



REPORT

ON OBSERVANCE OF CHILD'S RIGHTS IN THE REPUBLIC OF MOLDOVA IN 2021

CHIȘINĂU 2022



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INTRODUCTION

When people face a real and immediate threat to their lives, they trigger their basic instincts to run or fight. Human societies around the world responded similarly when the COVID-19 pandemic broke out in the first quarter of 2020. First of all, they fled the pandemic by imposing travel and public gathering restrictions. Then they stood up to it by funding scientific research for a cure and vaccine against the virus and supporting people whose lives and livelihoods have been disrupted by the pandemic. Over time, the pandemic circumstances have become a way of life, and now, each of us should adapt to new realities to cope with new challenges that most severely impact children and their rights.

This situation has largely influenced the actions of the Ombudsperson for Children's Rights and the Office of the Ombudsperson, in particular, the Children's Rights Department team during the pandemic period. Assessing the seriousness of the situation, we reaffirmed our commitment to children by monitoring the observance of their rights across three dimensions: promotion of rights, prevention of rights violation and protection of children. The closure of a large number of institutions that ensure and protect children's rights continues to be a major risk for the work of the children's rights protection system.

In 2021, we advocated for all service providers to return to regular but safe working arrangements for children and their families and to work on safe re-opening of services and premises for children. Our objective was not simply to preserve the children's rights *status quo* before the pandemic, but also to restore all children's rights as quickly and safely as possible, in particular to ensure the right to education with a safe physical presence, ensure the right to health by providing the highest health standards for all children, including children suffering from rare diseases, children with disabilities or in palliative care. In this context, I strongly reaffirm the need to broaden the agenda on children's rights during the pandemic and strengthen children's best interests and voices more widely.

Although the situation imposed the need to prioritise the observance of the right to health over other rights in the Convention, it cannot justify the total neglect of other rights guaranteed by the UN Convention on the Rights of the Child. In this context, in 2021, I intensively monitored the observance of all provisions established by the international convention at the national level, and I also initiated a broad process to monitor the

implementation of the recommendations of the Ombudsperson for Children's Rights submitted during the mandate in the following areas: *Observance of the right to health in educational institutions, observance of children's rights in detention, assessment of the situation of children placed in boarding schools for children with mental disabilities in Orhei and Hincesti during the deinstitutionalisation process, social inclusion of children with sensory disabilities, social inclusion of children with autism spectrum disorders in the Republic of Moldova, children's participation/engagement in the election process, assessment of the operation of psychological support services for abused children, observance of the rights of institutionalised children from tuberculosis outbreaks, assessment of the COVID-19 impact, undertaken measures to protect children's rights, children's rights education in the national education system.*

Findings on the implementation of recommendations and insignificant improvement in the situation across monitored areas support the view expressed in previous annual reports that improvements in the fulfilment of children's rights are not enough to ensure the full observance of children's rights. At the same time, I note that many recommendations of the Ombudsperson for Children's Rights have not been implemented.

I will continue to monitor the observance of the above mentioned children's rights, and as a priority, I will monitor the observance of the rights of children suffering from rare diseases, children in palliative care, children with cancer and mental illness, pre-term newborns, street children, juvenile justice, children left without parental care, children victims of violence and abuse to ensure the sustainability and consistency of actions.

I aim to evaluate the national child protection system and its response to children's needs, including the quality of social and educational inclusion of children with disabilities.

I will promote and support the concept of '*Children – Human Rights Defenders*' by ensuring a safe and fair environment and I will pursue the inclusion of a separate chapter in the Concept of Human Rights Defenders, developed and launched by the Office of the Ombudsperson in 2021.

It is also very important to establish a system of juvenile justice and develop a national strategy on human rights/children's rights education for all people and human rights/children's rights professionals.

The right of the future generation will continue to be my work goal.

Another dimension to focus on is the observance of state obligations regarding the implementation of international acts, in particular the UN Convention on the Rights of the Child and the Recommendations (concluding observations) of the UN Committee on the Rights of the Child, as well as the Council of Europe Convention on the protection of children against sexual exploitation and sexual abuse (Lanzarote Convention).

I draw the attention of the state authorities to the necessity and appropriateness to ratify the Optional Protocol to the UN Convention on the Rights of the Child regarding the communication procedure.

I extend my gratitude to my European counterparts and trusted partners of the Office of the Ombudsperson with whom I have worked to promote the concept and the practice of a quick response mechanism to the needs of children at risk or in any public danger. Thus, I emphasise the support of UNICEF that has been crucial for the observance of children's rights in the Republic of Moldova.

Last but not least, I would like to express my sincere gratitude to the team of the Office of the Ombudsperson, especially the Children's Rights Department, which assisted me in fulfilling the mandate duties.

Ombudsperson for Children's Rights
Maia BĂNĂRESCU

CHAPTER I

CHILD'S RIGHT TO EDUCATION

Children have the right to education that enables them to develop their skills and personality in a non-discriminatory manner.

The right to education is one of the fundamental rights of the International Convention on the Rights of the Child and is regulated by Articles 28, 29, 30 and 31. Article 28 of the Convention mainly covers the obligation of the States Parties to establish some educational systems that ensure the exercise of children's rights and access to education, while Article 29 emphasises individual and subjective rights of the child to quality education (goal and objectives of education). Since education should cover the development of the child's personality, talents and physical, mental and emotional abilities to their fullest potential, the implementation of the rights envisioned in Article 31 (child's right to rest and leisure, to engage in play and recreational activities and to participate freely in cultural life and the arts) is crucial for the achievement of the provisions set out in Article 29¹.

At the national level, the right to education is guaranteed by Article 35 of the Constitution of the Republic of Moldova, the Education Code and Articles 9 and 10 of the Law No 338 of 15 December 1994 on the rights of the child.

The analysis of the compatibility of the national standards guaranteeing the child's right to education with the international standards show a partial compliance of the listed national standards, which is proof of the need to amend the regulatory framework.

At the same time, the Ombudsperson for Children's Rights notes that the observance of the child's right to education was not significantly changed in 2021. The Ombudsperson for Children's Rights reiterates the issues addressed in the annual Report on the observance of child's rights in the Republic of Moldova in 2020 and points out the recommendations on children's nutrition covered in the annual Report on the observance of child's rights in the Republic of Moldova in 2016. Although the recommendations have been submitted to competent institutions since 2016, the recommendations have been either partially or poorly implemented.

¹ <https://irido.ro/irido/pdf/Drepturile%20Copilului-Dreptul%20la%20educatie.pdf> , pag. 7;

Children's nutrition in educational institutions is one of the subjects constantly addressed by the Ombudsperson for Children's Rights.

The Ombudsperson for Children's Rights also focused on the issue of children's nutrition in educational institutions in 2021. The approved menu for pre-school educational institutions and the quantity and quality of food products were considered a major problem.

As a result of the changes to children's nutrition, the Ombudsperson for Children's Rights was notified by many parents and managers of institutions who claimed that the approved menus were not adapted to real nutritional needs of children, stating *complete exclusion of salt from meals, small portions per child, reduced quantity of meat during the main meals of the day, reduced quantity of pasta and bread*. It was also claimed that the authorities responsible for creating menus did not take into consideration that children are very active during the day and it is absolutely necessary to include two refreshments between main meals.

The Ministry of Health developed recommendations for a healthy diet and appropriate physical activity in educational institutions in the Republic of Moldova, it provides *recommended food products, a list of prohibited food products in general educational institutions, children's age-appropriate nutritional needs and a flexible set of recipes to be used in schools and kindergartens. The implementation of these recommendations aims to improve the health of children and adolescents by ensuring balanced and healthy nutrition in schools and kindergartens. New menus for the cold and warm seasons of the year have been developed for the first time. The menus include a diet rich in fruit and vegetables, promote the consumption of filtered or bottled water and provide opportunities for physical activity in schools. The menus include two mandatory meals of fish, wholemeal products and dietary products for children with digestive disorders. At the same time, professionals excluded meat products with food additives (sausages) and greasy fried food and reduced the quantity of bread and pasta.*²

According to the recommendation of the Ministry of Health on the use of a low sodium diet that should be iodized, the Ombudsperson for Children's Rights considers that the salt exclusion would exceed the positive requirements of the recommendation, including the recommendation of the World Health Organisation which states that *the maximum intake of salt*

² https://msmps.gov.md/sites/default/files/legislatie/recomandare_metodica_alimentatia_copiilor.pdf

*for adults should be adjusted downward for children aged two to 15 years based on their energy requirements relative to those of adults. This recommendation for children does not address the period of exclusive breastfeeding (0–6 months) or the period of complementary feeding with continued breastfeeding (6–24 months)*³. In this context, the Ombudsperson for Children’s Rights recommended the authorities to reduce the quantity of salt in children’s diet as recommended by WHO rather than to exclude it.

Based on the above and in terms of the quantitative and qualitative assessments of the nutrition ration, the Ombudsperson for Children’s Rights recalled that *the diet must be quantitatively sufficient, in other words to ensure the needed amount of energy by respecting the sanitary conditions during transportation, by preserving and preparing food to ensure the needed quantity that maintain an adequate body weight, as close as possible to the ideal one. A healthy diet should be followed at certain defined intervals.*⁴ Thus, *a physiologically normal functionality of the body can be maintained and achieved only through a perfect energy balance, namely the energy intake and energy expenditure, as the metabolic reactions continue to occur. This energy consumption is the basal metabolism. The basal metabolic rate among adults is 1 kcal/hour per 1 kg of body weight. Children and adolescents have a higher basal metabolic rate than adults*⁵.

According to the Ombudsperson for Children’s Rights, the parents’ allegations of too small food portions per child and children’s failure to reach satiety can serve as grounds for reviewing the menus, as according to the Ombudsperson for Children’s Rights it is important to follow the energy balance in relation to children’s metabolism. Given that children have the right to survival and physical, psycho-emotional, cognitive, social and cultural development and that their best interests must be taken into consideration in all decisions and actions affecting children⁶, it is crucial that the Government, by recognizing the right of the child to the enjoyment of the highest attainable standard of health, take appropriate measures to combat

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

⁴ <https://library.usmf.md/sites/default/files/2018-10/35.pdf> , pag. 17;

⁵ Idem;

⁶ http://ombudsman.md/wp-content/uploads/2021/04/Conventia_RO2020%E2%80%94%D0%BA%D0%BE%D0%BF%D0%B8%D1%8F.pdf

malnutrition as part of primary healthcare measures, by providing food products and drinking water and by providing access to education⁷.

The ex officio complaint of the Ombudsperson for Children's Rights regarding a kindergarten in Rascani district of the capital where foreign objects were found in the oatmeal, is eloquent in the discussed context. Following the response of the Ombudsperson for Children's Rights, Rascani Division of Education, Youth and Sports (GDEYS) informed that the representatives of preschool educational institutions have been repeatedly warned about the following issues:

- Intensify the control measures upon receipt of food products only on the basis of quality certificates, sanitary-veterinary certificates, food safety certificates;
- Return immediately non-compliant food products and report any violations in the food purchasing process;
- Cooperate with the National Agency for Food Safety to respond promptly and prevent noncompliance in food delivery for children.

It was also mentioned that the employees of the Food Department of Rascani Division of Education, Youth and Sports drafted an inspection report and it was decided to return the non-compliant oatmeal to the business entity. The Division of Education, Youth and Sports carried out a special inspection of school feeding among 50 preschool educational institutions assessing aspects related to food sorting and provision of a uniform nutritional diet for children based on a standard menu.

Ensuring adequate sanitation and access to quality drinking water in educational institutions in Moldova was another subject addressed by the Ombudsperson for Children's Rights in 2021.

The COVID-19 pandemic has increasingly highlighted the issue of sanitation. Unfortunately, the pandemic outbreak recalled the importance of providing students with water and soap for handwashing and with hot water for basic hygiene.

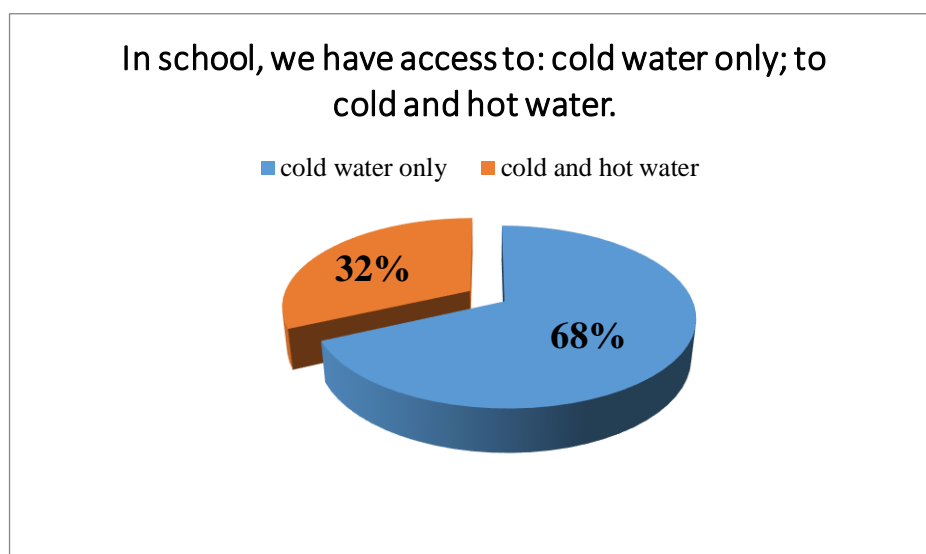
The findings of the monitoring revealed that the drinking water supply situation in schools is critical. Some schools use water from wells and springs because the educational institutions are not connected to central water supply systems or to any other local sources of drinking water supply, while in other schools drinking water is purchased at the school's or

⁷ Idem;

parents' expense. These conditions are caused by the lack of a water supply and sewerage system in the community and/or the lack of financial resources for their connection.

The Ombudsperson for Children's Rights recommended the central public authorities that the implementation of the Protocol on Water and Health in the Republic of Moldova for 2016-2025 should be completed with no delay, in particular, point 2 – 100% of institutions provide children with access to improved water sources in kindergartens and schools.

The Ombudsperson for Children's Rights conducted an opinion poll on access to cold and warm water in schools. The opinion poll engaged 1,850 children and their responses showed the following ratio:



1,262 of students (68.2% of respondents) replied that they have access to cold water only and only 588 of the respondents have access to hot water too. The situation became absolutely intolerable during the pandemic when thorough rather than cursory handwashing was a life-saving recommendation⁸.

During the reported period, the Ombudsperson for Children's Rights also found that the requirement to provide schools with health workers is met only by some schools (out of 1,266 educational institutions, only 113 schools are staffed with health workers). The same issue was observed in terms of health rooms, the majority of educational institutions have them, but they are not adequately equipped and have the minimum of medicines that does not cover the real needs.

⁸ http://ombudsman.md/wp-content/uploads/2021/04/RAPORT_SANITATIE_RED-2021.pdf pag. 59-60;

Another serious identified problem is the lack of adequate sanitation, particularly, the condition of toilets in educational institutions. It was found that the majority of school toilets are old buildings located in schoolyards, accessible to any stranger, premises that do not provide privacy and are not equipped with a sewerage system, they are holes in the ground, unsanitary and smelly.

In response to the findings on the observance of the right to health in schools, the Ombudsperson for Children's Rights reiterates that access to adequate sanitation and hygiene in educational institutions directly fulfils several rights: to health, to life, to safety. It contributes to a healthy learning environment, reduced spread of diseases and has a positive impact on the educational process, on its quality and students' achievement.

The observance of the child's right to health in educational institutions was addressed and discussed by the Ombudsperson for Children's Rights during the meeting of the Parliamentary Committee on Human Rights and Inter-ethnic Relations held on 3 November 2021⁹. The meeting analysed three areas covered in the report: providing schools with health rooms and health workers, ensuring access to quality drinking water, school sanitation and the recommendations of the Ombudsperson for Children's Rights submitted on the basis of the report findings. The Ombudsperson for Children's Rights also mentioned the importance of health workers in schools and the provision of appropriate working conditions for them, which are safeguards for continuous monitoring of children's health, a fact that has become obvious during the pandemic.

As a result of the discussions, the members of the Committee ordered to conduct a parliamentary inspection on the resolution of the concerned issues and assured that they would submit relevant proposals to the Government and would undertake further legislative actions. Following the recommendations submitted to the Government by the Parliamentary Committee, in particular the recommendation *'Identify necessary financial resources to be covered by the Law on State Budget for 2022 to allocate these resources for construction and/or renovation of sanitary facilities in schools and their connection to drinking water sources'*, the Ministry of Finance increased the budget of the Ministry of Education with MDL 20.0 mln, payments related to renovation/construction of sanitary facilities in primary, lower-

⁹ <https://www.parlament.md/LinkClick.aspx?fileticket=T2kinhJhu6w%3d&tabid=130&mid=507&language=en-US>

and upper-secondary educational institutions across the country. At the same time, the Ministry of Finance points out that the 2022 budget of the Ministry of Infrastructure and Regional Development includes MDL 25.0 mln for renovation/construction of sanitary facilities in educational institutions¹⁰.

In the light of the above, the Ombudsperson for Children's Rights appreciates the authorities' attitude and engagement, as well as their openness for cooperation to identify optimal solutions aiming to implement the recommendations submitted by the Ombudsperson in this regard.

A blended educational process was carried out in 2021. It was carried out with physical presence in the communities registering the green and yellow code of alert, and it was conducted online or in a combined manner in the communities with orange or red code of alert. The COVID-19 pandemic had an unprecedented impact on the national education system in 2021.

In the context of the occurred situation, the Ombudsperson for Children's Rights, while monitoring the observance of the child's right to education during the pandemic, noted that **access to the online educational process** in 2021 continues to be one of the main issues faced by both children, parents and teachers.

Online learning using digital technologies has only partially managed to replace offline learning because not all children had an Internet connection or had needed technology to carry out the educational process.

The online educational process became a burden, especially for children who needed special technologies, learning materials and adjusted curricula to meet their learning needs. This group of children whose needs are difficult to meet through e-learning programs, were exposed to the risk of not achieving the objectives of the educational process and the expected outcomes as a result of impediments.

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

In the light of the above, the Ombudsperson for Children's Rights notified the Ministry of Education and Research¹¹ and required information on measures and actions taken to

¹⁰ <http://ombudsman.md/wp-content/uploads/2020/08/rasp.pdf>

¹¹ <http://ombudsman.md/wp-content/uploads/2020/03/12-7-17-din-15.04.2021-solicitare-MECC.pdf>

provide children with needed equipment. The Ministry of Education and Research¹² informed the Ombudsperson that ‘the equipment purchased/donated during the pandemic to ensure access to online learning for students was transferred under the supervision of educational institutions. The educational institutions, **as far as possible**, provide computers free of charge, for a fixed period, to students and teachers who experience technical learning issues, especially children from social-vulnerable families’.

Accessibility to the educational process in educational institutions from the Transnistrian region is another sensitive subject addressed by the Ombudsperson for Children’s Rights concerning the observance of children’s rights to education.

In this regard, it is necessary to point out the ex officio notification of the Ombudsperson on the situation of ‘Lucian Blaga’ Theoretical High School in Tiraspol on the possible suspension of the school activity for three months following a ‘decision’ issued by the so-called ‘authorities’ of the so-called ‘Transnistrian region’.

The Ombudsperson for Children’s Rights notified the Bureau for reintegration policies of the Ministry of Education, Culture and Research¹³ and requested to take needed measures as a matter of urgency to solve the issue in order to ensure the observance of children’s rights to education and prevent similar situations.

Following the intervention of the Ombudsperson^{14,15} it was possible to overcome the reported difficulties due to effort mobilisation and meaningful response, and the institution began all necessary preparations for the beginning of the academic year and the organisation of the study process¹⁶.

The Ombudsperson took ex officio actions on the need to set up a multifunctional educational complex in the Transnistrian region, in order to achieve the goal and principles of education stipulated in the Education Code of the Republic of Moldova that ensures the inclusion of children in the educational process and fulfils children’s rights to education.

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

¹³ <http://ombudsman.md/wp-content/uploads/2021/08/BPR.pdf>

¹⁴ <https://gov.md/ro/content/procesul-educational-cadrul-liceului-teoretic-lucian-bлага-din-or-tiraspol-si-activitatea>

¹⁵ https://gazetadechisinau.md/wp-content/uploads/2021/08/Gazeta_30_13_08_2021.pdf

¹⁶ <http://ombudsman.md/news/in-rezultatul-sesizarii-a-avocatului-poporului-pentru-drepturile-copilului-activitatea-liceului-teoretic-lucian-bлага-din-tiraspol-va-continua/> ; <http://ombudsman.md/wp-content/uploads/2021/08/CSt.pdf>

The Ombudsperson for Children's Rights notified¹⁷ the Deputy Prime Minister for Reintegration, the Ministry of Education, Culture and Research and the Chairperson of the Parliamentary Committee on Culture, Education, Research, Youth, Sports and the Mass Media on the issues identified during the monitoring of the observance of children's rights to education in the Transnistrian region. An appeal of the Ombudsperson for Children's Rights was placed on the website of the Office of the Ombudsperson, www.ombudsman.md¹⁸. It was addressed to the competent authorities to reorganize the boarding school for children left without parental control from Bender into a pre-primary educational institution and establish a multifunctional educational complex instead of the boarding school and 'Alexandru cel Bun' Theoretical High School from Bender.

As a result of the appeal launched by the Ombudsperson for Children's Rights, the authorities reconfirmed their willingness to cooperate to ensure the observance of children's rights to education in schools teaching in the Romanian language from the left bank of the Nistru River.

In this context, the Ombudsperson reiterates that children have the right to education that enables them to develop their skills and personality under non-discriminatory conditions, and children's interests shall prevail in all actions concerning children undertaken by public and private social care institutions, courts, administrative authorities and law enforcement bodies.

Another issue addressed during the reporting period was **the quality of the e-learning process**. As mentioned above, this year some educational institutions operated with physical presence and others carried out a remote or a blended educational process. Although it seems that the best solutions were analysed and identified to carry out the educational process, its quality was affected. Closed schools and combined educational process reduced the teacher-parent and teacher-student interaction which made it impossible to apply the student-centred learning approach. According to parents' and children's opinions, children encountered learning difficulties and shortcomings, therefore students had to make greater efforts to keep up with the curriculum which had negative consequences on their school achievement and well-being. In that situation, parents had to assume, to a certain extent, the role of a teacher, but a

¹⁷ <http://ombudsman.md/wp-content/uploads/2021/08/doc1111.pdf>

¹⁸ <http://ombudsman.md/news/ombudsmanul-copilului-propune-crearea-unui-complex-educational-multifunctional-in-municipiul-bender/>

few of them were prepared and had the opportunity to achieve that task or were able to do it even though they were working remotely. Parents who had to leave for work faced even more severe problems as they left their children with no support and needed supervision. In that situation, children were also exposed to various risks concerning their well-being, including their physical and online safety.

The Ombudsperson for Children's Rights appreciates the risks taken by the central authorities to identify the best solutions to overcome the crisis. Therefore, several policy documents were developed, aimed to regulate some processes and procedures, like the 'Methodology on the ongoing remote educational process under quarantine conditions for primary, lower- and upper-secondary educational institutions' approved by the Order No 351 of 19.03.2020 issued by the Ministry of Education, Culture and Research which regulates that class masters should continue the communication with parents and legal representatives, which is also regulated by the Education Code.

Based on the petitions submitted to the Ombudsperson it was noted that parents did not know how to act and what their role is in ensuring an efficient and productive e-learning process. These shortcomings and discrepancies led to conflicts between educational institutions and parents which negatively impacted children.

In such circumstances, we recommend disseminating materials, including approved methodologies and informing all stakeholders to prevent some situations that might negatively impact children.

In 2021, the Ombudsperson for Children's Rights continued to monitor the situation concerning the **protection of children from abuse and violence in educational institutions**.

During the reported period, among the issues (mentioned by teachers, parents, children and civil society representatives) encountered by educational institutions in identifying and solving the cases of bullying, the following were noted:

- Lack of open communication on bullying/violence;
- Unawareness of the peculiarities of bullying;
- Lack of clear and explicit provisions that would regulate the actions undertaken in cases of bullying.

In that context, the Ombudsperson for Children's Rights submitted to the Parliament her Opinion, including some legislative proposals¹⁹ on the amendment of the Education Code of the Republic of Moldova which suggests introducing the notion of *bullying*. The Ombudsperson noted that it is a crucial law draft and an important step towards ensuring the dignity of all children in the Republic of Moldova. These regulations will further contribute to the establishment of a mechanism to prevent and combat various forms of direct or online violence that occur among students in order to ensure a safe and positive school environment.

As a result of these actions, the draft law on regulating the notion of bullying in the legislation of the Republic of Moldova was approved in the first reading with the vote of 61 MPs²⁰.

Moreover, in the Report on the observance of child's rights in the Republic of Moldova in 2019²¹, the Ombudsperson for Children's Rights already proposed to add the new 'non-violence' principle to the Education Code, to introduce a new chapter on the elimination of violence in educational institutions and to define bullying by the provisions of a separate article. Yet, Article 19 of the United Nations Convention on the Rights of the Child regulates the right of the child to be protected from all forms of violence by any adult or other children and Article 39 provides that all appropriate measures should be taken for physical and psychological recovery of the child.

In the light of the above, the Ombudsperson for Children's Rights recommends that the states should allocate sufficient financial resources that enable the authorities to fulfil their obligations in accordance with the standards envisioned in the UN Convention of the Right of the Child concerning the observance of the child's right to education.

In the context of the above, the Ombudsperson for Children's Rights submits the following **RECOMMENDATIONS:**

- **To the Ministry of Education and Research:**
- Provide children/teachers who **do not have access to e-learning** with necessary equipment;

¹⁹ The draft law on the amendment of the Education Code of the Republic of Moldova No 152/2014, legislative initiative No 301 of 25.10.2021;

²⁰ <https://multimedia.parlament.md/notiunea-de-bullying-va-fi-introdusa-in-codul-educatiei/>

²¹ http://ombudsman.md/wp-content/uploads/2020/08/Raport_anual_copii_2020-coperta-20.08.2020.pdf , pag. 48;

- Review the educational process of auxiliary educational institutions to adjust it to the e-learning requirements of children with special needs;
- Take needed actions to ensure the child's right to health during the educational process.
- Intensify the control measures upon receipt of food products only on the basis of quality certificates, sanitary-veterinary certificates, food safety certificates;
- Review menus according to children's real nutritional needs;
- Increase the effectiveness of educational and training programs on violence prevention for teachers, parents and students.
- **To the Parliament and the Government**
- Adopt financial regulations and provide financial resources to ensure appropriate conditions for child development based on the observance of the child's right to health in educational institutions;
- Increase national and local efforts to motivate educational professionals, increase their professional skills, attract young professionals in the labour market through attractive offers.

NATIONAL CURRICULUM ASSESSMENT OF SUBJECTS ON ADULT LIFE SKILLS: PERSONAL DEVELOPMENT, CHILD'S RIGHTS AND THE CHILDREN'S OMBUDSPERSON; SEXUAL EDUCATION.

During the reported period, the Ombudsperson for Children's Rights focused on **the compliance of the national curriculum with the international standard on the development of observance of human rights and fundamental freedoms embodied in the UN Convention on the Rights of the Child.**

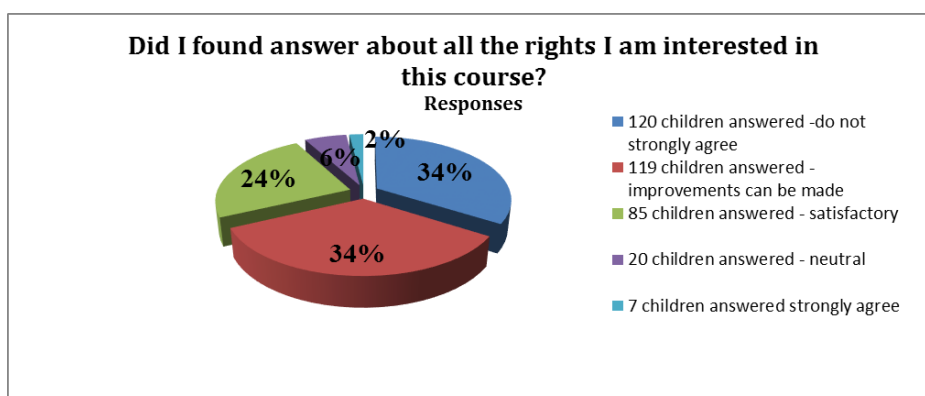
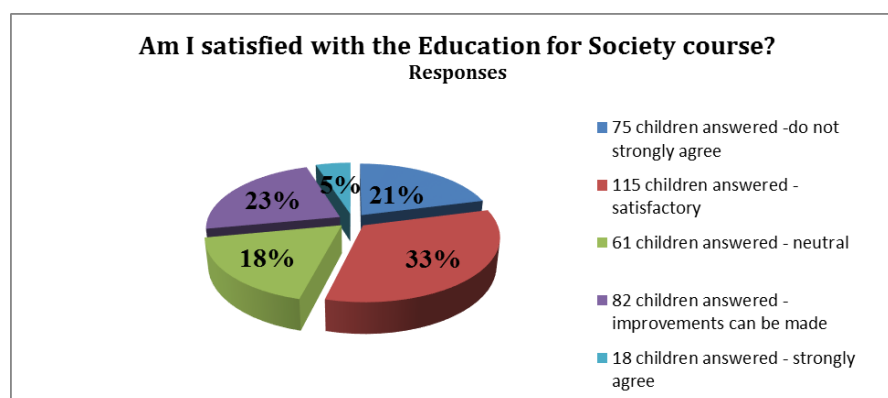
During the study visits carried out by the Ombudsperson for Children's Rights aiming to inform and promote children's rights, note that most students mention the rights they know but they are not able to explain or understand the differences between them. This issue was pointed out by the Ombudsperson in *the 2019 Report on the observance of child's rights in the Republic of Moldova* ²².

²² http://ombudsman.md/wp-content/uploads/2020/08/Raport_anual_copii_2020-coperta-20.08.2020.pdf

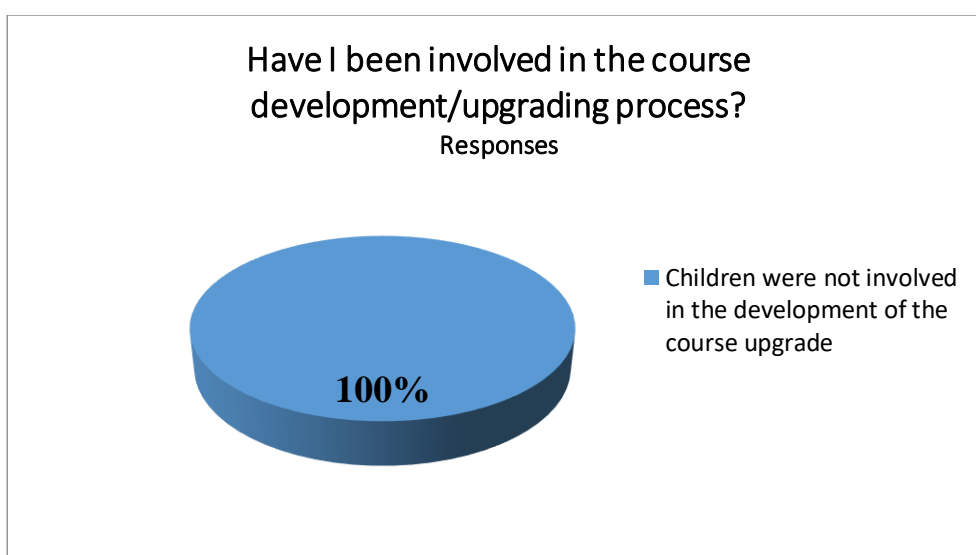
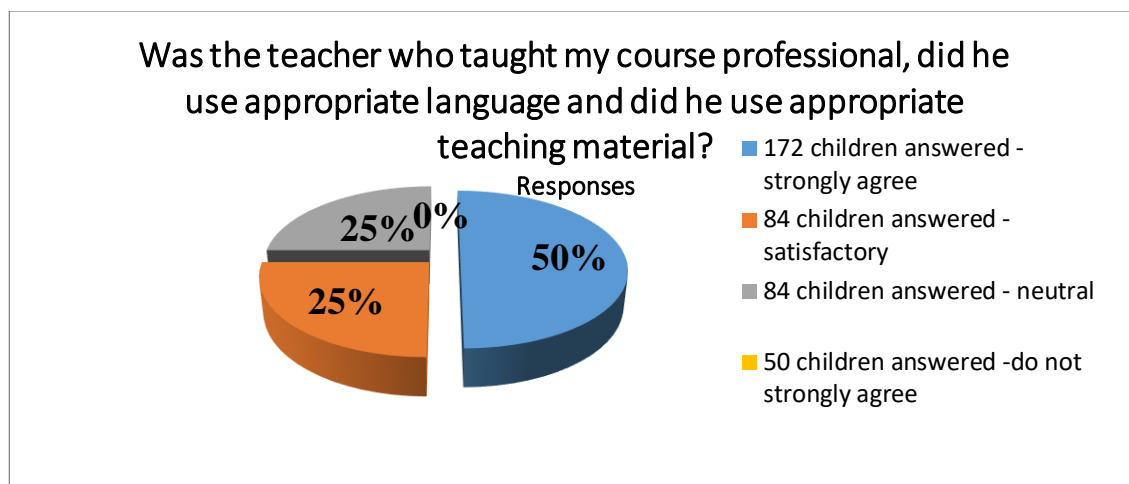
Children avoided speaking about *sexual education* aspects. Some children said that they had not been told about the institution of the Ombudsperson for Children’s Rights, others noted that they had heard something about the National Institution for Human Rights.

During the reported period, the Ombudsperson for Children’s Rights carried out **an opinion poll among children**²³ on some educational aspects concerning children’s rights in their schools.

Students in the 5-6 and 10-11 grades, who managed to analyse the new textbooks participated in the survey, and the responses were distributed as follows:



²³ It was carried out by the Ombudsperson for Children’s Rights under the thematic report: ‘National Curriculum Assessment of subjects on adult life skills: Personal development, Child’s rights and the Children’s Ombudsperson; Sexual education’;



The survey confirms the findings of the Children's Ombudsperson during the discussions held with children.

The Ombudsperson for Children's Rights recalls that the education system's great responsibility is to provide conditions aiming to fulfil children's rights outlined in the Convention, while schools and teachers are major advocates of children's rights.

According to General Comment No 1 of 2001²⁴, the child's right to education is not only a matter of access, but also of content. An education with its contents firmly rooted in the values of article 29 (1) is for every child an indispensable tool for her or his efforts to achieve in the course of her or his life a balanced, human rights-friendly response to the challenges that

²⁴ http://ombudsman.md/wp-content/uploads/2020/12/Nr.-1-_-2.pdf

accompany a period of fundamental change driven by globalisation, new technologies and related phenomena.

Based on the findings of the discussions with children, the Ombudsperson for Children's Rights also conducted an **analysis²⁵ of the teaching supporting material** for children's rights training.

In this respect, the Ombudsperson for Children's Rights states that in 2019, the Ministry of Education and Research, along with a group of non-Governmental organisations, teachers and independent experts, initiated the remodelling of the concept of *children's rights education* and edited the national curricula and the '*Education for Society*' textbooks.

The Children's Ombudsperson notes that the textbooks are currently available only for the 5th-6th and 10th-11th graders, while the other lower- and upper-secondary graders are taught according to an old civic education curriculum, namely using the textbooks published in 2014.

The Ombudsperson for Children's Rights notes that no civic education curriculum has been provided for general primary education, thus excluding primary education school pupils. The Ombudsperson for Children's Rights believes that excluding primary education school pupils from the national curriculum on children's rights is a shortcoming of the educational authorities and it negatively impacts children's future development.

Based on the content analysis of two existing textbooks for the 5th-6th and 10th-11th grades, the Ombudsperson for Children's Rights submits the following findings:

- Although the '*Education for Society*' textbooks is a modern outcome resulting from the analysis of many education experts, they do not provide a full coverage of children's rights education;
- In fact, *Education for Society* is only a narrow part of the children's rights education system;
- The analysed textbooks do not cover all the rights outlined in *the UN Convention on the Rights of the Child*;
- Information on the national institution for the protection of the rights of the child and on the Ombudsperson for Children's Rights is not included in any textbooks.

²⁵ It was carried out by the Ombudsperson for Children's Rights under the children's rights report 'National Curriculum Assessment of subjects on adult life skills: Personal development, Child's rights and the Children's Ombudsperson; Sexual education'

- The specialised courses do not deliver comprehensive and understandable information on how a child can defend their rights in case of necessity/emergency, what institutions can a child address to and which institutions should intervene and protect the child.
- The teachers who deliver these courses are usually history or biology teachers, who teach this course part-time.
- The concept of the national curriculum and developed textbooks do not fully cover the objectives set out under Article 29 of *the UN Convention on the Rights of the Child*.

In the light of the above, the Children's Ombudsperson highlights that the education system has an essential role towards children's rights envisioned in the UN Convention on the Rights of the Child. In terms of **the education system's nature and resources and in the context of educational activities, it is necessary to inform children about their rights and raise awareness about the importance of children's rights observance in all social aspects.**

The Ombudsperson for Children's Rights points out the importance of sexual education in schools (i.e. learning about the cognitive, emotional, social, interactive and physical aspects of sexuality). It is also reflected in studies carried out in several European countries, showing that the introduction of long-term sexual education programs in schools led to the following 'direct results':

- Reduction in teenage pregnancies and abortions;
- Decrease in sexually transmitted infections among young people aged 15-24 years;
- Decrease in HIV infection among young people aged 15-24 years;
- Decreased sexual abuse;
- Decreased homophobia.

In terms of sexual education approach and teaching in most schools in the Republic of Moldova, the Children's Ombudsperson highlights the findings and recommendations outlined in the report 'Sexual education in the Republic of Moldova – what does the school do and what could be different', carried out by the Children's Platform, guided by the Child Rights

Information Center (CRIC) and supported by OAK Foundation, Workshop for Civic Initiatives Foundation, Sweden and Save the Children²⁶, as follows:

The following *findings* resulted from the report:

- Sexual education occurs earlier in rural areas than in urban areas;
- General topics are usually discussed, without addressing specific sexual education issues;
- Sexual education starts quite late;
- Parents mostly are not able to discuss about sexual education with their children;
- Social reluctance continues to hinder the implementation of sexual education;
- Teachers do not have sufficient teaching material to address aspects related to sexual education;

The report carried out by the Children's Platform issued the following *RECOMMENDATIONS* for the Government institutions:

- Gradually introduce sexual education as a compulsory subject without an assessment system. Address sexual education topics starting from kindergarten;
- Sexual education curriculum should cover the following topics: healthy relationships, sensuality, gender identity, reproductive health, sexually transmitted infections, abuse prevention and others, taking into account children's interests and needs at each development stage;
- Develop an informational material on sexual education accessible to all teachers;

²⁶ https://drepturilecopilului.md/files/educatia_sexuala_cum_o_face_scoala_si_ce_poate_fi_diferit.pdf

CHAPTER II

ENSURE CHILDREN'S CIVIL RIGHTS AND FREEDOMS

The UN Convention on the Rights of the Child, under Articles 12, 13, 14 and 15, regulates, on the one hand, the freedoms of free and full expression of opinions, views, thought, conscience and religion, as well as of association, and on the other hand, the obligation of the law enforcement bodies to exercise these rights and ensure their observance for the best interest of the child. Thus, the Government must ensure by any possible means that no child will be marginalised in fulfilling these fundamental freedoms.

According to UNICEF²⁷ 'Child engagement encourages and empowers children to make their views known about the issues that affect them. In practice, engagement involves adults listening to children through multiple and various forms of expression. Engagement ensures freedom of expression and takes into account their views related to the decisions that affect them. Children's participation in dialogue and exchange of views allows them to learn constructive methods to influence the world around them.

The Ombudsperson for Children's Rights also undertook several actions in 2021 aiming to consult children's opinion on the observance of children's rights in the Republic of Moldova.

In that context, the Children's Ombudsperson conducted information and consultation sessions on children's views during some online and offline meetings attended by children and/or teachers; carried out study visits in educational institutions across the country, in youth detention centers, temporary placement centers and rehabilitation centers for children, where she held discussions with several categories of beneficiaries – teachers, pupils, members of Pupils' Councils, various professionals who are working and interacting with children on the observance of the right to opinion and civil freedoms.

During the visits and online sessions/discussions, children talked about their perception of the right to opinion and civil freedoms and how the rights are fulfilled. Children mentioned the following opinions:

'I want to be able to speak freely about concerning topics.'

'I want to choose by myself the optional subjects.'

²⁷ <https://www.unicef.org/moldova/ce-facem/educa%C5%A3ie/implicarea-tinerilor>

'I want to be asked if I can catch up on cancelled lessons during the weekend or after school.'

'Although they ask for our opinion, it is not taken into account.'

'Nobody has heard me when I tried to express myself.'

'My opinion hasn't been heard.'

'I know nothing about Pupils' Council, the Ombudsperson for Children's Rights.'

'Not everyone can be a member of Pupils' Council, only those who are active, participate in many activities and have high marks.'

In the above context, we should mention that the Committee on the Rights of the Child, under the General Comment No 12 (2009)²⁸, stipulates that all processes in which a child or children are heard or participate, must meet certain standards of children's genuine and ethical participation. Therefore, processes in which a child or children are heard or participate, must be: **transparent and informative; voluntary; respectful; relevant; child-friendly; inclusive; supported by training; safe and sensitive to risk; accountable.**

In 2021, the Ombudsperson for Children's Rights along with the Alliance of Active NGOs in the field of Child and Family Social Protection (APSCF) and the Child Rights Information Center (CRIC) conducted 22 workshops under the Adult Capacity Development Program on child participation in decision-making to inform and train professionals who organise processes requiring children's opinions and implement correctly the organisational principles of such activities outlined in the Committee on the Rights of the Child, under the General Comment No 12 (2009). Over 150 professionals working with children – employed in education, social care, justice and local and national NGOs volunteers – participated in the training process to gain information, knowledge and skills to ensure that they take children's views into account.

Based on the findings and in compliance with the international standards on the protection of the child's right to opinion and the Regulation of the General Comment No 2(2002)²⁹, the Ombudsperson for Children's Rights aims to set up the Children's Advisory Board under the Ombudsperson for Children's Rights of the Ombudsperson's Office.

²⁸ http://ombudsman.md/wp-content/uploads/2020/12/Nr.-12_.pdf

²⁹ http://ombudsman.md/wp-content/uploads/2020/12/Nr.-2_-2.pdf

The Children's Advisory Board under the Ombudsperson for Children's Rights of the Ombudsperson's Office will be set up as a platform for children to express their opinions and be engaged in activities that prevent the violation of rights, promote and protect the children's rights and freedoms in order to accomplish the commitments undertaken by the Republic of Moldova under the UN Convention on the Rights of the Child and the EU – Moldova Association Agreement.

In 2021, the Children's Ombudsperson along with the Alliance of Active NGOs in the field of Child and Family Social Protection and the Child Rights Information Center developed the draft Regulation of the Children's Advisory Board under the Ombudsperson for Children's Rights of the Ombudsperson's Office.

The draft Regulation was adjusted during four consultation workshops on children's views, conducted by the Ombudsperson for Children's Rights between October and December 2021. The workshops were attended by over 50 children aged 10-17 years from different regions of the country. Children expressed their opinions, suggestions and proposals on the Regulation.

At the same time, the Children's Ombudsperson initiated an action to consult the opinion of children in the Republic of Moldova on the Board Regulation, by launching an online questionnaire³⁰, that could be filled in during 10 days by all children aged 10-17 years, following a link included in the announcement.

The National Children's Forum is another efficient mechanism used by the Ombudsperson for Children's Rights to consult children's opinions. The results of the consultation sessions on children's opinions were presented during the Forum in 2021, along with suggestions for improving the Regulation of the Children's Advisory Board. The results of the questionnaire launched by the Ombudsperson for Children's Rights aiming to consult children's views concerning the Regulation on the establishment and operation of the Board were presented and analysed by the Forum participants during the event.

As a result of the consultations on children's opinions, the Ombudsperson for Children's Rights adjusted the content of the Regulation to the proposals submitted by children.

³⁰ <http://ombudsman.md/news/ombudsmanul-copilului-lanseaza-un-chestionar-pentru-consultarea-opinieii-copiiilor-in-legatura-cu-proiectul-regulamentului-consiliului-consultativ-al-copiiilor-pe-langa-avocatul-poporului-pentru-drepturi/>

These activities provide some examples of how children can participate and express their views. The activities are carried out in line with the international standards, inform children that their engagement and views matter, that they can express their opinions on all aspects of their concern, according to their age and maturity, and that they are provided with adequate consideration, which is also obvious from many petitions submitted to the Children's Ombudsperson by children who participated in the consultations:

'Thank you for the opportunity to express our opinions on children's rights.'

'From my point of view, these workshops helped us understand our rights and children's rights better and I was glad to hear and to find out that our opinion really matters.'

'During the workshops, I understood that each opinion counts, we are all equal and the children are our future. They know how to make everyone's life more beautiful through their innovative ideas'

'I am glad that we had the opportunity to understand more about what a right is. Thank you!'

'I saw and understood that our opinion matters.'

The Ombudsperson for Children's Rights reiterates the importance of reviewing the policies on children's engagement in decision-making, so that children and adults could benefit from specialised training. Or, it is the child's choice to express their opinions, not their obligations and the responsible persons should ensure that children are provided with information and have the needed conditions to take a decision on whether or not to exercise this right.

Children's participation in election campaigns is another subject on the agenda of the Children's Ombudsperson.

The Ombudsperson for Children's Rights monitored the election campaigns held in the Republic of Moldova from the perspective of children's rights, pointing out the use of images and child labour by the contenders and/or political parties during the election campaigns for the purpose of image-building or promotion of political candidate.

In 2021, the Ombudsperson for Children's Rights developed the *Report on the usage of children's image in election campaigns*³¹. As part of the monitoring, a *questionnaire*³² was launched to consult children's opinions on their engagement in election processes. Based on the

³¹ <http://ombudsman.md/wp-content/uploads/2021/05/RaportELECT2021-.pdf>

³² Idem, pag. 34

analysed data, 44.7% of respondents knew what an election process was, 64,9% mentioned that they had been informed about their rights in the process at school and 134 children mentioned in the questionnaire that they had attended at least one of the electoral contenders' meeting with voters together with their parents or one of their parents, while 130 children had attended the meetings held in school at the recommendation of a teacher, and 72 respondents had taken part on their own. A total of 64 children said that they had been involved in distributing leaflets, brochures, newspapers of a candidate during the election campaign without remuneration, while 30 children were paid in exchange for their involvement.

During the monitoring, the Children's Ombudsperson noted a lack of clear provisions that penalise electoral stakeholders who use children and children's images by violating international standards and a lack of special training which lead to the development of settings and circumstances where children can develop political skills.

The Ombudsperson for Children's Rights highlighted that the international standards prohibit the use of children's images, not their voluntary, informed and conscious participation in decision-making processes that affect them. The UN Committee on the Rights of the Child under the Comments No 12, 14 and 20 specifically provide that the child's views and participation should be taken into account on all matters of the child's interest in accordance with their physiological and psychological development and maturity.

The Children's Ombudsperson urged the electoral contenders and other people involved in the election campaigns to respect children's dignity and refrain from actions affecting children's private lives. She sent a request to the electoral contenders stating the above-mentioned. Note that only one political party participating in the electoral process responded to the Ombudsperson's request among the total number of electoral contenders.

In 2017, the Ombudsperson for Children's Rights proposed the Government to initiate the procedure to supplement the Law No 26-XVI on the meetings, and the Contraventional and Criminal Code with provisions that would regulate the penalties for organisers of political events involving minors (people under 18).

Following the findings of the monitoring, the Children's Ombudsperson submitted a note of recommendations to the Central Election Commission.

³³The Central Electoral Commission noted that the electoral bodies do not have effective legal tools to investigate and examine the involvement of children in electoral contenders' campaigns, and the only legal norm that prohibits children's engagement in political actions is provided by Article 13 para. (3) of Law 338/1994 on the Rights of the Child, and other rules stipulating penalties for violation of this prohibition are not established.

On the basis of the above, the Ombudsperson for Children's Rights submits the following recommendations to several decision-making institutions:

To the Ministry of Education, Culture and Research:

- Review the policies on children's engagement in decision-making;
- Develop a mechanism for consulting and engaging children in decision-making;
- Carry out a series of trainings for children and adults on children's views and engagement in decision-making;
- Complete the Education Code with the legal regulations on ensuring fair political and electoral education for children, according to children's level of maturity, as well as requiring electoral contenders to adjust political programs to the needs of children, people with disabilities, etc.

To the Parliament and the Government

- Promote standards for children's views consultation and their implementation;
- Include the notion of 'political activity and political propaganda' in the national regulatory framework and supplement the Contraventional Code with specific provisions that penalise people responsible for engaging minors in political activity/propaganda/campaigns;
- Supplement the regulatory framework, in particular, the electoral legislation with specific regulations on the prohibition of the use of children's (minors') image, without the consent of their parents/legal representative, in electoral campaigns, referendums, political campaigns/propaganda and the prohibition of children's engagement in political actions that endanger the life and health of the minor or offend their honour and dignity

³³ <http://ombudsman.md/wp-content/uploads/2022/01/RCEC.pdf>

CHAPTER III

JUVENILE JUSTICE

According to international standards, juvenile justice aims at ensuring the best interests of the child in any circumstances, even in the case of deprivation of liberty, as a measure of last resort. Juvenile justice should be age-appropriate, speedy, adjusted to and focused on the child's needs and rights, including the right to a fair trial, the right to participate in and to understand the proceedings, the right to private and family life, the right to integrity and dignity, the right to education, the right to enjoy the highest attainable standard of health, the right to protection from corporal punishment or any other form of cruel or degrading punishment. Moreover, juvenile justice also means prevention and tackling the causes that lead to crime.

A number of international acts entail the standards on observance the rights of the child in the management of justice. The United Nations Convention on the Rights of the Child³⁴, under Articles 37 and 40, sets out certain guarantees for the observance and protection of children's rights in the management of justice. Moreover, the UN Committee on the Rights of the Child developed the General Comment No 10 (2007) on the rights of the child in juvenile justice, as well as other Comments: General Comment No 1 (2001) on 'the Aims of Education', General Comment No 2 (2002) on 'the Role of Independent National Human Rights Institutions in the promotion and protection of the rights of the child', General Comment No 4 (2003) on 'Adolescent Health and Development in the context of the Convention on the Rights of the Child', General Comment No 5 (2003) on 'General Measures of Implementation of the Convention on the Rights of the Child (art. 4, 42 and 44, para. 6)', General Comment No 8 (2006) on 'the Right of the Child to Protection from Corporal Punishment and Other Cruel or Degrading Forms of Punishment', General Comment No 12 (2009) on 'the Right of the Child to be heard', General Comment No 15 (2013) on 'the Right of the Child to the Enjoyment of the Highest Attainable Standard of Health', General Comment No 17 (2013) on 'the Right of the Child to rest, leisure, play, recreational activities, cultural life and the arts', General Comment No 19 (2016) on 'the Public Budgeting for the Realisation of child rights', and General Comment No 20 (2016) on 'the Implementation of the Rights of the Child during Adolescence'.

³⁴ The UN Convention on the Rights of the Child adopted by the United Nations General Assembly on 20 November 1989 in New York. In force since 25 February 1993 in the Republic of Moldova.

At the same time, there are recommendation documents that define international standards for the management of juvenile justice during each step of the process. The UN Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules)³⁵, the UN Rules for the Protection of Juveniles Deprived of their Liberty (the Havana Rules)³⁶ and the UN Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines)³⁷. The Body of Principles for the Protection of all Persons under Any Form of Detention or Imprisonment³⁸, the UN Standard Minimum Rules for Non-Custodial Measures (The Tokyo Rules)³⁹, as well as the International Covenant on Civil and Political Rights (Article 14) comprise relevant provisions.

The Recommendation (2003)20 on the new ways of dealing with juvenile delinquency⁴⁰ is an essential guideline for the Member States of the Council of Europe. It is supplemented by the Recommendation (2006)2 on the European Prison Rules⁴¹, the Resolution CM/Res/2 on Child-friendly Justice⁴², as well as the Recommendation (89)12 of the Committee of Ministers to Member States on Education in Prison⁴³.

Several specific conventions of the Council of Europe should be mentioned: The Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (Lanzarote Convention, 2007), the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment and the European Convention on the Exercise of Children's Rights (1996).

According to the official data provided by the Government Open Data Portal⁴⁴, **the number of crimes committed by or with the participation of children has decreased** over the last seven years (2015 – 2021), (996 crimes in 2015, 695 crimes in 2015). Although the number of crimes is in

³⁵ The United Nations General Assembly, the UN Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules), adopted by Resolution 40/33 of 29 November 1985, points 3,5,7,8,11;

³⁶ The United Nations General Assembly, the UN Rules for the Protection of Juveniles Deprived of their Liberty (the Havana Rules), adopted by Resolution 45/113 of 14 December 1990, points 1,2;

³⁷ The United Nations General Assembly, the UN Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines), adopted by Resolution of 14 December 1990, item 60;

³⁸ The United Nations General Assembly, Body of Principles for the Protection of all Persons under Any Form of Detention or Imprisonment, adopted by Resolution 43/173 of 9 December 1988

³⁹ The United Nations General Assembly, the UN Standard Minimum Rules for Non-custodial Measures (the Tokyo Rules), adopted on 14 December 1990;

⁴⁰ The Recommendation (2003)20 on the new ways of dealing with juvenile delinquency and the juvenile justice role adopted by the Committee of Ministers on 24 September 2003;

⁴¹ The Recommendation (2006)2 on the European Prison Rules adopted by the Committee of Ministers on 11 January 2006;

⁴² The Resolution CM/Res/2 on Child-friendly Justice adopted at the 28th Conference of European Ministers of Justice of the Council of Europe (Lanzarote, October 2007);

⁴³ The Recommendation (89)12 on Education in Prison adopted by the Committee of Ministers on 13 October 1989;

⁴⁴ Government Open Data Portal <https://date.gov.md/ckan/ro/dataset/4699-delicventa-juvenila>

decline, **the share of cases sent to court is increasing** (from 60 % in 2015 to 76 % in 2021), as a percentage of the number of cases in which prosecution has been completed.

It was noted that **the number of children who committed or were involved in committing crimes also decreased** between 2015 and 2021 (2015 – 1,438 minors, 2021 – 851 minors⁴⁵).

On 01 January 2022, 59 minors were imprisoned (remanded – 34%, 20 boys, sentenced – 66%, 38 boys and a girl). **It is worth mentioning that the number of detained children is continuously decreasing:** in 2017 (31/12/2017) 70 minors were detained (69 boys/1 girl), 2018 – 71 minors (67 boys/4 girls), in 2019 – 57 minors (55 boys/2 girls), in 2020 – 61 minors (59 boys/2 girls), in 2021 – 59 minors (58 boys/1 girl).

On 01.01.2022 there were 39 convicted juveniles in the penitentiary system⁴⁶, of which 43.58% (17 people) had their first conviction, 15.3% (6 people) had their second conviction and 41.02% (16 people) – had 3 or more convictions. Thus, the proportion of convicted children (detained in the penitentiary system) who committed 2 or more crimes (**recidivism**) is **56.32%**.

Distribution of crime by **severity**: minor crimes – 0, less severe – 16 (41.02%), severe crimes – 12 (30.76%), extremely severe crimes – 11 (28.20%), exceptionally severe crimes – 0.

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

Distribution of crime by **the age of convicted juveniles**: 16 people (41.02%) aged 16-17 years, 14 people (35.89%) aged 17-18 years, 9 people (23.07%) aged 18-21 years.

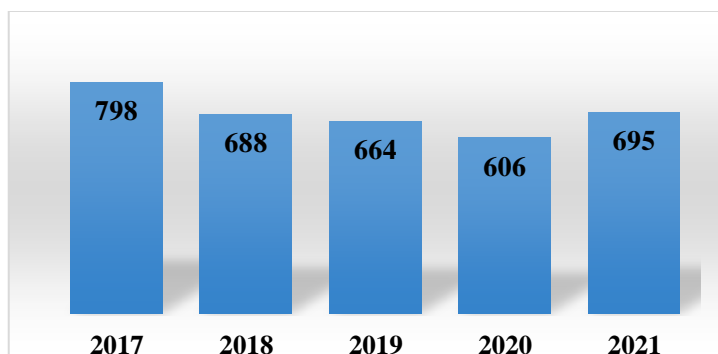
Juvenile crime in the Republic of Moldova has significantly decreased over the last 5 years (2017-2021), registering a fluctuation between 798 and 606 crimes, except for 2021 when a slight increase was recorded.

⁴⁵ Data cover 9 months of 2021;

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

⁴⁶ National Administration of Penitentiaries (NAP), semi-annual/annual reports

<https://anp.gov.md/rapoarte-de-bilant>



Juvenile Crime Dynamics between 2017 and 2021⁴⁷

In 2021, the Ombudsperson for Children's Rights monitored the penitentiary institutions from the perspective of the observance of juvenile detainees' rights and the implementation of the recommendations submitted during the mandate. The monitoring of the **detention conditions** revealed the lack of necessary furniture, unlit shared premises which lead to frequent body injuries among children, overcrowded premises, the lack of personal hygiene products, insufficient and low-quality food, the lack of a diversified menu adjusted to children's growth and development needs, the lack of fruits in the menu, the lack of quality drinking water. Altogether, it undermines the human dignity of detained children which might result in their psychological damage.

The Ombudsperson for Children's Rights noted that juveniles do not have sufficient clothes and shoes, which are worn out and unsuitable for the season and weather conditions. At the same time, the prison management reported that children do not receive clothes and shoes from budgetary sources but only from donations. Minors whose families have no financial resources or children who do not have a family or relatives to provide them with personal hygiene products and clothes, food and other essentials are in a more difficult situation.

It is found that the protection of children is not ensured. Minors are exposed to health risks, such as exposed electrical wires; poor room ventilation which causes a persistent unpleasant smell; worn sanitary equipment causing various injuries to children; sanitary blocks in the cells are unhygienic, dirty, some are not illuminated; the plaster falls off the walls due to humidity.

In response to the identified issues and the recommendations submitted by the Ombudsperson for Children's Rights, the representatives of the Ministry of Justice⁴⁸ report some improvement in detention conditions of minors in state custody, as the Parliament of the Republic of

⁴⁷ Government Open Data Portal, <https://date.gov.md/ckan/ro/dataset/4699-delicventa-juvenila>

⁴⁸ <http://ombudsman.md/wp-content/uploads/2021/12/R%C4%83spunsul-Ministerului-Justi%C8%9Biei-la-Avizul-cu-recomand%C4%83ri-al-APDC.pdf>

Moldova adopted on 6 December 2021 *the Strategy for ensuring the independence and integrity of justice sector for 2022–2025 and the Action plan* for its implementation. It is worth mentioning that the Ministry of Labour and Social Protection developed *the National Program for Child Protection and the Action Plan for 2022-2026*.

To ensure the compliant implementation of international standards, and in particular, the UN Convention on the Rights of the Child, in 2022, the Ministry of Justice⁴⁹, in collaboration with the National Administration of Penitentiaries, is planning to amend the Government Decision No 609/2006 on the minimum standards for daily food and toiletries and household items of detainees to adapt the food rates, clothing, footwear and maintenance standards for minors in detention to their development and growth needs, taking as a reference Government Decision No 1335/2004 approving standards for the provision of food, clothing, footwear, soft items, personal hygiene items, games and toys for orphans and children without parental care from children's homes and boarding schools of all types.

It is worth mentioning that during the Q1 of 2022, the Ministry of Justice, along with the National Administration of Penitentiaries⁵⁰, is planning to accommodate the minor detainees in the new block of the Penitentiary No 10 in Goian, in response to repeated recommendations of the Children's Ombudsperson at various administrative levels.

In compliance with *the Rule No 28 of the European Prison Rules*⁵¹ Rec(2006)2, every prison shall seek to provide all prisoners with access to educational programmes which are as comprehensive as possible and which meet their individual needs while taking into account their aspirations. As far as practicable, **the education of prisoners** shall be integrated with the educational and vocational training system of the country so that after their release they may continue their education and vocational training without difficulty.

The monitoring established that the lessons were delivered online and with children physically present in the class throughout the year. The internet connection was poor which led to frequently interrupted or postponed lessons and the subjects were not mastered. Lessons postponed for technical reasons were not subsequently recovered. It was found that children did not attend lessons because they were doing other activities (cleaning rooms, bathrooms, the territory, etc.). It

⁴⁹ Idem;

⁵⁰ <http://ombudsman.md/wp-content/uploads/2021/12/Raspuns-aviz-Administra%C8%9Bia-Na%C8%9Bional%C4%83-a-Penitenciarelor.pdf>

⁵¹ <https://rm.coe.int/16804c8d9a>

was noted that classrooms lacked necessary information materials, textbooks, school supplies, as well as other essentials that would facilitate the learning and smooth running of the educational process. Children are not provided with school supplies and necessary learning materials to attend lessons and do their homework.

Teachers also do not assign tasks to children for the following lesson, therefore their comprehension and educational skills are not assessed. At the same time, the lessons were delivered in the Romanian language, even though there were Russian-speaking minor detainees. Russian-speaking minors are not provided with sufficient Russian books, and the books in the library are outdated, which qualifies as discrimination.

Children lack the necessary sports equipment for training and leisure.

Children who finished lower-secondary education cannot continue their upper-secondary studies. Note that such issues had previously been identified, and the Ombudsperson for Children's Rights submitted a series of recommendations to remedy the situation, which are covered by the thematic reports⁵², as well as annual reports. However, the Ombudsperson's recommendations have not been implemented yet.

Another severe issue reported by the children was the fact that they were not taught history during the school year, even though they have to take a history exam at the end of the year. Some children were identified to be out of education, training and employment.

It is worth mentioning that children from Penitentiary No 10 in Goian appreciated the opportunity given to take several vocational courses for their future job, such as hairdressing, cooking, shoemaking, etc. At the same time, children want to take locksmith, car mechanic and welding courses which are not currently delivered in the penitentiary.

As for the enhancement of the educational process in penitentiary institutions, the Ministry of Justice reported that a Joint Order of the Ministry of Justice and the Ministry of Education and Research on vocational education of detainees⁵³ shall be developed and approved in compliance with the 2022 Action plan.

Given **the observance of the right to family**, the General Comment No 10 of the UN Committee on the Rights of the Child reveals that: 'Every child deprived of liberty has the right to maintain contact with his/her family through correspondence and visits. In order to facilitate visits,

⁵² http://ombudsman.md/wp-content/uploads/2020/09/Respect_drept_copil_detentie_14.09.2020-.pdf

⁵³ <http://ombudsman.md/wp-content/uploads/2021/12/R%C4%83spunsul-Ministerului-Justi%C8%9Biei-la-Avizul-cu-recomand%C4%83ri-al-APDC.pdf>

the child should be placed in a facility that is as close as possible to the place of residence of his/her family. Exceptional circumstances that may limit this contact should be clearly described in the law and not be left to the discretion of the competent authorities.

Both the management of the penitentiary institutions and children reported that the visits were forbidden during the pandemic, but they maintained contact with their family, relatives and communicated through phone calls for 20 minutes, as well as through Skype.

In this respect, the Ombudsperson for Children's Rights identified some obstacles to the fulfilment of minors' right to family. Some detainees said that they had not had a chance to call their families due to the lack of a special phone card, while others mentioned that the letters addressed to their families had not been sent, which had a significant negative impact on detainees' mental and emotional state.

The Ombudsperson reiterates the *recommendations* made at the beginning of the pandemic to review the appropriateness of increasing the number of phone discussions and online communication on account of visits that do not occur during the pandemic in order to fulfil the right to communicate with family.⁵⁴

In this regard, the National Administration of Penitentiaries states that it is in the process of identifying solutions to implement new phone systems in prisons to facilitate detainees' phone calls with their relatives/family.⁵⁵

The Children's Ombudsperson notes that these children are not engaged in efficient resocialisation activities and programs to be successfully integrated in society/community and they fail to possess basic knowledge for social interaction.

To improve this situation, the Action Plan of the Ministry of Justice sets a specific objective aiming at developing mechanisms of social reintegration of convicted people.

The monitoring of children in confinement revealed that detainees are punished in some cases by banning their visits and parcels, which is against international rules and standards. In this regard, the Ombudsperson for Children's Rights had previously recommended that some alternative methods of sanctioning children should be found, which comply with the UN Convention on the Rights of the Child, relevant international rules and standards. Similarly, an appropriate mechanism

⁵⁴ http://ombudsman.md/wp-content/uploads/2020/03/APDC_ANP.pdf

⁵⁵ <http://ombudsman.md/wp-content/uploads/2021/12/R%C4%83spunsul-Ministerului-Justi%C8%9Biei-la-Avizul-cu-recomand%C4%83ri-al-APDC.pdf>

should be identified to complete the implementation of the provisions of Law No 297/1999 on the social adaptation of persons released from detention facilities.⁵⁶

Issues were also identified in respect to **the right to health**. Many children said during the discussions that they are not examined by their physicians when having headaches, back and tooth pain, and sleep disorders. Children also reported psychiatric and neurologic problems encountered previously for which they had received appropriate treatment when they were out of detention, but they are not examined and not provided with any treatment in the prison. Children mentioned that for any health problems they are given the same pills. Their request to be transferred to Penitentiary No 16 in Pruncul for investigations and treatment is usually rejected or disregarded. At the same time, children mentioned that they are not provided with clear and comprehensible information about their health problems and the treatment they need to undergo, thus the patient's right to be informed is disregarded. Minors expressed their outrage towards poor quality of healthcare in the prison. At the same time, it was found that children are examined by a physician when they enter the prison, and if they request examinations and healthcare afterwards, it is not offered to them, therefore the detainees refuse to request healthcare.

Concerning the failure to provide healthcare, the management of the prison clarified that it is not aware of this fact if the detainee did not report a health problem during the morning roll-call and did not ask for a doctor.

In this context, these arguments are not reasonable because health issues cannot be controlled or programmed. Healthcare continues to be a pressing necessity that should not be postponed or neglected, as it is to the detriment of the child's best interest and well-being, including health.

In regard to **the protection against torture and other ill-treatment**, some cases were identified when minors were abused by other children. Detainees report frequent cases when they are threatened, humiliated, demeaned and verbally assaulted by the prison staff. Children who were victims of abuse did not benefit from psychological assessment and support.

Injuries to children are frequently reported and are caused by the living conditions of minor detainees, namely: insufficient space, damaged furniture, lack of electricity, poor quality of food, limited time (once a week or two weeks) for outings, lack of healthcare, lack of psychological support, lack of communication with family members, lack of information about their families, lack of opportunities to develop their potential, lack of employment, etc., and all of these impact their

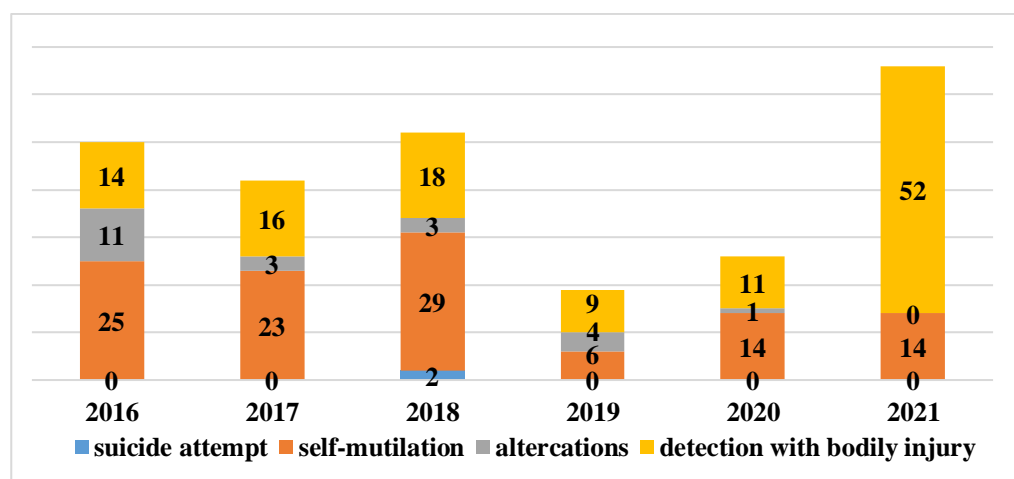
⁵⁶ Idem;

mental and psychological state, making them unstable and demoralised. Nonetheless, some detainees report that they did not self-harm and were not injured, although the briefing notes information claims otherwise.

The review of the injury and self-harm case registers revealed that not all abuse cases are reported or appropriately recorded and examined, and it shows the absence of a mechanism that protects children in detention from abuse and neglect. It discourages children from reporting the violations of their rights, which makes them even more vulnerable, although the existence of a complaints mechanism for children in detention is one of the 15 UN indicators for evaluating the juvenile justice system.

Most recorded briefing notes state that the minor who self-harmed, was identified with bodily injuries or had a suicide attempt, has no claims against the management of the penitentiary. In this context, it is presumed that the real causes of incidents are hidden or minors are being pressured to withdraw their complaints.

Between 2016 and 2021, the cases of self-harm, bodily injuries, altercations, death and/or suicide attempts among juvenile detainees were also analysed.



Evolution of suicide attempts, self-harm, altercations among detainees and bodily injuries between 2016 and 2021⁵⁷

The monitoring and analysis of the reasons for self-harm revealed that juvenile detainees are willing to draw attention to them, most frequently invoking disagreement with the detention conditions or without giving any reasons in general.

⁵⁷ Data provided by the National Administration of Penitentiaries;

About 52 cases of bodily injuries were reported over the year, which remain unsolved and the causes are unfounded. In this context, it should be noted that minors belong to a special category of detainees from the perspective of their psycho-emotional state and they need special treatment from Government agents to overcome social isolation resulted from serving a criminal sentence.

In the light of the above, some regression in the observance of children's rights was found in the targeted penitentiary during the pandemic.

Following the discussions and submitted recommendations, in 2021, the Ministry of Justice, with the support of the CoE carried out some trainings on medical examination upon admission to the penitentiary, quality of documentation and bodily injuries reporting.⁵⁸

In 2022, the National Prison Administration will develop and approve the standard statistical template for the collection of specific data reflecting injuries, trauma, self-harm, hunger strikes and suicide attempts among detainees in order to improve the situation⁵⁹.

Ensuring **access to justice for children in conflict with the law** is a state obligation under the international human rights law. Article 37 of the UN Convention on the Rights of the Child ensure that every child deprived of his or her liberty shall have the right to prompt access to legal and other appropriate assistance and Article 40(2) stipulates that States Parties shall ensure that every child has access to legal support or any other relevant support during the preparation and presentation of defence.

It was found that juvenile detainees benefited from Government-guaranteed legal aid during court proceedings, but they are not satisfied with its quality. They mentioned that the lawyers often do not take into account the case files, do not communicate with the child beforehand to understand important aspects and details for the trial. Children are not provided with needed counselling to better understand their rights during court proceedings and the actions they need to take. Lawyers are often formally present, thus children's right to free access to justice is violated.

Some children are not aware of the term of their sentence, they are not properly informed about concerning issues, such as procedural rights, the right to appeal, the right to apply for parole, alternative sentences, etc. The institution lacks useful and child-friendly information materials, and

⁵⁸ <http://ombudsman.md/wp-content/uploads/2021/12/Raspuns-aviz-Administra%C8%9Bia-Na%C8%9Bional%C4%83-a-Penitenciarelor.pdf>

⁵⁹ <http://ombudsman.md/wp-content/uploads/2021/12/R%C4%83spunsul-Ministerului-Justi%C8%9Biei-la-Avizul-cu-recomand%C4%83ri-al-APDC.pdf>

the existing ones are poorly written and not relevant or up-to-date. All of these as a whole show a violation of the child's right to information.

To fulfil the recommendations of the Ombudsperson for Children's Rights, the National Council for Free Legal Aid approved a list of quality standards to ensure quality service delivery in defending the rights and interests of children in conflict with the law. At the same time, in 2022, NCFLA is planning ongoing trainings for lawyers providing Government-guaranteed legal aid. To improve the quality of Government-guaranteed legal aid services, the Council is improving the mechanism for monitoring the Government-guaranteed legal aid provided by lawyers.

The monitoring revealed that many minor detainees are **on remand for a longer period**, between 1 and 3 years, due to the delay in the examination of criminal cases, although the pretrial detention cannot exceed 12 months according to the Criminal Procedure Code. Thus, available alternatives should be identified and deprivation of liberty should be a measure of last resort. The main aspect that needs to be mentioned is the long-term detention in Penitentiary No 13, which has negative repercussions on minors, as they are influenced by adult detainees and, as a result, minors can be drawn into criminal subculture relationships, although they seem to be isolated.

In this regard, the penitentiary staff mentioned the need for building a penitentiary especially for minors as separating juvenile detainees in cells cannot exclude total interaction with adult inmates, it only limits it.

It was noted that juvenile offenders are often negatively exposed in the media, which leads to discriminatory and negative stereotypes of these children, and children in general. The negative depiction and criminalisation of juvenile offenders are based on distortion and misunderstanding of the causes of juvenile delinquency and regularly lead to a harsher approach.

For quality management of juvenile justice it is crucial to provide all professionals involved in the law enforcement and judicial system with appropriate training on the provisions of the UN Convention on the Rights of the Child, especially the provisions directly applicable to their daily practice. The training should cover information on social and other causes of juvenile delinquency, psychological and other development aspects of children.

The European Prison Rule No 70 stipulates that prisoners, individually or as a group, shall have ample opportunity to make requests or complaints to the director of the prison or to any other competent authority for **protection against abuse and neglect**.

In 2022, the National Administration of Penitentiaries aims to develop a special program for working with children who committed disciplinary offences.

Juvenile detainees in the country show psychological disorders, which is a step backwards for their resocialisation and social integration during the post-sentencing period. It explains the need for frequent **psychological intervention** aiming to develop social skills and habits, which would reduce recidivism among them.

It is crucial to implement various psychological and psychiatric rehabilitation/recovery programs for minor detainees aiming to prevent juvenile delinquency, reduce recidivism among minors, socially integrate and rehabilitate them.

Psychological rehabilitation during detention is omitted and not prioritised by the judge during sentencing when the judge is extremely pressured by the seriousness of juvenile offences, which overshadowed minor's personality.

According to the detainees, young people do not benefit from needed psychological support, appropriate to their age and needs.

Minor detainees mention that the institution's employees frequently neglect and ignore their requests when they report that the sewerage system does not work; the lack personal hygiene products; employees' attitude and behaviour; the lack of light in sanitary facilities, etc.. These unsolved problems serve as a cause of tension and riots among minors.

In this context, it is important to point out that only one or two psychologists are usually working in the penitentiary institutions, who usually have discussions with children and carry out thematic activities, but these are not enough to support and rehabilitate the minors. Psychologists highlighted that most minors need to be engaged and participate in complex support programs, but due to an increased number of detainees, the whole support is limited to some discussions with detainees. Detainees mentioned that they often go to a psychologist as it is a possibility to leave the cell because they have nothing to do and are not engaged in any type of activities.

The Committee for the Prevention of Torture⁶⁰, whose member is the Ombudsperson for Children's Rights also noted these problematic aspects. The situation of **children in conflict with the criminal law in the Transnistrian region** is also worrisome. In particular, the Committee is concerned about the lack of a child-friendly justice system in the region, as well as, the misinterpretation of the juvenile justice concept; the (low) age threshold when children are

⁶⁰ http://ombudsman.md/wp-content/uploads/2021/12/CpPT_Raport-minori-in-penitenciare_2021.pdf

investigated/arrested and detained; the detention quality and treatment in detention institutions; the lack of safeguards against abuse in detention institutions; the lack of effective mechanisms for the rehabilitation and re-socialisation of former juvenile detainees.

These concerns are also based on the fact that there is no independent monitoring and reporting mechanism in the Transnistrian region and the Committee for the Prevention of Torture, the Ombudsperson and the Ombudsperson for Children's Rights do not have access to the detention institutions under Tiraspol's jurisdiction.

Given that the members of the Committee for the Prevention of Torture did not have access to juvenile detention institutions in the Transnistrian region, issues related to physical and targeted findings were not assessed. However, the lack of access, the findings of the non-Governmental organisations' reports⁶¹ and the ECtHR caselaw outlined the concerns of the CPT members on minors' treatment in detention facilities from the Transnistrian region. In this context, the findings of the follow-up Report on Human Right in the Transnistrian region⁶² developed by the UN Human Rights expert, Thomas Hammarberg, who visited the Republic of Moldova in June 2018, show the high rates of arrest and detention, as well as concerning detention conditions.

The 2020 report of the so-called institution for the protection of human rights in the Transnistrian region informs us that 6 minors are placed in the Transnistrian detention system. No complaints were received from juvenile detainees during the reported period. The so-called institution for the protection of human rights received only 72 complaints from all detainees in the Transnistrian region in 2020. This extremely low number of received complaints points out the ECtHR concerns on the lack of some real and efficient complaint mechanisms on cases of torture and ill-treatment in prisons in the region uncontrolled by the constitutional authorities.

The situation of children with special needs is similar to the situation of adults with special needs, as the penitentiary institutions do not meet the development and living requirements of these people.

The Committee for the Prevention of Torture noted the lack of a comprehensive assessment conducted by a multidisciplinary committee on the basis of approved questionnaires concerning the

⁶¹ <https://promolex.md/20280-raport-drepturile-omului-in-regiunea-transnistreana-a-republicii-moldova-retrospectiva-anului-2020/?lang=ro>

⁶² <https://moldova.un.org/ro/14666-expertul-onu-domeniu-drepturilor-omului-thomas-hammarberg-prezintaraportul-sau-de-follow>

assessment of social and healthcare needs of minor detainees and the identification of (physical, mental, sensory and intellectual) disabilities during placement and over time.

The detention conditions in penitentiaries are not adjusted to the special needs of detainees with disabilities. Although both the Ombudsperson for Children's Rights and the Committee for the Prevention of Torture, did not receive any petitions throughout the year alleging the issues of minor detainees with physical, hearing or visual disabilities, we warn the management of NAP that these might arise in the future. The penitentiary facilities for minor detainees are not adjusted to the needs of people with disabilities. Minors with mobility impairment do not have independent access to walking areas, venues for cultural-educational activities (libraries, classrooms, cultural halls), meeting areas and rooms, kitchen. Moreover, sanitary facilities (squat toilets) in cells, canteens and healthcare rooms are not accessible. Ground-level care staff positions (nurses, stretcher bearer) are not provided in the penitentiary institutions and their duties are assigned to the household service department staffed with other detainees. Thus, it might happen that a detainee will take care of another detainee or other detainees will be asked for material goods (clothes, food) to support people with disabilities.

Minors with SEN have access to education, but its quality is affected by the formal approach and the lack of professional support, on the other hand, these children abandon school, but the real causes are not objectively assessed by the penitentiary employees and are attributed to oppositional behaviour.

The criminal subculture has a strong influence on children with SEN (especially children with mental disabilities) in the penitentiary. They are bullied, humiliated and verbally and physically assaulted. Many of them become a victim of these relations as they do not comply with the system of rules set by the criminal element.

As previously mentioned in the report, the mental health of minors is very poorly addressed in prison. Many minors are under psychological and psychiatric supervision as a risk group with depressive disorders, behavioural disorders or anxiety-related disorders.

Their problems are not well-diagnosed or multidisciplinary approached because the prison employees do not have the necessary knowledge on normal particularities and essential needs of adolescence or on the aspects of child psychiatry, namely mental disorders, which often have their onset in adolescence. The prison employees (psychologists, psychiatrists) did not benefit from specialised training on cognitive-behavioural approach to these mental disorders.

SAFEGUARDING THE RIGHTS OF CHILDREN AGED 0-3 RESIDING IN PRISONS WITH THEIR MOTHERS WHO SERVE THEIR SENTENCES

The Bangkok rules cover the rights of children aged 0-3 residing in prisons with their mothers who serve their sentences and stipulate that the principle ‘best interest of the child’ shall be always fulfilled when the Government authorities rule on whether children should reside with their mothers in prison. In this regard, the children of imprisoned mothers should not be treated as detainees.

In 2021, the Children’s Ombudsperson continued to monitor the observance of children’s rights aged 0-3 years residing in penitentiary institutions with their mothers. Therefore, monitoring visits were carried out in Penitentiary No 7 in Rusca and in the Mother and Child Home of Penitentiary No 16 in Pruncul.

The **detention conditions** are adequate and sanitary-hygienic rules are respected. It was noted that the mothers have clothes, shoes and toys as well as other personal items necessary for their children in the rooms where they are detained. The mothers said that everything needed for their children is provided by their family members and non-Governmental organisations.

The mothers and the management of the Penitentiary No 7 in Rusca mentioned during the discussions that the products for children are provided from the institution’s budget on weekly basis, but it is a solution identified by the institution and it is not regulated by its budget. The institution's budget does not cover the provision of personal hygiene products for children aged 0-3 years.

To improve the food ration for children, the 2022 Action Plan of the Ministry of Justice sets the amendment to the Government Decision No 609/2006 aiming to establish rules on providing children born in detention institutions with food ration according to nutritional rules, with personal goods and toiletries.⁶³

The Ombudsperson for Children’s Rights pointed out in the previous reports the problem of the playground that is not age-appropriately equipped and does not ensure necessary protection and safety for children; there is a risk of children being traumatised on the playground. The lack of a properly equipped play area in the prison is also a violation of Article 31 of the UN Convention on the Rights of the Child which stipulates that ‘States Parties recognize the right of the child to rest

⁶³ <http://ombudsman.md/wp-content/uploads/2021/12/Raspuns-aviz-Administra%C8%9Bia-Na%C8%9Bional%C4%83-a-Penitenciarelor.pdf>

and leisure, to engage in play and recreational activities appropriate to the age of the child and to participate freely in cultural life and the arts’.

The right to rest, leisure and play is often violated by the lack of opportunities for children aged 0-3 years residing in penitentiary institutions with their mothers who serve their sentence. It was noted that the children's playground shows a slight improvement at the moment, as a net was installed to protect from direct sun rays in hot weather and obvious hazards to the life and safety of children were removed. Nonetheless, these measures are not enough to fulfil the children’s right to play.

A playroom for children was established with the financial support of an NGO, but it does not fully meet their needs given their age and specific interests. Assessing the living and development conditions of these children, we did not find any age-appropriate books, games or other educational materials.

The Children’s Ombudsperson notes that these children are not engaged in efficient resocialisation activities during their mothers’ sentences, therefore they fail to possess basic skills and knowledge for social interaction.

The Ombudsperson for Children’s Rights highlights the fact that the Government institutions paid insignificant attention to the implementation of Article 31 of the UN Convention on the Rights of the Child. Play is one of the most distinctive features of early childhood. Children enjoy and challenge their current abilities while playing alone or with other children. The value of creative games and exploratory learning is widely recognised in early education.

The Children’s Ombudsperson notes the fact that insufficient *psychological support* is provided to children aged 0-3 years and to their mothers. The necessary support offered by specialised employees contributes to children’s age-appropriate development.

Based on the current circumstances regarding the involvement and integration of children aged 0-3 years, it is noted that Article 31 of the Convention was disregarded. Note that none of the 4 children residing in the institution in the reported year, attended the nursery, thus their right to development and socialization was violated, although the international standards recommend creating conditions for these children to benefit from necessary community services to avoid social exclusion. In this regard, the previous recommendations of the Ombudsperson for Children’s Rights were also disregarded.

In this regard, the Children's Ombudsperson recalls her previous recommendations and requires optimal solutions to be identified for these children to fulfil their rights, given that the Government is encouraged to pay increased attention and provide appropriate (human and financial) resources to implement the right to normal age-appropriate development, the right to health, to education, to rest, to leisure and to play of children aged 0-3 years residing in penitentiary institutions with their mothers.

In respect to the fulfilment of *the right to family and family meetings*, the Ombudsperson for Children's Rights noted that there are not any obstacles to exercising the children's right to family, as they regularly communicate with their families (every day or 2-3 times a week. At the same time, the Children's Ombudsperson appreciates the fact that the management of the institution took into account her recommendations to increase the number of phone calls on account of short-term meetings or to replace them with 45-minute video-audio calls via Skype. It has a significant impact on the psycho-emotional state of children in detention and on the mother who is allowed to communicate with the children out of prison. The detainees reported that they regularly receive parcels from families and are provided with essentials.

The reports of the Committee for the Prevention of Torture⁶⁴ also covered the observance of children's rights in the penitentiary institutions.

In this regard, the Ombudsperson for Children's Rights appreciates the efforts of the penitentiary institution to fulfil the right to family for children and their mothers and reiterates the recommendations made at the beginning of the pandemic concerning the review of the appropriateness to increase the number of phone discussions and online communication with family and/or relatives on account of visits that do not occur during the pandemic.

According to General Comment No 15 (2013) of the UN Committee on the Rights of the Child on the 'Right of the child to the enjoyment of the highest attainable standard of health', children are **entitled to quality health services**, including prevention, promotion, treatment, rehabilitation and palliative care services. At the primary level, these services must be available in sufficient quantity and quality, functional, within the physical and financial reach of all sections of the child population, and acceptable to all.

At the same time, it is unacceptable that the budget of the penitentiary institutions does not provide financial resources for medicine and treatment of children aged 0-3 years, residing in the

⁶⁴ http://ombudsman.md/wp-content/uploads/2021/12/CpPT_Raport-minori-in-penitenciare_2021.pdf

institution with their mothers. Detainees with children mentioned the lack of medicine for their children which are delivered from home, although the head of the healthcare department mentioned otherwise.

Mothers who have children aged 0-3 years claimed that they visit the doctor only when necessary, alleging that the children do not receive preventive health checkups, although they repeatedly requested this.

Following the situation analysis of children residing in prisons, the Ombudsperson for Children's Rights submitted a request to the Parliament of the Republic of Moldova and the Government⁶⁵, as well as notices of recommendations to the Ministry of Justice and the National Administration of Penitentiaries⁶⁶, on the further development, implementation, monitoring and evaluation of a comprehensive policy covering all areas regulated by the UN Convention on the Rights of the Child, that shall be supported with sufficient human, technical and financial resources and specific actions that meet the needs of minor detainees.

On 24 November 2021, the Ombudsperson for Children's Rights outlined the findings and recommendations during the meeting of the Parliamentary Committee for Human rights and Inter-ethnic Relations, also covered by the thematic reports: 'Observance of the right to education of juvenile detainees in penitentiary institutions'⁶⁷, 'Assessment of the observance of children's rights who are in detention, under criminal prosecution or serving their sentence'⁶⁸, 'Observance of children's rights aged 0-3 years residing in prisons with their mothers who serve their sentences in Moldovan penitentiary institutions'⁶⁹, 'Monitoring the implementation of recommendations of the Ombudsperson for Children's Rights on the observance of children's rights in detention'⁷⁰ and 'Monitoring the implementation of recommendations of the Ombudsperson for Children's Rights on the observance of the right to education of juvenile detainees in penitentiary institutions'⁷¹, developed by the Children's Ombudsperson during the mandate.

⁶⁵ <http://ombudsman.md/wp-content/uploads/2021/12/aviz.pdf>

⁶⁶ <http://ombudsman.md/wp-content/uploads/2021/12/Aviz-ANP-%C8%99i-MJ.pdf>

⁶⁷ <http://ombudsman.md/wp-content/uploads/2021/09/RAPORT-REC-EDUCATIE-3-2.pdf>

⁶⁸ http://ombudsman.md/wp-content/uploads/2020/09/Respect_drept_copil_detentie_14.09.2020-.pdf

⁶⁹ <http://ombudsman.md/wp-content/uploads/2019/02/RAPORT-COPIIREDACTAT.pdf>

⁷⁰ <http://ombudsman.md/wp-content/uploads/2021/09/Raport-dr-penitenciare-red.-1-3-1.pdf>

⁷¹ <http://ombudsman.md/wp-content/uploads/2021/09/RAPORT-REC-EDUCATIE-3-2.pdf>

The Parliament, under its supervision, submitted a Decision⁷² to the Government of the Republic of Moldova requesting the implementation of the recommendations proposed by the Children's Ombudsperson.

The Ombudsperson for Child rights finds major shortcomings in all aspects while monitoring the implementation level of the submitted recommendations and makes the following

RECOMMENDATIONS:

- **The Ministry of Justice** will develop and implement a comprehensive juvenile justice policy that will not limit the implementation of the specific provisions under Articles 37 and 40 of the Convention on the Rights of the Child but will also take into account the general principles covered by Articles 2, 3, 6 and 12 and all other relevant articles of the Convention, such as Articles 4, 19 and 39, and it will in line with the United Nations Standard Minimum Rules for the Administration of Juvenile Justice ('the Beijing Rules'), the United Nations Rules for the Protection of Juveniles Deprived of their Liberty ('the Havana Rules') and the United Nations Guidelines for the Prevention of Juvenile Delinquency ('the Riyadh Guidelines');
- **The Ministry of Justice** will develop, implement, monitor and evaluate comprehensive policies that cover all areas regulated by the Convention, supported by sufficient human, technical and financial resources to meet the needs of these children (including clothing and footwear);
- **The National Administration of Penitentiaries** will include a separate budget line in the budget of Penitentiary No 7 in Rusca to fulfil the right to normal age-appropriate development, the right to health, to education, to rest, to leisure and to play of children aged 0-3 years residing in penitentiary institutions with their mothers;
- **The Ministry of Justice** will take needed measures to amend the Government Decision No 609 of 29.05.2006 on the minimum standards for daily food and toiletries and household items of detainees to adapt the food rates, including fresh seasonal fruits for children aged 0-3 years and for juvenile detainees.
- **The Ministry of Justice along with the National Administration of Penitentiaries** will amend the budgets of the penitentiary institutions aiming to review the food ration in

⁷² <http://ombudsman.md/wp-content/uploads/2021/12/24-78-187-10025-din-13.12.2021.semnat-2-8.pdf>

compliance with children's development needs, add fresh seasonal fruits to daily meals and adjust the daily menu to children's health issues;

- **The National Administration of Penitentiaries** will strengthen the educational process in the penitentiary institutions by amending the budget in order to provide juveniles with books, school supplies and teaching materials, etc.;

- The National Administration of Penitentiaries along with Municipal Education Departments and the management of the penitentiary institutions will develop a required mechanism to control the organisation and delivery of lessons and will identify necessary resources to provide minors with the opportunities to continue their studies;

- **The Ministry of Justice** will take needed measures to complete the construction and put into service a new building of Penitentiary No 10 in Goian that will ensure appropriate conditions for minor detainees and will separate them from adult inmates;

- **The Ministry of Justice in cooperation with the National Administration of Penitentiaries** will develop a cooperation mechanism between the penitentiary institution, local authority and the child's family;

- **The Ministry of Justice in cooperation with the National Administration of Penitentiaries** will develop a necessary and relevant regulatory framework to diversify the possibilities of ensuring contact with the family, using current technical solutions and allowing detainees to communicate via online platforms and applications, especially children from socially vulnerable families or from families who live at a great distance from the penitentiary institution, and to strengthen the efforts to keep convicted and remanded children in contact with their families during the pandemic and prevent the infection with SARS-CoV-2 among minors;

- **The National Administration of Penitentiaries** will take necessary measures to remove disciplinary punishment against children, like prohibiting visits, parcels delivery and mailing;

- **The National Administration of Penitentiaries** will carry out extensive monitoring and control of the healthcare system to eliminate the existing shortcomings, in particular, concerning the continuity of treatment for diseases acquired before the deprivation of liberty and to align the system to international standards by providing minors with the

necessary medicines, organising and carrying out preventive checkups held by various physicians, etc.;

- **The National Administration of Penitentiaries** will develop an electronic register to include the date when the minor was placed in detention and all minor's actions (self-harm, suicide attempts, altercations with other detainees, hunger strikes, identified with injuries, attacks against institution's employees, psychological assessment);

- **The National Administration of Penitentiaries** will report all juvenile detainee incidents to the Ombudsperson for Children's Rights and the District Prosecutor's Office in due time;

- **The National Administration of Penitentiaries** will develop a complaints mechanism for children in detention, achieving the UN indicator on the assessment of the juvenile justice system;

- **The National Administration of Penitentiaries** will engage external experts and subject-matter professionals to develop, review and implement special psychological support and counselling programs for minors in Government custody;

CHAPTER IV

OBSERVANCE OF THE RIGHTS OF CHILDREN IN STREET SITUATIONS

The term ‘street children’ is regulated by the UN General Comment No 21 (2017) on street children. The term ‘street children’ is used to comprise: (a) children who depend on the streets to live and/or work, whether alone, with peers or with family; and (b) a wider population of children who have formed strong connections with public spaces and for whom the street plays a vital role in their everyday lives and identities⁷³. The term ‘being in public spaces’ is understood to include spending a significant amount of time on streets or in street markets, public parks, public community spaces, squares and bus and train stations. It does not include public buildings such as schools, hospitals or other comparable institutions⁷⁴.

The Ombudsperson for Children’s Rights initiated several discussions with the representatives of local and central public authorities throughout the work. The topic of street children was also addressed during various round table discussions, press conferences and meetings with responsible officials advocating for the harmonization of the legal framework with international standards; identification of applicable actions/measures towards street children; development of social services for children – shelter/accommodation; capacity building for professionals who work with street children; increased actions to identify families with children at risk; early response to avoid home abandonment, etc.

In respect to street children, the authorities did not manage to ensure needed protection and support for these children. Given the failure, a number of issues result in the development of the phenomenon of street children, such as:

- inefficient cooperation mechanism between local, territorial and central public authorities;
- lack of child protection services developed at the local level;
- lack of primary social services within the level I local public authorities aiming to prevent the child’s delinquent behaviour;

⁷³ <http://ombudsman.md/wp-content/uploads/2020/12/Nr.-21-.pdf>

⁷⁴ Idem;

- reluctance of local and territorial guardianship authorities to be engaged in solving the cases of children from respective communities who are in street situations in Chisinau municipality;
- delayed response or inaction on family and community reintegration of professionals working in the residing communities of children who are from other territorial-administrative units;
- poorly trained professionals unable to efficiently communicate/interact with children with deviant behaviour;
- shortage of qualified and experienced professionals working with street children;
- difficulties in implementing case management because there is a lack of information about children from other administrative-territorial units, and an individualised plan of caregivers fails to be developed and implemented. It is extremely difficult to engage in this process the child's family, representatives of the guardianship authority of the child's place of residence in other territorial-administrative units, etc.;
- lack of rehabilitation and treatment services for drug, alcohol and other addictions, etc.;
- lack of a specific response mechanism to identify street children under influence of drugs; lack of rehabilitation services, healthcare treatment, detoxification and long-term therapy which make it impossible to change the current situation.

The situation so far indicates that the authorities' efforts to address the problems of street children have proven to be insufficient and ineffective.

To improve the situation, the Government must take measures to ensure that street children have access to basic services such as healthcare, education, access to justice, culture, sport and information. The Government is responsible for ensuring that the child protection system provides specialist street-based services, involving trained social workers with a good knowledge of local street connections who can help children reconnect with family, local community services and wider society⁷⁵.

Given the mandate of the Ombudsperson for Child's Rights, with all response options exhausted, note that on 17 July 2020, the Ombudsperson for Child's Rights requested that the

⁷⁵ http://ombudsman.md/wp-content/uploads/2020/12/Nr.-21-_.pdf

Speaker of the RM Parliament⁷⁶ holds Parliamentary debates on this subject at the meetings of several parliamentary committees⁷⁷. In this regard, the Ombudsperson for Child's Rights submitted to the Parliament the Opinion on the failure to observe the rights of street children and proposals for the reinstatement of the rights of street children⁷⁸ but this request remained unexamined.

As the situation of street children remains unresolved, on 10 December 2021, the Ombudsperson for Child's Rights addressed the Parliament of the Republic of Moldova, requesting the initiation of parliamentary debates in the relevant parliamentary committees⁷⁹.

On 15 December 2021, the Committee for Human Rights and Interethnic Relations, with the participation of representatives of the relevant authorities and civil society, held public hearings on observance of the rights of street children⁸⁰. Following the hearing on the subject of street children, the Parliamentary Committee issued a Decision on the observance of the rights of street children⁸¹, with concrete actions to be taken by the Government in this area.

In practice, the mechanism provided for in Government Decision No 270 of 08.04.2014 approving the Instruction on the intersectoral cooperation mechanism for the identification, assessment, referral, assistance and monitoring of child victims and potential victims of violence, neglect, exploitation and trafficking is often not applied or is applied defectively.

In the context of these problems, the Ombudsperson for Child's Rights reiterates that the measures taken by the Government in the context of Covid-19 pandemic in order to stop or reduce the spread of the virus (hand washing, disinfection of surfaces and objects, social distancing, wearing masks and protective gloves) are effective but are not relevant for children living on streets. At the very least, implementing these measures requires soap and water, daily personal hygiene, which is missing on streets, not to mention disinfectants, masks or gloves.

⁷⁶ <http://ombudsman.md/wp-content/uploads/2020/07/12-5-15-din-17.07.2020-adresare-c%C4%83tre-Parlamentul-RM-copiii-str%C4%83zii.pdf>

⁷⁷ *Idem*;

⁷⁸ <http://ombudsman.md/wp-content/uploads/2020/07/12-5-16-din-12.08.2020-Comisia-Parlamentar%C4%83-CECTSMM-Opinia-privind-nerespectarea-drepturilor-copilor-%C3%AEn-situa%C5%A3ie-de-strada-%C5%9Fi-propuneri.pdf>

⁷⁹ <http://ombudsman.md/wp-content/uploads/2020/07/12-6-23-3120-din-10.12.2021-adresare-Parlamentul-RM-copiii-%C3%AEn-strad%C4%83.pdf>

⁸⁰ <http://ombudsman.md/news/subiectul-copilor-in-situatie-de-strada-readus-in-discutie-de-avocatul-poporului-pentru-drepturile-copilului-in-cadrul-comisiei-parlamentare-drepturile-omului-si-relatii-interetnice/>

⁸¹ <http://ombudsman.md/wp-content/uploads/2020/07/Decizia-386.pdf>

The responsible authorities need to get directly involved by monitoring the health status, providing disinfectants, sanitation measures in the places where these children usually stay.

Another aspect that remains unaddressed is observance of the right to education, in this area the authorities do not take sufficient measures, and the Government does not have a clear and forward-looking strategy for the educational inclusion of these children.

With reference to the number of street children, according to the information provided by the National Public Security Inspectorate of the Ministry of Internal Affairs, in 2021, 110 children were identified as street children (practicing vagrancy), while as a result of the activities carried out, police employees identified 147 minors who abandoned their homes/other forms of placement⁸².

Social and economic factors favour an increase in the number of children in conflict with the law. In terms of juvenile delinquency, compared to the previous years, during 2021, 583 minors were suspected of committing crimes/contraventions, while during the current year, 757 protocols were issued for minors aged 16-18. With reference to children with deviant behaviour, during the reference period, the Police identified and started monitoring 628 children who can be classified in such a category (showing deviant and/or delinquent behaviour), in total 1242 children with deviant/delinquent behaviour are monitored by the police⁸³.

Another issue to be addressed is street children who commit offences but are not criminally liable. In this context, the Ombudsperson for Child's Rights reiterates that throughout her mandate she has repeatedly mentioned the lack of legal regulations on clear procedures for professionals/professionals when examining cases of criminal offences committed by children under the age of criminal responsibility. She also reported about the lack of protection and re-socialization measures for these children, though they must benefit from specialised assistance like care, placement and supervision, guidance and verification, general and alternative education programs. In this respect, the Ombudsperson for Child's Rights draws attention to the fact that these measures must be non-repressive and that specialised services must apply programmes adapted to the specific needs of each child.

⁸² https://politia.md/sites/default/files/nota_informativa_privind_starea_delincventei_juvenile_si_activitatea.pdf

⁸³ https://politia.md/sites/default/files/nota_informativa_privind_starea_delincventei_juvenile_si_activitatea.pdf

In the context of the implementation of the Law on measures and services for children with deviant behaviour No 299 of 30.11.2018, the following problems were found: lack of enforcement mechanisms; lack of services for these categories of children; lack of cooperation between authorities, passing responsibility from one institution to another; lack of professionals for the protection of child rights at local level, etc. At this stage there is a need to carry out an evaluation/examination of the law to see whether it meets the best interests and needs of the child.

In conclusion, there are neither legal regulations nor clear procedures on the status of a child who committed a criminal offence but has not reached criminal liability age, which is an alarming situation for the whole society, because the lack of legal framework does not allow full observance of the rights of the child and legal guarantees. Based on the findings and conclusions on street children,

The Ombudsperson for Child's Rights makes the following **RECOMMENDATIONS:**

- Carry out a comprehensive review of the limitations of the rights and freedoms of street children;
- Develop, implement, monitor and evaluate a comprehensive policy regulating all areas covered by the UN Convention on the Rights of the Child, supported by sufficient human, technical and financial resources to meet the needs of street children;
- Develop a strategy for the protection of street children in order to prevent and mitigate the phenomenon;
- Establish adequate medical, educational, social, etc. services, including substance abuse prevention and treatment programs, mental health counselling, for the recovery and reintegration of street children, including shelter, education and vocational training;
- Strengthen inter-sectoral cooperation mechanisms to ensure adequate protection of street children;
- Develop of the National Clinical Protocol on narcological detoxification of children;

- Asses, by the authorities, the extent to which the rights of deinstitutionalised children and the child protection system are respected after deinstitutionalisation.

CHAPTER V

FOLLOW-UP TO THE IMPLEMENTATION OF THE RECOMMENDATIONS OF THE OMBUDSPERSON FOR CHILDREN'S RIGHTS

THE SITUATION OF PRETERM NEWBORNS

Respecting the right to life, health and development of **children born prematurely** has been on the radar of the Ombudsperson for Child's Rights throughout 2021, as well. According to data from the National Bureau of Statistics, the rate of premature births decreased from 2066 cases in 2015 to around 1600 cases in 2020, which is also due to the decrease in the number of births in general.

This subject has always been on the agenda of the Ombudsperson for Child's Rights, and the problems, findings and recommendations are also reflected in the annual reports on observance of child rights ^{84,85}.

During her mandate, the Ombudsperson for Child's Rights has addressed the problems faced by families of children born prematurely at different levels and carried out several actions in this area. In this regard, the national conference 'Prematurity in the Republic of Moldova, challenges and opportunities'⁸⁶ was held in partnership with the 'Vitae' NGO. Conference participants discussed and analysed the existing situation, and identified some relevant solutions for the implementation of recommendations by relevant public authorities. Based on the discussions and issues raised during the conference, a Resolution was prepared, requesting to improve the diagnosis of pathological conditions that result in premature birth; to increase the quality of healthcare services in case of premature birth; to provide psychological support to parents in case of premature child loss, etc.

Following the submitted Resolution, the Ministry of Health, in its letter⁸⁷ stated that it was in the process of developing the 2020-2030 National Strategy for Mother, Child and Adolescent Health, which sets the objective of ensuring universal access to quality health care

⁸⁴ http://ombudsman.md/wp-content/uploads/2020/01/RAPORT_APDC_2019.pdf

⁸⁵ http://ombudsman.md/wp-content/uploads/2020/08/Raport_anual_copii_2020-coperta-20.08.2020.pdf

⁸⁶ <http://ombudsman.md/news/fiecare-copil-are-dreptul-la-cea-mai-buna-stare-de-sanatate-si-a-beneficia-de-servicii-medicale-de-inalta-calitate-tratament-si-recuperare/>

⁸⁷ Letter from the Ministry of Health, No 07/3227 of 30.05.2019;

for pregnant women, children and adolescents, through continuous monitoring and evaluation of outcomes, including children born prematurely.

Although attempts have been made to improve the situation of children born prematurely and their families, the Ombudsperson for Child's Rights still notes the following, based on the statements of the parents of these children:

- Shortage of professionals specialising in the provision of qualified care for babies born prematurely;
- Uneven distribution of family doctors and paediatricians throughout the Republic of Moldova;
- Underestimation of the child's condition and late hospitalisation;
- Poorly developed early prevention system;
- Lack of cooperation between the early intervention service and local social protection professionals;
- Lack of specific products for premature babies in maternity hospitals;

Monitoring the implementation of the findings and recommendations addressed to public authorities to redress the situation, the Ombudsperson for Child's Rights appreciates the efforts of public authorities which have had a positive impact on this segment, but indicates some reservations in this area.

The Ombudsperson for Child's Rights reiterates that the child's right to life, and access to and availability of quality health services, regardless of when the child is born, but especially in cases of premature birth, is a primary obligation of the Government, monitored by national human rights/child protection institutions.

The Ombudsperson for Child's Rights also reminds the relevant public authorities of the recommendations stipulated in the Thematic Report on 'Monitoring observance of child rights in the process of providing pre-hospital emergency medical care'⁸⁸, which referred to the poor state of ambulance equipment for children, especially newborns.

According to Ministry of Health data⁸⁹, between 2016 and 2021 there has been a decrease in the number of babies born prematurely, but also in the number of babies born prematurely.

⁸⁸ http://ombudsman.md/wp-content/uploads/2018/10/studiu_medicina_0.pdf

⁸⁹ The letter of the Ministry of Health No 12/697 of 23.02.2022;

Year	Number of premature baby deaths	Number of preterm live births	Number of newborn deaths
2016	134	2036	113
2017	130	1786	91
2018	130	1765	93
2019	121	1731	87
2020	133	1599	92
2021*	102	1684	87

**Note: At the time of writing this Report, the Ministry of Health informed us that the data were preliminary*

According to data of the National Bureau of Statistics of the Republic of Moldova ^{90, 91}, during 2016-2021 there was a difference in the number of children born prematurely and the number of newborn children who died prematurely compared to the data provided by the Ministry of Health.

Year	Number of premature baby deaths	Number of preterm live births	Number of newborn deaths
2016	134	1922	113
2017	130	2036	91
2018	130	1786	96
2019	110	1768	The NBS did not indicate
2020	131	The NBS did not indicate	The NBS did not indicate
2021*	-	-	-

**Note: The National Bureau of Statistics of the Republic of Moldova does not have data, data will be available in the second quarter of 2022.*

As a conclusion, the Ombudsperson for Child's Rights makes the following

RECOMMENDATIONS:

- **The Ministry of Health** will take the following actions: optimise the diagnosis of pathological conditions that result in premature birth, as well as preconception and prenatal preventive measures;
- **The Ministry of Health** will improve the quality of health services in case of imminent premature births;

⁹⁰ Letter of the National Bureau of Statistics of the Republic of Moldova No 08-5/28 of 23.05.2019;

⁹¹ Letter of the National Bureau of Statistics of the Republic of Moldova No 08-4/16 of 16.02.2022;

- **The Ministry of Health** will improve the quality of healthcare and hospital conditions for premature babies and their mothers;
- **The Ministry of Health** will increase the capacity of the health system to provide services in line with the real health and developmental needs of premature children;
- **The Ministry of Health** will develop quality healthcare services by providing healthcare facilities with adequate equipment and continuous training of medical staff.

CHILDREN WITH RARE DISEASES

During 2021, the Ombudsperson for Child's Rights continued to monitor observance of the rights of children **suffering from rare diseases**, and also monitored the implementation of the recommendations made throughout the whole mandate.

Any disease that affects fewer than 5 in 10,000 people in the EU is considered rare. Although this might seem small, it translates into about 246,000 people. Most patients suffer from even rarer diseases affecting 1 in 100,000 or more people. Around 5,000-8,000 distinct rare diseases affect 6-8% of the EU population, i.e. between 27 and 36 million people⁹².

According to information provided by the Ministry of Health, in the Republic of Moldova the List of Rare Diseases is managed by the Centre for Reproductive Health and Medical Genetics of the Mother and Child Institute, and is supplemented according to the number of cases.

The number of rare diseases also depends on the accuracy of disease definition and diagnosis. Until now, in the medical field, a disease has been defined as an alteration of health condition that shows a unique pattern of symptoms with a single treatment. Whether the model is considered unique depends entirely on the accuracy of the analysis. The more accurate the analysis, the better some nuances are noticed⁹³.

Rare diseases have a serious, chronic and progressive course. For some rare diseases, the first signs may be seen at birth or in early childhood, such as in spinal muscular atrophy. Genetic rare diseases are often classified into two groups. One group represents rare metabolic diseases, another group represents rare neuro-muscular diseases⁹⁴.

⁹² https://ec.europa.eu/health/non-communicable-diseases/steering-group/rare-diseases_en

⁹³ <http://www.orpha.net/national/RO-RO/index/despre-boli-rare/>

⁹⁴ <https://agora.md/stiri/82352/opinie-bolile-rare-si-parcursul-pacientilor-rari-in-republica-moldova>

The total number of patients included in the List of Rare Diseases registered with the Centre for Reproductive Health and Medical Genetics of the Mother and Child Institute is 1200 patients⁹⁵. In this respect, we conclude that the number of children suffering from a rare genetic disease is not known exactly. According to the parents of these children, some of them are initially misdiagnosed, and in many cases the correct diagnosis is made abroad.

Note that the diagnosis of rare diseases in children in the Republic of Moldova is a major problem for ensuring the right to health protection. Lack of early diagnosis and appropriate treatment worsens the situation of children with rare diseases. In the absence of a single, disaggregated record by type of disability, it is not possible to develop and implement policies on treatment and prevention of rare diseases and to establish positive intervention actions.

Monitoring the situation of children suffering from rare diseases, the Ombudsperson for Child's Rights found the following shortcomings:

- Lack of disaggregated data on children with rare diseases;
- Poorly developed preventive diagnostic system;
- List of rare diseases needs to be updated/supplemented;
- Low number of qualified professionals, especially in rural regions of the country;
- Lack of social services disaggregated by type of disability/condition for the empowerment of children with rare diseases;
- Total or partial lack of equipment for prenatal RETT diagnosis of high-risk families;

MDL 48,446,776.78⁹⁶ were allocated were allocated for compensated medicines for patients with rare diseases in 2021, which is a positive step on the part of the Government. Currently, the selection and treatment of children suffering from rare diseases abroad is carried out according to the Regulation of the Commission for Selection of Patients for Treatment and/or Costly Investigations, approved by Order of the Ministry of Health, Labour and Social Protection No 979/2016 'On the selection of patients for treatment and/or costly investigations'. Even if this mechanism is developed, the parents of these children consider that the procedure of the compensation system is excessively bureaucratic, which is why children get assistance and medicines late.

⁹⁵ <https://stiri.md/article/social/cati-pacienti-cu-boli-rare-traiesc-in-republica-moldova>

⁹⁶ <https://stiri.md/article/social/lucrul-asupra-programului-privind-bolile-rare-stopat-din-cauza-covid>

In addition, there are issues with medicines for children with rare diseases, which in most cases are not on the pharmaceutical market in the Republic of Moldova for the simple reason that *‘international pharmaceutical companies come to the market only if it is profitable’*⁹⁷. Thus, the parents of these children have to find solutions to procure these medicines from abroad paying out of pocket, and rarely are these medicines partially compensated by the Government.

During the Covid-19 pandemic, the problem of medicines has become even more acute, and is felt more acutely by families who have children with disabilities, including rare diseases. Due to the lack of the necessary medicines, some children with rare diseases died, as reported in the media⁹⁸.

In this context, the Ombudsperson for Child’s Rights reiterates that the Government must take into consideration the quality of life of families with children diagnosed with rare diseases, as they are put in the situation of having to procure the necessary medication on their own, the supplies are extremely expensive, simply because they are ‘rare’, in this regard it is recommended to take over the practices of European countries where these medicines are offered completely free of charge.

Currently, the diagnosis and treatment of patients with one of the 13 rare diseases is provided in the Republic of Moldova at the state budget expense: Wilson Conovalov disease, Hemophilia, Phenylketonuria, Pituitary insufficiency, B - thalassemia, Precocious puberty, Epidermolysis bullosa, Juvenile arthritis, Diabetes insipidus, Adison's disease, Non-specific ulcerative colitis/Cron's disease, Pulmonary hypertension, Duchenne muscular dystrophy (204 names are registered in the draft list of rare diseases in the Republic of Moldova, prepared by the Ministry of Health).

Educational and social inclusion is another issue encountered by children with rare diseases. Integration of these children in the school, community and society is often done in a tokenistic way, failing to take into account the health-related particularities of each child. At national level there are practically no specialised rehabilitation services for children with rare

⁹⁷ <https://newsmaker.md/ro/viata-unui-copil-nu-poate-fi-pusa-pe-pauza-cum-pandemia-a-devenit-un-pericol-pentru-viata-copiilor-cu-boli-rare/>

⁹⁸ <https://newsmaker.md/ro/viata-unui-copil-nu-poate-fi-pusa-pe-pauza-cum-pandemia-a-devenit-un-pericol-pentru-viata-copiilor-cu-boli-rare/>

diseases provided by the Government. The services provided for these children are few in number, and most are provided by NGOs.

In conclusion, monitoring of the situation of children with rare diseases, the Ombudsperson for Child's Rights notes that the situation remains unchanged, and reiterates the following

RECOMMENDATIONS:

- Train healthcare and education professionals to provide quality services to children with rare diseases;
- Provide support in training parents in therapies and caring for their own children;
- Develop national clinical protocols for all rare diseases that are/will be included in the Rare Disease Registry;
- Set up a clinical laboratory adapted to the standards of modern medicine for early diagnosis of rare diseases and their prevention (prenatal screening and other forms of diagnosis);
- Train professionals in biomedicine, genetics, molecular medicine and related fields for the diagnosis, prevention and development of treatments for rare diseases;
- Review the databases on children with rare diseases, disaggregated by type of disability, age, gender, etc.
- Supplement the list of rare diseases, taking into account diseases identified in previous years.

CHILDREN WITH SENSORY DISABILITIES

Respecting the rights of children with disabilities has been and remains a priority in the work of the Ombudsperson for Child's Rights. The Ombudsperson for Child's Rights monitored the situation of children with sensory (hearing/vision) disabilities. In this regard, it was found that access of children with sensory disabilities to social life remains limited due to the lack of reasonable accommodation of infrastructure: physical access to buildings and public places, access to information, stigmatisation by society, as well as discrimination that jeopardizes the social integration process of children with sensory disabilities.

According to Government Decision No 333/2014, communication services using sign language/mimetic language are provided free of charge to people with hearing impairments, including children with sensory disabilities, but in fact in most cases these services are not provided simply because many children do not know sign language.

The general school curriculum does not provide for the use of sign language. Emphasis is placed on verbal language development to facilitate communication and further integration of children with hearing disabilities into society.

Access to information and communication remains a problem for children with sensory disabilities, often technological systems, means of communication do not meet the specific requirements of these children. As an eloquent example, during the Covid-19 pandemic the Ministry of Health briefings themselves were not interpreted in sign language. In the case of e-learning, children with sensory disabilities are the first to experience problems in learning objects because the educational process is not adapted to their specific needs.

With reference to the educational inclusion of children with sensory disabilities, most of them are placed in general education institutions. Currently, there are only a few special educational institutions: The Theoretical High School with technological profile for children with poor eyesight No 8 in Chisinau, the Special Public Institution for Early Education No 135 for the recovery of vision of children with visual disabilities in Chisinau and Special School No 12 for hearing impaired children and late deafness. The Government has major shortcomings with the quality of placement of these children in mainstream schools. Note that not all educational institutions are equipped with computers that have installed special software for low vision children and devices such as: special magnifiers, special monitors that magnify the image, closed circuit television systems, interactive whiteboards (optical correction devices and visual aids).

Special markings are missing in general education institutions.

Although there are positive trends in the development of different programs of continuous training of teachers by the Republican Center for Psycho-Pedagogical Assistance⁹⁹, as well as in the municipal/district services of psycho-pedagogical assistance that provide methodological support on inclusion of children with sensory impairments for teachers and parents of children, educational inclusion is still affected by the insufficient training of teachers in the educational process with children with sensory disabilities.

It is virtually impossible for children with visual impairment or up to 10% vision to attend mainstream education on equal terms with children without such problems. The situation is also critical because of the insufficient training of teachers who provide education to children

⁹⁹ https://www.legis.md/cautare/getResults?doc_id=22066&lang=ro

with visual impairment. Both parents and teachers claim there are not enough support teachers. There is a lack of professionals: defectologists, pedagogues, psychologists, both in specialised republican institutions and in mainstream education institutions.

There are still a limited number of teaching materials for both hearing and visually impaired children, most of the materials are outdated, there is a lack of artistic literature published in Braille¹⁰⁰. In the Republic of Moldova there are an estimated 15,000 people with visual disabilities, of whom only 2500 know the Braille alphabet¹⁰¹, in this context, *‘the Braille system is particularly important for children, because the acquisition of writing skills, in addition to literacy, develops and forms in itself the traits of mental processes and character traits’*.¹⁰²

Although the Government guarantees the right to health to all children through the system of compulsory health insurance and emergency services, however, during the pandemic it was found that children with sensory (hearing) disabilities did not have full access to these services due to language barriers, exacerbated by the wearing of masks, which makes it impossible to ‘read lips’. The children’s situation gets more complicated due to prohibition of sign language interpreter assistance in healthcare facilities, due to the pandemic-related requirements.

There are still gaps in the statistics on children with low vision, as there are currently no accurate data on the real number of these children. There are no disaggregated data by all eye diseases, but only by cataract, myopia and glaucoma are included. In this regard, professionals recommend including other diseases such as retinal pathology, optic nerve pathology, etc.

Another issue that needs to be addressed is *ensuring accessibility to infrastructure, transport, information and communication for children with disabilities*. The Government has serious backlogs in adapting pedestrian crossings, sidewalks, building access paths, etc. to specific requirements. Also in this context, the food industry must use embossed symbols on food labels, similarly these requirements must also be met on medicine labels. Although a number of actions are planned by the Government, their implementation is very difficult.

¹⁰⁰ <https://ea.md/ce-presupune-alfabetul-braille-si-cat-de-aplicat-este-in-republica-moldova-video/>

¹⁰¹ <https://medium.com/undp-moldova/alfabetul-braille-utilizat-%C8%99i-%C3%AEn-moldova-pentru-a-oferi-tutoror-acces-egal-la-informa%C8%9Bii-ae5c149b15ca>

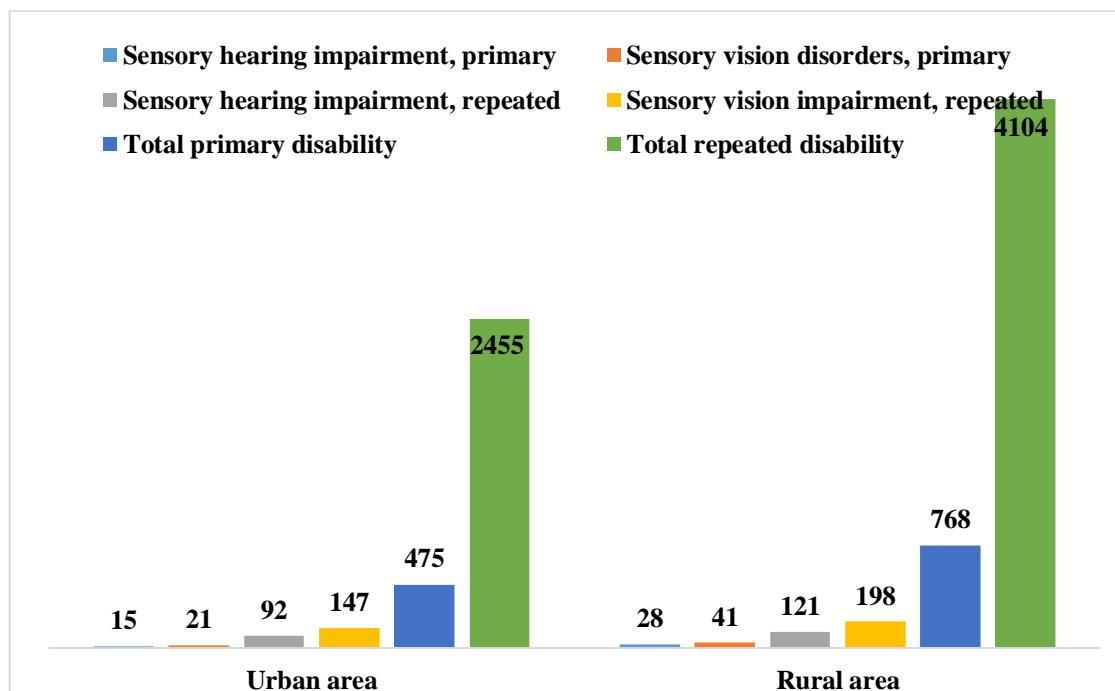
¹⁰² <https://diez.md/2021/01/04/alfabetul-braille-utilizat-in-moldova-pentru-a-oferi-tutoror-acces-egal-la-informatii-electorale/>

It is necessary to remove these barriers in order to facilitate the participation of people with disabilities in different areas of life and increase their inclusion.

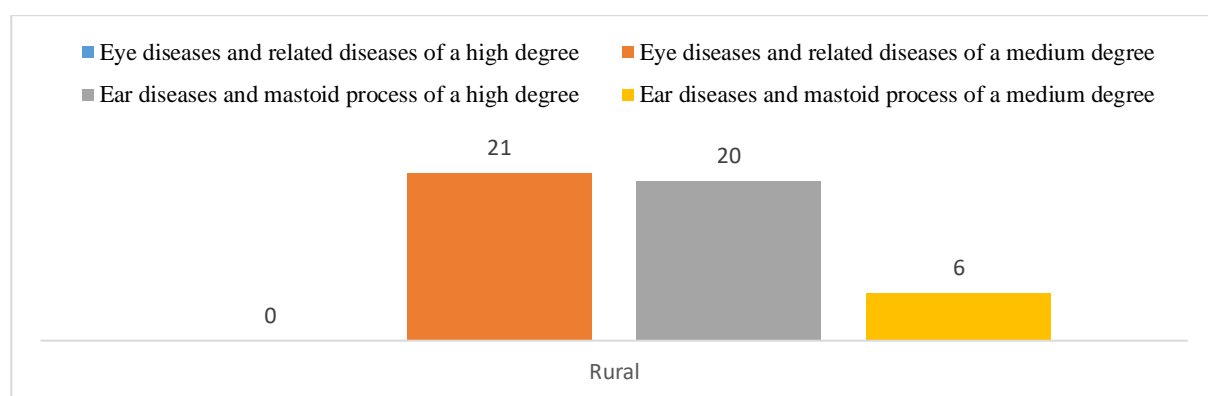
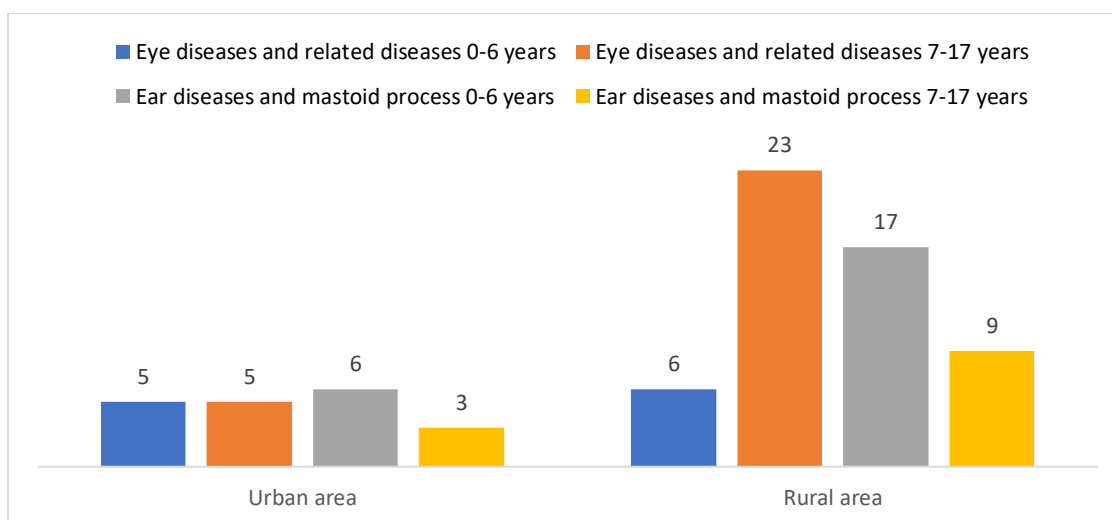
Obviously, the amount of social benefits provided to families with children with sensory disabilities often does not cover the consumption basket. This situation is also conditioned by the fact that a minimum subsistence level for a child with disabilities has not been established yet. In this regard, the Ombudsperson for Child's Rights has repeatedly warned the authorities responsible for the financial situation of these families, submitting proposals to amend the relevant legislation.¹⁰³

According to statistics provided by the Ministry of Health, the number of children with sensory hearing impairment is higher in rural than in urban areas. A high number of children with repeated disability and the same difference between rural and urban areas was found.

Breakdown of children with primary and repetitive disabilities by type of function impairment and area of residence



¹⁰³ <http://ombudsman.md/wp-content/uploads/2021/10/Propunere-minim-existenta-semnat.pdf>



Monitoring the implementation of recommendations, the Ombudsperson for Child's Rights found the following regarding the social inclusion of children with sensory disabilities:

- The Ministry of Education and Research has developed several national policies for educational inclusion, which is appreciated positively, but there are shortcomings in their implementation.
- Screening is still an issue. It is often carried out in a tokenistic manner, which results in late detection of sensory disabilities, i.e. the loss of 'golden time', with subsequent treatment becoming more expensive and less effective.
- There are still gaps in removing barriers that arise when people with sensory disabilities travel. The previously mentioned problems are also relevant with regards to people with sensory (hearing/eyesight) disabilities crossing streets, walking on pavements, when moving/travelling in/out of the city, as most traffic lights, public transport, and car stops do not have audible information.

- To date, no formula has been developed to calculate the minimum subsistence level for children with disabilities.
- Setting up day centers for children with sensory disabilities is also lagging behind. Currently, such centers are only in Chisinau and Balti.
- Although the Government, through the Ministry of Education and Research in collaboration with international organisations, has made efforts to equip educational institutions with special assistive equipment, children with sensory disabilities have difficulties in acquiring such equipment.
- Difficulties arise in teachers' communication/interaction with children with sensory disabilities due to insufficient staff training, leading to failures in inclusive education. There is a lack of professionals: defectologists, speech therapists, psychologists, both in specialised and general education institutions.
- The lack of support teachers and the much higher teaching load than the possibilities to assist children with SEN remains one of the most acute problems in this field.
- Lack of teaching materials in Braille alphabet.
- Most media outlets do not have adapted information programmes, artistic entertainment, etc., for people/children with hearing disabilities (synchronous titling/translation provided by sign language interpreter, etc.).
- Lack of disaggregated, factual data on the statistics of children with sensory disabilities in the country.

In order to improve the situation of children with sensory disabilities, the Ombudsperson for Child's Rights makes the following **RECOMMENDATIONS:**

- **The Ministry of Health** will identify effective measures to ensure formal screening of children in order to identify sensory disabilities at an early stage.
- **The Ministry of Health, the Ministry of Education and Research, the Ministry of Labour and Social Protection, the National Bureau of Statistics** will make the functioning of the intersectoral cooperation mechanism more efficient, including the implementation of a single system for collecting data disaggregated by type and form of disability.

- **The Ministry of Labour and Social Protection, the National Bureau of Statistics** will develop the formula for calculating the minimum subsistence allowance for children with disabilities.
- **The Ministry of Labour and Social Protection** will analyse the situation and make sure that placement and rehabilitation services are set up to meet the needs of these people.
- **The Ministry of Education and Research** will identify effective measures to implement national inclusive education policies to increase the accessibility of materials and equipment needed in the teaching process for children with hearing and visual disabilities, including the publishing of teaching materials in Braille.
- **The Ministry of Education and Research** will develop training, development and information programmes for teachers and support teachers.
- **The Ministry of Education and Research** will review the teacher policy in order to reduce the number of children per support teacher or to supplement the number of support teachers.
- **The Ministry of Transport and Road Infrastructure** together with local authorities will streamline social inclusion policies by removing existing barriers for people/children with sensory disabilities (pavement markings, audible signals at intersections, stations and inclusive public transport, etc.).
- **The Broadcasting Council** will review its policies to oblige media service providers to increase the number of audiovisual news/artistic/entertainment etc. programmes interpreted in sign language or synchronous titling, ensuring access to information for the hearing impaired.

CHILDREN WITH AUTISM SPECTRUM DISORDERS

Observing the rights of children with disabilities has been and remains a priority in the work of the Ombudsperson for Child's Rights throughout her mandate.

In the opinion of the Ombudsperson for Child's Rights, the Government authorities are lagging behind in solving the problems identified in social inclusion/education, lack of qualified/trained professionals interacting with children with disabilities, in the field of development/education/information of parents, education of society in the spirit of tolerance and non-discrimination.

The problems of children suffering from autism were addressed in the Report '*Social inclusion of children with autism spectrum disorders (ASD) in the Republic of Moldova*'¹⁰⁴, prepared by the Ombudsperson for Child's Rights in 2016. During 2021, implementation of the recommendations stated in the Thematic Report '*On the social inclusion of children with sensory disabilities*' was assessed.

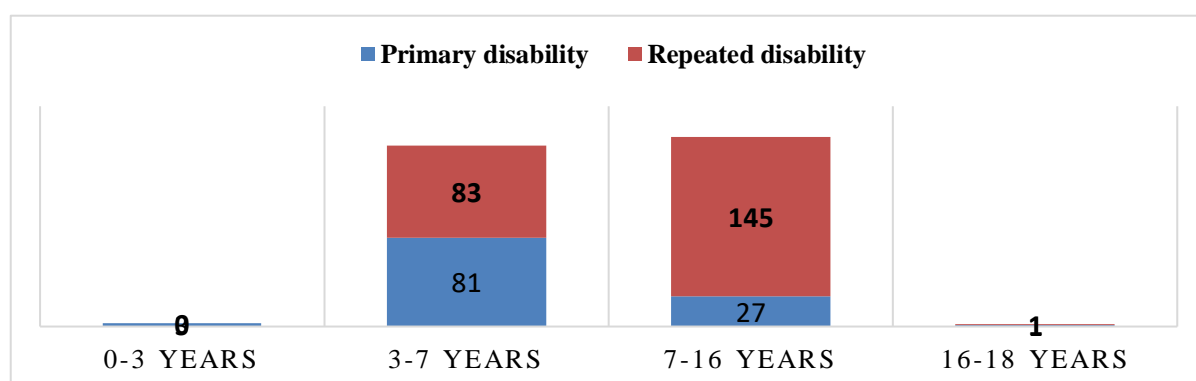
The evaluation of the social inclusion of children with autism spectrum disorders found the following:

- The Ministry of Health developed several regulatory documents: *National Clinical Protocol, Autism Spectrum Disorders in Children and Adults* and *the Standardized Clinical Protocol for Family Doctors, Autism Spectrum Disorders in Children and Adults*, which is appreciated positively by civil society representatives, but according to them, there are shortcomings in the implementation of these documents;
- The Ministry of Health informs that it has contributed to the creation of specialised intervention centers for children with autism spectrum disorders, however only NGOs have been identified so far (e.g. mun. Chisinau 'SOS Autism' Public Association, 'Voinicel Early Intervention Centre' Public Association), the services covered by the National Health Insurance Company are insufficient both as number and range of services;
- There is a lack of disaggregated, factual data on the statistics of children with ASD in the country. The data currently held by the institutions differ;
- To date, no formula has been developed for calculating the subsistence minimum for children with disabilities;
- Behaviour therapy remains one of the most effective 'treatments' for children with ASD. So far not all services are covered by the National Health Insurance Company and there is a lack of professionals to provide such services;
- Inclusive education often remains only at policy level, with reluctance to implement it, which can result in negligence or discrimination against children with disabilities;
- The lack of support teachers and the teaching load far exceeding the possibilities to assist children with SEN remains one of the most acute problems;

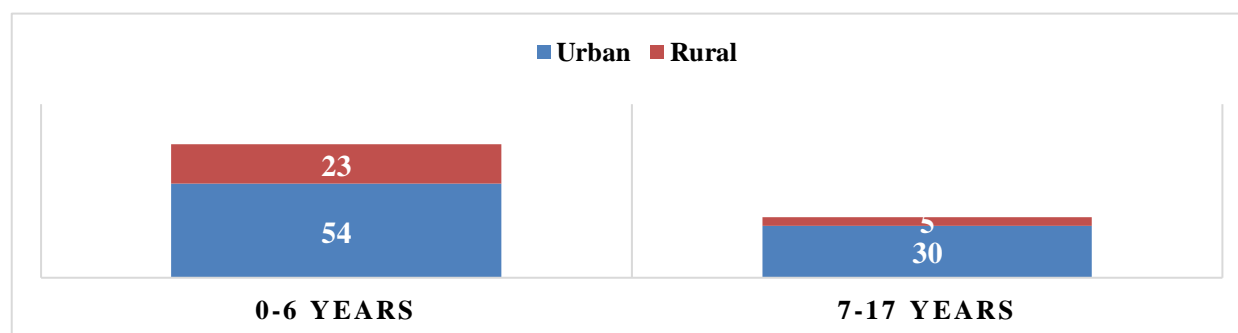
¹⁰⁴ http://ombudsman.md/wp-content/uploads/2018/10/raport_tematic_autismul_0.pdf

- there is evidence of insufficient/lack of training of professionals who interact with children with ASD. This category also includes teachers who do not know, have not been trained and have not developed their skills of interacting with children with disabilities.

According to data presented by the Ministry of Health on the number of children with ASD, by primary and repetitive disability, the highest number is found between ages 3-7 and 7-16, with repetitive disability being much higher than primary disability:



According to data provided by the National Bureau of Statistics on the distribution of children with disabilities by area of residence, there is an increase comparing to the rural area.



In the context of the above the Ombudsperson for Child's Rights makes the following

RECOMMENDATIONS:

- **The Ministry of Health** will establish urgent measures to streamline the implementation of the *National Clinical Protocol for Autism Spectrum Disorders in Children and Adults* and the *Standard Clinical Protocol for Family Doctors, Autism Spectrum Disorders in Children and Adults*;

- **The Ministry of Health** will include free health care and behavioural therapy services for children with ASD in the Single Programme of Compulsory Health Insurance;
- **The Ministry of Health** will ensure the establishment of a comprehensive process (plan, programme, course) on Applied Behavioural Analysis skills training;
- **The Ministry of Health** will create a body/entity that will monitor and accredit/license the work of psychotherapists based on quality standards;
- **The Ministry of Health** will set up specialised intervention centers for children with autism spectrum disorders, to be covered entirely from the state budget;
- **Healthcare, educational and social institutions** will create institutional databases with disaggregated data on children with ASD;
- **Ministry of Health, Ministry of Education and Research, Ministry of Labour and Social Protection, National Bureau of Statistics** will streamline the functioning of the inter-sectoral cooperation mechanism for the implementation of a single data collection system disaggregated by type and form of disability;
- **The Ministry of Health, the Ministry of Education and Research, the Republican Centre for Psycho-pedagogical Assistance, the Ministry of Labour and Social Protection** will develop mechanisms for collaboration/referral between medical-social-educational services on the social adaptation of children with ASD;
- **The Ministry of Labour and Social Protection, the National Bureau of Statistics** will develop the formula for calculating the minimum subsistence for children with ASD;
- **The Ministry of Education and Research** will create tools to assess the level of social performance of children with ASD in inclusive education and ensure their retention in education;
- **The Ministry of Education and Research, the Ministry of Health, the Ministry of Labour and Social Protection** will develop training and development programmes for professionals who interact with children with ASD, including teachers;
- **Ministry of Education and Research, Republican Centre for Educational Psychological Assistance** will provide free psychological assistance to parents of children with disabilities, including ASD.

CHAPTER VI

CHILDREN'S RIGHTS IN TEMPORARY PLACEMENT CENTRES FOR CHILDREN WITH DISABILITIES IN HANCESTI AND ORHEI

The ratification of the UN Convention on the Rights of Persons with Disabilities¹⁰⁵ by the Republic of Moldova in 2010 and of the Optional Protocol to the Convention¹⁰⁶ in November 2021 marked important changes in the field of social inclusion of persons with disabilities. The Republic of Moldova has undertaken to take all necessary measures to ensure that children with disabilities fully enjoy all fundamental rights and freedoms on an equal basis with other children.

By applying the legal procedures and in order to improve the situation of children placed in these institutions, the Ombudsperson for Child's Rights, as well as the Committee for the Prevention of Torture, a member of which is the Ombudsperson for Child's Rights, has drawn up a series of reports: *'Preliminary report on the basis of the visit to the Boarding Home for mentally retarded children (boys) in Orhei on 8 September 2015'*¹⁰⁷; *'Assessment of the situation of children placed in the Orhei and Hincesti Boarding Homes for children with mental impairments in the process of deinstitutionalisation'*¹⁰⁸; *'Report on the preventive visit to the Boarding Home for children (girls) with mental impairments in Orhei and Hincesti, Orhei, on 08 September 2015'*. Hincesti on 16 March 2018'¹⁰⁹; *'Report on the preventive visit to the boarding home for children (boys) with mental impairments in Orhei from 20 March 2018'*; *'Report on monitoring visits of compliance with basic guarantees during the Covid-19 epidemic in the Temporary Placement Centers for Children with Disabilities (Orhei and Hincesti), conducted on 6 October 2020 and 20 October 2020'*¹¹⁰. As a result of the monitoring

¹⁰⁵ https://www.legis.md/cautare/getResults?doc_id=117839&lang=ro

¹⁰⁶ https://eur-lex.europa.eu/resource.html?uri=cellar:a77c14ef-972e-44cc-81dd-c104c8218c20.0013.02/DOC_3&format=PDF

¹⁰⁷ http://old.ombudsman.md/sites/default/files/document/attachments/raportul_vizitei_orhei_2015r.pdf

¹⁰⁸ http://ombudsman.md/wp-content/uploads/2018/10/raport_diz_2017_red_0.pdf

¹⁰⁹ <http://ombudsman.md/wp-content/uploads/2019/07/Raport-privind-vizita-preventiv%C4%83-efectuat%C4%83-%C3%AEn-Casa-internat-pentru-copii-cu-deficien%C5%A3e-mintale-fete-or.-H%C3%AEnce%C5%9Fti-din-16-martie-2018.pdf>

¹¹⁰ <http://ombudsman.md/wp-content/uploads/2019/07/Raport-privind-vizita-preventiv%C4%83-efectuat%C4%83-la-Casa-internat-pentru-copii-cu-deficien%C8%9Be-mintale-b%C4%83ie%C8%9Bi-din-ora%C8%99ul-Orhei-din-20-martie-2018.pdf>

carried out, based on the findings and conclusions reached, the Ombudsperson for Child's Rights made several recommendations for both central and institutional levels, and the level of compliance and implementation was reflected including in the Annual Reports on observance of child rights in the Republic of Moldova^{111, 112, 113, 114}.

When monitoring the implementation of the recommendations submitted during the mandate period, during 2021, the Ombudsperson for Child's Rights requested a review of their implementation, as well as the identification of the problems that prevented the full implementation of recommendations with the subsequent establishment of new viable observations, and a report was drawn up in this regard.¹¹⁵

Children with disabilities do not fully benefit from the specialised services they need due to the lack or limited number of these services, thus children with disabilities are excluded from the activities of everyday life. In this context, the Ombudsperson for Child's Rights reiterates that every child, including those with mental disabilities, has the right to a decent living and affection. The nature of mental disabilities may differ from person to person, but this is not a reason to limit their rights and opportunities. Practice and reality show that, when people with mental and intellectual disabilities are accepted, disability is not an obstacle to a normal life in society. Only if the necessary assistance is fully provided, people with intellectual disabilities can achieve the desired results in various areas.

Some state-appointed officials with duties and responsibilities in the field of social care, protection and integration of this category of children continue to see residential institutions as the optimal way to care for vulnerable children in need of various types of support. In this regard, it has been shown that institutional care invariably leads to lower quality of life outcomes, often amounting to segregation, compared to quality services in the community. It should also be noted that when it comes to very young children, even the relatively short period of time spent in institutional care can negatively affect the psycho-emotional development and can also have consequences on the child's behaviour. In this context, the Ombudsperson for Child's Rights *reiterates her opinion that institutionalisation is an ineffective policy and a violation of child rights.*

¹¹¹ http://ombudsman.md/wp-content/uploads/2018/10/raport_2015_final.pdf

¹¹² <http://ombudsman.md/wp-content/uploads/2018/10/raport2017redfinal.pdf>

¹¹³ http://ombudsman.md/wp-content/uploads/2020/01/RAPORT_2018_final.pdf

¹¹⁴ http://ombudsman.md/wp-content/uploads/2020/09/Avocatul-Poporului_Raport-_aprobare-pentru-tipar.pdf

¹¹⁵ <https://ombudsman.md/wp-content/uploads/2021/11/Raport-Orhei-H%C3%AEnce%C8%99ti-final-.pdf>

According to data from the National Bureau of Statistics¹¹⁶, 1.6% of children aged under 18 have disabilities (about 10,700 children).¹¹⁷

In the Republic of Moldova there are two residential institutions, subordinated to the National Social Assistance Agency (ANAS) of the Ministry of Labour and Social Protection, which provide specialised services to children with mental disabilities: *Temporary Placement Centre for Children with Disabilities in the municipality of Hincesti (for girls)* and *Temporary Placement Centre for Children with Disabilities in the municipality of Orhei (for boys)*. The aim of these institutions is to provide healthcare and psychological-pedagogical services and assistance for the growth and development of children in these institutions, as well as to facilitate the process of reintegration into the family environment and subsequent community and social inclusion.

The reform of the residential system has put new emphasis on the need to adapt the work of residential institutions to the needs and requirements of children. They will improve their capacity and ability not only to institutionalise children with severe mental disabilities, but also to provide them with quality services that would accelerate the process of deinstitutionalisation and community inclusion. It is therefore necessary to improve the staffing lists and establish an effective individual rehabilitation programme for each child in such institutions.

During 2021, monitoring of these institutions found that they continue to operate on the basis of the *Framework Regulation on the organisation and operation of the Boarding Home for children with mental disabilities*, although the recommendation to improve these Regulations was submitted by the Ombudsperson for Child's Rights in 2017 in the report: 'Evaluation of the situation of children placed in Orhei and Hincesti boarding homes for children with mental disabilities in process of deinstitutionalisation'¹¹⁸. According to the response of the National Social Assistance Agency¹¹⁹, the framework regulations of the said institutions were close to completion.

According to the data presented by the Temporary Placement Centre for Children with Disabilities in the municipality of Hincesti, out of the total number of people in the institution,

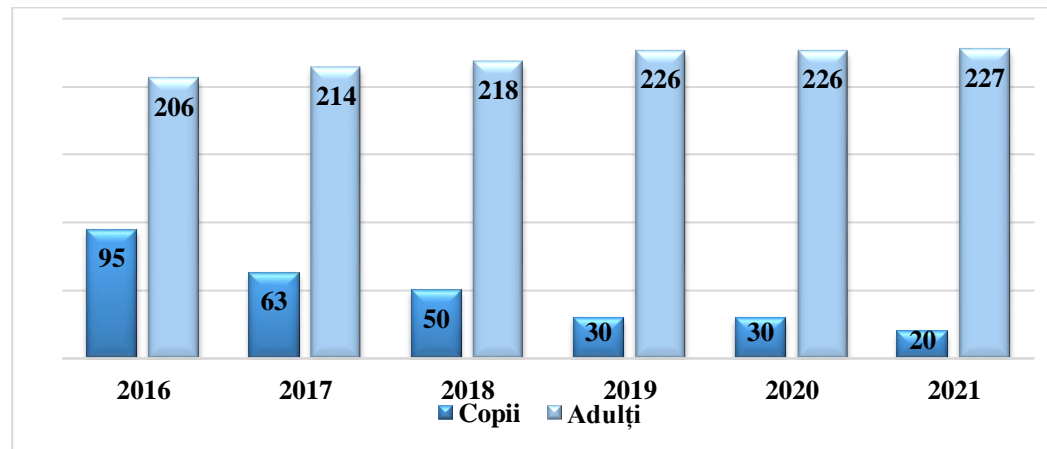
¹¹⁶ <https://statistica.gov.md/newsview.php?l=ro&idc=168&id=7194&parent=0>

¹¹⁷ Report on the Implementation of the UN Convention on the Rights of Persons with Disabilities, available here: <https://msmps.gov.md/wp-content/uploads/2020/08/RAPORT-implementare-Conventie-ONU-privind-drepturile-persoanelor-cu-dizabilitati.pdf>

¹¹⁸ https://ombudsman.md/wp-content/uploads/2018/10/raport_diz_2017_red_0.pdf

¹¹⁹ Letter of the National Social Assistance Agency No 101/1000 of 25.05.2021;

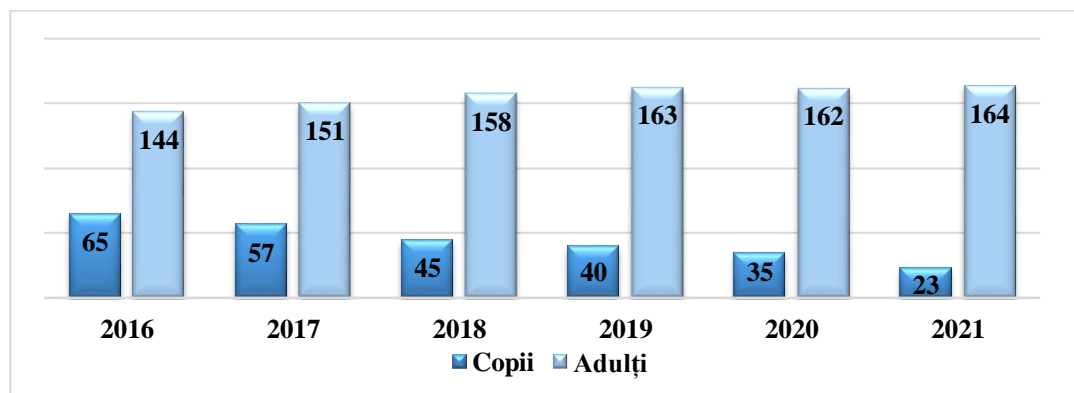
the number of children is clearly lower than the number of adults, the same situation has been noticed during the last 6 years.



Number of persons in the Temporary Placement Centre for Children with Disabilities in Hincesti municipality, 2016-2021

At the time of the visit in 2021, there were 187 beneficiaries in the Temporary Placement Centre for Children with Disabilities in Orhei municipality, including 23 children.

Analysing the data provided by the Temporary Placement Centre for Children with Disabilities in Orhei municipality, it is worth noting the higher ratio between adults and children in the institution over the last 6 years.



Number of people in the placement centre

Temporary Shelter for Children with Disabilities in Orhei Municipality, 2016-2021

In the context of the above, the Ombudsperson for Child's Rights notes that there are currently by far more adults than children in the two institutions intended for the placement of

children with severe disabilities, *which is contrary to the United Nations¹²⁰ Recommendations on child protection, and may endanger the life and health of children.* The presence of a large number of adult beneficiaries in this institution shows the ineffective actions of the Government to deinstitutionalize and integrate them into a family environment.

According to previous monitoring, there was no *position of a psychologist* in the staff structure. Therefore, in both institutions, there is no position of psychologist, which is absolutely necessary in the process of rehabilitation and social (re)integration. In this context, the Ombudsperson for Child's Rights has made a recommendation to introduce the position of psychologist/psychotherapist in the staffing lists. Analysing the current situation, according to the 2021 Staffing Schemes, the position of psychologist is currently foreseen in both institutions, which the Ombudsperson for Child's Rights considers positive.

Analysing the staffing, based on the specificity and purpose of the institution, it was found that the number of nannies was insufficient in relation to the number of beneficiaries, making it impossible to meet their real needs. Low salaries is the main cause of staff shortages and high staff turnover.

The monitoring in the Temporary Placement Centre for Children with Disabilities in the municipality of Hincesti found that each group of beneficiaries (including children) for the purpose of social-educational integration has a well-determined educational plan, which takes into account the peculiarities of their intellectual development. At the same time, note that for 20 beneficiaries (including 4 children) a makeshift school is opened which operates according to an activity plan and individual curriculum for each child.

According to the management of the Temporary Placement Center for Children with Disabilities in Orhei municipality, 3 children from the center are enrolled in the community school, in 1st and 2nd grade, benefiting from the support of the educational institution in order to facilitate social and educational integration.

Given the severe degree of disability of the other beneficiaries, which impedes their social inclusion, the Ombudsperson for Child's Rights notes that action has been taken, but there are still some limitation in this area.

¹²⁰ https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/TBSearch.aspx?Lang=en&TreatyID=5&DocTypeID=11

The monitoring analysed the number of children reintegrated in the family and community. During 2016-2021, 6 children from the Temporary Placement Centre for Children with Disabilities in the municipality of Hincesti were reintegrated into their biological families.

At the same time, during 2016-2021, 3 children from the Temporary Placement Centre for Children with Disabilities in Orhei municipality were reintegrated into their biological families.

In conclusion, it can be seen that the small number of deinstitutionalised children shows that if the disability of the children is severe, their rehabilitation and preparation for community life is difficult. The biological/extended family is neither morally nor materially ready to take the child into the family. They lack the training and caring skills that would meet the needs of these children. Because of the health issues and needs that children have, it is quite problematic to identify another form of protection.

In this context, the Ministry of Labour and Social Protection informed that in order to ensure access of persons with disabilities, including children, to different types of social services, regulations and minimum quality standards have been developed and approved for the organisation and operation of several types of specialised social services: *Social service 'Community house', Social service 'Sheltered housing', Social service 'Mobile team', Social service 'Personal assistance', Social service 'Respiro', Social service 'Foster care for adults', Mimic-gesture language interpretation service for the hearing impaired, etc.*

At the same time, people with disabilities, including children with disabilities, receive several types of social benefits: disability pension or Government social allowance, allowance for care, accompaniment and supervision, Government financial support, compensation for transport services, where appropriate, social aid and aid for the cold period of the year, material aid.

The Ministry also mentions that the subsistence minimum is calculated for three social-demographic groups: the working-age population, children (different age groups) and people over the retirement age. For categories of disadvantaged persons, including persons and children with disabilities, the Government, in accordance with the legislation in force, provides support in the form of social benefits and services, depending on individual needs and depending on the financial possibilities of the Government.

Analysing the information provided by the Ministry, we can conclude that it does not

refer to the recommendation that was made by the Ombudsperson for Child's Rights in 2016, or the issue has been addressed since 2013¹²¹, so the recommendation is considered to be unfulfilled and the problem unresolved.

Obviously, the amount of social benefits provided to families with children with disabilities often does not cover the consumption basket. This is conditional on the fact that the minimum subsistence level for a child with disabilities has not yet been established. In this context, the Ombudsperson for Child's Rights has submitted to the Parliament of the Republic of Moldova a proposal to amend the legislation in order to establish the minimum subsistence amount for children with disabilities at national level.¹²²

One of the previous findings of the Ombudsperson for Child's Rights concerning the Orhei boarding house for children (boys) with mental disabilities was the lack of the necessary furniture and technical equipment (computers, computer tables, wardrobe for clothes of the beneficiaries).

During the monitoring in 2021, the management of the temporary placement center for children with disabilities in the municipality of Hincesti, claimed that the institution was provided with furniture, technical, teaching materials according to the needs of children. Another situation indicated the Temporary Placement Centre for Children with Disabilities in Orhei municipality, mentioning that the institution was partially provided with the necessary support in the purchase of furniture and technology, claiming that equipment is needed for bedridden people and in serious condition.

The National Social Assistance Agency, in its response to the Ombudsperson for Child's Rights, informs that the necessary support is provided, the furniture and equipment is purchased based on the needs of the children in the institution, within with the approved budget. Thus, we note that the problem of providing children with the necessary equipment remains unresolved.

The Ombudsperson for Child's Rights considers it necessary to promote the idea that every child should be in foster care until they are reintegrated into their biological or extended family or until an alternative service to residential care is found. It is unfair to obstruct the possibility of social integration for someone, regardless of the severity of their impairment.

In accordance with the Minimum Quality Standards for the Care, Education and Socialisation of

¹²¹ http://old.ombudsman.md/sites/default/files/document/attachments/raport_temat.pdf, Thematic report 'Monitoring the standard of living of families with persons with severe disabilities requiring care from a third party';

¹²² <http://ombudsman.md/wp-content/uploads/2021/10/Propunere-minim-existenta-semnat.pdf>

Children in Residential Institutions: ‘Children benefit from residential care only after all efforts have been made and all family alternatives have been exhausted. Institutional care is the last option for child protection.’

The National Social Assistance Agency mentions that the Government Decision No 893/2018 approving the National Programme for the deinstitutionalisation of persons with intellectual and psychosocial disabilities in subordinate residential institutions and the Action Plan on its implementation for 2018-2026 aims to reform the residential care system for persons with intellectual and psychosocial disabilities by developing and providing community-based social services, in order to ensure the right to independent living of persons with intellectual and psychosocial disabilities.

Despite the legal framework in place, the number of people in the institutions concerned is relatively high.

According to Article 51 of the Constitution of the Republic of Moldova, persons with disabilities enjoy special protection from the whole of society. The Government provides them with appropriate conditions of treatment, rehabilitation, education, training and social integration.

General Comment No 9 (2006) of the UN Committee on the Rights of the Child states that Article 23 of the UN Convention on the Rights of the Child should be regarded as an essential principle for the implementation of the Convention with regard to children with disabilities by providing them a full and decent life in conditions that guarantee their dignity, promote their independence and facilitate their active participation in the community life. Measures taken by States Parties with regard to the realisation of the rights of children with disabilities should be directed towards this goal. The basic message is that children with disabilities should be included in the society. Measures taken to implement the rights contained in the Convention in relation to children with disabilities, for example in the areas of education and health, should be explicitly aimed at maximising their inclusion in society.

Resources allocated for children with disabilities should be sufficient and targeted to meet all their needs, including established programmes for training professionals working with children with disabilities such as teachers, physiotherapists and decision-makers; education campaigns; financial support for families; income maintenance; social security; assistive devices and related services. In addition, funding should also be provided for other programmes aimed at including children with disabilities in mainstream education, including

renovating schools to make them physically accessible to children with disabilities.

The Ombudsperson for Child's Rights notes that services for children with disabilities are often provided by different Government institutions and civil society organisations, most often these services are fragmented, lack continuity and are not coordinated, leading to overlapping functions and repetition of shortcomings. Establishing an appropriate coordination mechanism therefore becomes essential. This mechanism should be multi-sectoral, including all public or private organisations. It must be empowered and supported with the appropriate financial and human resources needed from the highest levels of Government to enable it to function to its full potential.

Monitoring the situation of children with disabilities in the targeted placement centers, as well as the recommendations put forward by the Ombudsperson for Child's Rights, shows that although caring for children with disabilities is an obligation of the Government, civil society organisations often perform these functions without adequate support, funding or recognition from the authorities. They are therefore encouraged to support and cooperate with non-commercial organisations to enable them to participate in the provision of services for children with disabilities, including the training of care and profile staff, and to ensure that they operate in full compliance with the provisions and principles of the Convention.

The Ombudsperson for Child's Rights reiterates that children with disabilities are best cared for within their own family environment, provided that the family is adequately provided for in all respects. Such support to families includes educating the parent(s) and siblings, not only about the disability and its causes, but also about the unique physical and mental requirements of each child; psychological support sensitive to the stress and difficulties imposed on families of children with disabilities; education in the common language of the family, e.g. sign language, so that parents and siblings can communicate with family members with disabilities; material support in the form of special allowances as well as necessary supplies and equipment, such as special furniture and mobility devices, which are considered necessary for the child with disabilities to live a dignified, independent lifestyle and be fully included in the family and community.

The monitoring process also found a lack of a post-institutional monitoring mechanism for children with disabilities.

In order to ensure that the rights of children with disabilities are respected, the Ombudsman for the Protection of the Rights of the Child submits the following

RECOMMENDATIONS:

- **The Ministry of Labour and Social Protection, the National Bureau of Statistics** will develop a formula for calculating the minimum subsistence level of persons/children with disabilities, including disaggregated by type of disability;
- **The Ministry of Labour and Social Protection** will establish unified intersectoral mechanisms for post-institutional monitoring of children with disabilities to develop intersectoral programmes for the protection of children with disabilities at local and national level;
- **The Ministry of Labour and Social Protection, Ministry of Health** will develop training programmes, including continuous and on-the-job training for all stakeholders of intersectoral cooperation mechanisms considering a single country-wide approach on each mechanism addressed in observing the rights of children with disabilities;
- **Ministry of Labour and Social Protection, Ministry of Health** will develop training programmes, including continuous and on-the-job training for psychologists, care staff, educators, other stakeholders involved in working with children with disabilities;
- **The Ministry of Labour and Social Protection** will ask the competent authorities to lift the moratorium for care and auxiliary staff in the Temporary Placement Centers for Children with Disabilities in Hincesti and Orhei;
- **The Ministry of Labour and Social Protection, National Social Assistance Agency** will develop the implementation, monitoring and evaluation of a comprehensive policy covering all areas covered by the Convention, supported by sufficient human, technical and financial resources to meet the needs of children with disabilities (including necessary equipment);
- **The Ministry of Labour and Social Protection, National Social Assistance Agency** will establish and develop policies, mechanisms and tools for inter-institutional collaboration between the local guardianship authority and specialised institutions for children with disabilities.

CHAPTER VII

ASSESS THE OBSERVANCE OF THE RIGHTS AND FREEDOMS OF CHILDREN PLACED IN PHYSIOPULMONOLOGICAL REHABILITATION CENTRES FOR CHILDREN IN CORNEȘTI AND TARNOVA

During 2021 the Ombudsperson for Child's Rights examined observance of *the rights of children in the Cornești and Tarnova Physiopulmonological Rehabilitation Centre for Children*. Note that this subject has always been in the sights of the Ombudsperson for Child's Rights, and the conclusions and recommendations were presented in the Report on the preventive visit to the Physiopneumological Rehabilitation Centre for Children in the town of. Cornești, r. Ungheni¹²³, prepared in 2013.

In 2021, the Ombudsperson for Child's Rights analysed the situation of children placed in the above-mentioned institutions and therefore drafted the Thematic Report '*Evaluation of observance of the rights and freedoms of children institutionalised in the Physiopneumological Rehabilitation Centers for Children in Cornești and Tarnova*'.

When monitoring and evaluating the situation of these children, the Ombudsperson for Child's Rights was concerned with the issue of observance of child rights during placement in the Physiopneumological Rehabilitation Centers for Children in Cornești and Tarnova, analysing: the relevant legal framework; the services for children provided by these institutions and their impact on child rights; and the effectiveness of social services for children placed in these centers.

The severity of the tuberculosis epidemic in the Republic of Moldova remains conditioned by the diversity of socio-economic problems faced by patients and their families. The needs of the tuberculosis patient are often multidimensional, and the healthcare and support services provided by the legislation are insufficient to cover them, including social and psychological support.

At the international level, from the perspective of the UN Convention on the Rights of the Child¹²⁴ which requires the protection of the rights of children placed in physiopneumological rehabilitation centers for children in Cornești and Tarnova, the

¹²³ http://ombudsman.md/wp-content/uploads/2018/10/raport_ftiziopneumologic_cornesti_2013-1.pdf

¹²⁴ https://drepturilecopilului.md/files/publications/CDC_2005_final.pdf

provisions of Articles 24, 25 and 26 are analysed in conjunction with the other provisions set out in the international treaty.

In this regard, the UN Committee on the Rights of the Child¹²⁵ encourages States Parties to adopt the most child-friendly solutions possible for children suffering from this condition. The Committee points out that, ‘Tuberculosis as a condition will leave deep scars on a child's health, so Governments must ensure that they take all necessary measures to avoid social stigmatisation’¹²⁶.

With regard to the regulatory framework in force in the Republic of Moldova for the purpose of preventing and combating tuberculosis among children, we mention primarily the Constitution of the Republic of Moldova¹²⁷ which, through Article 36 ‘The right to protection of health’, Article 47 ‘The right to social assistance and protection’ and Article 50 ‘Protection of mothers, children and young people’, offers protection to children suffering from tuberculosis.

From the legislative framework it is essential to highlight *Law No 153 of 4 July 2008 on tuberculosis control and prevention*¹²⁸, which regulates the implementation of state policy in the field of tuberculosis control and prevention in order to protect the health of citizens and ensure the health and epidemiological well-being of the population.

However, the law does not clearly regulate the protection of persons who are subject to coercive treatment measures, stipulating only in Article 15(2) that ‘The manner of application of coercive treatment and medical supervision of the category of patients referred to in paragraph (1) shall be established by the Government’.

Government Decision No 295/2012 provides a wide range of actions that must be followed before a decision is made to hospitalise a patient.

A constant problem, however, is the coercive hospitalisation of children diagnosed with contagious tuberculosis. Although the Law No 153/2008 on tuberculosis control and prevention states in Article 13(2) that ‘Children up to 18 years of age, persons subject to legal protection in the form of guardianship shall be granted anti-tuberculosis health care with the consent of the

¹²⁵ <https://www.ohchr.org/EN/HRBodies/CRC/Pages/CRCIntro.aspx>

¹²⁶ https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2fGC%2f2003%2f3&Lang=en

¹²⁷ <file:///C:/Users/OMBUDSMAN/Downloads/Constitutia%20RM%20format%20mic%20Rom%20Tipar%2014-07-2016.pdf>

¹²⁸ https://www.legis.md/cautare/getResults?doc_id=110512&lang=ro

legal representative, except in cases provided for by this law and other laws and regulations in force'¹²⁹, in Article 16(4) states that '...children in tuberculosis outbreaks shall be isolated for preventive treatment in specialised care institutions'¹³⁰, which on the one hand allows the conclusion that coercive confinement of children is possible, and on the other hand does not provide any mechanism of legal control, which would be in the best interest of the child.

First of all, the said regulatory document is to be correlated with the *principle of observing the right to life and development of the child*. Although this principle is general and is found in most international treaties, it is found to be omitted from most national laws.

Another principle to which national legislation was to refer was the *principle of non-discrimination*, stated in Article 2 of the UN Convention on the Rights of the Child. Although it is emphasised that this is a general principle which is uniformly recognised in all human rights instruments, children as a special group are to be given special protection in relation to it.

The principle of the best interests of the child is the third basic element in the protection of child rights. Thus, in implementing the provisions of the regulatory documents in the tuberculosis segment, the legislator shall ensure that all actions to be taken by duty bearers will be in strict accordance with this principle and will not harm the interests of the child. Although at first sight it would be logical and correct to consider that in health-related matters other rights take a back seat, however, according to the Convention and the recommendations of the UN Committee on the Rights of the Child, all rights are to be implemented uniformly.

The last principle to be incorporated into the national legislation under review is the *principle of respecting the views and participation of the child in decision-making on matters affecting him or her*. Thus, it is obvious that neither Law 153/2008, nor Government Decision 295/2012 provides for a mechanism to involve the child in the decision-making process, consequently the child is totally excluded from decision-making on this segment. The argument that health issues are too serious to be discussed with children cannot be accepted, as the Government's obligation is to present any information in as child-friendly and developmentally appropriate a manner as possible.

¹²⁹ Idem;

¹³⁰ Ibidem;

In conclusion, it is highlighted that the analysed regulatory documents do not correspond to any of the principles established by the UN Convention on the Rights of the Child.

Regarding social protection of children suffering from tuberculosis, it is necessary to mention Law No 140 of 14 June 2013 on special protection of children at risk and children separated from their parents. Although this law does not establish a special protection measure for children suffering from tuberculosis or children in tuberculosis outbreaks, it addresses their situation through the provisions of Article 8(d) ‘children are deprived of parental care and supervision due to their absence from home for unknown reasons’¹³¹. Thus, in cases where the parents of children have been diagnosed with tuberculosis and have been directed to undergo the treatment procedure in a specialised healthcare facility, the first and second level guardianship authorities are to take concrete measures to ensure the protection of the children concerned.

The major child protection issue arises when parents test positive and children test negative. In such situations, once children are out of the institution, they are considered children at risk who might practice vagrancy or begging. This situation happens because of the social stigmatisation of families suffering from tuberculosis and because the first level guardianship authorities (municipalities) are unwilling or unable to provide effective protection for children coming from a tuberculosis outbreak.

In order to avoid worsening the situation of a child temporarily left without parental care due to the hospitalisation of the legal representatives in healthcare facilities, the representative of the local guardianship authority, the child protection specialist (if any, according to the last data there were only 17 professionals in the whole country), or the social worker shall decide on the emergency placement of the child within 72 hours. According to the relevant international and national standards, in such situations priority should be given to emergency placement within the extended biological family (grandmother, uncle, aunts), however, in reality it is found that these children are placed in Centers for physiopulmonological rehabilitation centers for children in Cornești or Târnova.

Determining this category of children as being at risk, we can conclude that Law 140/2013 as in other related situations did not provide for the ‘periodic review of the child’s

¹³¹ https://www.legis.md/cautare/getResults?doc_id=110518&lang=ro

placement', provided for by the UN Convention on the Rights of the Child in Article 25¹³². As a result, children who are initially to be placed for a maximum of 6 months may remain in such institutions for several years without any relatives or authorities taking an interest in their fate.

In conclusion, there is a need to amend Law 140/2013 in the context of the specific aspects of children who are/were in tuberculosis outbreaks and the provisions related to the review of the placement of institutionalised children in specialised rehabilitation centers.

Analysing the Government Decision No1160 of 20 October 2016 approving the National Tuberculosis Control Programme for the years 2016-2020, (*the first National Programme was legislated by Government Decision No 559 of 28 May 2001 for the period 2011-2005*), although practically 20 years have passed since the adoption of the first National Programme, the situation in the field of tuberculosis prevention has not changed positively, but on the contrary, has worsened. Note that in 2001, when the first National Tuberculosis Control Program was developed, there were 2895 people infected with this disease¹³³, and in 2020, according to the data of the Institute of Ftiziopneumology, the number of people suffering from tuberculosis reached 3255, of whom 159 were children¹³⁴.

Analysing these documents, we conclude that they do not comply with the principle of the best interests of the child and cannot fully ensure effective protection of children suffering from tuberculosis. Although the legislator has amended over time adopted four National Tuberculosis Control Programmes, they only worsen the real situation of the child by focusing only on the health aspect, and the other aspects necessary for the proper development of the child are practically totally neglected.

From the perspective of the legislation analysed, we conclude that although the Republic of Moldova has a relevant legislation for the protection of persons against tuberculosis, its implementation is defective, requiring amendments/adjustments and enforcement mechanisms, in order to give professionals the opportunity to address a correct policy that meets the best interest of the child.

In conclusion, the Ombudsperson for Child's Rights concludes that the national authorities must implement a series of actions at the legislative level in order to raise the level of compatibility between the national regulatory framework and the international one.

¹³² https://drepturilecopilului.md/files/publications/CDC_2005_final.pdf

¹³³ https://www.legis.md/cautare/getResults?doc_id=47137&lang=ro

¹³⁴ <http://ftiziopneumologie.asm.md/>

Phthisiopneumology Rehabilitation Centre For Children, Cornești

The Cornești Phthisiopneumology Rehabilitation Centre for Children was established by of Government Decision No 212 of 22 February 2002 on the reorganisation of children's sanatoriums under the Ministry of Health, based on the former Cornești children's tuberculosis sanatorium, taking over the functions of the latter.

The capacity of the centre is 100 beds, intended for children aged 3 to 11 years from all over the Republic of Moldova, children with local tuberculosis processes in involutive phase, with post-tuberculosis consequences, in early or late period of tuberculosis contamination, with hyperergic reactions and tuberculin jump, contaminated and uncontaminated from tuberculosis outbreaks, with chronic non-specific diseases of respiratory organs and children with frequent respiratory infections.

The direct activity of the Cornești Centre is governed by a series of legislative acts, and on 18 March 2002, the Statute of the Cornești Phthisiopneumology Rehabilitation Centre For Children was adopted. During discussions, the Centre's managers mentioned that in 2019 a Draft Operational Regulation was developed and submitted to the *Ministry of Health for endorsement and approval, but which was not approved/tested to date.*

In 2021, the Centre accommodated 199 children, 114 boys and 85 girls, an increase compared to the same period in 2020, when the total number of children admitted was 128.

During the monitoring, attention was drawn to the respect of rights tangential to the institution's residential system. Thus, with regard to observance of the **right to education**, it was concluded that the institution has 12 teachers who ensure the physical exercise of the child's right to education. Due to the fact that the institution is specialised in the institutionalization of children from 3-11 years of age, here the educational process of the preschool and primary cycle of general education is mostly provided. The Cornești Centre provides the children with the necessary textbooks according to the curriculum and the necessary office supplies from the institution's budget. The implementation of the curriculum takes place according to the national curriculum, and the study objects taught correspond to the field approved by the Ministry of Education and Research.

However, during the discussions with the management of the institution, it was pointed out that there is no official collaboration between the district education directorate in whose territorial district the Cornești Centre is located, which is why there are certain problems

regarding the granting of qualification degrees to the teaching staff employed in the residential institution. This problem is caused by the fact that the Physiopneumology Centre is under the Ministry of Health and the Ministry of Health has not effectively ensured an effective collaboration of the subordinate institutions with the educational entities. Thus, the information submitted by the Education Department of the Ungheni district shows an indifferent attitude towards the educational process taking place in the given institution¹³⁵.

This problem is also maintained by the Ministry of Education and Research, which, although it is the primary institution in ensuring policies in the field of education, has not taken concrete measures to guarantee the quality level of studies provided in the institution concerned. The Ministry of Education and Research claims that local authorities are passing the buck and do not want to take responsibility to redress the situation created¹³⁶.

It was also found that although the employees of the centre themselves mention that there are some cases of abuse and violence between children in the institution, although they have a register of cases of abuse and violence, in accordance with the Order of the Ministry of Education No 77/2013, however, this register is completed formally and a proper record is not kept in this regard.

The analysis of observance of the right to education also shows that although the residential institution largely ensures the minimum quality required by the relevant regulatory documents, there are still some shortcomings in ensuring the implementation of Article 29 of the UN Convention on the Rights of the Child. The Centre ensures only the conditions for teaching the subjects included in the national curriculum, leaving aside the general aspect of the right to education in relation to the UN Convention, namely the formation of the child as an active individual of society who is aware of his rights and responsibilities and can make use of

¹³⁵ From the response of the Ungheni Education Directorate 'according to Annex 5 to the Government Decision on the organisation and functioning of the Ministry of Health No 148 of 25 August 2021, the founder of the I.P. 'Phthisiopneumology Rehabilitation Centre For Children, Cornești' is the Ministry of Health. According to point 7(11) of the Regulation on the organisation and functioning of the Ministry of Health, one of its basic functions is to coordinate and monitor the work of subordinate administrative authorities and public institutions in which the Ministry is a founder';

¹³⁶ From MECC reply No 03/1-09/125 of 17 January 2022 'The Children's Physiopneumological Rehabilitation Centers in Cornești and Tarnova ensure the continuity of the educational process through the teaching staff employed in the institutions. Note that, according to Government Decision No 148/2021 on the organisation and functioning of the Ministry of Health, both Physiopneumological Centers are included in the list of public institutions in which the Ministry of Health is a founder. Upon request, the Ministry of Education and Research conducts monitoring visits to these Centers. There is no institutional mechanism for cooperation between the Ministry of Education and Research and the Ministry of Health.';

them in case of need. The staff of the centre could not present educational programmes focused to the rights of the child, which were carried out in the institution.

In conclusion, we point out that although the provision of the right to education meets the minimum quality standards required by the national curriculum, in general, the child's right to education is not in line with the standards set by the UN Convention on the Rights of the Child.

Observing the right to family was another segment analysed in the monitoring, as contact with the biological family is paramount for the child's good development. Ensuring contact with the family does not only mean ensuring contact between the parents/guardians and the child, but also their active involvement in the rehabilitation process and in the child's education while the child is in the institution.

The child's right to family is observed in a tokenistic manner, largely due to the lack of interest on the part of the parents. The management of the institution mentioned that in most cases the children are practically abandoned in the respective centers, the relatives invoking various reasons such as lack of financial resources, illness, lack of living conditions, long distance, being abroad, etc., in order to visit their own children. Note that the institution does not take sufficient measures and does not apply the inter-sectoral cooperation mechanism to involve the family or the guardianship authorities of the child's place of residence, in most cases this contact is established only at the time of the child's institutionalisation and at the time of discharge. The situation became even more critical in the situation created by the pandemic, when the institution also had to impose restrictions on physical meetings.

During the monitoring visit it was noted that the institution does not have a specially equipped room for the purpose of conducting parent/guardian interviews with the child, these take place in the hallway of the institution or in the children's living room. Cornești Centre does not have a separate room where parents could stay with their children in case of long visits (1-2 days), the reason being the limited financial resources.

It is worth noting that contact with the biological family is largely maintained through telephone communication. In the institution, children have the possibility to talk to their parents from the stationary phone located in the director's anteroom, or from their personal mobile phone if they have one. But the management of the institution mentioned that in order to avoid criminal actions and conflicts between children, all mobile phones are stored and kept with the

director of the institution. Respectively, we conclude that telephone contact regardless of the type of stationary/mobile device is made only with the consent of the management of the institution, which can be regarded as an obstacle in communicating children with their own family. In this regard, the Ombudsperson for Child's Rights in her previous recommendations, including in her annual reports, has repeatedly stressed the importance of free telephone contact for institutionalised children whose movement is restricted or prohibited due to the regime of the institution in which they are placed. Contact with the biological family or with people outside the institution is a prerequisite for a quicker re-socialisation of the child when he/she finishes treatment and is returned to the family/community/society.

Under these circumstances, we conclude that the Cornești Rehabilitation Centre is deficient in establishing and maintaining family contact between the child and the biological and extended family, not ensuring the proper implementation of the right to family guaranteed under the provisions of Articles 5, 9 and 10 of the UN Convention on the Rights of the Child¹³⁷.

With regard to ensuring the **right to health**, it is noted that the Centre of Ftiziopneumology Cornești, being an institution with medical specificity in the field of prevention and prevention of tuberculosis, carries out its activities in accordance with the health legislation and the National Protocols mentioned above. However, from the perspective of ensuring child rights, a number of shortcomings have been identified which need to be addressed both at the institutional level and through the intervention of the Ministry of Health as the founder and coordinator of the Centre. The monitoring found a discrepancy in the admission process for children. Discussions with the management of the institution revealed that when children are admitted to the rehabilitation centre, which takes place following the opinion of the physio-pneumonologist and the relevant committee, in many cases they are accompanied for admission either by the local social worker, a medical collaborator or a relative. Respectively, as a result of the above, there is a problem with the signing of the agreement on the child's admission and on the management of medication. In this context, we conclude that according to the legislation in force, the legal representatives of the child are the parents, guardians or curators or the persons replacing these persons. If the child is brought by a person who has no authority to represent the child before the public authorities, the signing of those agreements is to be interpreted as void in principle.

¹³⁷ https://drepturilecopilului.md/files/publications/CDC_2005_final.pdf

Another issue related to observance of the child's right to health is the treatment period. The term of the placement is decided by the specialised commission, then the extension of the treatment is decided by a specialised committee composed of 3 doctors from the hospital 'Chiril Draganiuc' PHCF. However, it appears that in several cases the child was placed in a centre, because for the local public authorities the placement in such an institution or a similar institution is rather a form of respite, as a consequence children are left in these institutions for periods that can exceed two years or more.

Consequently, we argue that the authorities should re-evaluate the procedures for the institutionalisation of children in the Cornești Physiopneumologic Rehabilitation Centre.

Non-admission of discrimination and social reintegration were two other areas. Children suffering from tuberculosis, like children infected with HIV/AIDS, are still marginalised and stigmatised by the rest of society. At the same time, the pandemic has made it much more difficult for children suffering from tuberculosis to be socially reintegrated and they still present an unresolved dilemma for central and local public authorities. It is also highlighted that the Cornești Rehabilitation Centre maintains weak links with related institutions, children are not involved in activities other than those taking place within the institution, with small exceptions when there are donations from outside the institution, from non-Governmental partners with which the institution collaborates.

Another problem detected in the Cornești Rehabilitation Centre is the divergence of admission dates. According to the answer received from the institution on 10 December 2021, in 2021, out of the total number of children admitted to the residential institution, most of them came from Nisporeni district - 82, Strasenii - 39, Chisinau - 20, Anenii Noi - 22. However, an analysis of the responses received from the territorial healthcare facilities reveals a considerable divergence in the data reported. Thus, on the basis of the answer received from the public medical-sanitary institution Nisporeni Health Centre, only 4 children were detected with signs of tuberculosis and were assigned to the rehabilitation centers Cornești and Tarnova¹³⁸.

It is therefore recommended that an effective monitoring and reporting mechanism be put in place regarding the admission of children to the Cornești Rehabilitation Centre.

¹³⁸ IMSP Nisporeni Response No 01-14/391 of 23 December 2021;

With regard to observance of **civil rights and freedoms** (freedom of association, expression, participation), we can state that the centre does not organise activities and has no strategies for involving children in the decision-making process.

During the monitoring, confidential discussions were held with the children, where they mentioned that they were largely satisfied with the conditions at the Centre, but would like to return home sooner.

The Tarnova Children's Rehabilitation Centre

The Tarnova Children's Rehabilitation Centre was established on the basis of Government Decision No 212 of 22 February 2002 on the reorganisation of children's sanatoriums under the Ministry of Health, on the basis of the former 'Tarnova' children's tuberculosis sanatorium, taking over the functions of the latter.

The Tarnova Centre is a budgetary, republican institution, thus the budget allocated for the period 2021 amounted to MDL 23,840,400, and at the time of monitoring (14 December 2021), there were still several million MDL available in the budget from the purchase of food products, because the total number of beds expected for the period 2021 was not filled. The Child's Ombudsperson draws attention to the inexplicable discrepancy at the moment regarding the difference between the allocated budget amounts which is practically 300%, i.e. the budget allocated for the Rehabilitation Centre in Tarnova is 3 times higher than the budget of the Rehabilitation Centre Cornești, although the number of children placed in the Rehabilitation Centre Tarnova in 2021 is less than the number of children in the residential institution Cornești 135/199. Although attempts have been made to obtain information on this subject, neither the staff of the residential institutions nor the central public authority represented by the Ministry of Health have provided a plausible answer.

The center is organized for 200 beds, intended for children from 7 to 16 years of age from all over the Republic of Moldova, children with local tuberculosis processes in involutive phase, with post tuberculosis sequelae, in early or late period of tuberculosis contamination, with hyperergic reactions and tuberculin jump, contaminated and uncontaminated from tuberculosis outbreaks, with chronic non-specific diseases of respiratory organs and children with frequent respiratory infections.

In the institution concerned, 9 children were found to have been in the Centre for more than 4 years, although the recommended admission was for a maximum period of 6 months

with the possibility of an extension on the recommendation of the Committee of 3 doctors. In 2021, most children were institutionalized in Donduşeni and Anenii Noi districts, 25 and 26 children respectively.

Given that the observations found in the Tarnova Rehabilitation Centre are similar to those listed above in the chapter on the Corneşti Centre, we will highlight the most important aspects.

- In most cases, the child is admitted to hospital in the presence of strangers who do not have the necessary powers to sign the admission agreement and the agreement on the management of medication;
- Agreements and information about admission are communicated and discussed with adults, without communicating and explaining to the child the real situation in which he/she finds him/herself, based on his/her maturity;
- On admission, the child is examined by the doctor on duty together with the nurse;
- The centre does not have a concrete mechanism for patient admission, which is largely at the discretion of the doctor on duty;
- The child's contact with his or her biological family is low, largely due to low parental interest, but also due to the poor cooperation of the residential institution with the local guardianship authorities and the family;
- The child's contact with parents or relatives is mostly via mobile or landline phone. Children do not have much privacy when talking to people close to them;
- The centre has long-term visiting rooms where parents can stay overnight;
- During 2021, child-to-family contact has been greatly reduced due to COVID-19 pandemic conditions;
- The institution does not have a budget item for the purchase of children's clothing, which is largely provided by the child's family or by the philanthropic organisations with which the Centre collaborates;
- The Centre has the necessary teaching staff to ensure the implementation of the curriculum for primary and secondary education;
- The institution does not provide children with textbooks;
- The institution does not keep records of cases of child abuse and violence;

- Children's participation in the decision-making process is formal, without respecting the recommendations of the UN Committee on the Rights of the Child¹³⁹;
- The centre does not implement policies for the social reintegration of the child after discharge and in order to avoid stigmatisation of children who have been treated for tuberculosis;
- During the monitoring visit, the management of the Tarnova Centre did not allow the representatives of the Office of the Ombudsperson to have confidential discussions with the children in the institution;
- From the discussions in the presence of the director of the Centre, the children mentioned that they are satisfied with the conditions, but want to go home as soon as possible;
- The implementation of the UN Convention on the Rights of the Child in the Tarnova Children's Rehabilitation Centre is unsatisfactory and requires the intervention of both local and central authorities.

In conclusion, the Ombudsperson for Child's Rights makes the following

RECOMMENDATIONS:

- **The Ministry of Health** will complete and approve the Regulations for the operation of the Physiopneumologic Rehabilitation Centers for Children in Tarnova and Cornești;
- **The Ministry of Health together with the Ministry of Education and Research** will establish a mechanism for monitoring the educational process and collaboration in order to periodically evaluate and accredit the educational institutions in the Physiopneumological Rehabilitation Centers for Children in Tarnova and Cornești;
- **The Ministry of Health** will re-evaluate the policy of institutionalisation of children in the tuberculosis rehabilitation phase, avoiding as much as possible the placement of children in the residential system;
- **The Ministry of Health together with the Ministry of Education and Research** will identify solutions for the provision of books for the Physiopneumological

¹³⁹https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fGC%2f12&Lang=en

Rehabilitation Centers for Children Târnova and Cornești, in particular textbooks for teaching the objects of study of the national curriculum;

- **The Ministry of Health in collaboration with local guardianship authorities** will take measures to avoid long-term placement of the child;
- **The Ministry of Health** will modify/improve the working mechanisms to bring them in line with the UN Convention on the Rights of the Child.

CHAPTER VIII

ASSESS THE OPERATION OF PSYCHOLOGICAL SUPPORT SERVICES FOR ABUSED CHILDREN

Addressing and organising psychological services for children at risk is becoming a topical issue at national level, interacting with the need to protect every child's right to life, survival and development, health and physical and psychological recovery¹⁴⁰.

Violence against children is a current problem for the Republic of Moldova, and psychological assistance to victims of abuse at any stage is necessary to increase the quality of life of children and ensure their harmonious development.

Abuse of any kind and neglect can seriously alter the child's personality structure, and if not detected and treated properly, can have major repercussions over time, accompanying the subject throughout life.¹⁴¹ Protection and care are as essential to reducing harm as they are to overcoming the consequences of trauma, therefore the provision of care and rehabilitation services for child victims of violence, exploitation and trafficking requires increased attention and their development becomes a priority for state institutions.

By ratifying international instruments on child rights¹⁴², the Government has assumed responsibility to develop policies, create institutional frameworks and use effective mechanisms for the protection of different categories of children, as well as providing quality services that meet children's needs and ensure their well-being.

In this respect, the most common services for child victims of violence, neglect, exploitation and trafficking include: health care, legal assistance, psychological assistance, educational and social services.

Psychological assistance services for child victims of violence, exploitation and trafficking in the Republic of Moldova are provided by both Government and private institutions. It should be pointed out that specialised services for this category of beneficiaries

¹⁴⁰ Article 39 of the UN Convention on the Rights of the Child;

¹⁴¹ Save the Children. Good practice guide for the prevention of child abuse, Bucharest, 2003;

¹⁴² United Nations Convention on the Rights of the Child (adopted by the UN General Assembly on 20 November 1989); European Convention for the Protection of Human Rights and Fundamental Freedoms (adopted on 4 November 1950, ETS No 5); European Convention on the Exercise of Children's Rights (adopted on 25 January 1996, ETS No 160); Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (adopted on 25 October 2007, ETS No 201);

are most often delivered by non-governmental institutions. Government institutions providing psychological assistance usually have a large number of beneficiaries with a wide range of problems: psychological assistance in schools, psycho-pedagogical assistance services, foster homes, day centers, mental health centres. As mentioned above, specialised services are delivered only by Centers for Victims and Potential Victims of Trafficking in Human Beings and the Centres for Victims of Domestic Violence.

Analysing the functionality of psychological support services provided by Government institutions, we can highlight some basic findings:

- Government institutions strive to provide quality psychological support services to all vulnerable groups, especially child victims of violence, exploitation and trafficking.

- Even though legislation, policies, studies in the field indicate the provision of specialised counselling and psychological support services for child victims of violence, neglect, exploitation and trafficking, their provision is fragmented. Psychological services are not evenly distributed nationally and the work of many of them depends rather on donor support and/or local authorities and, respectively, local budgets, and is practically not based on needs assessment.

- There is no normative basis for the work of psychologists and their activities, and the failed attempts to adopt a law on the practice of psychology have a negative impact on the provision of quality services.

- The number of psychologists is insufficient in literally all institutions, both in education and social assistance (and in some there is a total lack of them), and this problem is most noticeable in rural areas. There is a need for psychologist units in most educational institutions, as well as in the territorial social assistance and family protection directorates.

- The inability to provide data on cases in which the involvement of a psychologist was necessary is largely due to the lack of tools to assess the effectiveness of the intervention of professionals in the process of identification, assessment, referral, assistance and monitoring of child victims. The existence of data referring to the intervention of psychologists in cases of child victims of violence, exploitation and trafficking could justify the need to develop this service in SAFPD.

- The Government has undertaken commitments and costs for psychological rehabilitation for child victims of crime. However, even though Article 8 of the Law No137 of

29.07.2016 on the rehabilitation of victims of crime stipulates that psychological counselling shall be provided by psychologists from the territorial subdivisions of social assistance, after 5 years, there is still no psychologist unit in most of the territorial SAFPDs. Law 137/2016 is the regulatory document that justifies the creation of this service, and authorities at all levels must provide the necessary resources (financial, methodological, etc.) for its development.

- The impossibility of having specialised services in all localities (public or private service providers) requires the specialisation and/or further training of psychologists who work on cases of violence, neglect, exploitation and child abuse, either in educational or social assistance institutions, law enforcement agencies or healthcare facilities. The insufficient training in this area affects both by the professionals concerned, and the beneficiaries of these services.
- Higher education institutions that train psychological professionals do not have special courses on assisting child victims of violence, neglect, exploitation and trafficking, but all universities have courses on psychological assessment and counselling in both undergraduate and master's programmes.
- The salary of psychologists in educational institutions is low, even though according to the Education Code, a psychologist is considered a teacher, with a lower salary level than a teacher. The salary scale is 52 for a psychologist and 56 for a teacher, which makes the work done by the psychologist unequal, and the demands for intervention including their involvement in identifying and assisting cases of violence, neglect, exploitation and trafficking require additional financial efforts for professional development and improvement of the methodological base (many professionals report that they attend trainings on their own).
- The difficulties faced by psychologists in educational institutions and in the Psychological Assistance Service in assisting child victims of violence, neglect, exploitation and trafficking are related to insufficient training/preparation of professionals; excessive workload, restricted time, large number of students for one psychologist; the role of the school psychologist perceived incorrectly ('dubious status', 'negative image of the psychologist', 'the psychologist can do anything'); lack of practical guidelines, materials and literature; lack of conditions, working equipment in

many cases; lack of intervention programmes, working standards; lack of assessment tools (tests); defective confidentiality mechanism.

Regarding development of psychological services for child victims of violence, neglect, exploitation and trafficking, the Ombudsperson for Child's Rights makes the following

RECOMMENDATIONS:

- **The Ministry of Education and Research** will develop the Law on the profession of psychologist and the mechanism of certification/licensing of psychologists, registration of psychologists, quality standards, which will enable the unification of standards for the provision of psychological services to the population, quality assurance, and availability of counselling, psychotherapy and support;
- **The Ministry of Labour and Social Protection** will facilitate the creation of specialised psychological support services for children at risk/victims of crime, depending on the needs of the children and the number of beneficiaries of these services;
- **The Ministry of Education and Research** will develop initial and ongoing training modules on psychological support for child victims or potential victims of violence, neglect, exploitation and trafficking to be integrated into the initial and ongoing training programmes of all professionals in institutions providing services for children;
- **The Ministry of Education and Research** will review the acts that indicate the number of psychological professionals in educational institutions and identify the optimal number of professionals according to the number of requests, children's needs and working standards;
- **The Ministry of Education and Research** will revise the pay grade for psychologists in educational institutions and Educational Psychological Support Services;
- **The Ministry of Labour and Social Protection** will introduce the psychologist unit within the Social Assistance and Family Protection Directorates (p.15 Chapter VII of the Framework Regulation on the organisation and operation of the territorial social assistance structure);
- **The Ministry of Labour and Social Protection** will develop a tool to assess and monitor the quality of psychological services provided to child victims of violence, neglect, exploitation and trafficking;

- **The Ministry of Education and Research** will develop a methodological guide for psychologists on psychological intervention for child victims of violence, neglect, exploitation and trafficking;
- **The Ministry of Education and Research, the Ministry of Health, the Republican Centre for Psychological Assistance, Local Public Authorities, the National Administration of Penitentiaries** will take the necessary measures to improve the working conditions of the professionals and will provide the necessary psychological assessment tools, methodologies and materials;
- **The Ministry of Education and Research, the Ministry of Health, The Ministry of Labour and Social Protection** will take the necessary measures to intensify the cooperation mechanism in cases of child victims of violence, neglect, exploitation and trafficking and will identify possibilities for the involvement of private psychological assistance services with the examination of the possibility of financing these services from the state budget.

CHAPTER IX

AMENDMENTS TO CHILDREN'S RIGHTS

LEGISLATION PROPOSED BY THE OMBUDSPERSON

FOR CHILDREN'S RIGHTS

During 2021, the Ombudsperson for Child's Rights submitted several proposals to amend the regulatory framework, due to the shortcomings identified regarding observance of child rights in several areas.

Some shortcomings refer to law enforcements, including the lack of a clear mechanism regarding the *right to property*, the process of acquiring inheritance rights, the management of assets acquired by minor children, as well as the requirements for the issuance of authorisations by the family council or guardianship authorities in cases concerning children's property rights.

In the context of the above, a proposal to amend the legislation was submitted to the Government of the Republic of Moldova¹⁴³, recommending the creation of an inter-ministerial working group (Ministry of Justice, Ministry of Health, Ministry of Labour and Social Protection) with the participation/consultation of representatives of the Moldovan Chamber of Notaries, representatives of territorial guardianship authorities, civil society in the field of child rights, etc. to review the current legal framework on the property rights of children, including children at risk, and make the necessary amendments; to review the circumstances presented, including in the working group created, and to provide the necessary explanations in the Commentary to the Civil Code in order to ensure the interpretation and unequivocal application by the competent authorities of the provisions of the Civil Code and to eliminate any ambiguities in the law; to develop the methodological framework, Regulation/Instruction on the requirements for issuing authorisations to the guardianship authorities in cases concerning the property rights of children and other procedural acts necessary for the uneven implementation of the provisions of the Civil Code concerned, regulate a unified procedure on taking into account the opinion of the child, in accordance with his/her age and degree of maturity, as well as develop methodological guidelines for the representatives of the guardianship authorities on the examination of cases concerning the property rights of children in order to facilitate the process of strengthening their professional capacities.

¹⁴³ <http://ombudsman.md/wp-content/uploads/2021/06/04-2-5-din-26.03.21-prop.-de-modif.-a-leg-tiei.pdf>

The response of the Ministry of Justice¹⁴⁴, assured the Ombudsperson for Child's Rights that the regulatory shortcomings set out in the proposal will be reviewed. Regarding the Commentary to the Civil Code, it was mentioned that it is not the responsibility of the Ministry of Justice, and that, following the adoption of Law No 133/2018 on the updating the Civil Code, which made a number of conceptual changes, it is necessary to draft a new commentary, as the existing one comprises outdated findings. In this regard, the Superior Council of Magistracy requested the support of development partners to prepare a Commentary to the Civil Code of the Republic of Moldova.

When the monitoring the observance of the rights of children with disabilities, the Ombudsperson for Child's Rights found that the *minimum existence* for this group of people had not been determined. The Ombudsperson for Child's Rights expresses her concerns about the insufficient measures in the social protection system for children with disabilities. The subsistence minimum to be established should be the legal basis for further setting the amount of social benefits and developing the necessary social services for people and children with disabilities.

In order to respect the right to social assistance for children with disabilities, the Ombudsperson for Child's Rights has submitted a proposal for amending the legislation¹⁴⁵ to the Parliamentary Committee on Social Protection, Health and Family, the Parliamentary Committee on Human Rights and Interethnic Relations and the Prime Minister of the Republic of Moldova, recommending the initiation of the mid-term review of Law No 152/2012 on the minimum subsistence for assessing the efficiency and effectiveness of the action of the legal provisions on vulnerable groups and to examine the appropriateness of revision in the sense of completing the provisions of Article 4 with a list of distinct groups, persons with disabilities and children with disabilities. The Ombudsperson for Child's Rights proposed to consider adjusting Government Decision No 285/2013 approving the Regulation on how to calculate the amount of the subsistence minimum, by including provisions on how to calculate the subsistence minimum for persons and children with special needs, and to assess the situation regarding available statistics on disability, including statistics disaggregated by type of disability.

¹⁴⁴ <http://ombudsman.md/wp-content/uploads/2021/06/raspunsul-MJ-din-9.06.21-la-nr.04-2-5-21.pdf>

¹⁴⁵ <http://ombudsman.md/wp-content/uploads/2022/01/Scrisoare-c%C4%83tre-comisiile-parlamentare-%C8%99i-Guvern.pdf>

The reply received from the Ministry of Labour and Social Protection refers mostly to services created for the benefit of persons with disabilities, without making concrete references to the situation of children with disabilities and the proposals put forward by the Ombudsperson for Child's Rights to review the available statistics on disability, to record disaggregated data, establish the minimum subsistence for these categories of persons/children, by adjusting Law No 152/2012 on the minimum subsistence and Government Decision No 285/2013 approving the Regulation on how to calculate the amount of the minimum subsistence for persons/children with disabilities. In order to prevent and eliminate the premises for the violation of child rights and freedoms, the Ombudsperson for Child's Rights has repeatedly requested a comprehensive response on the issue and the proposals put forward.

In order to monitor compliance with the right to social assistance for ***children at risk***, the Ombudsperson for Child's Rights has examined the draft Regulation¹⁴⁶ on the organisation and functioning of the Social Service Day Centre for Children at Risk, drafted by the General Directorate for the Protection of child rights of the Chisinau Municipal Council and placed for public consultation.

After reviewing the draft Regulation, the Ombudsperson for Child's Rights came up with an opinion supporting the initiative of the General Directorate for the Protection of child rights of the Chisinau Municipal Council. The Ombudsperson for Child's Rights is of the opinion that the regulatory document in this field should respond to the real needs of beneficiaries by setting clear objectives in order to streamline the process of evaluating the implementation progress. After reviewing the proposed draft, the Ombudsperson for Child's Rights came up with some suggestions to improve this document from the perspective of the human rights-based approach, and more specifically, child rights.

Another problem addressed by the Ombudsperson for Child's Rights refers to ***the refusal to pay the allowance established for a child with the status of orphan child***, in case of continuing studies abroad. Imperfections have been identified in Law No 315/2016 on social benefits for children and the Regulation on how to establish and pay allowances for certain categories of children and young people, approved by Government Decision No 132/2020, in force since 1 January 2021. The Ombudsperson for Child's Rights draws attention to the lack of/failure to comply with the Regulation on the method of establishment and payment of

¹⁴⁶ <http://ombudsman.md/wp-content/uploads/2021/10/opinie-catre-DGPDC-din-26.10.2021.pdf>

allowances for certain categories of children and young people, on the payment of social benefits for children who have been temporarily left without parental care or have been left without parental care and are enrolled in an educational institution in another country, equivalent to educational institutions of levels 3-7 in the Republic of Moldova.

In this context, a proposal to amend the legislation¹⁴⁷ was submitted to the Ministry of Health, Labour and Social Protection, recommending to amend/supplement the Regulation on the method of determining and paying allowances for certain categories of children and young people approved by Government Decision No 132/2020, in order to remove the restrictive rules in relation to children who continue their studies abroad, as well as to ensure unequivocal implementation of these provisions by the institutions applying them, and to revise paragraph 18 of Government Decision No 581/2006 approving the Regulation on the conditions of establishing and paying allowances for adopted children and those under guardianship/trusteeship, so as to include all types of educational institutions, according to the Education Code No 152/2014, in order to provide the possibility for all children/young people under guardianship/trusteeship to receive the respective monthly allowance.

The Ministry of Health, Labour and Social Protection, in its response, stated that the recommendations in question will be subject to rigorous consideration and review in the process of refining/improving the regulatory framework on child rights protection.

The safety and protection of children from violence, abuse and/or neglect has been and remains high on the agenda of the Ombudsperson for Child's Rights.

In the context of the legislative initiative¹⁴⁸ to amend the Education Code of the Republic of Moldova, which introduces the concept of **bullying**, an increasingly more visible phenomenon of interpersonal violence between students, accompanied by various other forms of abuse, the Ombudsperson for Child's Rights submitted to the legislature her opinion with some proposals to the draft registered. The Ombudsperson for Child's Rights said it was a vital draft law and an important step towards ensuring the dignity of all children in Moldova.

In this context, the Ombudsperson for Child's Rights suggested to introduce in the Education Code a regulation stipulating that teachers shall be also trained in psychological

¹⁴⁷ <http://ombudsman.md/wp-content/uploads/2021/04/04-2-04-din-02.03.2021-propunere-de-modificare-a-legisla%C8%9Biei-%C3%AEndemniza%C8%9Bii-p-u-unele-categorii-de-copii-%C8%99i-tineri-MSMP.pdf>

¹⁴⁸ Draft law on amendments to the Education Code of the Republic of Moldova No 152/2014, Legislative initiative No 301 of 25.10.2021;

violence - bullying - during their training sessions. This means that teachers will be trained on how to identify the phenomenon and how to apply appropriate strategies and measures.

The Ombudsperson for Child's Rights believes it is not enough to define only bullying in the Education Code, without other clear regulations in the body of the law to prohibit bullying, on the rights and obligations of the staff involved in the educational process, the legal consequences for allowing or not responding to bullying.

The Ombudsperson for Child's Rights finds legislative and procedural shortcomings in the case of annulment of marriage by the civil registrar and notary. Consequently, these shortcomings violate the *child's right to an opinion*, which is part of the process of the spouses' divorce by mutual consent. In the procedure of divorce by mutual consent, neither the civil registrar nor the notary take into account the child's opinion on the establishment of domicile, due to the lack of legal regulations, procedures and implementation mechanisms.

In this context, the Ombudsperson for Child's Rights submitted a proposed legal amendment¹⁴⁹ to the Government of the Republic of Moldova. It recommends reviewing the Family Code No 1316 of 26.10.2000, the Law on Notarial Procedure No 246 of 15.11.2018, the Law on Civil Status Documents No 100 of 26.04. 2001 in order to reinforce the aspect of hearing the opinion of the child during the parents' divorce at the civil registry office and notary; drafting the rules for supplementing/amending the Family Code No 1316 of 26.10.2000, the Law on Notarial Procedure No 246 of 15.11.2018, the Law on Civil Status Documents No 100 of 26.04. 2001 stipulating the procedure for hearing the child during the parents' divorce in administrative and notarial proceedings, the authority responsible for conducting the hearing, the form of the hearing, the circumstances that are contrary to the child's interests and may be invoked as grounds for the notary's rejection of the divorce petition; drafting the regulations to implement the laws (Family Code No 1316 of 26.10. 2000, Law on Notarial Procedure No 246 of 15.11.2018, Law on Civil Status Documents No 100 of 26.04.2001) for detailed and clear description of the procedure for hearing the child during the parents' divorce in administrative and notarial procedure, including sample documents to be drawn up at the end of the procedure and to comply with the best interests of the child.

¹⁴⁹ <http://ombudsman.md/wp-content/uploads/2022/01/propCodului-Fam.pdf>

The Ministry of Justice, in its reply¹⁵⁰ to the Office of the Ombudsman, indicated that there are certain ways to amend the regulatory framework for improved clarity and accessibility, without indicating any specific methods.

The Ombudsperson for Child's Rights was informed about some cases when the *right to citizenship* by applying Article 11(1)(a) of the Law on Citizenship of the Republic of Moldova No 1024/2000 is to the disadvantage of persons born abroad. The apparently problematic situation was invoked by persons born outside the Republic of Moldova, whose parents or at least one of them at the time of birth were citizens of the Republic of Moldova and, at the time of applying for the certificate of non-citizenship of the Republic of Moldova, they find that they hold the citizenship of the Republic of Moldova on the basis of Article 11(1)(a), although they had no legal relationship with the Government. The state of affairs created was puzzling for people, especially as they had not expressed any consent to this and were facing obstacles in obtaining citizenship of another state, employment in law enforcement, security bodies, etc. First, they have to get their Moldovan identity documents and then follow the steps to renounce the citizenship of the Republic of Moldova. These actions both costly and time-consuming.

As a result of the working meeting with the representatives of the public authorities responsible for citizenship (Ministry of Foreign Affairs and European Integration, the Office of the President of the Republic of Moldova, the Public Services Agency and the Ministry of Justice), the Ombudsperson for Child's Rights came up with a proposal to the Ministry of Justice to set up an inter-ministerial working group (consisting of employees of the Ministry of Justice, the Ministry of Foreign Affairs and European Integration, the Commission for citizenship and political asylum issues under the President of the Republic of Moldova, with the participation of a representative of the Office of the Ombudsperson, etc.) for a comprehensive analysis of the practice of other states and consideration of making changes/reservations in relation to the applicability of Article 11(1)(a) of the Law on Citizenship of the Republic of Moldova No 1024/2000 to children born outside the territory of the Republic of Moldova, whose parents or at least one of them at the time of birth were citizens of the Republic of Moldova, and who had no legal connection with the Government.

¹⁵⁰ <http://ombudsman.md/wp-content/uploads/2022/01/doc17.pdf>

The Ministry of Justice, in its response, informed that, if the review identifies a systemic problem, the Ministry will remain open to discuss and consider possible legislative interventions.

Regarding the right to citizenship, the Ombudsperson for Child's Rights submitted a notification to the Constitutional Court of the Republic of Moldova for the constitutional review of the phrase 'provided that, at the time of birth, at least one of the parents has the right of stay or enjoys international protection granted by the competent authorities of the Republic of Moldova or is recognized as stateless by the competent authorities of the Republic of Moldova' in Article 11 (1)(c) of the Law on Citizenship of the Republic of Moldova No 1024/2000, in the wording of the Law No 132/2017 on amendments and addenda to the Law on Citizenship of the Republic of Moldova No 1024/2000, in the part that relates to the condition of granting citizenship to the child born on the territory of the Republic of Moldova to the legal form of residence of the parents/parent on the territory of the Republic of Moldova.

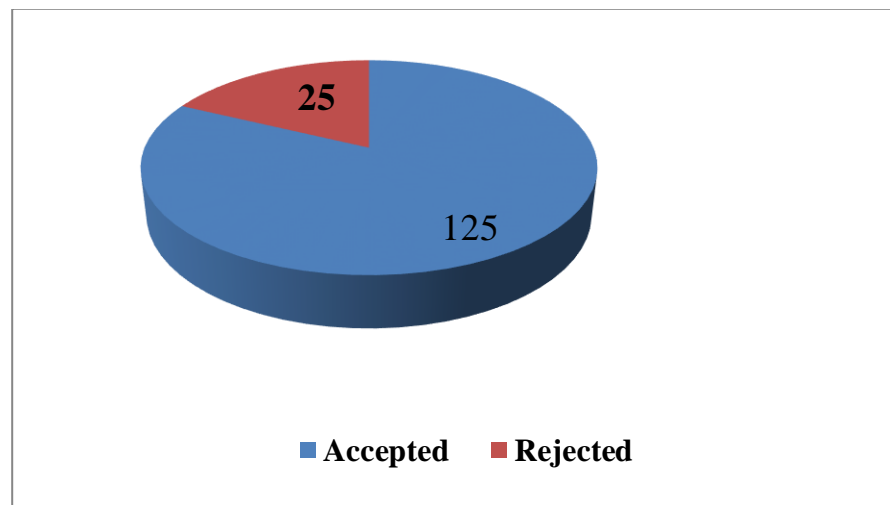
The problem refers to the current wording of Article 11(1)(c) of Law No 1024/2000, whereby a child born on the territory of the Republic of Moldova to parents who are citizens of another state or one of whom is stateless or a beneficiary of international protection and the other is a foreign citizen is considered a citizen of the Republic of Moldova, provided that, at the time of birth, at least one of the parents has the right of stay or enjoys international protection granted by the competent authorities of the Republic of Moldova or is recognised as stateless by the competent authorities of the Republic of Moldova, appears to be discriminatory, since making the nationality of a child born in the territory of the Republic of Moldova conditional on the legal form of residence of his or her parents in that territory and excluding the phrase '...if that Government does not grant the child citizenship' from the original wording of Law No 1024/2000, may result in stateless children from birth, in cases where the country of origin of the parents/one of the parents does not grant its citizenship to children born on the territory of other states or has reservations about them. The discriminatory nature of the legal rule was also found by the Council for the Prevention and Elimination of Discrimination and Ensuring Equality in its Advisory Opinion issued at the request of the Ombudsperson for Child's Rights. The complaint is being reviewed by the Constitutional Court.

CHAPTER X

PETITIONS SUBMITTED TO THE OMBUDSPERSON FOR CHILDREN’S RIGHTS IN 2021

In 2021, **150 petitions** were submitted to the Ombudsperson for Children’s Rights. A decrease in the number of petitions in comparison with the previous year was recorded (2016 – 95 petitions; 2017 – 147 petitions; 2018 – 174 petitions; 2019 – 129 petitions; 2020 – 178 petitions; 2021 – 150 petitions).

About 125 petitions met the eligibility criteria and were accepted for examination. About 25 petitions were dismissed without being examined and the petitioners were informed about the procedure they are entitled to use to defend their rights and freedoms.



In the context of the operational duties aiming to ensure the observance of children’s rights, the Ombudsperson for Children’s Rights is entitled to act *ex officio* to support children in difficulty or at risk. As a result of the media and social media reports and the calls received from the Child’s Hot Line (0 80011116), in 2021, the Children’s Ombudsperson took *ex officio* actions in 24 cases that violated the right to health – 3; the right to education – 4; the right to protection from abuse and neglect – 5; the right to a family – 4; the right to a name – 3; the right to survival and development – 5.

**Classification of petitions concerning allegedly violated rights according to the UN
Convention on the Rights of the Child**

TOPIC	Received petitions	Approved petitions	Returned petitions	Dismissed petitions	No of operation acts return	Court resolution
Right to identity and citizenship, Article 8	1	1			1	
Violence against children, Article 19	21	19	2		4	
<i>Violence in educational institutions</i>						
<i>Domestic violence</i>	7	4	3		2	
<i>Violence against children in other Government institutions</i>	1	1				
<i>Sexual exploitation, Article 34</i>	2	2			1	
Physical, psychological, social recovery/reintegration of a child victim of any form of neglect and abuse, Article 39	15	10	5			
Child's family setting/separation and maintaining relationships with parents, Article 9	15	12	3		6	
Responsibilities, rights and duties of parents, Article 5	22	22			3	
Family reunification, parents residence in different countries, Article 10	4	4				
Parents' common responsibilities for the upbringing of the child, care services for children, Article 18	6	3	3			
Parents have the responsibility to secure conditions of living, providing material assistance, particularly with regard to nutrition, clothing, housing, alimony, Article 27	8	5	3			2
Special protection and alternative care provided by the Government to children deprived of their family environment, Article 20	5	5				
Transfer/return of the child from abroad, Article 11	5	3	2			
Social security, Article 26	6	3	2	2	1	
Right to health and healthcare services, Article 24	3	2	1			
Right to education, Article 28	2	2			2	
Right to a decent life for children with mental and physical	4	4			2	

disabilities, SEN, Article 23						
Child's right to be heard in any judicial and administrative proceedings, Article 12	1	1				
Right to freedom of expression, Article 13	1	1				
Protect the child from information and materials affecting his or her well-being, Article 17	1	1				
Child's economic exploitation, Article 32	2	2				
Trafficking of children, Article 35	2	2				
Prohibition of torture, prompt access to legal and other appropriate assistance, Article 37	1	1				
Right of every child alleged as, accused of, or recognized as having infringed the penal law, Article 40	2	2				
Children's rights of ethnic, religious or linguistic minorities, Article 30	1	1				
Child's right to freedom of association and to freedom of peaceful assembly, Article 15	2	2				1
Total number of petitions	150	125	25	2	20	6

Dynamics of procedural/response actions

Procedural actions	2017	2018	2019	2020	2021
Notice covering the recommendations on measures to be undertaken for the immediate restoration of the petitioner's rights, Article 24 of Law No 52 of 03.04.2014	28	25	14	17	22
Request to initiate a disciplinary or criminal procedure against the responsible official who did commit violations which did generate the violations of the human rights and freedoms, Article 25(1)(b) of Law No 52	4	1	1	3	2
Intimate cases of violations of professional ethics, delay and bureaucracy, Article 25(1)(d) of Law No 52	4	4	2	6	-
Court actions/trial interventions to file conclusions, Article 25(2),(3) of Law No 52	8	8	3/6/10	1/3/7	8
Conciliation agreement, Article 23(3) of Law No 52	1	1	-	-	-
Proposals for improving the administrative office under the Regulation on the organisation and operation of the Ombudsperson's Office, 2 nd Chapter, point 7, sub-point 6	1	1	1	2	-
Request for conducting forensic examination, Article 11(m) of Law No 52	-	-	-	-	-

Proposals and recommendations for the amendment of the law, Article 27(a) of Law No 52	4	1	2	7	6
Referral to the Constitutional Court to control the constitutionality of the regulatory documents/opinions, Article 26 of Law No 52	2	2 opinio ns	-/2	2	1
Opinions on draft regulatory documents, Article 27(b) of Law No 52	1	8	11	8	2
T O T A L	53	51	52	57	41

CHILDREN'S RIGHTS IN TERMS OF PETITION REVIEW

In the view of the Ombudsperson for Child's Rights, children, as right holders, remain a priority, especially when it aims to illustrate how the legal norm is adapted to their specific interests and needs, the role of parents/legal representatives, as well as public authorities responsible for implementing the legal framework to promote, ensure and protect the rights of the child, being essential in situations where their responsibilities are greatest.

Recognizing the fundamental principles of education¹⁵¹, in 2021 the Ombudsperson for Child's Rights monitored the implementation of protection and response mechanisms for workers in educational institutions in cases of child abuse, neglect, exploitation, trafficking¹⁵². In this regard, the Ombudsperson for Child's Rights notes *that the directors of educational institutions are obliged to stipulate in their activity regulations, contracts and in the job descriptions of employees the obligation to report cases of abuse and neglect, to inform and provide employees with reporting forms and registers, and to ensure that each institution implements the procedure for intervention by employees of educational institutions, to designate a person from among the members of the institution's management as coordinator of the activities for the management of cases of abuse and neglect, as well as to organise information activities for children and parents, carers, legal representatives of children, on how to report suspected cases of abuse and neglect.*¹⁵³

Despite the existence of a proactive, Government-guaranteed mechanism, the Ombudsperson for Child's Rights has identified a significant number of cases of psychological

¹⁵¹ Article 7 of the Education Code of the Republic of Moldova;

¹⁵² Ministry of Education Order No 77 of 22.02.2013;

¹⁵³ Idem, points 2 and 3;

and physical abuse¹⁵⁴ of children in early and secondary education institutions, both by management and by the minors themselves. The monitoring and intervention of the Ombudsperson for Child's Rights has established the underlining causes: employees' unsatisfactory knowledge on the institutional organisation and response procedure to child abuse, neglect, exploitation, trafficking¹⁵⁵, methodology¹⁵⁶, and child protection policy as a whole. In the opinion of the Ombudsperson for Child's Rights, the inappropriate attitude of teachers and management to the implementation of protection mechanisms is caused by: protectionism/collegial favouritism, corporate quasi-solidarity, indifference and/or inability to identify and/or perceive potential abuse/neglect on the part of both staff and students, fear of children expressing their opinion, in order not to be subject to possible victimisation and harassment later on.

The most serious finding of the Ombudsperson for Child's Rights in this regard is *the cover-up of existing cases of abuse and violence against minors by managers and/or staff of the educational institution, as well as by the supervisory bodies, which leads to the evasion, in most cases, of administrative and/or criminal liability, often with tokenistic internal investigations and prosecution activities.*

In the opinion of the Ombudsperson for Child's Rights, management/teaching staff do not fully ensure the security of life and health protection of children, pupils and students in the educational process¹⁵⁷, in some cases even being complicit by tolerating, concealing such acts. In this context, the Ombudsperson for Child's Rights highlights the case referred to him by the mother of a minor concerning violence against him. The teacher of a pre-school institution in Chisinau left the children unsupervised, later on traces of strangulation and visible injuries were found around the neck of a child, it was assumed that these injuries were caused during the absence of the teacher and the children were left unsupervised. Although the case was examined by the prosecution authority, the complainant requested the intervention of the Child Rights Ombudsperson on the grounds that the management of the pre-school institution was hindering the investigation by attempting to cover up the case. Following the investigation of

¹⁵⁴ During 2021, 39 cases were examined where children were subjected to violence by teachers in general education and pre-school institutions;

¹⁵⁵ Ministry of Education Order No 77 of 22.02.2013;

¹⁵⁶ Methodology for the application of the Procedure for institutional organisation and intervention of workers of pre-university educational institutions in cases of child abuse, neglect, exploitation, trafficking (Order of the Ministry of Education No 858 of 23 August 2013)

¹⁵⁷ Article 35 of the Education Code of the Republic of Moldova

the case, the Ombudsperson for Child's Rights found that the response mechanism of the educational institution was not applied correctly in cases of abuse and neglect, or that the actions of teachers, manifested by neglect in supervision, resulted in minor bodily harm to a minor, were interpreted as impassive towards the physical and psychological integrity of the minor, the examination of the case by the multidisciplinary commission, lacking a child rights approach, the manager of the institution showed a biased attitude towards the employees involved in the conflict, the latter being severely reprimanded. Moreover, the Ombudsperson for Child's Rights established that despite the existence of legal provisions in the internal regulation of the protection mechanism, the institution was unable to submit the register and the case referral form. The GDEYS¹⁵⁸ response to the situation reported, in the opinion of the Ombudsperson for Child's Rights, is tokenistic, or the manager of the institution has been sanctioned for improper performance of duties, the persons involved continue to work with employees who are guilty of conflict. **Cases of child abuse in educational institutions are a serious violation of the law, but in most cases, abusers are subject to sanctions other than dismissal, which is legally required for any type of violence against children, even once**¹⁵⁹.

A similar case is that of siblings, students in a high school in the capital, whose parents have reported to the Ombudman for Children in order to intervene on the fact of psychological abuse and discrimination admitted by the staff responsible for the household of the high school, towards children. The complainants alleged that the employee was behaving aggressively towards their children, verbally harassing them, which led to the children's psychological damage and fear of attending high school. Considering the alleged actions to be ethnically discriminatory and psychologically abusive, the Ombudsperson for Child's Rights sent her opinion to the high school management, requesting urgent measures to be taken in line with the national child protection policy. Reviewing the answers received from the institution concerned, the Ombudsperson for Child's Rights found a lack of knowledge of the methodology for applying the procedure of institutional organisation and response of workers of pre-university educational institutions to cases of abuse, neglect, exploitation, trafficking of children, but also a biased attitude of management staff towards this case, demonstrated by tokenistic actions and subjective analysis of the facts reported, the recommendations were not

¹⁵⁸ GDEYS reply No 0118/1716 of 18.05.21;

¹⁵⁹ Ministry of Education Order No 77 of 22.02.2017;

implemented. Acting in the best interests of children, the Ombudsperson for Child's Rights referred the case to the Ministry of Education and Research, which is the founder of the educational institution concerned, asking it to take steps to redress the situation and manage the case positively so that the school environment is child-friendly. At the same time, the Ombudsperson for Child's Rights also referred the matter to the Equality Council to examine the discriminatory circumstances and actions of harassment and victimisation. Despite the fact that the Republican Centre for Psycho-pedagogical Assistance has provided support to the high school on the implementation of child protection policies against abuse, the high school still lacks reliable management, the persons responsible for the conflict situation continue to work in the institution, and the poor management of the case generates negative effects on both child victims and their family members. Moreover, the state of affairs has made parents unsure of the school environment in which their children are studying, and in order to prevent repeated abusive actions, they have decided that their children should not attend school. Having warned the central authority through numerous opinions about the worsening situation in the secondary school, the Ombudsperson for Child's Rights remains concerned about the delay of its actions/actions, given that the facts concern children, and the authorities should take prompt action in this regard.

Note that the *school psychologist* plays an important role in the management of cases of abuse of children in educational institutions, as it is his/her job to contribute to a favourable psychological climate and reduce conflict situations, but in most of the cases examined, he/she is either missing in the institution or has a superficial training in response actions. In the process of investigating cases of abuse, the Ombudsperson for Child's Rights noticed that psychologists in educational institutions, often even knowing about the fact of deviant behaviour or about pupil-student, pupil-teacher conflicts, psychologists remain passive in resolving them or the intervention actions are not compliant.

The Ombudsperson for Child's Rights noticed a tendency of school psychologists to limit their intervention work to *observation, interview and conversation*, which is essentially a preliminary stage in the resolution of cases. These response should aim at interviewing both parties, understanding the causes, analysing how the conflict/abuse situation could have been avoided, analysing the consequences on the students, the class, identifying and adopting the necessary measures to maintain the well-being. Thus, the Ombudsperson for Child's Rights

noticed that essential elements of the response to cases of abuse, i.e. the *opinion of the child* (victim and/or abuser) about the incident, were skipped. And if it is admitted that the child is going through an age crisis, an individual plan is not created to work with the child in the future to overcome age-related problems and similar situations in the future.

The educational aims of the inclusive education process have also been the subject of requests to the Ombudsperson for Child's Rights. Thus, there is still a lack of tolerance towards children with special needs, both by some groups of parents and by management staff in some educational institutions, in the process of implementing inclusive education. The Ombudsperson for Child's Rights remains deeply disappointed that the promotion of inclusive education is stirring up negative attitudes in education systems. This Ombudsperson for Child's Rights reached this conclusion when reviewing the applications referring to discrimination against children with special needs in the educational process. Reasons such as '*lack of low comprehension skills*', '*creating impediments and diverting the attention of students other than those with special needs*', '*lack of capacity and training of teachers*' have been the basis for the complaints of the Ombudsperson for Child's Rights, alleging that inclusive education is a premature process for Moldovan education, advocating for keeping them in special educational institutions. It is astonishing that this approach to the right to education has also been manifested in some private educational institutions, which interpret inclusive education for children with special needs as a phenomenon that "*tarnishes the image*" of such institutions, giving this process an aggressive tinge. In this context, the Ombudsperson for Child's Rights recalled the Government's commitment to the implementation of the Education Development Programme¹⁶⁰, the aim of which is to ensure equal opportunities and chances for exclusive/marginalized people to benefit from the fundamental human rights to development and education, in conditions of human diversity, intervening with prompt actions on individual cases to restore the right to education and exclude the phenomenon of discrimination. However, in the opinion of the Ombudsperson for Child's Rights, the management of inclusive education is flawed, largely due to the fact that the Government's efforts to strengthen and make inclusive education services at the institutional level are insufficient. More seriously, there are inadequate financial resources for the positive promotion of inclusive education among teachers, as well as negative perceptions of the benefits of inclusive education, especially at local level. In this

¹⁶⁰Government Decision No 523/11.07.2011;

respect, the Ombudsperson for Child's Rights finds it necessary to strengthen inter-institutional collaboration and provide adequate support from local public authorities, as well as to promote inclusive education and tolerance among parents whose children are other than those with special needs, and to promote and develop voluntary services. The Ombudsperson for Child's Rights notes the urgent need for active monitoring of inclusive education and prompt involvement of the authorities responsible for ensuring inclusion, as well as for creating a positive perception of the inclusion process among teachers, but especially when gaps and/or impediments are identified that make its implementation difficult, or lead to the non-achievement of the educational objectives guaranteed by law. Thus, the Ombudsperson for Child's Rights continues to note the stagnation of the inclusive education process and urges the Government authorities to pay more attention to this issue, in order to guarantee and ensure the right to education, based on non-discriminatory principles.

Thus, in examining one case, the Ombudsperson for Child's Rights found the mandatory requirement for *parents whose children turn 7 towards the beginning of the school year to enrol their children in first grade*,¹⁶¹ disproportionate to the capacities of children with SEN. The Ombudsperson for Child's Rights found unjustified the response of GDEYS, whereby the child is to be enrolled in compulsory general school once he/she has reached school age, otherwise he/she is to be enrolled in a special institution. However, if the child's placement in a mainstream early education institution has led to a positive inclusion of the child, the case must be dealt with on an individual basis, taking into account the psycho-pedagogical and medical recommendations. The Ombudsperson for Child's Rights recommended to central education authorities to review the compulsory enrolment requirement for children with SEN in line with proportionality criterion, as encouraging parents to institutionalize their child in a special school is detrimental to the child's well-being.

In conclusion, the Ombudsperson for Child's Rights reiterates that the protection mechanisms guaranteed by the Government do not have practical continuity, but rather remain on paper. Their implementation disregards the best interests of the child. The Ombudsperson for Child's Rights hence considers it important to strengthen the institutional organisation of the intervention of education workers in cases of abuse, neglect, exploitation and trafficking, by

¹⁶¹ Methodology for enrolling children in first grade, approved by Ministry of Education Order No 305/2016 and amended by Order No 149 /2017;

guiding and training them in a uniform and practical way; by training qualified psychologists in the management of cases of abuse and violence; by carrying out frequent audits on the organisation of the intervention process; and by carrying out disciplinary investigations based on a child rights approach. At the same time, the Ombudsperson for Child's Rights considers it valuable to improve and develop the organisation of violence prevention activities in educational institutions, through the visible placement of information boards and the adjustment of the websites of educational institutions with information aimed at preventing and resolving cases of abuse and violence; the active involvement of parents and/or legal representatives in information sessions, as well as the permanent monitoring of children's psycho-emotional behaviour, in order to determine the positive and/or negative nature of the family environment from which they come.

Reaffirming the Government's obligation to protect children from all forms of maltreatment by parents or other caregivers and to implement preventive and treatment programmes in this regard,¹⁶² the Ombudsperson for Child's Rights upholds the principle that ***in all decisions and actions affecting children as individuals or groups, their best interests must be a primary consideration, regardless of whether decisions are taken by Government, administrative or judicial authorities, or by family members themselves.***¹⁶³ In this regard, the Ombudsperson for Child's Rights draws attention to the important role of prosecuting authorities as well as the courts in investigating and examining cases of admitted violence and abuse against children, and the cases under examination raise concerns. More attention needs to be paid to children without families, and the Government is obliged to provide special protection and the possibility of appropriate care from another family or in an institution.¹⁶⁴ The Ombudsperson for Child's Rights considered the intervention of the prosecution body in relation to the protective actions/omissions by public authorities, as well as in relation to the investigation of a case of sexual abuse admitted against a minor in the custody of a placement centre, to be inadequate. As a result of the investigation, the Ombudsperson for Child's Rights established a number of circumstances, which clearly point to tokenistic actions to protect the best interests of the child and/or even omissions by local public authorities in the village of Larga, Briceni district, as well as representatives of the Briceni Prosecutor's Office, which

¹⁶²Article 19 of Convention on the Rights of the Child;

¹⁶³ Idem;

¹⁶⁴ Ibidem, Article 20;

submitted the relevant report to the Prosecutor General. Summarising the conclusions of the Ombudsperson for Child's Rights we state: *the poor quality of the criminal investigation by the Briceni Prosecutor's Office, characterised by a lack of objectivity and complex analysis of the circumstances of the case, failing to take into account the serious nature of the actions, given the fact of their application to minors, as well as the lack of action by the prosecution on the fact (in rem and not in persona); lack of full action to establish the persons who allegedly committed acts of abuse and harassment, including sexual abuse and harassment of minors, and persons who are alleged to have been aware of the abusive circumstances; the erroneous legal classification of the offence by the Briceni prosecuting authority, or the correct classification of the harmful act committed, depends also on the course of criminal investigation of the case as a whole, as well as the fairness of the punishment; the failure of the Briceni prosecuting authority to examine the actions/actions of the public authorities concerned, including those responsible in the SAP Briceni, in the context of ensuring measures for the protection of the minor-victim. The Ombudsperson for Child's Rights established the violation of Articles 3, 12, 19, 20 and 34 of the UN Convention on the Rights of the Child, as well as, in procedural matters, the provisions of Article 3 of the European Convention on Human Rights, in the context of the ill-treatment admitted by the Briceni public authorities, for which she requested resumption of review of the merits of the case, by starting a new criminal case.*

Court decisions do not have a child rights based approach, either. In the opinion of the Ombudsperson for Child's Rights, the courts often fail to take into account the best interests of the child when examining cases, whereas the tasks of civil proceedings consist in the fair trial, within a reasonable time, of cases for the defence of violated or contested rights, freedoms and legitimate interests of individuals who are subjects of civil, family, labour and other legal relationships,¹⁶⁵ and cases concerning the defence of the rights and interests of minors are heard as a matter of urgency and priority¹⁶⁶.

The Ombudsperson for Child's Rights found that the lower courts' examination of civil cases concerning the deprivation of parental rights was biased and delayed, which made her to refer her conclusions to the Supreme Court of Justice by way of exception.

¹⁶⁵ Article 4 Civil Procedure Code of the Republic of Moldova;

¹⁶⁶ Article 192(3) Civil Procedure Code of the Republic of Moldova.

In this regard, the Ombudsperson for Child's Rights considered it necessary to emphasise that the courts should analyse the circumstances multilaterally and carefully in order to adopt a proportionate and fair solution, in particular when they relate first to the safety of the physical and mental integrity of a minor and only then to the exercise of parental rights. Moreover, the courts are to take into account the conclusions of the guardianship authorities, the expert opinions of professionals brought in to establish the psycho-emotional and health status of the children, as well as the actions of the police following the intervention to ensure the protection of the children. The Ombudsperson for Child's Rights found that the 3-year time limit for the examination of the case by the court where a minor is concerned was unjustified. The Ombudsperson for Child's Rights also found the Court of Appeal's interpretation of the element of foreignness to be erroneous, pointing out that the legal equality of the parties implicitly entails the equality of the systems of law to which they belong, and that between systems of law that are 'on an equal footing', the applicability of the one that responds positively and as a priority to the *best interests of the child* will be determined.

Although in all their circumstances, the civil cases had similar subjects, with the exception of the biological fathers, who were to be deprived of their parental rights, the decisions of the appeal courts had a different outcome. In one of the two cases, the court of second appeal held that the appeal was admissible and quashed the decision of the Court of Appeal in its entirety and sent the case for repeated retrial. In the second case, the appeal was dismissed as inadmissible on the ground that the criticisms made against the decision of the Court of Appeal, in the request for second appeal, cannot be taken into account as they were made after the legal time-limit for filing the justification for the appeal,¹⁶⁷ although the same court declared that the second appeal was filed in time.

From the findings of the Court of Appeal, the Ombudsperson for Child's Rights points out that the arguments put forward in the second appeal relate to the appellant's disagreement with the decision rendered by the Court of Appeal, but do not reveal an essential breach or misapplication of the rules of substantive law, i.e. do not constitute grounds for quashing the challenged decision.¹⁶⁸

¹⁶⁷ Decision of the Civil, Commercial and Administrative Chamber of the Supreme Court of Justice of 31.03.2021; on civil case No 2ra-263/21;

¹⁶⁸ *Idem*;

The Ombudsperson for Child's Rights notices that the decision of inadmissibility reproduces in detail the grounds of illegality invoked by the appellant, concluding that they have a declaratory nature. Thus, such an interpretation of the appeal admissibility runs counter to the essence of its examination, whereby the manifestly unfounded nature of the appeal no longer constitutes a ground of inadmissibility. Such an approach may lead to a reconsideration of the position on the compatibility of the institution of admissibility of the appeal with the European Convention, but the ECtHR has relied on the assumption that this procedure does not examine the merits of the case.¹⁶⁹ In other words, the Ombudsperson for Child's Rights considers the inadmissibility of the appeal on the given case as one that has eroded the essence of the right of access to justice for the appellant, resulting in the inapplicability of any legal protection for the minor.

The existence of such cases, in the opinion of the Ombudsperson for Child's Rights, reaffirms the need for specialised law enforcement bodies to investigate and review cases involving children, or the general approach to prosecution and judicial processes, diminishes the positive nature of the principle of considering the best interests of the child in all decisions taken concerning them.¹⁷⁰ The Ombudsperson for Child's Rights also finds it important to review the practice of the Supreme Court of Justice on the inadmissibility of appeals, especially on cases concerning admitted child abuse and violence actions, so that it does not affect the merits of the appeal and the law in essence.

The unsatisfactory speed of protection action taken by the guardianship authorities with regard to children at risk is another issue identified by the Ombudsperson for Child's Rights when examining applications. In the context of Law No 140 /2013, the Ombudsperson for Child's Rights reiterates that children benefit from protection without any discrimination¹⁷¹(..) and the guardianship authorities must take all necessary measures to help and support children¹⁷²(..) who are in one of the following risk situations: children who are subjected to violence, neglect; who practice vagrancy, begging, prostitution; children without parental care and supervision who are absent from home, refuse to exercise parental duties or are deceased;

¹⁶⁹https://ibn.idsi.md/sites/default/files/imag_file/Admisibilitatea%20recursului%20in%20procedura%20civila%20oexperienta%20Republicii%20Moldova%20in%20contextul%20regional%20%28II%29.pdf

¹⁷⁰UN Convention on the Rights of the Child;

¹⁷¹ Article 2 of Law 140/2013 on the special protection of children at risk and children separated from their parents;

¹⁷² Idem, Article 5;

children who live on the street, have run away or have been driven away from home; children who have been abandoned by their parents; children who are victims of crime; or there is a judicial protection order against a parent¹⁷³.

Most of the complaints submitted last year to the Ombudsperson for Child's Rights address risky situations for children due to the impossibility/refusal to exercise parental rights or the admissibility of abuse of parental rights. Note that both situations were found in cases where parents were/were in the process of separation or divorce. Since every child has the right to live in the family, to know his or her parents, to benefit from their care, to cohabit with them¹⁷⁴, it is the parents' obligation to provide adequate living conditions for their psycho-emotional development and comfort, or the parents bear responsibility, in the established manner, for exercising parental rights to the detriment of the child's interests¹⁷⁵. An important element of the exercise of parental rights is to ensure the best interests of the child in any action related to the child's development and upbringing, regardless of whether the parents live together or separately, and in any conflict or dispute in family relations, which creates or could create a danger for the normal growth and development of the child, affecting the child's legal interests, the guardianship authority recommends the family members in conflict or dispute to resolve it in a mediation process¹⁷⁶.

The Ombudsperson for Child's Rights considers essential the role of the guardianship authority in the process of ensuring the rights of the child, especially when family relationships between spouses generate hostile conflicts and psychological and physical violence, which destroys the psycho-emotional balance of the child, making him/her vulnerable to family problems and placing him/her at risk.

A common issue in the context of the exercise of parental rights raised by the Ombudsperson for Child's Rights over the past year has been ensuring children's right to communicate with parents who are in the process of divorce and/or for whom there is already a court decision terminating the family relationship. In the opinion of the Ombudsperson for Child's Rights, the cases investigated proved both the inability of parents to maintain positive relationships, regardless of their status, and the inability of public child protection authorities to

¹⁷³ Ibidem, Article 8;

¹⁷⁴ Article 51(2) of the Family Code of the Republic of Moldova;

¹⁷⁵ Idem, Article 62(4);

¹⁷⁶ Article 7(4) of the Family Code;

act decisively to ensure the protection and realisation of the child's right to communication. In this context, the Ombudsperson for Child's Rights stresses that the parent living with the child does not have the right to prevent contact between the child and the other parent living separately¹⁷⁷, the parents in this respect have the right to conclude an agreement on the exercise of parental rights by the parent living separately from the child¹⁷⁸, and in the event of differences arising between the spouses, the territorial guardianship authority intervenes to resolve them by establishing a schedule of meetings, which can be challenged in court or recommend and entrust the resolution of the case to a mediator. The interview schedule will be based on a number of factors¹⁷⁹ that need to be taken into account and need to be respected by both parents, regardless of whether the separated parent lives in the country or abroad, or the parent who has custody of the child, ensures communication with the other parent through information technology or other means, as well as the possibility of visiting the child¹⁸⁰.

Despite the existing legal provisions, the complaints filed to the Ombudsperson for Child's Rights show that it has not been possible for the child to communicate with the parents, given that one of the parents has moved the child abroad without the consent of the other parent, or given the hostile relations between the spouses, including those in the process of separation/divorce.

The Ombudsperson for Child's Rights found the inactions of the territorial and local guardianship authorities to be unjustified and even worrying, in the context of ensuring the right of the minor child to see his mother, a child for whom a temporary protection measure has been established. Given the need for the biological mother to work and find a stable home in order to ensure a decent living for the child, the child was placed in the care of a relative for a short period of time, who was appointed as guardian. Subsequently, at the mother's request that the child be returned to her, the guardian refused, and the response of the local guardianship authorities was limited to drawing up a schedule of meetings, which could not be followed. Moreover, the local and territorial public management mentioned, that the guardian is aggressive and does not give access to the representatives of the inter-sectoral mechanism on the territory of his home, the child during this time being locked in the house and deprived of

¹⁷⁷ Ibidem, Article 64(1);

¹⁷⁸ Ibidem, Article 64(2);

¹⁷⁹ Ibidem, Article 64(2¹);

¹⁸⁰ Ibidem, Article 64(2³);

any communication. Following the intervention of the Ombudsperson for Child's Rights, the child returned to his mother.

The actions of a municipal guardianship authority were also demmed by the Ombudsperson for Child's Rights to be lacking in positive reasoning when, despite the multidisciplinary meeting finding of father's violence against minor children, the Commission continued to draw up a schedule of interviews for them, without considering it necessary to interpret the given situation as a risk for the minors. Given that the spouses were in the process of divorce and that the guardianship authority failed to consider the best interests of the child, the Ombudsperson for Child's Rights filed the appropriate conclusions in the court.

In cases where parents are in process of separation/divorce, there are cases of illegal removal of the child from the country by one parent, which is contrary to the obligation to respect the interview schedule and ensure positive communication of the child with both parents. According to the Ombudsperson for Child's Rights, the illegal movement of minors is an increasingly topical issue in the Republic of Moldova. It is a trauma experienced by many parents and children in the context of rising divorce rates involving minors and the increasing mobility of people due to population migration across borders.

The Ombudsperson for Child's Rights points out that in many cases the unjustified removal or non-return of a child is caused by a lack of knowledge on the part of the abducting parent. Parents are often unaware of the conditions under which they can travel across state borders with their children or the steps they need to take when travelling abroad with their child. There are situations in which one of the parents (most often, this happens in marriages with a foreigner) moves the child from the stable place of cohabitation to the child's home country without the consent of the other party. This situation arises between the parents of a child, or between parents and grandparents, one of the parties being the one who unlawfully moves/holds a child to a place other than his/her habitual residence. Considering that the detention of minors and/or the refusal to return them to them violated the provisions of the Hague Convention on the Civil Aspects of International Child Abduction in the judicial disputes concerning family relations which had been referred to him, the Ombudsperson for Child's Rights intervened promptly by filing submissions with the courts, reiterating that for a parent and his/her child, being together is an essential element of family life, even if the

relationship between the parents has ceased, and that domestic measures which prevent them from being together constitute an interference with the right protected by Article 8 of ECHR¹⁸¹.

In conclusion, with regard to the situations identified when examining complaints, the Ombudsperson for Child's Rights considers regrettable and yet unresolved the inability of the guardianship authorities to correctly interpret and identify a possible situation of risk for a child, or due to certain socio-human factors¹⁸² is reluctant to recognise the existence of a risk situation. In most of the investigated cases, the guardianship authority decides not to assess the family environment and the well-being of the child, whose parents are in a hostile divorce, stating that it would not be within their competence and that the law does not request this. The Ombudsperson for Child's Rights also notes a lack of awareness of abuse in the exercise of parental rights on the part of guardianship authorities, without subjecting them to contraventional and/or criminal liability, often referring to the fact that their decisions have the title of recommendation. The Ombudsperson for Child's Rights considers that central child protection authorities do not have sufficient reliable mechanisms to implement the Hague Convention.

¹⁸¹ *Costreie vs Romania case, CtEDO*;

¹⁸² Representatives of the territorial and local guardianship authority are often in a relationship of kinship and/or friendship with one of the spouses, who in most cases is the one who shows abusive, hostile and aggressive behaviour in the separation/divorce process;

CHAPTER XI

CHILD RIGHTS PROMOTION

The child rights promotion work of the Office of the Ombudsman in 2021 has traditionally included several events: Decade of the Rights of the Child, campaigns, Ombudsperson for Child's Rights meetings with pupils, students, teachers, social workers, civil servants, etc., participation in discussions on human rights issues, launching of such discussions.

THEMATIC REPORTS AND SPECIAL REPORTS

In 2021 the Ombudsperson for Child's Rights and the child rights Directorate produced **12 thematic studies and reports**: Thematic Report on *Observance of the Child's Right to Health in Educational Institutions*¹⁸³, Thematic Report on *Evaluation of the National Curriculum in Subjects Contributing to Preparing the Child for Adult Life, Personal Development, child rights and the Ombudsperson for Child's Rights; Sex Education*, Special Report: *Observance of the rights of the child during the Covid-19 pandemic*¹⁸⁴, Thematic Report on *Monitoring the observance of the rights of institutionalised children in tuberculosis outbreaks*, Thematic Report on *Evaluation of the degree of functioning of psychological assistance services for children subjected to abuse*, Thematic Report on *Monitoring the observance of the rights of children in detention institutions*¹⁸⁵, Thematic Report on *Monitoring the implementation of the recommendations of the Ombudsperson for Child's Rights on observance of the right to education of juvenile detainees in penitentiary institutions*¹⁸⁶, Thematic Report on the *Use of children's image in electoral campaigns*¹⁸⁷, Monitoring the implementation of the recommendations of the Ombudsperson for Child's Rights submitted in the Report *Evaluation of the situation of children placed in the Orhei and Hincesti boarding homes for children with mental disabilities in the process of deinstitutionalisation*¹⁸⁸, Evaluation of the implementation of the recommendations of the Ombudsperson for Child's Rights in the Thematic Report on the

¹⁸³ http://ombudsman.md/wp-content/uploads/2021/04/RAPORT_SANITATIE_RED-2021.pdf

¹⁸⁴ http://ombudsman.md/wp-content/uploads/2021/08/RAPORT_PANDEMIE_COPII.pdf

¹⁸⁵ <http://ombudsman.md/wp-content/uploads/2021/09/Raport-dr-penitenciare-red.-1-3-1.pdf>

¹⁸⁶ <http://ombudsman.md/wp-content/uploads/2021/09/RAPORT-REC-EDUCATIE-3-2.pdf>

¹⁸⁷ <http://ombudsman.md/wp-content/uploads/2021/05/RaportELECT2021-.pdf>

¹⁸⁸ <http://ombudsman.md/wp-content/uploads/2021/11/Raport-Orhei-H%C3%AEnce%C8%99ti-final-.pdf>

*Social Inclusion of Children with Autism Spectrum Disorders in the Republic of Moldova*¹⁸⁹, Thematic Report *Evaluation of the impact of the measures taken in relation to the COVID-19 pandemic on the rights of the child* prepared in collaboration with ENOC-UNICEF and Thematic Report on *Education for the Rights of the Child in the National Education System*.

CHILD RIGHTS PROMOTION

In 2021, Ombudsperson for Child's Rights Maia Bănărescu participated in a number of events, conferences and meetings. Special attention was paid to the effective collaboration between the Ombudsperson for Child's Rights and the Parliamentary Committees, which during 2021 organized several joint meetings and public discussions on the phenomenon of bullying in schools in the Republic of Moldova, organised by the Parliamentary Committee on Culture, Education, Research, Youth, Sport and Media and UNICEF Moldova.

The joint meeting of the Parliamentary Committee on Culture, Education, Research, Youth, Sport and the Committee on Media, Social Protection, Health and Family Affairs discussed the topic '*Educational and social inclusion of children and young people with Autism Spectrum Disorders (ASD)*' based on the conclusions of the Thematic Report of the Ombudsperson for Child's Rights 2016 '*Social inclusion of children with autism spectrum disorders in the Republic of Moldova*', as well as at the meeting of the Working Group on Educational and Social Inclusion of Children and Young People with Autism Spectrum Disorders (ASD).

The Ombudsperson for Child's Rights Maia Bănărescu presented at the meeting of the Parliamentary Committee on Human Rights and Interethnic Relations the findings on the situation of children in detention, reflected in the **Thematic Reports: 'Observance of the right to education of juvenile detainees in penitentiary institutions', 'Assessment of the observance of children's rights who are in detention, under criminal prosecution or serving their sentence', 'Observance of children's rights aged 0-3 years residing in prisons with their mothers who serve their sentences in Moldovan penitentiary institutions', 'Monitoring the implementation of recommendations of the Ombudsperson for Children's Rights on the observance of children's rights in detention' and 'Monitoring**

¹⁸⁹ <http://ombudsman.md/wp-content/uploads/2021/11/Raport-privind-implementarea-recomand%C4%83rilor-autism.pdf>

the implementation of recommendations of the Ombudsperson for Children's Rights on the observance of the right to education of juvenile detainees in penitentiary institutions', developed by the Children's Ombudsperson during the mandate.

Ombudsperson for Child's Rights Maia Bănărescu attended the meeting organised by the Parliamentary Committee on Culture, Education, Research, Youth, Sport and the Media **to discuss the Ombudsman's proposal on the creation of a pre-school education institution and a centre for extracurricular activities in 'Alexandru cel Bun' Theoretical High School, by reorganising the boarding school for children without parental care in Bender.**

The Ombudsperson for Child's Rights participated in the public hearings on observance of the rights of street children, organised in the Committee on Human Rights and Interethnic Relations, attended by representatives of relevant authorities and civil society, in the meeting of the Parliamentary Committee on Human Rights and Interethnic Relations, where the **thematic report 'Observance of children's right to health in educational institutions'** prepared by the Ombudsperson for Child's Rights, etc. was discussed.

Ombudsman for Child's Rights Maia Bănărescu continued the cooperation with the public administration in 2021. She organized several working meetings with representatives of the Chisinau General Directorate for the Protection of Children's Rights, participated in the Conference of teachers from Straseni district, organised by the General Directorate of Education and Culture of the Straseni District Council in collaboration with the 'ATU' NGO, in the Forum of teachers and managers entitled 'The municipal educational system 30 years after the proclamation of the independence of the Republic of Moldova', organized by the General Directorate of Education, Youth and Sport of the Chisinau Municipal Council under the aegis of the Chisinau City Hall, participated in the meeting of the Technical Working Group for the development of the *2022-2026 Child Protection Programme and the Action Plan* for its implementation, participated in the event organised by the General Directorate for the Protection of Child Rights of the Chisinau Municipal Council - *Municipal Forum of Child Protection Partners* etc.

At the initiative of the Ombudsperson for Child's Rights Maia Bănărescu in Comrat, *a round table was organised on the theme 'Children's right to rest and development in ATU Gagauzia'* with the participation of heads of ATU Gagauzia Directorates, professionals in child rights protection and representatives of municipalities and the Deputy Governor.

Ombudsperson for Child's Rights Maia Bănărescu met with the leadership of Ialoveni and Straseni district, with representatives of territorial and local guardianship authorities, and discussed the essential role of both entities in protecting and ensuring the realization of child rights.

The Ombudsperson for Child's Rights Maia Bănărescu participated in events organized by and jointly with non-Governmental organisations, having a continuous communication, such as the event dedicated to the International Day of Rare Diseases, organized by the Public Association 'Children of the Rain', the public discussion on access to quality education and the conduct of graduation exams 2021, organised by the National Youth Council of Moldova, the launch of the documentary film 'Education behind bars' made in the framework of the project 'Extension of vocational training courses for minors in Goian', implemented by the 'Regina Pacis' Foundation, *the round table on the theme 'Acceptance of disability. Methods to combat discrimination'*, organized by A.O. 'SUNSHINE' in the framework of the project 'We are different, but the same' - October - Awareness and Human Awareness Month towards people with Down Syndrome, the event of the project's completion coordinated by the Social Mission 'Diaconia', at the public discussion organized by the UN Information Centre at the National Library on 'Access to information and participation of young people as a prerequisite for reducing inequalities and promoting human rights' etc.

In addition, in 2021 the Ombudsperson for Child's Rights Maia Bănărescu participated in several events, including those organised by international organisations, the meeting of the National Committee for Combating Trafficking in Human Beings, the UNDP - IOM Roadmap Consultation Workshop on Migration and Sustainable Development in Moldova, **the 25th Conference and Annual General Assembly of the European Network of Ombudspersons for Children (ENOC)** entitled 'Covid-19, learning for the future', addressed at the Conference the subject of ensuring the rights of street children and children in detention, participated in Odessa, Ukraine, in the working meeting with representatives of the Ukrainian authorities in the field of protection of the rights of the child, on the elaboration of the draft bilateral agreement between the Governments of the Republic of Moldova and Ukraine on the repatriation of children to their country of origin.

In November 2021, the child rights Ombudsman launched the ***Decade of the Rights of the Child during 10-20 November 2021***, in the context of 20 November, when the UN

Convention on the Rights of the Child was adopted by the UN General Assembly, which is marked worldwide as *Child Rights Day*. In this context, the Ombudsperson for Child's Rights recommended that educational institutions of all levels, as well as other entities, public institutions, media, non-Governmental organisations organize and carry out activities to promote child rights.

In 2021, the Ombudsperson for Children's Rights, Maia Bănărescu, along with the Alliance of Active NGOs in the field of Child and Family Social Protection (APSCF) and the Child Rights Information Center (CRIC) conducted workshops under the Adult Capacity Development Program on child participation in decision-making, attended by over 150 professionals working with children. As a result of the Adult Capacity Development Program on child participation in decision-making, the Ombudsperson for Children's Rights, Maia Bănărescu, along with civil society representatives who participated in the Program, the Child Rights Information Center (CRIC) and the Alliance of Active NGOs in the field of Child and Family Social Protection (APSCF) developed the draft Regulation of the Children's Advisory Board under the Ombudsperson for Children's Rights of the Ombudsperson's Office. The draft Regulation was consulted during 3 online workshops with a group of 60 children selected from different regions of the country and it was adjusted to children's suggestions. The final version of the Rules of the Children's Advisory Council was presented at the **National Children's Forum** which is organised annually by the Ombudsperson for Child's Rights. At the end of the children's consultation process on the Regulation of the Children's Advisory Council under the Ombudsperson for Child's Rights of the Office of the Ombudsman, the Ombudsperson for Child's Rights held a summing-up meeting with the group of children who participated in the three online workshops.

INFORMATION AND TRAINING ACTIVITIES

The training activity carried out by the trainers of the Ombudsperson for Child's Rights meets to the requirements put forward towards the promotional activity of the National Institution for Human Rights in accordance with the Paris Principles.

In 2021, the Ombudsperson for Children's Rights, Maia Bănărescu, along with the Alliance of Active NGOs in the field of Child and Family Social Protection (APSCF) and the

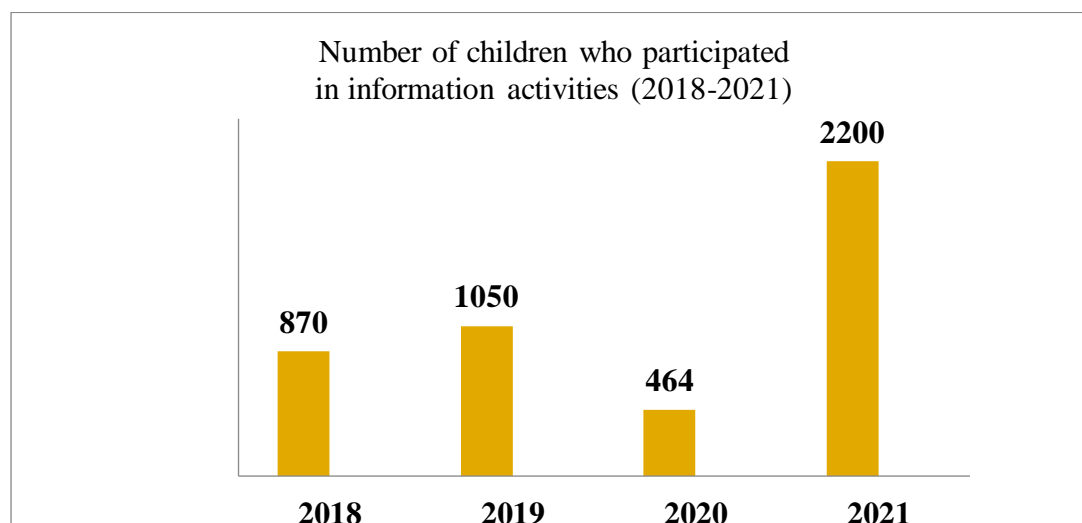
Child Rights Information Center (CRIC) conducted 22 workshops under the ***Adult Capacity Development Program on child participation in decision-making***, attended by over 150 professionals working with children. The aim of the programme was to create a space for adults working with and for children to learn, share and be inspired together, identifying realistic and legal processes and methods that ensure they take the child's views into account. Participants in the programme studied in two groups: the first group of staff from the fields of education, social work, justice, volunteers from local and national NGOs and the second group of civil society representatives.

Following the Adult Capacity Development Program on child participation in decision-making, the Ombudsperson for Children's Rights, along with civil society representatives who participated in the Program, the Child Rights Information Center (CRIC) and the Alliance of Active NGOs in the field of Child and Family Social Protection (APSCF) developed the ***draft Regulation of the Children's Advisory Board under the Ombudsperson for Children's Rights of the Ombudsperson's Office***. The draft Regulation was consulted during three online workshops with a group of children selected from different regions of the country and it was adjusted to children's suggestions. The final version of the *Rules of the Children's Advisory Council* was presented at the ***National Children's Forum*** which is organised annually by the Ombudsperson for Child's Rights.

A special place in the list of outreach activities is given to outreach activities organised for children. Communicating with children is of utmost important for the OO team, as this is a special group in terms of both approach and subject matter. OO employees, especially the Child Rights Directorate, maintained an open dialogue with children throughout the year, and when the pandemic restrictions were lifted, they also had a number of face-to-face activities. Children of different ages learned about the Ombudsperson for Child's Rights, what it does, how children can defend their rights, how they can prevent violence and what to do if they become victims of violence. Children were informed about the dangers of the internet and how to behave online and use the internet while avoiding dangers.

Statistically, in 2021 there were 53 information activities in the field of promotion of child rights, of which 43 were carried out by the Child Rights Directorate with the participation of 1700 children, a total of 2200 children participated in the activities: students, child-activists, young people, students from technical education. The activity, due to the pandemic, was

conducted in a mixed mode - online and face-to-face, demonstrated the ability of OO trainers to adapt to different objective circumstances and deal with possible risks.



In addition, 22 training activities on child rights were carried out. These activities were attended by 80 teachers, over 200 civil servants, representatives of local public authorities and social workers.

INTERNATIONAL COOPERATION

The Ombudsperson for Child's Rights cooperates with National Human Rights Institutions, Children's Ombudsmen in several countries, international human rights organisations/networks Global Alliance for National Human Rights Institutions (GANHRI), European Network of National Human Rights Institutions (ENNHRI), International Ombudsman Institute (IOI), Association of Francophone Ombudsmen and Mediators (AOMF), UNICEF, EOI, European Network of Ombudsmen for the Protection of the Rights of the Child (ENOC) and other external partners (Council of Europe, OSCE Mission to Moldova , OSCE Office for Democratic Institutions and Human Rights OSCE/ODIHR etc.). The cooperation is aimed at strengthening the capacity of the OO team to protect human rights and freedoms and the citizens of the Republic of Moldova, as well as to make its work more efficient by complying with the international agenda of national human rights institutions. During 2021, the work was affected by the coronavirus pandemic. Most of the cooperation events were held online. Representatives of the Ombudsperson for Child's Rights and employees of Children's

Rights Department participated in various activities as part of cooperation with international organisations:

- On **20 March 2021**, the European Commission for Democracy through Law (Venice Commission) held its **126th Plenary Session** online, where Ombudsperson for Children's Rights Maia Bănărescu spoke about Ombudsperson for Entrepreneurs' Rights. As a result of the hearings on 20 March, the Venice Commission made public its opinion on the impact of establishing the position of Ombudsman for Entrepreneurs on the work of the Office of the Ombudsperson, which strongly argued that such a decision would be inappropriate.
- On **7 April 2021**, the online webinar on the UN Resolution 'The role of Ombudsman and mediator institutions in the promotion and protection of human rights, good governance and the rule of law and Council of Europe standards' was held. This event, organised by the Council of Europe in collaboration with the Mediator's Institute in the Kingdom of Morocco and the Venice Commission, focused on the concept of the United Nations Resolution on the Role of Ombudsmen and Mediators, the Venice Principles on the Protection and Promotion of the Institution of Mediators, the IOI strategy for strengthening the role of the institution of mediation within United Nations bodies, and the Council of Europe standards. The Office of the Ombudsperson was represented by employees of the Department for Human Rights Promotion and Communication.
- On **26-27 April 2021**, representatives of the Office of the Ombudsperson participated in the high-level meeting '*Council of Europe Recommendation on the development and strengthening of effective, pluralistic and independent National Human Rights Institutions (NHRIs)*'. This Council of Europe Recommendation is an important step towards further asserting the decisive role of the NHRIs in promoting and protecting human rights in Europe, including through effective cooperation with the Council of Europe. The event was co-hosted by the *European Network of National Human Rights Institutions (ENNHRI)* and the German Chairmanship of the Committee of Ministers of the Council of Europe.
- On **27 May 2021**, the *Human Rights Ombudsman of the Supreme Rada of Ukraine* organised an international online forum on the protection of Roma rights. OO representatives participated in the event. The forum discussed the development of effective

mechanisms for the protection of Roma rights, the development and implementation of policies for the integration of the Roma minority in society, combating xenophobic attitudes and stereotypes towards Roma.

- On **20 July 2021**, a regional online conference '*Rights of Older People and Role of the Ombudsman/NHRI*' was organised by the Ombudsman of Georgia. The objective of the Conference was to raise awareness of the rights of older people in the region, to discuss the challenges and existing role of the Ombudsman/NHRI and to share the experience of the Regional Ombudsman/NHRI in promoting and protecting the rights of older people.
- On **29 September 2021**, the first General Assembly of the *European Network of National Human Rights Institutions* (ENNHRI) took place, bringing together 41 members of the organisation, which includes the Office of the Ombudsman. The working sessions discussed the strategic plan of the *European Network of National Human Rights Institutions* for 2022-2025, the challenges encountered at national level by NHRIs, the objectives of the European Network of National Human Rights Institutions to support NHRIs to become stronger in line with the Paris Principles, the European Network of National Human Rights Institutions to become a strong and lasting network for NHRIs, etc.
- On **8 December 2021** the seminar '*Promoting participation of independent monitoring frameworks, OPDs and CSOs in the work of the UN CRPD Committee during pandemic and beyond*' was held. The event was intended to gather information on key issues and various opportunities for working with the UN Committee on the Rights of Persons with Disabilities, the independent expert body monitoring the implementation of the UN Convention on the Rights of Persons with Disabilities during the Covid-19 pandemic. The speakers also shared their experiences and best practices on communicating with the Committee. As a result, the seminar facilitated and promoted NGOs, independent monitoring mechanisms, NHRIs in having an effective and meaningful interaction with the Committee.
- The GANHRI Extraordinary General Assembly took place between **16 and 17 December 2021**. As a member with the right to vote, the Office of the Ombudsperson took part in the GANHRI online voting for the election of the GANHRI Chairperson, Secretary and Bureau members.

- On **30 September 2021**, the Ombudsperson for Child's Rights Maia Bănărescu and OO employees met with the Representative of the Office of the United Nations High Commissioner for Refugees in Central Europe, Roland Schilling, who was on a working visit to the Republic of Moldova. During the meeting they discussed issues related to the monitoring observance of the rights of asylum seekers, refugees, applicants for statelessness status and stateless persons in the Republic of Moldova; monitoring missions at border crossing points and places of accommodation of asylum seekers at the border, as well as UNHCR cooperation with the Office of the Ombudsperson (OO).
- On **4 October 2021** the Ombudsperson for Child's Rights Maia Bănărescu met with the Director of programming (ODGP) in the Council of Europe, Verena Taylor, who visited Chisinau. The meeting reviewed the most important activities carried out by the CoE in recent years and discussed the prospects for cooperation between the Office of the Ombudsperson (OO) and the CoE in the context of implementing the Republic of Moldova - CoE Action Plan for 2021-2024, with human rights promotion and protection being a core component of it.