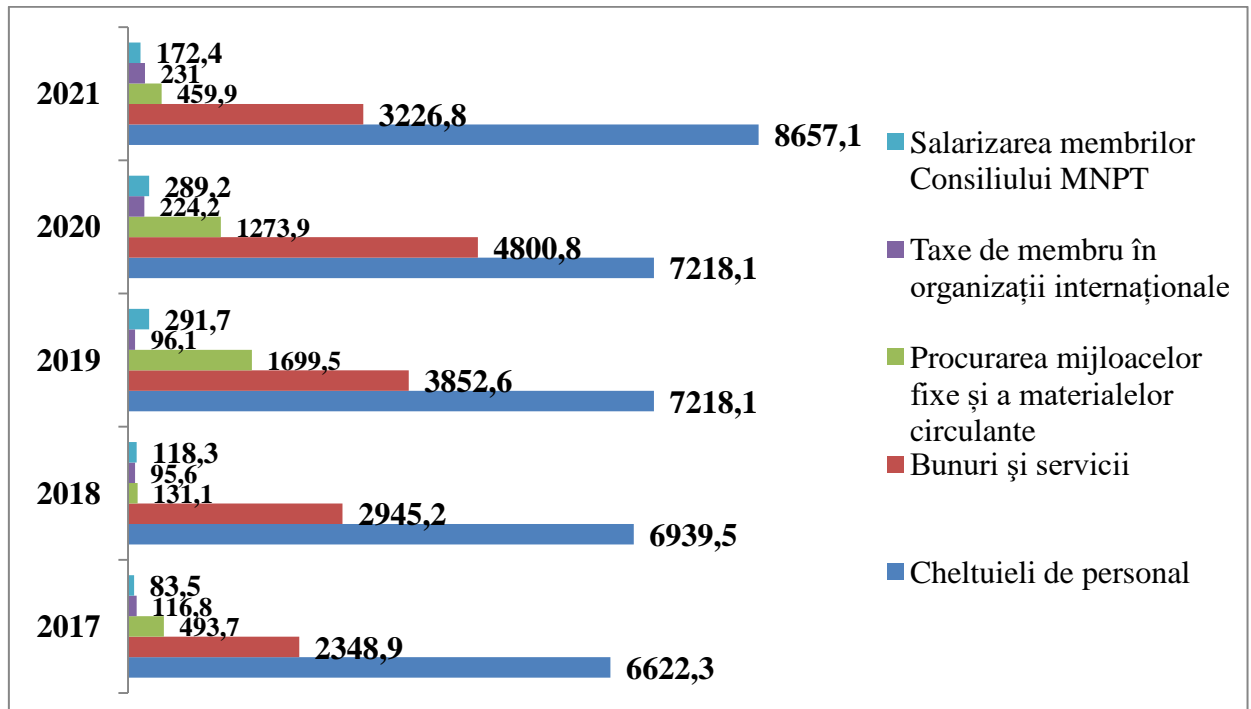
During the year, the financing of the institution's activities and needs was sometimes carried out promptly, and sometimes with delays, but, in general, most payments to employees, the state budget, and debts to suppliers were carried out without restraint. Both during the year and at the end of the year, there are no overdue debts.

After the rectification of the state budget by reducing the allocations, dynamically the amounts allocated to the institution's financing are represented as follows:

Allocation name, thousand lei	2017	2018	2019	2020	2021
Control over the observance of human rights					
Staff expenditure (including social benefits)	6622.3	6939.5	7218.1	7856.6	8657.1
Goods and services	2940.2	3796.1	4740.8	3623.3	3226.8
Procurement of fixed assets and circulating materials	1640.3	1699.5	1273.9	554.3	459.9
Membership fees in international organizations	95.6	96.1	224.2	229.5	231.0
Total per component	11298.4	12531.2	13457.0	12263.7	12574.8
National Torture Prevention Mechanism					
Goods and services	5	56.5	60	56.4	-
Remuneration of the National Torture Preventive Mechanism Council members (for visits and meetings)	118.3	291.7	289.2	163.4	172.4

Procurement of fixed assets and circulating materials	131.1	47.2		20	-
Total per component	254.4	395.4	349.2	239.8	172.4
Total allowances	8483.1	11552.8	12926.6	13806.2	12747.2

Financing of the Office of the People's Advocate in dynamics (2017-2021)



When comparing the amount allocated at the beginning of the year from the state budget, namely 12747.2 thousand lei with the amounts allocated in previous years, the trend was stagnant or even decreasing. The reason for the decrease – is limited allocations from the state budget and the restrictions imposed by the COVID-19 pandemic. Only the allocations to personnel expenses increased following the increase in the annual reference value and the allocation of additional financial resources for the filling of three consultant positions to strengthen subdivisions where there was an acute shortage of personnel (instead of 5-6 employees according to the organizational structure, only 2.3 employees actually worked).

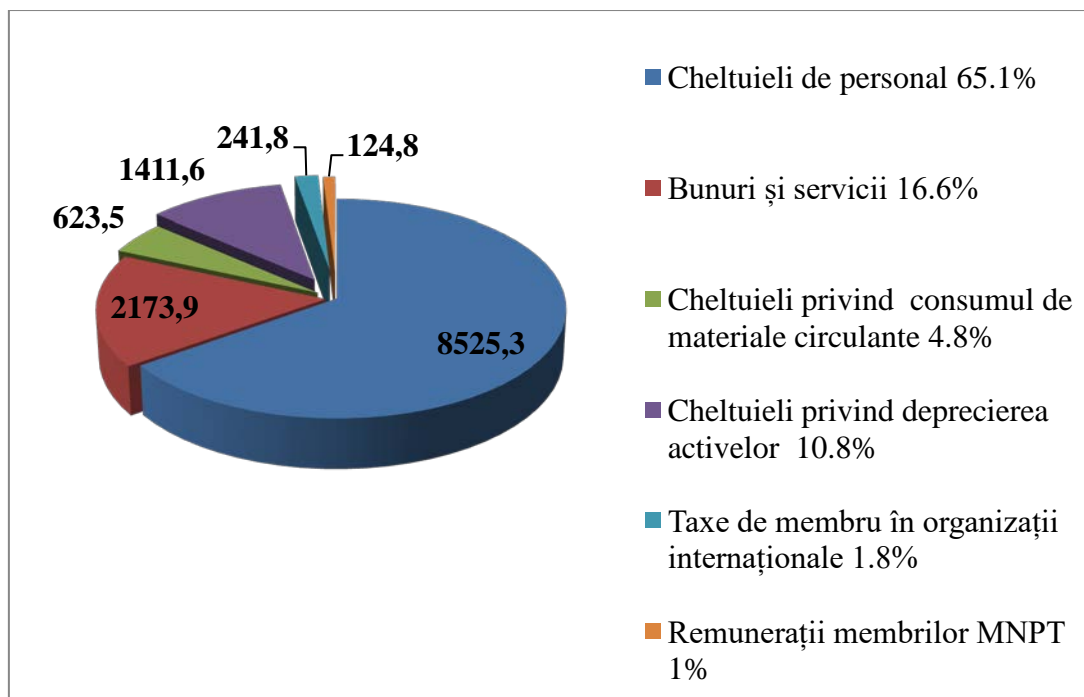
During the year 2021, the People's Advocate Office had expenses in the amount of 13100.9 thousand lei. These can be grouped in:

- **Staff expenditure** - about 65.1% of the total expenses and include remuneration for the work of employees, payment of mandatory contributions and premiums in the state budget, and payment of allowances for the benefit of employees according to legal

provisions. The salary of employees is carried out according to the Law on wages 270/2018.

- **Expenditures for goods and services** - about 16.6% of total expenses and include the maintenance of the institution's headquarters - payment of electricity, heat, water, security services, rental services, telephone services, repairs, transport, cleaning, contracting experts in various fields, training services, translation services, travel, other activities to fulfil the mandate of the People's Advocate and the People's Advocate for Child's Rights.
- **Expenses regarding the consumption of circulating materials** - about 4.8% of total expenses (fuel, household goods, office supplies, spare parts, promotional materials, informative materials, etc.)
- **Expenses regarding the depreciation of assets** - about 10.8% of total expenses (expenses regarding the wear and tear of fixed assets and the amortization of intangible assets)
- **Membership fees in international organizations** - about 1.8% of total expenses. It is explained by the fact that the People's Advocate Office is a member with the right to vote in several international institutions for the protection of human rights, having the obligation to pay annual membership fees
- **Remuneration of the members of the National Torture Preventive Mechanism Council** is about 1% of total expenses (payment of the remuneration of the members of the Torture Prevention Council for visits and meetings)

Distribution of People's Advocate Office expenses in 2021

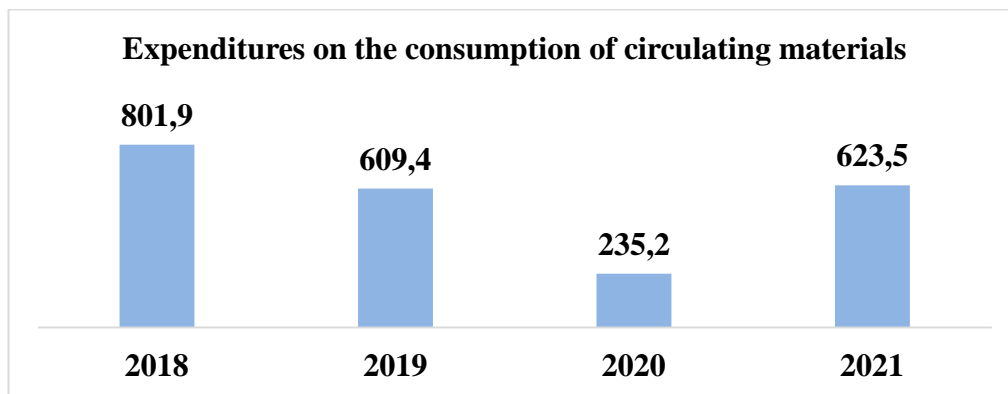


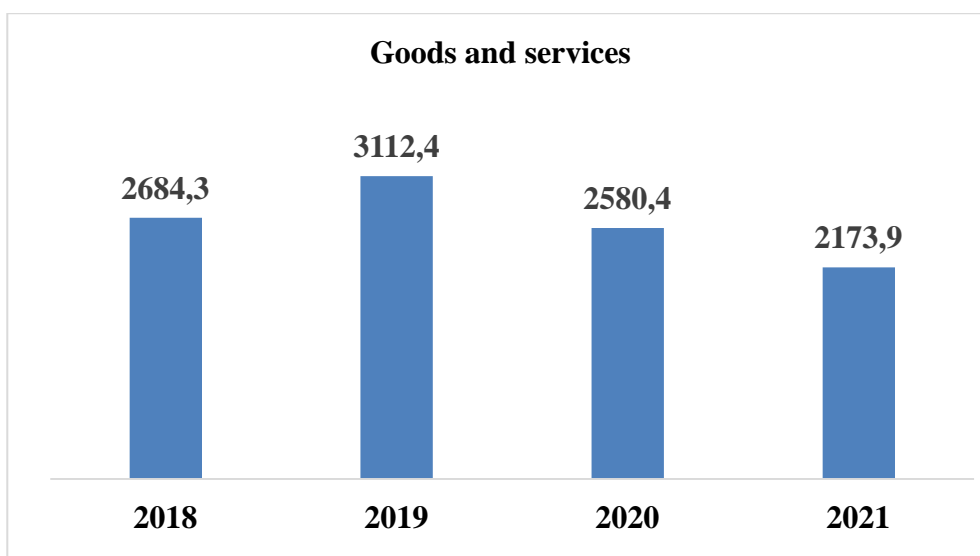
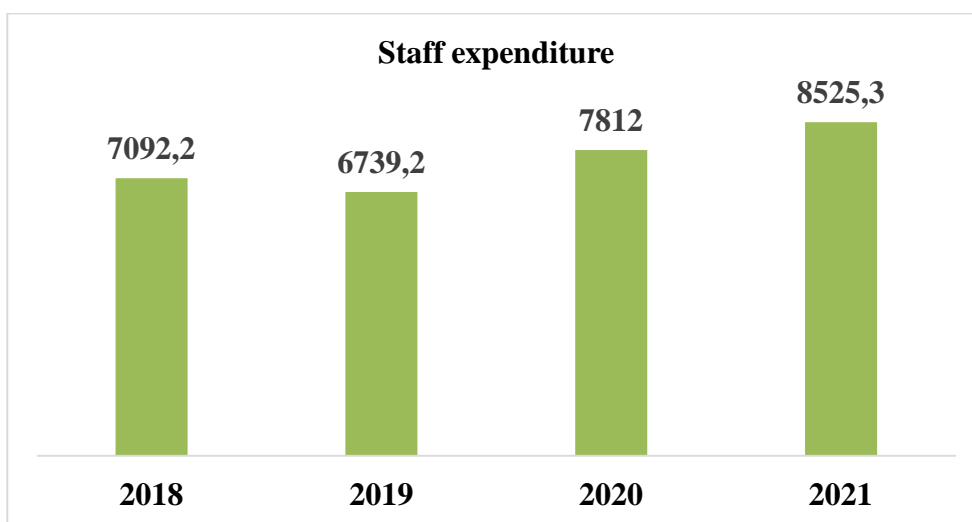
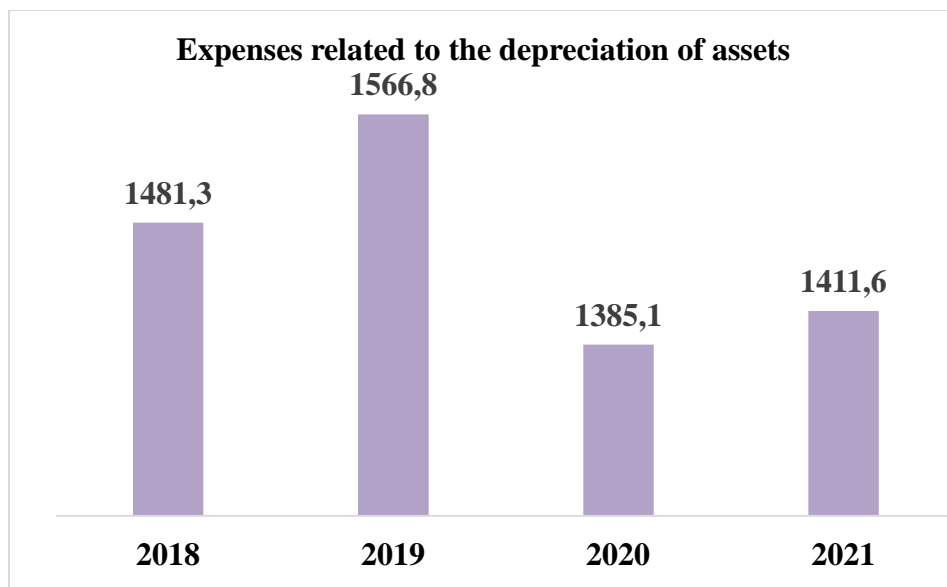
Analysing the parts, we can conclude that the largest share of the expenses is the expenses for the staff who are the main resource of the institution. Although during 2021 the average number of employed persons was about 2/3 of the total staff according to the states, anyway they, with minimal expenses, managed to be visible and to carry out a large part of the activities on the mandate, to increase the visibility and credibility of the institution and the realization of the Annual Activity Plan. We must mention the fact that, compared to previous years, the expenses for the payment of benefits for temporary incapacity for work paid from the employer's financial means are kept at a low level. Thereby, in 2021, the expenses in this chapter constituted about 34 thousand lei, compared to 70.2 thousand lei - actual expenses in 2019. One of the reasons for the decrease in expenses is that some employees continued to work remotely in a more health-friendly environment compared to the air in the office, which is contaminated with the smell of mould and fungus, a fact proven by the results of the expertise carried out by specialists.

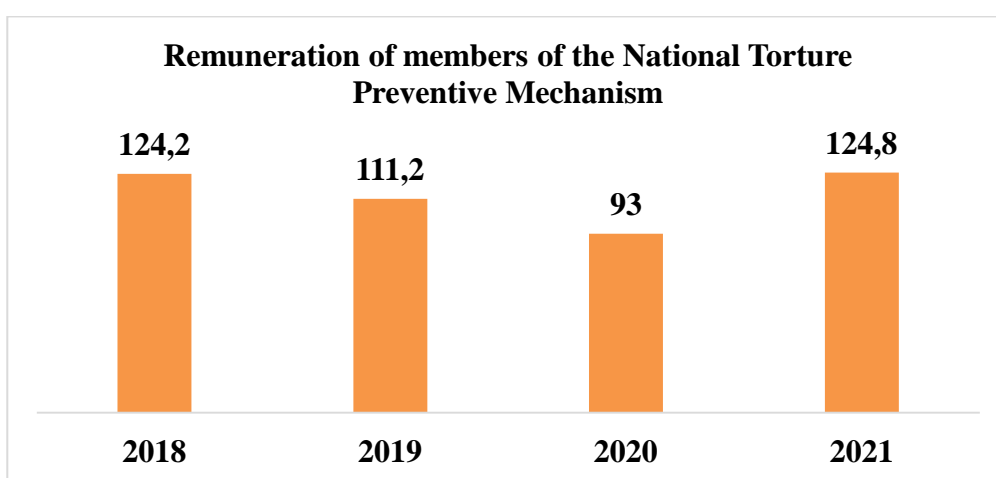
The dynamic comparison (2018-2021) of expenses by parts is as follows:

Distribution of expenses	2018		2019		2020		2021	
	Amount, thousands lei	%	Amount, thousands lei	%	Amount, thousands lei	%	Amount, thousand th lei	%
Staff expenditure	7092.2	57.8	6739.2	54.5	7812	63.3	8525.3	65.1
Goods and services	2684.3	21.9	3112.4	25.2	2580.4	20.9	2173.9	16.6
Expenditures on the consumption of circulating materials	801.9	6.5	609.4	4.9	235.2	1.9	623.5	4.8
Expenses related to the impairment of assets	1481.3	12.1	1566.8	12.7	1385.1	11.2	1411.6	10.8
Membership fees in international organizations		0.7	223.5	1.8	226.8	1.8	241.8	1.8
Remuneration of members of the National Torture Preventive Mechanism	124.2	1.0	111.2	0.9	93	0.8	124.8	1.0
Total expenses, thousands lei/%	12271.6	100.0	12362.5	100.0	12332.5	100.0	3100.	100.0

Dynamic representation of the expenses of the People's Advocate Office







In conclusion, we can state that the number of financial means allocated to fulfil the mandates of the People’s Advocate and People’s Advocate for Child’s Rights in 2021 was the minimum necessary amount, and the financial independence of the institution remains affected by the existing legal framework. Therewith, the employees of the institution, in the conditions of social distancing, worked efficiently and worked very productively, the visibility of the institution was increased, the opinion of the institution was often requested and heard by the authorities, and the recommendations of the People’s Advocate and the People’s Advocate for Child’s Rights were taken into account in many situations.