
UN Human Rights Council
UPR Working Group
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REPORT

on the human rights situation in the Republic of Moldova within the framework of the 3d cycle of the UN Universal Periodic Review

This Report has been developed by the Office of the People's Advocate (Ombudsman) of the Republic of Moldova, in its capacity as National Human Rights Institution accredited with the "A" status.

NATIONAL HUMAN RIGHTS INSTITUTIONS

1. The state has taken significant legislative measures to establish the national institution for the protection of human rights in the Republic of Moldova, including granting a constitutional mandate to promote and protect human rights, by amending the Constitution of the Republic of Moldova in 2017.¹
2. The adoption of the draft law aimed at strengthening the financial independence of the institution, based on the recommendations of international mechanisms and the Opinion of the Venice Commission (2015), is delayed and the financial resources planned under NHRAP² 2018-2022 for the reconstruction of the PAO headquarters were not distributed.
3. Despite the fact that for 3 consecutive years the budget of the Office of the People's Advocate (OPA) was constantly increasing and was in line with the amounts requested by the institution, in 2021, the allocated budget, in the part related to the fulfillment of the mandate, was reduced by 32.5%.
4. The lack of healthy working conditions and the low level of salaries contributes to staff turnover which has a negative impact on the performance of the institution.
5. The initiative of Government to establishment a new mandate for Entrepreneurs' Rights within NHRI, will also undermine the Ombudsman's institution, as it does not fall within the remit of a national institution for the protection of human rights, in accordance with the Paris Principles.

RECOMMENDATION:

6. Strengthening NHRI in accordance with Paris Principles and international recommendations.

JUSTICE REFORM

7. Access to justice is often limited for people living in poverty and for those with disabilities, for survivors of gender-based violence and for the elderly.³ Between the difficulties in accessing justice are the long distances to the courts, the long time of examination of cases, as well as the infrastructure in the courts, which is only partially adapted for the access of people with locomotor disabilities, for those with visual or hearing impairments.
8. Others problems specific for justice system are: poor implementation of the legal framework; low level of independence, transparency and integrity in the judiciary; non-transparent process of the selection and appointment of judges; lack of real political will to carry out judicial reform; low level of state-guaranteed legal aid services; lack of effective corruption prevention mechanisms; low level of public confidence in the justice system and others.⁴

HUMAN RIGHTS IN TRANSNISTRIA

9. There are not significant progresses regarding the observance human rights in Transnistrian region after the visit of the UN Human Rights Senior Expert, Thomas Hammarberg.
10. Moreover, the pandemic crisis highlighted even more the already known problems facing the inhabitants of the Transnistrian region. Thus, the inhabitants of the regions were restricted their right to free movement, under the pretext of stopping the spread of the COVID-19 virus.

¹ Title II, art. 59¹.

² National Human Rights Action Plan.

³ according to a research conducted by the United Nations Development Program (UNDP) Innovation Laboratory (MiLab) Moldova.

⁴ Among the respondents interviewed during the group discussions, distrust in the judiciary in the Republic of Moldova persists. It was mentioned that justice is selective and marked by acts of corruption. Thus, the interviewees consider that people with higher incomes and who have socio-political support are advantaged. The study of perceptions on human rights in the Republic of Moldova, carried out at the command of the People's Advocate Office, 2021.

This has led to the restriction of other rights, such as the right to work of people working on the right bank of the Dniester. At the same time, people who needed medical services also did not have access to them due to these restrictions on free movement. The access to their own financial resources available to the inhabitants of the region in the financial institutions on the right bank of the Dniester was also limited.

11. There are no efficient mechanisms for the promotion and monitoring mechanism of human rights situation in the Transnistrian region.

12. The assistance for victims of violations of human rights in Transnistrian region most often are offered by NGOs.

CIVIL SOCIETY AND HUMAN RIGHTS DEFENDERS

13. The harassment and intimidation by politicians of the most important and representative non-governmental organizations has had a negative impact on the activity of the associative sector, which has an important role in promoting democratic change, through their activity in various spheres in areas not covered by the state and through their ability to transform society.

14. In his public statements, the People's Advocate drew the attention of politicians that civil society belong to the category of human rights defenders, who have a positive, important and legitimate role in contributing to the realization of human rights at local, national, regional and international level, including by engaging in dialogue with the authorities and supporting their efforts to implement the obligations and commitments of States in this regard.

15. The recommendations on drafting and adopting a special law on human rights defenders, as well as ensuring the adoption of a law on NGOs that respect international human rights standards, were not implemented.⁵

PROHIBITION OF TORTURE

16. By including the Anti-Torture Section in the PCOCSC⁶, it has decreased its efficiency as well as the identification and fight against torture.

17. The legal framework does not define the notion of "inhuman treatment" and "degrading treatment" and condemns those acts admitted only intentionally.

18. The compensatory mechanism introduced as national compensatory remedy for detention in poor conditions is not very efficient⁷.

19. According to the visit report of the Council for the Prevention of Torture to the Forensic Psychiatry Service of the Center for Forensic Medicine, forced hospitalization patients are still subjected to ill-treatment⁸.

20. The overcrowding of detention facilities remains acute⁹.

21. The CPT recommendations (2015/2020) remain valid.

22. The rate of criminal cases initiated on allegations of torture, inhuman and degrading treatment is relatively low compared to the number of complaints registered¹⁰.

⁵ The recommendation of the United Nations Special Rapporteur on the Status of Human Rights Defenders, Michel Forst, after the country visit in 2018.

⁶ Prosecutor's Office for Combating Organized Crime and Special Cases.

⁷ In 2020 from 4053 applications examined by judges, 358 were admitted and **only 200 detainees** were released from detention by combining the reduction of sentence with parole (in 2019 - only 53 detainees released). And, the number of monetary compensations allocated to the detainees is over 99.089,75 EUR.

⁸ Both Law 1402/1997 and the Code of Criminal Procedure have not been amended in terms of ensuring the rights against forced hospitalization.

⁹ In 2019, 4 preventive detention isolators (police) were renovated and put into operation. Another 11 insulators are to be renovated with EU support by 2022. Efforts to carry out cosmetic repairs continue in prisons. The construction of the new penitentiary is postponed for 2022, and the detention house in Bălți is in reconstruction.

¹⁰ In 2019, out of 13 complaints regarding "torture" - only 8 criminal cases were initiated, and out of 833 complaints regarding "inhuman or degrading punishment" - only 51 cases were initiated.

23. According to the reports of the Ombudsman and the Council for the Prevention of Torture, the concerns about improve the access to medical, psycho-social and mental health services for all persons in detention, especially for those belonging to vulnerable groups, are still valid.

24. There is no training program provided by State regarding torture prevention. The Office of the People's Advocate is providing torture-prevention trainings.¹¹

25. The Law no.52 on People's Advocate (Ombudsman) has not been amended in accordance with the Opinion of the Council of Europe's Directorate-General for Human Rights and the Rule of Law, of 28 November 2015.

HATE CRIMES

26. The draft law on amending the Criminal Code and the Contravention Code, which proposes the formulation of a clear and complex definition, criminalization of all illegal acts motivated by prejudice, contempt or hatred, was not adopted. It was drafted and examined by Parliament in first reading in December 2016.

FREEDOM OF SPEECH AND MEDIA

27. The recently adopted Code of Audiovisual Media Services¹² requires some improvements in ensuring the fairness and impartiality of Moldovan television.

28. Although the legislation stipulates the limitation of the number of media institutions owned, these provisions are not complied with, and the Audiovisual Council does not insist on compliance with the obligation of audiovisual media service providers to make public the data on funding sources. There are no data on the application of sanctions in such cases. Full transparency of media ownership and the advertising market is not ensured. This is why small and independent groups do not have the financial and human resources to survive in the media market.

29. Journalists continue to be subjected to attacks and intimidation. The state fails to guarantee an environment that favors the activity of journalists, freedom and pluralism of the media.

30. The International Organization "Reporters Without Borders" characterized the Moldovan media as diverse, but highly polarized, noting that the editorial policy of major media institutions it is influenced by the political and business interests of their owners. It was also appreciated that politically motivated owners limit the ability of journalists to produce balanced and impartial reports.¹³

31. The decline in media freedom in the last seven years has continued, with the Republic of Moldova falling within the World Press Freedom Index from 55th in 2013 to 91st in 2020.

RIGHT TO AN ADEQUATE STANDARD OF LIVING

32. In general, in 2020 the volume of social protection expenditures increased by 26,852,196 thousand MDL or approximately 12.27% compared to 2019.

33. However, the amount of the minimum old-age pension covers only 64.7% of the subsistence minimum for pensioners (an increase of 5.95% compared to 2019), the amount of the minimum pension in the event of a severe disability covers only 48.5%, and the size of the state social allowance is only 32.3% of the subsistence minimum for an elderly person.

¹¹ In 2018, 300 employees of the penitentiary system and 140 students were trained; in 2019 - 429 employees of the penitentiary system, 236 students, 19 employees of the police, 121 employees and 120 residents of the Centers for the Temporary Placement of Persons with Disabilities and 120 detainees; in 2020 - 525 employees of the penitentiary system, 123 students, 25 employees of the Ministry of Interior, 323 detainees, 86 carabinieri and 30 employees of the border police. In total: 15-2020 trained 1535 professionals, 499 law and psychology students and 563 beneficiaries.

¹² By adopting the new Code of audiovisual media services of the Republic of Moldova no. 174/2018, the State undertook to develop audiovisual pluralism, to ensure the independence of the media and the protection and development of the national audiovisual space.

¹³ In the Report on Freedom of the Press of 2020, which referred to the state of affairs in 2019

34. The Council of Europe Commissioner for Human Rights, Dunja Mijatovic, in his Report on visit to the Republic of Moldova from March 9-13, 2020¹⁴, noted the general lack of social housing and limited access to water and sanitation, especially in rural areas.

RIGHT TO WATER AND SANITATION

35. Obvious disparities continue to exist in the access and quality of water and sewerage services between urban and rural areas. Only 1/3 people in rural areas have a connection to a public water supply network and only 1/8 people have a toilet with water jet. The low level of access to sanitation and the lack of adequate treatment directly impose a cost on public health and the environment. It is estimated that almost one million people rely on drinking water from shallow polluted wells, and 80% of wells do not comply with drinking water regulations¹⁵.

36. Inclusive development remains a major challenge in this sector. The gap between rural and urban areas in terms of access to services is large, and the poorest segment of the rural population benefits from the lowest level of services. Access to water toilets is 94% in urban areas and only 48% in rural areas. Sewerage systems serve 3.6% of the rural population, while in urban areas it reaches 76.3% of the population. Only 1/3 of rural households have access to a publicly managed source of drinking water.¹⁶

RIGHTS OF PEOPLE WITH DISABILITIES

37. Despite all the efforts, the situation in the country's institutions have reported cases of forced treatment without a legal mandate; administration of psychotropic drugs without consent; violence; abuse; involuntary confinement; forced labour; and humiliating and degrading treatment.

38. Most residential institutions suffer from a lack of medical staff, inadequate housing and sanitation units and a lack of adequate accommodation for people with reduced mobility. There have also been shortcomings in documenting, investigating and managing cases involving people with intellectual and psychosocial disabilities by police, prosecutors, judges and health care providers.

39. Currently employment rate of people with disabilities is twice lower than that of the general population.¹⁷

40. Authorities should also take steps to improve the accessibility of public spaces, transport and services and to ensure that universal design and reasonable accommodation are taken into account in the development of all sectoral policies, for their full and effective participation and integration into society.

41. Authorities should also take further steps to address stigma and discrimination at work.

42. Access to information, adaptation of public services to ensure access for people with disabilities, adaptation of social infrastructure are the issues that the authorities still need to identify solutions for the proper integration of people with disabilities in society, and their ability to realize their right to an independent living in the community.

LGBTI

43. Sexual minority rights (LGBT) are among the least respected - 19.4%.¹⁸

¹⁴ <https://rm.coe.int/report-on-the-visit-to-moldova-from-9-to-13-march-2020-by-dunja-mijato/16809ed0e4>

¹⁵ microbiological and nitrate contamination etc...

¹⁶ Study on „Security of water supply and prospects for the future in Moldova”, World Bank

¹⁷ The law stipulates that 5% of the workforce in companies with 20 or more employees should be people with disabilities. People with disabilities have the legal right to two months of paid annual leave and a six-hour working day, benefits that make employers less willing to hire them. Although the National Employment Strategy 2017-2021 contains important public policy measures focused on increasing the employment rate of people with disabilities.

¹⁸ In accordance with the study of perceptions on human rights in the Republic of Moldova, carried out at the command of the People's Advocate Office, 2021.

44. LGBT representatives also said that there is an improvement in the attitude towards community members, especially from public service providers, civil servants, but also from ordinary citizens, which is largely due to intense information and training activities from civil society.¹⁹

45. Representatives of the LGBT community mentioned that their right to physical and mental integrity is also violated.²⁰ Gays are most often confronted with situations of aggression, while society is more tolerant of lesbians.

RIGHTS OF THE CHILD

Right to health

46. The situation and the excessive bureaucracy and mentions that children with rare diseases have the right to equitable access to high-quality diagnostic, treatment and healthcare services. Interventions in this segment are delayed and the legislation in this regard is imperfect. National legislation does not contain the notion of "rare disease", and at national level there is no national program for the control of rare diseases. There is also no clinical laboratory equipped with modern devices for prenatal or early diagnosis and prophylaxis of rare diseases, there are no clear protocols and specialists trained in their treatment.

Children with disabilities

47. Quality prevention and rehabilitation services for children with disabilities, especially those with rare diseases and those at risk of disabilities, are not sufficiently developed and are only available in large cities or urban areas. Medical personnel involved in identification and intervention therapies often use outdated methodologies for detecting developmental deficiencies. Moreover, a lack of coordination between the health, education and social services sectors often leads to delays, further affecting the intervention and continuity of support as children move from one residence to another and generally affecting the quality and continuity of healthcare for children with disabilities and those at risk of disabilities, especially for children living in remote rural settlements.

Right to education

48. The major problems of the distance education process, was the fact that over 30% of children enrolled in the education system did not have the opportunity to participate in online because of the lack of computer technology or at least a telephone with internet connection.

Olga VACARCIUC
Secretary general

¹⁹ At the same time, several respondents, including experts, mentioned that compared to 4-5 years ago, the attitude of police officers towards LGBT has changed significantly, and this progress is due to information, empowerment of police officers to interact with LGBT people. Although there are still some incidents, gays are no longer spun to be extorted for money, in exchange for not to disclose to the family, people in the community, their sexual orientation.

²⁰ Society condemns them, blames them, threatens them and in some situations they are assaulted. When they reveal their sexual orientation, a large part of LGBT people are psychologically pressured and even physically assaulted, including in the family.