



ANNUAL REPORT

Respect for the rights of the child in the Republic of Moldova in 2023



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The content of this Report represents the views of the authors only and is their sole responsibility.

CONTENTS

WELCOME SPEECH OF THE PEOPLE’S ADVOCATE FOR THE RIGHTS OF THE CHILD	3
CHAPTER I. THE RIGHT TO LIFE, SURVIVAL AND DEVELOPMENT	7
1.1. ROAD SAFETY OF CHILDREN	7
1.2. SAFETY OF CHILDREN LIVING NEAR DANGEROUS INDUSTRIAL FACILITIES.....	12
1.3. SAFETY OF CHILDREN ON PLAYGROUNDS.....	14
CHAPTER II. THE RIGHT TO HEALTH	15
CHAPTER III. THE RIGHT TO EDUCATION.....	17
3.1. EDUCATION OF ROMA CHILDREN	17
3.2. EDUCATION OF CHILDREN WITH SENSORY IMPAIRMENTS	21
3.3. INFORMAL PAYMENTS IN SCHOOLS.....	25
3.4. SCHOOL UNIFORMS	27
3.5. PROTECTION OF CHILDREN FROM ANY FORM OF VIOLENCE	28
CHAPTER IV. THE RIGHT OF THE CHILD TO NAME AND CITIZENSHIP.....	34
CHAPTER V. CHILD-FRIENDLY JUSTICE	42
CHAPTER VI. CHILD PROTECTION AGAINST LABOUR EXPLOITATION	55
CHAPTER VII. ENSURING CIVIL RIGHTS AND LIBERTIES	60
CHAPTER VIII. RESPECT FOR THE RIGHTS OF DISPLACED CHILDREN FROM UKRAINE.....	68
CHAPTER IX. RESPEC FOR THE RIGHTS OF CHILDREN IN THE TRANSNISTRIAN REGION	75
CHAPTER X. PROPOSALS TO IMPROVE THE NORMATIVE FRAMEWORK AND OPINIONS ON DRAFT NORMATIVE ACTS	75
CHAPTER XI. 2023 IN FIGURES AND PERFORMED ACTIVITIES	85

WELCOME SPEECH OF THE PEOPLE'S ADVOCATE FOR THE RIGHTS OF THE CHILD



Dear children and adults!

I present you this Report, being honoured by the mandate entrusted to me to ensure respect for the rights of the child in the Republic of Moldova. The Report presents the results of my activities from appointment until the end of 2023, and also of my predecessor, Mrs. Maia Banarescu, for about half a year.

At the time of competition, I said that I would make every effort and act with due diligence necessary to hold the position with responsibility and respect for all the children of the Republic of Moldova. It is the aspects of non-discrimination and ensuring that no one is left behind, focusing on the most disadvantaged children that underlie my activity.

The study on the perception of human rights, conducted in 2023 by the Office of the People's Advocate, found out, traditionally, that the population of the Republic of Moldova considers that the rights of the child are the most respected rights. However, this study results should be interpreted with caution, first of all because only adults answered the study questionnaire, and the subjective perceptions by adults of the rights of the child do not always reflect the reality experienced by children. Also, the additional questions in the questionnaire highlighted that there are groups of children (poor children, children with disabilities, children left without parental care, Roma children), whose rights are perceived as being poorly respected.

The most difficult issues revealed in 2023 were child poverty, support services for families with children in difficulty, services for children with antisocial behaviour, protection of children against any form of violence. Also, having examined the requests received, we found gaps in execution of court decisions on establishment of the permanent residence of the child and payment of the child maintenance allowance. However, I was most concerned about statistical data of child poverty, because poverty hinders from the beginning the full realization of all rights of children.

As for the monitoring, in 2023, with the support of UNICEF, we conducted 4 thematic studies on the respect for the right to education of Roma children and children with sensory impairments, labour exploitation of children, conditions and nutrition of children in hospitals in Chisinau municipality.

Another important study focused on the respect for the rights of refugee children. We are ensuring inclusion of displaced children from Ukraine, including their educational inclusion. Additionally, I have initiated collaboration with the Ukrainian authorities and will act within the international coalition for the return of Ukrainian children deported or forcibly displaced from the temporarily occupied territories of Ukraine.

I have also covered the situation of the rights of the children in the 4 alternative reports developed by the Office of the People's Advocate in 2023.

The results of monitoring of the respect for the right of the child can be found in this annual Report, including in the form of recommendations to the authorities. Other recommendations derive from ex officio examination of requests and notifications, in which systemic problems are reported, most often those related to the implementation of the existing normative framework.

A major success in 2023 is the amendment of the Law No. 1024/2000 on the citizenship of the Republic of Moldova, which previously required from parents of children born on the territory of the Republic of Moldova a legal status/form of residence in the Republic of Moldova so that their children acquire the Moldovan citizen. In the opinion of the Ombudsman for Children, this could lead to stateless children from birth, in cases where the country of origin of both parents/one of the parents does not grant its citizenship to children born on the territory of other states or has reservations about them.

In 2023, the National Administration of Penitentiaries, with the support of the Ministry of Justice and the People's Advocate for the Rights of the Child, succeeded to conceptually reshape the approach to juvenile detainees. Thus, juvenile detainees from Penitentiary No. 13 were transferred to Penitentiary No. 10 – Goian, where a totally renovated housing sector was commissioned subject to detention standards.

Another major success of 2023 is adoption of the new Law No. 370 of 30 November 2023 on the rights of the child. The previous Law was not in line with international standards and social realities that have evolved significantly since its adoption. Back in 2020, the People's Advocate for the Rights of the Child brought this issue to the attention of the Parliament. The draft Law on the rights of the child, following several phases of analysis and proposals, was adopted in the second half of 2023. The proposals of the People's Advocate for the Rights of the Child were taken into account in full (regarding the right of children to participate in public affairs, empowerment and protection of children, human rights defenders, the right of children to peaceful assembly, the right of children to a clean, healthy and sustainable environment, etc.).

In total, there were 13 proposals to improve the legislation and opinions on draft normative acts submitted by the Child Ombudsman during 2023.

In 2023, I continued to put a premium on voices of children. The opinions of children were consulted during monitoring visits, activities of information and promotion of the rights of the

child and, in particular, through the Children's Advisory Council of the People's Advocate for the Rights of the Child. The traditional National Child Rights Forum, organized in the context of the World Children's Day, gathered in 2023 over 70 children and adolescents from all regions of the country, including the Transnistrian region. The children presented the results of the monitoring of children's rights to the authorities (representatives of the Parliament, the Ministry of Education and Research, the Ministry of Health and the Ministry of Justice) and provided a number of recommendations on improving the existing situation. For example, the members of the Children's Advisory Council of the People's Advocate for the Rights of the Child addressed an important issue of the relation and communication between teachers and students, noting that often students do not feel safe and protected to share their thoughts, emotions and needs. All the questions and concerns shared during the Forum were analyzed, systematized and formulated as recommendations for the competent authorities, with subsequent monitoring of their implementation.

In addition to collaboration with the authorities and children, we initiated a platform for dialogue with NGOs operating in the field of the rights of the child on the priorities and opportunities for cooperation on the most current issues of the respect for the rights of the child in the Republic of Moldova. This dialogue is also important in terms of the review of the Republic of Moldova by the UN Committee on the Rights of the Child, using the simplified reporting procedure. The review begins with the proposal by NGOs, children and the People's Advocate for the Rights of the Child of key issues related to the rights of the child to be reviewed by the Committee.

In 2024, I will continue to monitor the respect for the right of the child, producing at least 4 thematic reports. In addition to activities of promoting the rights of the child, I will put greater emphasis on promoting the mandate of the People's Advocate for the Rights of the Child, his or her role and duties, the mechanism of notification. I consider it important to enhance the trust of children and of the general population in the institution I represent, which obliges me to act with the required professionalism whenever the rights of the child are violated.

In 2024 and in the following years, as our country became a candidate country to the European Union, supporting the alignment of the normative framework, national processes and practices in the field of the rights of the child to the EU standards, in the path to accession to the EU, will be a high priority.

Finally, I would like to thank the team of the Directorate for the Rights of the Child and of the other subdivisions, including territorial ones, of the Office of the People's Advocate, for the support provided in the exercise of the mandate. I also express my gratitude to the partners, especially UNICEF, who made a substantial contribution to the monitoring of the rights of the child.

Respectfully,

People's Advocate for the Rights of the Child, Vasile COROI

The study on the perception of human rights found out, traditionally, that the population considers that the rights of the child are the most respected rights. The additional questions in the questionnaire of the current study also highlighted that there are groups of children (poor children, children with disabilities, children left without parental care, Roma children), whose rights are perceived as being poorly respected. The People's Advocate for the Rights of the Child calls to caution in interpretation of the study results, primarily because only adults answered the questionnaire, and the subjective perceptions of adults on the rights of the child do not always reflect the reality experienced by children. This highlights the importance of participation of children, both individually and in group, in making decisions that concern them, and also in evaluating their impact. The Child Ombudsman appreciates that the children's voice was also included in the current study, as a result of the focus group discussions with the children.

CHAPTER I. THE RIGHT TO LIFE, SURVIVAL AND DEVELOPMENT

‘States Parties recognize that every child has the inherent right to life’¹ – this is what the UN Convention on the Rights of the Child states, and the Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) in Art. 2 (Right to life) guarantees that: ‘Everyone’s right to life shall be protected by law.’

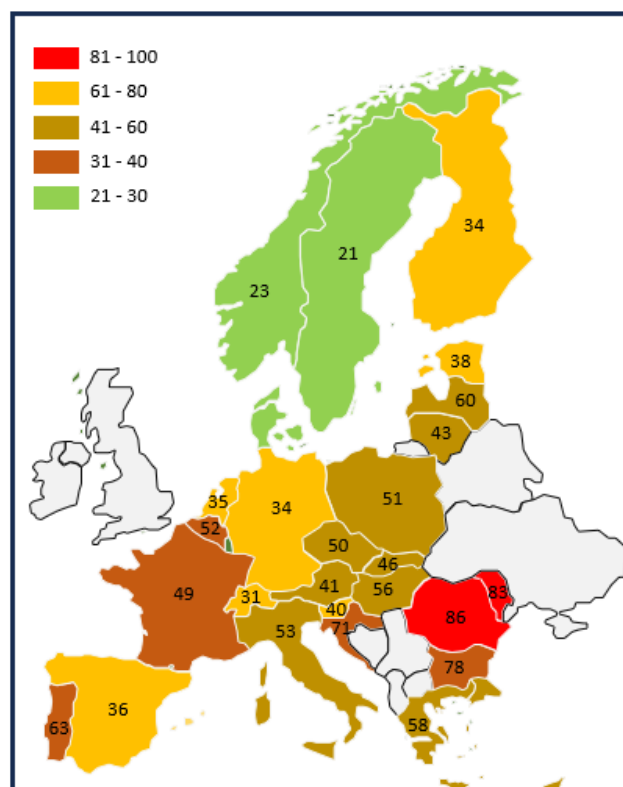
1.1. Road safety of children

In 2022, the Republic of Moldova reached one of the highest road traffic death rate compared to the EU countries^{2, 3} (83 deaths per 1 million inhabitants), being surpassed only by Romania. According to the World Health Organization, annually more than 1.35 million people die in road accidents worldwide. Injuries caused by road accidents are the cause No. 8 of age-related death⁴ and it is also the cause of death No. 1 of children and adults aged between 5 – 29 years old.

As the number of people killed in road accidents continues to rise worldwide, the EU has reaffirmed its ambitious long-term goal of getting close to zero deaths by 2050 – ‘Vision Zero’.

To achieve this goal, the European Commission has established a new approach to road safety for the decade 2021-2030.

The ‘Safe System’⁵ concept assumes that road accidents will always occur, but deaths and serious injuries can be prevented to a large extent. The ‘Safe System’ approach aims a less punitive road system. It **accepts that people make mistakes**, and advocates a combination of multi-level measures to prevent people from dying because of their mistakes, taking into account the **characteristics of human vulnerability**. For example, optimized construction of vehicles, improvement of road infrastructure, managed traffic speed – all these are able to reduce the impact and consequences of accidents. Together, they should comply with protection levels, which ensure that if one element fails, another element compensates (mitigates) to prevent the worst outcome.



¹ Article 6 of the UN Convention on the Rights of the Child

² I.Bricicaru, F.F.Paval, C.Bricicaru 'Ierarhia funcțională a drumurilor publice – un element important pentru siguranța rutieră'. Drumuri și Poduri magazine, Romania, year XXX, No. 312

³ https://ec.europa.eu/commission/presscorner/detail/en/ip_23_953

⁴ WHO. Global Status Report on Road Safety 2018. <https://www.who.int/publications/i/item/9789241565684>

⁵ https://www.europarl.europa.eu/doceo/document/TA-9-2021-0407_RO.html

The competencies of road safety authorities in the field of infrastructure management, training and education, combating and prevention, imposition of sanctions and keeping records turn these authorities into key actors with direct responsibilities for the degree of realization of the right to life.

In the field of road safety, the relevant authorities have implemented a relevant policy document, which has not been implemented to a large extent. Thus, the *National Road Safety Strategy 2011 – 2020* and the related Action Plans have gone out of use by 2021, and no other similar document has been developed.

On 12 May 2023, the meeting of the National Council for Road Security took place and was attended by representatives of state institutions, development partners, and members of civil society. At the meeting, the current state of things was analyzed, and the Prime Minister asked his colleagues to develop in close terms a new National Road Safety Strategy 2023-2027.

As accession by the Republic of Moldova to the European Union advances, and the candidate country status was granted, on 23 June 2022 the Government of the Republic of Moldova adopted the National Action Plan for the Accession of the Republic of Moldova to the European Union 2024-2027. The Plan is a strategic document on aligning the national legislation with the EU acquis and includes, inter alia, a number⁶ of steps to increase road safety.

In this regard, the People's Advocate for the Rights of the Child welcomes adoption by the Parliament of the country, on 24.11.2023, of the Law on the management of road infrastructure safety. The normative act is intended to partially transpose Directive 2008/96/EC of the European Parliament and of the Council of 19 November 2008 on road infrastructure safety management, with the amendments made by Directive (EU) 2019/1936 of the European Parliament and of the Council of 23 October 2019. The purpose of this Law is also to ensure and increase the traffic safety on public roads, prevent the loss of life and injuries of people, reduce the severity of road accidents, and also avoid material damages as a result of road accidents.

Figure No.1

As expert analyses show, the causes of road accidents are due to a combination of several factors, including: a) the human factor, b) the road infrastructure and c) the vehicle.

Excessive speed caused by the human factor is one of the main causes of road accidents and the resulting deaths. The share of this cause increased constantly from 2018 to 2022, from almost 26% to 35.5% of all accidents and from 47% to almost 53% of all deaths.

As regards the quality of roads, in 2019 the Republic of Moldova ranked the last among European countries, with only 2.6 points (compared to 6.4 for the Netherlands – the best ranked European country)⁷. Urban mobility, in turn, shall be another field that ensures the strategic and operational framework for correlation between urban planning and development, and transport of people and goods at the neighbourhood, city/town and metropolitan level accordingly. Urban mobility is a concept of moving from the approach based on ensuring exclusive requirements and needs of motorized road traffic (infrastructure designed and built mainly for the needs of motorized transport) to an approach focused on the transport of people and goods, developed in

⁶ Chapter 1, p. 46, 52, 54, 55, 81 and Chapter 21, p. 2 National Action Plan for the Accession of the Republic of Moldova to the European Union 2024-2027 <https://gov.md/sites/default/files/document/attachments/pna-hg-829-2023.pdf>

⁷ https://www.theglobaleconomy.com/rankings/roads_quality/

terms of urban planning (road infrastructures prioritized subject to the needs and safety of all users).

Optimized construction of vehicles, performance of passive and active safety systems – all these are meant to increase the chances of avoiding accidents or surviving them. The Republic of Moldova has not performed well in terms of the fleet of cars moving on the roads of the country. On the contrary, the State Transport Register shows an increase in the share of motor vehicles over 10 years old from 68.5% in 2014 to 80% in 2021.

The core problem of all developing countries, including the Republic of Moldova, is safety of vulnerable users. In the overall share of more than 35% of the total number of recorded road accidents, pedestrian collisions are the most frequent types of accidents in the public road network. Pedestrians make up 36% of the total number of deaths in road accidents, compared to the European average rate of 27%, and around 19% in high-income countries (World Health Organization, 2018)⁸.

As a result, the greatest concern of the Child Ombudsman is the large number of road accidents in which minors have been involved. As regards the occurrence of road accidents caused by minors, there is a decreasing trend. Out of 102 minors involved (approx. 135, -24.4%), 5 (approx. 6, -16.7%) died, 52 (approx. 73, -28.8%) were slightly injured, 27 (approx. 35, -22.9%) were seriously injured, and 18 (approx. 21) were not injured.

In 2023, 427 minors were involved in road accidents (in the previous year - 453, i.e. a decrease of 5.7%), which makes up 17.20% of the total number of victims of registered accidents, of whom 17 (approx. 15, +13.3%) died, 296 (approx. 299, -1%) were slightly injured, 83 (approx. 108, -23.1%) were severely injured, and 31 (approx. 31) were not injured at all. The figures show a slight decrease in the number of minors involved, as well as the injuries suffered. However, compared to the similar period of the previous year, there is a 13.3% increase in fatal cases. As long as children are under the authority of adults, the life of every child lost as a result of a human error is an irretrievable and grievous loss for all of us, and 17.2% of the total number of victims is too high.

The overall picture of the problem reveals the need for urgent and thoughtful actions to remedy the situation⁹. Actions derived from the experience of each case resulting in loss of human life are needed, and they should not be focused solely or overwhelmingly on the task of punishing the guilty, but on providing solutions to prevent cases, removing risks and increasing the safety of road users. Following this approach, the Moldovan authorities should study more carefully how to approach road safety in terms of the ‘Safe System’ concept and find optimal solutions for adjusting the working mechanisms.

⁸ [Ilie Bricicaru \(2016\). Doctoral thesis](https://www.researchgate.net/profile/Ilie-Bricicaru). ‘Strategii privind îmbunătățirea siguranței circulației pe rețeaua de drumuri publice din Republica Moldova’. Gheorghe Asachi Technical University in Iasi.
<https://www.researchgate.net/profile/Ilie-Bricicaru>

⁹ Informative note on the accident situation for the period 01.01.2023 – 31.12.2023, page 14,
https://politia.md/sites/default/files/accidenta_2023.pdf

Enhancing the educational work with children, on the one hand, preventive interventions among drivers, on the other hand, modernization of the road infrastructure, finding difficult sections of routes shall become priority activities in the next period, in order to improve the situation.

The European Road Accident Data Collection System (CADaS¹⁰) contains a very important element – data about the road/street on which the accident occurred, including 105 variables for road infrastructure elements, which is the core element for road accident investigation in terms of road infrastructure errors.

All the three elements that define a road accident: the human factor, the elements of the road and the vehicle, fall within the competency of the police. Traditionally, the police is focused, to a large extent, on identifying the guilty of the accident and only an insignificant part of efforts of the authority are focused on: inspecting roads, interdepartmental control of compliance with the legislative and normative acts on road traffic; control over vehicles in terms of their compliance with road traffic safety rules; control over the quality of works in the field of exploitation, maintenance, repair and regular technical inspection by persons engaged in entrepreneurial activity in these fields.

Therefore, ensuring higher road safety is a comprehensive activity with many distinct components. The competencies of the responsible authorities are quite various and suppose active involvement and cooperation of LPA¹¹, the Ministry of Infrastructure and Regional Development¹², the Ministry of Education and Research¹³, the Public Services Agency¹⁴, of course the Police, the Prosecutor's Office and the Courts and other authorities; therefore the current limited/unilateral approach shall be replaced by a comprehensive/multilateral view of the problem.

Child X, 10 years old, traveling with the trolleybus of route No. 4, Chisinau municipality, was roughed up by the conductor and kicked out of the trolleybus. The child's mother claims that the child did not understand the language in which the conductor spoke to her and got stuck, although she had money to pay for the fare.

¹⁰ Common Accident Data Set

¹¹ Article 57 of Law No. 131/2007 provides for that the Public Administration Authorities are obliged to execute the opinions of the Ministry of Internal Affairs.

¹² Law No. 131/2007 grants the MIRD competences to develop technical regulations, rules, standards and procedures for planning, design, operation and maintenance of public roads, as well as certification of specialists in the field of road transport, as well as competences to develop rules for road safety impact assessment, the road safety audit, the road safety inspection, as well as for regulation of the initial training activity, professional development and certification of road safety auditors.

¹³ According to Law No. 131/2007, the competence of the Ministry of Education and Research covers: development of illustrative, audiovisual methodical and teaching programmes and materials in the field of road education and ensuring the relevant activity in preschool and school education institutions, instruction and improvement of the teaching staff appointed to carry out such activities, etc.;

¹⁴ According to Art. 14 of Law No. 131/2007, the PSA has the following competences: development of government rules on the driver's license and the exam for obtaining the right to drive vehicles, templates and issuance of driver's licenses, and also management of the State Register of Vehicle Drivers, etc.

Another aspect of the road safety of children is the way children are approached by employees of companies providing transport services.

During 2023, the Child Ombudsman was repeatedly notified¹⁵ about the undignified treatment of children by public transport conductors in Chisinau municipality. The Child Ombudsman reacted every time, urging the competent authority to initiate official investigations and find the causes and the guilty persons. In 2 out of 3 cases, officials found guilty of violating labour discipline rules were dismissed.

Every child must be recognized, respected and protected as a rights holder and as a unique and valuable human who has an individual personality, distinct needs, interests and private life. To highlight these aspects of children's personality and also to increase the road safety of children, on 11.11.2023 the Child Ombudsman sent a Notice to the Mayor's Office of Chisinau municipality with recommendations to remedy the situation. On 19.12.2023, the General Directorate for Protection of the Rights of the Child informed the Ombudsman about development of the Strategy on Safety of Children in Public Transport 2024-2026.

An issue that requires special attention is safety of children in school transport. Deficiencies encountered are the lack of a supervisor during the transport, other than the driver, the lack of seat belts or transporting children standing up.

Being concerned about the situation of children in traffic, and also in the context of the UN Global Road Safety Week, the Child Ombudsman has joined the biennial global road safety campaign aimed at increasing awareness of road safety and reducing the number of deaths from road accidents. Thus, between 15 and 21 May 2023, a number of information activities aimed at students took place to raise awareness of children about traffic safety. About 200 children, students of the Gheorghe Asachi Theoretical High School, the High School of Modern Languages and Management and the Lucian Blaga Theoretical High School in Chisinau municipality, received useful recommendations in order to prevent road accidents.

In the context of the beginning of the 2023 summer vacation, and also the increase in the number of child victims of road accidents, the People's Advocate for the Rights of the Child reminded, through an official address, all the municipal/district Councils for Protection of the Rights of the Child about the need to pay more attention to the safety of children, and also the obligation of public authorities to undertake effective measures to guarantee security, to organize instructive, educational and surveillance activities in the streets, courtyards, leisure areas and other spaces, with installation of warning signs, information boards, etc., so that no child should be left unsupervised or end up in an unsafe or dangerous environment for their life and health. Also, the People's Advocate for the Rights of the Child recalled the need and importance of applying the intersectoral cooperation mechanism in order to achieve the above-mentioned objectives. Therefore, the Child Ombudsman recommended the municipal/district Councils for the Protection of the Rights of the Child to organize meetings, including information ones, and joint activities with the local public authorities and other actors of the intersectoral mechanism (engaged in the social, medical, educational fields, legal bodies, etc.) on child protection

¹⁵ File No. 06-3/4 of 28.02.2023, File No. 06-3/14 of 26.06.2023, File No. 06-3/25 of 16.08.2023

measures, possible dangers for their life/health, including traffic safety, as well as information on reporting, intervention and referral mechanism in situations that may endanger children's lives¹⁶.

Another action of the Child Ombudsman aimed at supporting improvement of the knowledge, skills and practices of students and professionals, regarding road safety, was sending an address to the Ministry of Education and Research, whereby he recommended to issue a circular for teachers to inform children and parents about road safety and rules of road safety of children¹⁷.

On 9 August, the People's Advocate for the Rights of the Child came up with a reaction to cases of death of unattended children, especially during vacations, and issued a series of recommendations to the authorities, employers, the media, community, parents/caretakers¹⁸. One of the recommendations to the authorities was to carry out activities to prevent risky behaviours and any situations of risk for the life and health of children due to a number of causes, including road accidents and overheating of children left in the car, by strengthening the skills of parents/caregivers to support safe child development.

Recommendations

To the Government:

1. Develop a visionary document that would provide a combination of measures at several levels, indicating the course, connections and responsibilities of all actors involved in ensuring/increasing road safety, in such a way as to obtain a comprehensive/multilateral vision of the problem. The Office of the People's Advocate (OPA) recommends as a starting document the thematic report 'The right to life, health, safety and road security'.

1.2. Safety of children living near dangerous industrial facilities

The People's Advocate for the Rights of the Child reacted ex officio following the information covered by the media about the case of the 2 children who on 11.02.2023, being in the mining perimeter exploited during 1996-2021 by JSC 'Cariera Micauti', which was in insolvency proceedings at the time of the incident, fell in their careers suffering several injuries.

The Mayor's Office of Micauti village from Straseni district, the Administrator of JSC 'Cariera Micauti' in insolvency proceedings, the Environmental Protection Inspectorate, the General Prosecutor's Office and the Straseni Police Inspectorate, were asked, subject to their competencies, to investigate the case and prevent eventual risks in the future.

The Straseni District Council reported that on 24.02.2023 by Order No. 09 the District Council meeting was convened, which ordered to include the families concerned in the Social Support

¹⁶ <https://ombudsman.md/post-document/adresarea-avocatului-poporului-pentru-drepturile-copilului-catre-consiliile-municipale-si-raionale-pentru-protectia-drepturilor-copilului/>

¹⁷ <https://ombudsman.md/post-document/adresarea-avocatului-poporului-pentru-drepturile-copilului-catre-ministerul-educatiei-si-cercetarii-cu-privire-la-securitatea-copiilor-in-timpul-vacantei-de-vara/>

¹⁸ <https://ombudsman.md/reactia-avocatului-poporului-pentru-drepturile-copilului-privind-cazurile-de-deces-ale-copiilor-in-perioada-vacantei/>

Service for families with children and referral of the children to the Youth Friendly Health Centre to provide them with psychological consultations. For preventive purposes, it was decided to organize information sessions for students/parents and to install informative boards to raise awareness among the population.

To make clear the case circumstances, the Strasen Police Inspectorate began criminal investigations, and campaigns were carried out to inform children about the dangers in the Micauti Quarry area.

By Letter No. 280 of 20.02.2023, the Environmental Protection Inspectorate informed that ‘State technical supervision of compliance by beneficiaries of the subsoil with industrial security requirements during activities or works of using the subsoil is carried out in accordance with Law No. 116/2012 on the industrial security of dangerous industrial facilities, by the Technical Supervision Agency’. The Child Ombudsman was also informed that on 25.01.2021, following the inspection carried out at JSC ‘Cariera Micauti’, several violations of rational use/protection of the soil and subsoil were revealed, and the relevant materials were sent to the Prosecutor’s Office. For its part, the Prosecutor’s Office of the Republic informed that, as a result of the investigations carried out by the Division of Environment and Public Interest Fraud Investigation of the General Prosecutor’s Office, on 10.3.2021 and 28.02.2022, criminal prosecutions were initiated on the basis of the reasonable suspicion of commission of the crimes provided for by Art. 191(5), Art. 335(1), Art. 352(3)(d) of the Criminal Code¹⁹.

The Child Ombudsman welcomes the efforts of supporting children and families with children in difficulty following the incident, and encourages the authorities to speed up investigations to reveal all the circumstances of the case. It should also be taken into account that industrial security includes a comprehensive set of measures²⁰, and the competency in the field of industrial security is assigned to the National Inspectorate for Technical Supervision.

Recommendation

To the Ministry of Infrastructure and Regional Development:

1. Come up with the initiative to inspect all industrial facilities of extraction of mineral resources so as to ensure a systemic approach to the incident that occurred in the mining perimeter of JSC ‘Cariera Micauti’.

¹⁹ Letter No. 2-1d/23-398 of 11.05.2023

²⁰ Personnel training, expertise, technical verification, technical diagnosis, non-destructive control, state technical control and supervision, design, construction-installation, exploitation, technical maintenance, regulation and commissioning, manufacturing, use, reconstruction, technical re-use, conservation or liquidation of a dangerous industrial facility. Art. 1 of Law No. 116/2012

1.3. Safety of children on playgrounds

The state encourages organization and promotion of physical education and sports by public administration authorities and non-governmental organizations in education, health care, armed forces, economic units, as well as in other fields. At the same time, sports grounds, structures and facilities, as well as sports activities shall be organized, carried out and designed in strict compliance with safety standards for the life and health of the beneficiary.

In 2023, the Child Ombudsman responded to incidents on playgrounds that resulted in child deaths. The frequency of incidents and bodily injuries caused to the beneficiaries point to the already systemic nature of the cases when children are crushed by metal elements of the grounds (football gates).

In particular, the Child Ombudsman is concerned about the fulfilment of the positive obligation of the state in procedural terms of Art. 2 of the European Convention on Human Rights. The control of the causes and circumstances that led to death shall be adequate and effective, capable of ensuring ‘implementation of domestic laws that protect the right to life and, in cases involving state agents or bodies, ensuring that they are held liable for the deaths that occurred under their responsibility²¹’. The investigation of the case in Seliste village, Orhei district, could be hardly considered effective, as no judicial expertise has been ordered to ascertain whether or not the construction quality system worked or not, which is intended to ‘lead to performance and exploitation of constructions of appropriate quality, in order to protect people’s lives and their goods, society and the environment²²’. The materials submitted to the Child Ombudsman do not make clear whether the criminal investigation body carried out the on-site investigation to collect, record and take the data necessary for ordering such an expert examination.

Since the Prosecutor’s Office dominates the procedural actions of criminal investigations, a hierarchical control of all cases in which final decisions are being investigated or have already been adopted, would be a real action of ensuring effective and adequate investigations of every case of child death on playgrounds.

Recommendation

To the General Prosecutor’s Office:

1. Initiate actions subject to the order of hierarchical control, to ensure effective and adequate investigations of every case of children death on playgrounds.

²¹ [Hugh Jordan v. The United Kingdom, p. 105; Nachova and Others v. Bulgaria (GC), § 110; Al-Skeini and Others v. The United Kingdom (GC), § 163].

²² Art. 4 of Law No. 721 of 02.02.1996 on the quality in constructions

CHAPTER II. THE RIGHT TO HEALTH

To ensure respect for the right of the child to health, enshrined by Art. 24 of the UN Convention on the Rights of the Child, during 2023, the Child Ombudsman monitored the conditions and nutrition in 4 public health institutions in Chisinau municipality: the Municipal Clinical Hospital of Communicable Diseases in Children, the Children's Municipal Clinical Hospital No. 1, the Municipal Clinical Hospital of Pneumology and the 'V. Ignatius' Chisinau Municipal Children's Hospital.

In general, the conditions in the monitored hospitals are good, except for the Municipal Clinical Hospital of Phthisiopneumology, and nutrition is adequate in all the monitored hospitals, in strict accordance with the diets established in the Order of the Ministry of Health No. 238 of 31 July 2009 on improving nutrition of patients in hospital healthcare institutions.

At the Municipal Clinical Hospital of Phthisiopneumology, we found that the conditions for treatment of patients are relatively satisfactory, but they are maintained through current repairs, therefore major repairs are needed in all clinical and paraclinical buildings, including the spaces of the children's ward (the 2nd and 4th floors but they are maintained through current repairs, therefore all clinical and paraclinical buildings, including in the spaces of the children's department (the 2nd and 4th floors of the treatment building No. 1). Although food is cooked in harmless conditions, these conditions are maintained by regular minor repairs, major repair of the catering department was carried out long ago. Also, the institution also needs high-performance medical equipment, because some of the medical equipment is very worn and torn, and the other is missing, and infectious patients are transported for examinations and consultations in general profile institutions. There is no elevator adapted for persons with disabilities in the central building and no access ramps in the medical buildings. Additionally, the first 2 floors of the paraclinical building of the institution are occupied by the Republican Narcology Dispensary, which opened the SITE for substitution treatment of drug users in the premises of the institution. These persons have free access to the premises of the Municipal Clinical Hospital of Phthisiopneumology, and syringes, needles, disposable cups and other medical devices thrown around the building can endanger the lives of patients, including of children. Also, since children continue their studies during the tuberculosis treatment in the hospital, with teachers from the Constantin Sibirschi High School, we found that the equipment for studies (desks, blackboards, etc.) is old and not adapted for various age groups, the spaces are small.

Recommendations

To the Ministry of Health:

1. Analyse the opportunity to review expenses for treated case and increase them if prices increase. Currently, directors of healthcare institutions say that they have to save on other budget positions and cover the expenses of treated cases.
2. Find solutions for co-opting specialist doctors for the examination of patients with tuberculosis within the Municipal Clinical Hospital of Phthisiopneumology, so that they are not transported to other healthcare institutions.
3. Adopt measures to prevent risks for children derived from the activity of the Republican Narcology Dispensary on the territory of the Municipal Clinical Hospital of Phthisiopneumology.
4. Evaluate the condition of the buildings in order to carry out the major repair of the Municipal Clinical Hospital of Phthisiopneumology, including of the catering department, the children's department, and provide them with the necessary equipment (medical, cooking, education equipment). Provide reasonable adaptation for children with disabilities, including access ramps.
5. Inform children and legal representatives, in a way accessible to them, about the diagnosis and phases of treatment, and provide psycho-emotional support to children throughout their stay in the hospital, and, depending on the severity of the diagnosis, also at the time of its communication.

CHAPTER III. THE RIGHT TO EDUCATION

The educational ideal of the school in the Republic of Moldova consists in building personalities with a spirit of initiative, capable of self-development, who have not only a system of knowledge and skills necessary for employment, but also independence of opinion and action, openness to the intercultural dialogue in the context of assumed national and universal values²³. The education system is focused on a number of fundamental principles, including the principle of fairness, transparency, social inclusion, equality, non-discrimination and non-violence. The extent of implementation of these principles, in particular, has been verified by the Child Ombudsman during his office in 2023.

3.1. Education of Roma children

Researches of the respect of the right to education of Roma children²⁴ highlighted that, as of September 2023, the rate of compulsory school inclusion of school-aged Roma children noted in Compulsory General Education Institutions (primary/lower secondary cycle) in 54 settlements densely inhabited by Roma is 72.5% (1,461 out of 2,017 children). Also, the school dropout rate is 3% (46/1461). 2 years later, compared to 2021, these indicators improved significantly, i.e. the schooling rate in 2021 was 46% (1,453 out of 3,150 children) with a dropout rate of 81% (1,181 out of 1,453 children).

The thematic study highlighted the most frequent causes of *non-schooling*, *unexcused absenteeism* and *school dropout*, and namely: 1. Lack of an effective partnership between the educational institution, the mayor's office and Roma parents; 2. Involvement of Roma children together with their parents in seasonal works; 3. High rate of illiteracy among Roma parents coupled with the neglect of stimulating intellectual development of their children; 4. Unstable financial situation of Roma families; 5. Frequent change of residence in search of occasional earnings; 6. Inadequate home conditions (damaged infrastructure, excessive number of occasional tenants); 7. Discrimination in schools; 8. Early marriages. Therefore, constant shortage of general culture in society, discriminatory attitudes and Romophobic prejudices, poor literacy among Roma children and parents, result in increased social distance between Roma and the other population, social exclusion and maintained vicious circle of poverty²⁵.

²³ Art. 6 of the Code of Education No. 152 of 17.07 2014

²⁴ Thematic report 'Respect for the right to education of Roma children in the Republic of Moldova', <https://ombudsman.md/post-document/respectarea-dreptului-la-educatie-a-copilor-de-etnie-roma/>

²⁵ Updated report on the mapping of settlements densely inhabited by Roma in the Republic of Moldova (2021), pp. 20-21 (5.3. Access to Education).

https://mecc.gov.md/sites/default/files/final_raport_privind_cartografierea_localitatilor_dens_populate_de_romi.pdf

For the correct management of a phenomenon, it is important to know its extent. The Child Ombudsman points out that as for data collection there are some inconsistencies between the data provided by the MER/LPA and the community mediators or public associations concerned with the respect for Roma rights.

According to the data provided by the Ministry of Education and Research, in 41 settlements in the country the schooling rate of Roma children is 100% of the number of registered children, in 7 settlements the schooling rate is 90%, while in 3 settlements it is below 50%: Briceni – 49%, Otaci – 30.5% and Soroaca – 17.5% only. In 2 other settlements inclusion of children in the educational system failed, in Durlesti, Cimislia and Straseni towns there are no registered Roma children of school age, and no data are available for 3 settlements. In total, 556 children were not included in the education system.

Table on the degree of inclusion of Roma children in the education system, as of September 2023

Indicator	100%	Over 90%	Over 80%	Less than 50%	0%	No children	No data
Schooling rate of Roma children in (primary/low secondary) CGEI	41	7 Mihaileni Carpineni Hinesti Nicoreni Vatra Chisinau Balti	1 Basarab easca	3 Soroaca Otaci Briceni	2 Capresti Taraclia	3 Durlesti Cimislia Straseni	3 Lucaseuca Mihailov ca Singerei
Out-of-school children		15	13	522	6	0	-

According to the data on file at the Office of Family Doctors, on 1 September 2023, 920 school-aged Roma children (7–16 years old) were registered in Otaci town. Based on these data provided, in the Ist Semester (2023) the schooling rate of Roma children in Otaci town is 10% (92/920), not 30.5%. An even greater discrepancy between the data of the authorities (100% schooling rate) and those provided by the Community Mediator (13.5% schooling rate), was revealed in Edinet. The problem of correctness of data collection and reporting on the total number of school-age children was also noticed in Soroaca and Chisinau municipality. One of the explanations of this phenomenon is that the number of *undocumented/out-of-school* Roma children is not taken into account. ‘This poor management of statistical data at the local level

causes the annual decimal discrepancy between statistical data provided by LBSE representatives (LPA II) to the Ministry of Education and Research of the Republic of Moldova on the number of *officially documented/schooled* Roma children (7-16 years old) in each settlement and the total number of Roma children (7–16 years old) certified (*undocumented/out-of-school*) in each settlement: registered at the Office of Family Doctors included in the lists of Roma Community Mediators²⁶.

In most urban areas, there is no a Centralized database with up-to-date accurate data on the total number of school-aged Roma children (7–16 years old): with permanent residence or temporary registered/unregistered residence status, temporarily gone abroad or returned ‘for a visit/at home’ for an (in)definite period. Persistent discrepancy in the statistical data delivered by subdivisions delegated by mayor’s offices (local guardianship authorities)/LPA of level I, impedes accurately determining the schooling/non-schooling rate of school-aged Roma children (7–16 years old) in most urban areas.

A current essential social challenge related to the respect for the right to education of Roma children in the Republic of Moldova is determined by full provision of the compulsory schooling process. The Education Code of the Republic of Moldova sets out the institutional/individual responsibility for the full compulsory schooling of children (including the Roma) aged 6(7)–16 years old in (preschool/primary/lower secondary) compulsory general education institution (CGEI), through the ‘collective/asymmetrical/complex’ duty delegated for 3 institutions (actors): 1. LPA II (LBSE): Art.13(3); Art. 141(1)(i); 2. LPA I (Local mayor’s offices/guardianship authorities): Art.13(3); 3. Parents (including the Roma): Art.13(3); Art. 141(1)(i). In the absence of the national legal and normative framework, with specified normative provisions on delimitation of institutional competences/assignment of the necessary financial and logistical support/assumption of individual responsibilities/application of penalties for contraventions in the process of schooling/non-schooling (educational neglect) of children (including the Roma) of compulsory school age (6(7)–16 years old – the implementation of Art. 13(3) and Art. 141(1)(i) of the Education Code (152/2014) is interpreted exactly/subjectively/randomly, causing negative effects on the quality of the educational process of children (including Roma) from socially vulnerable non-educational home environment.

Unexcused frequent/increasing absenteeism has unfortunately become a common practice for Roma students. The official practice implemented by the delegated representatives of CGEI of filling out/recording the referral sheet on reporting of cases of educational neglect of Roma parents does not bring expected results.

The rate of educational inclusion of school-aged Roma children (7–16 years old) in (primary/lower secondary) CGEI, including the respect for the right to quality education, is affected by the socially vulnerable non-educational home environment determined by the complex social profile of Roma parents, who permanently face the vicious circle of poverty as ‘illiterate/unemployed/socially marginalized persons (who are partially maintained by the state from time to time). Due to the limited family budget, a significant part of Roma parents have to send only 1 child to school, the other (2 - 5) Roma children of school age (7–16 years old) stay at

²⁶ Report on ensuring the right to education of children with sensory impairments, <https://ombudsman.md/post-document/asigurarea-dreptului-la-educatie-a-copilor-cu-deficiente-senzoriale/>

home ‘out of school due to poverty’. Constant social vulnerability in the non-educational home environment of Roma families does not allow making more efficient the necessary expenses on education.

At present, there is a high level of discrimination against Roma students within the (primary/lower secondary) CGEI in settlements densely inhabited by Roma.

Recommendations

To the Ministry of Labour and Social Protection:

1. Develop motivational policies for citizens of the Republic of Moldova (including the Roma) who settle temporarily in Chisinau municipality (or in another settlement), until the procedure for establishing permanent residence is ready, to register their temporary residence status. Thus, the institutions responsible for child schooling/protection will have access to data related to establishing exact location of in-school/out-of-school school-aged children (including the Roma) (7–16 years old).

To the Ministry of Education and Research:

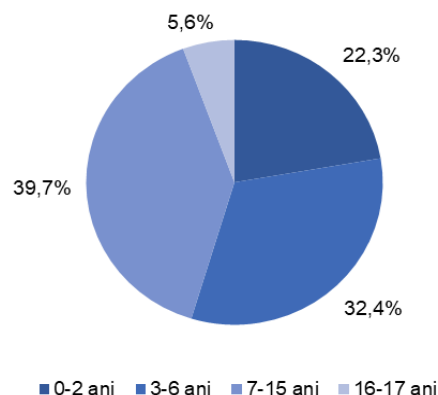
1. Institutionalize the inter-sectoral cooperation mechanism between LBSE/LPA II, mayors (local guardianship authorities)/LPA I, Roma parents and Roma community mediators, in the process of compulsory integral schooling of Roma children, including in the development and regular adjustment of the centralized Database with updated accurate data on the total number of school-aged Roma children, in settlements densely inhabited by the Roma.
2. Adjust the national normative framework with provisions related to clear delimitation of institutional competences in the process of schooling children (including the Roma) of compulsory school age.
3. Increase the salary of Roma Community Mediators up to the salary level of social workers in order to reduce professional discouragement in their involvement/inter-sectoral activity.
4. Accurately monitor school-aged Roma children from the Republic of Moldova with ‘temporarily displaced abroad with indefinite educational status’. It is proposed to introduce into the EMIS database a new indicator for monitoring the educational status of school-aged children: ‘displaced child temporarily staying abroad with indefinite educational status’.
5. Increase the rate of educational inclusion of school-aged Roma children by: a) Providing additional educational services in groups with afterschool programme in CGEI (primary cycle); b) Providing children from socially vulnerable non-educational home environment, enrolled in groups with afterschool programme (primary cycle), with a second hot meal; c) Providing children from socially vulnerable non-educational home environment, with at least one hot meal in the secondary school cycle; d) Providing additional educational services by the teaching staff engaged in eliminating educational differences among ‘failing and absentee students’ (mainly Roma children).

6. Provide extracurricular digital empowerment courses, cultural artistic popular creation groups, sports group, spaces with creative/intellectual games (Ludoteci). Participation in extracurricular activities organized in the CGEI premises will create an important motivational factor for schooling of children (including the Roma).
7. Develop an inclusive curriculum included in social humanitarian school subjects and introduce in the Framework Education Plan, of primary/lower secondary cycle, of the school subject 'History and Culture of Ethnic Communities (including the Roma) from the Republic of Moldova', which will develop the intercultural background of students and will decrease discrimination against Roma children.
8. Develop didactic materials and organize instruction workshops based on examples of successful actions/exchange of good practices at school, prevention/combating of absenteeism and school dropout.
9. Introduce specific knowledge in the programmes that prepare the future teaching staff, so that they have the necessary information to know better the Roma students ('History and Culture of the Roma from the Republic of Moldova'). Representatives of the Roma community should be involved in both development of didactic materials and instruction of future teachers.

3.2. Education of children with sensory impairments²⁷

According to the Convention on the Rights of the Child (UNCRC), the tendency to see a child as an active participant in his or her development process is encouraged. Promotion of inclusion and individualized teaching requires a comprehensive and continuous approach, and also specific competencies that all teachers who directly assist a child/student with special educational needs shall have.

At the beginning of the 2021 - 2022 academic year, 9.5 thousand students with special educational needs and disabilities were enrolled in general primary and secondary education institutions in the country, most of whom studied in general education institutions (94.2%), and 5.8% – in schools for children with intellectual or physical development impairments.



In the 2020-2021 academic year, 221 children with hearing disabilities were included in general education (65 children in community kindergartens, 156 children in primary schools and gymnasiums). There were also 165 children with visual disabilities (37 children in kindergartens in the community,

128 children in primary schools and gymnasiums)²⁸.

²⁷ Sensory dysfunction – a neurological disorder resulting from the inability of the brain to integrate certain information received from the body, from the seven sensory functions (auditory, olfactory, gustatory, visual, tactile, proprioceptive and vestibular ones).

Data from the Ministry of Education and Research	2021	2022	2023
Number of children with special educational needs placed in special institutions for children with sensory impairments (sight)	75	74	73
Number of children with special educational needs placed in special institutions for children with sensory impairments (hearing)	73	71	56
Number of children with special educational needs enrolled in special institutions (auxiliary schools)	449	429	434
Total:	597 children	574 children	563 children

Organization of the educational process in an inclusive grade is a comprehensive process and requires teamwork of teachers, the homeroom teacher, support teachers and profile specialists, other authorities, institutions, and services with specific responsibilities in this field, as well as specialists of these entities.

As for the provision of special equipment, according to the information of the General Directorate of Education, Youth and Sports from Chisinau municipality, school institutions, ‘Miguel de Cervantes Saavedra’ THS, ‘Pro Succes’ THS, ‘Galata’ Gymnasium, ‘Decebal’ Gymnasium from Chisinau municipality have specialized equipment (screen readers, electronic magnifier for reading, magnifying device/monitor, etc.). The situation is completely different in other general education institutions – most schools do not have this specialized equipment. This situation was also confirmed by a visually impaired graduate who studied in a general education institution. The graduate said that the ergonomic conditions in the school were not adapted for children/students with visual impairments. The study programme and the curricula were not adapted²⁹. It was also found out that the current psycho-pedagogical approaches to children/students with visual sensory impairments in general education institutions do not fully cover the educational needs of such children/students, neither the psycho-social services in the school were functional.

²⁸ <https://gov.md/sites/default/files/document/attachments/subiect-03-nu-765-mec-2023.pdf>

²⁹ Report on ensuring the right to education for children with sensory impairments. The Report is part of the Partnership Programme between the Office of the People’s Advocate and UNICEF 2023-2024, as well as the Action Plan of the OPA.

Another problem of these students is taking exams in general education institutions, as well as baccalaureate exams. Baccalaureate centres shall be provided with equipment according to their needs and shall have installed markings, signs, tactile indicators focused on the needs of students with sensory impairments who will take the exams. To solve the tasks of baccalaureate exams, these students are given only one additional hour.

To succeed in the inclusion of hard of hearing and late-deafened children, the presence of a support teacher with theoretical background and psycho-pedagogical intervention skills in the context of hearing disability is essential. Such a specialist is also absolutely necessary during the baccalaureate exams.

Teachers who assist or teach hearing impaired and hard of hearing children shall know and use the sign language. In the Republic of Moldova, training of specialists in the sign language is provided by a single higher education institution, which has infrastructure, methodical support, as well as teaching staff trained in this field – the ‘Ion Creanga’ State Pedagogical University. The lack of such specialists is obvious.

Other findings/conclusions of the study carried out by the Office of the People’s Advocate on ensuring the right to education for children with sensory impairments are as follows:

- The individualized assistance offered through inclusive education services does not fully meet the needs of children/students with sensory visual impairments, hard of hearing and late-deafened children/students. There is a shortage of support staff for children with SEN.
- Travelling to school for visually impaired children is a challenge as there is no adapted street infrastructure and vehicles.
- Psychological, speech therapy and psychopedagogical assistance is insufficiently developed in general education to meet the individual development needs of children/students with sensory visual impairments, hard of hearing and late-deafened children/students.
- The inclusive education financing scheme (2% of the budget allocated to education per district) does not cover the real needs, as the funds are mainly used for the salary of support teachers.
- The existing methodologies of psycho-pedagogical approach to children/students with sensory visual impairments, hard of hearing and late-deafened children/students, and teaching supports within general education institutions, do not fully ensure the quality of education in accordance with the needs of the children/students concerned.
- General education does not have enough teachers with special psycho-pedagogical training and knowledge of the sign language, support staff and, in general, its teaching and specialized staff is not enough training;
- There are no special textbooks in general education institutions;
- There is an implicit non-acceptance by some children, parents and teachers in general schools of children/students with sensory visual impairments and hard of hearing and late-deafened children/students.
- Auxiliary staff in general schools show resistance in interacting with children/students with sensory visual impairments and hard of hearing and late-deafened children/students.

- Parents of children/students with visual sensory impairments, hard of hearing and late-deafened children/students are not enough informed about the development benefits available to the child in the inclusive school.
- Families are not prepared for relationships with their own child with SEN.
- There are obvious failures in the social protection system in terms of support for children with disabilities depending on each type of disability, taking into account its specifics and adaptations corresponding to the impairment.
- The record keeping of children with disabilities, without taking into account the type of disability does not enable the public authorities to have a clear and exhaustive picture of the real needs of families and children with hearing and visual impairments, neither enables them to develop social services focused on the specific and real needs of each type of disability.

Recommendations

To the Ministry of Education and Research:

1. Implement the Inclusive Education Development Programme of the Republic of Moldova 2024-2027, and namely: develop an accessible physical environment and an individualized educational process subject to the needs and development potential of children/students with sensory visual impairments and hard of hearing and late-deafened children/students;
2. Place information on the situation of children/students with special needs on the web page in the 'reports' section;
3. Provide general education institutions that integrated children with SEN with specific equipment and assistive technologies, subject to the needs of children/students (hearing aids; glasses to see better; walking frame, canes, modified computer keyboard, communication boards, special chairs, etc.);
4. Solve some problems of the ergonomic structure that the child with SEN will benefit from, and namely: adapt the classroom space, including the furniture, to the somato-physiological and health needs of students; pay special attention to the place in the classroom of the desk where the child with NES sits;
5. Provide educational institutions that integrated children with SEN with textbooks, necessary teaching material, depending on the needs of children with SEN;
6. Include in all initial teacher education courses a module on education of children/students with various disabilities (including those with sensory visual impairments, hard of hearing and late deafness);
7. Strengthen capacities of the teaching and management staff to develop, implement, monitor, evaluate and revise the IEP in order to have IEP adapted to the programmes in force, which will enable harmonious and balanced interaction between curricular objectives, interests, needs and suggestions of children, parents and of the teaching staff to support, encourage and ensure individual development of children;
8. Strengthen the skills of teachers of hearing impaired children to apply teaching strategies that take into account: age particularities of the child, his or her cognitive level of

development, degree of deafness, level of oral communication skills and general language, as well as intellectual particularities of each child.

9. Train teachers who support or teach children with hearing and visual disabilities to use the sign language;
10. Provide adapted transport to/from school for visually impaired students;
11. Revise the inclusive education financing scheme and the organizational chart of general education institutions, in order to be able to hire additional support teachers, speech therapists, psychologists, psychopedagogues in general schools with students/children with SEN;
12. Reduce the number of children in the grades with students/children with SEN up to 20 children;
13. The MER and the Baccalaureate Exam Support Centres should also create conditions necessary to take the Baccalaureate exams for children/students with visual sensory impairments, hard of hearing and late-deafened children/students.
14. Train the auxiliary staff in general schools to interact with children/students with visual sensory impairments, hard of hearing and late-deafened children/students;
15. Inform the parents of children with hearing and vision impairments about development benefits for the child in the inclusive school;
16. Inform and train parents and children in general schools to interact with children/students with sensory visual impairments, hard of hearing and late-deafened children/students.

To the Ministry of Health:

1. Ensure fair access to prevention, detection, treatment and rehabilitation services for persons with vision and hearing impairments;
2. Provide children with visual disabilities with technical means of optical correction and visual aid;
3. Find financial resources to pay for cochlear implant surgical interventions in case of total hearing loss.

To the Ministry of Labour and Social Protection:

1. Continue providing compensations for the transport of children with disabilities, persons accompanying a child with disabilities.
2. Provide material aid, including financial aid during the winter, to families who have dependent children with SEN.

3.3. Informal payments in schools

Collection of informal payments in schools is a widely discussed issue in society. Its impact is noticed all actors of the educational process: children, parents and teachers. The consequences are dramatic: degradation of the education system and restriction of children's access to quality education in equal conditions.

In 2020, the Institute for Public Policy conducted a study on ‘Informal payments in schools’. The study showed that parents in urban areas spend 6,959 MDL per year on informal payments, and 5,493 MDL on formal payments on average per year. Proportions are different in rural areas. Parents here reported spending more on formal payments – 6,244 MDL on average, and 4,943 MDL on average on informal payments.

Being asked what were the most widespread reasons for these informal payments, parents reported: ‘Everyone pays, so do I’ - 23%, ‘Payments improve the quality of studies’ - 18.5% think so, ‘Conditions in the school improve’- 18.3%, and 8% do it so for their child to avoid problems.

It is worth noting that over 38% of the respondents said that the amounts of informal payments are affordable to them, 26% said that additional efforts are needed to pay them, 8% of the respondents mentioned that the amounts are large and they cannot make them.

At the same time, 41% of the respondents said that if it were up to them, they would pay nothing for education as it is free. And 14% said they would be willing to continue paying³⁰.

Most of the responsibility for the scale of the phenomenon falls with the Parent Associations. The intrinsic desire to change things can be core in fighting the scourge. Administration of parents' public associations shall be imbued with the spirit of constructive civic activism, legal culture and cooperation with the authorities.

The topicality of the subject made the MER to develop the Sectoral Anti-Corruption Plan in the field of education for 2024. The most important priorities include: conducting a study on ethics and integrity in general education institutions (amount, frequency and demands of informal payments); creation and integration of an account on the platform of the Government Electronic Payment Service (MPay) intended for donations for the benefit of general education institutions; development of some mechanisms for the management of funds assigned from parents' donations, inclusion of some modules on the rules of professional ethics in the continuous professional training for teachers³¹.

The specialized body with direct powers to prevent informal payments is the National Anticorruption Centre. During 2023, more than 60 campaigns/actions were carried out to inform students and parents about the prohibition of informal payments³².

According to the Cooperation Agreement³³ between the MER and the NAC, ‘creation of an interdepartmental group for the monitoring of the process and the way of examining petitions, in which acts of corruption are reported, informing the employees of the education system about the integrity standards, prevention mechanisms and tools (including the National Anticorruption Line and specialized lines of institutions), the consequences of corruption and the development

³⁰ <https://agora.md/stiri/77163/pentru-plati-informale-in-scoli-un-parinte-achita-in-medie-anual-5600-de-lei-cel-mai-mult-se-plateste-pentru-lectii-suplimentare-sondaj>

³¹ <https://mecc.gov.md/ro/content/prevenirea-si-combaterea-coruptiei-domeniul-educatiei-pe-agenda-ministerului-educatiei-si>

³² Ibidem

³³ MER release, MER-NAC Cooperation Agreement

of the active civic spirit for denunciation of corruption, organization and performance of training activities for parents and legal representatives of children regarding their role in eradicating corruption, etc. However, according to the response of the MER to the request of the PA 'Parinti Solidari' of 24.08.2023, it was found that 'only contact persons were designated, and the mentioned group was not created'³⁴." The intersectoral working group mentioned above could be a valuable tool for capitalizing on the combined efforts of the NAC and the MER in order to eradicate corruption in education. In this regard, the authorities concerned will resume the dialogue for the achievement of the common objective.

Whenever preventive measures do not achieve their purpose, they should intervene through procedures that allow prosecuting and punishing those who claim, accept or receive rewards or material benefits, as well as those who promise, offer or give rewards. The Child Ombudsman encourages the authorities to implement the provisions of Art. 315 of the Code of Contraventions and to be decisively involved every time the children's future is threatened.

Recommendations

To the Ministry of Education and Research:

1. Resume the dialogue between the MER and the NAC in order to create the interdepartmental group for monitoring the process and the way of examining petitions, in which acts of corruption are reported;

3.4. School uniforms

The People's Advocate for the Rights of the Child has been notified by parents and students of the restriction of access to educational institutions for students who do not wear the school uniform or do not follow with the dressing style imposed by the institution (example: classic style in white-diplomat blue colours and decent outer clothing; no make-up, eccentric dyed hair and extravagant jewellery; boys – neat hair, etc.).

In one of the cases, the administration itself admitted that students' access to the institution was restricted, but only in cases when 'some students were dressed scantily, almost indecently (with bare shoulders, bare belly, with pants - ripped jeans from top to bottom, in shorts, etc)'.

The UN Committee on the Rights of the Child, in General Comment no. 1, states that children do not lose their human rights by virtue of passing through the school gates. Thus, education must be provided in a way that respects the inherent dignity of the child and enables the child to express his or her views freely and to participate in school life. Article 3(1) of the Convention on the Rights of the Child gives the child the right to have his or her best interest assessed and considered paramount in all actions or decisions concerning him or her, on both public and private matters. Whenever it is necessary to make a decision that will affect a particular child, an identified group of children or children in general, the decision-making process shall include an

³⁴ Report 'The purpose of examination by the MER and subordinate institutions of notifications on cases of corruption and/or improper behaviour in the educational field'. Page 12

assessment of the potential (positive or negative) impact of the decision on the child or children concerned.

The People's Advocate for the Rights of the Child points out that, in fulfilling their obligations under the Convention, the educational institutions concerned did not pay enough attention to the protection of rights of children, and the decisions to restrict students' access to school do not comply with the principle of the best interests of the child. Also, the educational institutions did not properly apply the strategies to promote a school dress code, which, as set in the Circular of the Ministry of Education, Culture and Research of the Republic of Moldova No. 03/1-09/2461 of 24.07.18³⁵, shall not include coercive, discriminatory and/or sanctioning procedures by applying different forms of intimidation to the student and his or her family. According to that Circular, the educational institution shall exclusively promote tools for education and awareness of the student and parents, based on respect, empathy, fairness, responsibility for ensuring the rights of each child to education. If certain dissensions/conflicts arise due to children failing to comply with the adopted dress code, the school administration finds solutions to remedy them, respecting the principle of the best interests of the child. **The student shall in no case and in no form be limited or prohibited/denied access to the institution or classroom.**

Recommendations

To the Ministry of Education and Research:

1. Disseminate the MER Circular No. 03/1-09/2461 of 24.07.18 and address the issue within the programme for strengthening the skills of education professionals 'Investing in teachers', through the actions to be taken by teaching and management staff in case of children's failing to comply with the adopted clothing code, respecting the principle of the best interest of the child, the right to education, protection and opinion.

3.5. Protection of children from any form of violence

Children have the right to be protected from any form of violence (Art. 19 of the Convention on the Rights of the Child; the Council of Europe Convention on Protection of Children against Sexual Exploitation and Sexual Abuse (the Lanzarote Convention) etc.). The state of the Republic of Moldova has a positive obligation to undertake all necessary actions to prevent, identify and respond to violence against children.

The rates of violence against children in the Republic of Moldova are worrying. Prevalence of violence is due to various factors, including societal acceptance of the use of violence, especially body punishment, as a way of education or discipline.

The Violence against children survey (VACS)³⁶, carried out in Moldova in 2019, showed that 2 out of 5 girls (36.8%) and boys (37.8%) were subjected to some form of violence until the age of 18. In addition, 1 out of 7 girls (14.4%) and 1 out of 20 boys (5.3%) were subjected to sexual

³⁵ https://monitor.drepturilecopilului.md/wp-content/uploads/2018/08/circulara_uniforma_scolara.pdf

³⁶ <https://www.togetherforgirls.org/en/resources/moldova-vacs-report-2020>

violence before the age of 18, and most did not tell anyone about their experiences. The study points out that childhood violence is associated with considerable health problems, including mental disorders, suicidal thoughts, and alcohol and drug abuse.

Another widespread phenomenon in the educational institutions of the Republic of Moldova is bullying. According to global studies, Moldova has one of the highest rates of bullying in the region. 57% of 13-15 year olds were involved in a fight in the past year or were bullied at least once in the past 2 months, according to the 2018 UNICEF study “An Everyday Lesson: #ENDviolence in Schools”³⁷. Another UNICEF study from 2019 (Bullying among adolescents in the Republic of Moldova)³⁸ showed that 70.8% of students in grades 6-12 are the target of bullying. According to a WHO study on adolescent health and well-being, released in May 2020³⁹, Moldova ranks in the top 5 countries of the HBSC region (50 countries) in terms of prevalence of the experience of being the target of bullying in school; in the top 3 in terms of prevalence of bullying behaviour; and ranked the 1 in terms of 11-year-olds bullying a classmate at school at least twice in the last 2 months. About 21% of students in grades 5-12 are the target of weekly bullying, according to the study carried out by the Alliance of NGOs engaged in Child and Family Social Protection (ACFSP), carried out between January and June 2023. In addition, 3 out of 100 students reported cyber bullying experiences at least once a month in the last school year.

The phenomena of abuse and sexual exploitation of children online are also worrying. According to a study conducted by La Strada in 2021 regarding the online experiences of children in the Republic of Moldova and the risks they are exposed to⁴⁰, 18% of the 3,829 children aged 9-17 participating in an online survey reported that in the last 12 months, things disturbing or upsetting them happened to them on the Internet, 12% said that they received messages that contained vulgar words or sexually explicit images. About 1% of 12-17-year-olds reported that they had sent photos or videos of naked parts of their bodies to people they communicated with on the Internet in the last 12 months. 13% of them sent the images to a person they only knew online (8% because they were threatened, 4% to get money or certain goods in exchange). We witness a low level of children’s trust in parents and teachers, which makes them not to ask for help. Only 3% of children talked to a teacher when something worrying them happened to them on the Internet. Only 1% talked with other specialists authorized to protect children from any form of abuse (police officer, psychologist, social worker, etc.).

In terms of the normative framework, the Republic of Moldova is well positioned: the Code of Education, Law No. 140/2013 on special protection of children at risk and children separated from their parents; GD No. 270/2014 on approval of the Instructions on the intersectoral cooperation mechanism for the identification, evaluation, referral, assistance and monitoring of child victims and potential victims of violence, neglect, exploitation and trafficking; Order of the Ministry of Education No. 77/2013 on the procedure for institutional organization and intervention of workers of educational institutions in cases of abuse, neglect, exploitation, child trafficking; Order of the Ministry of Education No. 858/2013 on the Methodology for applying

³⁷ <https://www.unicef.org/documents/everyday-lesson-endviolence-schools>

³⁸ <https://www.unicef.org/moldova/media/3146/file/Bullying-ul%20C3%AEn%20r%C3%A2ndul%20adolescen%C8%9Bilor%20din%20Republica%20Moldova.pdf>

³⁹ <https://neovita.md/studii-si-cercetari/hbsc-moldova-dinamica-datelor-2014-2018-moldova-context-national/>

⁴⁰ https://lastrada.md/pic/uploaded/Studiu_Siguranta_online-comportamente_si_riscuri-FINAL.pdf

the procedure of institutional organization and intervention of workers of pre-university education institutions in cases of abuse, neglect, exploitation, child trafficking. Following the introduction in 2022 in the Code of Education of the definition of bullying and the principle of non-violence, the Ministry of Education and Research approved, by the MER Order No. 1024/2022, the Methodology on prevention and combating of bullying, enabling during the year 2023 the education professionals to apply it.

Implementation of this normative framework has many shortcomings.

According to the semi-annual reports prepared by the Ministry of Education and Research⁴¹, there are around 8,000 cases of violence against children annually in the educational institutions of the Republic of Moldova.

Academic year	Forms of violence							Total cases			Source of subsistence				Decision following the assessment	
	Physical	Psychological	Sexual	Bullying	Neglect	Labour exploitation	Trafficking, prostitution	Girls	Boys	Total children	Teacher	Employee of EI	Parents	Children	Examination in EI	Case referral
2021-2022 Semester I	1690	1167	20	-	1096	25	3	1267	2734	4001	1899	408	399	1295	3397	604
2021-2022 Semester II	1725	1209	40	-	1225	47	1	1364	2883	4247	1918	434	688	1207	3531	716
2021-2022 Total	3415	2376	60	-	2321	72	4	2631	5617	8248	3817	842	1087	2502	6928	1320
2022-2023 Semester I	1540	988	16	-	1012	31	2	1044	2545	3589	1898	306	448	937	3021	568
2022-2023 Semester II	1778	974	22	610	1095	19	0	1493	3005	4498	2248	469	729	1052	3770	728
2022-2023 Total	3318	1962	38	610	2107	50	2	2537	5550	8087	4146	775	1177	1989	6791	1296
2023-2024 Semester I	1297	782	15	475	870	17	4	1120	2701	3821	2059	412	481	869	3340	481

It is worth noting the introduction of a new column in the report, i.e. bullying, along with the reporting for the IInd semester of the 2022-2023 academic year.

Analyzing these data in terms of the researches mentioned above, we conclude that the number of reported cases is clearly lower than the existing ones. Reduction in the number of cases reported in 2023 is also worrying, although insignificant. This is due to several factors,

⁴¹ <https://mec.gov.md/ro/content/prevenirea-si-combaterea-violentei-0>

including: poor capacity of the staff of educational institutions to identify and respond to cases of violence against children and erroneous belief that it is better not to report these cases, to safeguard the image of the institution.

In 2023, we appreciated the concern of the Ministry of Education and Research (MER) for creating a safe and friendly school environment for all educational actors, including teachers. In the context of the draft Law for the amendment of certain normative acts (in the field of education) promoted by the Ministry, the Child Ombudsman submitted his opinion⁴², noting that teaching staff can only be protected through a unitary process along with children and that this process shall be based on valuing human dignity. A distinct approach risks affecting the realization of the rights of the child given their interdependence.

The People's Advocate for the Rights of the Child examined, in 2023, 33 claims of alleged cases of violence against children, 23 of them in the school environment. Also, in 2023, the People's Advocate for the Rights of the Child officially reported 15 cases of violence against children, 5 of them in the school environment.

From the case file of official requests and notifications regarding violence against children by teachers, we found that educational institutions rarely apply provisions of Art. 135(1)(i) of the Code of Education and Art. 86(1)(n) of the Labour Code (dismissal) to the teaching staff who used violence against children, using only sanctions such as reprimand. Sometimes teachers resign, but still work in the education sector, in another educational institution. There is no register of sanctions applied to teachers, including for violence against children, which future employers, educational institutions, can consult.

Another finding is related to the similar thematic cases registered by the People's Advocate for the Rights of the Child 'qualification of facts of the staff of educational institutions' based on Article 166¹ 'Torture, inhuman or degrading treatment' of the Criminal Code. Inhuman or degrading treatment criminalized in Art. 166¹(2) of the Criminal Code is subject to punishment by imprisonment for 3 to 8 years with deprivation of the right to hold certain positions or to carry out a certain activity for a period of 5 to 10 years.

These cases are affected by the uneven jurisprudence and lack of consensus regarding the model of interpretation and application of provisions of Art. 166¹ of the Criminal Code, especially in the part regarding the special subject of the components of the crime and the gravity necessary to consider the facts as being inhuman or degrading treatment. The problem is fueled by the uneven judicial practice of the Supreme Court of Justice, whose decisions are referred to by the lower courts.

It should be noted that in some cases of violence against children committed by the staff of educational institutions, legal authorities initiate contravention proceedings based on Art. 312 (abuse of power or abuse of office) or Art. 313 of the Code of Contraventions (excess of power or abuse of power), and according to an interpretation of the Criminal Panel of the Supreme Court of Justice, the sanction for contravention provided for by these articles cannot be applied either (Decision of the Supreme Court of Justice of 18.11.2020 [File No. 1ra-1378]).

⁴² <https://ombudsman.md/post-document/opinia-avocatului-poporului-pentru-drepturile-copilului-cu-privire-la-aprobarea-proiectului-de-lege-pentru-modificarea-unor-acte-normative-din-domeniul-educatiei/>

Based on the analysis of the jurisprudence of international committees and courts, including the ECtHR (e.g. the Final Decision of the ECtHR in the case of V. K. v. Russia (violation of Art. 3 of the Convention, ‘the responsibility of the state for the acts of the teaching staff’), we consider that the uneven practice of the national courts and/or the lack of official definitions in the criminal laws cannot exclude the criminal liability of the staff of the educational institutions under Art. 166¹ of the Criminal Code. We also consider it necessary to have greater clarity and predictability in the content and application of the criminal law, which is possible through the intervention of the legislator.

Additionally, we consider it necessary to conduct a deep analysis of the possibilities of sanctioning and bringing to liability for offences or crimes those teachers who commit violence against children, with deprivation of the right to work in the education sector for a certain period of time, proportional to the seriousness of the act, and to make subsequent return to working with children conditional on successful participation in a programme of strengthening social and emotional skills.

Recommendations

To the Ministry of Justice:

1. Conduct an analysis of the current possibilities to bring to liability for offences or crimes those teachers who commit violence against children, with deprivation of the right to work in the education sector for a certain period of time, proportional to the seriousness of the act.
2. Amend the criminal law to make clear and predictable application of Art. 166¹ ‘Torture, inhuman or degrading treatment’ of professionals in the education sector.

To the Government:

1. Strengthen intersectoral cooperation to identify, assess, refer, assist and monitor child victims and potential victims of violence, neglect, exploitation and trafficking.

To the Ministry of Education and Research:

1. Conduct an analysis of the current practice of sanctioning teachers who commit violence against children, of possible solutions of depriving them of the right to work in the education sector for a certain period of time, proportional to the seriousness of the act, and conditioning their subsequent return to working with children on successful participation in a programme of strengthening social and emotional skills;
2. Keep a register of sanctions applied to teachers, including for violence against children, which future employers, educational institutions, can consult;
3. Develop and strengthen the skills of teachers to prevent and combat violence against children, including bullying (initial and continuous training);
4. Develop and implement, in a participatory manner, a policy for protection of children in educational institutions;
5. Provide all educational institutions with school psychologists;

6. Provide psycho-emotional support to teaching staff and programmes to prevent professional burnout;
7. Strengthen the social and emotional skills of the teaching staff;
8. Revise the school curriculum to include all the key concepts of comprehensive sexual education and strengthen the skills of teachers to implement it;
9. Develop parenting education programmes, including parents' schools and thematic sessions of positive parenting in meetings with parents;
10. Strengthen the skills of the teaching staff to develop competencies for the democratic culture of children (including those for valuing human rights, human dignity and cultural diversity, cooperation, non-violent conflict management, empathy).

To the Ministry of Labour and Social Protection:

1. Develop social services to support families with children in difficulty;
2. Develop specialized services for children with antisocial behaviour.

To the Ministry of Health:

1. Develop treatment and rehabilitation programmes for children with conduct disorders, within Community Mental Health Centres and Youth Clinics.

CHAPTER IV. THE RIGHT OF THE CHILD TO NAME AND CITIZENSHIP

From the moment of birth, every child has the right to name and citizenship. The child has the right to keep his or her citizenship, name and connection with the family, and if he or she was deprived of them, to have them restored. Failure to respect the right of the child to name and citizenship inherently leads to the violation of other fundamental rights, such as the right to education, the right to health, the right to social assistance and protection, the right to work, the right to free movement, etc.

According to Art. 7 of the UN Convention on the Rights of the Child⁴³, immediately after his or her birth, the child is registered, has the right to a name, the right to obtain a citizenship and the right to know and be raised by his or her parents, as far as possible. The provisions of this Article also set forth the responsibility of the state to oversee the application of these rights in accordance with the domestic legislation and the obligations assumed according to the applicable international instruments in this field.

This fundamental right is also enshrined in Art. 15 of the Universal Declaration of Human Rights; Art. 6 of the European Convention on Nationality; Art. 24 of the International Covenant on Civil and Political Rights No. 31 of 1966.

In the opinion of the Committee for the Rights of the Child, one of the special measures for the protection of the child and recognition of his or her legal personality is to ensure and guarantee his or her right to a name and citizenship. The recognition by the state of the legal status of the child, the importance of each individual child, his or her legal personality and, directly, the existence of the child, is carried out by registering his or her birth. Registration of the child at birth is a tool by which the other rights of the child can be guaranteed, such as enjoying certain facilities provided by the state, protection and social assistance, prevention of exploitation and trafficking of children, etc. At the same time, birth registration is at the foundation of the demographic database and of various national strategies aimed at guaranteeing the well-being of every citizen.

The regulations of the international treaties with reference to the right of the person to name and citizenship, have been transposed by the Republic of Moldova into the national legislation. First of all, the supreme law of the state, the Constitution of the Republic of Moldova⁴⁴, in Art. 17, provides for that citizenship is acquired, kept or lost under the conditions provided for by the organic law and that no one can be arbitrarily deprived of his or her citizenship, nor of the right to change his or her citizenship.

The Law on the citizenship of the Republic of Moldova No. 1024 of 02 June 2000⁴⁵ establishes the legal framework of relations related to the citizenship of the Republic of Moldova. As regards ensuring the right of the child to name and citizenship from the moment of his or her birth, we have the specific provisions of Art. 11 of this Law. According to it, the child is

⁴³ UN Convention on the Rights of the Child,

<https://www.unicef.org/moldova/media/6116/file/with%20Kids'%20drawings%20ROM.pdf>

⁴⁴ Constitution of the Republic of Moldova, https://www.legis.md/cautare/getResults?doc_id=136130&lang=ro#

⁴⁵ Law on citizenship of the Republic of Moldova, No. 1024/2000,
https://www.legis.md/cautare/getResults?doc_id=137681&lang=ro#

considered a citizen of the Republic of Moldova if: he or she is born of parents, both or one of whom, at the time of the birth of the child, is a citizen of the Republic of Moldova; is born on the territory of the Republic of Moldova from stateless parents or beneficiaries of international protection; is born on the territory of the Republic of Moldova from parents who have the citizenship of another state or one of whom is a stateless person or beneficiary of international protection, and the other is a foreign citizen – if, on the date of submission of the application, at least one of the parents has the right of residence or benefits from international protection granted by the competent authorities of the Republic of Moldova or is recognized as a stateless person by the competent authorities of the Republic of Moldova, as well as if the child meets the legal conditions to be recognized as a stateless person.

It is worth mentioning the progress and contribution of the People's Advocate for the Rights of the Child in amending Art. 11 of the Law on the citizenship of the Republic of Moldova. The People's Advocate for the Rights of the Child has previously been notified about problems encountered in the case of children born outside the country, but whose parents are citizens of the Republic of Moldova, but had no legal connection with the state. To examine the feasibility of making some amendments/revisions related to the application of Art. 11(1)(a), the People's Advocate, on 04 June 2021, submitted proposals in this regard to the Ministry of Justice⁴⁶.

Another problem identified by the People's Advocate at that stage was noticed in the case of children born on the territory of the country, but from parents who have the citizenship of another state or one of them is a stateless person or enjoys international protection, and the other is a foreign citizen. Previously, Art. 11(1)(c) of the Law on the citizenship of the Republic of Moldova No. 1024/2000, made the citizenship of the child born on the territory of the Republic of Moldova conditional on the status/legal form of residence of his or her parents on the territory of the Republic of Moldova. In the opinion of the Child Ombudsman, this fact could lead to 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. In this context, the People's Advocate for the Rights of the Child, on 21 May 2021, requested the Constitutional Court to verify the constitutionality of Art. 11(1)(c) of the Law on the citizenship of the Republic of Moldova No. 1024/2000⁴⁷.

Despite the Decision of inadmissibility of the Constitutional Court to verify the constitutionality of the provisions of Art. 11 of the Law on the citizenship of the Republic of Moldova No. 1024/2000⁴⁸, the proposal to amend it was taken up by an MP of the Parliament of the Republic of Moldova. As a result, on 08.06.2023, the Parliament adopted Law No. 142 for the amendment of Article 11 of the Law on the citizenship of the Republic of Moldova No. 1024/2000, in force from 03.11.2023.

⁴⁶ Proposal to amend Art. 11(1)(a) of the Law on the citizenship of the Republic of Moldova No. 1024/2000, addressed to the Ministry of Justice, <https://old2.ombudsman.md/wp-content/uploads/2022/02/PropunerMODIF2021.pdf>

⁴⁷ Notification to the Constitutional Court, <https://old2.ombudsman.md/wp-content/uploads/2022/02/2021sesizare-Curtea-Constitu%C8%9Bional%C4%83-Legea-cet%C4%83%C8%9Beniei.pdf>

⁴⁸ Decision of the Constitutional Court, <https://old2.ombudsman.md/wp-content/uploads/2022/02/Decizia-Curtii-Constitutionale.pdf>

Law No. 370/2023 on the rights of the child, another major success of 2023 to which the People's Advocate for the Rights of the Child contributed, stipulates the fundamental rights of the child, the principles and measures of ensuring the rights of the child, the powers of central and local public authorities and their interaction in ensuring the respect of the rights of the child. Art. 7 of this Law provides that every child has the right: to a name and is registered under the conditions provided for by law; to citizenship; to preserve his or her citizenship, name and family relations under the conditions provided for by law, without any interference. Also, this Law clearly establishes the obligation of the authorities to urgently take all necessary measures in order to restore the identity of the child, when it is found that a child is illegally deprived of the constituent elements of his or her identity or some of them.

The right of the child to name and citizenship, the authorities and persons holding management positions, as well as the effects of ensuring/not ensuring this fundamental right, can also be found in other domestic normative acts, such as:

- Family Code, No. 1316/2000⁴⁹, Art. 55, in close connection with Art. 53: ‘The child has the right to a surname and name’, which he or she acquires from his or her parents; ‘The child is guaranteed protection of his or her legitimate rights and interests’; ‘Protection of the rights and legitimate interests of the child is ensured by the parents or the persons who replace them, and in the cases provided for by the law – by the local/territorial guardianship authority or other competent bodies. The parents are responsible, as provided for by the legislation, for the failure to fulfil or improper fulfilment of the obligations of care and education of the child’;
- Civil Code, No. 1107/2002⁵⁰, Art. 36: ‘Any natural person has the right to the surname established or acquired according to the law’; ‘The surname is acquired through filiation and is changed by changing the civil status, under the conditions provided for by law’; ‘The name is established on the date of birth registration, based on the birth certificate’;
- Law No. 100-XV/2001 on civil status documents⁵¹, Chapter III, Section 1, stipulates the grounds for issuance of the birth certificate, the necessary conditions and requirements, as well as the obligation of the parents/legal representatives to declare the birth of the child;
- Code of Contraventions, No. 218/2008⁵², Art. 339: stipulates the penalties for violations of the legislation on the regime of civil status documents, including concealment of birth, intentional damage to or loss of civil status documents, etc.;
- Government Decision No. 258/2009⁵³ on simplification of the procedure for registering newborns: ‘The Public Services Agency shall undertake the necessary actions in order to register the birth in public healthcare institutions that include maternity hospitals, and issue the certificates concerned, ensuring that the persons concerned are informed of the possibility of registering the respective birth at the competent subdivision of the Public Services Agency in the territorial area of which they permanently reside’;

⁴⁹ Family Code No. 1316/2000, https://www.legis.md/cautare/getResults?doc_id=138943&lang=ro#

⁵⁰ Civil Code, No. 1107/2002, https://www.legis.md/cautare/getResults?doc_id=141265&lang=ro#

⁵¹ Law No. 100-XV/2001 on civil status documents, https://www.legis.md/cautare/getResults?doc_id=136551&lang=ro#

⁵² Code of Contraventions, No. 218/2008, https://www.legis.md/cautare/getResults?doc_id=141341&lang=ro#

⁵³ Government Decision No. 258/2009, https://www.legis.md/cautare/getResults?doc_id=103387&lang=ro

- Government Decision No. 966/2020⁵⁴ on the services provided by the Public Services Agency, Annex 3 – Categories of PSA services provided with facilities, which guarantee free of charge services to people who request the issuance of an identity card for the first time;
- Law No. 140/2013⁵⁵ on special protection of children at risk and children separated from their parents;
- Government Decision No. 270/2014⁵⁶ on approval of the Instructions on the intersectoral cooperation mechanism for the identification, evaluation, referral, assistance and monitoring of child victims and potential victims of violence, neglect, exploitation and trafficking.

The international and national legal framework ensures that the right of each child to a name and citizenship is respected, as well as establishes clear mechanisms whereby authorities intervene both at the initial stage and in the event of any interference with this fundamental right of each child. Nevertheless, even if there is an obligation for parents/legal representatives to register the child at birth, and the responsible authorities issue the birth certificate free of charge, there are still cases when children remain deprived of their right to a name and citizenship, as well as of the other rights related to it.

The problem of undocumented children has always been in the sights of the People's Advocate for the Rights of the Child, and was covered and analyzed in Thematic Reports⁵⁷ and Annual Reports^{58 59 60}.

The causes that lead to children not being documented are as follows:

- Late registration of the birth of the child by the parents;
- Registration of the child at foreign diplomatic missions on the territory of the Republic of Moldova (for example, the Embassy of Romania);
- Registration of children in the Transnistrian region;
- Lack of identity documents of the parents or their expiration;
- Lack of the medical document certifying the birth of the child, its loss or damage;
- Wrong entry of the mother's personal data upon hospitalization in the maternity registers, which causes gaps in the documents of the mother-child couple upon discharge from the medical institution;
- Loss of original documents;
- One of the parents is a citizen of another state, a fact that delays documentation of the child;

⁵⁴ Government Decision No. 966/2020, https://www.legis.md/cautare/getResults?doc_id=139793&lang=ro#

⁵⁵ Law No. 140/2013, https://www.legis.md/cautare/getResults?doc_id=139010&lang=ro

⁵⁶ Government Decision No. 270/2014, https://www.legis.md/cautare/getResults?doc_id=18619&lang=ro

⁵⁷ Thematic study 'Respect for the rights of children to name and citizenship', <https://ombudsman.md/post-document/raportul-tematic-respectarea-drepturilor-copilului-la-nume-si-cetatenie-2-3/>

⁵⁸ Report on the respect of the rights of the child in the Republic of Moldova in 2016, <https://ombudsman.md/post-document/raport-privind-privind-respectarea-drepturilor-copilului-in-republica-moldova-in-anul-2016/>

⁵⁹ Report on the respect of the rights of the child in the Republic of Moldova in 2017, <https://ombudsman.md/post-document/raport-privind-privind-respectarea-drepturilor-copilului-in-republica-moldova-in-anul-2017-3/>

⁶⁰ Report on the respect of the rights of the child in the Republic of Moldova in 2022, <https://ombudsman.md/post-document/raport-privind-respectarea-drepturilor-copilului-in-republica-moldova-in-anul-2022-2/>

- Frequent change of the place of residence of the parents from one settlement to another;
- Parents gone abroad for long periods;
- Parents' refusal to collaborate with the local and territorial guardianship authorities in order to document the child;
- Misunderstandings arising when establishing the paternity of the child;
- Insistence of parents to register the birth of the child according to the permanent residence and their subsequent lack of responsibility in order to declare the birth of the child to the civil status body;
- Disagreement of parents with the assignment of the personal numerical code or photographing the child, most often for religious reasons;
- Abandonment of children outside healthcare institutions;
- Bringing children illegally to the territory of the Republic of Moldova;
- Procrastination of the examination of the files related to the right of the child to a name and citizenship in courts;
- Impossibility of families with low income to pay the fare for round trip to/from district centres in order to obtain the identity document of the child;
- A document certifying the blood group of the child, which is drawn up at the Public Healthcare Institutions, as well as in district centres, which is not issued on the same day, is submitted with the application for the identity document;
- Inefficiency of the intersectoral cooperation mechanism, deficient cooperation of the authorities or even their negligence.

The People's Advocate for the Rights of the Child continues to be notified of various cases in which right of children to a name and citizenship is violated. The most frequent and serious consequences of not respecting this right occur in situations where undocumented children:

- cannot be admitted to take the graduation exams at gymnasiums;
- cannot obtain the document of graduation from gymnasiums;
- cannot continue their studies at high schools, colleges, vocational schools, etc.;
- cannot get a job;
- their degree of disability is not established;
- do not have free access to healthcare services;
- do not enjoy a form of protection;
- cannot legalize their property rights;
- have no survivor's pension, maintenance pension, as well as other allowances, etc., established for them;
- cannot be admitted to the driving license exam;
- their right to free movement is restricted (entering and exiting the country).

Although the lack of the identity document of the person leads to limitation and violation of other related rights, this is not an impediment for the detention, arrest or conviction of the child. If the child has caused harm, according to domestic legislation, he or she is to be held liable. Thus, at the request of the competent legal authorities, a provisional identity card is issued to the detained or arrested person.

The People's Advocate for the Rights of the Child reacted ex officio in the case of a child in the IXth grade, whose mother refused to get an identity card for the child for religious reasons (disagreement with the assignment of the personal numerical code and photographing of the child). Possession of the identity document is an indispensable condition for taking the graduation exams in gymnasiums. The refusal of the mother is against the will, opinion and best interest of her child.

It should be noted that, in this case, both the local guardianship authority and the administration of the educational institution were aware of the situation of the child, but did not take effective and sufficient measures to document the child. The arguments of the authorities for the child missing the identity card were that the mother of the child is a difficult and conflict person, and any measures taken were unsuccessful.

The Child Ombudsman requested the local specialized body in the field of education to find alternative solutions in that situation, if the child would miss the identity card before taking the graduation exams. To realize in full the right to education, it was decided to allow the child to take the exams with the birth certificate and the written confirmation from the principal that the child was a student of the institution concerned.

Following the intervention of the Child Ombudsman, cooperation between the guardianship authorities and those operating in the field of education was successful, so they could find the most suitable solution for the child. To realize the rights related to the right to a name and citizenship, which would ensure the well-being of the child, it was also possible to collaborate with the legal representative of the child, who realized the major importance of this document, accepting the documentation of the child. Thus, due to consolidated efforts, the child obtained the identity document and successfully passed the graduation exams at the gymnasium.

Based on the experience of the People's Advocate for the Rights of the Child of examining concrete cases of non-respect of the right of the child to a name and citizenship, it is found that most often this situation occurs due to the lapses or even negligence not only by the parents, but also by the authorities that do not act promptly, do not cooperate with each other enough, saying that they did not know the situation, do not know how to intervene or that this is out of their competencies. The authorities often refer to staff turnover or even their lack; inefficient mechanism of cooperation between all actors in the field of protection of the rights of the child in order to identify, report and intervene directly in cases of undocumented children and parents, especially when there are also certain extraneous elements; lack of a mechanism for collecting data on undocumented children and reporting these cases to the guardianship authority of the IInd level and the central authority.

In many of the situations where children remain undocumented, parents have shown irresponsibility by delaying the registration of the child's birth. The situation is more difficult when parents of such children miss identity documents as well. At this moment, the guardianship authority has the basic role, as it may hold the parents responsible and guide and/or assist them in getting identity documents. If establishment of the identity of the adult, and then of the child, is delayed or does not take place, there is a vicious circle in which the natural result of the parents missing identity documents is the child missing it as well.

To obtain real data on the level of the respect for the right of the child to a name and citizenship, as well as on the problems encountered in the exercise of this right, the Child Ombudsman requested information from the Territorial Social Assistance Structures.

According to the data provided by the Territorial Social Assistance Structures, currently there are 31 undocumented children registered by the authorities. To remedy this situation and restore the rights of these children, the responsible authorities are examining these cases and taking the necessary measures.

Some regions of the country, for the long 8-year period for which information was requested, reported zero cases of violation of the right of children to a name and citizenship. This is nothing but evidence that the mechanism of keeping records of these children is missing, not necessarily that there is really no case of undocumented children.

It is appreciable that in some regions of the country, to prevent situations of undocumented children, certain actions are undertaken, such as: information campaigns; constant collaboration with the Public Services Agency; psycho-social support for families facing difficulties in documenting their children; early identification and monitoring of social risk factors that can lead to children missing identity documents; educational programmes for children and parents; provision of financial support to cover documentation expenses; effective collaboration with healthcare and educational institutions, etc.

According to the information provided by the Territorial Social Assistance Structures, most of these guardianship authorities encounter the problem of inefficient intersectoral cooperation mechanism. According to the authorities, the mechanism does not work for various reasons:

- No involvement by the local public authority of level I;
- Staff turnover in the Community Social Assistance Service;
- No common database of records of undocumented children;
- Institutions/persons that identify undocumented children do not notify the authorities responsible for documenting them;
- No special intervention instruction in cases of undocumented children.

Recommendations

To the Ministry of Labour and Social Protection:

1. Develop a special instruction for intervention in cases of undocumented children.
2. Increase efficiency of the intersectoral cooperation mechanism in terms of prevention, identification, reporting, intervention and monitoring of cases of non-documentation of children, especially in cases with extraneous elements.

To the Public Services Agency:

1. Increase efficiency of the mechanisms responsible for population records at the local level.

2. Create a national database of records of undocumented children.
3. Identify alternative solutions for children whose parents refuse to document them for religious reasons.
4. Organize and conduct information and support campaigns for parents and future parents regarding the procedure for documenting children, as well as regarding the possible risks for children who miss identity documents.

CHAPTER V. CHILD-FRIENDLY JUSTICE

Children in detention

No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time. Every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person⁶¹.

The justice sector in the Republic of Moldova has gone through significant reforms in the recent decades. Several amendments to the normative framework aimed at transition from an outdated justice system, based mainly on punitive, monitoring and institutionalization measures, to an approach focused on reintegration and rehabilitation, and respect for human rights, fair process and ensuring supremacy laws.

In 2023, the National Administration of Penitentiaries, with the support of the Ministry of Justice and the People's Advocate for the Rights of the Child, managed to conceptually reshape the approach to minors in custody. Traditionally, juveniles, in respect of whom the preventive measure – arrest, is applied, are detained in criminal prosecution cells, where adults are also detained. This influences in the most harmful way on the course of the juvenile through the domestic execution system, because juveniles take from adults negative behavioural patterns in relation to the prison administration. In particular, juveniles are prone to copy the rules of the criminal subculture, a vice that undermines the entire effort of the prison administration to prevent recidivism.

Thus, on 24.03.2023, the first stage of the transfer of detained juveniles from Penitentiary No. 13 to Penitentiary No. 10 – Goian, where a totally renovated housing sector was commissioned in accordance with detention standards, took place. The Child Ombudsman appreciates this critical moment, as a beginning of the new model of approach to juvenile detainees in the domestic criminal execution system.

The prosecutors in the Central area of the country were officially requested to propose Penitentiary No. 10 – Goian as the institution in which juveniles shall be held in custody when preventive arrest is applied for, and the courts were requested to indicate in the decision to apply or, as the case may be, to extend preventive arrest Penitentiary No. 10 – Goian, as the institution where the execution of the preventive measure – arrest will be ensured.

⁶¹ Article 37 of the UN Convention on the Rights of the Child

DATA ON JUVENILES PLACED UNDER PREVENTIVE ARREST IN PENITENTIARY INSTITUTIONS					
No.	Statistical data for the years:		2021	2022	2023
	No. of children		15	13	14
1.	Sex of children	Girls	0	0	2
		Boys	15	13	12
2.	Gravity of the crime	Minor crimes	0	0	0
		Less serious crimes	3	2	2
		Serious crimes	6	7	4
		Particularly serious crimes	6	4	4
		Exceptionally serious crimes	0	0	4
3.	Age of children	14	2	0	0
		15	4	5	4
		16	7	5	2
		17	2	3	8
DATA ON THE NUMBER OF JUVENILES PLACED UNDER DETENTION ON THE BASIS OF A SENTENCE OF CONVICTION					
No.	Statistical data for the years:		2021	2022	2023
	No. of children		30	32	17
1.	Sex of children	Girls	1	1	0
		Boys	29	31	17
2.	Gravity of the crime	Minor crimes	0	0	0
		Less serious crimes	14	10	7
		Serious crimes	8	10	6
		Particularly serious crimes	8	12	1

		Exceptionally serious crimes	0	0	3
3.	Age of children	14	0	0	0
		15	0	1	3
		16	16	21	9
		17	14	10	5
4.	Place of detention (Penitentiary)	P-7	1	1	0
		P-10	28	28	15
		P-11	0	0	2
		P-13	1	3	0
5.	Committed crime	Murder	4	8	4
		Serious intentional harm	0	1	6
		Rape	2	1	2
		Theft	3	7	3
		Robbery	1	3	0
		Larceny	3	5	0
		Hooliganism	1	0	0
		Drug-related crimes	1	0	0
		Other crimes	15	7	2
6.	Children aged 0-3 years old with their mothers in detention		0	4	5
RESOCIALIZATION PROGRAMMES IN WHICH CHILDREN ARE INCLUDED					
No.	Statistical data / type of programme for the years:		2021	2022	2023
1.	Programme for reduction of violence in the penitentiary		5	12	14

	environment			
2.	Programme for health education in detention	26	16	3
3.	Psychosocial rehabilitation programme for drug users	0	0	0
4.	Resocialization programme for detainees who committed theft and robbery	15	0	0
5.	Programme for persons who committed property crimes	0	7	14
6.	Vocational guidance programme	13	6	6
7.	Behavioural change programme for detainees who committed sexual crimes	0	0	0
8.	Programme for reduction of criminal behaviour 'How Living Differently'	0	0	7
9.	Sexual life education programme	0	0	10
10.	Psychosocial programme 'Constructive rules with the family and the group'	0	0	9
11.	Programme for preparation of convicts for release from detention at the end of the term and conditional early relief	21	10	13
12.	Programme for social skills development in penitentiary institutions	0	0	9

Source: National Administration of Penitentiaries

Monitoring of detention places is one of the priority areas of the Child Ombudsman in his capacity as an ex officio member of the Council for the Prevention of Torture. On 7 July 2023, between 9:20 and 13:00, members of the Council for the Prevention of Torture made a preventive visit to Penitentiary No. 10⁶².

According to the organizational chart, there are 83 positions in Penitentiary No. 10, including: officers - 38, agents - 39, contractual staff - 6 persons. Total occupied positions - 75. Total vacant positions - 8 (9.6%).

The staff and their level of training are essential in assessing the functionality of a penitentiary. According to the Extract from the 24th CPT General Report, Recommendation 121: It is the responsibility of the administration of the institutions to take special precautionary measures to

⁶² The findings and recommendations in this Chapter are taken from the Report on the monitoring visit to Penitentiary No. 10 – Goian by the National Administration of Penitentiaries on 7 July 2023. <https://ombudsman.md/post-document/raport-privind-vizita-de-monitorizare-efectuata-la-penitenciarul-nr-10-goian-din-cadrul-administratiei-nationale-a-penitenciarelor-la-07-iulie-2023/>

protect minors from any form of abuse, including sexual exploitation or of other nature. Staff members shall pay attention to any signs of threats (including physical or sexual assault, verbal abuse, blackmail and theft of another minor's belongings) and shall know how to respond accordingly and take an active stance to prevent such incidents'⁶³.

Criminal subculture

The monitoring team found no cases of failure to comply with the provisions requiring detention of minors according to specific categories: detained and prevented ones. However, the criminal subculture among juvenile detainees has not yet been eliminated. One detainee has complained of psychological pressure from his cellmates because he had gotten a job and requested to be placed in another cell.

Documentation and reporting of bodily injuries

The administration and the authorities are obliged to ensure adequate investigations and special measures to prevent suicide and self-harm. Members of the visiting team found that the number of bodily injuries and self-mutilations among convicts was increasing. In the same way, CpPT found discrepancies between the number of reported cases and the register of records. Thus, in 2023 (Semester I), according to the final report, 41 bodily injuries were recorded, and according to the register there were 50 cases (in 2022 during the whole year - 33 cases, 43% more than in 2021, in 2021 - 23 cases) and 18 self-mutilations (7 cases were recorded in 2022).

Table of cases of bodily injuries and self-mutilations, 2021-2023

Bodily injuries/Self-mutilations	2021	2022	Semester I 2023
Bodily injuries	23	33	41
Self-mutilations	-	7	18

This reveals an unsafe detention environment as a whole. Employees of the Penitentiary explain the phenomenon by transfer of juveniles during the criminal prosecution from Penitentiary No. 13 to Penitentiary No. 10. Changing the environment (infrastructure) and of the rules of detention could be the cause of such a response from juvenile detainees. However, the Child Ombudsman recommends that staff constantly increase their potential to react promptly so as to prevent any form of violence between or involving juvenile detainees.

A great change took place when juvenile detainees were transferred for the execution of the interim measure – the arrest, to Penitentiary No. 10. The work in this area took a long time, and this change is only the beginning of a new approach to juvenile detainees. The entire criminal justice system should support and develop this success. It is possible that, for a certain period of time, the best employees of the system should be delegated to perform their duties in this unit, and in terms of equipment, the Goian Penitentiary should be a priority.

Application of disciplinary sanctions

The issue of applying disciplinary sanctions by suspending the right to meetings was mentioned in the reports of the CPT visits to the Republic of Moldova, in both 2018 and 2020, which warned the authorities to take measures, including by revising the legislation, so that disciplinary punishments applied to detainees not to lead to the prohibition of contacts with the family.

In 13% of cases, sanctions were applied for self-mutilation (most of the self-mutilations take place among the detainees placed in Building A and the reported reason was prohibition of smoking). In cases of self-mutilation, sanctions are applied unevenly: some detainees are sanctioned with disciplinary isolation, others with a warning or with restricted delivery of parcels and meetings with family members. The Council noticed practices of excessive application of sanctions with disciplinary isolation. The sanction of ‘disciplinary isolation’ is applied most often. During the 1st semester of 2023, there were 24 registered cases, which make up 30% of all applied sanctions compared to the whole year 2022, when ‘disciplinary isolation’ was applied in 29 cases.

Healthcare

The organizational chart of the healthcare service of Penitentiary No. 10 consists of: the head of the healthcare service, 4 certified medical assistants, a part-time psychiatrist; a part-time radiologist and a part-time radiology technician. There are improvements at the healthcare service of the Penitentiary in terms of equipment and technical resources.

The institution, however, does not have clinical psychologists trained in the field of mental health, especially of minors, to participate in the structured evaluation to establish the diagnosis of mental health problems, in development of plans, treatment and rehabilitation of patients through psychotherapy and specific psychological counselling.

The supply of medicines to the detainees is satisfactory, and procurements are carried out by the NAP through the mechanism available in the civil sector – the Centre for Centralized Public Procurement in Healthcare.

The healthcare service of Penitentiary No. 10 does not have a sanitary authorization and is not accredited. As of July 2023, the repair and equipment works were being completed to meet all accreditation requirements.

Material conditions of detention

According to the 24th CPT General Report, ‘a well-designed juvenile detention centre shall offer positive and personalized conditions for detention of juveniles, respecting their dignity and privacy. All rooms shall be properly furnished, shall have access to natural light and shall have adequate ventilation.’

In the living sectors, the material conditions meet the requirements. In Building A, where detainees are placed, the interior is cell-type, with a sanitary unit. 2 persons are placed in a cell. The cells have beds, table and chairs. They are clean and properly ventilated. Access to natural light is ensured through the windows in the cell. Artificial light is provided by electric bulbs inside the cells.

The material living conditions in Building D differ from those in Building B. Some cells are better equipped and have more facilities due to the care and cleanliness of the detainees in their

own accommodation space. Therefore, although the area of the cells meet the standards and some cells are not overcrowded, some are clean, have furniture, equipment (kettle, television), sanitary ware, etc. other cells have only the minimum equipment provided by the penitentiary (bed, chair, table, wardrobe).

Regime and activities

Juvenile detainees shall be provided with a full programme of education, sports, vocational training, recreation and other outdoor activities during the day, and the education and vocational training provided to juveniles in detention shall be similar to that provided in the community.

According to the data provided by the director of the institution, detainees may follow the lower and upper secondary education programme, vocational programme for 6 specialties and also 10 programmes implemented in order to develop social skills: resolving conflicts, communication, developing cognitive processes, knowledge and skills. A good part of the prisoners, with whom discussions were held, confirmed that they attended all the available training courses (shoemaker, cook, plasterer, barber), some got a job, work in the penitentiary and are paid for their work.

Recommendations

To the National Administration of Penitentiaries:

1. Plan and implement a multisectoral plan to deter and eliminate criminal subculture among juvenile detainees.
2. Undertake organizational and logistical support measures for the accreditation of the healthcare service in accordance with the national standards.

To the administration of Penitentiary No. 10-Goian:

1. Supervise detainees and identify causes of altercations and self-mutilation in order to reduce their number.

Compulsory enforcement of court decisions related to determination of the permanent residence or access to children

The way compulsory enforcement actions are carried out when minors are targeted shall be adapted to each particular case, so as to exclude or mitigate any unjustified interference in the right to private life of those involved and to ensure the supremacy of the interest of the child.

The domestic legal framework related to the mechanisms of compulsory enforcement of decisions on establishment of the permanent residence of the minor and compliance with the meeting schedule can be described as laconic, contains in some places inappropriate terms for the legal institutions in which they are placed and does not describe in enough details how the these legal relations take place. Thus, Article 154 of the Enforcement Code is the only article covering compulsory enforcement of enforcement documents regarding the establishment of the permanent residence of the child.

The simple and non-detailed regulations of the indicated article are criticized to the same extent in the theoretical and practical parts. Thus, in the Commentary on the Enforcement Code, Book I⁶⁴, the authors state the following: ‘the article is one of the most exposed to criticism for the laconic regulation of some aspects of utmost importance, such as security and mental and physical integrity of the child’.

In the survey carried out in the course of development of the *Methodological Guide on improvement of enforcement of court decisions related to determination of the permanent residence or access to children*⁶⁵, the bailiffs pointed out to the imperfection and insufficiency of the legal regulations as the main cause that increases the difficulty of execution of enforcement documents aimed at establishing the permanent residence of the minor. This opinion was shared by 66.7% of respondents. Among the respondents who manage enforcement files concerning the establishment of the permanent residence of the child, 58.3% reported that duration of these enforcement documents in the procedure exceeds 24 months, and 16.7% reported that the duration exceeded 12 months.

Establishment or determination of the permanent residence of the child

In accordance with Art. 63(1) and Art. 63(1¹) of the Family Code, an alternation of the following phrases is observed: establishment of the permanent residence of the child and determination of the permanent residence of the child. This cannot be seen as assigning a different legal meaning to the two terms. The purpose of determination of the permanent residence of the child is to establish a legal relation between the child and the parent who will fulfil the duties of care. It has nothing to do with the home address. The close linguistic meaning, in which the legal effects to be produced by the establishment of the permanent residence of the child would fall, would be *determination of parental protection*, a term provided for by Law No. 370/2023 of 30.11.2023 on the rights of the child.

Determination of the permanent residence of the minor child is more an action of protecting the right of the child to have a guardian, a person who will take care, protect and educate him or her, than to have a legal address.

Also, establishment of the permanent residence of the minor child does not affect the right of the child to meet with the parent who lives separately. The conclusion is based on the provisions of Art. 64(2) of the Enforcement Code, according to which parents have the right to conclude an agreement on the exercise of parental rights by the parent who lives separately from the child. Arising disputes are settled by the territorial guardianship authority, which establishes a schedule of meetings, and its decision can be challenged in the court, which will issue the decision concerned.

As regards the effects of establishment of the permanent residence of the minor child, it is noted that the legislator avoids using the phrase ‘establishment of the permanent residence of the minor child’ in the context of a right or an obligation of the parties. This could be analyzed from the point of view of the beneficiary of such a judicial solution, who is none other than the child.

⁶⁴ Commentary on the Enforcement Code of the Republic of Moldova developed within the Support project for further strengthening the efficiency and quality of the judicial system in the Republic of Moldova.

⁶⁵ The Guide was developed within the project ‘Support for further strengthening of the efficiency and quality of the judicial system in the Republic of Moldova’, financed by the European Union and the Council of Europe, and implemented by the Council of Europe within the Partnership Programme for Good Governance II 2019 - 2022.

The legislation governing the establishment of the permanent residence of the minor child could be improved by including in the content of the Family Code, the concept of *establishment/determination* of the permanent residence of the minor child, which will also include the content of the rights and obligations of the parties in this Report. Such a new regulation would remove any doubt about the enforceability of the court decision, as well as would bring more predictability to the parties, making clear their subsequent conduct.

The above-mentioned Guide highlights a number of deficiencies that reduce the guarantees offered to children when examining or enforcing court decisions on the establishment of the permanent residence of the child. They relate to compliance with the schedule of meetings between parents and children (pages 8-10) and effectiveness of the interim measures (page 11).

Compliance with the schedule of meetings

Establishing a schedule of meetings with the minor child shall be agreed upon by the parties. As suggested by the second sentence of Art. 64(2) of the Family Code, arising disputes are resolved by the territorial guardianship authority, which establishes a schedule of meetings, and its decision can be challenged in court, which shall issue the decision concerned. Challenging the schedule of meetings is an action different from establishing the schedule of meetings. The reasons for challenge arise only if there is a disagreement with the way in which the criteria for establishing the schedule set forth in Art. 64(2¹) of the Family Code have been taken into account. Following the structure of the regulatory rule, the emphasis on the power of the court can be observed, which, when it considers that the decision of the guardianship authority is unfounded, establishes the schedule of meetings directly through its decision.

The action of obliging to comply with the schedule of meetings, or of removing impediments to communication with the child, is a consequence of neglecting the decision of the guardianship authority. According to the general principle of law, the legal act is binding as long as it has not been cancelled. The purpose of this action is to ensure a coercive and enforceable nature of the document issued by the guardianship authority. In this context, the court will be called upon to issue a judgment that would reconfirm the binding nature of the act of the guardianship authority, doubling its content. Duration of the legal proceedings thus perpetuates the violation of the right of visitation to an irremediable extent for the claimant.

A solution to overcome the described situation would be amending Art. 11 of the Enforcement Code by including in the list of enforcement documents the decisions of the guardianship authority, whereby the schedule of meetings with the child is established. Exclusion of the court from the process of reconfirming the binding nature of the decision that establishes the schedule of meetings is rational from the point of view of the limits of the trial of the case, or in this sense the court is called to decide whether an administrative act, which was not challenged by the parties, is to be executed.

Interim measures in determination of the permanent residence of the child

In accordance with Art. 174 and 175(2) of the Code of Civil Procedure, there can also be *other* interim measures, in addition to those expressly stipulated in the law, which can ensure that the

court decision is enforced. Given that the procedures for enforcement of court decisions regarding minors are specific, interim measures could also be considered specific.

The risk of the failure to enforce a court decision on establishment of the permanent residence of the child can arise in its classic form: a) when the child leaves the country in the course of court proceedings; or b) when alienation/distancing of the child from the parent, appeared and developed against the background of the exaggerated durations of examination of the claim or of enforcement of the delivered court decision, is of such a nature that enforcement of the decision no longer makes sense.

A similar situation was found by the European Court of Human Rights in the case *Pisica v. Republic of Moldova* (No. 23641/17) of 29 October 2019. The Court decided that **there was a violation of Art. 8** (the right to respect for private and family life) of the ECHR, finding out that the alienation of the children from the claimant, a fact about which she complained to the authorities even before adoption of the decision on the establishment of the permanent residence of children, was a major factor for prevention of enforcement of the court decision. Therefore, the lack of an effective reaction on the part of the authorities regarding to the complaint by the claimant of alienation of the children and the failure of the court to urgently examine the case on the establishment of the permanent residence of the children contributed substantially to the possible difficulties in the enforcement of that decision. According to the conclusions of the Court, the national authorities *did not act with the necessary exceptional diligence* and did not fulfil their positive obligations under Article 8 of the Convention.

One of the solutions for the situation described above, which was proposed by practitioners, is the court decision prohibiting the parent or of any other companion authorized by him or her from leaving the territory of the Republic of Moldova with the child⁶⁶. To provide a better flexibility, especially when judicial terms are too long, the court could include in the wording of the interim measure the mention about allowing the minor to leave the country subject only to the consent of both parents. It is true that this solution, in circumstances specific to each particular case, could be too restrictive in the context of realizing other rights of the child, such as the right to recreation and rest, the right to health, education or free movement. The solution offered by the court shall be based, in any case, on the best interest of the child, which in such litigations resides in the establishment of parental protection under which the child will enjoy appropriate care and education.

In the context of the problems of enforcement of court decisions related to the risk of psychological distancing and affecting the attachment of the child to the parent, it is proposed to examine the possibility of establishing the schedule of meetings between the parents and the child during proceedings, as an interim measure. In such a case, the possible psychological discomfort of the child can be removed or reduced as much as possible in the procedure of compulsory enforcement of the decision on establishment of the permanent residence of the child.

⁶⁶ Decision of the Chisinau Court of Appeal 2r-2217/20 of 12 November 2020, which upheld the Ruling of the Chisinau Court, Centre sector No. 13069/20 of 03 August 2020, which prohibited the defendant from leaving the territory of the Republic of Moldova together with minor children.

Resistance by the child to the enforcement of the court decision

If for the opposition of the debtor to execute the court decision, the legislator provided some more or less effective remedies⁶⁷, for cases when the child himself or herself opposes the transfer to the adult specified in the enforcement document, the legislation does not offer any solutions. This regulatory omission can be appreciated as a very serious one, considering that the psychological beliefs of the child cannot be defeated by coercive mechanisms (civil or contraventional sanctions, as happens in the case of the adult-debtor) or others governed by the Enforcement Code. Thus, the bailiff faces a regulatory vacuum, which cannot be removed even by the analogy of the law. Often the bailiff does not have the necessary skills, training and knowledge to interact with a psychologically affected child, whose psyche and morals are very sensitive and fragile. In these situations, the lack of action seems to be the only solution that the bailiff can adopt. It should be noted that passivity in actions is against the spirit of the law and the mission of the bailiff.

For example, the Romanian legislator also offers solutions for the situation when the minor strongly refuses to leave the debtor or shows aversion against the creditor. Thus, the bailiff will draw up a report in which he or she will record his or her findings and which he or she will provide to the parties and the representative of the General Directorate of Social Assistance and Child Protection, in order to notify the competent court for it to order, depending on the age the child, a psychological counselling programme, for no more than 3 months.

The court will resolve the request as an emergency, in the council chamber, summoning the parents and, if applicable, the person with whom the child lives, and will apply the legal provisions of hearing the child. The court will issue a ruling not subject to any appeal, in which the name of the psychologist appointed to provide counselling, as well as the psychological counselling programme to be followed, will be mentioned. Upon completion of the counselling programme, the psychologist will prepare a report to be filed to the court, the bailiff and the General Directorate of Social Assistance and Child Protection.

⁶⁷ Drawing up the report of finding out the impossibility of enforcement with submission of a request in court to establish the manner of enforcement of the decision; drawing up the report of finding out the contravention regarding the debtor, under Art. 318 of the Code of Contraventions, for evading enforcement of the court decision.

On 4 December 2018, the ECtHR issued its judgment in the case of R.I. and others v. Romania (No. 57077/16)

This is a case of a woman who had been granted custody of her two children, but she had not obtained the enforcement of the court decisions, so the children remained with their father. The complaint claimed, in particular, that the authorities had not helped her and her children to obtain the enforcement of custody decisions, nor had they taken effective measures against the psychological abuse by the father of the children.

The Court decided that Art. 8 (the right to respect for private and family life) of the Convention was violated. Admitting that the authorities had a difficult task in view of the opposition of the father and even of the children, who were perhaps influenced by the father, the Court considered that the authorities had not taken reasonable and timely steps to enforce the children custody orders. It criticized, in particular, the fact that the authorities had not paid attention to the progressive dissolution of the connection between the first claimant (the mother) and her children, nor to the manipulative behaviour of the father. The Court therefore found that, overall, the claimants had not benefited from effective protection of their rights.

The Child Ombudsman considers that effective enforcement of court decisions on establishment of the permanent residence of the child shall be seen in terms of the powers and combined efforts of the enforcement, judicial and legislative authorities.

In the described context, it is worth noting the active role of the bailiff and the substantial contribution that child rights protection bodies and public associations operating in the field could provide in such enforcement procedures, by organizing preparatory psychological counselling sessions with children or with their parents⁶⁸, by involving several social services or requesting the assistance of psychiatrists or psychologists for children⁶⁹, by resorting to family mediation⁷⁰, in order to facilitate the contact between parents, parents and children. Courts should ensure quality and unitary examination of such proceedings, and provided solutions should ensure the balance between the rights of the child, the best interest of the child and the rights and obligations of the parents. The legislator, for its part, is to react to the findings and proposals of professionals to exclude white spots, and also to improve the domestic normative framework.

Proceeding from the importance and sensitive nature of the matter, the Child Ombudsman recommends as a starting document the *Methodological Guide on improvement of enforcement of court decisions related to determination of the permanent residence or access to children*.

⁶⁸ Case Pisica v. The Republic of Moldova (No. 23641/17)

⁶⁹ Svernei v. Moldova (No. 42787/19)

⁷⁰ Cengiz Kılıç v. Turkey of 6 December 2011

Recommendations

To the Ministry of Justice:

1. Undertake measures for the evaluation of the normative framework, having due regard to the ECtHR jurisprudence and the regulations of other countries, in order to ensure the fair and full nature of the procedures aimed at establishing the permanent residence of the child, referring, in particular, diversification of interim measures, organization of preparatory psychological counselling sessions with children or their parents, involving several social services or requesting the assistance of psychiatrists or psychologists for children, resorting to family mediation, in order to facilitate contact between parents, parents and children.

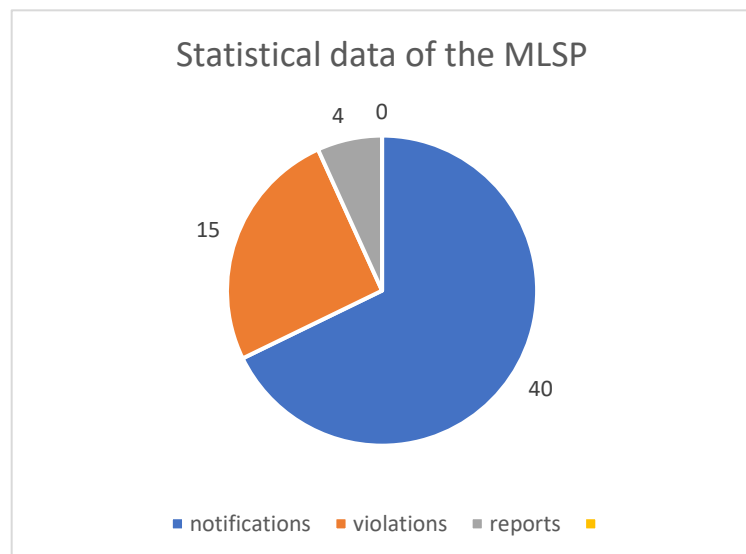
To the Supreme Court of Justice:

1. Use provisions of Art. 4(1)(b) of Law No. 64 of 30.03.2023 on the Supreme Court of Justice, to identify the possibility of issuing the advisory opinion regarding the application of the legislation in procedures concerning the establishment of the permanent residence of the child.

To the National Union of Bailiffs:

1. Use provisions of Art. 49(3)(b) of Law No. 113 of 17.06.2010 on bailiffs and generalize the practice of compulsory enforcement of court decisions in the matter of establishing the permanent residence of the child, with dissemination of positive experiences.

CHAPTER VI. CHILD PROTECTION AGAINST LABOUR EXPLOITATION



Article 32 of the UN Convention on the Rights of the Child prohibits any work that could be hazardous for the health, education or integral development of the child. The state shall establish a legal minimum age for the employment of children, regulate working conditions and apply sanctions for those who violate these rules. Children have the right to a dignified and safe life, without being exposed to economic risks or pressures.

According to the data provided by the Ministry of Labour and Social Protection (MLSP), during the last 5

years, 40 notifications were registered about the violation of the normative framework upon employment of 40 children (24 boys and 16 girls). During the inspections, 15 violations against children were found and recorded in the minutes of inspection: employment without observing the legal procedure, without preventive medical check-up, involvement in works prohibited for children, failure to comply with reduced duration of working time, violations in determining the salary. Following the detection of violations against children, 4 minutes were drawn up regarding the offence and were submitted to the court for examination according to jurisdiction. The court issued 2 decisions of punishment with a fine of 3,000 MDL and 10,500 MDL, 2 cases are still pending.

During 2022, informal employment of 3 minors was detected. They were working informally at a car wash, as an animal caretaker and as a seller. Also, the work of 4 persons aged up to 18 years old was used for work in difficult working conditions: as animal caretaker – 2 persons, and in works that may harm the health or moral integrity of minors as seller of alcoholic beverages – 2 persons.

The reporting rate of cases of child labour exploitation is low. The study participants pointed out that one reason why cases of child labour exploitation are not reported is the lack of trust in the authorities and in the social protection system, many children do not know who to apply for help or are not sure that they will be listened to and supported. There is also the risk that reporting could lead to retaliation from employers or families who depend on children's income.

The Child Ombudsman considers that the very system of reporting cases of child labour exploitation has difficulties.

‘...Some parents and adults, whose children are victims of labour exploitation, do not even know the term ‘labour exploitation’ and which institutions to turn to. In rural areas, in particular, children are involved in various seasonal works, but their parents or caregivers do not consider this a violation of the rights of the child. Many victims do not report cases of child labour exploitation, because they do not trust law enforcement agencies, as the media portray justice as being ineffective and selective. This determines the failure to report cases of child labour exploitation or late reporting to legal authorities, which can hinder initiation of control processes, court proceedings for committed offences or crimes and punishment of guilty persons...’ - in-depth individual interview, representative of the guardianship authority.

According to the Annual Report ‘Findings on the worst forms of labour exploitation of children’, recently published by the U.S. Department of Labour⁷¹, the Republic of Moldova has made progress in combating child labour, after five years in which it was evaluated with ‘minimum progress’ in this regard. This progress was possible due to the reforms and programmes promoted by the Ministry of Labour and Social Protection, namely as a result of the adoption of Law No. 355/2022 for the amendment of certain normative acts (combating informal employment), whereby amendments were made to Law No. 140/2001 on the State Labour Inspectorate, labour inspectors are allowed to carry out unscheduled inspections at employers if they have clues or information about possible violations of labour laws, such as human trafficking or exploitation. However, these amendments do not allow the inspectors to check, during the unscheduled inspection, aspects other than those that served as grounds for initiating the inspection.⁷² Given that Law No. 131 of 08.06.2012 on state control over the entrepreneurial activity sets out strict rules on the procedure and types of state control, we consider that the activity aimed at preventing the violation of human/children’s rights shall take the form of distinct areas in the activity of control bodies, being institutionalized at the level of specialized personnel subdivisions or units. Thus, a systemic approach to child protection against exploitation and abuse will be achieved in the context of a general approach based on human rights.

The Report also contains a set of recommendations, the implementation of which will allow reaching the next level, i.e. ‘significant progress’. For this purpose, it is planned to review the legislative provisions on the minimum age for admission to employment, to adopt a legal framework that defines the types of light work allowed for children and to ensure that the law prohibits and sanctions anyone who violates the minimum age for admission to employment.⁷³

The legislation of the Republic of Moldova on prevention, combating, protection and assistance of children victims of labour exploitation is in line to a large extent with the treaties and international standards ratified by the country. However, there are gaps in practical application of

⁷¹ Available online: <https://www.dol.gov/agencies/ilab/resources/reports/child-labor/moldova>

⁷² Art. 19(6) of Law No. 131/2012 on state control over entrepreneurial activity

⁷³ Response of the MLSP No. 07/4457 of 06.11.2023.

these rules, because the state labour inspectorate, the guardianship authority and the justice system are not able to respond adequately, efficiently and with a focus on the victim to the specific needs of children affected by this phenomenon.

Law No. 370 of 30.11.2023 on the rights of the child governs the right of the child to work under certain conditions, which do not affect his or her full development. This Law recognizes that some children may need or want to contribute to the economy of the family or society, and that they shall also benefit from adequate protection from the state.

Unfortunately, the domestic legal framework does not make clear the age from which the child can be admitted to family work, as it covers in particular education of the child through family work. Clear regulation of the minimum age of the child under which his or her involvement in family works could be considered an abuse or exploitation on the part of parents or caregivers is also required.

According to Law No. 140/2013 and GD No. 270/2014, authorities use an inter-sectoral cooperation mechanism to identify, evaluate, refer, assist and monitor child victims or potential victims of violence, neglect, exploitation and trafficking. This mechanism involves effective collaboration between various institutions and organizations dealing with child protection. The study results show that this mechanism works better in the field of abuse and neglect, but has difficulties and challenges in the field of labour exploitation, such as: lack of human resources and adequate materials, lack of information and awareness of the population, lack of coordination and communication between actors involved, etc. Consequently, the professionals in the field opt for the completion of Government Decision No. 270/2014⁷⁴ with provisions that would govern the interventions of the State Labour Inspectorate and territorial subdivisions in the management of child labour exploitation cases, and would improve cooperation between social protection, health entities, the State Labour Inspectorate and law enforcement agencies regarding provision of appropriate services and assistance for reintegration of child survivors of labour exploitation and human trafficking.

Although there is no specific document governing this aspect, it is addressed in other national policies aimed at protecting and promoting children's rights. They include the National Programme for Child Protection (2022-2026), which sets out the objectives and priority actions for strengthening the social protection system for children. Also, the 'European Moldova 2030' National Development Strategy, approved by the Parliament of the Republic of Moldova on 17 November 2022, includes provisions to improve working conditions and reduce informal employment, which can contribute to reducing the phenomenon of child labour.

The Ministry of Labour and Social Protection should be appreciated for its efforts to strengthen the child protection system in collaboration with UNICEF to help 25,000 families with children for one year, starting in September 2022. In the same period, the MLSP, the Ministry of Health and the Ministry of Education and Research approved new manners of reporting on child well-being. The Republic of Moldova made steps to develop assistance programmes for children victims of labour exploitation, but does not provide enough resocialization and reintegration services for those who escaped exploitation. Being asked to report the biggest constraints, difficulties in preventing labour exploitation as well as the factors that prevent prevention and

⁷⁴ Government Decision No. 270 of 08.04.2014 on the approval of the Instructions 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

combating of child labour exploitation at community level and assistance of children who suffered from it, the study participants mentioned: *low involvement by competent authorities in the field of labour and poor collaboration with institutions involved in identification, referral, record keeping, assistance and monitoring of children victims of labour exploitation; lack of prevention services and programmes adapted to the needs of this category, shortage of qualified specialists; parents' difficulty to recognize and report forms of child exploitation and the need for the state to focus not only on the child, but also on the family and to develop programmes to harmonize family relations in order to prevent all forms of child exploitation*⁷⁵.

Recommendations:

To the Ministry of Labour and Social Protection

1. Amend the national regulatory framework to govern informal child labour, establish minimum safety and health standards, ensure access to education and social services, and punish those who violate the law. Thus, observance of international conventions to which the Republic of Moldova is a party and improvement of the quality of life of children involved in economic activities should be supported.
2. Revise the existing regulatory framework by setting clear and objective criteria to determine what types of activities can be considered work permitted for children and what are the conditions for its performance. It is also important to ensure effective monitoring and adequate punishment of those who violate the law and exploit child though labour.
3. Revise the regulatory framework of the Republic of Moldova by ensuring that labour inspectors are authorized to apply punishments for child labour violations detected during inspections, even if the inspection was not conducted in response to a child labour complaint. This will contribute to increasing efficiency and effectiveness of the labour inspection system and to preventing and eliminating cases of child exploitation in economic activities. It will also ensure compliance with the international commitments of the Republic of Moldova in the field of child rights protection.
4. Complete GD No. 270/2014 with the handling procedure by employees of the State Labour Inspectorate and territorial subdivisions and other entities responsible for intervention in case of child labour exploitation. Enhance efforts to ensure adequate resocialization and reintegration services for children victims of exploitation. This requires closer cooperation between competent authorities, civil society and international partners, as well as enough financial and human resources.
5. Include in the activity plans of the control bodies actions aimed at increasing the respect and protection of human rights, in general, and of children, whose work is used in entrepreneurial activity, in particular.

⁷⁵ Thematic Report 'Labour exploitation of children', <https://ombudsman.md/post-document/exploatarea-copiilor-prin-munca/>

6. Organize information campaigns for parents/caregivers and potential child victims of labour exploitation about their rights, about how to access protection and assistance services. Also, to facilitate the understanding of the information, it is necessary to develop and disseminate information materials for different groups of victims and potential victims of exploitation (children and parents/caregivers) and different forms of exploitation, including materials adapted for victims with multiple vulnerabilities (e.g., people with mental, sensory disabilities, illiterate people, etc.).
7. Create a unique electronic system for the collection of statistical data, which includes data relevant to the procedures from the stage of registration of complaints to the full execution of punishments applied for cases of child labour exploitation and trafficking. Development of a single system will make it possible to access statistical data in real time and will be a tool for identifying gaps and positive practices at each phase of the process of examining child labour exploitation cases. Generation of accurate and correct data will enable leaders of responsible institutions to design, plan and implement policies and measures that address these weaknesses, and also use positive practices.
8. Strengthen the capacities of labour inspectors in the implementation of the inter-sectoral cooperation mechanism for the identification, evaluation, referral, assistance and monitoring of child victims and potential victims of violence, neglect, exploitation and trafficking.

CHAPTER VII. ENSURING CIVIL RIGHTS AND LIBERTIES

The right of all children to be heard and taken seriously constitutes one of the fundamental values of the UN Convention on the Rights of the Child, according to General Comment No. 12 of 2009 of the UN Committee on the Rights of the Child. The Committee on the Rights of the Child identified this right as one of the four general principles of the Convention, the others being the right to non-discrimination, the right to life, survival and development and the primary consideration of the best interests of the child. The right of the child to be heard, stipulated in Art. 12 of the Convention, establishes not only a right, but also the fact that it should be taken into account in the interpretation and implementation of all other rights.

According to the commitments, States parties should encourage the child to form a free view and should provide an environment that enables the child to exercise her or his right to be heard. Children's opinions can open up new perspectives and provide new experiences. For these reasons, children's opinions shall be taken into account in decision-making, in the development of policies and laws, as well as in their evaluation.

Constant participation of children in decision-making processes is possible by joining student councils and school committees, where they can freely share their views on the development and implementation of school policies and codes of conduct. Children can also be consulted in classroom, including on matters of the educational process. Beyond the school environment, States parties shall consult children at the local and national levels on all matters that concern them.

Children have the potential and need to be heard and supported. The inability to listen to children and the unwillingness to consult with them means that young people remain out of sight of those who hold management positions and society as a whole. Legislators and heads of various institutions and organizations are responsible, to the same extent, for creating premises for involving young people in the decision-making process. Practice shows us that, most of the time, decisions are made with neglect of the way in which the lives of children today and their future are affected.

If we want to be sure that our decisions are correct, we need quality information that we can get by consulting with children and analyzing their way of perceiving things. Their knowledge and ideas are essential to the development of an effective public policy.

Participation encourages children to get involved and take responsibility. It can empower them to initiate and implement projects and activities. This does not happen automatically of course, and children need support and encouragement to get involved. It is important that adults create the necessary conditions for the full realization of the right to participate of children.

Thus, the UN Committee on the Rights of the Child recommends that States parties undertake actions to give children opportunities to share their opinions and to give them due attention. By General Comment No. 2 of 2002 on the role of independent national human rights institutions the promotion and protection of the rights of the child, the UN Committee on the Rights of the Child states that national institutions must ensure that they have direct contact with children and that children are appropriately involved and consulted. In this regard, the Committee recommended to the National Human Rights Institutions to create children's councils as advisory bodies for them to facilitate the participation of children in decision-making and identifying solutions to matters that affect them.

In this context, to comply with international standards in the field of protection and promotion of the rights of the child, in September 2022, the People's Advocate for the Rights of the Child created the Children's Advisory Council within his Office.

The Children's Advisory Council of the Child Ombudsman is a children's platform created to freely share their opinion on the fulfilment of the obligations assumed by the Republic of Moldova based on the UN Convention on the Rights of the Child and the Association Agreement between the Republic of Moldova and the European Union. The Council is a standing advisory body, made up of 30 children aged between 10 and 17, elected for a 2-year term.⁷⁶ This advisory body represents the voice of all children on the respect, protection and assurance of the rights of children.

During 2023, the members of the Children's Advisory Council held several meetings and workshops, organized by the People's Advocate for the Rights of the Child, jointly with the Centre for Information and Documentation on the Rights of the Child (CIDRC).

On 1 April 2023, approx. 80 children, aged between 12-17 years, from different regions of the Republic of Moldova, including members of the Children's Advisory Council, participated in the general meeting of children with the topic 'People's Advocate for the Rights of the Child, Maia Banarescu – 7 years close to children'.

The meeting of the Ombudsman with children was aimed at presenting the activity of the People's Advocate for the Rights of the Child during the her term (2016-2023) in the most accessible language possible, summarizing all the results obtained and providing a platform for practical and interactive discussions on involvement of children in identifying problems, as well as the role of children and adults in solving them.

The children participating in the event analyzed case studies related to the violation of the rights of children, later they came up with proposals and recommendations on the solution of the presented problems. The students were active and interested in what was discussed, mentioning

⁷⁶ Regulation of the Children's Advisory Council of the People's Advocate for the Rights of the Child (Child Ombudsman), <https://ombudsman.md/despre-noi/consiliul-consultativ-al-copiilor/>

that following this event they understood better the role of the Child Ombudsman and how they can address to him or her if they have a problem, the role of children's human rights defenders (CHRD) and what is the role of adults in cases of violation of the rights of the child.

On 9 April 2023, the Children's Advisory Council of the People's Advocate for the Rights of the Child met at the Office of the People's Advocate. The Child Ombudsman spoke to children from various regions of the country about the history of the National Human Rights Institutions, the role and importance of knowing rights and the need to be able to defend them when they are violated.

The children were invited to get involved in interactive and practical team building activities in order to promote the right to participation and free expression, equality of rights, social inclusion. The students also discussed the achievements of the Children's Advisory Council of the People's Advocate for the Rights of the Child, the agenda of the Council and the plan of activities to be carried out.

On 9-12 July the members of the Children's Advisory Council met in a new workshop to summarize their activity over several months and also to set new objectives. Thus, the members of the Council recalled their research on the topic 'Phenomenon of discrimination in school', also presented during the 6th National Children's Forum on 19 November 2022 with the topic 'Respect for the rights of children in and to education'. The children summarized the stages they went through, as well as the results achieved. In addition, the children selected from the many problems identified by them, by vote, the topic 'Teacher-student relation in the schools of the Republic of Moldova', on which the children worked for several months.

Also, during this workshop, the children also discussed, in an interactive manner, aspects related to the Child's Web Page, which is to be developed by the Office of the People's Advocate, and namely what this child-friendly page should look like and what information should be available on it. The children also learned and shared ideas on how to make their work known to both their peers and authorities, and also how the Child Ombudsman could increase his or her visibility in the online environment.

On 11-12 August 2023, the sixth workshop of the Children's Advisory Council of the People's Advocate for the Rights of the Child took place. This was also the first meeting of the Council members with the new Child Ombudsman in her new role. In a safe space, the children shared with the Ombudsman what they had achieved at the previous workshops, including the problems they had previously identified and which children faced in school: violence, including sexual, discrimination, bullying, limited access to healthcare services and their poor quality, lack of hygienic conditions, lack of equipment in educational institutions, lack of privacy, disrespectful relations between teachers and students, the need for digital skills of teachers, application of an undemocratic teaching style in schools; lack of a school psychologist and poor quality of school psychological services (failure to respect confidentiality).

This activity also focused on the development of the tool for consulting the child's opinion during the study. At this workshop, to carry out the study on the previously selected topic, the members of the Children's Advisory Council developed a child-friendly questionnaire, which would allow collecting data and information about teacher-student communication in schools in the Republic of Moldova from their peers.⁷⁷

Thus, the participants, reflecting on the attitude of teachers towards students, on how children feel in the educational process, developed their skills for the development of an online questionnaire (they practiced formulating several types of questions, analyzed the form and structure of a child-friendly questionnaire), identified the necessary data for the questionnaire, and also developed a plan to promote and distribute that questionnaire among students.

The next workshop of the members of the Children's Advisory Council took place on 21-22 October 2023 and brought together the children to analyze the results of the questionnaire, developed and distributed by them, on the topic 'Teacher-student communication'. During the activities, the children identified the main problems, impediments, barriers, fears of students in communication with teachers. They also produced the main conclusions and recommendations to be submitted to the competent authorities in order to remedy the situation. The report developed by the children following the study was presented during the VIIth National Children's Forum.

In the context of the World Children's Day, on 21 November 2023, the People's Advocate for the Rights of the Child organized the National Child Rights Forum, a traditional event whereby children's voices are brought to the fore and a dialogue of children with authorities is established. Since its first edition, the Forum has been a good opportunity to involve children in discussions and debates about the issues they face and to create an open and friendly space for them to express their opinions freely.

This year, the seventh edition of the Forum took place with participation of 70 children aged 12 – 18 years old, members of the Children's Advisory Council of the People's Advocate for the Rights of the Child, the Children's Platform, the Group of Child Human Rights Defenders, Taraclia Children's Advisory Council, as well as other children who show interest in the field of the rights of the child, from different regions of the country, including the Transnistrian region.

This activity was aimed at providing a platform for practical discussions and interaction of children with public authorities regarding the aspects of interest, the issues faced by children, such as: teacher-student communication; importance of children's participation in law-making processes; emotional intimacy; inclusion of children with disabilities in the school environment.

⁷⁷ https://docs.google.com/forms/d/e/1FAIpQLScy-Lo4t7Qqborg_snyBsOk1vMtBvsi-WbadVvS56wDZTChIw/viewform?usp=sf_link

The National Child Rights Forum was also attended by representatives of the central authorities, such as: the Parliament of the Republic of Moldova, the Ministry of Education and Research, the Ministry of Justice and the Ministry of Health.

During this event, the members of the Children's Advisory Council of the People's Advocate for the Rights of the Child presented the results of their study on the teacher-student relation, the results of the questionnaire developed and disseminated by them to their peers (1070 child respondents). The main findings made following the analysis of the collected data concern were as follows:

- The way teachers encourage students to ask questions or share their opinion is not always appropriate (for example: teachers often ignore questions of students with special needs; when students ask certain questions, teachers blame them for they did not pay attention when the lesson was taught; sometimes teachers do not take into account the questions of children with lower academic performance, etc.);
- Half of the respondents reported that teachers respectfully accept all students as they are, 29% of them reported that this happens often, 15% - occasionally, and 6% - never. The children found that respect for students depends on certain factors, such as: academic performance, social status, financial status, religion, clothing, etc.;
- 7.9% of children never feel safe and protected to share their thoughts, needs, emotions at school, and 20.4% of children feel this only occasionally;
- 7 out of 10 children were subjected to disciplinary measures that affected their human dignity at least once (hitting, degrading words, shouts, etc.) by the teachers;
- A little over 30% of the respondents said that if necessary they could turn to teachers, almost 21% of the children who answered the questionnaire mentioned that they do not want to turn to anyone, and 6.3% have no one to turn to. The reason why children avoid turning to teachers for help is the fear of being judged, blackmailed by teachers, etc.;
- The students who answered the questionnaire reported that in the school environment they faced or witnessed several types of violence from teachers in the following proportions: physical violence - 9.4%, psychological violence - 43%, sexual violence - 3.3%;
- In addition to curiosity and joy, emotions frequently felt by students when communicating with teachers are anger (35%) and fear (17%).

Following the study of 'How does the family and school environment contribute to the development of emotional intimacy of children?', the analysis of the answers to the questionnaire distributed to peers (170 respondents), the members of the Children's Platform, obtained the following findings:

- More than half of the children never talk to their parents about complexes, jealousy, anxiety, personal intimate space, fears, friendships, love relationships, etc.;
- More than half of the children who responded to the questionnaire mentioned that they never talk to teachers about fears (63%), complexes (68%) and intimate/personal issues

(68%). Student respondents mention that they cannot discuss complexes with teachers because they are the ones who create them;

- A significant number of children, i.e. 43% of the respondents, do not enjoy assistance from teachers whenever they need it, when solving certain problems with other teachers. Even when they get it, the methods whereby they help are not always appropriate;
- 29% of the children who participated in the study say that at least once the teachers publicly discussed their intimate/private life;
- More than ¼ of the children who answered the questionnaire had at least one situation when teachers violated their personal boundaries (hugs, touching the body, holding hands, etc.).

During the discussions between the children and representatives of the central public authorities, other matters/problems were also discussed, such as:

- Lack of psychologists in educational institutions, as well as of motivation of young specialists to follow this profession;
- Violation of the principle of confidentiality by school psychologists;
- Children are not listened to, they are often offended by teachers;
- Discussions on taboo subjects are prohibited in school premises;
- Sometimes, when children share their opinion, they are threatened by teachers;
- The need to change the curriculum, to include optional subjects, such as: sexual education, financial education, human/child rights education and to ensure educational institutions with teachers trained for the respective subjects;
- Disagreement with the expulsion of the student as a sanction and how it will be applied;
- Informal payments in the educational system;
- Suicidal messages and discrimination in the literature included in the school curriculum;
- Lack of a healthcare assistant in educational institutions and his/her part-time work;
- General unsatisfactory state of health of the students due to the overloaded education programme;
- Lack of training for students to provide first aid in case of emergency;
- Insufficiency of services for child victims/witnesses of violence;
- Too expensive books;
- Poor intersectoral cooperation mechanism in cases of violence against children;
- Bad conditions for learning in some educational institutions, which do not meet sanitary standards (lack of sanitary units or limited access to sanitary units, lack of soap, toilet paper in sanitary units, lack of canteen, etc.);
- Lack of quality drinking water sources in educational institutions;
- Lack, in some educational institutions (especially in the 'Lucian Blaga' Theoretical High School in Tiraspol), of study halls, sports halls, as well as their poor equipment, etc.;
- Inadequate remuneration of the support teaching staff members who assist children with special educational needs.

As a result, to remedy the situation created due to the aspects mentioned above, **the children submit the following recommendations to the Ministry of Education and Research:**

- Develop educational programmes for teachers, containing the following topics: encouraging children to ask questions, share their opinion freely, respect for diversity, nonviolent communication, etc.;
- Create a mechanism for consulting students' opinions, on aspects that concern them;
- Create a mechanism for addressing/submitting complaints from children;
- Create a systematic assessment mechanism as a whole regarding the well-being of children in school;
- Conduct information campaigns on school violence and methods of reporting and intervention in cases of violence;
- Introduce and organize parenting classes for parents with topics such as: assessment of risk situations, intimate relationships, support in stressful situations, etc.;
- Employ school psychologists to provide support to children and guidance/participation/involvement of parents, if necessary;
- Train teaching staff on topics such as: emotions, acceptance, psycho-emotional development of children, etc.;
- Include in the educational programme (initial and continuous training) for future teachers and psychologists classes on emotions, how to intervene in situations when children have emotional concerns, and proper management of emotions by teaching staff;
- Future teachers and psychologists should be trained how to organize the learning process taking into account the needs of each child.
- Provide methodological support to Specialized Local Bodies in the Field of Education and, respectively, to the administrations of educational institutions, in order to:
 - a) organize activities to promote the rights of the child in educational institutions, with an emphasis on preventing and combating school violence;
 - b) organize ad hoc monitoring visits to educational institutions;
 - c) create conditions and a friendly space, where students will be able to freely share their opinion, thoughts, emotions, questions and worries;
 - d) effectively apply the intersectoral cooperation mechanism;
 - e) ensure teachers' access to appropriate learning resources, as needed, to improve communication skills;
 - f) the ANET Coordinator shall organize information sessions for children on the mechanism for reporting school violence cases;
 - g) the ANET Coordinator shall carry out information sessions for teachers, including, auxiliary staff and parents on non-violent education and assertive communication with children;
 - h) teachers shall encourage children to share their opinions freely, to answer children's questions and intervene promptly in difficult situations;
 - i) teachers shall use informal education methods, for participation of all children, encouraging diversity in the group and diversity of opinions;

- j) homeroom shall organize team-building activities with students, developing trustworthy relations;
- k) effective communication with students, appropriate support in communication blockages with other teachers;
- l) organize discussions between principals and parents to encourage and support students to overcome challenges in school.

CHAPTER VIII. RESPECT FOR THE RIGHTS OF DISPLACED CHILDREN FROM UKRAINE

In February 2022, an armed conflict broke out in Ukraine that entailed instability, forcing many people, including children, to seek safety, protection and assistance in neighbouring countries. The war commenced by the Russian Federation against Ukraine generated a strong flow of migrants, which was to be managed by the neighbouring countries, including the Republic of Moldova.

Depending on the nature of the response of the authorities to the management of the flow of people fleeing the war, two phases can be outlined: (i) the initial phase of emerging crisis; and (ii) the phase of functional management and inclusion. The initial phase was marked by the unplanned flow of people, including of children taking refuge on the territory of the Republic of Moldova, for which the authorities, civil society organizations, state enterprises created Temporary Placement Centres for Refugees (TPCR); so mechanisms to manage the immediate and basic needs of displaced people from Ukraine (housing, food, hygiene) was created. The second phase can be described as a functional one, during which the national authorities developed procedures and put in place intervention and assistance mechanisms that were aimed at respecting the rights of refugees.

Children were the most seriously affected, becoming innocent victims of the acts of violence. Due to their vulnerable nature and the inability to protect their own rights, they have been exposed to various risks related to violence. In accordance with Article 22 of the UN Convention on the Rights of the Child (UNCRC), refugee children or those seeking such status have the right to special protection, and the state is obliged to cooperate with governmental and non-governmental organizations that ensure such protection or assistance.

Social protection

According to the data available on the UNHCR website⁷⁸, from the moment of outbreak of the conflict until late October 2023, 333,769 Ukrainian children arrived in the Republic of Moldova. In the first phase after the outbreak of the armed conflict, the national authorities focused their efforts on providing a shelter for displaced children from Ukraine to ensure children's safety and well-being. Thus, by Instruction No. 1 of the Commission for Emergency Situations (CES) of 24 February 2022, creation of temporary placement centres for refugees was ordered, and by Order No. 21/2022 of the Ministry of Labour and Social Protection, the Regulation on the organization and operation of the placement centre for refugees was approved. The Moldovan authorities established a total of 133 temporary placement centres for refugees (TPCR) throughout the country. As of 30 January 2023, 65 Centres⁷⁹ were operating, and as of 01 October 2023, there were 45 Centres. The reform of TPCR from temporary placement services to social services, in

⁷⁸ <https://data.unhcr.org/en/working-group/336?sv=54&geo=10784>

⁷⁹ <https://reliefweb.int/report/moldova/moldova-refugee-accommodation-centre-rac-monthly-needs-monitoring-update-30012023-enro>

which assistance to beneficiaries is provided with respect for the dignity and rights of refugees, is underway.

Total number of registered children	Refugee children accommodated in TPCR together with parents or legal representatives	Refugee children accommodated in TPCR alone	Refugee children accommodated in the community (including those placed at the PPA, guardianship/curatorship, custody)
3,009	530	1	2,478

Along with the evolution of the TPCR reform, which will lead to the closure of several placement centres for refugees, the lack of stable housing will be a challenge in accessing social protection services. In the medium and long term, the best way to protect refugees is to include them in national systems, strengthening the capacity of the national child protection system. Priority shall be given to inclusion of refugee children in national child protection systems, including to facilitation of access to specialized services and alternative care services.

One of the challenges of ensuring protection of children displaced from Ukraine in the humanitarian context concerned the management of the flow of unaccompanied children or those accompanied by unauthorized third parties. Thus, by Instruction No. 14 of 14.04.2022 of the CES approved the Regulation on establishment of the inter-sectoral cooperation mechanism for the identification, assistance and monitoring of children in risk situations, coming from the territory of Ukraine. The mechanism provides that, after evaluation, the child is to be referred for reintegration into the biological family if his or her legal representatives are found, or is placed in the extended family (by establishing the guardianship/guardianship or custody), or is referred to the services of Professional Parental Assistance (PPA), in coordination with territorial social assistance bodies.

As of 7 October 2023, there were 109 displaced children from Ukraine in custody in the records of Territorial Guardianship Authorities (TGA). The vast majority of these children arrived in the Republic of Moldova together with their parents. Also, on 7 October 2023, according to the data provided by TGA, there were records of:

- ✓ 3 unaccompanied children and 14 children accompanied by unauthorized persons;
- ✓ 4 refugee children placed at PPA;
- ✓ 7 refugee children placed at the guardianship/curatorship service.

Another important aspect for the legal status of refugees is legalization of their stay on the territory of the state where they arrived. According to the Law No. 270/2008 on asylum in the Republic of Moldova, *temporary protection* is a form of exceptional protection aimed at

providing, in the event of a massive and spontaneous flow of displaced persons who cannot return to their country of origin, immediate and temporary protection to such persons, if there is a risk that the asylum system is not able to process this flow.

Displaced children from Ukraine holding an identity card of beneficiary of temporary protection					Total
Age	0-7 years old		8-17 years old		
sex	Female	Male	Female	Male	
	1,465	1,475	1,645	1,771	6,358

Granting temporary protection was an essential step to ensure safety and well-being of refugee children. Temporary protection status allowed extending the range of services that children can benefit from not only in respect of social protection, but also significant improvements in terms of access to healthcare. This contributed substantially to enhancing the realization of the fundamental rights of refugee children. Improving the situation of children should be a constant priority and further supported by government decisions and actions aimed at removing all barriers that still prevent full realization of rights of refugee children.

The activity of the Consultative Council for the Prevention of Violation of the Rights of Refugees, created within the Office of the People's Advocate in March 2022, highlighted that Ukrainian children on the territory of Moldova with only one parent, who are neither Ukrainians nor stateless persons, but who had a legal residence permit in Ukraine before 24 February 2022, are deprived of the possibility to legalize their status and benefit from related rights provided by temporary protection. A paradoxical situation occurs when the same child accompanied by the second parent, who is a Ukrainian citizen, as well as not accompanied by either parent, is eligible in both cases and would benefit from temporary protection⁸⁰.

The right to healthcare

In the first phase after the outbreak of the humanitarian crisis, free healthcare for refugees from Ukraine covered healthcare services available only to those who met the COVID-19 case criteria, as well as in surgical emergencies (point 20 of the CES Instruction No. 2 of 25 February 2022). Later, after establishment of the Temporary Placement Centres for Refugees, the range of healthcare services and their accessibility, increased. Then it was decided that the package of healthcare services offered free of charge to displaced children from Ukraine, beneficiaries of temporary protection, should be extended to include those without temporary protection status.

⁸⁰ Thematic Report 'Respect for the rights of displaced children from Ukraine' - <https://ombudsman.md/post-document/respectarea-drepturilor-copiilor-stramutati-din-ucraina/>

Thus, by Instruction No. 88 of 13.10.2023 of the CES (point 6) it was established that the National Health Insurance Company pays for emergency healthcare, primary healthcare and free medical examination for reasons of public health, provided from 1 March 2023 by public healthcare institutions, included in the system of mandatory healthcare insurance for displaced children from Ukraine, including those without temporary protection status. The package of services offered free of charge to such beneficiaries includes pre-hospital emergency healthcare, primary healthcare (offered by the family doctor's team) and hospital emergency healthcare. Policies and the normative framework were adjusted against the background of unpleasant incidents involving refugees from Ukraine. Several cases have been reported to the Office of the People's Advocate.

One of the cases refers to the situation of the child L.A (born in 2020) who, in November 2023, was provided with emergency healthcare at the Hancesti District Hospital. The administration of the Hancesti District Hospital requested a fee for the emergency healthcare services provided to the child, because they were foreign persons.

Another case refers to the child P.D (born in 2014), hospitalized in August 2023 at the public healthcare institution Anenii Noi District Hospital with the diagnosis of cut wound. Following the emergency healthcare services provided to the child, the mother was handed a bill to pay referring to the fact that the child could not benefit from free healthcare services because no temporary protection was granted.

The Child Ombudsman recommended the Minister of Health to take measures to ensure immediate and unconditional application by the healthcare staff of the provisions of Art. 30(4) of Law No. 270/2008 on asylum in the Republic of Moldova, which guarantees minor asylum seekers access to healthcare under the same conditions as minor citizens of the Republic of Moldova, who, in accordance with Art. 4(4)(a) of Law No. 1585/98 on mandatory health insurance, are insured by the Government.

On 12.12.2023, the Ministry of Health issued Circular No. 1514736, whereby it warned heads of public healthcare institutions about the unconditional compliance with the normative framework.

The right to education

The Constitution of the Republic of Moldova grants everyone, including foreigners, the right to education. Law No. 200/2010 on the regime of foreigners in the Republic of Moldova makes clear that *foreigners can have access to education through the national education system, and the educational authorities shall establish conditions for the recognition and equivalence of studies for enrolment in the national system.* The Law No. 270 of 18.12.2008 on asylum in the Republic of Moldova reaffirms this right and provides for that children enjoying temporary

protection are granted the right of access to compulsory general education under the same conditions as its own citizens.

Practical implementation of the constitutional guarantee indicated above was ensured by the content of CES Instruction No. 10 of 15 March 2022, through which the Ministry of Education and Research was to develop the mechanism for inclusion of refugee children in the educational system. In March 2022, the Ministry of Education and Research (MER) issued Order No. 178/2022 on enrolment of Ukrainian refugee children in national schools.

According to the data provided by the MER, in the period 24 February 2022 - August 2023, more than 2,450 children from refugee families from Ukraine were integrated into the educational system of the Republic of Moldova. As of October 2023, 1,542 refugee children were enrolled in primary, lower and upper secondary education institutions in the country.

Instructi on language	gr. 1	gr. 2	gr. 3	gr. 4	gr. 5	gr. 6	gr. 7	gr. 8	gr. 9	gr.1 0	gr.1 1	gr.1 2	Total	%
Romania n	24	26	18	14	22	15	15	17	13	2	1	0	167	10.8
Russian	216	175	134	165	167	163	114	102	78	40	17	4	1375	89.2
	240	201	152	179	189	178	129	119	91	42	18	4	1542	

Provision of temporary protection reaffirms the obligation of the authorities to ensure equal access to public education for children displaced from Ukraine, under the same conditions as citizens of the Republic of Moldova. According to point 17 of Government Decision No. 21 of 18.12.2023, the Ministry of Education and Research ‘ensures access to education for minor beneficiaries of temporary protection in public general education institutions subject to the possibilities of the educational system and under the same conditions as for minor citizens of the Republic of Moldova’⁸¹. The phrase ‘subject to the possibilities of the educational system’, in the opinion of the Child Ombudsman, cannot under any circumstances be interpreted in a restrictive sense, therefore, its exclusion would reflect a responsible approach and would determine the system to adapt and find solutions to ensure access to education for all.

To implement GD No. 21/2023, by Order No. 1109 of 04.09.2023, the Ministry of Education and Research of the Republic of Moldova approved the Instruction on the integration of children from refugee families from Ukraine in the general education institutions of the Republic of Moldova⁸². According to this departmental act, children citizens of Ukraine who came to the territory of the Republic of Moldova *after* 24 February 2022 (i) can enrol in preschool and general education institutions; (ii) have the possibility to study online classes organized by the educational institutions they attended in Ukraine, giving them access to educational platforms and resources created by the MER within the educational institutions. The Child Ombudsman welcomes this initiative and proposes the extensive logical interpretation of its provisions or express expansion of the subjects that would benefit from these regulations, or Ukrainian children who came to the Republic of Moldova until 24 February 2022 are in the same

⁸¹ https://www.legis.md/cautare/getResults?doc_id=135260&lang=ro

⁸² https://mecc.gov.md/sites/default/files/ordin_mec_1109_din_04.09.2023_instructiune_refugiati.pdf

conditions regarding the possibility of returning to the country of origin. The friendly procedure of integration into the national educational system, provided for by Order No. 1109 of 04.09.2023, should be accessible to all Ukrainian children whose right to education in their country was restricted by the war.

Despite the efforts made to ensure the right to education for refugee children, a complex reality is taking shape. In general, there is a formal recognition of the provision of this fundamental right, but the quality of education raises questions, as vulnerabilities and structural challenges are revealed. However, initially many refugee children were included in the educational system as auditors, others studied on the online platforms of the Ukrainian education system, without effective monitoring. Educational inclusion of Roma children is still a distinct challenge for the education system. Ensuring the right to education for refugee children is not only about guaranteeing access, but also about providing quality education adapted to the needs and specific context of these children.

Naturally, integration of refugee children into the national educational environment also determined some behavioural manifestations in interpersonal relations between the students themselves. The study *Knowledge, attitudes and practices regarding child protection in the school environment*⁸³, developed by the National Centre for the Prevention of Child Abuse (NCPCA), in partnership with the United Nations High Commissioner for Refugees (UNHCR), highlighted that 85% of the interviewed children consider that refugee children have the right to attend school like all other children, 6% of children consider that refugee children do not have this right, and another 4% do not know who refugees are. The study also revealed that 3 out of 4 students like that other children from other communities or settlements attend the school in their settlement and that a different language is spoken in their school than the language they speak. One out of ten students answered that ‘refugee children are less accepted than other students’.

Although, according to this study, 69% of teachers talked with students about discrimination and the need to treat all children equally and respectfully, the Child Ombudsman urges all the teaching staff in the country to make as many efforts as possible to raise awareness of students about the essence of the refugee status that some people have to obtain when fleeing war and that treating them respectfully and friendly is the first and most natural thing that one can do in relation to his or her fellows.

Recommendations

To the Ministry of Internal Affairs:

1. Revise some provisions of Government Decision No. 21/2023 on granting temporary protection to displaced people from Ukraine, in particular:
 - point 1 of the GD by expanding the group of persons eligible for temporary protection to include ‘non-Ukrainian third parties and stateless persons who prove that they have legal residence in Ukraine, based on a permanent residence permit issued in accordance with Ukrainian legislation and who cannot safely return to their country or region of origin.’

⁸³ https://www.cnpac.md/wp-content/uploads/2023/12/Raport_CNPAC_UNHCR_RO-to-print.pdf

- Point 17 by excluding the phrase – subject to the possibilities of the educational system’.

To the Ministry of Labour and Social Protection:

1. Propose for approval by the Government of the Framework Regulation on the organization and operation of the Social Service Temporary Placement Centre for persons displaced from the territory of other states and of the Minimum Quality Standards, with increased attention to the following aspects:
 - ensuring that in all Temporary Placement Centres for people displaced from the territory of other states, procedures will be adopted and applied to ensure protection of children against any form of violence, neglect, exploitation and trafficking;
 - ensuring a mechanism of admission in the Social Service Temporary Placement Centre for people displaced from the territory of other states to prevent segregation on the basis of ethnicity.
2. Establish alternative measures to support families with children who will not be eligible for the Social Service Temporary Placement Centre for people displaced from the territory of other states, at least for a certain period.
3. Strengthen the institutional and professional skills of the staff of all social services to respond to the assistance needs of families with refugee children.
4. Inform families with children about all available social services and the conditions for accessing them.

To the Ministry of Health:

1. Expand the list of healthcare services provided free of charge to children enjoying temporary protection, within the framework of specialized outpatient healthcare.

To the Ministry of Education and Research:

1. Make the ways and conditions for the recognition and equivalence of previously acquired studies and skills, as well as identification and promotion of flexible educational interventions that facilitate rapid removal of educational gaps and overcoming the language barrier, more flexible.
2. Encourage school attendance and support/make parents responsible for placing the child in the educational system.

CHAPTER IX. RESPECT FOR THE RIGHTS OF CHILDREN IN THE TRANSNISTRIAN REGION

One of the priority and constant areas on the agenda of the Child Ombudsman is the respect of the rights of children in the Transnistrian region.

Following the monitoring of the respect for fundamental human rights and freedoms in the administrative territorial settlements on the left bank of the Nistru river and in Bender municipality in 2023, the case of the minor D., aged 14, who lived alone in a rented apartment in Tiraspol municipality and whose mother went abroad to work, was identified. Entities subordinate to Tiraspol decided to enrol the minor in the closed type secondary school for minors in conflict with the law. The People's Advocate for the Rights of the Child considered that placement of the minor in a closed specialized institution was unfounded, as the status of the child in conflict with the law was not determined. Through the Varnita Representative Office of the Office of the People's Advocate and the Directorate of Social Assistance and Family Protection of the Sangerei District Council, all the circumstances of the case were made clear, and the close relatives and contact details of the mother of the minor were found. On 15 March 2023, the Head of the Varnita Representative Office of the OPA, following the talks with the representatives of the entities in Tiraspol, facilitated the release of the minor and her transfer to the older brother and the Sangerei DSAFP representative.

The right to education

Operation of schools with Romanian language of instruction on the left bank of Nistru river is an issue that can be found virtually in all policy documents related to education. During 21-22 August 2023, representatives of the Bureau for Reintegration Policies, the Ministry of Education and Research, the Technical Supervision Agency and the National Agency for Public Health, inspected 5 out of the 8 educational institutions with Romanian language of instruction that have rental contracts for some buildings in the Transnistrian region.

During the visit to the Roghi Gymnasium, concerns from both the administration of the educational institution and the Bureau were shared regarding the smooth running of the educational process. For politicized reasons, Tiraspol has not expressed so far its willingness to repairing some roads on the Cocieri plateau, one of which runs right in front of the Roghi Gymnasium; therefore there is a real risk of landslides on the territory of the educational institution. During the visit to the 'Lucian Blaga' Theoretical High School in Tiraspol city, the problem of the lack of a gym was noted, which makes difficult the proper development of the study process and needs to be solved, and involvement of actors from Tiraspol was requested again to identify an optimal solution to meet the interest of the children'⁸⁴.

⁸⁴ The Government of the Republic of Moldova, 'About the joint inspections in the 5 educational institutions with Romanian language of instruction that rent buildings in the Transnistrian region', of 22 August 2023. Accessed on 29 November 2023, <https://gov.md/ro/content/despre-inspectiile-comune-cele-5-institutii-de-invatamant-cu-predare-limba-romana-ce>

Reported details show that even 2023 did not bring important developments for these schools. The schools continued to face the same challenges that were found in the previous reports: a) failure to return own buildings; b) registration of young people and the risk of enlistment in the ‘DMR army’⁸⁵; c) limitation of the freedom of movement and systematic harassment. The approach of the authorities to recognize the existence of these problems, especially the lack of their own buildings, is encouraging, but additional efforts are needed to overcome these challenges. Therefore, the prospects for returning the buildings or identifying new premises, adapted to the educational process, are not clear⁸⁶.

According to the Report on the activity of the de facto administration of Bender city for the first 9 months of 2023, 87,929 people live in Bender municipality (with Proteagailovca and Ghisca villages), of whom 5,345 are children aged 0-7 years old. 3,237 children of them are enrolled in preschool institutions of 0 level, or about 61% of the total number of children aged 0-7 years old. The problem of the lack of educational institutions of 0 level in the administrative territorial settlements on the left bank of the Nistru river and in Bender municipality, which would operate on the basis of the national programme, was discussed several times with the administration and teachers of the educational institutions with Romanian language of instruction on the left bank of the Nistru river, who mentioned that children face difficulties in learning the school programme after graduation from educational institutions of 0 level subordinated to the de facto authorities of the Transnistrian region, where the educational process does not correspond to the relevant national acts and takes place mostly in the Russian language, more rarely in the ‘Moldovan language’ based on the Cyrillic alphabet.

Since 2000, not a single child has been placed in the boarding school for orphaned children in Bender municipality. In this way, the complex of 2 buildings with 3 floors, in which there are bedrooms, a game room, a bathroom and a shower, are not used. The building of the ‘Alexandru cel Bun’ Theoretical High School and the canteen (which currently provides nutrition for the high school students) are also located in the boarding school yard. Proceeding from these factual circumstances, the Child Ombudsman proposed to the public authorities to create an educational complex, which would ensure succession of levels and cycles in the education system according to the provisions of the Education Code of the Republic of Moldova, and the right of the child to recreational activities appropriate to his or her age, to freely participate in cultural and artistic life, etc.⁸⁷ Although the proposal of the Ombudsman was accepted at the highest level of decision-making, even in 2023 no specific actions were taken to implement the project.

‘The risk of children left without parental care to be trafficked through so-called ‘adoptions’ in the Transnistrian region

First of all, the Child Ombudsman found no respect for the personal data of orphaned children or those left without parental care. According to the so-called ‘Ministry of Social Protection and

⁸⁵ DMR – self-proclaimed Dniester Moldovan Republic

⁸⁶ Promo-Lex, Report Human rights in the Transnistrian region of the Republic of Moldova, Retrospective of the year 2023 <https://bendery.gospmr.org/ot4etnosti.html>

⁸⁷ <http://ombudsman.md/news/ombudsmanul-copilului-propune-crearea-unui-complex-educational-multifunctional-in-municipiul-bender/>

Labour of the DMR', there are 754 orphans or children left without parental care in 9 educational institutions, i.e.: 143 preschool age children and 584 school age children⁸⁸. All data on children left without parental care and on persons registered as adoptive parents and guardians are stored in the database formed under the 'law of the DMR on the state database of children left without parental care'⁸⁹. Thus, based on this 'law', the secessionist authorities publish on the web page of the 'Ministry of Social Protection and Labour of the DMR' photos and other information about the children left without parental care in the Transnistrian region⁹⁰, that directly or indirectly identify the child⁹¹.

Any of these children is exposed to the risk of being trafficked⁹², given the lack of guardianship authorities responsible for ensuring protection of children in the Transnistrian region, the lack of mechanisms to ensure functionality in the administrative territorial settlements on the left bank of the Nistru river and in Bender municipality of the Law No. 99 of 28.05.2010 on the legal regime of adoption, and issuance by the Embassy of the Russian Federation in Chisinau, contrary to the provisions of the Convention No. 262 of 22.01.1993 on Legal Assistance and Legal Relations in Civil, Family and Criminal Matters⁹³ of Russian civil status documents based on the civil status documents issued by the Transnistrian entities.

In the opinion of the People's Advocate for the Rights of the Child, the risk of child trafficking in the administrative territorial settlements on the left bank of the Nistru river and in Bender municipality can be significantly reduced by: establishing the guardianship authority for the left bank of the Nistru river and Bender municipality (in the border area); developing clear and non-bureaucratic provisions on the documentation of civil status facts in the Transnistrian region; appointing legal representatives for orphaned children from the left bank of the Nistru river and Bender municipality (e.g.: the principal of the boarding school in the region who has the citizenship of a recognized state); developing a simplified mechanism for establishing the legal status of the child left without parental care in the Transnistrian region; ensuring access for representatives of the guardianship authorities on both banks of the Nistru river to carry out the duties related to protection of children.

⁸⁸

http://minsoctrud.gospmr.org/gosudarstvennyiy_bank_dannyih_o_detyah_ostavshihsya_bez_popeceniya_roditeley/

⁸⁹

<http://www.minjust.org/web.nsf/All/67d3c0fc2e526e7fc22577380024b2df!OpenDocument&ExpandSection=1.1.10>

⁹⁰ <http://minsoctrud.gospmr.org/children.php>

⁹¹ Annex No. 1 to the Requirements for ensuring security of personal data when processing them within the personal data information systems approved by GD 1123 of 14.12.2010.

https://www.legis.md/cautare/getResults?doc_id=16012&lang=ro.

⁹² Greciuschin case, <https://www.kp.md/daily/24410.5/584730/>

<https://www.kp.ru/daily/24356/542869/>

⁹³ https://www.legis.md/cautare/getResults?doc_id=116625&lang=ro

Recommendations

To the Bureau for Reintegration Policies:

1. Widely use the recognized platforms of dialogue with the Transnistrian party to provide spaces for educational institutions with Romanian language of instruction on the left bank of the Nistru River and ensure operation of educational institutions of 0 level in the administrative territorial settlements on the left bank of the Nistru river and in Bender municipality.
2. Use extensively the recognized platforms of dialogue with the Transnistrian party in order to protect the personal data of orphaned children or children left without parental care and provide them with identity documents of the Republic of Moldova.

CHAPTER X. PROPOSALS TO IMPROVE THE NORMATIVE FRAMEWORK AND OPINIONS ON DRAFT NORMATIVE ACTS

1. The People's Advocate for the Rights of the Child came up with a proposal to the Ministry of Labour and Social Protection to amend Art. 2(2) of the Law No. 499/1999 on state social allowances for some groups of citizens by including the exception regarding the possibility to benefit from two types of social allowances simultaneously, in the case of children with disabilities who have lost their breadwinner. As this matter is monitored by the OPA, in the opinion on the draft Law for the amendment of some normative acts (amendment of Law No. 499/1999, Law No. 289/2004, Law No. 315/2016), the People's Advocate for the Rights of the Child recalled the proposal mentioned above. During the repeated approval of the mentioned draft Law, the proposal was included it. Later, in the final approval, the proposal was excluded from the draft Law as additional funds from the state budget are necessary to implement the proposed legislative amendment. Therefore, the People's Advocate for the Rights of the Child considers this reason unfair when protection of the rights of the child in difficulty are at stake. Respectively, the necessary resources were to be analyzed and identified after receiving proposals if they were not foreseen during the drafting phase. In this regard, point 13.28 of the Action Plan of the Government for 2023 cannot be neglected, as it stipulates that the express action is approval of the draft Law for the amendment of certain normative acts (Law No. 499/1999) in order to ensure children with disabilities who are beneficiaries of state social allowances and who have lost their breadwinner(s) with allowances for the loss of breadwinner and increased allowance for care, accompaniment and supervision so as to increase social inclusion and ensure a decent living for people with disabilities. We reiterate that the deadline for the action had to be in the first quarter of 2023.

2. The People's Advocate for the Rights of the Child came up with a proposal to the Ministry of Health, Labour and Social Protection on initiation of the procedure for making amendments/completions in the Regulation on the method of establishing and paying allowances for some groups of children and young people approved by Government Decision No. 132/2020, in order to remove the limiting rules applicable to children who continue their studies abroad of the Republic of Moldova, as well as to ensure unequivocal implementation of the respective provisions by the institutions that apply them.

Revision of point 18 of Government Decision No. 581/2006 for the approval of the Regulation on the conditions for establishing and paying allowances for adopted children and those under guardianship/curatorship, so that all types of educational institutions are included, according to the Education Code No. 152/2014, to provide all children/young people under guardianship/curatorship with the possibility to benefit from the respective monthly allowance.

3. The People's Advocate for the Rights of the Child came up with proposals to the Ministry of Health for actions/measures for the draft National Programme on sexual and reproductive health and rights 2023-2027 and the Action Plan for its implementation.

The People's Advocate for the Rights of the Child, in the Report on the respect of human rights and freedoms in the Republic of Moldova in 2022, mentioned that, at the National Children's

Forum, children addressed the most urgent education problems, such as the lack of sex education.

The UN Committee on the Elimination of Discrimination against Women in 2020, the UN Committee on Economic, Social and Cultural Rights in the Concluding Observations on the Third Periodic Report of the Republic of Moldova from 2017 and the UN Committee on the Rights of the Child in the Concluding Observations on the Combined Periodic Fourth and Fifth Report of the Republic of Moldova from 2017 recommend to introduce age-appropriate comprehensive education on sexual and reproductive health and rights for girls and boys in school curricula at all levels, including responsible sexual behaviour and family planning.

The need for sex education is also recognized in the 2030 UN 2030 Agenda for Sustainable Development of the United Nations.

The UN Committee on the Rights of the Child, in its Concluding Observations on the Combined Fourth and Fifth Periodic Report of the Republic of Moldova from 2017, recommends that the State party carry out a comprehensive study to assess the nature and extent of adolescent health problems, with full participation of adolescents, as a basis for future health policies and programmes.

4. In the opinion on the draft Government Decision on the National Council for Child Rights Protection (unique number 1001/CS/2022) the People's Advocate for the Rights of the Child presented the following recommendations:

- the People's Advocate for the Rights of the Child should be included in the National Council, as a member with consultative voting rights;
- the duties of the National Council should be completed with a new point as follows: 'coordination and monitoring at the national level of the implementation of the Convention on the Rights of the Child, the periodic recommendations of the UN Committee on the Rights of the Child, other treaties and recommendations of international mechanisms in the field of the rights of the child to which the Republic of Moldova is a party, and of the national normative framework in the field of protection of child rights';
- replace the phrase 'recommendations of the Office of the People's Advocate' with the phrase 'recommendations of the People's Advocate for the Rights of the Child', because according to Law No. 52/2014 presentation of recommendations to the authorities and/or responsible persons falls within the responsibilities of the People's Advocate, and the Office of the People's Advocate provides assistance to the People's Advocate in order for him or her to exercise his or her duties;
- replace the phrase '3 days' with the phrase '5 days' in order to give the Council members enough time to plan activities and methodological preparations;
- complete point 5 of Annex No. 3 with the following statement: 'coordination and monitoring of implementation of the recommendations of the Office of the People's Advocate at territorial level'.

By Government Decision No. 338 of 31.05.2023 on the National Council for Child Rights Protection, the recommendations of the People's Advocate of the Rights of the Child were transposed.

5. In the opinion on the draft Government Decision for the approval of the Regulation on establishment of the intersectoral cooperation mechanism for the identification, evaluation,

assistance, protection, referral, monitoring and record of unaccompanied children, coming from the territory of other states, the People's Advocate for the Rights of the Child provided the following recommendations:

- According to the informative note, the normative framework in the field of child protection, by Law No. 140/2013 on special protection of children at risk and children separated from their parents, establishes a mechanism for the identification, evaluation, assistance, referral, monitoring and record of children at risk, however, in an exceptional situation special prompt and effective intervention measures are necessary as approval of the draft Government Decision for the approval of the Regulation on establishment of the intersectoral cooperation mechanism for identification, evaluation, assistance, protection, referral, monitoring and record of unaccompanied children, coming from the territory of other states, is extremely necessary. He considers it relevant to specify the Law, for the implementation of which the respective mechanism is adopted. Law No. 140/2013 does not include the concepts provided for in this Regulation, for example, the concept of unaccompanied child, but the concept of abandoned child. The concept of unaccompanied minor can be found in the Law No. 270/2008 on asylum in the Republic of Moldova, Law No. 200/2010 on the regime of foreigners.
- The main concepts used in the Regulation are defined in point 5. We find the definition of the concept of unauthorized companion, which means an adult person who accompanies the child, other than his or her legal representative. The need to define this concept is not clear, especially since the text of the Regulation does not include this concept, except in Annex No. 1 and Annex No. 2. At the same time, Annex No. 3 includes the phrases 'person who accompanies the child' and 'accompanying person', which are acceptable terms that do not need to be defined, and in point 24 of the Regulation we find 'people who travel together with children'. The normative acts that govern the institution of asylum, regime of foreigners, special protection of children at risk and children separated from parents, does not include this concept as well. Following these ideas, he proposed to exclude the concept of 'unauthorized companion' from the Regulation or make uniform the terms used to be consistent with the concepts used in the normative framework in force.
- He considers it unacceptable to use the concept of handover-acceptance of the unaccompanied child, which is a procedure specific to goods, services, works, but not to the child or the human being. Therefore, he recommended to rename Annex No. 1 to the Regulation, using terms that do not offend the child's dignity. For example: Deed of entrustment of the unaccompanied child.
- Pursuant to point 21 of the Regulation, the unaccompanied child may waive the submitted asylum application. In this case, the Bureau for Migration and Asylum issues the decision to terminate examination of the asylum application and notifies the child about it, in the presence of the territorial guardianship authority of the place of residence of the child. This situation is very sensitive, because it involves evaluation of the psychological situation, the degree of maturity, the reasons for waiver of the child, the lack of influence from third parties, etc. He proposed to describe in details the procedure for waiving the initially submitted asylum application, in order to avoid risks that could affect children.
- There are no provisions on the opinion of the unaccompanied child in the Regulation. Therefore, he recalled the provisions of Art. 12 of the Convention on the Rights of the

Child, according to which the States Parties shall guarantee the child capable of discernment the right to freely express his or her opinion on any issue that concerns him or her, the opinions of the child being taken into account subject to his or her age and degree of maturity.

6. In the opinion on the draft Law No. 235 of 13.06.2023 on amendment of Art. 11(1)(c) of the Law No. 1024-XIV of 2 June 2000 on the citizenship of the Republic of Moldova, the People's Advocate for the Rights of the Child supported the amendment proposed in the draft Article 11. Acquisition of citizenship by birth, which stipulates that the child is considered a citizen of the Republic of Moldova if 'c) born on the territory of the Republic of Moldova to parents who have citizenship to another state or one of whom is a stateless person or a beneficiary of international protection, and the other is a foreign citizen – if, on the date of submission of the application, at least one of the parents has the right of residence or benefits from international protection granted by the competent authorities of the Republic of Moldova or is recognized a stateless person by the competent authorities of the Republic of Moldova, as well as if the child meets the legal conditions to be recognized a stateless person.”

By Law No. 142 of 08-06-2023 for the amendment of Article 11 of the Law No. 1024/2000 on the citizenship of the Republic of Moldova, the content of Art. 11(c) of Law 1024 was amended.

7. In the opinion on the draft Law for the amendment of Law No. 263/2005 on the rights and responsibilities of the patient, the People's Advocate for the Rights of the Child noted that the national legislator failed to adopt the law on medical malpractice, a fact that does not allow healthcare workers to be held accountable and violates the rights of the patients to access health services of the highest quality. Thus, he considers that exclusion of the concept of medical error from the Law No. 263/2005 on the rights and responsibilities of the patient, at a phase when the legislation is not certain regarding medical errors, is early.

By Law No. 330 of 09-11-2023 for the amendment of Law No. 263/2005 on the rights and responsibilities of the patient, the latter was supplemented with the definition 'medical error – a professional error committed in the exercise of the medical or medico-pharmaceutical act, harming the patient, entailing civil liability of the healthcare staff and of the product supplier, provider of healthcare, sanitary and pharmaceutical services.'"

8. In the opinion on the draft Decision on the approval of the draft Law on the amendments of certain normative acts (modernization of civil status acts), the People's Advocates said that it is also appropriate to examine the previous proposals:

- to revise the Family Code No. 1316 of 26.10.2000, Law No. 246 of 15.11.2018 on notarial procedure, Law No. 100 of 26.04.2001 on civil status documents, in cover the aspect of listening to the child's opinion upon termination of marriage of the parents at the civil status body and a notary;
- to complete the Family Code with a legal rule establishing the obligation of parents to maintenance their adult children who continue their studies, but only until the age of 23 years old.

9. In the opinion on the draft Decision for the approval of the draft Law on the rights of the child, the People's Advocate for the Rights of the Child presented the following recommendations:

- to expressly provide in Art. 2 the criteria of sexual orientation and gender identity, which are often grounds for discrimination against adolescents;
- to clearly refer to the right of children to participate in public affairs and to make political decisions;
- to include an article on the empowerment and protection of child human rights defenders (CHRD) – those children who defend not only their rights, but also those of others;
- to rename Art. 15 to 'The right to association and peaceful assembly' and to complete the Article with paragraph (3) with the following content: Children have the right to peaceful assembly. The UN Convention on the Rights of the Child provides for in Art. 15 the freedom of association and the freedom of peaceful assembly. Subsequently, the amendment of Art. 6 of the Law No. 26/2008 on meetings, which limits this right to children, is required;
- to replace the term 'policy' in Art. 15(2) with the phrase 'political parties', because the meaning of the phrase 'political activity' is narrow and could give rise to interpretations likely to limit the exercise of civil and political rights of children. It is important to empower children to participate in political activity when they are interested;
- to include the right of the child to a clean, healthy and sustainable environment, as stipulated by the General Comment of the UN Committee on the Rights of the Child No. 26 on the rights of the child and the environment, with particular emphasis on climate change.

The Law on the rights of the child was adopted in the second reading of the plenary session of the Parliament on 30.11.2023, taking into account the proposals of the Advocate for the Rights of the Child.

10. In the opinion on the draft Law No. 985/2002 for the amendment of the Criminal Code of the Republic of Moldova (preventing and combating sexual exploitation and sexual abuse committed against minors), the People's Advocate for the Rights of the Child presented the following recommendations:

- complete Art. 132 ind. 2 of the Criminal Code with paragraph (4) with the following content:
'Any sexual act or action of a sexual nature committed with a person who has not attained the age of 14 is considered non-consensual, provided that the age difference between the victim and the perpetrator is at least 5 years'.
- exclude the phrase 'knowingly' from the norms provided for in Art. 171-175 of the Criminal Code.

11. In the opinion on the draft Regulation on audiovisual contents, the People's Advocate for the Rights of the Child said that he still supports the additional protection that shall be granted to minors and proposes to include in 'Chapter III. Protection of Minors' mentions on the inadmissibility to use the image of minors in electoral campaigns, referendums, in political

agitation/propaganda actions and actions that pose a danger to the life and health of the minor or harm the honour and dignity of the minor.

He also has reservations regarding point 39 of Chapter III to admit participation of minors aged 16-18 years old, who are in various forms of detention (apprehended, arrested, detained in penitentiary) or who have the procedural status of being suspected, accused or convicted of committing crimes during a criminal prosecution, as well as minors who are victims or witnesses of physical, mental or sexual abuse, in audiovisual programmes. It is well-known that such content contributes considerably to the high rating of the show or television station, but first of all, the impact on minors, both those involved in creating the content and those who watch it, shall be assessed.

A sensitive issue is also the audiovisual content that shows crimes related to sexual life. He suggested excluding the exception set forth in point 24 of 'Chapter II. Provision of correct information to the public', whereby the identity of the victims can be revealed if their written consent has been provided. There is a risk of giving consent under the influence of factors that cannot be assessed at the initial stage, and the consequences of making this material public can be disastrous for the future of the victims.

12. In the opinion on the draft Decision on the Republican Centre for Psychopedagogical Assistance, the People's Advocate for the Rights of the Child considered it necessary to expressly establish in the draft Statute of the Public Institution RCPA, as a duty, provision of psychopedagogical assistance to minors by territorial structures of psychopedagogical assistance before the legal bodies, as well as other institutions.

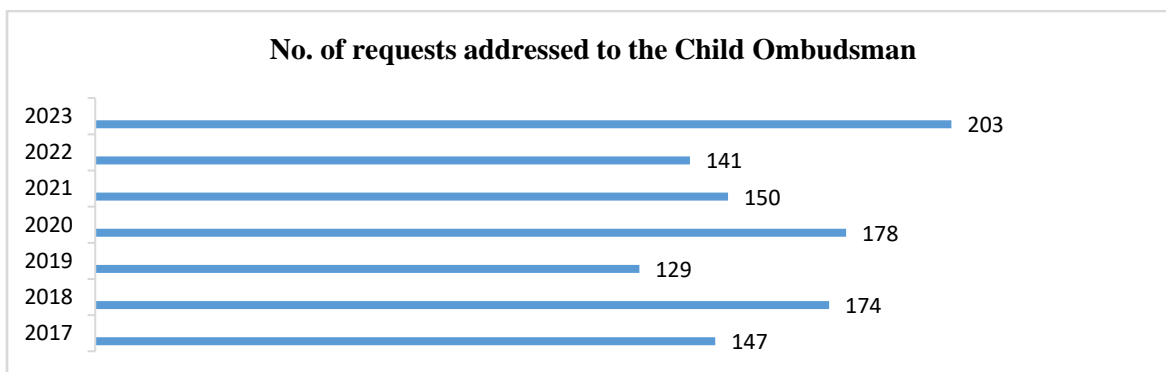
The draft was approved by GD No. 732 of 16-09-2013 on the Republican Centre for Psychopedagogical Assistance and the district/municipal Psychopedagogical Assistance Service.

13. In the opinion on the draft Law for the amendment of certain normative acts (in the field of education), the People's Advocate for the Rights of the Child communicated that:

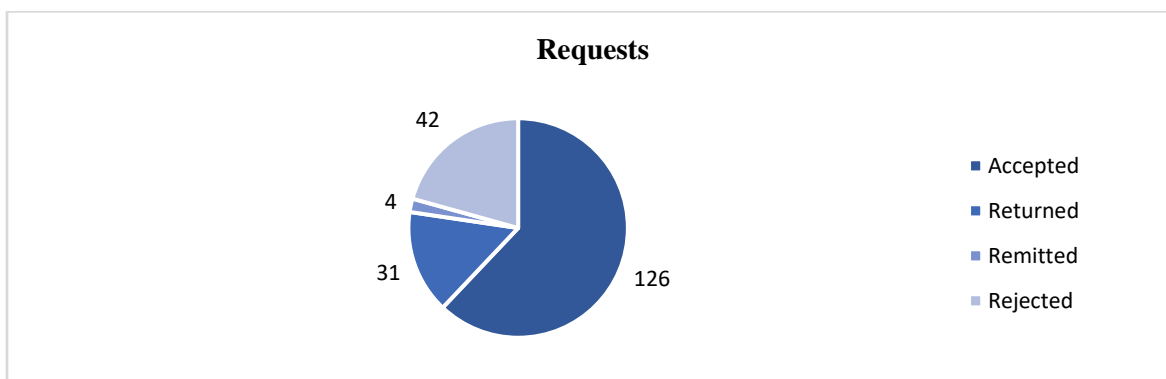
- he does not support the proposals to complete the Education Code with Art. 136¹ Rewards for students and 137¹ Sanctions applicable to students;
- he pleads for maintaining the current form of the provision stipulated in Art. 132(4) of the Education Code, which provides for that 'to hold teaching positions, graduates of non-pedagogical higher education programmes must follow the psycho-pedagogical module corresponding to a number of 60 study credits';
- he considers it appropriate to exclude the phrase 'on distances over 2 km' from the proposed addition to Art. 136(9)(c) of the Education Code. Nutrition of children cannot be seen only as a process of actual product consumption. This implies an environment of interaction/communication, development of conduct/decision-making skills/capabilities of children and, last but not least, a significant opportunity to prevent the feeling of inequality, discrimination of the child.

CHAPTER XI. 2023 IN FIGURES AND PERFORMED ACTIVITIES

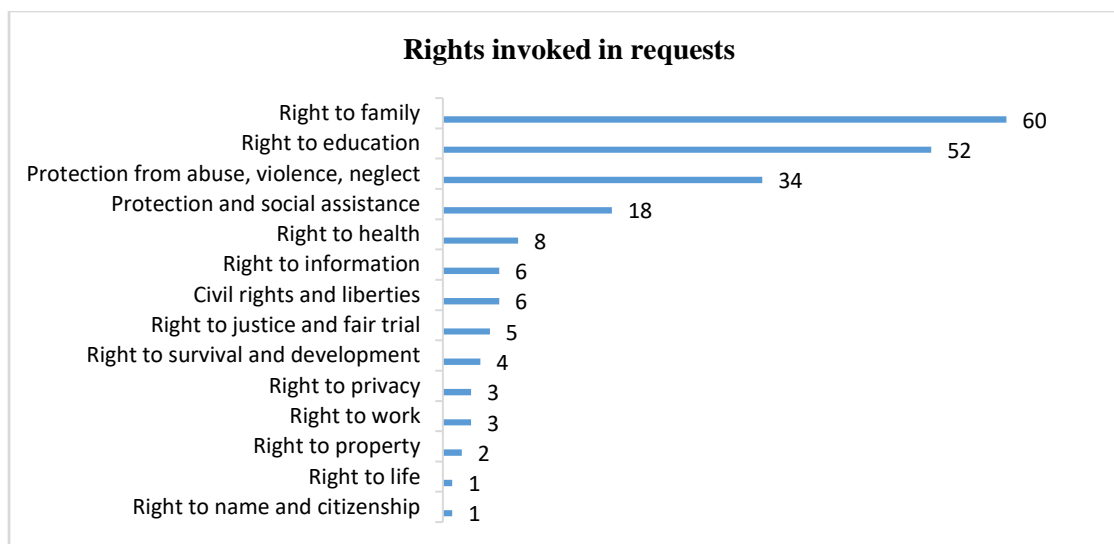
In 2023, the People's Advocate for the Rights of the Child received **203 requests**. There is an increase in the number of addresses compared to previous years.



Out of the total number of requests, 126 met the admissibility requirements and were accepted for examination. In respect of 42 requests, rejection decisions were issued and 31 requests were returned without examination, explaining to the petitioner the procedure he or she is entitled to use to defend his or her rights and freedoms. Out of the total number of registered requests, 4 were submitted to the competent authorities to be examined subject to the competence.



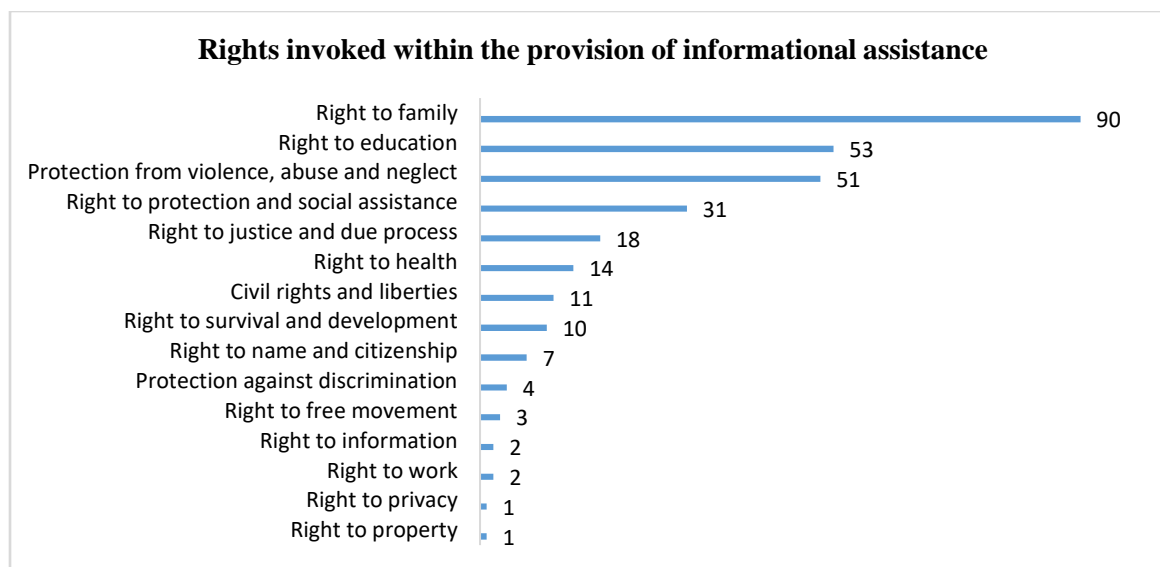
Following the examination of the requests received by the People's Advocate for the Rights of the Child, we find out that the rights invoked as allegedly violated are the following:



Given the functional duties, to ensure the respect for the rights of the child, the People's Advocate for the Rights of the Child may act ex officio to assist the child in difficulty or at risk. Following the information appearing in the media, social networks and calls received from the 'Child's Phone' (080011116), during 2023, the Child Ombudsman **was notified ex officio in 38 cases**, in which violations of the following rights were certified:

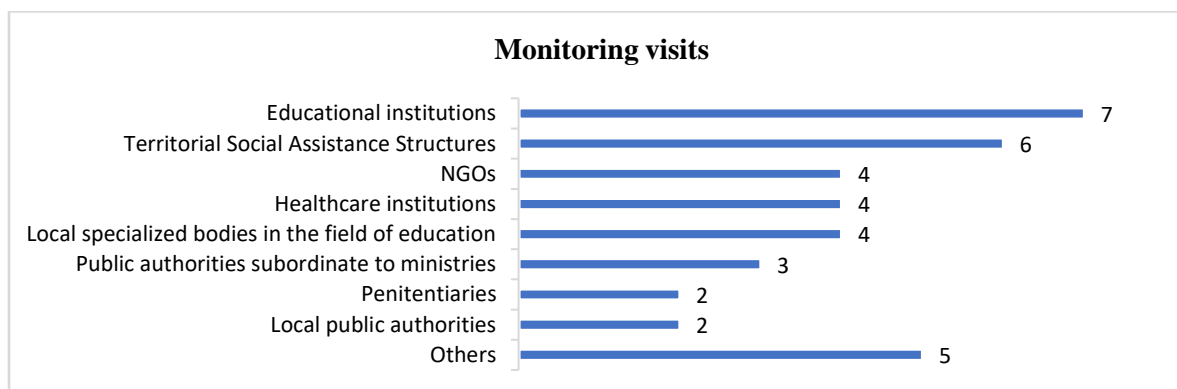


During 2023, the Child Rights Directorate provided **informational assistance/consulting**, including at the 'Child's Phone', managed by the Child Ombudsman (228 persons), and hearings (30 persons), **for 258 persons** (48 requests and 10 ex officio notifications being taken over, from the total number of requests and ex officio notifications), and the following rights were invoked:



During 2023, **4 thematic reports** were developed with the support of UNICEF Moldova: ‘Respect for the right to education of Roma children’⁹⁴, ‘Labour exploitation of children’⁹⁵, ‘Ensuring the right to education for children with sensory impairments’⁹⁶ and ‘Conditions and nutrition of children in healthcare institution in Chisinau city’. **Another thematic report** produced by the Child Ombudsman in 2023 was ‘Respect for the rights of displaced children from Ukraine’⁹⁷.

In the context of development of the thematic reports, as well as in the course of examination of requests and ex officio notifications, the Child Ombudsman and the Child Rights Directorate made 37 monitoring visits to educational institutions, healthcare institutions, detention institutions, territorial social assistance structures, local specialized bodies in the field of education, local public authorities, public authorities subordinate to ministries, Non-Governmental Organizations, etc.



⁹⁴ <https://ombudsman.md/post-document/respectarea-dreptului-la-educatie-a-copiiilor-de-etnie-roma/>

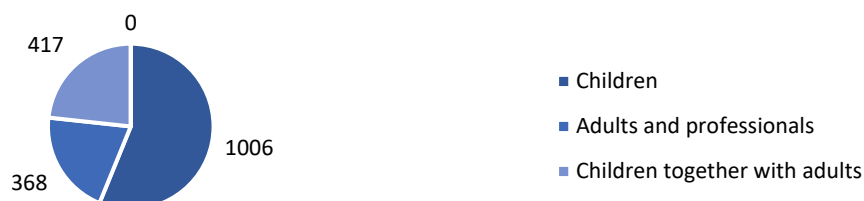
⁹⁵ <https://ombudsman.md/post-document/exploatarea-copiiilor-prin-munca/>

⁹⁶ <https://ombudsman.md/post-document/asigurarea-dreptului-la-educatie-a-copiiilor-cu-deficiente-senzoriale/>

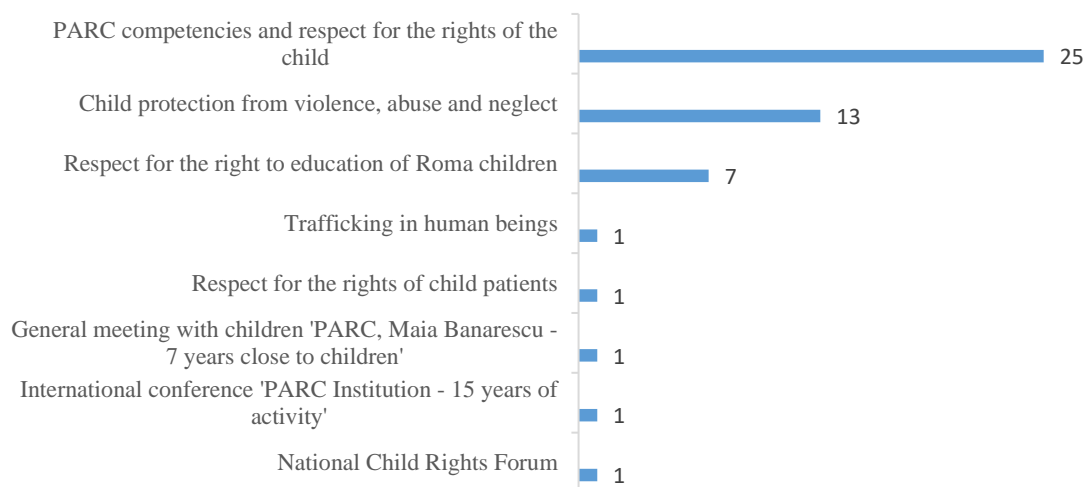
⁹⁷ <https://ombudsman.md/post-document/respectarea-drepturilor-copiiilor-stramutati-din-ucraina/>

Also, the Child Rights Directorate carried out **50 child rights information/promotional of activities** with **1791 children and professionals** (teachers, social workers, psychologists, doctors, etc.).

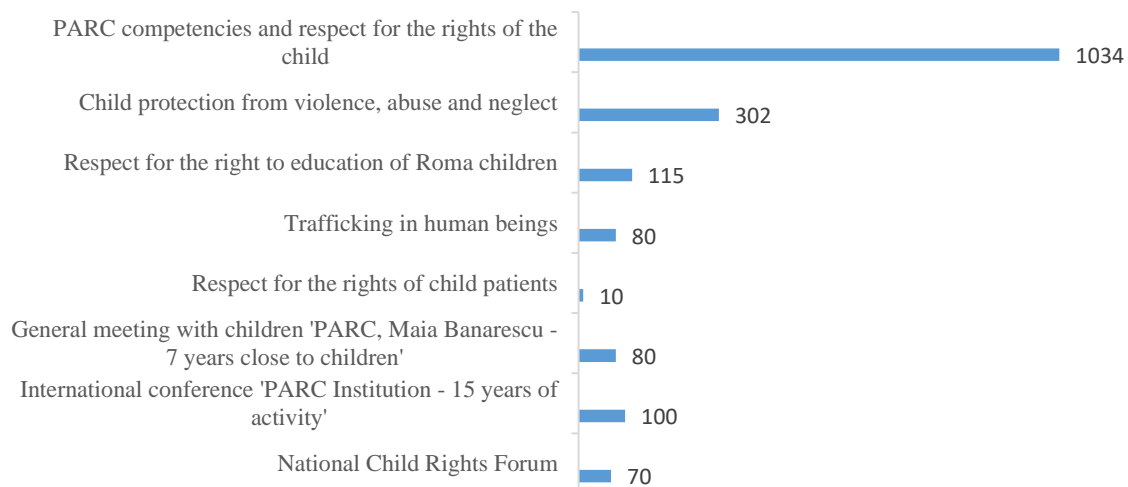
Persons participating in information/promotional activities



Number of information/promotional activities, by themes



Number of informed persons, by themes



In 2023, the Child Ombudsman joined the biennial **global road safety campaign** organized by the World Health Organization. The VIIth UN Global Road Safety Week took place from 15 em 21 May, which aims to raise awareness of road safety and reduce the number of road deaths by 50% by 2030.

During this campaign, the Office of the People's Advocate paid special attention to the involvement of children as victims in road accidents, reporting 102 such incidents, of which in some cases there were 3 deaths and 108 injured victims, according to the data of the General Police Inspectorate.

The People's Advocate for the Rights of the Child considers that the road safety of children is core for ensuring the right to life, survival and development, which is the responsibility of adults, and involves creation of safety conditions, as well as education, guidance and support. For this purpose, during the campaign, the Child Ombudsman together with the representatives of the Child Rights Directorate of the Office of the People's Advocate carried out a series of information activities for students.

These activities were aimed at educating children about road safety. Around 200 children, students of the 'Gheorghe Asachi' Theoretical High School, the High School of Modern Languages and Management and the 'Lucian Blaga' Theoretical High School in Chisinau municipality, received useful recommendations to prevent road accidents and adopt responsible behaviour.

On 21 March 2023, the **International Day for Street Children**, the People's Advocate for the Rights of the Child presented to the IPN Press Agency the Report 'Respect for the rights of children who lead a street lifestyle'. The People's Advocate for the Rights of the Child mentioned: 'Establishment of such a day was a necessary reaction to recall, year after year, to the international community the responsibility of each nation and each of us to respect and promote the fundamental rights of children and, especially, of children in a street situation'.

The issue discussed during the press conference attracted the attention of the Child Ombudsman during the entire 7-year term; the respect for the rights of children in street situations was monitored in terms of compliance with international standards by state authorities at the legislative, executive and administrative levels. Also, it was analyzed what are the actions of the authorities to prevent family abandonment and placement services, the services developed for street children, and how friendly they are.

To emphasize the importance of this problem, a series of actions was undertaken: meetings and discussions with decision-makers, with representatives of the guardianship authorities, actors of intersectoral cooperation mechanisms; thematic reports were developed, which analyzed the functionality of the child rights protection system and intersectoral cooperation mechanisms; individual cases were investigated; recommendations were made to improve the situation.

The People's Advocate for the Rights of the Child organized, in collaboration with the State University of Moldova, the Faculty of Law, the Department of International and European Law, and in partnership with UNICEF and Caritas Moldova, the **International Scientific and Practical Conference with the generic title 'Institution of the People's Advocate for the Rights of the Child – 15 years of activity. Impact and perspectives.**

The event was aimed at providing a platform for practical discussions in the field of child rights protection and, in particular, the duties and competencies of the People's Advocate for the Rights of the Child in this area, importance and ensuring of the best interests of the child.

The conference was attended by Ombudsmen and representatives of the National Human Rights Institutions from other states, representatives of public authorities and non-commercial organizations, the media, representatives of the academic environment and other stakeholders (practitioners, doctoral students, master's students), who directly or tangentially have a professional interest in the field concerned and who shared their experience.

During the conference, the Report 'Analytical overview of the activity and implementation of the recommendations of the People's Advocate for the Rights of the Child 2016-2022' and the Study 'People's Advocate for the Rights of the Child, a component of the child rights protection system' were presented. The role of the institution, the impact of the activity on the improvement of the child rights protection system, impediments in the activity, perspectives, including the status of the institution – the opportunity to be an institution included in the competency of the Office of the People's Advocate or independent/separate institution, were also addressed.

On 1 April 2023, approx. 80 children, aged between 12 and 17 years old, from different regions of the Republic of Moldova participated in the **general meeting of children with the title 'People's Advocate for the Rights of the Child, Maia Banarescu – 7 years close to children'.**

The meeting of the Child Ombudsman with children was aimed at presenting the work of the People's Advocate for the Rights of the Child carried out during the term (2016-2023) in the most accessible language possible, summarizing all the results obtained and providing a platform for practical and interactive discussions on the involvement of children in identifying problems, the role of children and adults in solving them.

On 14 April 2023, the People's Advocate for the Rights of the Child, Maia Banarescu, presented the **thematic report 'Respect for the rights of children with mental disorders'**, during a press conference, organized by the IPN Press Agency.

In presenting the report, the Child Ombudsman spoke about the legal framework for the protection of children with mental disorders, which does not address the relevant needs and does not establish effective mechanisms for the protection and/or promotion of mental health. Access to primary and specialized healthcare, hospital healthcare and specialized social services for this group of children was discussed as well.

In the context of celebration of the **International Family Day**, on 15 May 2023, the People's Advocate for the Rights of the Child, Maia Banarescu, visited Penitentiary No. 7 Rusca (penitentiary for women). Women detained there had the opportunity to meet their family members, especially their children, as well as to attend an artistic performance prepared for them.

On the same occasion, on 16 May 2023, the Child Ombudsman visited children in Penitentiary No. 10 – Goian (Detention Centre for Minors and Young People). The juveniles attended a master class organized by the Padel Federation of the Republic of Moldova. The children had a unique and special experience of learning to play padel, which brought them emotional release, joy and excitement.

On 20 - 21 June, the People's Advocate for the Rights of the Child participated with a speech at the **International Conference 'Financing of social services for children and families, in the context of the Moldova - EU Association Agenda'**.

On 4 September 2023, the People's Advocate for the Rights of the Child participated in the Round Table on '**Juvenile Delinquency: Causes, Consequences and Solutions**', organized by the MediaGuard Association, in partnership with the United States Agency for International Development (USAID).

On 13 September 2023, the Child Ombudsman had a **meeting with the representatives of the National Union of Bailiffs**. During the meeting, several issues arising during enforcement of court decisions regarding collection of the maintenance pension; transfer of the child to the other parent with whom the temporary residence was established; seizure of social security benefits; evacuation procedure in which children are directly affected, etc. were addressed. Discussions also covered cases with extraneous elements, which make more difficult the enforcement procedure. Following those discussions, to find viable solutions, the issues addressed will be analyzed, and subsequently discussions will be initiated with other decision-makers;

On 02 November 2023, Vasile Coroi, the People's Advocate for the Rights of the Child, participated in the event organized by the Law Centre of Advocates – the International Conference '**Current problems of identifying stateless persons, reducing and preventing cases of statelessness**'. The issues discussed during the Conference were focused on the situation of statelessness globally, statistic data of stateless persons, current issues of determining the stateless status, difficult cases in determining the stateless status, as well as identifying applicants for stateless status, born outside the territory of the Republic of Moldova.

On 08 November 2023, the **Dialogue Session of the People's Advocate for the Rights of the Child with NGOs operating in the field of children's rights** took place within the Office of the People's Advocate. It was aimed at providing a platform and an open space for discussions on the priorities, perspectives, possibilities of cooperation between the entities operating in the field

and also on the most current issues related to the respect of children's rights in the Republic of Moldova.

On 21 November 2023, on the occasion of World Children's Day, the People's Advocate for the Rights of the Child organized the VIIth edition of the **National Child Rights Forum** in the Republic of Moldova. This Forum, which is traditional in the calendar, offered children an open space to freely share their opinions and discuss problems they face, emphasizing the importance of the rights of the child and the responsibility of adults, including parents and the state.

The children who attended the event presented the results of the monitoring of rights of children in 2023 and produced recommendations for improvement. The discussions covered various issues, including the relation between teachers and students, sex education, emotional state of children and educational inclusion of children with disabilities. The event, which gathered over 70 children from all regions of the country, was organized by the Office of the People's Advocate, in collaboration with partners such as UNICEF Moldova, Caritas Moldova and the Child Rights Information and Documentation Centre.

On 01 December 2023, the Child Ombudsman participated in the Conference organized by the Parliamentary Commission for Social Protection, Health and Family, '**Early Childhood Intervention (ECI): equal opportunities for every child**'. During the event, issues related to policies and perspectives on Early Childhood Intervention (ECI), international practices and experiences and importance of family-focused programmes and services in ensuring equal opportunities for every child were addressed.

The **Human Rights and Equality Forum** of 6 December 2023 in the Republic Moldova, in the context of the Human Rights Day and the Campaign '16 days of activism against gender-based violence', was an essential initiative for promoting fundamental rights. Being mainly focused on the debates on human rights and equality, the Forum facilitated collaboration between sectors and the exchange of good practices.

Such an event provided an opportunity to share experiences, discuss contemporary challenges and identify effective solutions for protection and promotion of human rights and equality. During the Forum, an early phase of the study was presented on human rights in the Republic of Moldova, population opinion survey, covering issues such as perception of rights in 2023, the rights of refugees and children. There was also an additional event on human rights and environmental protection, where the People's Advocates emphasized the importance of clear legislation for prevention of pollution and promotion of sustainable use of resources in order to ensure a healthy environment for all citizens, including children. The event gathered representatives from various sectors, contributing to an extensive collaboration to improve the situation of human rights and equality in the country.

On 08 December 2023, the People's Advocate for the Rights of the Child participated in the international conference in Kiev, Ukraine, with the title '**Freedom or Fear**' dedicated to the 75th

anniversary of the Universal Declaration of Human Rights. The event presented a platform to address major issues of human rights, war crimes and the collective responsibility of the international community. Participants discussed the challenges of protecting human rights against the background of Russia's armed aggression against Ukraine. Ukraine presented its efforts for establishing a special tribunal and finding mechanisms for the return of civilian hostages, prisoners of war and children from deportation. The People's Advocate for the Rights of the Child, Vasile Coroi, emphasized the importance of international collaboration to protect the rights of the child.

In the framework of his activity and performance of his duties, the People's Advocate for the Rights of the Child participated in several consultations and **public hearings**, on several topics, including:

1. 09 and 28 February 2023 – the Parliament of the Republic of Moldova, the right to citizenship by birth granted to children born on the territory of the Republic of Moldova whose parents are foreign citizens;
2. 06 June 2023 – monitoring of the respect for the rights of patients subjected to medical treatment with coercive measures, the Parliamentary Commission;
3. 20 June 2023 – ex-post impact assessment of the Law No. 299/2018 on measures and services for children with deviant behaviour, the Parliamentary Commission;
4. 08 September 2023 – meeting with the theme 'Traffic safety of children', within the Commission for National Security, Defence and Public Order;
5. 17 October 2023 – the meeting of the Parliamentary Commission for Human Rights and Inter-Ethnic Relations, where issues of the violation of the rights of a group of people who refuse to receive a state identification number for religious reasons, as well as preserving the right to dispose of provisional identity card for citizens of the Republic of Moldova, who renounce the state identification number, for use on the territory of the country, were discussed;
6. 20 November 2023 – public consultations organized by the Ministry of Education and Research jointly with the Commission for Culture, Education, Research, Youth, Sports and Mass Media. The discussions concerned a series of amendments to the Education Code proposed by the Ministry of Education and Research in order to increase the safety of students and teachers in educational institutions.
7. 19 December 2023 – hearings on implementation of Law No. 36/2022 and determination of effectiveness of its action, within the Parliamentary Commission for Human Rights and Inter-Ethnic Relations.

The most important **appearances in the media** of the People's Advocate for the Rights of the Child are:

1. 03 February 2023 – the 'Доброго Вечора мы из Украины' show, Mediacor;

2. 20 March 2023 – IPN press conference, Rlive TV, presentation of the Thematic Report ‘Respect for the rights of children who lead a street lifestyle’;
3. 14 April 2023 – IPN press conference, Rlive TV, presentation of the Thematic Report ‘Respect for the rights of children with mental disorders’;
4. 26 April 2023 – Interview of TV channel ‘Free Europe’ – educational inclusion of children;
5. 23 May 2023 – TVR interview, ‘International Children’s Day’;
6. 10 August 2023 – telephone interview, Cinema 1 Moldova, reaction of the People’s Advocate for the Rights of the Child with respect to cases of death of unattended children during vacations;
7. 30 August and 04 September 2023 – interviews on child abuse in early childhood education institution No. 38 from Balti, TV Nord, TV8, Orizont TV;
8. 15 September 2023 – interview of Ziarul de garda, the phenomenon of bullying^{98 99};
9. 26 October 2023 – TVR1 interview, children who run away from home and placement centres^{100 101}
10. 20 November 2023 – live Moldova 1, Live Studio show, UN Convention on the Rights of the Child.¹⁰²

⁹⁸ https://www.zdg.md/importante/video-marturiile-parintilor-unor-copii-agresati-la-scoala-de-profesori-sau-elevi/?fbclid=IwAR2aSvH8CYmdINmuMGC4NJVIkfwWcydi1Yn4jLEFnyuP7_gisL5BJeCWoNc

⁹⁹ <https://www.youtube.com/watch?v=kl4JUqhfzVg>

¹⁰⁰ <https://tvrmdova.md/article/35d185b2fcc6d85c/reportajele-telejurnalului-sute-de-copii-si-adolescenti-isi-traiesc-viata-pe-strazile-chisinaului-dorm-in-cladiri-abandonate-si-cersesc-mila-trecatorilor-ce-spun-autoritatile.html>

¹⁰¹ <https://www.youtube.com/watch?v=dog4NawbFl8>

¹⁰² <https://www.youtube.com/watch?v=035A6S4K4Xk&t=80s>