



THE PEOPLE'S
ADVOCATE
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REPORT

ON THE OBSERVANCE
OF HUMAN RIGHTS AND FREEDOMS
IN THE REPUBLIC OF MOLDOVA IN 2019

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CHISINAU, 2020

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PREFACE

In 2019, in the Republic of Moldova there took place political events with major impact for the society, which affected the state of affairs in the field of human rights.

However, the political changes in the country cannot be accepted as an excuse for the lack of firm actions that contribute to the realization of human rights in a manner appropriate to the human rights treaties to which the Republic of Moldova is a party.

One argument in this regard would be that, by ratifying international human rights treaties, the Republic of Moldova has assumed certain commitments to implement the provisions of these treaties, so that people who are in the territory of the country can benefit from adequate protection by exercising their fundamental rights.

Regardless of the political situation in the country, any government should pay more attention to the field of human rights. The obligations of the State in the field of human rights (the obligation to respect,¹ the obligation to protect² and the obligation to fulfill³), derive from the treaties in the field of human rights to which the Republic of Moldova is a party, which in turn, in accordance with the Constitution, they are superior to national law. These commitments assumed by the Republic of Moldova must be indispensable criteria for the decision-making process at the state level, as well as for the elaboration of the public policy documents.

Thus, given that both decisions and public policies have a direct impact on the population, the authorities are obliged to consult the opinion of the beneficiaries and to involve them in the decision-making process, so that the developed solutions correspond to their needs.

In fact, this concept is called a human rights-based approach and it must be omnipresent at any decision-making level in a state that claims to be a state governed by the rule of law that has committed itself to respecting human rights.

Moreover, one of the commitments regarding the observance of human rights is establishing and ensuring the proper functioning of the National Human Rights Institutions (NHRIs). The guiding principles of NHRI's activity are the Paris Principles, which were adopted by the United Nations General Assembly by resolution 48/134 of 20 December 1993.

According to the decision of the Sub-Committee on Accreditation (SCA) of the Global Alliance of National Human Rights Institutions (GANHRI), in 2018, the

¹ The obligation to respect requires the state to ensure that none of its officials act in violation of human rights or the obligations contained in that treaty.

² The obligation to protect requires the state to take measures to ensure that no one violates the terms of a human rights treaty (third parties / persons).

³ The obligation to fulfill requires the state to take positive measures to ensure that everyone within its jurisdiction is able to fully enjoy the rights recognized in the treaty.

People's Advocate Office was accredited with the A status, which attests that the mandate, duties and functionality of the institution are in full compliance with the provisions of the Paris Principles. However, the state needs to make further efforts to fully strengthen the National Human Rights Institution of the Republic of Moldova. On these issues I mentioned in previous reports, but also in the alternative ones to the international mechanisms for the protection of human rights.

Taking into account the above, I consider that it would be quite correct to assess 2019 as a year of stagnation in the field of human rights in the Republic of Moldova.

In view of the mandate of the National Human Rights Institution, the People's Advocate reiterates the availability to cooperate with the national authorities in order to contribute to the fulfillment of the state's obligations in accordance with the commitments made by ratifying international human rights treaties.

Mihail COTOROBAI

People's Advocate (Ombudsman)

CHAPTER I. OBSERVANCE OF HUMAN RIGHTS IN THE REPUBLIC OF MOLDOVA IN 2019

RIGHT TO A FAIR TRIAL

Following the analysis of the situation regarding the observance of the right to a fair trial, the People's Advocate considers that there is no progress in this field, moreover, there is a obvious state of stagnation. It is noted that the state has not taken measures to implement the previous recommendations of the People's Advocate, but also regional and international mechanisms for the protection of human rights, measures to contribute to strengthening the justice system, the legal framework for criminalizing hate crimes has not been adopted, a draft law that from 2016 was adopted in the first reading. At the same time, in some situations, it is found that the level of professionals working in the justice system is not at a level corresponding to current requirements.

During 2019, according to the claims received by the People's Advocate Office, the most frequently invoked as a violation was the *right to a fair trial - 207 claims*.

Within identified problems are as following:

The legal framework for incrimination of hate crimes has not been adopted (the draft law was adopted in first reading in 2016).

The quality of state-guaranteed legal aid is not up to standard: lawyers do not always appear in court, do not prepare for hearings and do not take the actions requested by the beneficiary.

The People's Advocate identified the issue on the failure to record the audio of court hearings. This fact does not allow the person to contrast the statements given with those mentioned in the hearing and in the minutes of the hearings. This means the violation of the Regulation regarding the digital audio recording of the court hearings. The People's Advocate considers that this deviation is inadmissible in the context in which this subject was one of the objectives of the Justice Sector Reform Strategy for 2011-2016.

Another problem identified is the failure to draw up the full court decision by the judge, at the request of the participants in the trial.

Enforcement of court decisions is still a problem. The plaintiffs in most cases invoked the non-informing (non-disclosure) of the participants of the enforcement proceedings. Consequently, the debtor does not fall within 15 days when he/she can voluntarily pay the adjudicated amount, and he/she has to pay other enforcement expenses related to the enforcement proceedings and the bailiff's fee. Not every time the participants of the enforcement proceedings manage to challenge the acts of the bailiff in court because of bureaucratic actions of the bailiffs.

Delaying the execution of court decisions on the collection of alimony, as in previous years, remains a problem, because of the debtor's absence from home, the debtor being abroad and the debtor's lack of financial resources, alimony payer.

The People's Advocate recommended continuing efforts to reform the justice system to ensure its accessibility, independence, efficiency, transparency and integrity. The new policy document for ensuring the continuity of the reform in the justice sector was not adopted either in 2019. In April 2019, a draft strategy for the development of the justice sector⁴ was launched for public consultation by the Ministry of Justice, but it was not adopted.

In 2019, the European Court of Human Rights issued 21 judgments against the Republic of Moldova for violating Article 6 of the Convention, for which the State was obliged to pay an amount of approximately EUR 400,250.

These include the case of *Ozdil and others v. the Republic of Moldova*, which refers to the case of Turkish teachers, their illegal transfer to their country of origin, to the detriment of domestic and international law. In this case, the State was obliged to pay compensation in the amount of EUR 125,000 (EUR 25,000 for each of the 5 applicants).

In the context of the above, we find that the problems mentioned are determined by the imperfection of the legal framework, in some cases, non-compliance with existing national legal norms, but also the international obligations assumed by the state by ratifying international human rights treaties, the level of professionalism of human resources operating in the justice system.

Another cause of the inadequate realization of the right to a fair trial is the lack of public policies to strengthen the justice system so that it meets the unanimously recognized requirements at international level, namely: accessibility, independence, efficiency, transparency and integrity.

INDIVIDUAL FREEDOM AND SECURITY OF THE PERSON

As a result of the analysis of the situation regarding the fundamental right to freedom and security of the person, the People's Advocate considers that no amendments can be mentioned in this field.

Further there are detected situations in which persons are detained longer than the legal deadline of 72 hours provides, and the data on persons in preventive detention show an insignificant decrease in the application of this measure. According to the answer provided by the Ministry of Justice, during 2019 in preventive detention there were placed 1136 people, compared to 1163 people in 2018, which constitutes a decrease of 2%. The People's Advocate considers this decrease insignificant, which only emphasizes the fact that the preventive detention is still applied unjustifiably and excessively.

At the same time, there are no efforts are made by the state to implement international recommendations on the realization of this fundamental right.

In 2019, the European Court of Human Rights found a violation of Article 5 of the ECHR by the Republic of Moldova in the cases of *Ozdil and others*, *Gorea*, *Sirencu*, *Casu* and *Moscalciuc*. In these cases, the European Court found problems with the arbitrary retention and detention of the applicants for extradition; granting insufficient compensation for illegal detention and in 3 cases insufficient reasoning for arrest⁵.

⁴ <http://www.justice.gov.md/libview.php?l=ro&idc=4&id=4330>

⁵ <https://crjm.org/wp-content/uploads/2020/01/Nota-analitica-CtEDO-2019.pdf>

The People's Advocate finds that the violation of the right to individual freedom and security of the person is caused by non-compliance with the existing legal framework and its improper application, due to which there are situations in which the legal term of 72 hours for the detention of persons is exceeded, and the application of the preventive detention does not register a significant decrease.

LEGAL STATUS OF FOREIGN CITIZENS AND STATELESS PERSONS

The Republic of Moldova was condemned by the ECtHR by the Judgment of June 11, 2019 in the case of *Ozdil and others v. the Republic of Moldova* for violating Articles 5 and 8 of the Convention for the Protection of Human Rights and Fundamental Freedoms, for the expulsion of Turkish citizens from 2018.

The Court noted that the applicants' deprivation of liberty in the manner in which the authorities proceeded was an illegal transfer of persons from the territory of the State to Turkey, which circumvented all the guarantees offered to them by national and international law. There has accordingly been a violation of Article 5 §1 of the Convention.

The People's Advocate prepared in 2019 the **thematic Report "Observing the rights of foreign citizens in state custody"**.

Following the comprehensive analysis of the situation in the field, the Report contains several recommendations submitted to the competent public authorities. In particular, it is recommended exclusion of the possibility of return or removal of aliens in territories where they risk being subjected to torture, inhuman or degrading treatment, regardless of the risk to national security and public order.⁶

It is also proposed to bring Law no. 200 of 2010 on the regime of aliens in the Republic of Moldova in accordance with the Administrative Code, as well as the completion of Law no. 200 of 2010 on the regime of aliens in the Republic of Moldova, with provisions, which would expressly order the release from public custody of aliens who have applied for asylum or the granting of stateless status.

Given the jurisprudence of the ECtHR, including in the case of *Ozdil and others v. the Republic of Moldova*, the results of the mentioned thematic Report, the People's Advocate sent to the Ministry of Internal Affairs⁷ a proposal to improve the provisions of paragraph (3) of Art.55, paragraph (2) of Art.56 and paragraph (4) of Art.63 of Law no.200 of 16.07.2010 on the regime of aliens in the Republic of Moldova.

The People's Advocate considers that the mentioned provisions do not offer the foreigner minimum guarantees against the arbitrariness of the authorities. Or, the person concerned must benefit from an adversarial procedure in order to be able to present his/her point of view and to challenge the arguments of the authorities. Otherwise, it may affect the principle of equality of arms.

Another problem identified as a result of examining the provisions of Law no.270 on Asylum in the Republic of Moldova and addressing the Law Center of

⁶ To abrogate paragraph 4 of Article 63 of *Law no. 200 of 2010 on the regime of aliens in the Republic of Moldova*.

⁷ Letter from January 20, 2020 no. 12-6/4;

Advocates refers to the imperfection of legislation to ensure the right to health of asylum seekers, who are part of the category of vulnerable groups (people with disabilities, pregnant women, the elderly, victims of trafficking in human beings, victims of torture, people suffering from serious illnesses, etc.)

The People's Advocate reminds about the need to ensure access to health services for all people, without any discrimination, including for people from socially vulnerable groups. In this context, the State must take special measures to ensure effective protection by the State, namely because of their vulnerability. It is therefore recommended that the competent authorities examine the regulatory framework in the field of asylum and compulsory health insurance with a view to completing the list of state health insurance beneficiaries with persons belonging to the vulnerable groups listed in Article 21 of EU Directive 2013/33.

THE RIGHT TO VOTE AND THE RIGHT TO BE ELECTED

In 2019, parliamentary elections took place in the Republic of Moldova (February 2019), general local elections simultaneously with new parliamentary elections (October 2019).

The People's Advocate monitored the election processes, the problems identified and publicized, including through the special reports of specialized NGOs, complaints and appeals submitted to the CEC.

Among the problems that were identified we highlight the impossibility of participation in elections of citizens of the diaspora due to the lack of valid identity documents; arranging a limited number of polling stations abroad, which is why not all citizens who wanted to exercise their right to vote had this possibility, even if they traveled quite long distances for this purpose.

Regarding the general local elections, the legislation still treats independent candidates unequally compared to those nominated by political parties and electoral blocs, forcing only them to collect signatures in the subscription lists. In addition, for the municipalities of Chisinau and Balti, the number of signatures requested in the subscription lists, remains exaggerated.

They were submitted and some criticisms regarding the Central Electoral Commission and the courts, referring to the lack of clarity on the jurisdiction of the examination of appeals, as well as the narrow view advocated by the Central Electoral Commission on the registration of candidates for constituency commissions, which have resulted in several times being denied the right to an effective remedy, contrary to international standards.⁸

According to international observation missions, "the parliamentary elections of February 24, 2019 were competitive and fundamental rights were generally respected. The election campaign took place against the background of dissatisfaction with public institutions and was overshadowed by assumptions about pressure on public employees, clear indications of vote buying and misuse of state resources. Control and ownership of the media has limited the range of opinions presented to voters. Most aspects of the elections were managed in a professional

⁸ <https://www.osce.org/ro/odihr/elections/moldova/412367?download=true>

and transparent manner. The voting was evaluated positively, but the electoral institutions faced difficulties in processing the minutes with the voting results, due to the introduction of the new electoral system and the simultaneous conduct of the referendum”.

The provisions of the Electoral Code, challenged at the Constitutional Court by the People’s Advocate⁹, were amended by Law no. 113 of 15.08.2019, so that in the polling stations opened abroad it was allowed to vote with the identity card and the expired passport. Also, following the amendments made by the same Law¹⁰, the proportional system on party lists for the election of deputies in parliament was restored, the ban for the electoral agitation on the day of the elections and on the day before the elections was reintroduced.

The People’s Advocate appreciates the amendments made by Law 113 of 15.08.2019, which contributed to the advancement of women and young people in public life, by establishing the minimum representation quota of 40% for both sexes in the lists of candidates for parliamentary and local elections¹¹, and the rules for financing political parties from the state budget, depending on the proportion of women and young people who have actually been elected in parliamentary or local elections.¹²

INTIMATE, FAMILY AND PRIVATE LIFE

Respect for privacy in 2019 was marked by the appearance in the public space of information on the violation of this right by law enforcement agencies, by abusively applying special means of investigation. According to information published in the media, the special means of investigation were used in the case of political opponents and journalists who showed an unfair attitude towards the authorities.

Although there is a decrease in the number of cases regarding the use of special investigative measures by about 17% compared to 2018, the fact that about 99% of prosecutors’ actions to use special means of investigation raise serious questions about privacy and family, in accordance with human rights standards.

In 2019, the share of special investigative measures in the criminal prosecution activity was about 11.4% (5,809 measures in 50,920 criminal cases under management), which is a decrease of about 17%. This decrease is explained by the reduction of the number of interceptions of communications and images by 1,116 cases (2,812 in 2019, compared to 3,928 in 2018).

The General Prosecutor’s Office mentions that five criminal cases and three criminal proceedings were initiated, against five investigating officers, three prosecutors and a head of subdivision within the National Investigation Inspectorate

⁹ Decision of the Constitutional Court no. 5 of January 14, 2019 on the Notice of the People’s Advocate regarding the impossibility of voting abroad based on the identity card and the impossibility of voting abroad based on the expired passport or identity card, which was declared inadmissible by the Constitutional Court;

¹⁰ Law no. 113 of 15.08.2019 for the amendment of some legislative acts.

¹¹ Article 46, para. (3) of the Electoral Code;

¹² Article 27 of the Law on Political Parties, no. 294-XVI of 21.12.2007;

of the GPI of the Ministry of Internal Affairs, for the commission of acts of illegal collection of information protected by law, without the consent of the person, with the use of special technical means intended to obtain hidden information. Likewise, it was found the violation of the right to the secrecy of telephone conversations in violation of the law, with the use of the service situation. At the same time, 13 disciplinary proceedings were initiated against seven prosecutors, which were submitted for examination to the Disciplinary Board of the Superior Council of Prosecutors.

Regarding public policies in the field of respect for private and family life, The People's Advocate proposed the initiation of the procedure for amending Law no. 133 of 08.07.2011 on personal data protection in order to exclude the provisions¹³ that may generate the violation of the right to intimate, private and family life.

The State Chancellery supported¹⁴ the proposal submitted by the People's Advocate, but so far no draft amendment to the provisions in question has been drawn up.

RIGHT TO WORK

In 2019, there were made a series of amendments to the labour code. Among the most important we could mention that, starting with 2019, during paternity leave, the employee benefits from a paternity allowance that cannot be lower than the average monthly income insured for that period and which is paid from the state social insurance budget.¹⁵

As of 01.01.2019, the mechanism regarding workbooks is no longer applicable, but it is necessary to create and manage an **electronic Register of employees**, the concept of which has been placed for public consultation.¹⁶

In 2018 was elaborated the *Law no.105 of 14.06.2018 on promotion of employment and unemployment insurance*, the effects of which were more felt in 2019. A relatively new aspect are the **pre-dismissal services**¹⁷, which involve a set of measures offered to persons notified in connection with the liquidation of the unit, the reduction of the number or the staff status.

We could also mention about the new regulations¹⁸ aimed at employment outside the Republic of Moldova. Given the social realities in terms of emigration for work, the regulations in question come to offer a certain guarantee of respect for the right to fair working conditions.

Starting with December 1, 2018, came into force *Law no. 270 of 23.11.2018 on the unitary pay system in the budget sector*, whose concept implies a unique character, which applies to all categories of employees in the budget sector. There were sever-

¹³ By Law no. 143 the paragraph (5) of Art. 5 of Law no. 133 on personal data was completed with letter g), which establishes that *the consent of the subject of personal data is not required in cases where the processing is necessary for the exchange of data under the legislation in force on data exchange and interoperability.*

¹⁴ Letter of the State Chancellery no. 31-16-6075 of 13 09.2019;

¹⁵ Art.124¹ of the Labour Code;

¹⁶ <https://particip.gov.md/proiectview.php?l=ro&idd=7022>

¹⁷ Art.28 of Law no. 105 of 14.06.2018 on promotion of employment and unemployment insurance;

¹⁸ Chapter VII of Law no. 105 of 14.06.2018 on promotion of employment and unemployment insurance;

al problematic aspects and inequalities established in the remuneration of employees in various fields, such as education, the penitentiary system, including within the People's Advocate Office. Some inequalities in the pay level for some categories of employees were removed by Law no.175 of 19.12.2019 (in force since January 1, 2020) amending Law no.270 / 2018.

Another problem identified by the People's Advocate following the examination of a collective claim¹⁹ refers to the exclusion of certain professions from the list of those considered to be working under special conditions in order to benefit from old-age pensions in advantageous conditions, in accordance with Art. (21) of Law no. 156 of 14.10.1998 on the public pension system.

In the process of examining this issue and the discussions held with the representatives of the National Trade Union Confederation of Moldova, it was established that there are several occupations / professions that are not included in this list²⁰, but which could meet harmful and very difficult working conditions, according to the *Classifier of Occupations in the Republic of Moldova*²¹.

*It was also found that certain professions were excluded from the list of those considered to be working under special conditions, which was considered this as indirect discrimination*²².

RIGHT TO HEALTH CARE

As a result of the studies and analyzes carried out by the People's Advocate Office, it is found that the situation in the field of respecting the right to health care has not registered positive developments. The situation remains equally serious and requires increased attention from the state. The field of health requires urgent and multisectoral intervention, from the creation of conditions for the provision of medical services to an appropriate level of quality for patients, and to the creation of adequate conditions for the work of staff working in the field of health.

During 2019, the People's Advocate Office examined about **47 claims** in which there was invoked the violation of the right to health care.

It is unfortunate to note that the beneficiaries of health services continued to invoke in the reference year the violation of patients' rights regarding accessibility, compliance with quality standards, avoidance of unjustified suffering and pain, and personalized treatment.

Likewise, they were found and other aspects regarding the violation of human rights in the field of health care, especially regarding non-compliance with the condition of obtaining the informed consent of the patient, non-compliance with professional ethics by doctors, lack of correct information, poor doctor-patient communication, lack of discretion during the provision of medical care (breach of

¹⁹ The applicants worked for a milk production Association, as machinists in ammonia refrigeration installations (code 821103);

²⁰ Government Decision no. 256 of 27.03.2018 on the approval of the List of jobs under special conditions, based on which an old-age pension is granted under advantageous conditions, as well as the Instruction on how to apply the List and confirm the special internship;

²¹ Classifier of occupations in the Republic of Moldova, approved by the Order of the Ministry of Labour, Social Protection and Family no. 22 of 03.03.2014;

²² Decision of the Council for Preventing and Eliminating Discrimination and Ensuring Equality no. 119/17 of 30.11.2017;

confidentiality), access to specialized treatment, low quality of medical services, limited access to quality standards, ensuring expensive treatments, lack of legal framework on malpractice, etc.

Unfortunately, we found that previous recommendations have not been fully implemented so far.

In 2019, the People's Advocate Office prepared two thematic reports, which reflect the situation in the field of healthcare.²³

One of these is the ***Report on Assessing the Level of Assurance of the Patient's Right to the Safety and Quality of Medical Equipment***. The Report reflects the identified systemic problems faced by medical institutions regarding the maintenance of medical equipment, the quality of medical devices which, in turn, affect the quality of the medical care and patient safety.

Data from the assessments made show that the technological potential of medical devices within some public medical-sanitary institutions is morally and physically exceeded, with major deficiencies, and which presents one of the root causes that determine the quality of medical care.

The findings show that:

- The health system does not have sufficient institutional and functional capacities for the full implementation of the Law no.102 of 09.06.2017 regarding medical devices;
- The health system does not have a strategic document in the field of medical device management. Some devices in the endowment of medical institutions have a lifespan of up to 40 years;
- Many equipments do not have technical passports, which makes it impossible to monitor their operation. The lack of a centralized system for recording and monitoring the equipment of medical institutions has a negative impact on the quality of medical services;
- Many equipments in the diagnostic and surgical departments are with excessive degree of wear and without metrological verification performed. For example, of the total number of Roentgen devices reported by institutions at the time of evaluation, 65% (34 devices) have a wear rate of 75 to 100%, indicating a risk of injury to patients and staff working with these devices;
- The degree of endowment of the Emergency Response Units (ERU) type III and Resuscitation and Intensive Care (RIC) of the institutions with ERU type III at national level constitutes on average 67%, which does not correspond to the approved norms. About a third of the hospital institutions report a shortage of necessary equipment, mandatory according to the ERU endowment standard. Thus, the low quality of medical services can generate problems regarding the impossibility of establishing the optimal and timely treatment, which can subsequently have a negative effect on the patient's health, and can favor the evolution of diseases;
- There is an insufficient number of equipment needed in emergencies for life. Most institutions (80%) reported an insufficient number of monitors to monitor vital parameters.

²³ <http://ombudsman.md/wp-content/uploads/2019/04/RAPORT-MEDICINA-RED.pdf>
http://ombudsman.md/wp-content/uploads/2020/01/RAPORT_PALIATIVE.pdf

The identified problems allowed us to formulate a series of recommendations that could improve the state of affairs in the field of medical device management to respect the patient's right to safety and the quality of the medical care.

On October 11, the People's Advocate Office presented another Report, which is a complex assessment of the real situation, following the signing of the World Health Assembly Resolution. We refer to the strengthening of palliative care, as a component of integrated lifelong treatments.

The Report on the implementation by the Republic of Moldova of the Resolution on strengthening the palliative care, as a component of integrated lifelong treatments was prepared with the financial support of the Public Health Department of the Soros Foundation-Moldova.

The study identified a high risk of human rights violations, due to limited access and insufficient palliative care services at all levels of care. The report shows that palliative care in the Republic of Moldova is insufficient and fragmentedly developed, patients in need of palliative care have limited access to palliative care services.

The study also comes with the following conclusions:

- there are barriers in the management of patients pain palliatively, especially at the level of primary care;
- opioid drugs are provided without proper planning based on real needs;
- fragmentary approach in providing palliative care due to the lack of strategic planning for organizing and financing palliative care services;
- mostly, palliative care in the Republic of Moldova is interpreted primarily in the context of care provided to oncological patients, and patients with non-oncological diseases, especially children, have extremely limited access to palliative care;
- palliative care is placed only under the responsibility of medical care, other sectors being not at all or very weakly involved (social and psychological care, clergy, volunteers, etc.);
- there are serious gaps in the process of financing palliative care services;
- there are a small number of palliative care providers in the Republic of Moldova, and the services for which they are contracted by the NHIC are underfunded;
- conditions not in line with the national standard of palliative care in PMSIs providing hospital palliative care. There were detected cases of serious violation of human dignity of the patient in palliative care provision;
- acute shortage of trained staff to provide adequate palliative care services at all levels of healthcare, both for higher education staff and for secondary and lower medical staff;
- there are no training programs in palliative care for lower medical staff and specialists in non-medical fields (social care, psychology, clergy, etc.). The training program for medical staff does not cover pediatric palliative care;
- there are no official data on the number of people in need of palliative care, the number of those who have received palliative care, the number of people who have been adequately controlled for pain and the number of those who need such services, the number of beds for palliative care and the database of current palliative care providers.

- the study attests to the lack of intra- and inter-sectoral communication (social, community assistance) regarding the assistance and evidence of the patient in palliation. There is no concept about the pathway of the pediatric patient who needs palliative care.

The problems identified during the year, both from the claims received by the PAO and from the studies developed, allowed us to formulate a series of recommendations that could improve the state of affairs in the field of medicine, in order to respect patients' rights to health.

The issues regarding the citizens of the Republic of Moldova who receive pensions abroad, but cannot benefit from the compulsory health insurance free of charge due to the lack of normative regulations in *Law no. 1585/1998 on compulsory health insurance*, remain unsolved.

The Ministry of Health, Labour and Social Protection²⁴ informed the Ombudsman about the availability of examining the opportunity to amend the legislation to remedy the legislative deficiency with regard to these categories of persons, but so far no amendments have been made to the relevant regulatory framework.

Also, the People's Advocate considers that the list of persons insured by the Government²⁵ should include uninsured persons, who take care of a child up to the age of 2 years old.

In a much more critical situation are the lonely people (uninsured), who take care of the child until the age of 2 years old.

Moreover, the European Committee of Social Rights pointed out that the situation of the Republic of Moldova is not in accordance with Article 13 §1 of the European Social Charter, because the level of social assistance (through social payments) for lonely people without resources, including the elderly is inadequate, and the right to health care is not guaranteed to all people deprived of financial resources.²⁶

RIGHT TO SOCIAL ASSISTANCE AND PROTECTION

During 2019, the field of social assistance and protection experienced some positive developments in terms of improving the normative framework and increasing social insurance benefits and social benefits, which corresponds to the principle of progressive realization of social and economic rights, according to international standards. At the same time, despite certain increases, the level of social benefits, correlated to the value of the subsistence minimum, continues to be much below its level. Social services also remain underdeveloped and underfunded by the state, not being able to cover the basic needs of vulnerable people.

²⁴ Letter from the Ministry of Health, Labor and Social Protection 01-5696 of 24.08.2018;

²⁵ Art.4 paragraph (4) of Law no. 1585/1998 on compulsory health insurance is made from the state budget account;

²⁶ Conclusions relating to articles from the thematic group „Health, social security and social protection”, European Social Charter, European Committee of Social Rights Conclusions 2017 Republic of Moldova, January 2018, page 34-36 - https://www.ecoi.net/en/file/local/1425569/1226_1519804343_cr-2017-mda-eng.pdf;

Of the 45 claims addressed to the People's Advocate Office in the field of social assistance and protection in 2019, the following aspects were invoked: failure to ensure a decent living, limited pensions and social services, the small amount of allowances, etc.

A large part of the claims addressed to the People's Advocate were from the elderly, people with disabilities or their relatives, who invoked the impossibility to benefit from the social service "Personal assistance"²⁷.

At the same time, it is found that people with severe disabilities, beneficiaries of a maintenance allowance, are put in the situation of choosing between allowance and admission to social service with the remuneration of the person who provides them support.

In the context of the recommendations of the People's Advocate from the report for 2018 there were attested some progress in improving the regulatory framework, especially regarding social benefits for some categories of people.

The approval of the *Regulation on the organization and functioning of the system of initial and continuous training of social assistance staff*²⁸ is a first step in increasing the professional capacity of staff in the social assistance system to ensure the quality of services provided and meet the needs of the beneficiaries.

During the reference period, there have been made increases to the monthly social state allowances for the categories of persons provided for in *Law no. 121 of 03.05.2001 on Additional Social Protection of Certain Categories of Population*; allowances for people with severe, accentuated and moderate disabilities, for the elderly established by *Law no. 499 of 14.07.1999 on State Social Allowances for some categories of citizens*. Also, the amount of aid for the cold period of the year, was increased from 350 to 500 MDL.²⁹

The People's Advocate appreciates the improvement of the normative framework in the part related to the process of reviewing the old-age pensions established until January 1, 2019, which is carried out in relation to the cumulative contribution period after the realization of the right to old-age pension³⁰.

Also, starting with 2020, on October 1, there will be indexed pensions whose amount on that date does not exceed the subsistence minimum for persons over the retirement age, calculated for the first semester of the current year.

However, despite the effort made, the amount of the minimum pension for retirement, which, on April 1, 2019, amounted to 1079.33 MDL³¹, is below the minimum subsistence level established for retirees (in the first semester 2019 - 1726.5 MDL³²) and covers only 62.5% of it.

²⁷ According to the provisions of the Government Decision no. 314 of 23.05.2012 for the approval of the Framework Regulation on the organization and functioning of the Social Service "Personal Assistance" and the Minimum Quality Standards;

²⁸ Government Decision no. 38 of 30.01.2019 on the approval of the Regulation on the organization and functioning of the system of initial and continuous training of personnel in the field of social assistance;

²⁹ Decision of the Government of the Republic of Moldova no. 578 of 27.11.2019, in force since 01.11.2019;

³⁰ Law no. 168 of 06.12.2019 for the amendment of Article 33 of Law no. 156/1998 on the public pension system;

³¹ Decision of the Government of the Republic of Moldova no. 186 of 15.03.2019 on the indexation of social insurance benefits and state social benefits;

³² <https://statistica.gov.md/newsview.php?l=ro&idc=168&id=6466>

Another positive aspect consists in excluding the domicile from the conditions for establishing the pension. However, this does not ensure the transfer of the pension to the person's state of residence.

It should also be noted that the condition of domicile was not excluded from the eligibility criteria to benefit from the child raising allowance until reaching the age of 3 years old.

Following the recommendation of the People's Advocate, starting with January 1, 2020, the rehabilitated victims of political repression during the years 1917-1990 benefit monthly from the state allowance (500 MDL), regardless of whether or not they are beneficiaries of pensions or social allowances³³, but emphasizes that the issue of recognizing children born in places of repression as victims of political repression remains unresolved.

On 24.09.2019, the Constitutional Court examined the notification of the People's Advocate regarding some provisions of *Law no. 156 of 14.10.1998 on the public pension system*, which aims to assimilate the contribution period of the non-contributory period of care for a person with severe disabilities. In decision no. 19 of this date, the Court established as unjustified the existing differentiated treatment between the parent, guardian or curator of a severely disabled child and the parent, guardian or curator of a severely disabled person over the age of 18, in respect of the recognized benefits of exercising the right to a pension.

The People's Advocate draws attention to the fact that in 2019 the authorities did not take into account the recommendations of the European Committee of Social Rights of the Council of Europe, issued in his conclusions on the implementation by the Republic of Moldova of the Revised European Social Charter³⁴. The People's Advocate mentioned these recommendations in detail in his Report on the observance of human rights in the Republic of Moldova in 2018.³⁵

OBSERVANCE OF THE RIGHTS OF PERSONS WITH DISABILITIES

During the process of analyzing the situation regarding the observance of the rights of persons with disabilities in the Republic of Moldova, the People's Advocate found that this category of persons continues to face the same problems. One of these issues is the access of people with disabilities to social infrastructure adapted to the needs, in accordance with the relevant standards. Another problem, which also persists, is the inadequacy of services, such as electronic services, to the needs of people with disabilities. These issues are an obstacle to the proper integration of people with disabilities into society, and their ability to realize their right to independent living in the community.

Regarding the accessibility of court premises, information and judicial processes according to the needs of persons with disabilities³⁶ The Superior Council of

³³ Law no. 121 of 03.05.2001 on Additional Social Protection of Certain Categories of Population, Article 1.

³⁴ https://www.ecoi.net/en/file/local/1425569/1226_1519804343_cr-2017-mda-eng.pdf

³⁵ http://ombudsman.md/wp-content/uploads/2020/01/RAPORT_2018_final.pdf, page 50-51

³⁶ Area of intervention no. 2: **National justice system, Strategic target A: Equal access to justice for all, Action 3;**

Magistracy³⁷ communicated that out of the 20 courts, in 12 are created access conditions for people with disabilities. The other 8 courts will create conditions after the necessary financial resources will be allocated for this purpose.

There were also noted the findings³⁸ that people with mental disorders are neglected the right to information, both at the stage of preparation for the court hearing, as well as in the trial.

Despite some progress in this area, people with disabilities continue to be excluded or face various barriers to their full and effective participation in society, on an equal footing with others.

The People's Advocate did not find any developments regarding the development of community services for people with disabilities.

Following the examination of a complaint from a visually impaired person, it was found that the free access to public services (banking) was restricted by the physical impossibility to use the facsimile signature for signing bank documents.

And the "Center for the Rights of Persons with Disabilities" PA addressed another issue faced by visually impaired people. This problem is related to the impossibility of using the card independently at the bank's ATMs, including the possibility to know the information on the card account, to withdraw cash or to perform other operations offered by ATMs.

FREEDOM OF EXPRESSION

Freedom of opinion

The People's Advocate appreciates that in 2019 the people of the Republic of Moldova were generally able to engage in political discussions, without fear of being subjected to coercion or persecution. At the same time, until June 2019, there were some reasonable fears that expressing criticism of the government or actors affiliated with the ruling party at that time could have negative consequences, particularly for the public sector.³⁹

The reserved attitude of Moldovans to freely express their critical opinion towards the authorities is also demonstrated by the results of the Public Opinion Barometer (POB) from December 2019⁴⁰, according to which only about 40% (36.2% in 2018) of the respondents, to some extent, stated that they feel free to express their opinion about the country's leadership, to take to the streets and protest against the decisions taken by the country's leadership.

There have also been cases of disproportionate use of law enforcement measures against protesters⁴¹, which runs counter to the right to assembly and free speech and leads to a decrease in civic activism.

³⁷ Letter no. 163m / i of 20.01.2020;

³⁸ <https://idom.md/wp-content/uploads/2019/05/RAPORT-TRATAMENT-F%C4%82R%C4%82-CONSIM%C8%9A%C4%82M%C3%82NT.pdf>;

³⁹ https://freedomhouse.org/country/moldova/freedom-world/2020?fbclid=IwAR1Ila1SNwtMJ1inHzWYL DAM4ju25KHpe95FjK7xDmSZ_3L72_gBVIslgRO

⁴⁰ <http://ipp.md/wp-content/uploads/2019/12/BOP-FINAL-decembrie-2019.pdf>

⁴¹ Several protesters were sprayed in March 2019 with tear gas, in front of the Orhei Court, where the sentence was pronounced in the case of the DA Platform activist Gheorghe Petic. This is despite the fact that the protesters did not present any danger to public order (<https://www.moldova.org/protestatari-din-fata-sediului-judecatoriei-orhei-stropiti-cu-gaze-lacrimogene-ce-declara-politia/>)

It should be noted that in January 2019 the ECtHR condemned our State in the case of *Matasaru v. the Republic of Moldova*. The Court found it contrary to freedom of expression to sanction the defendant with imprisonment for hooliganism as a result of the obscene way of protesting.

Access to information

In 2019, the state of affairs in the Republic of Moldova regarding access to information has not improved. The legal framework in the field has not been completed or modified, in order to comply with European standards and norms⁴², the authorities have continued to refuse to provide information requested by the representatives of the press and civil society on the grounds of personal data protection, state secrecy, to treat requests for information as petitions, which implies a different procedure and terms of examination, including for this reason requests for information in electronic version are not accepted because they do not have the applicant's signature.

Authorities are only partially open to provide the requested information of public interest, most entities did not comply with the legal deadline for submitting the information or provided the information only after against them there was filled an action in the court.⁴³

Freedom of the press

The People's Advocate considers that in 2019 there were no developments regarding the freedom of the press in the Republic of Moldova. In the conditions of a year marked by major political turmoil, it was not possible to adopt the laws necessary for the long-term development of independent media institutions in the Republic of Moldova, as well as decision-making that contributes to creating a favorable environment for media activity. Issues on the agenda remained the concentration and monopolization of the media, political control over the most influential media institutions, limited access of journalists to some categories of information of public interest, maintaining unequal, uncompetitive conditions in the advertising market, conditions of insufficiently secure activity for journalists.

Freedom of the press and failure to investigate the cartel market on the advertising market are outstanding areas of the Republic of Moldova, according to the European Union Ambassador to Chisinau, Peter Michalko, expressed in the context of assessing the degree of implementation of the National Action Plan of the Moldova-EU Association Agreement, for the period 2017–2019.

At the same time, national and international media experts⁴⁴ estimate that the situation of the media in the Republic of Moldova remains serious. Journalists have faced threats from politicians or civil servants over the past year, and the

⁴² Bringing in compliance with European standards Law no. 133/2011 on the protection of personal data, of Law no. 171/1994 on trade secret, of Law no. 245/2008 on the state secret.

⁴³ <https://www.facebook.com/juristiidrepturileomului/videos/1543574905808043/> (Ina Sotchi, BAA lawyer "Tanase si Partenerii" about the strategic litigation on access to information of public interest)

⁴⁴ https://freedomhouse.org/country/moldova/freedom-world/2020?fbclid=IwAR1Ila1SNwtMJ1inHzWYL DAM4ju25KHPe95FjK7xDmSZ_3L72_gBVIsLgRQ

inefficiently enforced media legislation has encouraged this phenomenon⁴⁵. The makers of the Index on the Situation of the Press in Moldova (ISPM) in 2019 note that the poor implementation of media legislation has maintained and stimulated an unfavorable climate for the activity and development of the independent press.

Influential parties have managed to corrupt journalists and much of the media, subordinate certain media institutions and use them against political opponents in various ways - pressure, verbal attacks, threats, aggression, obstruction in the exercise of the profession; easy access to information of public interest or public events, for politically affiliated media; attractive financial offers for journalists who have agreed to play the role of political actors, etc.⁴⁶

Legal framework for media

In 2019, it was not possible to complete the legal framework on the media with important documents that are to eliminate the shortcomings in the legislation or update some obsolete rules. The projects elaborated by the Working Group for the improvement of the media legislation in the former Parliament did not reach the attention of the deputies from the new Legislature. Outstanding projects are those regarding advertising, amending the Competition Law, meant to improve the competitive situation on the media market.

The quality of journalism in the Republic of Moldova

In this Report, the People's Advocate also addresses the issue of the quality of journalism in the Republic of Moldova, given the magnitude of recent alarming trends such as manipulation, misinformation, propaganda, fake news, selective use of information, unverified data or personal data, spreading hate speech messages, etc. In the attention of the People's Advocate, there have been cases in which the media institutions, in pursuit of the audience, exploited the sensational using images or sequences, information that infringed the person's right to privacy, distributed fake news.

The People's Advocate recalls that in a democratic society, citizens participate in public decision-making, which means that individuals have relevant and credible information from various sources that allow them to form and express their opinions, to make informed decisions about their government and society. Manipulation, misinformation, propaganda create wrong opinions and attitudes about socio-political realities and prevent people from making correct and assumed decisions which can affect their right to information and other rights.

Quality journalism provides a range of diverse, credible, interesting and timely information available to the public and counteracts propaganda and misinformation. Quality journalism serves the public interest, is based on the good faith and ethics of the profession, provides accurate and verified information that respects the principles of fairness, independence of transparency and public accountability.

⁴⁵ Index on the Situation of the Press in Moldova (ISPM) in 2019, launched on February 26, 2020 by the Center for Independent Journalism;

⁴⁶ <http://media-azi.md/ro/publicatii/indicele-privind-situa%C8%9Bia-presei-din-republica-moldova-%C3%AEn-anul-2019>

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

Even if the State does not have effective control over the localities on the left bank of the Dniester, the State does not cease to have jurisdiction and, therefore, still has obligations under international law with regard to persons within this territory.⁴⁷ The State does not cease to have jurisdiction within the meaning of Article 1 of the European Convention on Human Rights (ECHR) over that part of its territory. Even in the absence of effective control, the State has a positive obligation and is obliged to take diplomatic, economic, judicial or other measures that are within its competence with respect to foreign States and international organizations, to continue guaranteeing the rights of persons "(from Transnistria - n.n.).⁴⁸ The State has the obligation to ensure the observance of the rights recognized in the Covenant in relation to the people of Transnistria within the limits of its effective power, and should renew its efforts to resolve the impediments to the implementation of the Covenant in Transnistria ...⁴⁹

The activity of the People's Advocate Office, which was established to protect and promote human rights in the jurisdiction of Moldova, expands, in accordance with its attributions, to carry out its activity on the situation of human rights in Transnistria: the role and tasks of the People's Advocate Office in Moldova are determined by the provisions of the Law on the People's Advocate, no. 52 of 03.04.2014 and the Law on the approval of the Regulation on the organization and functioning of the People's Advocate Office, no. 164 of 31.07.2015. The Paris Principles, the international standard for the functioning of National Human Rights Institutions, encourage these institutions to work actively in the post-conflict period. Also, the Area of Intervention 16 "Observance of human rights in the localities on the left bank of the Dniester of the Republic of Moldova" of the National Action Plan on Human Rights for 2018-2022 establishes specific actions for the protection and promotion of human rights in Transnistria. These actions also reflect Moldova's commitments in the two cycles of the Universal Periodic Review.

The independence of the People's Advocate Office from the authorities, broad responsibilities, expert support and the "A" status of the National Human Rights Institution make the PAO one of the few viable tools to influence the human rights situation in Transnistria.

The presence of the People's Advocate Office in the Transnistrian region is ensured by the activity of the Representation in Varnita. Thus, the People's Advocate

⁴⁷ *Ilascu and Others v. The Republic of Moldova and Russia*, 48787/99, European Court of Human Rights, 8 July 2004, § 333.

⁴⁸ *Ilascu and Others v. The Republic of Moldova and Russia*, § 331, 333 and 339.

⁴⁹ Committee on Human Rights, Establishment of Observations related to Moldova (CCPR / C / MDA / CO / 2 (2009), para. 5.

Office ensures increased accessibility for its beneficiaries, who live in the administrative-territorial localities on the left bank of the Dniester and in the municipality of Bender, as well as for the representatives of the civil society in the region.

In 2019, the Varnita Representation of the People's Advocate Office received 195 complaints, out of which 174 (89%) from persons domiciled in the territory not controlled by the government.

Right to freedom of movement

Only in 2019 the Reintegration Policies Bureau registered 91 incidents involving force structures in the high security area, of which 35 regarding the installation of mobile checkpoints by Transnistrian "law enforcement bodies" and 12 cases regarding the restriction of free movement of citizens through the so-called police, customs and border guard posts.

Forced enlistment in the "Transnistrian armed forces"

In 2019, de facto authorities in Tiraspol continued to forcibly incorporate young people for long-term service into the *so-called "Transnistrian armed forces"*. Unfortunately, the constitutional authorities react late, only after the young people are placed in the barracks in Tiraspol.

Right to health

The People's Advocate appreciates that in the localities bordering the Transnistrian region within the program of confidence-building measures, with the support of international partners, there were built / renovated Centers of Family Doctors which ensures the access of people living on the left bank of the Dniester to health services.

Even if these people do not cover the expenses for the treatment of conditions subject to the occurrence of the insured events, the Government has the quality of insured for the categories of unemployed persons residing in the Republic of Moldova, including the localities on the left bank of the Dniester and Bender municipality, and registered with the competent institutions of the Republic of Moldova, except for the persons obliged by law to insure themselves individually⁵⁰.

The right to social assistance and protection

The failure to realize the right to social assistance and protection remains to be generated, for the most part, due to the lack of legal local public authorities in the eastern districts of the country.⁵¹ For this reason, local public authorities of both levels provide social assistance and protection to persons in difficulty, only if they have a residence visa in localities under the jurisdiction of the constitutional bodies of the Republic of Moldova, except for persons falling under Law no. 190 of

⁵⁰ Art.4 of Law no. 1585 on compulsory health insurance of 27.02.1998 http://www.legis.md/cautare/getResults?doc_id=113243&lang=ro

⁵¹ Law on basic provisions of the special legal status of localities from the left bank of the Dniester (Transnistria) no. 173 of 22.07.2005

08.05.2003 “On veterans” and Government Decision no. 906 of 24.09.2010, on the creation and activity of commissions for examining the addresses of citizens of the Republic of Moldova residing in the localities on the left bank of the Dniester (Transnistria) and their neighboring localities from the categories for which the Government has the quality of insured. Thus, the citizens of the Republic of Moldova who benefit from pensions established by the National Social Insurance House of the Republic of Moldova, domiciled in localities under the control of de facto authorities, do not have full and equal access to social assistance, benefits and social assistance services.

The principle of individualization of criminal liability and criminal punishment

The *non bis in idem* principle establishes that no one can be prosecuted or criminally punished twice for the same crime. This fundamental principle is recognized both in the Charter of Fundamental Rights of the European Union⁵², and in the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR).⁵³

At present, the Republic of Moldova does not ensure, on the uncontrolled territory, the principle of individualization of criminal liability and criminal punishment, not to be subjected twice to criminal prosecution and criminal punishment for the same act committed.

Thus, the person risks being convicted for one and the same act not only by the constitutional authorities but also by the de facto authorities.

Documentation of citizens from the administrative-territorial localities on the left bank of the Dniester and the municipality of Bender

The issue of documentation with civil status documents and identity documents, as well as the recognition of civil status facts registered in the Transnistrian region, was addressed in 91 of the applications (about 47%) registered in the Varnita Representation of the PAO.

In order to regulate the certification process of the civil status facts produced and recorded in the localities on the left bank of the Dniester, by Government Decision no. 286 of 29.05.2019, the Instructions on the certification of civil status facts produced and recorded in the localities on the left bank of the Dniester and the municipality of Bender were approved⁵⁴.

However, with the approval of these instructions, the aspects that generate the bureaucratization and delay of 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, were not removed.

⁵² Art.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>

⁵³ Protocol no. 7 (Article 4) of the Convention for the Protection of Human Rights and Fundamental Freedoms, <http://ier.gov.ro/wp-content/uploads/2018/11/Protocolul-nr-7.pdf>

⁵⁴ Government Decision no. 286 of 29.05.2019 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

The lack of a clear mechanism, the bureaucratization and delay of the the process of providing services by the PSA, favors the emergence of corrupt schemes in the activity of the territorial subdivisions of the Public Services Agency⁵⁵.

Right to education

The People's Advocate appreciates the efforts of the state related to ensuring the functioning of the schools with teaching in Latin script in the Transnistrian region, which is subordinated to the Ministry of Education, Culture and Research of the Republic of Moldova.

In 2019, within the program of reintegration activities of the country, approved by Government Decision no. 212/2019⁵⁶, these educational institutions were allocated a single aid amounting to 800 thousand MDL and 35 projects were implemented (15 million MDL).

However, the cases of violation of the provisions of the Protocol Decision on the Functioning of Moldovan schools with teaching based on Latin script⁵⁷ from 25.11.2017⁵⁸ by the force structures subordinated to the de facto authorities on the left bank of the Dniester cannot be overlooked.⁵⁹

The number of students in schools with teaching based on Latin script has increased (2017-1317 students, 2018-1396 students, 2019 - 1481 students).

At the same time, it is an important step to recognize the diplomas issued by the educational institutions from the Eastern districts of the Republic of Moldova and the municipality of Bender. By recognizing the legal effects of these educational documents, holders are given the opportunity to continue their studies or to engage in employment.

In the period 2014-2019, there were received 2261 files for preparing the educational documents of graduates from the Eastern districts of the Republic of Moldova and the municipality of Bender of all levels of education.

⁵⁵ <https://www.jurnaltv.md/news/08d9eee7157e5b74/perchezitii-la-serviciul-stare-civila-varnita-sefa-institutiei-si-alte-trei-persoane-retinute-pentru-corupere-pasiva.html>

⁵⁶ https://www.legis.md/cautare/getResults?doc_id=113550&lang=ro

⁵⁷ <https://gov.md/sites/default/files/apel.pdf>

⁵⁸ https://gov.md/sites/default/files/2017_11_25_protokolnoe_reshenie_o_funkcionirovanii_moldavskih_shkol.pdf

⁵⁹ <https://agora.md/stiri/57704/sarbatoare--dar-nu-pentru-toti-elevii-scolilor-romanesti-din-stanga-nistru-nu-au-avut-voie-sa-intoneze-implului-de-stat>

CHAPTER II. OBSERVANCE OF CHILD RIGHTS IN THE REPUBLIC OF MOLDOVA IN 2019

The report on the observance of child rights in the Republic of Moldova in 2019 was prepared in accordance with the provisions of Art. 29 of Law on the People's Advocate (Ombudsman) no. 52 of April 3, 2014.

The report presents the opinion of the People's Advocate for Children's Rights on the capacity of the national child protection system to ensure respect for the rights of the child, based on the conclusions made in the process of monitoring the national implementation of the UN Convention on the Rights of the Child. The Children's Ombudsman also makes recommendations to the state authorities to be taken in order to eliminate the systemic factors that lead to the violation of the rights of the child in a particular compartment and to improve the situation in the system of protection of the rights of the child.

RIGHT TO LIFE

In the context of the presentation of the situation regarding the protection of the child's right to life, the Children's Ombudsman clearly indicates that the state policy is inefficient in the field of protection of the child's right to life. The State does not allocate sufficient resources, it does not support and improve systemic changes in this area. While the population satisfaction index is declining, existing programs fail to provide support tailored to the needs of children in the right to life segment. Moreover, the People's Advocate for Children's Rights notes with concern that his Recommendations from previous annual reports to the right to life compartment, have not been taken into account by the central public authorities. The Children's Ombudsman reiterates his previous recommendations and also presents some issues in this area from the perspective of the activity in 2019.

The Children's Ombudsman notes the positive efforts of the State to reduce child mortality (2016-585, 2017-513, 2018-521, 2019 (9 months) -366)⁶⁰ noting in this context that the State has an obligation to take action to reduce the number of deaths among children, in order to implement actions for the proper assurance of the right to life guaranteed by Article 6 of the UN Convention on the Rights of the Child.

In 2019, the Children's Ombudsman monitored the situation of respecting the child's right to life on the segment of the phenomenon of "**children giving birth to children**", so in 2018, in Moldova, 2167⁶¹ girls up to 18 years old are raising their children, even they are still children.

⁶⁰ MHLSP letter, no. 02/917 of February 13, 2019;

⁶¹ <https://protv.md/actualitate/isi-cresc-copiii-fiind-copii-doar-anul-trecut-pest-2-mii-de-adolescente-au-devenit-mame-iar-numarul-lor-este-doua-ori-mai-mare-comparativ-cu-cel-inregistrat-in-tarile-europene-video---2508668.html>

The causes of this problem are: Lack of effective sectoral policies in the field of health and education, aimed at informing children about sexual life and the prevention of infant pregnancy; Lack of a national curriculum on sex education in the educational system; Society is dominated by stereotypes and stigmatization in terms of sexual development; High rate of sexual offenses committed by children or committed against children; authorities fail to provide protection adapted to the special needs of young mothers; adolescents face barriers in access to contraception.

The Children's Ombudsman mentions that the Republic of Moldova remains an unattractive State for young people from the perspective of starting a family and giving birth to children. In the current circumstances. In about 15-20 years the Republic of Moldova risks reaching a rate of population ageing of about 70%.

Another problem is the conditions in which women in the Republic of Moldova give birth. 70% of women who gave birth in these 30 maternity hospitals and children born had to suffer various complications up to cases resulting in death, due to poor endowment of these units or due to lack of specialists at work.⁶²

Suicide in children was another topic discussed by the People's Advocate for Children's Rights during the reporting period. It is worth mentioning that 8 children died committing suicide⁶³ in the first 9 months of 2019. Although there are psychological services at national level in such cases⁶⁴, the situation remains alarming.

RIGHT TO HEALTH

The Children's Ombudsman interprets the child's right to health, as defined in Article 24, as an inclusive right, extending not only to timely and appropriate prevention, health promotion, the provision of curative, rehabilitative and palliative services, but also to the right to grow and develop to their full potential and live in conditions that enable them to achieve the highest standard of health by implementing programs that address health determinants.

Thus, following the compatibility expertise, the People's Advocate for Children's Rights finds that in the field of health the national legal framework is *partially accounting* with the international standards in the field. Moreover, it fails to cover all the issues covered by Article 24 of the UN Convention on the Rights of the Child and largely provides only rules on the health of the child. The national public authorities **have failed to reach a satisfactory threshold** for carrying out the indicated actions and notes with regret that government institutions have not examined or implemented his previous recommendations set out in the previous annual reports in the chapters on the right to health and reiterates the importance of fulfilling them.

In the Republic of Moldova at present there are over 500 children in need of **palliative care**. The Thematic Report on the implementation by the Republic of Moldova of the provisions of the resolution on strengthening the palliative care, elaborated by People's Advocate Office found that palliative care practically does

⁶² <https://ro.sputnik.md/moldova/20191214/28543850/Doctor-habilitat-23-de-maternitati-trebuie-inchise-pun-in-pericol-viata-femeilor.html>

⁶³ MHLSP letter no. 02/917 of February 13, 2019;

⁶⁴ <https://www.pentruviata.md/>

not exist, except in a specialized section at the Oncology Institute. Beds are also provided in the clinical protocol for the palliation of children with cancer, but there is no normative provision and possibility for palliative care for children with non-oncological conditions. Children in serious conditions, who need palliative care are hospitalized in pediatric hospitals with a general profile, in the intensive care unit or chronic diseases, for long periods, according to vital needs, being connected to life support devices.

No mechanism for calculating and financing these cases has been developed, the NHIC refusing to pay them. Thus, hospitals are required to cover these huge expenses from their own funds, which affects the access and quality of medical services needed by other children admitted to these institutions, including access to intensive care equipment that is blocked for months and even years by children in irreversible states. There are not enough specialized human resources in the country in this field.

Another issue examined by the People's Advocate for Children's Rights was the **compulsory vaccination of children**, a subject reflected in the previous periods of the exercise of his mandate.

The issue was repeatedly analyzed by several authorities and, on October 30, 2018, the Constitutional Court ruled on the constitutionality of the provisions of Law no. 10 of February 3, 2009 on State Surveillance of Public Health and the National Immunization Programme for 2016-2020, approved by Government Decision no. 1113 of October 6, 2016⁶⁵, establishing that the respective provisions are constitutional.

The issue addressed has not been resolved, and the dilemma lies in the **mandatory vaccination and the lack of accountability mechanism for parents / legal representatives**. The vaccination policy in the Republic of Moldova is based on a *soft* law which, although establishing the obligation of vaccination does not provide the necessary levers for its implementation, the only restriction provided by law is the **prohibition of admission to communities**. Thus, the State is currently failing to establish a well-defined mechanism for ensuring the right to health of the child, based on the principles of the UN Convention on the Rights of the Child.

The issue of respecting the right to health of **children suffering from rare diseases**.

The People's Advocate for Children's Rights found a minor involvement in the diagnosis, treatment, support and care provided to children suffering from rare diseases and their families. Children with rare diseases, for the most part, are not correctly diagnosed, do not have the necessary treatment, adequate care and social inclusion. Family doctors are not well enough prepared to detect in time the symptoms of a rare disease, and late diagnosis of these diseases, leads to severe disability, which subsequently involves additional costs from the State, this phenomenon is one of the causes that increases the infant mortality rate.

Respect for the right to life, health and development of **children born prematurely**.

⁶⁵ <http://www.constcourt.md/ccdocview.php?tip=hotariri&docid=674&l=ro>

As in the previous report, the Children’s Ombudsman appreciates the efforts of public authorities for the measures taken that have had a positive impact on this segment, however, it indicates some shortcomings notified in the reported year, specifying the low quality of consumables (syringes, intravenous catheters, gastric tubes, sterile handling diapers and sterile field, etc.) insufficiency of special equipment, including specialized ambulances for transporting children. The low level of quality of medical products in hospitals is caused by the public procurement procedure based on the “lowest price” principle.

Another aspect analyzed by the People’s Advocate for Children’s Rights was the **consumption by children of alcohol, tobacco products and narcotics**. The policies currently adopted to combat the use of alcohol and tobacco products are ineffective and do not correspond to reality. The number of children consuming narcotics, alcoholic beverages and tobacco products is constantly increasing, and the diversification of harmful products leads to an even greater aggravation of the problem.

THE RIGHT TO FAMILY LIFE AND THE PROTECTION OF CHILDREN LEFT WITHOUT PARENTAL CARE

During 2019, the People’s Advocate for Children’s Rights prepared the Thematic Report on **“Monitoring the observance of the rights of children left without parental care”**. the monitoring process, the following problematic aspects were detected:

- children left without parental care face problems of social inclusion, have many psychological problems, frustrations, distrust, tendency to self-isolation, etc.
- children suffer from the lack of home, family, and this puts them under the burden of a strong emotional load;
- the lack of parental control can motivate minors to engage in vicious behavior, illegal activities;
- there are no opportunities for adequate care for children with disabilities left without parental care, who have serious problems in the placement;
- low educational attainment of children left without parental care.
- increased vulnerability of orphans who have reached the age of 18.

The strategies and initiatives currently adopted do not have an approach focused on the rights, needs and interests of the child and do not meet the main criteria to correspond to good practices in the field of protection of children without parental care.

The **process of deinstitutionalization of children in the Orhei and Hincesti Temporary Placement Centers for children and their inclusion in the family environment**.

In the institution predestined for the placement of children with severe disabilities there is currently a much larger number of adults than children, which is contrary to international Recommendations⁶⁶ in the field of child protection and can endanger the life and health of children.

⁶⁶ https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/TBSearch.aspx?Lang=en&TreatyID=5&DocTypeID=11

The deinstitutionalization process started in the Republic of Moldova in 2010. Following the monitoring, there were found the following problematic issues that do not comply with international standards for the protection of the rights of the child:

- The family is not sufficiently prepared for the reintegration of children into the family.
- Community medical services do not meet the needs of reintegrated children.
- Education is provided at home.
- Social isolation of parents.

There is a need to review the entire social assistance system for children with mental disorders reintegrated into biological families / extended families or other family-type services. The current situation remains alarming because the authorities have not put in place a clear post-deinstitutionalisation intervention mechanism. Thus, children who arrive in unprepared families become a burden for those who have to take care of them and for themselves.

The right to family and in the context of maintaining the relations between children and parents, when the parents live separately or are divorced and when there is ***an established and respected schedule of parent-child meetings***.

The serious situation on this segment is favored by the imperfection of the legislation on establishing the schedules of meetings with parents and the lack of intervention mechanism in such circumstances.

Ensuring compliance with the schedule of meetings becomes more complicated if the parent, in whose custody the child is, goes to live with the child in another State.

In this regard, the State to review the legal framework in the field of establishing the schedule of meetings with parents and to strengthen the mechanism for enforcing court decisions with an element of extraneousness from the segment analyzed above.

The observance of the rights of ***children on the streets***.

During 2019, according to the information presented by the General Police Inspectorate, there were registered 893 cases of voluntary departure of children from home or social institutions⁶⁷, of which according to the information of the Municipal Directorate for Child Rights Protection **are registered as children leading a street life**.

The Children's Ombudsman notes that, although several measures have been taken since 2016 to eradicate the phenomenon of *street children*, today we are forced by circumstances to recognize that they did not have the expected effect, they did not achieve their intended purpose. At the same time, it is worth appreciating the effort of the Chisinau Municipal Council for the creation in 2019 of the Roadside Assistance Service, with a day program, where children are fed, there are conditions for maintaining personal hygiene, recreation through sports, reading and other occupations. However, the need to extend the Service's program is obvious and at night, its operation must be ensured 24/7.

⁶⁷ http://politia.md/sites/default/files/ni_ssc_12_luni_anul_2019_finala.pdf

THE RIGHT TO OPINION AND CIVIL FREEDOMS

The Children's Ombudsman also notes that the State has not taken any action on the implementation of the Recommendations of the UN Committee on the Rights of the Child on the combined fourth and fifth periodic report of the Republic of Moldova⁶⁸. As a result, the situation regarding the observance of the child's right to opinion and civil liberties has not changed significantly, and the situation at national level has remained constant.

Following the monitoring process, the following problematic aspects in the field were detected:

- Lack of the mechanism for promoting opinions, ideas proposed by children at national level;
- Lack of training / informing children about the role and mission of the student council in an educational institution;
- Decisions made by board members are largely neglected by the school administration;
- The process of selecting board members is not in all cases transparent and impartial;
- Influencing the opinion of children by the administration of the educational institution.

The national authorities did not take into account the standards stipulated by the General Comment of the UN Committee on the Rights of the Child no. 12 (2009) on the right of the child to be heard.⁶⁹ The formal establishment of children's advisory bodies is a mimicry of the implementation of the Convention and cannot be described by the People's Advocate for Children's Rights as appropriate.

The People's Advocate for Children's Rights, in accordance with international standards in the field of protection of children's rights, on the segment of respect for the right to opinion, initiated in 2019 the creation of the ***Children's Advisory Council to the Children's Ombudsman***.

Another effective mechanism of the Ombudsman for consulting the opinion on the observance of children's rights in the Republic of Moldova is the ***National Children's Forum*** organized annually.

The People's Advocate for Children's Rights draws attention to the fact that in 2019 there ***were created impediments in the conduct of the National Children's Forum***. Thus, the People's Advocate for Children's Rights considers as an interference in the exercise of his duties the attempt to discredit the activity of consulting children's opinion and pressure actions to cancel the forum, by a small group of civil society representatives and public officials.

⁶⁸ https://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/Countries.aspx?CountryCode=MDA&Lang=EN

⁶⁹ https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/TBSearch.aspx?Lang=en&TreatyID=5&DocTypeID=11

JUSTICE FOR CHILDREN

The People's Advocate for Children's Rights in the activity from 2019, as in the previous years, monitored the observance of the children's rights in *the national juvenile justice system*.

The national legislation in the field largely corresponds to the minimum international standards, however we note that the public authorities did not take into account the Recommendations of the People's Advocate for Children's Rights in the Annual Report on the observance of children's rights in the Republic of Moldova in 2018⁷⁰. Moreover, no action has been taken to implement the Recommendations of the UN Committee on the Rights of the Child on the combined fourth and fifth periodic report of the Republic of Moldova⁷¹.

The analysis of the questionnaires completed by the children who had a connection with the criminal investigation and the judicial system highlighted the following issues:

- Children are often questioned by prosecuting officers without the participation of an lawyer, teacher or parent;
- Children mention that in most cases they get to know their lawyers in the courtroom;
- Often state-guaranteed lawyers appear at court hearings unprepared, taking note of the case materials in the corridors of the courts;
- Magistrates, lawyers and prosecuting officers always use language that is far too sophisticated for the child's perception, so he or she cannot understand and assimilate the necessary information.

In the context of the above, the People's Advocate for Children's Rights emphasizes the need for qualified legal assistance from the state. The authorities concerned need to review the internal procedures in order to adopt a holistic assistance mechanism based on the best interests of the child.

The number of convicted children in the Republic of Moldova remains a constant one with small deviations, which shows that the state policy in the field of preventing and combating crime among children is ineffective and needs to be improved.

The situation of respecting children's rights in contact / conflict with the law, becomes a problem that is constantly growing due to the multitude of factors that influence it in relation to the constant increase in the number of crimes. An obvious increase of the indicators is observed in the chapter "Serious crimes", where 35 and 26 crimes were registered respectively in 2018, 2019 compared to 23 and 24 in 2016, 2017 (see the table below). Although less than in the same period of 2018, the indicator is increasing compared to 2016 and 2017⁷², that is why it requires due attention from the authorities.

The Thematic Report regarding *"the observance of the children's rights with preventable status"* notes that the juvenile criminal justice system is not child-friendly

⁷⁰ http://ombudsman.md/wp-content/uploads/2020/01/RAPORT_2018_final.pdf

⁷¹ https://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/Countries.aspx?CountryCode=MDA&Lang=EN

⁷² <http://politia.md/ro/advanced-page-type/rapoarte-si-evaluari>

and does not have a holistic approach to the best interests of the child. Excessive enforcement of security measures by limiting the right to liberty and placing children in criminal prosecution in solitary confinement prisons is an impediment to the child's development and an additional impetus for inclusion in the underworld.

The penitentiaries in the Republic of Moldova, where minors are detained, continue to pose a risk to the life and health of children, and does not comply with international provisions and is a danger to children in detention. Children are often beaten by employees, and in situations when there are conflicts between children, employees neglect them until the situation reaches a maximum level of risk.

Another issue reported is the provision of ***the right to education of children in detention institutions.***

Although the Children's Ombudsman notes that in Penitentiary no. 10 from Goian there are technical conditions for teaching classes, and the teaching staff is seconded from the PI Theoretical High School "Nicolae Balcescu", children do not show interest in the educational system and desire to attend classes. There is also a library in the detention facility, however the room is used for watching TV or for various group activities.

A particularly serious situation is the observance of the right to education of prevented children. In this order of ideas, we mention the fact that the national penitentiary system does not ensure the continuity of the educational process and does not fully ensure **the right of the child to education in the national penitentiary system.**

Another ongoing problem of the penitentiary system analyzed by the People's Advocate for Children's Rights is ***the provision of medical and psychological assistance to minors*** who are in detention institutions. Children invoke several irregularities in this regard:

- Medical employees and psychologists are not receptive to their requirements;
- Insufficient number of psychologists, which leads to the impossibility of providing psychological counseling every time the child needs it;
- Lack of space for psychological counseling;
- Children are forced to pay for medicines administered;
- Medical staff may provide them with medications other than those required;
- Psychological rehabilitation programs are not focused on the best interests of the child and are attractive to children.

In this regard, the Children's Ombudsman notes that the National Penitentiary Administration has failed to strengthen the child health protection system in the institutions it administers.

Regarding ***the protection of children aged 0-3 who are in detention institutions together with their mothers.*** This chapter highlights the fact that the situation has not changed and the authorities have not taken into account the Recommendations of the Children's Ombudsman.

The process of resocialization of children who have served their sentence does not correspond to international standards for the protection of children's rights because they are not involved in effective resocialization activities, and during the

reintegration of children into society, they become **Mowgli children** who do not possess the elementary knowledge of interaction with the social environment.

An alarming situation is represented by the group of children who have no one in society, and reaching freedom, due to shortcomings and problems, they commit crimes in order to be convicted, and going repeatedly in prison, an already known environment for them.

RIGHT TO EDUCATION

At the same time, the People's Advocate for Children's Rights finds that in 2019 the situation regarding the observance of the child's right to education has not undergone any essential changes.

Also, the national authorities did not take actions to implement the Recommendations stipulated in the Annual Report on the Observance of the Children's Rights in 2018 in the Republic of Moldova⁷³.

Following the analysis of the results presented in the PISA Report, the Children's Ombudsman finds that the educational process in the Republic of Moldova is not competitive enough and does not provide children with the minimum necessary knowledge to compete with their peers internationally.

There is a significant rise in the phenomenon of *bullying*, with cases becoming more frequent and more serious. If in previous years most cases were focused on acts of physical aggression between children (mostly boys), lately the situation is aggravated by cases of psychological violence, abuse and sexual violence between young children (10-14 years) of the same sex and, blackmail actions for the purpose of transferring property owned by the abuser and the exploitation of students by work by adults, including teachers, especially in rural areas.

The numerous initiatives to prevent violence against children are largely ineffective. So far, the relevant authorities cannot ensure the prohibition and elimination of forms of discrimination and violence between children and against children in educational institutions.

The People's Advocate for Children's Rights proposed supplementing the Education Code with a new principle of "**nonviolence**" and introducing a new chapter on the elimination of violence in educational institutions, and that bullying be defined by the provisions of a separate article.

The evaluation of ***the compatibility of the national curriculum with the international standard on the development of respect for human rights and fundamental freedoms, enshrined in the UN Convention on the Rights of the Child***, showed that children know superficially the rights and freedoms they have, children do not know the national institution of children's rights, the People's Advocate for Children's Rights (Ombudsman) and this subject is not included in the school curriculum; Information in the field of children's rights is mostly done by NGOs or volunteers from public or private institutions; The academic hours given for the study of subjects related to children's rights are insufficient, and their teaching is done by people who do not have the necessary training; The

⁷³ http://ombudsman.md/wp-content/uploads/2020/01/RAPORT_APDC_2019.pdf

impact of information actions in the field of children's rights spent in educational institutions is unsatisfactory.

Another issue analyzed by the People's Advocate for Children's Rights during 2019 was ***the low level of educational inclusion of children with special needs in educational institutions***. The complaints received by the Child's Phone of the People's Advocate Office indicates that this issue has not been resolved and even more, it is in a state of aggravation.

The Children's Ombudsman mentions that at present, the process of educational inclusion of children with special educational needs is a formal one that does not correspond to international quality standards.

RIGHT TO WORK

Thus, the Republic of Moldova remains overdue in this regard in the context of non-implementation of the Recommendations of the UN Committee on the Rights of the Child. Likewise, the Children's Ombudsman's Recommendations on Ensuring the Child's Right to Work were not implemented.

There is a lack of an effective mechanism for monitoring compliance with child labour law. Amendments to national legislation in the field of occupational safety and entrepreneurial activity do not have an approach based on human / child rights and this fact has generated situations of violation of human / child rights. Ambiguous legislation is the cause of misinterpretations of the control powers of public authorities, which pass the responsibility from one institution to another, in order not to assume assigned responsibilities.

The Children's Ombudsman considers that the national legislation largely corresponds to international standards for the protection of the rights of the child on the segment of ensuring *the child's right to work*. At the same time, it is imperative to mention that the authorities formally fulfill their duties of monitoring the observance of international and national standards in the field of protection of children's rights at work, always arguing with the imperfection of the legislation. Consequently, effective protection of employed children is not ensured.

OBSERVANCE OF CHILDREN'S RIGHTS IN THE TRANSNISTRIAN REGION

The observance of children's rights in the region not controlled by the Moldovan authorities is a dilemma for national public authorities, including the National Human Rights Institution. Thus, as a National Human/Child Rights Institution, the People's Advocate for Children's Rights has constantly monitored, since the beginning of her term of office (year 2016) the observance of children's rights on the left bank of the Dniester.

The Children's Ombudsman notes that the constitutional authorities continue to fail to provide effective protection to children in the Transnistrian region. Thus, at present there is no truthful systematized information on the observance of children's rights in that region.

The protection of children left without parental care and children placed in residential institutions is an issue that needs to be urgently included on the agenda of politicians and the negotiating group on the Transnistrian segment. There is not clear how many children are without parental care and children placed in residential institutions.

The juvenile justice system and the system of execution of sentences with deprivation of liberty by children. According to the information received from the NGOs in the territory, it is revealed that the children are subjected to inhuman and degrading treatment in detention institutions, they are not provided with procedural guarantees in criminal proceedings and in judicial examination, they are detained in precarious conditions for their life and health, etc.

The national authorities do not **guarantee of the right to a name and citizenship for all children within the State party.** There are several legislative and practical gaps were presented that hindered the process of documenting children in Moldova. Recent amendments to the legislation on civil status documents do not regulate all situations and categories of children for documentation with civil status documents of the Republic of Moldova, including children left without parental care and placed in residential institutions on the left bank of the Dniester.

Ensuring the right to education in the mother tongue is another issue. Romanian-language educational institutions continue to face impediments in their activity from the de facto authorities in the Transnistrian region, and the constitutional authorities fail to provide them with effective protection for constant activity. Children are put in the situation of learning in buildings that were not initially predestined for the development of the educational process and cannot meet all the requirements of the educational process. Thus, in most institutions children can not attend physical education and sports classes, because they do not have space, classrooms are redesigned from former offices that do not allow the simultaneous finding of more than 10 people, while the number of students in a class exceeds the figure of 20, the sanitary and drinking water insurance conditions are not fully insured, this representing a risk for the life and health of children. The problem of providing textbooks and literature in Romanian also persists.

CHILD'S PHONE (0 800 11116) IN 2019

The Child's Phone 0 800 11116 is a mechanism for direct communication of the People's Advocate for Children's Rights with adolescents and children throughout the country.

During 2019, **194 telephone calls** were registered to *the Child's Phone*. Of the total number of calls, **190 came from adults and 4 from children.** The People's Advocate for Children's Rights was notified ex officio based on the information provided, in **17 cases.**

According to the data, the number of calls to **the Child's Phone** registered in 2019 has increased.

Rights invoked on *the Child's Phone* between 2016 - 2019

The alleged right violated	Year 2016	Year 2017	Year 2018	Year 2019
Right to education	4	12	18	28
Right to social assistance and protection	6	16	29	29
Right to family	9	16	45	31
Right to health care	3	5	5	9
Right to information	0	0	8	5
Right to work	0	0	0	3
Right to free movement	1	5	0	2
Right to life and physical and mental integrity	0	4	0	0
Right to a name and citizenship	0	2	4	0
Violence in educational institutions	5	11	8	35
Domestic violence against children	5	7	10	7
Sexual abuse	1	2	0	2
Legal advice	19	12	0	30
Children at risk	3	3	1	6
Right to a fair trial	1	0	2	0
The right to rest	0	2	1	0
Inactions from state institutions	5	3	1	0

CHAPTER III. TORTURE PREVENTION

SUMMARY OF TORTURE PREVENTION ACTIVITIES

In 2019, 56 preventive visits and a monitoring visit to places of deprivation of liberty were carried out as part of the torture prevention activity⁷⁴.

Following the preventive visits, the Directorate for the Prevention of Torture outputs are:

- 10 visit reports with recommendations;
- 8 reaction acts based on the visit reports;
- 68 recommendations to the authorities (54 being executed, 5 rejected and another 9 being in the process of implementation).

In its work, the Council for the Prevention of Torture carried out 25 preventive visits and 1 monitoring visit (2 days)⁷⁵. A total of 35 places of detention visited. Following the preventive visits, there were submitted 3 visit reports with 69 recommendations in 2019, about 60% being implemented.

For the first time, with the financial support of the People's Advocate Office, by contracting the profile experts, the members of the Council carried out a monitoring visit on the field of Penitentiary no. 16-Pruncul (penitentiary hospital). The report with recommendations was submitted to the authorities concerned, in particular to the Ministry of Health, Labour and Social Protection, the Ministry of Justice, the National Penitentiary Administration and Penitentiary no. 16-Pruncul.

Likewise, the members of the Council met in 17 meetings.

On June 21, 2019 at the Academy of Sciences of the Republic of Moldova, the People's Advocate publicly submitted **the Thematic Report "The situation regarding persons retained and in police custody"**⁷⁶. The report was prepared following the visits and findings made by the People's Advocate Office during 32 documentary visits to police inspectorates, conducted in 2018.

Between June 20-27, 2019, the People's Advocate Office in cooperation with the National Penitentiary Administration and the General Police Inspectorate led the online Campaign "**EuNUAplic166¹-EuRespectDemnitateaUmana**", dedicated to the International Day for Supporting Victims of Torture⁷⁷. The campaign aimed to promote zero tolerance for acts of torture by people in the occupational risk group. Hundreds of police and prison staff took part in the first edition of this campaign. Also, during this campaign, the People's Advocate Office sent 30 panels "Torture prevention" with information support in the field for all territorial subdivisions of the GPI.

⁷⁴ 57 visits by the Directorate for the Prevention of Torture of and the Council for the Prevention of Torture;

⁷⁵ 1 day = 1 visit, according to the provisions of Art. 31 of Law 52/2014 on the People's Advocate (Ombudsman);

⁷⁶ <http://ombudsman.md/wp-content/uploads/2019/06/Raport-Situatia-persoanelor-retinute-RO-Web.pdf>;

⁷⁷ <http://ombudsman.md/news/evenimentele-planificate-de-avocatul-poporului-cu-ocazia-zilei-internationale-in-sprijinul-victimelor-torturii-26-iunie-2019-2/>;

Regarding the activity of torture prevention by training duty bearers and rights holders, the employees of the People's Advocate Office conducted training activities for 236 students from the faculties of law and psychology (The Alecu Russo Balti State University, ULIM and SUM); 429 employees of penitentiary institutions; 19 police officers; 121 employees and 120 residents of the Temporary Placement Centers for people with disabilities; 120 detainees. Likewise, the members of the Council for the Prevention of Torture conducted several training sessions with employees of public institutions.

It is worth mentioning the openness and willingness of the authorities to cooperate in the field of prevention of torture and ill-treatment, compared to previous years. However, the institutions monitored in the activity of torture prevention have started to realize the need to address zero tolerance towards acts of torture.

However, during the year there were cases of obstruction of access to PAO employees and members of the Council for the Prevention of Torture.

In 2019, with the support of the CoE in Moldova, 3 methodologies for monitoring places of detention were developed.

SUMMARY OF THE SITUATION IN PLACES OF DEPRIVATION OF LIBERTY

In general, the situation in places of deprivation of liberty remains worrying. The elective processes and the instability of the governmental act have left a critical imprint in all places of deprivation of liberty. The moratorium on employment, wage inequality, poor working conditions, etc. have contributed to the worsening of the situation in terms of providing human resources in the penitentiary system. Most institutions that provide custody of persons deprived of their liberty are in a crisis of employees, particularly professionals. Therefore, there is a decrease in the quality of resocialization, re-education and other activities. Meanwhile, the places of detention have become only long-term accommodation with irreversible effects on the physical and mental aspects of the person. It is obvious that the attention of the authorities must not be limited only to the component of creating good living conditions, but also to the occupational and educational field of the persons in custody.

Only 10% of the recommendations were implemented in 2019. The Ombudsman is alarmed by the attitude of public actors versus his comments and unwillingness to address them.

The authorities also did not rush to report to the UN Committee Against Torture, which in 2017 requested the Government to report by December 6, 2018 information on the implementation of point 16 (c), point 9 and point 14 (i) of its comments (CAT/C/MDA/3). This approach was resolved only on July 31, 2019⁷⁸.

On March 28, 2019, the ECtHR, due to the non-exhaustion of the national remedy, declared inadmissible few cases. The Court noted that with the introduction of the new compensatory remedy for inadequate detention conditions, approved by

⁷⁸ https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CAT%2fC%2fMDA%2fCO%2f3%2fAdd.1&Lang=en;

Law no. 163/2017 in force on January 1, 2019, the applicants must make use of this national mechanism.

The European Court has reiterated that ***it will not rule out a possible re-examination*** of the cases of the matter concerning the effectiveness of the remedy in question in the light of the decisions rendered by the national courts and their effective enforcement.

SITUATION OF PERSONS DETAINED IN PENITENTIARY INSTITUTIONS

There are 17 penitentiary institutions in the Republic of Moldova, of which one is a penitentiary for women, one for minors and one is a penitentiary hospital.

a. Penitentiary dynamics

On December 31, 2019, **6716 persons** were detained in the penitentiary administration system, out of which 5598 convicts, 1114 persons in pre-trial detention and 4 in custody. By subgroups, there were detained 406 women, 57 minors (including 2 minors), 101 former civil servants, 88 foreigners and 123 convicts to life imprisonment.

Regarding the dynamics of detainees, there is a slight decrease in their number. In 2018, 6990 people were detained, and in 2017 - 7635.

b. Human resources

On January 1, 2020 the limit staff of the National Penitentiary Administration (NPA) constituted 2951 units of which 452.25 units were vacant positions. For comparison: in 2018 there were 290.25 vacancies.

The ratio between employees and convicts is worrying: 1 employee to 5 convicts.

This imbalance shows that the closed system is maintained on the basis of reaching a “compromise” with detainees. In fact, the system will not withstand any revolts or disobedience, etc.

c. Renovation of the penitentiary infrastructure

We remind you that, according to the State Budget Law for 2019, 5 penitentiaries were to be rebuilt. For this purpose, expenses of over MDL 209 million were provided, allocated to the Ministry of Justice within the “Penitentiary System” program.

More than half of the total amount - about MDL 160 million, were to be spent on the Project “Construction of the penitentiary in Chisinau”.

Another important construction, which has been going on for several years, is the Balti Detention Center. This space for 650 preventers is only in the first stage of implementation (55%).

In the juvenile penitentiary, three blocks were rebuilt in proportion of 99%. According to the NPA, the penitentiary is to be renamed the Juvenile Center, and the detained juveniles are to be placed in a separate block to exclude their contact with adults from the five criminal investigation facilities.

d. Overcrowding in penitentiaries

The People’s Advocate noted that the National Penitentiary Administration has made efforts to overcome the phenomenon of overcrowding. The Ombudsman

encourages penitentiary institutions to continue to fulfill this obligation, so that every person in detention is guaranteed human dignity and physical and mental integrity.

However, in some prisons there is still overcrowding of housing.

At present, 4150 convicts are detained in conditions of less than 4m², and 2619 convicts are detained in conditions of more than 4 m².

e. Material conditions of detention

At present, the detention of persons can easily be qualified as detention contrary to Art. 3 of the European Convention and case-law. These findings have been repeatedly drawn by the UN Committee Against Torture (2014, 2017), the European Committee for the Prevention of Torture (2015-2019), the People's Advocate (2002-2019) and the Council for the Prevention of Torture (2017-2019).

In 2019, the NPA managed to purchase beds, nightstands, tables and chairs worth MDL 8 million. The furniture was distributed in penitentiaries and is to replace worn, defective equipment, etc. Also, hygiene products, bed linen, food preparation equipment were purchased, which has not been done in recent years.

The People's Advocate registered **851 applications from detainees**, invoking inappropriate conditions of detention; overcrowding; insufficient and poor quality food; lack of effective medical care (lack of medicines, lack of doctors, medical equipment), dental pain; unsanitary hygiene (parasitic insects, presence of dirt, lack of beds, presence of rodents, lack of adequate ventilation, access to daylight, deplorable condition of toilets, dirty conditions in bathrooms; lack of privacy in toilets and bathrooms; (some lead to illness) TB), insufficient winter heating, relations between detainees, discriminatory treatment, intimidation and harassment by the administration, etc. At the same time, the NPA registered 1113 applications / complaints from detainees, lawyers and their relatives regarding poor detention conditions.

f. Deaths in prisons

In 2019, there were registered 36 deaths. The number of deaths increased compared to the same period for 2018 in which there were recorded 29 deaths. According to the NPA data: 10 detainees died as a result of diseases of the cardiovascular system; 9 detainees - following suicide acts; 6 detainees - due to cancer; 3 detainees due to traumatic injuries, intoxication; 2 detainees - due to tuberculosis; other 2 detainees due to diseases of the digestive system, etc. 1 detainee died while waiting for the decision of the special commission of the NPA for release due to illness from serving the sentence.

g. Disciplinary isolation

The Ombudsman reaffirmed that under those conditions it was NOT appropriate to place any person, including for short periods of time. Also, here, we mention that the detention in the disciplinary isolation must ensure that the detainee has the possibility to sit or lie on the bed. This means that the bed must not be closed to the wall during detention or the legal provision in this regard would be contrary to the CPT's recommendations in this regard. Likewise, penitentiary institutions must take into account the length of detention. It should not be longer than 14 days.

h. Prisoners with diseases

In 2019, **80 cases of tuberculosis** were detected and another **178 detainees were diagnosed with HIV / AIDS** from 2473 blood tests. NPA gave assurances that the penitentiary institutions are taking actions to prevent / combat TB, the prophylactic-radiological examination of the new arrivals takes place, including 6 months of detention, etc. **89 detainees were included in the viral hepatitis C treatment program** under a contract with PMSI Republican Medical Diagnostic Center with a value of MDL 400 thousand.

Likewise, in all penitentiary institutions there are no spaces specially arranged for persons in delirium, with psychoses, etc.

i. Transfer of medical responsibility

The UN Committee Against Torture (CAT) and the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) have recommended that the Government urgently transfer responsibility for medical services from NPA to the Ministry of Health, Labour and Social Protection and ensure that the penitentiary hospital is affiliated to the Ministry of Health, Labour and Social Protection, etc. This recommendation has not been implemented.

j. Teleconferencing system

In 2019, there were held 2136 court hearings through the teleconference system, during which 2136 complaints were examined. Practically, teleconferencing video systems were installed in all penitentiaries. However, not all courts have this system

k. The compensatory mechanism

On January 1, 2019, entered into force the compensatory mechanism for precarious conditions of detention, established as a national remedy for resolving complaints about conditions of detention that seriously affect human rights.

In the process of applying the compensatory mechanism in practice, the normative framework has been interpreted differently by institutions - from penitentiary institutions to courts. Dozens of court rulings contradict each other, even if the situation is the same for detainees.

In 2019, more than 4,500 complaints were registered in the courts. 137 detainees were released, and another 1410 had their sentences reduced. Some detainees received monetary compensation amounting to about MDL 1.2 million.

l. Life imprisonment

19 detainees sentenced to life imprisonment declared a “hunger strike” in autumn 2019 as a protest action against the refusal of the courts to review their sentences, as well as the refusal to apply the compensatory mechanism for this category. The representatives of the Ministry of Justice claimed that they will identify solutions in this regard. During the monitoring period, this “solution” was not voiced.

m. Escort activity

As a result of the salary reform, there was affected a category of employees of the National Penitentiary Administration responsible for guarding and escorting

detainees. Thus, the penitentiary system had to deal with the situation and ensure the escort process in the absence of vacancies.

n. Violence between detainees

According to NPA data, there were recorded *bodily injuries* during the year: 1203 cases detected among detainees (2018-1038) which is an increase of 13.71%, 306 cases from police inspectorate isolators (2018-248) indicator increasing by 18.95%, 897 cases detected in convicts on the territory of the penitentiary (2018-790).

o. Application of physical force and special means

Penitentiary institutions resorted to the application of physical force for disobedience in 351 cases and in 300 cases to the application of special means (handcuffs). There are not included cases of verbal abuse. At the same time, NPA registered only 27 complaints regarding the abuse of the application of special means, and no service investigation was ordered.

p. Attacks on employees

The number of attacks on employees is maintained. In 2019, 16 cases of attempted attack were registered (in 2018-20 cases of attack).

q. Reporting injuries and allegations of torture

According to a research conducted by the PAO in 2019, the person in charge of reporting incidents, cases, etc. is the duty officer within the penitentiary institutions. Thus, the doctor / nurse reports internally, and externally it is done by the duty officer. The latter informs the head of the penitentiary, with the additional notes of the deed. Regarding the assessment of the existence of acts of torture and the circumstances of the trauma, the nurses in the penitentiaries claimed that they did not have such ability and competence. This can only be done by a forensic pathologist who specializes in the field. Forensic doctors in prisons do not exist.

In practice, there were no cases of refusal by penitentiary institutions to submit additional information to the People's Advocate Office in special press releases.

SITUATION OF PERSONS RETAINED AND DETAINED BY THE POLICE

a. Dynamics of retention and pre-trial detention

In 2019, there were retained 6331 people, of which 313 women and 40 minors. Likewise, 28 men and 100 women were retained (mostly in Chisinau).

b. Situation of new type isolators

In 2019, 9 preventive detention isolators out of 15 expected were renovated and put into operation. Therefore, **under renovation** there are 3 isolators; **in reconstruction** 3 isolators; **put into service** 9 isolators; **suspended** 25 isolators; **is to be suspended** 1.

Currently, there **operate** 13 isolators.

c. Allegations of ill-treatment in retention and detention

The People's Advocate reaffirms to the GPI and its territorial subdivisions to record / report any cases of injuries / violence / acts of ill-treatment when

retaining and detaining the person in accordance with CPT rules. The General Police Inspectorate must implement correctly and according to the CPT's suggestions the content of medical examinations, in particular, in the part related to allegations of ill-treatment in detention or retention.

d. Situation of old type isolators

“Old” isolators remain in poor working condition until all isolators to be refurbished are put into service.

e. Detention over 72 hours

During his visits, the People’s Advocate continued to identify detainees beyond the legal 72-hour period. We remind you that the European norms require that this term be reduced to 48 hours.

SITUATION OF FOREIGNERS IN PUBLIC CUSTODY

Even if the material conditions at the Temporary Placement Centre for foreign nationals appear to be good, access to the Centre’s facilities is limited. The bathroom is open once, twice a week, the rest of the days it is locked. The cells in which people are detained are closed during the night (starting from 22:00), so people do not have access to the toilet during the night, nor can they visit the prayer room to pray in the evening (problems have been identified especially during Ramadan).

Food for detainees is delivered through the catering service. Foreigners from outside the CIS complain about its quality. People placed who have the opportunity, procure their own dairy products, eggs, rice. Religious food preferences are not respected. Muslims complain that halal food is not served and they are forced to buy food themselves or stay hungry⁷⁹.

Following the findings of the People’s Advocate, the detainees are formally informed about the reasons for their placement at CPT’s.

Detainees have access to medical assistance, which is provided by the medical service of the Border Police Department.

CPT’s does not have a psychologist’s office.

Arbitrary detention is prohibited. However, during the monitoring period, there were identified cases of detention beyond the term provided by the court ruling.

CPT’s employees are not prepared for work in a multicultural and diverse context. Detainees face language barriers in communicating with guards. Some employees do not speak English. In addition to language issues, the attitude and behavior of CPT’s staff and guards is racist and xenophobic.

The People’s Advocate received information about allegations of violence by guards, degrading and inhuman behavior towards guards. Due to insecurity, fear and dependence on the institution, including threats - detainees refused to file complaints.

During the monitoring period, the issue of illegal deprivation of liberty was identified at the pre-judicial stage (placing persons in public custody).

⁷⁹ See http://ombudsman.md/wp-content/uploads/2019/04/Raport-CPTS-06.12.18_DpT-1.pdf/;
http://ombudsman.md/wp-content/uploads/2019/07/Raport-anual-de-activitate-CpPT-2018_Romana.pdf;

REMOVAL OF FOREIGNERS FROM THE REPUBLIC OF MOLDOVA

Declaring the foreigner as an undesirable person is a measure ordered by the competent authority for foreigners, the Bureau for Migration and Asylum (BMA), against a foreigner who has carried out, carries out or in respect of whom there are strong indications that he intends to carry out activities likely to endanger national security or public order.

The provisions of Law 270 of 2008 on Asylum in the Republic of Moldova, which, in paragraph 1) of Article 11 provides: “No asylum-seeker shall be expelled or returned from the border or from the territory of the Republic of Moldova.” The legislator did not provide for any exception to the enunciated legal norm.

The SIS must not abuse the return obligation when the BMA has not completed the protection procedures⁸⁰.

The case of Ozdil and others, renamed the “case of the Turks” removed from the Republic of Moldova, without following any legal procedure, on September 6, 2018 is an example of declaring undesirable persons in order to camouflage an extradition or “illegal transfer of persons”⁸¹.

The principle of **(non-refoulement)** is the key element of refugee protection under this Convention. This principle applies to the return of persons who are in the territory of the state, both for those who entered legally and for those who entered illegally.

Stricto sensu, according to Law no. 112/2008 on the approval of the National security conception of the Republic of Moldova, the only act that provides the notion of “national security” - National security is the fundamental condition of the existence of persons of the Republic of Moldova, the Moldovan state and is an objective of the country. The objectives of the national security of the Republic of Moldova are: ensuring and defending the independence, sovereignty, territorial integrity, constitutional order, democratic development, internal security, strengthening the statehood of the Republic of Moldova.

Therefore, foreign citizens can be declared undesirable easily and at any time based on the wording of Law no. 112/2008. Respectively, there is a need for sufficient and plausible arguments for any approach to national security conditions. The justification that “national interest” is the exclusive prerogative of the SIS bodies is not plausible, or “national” reveals that it affects the general public, i.e. these decisions must and can be known to society, part of the State.”

Also here, the People’s Advocate reminds about the protection of family life before a decision is made to declare the person undesirable, located on the territory of the country. Separation of family members can have devastating consequences for their well-being and ability to rebuild their lives. This is true for everyone, but especially for people who have fled persecution or serious injury and lost their families during forced travel and flight.

In 2019, 30 foreigners were declared undesirable persons, compared to 599 persons declared undesirable in 2018⁸².

⁸⁰ The People’s Advocate response act no. 06-2/35 of 31.10.2018 to the SCI, BMA and SIS;

⁸¹ See ECtHR in Ozdil and Others v. The Republic of Moldova, pp. 54-57 (application 42305/18);

⁸² http://ombudsman.md/wp-content/uploads/2019/12/Studiul_Situatia_str%C4%83inilor_FINAL.pdf;

The removal of the foreigner under escort involves his / her accompaniment by the specialized staff of the Bureau for Migration and Asylum (BMA) to the state border crossing point open to international traffic or to the country of origin, transit or destination.

In 2019, 73 foreigners were escorted away.

The Bureau for Migration and Asylum, by its decision, orders the measure of return from the territory of the Republic of Moldova and applies the ban on entry into the Republic of Moldova for a certain period.

In 2019, there were issued 397 return decisions of foreigners.

SITUATION OF PERSONS IN MILITARY UNITS

On June 3, 2019, photos and a message regarding allegations of ill-treatment of a soldier of the Military Brigade no. 2 in Chisinau⁸³ were posted on the social network "Facebook".

Immediately, the People's Advocate ordered the verification of the respective allegations.

Following this visit, the People's Advocate noted that the military in term are often subjected to acts of ill-treatment or humiliation for disciplinary purposes, which can easily reach the appropriate criminal qualification Art. 1661 of the Criminal Code (torture / ill-treatment). The People's Advocate is also concerned about the lack of mechanisms to protect the military in time against acts of ill-treatment, violence, etc.

SITUATION OF PERSONS ADMITTED IN PSYCHIATRIC HOSPITALS

In principle, hospitals should be safe places for both patients and staff. The mentally ill must be treated with respect and dignity, and in a human manner that respects their decisions and personality. Absence of violence and abuse on the part of staff to patients, or between patients, is a minimum requirement.

That being said, it must be added that sometimes the use of physical force against a patient cannot be avoided, to ensure the safety of both staff and patients.

In 2019, the PAO received 373 syntheses from the Chisinau Psychiatric Clinical Hospital - **344** syntheses, Balti Psychiatric Hospital - **1** synthesis, Orhei Psychiatric Hospital - **28** syntheses. Respectively, 14 deaths were reported (13 deaths + 1 suicide); 247 patients were detected with lesions (153 cases at hospitalization and 102 cases of lesions in custody); 8 suicide attempts; 5 cases of employee abuse; 3 cases of self-injury; 3 cases of violence between patients and another 3 cases of incidents per staff. Similarly, we note that of the total number of reported cases, according to gender statistics, 57% were patients and 47% were men.

In 101 cases, psychiatric hospitals resorted to counseling, the application of special means of containment, the method of chemical immobilization of patients. In most reports, the immobilization time was 30 min. These actions took place under supervision. Consequences would not have occurred.

⁸³ <https://www.facebook.com/groups/396011323875941/>;

SITUATION OF PERSONS IN PLACEMENT CENTERS OF PERSONS WITH DISABILITIES⁸⁴

In the Republic of Moldova there are 6 temporary placement centers for people with disabilities (TPCPD) for adults and another 3 for children⁸⁵. The centers provide temporary placement services for adults / minors, under the management and coordination of the National Social Assistance Agency.

The material conditions of accommodation are different from one institution to another. In general, they are not adapted to the specific requirements and needs of residents.

Most beneficiaries have dental issues. However, the guaranteed programs include only extractions and not the possibility of treating dental / stomatologic conditions, implants, etc.

The People's Advocate reminds the Placement Centers about the need to respect the right to information about the treatment offered to the beneficiaries, as one of the essential elements to ensure the patient's rights to health. The Ombudsman also recommends that the medical service regularly review the beneficiaries in order to establish the conformity of the necessary medical treatment, in particular of the beneficiaries with illnesses.

e. Occupational activities / social integration

The Branzeni Placement Center assumes that "occupational therapy" is applied. Although, there is a Work Therapy Workshop, composed of confectionery, creation, embroidery, tailoring, it seems that only a few beneficiaries are involved in the embroidery workshop and only at the time of the visit. Moreover, the visiting team was given the impression that the embroidery work carried out by one of the nurses in the women's block had taken place only to prove to the Ombudsman's team that the beneficiaries were busy. The same concerns were observed in all housing sectors. Immediately upon entering the institution, the nurses initiated the process of intensive washing of the halls, the living spaces (involving the beneficiaries), removed the beneficiaries from the living rooms to the TV and bathroom, as well as completed only where they managed the cabinets with brushes and toothpaste. Most beneficiaries confirmed that "*it's good here, they don't beat us, the food is good, etc.*", which raises reasonable concerns about the treatment of the beneficiaries.

Likewise, there is a non-functional "carpentry workshop" office, due to the lack of an instructor, but also for security reasons. According to the employees, the occupational therapy program includes: household chores (animal care, greenhouse work), on the territory of the institution (landscaping, planting flowers), tailoring workshop (embroidery and tailoring), maintaining cleanliness in living rooms. *De facto*, only a few beneficiaries are involved in the above-mentioned activities. For the most part, beneficiaries are not involved in activities for their development and socialization.

⁸⁴ Temporary placement centers for people with disabilities or ex-psychoneurological boarding schools (hereinafter TPCPD);

⁸⁵ CPPVPD Chisinau, CPPVPD Cocieri, TPCPD Balti, TPCPD Badiceni, TPCPD Branzeni, TPCPD Cocieri, CPTCD Orhei, CPTCD Hincesti and CPTCSP Soroca (www.anas.md);

The Branzeni Placement Center has a library, located in the basement. A beneficiary of the institution is employed as a librarian for 0.5 salary. He, as well as other beneficiaries mentioned that practically no one comes to the library, because they are illiterate or cannot read. Most books are artistic literature. A laptop and speakers are in the librarian's records.

In the Badiceni Placement Center there is a sewing workshop in which 12 girls are involved and a furniture workshop in which 8 men work. Some beneficiaries deal with weaving. According to the administration (which could not be verified) there are individual plans for the beneficiaries and once every 6 months the social worker assesses the situation of the beneficiaries. De facto, only a few beneficiaries are involved in the above-mentioned activities. For the most part, beneficiaries are not involved in activities for their development and socialization. The placement center has an office where the barber shop is located (the barber employed for 1 salary). There are no family planning programs. Badiceni PC has a greenhouse where employees (carpenters and auxiliary workers) and some of the beneficiaries' work.

The Ombudsman recommends that placement centers review occupational programs and initiate useful and necessary development and socialization activities for beneficiaries. Likewise, the People's Advocate reminds that the role of the social worker is very important in the social institution.

CHAPTER IV. THE ACTIVITY OF THE PEOPLE'S ADVOCATE OFFICE

THE CONTRIBUTION TO THE LEGISLATION IMPROVEMENT PROCESS

In carrying out the task of improving the legislation in force, the People's Advocate and the People's Advocate for Children's Rights formulated 18 proposals to amend the normative framework, which were submitted to both subjects with the right of legislative initiative at Government and Parliament level. A large part of the proposals have been accepted by the authorities concerned, but the elaboration of the draft amendments and completions of the respective normative acts is delayed.

In 2019, the People's Advocate submitted 3 notifications to the Constitutional Court.

At the same time, in 2019 the People's Advocates submitted 4 opinions / Amicus Curiae to the Constitutional Court with reference to the notifications under examination procedure.

In 2019, 42 draft normative acts were examined, on which the People's Advocates expressed their point of view in terms of their compliance with human rights standards.

CLAIM MANAGEMENT AND INVESTIGATION

In 2019, 1053 claims were received by the People's Advocate Office. Out of the total number of claims (1053), 927 (88%) claims were addressed to the People's Advocate and 126 (12%) claims addressed to the People's Advocate for Children's Rights.

Of the 1053 registered claims, 270 (25%) were accepted for examination (209 claims accepted for examination by the People's Advocate and 61 claims accepted for examination by the People's Advocate for Children's Rights), with the taking of procedural actions, pursuant to Art. 25 of Law no. 52/2014.

Also, 43 claims (4%) were submitted to the competent authorities for examination according to competence.

Another 740 claims (71%) were returned based on the provisions of Art. 18, 19, 20 of Law no. 52. In each case, the addressees were explained the procedures which they were entitled to use to defend their rights and freedoms.

According to the content of the claims received, the most alleged infringement of the following rights was most frequently invoked:

The right to a fair trial - 234 claims.

The right to life, physical and mental integrity - 197 claims.

The right to individual liberty and security - 67 claims.

The right to health care - 88 claims.

The right to private property and its protection - 46 claims.

The right to social assistance and protection - 83 claims.

The right to petition - 33 claims,

In about 100 claims, the petitioners requested information from the People's Advocate Office on the work of the institution, some aspects of human rights and the regulatory framework in force.

Of the 269 claims accepted for investigation, in 124 cases it was decided to terminate the examination of the applications in connection with the finding that the petitioner's rights or freedoms had not been violated. In 145 cases there was found the violation of human rights and freedoms and as a result of the intervention of People's Advocate, 108 people were reinstated, another 37 applications are under investigation.

In the process of investigating the claims, the People's Advocate undertakes certain procedural actions and issues certain types of documents, specific to the mandate, as follows:

Procedural actions	2015	2016	2017	2018	2019
Opinion with recommendations on the measures to be taken for the immediate reinstatement of the petitioner Art. 24 of Law no. 52/2014)	62	65	129	57	41
Motion for initiating a criminal / disciplinary trial regarding the person with positions of responsibility who committed violations that generated considerable damage to human rights and freedoms (Art. 25 par. (1) letter b) of Law no. 52/2014)	4	9	13	9	7
Notification on the case of violation of work ethic, procrastination and bureaucracy (Art. 25 par. (1) letter d) of Law no. 52/2014)	11	19	6	9	1
Actions in court / intervention in the process to submit conclusions (Art. 25 par. (2) and (3) of Law no. 52/2014)	2/2	9/7	13	1/11	4/12
Agreement for conciliation of the parties (Art. 23 para. (3) of Law no. 52/2014)	1	2	2	1	-
Proposals regarding the improvement of the activity of the administrative apparatus (para. 6, point 7 of Law no. 164/2015)	2	1	4	-	8
Request for conducting judicial expertise (Art. 11 letter m of Law no. 52/2014)	1	1	-	-	-

EDUCATION IN THE FIELD OF HUMAN RIGHTS: THE CONTRIBUTION OF THE PEOPLE'S ADVOCATE OFFICE

In 2019, the People's Advocate Office continued to strengthen its capacity to organize training activities in the field of human rights, according to methodologies and procedures established by the institution, in accordance with training programs developed for certain target groups of professionals. The number of training activities increased, from 29 in 2018 to 83 in 2019, of participants - 530 - in 2019 compared to 397 in 2018, but, last but not least, the degree of satisfaction of the participants, the impact of the trainings.

Also, the institution took a first step towards evaluating the format and content of teaching the discipline on the functions and responsibilities of the People's Advocate / People's Advocate for Children's Rights at law schools in higher education institutions in the country.

The representatives of the Advocate's Office informed in **104 activities, meetings, visits** over **3122 persons** on various topics in the field of human rights. Current issues in the field of human rights were also addressed at the over **26 events: conferences, round tables, meetings, mobilization and awareness actions, with the participation of 1640 persons.**

In total, in 2019, 212 training, information and promotion activities took place in the organization of the officials of the People's Advocate's Office, with participation of 5292 persons.

Last year, the institution of the People's Advocate published **44 informative materials**. From the resources provided in the Office's budget, **21 publications** were published, with the financial support of international organizations. The Ombudsman's Institution published **23 informative materials**.

In 2019, the media interest in the People's Advocate Office also increased. Thus, last year the number of press releases about the activity and initiatives of the People's Advocate, the People's Advocate for Children's Rights increased from 400 last year to about 700 in 2019.

PROMOTING HUMAN RIGHTS THROUGH TRAINING

In 2019 the field of training activity was marked by the increase of the institution's capacities and ensuring the continuity of the training process on human rights, for a total of 530 participants, 83 activities and 200 hours.

The training activities took place in several directions and covered various topics depending on the target group of training beneficiaries.

Thus, the course prepared in 2018 for the employees of the penitentiary system was continued and completed.

It started developing a separate module "Prevention of torture and ill-treatment of persons in state custody, practical aspects of prevention, responsibility for the application of torture".

In 2019, the carabinieri training process began. The People's Advocate Office organized and conducted 15 training sessions (60 hours) and included 135 carabinieri. In parallel, a training course was developed for the carabinieri from the unit in Comrat, which has some peculiarities and is developed in Russian.

Also, in 2019, a training course for journalists was developed - "Hate speech and discrimination in the press. Preventing and combating hate speech and discrimination in the activity of journalists", with the participation of 15 journalists from Comrat.

In the context of the adoption of Law on Whistleblowers no. 122 of 12.07.2018 and the appointment of the People's Advocate as an authority that can provide protection to whistleblowers, at the PAO has started the development of the training course "Whistleblowers" for civil servants, health workers and other categories of employees.

Assessment of participants, according to the questionnaires completed at the end of the training:

73% - positively appreciated the impact of the training

86% - highly appreciated the trainer's performance

78% - would like to be trained in other human rights topics

Contribution to human rights education by making recommendations in the field of formal and non-formal education

In 2019, the People's Advocate aimed to monitor the state of affairs regarding the training on the functions and attributions of the People's Advocate at the law faculties in the country and at other faculties where the discipline / module "Legal protection of human rights" is taught. To this end, a questionnaire was developed with general questions about the mission and role of the People's Advocates, their competencies, the students will only tick the correct answers from the proposed options.

To create a general opinion about the state of affairs, only a few higher education institutions were selected, from Chisinau, Balti, Cahul and Comrat (a total of **319** students).

The necessary conclusion is that at present, for various reasons, students from law and other faculties who train specialists in fields close to the law system do not fully acquire the necessary knowledge on national mechanisms for the protection of human rights, so that he / she can later exercise his / her professional duties effectively. Future prosecutors, judges, police officers, lawyers do not have a very clear impression of the role and place of the People's Advocate in the national system of human rights protection and have little chance that, without self-training, they can act knowingly for the protection of human rights in exercise of functional duties.

PROMOTION OF HUMAN RIGHTS IN THE COMMUNITY

In 2019, the People's Advocate Office organized 130 activities for information and promotion of human rights, involving 4762 people - beneficiaries of rights.

Within 33 activities, was pursued the purpose of informing about the role and mission of the People's Advocates.

During the previous year, the People's Advocate Office elaborated and submitted at some public events several studies and reports: The report on the observance of fundamental human rights and freedoms in 2018; Thematic report on the observance of the rights of aliens in state custody; Thematic report on the observance of the rights of children in state custody; Thematic report on the situation of persons

retained and in police custody; Thematic report on the assessment of the level of ensuring the patient's right to safety and quality of medical equipment; Thematic report on palliative care.

Several promotion / information actions were carried out on the fight against torture, discrimination and hate speech:

- The [#EuNUAplic166¹](#) [#EuRespectDemnitateaUmana](#)
- [#MoldovaFaraUraSiDiscriminare](#), which included a contest for the best anti-discrimination slogan.
- In the context of the 30th anniversary of the UN Convention on the Rights of the Child, 35 advocacy / information actions on child rights took place, with the participation of 1,050 children and 300 adults. The People's Advocate for Children's Rights organized *the Annual Children's Forum*, as well as regional meetings to consult the opinion of children in Balti and Comrat, several meetings, competitions on the occasion of the International Children's Day.
- On June 1, the People's Advocate for Children's Rights organized a public activity entitled "Know your rights", with the aim of informing children about the rights and responsibilities that children have.

EDITORIAL ACTIVITY

The need to inform the representatives of national minorities in their language about the Ombudsmen and their work, about various aspects of combating discrimination was the reason why the People's Advocate Office with the support of the OSCE Mission to Moldova edited in six languages (Romanian, Russian, Bulgarian, Romanian, Ukrainian, Gagauz) information materials: *Who is the People's Advocate ?*, *Who is the People's Advocate for Children's Rights?* and *Anti-discrimination mechanisms*.

Traditionally, *the Report on the observance of human rights in the Republic of Moldova in 2018* was printed, the paper being distributed to libraries in the country to the general public at events organized by the PAO.

The activity in 2019 on one of the priority areas for the Ombudsman - the right to health, following an extensive monitoring ended with the publication of **the Report on the implementation by the Republic of Moldova of the Resolution on the consolidation of palliative care as a component of integrated treatments lifetime (adopted at the 67th World Health Assembly on May 24, 2014)**, the paper was printed with the support of the Soros Foundation Moldova. In the same thematic area continued the elaboration and editing of the series of leaflets "**14 patient rights**", initiated a few years ago by the PAO, with three leaflets: **The right to respect for patient time, the patient's right to personalized treatment, the right to quality standards**.

By Law no. 122 of 12.07.2018 on Whistleblowers, the People's Advocate was assigned the role of protection of integrity warnings. Given the fact that the company is not sufficiently well informed about this attribution of the Ombudsman, the institution printed with the support of UNDP Moldova *two informative materials about Whistleblowers*, in Romanian and Russian.

Detainees apply to the People's Advocate Office with many requests, so the need arose to print the leaflet ***How to contact the People's Advocate if you are in detention?*** The publication provides that category of petitioners with further explanations on the procedure for submitting and examining the Ombudsman's application.

An important category of beneficiaries of PAOs are the elderly. For this category of beneficiaries, the leaflet ***the Rights of the elderly was elaborated, published in three languages: Romanian, Russian and Gagauz.***

Several informative materials needed for the work of the Children's Ombudsman have been edited or re-edited: ***the People's Advocate for Children's Rights (children's leaflet), the Children's Council of the APDC, the Recommendations of the UN Committee on the Rights of the Child, the UN Convention on the Rights of the Child, the Report observance of children's rights in the Republic of Moldova***, the last three being published with the support of UNICEF Moldova. The materials are distributed during the events organized by the Children's Ombudsman and at other activities: meetings, audience, conferences, training and information activities.

Întreprinderea de Stat Firma Editorial-Poligrafică
„Tipografia Centrală”
MD-2068, Chișinău, str. Florilor, 1