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OMBUDSMAN

SHADOW REPORT
on the implementation
of the UN Convention
on the Elimination of
All Forms of Racial
Discrimination
2024



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SHADOW REPORT

**on the implementation of the
UN Convention on the Elimination of All Forms of Racial
Discrimination
prepared by People's Advocate Office**

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



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List of abbreviations

NHRI – National Human Rights Institution

PAO – People’s Advocate Office

OSCE – Organization for Security and Cooperation in Europe

UNICEF – United Nations International Children's Emergency Fund



About the People's Advocate Office of the Republic of Moldova

The People's Advocate Office (PAO), serving as the National Human Rights Institution (NHRI) of the Republic of Moldova, is an independent entity with a constitutional mandate¹ to contribute to the safeguarding and promotion of human rights and freedoms. For over 25 years, the Ombudsman Institution has contributed to upholding the rule of law by preventing human rights violations, improving national legislation and public policies through a human rights-based approach, and integrating the highest human rights standards. Moreover, the Ombudsman is empowered to take measures to foster respect for human rights in all areas of life.

Operating in accordance with the Principles relating to the Status of National Institutions (Paris Principles), which lay down the competence, responsibilities, composition and guarantees of the National Human Rights Institutions, the Ombudsman Institution was reaccredited with "A" status² in 2023. This reaffirmed NHRI's adherence to all the standards and requirements laid down in the Paris Principles.

In his work, the People's Advocate is guided by the provisions of the Constitution of the Republic of Moldova, the Law no. 52/2014 on the People's Advocate (Ombudsman)³, and the international treaties to which the Republic of Moldova is a party. Moreover, as part of its mandate, the People's Advocate Office produces and submits independent reports on the status and promotion of human rights and freedoms (such as the Annual Report on Human Rights and Freedoms in the Republic of Moldova, presented to the Parliament) to institutions and international and regional organizations working in the field. These reports detail the progress in implementation of international and regional conventions ratified by the Republic of Moldova. Furthermore, they offer recommendations aimed at enhancing compliance with the conventions, thereby ensuring that the highest human rights standards are fully upheld.

Among these conventions is the Convention on the Elimination of All Forms of Racial Discrimination, ratified by the Republic of Moldova on January 26, 1993. Its ratification was a significant step forward in bolstering the rule of law in Moldova. Its implementation serves as a guarantee for upholding equality before the law, ensuring the right to equal protection against discrimination, and combating racial barriers to foster the harmonious coexistence of all individuals in a state. Consequently, the role of the People's Advocate is to oversee that national authorities take measures to ensure that every individual, regardless of the group he or she belongs to, can exercise their rights and freedoms on an equal footing. Hence, the cooperation between the Ombudsman Institution and the Committee on the Elimination of Racial Discrimination through the drafting and

¹ Constitution of the Republic of Moldova, art. 59¹ Status and role of the People's Advocate
https://www.legis.md/cautare/getResults?doc_id=136130&lang=ro#

² Report and Recommendations of the Session of the Sub-Committee on Accreditation (SCA) Online, September 25-29, 2023 Geneva, October 23-27, 2023 <https://ganhri.org/wp-content/uploads/2023/11/SCA-Report-Second-Session-2023-EN.pdf>

³ Law no. 52/2014 on People's Advocate (Ombudsman)
https://www.legis.md/cautare/getResults?doc_id=141519&lang=ro#



submission of shadow reports is a valuable opportunity to advance both the promotion and effective implementation of non-discrimination and equality standards.

1. Preliminary considerations

In drafting this Report, the People's Advocate Office (PAO) examined the Periodic Report of the Republic of Moldova on the status of implementation of the Convention⁴, alongside the findings and recommendations of the Committee on the Elimination of Racial Discrimination related to the issues raised by the Committee. Additionally, the Ombudsman took into account the List of issues submitted by the Committee to facilitate a focused dialogue on pertinent issues regarding the implementation of measures by national authorities.

To produce a comprehensive report, PAO collected data by monitoring actions and policies undertaken by public institutions, as well as activities carried out by non-governmental organizations, engaging with key partners working on prevention of racial discrimination. Fact-finding visits were conducted to discuss both challenges and good practices in the field of human rights. Thus, the staff of the People's Advocate Office jointly with the People's Advocate held discussions with representatives from local governments, including district and local councils and municipalities, police inspectorates, as well as local and regional civil society organizations, managers of refugee placement centers and their beneficiaries. Visits were undertaken to the Roma Baron to address the needs of the Roma community for integration into society. Similarly, PAO maintained an ongoing dialogue with central public authorities during the review and improvement of draft legislation and public policies from a human rights perspective. This dialogue was sustained through participation in specialized councils of the National Council for Human Rights – an advisory body of the Government, tasked with monitoring the implementation of state policy in the field of human rights, as well as overseeing the adherence to international human rights treaties ratified by Moldova, and delivery on the country's commitments.

Particular attention was given to addressing the interventions and challenges faced by PAO following the outbreak of the armed conflict in Ukraine. During the monitoring process, PAO found that Roma Ukrainians seeking refuge and protection in Moldova were subjected to discrimination by employees of temporary accommodation centers.

Another critical issue identified pertains to the need to integrate Roma children into the educational system and implement measures to prevent school dropout. It is essential to emphasize that school dropout is a consequence of various challenges faced by the Roma community, including social, economic, educational discrimination, limited financial resources to support adequate education and high levels of migration hindering regular attendance at educational institutions.

The Ombudsman has also highlighted the limited access to information of public interest in the languages of ethnic and national minorities. According to article 22 of the new law regulating the right to information of public interest⁵, "Information of public interest shall be provided to the

⁴ [CERD/C/MDA/12-14](https://www.ohchr.org/en/hrbodies/cerdc/cerdc/12-14)

⁵ https://www.legis.md/cautare/getResults?doc_id=137908&lang=ro



applicant in the language in which it is available." This issue is of significant concern to the Ombudsman, as Law 382/2001 on the rights of persons belonging to national minorities and the legal status of their organizations grants these individuals the right to access, disseminate and exchange information in their native language. Moreover, the Framework Convention for the Protection of National Minorities, in article 10, para. (1), obliges the State to recognize that every person belonging to a national minority has the right to freely use and without interference his or her minority language, in private and in public, orally and in writing.

In light of the above, this Shadow Report will cover both the reporting period covered in the State Report and the subsequent period in order to track the dynamics, new measures, and challenges in implementing the provisions of the Convention on the Elimination of All Forms of Discrimination. Regarding the limitations related to drafting the Report, it is important to note that there are still limitations on gathering human rights information in the Transnistrian region. There is a lack of constant communication between PAO and the unconstitutional authorities of the region necessary for monitoring human rights and freedoms there. Despite the various meetings of the sector working groups, no meetings on human rights took place in 2022, due to repeated refusals to engage in discussions on human rights issues.

It was not until October 10, 2023 that the working group on human rights convened at the office of the OSCE Mission to Moldova in Bender to discuss international standards concerning the rights of persons belonging to national minorities, as well as the rights of refugees who found shelter in the region on the left bank of the Nistru River⁶. Additionally, the Ombudsman notes the reluctance of the unconstitutional authorities in the region to provide access to penitentiary institutions.

2. Regulatory framework and policies for the implementation of the provisions of the Convention (articles 1, 2, 4 and 6 of the Convention)

2.1. Revised regulatory framework on non-discrimination

According to article 2, point d) of the Convention, State Party shall prohibit and bring to an end, by all appropriate means, including legislation as required by circumstances, racial discrimination by any persons, group or organization. Notably, Law no.2 of 02.02.2023 introduced several amendments to the regulatory framework concerning non-discrimination and equality in Moldova. Consequently, the Law no. 121 of 25.05.2012 on equality has become a more effective and operational instrument in preventing and combating discrimination and ensuring equality. This law has been complemented with additional criteria for prohibiting discrimination, including social origin, national and social status, health and HIV status, gender identity, sexual orientation, political or other

⁶ <https://ombudsman.md/grupul-de-lucru-pentru-drepturile-omului-intrunit-la-sediul-din-bender-al-misiunii-osce-in-moldova/>



opinions, wealth, birth or any other relevant criteria. Similarly, amendments have been made to the Law 121/2012 to detail the concepts of direct and indirect discrimination and positive action. Furthermore, new concepts as continuing discrimination⁷ and prolonged discrimination⁸ have been introduced, alongside provisions prohibiting discrimination in access to and delivery of public services and goods⁹. Individuals are now protected from any form of discrimination in accessing medical, social, banking, transportation, cultural or other available services.

Additionally, revisions have been made to article 9 of the Law, which have broadened the mechanism for prohibiting discrimination in education, offering more protection than the previous provisions. The lawmaker added actions that can be deemed discriminatory based on protected criteria, whether real or presumed, including limiting access to education at any level or type of educational institution; limiting or undermining equality in the educational process, including knowledge evaluation; limiting or undermining equality in research and teaching activities; harassment; racial segregation; or any other action contradicting legal provisions¹⁰. Moreover, article 9 has been complemented with measures to be taken by educational institutions to ensure non-discrimination, such as ensuring access to education, developing educational materials on non-discrimination, training of teachers and management on the application of methods and ways to prevent discrimination and reporting to the relevant authorities; including provisions prohibiting discrimination and ensuring equality in internal regulations. Furthermore, to protect victims of harassment more effectively, liability for harassment in all spheres of life depending on the seriousness of the actions committed has been introduced through amendments to the Contravention Code by adding Articles 70/2 (Harassment¹¹) and 70/3 (Victimization¹²).

As part of the General Recommendation no. 35 of 2013, the Committee on the Elimination of Racial Discrimination recommended that the State enact comprehensive legislation criminalizing hate crimes and ensure that race is listed as an aggravating circumstance.

Due to the socio-political developments in recent years both nationally and globally, there has been a noticeable increase in the use of hate speech. In response, the lawmaker has revised article 346 of the Criminal Code „Incitement to violence on grounds of prejudice”¹³. Additionally, article 77 of

⁷ Law 121/2012 on equality, article 2 defines continuing discrimination as committing continuously, over an indefinite period of time, discriminatory action or inaction, which ends when the discriminatory action or inaction stops or when circumstances occur which prevent such action or inaction;

⁸ Ibidem, article 2 defines prolonged discrimination as any act of discrimination characterized by two or more identical actions and/or inactions committed with a single purpose, constituting a whole

⁹ Ibidem, art. 8,

¹⁰ Ibidem. art. 9,

¹¹ Harassment, i.e. display of physical, verbal, non-verbal or other behaviors that leads to the creation of an intimidating, hostile, degrading, humiliating or offensive environment with the purpose or effect of violating a person's dignity on the basis of race, color, national, ethnic or social origin, social status, nationality, language, religion or belief, age, gender, gender identity, marital status, sexual orientation, disability, health status, HIV status, opinion, political affiliation, wealth, birth or any other criterion.

¹² Any action or inaction that leads to negative consequences for an individual who filed a complaint or initiated legal proceedings related to equality and non-discrimination principles or who provided information, including testimony, relevant to a complaint or legal action filed by another individual

¹³ Incitement to hatred or violence involves publicly encouraging or spreading information or other ways of disseminating information to the public, including through mass-media, in written, pictorial or graphic form, or using a computer system, against a category of persons on grounds of prejudice.



the Criminal Code „Aggravating circumstances”, point (d), now includes offences committed on grounds of prejudice as an aggravating circumstance. It is important to note that article 134/21 of the Criminal Code defines "prejudice" as offender's biased beliefs relating to race, color, ethnicity, national or social origin, etc.

This aggravating circumstance has been extended to specific categories of crimes laid down in the Criminal Code, such as crimes against life and health, crimes against personal freedom, honor and dignity, offences relating to sexual life, offences against political, labor and other constitutional rights of citizens, property offences, offences against public health and social cohesion.¹⁴ Similarly, this aggravating circumstance has been introduced in the Contravention Code and defined in article 46/3.¹⁵

Furthermore, new provisions have been added to the Contravention Code, penalizing incitement to discrimination based on prejudice in article 70/1, while article 52 of the Contravention Code, paragraph (3), has been amended to introduce penalties for hate speech and/or incitement to discrimination by election candidates during the election period and/or in campaign materials.

To effectively combat hate crimes, hate speech and incitement to discrimination, public authorities cooperate with non-governmental organizations. Thus, the NGO Promo-LEX developed guidelines in 2023 aimed at facilitating the enforcement of the provisions of the Contravention Code on hate speech and incitement to discrimination. These guidelines were shared with the law enforcement officers and police and prosecutor's office staff. They underwent consultations and refinements in collaboration with representatives from the Ministry of Internal Affairs, the Prosecutor General's Office and the Equality Council.

The Ombudsman acknowledges the adjustments and incorporation of the new provisions aimed at enhancing protection against discrimination, but remains concerned about the abstract application of regulations on offences motivated by prejudice when cases are referred to the relevant bodies for comprehensive investigation of cases. Therefore, it is recommended to conduct ongoing training for the staff of the prosecutor's office and the police to prevent and ensure swift intervention in addressing prejudice-motivated offences.

Similarly, the Ombudsman draws attention to the Committee's recommendation to the State to ensure that all hate crimes and hate speech are investigated and prosecuted and that perpetrators are punished, regardless of their official status, and that data on the number of such cases is provided. According to data from the Prosecutor General's Office, no disaggregated data on final convictions for offences motivated by prejudice, contempt or hate was collected for the years 2018-2022. Moreover, through the Joint Order of the Prosecutor General's Office, the Ministry of Internal Affairs, the National Anti-Corruption Centre, the Customs Service and the State Tax Authority dated 16.01.2023, amendments were introduced to Annexes no. 2 and no. 3 to the Instructions on the unified record of criminal offences, criminal cases and perpetrators, approved through the Joint Order by Prosecutor General, Minister of Internal Affairs, Director General of the Customs Service, Director of

¹⁴ Law no.111 of 21.04.2022 amending certain normative acts
https://www.legis.md/cautare/getResults?doc_id=131558&lang=ro

¹⁵ Ibidem.



the National Anti-Corruption Center no. 121/ 1254 /1286-0 195 of 18.07.2008. These amendments aim to enhance data collection regarding the aforementioned offences. Hence, the Ombudsman recommends collecting disaggregated data on initiated cases in order to fully implement the Committee's recommendation in this regard.

Furthermore, the Ombudsman notes that following the adoption of Decision no. 593 on the organization and operation of the Agency for Interethnic Relations on June 25, 2018, the Bureau for Interethnic Relations has become the Agency for Interethnic Relations. The Agency's primary objective is to ensure the implementation of state policy in the field of interethnic relations and the functioning of languages spoken within the territory of the Republic of Moldova. The Agency can submit initiatives for the development, adjustment or modification of public policies in its area of competence only through the Ministry of Education and Research - the central public authority responsible for education; research and innovation; youth affairs; physical education and sport; interethnic relations and the functioning of the languages spoken within the territory of the Republic of Moldova. This raises concerns for the Ombudsman, as other areas such as health, labor, social affairs, where the Agency could contribute to policy adjustment, modification or development are beyond the scope of the Ministry of Education and Research.

In light of this, the Ombudsman recommends ensuring the institutional independence and budgetary autonomy of the Agency for Interethnic Relations. Additionally, effective mechanisms should be established to facilitate the submission of proposals for policy development, adjustment or modification in the Agency's area of intervention, and monitoring their implementation.

2.2. Impact of the enacted regulatory framework on access to information of public interest for national minorities

Access to information of public interest is in itself a fundamental element of a state that upholds human rights and freedoms. Ensuring the citizen's right to access information contributes to shaping public opinion and fostering active participation in the democratic decision-making process. In this regard, Law no. 148 of 09.06.2023 on access to information of public interest was enacted to regulate the exercise and protection of the right to access information; the obligations of information providers to ensure access to information; legal liability for violation of the regulations on access to information; and the mechanism for monitoring the implementation of the law.

However, article 21 of Law 148/2023 stipulates that information of public interest shall be provided to applicants in the language in which it is available. The Ombudsman expresses concern regarding this provision, emphasizing that access to information must be provided equally and in a form that is understandable to all. During public consultations on the draft law on access to information of public interest, the Ombudsman made reference to article 10 para. (1) of the Framework Convention for the Protection of National Minorities no. 94/1995, which stipulates the right of individuals belonging to national minorities to use freely and without interference their minority language, in both private and public settings, orally and in writing. Additionally, all individuals have the right to use sign language and other alternative forms of communication.



Furthermore, the Ombudsman drew attention to the fact that article 7 of the Law no. 382/2001 on the rights of persons belonging to national minorities and the legal status of their organizations provides that persons belonging to national minorities have the right to freely use their native language, both in writing and orally, to access, to disseminate and share information in that language.

Given these considerations, the Ombudsman recommends that the State amend the legal framework governing access to information of public interest to ensure equitable access for all national minorities.

2.3. Public policies for the implementation of Convention provisions

- Implementation of the 2018-2022 National Human Rights Action Plan and the new concept of the Plan for 2024-2027

The development of the National Human Rights Action Plan for the period 2018-2022, approved by Parliament Decision no. 89/2018¹⁶, was in itself a step toward implementing the recommendations from the Universal Periodic Review mechanism and the UN human rights treaty bodies. The Plan covers 16 areas of intervention, with area 6 addressing non-discrimination and equality, and area 15 dedicated to minority rights. The evaluation report on the implementation of the National Human Rights Action Plan indicates moderate to relatively good progress related to non-discrimination and equality, and limited progress in relation to ethnic minority rights.

The policy and legislative frameworks pertaining to non-discrimination and equality have been improved. Draft policies are subject to consultation with the People's Advocate Office, which subsequently formulates and forwards recommendations for improvement.

The objective of the Plan related to the integration of individuals from national minorities in all sectors of the state by improving the policy and legal framework included a series of predefined indicators. However, those indicators were not monitored by the responsible institutions, which is a matter of concern for the Ombudsman. They include improving proficiency levels in native and Romanian languages among individuals belonging to national minorities. Yet, the Ministry of Education and Research lacks data on language proficiency levels, both native (Ukrainian, Russian, Gagauz, Bulgarian, among others) and Romanian among the elderly population.

Another indicator was the increase in enrolment of persons belonging to national minorities in higher education institutions. Monitoring the impact of this indicator would contribute to ensuring access to education for minorities, who have a low enrolment rate for bachelor degree, cycle I. More specifically, out of a total enrollment of 14,094 students, 85% (11,956) are Moldovans, 3.4% (485) – Ukrainians, 3.1% (431) - Russians; 1.7% (243) - Bulgarians; 3.4% (475) - Gagauz; 6 - Roma, and the remaining 63 are classified as "other nationalities". Similarly, it was not possible to evaluate the indicators related to increasing employment rates for persons belonging to national minorities in civil

¹⁶ https://www.legis.md/cautare/getResults?doc_id=110031&lang=ro



service, enhancing intercultural education, ensuring free access to justice and facilitating access to information for ethnic minorities.

Additionally, the Plan included indicators for monitoring the objective of supporting the Roma population across Moldova. Regrettably, not all indicators could be measured, either because their monitoring falls outside the remit of the Ministry of Education and Research, or because available data is fragmented. However, one indicator successfully achieved was the increased employment rate of community mediators, with 45 mediators employed in 2021, and 46 in 2022 out of the planned 53 positions.

In relation to the indicators outlined in the Plan, the Ombudsman draws attention to the lack of flexibility of the latter to accommodate adjustments based on the Ombudsman's recommendations. It is, therefore, recommended that such public policies remain open to amendment, considering the dynamic trends and constant societal changes both nationally and globally, which have a direct and significant impact on human rights. To effectively address emerging needs and challenges, the ability to adapt the above-mentioned instrument is crucial. Moreover, since many indicators have not been monitored by relevant institutions, it is impossible to evaluate the level of achievement of the related objectives. Designating responsible actors for monitoring the indicators is essential to comprehensively assess the implementation of the Plan. The Ombudsman notes that 49.1% of the outcome indicators in the 2018-2022 Plan were not monitored and thus could not be evaluated.

The new concept of the National Human Rights Plan for the years 2024 - 2027 aims to complement sectoral policies, by covering specific human rights aspects that are not addressed in sector policy documents. The structure of the new document has been developed through constant consultations between public authorities, civil society, the People's Advocate Office, and the Equality Council. It prioritizes two areas: 1. human rights and 2. the policy framework and institutional mechanisms for ensuring accountability, implementation, coordination and monitoring of human rights commitments. The first priority also encompasses issues related to inherent human dignity, ensuring fair and non-discriminatory treatment, and cultural rights. The Ombudsman also welcomes that the second priority includes issues related to monitoring the Plan's results by institutional mechanisms. This approach of designating institutions to monitor them mitigates the risk of failing to achieve certain indicators, as was the case of the previous Plan for the period 2018-2022.

Particularly, the Ombudsman draws attention to the fact that the exclusion of the year 2023 in the Human Rights Plan might undermine the implementation of human rights standards and policies. Therefore, authorities were engaged in the development of the comprehensive concept for the new Plan.

- Action plan for the implementation of the 2017 - 2027 Strategy for strengthening interethnic relations in the Republic of Moldova for the period 2021 - 2024



In 2018, the People's Advocate Office, the Agency for Interethnic Relations and the Equality Council signed a memorandum¹⁷ aimed at enhancing cooperation among these institutions and intensifying joint efforts to safeguard human rights. Special attention was directed towards the rights of ethnic minorities to education, access to information and participation, as well as cultural, religious and linguistic rights. In this regard, the Ombudsman reviews and forwards proposals for improving public policies in this area upon request from state authorities.

The People's Advocate notes that certain proposals aimed at improving the implementation of the 2017-2027 Strategy for strengthening interethnic relations in the Republic of Moldova, approved by Decision no.1464 of 20.12.2016¹⁸, have been taken into account and addressed in the 2023-2025 Programme for the implementation of the Strategy, approved by Government Decision no.169/2023¹⁹. Those proposals related to intensification of consultation and involvement of representatives from national minorities in cultural, social and economic and public affairs, especially those directly impacting them. This would be a participatory approach, since national minorities can provide insights into their own needs and challenges.

Another recommendation taken into consideration was to enhance the proficiency of the state language among individuals with a different native language, including by motivating representatives of national minorities to learn Romanian. Additionally, the People's Advocate draws attention to the recommendation concerning the capacity building of mass-media and journalism students regarding the nuances of presenting materials concerning persons belonging to national minorities, an action also stipulated in the National Human Rights Action Plan for 2018-2022.

It is noteworthy that national TV channels currently face a shortage of staff to produce programs for national minorities. This is a cause for concern, as there is a risk that programs in the languages of ethnic groups will disappear. The Ombudsman, therefore, recommends that efforts be made to identify and enhance the potential of ethnic staff directly from journalism schools. This will ensure continued provision of information and cultural activities for national minorities.

3. The rights of Roma people

3.1. Statistics on the Roma community (articles 1 and 5 of the Convention)

The General Recommendation no. 32 of the Committee on the Elimination of Racial Discrimination (hereinafter Committee) highlights the importance of data collection. It emphasizes the need for population statistics to be disaggregated by race, color, ethnic or national origin and sex. Moreover, the State should provide data on the socio-economic and cultural status of various

¹⁷ <https://ombudsman.md/oficiul-avocatului-poporului-agentia-relatii-interetnice-si-consiliul-pentru-prevenirea-si-eliminarea-discriminarii-si-asigurarea-egalitatii-au-semnat-un-acord-tripartit-de-colaborare-2/>

¹⁸ https://www.legis.md/cautare/getResults?doc_id=97804&lang=ro

¹⁹ https://www.legis.md/cautare/getResults?doc_id=136873&lang=ro



population groups and their participation in the political and economic spheres. This disaggregated data can be used to evaluate the effectiveness of measures taken by national authorities.

Collection of disaggregated data by the State was also addressed in the Committee's Concluding Observations to the previous periodic reports no. 10 and no. 11 of the Republic of Moldova. The Committee noted that the State should collect and provide updated statistical data in its subsequent periodic report. The State provided the results of the most recent population and housing census conducted in 2014 in the subsequent report published in 2017. Thus, the 2014 population and housing census data includes the representation of ethnic minorities in the labor market and public administration. The State provided statistics on the main occupational groups disaggregated by ethnicity, indicating the percentage of participation of ethnic groups in occupations in different sectors, such as public administration, office workers, skilled workers, etc. Additionally, statistics on the representation of ethnic groups in public administration at urban and rural levels were provided.

Despite this, the State did not provide disaggregated statistical data for all the areas addressed in the Committee's recommendation. Thus, data on economic and social rights are missing. Moreover, the statistics do not cover the Roma community, except for their participation in local elections. Additionally, the Ombudsman notes issues related to the collection of accurate data on the size of the Roma population in Moldova. This issue came to light during interactions with representatives of this ethnic group during fact-finding visits, where it was revealed that Roma families often hesitate to declare their ethnicity. This is a particularly sensitive issue and methodologies need to be developed for statistical surveys to protect the confidentiality of participants, with a specific emphasis on ethnicity. Furthermore, the Ombudsman notes a challenge in collecting disaggregated data due to limited access to the Transnistrian region. The reluctance of the authorities in the region to provide *de facto* access for monitoring human rights in the region makes collecting adequate data impossible.

The Ombudsman emphasizes the necessity of collecting disaggregated data to gain a detailed understanding of the real situation on the ground and to pinpoint issues that remain unaddressed at public policy level. This information can also be used to evaluate compliance of the State with its obligations under the Convention and to identify and address the barriers faced by national and ethnic minorities in exercising their rights.

In light of the above, the Ombudsman acknowledges the State's efforts to provide additional data on the representation of ethnic groups in public administration and employment. However, the Ombudsman recommends the development of methodologies to cover all economic and social rights of ethnic minorities (such as the right to adequate food, housing, education, health, social security, and water), while upholding the principle of confidentiality to safeguard ethnic identity.

Furthermore, the Ombudsman draws attention to the fact that the next Population and Housing Census is scheduled to take place from April 8 to July 7, 2024. This official statistical exercise represents the sole administrative database containing information on the ethnic, linguistic and religious backgrounds of the population. It is imperative that the data collection methodology is well thought to ensure collection of sufficiently disaggregated data.



3.2. Programme to support the Roma population in the Republic of Moldova for the years 2022-2025

According to article 2, par. 2 of the Convention, States Parties shall, when circumstances so warrant, take, in the social, economic, cultural and other fields, special and concrete measures to ensure the adequate development and protection of certain racial groups or individuals belonging to them, for the purpose of guaranteeing them the full and equal enjoyment of human rights and fundamental freedoms. These measures shall in no case entail as a consequence the maintenance of unequal or separate rights for different racial groups after the objectives for which they were taken have been achieved. To implement this provision, the Moldovan Government adopted Decision no. 576 of 03.08.2022 on the approval of the Programme to support the Roma population in the Republic of Moldova for the years 2022 - 2025.

It should be noted that the approval of the Programme to support the Roma population for the years 2022-2025 was included in Chapter 9 of the Action Plan for the implementation of the measures recommended by the European Commission in its Opinion on Moldova's application for EU membership. This confirms that Moldova pays increased attention to creating a favorable framework for promoting diversity in society, fostering intercultural dialogue and linguistic integration, and ensuring the inclusion of the Roma community in various spheres of public life.

The Programme aims to tackle the numerous challenges and constraints faced by the Roma community and to bring about fundamental improvements in their situation. The document outlines 9 priority areas: education, health, employment, social protection, Roma participation in public life, including decision-making processes, anti-discrimination, rights of Roma migrants and combating human trafficking, the work of community mediators, as well as culture and mass-media.

The Ombudsman recognizes that the approval of this Strategy is a step forward in the protection of the rights of Roma people. This is also supported by the establishment of the Expert Group on the Rights of National and Ethnic Minorities, which assists the People's Advocate Office, the Equality Council and the Agency for Interethnic Relations.

However, the Ombudsman highlights that Roma individuals continue to face challenges, problems and needs that have remained intractable for a long time, including the vicious circle of poverty, unemployment, limited access to public services, migration, school dropout, and discrimination in various areas of life. In this regard, the Ombudsman believes that the measures included in the Programme will be effective for the Roma population, provided there is active involvement and cooperation from public authorities, Roma civil society, along with adequate monitoring and allocation of sufficient financial resources.



3.3. Education of Roma children (article 5 of the Convention)

Article 5, paragraph (v) of the Convention states that States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, color, or national or ethnic origin, to equality before the law, notably in the enjoyment of the right to education and training. The Education Code of the Republic of Moldova no. 152 of 17.07.2014²⁰ stipulates in article 5, point (d) that the mission of education is to foster intercultural dialogue, a spirit of tolerance, non-discrimination and social inclusion. Article 7, point (h) enshrines the principle of equality and non-discrimination as one of the fundamental principles of education, while point (i) guarantees the recognition and protection of the rights of persons belonging to national minorities, including the right to preserve, develop, and express their ethnic, cultural, linguistic and religious identity.

Furthermore, article 135, paragraph (1), point (i) of the Education Code prohibits any form of degrading treatment, punishment, and discrimination, or physical or mental violence by teaching, research and management staff towards students.

According to data from the Ethnobarometer Moldova 2020 survey²¹, developed with the support of the Office of the OSCE High Commissioner on National Minorities to support the Moldovan Government in implementing the Strategy for Strengthening Interethnic Relations for 2017-2027, approved by Government Decision no. 1464 of 30.12.2016²², Roma individuals feel the most discriminated based on ethnic grounds (88%) and educational status (65%).

Moreover, the survey indicates that Roma people are perceived as the most discriminated ethnic group (followed by Russians, Gagauz, and Ukrainians) in all sectors covered by the survey, including employment, education, healthcare, public services. Similarly, the Roma identify ethnicity as the primary factor contributing to discrimination in education.

To assess compliance with international standards on equal access to quality education for Roma children, the People's Advocate for Children Rights in partnership with UNICEF Moldova developed a thematic report "*The right of Roma children to education in the Republic of Moldova*".²³ According to the report, a significant social challenge related to the right of Roma children to education is ensuring full compliance with compulsory schooling regulations and preventing or combating dropout. In this regard, there is a lack of adequate mechanisms to ensure full compulsory schooling of Roma children and to address absenteeism and dropout. Today, there is no legal framework to sufficiently regulate institutional or individual responsibility for ensuring school attendance.

Moreover, the right to education for Roma children is affected by complex cross-sector vulnerabilities. Lack of adequate housing, lack of stable employment opportunities and insufficient income to purchase food, clothing, footwear, school supplies and additional learning materials for

²⁰ https://www.legis.md/cautare/getResults?doc_id=138940&lang=ro#

²¹ https://www.osce.org/files/f/documents/5/3/505312_0.pdf

²² https://www.legis.md/cautare/getResults?doc_id=97804&lang=ro

²³ <https://ombudsman.md/post-document/respectarea-dreptului-la-educatie-a-copiilor-de-etnie-roma/>



their children, make the Roma community prioritize their basic, vital needs over education, leading to high school dropout rates.

The "Situation Analysis of children and adolescents in Moldova" report²⁴ reveals that children from vulnerable families, particularly boys, are more likely to become early school leavers and engage in domestic labor. Additionally, Roma children often drop out of school due to prejudice, discrimination and lack of cultural diversity in the education environment, often experiencing bullying and mockery from both peers and teachers.

Consequently, there is a widening social divide between the Roma community and society, perpetuated by social exclusion practices that curtail their opportunities for development in various areas of life.

Despite the government's initiatives to foster the integration of the Roma community into the educational processes, shortcomings persist in achieving policy objectives. The monitoring of the Action Plans to support the Roma population in the Republic of Moldova for 2016 – 2020, approved by Government Decision no. 734 of 09.06.2016²⁵, and for 2022 - 2025, approved by Government Decision no. 576 of 03.08.2022²⁶, conducted by the "Roma Voice" Coalition²⁷ revealed unsatisfactory implementation of actions aimed at improving access of Roma community to education. Moreover, the Committee on the Elimination of Racial Discrimination, in its Concluding Observations on the combined 10th and 11th periodic reports of the Republic of Moldova²⁸, expressed concern about the inadequately implemented/underfunded policies intended to support the Roma population.

In light of the above, the People's Advocate for Children Rights recommends that the authorities make more efforts to integrate Roma children into educational institutions by implementing well-funded policies; offering extended learning programs; providing additional educational support to Roma children; and implementing outreach campaigns in schools to promote social inclusion and diversity of minorities based on the principle of non-discrimination and equal opportunities.

3.4. Discrimination against Roma refugees from Ukraine in Moldova (article 3 of the Convention)

According to article 3 of the Convention, States Parties particularly condemn racial segregation and apartheid and undertake to prevent, prohibit and eradicate all practices of this nature in territories under their jurisdiction. Hence, public authorities are obliged to take measures that ensure an environment conducive to the exercise of rights and freedoms without discrimination and equally with other members of society, regardless of the situational contexts like armed conflicts or humanitarian crises, and irrespective of the individual's group affiliations within the society.

²⁴ <https://www.unicef.org/moldova/media/8361/file/Situation%20Analysis%20of%20children%20%20and%20adolescents%20in%20the%20Republic%20of%20Moldova!.pdf>

²⁵ https://www.legis.md/cautare/getResults?doc_id=93295&lang=ro

²⁶ https://www.legis.md/cautare/getResults?doc_id=133208&lang=ro

²⁷ Association of Roma NGOs in Moldova, advocating for promotion of the rights of Roma community through public policies aimed at improving the lives of Roma people

²⁸ <https://documents.un.org/doc/undoc/gen/g18/277/60/pdf/g1827760.pdf?token=svxpp0LalOxtnOXobd&fe=true>



With the outbreak of the armed conflict in Ukraine, there has been a notable surge in refugees seeking shelter in neighboring countries, including Moldova. Faced with this circumstance, Moldovan authorities had to act promptly to manage the influx of refugees properly and safeguard their rights and freedoms. Thus, national authorities have ramped up efforts for resettlement and temporary placement of refugees, offering basic services and necessities. Efforts have been intensified at national and local levels by authorities and civil society actors. To ensure oversight of the rights of refugees and provide expertise and guidance to refugees from Ukraine, on March 11, 2022, the Ombudsman established an Advisory Council for the Prevention of Violations of the Rights of Refugees²⁹, comprising representatives from the People's Advocate Office, the Equality Council, and non-governmental organizations. This Council conducted monitoring visits, analyses of relevant legislation and standards, and regulations on temporary placement of refugees.

The monitoring visits revealed that beneficiaries of the temporary accommodation centers were Ukrainian Roma, Azerbaijanis and, according to the managers of those facilities, at the beginning of the refugee crisis, there were individuals with various ethnic backgrounds as Pakistanis, Chinese, Iraqis, Armenians and others. While the revised (template) Regulation on the organization and operation of temporary accommodation centers stipulates that refugees receive services without discrimination based on race, color, nationality, ethnic origin, gender, age, language, religion or other beliefs, etc., instances were reported where public authorities failed to fully uphold the principle of non-discrimination. Some cases involved hostile treatment towards ethnic or religious minorities by managers or staff of the temporary accommodation centers.

In this context, volunteers from the civic initiative Moldova for Peace³⁰ reported to the Refugee Advisory Council instances of discrimination against Roma refugees by both employees of state-run and private temporary accommodation centers. In general, volunteers providing accommodation support were warned by staff of the centers that they would not accept Roma individuals, stating a preference for "pure Ukrainians" only. There were also instances when representatives of the accommodation centers asked about ethnicity before accommodating refugees. At border checkpoints, volunteers reported cases when representatives of authorities encouraged Roma refugees to seek protection in another country, claiming full occupancy at accommodation centers.

To address these discriminatory practices against Roma refugees, PAO initiated dialogue with civil society, community mediators, and the Equality Council. It made recommendations to public authorities to ensure that services and conditions in centers, primarily accommodating marginalized groups, are adapted to their needs, while avoiding segregation based on specific criteria. However, monitoring visits revealed placement centers with predominantly Roma beneficiaries.

Discriminatory selection towards Roma people was also noticed in cases of direct or indirect refusal to accommodate Roma individuals under the pretext of lack of available space.

²⁹ <https://ombudsman.md/despre-noi/consiliul-consultativ-pe-refugiati/>

³⁰ Non-profit civic initiative operating under the legal umbrella of several NGOs to provide assistance to refugees and displaced persons in the wake of the Russian invasion of Ukraine



PAO's Refugee Advisory Council highlights additional concerns raised by minority groups, including poor quality of food, inadequate facilities for personal hygiene, and lack of privacy. While some needs had been addressed by authorities, there was a lack of diligence in providing suitable accommodation.

Despite the fact that more than two years have passed since the beginning of the armed conflict in Ukraine, and people continue to seek refuge in other countries for safety and protection, cases of unfair treatment in the delivery of social and medical services persist, as noted by PAO's Refugee Advisory Council. Despite the approval of the Government Decision no. 21 on granting temporary protection to displaced persons from Ukraine³¹ on January 18, 2023, which offers benefits for the exercising of rights and freedoms within the territory of the state, there have been no significant changes in ensuring non-discrimination and equality.

A segregated approach to accommodation continues to be applied to displaced persons with Roma, Azerbaijani ethnicity, and others from Ukraine. Roma individuals, in particular, are the most vulnerable and face discrimination risks, being deprived of the opportunity to claim their rights due to prejudice and intolerance within the justice system. While the Ombudsman's interventions have led to the restoration of rights in some cases of unfair treatment, eliminating negative practices must remain a priority for relevant public authorities.

In light of these observations, the Ombudsman recommends the elimination of discriminatory practices at all stages of service delivery to refugees and the implementation of protection mechanisms against sexual harassment or other forms of gender-based violence.

³¹ https://www.legis.md/cautare/getResults?doc_id=142062&lang=ro#