



THEMATIC REPORT

Labour Exploitation of Children

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CONTENTS

<u>ABBREVIATIONS</u>	3
<u>SUMMARY</u>	4
<u>METHODOLOGY</u>	8
<u>1.1. Purpose and objectives of the study</u>	8
<u>1.2. Ethical principles and guidelines</u>	8
<u>1.3. Data collection and sampling methods</u>	8
<u>1.3.1. Quantitative study</u>	9
<u>1.3.2. Qualitative study</u>	9
<u>I. ANALYSIS OF THE DEVELOPMENT OF THE LEGAL FRAMEWORK IN THE FIELD OF PROTECTION OF CHILDREN AGAINST LABOUR EXPLOITATION</u>	10
<u>1.1. International commitments of the Republic of Moldova to prevent and protect children against labour exploitation</u>	10
<u>1.2. Legislative basis on child protection and prevention against labour exploitation</u>	15
<u>1.3. Policy documents on prevention and protection of children against labour exploitation</u>	18
<u>II. SERVICES OF CHILD PROTECTION AGAINST LABOUR EXPLOITATION</u>	20
<u>2.1. Institutions responsible for enforcing the law in the case of child labour exploitation</u>	20
<u>2.2. Programmes and services for child survivors of exploitation</u>	24
<u>2.3. Support services and legal representation</u>	25
<u>CONCLUSIONS</u>	27
<u>RECOMMENDATIONS</u>	28

ABBREVIATIONS

CAA	Court Administration Agency
SGLA	State-guaranteed legal aid
CPA	Central public administration
LPA	Local public administration
NBS	National Bureau of Statistics
UNCRC	UN Convention on the Rights of the Child
ECHR	Convention for the Protection of Human Rights and Fundamental Freedoms
NLAC	National Legal Aid Council
CiPC	Civil Procedure Code
CC	Criminal Code
CrPC	Criminal Procedure Code
ECtHR	European Court of Human Rights
SCM	Superior Council of Magistracy
GD	Government decision
MLSP	Ministry of Labour and Social Protection
NRS	National referral system for protection and assistance of victims and potential victims of human trafficking
THB	Trafficking in human beings

SUMMARY

According to the procedures governed by law, the People's Advocate for the Rights of the Child fulfils its duties of ensuring the respect for the rights and freedoms of the child; implementation, at the national level, by central and local public authorities, by persons holding management/responsible positions at all levels, of the provisions of the UN Convention on the Rights of the Child and of other relevant international treaties to which the Republic of Moldova is a party. In his or her activity, the People's Advocate for the Rights of the Child is supported by a specialized subdivision of the Office of the People's Advocate.

Monitoring of the respect for the right of the child in the Republic of Moldova under the auspices of the People's Advocate for the Rights of the Child is an ongoing process. Following the continuous analysis and synthesis, and to improve the situation in the area concerned, the thematic report '**Labour Exploitation of Children**' was prepared. Based on this Report, a number of recommendations and solutions were designed to prepare a prompt, effective state response focused on child victims of labour exploitation and human trafficking.

To carry out the study, statistical data for 2018-2023 were analyzed on causes of labour exploitation of children and child trafficking. The analysis of the statistical data revealed aspects related to the legal framing of facts (qualification), profile of child victims of exploitation. The information derived from statistical data collected from various institutions was completed with information from quantitative data collected using standard forms among professionals in the child protection system, as well as within state control bodies in the field of labour, focus groups and in-depth individual interviews. Questionnaires were distributed by e-mail to the Ministry of Labour and Social Protection, District Directorates of Social Assistance and Family Protection and NGOs from the four areas of the country: South, North, Centre and Gagauzia TAU.

The evaluation was carried out in general terms based on the mandate of the People's Advocate for the Rights of the Child, as well as specifically in the context of his or her duties in monitoring national implementation of provisions of the UN Convention on the Rights of the Child.

During the evaluation, provisions of the Law on the People's Advocate (Ombudsman) no. 52/2014, the Regulation on the organization and operation of the Office of the People's Advocate, approved by Law no. 164/2015, the Opinion of the Venice Commission on the Law on the Ombudsman (2015), as well as other international best practices were taken into account.

By using the described methodology, the following findings, conclusions, recommendations were prepared.

The Republic of Moldova made efforts to bring the legal framework and institutional practices in line with the best international practices of preventing and combating labour exploitation of children.

These efforts were also focused on the adoption, on 30 November 2023, by the Parliament of the Republic of Moldova, of a new law on the rights of the child. This law is in line with the provisions of the UN Convention on the Rights of the Child, including its additional protocols, and prescribes more clearly the role of the state in ensuring the rights of the child.

However, the legislation of the Republic of Moldova does not ensure sufficient protection of children against the worst forms of labour exploitation, such as those aimed at informal labour of children. Domestic legislation does not clearly define the concept of family work, nor does it set a threshold age for child involvement in such activities. This can lead to confusion and possible cases of child abuse or exploitation by parents or caregivers. It is therefore necessary to make clear the legal rules related to family work and ensure that the rights of the child to education, protection and development are respected. The following **is recommended**:

1. Amend the domestic normative framework to govern informal child labour, set minimum occupational safety and health standards, ensure access to education and social services, and punish those who violate the law. Thus, contributions should be made to compliance with international conventions to which the Republic of Moldova is a party and to improvement of the quality of life of children involved in economic activities.
2. Revise the current normative regulatory framework that governs light child labour, by setting clear and objective criteria to determine what types of activities can be considered light labour and what are the conditions for its performance. It is also important to ensure effective monitoring and adequate sanctioning of those who violate the law and are engaged in child labour exploitation.

Amendment of Law No. 140/2001 **on the State Labour Inspectorate** is a step forward in protecting the rights of employees, including children, but it is not enough, because it does not allow inspectors to make unscheduled inspections when there are other sources of information, whether direct or indirect ones, about working conditions, and during the unscheduled inspection, only those aspects that served as grounds for the initiation of the inspection¹ can be checked. Thus, there is a risk that some cases of forced labour, child labour or other abuses may not be revealed and punished. Accordingly, it is recommended to revise the normative framework of the Republic of Moldova by ensuring that labour inspectors are empowered to apply sanctions for child labour violations revealed during inspections, even if the inspection was not conducted in response to a child labour complaint. This will help to increase efficiency and effectiveness of the labour inspection system and to prevent and eliminate 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.

According to the data provided by the Ministry of Labour and Social Protection (MLSP), during the last 5 years, inspections revealed 40 employed children, of whom 24 were boys and 16 were girls.²

Although certain statistical data on the state's response to child labour exploitation are collected, and some are also made public, each legal institution has a specific methodology for registering and keeping records of cases, which creates impediments in making an objective comparison of national data with the situation in other states. It is recommended to establish a unique electronic system for collection of statistical data, which should include data relevant to

¹ Art. 19(6) of Law No. 131/2012 on state control over entrepreneurial activity

² MLSP Response No. 07/4457 of 06.11.2023

the procedures carried out from registration of complaints to full execution of sanctions imposed for cases of child labour exploitation and trafficking. Development of a unique system will make possible the real-time access to statistical data and will be a tool of identifying gaps and positive practices at each phase of examining cases of child labour exploitation. Generation of accurate and correct data will enable leaders of responsible institutions to design, plan and implement policies and measures addressing these weaknesses, and also use positive practices.

Child trafficking is an extreme form of human rights violation that affects millions of children around the world. According to statistical data for 2022, the number of cases of child trafficking (Art. 206 of the CC) increased by more than 59% compared to the previous year, which is an alarming sign of the phenomenon.³ Trafficked children are exposed to various forms of exploitation, such as forced labour, sexual exploitation, child begging or pornography. These forms of abuse have harmful consequences on physical, psychological and social development of children. To combat child trafficking, a multidisciplinary and multi-sectoral approach is needed, involving both public authorities and civil society. It is also essential to ensure adequate protection and assistance for child survivors of human trafficking, respecting the principle of the best interest of the child.

During the inspections, 15 violations against children were revealed and recorded in the control minutes: employment without observing the legal procedure, without preventive medical check-up, involvement in works prohibited for children, non-compliance with reduced duration of working time, improper determination of salary.

After violations against children were revealed, 4 minutes were drawn up on the offence, which were submitted to the court for examination subject to jurisdiction. The court issued 2 decisions on application of sanctions of 3,000 MDL and 10,500 MDL, 2 cases are pending.

These data can be considered as being positive, since they reflect the diligence and promptness of child protection specialists, and also show **a low reporting rate of labour exploitation cases**. Thus, to increase the number of reported cases of labour exploitation and facilitate access to specialized services for children, **it is recommended to organize awareness campaigns among adults and children, potential victims of labour exploitation, to inform them about their rights, how to access protection and assistance services. Also, to facilitate the understanding of the information, informational materials for different groups of victims and potential victims of exploitation (children and parents/carers) and on different forms of exploitation, including materials adapted for victims with multiple vulnerabilities (e.g. people with mental, sensory disabilities, illiterate people, etc.), should be developed and disseminated.**

According to Law No. 140/2023 and GD No. 270/2014, authorities responsible for preventing and combating child labour exploitation use an inter-sectoral cooperation mechanism to identify, assess, refer, assist and monitor child victims or potential victims of violence, neglect, exploitation and trafficking. This mechanism involves effective collaboration between

³ Report of the General Prosecutor on the activity of the Prosecutor's Office for 2022, page 45. Available online at: <https://procuratura.md/sites/default/files/2023-03/RAPORT%20DE%20ACTIVITATE%202022.pdf>

various institutions and organizations involved in child protection, such as the police, the prosecutor's office, social services, non-governmental organizations. However, this mechanism does not provide for the procedure for resolution of cases by employees of the State Labour Inspectorate and territorial subdivisions and other entities responsible for intervention in case of child labour exploitation. The study results show that this mechanism works better in cases of abuse and neglect, but has difficulties and challenges in cases of labour exploitation, such as: lack of clear operational procedures, lack of adequate human and material resources, lack of information and awareness of the population, lack of coordination and communication between involved actors, etc. In this context, it is recommended to supplement GD No. 270/2024 with the procedure for resolution of cases by employees of the State Labour Inspectorate and territorial subdivisions and other entities responsible for intervention in child labour exploitation, improvement of cooperation between social protection entities, health entities, the State Labour Inspectorate and law enforcement agencies in providing appropriate services and assistance for reintegration of child survivors of labour exploitation and human trafficking.

Child labour exploitation is a major problem that affects their rights and development. The Republic of Moldova has taken measures to develop assistance programmes for children victims of child labour exploitation, but does not provide enough re-socialization and reintegration services for those who escaped exploitation. Accordingly, the state shall enhance efforts to ensure adequate re-socialization and reintegration services for children who were victims of exploitation. This requires closer cooperation between competent authorities, civil society and international partners, as well as enough financial and human resources.

METHODOLOGY

1.1. Purpose and objectives of the study

The Report is aimed at assessing the level of compliance with international standards of protection of children against labour exploitation.

The specific objectives of the study are:

- analysis of the regulatory framework in the field of protection against child labour exploitation;
- analysis of policy documents in the field of the rights of the child and protection against child labour exploitation;
- analysis of good practices related to legislative, administrative, social and educational measures undertaken by the state to protect children against labour exploitation;
- identification of barriers in prevention and protection of children against child labour exploitation;
- production of conclusions and recommendations for protection of children against labour exploitation.

1.2. Ethical principles and guidelines

The guiding principles on which this study will be based are:

- the best interest of the child is a priority;
- supporting non-discrimination based on race, colour, sex, language, religion, politics or other criteria (opinion, social origin, disability, birth);
- highlighting the right to life, survival and development;
- free expression of opinions of children – child participation;
- protecting the right of the child to privacy and ensuring the confidentiality of procedures.

1.3. Data collection and sampling methods

To achieve the purpose and objectives of the study, the following research methods were used:

- analysis of the normative framework and existing policy documents in the field;
- quantitative study;
- qualitative study.

The general scheme of developing the Report includes the following steps:

1. Analysis of the normative framework that governs protection against child labour exploitation in national and international terms, and also their interaction at different phases of the procedure.
2. Documentation and development of data collection tools (*development and consultation with the People's Advocate for the Rights of the Child of the questionnaire and the interview guide*);

3. Identification of the groups that will participate in the evaluation/study;
4. Collection of quantitative data from the groups that are part of the child protection system (social workers, representatives of the guardianship authority, representatives of specialized NGOs, representatives of the State Labour Inspectorate, etc.);
5. Processing and analysis of qualitative and quantitative data collected from the groups that are part of the child protection system;
6. Development of the study.

1.3.1. Quantitative study

The first step consisted in collecting quantitative data using standard forms among professionals of the child protection system, as well as within state control bodies in the field of labour.

To collect data on the site, a questionnaire was developed (survey form with structured questionnaire). The questionnaire was tested, adapted and then used according to the methodology.

Requests to fill out the questionnaire were sent to various institutions and organizations involved in social protection. The questionnaires were distributed by e-mail to the Ministry of Labour and Social Protection, District Directorates of Social Assistance and Family Protection and NGOs from the four areas of the country: South, North, Centre, Gagauzia TAU.

1.3.2. Qualitative study

To find out perceptions, opinions and reactions of participants regarding child protection against labour exploitation – legislation, policies, practices, work mechanisms, inter-sectoral cooperation, etc., **4 focus groups** were established online, as follows:

- a focus group with employees of the Directorates of Social Assistance and Family Protection (territorial guardianship authority);
- a focus group with representatives of NGOs engaged in child protection;
- a focus group with representatives of law enforcement agencies;
- a focus group with parents/legal representatives;

To select participants for group discussions, the ‘snowball’ method was used, which assumes that each respondent recommends other potential participants. The following selection criteria were taken into account: age, place of residence, level of education and other relevant aspects for each target group.

All focus groups were moderated by the expert involved under a contract to prepare the Report based on a list of questions.

The qualitative study also included 5 in-depth interviews with experts in the field of the rights of the child. The confidentiality of answers of respondents was guaranteed.

I. ANALYSIS OF THE DEVELOPMENT OF THE LEGAL FRAMEWORK IN THE FIELD OF PROTECTION OF CHILDREN AGAINST LABOUR EXPLOITATION

1. 1. International commitments of the Republic of Moldova to prevent and protect children against labour exploitation.

According to Article 1 of the UN Convention on the Rights of the Child⁴, a child is defined as *'every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier'*.

The Convention on the Rights of the Child, adopted by the United Nations General Assembly on 20 November 1989, sets out the fundamental principles of respecting and promoting the rights of the child. The Convention has a broad, coherent text, in which the child is positioned in relation to the family, the community, the state and in terms of universal values based on human rights. Regulations derive from the idea of creating specific means of protecting and promoting children's interests.

One of the main objectives of the UN Convention on the Rights of the Child⁵ is to protect children from any form of economic or labour exploitation that can affect their physical, mental, spiritual, moral or social development. Therefore, the UN Convention on the Rights of the Child sets minimum standards for the age of admission to work and the working conditions of children. However, the Convention on the Rights of the Child does not have specific provisions on the minimum age of employment or the working conditions and treatment of children at the workplace, but requires States Parties to adopt legislative, administrative, social and educational measures to ensure protection of the child against any type of discrimination, exploitation and abuse. In this regard, Article 19 of the Convention provides: *'States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.'*

In addition, the international act mentioned above recognizes the right of children to education, rest and leisure and participation in cultural and artistic life. Therefore, Article 28 of the UN Convention on the Rights of the Child states that every child has the right to a quality education, which provides equal opportunities for personal and professional development. The state shall ensure free access to compulsory education and support the diversity of forms of

⁴ UN Convention on the Rights of the Child. UN General Assembly Resolution No. 44/25 of 29.11.1989. In force from 20.09.1990 // International treaties to which the Republic of Moldova is a party. Volume I. – Chisinau, 1998, p. 51

⁵ UN Convention on the Rights of the Child. UN General Assembly Resolution No. 44/25 of 29.11.1989. In force from 20.09.1990 // International treaties to which the Republic of Moldova is a party. Volume I. – Chisinau, 1998, p. 51

secondary education, both general and technical or vocational one. Education is a key factor in protecting the child from any form of exploitation, abuse or neglect.

Consequently, 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.

Articles 33, 34 and 35 of the Convention provide for preventing and combating the involvement of children in illegal or dangerous activities, such as use of narcotic drugs or trafficking of such substances, sexual exploitation or abduction. The state shall protect children from these threats and provide them with assistance and recovery in case of victimization. Children have the right to a life free from violence and harmful influences. These provisions impose on the States Parties the obligation to adopt all necessary legislative, administrative, social and educational measures to prevent and combat:

- inducement or coercion of a child to engage in any unlawful sexual activity;
- exploitative use of children in prostitution or other unlawful sexual practices;
- exploitative use of children in pornographic performances and materials.

According to Article 35 of the Convention on the Rights of the Child, States Parties shall take all appropriate measures to prevent and combat the abduction of, the sale or traffic in children for any purpose or in any form. It involves international and bilateral collaboration and assistance to prevent and punish these acts.

Article 39 of the Convention recognizes the right of children victims of any form of violence, exploitation, abuse, torture or armed conflict to physical and psychological recovery and social reintegration. It requires States Parties to ensure children have access to appropriate medical, psychological, legal and social services and to respect the best interests of the child in all procedures.

According to the UN Convention on the Rights of the Child, children affected by armed conflict shall be adequately protected. Article 38 stipulates that States Parties shall:

- respect and ensure respect for rules of international humanitarian law applicable in armed conflicts (in particular the four Geneva Conventions and the two Additional Protocols);
- take all feasible measures to ensure that persons who have not attained the age of 15 years do not take a direct part in hostilities;
- refrain from recruiting any person who has not attained the age of 15 years into their armed forces.

States shall take measures to guarantee the rights of all children in their jurisdiction during armed conflict.

An important consequence of the recognition of this commitment is the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflicts 2000, which is the first international treaty dedicated exclusively to the elimination of military

exploitation of children. The Protocol became effective in 2002 and has been ratified so far by most countries in the world.⁶

The Second Optional Protocol to the Convention on the Rights of the Child, concerning the sale of children, child prostitution and child pornography, is an international legal instrument that obliges States Parties to take measures to prevent, prohibit and sanction these forms of abuse of minors. The Protocol defines the terms ‘child prostitution’ as: ‘the use of a child in sexual activities for remuneration or any other form of consideration’ and other forms of sexual exploitation of children, such as trafficking of children, child sex tourism, child pornography or erotic performances. The Protocol recognizes the right of children to protection against any form of violence, including sexual violence, and encourages international cooperation to combat this phenomenon.

However, the imposition and detailing of obligations of States to criminalize forms of sexual exploitation at the European level are also provided for by the Framework Decision no. 2004/68/JA1 of the Council of the European Union on combating sexual exploitation of children and child pornography. The Framework Decision 2004/68/JA1 was replaced by Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on combating the sexual abuse and sexual exploitation of children and child pornography, and replacing Framework Decision 2004/68/JAI of the Council (hereinafter the Directive), which establishes minimum rules concerning the definition of offenses and sanctions in the area of sexual abuse and sexual exploitation of children, child pornography and solicitation of children for sexual purposes. The Directive introduces provisions aimed at ensuring better prevention of those crimes and better protection of their victims.

Adoption of the Palermo Protocol in 2000 and of the Convention Action against Trafficking in Human Beings in 2005 show growing international recognition of the scale of human trafficking and the need to take action to combat it.⁷

Human trafficking is a serious form of human rights violation that particularly affects women and children. To counter this phenomenon, the Republic of Moldova ratified the Palermo Protocol and the Council of Europe Convention, committing to comply with international standards on prevention, repression and punishment of trafficking. In this regard, the Republic of Moldova developed an adequate legal and institutional framework, which involves participation of all relevant actors. The main role in coordinating these efforts is assigned to with the National Committee for Combating Trafficking in Human Beings and the Permanent Secretariat, which ensures implementation of the relevant national policies and strategies.

The Convention Concerning Minimum Age for Admission to Employment⁸ (hereinafter *Convention No. 138/1973*), adopted by the International Labour Organization (ILO) in 1973,

⁶ United Nations, ‘Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict’ (webpage), <http://indicators.ohchr.org/>

⁷ Rantsev vs. Cyprus and Russia, Decision of 7 January 2010, p. 277-278

⁸ Convention of the International Labour Organization No. 138 of 26.06.1973 concerning minimum age for admission to employment, ratified by Parliament Decision No. 519-XIV of 15.07.1999 // International Treaties, 2001, volume 27, p. 121, in force for the Republic of Moldova from 21.09.2000.

aims to protect children and young people from work that may affect their health, education or development, and prohibits employment of persons under the age of 15. However, the Convention allows certain derogations and flexibilities so as to adapt to the realities of different countries and sectors. Also, the Convention concerned reveals the fact that the age of employment cannot, in any case, be lower than the age at which compulsory schooling ends. Subsequently, Article 7 of Convention No. 138/1973 enables the states to permit the employment or work of persons between 13 and 15 years of age on light work which is not likely to be harmful to their health or development, not such as to prejudice their attendance at school, their participation in vocational orientation or training programmes approved by the competent authority or their capacity to benefit from the instruction received.

Another important aspect of Convention No. 138/1973 is that it recognizes the need to take into account the different economic and social situations of the States Parties. Therefore, the Convention also allows developing countries to limit the initial sectoral scope, but provides for the minimum scopes: production, construction, electricity, gas and water, sanitation, transport, storage and communications, plantations and other commercial agricultural activities.

Articles 6, 7 and 8 of Convention No. 138/1973 provide for other exceptions and areas of flexibility related to the work carried out in schools or for training, light work from the age of 13 (12) and artistic performances. These can be included in domestic laws and regulations if necessary. Thus, Article 6 provides for that *'This Convention does not apply to work done by children and young persons in schools for general, vocational or technical education or in other training institutions'*, if the working conditions are in accordance with those prescribed by the competent authority and if the work is part of a course of education or training for which a school or a training institution is primarily responsible; a training programme mainly or entirely in an enterprise, which was approved by the competent authority; an orientation programme designed to facilitate the choice of an occupation or a training line.

In this context, Article 7 of Convention No. 138/1973 provides for that domestic laws or regulations may permit employment of persons aged between 13 and 15 years (or from 12 years old, if 14 is the minimum age) on light work, provided that it does not harm their physical or mental development and does not prevent them from participating in compulsory education, vocational orientation or training programmes approved by the competent authority or their capacity to benefit from the education received. It follows that the competent authority shall determine the employment or the work permitted for children under the age of 15 years, as well as the permitted number of hours and appropriate working conditions.

Another exception to the prohibitions set out in Article 2 is for the participation of children or young people in artistic performances, provided that the number of hours is limited and specific conditions in which employment or work is allowed are prescribed (Article 8).

Another international act that contains regulations in the field of child protection against labour exploitation is Convention No. 182 concerning the Prohibition and Immediate Action for

the Elimination of the Worst Forms of Child Labour, adopted on 17.06.1999 in Geneva⁹ (*hereinafter Convention No. 182/1999*), which aims to create a new mechanism to prohibit and eliminate the worst forms of child labour, which violate fundamental rights of children and endanger their well-being.

Article 3 of Convention No. 182/1999 lists the worst forms of child labour, which are often linked to criminal groups, such as: *'all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict; the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances; the use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs as defined in the relevant international treaties; work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children.'* At the same time, Convention no. 182/1999 requires States Parties to identify and prohibit such work through domestic laws and regulations or through competent authority, after consultation with representative organizations of employers and workers and taking into account applicable international standards.

Recommendation No. 190/1999 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour is an important document that complements Convention No. 182/1999 and defines the criteria to determine which types of work are dangerous for children. These criteria include: exposure to physical, psychological or sexual violence; work in risky or unsafe conditions; work with machines, equipment or heavy materials; work in difficult conditions, such as long hours, night shifts or coercion at work place. The Recommendation also states that certain extreme forms of child labour should be criminalised, such as: slavery, child trafficking, forced labour, recruitment for armed conflict, prostitution, pornography, activities related to illegal drugs or weapons. These forms of work violate the fundamental rights of children and put in danger their lives and health.

By signing the documents mentioned above the Republic of Moldova assumed the positive obligation of the state to enshrine these provisions in the domestic legislation and to establish a material and procedural normative framework that is in line with international standards. In this regard, it is reiterated that generally the legislation of the Republic of Moldova was amended to implement international standards and contains strict legislative provisions, but, given the evolving nature of social relations, the state is obliged to adapt the legislative norms to social realities and to give maximum protection to the child.

In accordance with the international obligations of our country, laws and norms on the work of minors were developed and adopted. However, the legal framework of the Republic of Moldova does not provide adequate protection of children against the worst forms of labour exploitation, such as those involving informally working children.

⁹ Ratification Law No. 849-XV of 14.02.2002 in force for the Republic of Moldova from 14.06.2003. Published in the 'International Treaties' edition, volume 35, p. 239

1.2. Legislative basis on child protection and prevention against labour exploitation

The Constitution of the Republic of Moldova¹⁰ expressly forbids exploitation of children, their use in activities that would harm their health, morals or that would endanger their life or normal development.

According to Law No. 370/2023 on the rights of the child (*hereinafter Law No. 370/2023*), children benefit from protection without any discrimination, regardless of race, colour, sex, language, religion, political or other opinions, regardless of citizenship, ethnic or social origin, the status obtained by birth, financial situation, degree and type of disability, specific aspects of their upbringing and education, of their parents or of their legal representatives/legal guardians, regardless of their place of residence (family, educational institution, social service, healthcare institution, community, etc.) or any other criterion.¹¹

Law No. 370/2023 governs the right of the child to work in certain conditions, which do not harm 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. Thus, the Law sets out the age, health, vocational training and remuneration criteria for employed children. The Law prohibits and sanctions forced employment of the child in any form¹².

The Law also stipulates that the state shall create special employment and working conditions for children with disabilities, which respect their rights and specific needs. The Law prohibits and sanctions any form of economic exploitation of the child, which endangers his or her education, health or physical, mental, spiritual, moral or social development.

In another train of thoughts, it should be noted that in accordance with Art. 255 of the Labour Code, it is prohibit to use children's labour in works that may harm their health or moral integrity (gambling; work in nightclubs; production, transportation and sale of alcoholic beverages, tobacco products, narcotic and toxic substances, etc.). The classifier of works with heavy, harmful and/or dangerous working conditions in which it is prohibited to involve persons aged up to 18 years old, as well as the norms of maximum workload allowed for persons aged up to 18 years old when lifting and manually transporting hardships, is approved by the Government after consultations with employers and trade unions.¹³

However, the legal norms mentioned above do not make clear whether the prohibitions concerned also refer to domestic work to which children may be admitted, or whether it is only

¹⁰ Constitution of the Republic of Moldova, Art. 50.

¹¹ Art.2 of Law on the rights of the child, No. 370 of 30.11.2023, // Official Gazette No. 488-491 Art. 864, 21.12.2023.

¹² Idem, Art.20.

¹³ By Government Decision No. 562 of 07.09.93 the Classifier of industries, professions and works with difficult and harmful conditions, forbidden to people younger than eighteen years, was approved. The list of works provided for in this act has not yet been re-examined, although it has lost its topicality in part, in particular nothing is mentioned about the categories of works that affect the moral integrity of young people.

about child work outside the family. It follows from the interpretation of the phrases used that the provisions above rather refer to work performed outside the family, i.e. through employment.

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.

Although there are certain legislative gaps related to the minimum age for the employment of children, we shall admit that a significant legislative change was made on 22 December 2022, when the Parliament of the Republic of Moldova adopted Law No. 355/2022, which brings amendments to Law No. 140/2001 on the State Labour Inspectorate. According to the new Law, 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.

Thus Art. 11¹ of Law No. 140/2001 on the State Labour Inspectorate (*hereinafter Law No. 140/2001*) provides that the control over compliance with normative acts in the field of labour, safety and health at work is carried out by scheduled or unscheduled inspections. The unscheduled inspection is a check performed otherwise than according to the annual inspection schedule and is carried out in accordance with Law No. 131/2012 on state control over entrepreneurial activity. Consequently, Art. 4(1³) of Law No. 131/2012 on state control over entrepreneurial activity provides for that when carrying out the scheduled or unscheduled inspection, the control body shall take into account as a priority that the inspection should be carried out by requesting documentation and other information directly from the person to be inspected. Only if enough documentation and information is not available or based on the type of inspection and risk analysis, the control body shall carry out the on-site inspection in order to establish whether the person to be inspected complies with the legislation.

The control body can decide to carry out unscheduled inspections based on the risk assessment, as well as can order an inspection to be performed by the inspector, only in the following cases:

- information/cues are available, which are supported by evidence of control bodies that there are accidents, incidents or serious violations of security or safety rules that present an imminent and immediate danger to the environment, life, health and property of people, if the following conditions are met: a) the need to initiate the inspection is supported by reasons; b) it can be reasonably concluded from the information available until initiation of the inspection and from the note of rationale that only the unscheduled inspection is able to prevent and/or stop violations that imminently cause damages or that thus damages already caused could be substantially reduced;
- verification of the information, which, according to the law, must be reported, if the following conditions are met: a) this information was not provided within the term prescribed by the law or a normative act; b) the body with control functions or the body responsible for receiving such information did not receive a supporting notification from

the person obliged to report the information within the deadline and/or this person did not respond within a reasonable term to the notification from the responsible body;

- verification of the information obtained during another inspection of the entrepreneur with whom the person being inspected had previously economic relations, if the following conditions are met: a) the entrepreneur refuses to provide the information concerned; b) the information concerned cannot be obtained otherwise; c) the information provided is essential and indispensable for the purpose of the previously initiated inspection to be achieved;
- direct request from the person to be inspected to initiate the inspection;
- information/clues are available, which are supported by evidence of control bodies, other state institutions, that provisions of Law No. 202/2013 on credit contracts for consumers are violated;
- information/clues are available on informal employment, payment of salary or other payments not included in accounting records, on human trafficking or labour exploitation at the employer.

Unscheduled inspections cannot be carried out if the control body can obtain in any other direct or indirect ways the necessary information, including the information held by other supervisory/control bodies, holders of public registers, public authorities and institutions.¹⁴

Amendment of Law No. 140/2001 on the State Labour Inspectorate is a step forward in protecting the rights of employees, including children, but it is not enough, because it does not allow inspectors to make unscheduled inspections when there are other direct or indirect sources of information about working conditions, and during the unscheduled inspection, only those aspects that served as grounds for initiation of the inspection can be checked.¹⁵ Thus, there is a risk that some cases of forced labour, child labour or other abuses may not be revealed and punished.

According to the domestic legislation, economic exploitation of children is an offense¹⁶ for which parents or persons who replace them are held liable based on Art. 63 of the Code of Contraventions (Failure to fulfil the obligations of maintenance, education and instruction of the child), Art. 58 of the CC (Involvement of minors in works that pose a danger to their health), Art. 55 of the CC (Violation of the labour protection legislation). Based on Art. 58 of the CC and Art. 55 of the CC, persons other than those with family responsibilities can also be punished. Those holding managerial positions and other persons who are aware of the existence of a danger to the life or health of the child or about the violation of his or her legitimate rights and interests and do not notify the guardianship authorities are liable according to Art. 65 of the CC (Violation of the legislation on special protection of children at risk and of children separated from their parents) or, as the case may be, according to Art. 66 of the CC (Violation of the rules of adoption, establishment of guardianship (curatorship) over children left without parental care, failure to fulfil the legal prescriptions of the guardianship authority).

¹⁴ Art. 19 of Law No. 131/2012 on state control over entrepreneurial activity

¹⁵ Art. 19(6) of Law No. 131/2012 on state control over entrepreneurial activity

¹⁶ Code of Contraventions of the Republic of Moldova, Law No. 218-XVI of 24.10.2008, Official Gazette No. 3-6/15 of 16.01.2009.

Criminal liability¹⁷ for actions of economic exploitation of children is provided for, depending on specific circumstances, in Art. 164 of the CrC (Kidnapping of a person), Art. 166 of the CrC (Illegal deprivation of liberty), Art. 167 of the CrC (Slavery and conditions similar to slavery), Art. 168 of the CrC (Forced labour), Art. 206 of the CrC (Trafficking in children), Art. 302 of the CrC (Organization of begging), Art. 207 of the CrC (Illegal removal of children from the country), Art. 208 of the CrC (Involving minors in criminal activity or determining them to commit immoral acts), Art. 217¹ of the CrC (Illegal circulation of narcotic, psychotropic substances or their analogues for the purpose of alienation), as well as in the articles of the Criminal Code that provide for punishment for crimes committed by persons who hold managerial positions, etc.

To prevent and combat labour exploitation of children, the Republic of Moldova adopted several laws and regulations that set out appropriate standards and sanctions. However, restrictions on unscheduled inspections can prevent the application of laws in cases of labour exploitation of children, and gaps in the regulation of the procedure of resolution by employees of the State Labour Inspectorate impede identifying cases of labour exploitation of children, their protection and referral to support services.

1.3. Policy documents on prevention and protection of children against labour exploitation

An important aspect of child protection is preventing and combating their labour exploitation, which can negatively affect their physical, mental, moral, spiritual and social development. 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, including in the field of preventing and combating sexual abuse and sexual exploitation of children, both offline and online. Also, the 'European Moldova 2030' National Development Strategy, approved by the Parliament of the Republic of Moldova on 17 November 2022, includes provisions for improving working conditions and reducing informal employment, which can help to reduce the phenomenon of child labour.

According to the data provided by the Ministry of Labour and Social Protection (*hereinafter the MLSP*), the Republic of Moldova, as a member state of the International Labour Organization (ILO), ratified the basic documents adopted by this organization in the field of child labour – Convention No. 138 concerning the Minimum Age for Admission to Employment, ratified by Law No. 519/1999 and Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, ratified by Law No.

¹⁷ Criminal Code of the Republic of Moldova (in force from 24.05.2009, republished), Law No. 985 of 18.04.2002, Official Gazette 128-129/1012, 13.09.2002.

849/2002, constantly making efforts to ensure compliance with the relevant international standards, including the reporting of achievements. In this regard, according to the Annual Report *'Findings on the worst forms of labour exploitation of children'*, recently published by the US Department of Labour¹⁸, it is noted that the Republic of Moldova has made progress in combating child labour, after five years in which it was evaluated with 'minimum progress' in these efforts.

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 non-declared work), by restoring the right of labour inspectors to carry out unscheduled inspections to detect serious cases, such as child labour or undeclared work.

Through the Report mentioned above, the Republic of Moldova received a number of recommendations that the Ministry of Labour and Social Protection aims to implement and that will help to improve the achievements obtained in fighting against serious forms of labour exploitation of children and will ensure increased protection measures of them, which the ministry took into account for 'implementation' purpose. Thus, to reach the next level, i.e. 'significant progress', it is planned to revise the legislative provisions on the minimum age standard for employment, to adopt a legal framework that defines the types of light work allowed for children and to ensure that the law prohibits and punishes anyone who violates the minimum age for admission to employment.¹⁹

Another important aspect that the Ministry of Labour and Social Protection emphasizes is the progress achieved in preventing and combating labour exploitation of child, by restoring the National Council for Child Rights Protection. This body has the role of coordinating and monitoring child protection policies and measures at national and local level, in accordance with international standards. The Ministry intends to strengthen the institutional and functional capacity of this Council, by providing the necessary human, financial and technical resources.

As an additional measure, according to the Action Plan for the implementation of the National Programme for Child Protection 2022-2026, approved by Annex No. 2 to Government Decision No. 347/2022, the objective for 2026 is to develop a comprehensive study of the phenomenon of child labour in the Republic of Moldova and an action plan to address the identified issues.

¹⁸ Available online at: <https://www.dol.gov/agencies/ilab/resources/reports/child-labor/moldova>

¹⁹ MLSP Response No. 07/4457 of 06.11.2023.

II. SERVICES OF CHILD PROTECTION AGAINST LABOUR EXPLOITATION

2.1. Institutions responsible for enforcing the law in the case of child labour exploitation

One of the main objectives of this study was to analyze how the guardianship authorities in the Republic of Moldova, in collaboration with the State Labour Inspectorate and territorial subdivisions, manages cases of child labour exploitation. The data obtained within the quantitative and qualitative study show that when the guardianship authorities are notified about cases of labour exploitation, they apply the provisions of Law No. 140/2023 and 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, governed by GD No. 270/2014. This mechanism requires effective collaboration between different institutions and organizations involved in child protection. The study results show that this mechanism works better in cases of abuse and neglect, but its application has difficulties and challenges in cases of labour exploitation, such as: lack of human and material resources, lack of information and awareness of the population, lack of coordination and communication between the actors involved, etc.

An important point to mention is that child trafficking cases are managed through the National Referral System for the protection and assistance of victims and potential victims of trafficking in human beings (hereafter NRS). This system is a special collaboration framework, whereby government authorities assume the responsibility to protect and promote the human rights of persons affected by trafficking in human beings (THB) and coordinate their efforts in strategic partnership with civil society and other relevant actors. The mechanism is aimed at supporting victims and potential victims of THB, to restore the rights of those who experienced trafficking by rehabilitating and reintegrating them into society and to prevent re-victimization. During the study, it was found out that many specialists face the dilemma regarding the mechanism to be applied in case of child trafficking: that one provided for by GD No. 270/2014 or the NRS. Therefore, training is required to strengthen the skills of professionals of using the assistance and referral mechanism in cases of children, and also to distinguish cases of trafficking and exploitation.

According to the participants in the interviews, the state does not adequately respond to cases of child labour exploitation for several reasons. One of them is the lack of clear and specific regulations that provide for the procedure of resolution and protective measures for affected children. Another reason is the lack of labour exploitation risk assessment tools and operational procedures that enable professionals to identify cases of child labour exploitation and facilitate intervention of competent authorities in such situations. Also, collaboration between institutions is not effective, as each involved actor face difficulties in clear regulation of duties

related to this field and coordination with the others. In this context, the inter-sectoral cooperation should be strengthened by developing/strengthening the skills of professionals as part of this mechanism.

Despite the shortcomings of cooperation referred to above, some interview participants said cases of suspected child labour exploitation could be resolved by effective inter-sectoral cooperation with all actors involved by:

- informing the State Labour Inspectorate in writing;
- making on-site visits together with specialists from the State Labour Inspectorate;
- talking with the employer and suspected victims in order to evaluate the cases;
- Preventive discussions with minors regarding the rights of the child according to the UN Convention on the Rights of the Child 1989, Art. 32 *Child labour* and Art. 36 *Protection against forms of exploitation*.

According to the data provided by the Ministry of Labour and Social Protection (MLSP), during the last 5 years, inspections revealed 40 employed children, of whom 24 were boys and 16 were girls.²⁰

Therefore, following the visits made by inspectors during 2019, employees of the Labour Inspectorate found out that about 11 children aged 17 worked in 3 entities, of whom 4 were boys and 7 were girls.

In 2020, inspections found out that three economic operators employed 12 children aged 17, including 3 girls and 9 boys. Based on the violations admitted by employers, it was found out that the children did not pass any preventive medical check-up before employment.

Then, in 2021 inspections revealed employment of 10 children, i.e. 3 girls and 7 boys.

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.

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 pending.

These data can be appreciated as positive ones since they reflect the diligence and promptness of specialists in the field of child protection, and also suggest **a low rate of reporting cases of labour exploitation.**

²⁰ MLSP Response No. 07/4457 of 06.11.2023

According to the opinion of the interviewees, the low rate of reporting cases of child labour exploitation can be due to poor knowledge of reporting mechanisms, and also due to the fact that there are no clear and accessible procedures for children to share their opinion and claim violated rights. According to Art. 53(5) of the Family Code, in case of violation of the rights and legitimate interests of the child, including non-fulfilment or improper fulfilment by parents (of one of them) of maintenance, education and instruction obligations, or in case of abuse of parental rights, the child may apply independently to the local/territorial guardianship authority for the defence of his or her legitimate rights and interests, and from the age of 14 years of – to the court. Nevertheless, actually this right is often ignored or hindered.

The difficulty of realizing this right is determined not only by subjective circumstances, which consist of dependence on parents, emotional immaturity, poor knowledge of legislative and procedural aspects, but also by contradiction with Art. 53(3) of the Family Code, according to which only the minor who has, until the age of majority is attained, the full capacity to exercise, can defend his or her rights and legitimate interests independently. In this context, it should be noted that, according to the Civil Code, the minor can have full capacity to exercise, until he or she attains the age of majority, only through marriage or by the decision of the guardianship authority, subject to the consent of parents (in the absence of the consent of parents, by a court decision), provided that he or she is employed formally or is engaged in entrepreneurial activity²¹. Neither does the wording of Art. 58 of the Civil Procedure Code, which refers to the capacity to exercise the civil procedural rights by minors who attained the age of 14, makes things clear. Therefore, the mechanism provided for in Art. 53(3)-(5) of the Family Code does not ensure effective protection for the child victim of abuse or violence.

A solution for the implementation of the provisions above is enabling the child to request the assistance of a lawyer who provides state-guaranteed legal aid to act in his or her interests. In this regard, Law No. 112 of 09.07.20²² introduced Art. 19(1²) in Law No. 198 of 26.07.2007 on the state-guaranteed legal aid, which gives the child the right to benefit from qualified legal aid without the consent of parents or the guardian/curator. Nevertheless statistical data published by the National Legal Aid Council (*hereinafter* - NLAC) do not show an increased interest on the part of children.

Insufficient reporting of cases of child labour exploitation can be explained by the fact that families and child victims are very vulnerable and do not know how to notify the legal authorities. *‘...Some parents and adults, whose children are victims of labour exploitation, do not even know the term ‘labour exploitation’ and do not know 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, at a time when media sources portray justice as being ineffective and selective. This situation determines*

²¹ Art. 20, Civil Code, Law No.1107-XV of 06.06.2002, Official Gazette of the Republic of Moldova No. 82-86 of 22.06.2002.

²² MO205-211/14.08.20 Art.454; in force on 14.08.20

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...'.²³

Thus, to increase the number of reported cases of labour exploitation and facilitate access to specialized services for children, **it is recommended to organize awareness campaigns among adults and children, potential victims of labour exploitation, to inform about their rights, how to access protection and assistance services. Also, understanding of information should be facilitated, information materials should be developed and shared among 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.).**

Child trafficking is an extreme form of human rights violation that affects millions of children around the world. According to statistical data for 2022, the number of cases of child trafficking (Art. 206 of the CrC) increased by more than 59% compared to the previous year, which shows an alarming scale of the phenomenon.²⁴ Trafficked children are exposed to various forms of exploitation, such as forced labour, sexual exploitation, begging or child pornography. These forms of abuse have harming consequences on physical, psychological and social development of children.

To combat child trafficking, a multidisciplinary and multi-sectoral approach is needed, involving both public authorities and civil society. It is also important to ensure adequate protection and assistance for child survivors of human trafficking while respecting the best interests of the child.

Given Moldova's international commitments, which were strengthened by ratifying the relevant conventions, as well as the need to improve the existing legal framework and prevent violations of victims' rights in both the investigation and trial phases, Law No. 316 of 17.11.2022 introduced amendments to the Criminal Code, the Criminal Procedure Code, the Civil Procedure Code, the Family Code, the Enforcement Code. These amendments are aimed at providing an efficient and adequate procedural mechanism to protect procedural rights of victims of crimes concerning sexual freedom and integrity, trafficking of minors. The national criminal procedure law was updated several times to increase protection of the crime victim. Compared to other types of crimes, those affecting sexual freedom and inviolability of a person are specific and delicate in nature. To observe proportionality between the objective of the criminal process and effective exercise of the victim's rights, which take into account his or her private life, the procedural law shall provide for additional guarantees for victims of crimes of sexual freedom and inviolability, as well as for child victims of trafficking.

²³ In-depth Individual Interview - representative of the guardianship authority.

²⁴ Report of the General Prosecutor on the activity of the Prosecutor's Office for 2022, page 45. Available online at: <https://procuratura.md/sites/default/files/2023-03/RAPORT%20DE%20ACTIVITATE%202022.pdf>

In this regard, specialized judges play a core role in the administration of justice for child victims of human trafficking, but special interview services to avoid retraumatization of children and provide them with a safe and friendly environment are needed.

2.2. Programmes and services for child survivors of exploitation

Child labour exploitation is a major problem that affects children's rights and development. 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. The MLSP 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. Also, at the end of November 2022, the MLSP, the Ministry of Health and the Ministry of Education and Research approved new manners of reporting on child well-being. However, study results show that resocialization and reintegration services for children victims of sexual exploitation and abuse are not enough. Interviewees said that although there is a legal framework that governs liability for this form of abuse, it is found out that law enforcement tools are ineffective and do not protect enough children.

Being asked to report the biggest constraints, difficulties in preventing labour exploitation as well as the factors that prevent prevention and 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.

Another important aspect highlighted by the study is the importance of early identification of children who were or are affected by labour exploitation, as well as of those who present risk factors in the family environment. It is important to ensure for these children adequate services adapted to their specific situation, enable them to recover and reintegrate into society. These services include: psychological support services such as counselling or other types of therapy; evaluation and close follow-up by social workers; support services for parents to help them improve their parenting skills and protect their children and placement alternatives (including day centres). The basic needs of these children, such as food, clothing and housing, should also be covered. Families shall be supported to receive the financial aid to which they are entitled, as well as other forms of financial support. In addition, there is a need for a

diversification of alternative care options for children who cannot be raised in families or who do not enjoy adequate parental care, and who are vulnerable to labour exploitation.

We shall mention that the Annual Report '*Findings on the worst forms of labour exploitation of children*', recently published by the US Department of Labour²⁵, evaluated the government's efforts to combat child labour in Moldova and identified some positive initiatives, and also some deficiencies. The positive initiatives include, inter alia:

- The Decent Work Country Programme (2021–2024), is an ILO programme that collects data on child labour, supports the labour inspectorate and aims to eliminate labour exploitation in the fields of construction and agriculture.
- The Centre of Protection and Assistance for Victims of Human Trafficking, a government-funded shelter for victims of human trafficking in Moldova, which offers them shelter, rehabilitation and reintegration. The shelter has a special section for surviving children and was operational during the analyzed period.
- The Programme of social aid and social support for families with children, which provides financial assistance to families. The Social Aid Programme, implemented by the district social assistance and family protection directorates, has been assisting families with low income since 2008.

Beyond the pointed assessments, the Republic of Moldova shall enhance its efforts to provide 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 sufficient financial and human resources.

2.3. Support services and legal representation

Law No. 198 of 26.07.2007 on state-guaranteed legal aid gives the child the right to benefit from qualified legal aid without the consent of the parents or the guardian/curator. However, the number of child victims of exploitation, represented by a lawyer in contravention, criminal and civil processes makes up a very small percentage.

The small number of child victims of labour exploitation who benefit from state-guaranteed legal aid (*hereinafter SGLA*) can also be due to the fact that in the past they could have the right to state-guaranteed legal aid only from the moment they officially obtained the procedural status of injured party. Therefore, it was not enough to simply request the state-guaranteed legal aid, but it was mandatory to justify the procedural status by submitting the order of recognition as injured party.²⁶

Following the amendments to *Law No. 112 of 09.07.20²⁷*, good premises were created to ensure early access for children to the state-guaranteed legal aid necessary for filing a complaint in order to initiate criminal prosecution.²⁸

²⁵ Available online: <https://www.dol.gov/agencies/ilab/resources/reports/child-labor/moldova>

²⁶ Annual activity report of the National Legal Aid Council, for 2021, p. 28. Available at https://cnajgs.md/uploads/asset/file/ro/1671/Raportul_anual_de_activitate_pentru_anul_2021.pdf

²⁷ MO205-211/14.08.20 Art.454; in force on 14.08.20

Another possible explanation is that legal representatives and child victims of labour exploitation do not know enough about their right to benefit from the assistance of a lawyer who provides state-guaranteed legal aid. Most often, they are only aware of the possibility of contracting a private lawyer's services, which are not affordable for many families. This affects children who are victims of labour exploitation in realizing their procedural rights, including the right to file a civil action.

To ensure that child victims of labour exploitation are informed about the procedure for obtaining the assistance of a lawyer paid by the state, informational materials with reference to how child victims can access the SGLA should be developed so that they are accessible to people with a basic level of education, legal representatives, child victims with multiple vulnerabilities (e.g., persons with mental and psychosocial disabilities, sensory disabilities, illiterates, etc.). In this case, materials developed using icons and graphic representations can be used.

We note that the National Legal Aid Council has enough lawyers who provide SGLA, has specialized lists of lawyers who provide aid to victims of crimes²⁹, and in 2015 developed methodical tools for lawyers who provide state-guaranteed legal aid to child victims.³⁰

²⁸ Ibidem, p. 28

²⁹ https://cnajgs.md/ro/lawyers/avocat_specializat

³⁰ <https://cnajgs.md/ro/standarde-de-alitate>

CONCLUSIONS

1. The Republic of Moldova has made progress in combating child labour, after five years in which it achieved ‘minimal progress’ in this regard³¹.
2. 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 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.
3. According to the international commitments assumed by our country, normative acts related to the work of minors were developed and adopted. However, the legislation of the Republic of Moldova does not ensure sufficient protection of children against the worst forms of labour exploitation, such as those aimed at informal employment of children.
4. The domestic legislation does not provide a clear definition of the concept of family work, nor does it set an age limit for the involvement of children in such activities. This can lead to confusion and possible cases of child abuse or exploitation by parents or caregivers. It is therefore necessary to make clear the legal rules regarding family work and ensure that the rights of children to education, protection and development are respected.
5. On 30 November 2023, the Parliament of the Republic of Moldova adopted a new law on the rights of the child. This Law is in line with the UN Convention on the Rights of the Child, including its additional protocols, and sets out more clearly the role of the state in ensuring the rights of the child. However, the new law does not make clear the child labour in domestic work. It is not specified whether child labour prohibitions also apply to domestic work in which children may be involved or only to child work performed outside the family.
6. Amendment of Law No. 140/2001 on the State Labour Inspectorate is a step forward in protecting the rights of employees, including children, but it is not enough, because it does not allow inspectors to make unscheduled inspections in cases where there are sources of information other than those provided by law, whether direct or indirect ones, about working conditions, and during unscheduled inspections, only those aspects that served as grounds for initiating the inspection can be checked.³² Thus, there is a risk that some cases of forced labour, child labour or other abuses may not be discovered and punished.
7. 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, inter alia, the National Programme for Child Protection (2022-2026), which sets out the objectives and priority actions for strengthening the social protection system for children,

³¹ According to the annual Report ‘Findings on the Worst Forms of Child Labor’, recently published by the U.S. Department of Labor

³² Art. 19(6) of Law No. 131/2012 on state control over entrepreneurial activity

including in the field of preventing and combating sexual abuse and sexual exploitation of children, both offline and online. 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.

8. According to Law No. 140/2013 and GD No. 270/2014, they 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.
9. 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.
10. The Republic of Moldova made steps to develop assistance programmes for children victims of labour exploitation, but does not provide enough re-socialization and reintegration services for those who escaped exploitation.

RECOMMENDATIONS

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. 270/2024 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.
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, assessment, referral, assistance and monitoring of child victims and potential victims of violence, neglect, exploitation and trafficking.