



THE PEOPLE'S
ADVOCATE
OMBUDSMAN

REPORT

ON HUMAN RIGHTS AND
FREEDOMS IN THE
REPUBLIC OF MOLDOVA

2022

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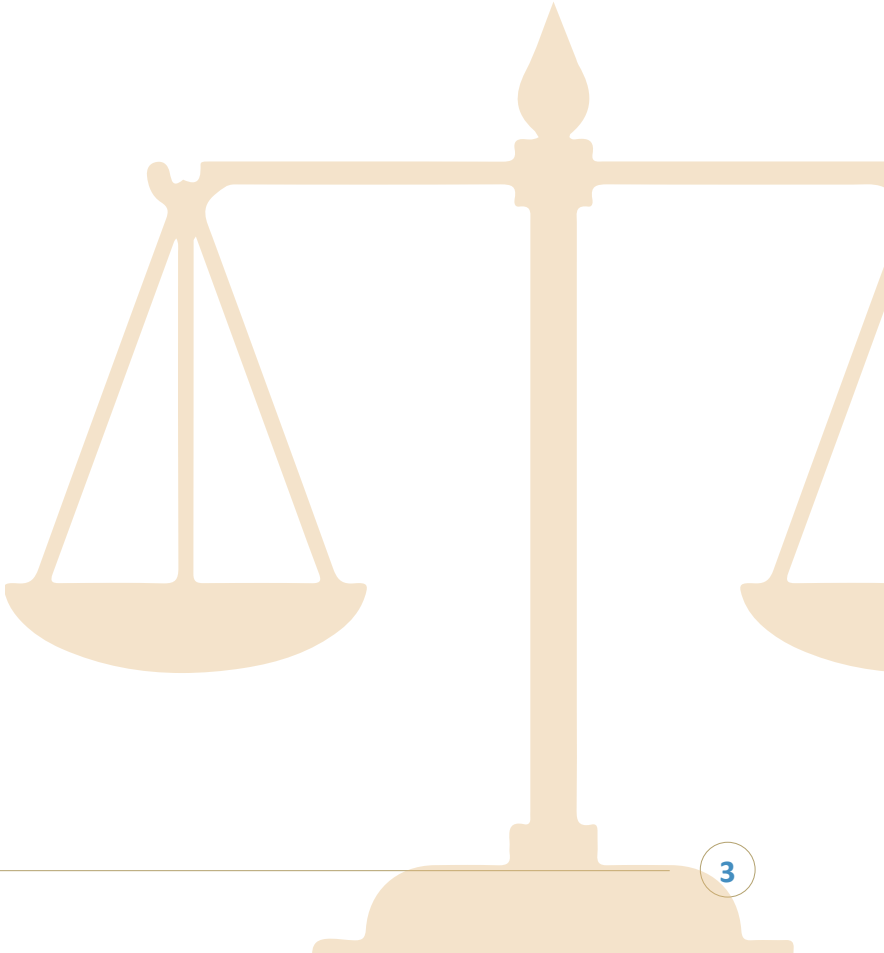
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Message from the People's Advocate

Dear friends,

I am grateful and honored that for a year now I have been representing the human rights and freedoms in the Republic of Moldova as the People's Advocate.

The work of an Ombudsman must be transparent and open for dialogue with the society and this is exactly what I did in 2022. In my work I have followed and will continue to follow all legal procedures and certainly the Paris Principles.

When I took office as the People's Advocate in 2022, I had a very clear idea about what I wanted to achieve during my mandate. I knew that the People's Advocate Office had an impeccable reputation, I knew of its achievements, and I also knew where improvements could be made.

Last year was a difficult and challenging year, but it was also a year with a lot of accomplishments. Last year put us all to a test, but together with my colleagues from the People's Advocate Office we found solutions and managed to be close to all those who needed our help. It is true that there is always room for improvement, which is why I am determined to work hard for everyone's rights and freedoms.

However, let us start with the positives!

When I took office, I committed to work hard for the benefit of all the people, even those who have never heard about the People's Advocate Office. Thus, the People's Advocate Office became more visible last year, with a targeted and strategic vision rather than a general one.

In 2022, the efforts of the People's Advocate Office were directed towards monitoring the rights and freedoms of the Moldovan and foreign citizens in the Republic of Moldova.

While I am appreciative of the cooperation between the People's Advocate Office and the government authorities, I advocate for and count on strengthened relations between the National Human Rights Institution and decision makers, in particular regarding the implementation of the Ombudsman's recommendations.

One of our main activities in 2022 was to monitor the rights of the foreigners that came to the Republic of Moldova fleeing the military invasion of the Russian Federation in Ukraine. Despite the efforts made by the public authorities to manage the refugee crisis, there were some deficiencies that must be highlighted, in particular with regard to securing the right to healthcare, the right to education and family reunification. Therefore, monitoring the rights of the beneficiaries of humanitarian protection will continue to be on my agenda.

Additionally, we made multiple proposals for improvement of the national legislation to make sure it is aligned with the human rights standards of the international treaties.

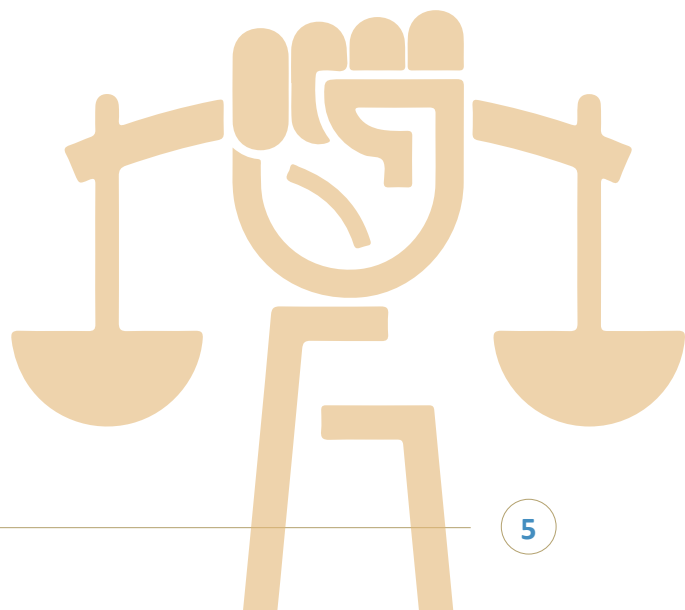
We are pleased and thankful for the cooperation and partnerships with the international institutions supporting the development and capacity-building of the People's Advocate Office in the field of prevention, protection and promotion of human rights in the Republic of Moldova.

For more than 25 years one of the main challenges for the People's Advocate Office was its dilapidated building, which was unsafe for staff and beneficiaries. Thus, in the beginning of 2023, due to the support of the United Nations High Commissioner for Refugees (UNHCR), the team of the People's Advocate Office moved to a building that responds to the needs of the institution. Because it is also important for the visitors to know that they can come to the People's Advocate and the People's Advocate for Children Rights without the feeling that they might be intimidated or coerced by other authorities located in the same building, the National Human Rights Institution, in accordance with the Paris Principles, no longer shares the same building with other public authorities and is, therefore, accessible to a wider group of visitors, including people with disabilities, who have access routes to it from all the districts of the town.

In 2022, my first year at the helm of the People's Advocate Office, I had the honor of leading a team that strived to become better and to make the work of the People's Advocate Office more impactful. We worked hard to make the People's Advocate Office more inclusive and a place where people from all the categories of population feel welcome. Despite the challenges we faced during the year, we achieved visible results in this sense.

Finally, I would like to express gratitude to the team of the People's Advocate Office and to the international and national partners I had the honor to work with. The whole team and I remain committed to promoting fairness, accountability and transparency of the People's Advocate Office, but also in the society, by handling and investigating human rights complaints and by monitoring and reporting on the human rights situation and on the systemic issues within the Ombudsman's jurisdiction.

Thank you!
Ceslav PANICO
People's Advocate





Message from the People's Advocate for Children Rights

Dear children, Dear citizens,

This final message from me as the People's Advocate/Ombudswoman for Children Rights carries a slight note of melancholy, as it reminds me of the traditional annual reporting, I have done year after year, 7 years in a row, and represents the culmination of my work.

It comes as a final epilogue for my 7 years in office, followed by the report on the situation of children's rights in Moldova in 2022.

During my mandate, I brought the issue of children's rights before the highest forums, such as the Parliament, and succeeded in introducing parliamentary scrutiny of the rights of children at risk and formulating improvements to legislation to align it to the international standards. Our efforts were supported by the civil society and together we managed to promote children's rights, demonstrating the role of children as active actors in our society and, last but not least, to make them believe and confident that their voice is important in all the matters that concern them. Child Human Rights Defenders and The Rights of Future Generations are new concepts, which must be added on the agenda of the national authorities requiring a holistic approach.

During my mandate (2016 – 2022) there was a significant improvement in the national children's rights system. Yet, there are still shortcomings which remain to be addressed by the State as a duty-bearer, in particular those related to prevention of violation of children's rights, protection of children at risk, promotion of children's rights and safeguarding the best interests of children in all the matters that affect them.

Despite the slight improvement in the situation caused by the COVID-19 pandemic in early 2022, the events that have been taking place in Ukraine, which should have been just a page in history and about which children should have learned from history books, disrupted the whole international order. The armed conflict between Russia and Ukraine divided families, brothers and sisters and alienated peoples for decades by causing suffering to children, who will carry it throughout their lives.

Thus, in my last year in office, I focused primarily on safeguarding the rights of the refugee children from Ukraine, who had to find a safe shelter outside the country they used to call home. The issues related to safeguarding the rights of the children affected by the armed conflict between Russia and Ukraine have been the most complicated, because many children, already at risk as a vulnerable group, have witnessed unimaginable atrocities, which separated them from their parents, brothers, sisters and displaced them hundreds and thousands kilometers away from each other or, in certain cases, took away the most important people for their lives and development.

Dealing with the children who have fled the armed conflict in the neighboring country became another challenge for the national authorities, which had not yet fully recovered from the effects of the pandemic. Thus, the issues related to life and development of children, family reunification, education and health, their involvement in the decision-making processes and making their voice heard have become much more meaningful and required that the Moldovan authorities join efforts to address them.

It is during this period that establishing the Children's Consultative Council of the People's Advocate for Children Rights aimed at strengthening the mechanism for consulting children's opinions is given particular importance. This instrument is a success not only for the People's Advocate for Children Rights, but also for the whole society, especially that the Law no.117/2022 on the ratification of the Optional Protocol to the United Nations Convention on the Rights of the Child on a Communications Procedure¹ was finally approved in Moldova following repeated recommendations from the People's Advocate for Children Rights. Another highlight of 2022 was the entry into force of the Istanbul Convention on preventing and combating violence against women and domestic violence, which often have repercussions on children with after-effects for their further development. Therefore, I am proud that, as a representative of the National Human Rights Institution, I succeeded to convince the public authorities to adopt this international human rights instrument.

Finally, at the end of my mandate, I would like to bring to the attention of lawmakers the need to strengthen the role of the Children's Ombudsman Institution as a National Children's Rights Institution, by giving it greater financial and operational independence. Thus, the issue of establishing a separate entity of the People's Advocate for Children Rights as a National Human Rights Institution, a concept supported by the practices of the international partners and the internal analysis of the activities of the People's Advocate Office, should be high on the public agenda.

In conclusion, I would like to thank the team of the People's Advocate Office for always supporting me in my role as a defender of children's rights, the international and national partners for facilitating the promotion of the rights and best interests of children in the Republic of Moldova, the government authorities for their efforts to implement the recommendations of the People's Advocate for Children Rights and, last but not least, the civil society and mass-media.

**Respectfully yours,
Maia BĂNĂRESCU
People's Advocate for Children Rights**

¹ https://www.legis.md/cautare/getResults?doc_id=131326&lang=ro

Executive Summary

CHAPTER I

HUMAN RIGHTS

Last year was a turbulent and challenging year for human rights. In 2022 the Republic of Moldova witnessed a decline in the effects of the SARS-Cov-2 pandemic but, just like the whole international community, was shaken by events, which should have never happened in a contemporary society – the war started by the Russian Federation against Ukraine. The humanitarian crisis, which followed the pandemic crisis, was a major challenge for the national authorities, requiring actions to safeguard human rights not just for the Moldovan citizens, but also for an overwhelming number of refugees fleeing the armed conflict in the neighboring country and seeking a safe shelter to survive.

Though the effects of the COVID-19 pandemic are no longer as strong as they were at the beginning, the People's Advocate notes that no substantial changes happened in relation to the right to health in the reporting period. The healthcare system adapted to the effects of the pandemic and started to use its consequences as an excuse for failures. The Ombudsman's opinion is also shared by the international partners, including the European Observatory², which, in one of its recent studies made public on September 12, 2022, made a screening of the Moldovan healthcare system³ resulting in the following findings:

1. despite government's efforts to address informal payments, they still hinder access to health services, particularly hospital care;
2. relatively low levels of public spending on health as a share of GDP and high rate of out-of-pocket payments for health services make such services inaccessible for final users;
3. despite plans to reorganize publicly-run hospital services, the number of private hospitals has increased lately;
4. human resources face large-scale out-migration, aggravated by the geographical imbalance of health services;
5. steady decline in the rate of vaccinated people, aggravated by the COVID-19 pandemic;
6. excessive alcohol and tobacco consumption, which seriously affects the health system and leads to premature mortality from non-communicable diseases.

The People's Advocate repeatedly drew the attention to the protection of the ***right to health in the places of deprivation of liberty***. Although this issue was raised in the previous reports, the large number of complaints in this sense makes us return to it. The Ombudsman notes that the persons held in custody facilities (prisons, temporary placement centers) continue to receive limited and often unprofessional medical care.

Regarding the ***right to a fair trial***, despite a few systemic changes made by the government, justice remains to be one of the most criticized sectors by the society. The justice system continues to be perceived by the population as strongly affected by corruption, where crony relationships guarantee the settlement of problematic situations.

² <https://eurohealthobservatory.who.int/home>

³ <https://eurohealthobservatory.who.int/publications/i/health-systems-in-action-republic-of-moldova-2022>

While the People's Advocate welcomes the approval of the Strategy on ensuring independence and integrity of the justice sector for the period of 2022 – 2025 and its Action Plan⁴, we encourage the Moldovan authorities to strengthen the mechanism of monitoring and evaluation of the implementation of the Action Plan. Currently there is only one monitoring report available.

The Ombudsman also welcomes the amendments made to the Law no.68/2016 on the judicial expertise and the status of the judicial expert and to the Law no.198/2007 on the state guaranteed legal aid, which facilitate the access of the socially vulnerable persons and persons with disabilities to justice.

The People's Advocate recommended improving the procedure of examination of claims under the provisions of art. 473³ of the Criminal Procedure Code no. 122/2003 and communication of procedural documents to the persons suspected, charged or convicted in criminal proceedings. Finally, the People's Advocate raised the issue of the poor quality of the legal services provided by some public defenders, pointing out that the state guaranteed legal aid mechanism requires improving.

Regarding the **right to social security and assistance**, the People's Advocate drew the attention of the national authorities to the high vulnerability of the population caused by the energy and humanitarian crises during the reporting period. In his opinion on a draft law that provided for changing the vulnerability status of the consumers that have not registered in the Energy Vulnerability information system from medium to low, the People's Advocate stressed that both human dignity and social security are paramount in any actions taken by the state in relation to the population, and such actions must include only progressive measures and in no case regressive ones. Unfortunately, this recommendation has been ignored.

The Ombudsman also called attention to the poor quality of the social assistance for the elderly and the persons with disabilities, calling for actions to strengthen the social assistance system, including by diversifying and tailoring the assistance services to the specific needs of each category of people with disabilities and by increasing the social benefits for all the vulnerable groups.

Additionally, the People's Advocate noted that the complaints from citizens about the small amounts of the benefits received from government to pay the bills, in particular in the cold season, remain a matter of concern. The People's Advocate commends the authorities for the efforts to increase the salaries in the public sector and index pensions. Yet, given the recent energy and humanitarian crises, which resulted in higher poverty rates, those efforts were not enough and must be scaled up.

Regarding the **right to work and labor protection**, the Ombudsman notes lack of any positive developments in the reporting period. The Moldovan authorities again used the geopolitical and humanitarian crises of 2022 as an excuse for their failure to achieve progress. The Ombudsman also notes that national authorities failed to implement the recommendations from previous reports and calls on them to do so.

The Ombudsman considers that authorities must re-evaluate and build the capacities of the State Labor Inspectorate to make it efficient, in particular as regards the unannounced inspections to employers.

Finally, the People's Advocate calls for actions to develop the mechanism for the employment of convicted persons who serve their sentences in detention facilities and those who have been released.

Ensuring the **right to liberty and security** stipulated in art. 5 of the European Convention on Human Rights continues to be a challenge for the public authorities, in particular for the judiciary. The increasing number of custodial measures applied by the national courts, disregarding the alternative supervision measures, is alarming. The detainees keep complaining about the large number of searches carried out by the National Administration of Penitentiaries and the abusive behavior of officers during searches.

4 https://www.legis.md/cautare/getResults?doc_id=129241&lang=ro

The physical condition of the psychiatric hospitals for prisoners is also a reason for concern. Therefore, the People's Advocate reminds that these persons, being sick people, must be treated like any other patient with due consideration for their dignity and rights.

Regarding the **freedom of assembly and expression**, the reporting period was marked by protests involving people and members of political groups, whose behavior in some cases went beyond the accepted standards. On the other hand, the People's Advocate considers that suspension of the broadcasting licenses for some TV stations was an excessive measure, calling on authorities to identify effective and legitimate solutions that do not undermine, even in the slightest way, these fundamental rights. Finally, the People's Advocate condemned the attacks against journalists and the civil society.

Regarding **prevention of violence against women and domestic violence**, the People's Advocate welcomes the ratification of the Istanbul Convention and encourages the public authorities to focus their efforts on fully aligning the national legislation to the standards of this international instrument. The Ombudsman also notes that at central level there is no mechanism for collecting disaggregated data on violence against women and domestic violence.

During the reporting period, the People's Advocate monitored the **whistleblower** protection mechanism. Mandated to provide protection to whistleblowers, the People's Advocate:

1. receives and reviews requests for protection of whistleblowers and takes action ex-officio to protect the whistleblowers who make public disclosures provided that they clearly consent to receive protection from the People's Advocate;
2. takes action to prevent retaliation and achieve peaceful resolution of conflicts between whistleblowers and public or private entities;
3. recommends measures to be taken for the immediate reinstatement of whistleblowers;
4. files action in court and presents opinions during court proceedings to protect whistleblowers' rights and freedoms.

The Ombudsman notes that the current whistleblower protection mechanism is not fully operational and its practical implementation is quite deficient.

In 2022 the People's Advocate also received **conscription**-related complaints and notes that the state is still quite reluctant to enforce the alternative service and that conscientious objectors continue to be perceived as draft dodgers.

The **human rights situation on the left bank of the Nistru River** also continues to be a matter of concern. The People's Advocate calls on the national authorities to take proactive actions to ensure the access of the National Human Rights Institution – the People's Advocate Office, to the detention facilities on the left bank of the Nistru River. Freedom of movement, pensions and social benefits, freedom of expression and conscience, forced enlistment in the unconstitutional army are other problem areas that require attention.

Chapter II

CHILDREN'S RIGHTS

The People's Advocate for Children Rights welcomes the efforts of the national authorities to promote children's rights, but also urges them to strengthen the efforts towards ensuring the best interest of the child. Therefore, as regards **the right of the child to the highest standard of health**, the Ombudswoman for Children notes that the national authorities must address the shortage of staff in the community mental health centers, in particular in the rural areas, and strengthen the pre-hospital intervention mechanism for the children with mental disabilities.

In terms of ***civil rights and liberties***, the People's Advocate for Children Rights established the Consultative Council for Children, the purpose of which is to consult children and serve as a platform where children can share their views with the People's Advocate and public authorities. Despite this, the People's Advocate for Children Rights notes that the voice of the children is still not fully heard and they are not properly engaged in the decision-making process.

Another sector monitored by the People's Advocate for Children Rights in the reporting period was ***education***. The People's Advocate for Children Rights calls on the public authorities to strengthen the support and psychological assistance mechanisms in schools and to fight violence and bullying, which are common in education institutions and must be addressed by the relevant authorities.

Finally, it is important that the education authorities adopt a holistic approach and revise the components of the national curricula, which touch upon human rights, in particular the rights of the child, so as to make them more centered on the interest of the child, rather than that of the adult.

The ***rights of the street children*** continued to be a challenge in 2022. The public authorities did not manage to put in place a viable mechanism to reduce the number of street children. Therefore, the People's Advocate encourages the public authorities to strengthen the cross-sector mechanisms to reduce the number of street children.

Regarding the situation of the ***children in contact with the justice system***, despite a slight decrease, the number of children in conflict with the law was still alarmingly high in the reporting period. The Ombudswoman for Children has always advocated for the application of alternative solutions to imprisonment for child offenders, especially that the national legislation does provide for alternative solutions which can be applied during criminal investigation, trial and sentence enforcement.

In 2022, the People's Advocate called for the revision of the mechanism put in place by Law no. 299/2018 on measures and services for children with deviant behavior⁵. Additionally, the People's Advocate paid particular attention to the children who ***fled the armed conflict in Ukraine***. The monitoring revealed that most of the children from refugee families chose the online education provided by the Ukrainian authorities. To facilitate their access to education, the refugee accommodation centers were connected to Internet with the support of non-government organizations after such requests were received from the managers of the refugee centers or from the social assistance representatives. On the other hand, in the circumstances where temporary protection was not activated, only the minor asylum seekers could use their right to fully enroll in the Moldovan education system or only to attend school without enjoying the guarantees and finalities provided by the public education system.

As regards the ***rights of the children on the left bank of the Nistru River***, the Ombudswoman for Children notes that the 8 Latin-script schools in the Transnistria region subordinated to the Ministry of Education and Research of the Republic of Moldova have not been provided yet with own premises, which would respond to the relevant national and international standards. In 2021, the People's Advocate for Children Rights recommended to the national authorities to create a multifunctional education complex to ensure the succession of education system levels and cycles in accordance with the provisions of the Education Code of the Republic of Moldova and the right of the children to engage in leisure activities appropriate for their age, to participate freely in the cultural and artistic life. However, despite the fact that both the chair of the parliamentary committee for culture, education, research, youth, sport and mass-media and the Ministry of Education and Research supported this initiative, unfortunately for us and for those in the region, the problem remained unsolved.

5 https://www.legis.md/cautare/getResults?doc_id=110737&lang=ro

Chapter III

PREVENTION OF TORTURE

In 2022, **72 preventive visits** were carried out to the places of deprivation of liberty⁶, which resulted in **29 reports** with **570 recommendations**⁷. In addition, the People's Advocate Office involved in **7 high-profile cases** ending with **7 special reports**⁸, prepared **3 thematic reports on pressing issues**⁹ and **15 quarterly thematic reports** on safety in the places of deprivation of liberty¹⁰. Overall, the implementation rate of the medium-term recommendations is about 60%, while that of the long-term recommendations (*resources and policies*) – around 10-15%. Additionally, to promote the recommendations of the People's Advocate and those of the Council for the Prevention of Torture (CfPT), **6 meetings** were held with the representatives of the National Administration of Penitentiaries (NAP), the National Anticorruption Center (NAC), the Ministry of Defense (MD), the Ministry of Internal Affairs (MIA) and the parliamentary committee on human rights and interethnic relations. There was no interference in the monitoring process and no overlapping visits as part of the prevention mandate.

Between January and June 2022, the People's Advocate Office (PAO) conducted the first national campaign "**Observ Carabinierul**"¹¹, and in the period of June 26 – 30, 2022, the fourth campaign "**EuNUaplic166/1-EuRespect Demnitatea UMANĂ**"¹². PAO's Torture Prevention Department (TPD) organized and participated as speakers in 3 national conferences¹³ and had several appearances in mass-media.

Additionally, TPD delivered training on torture prevention (**34** online and offline **training activities**) to **657 employees** of the NAP, General Inspectorate of Carabineers (GIC), General Inspectorate of Border Police (GIBP) and MIA.¹⁴

The prevention activities were supported by donor organizations, including the Council of Europe in Moldova under the "Strengthening the human rights compliant criminal justice system in the Republic of Moldova" project; the Soros Foundation Moldova under the institutional project "Carabineers for Human Rights"; the International Center for Migration Policy Development (ICMPD) under the institutional project "Capacity for a rights-based return system for Moldova", and by the civil society organizations "Centrul de Drept al Avocaților", "Promo-LEX", "IDOM" and "Homecare".

The access of the People's Advocate Office to places of deprivation of liberty in the Transnistrian region of the Republic of Moldova remains limited. For the first time, the Varnita Office of the People's Advocate Office carried out 2 fact-finding visits to 2 prisons in the region on two individual cases.¹⁵

6 51 visits (36 monitoring visits; 6 follow-up visits; 5 fact-finding visits; 1 announced visit; first ever 3 forced return monitoring visits) undertaken by the Torture Prevention Department of the People's Advocate Office and 21 preventive and monitoring visits undertaken by the Council for the Prevention of Torture.

7 The Council for the Prevention of Torture prepared and sent to authorities 20 visit reports with 400 recommendations, while the Torture Prevention Department prepared and sent to authorities 9 visit reports with 170 recommendations.

8 Special report "Ill-treatment based on discrimination in a military facility. The Pavlescu case"; Special report "Torture allegations at the Police Inspectorate Soroca. The Gutu and Covalciuc case"; Special report "Authorization of forced hospitalization contrary to the right to freedom and security of the person"; Special report "The right to professional life and the presumption of innocence upon arrest. The Voloc case"; Special report "Use of physical force and special equipment by police"; Special report "Suspicious death in the temporary detention facility of the Police Department Chisinau" and Special report "Violent death at Balti Psychiatric Hospital" available at <http://ombudsman.md/rapoarte/speciale/>

9 Thematic report "Freedom of assembly during the events on May 8 and 9, 2022"; Thematic report "Access of foreign nationals through the border crossing point "Chisinau International Airport" and Thematic report "Fundamental safeguards upon apprehension by carabineers".

10 <http://ombudsman.md/activitate/prevenirea-torturii/prevenirea-torturii/>

11 <http://ombudsman.md/news/final-de-campanie-observ-carabinierul/>

12 <https://www.facebook.com/hashtag/eunuaplic1661eurespectdemnitateauaman%C4%83>

13 Conference of the Ombudsman "Carabineer institution – between present and future" <http://ombudsman.md/news/premiera-conferinta-stiintifico-practica-a-ombudsmanului-institutia-carabinierilor-intre-prezent-si-viitor/>; National conference "National security and protection of human rights in a democratic society", organized by the National Institute of Intelligence and Security "Bogdan Întemeietorul", the People's Advocate Office and the Center for Security and Crisis Management Studies: <https://sis.md/ro/content/dialog-privind-protect%C8%9Bia-drepturilor-omului-prin-prisma-asigur%C4%83rii-securit%C4%83%C8%9Bii-na%C8%9Bionale> and the national conference "State, Security and Human Rights in a Digital Era", State University of Moldova: <https://usm.md/?p=15846>

14 <http://ombudsman.md/activitate/prevenirea-torturii/prevenirea-torturii/>

15 <http://ombudsman.md/news/in-premiera-angajatii-oficiului-avocatului-poporului-au-efectuat-o-vizita-in-penitenciarul-subordonat-entitatilor-de-la-tiraspol/> <http://ombudsman.md/news/reprezentantul-oficiului-avocatului-poporului-a-visitat-un-detinut-in-izolatorul-de-ancheta-din-penitenciarul-nr-3-%d1%83%d0%b8%d0%bd-3-din-mun-tiraspol/>

Chapter IV

BENEFICIARIES OF INTERNATIONAL PROTECTION

The armed conflict started by the Russian Federation in Ukraine called for immediate actions to ensure effective management of the state border and safeguard the rights of refugees from Ukraine seeking refuge in our country in line with the international and regional standards, priorities and indicators applicable in situations of crisis or other public threat.¹⁶ In the period of February 24 – December 16, 2022 the General Inspectorate for Migration received **11 532 applications for asylum**.¹⁷

Another event in the context of international protection is the partial mobilization of reservists announced by Russia on September 21, 2022, which led to an increased influx of **Russian citizens** to the EU countries, which, in turn, introduced restrictions for the entry of the Russian citizens who travel for the purpose of tourism or leisure. In Moldova, the Ombudsman received reports of human rights violations during the admission of foreign nationals seeking a form of protection to Moldova. Some people mentioned **reluctance and abuse** by the border police in response to their intention to claim asylum.

In the context of monitoring the rights of the persons granted international protection, the People's Advocate drew attention to the **conditions and facilities for the placement of foreign nationals coming from Ukraine**. As the results of the monitoring indicated lack of national regulations on minimum standards and procedures for the accommodation of foreigners receiving temporary protection in Moldova, the Ombudsman made a recommendation in this sense in the report no.1.¹⁸

¹⁶ <https://emergency.unhcr.org/entry/81190/emergency-priorities-and-related-indicators>

¹⁷ <http://bma.gov.md/ro/content/%E2%80%9Eprimul-la-datorie%E2%80%9D-%E2%80%93-mai-prezint%C4%83-activitatea-%C3%AEncep%C3%A2nd-din-data-de-24-februarie-prin>

¹⁸ Report no.1 of the People's Advocate Office, p.16, pg.11

Foreword

Last year was a turbulent and challenging year for human rights. In 2022 the Republic of Moldova witnessed a decline in the effects of the SARS-Cov-2 pandemic but, just like the whole international community, was shaken by events, which should have never happened in a contemporary society – the war started by the Russian Federation against Ukraine. The humanitarian crisis, which followed the pandemic crisis, was a major challenge for the national authorities, requiring actions to safeguard human rights not just for the Moldovan citizens, but also for an overwhelming number of refugees fleeing the armed conflict in the neighboring country and seeking a safe shelter to survive.

For the National Human Rights Institution, the People's Advocate Office, 2022 was an important year and also the first year of Mr. Ceslav PANICO in office (appointed on February 3, 2022 as the People's Advocate through the Parliament Decision no.17/2022). Immediately after taking office, the People's Advocate set the priorities and objectives for the People's Advocate Office, which however were overturned by the new geopolitical circumstances that changed the rules of the game. While having to deal with both planned activities and the unexpected issues that kept arising, the People's Advocate Office and the People's Advocate had to prioritize the interventions, which will be further reflected in this Report on human rights and freedoms in the Republic of Moldova in 2022. In these circumstances, the People's Advocate had to include in the new Strategic Development Plan of the institution both strategic and short or medium term targeted actions with concrete outcomes. The development of the new Strategic Development Plan was one of the priorities of the Ombudsman and the People's Advocate Office in the reporting period and responds to the latest human rights trends.

In 2022 the National Human Rights Institution finally started renovation of its premises and moved to a temporary office that allows its employees to work in safe conditions for their life and health.

The human rights monitoring and reporting process in 2022 was also marked by the candidate status for accession to the European Union granted to the Republic of Moldova. The national authorities should fully capitalize on this vote of confidence from the European partners, including by making improvements in the field of human rights. Therefore, the Ombudsman welcomes the first positive step in this regard, more specifically the enactment of the Law no.315/2022 on the approval of the National Development Strategy "European Moldova 2030".¹⁹ The Ombudsman also commends the authorities for including in this document 80% of the recommendations made by the People's Advocate Office.

The People's Advocate notes that the 2022 Report on human rights in the Republic of Moldova is not a report on the activities of the People's Advocate Office for the Parliament, but rather an assessment by the People's Advocate of how the national authorities managed to fulfill their human rights mandate. This position is also shared by the international treaties and bodies, which coordinate the work of the National Human Rights Institution.

Therefore, the 2022 Report is a collection of emergency and planned activities, aimed to support and encourage the national authorities to advance on human rights. Human rights have been in the spotlight lately, especially for the international partners, who want to make sure that Moldova will not drop its efforts to strengthen the rule of law and will continue to apply the human-rights based approach in policy making and implementation.

The Ombudsman notes that, while this report covers only some of the sensitive areas, this does not mean lack of interest from PAO as the National Human Rights Institution, but rather lack of implementation progress on the part of state actors. Therefore, the People's Advocate reiterates the recommendations made in the previous reports and calls on the state to address them in a holistic manner. It is critical that the state considers all the recommendations made by the Ombudsman,

¹⁹ https://www.legis.md/cautare/getResults?doc_id=134582&lang=ro

especially that in 2023 and in the upcoming years plenty of assessments will follow and the state authorities will be requested to submit plenty of reports to the UN mechanisms (UN Committees), as well as to the regional ones.

Accession to the international treaties will enable Moldova to align to the international human rights standards.

We do hope that the public institutions will give due consideration to this report and to the important information contained in it.



CHAPTER I

HUMAN RIGHTS



1.1. The right to the highest standard of health

Priority no. 1 in the Strategic Development Program of the People's Advocate Office for 2023–2030: "All people have access to quality and reliable healthcare services"

According to the definition given by the World Health Organization, health is a state of complete physical, mental and social well-being, including the ability to lead socially and economically productive life, and not merely the absence of disease or infirmity. Therefore, concerned about the right to health, the People's Advocate outlined the agenda of the People's Advocate Office in 2022 in terms of encouraging the public authorities to ensure this right to the highest standard. Just like in the previous periods, the Ombudsman calls on the state actors to align the national health practices to the international standards.

The People's Advocate notes that the situation related to the right to health did not change much during the reporting period, even though the effects of the COVID-19 pandemic are no longer that strong as they were at the beginning. The healthcare system adapted to the effects of the pandemic and started to use its consequences as an excuse for failures. The Ombudsman's opinion is shared by the international partners, including the European Observatory²⁰, which in one of its recent studies made public on September 12, 2022, made a screening of the Moldovan healthcare system²¹ leading to the following findings:

1. despite government's efforts to address informal payments, they still hinder access to health services, particularly hospital care;
2. relatively low levels of public spending on health as a share of GDP and high rate of out-of-pocket payments for health services make such services inaccessible for final users;
3. despite plans to reorganize publicly-run hospital services, the number of private hospitals has increased lately;
4. human resources face large-scale out-migration, aggravated by the geographical imbalance of health services;
5. steady decline in the rate of vaccinated people, aggravated by the COVID-19 pandemic;
6. excessive alcohol and tobacco consumption, which seriously affects the health system and leads to premature mortality from non-communicable diseases.

The Ombudsman supports the recommendations of the World Health Organization for the state to strengthen the primary health system by improving its funding and staffing included in the "Primary health care financing: policy options for the Republic of Moldova" study.²²

In 2022, the People's Advocate observed the legislative developments in this field, where some progress was made, including: approval of the 2022–2025 National Tuberculosis Response Program and its Action Plan, which aim at reducing the tuberculosis incidence rate by 50% and the mortality rate by 75% compared to the year 2015²³ (the Ombudsman has not seen any progress reports on the implementation of this program and, therefore, cannot assess its efficiency); enactment of the amendments to the Law no. 1593/2002 on the size, procedure and terms of payment of compulsory health insurance premiums, which refer to the individuals who make a one-time lump sum payment for the health insurance premium at the beginning of the year and subsequently become employed; and inclusion of patients with benign tumors among the beneficiaries of prosthetic and impact interventions. Thus, the compulsory healthcare insurance currently covers the expenses for breast

20 <https://eurohealthobservatory.who.int/home>

21 <https://eurohealthobservatory.who.int/publications/i/health-systems-in-action-republic-of-moldova-2022>

22 <https://www.who.int/europe/publications/i/item/WHO-EURO-2022-6132-45897-66131>

23 Government Decision no. 107/2022 on the approval of the National Tuberculosis Response Program for the period of 2022–2025

implants and exoprosthesis required for the rehabilitation of the persons with benign tumors.²⁴

The representatives of the People's Advocate Office took part in the public consultations on the draft law on mental health and wellbeing announced by the parliamentary committee for social protection, health and family. The purpose of the draft was to update the legislation on mental health by introducing a multisector approach and by aligning it with the international human rights regulations.²⁵ The People's Advocate requested that the provisions of the draft should be aligned to the standards related to prevention of ill-treatment, those of the Convention on the Rights of Persons with Disabilities, the Convention for the Protection of Human Rights and Fundamental Freedoms, and the standards related to child protection.



RECOMMENDATION 1.1.1: *The Parliament should approve a National Health Strategy;*

RECOMMENDATION 1.1.2: *The Ministry of Health should put in place new monitoring mechanisms for the implementation of national policy programs and strengthen the existing ones;*

RECOMMENDATION 1.1.3: *The Ministry of Health should revise the employment policy for healthcare professionals so as to reduce their exodus;*

RECOMMENDATION 1.1.4: *The Ministry of Health should scale up efforts to adopt the national mental health program.*

The complaints received by the People's Advocate Office in the reporting period also suggested deficiencies regarding the right to health. One of the most pressing issues citizens continue to complain about is the **accessibility and diversity of health services**, more specifically the long wait times to get to a medical specialist or to a medical investigation procedure covered by the insurance policy. Patients indicate that while they wait for their turn for weeks, months or sometimes even years to receive certain medical services covered by the insurance policy, the same services can be received in the same public medical institutions faster and sometimes even immediately if they pay for them. Referring to standards of the World Health Organization and of the UN Committee on the Rights of Persons with Disabilities²⁶, the Ombudsman notes repeatedly that public health services are compulsory services provided by the state and no unjustified deviation from the existing standards must be allowed. In conclusion, the Ombudsman notes in this regard the case of a citizen who waited unsuccessfully for a surgery for 3 years, which finally did not happen because the medical institution was closed for renovation and the managers of the medical services did not refer the patient to other institutions.

The People's Advocate also draws the attention to safeguarding the **right of health in detention facilities**. Although this issue was raised in the previous reports, there is still a large number of complaints about it. The persons in custody facilities (prisons, temporary placement centers) continue to receive limited and often unprofessional medical care. Detainees complain about lack of possibility to treat their dental diseases, which leads to dental problems, while the persons placed in temporary placement centers for persons with disabilities are exposed to severe diseases, which are beyond the profile of these centers because of lack of preventive measures which should be taken by the medical staff and late diagnosis. Therefore, the People's Advocate notes that the placement of a person in a detention facility is not a reason for providing inadequate medical services or for limiting such services.

Regarding the convicted persons suffering from mental disorders and undergoing inpatient treatment at the Public Psychiatric Hospital, violations were found in relation to the social assistance, including lack of identity documents, insufficient personal hygiene products, lack of individual psychological

²⁴ Law no.171/2022 amending article 20 of the Law on health protection no. 411/1995

²⁵ <https://www.parlament.md/Actualitate/Comunicatedepresa/tabid/90/ContentId/7899/language/en-US/Default.aspx>

²⁶ <https://www.ohchr.org/en/treaty-bodies/crpd>

rehabilitation plans and plans for the resocialization and preparation of convicted patients for discharge and life in the community, lack of adequate conditions for accommodation of patients with mental disorders. Thus, the People's Advocate notified both the management of the Psychiatric Hospital and the Ministry of Health of these findings and recommended them to find appropriate solutions.



RECOMMENDATION 1.1.5: *The Ministry of Health and the Government should identify appropriate resources to renovate the Public Psychiatric Hospital in order to improve the accommodation conditions for patients and the satisfaction of the medical staff with the working environment.*

Another case that left a mark on the year 2022 was the case of **a person that ended up being eaten alive by maggots in a dumpster, because the ambulance refused to pick him up for 2 weeks**. The case happened in Cimislia and because of the late intervention by the medical teams, the person later died in the medical institution. The People's Advocate requested the Prosecutor of Cimislia to start a criminal investigation, who did so only after the Prosecutor General's Office stepped in.

Finally, the Ombudsman reiterates some concerns that have already been raised on various occasions over the years. The People's Advocate notes that the Parliament has not passed yet the law on **medical malpractice**, which would allow for the accountability of medical staff and the lack of which violates the right of patients to highest quality health services. The national authorities have failed to ensure a **proper geographical distribution of health services**. Thus, the most equipped medical centers are in the capital town and patients often have to travel hundreds of kilometers to get appropriate medical care because it is not available where they live.



RECOMMENDATION 1.1.6: *The Parliament should pass a Code that will bring together and standardize the legislation in the health sector;*



RECOMMENDATION 1.1.7: *The Ministry of Health should revise the geographical distribution of medical centers and professionals, in order to bring the qualified health care and services as close as possible to the patient's home (especially for those who are seriously ill).*

1.2. The right to a fair trial

Priority no. 3 of the Strategic Development Program of the People's Advocate Office for the period of 2023 - 2030: "Every person that comes in contact with the justice system enjoys effective access to justice and to a fair trial"

The right to a fair trial continued to be a controversial issue for the Moldovan society and one of the key pillars of the legislative mandate of the People's Advocate. Enshrined in the most important international and regional human rights instruments, such as the Universal Declaration of Human Rights²⁷, International Covenant on Civil and Political Rights²⁸, UN Convention on the Rights of Persons with Disabilities²⁹, and the European Convention on Human Rights³⁰, the right to a fair trial is faithfully transposed into the national legislation, starting with the Constitution of the Republic of

27 <https://www.un.org/en/about-us/universal-declaration-of-human-rights>

28 <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights>

29 <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-persons-disabilities>

30 www.echr.coe.int/documents/convention_eng.pdf

Moldova³¹, finding practical applicability in the relevant regulatory framework. Moreover, the right to a fair trial has gained more significance after Moldova was granted the EU candidate status and the European Commission made nine recommendations to be implemented by the country, one of which refers to the completion of the essential steps of the recently launched justice system reform across all justice and prosecution institutions to ensure their independence, integrity, efficiency, accountability and transparency, including through effective monitoring of activities and democratic oversight, in particular by filling all the remaining vacancies of the Supreme Council of Magistracy and its specialized bodies.

While the Ombudsman supports the government's efforts to *safeguard the right to a fair trial*, he still notes lack of progress in this field. Thus, the analysis of the social climate through the lens of the public opinion and of the reports of the international partners reveals that corruption in the judiciary, late enforcement of judgements, limited access to judicial documents and excessive bureaucratization of the justice system continue to exist in the Republic of Moldova. Moreover, the Ombudsman notes that the government authorities failed to comply with some of the recommendations made in the 2021 Report on human rights in the Republic of Moldova.³² Therefore, the recommendations related to the ***organization of the bailiffs system and its organizational systematization, revision of the legislation on the enforcement procedure and creation of a mechanism for the implementation of the recommendations made by international bodies*** were basically disregarded by authorities. In this context, the Ombudsman ***recommends revisiting the earlier recommendations related to the right to a fair trial.***

The People's Advocate also welcomes the government's positive actions for the implementation of the Law no.211/2021 on the approval of the Strategy for ensuring the independence and integrity of the justice sector for the period of 2022 – 2025 and its Action Plan.³³ Yet, although the introductory part of the new strategy provides a list of completed actions that were taken under the Law no.231/2011 on the approval of the Justice Sector Reform Strategy for the period of 2011 - 2016³⁴, some of them are still ongoing or overdue. The only report on the status of implementation of the Action Plan of the Strategy for ensuring the independence and integrity of the justice sector for the years 2022 – 2025 (first semester of 2022)³⁵ that was available at the time of writing the 2022 Report on human rights in Moldova suggests delays in implementation, including in relation to the right to a fair trial. Therefore, appointment and evaluation of judges, the mandate of the Superior Council of Magistrates, limiting the powers of the Anticorruption Prosecution related to the investigation of serious corruption cases and restructuring the National Anticorruption Center, amendment of the Law no. 113/2010 on bailiffs so as to improve their accountability and strengthen the control procedure, alignment of legislation to the Istanbul Convention are just a few of the key issues which the state failed to fully address in 2022.



RECOMMENDATION 1.2.1: *The Parliament and the Government should strengthen the implementation and monitoring mechanisms of the Strategy for ensuring the independence and integrity of the justice sector for the years 2022 - 2025.*

Due to the Ombudsman's efforts, amendments were made to the Law no. 68/2016 on the judicial expertise and the status of the judicial expert³⁶ by adding paragraph (5¹) to article 75, which states that "the costs of legal expertise for the purpose of instituting a legal protection measure shall be borne by the State". This amendment has a positive impact on the socially vulnerable persons and contributes to the proper implementation of provisions of the UN Convention on the Rights of Persons with Disabilities.

Furthermore, the Ombudsman promoted and supported the government's efforts to amend the Law no.198/2007 on the state-guaranteed legal aid³⁷ by extending the list of beneficiaries of state-

31 www.constcourt.md/public/files/file/Actele%20Curtii/acte_en/MDA_Constitution_EN.pdf

32 <http://ombudsman.md/wp-content/uploads/2022/09/Report-on-the-observance-of-human-rights-in-the-Republic-of-Moldova-in-2021.pdf>

33 https://www.legis.md/cautare/getResults?doc_id=129241&lang=ro

34 https://www.legis.md/cautare/getResults?doc_id=50463&lang=ro

35 <https://www.justice.gov.md/ro/content/rapoarte-de-monitorizare-strategiei-0>

36 https://www.legis.md/cautare/getResults?doc_id=132473&lang=ro#

37 https://www.legis.md/cautare/getResults?doc_id=134250&lang=ro#

guaranteed legal aid to include the persons with severe and acute disabilities, regardless of their income level. The Ombudsman welcomes these amendments and encourages the government to continue the efforts to increase the payments for the beneficiaries who might fall under the scope of the Law no. 198/2007 on the state-guaranteed legal aid.

Additionally, the People's Advocate stressed that *Pre-Vetting*, external evaluation, must be based on a democratic and transparent process. To this end, the Ombudsman requested the opinion of ODIHR/OSCE³⁸ as to what extent the Law no.26/2022 on some measures related to the selection of candidates for the position of members in self-administration bodies of judges and prosecutors³⁹ is aligned to the human rights international standards.⁴⁰ The recommendations of ODIHR/OSCE international experts referred to the membership and powers of the independent integrity evaluation commission and evaluation criteria; data gathering and confidentiality; evidence, timeline, hearings and decision-making process; publicity of decision and appeal against the decision of the evaluation commission and were shared with the national decision-makers.

Finally, the People's Advocate assesses the draft law on the implementation of international restrictive measures against the persons involved in acts undermining the fundamental human rights, democracy and rule of law (Magnitsky Law – the Republic of Moldova) as posing a high risk for the human rights in Moldova. The Ombudsman presented the opinion in this sense and recommended consulting the draft with the international partners.

In conclusion, the People's Advocate considers that safeguarding the right to a fair trial through public policies and legislation requires more efforts from the actors involved in the *lex ferenda* process.



RECOMMENDATION 1.2.2: *The Parliament and the Government should strengthen the public consultation mechanism with the national civil society and the international partners in areas related to the right to a fair trial.*

Some other shortcomings in relation to the right to a fair trial were identified by the People's Advocate from the complaints received by the People's Advocate Office. Such shortcomings refer to the deficient examination of complaints about the detention conditions, which seriously affects the rights of the convicted persons or those on remand and to the burden of proof – a mechanism put in place by art. 473³ of the Criminal Procedure Code no. 122/2003.⁴¹ Thus, the convicted persons or the persons in pre-trial detention complain about unreasonable delays in examination of complaints, which lasts more than the 3 month period stipulated in the Criminal Procedure Code.

To address this issue, the People's Advocate requested the involvement of the relevant authorities, in particular the Superior Council of Magistracy, which sent a circular to courts with instructions to comply with the 3 month term for examination of sentence reduction cases under article 473³ of the Criminal Procedure Code no. 122/2003.

The complaints also suggested deficiencies related to the information and communication of judicial actions during criminal investigation, judicial review or even during sentence or judgment enforcement. They referred to reluctance on the part of the criminal prosecution authorities, court employees or personnel of the penitentiary system to communicate and receive materials on complainants' court case files. Therefore, the People's Advocate repeatedly drew the attention of the authorities to the communication issues, reiterating that in accordance with the international standards, communication and information about the progress of the proceedings or any other procedural action is a core element of the right to a fair trial and neglecting it means violation of those standards.

38 <https://www.osce.org/odihr>

39 https://www.legis.md/cautare/getResults?doc_id=130320&lang=ro

40 https://legislationline.org/sites/default/files/2022-10/439_JUD_MDA_28Sep2022_en.pdf

41 https://www.legis.md/cautare/getResults?doc_id=134475&lang=ro#

As in previous years, the People's Advocate draws the attention to the performance of the justice professionals, more specifically to that of the lawyers of the National Council for State-Guaranteed Legal Aid and bailiffs, as these two categories most often have to deal with vulnerable persons. The Ombudsman received repeated reports of lawyers assigned by the National Council for State-Guaranteed Legal Aid who are not familiar with the case files or who charge illegal fees from the persons they represent. The Ombudsman strongly condemns the illegal practices leading to violations of human rights.

Similarly, the Ombudsman received complaints in the reporting period about bailiffs who commit abuses and illegalities during the enforcement proceedings.



RECOMMENDATION 1.2.3: *The Moldovan Bar Association and the Union of Bailiffs should improve the training mechanism for current and future professionals by incorporating the human-rights based approach.*

The People's Advocate also notes that the right to a fair trial is a sensitive issue for the vulnerable groups. The justice system is still rigid towards the people with special needs or those living on the edge of poverty. This situation will be aggravated by the enactment of new amendments to the Law on state fee no. 1216/1992, which aim at introducing a fee on several procedural actions from the parties in proceedings, including for requesting recusal of judges, or a stamp duty for the administrative litigation proceedings. These amendments are an impediment to a fair trial, as recusal is a mechanism of response by the parties in proceedings to the violations by judges during the proceedings and must be available free of charge. Similarly, the stamp duty in the administrative litigation proceedings will be an additional burden for the party that is already in an inferior position in the litigation process. The People's Advocate made a comprehensive analysis with recommendations of the *lex ferenda*⁴² and will closely watch the future developments.



RECOMMENDATION 1.2.4: *The Parliament should consider the opinion of the People's Advocate on the draft law on the amendment of the Law on state fee no. 1216/1992 and make sure the amendments are in line with the human rights-based approach.*

Furthermore, the People's Advocate draws the attention of the Parliament to issues related to the suspension of court proceedings due to circumstances that are not always clear and do not meet the human rights standards. In this sense, the Ombudsman notes that the Commission for Emergency Situations of the Republic of Moldova, through its Decision no. 5 of March 2, 2022⁴³, decided to suspend the examination of civil cases with some exceptions, justifying such decision by the tense geopolitical situation caused by the armed conflict between Russia and Ukraine and the energy crisis in our country. In this context, the Ombudsman notes that any limitations on human rights, in particular those affecting the right of access to a competent court, must be properly reasoned and time-limited. The Ombudsman also concludes that such decisions should be adopted only by the Parliament and ad-hoc specialized instruments should not be given special powers in this regard.

In conclusion, the Ombudsman underlines that safeguarding the right to a fair trial continues to be a challenge for the national authorities. This conclusion is supported by the cases lost by Moldova at ECHR. Moreover, the increasing number of applications submitted to ECHR (from 630 in 2021 to 642 in 2022) shows an increasing dissatisfaction at national level with the national justice system.

⁴² <http://ombudsman.md/news/opinia-avocatului-poporului-la-proiectul-legii-taxei-de-stat-initiativa-legislativa-nr-484-din-27-12-2022/>

⁴³ https://cancelaria.gov.md/sites/default/files/dispozitie_cse_nr_5_din_02.03.2022_corect_pct.11.pdf

1.3. The right to social assistance and protection

Priority no. 4 of the Strategic Development Program of the People's Advocate Office for the period of 2023 - 2030: "Persons at risk and in vulnerable situations receive protection, social assistance, community social services"

The right to social assistance and protection is enshrined and guaranteed in both international and national instruments. Article 9 of the International Covenant on Economic, Social and Cultural Rights states: "The States Parties to the present Covenant recognize the right of everyone to social security, including social insurance". This right is also mentioned in point 13 – 16 of the Revised Social Charter and in art. 26, 28, etc. of the UN Convention on the Rights of Persons with Disabilities. The national legislation reflects to a large extent those provisions on social protection and, therefore, is in line with the international instruments.

During the reporting period, given the energy crisis and energy vulnerability of the Moldovan population, the Ombudsman made legislative recommendations aimed at protecting the socially vulnerable groups during the process of registration on the platform www.compensatii.gov.md, income declaration, interaction with registrars, receiving information etc. In his opinion on the draft law that provided for changing the vulnerability status of the consumers that have not registered in the Energy Vulnerability information system from medium to low, the People's Advocate stressed that both human dignity and social security of human beings must be paramount in any action of the state actors in relation to the population, and such actions must include only progressive measures and in no case regressive ones. Unfortunately, this recommendation was ignored by authorities. Moreover, the Commission for Exceptional Situations of the Republic of Moldova, through its decisions, approved some derogations from the regulations on energy vulnerability to the detriment of the population. For instance, the members of a household who were included in the original application could not be excluded when a repeated application was submitted for corrections. The People's Advocate considers that this is not a holistic approach to human rights and unjustifiably aggravates the situation of the person in a crisis situation.

During the reporting period, the People's Advocate recommended including all the categories of persons with disabilities in the list of beneficiaries of social assistance and/or aid for the cold season, making reference to the decision of the Constitutional Court, according to which art. 51¹ of the Constitution enshrines the right of the persons with disabilities to special protection and, therefore, the state must implement policies to promote equal opportunities, prevent and treat disabilities to achieve more effective participation of the persons with disabilities in the community life. This constitutional provision, therefore, refers to the obligation of the state to ensure equal opportunities for the persons with disabilities as for the rest of the community, and allow, in specific cases, to put in place specific protection instruments for all the categories of persons with disabilities.⁴⁴ Another recommendation made by the People's Advocate was to extend the list of the categories of beneficiaries of the social aid and/or assistance program for the cold season by adding the persons who study full-time at a vocational or higher education institution, the persons who have one or more dependent children and fit into the definition of family as stipulated in art.3 of the Law no.133/2008 on social aid.


As to the public pension system, the Ombudsman identified some deficiencies in legislation and its application and made recommendations to improve the legislation in terms of the list of jobs which involve work in special conditions; the period of contribution for work in special conditions; the contribution period for women who gave birth to 5 or more children; the non-contributory period qualified as the contribution period; social protection of the insured persons in cases when

⁴⁴ <https://www.constcourt.md/libview.php?!=ro&idc=7&id=2026&t=/Media/Noutati/Drepturile-persoanelor-cu-dizabilitati-prin-prisma-jurisprudentei-constitucionale/>

employers fail to make the transfers to the social insurance budget; the coefficients used to calculate the age pension; the contribution period of the persons taking care of a child up to the age of 3 (other than parents).⁴⁵

Additionally, following the investigations conducted by the People's Advocate Office based on the reasonable suspicion that some social services of some local governments did not fulfill their obligation to provide specialized social services to persons with severe disabilities guaranteed by art. 47 of the Constitution, more specifically by failing to provide sufficient and efficient assistance and by tolerating careless attitude towards the specific needs of this category of persons, the People's Advocate requested the local governments in the communities where those persons lived to identify ways to hire "a personal assistant" in those social services.

The Ombudsman recognizes the efforts made by authorities in this regard. However, they are not sufficient, and giving priority to families with 2 and more persons with severe disabilities and leaving the families with only one person with severe disability behind is unacceptable, including because this is contrary to the provisions of art. 4 of the UN Convention on the Rights of Persons with Disabilities. Thus, the available information suggests that the state did not take all necessary measures to guarantee the right of all persons with disabilities. Therefore, the Ombudsman recommends to the Government, Parliament and local governments the following:



RECOMMENDATION 1.3.1: *The Ministry of Labor and Social Protection should conduct a study to identify the number of persons with severe disability and their individual needs;*

RECOMMENDATION 1.3.2: *The Ministry of Labor and Social Protection should keep record of and regularly revise the lists of persons with disabilities;*

RECOMMENDATION 1.3.3: *The Government should identify, approve and make adequate allocations to local governments for provision of social assistance to all the persons with severe disabilities. Additionally, there must be a mechanism in place to allow for revising and topping up the allocated amounts, when appropriate;*

RECOMMENDATION 1.3.4: *The Parliament should ratify art. 4 of the Revised Social Charter.*

Finally, the Ombudsman remains concerned about the complaints received from citizens regarding the small amounts of compensations, in particular in the cold season. The Ombudsman recognizes the positive efforts of the authorities towards increasing the wage income in the public sector and indexation of pensions, but considers that in the context of the energy and humanitarian crises, these measures are not sufficient and must be scaled up.

⁴⁵ <http://ombudsman.md/news/avocatul-poporului-vine-cu-propunerea-de-imbunatatire-a-legislatiei-privind-asigurarea-securitatii-sociale-a-populatiei/>

1.4. The right to work and labor protection

Priority no. 7 of the Strategic Development Program of the People's Advocate Office for the period of 2023 – 2030: Women and men enjoy equal access to work and equal treatment in the workplace"

The right to work is stipulated and guaranteed by both the national and international instruments. The International Covenant on Economic, Social and Cultural Rights stipulates: "The States Parties to the present Covenant recognize the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts, and will take appropriate steps to safeguard this right".⁴⁶ This right is also stipulated in the Revised Social Charter⁴⁷ and in other related international and regional regulations. The international labor regulations are reflected to a large extent in the national legislation and currently there is some alignment with the international standards.

As regards the practical application, the People's Advocate notes that there have been no positive developments, the main reasons put forward by authorities being the geopolitical and humanitarian crises in 2022. The Ombudsman also notes that the national authorities have failed to implement the recommendations from previous reports and calls on them to do so.

In addition, employment declined in the reporting period. According to the official statistics provided by the National Bureau of Statistics⁴⁸, the labor force (active population aged 15 and more) of the Republic of Moldova, which includes the employed and unemployed population, amounted to 901.8 thousand persons – a decrease by 0.7% compared to quarter III of 2021 (908.3 thousand), which once again indicates to a massive outflow of labor force from the Republic of Moldova.

As regards **the public policies and legislation** related to the right to work, during the reporting period, some legislative amendments were made providing for the reimbursement of training expenses to law-enforcement personnel if they choose to work in another state authority⁴⁹, capacity building of the State Labor Inspectorate to fight against undeclared work⁵⁰, giving women the right to receive both salary and maternity benefits if they choose to work during the maternity leave⁵¹, providing vocational training vouchers to the unemployed⁵², unification of the minimum wage in all the institutions across the country⁵³, ensuring balance between work and family life and providing more opportunities to fathers to engage in childcare⁵⁴, making foreign citizens eligible for unemployment benefits provided they have worked and have a contribution period of at least 12 months in the last 24 calendar months before applying for such benefits⁵⁵, introducing employment incentives for the persons with disabilities.⁵⁶

The People's Advocate welcomes the amendments giving powers to the State Labor Inspectorate to carry out unannounced inspections, thus providing reliable state protection to employees.

On the other hand, the People's Advocate suggested some improvements to the proposed amendments to the labor legislation, so as to balance the guarantees and interests in the labor relations between employees and employers and to provide adequate protection to employees in terms of dignity, security and stability.⁵⁷ The recommendations concerned revision of the definitions

46 <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-economic-social-and-cultural-rights>

47 <https://rm.coe.int/168007cf93>

48 https://statistica.gov.md/ro/forta-de-munca-in-republica-moldova-ocuparea-si-somajul-9430_60130.html

49 <https://www.parlament.md/Actualitate/Comunicatedepresa/tabid/90/ContentId/8341/Page/3/language/ro-RO/Default.aspx>

50 Law no. 355/2022 on the amendment of certain normative acts (fight against undeclared work)

51 <https://multimedia.parlament.md/votat-in-lectura-finala-femeile-care-vor-lucra-in-perioada-concediului-de-maternitate-vor-putea-beneficia-de-salariu-si-de-indemnizatie/#:~:text=Chi%C8%99in%C4%83u%2C%2022%20decembrie%202022%20%E2%80%93%20Deputa%C8%9Bii,s%C4%83%20munceasc%C4%83%20C3%AEn%20aceast%C4%83%20perioad%C4%83>

52 Law no. 274/2022 on the amendment of Law no. 105/2018 on the promotion of employment and the unemployment insurance

53 Law no. 219/2022 on the amendment of certain normative acts

54 Law no. 195/2022 on the amendment of certain normative acts

55 Law no. 66/2022 on the amendment of certain normative acts

56 Law no. 4/2022 on the amendment of certain normative acts

57 Law no. 243/2022 on the amendment of certain normative acts

for "temporarily vacant position", "dismissal of employees", "restoration of the right to work", "employer's responsibility for illegitimate transfer or dismissal", "maternity leave".

The People's Advocate also recommended considering revising art.86 par.(1) item (y¹) of the Labor Code no. 154/2003. Citizens often complained to the People's Advocate about the employer's refusal to sign a fixed-term individual employment contract with persons who have reached the retirement age, although art.55 par. (1) item f) of the Labor Code no.154/2003 allows this. However, the employer has freedom of action under these provisions, whether to sign or not so sign a fixed-term individual employment contract with a retired persons.



RECOMMENDATION 1.4.1: *The Ministry of Labor and Social Protection should build the capacities of the State Labor Inspectorate by amending the law that regulates its operations;*

RECOMMENDATION 1.4.2: *The Ministry of Labor and Social Protection should adopt a national employment strategy.*

Other complaints received by the People's Advocate concerned the employment of persons serving their sentence in prisons or those held in temporary detention facilities. They complain that besides being deprived of liberty, they are deprived of the right to work and support their burdened families.

Thus, the Ombudsman notes that although the state has set out to develop programs, plans to address the low rate of employment of the persons deprived of their liberty, this issue still exists because of lack of employment opportunities in prisons, poor remuneration for the job done, as well as negligence on the part of decision-makers. The Ombudsman recognizes the efforts of the authorities, but considers that they are not sufficient, especially that the state has subsidy policies to help businesses create jobs. The people who have already served their criminal sentence and have been released from the places of deprivation of liberty face a similar issue. Because of stigma and social intolerance, they cannot find a job. Therefore, the Ombudsman *recommends* the following:



RECOMMENDATION 1.4.3: *The Ministry of Labor and Social Protection jointly with the Ministry of Justice should strengthen the mechanism of employment of prisoners/those in pre-trial detention;*

RECOMMENDATION 1.4.4: *The Ministry of Labor and Social Protection jointly with the Ministry of Justice should strengthen the mechanism of employment of former prisoners;*

RECOMMENDATION 1.4.4: *The Parliament should ratify the UN Convention on the protection of the rights of all migrant workers and members of their families.*

1.5. The right to security and liberty

Priority no. 8 of the Strategic Development Program of the People's Advocate Office for the period of 2023 - 2030: "The person's right to liberty and security is ensured; torture and ill-treatment are eradicated"

Individual liberty and security of the person is a principle of the rule of law, which guarantees to all persons that search, apprehension or arrest may take place only in the cases provided for by law and only in the manner prescribed by law. This safeguard is closely linked to the person's right to a fair

trial. The Convention for the Protection of Human Rights and Fundamental Freedoms guarantees the liberty and security of individuals. However, without prejudice to the presumption of innocence, the Convention recognizes in the same article that liberty is not an absolute right, the deprivation of liberty is possible only as a measure of last resort and under strictly defined conditions. Thus, the state does not have the right to deprive a person of liberty by arrest or detention for other reasons than those strictly regulated by the Convention.⁵⁸

The People's Advocate notes that, just like in the previous reporting periods, the number of decisions issued by investigating judges on the use of pre-trial detention in criminal proceedings was high. Pre-trial detention continued to be in 2022 the favourite measure of prosecutors and judges, even if the probation system had been strengthened, while the alternative measures allow to prevent the person from evading prosecution or trial.

Despite the slight increase in the use of alternative recordkeeping and monitoring measures, such as electronic monitoring⁵⁹, they are not always properly applied. The People's Advocate notes that a systemic change needs to be made in terms of the application of preventive measures against overuse of pre-trial detention.

The need to ensure individual liberty and security is stronger in the case of the persons in detention who are often subject to planned and unannounced searches. Individual liberty and security of a person is guaranteed by the provisions of art.25 of the Constitution of the Republic of Moldova; paragraphs 24, 75 – 76 etc. of the Enforcement Regulation; art. 204, 221¹ of the Enforcement Code no.443/2004; art.54 of the Convention for the Protection of Human Rights and Fundamental Freedoms; art. 54 of the European Prison Rules and the rules 50 – 52 of the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules).

For instance, in one of the cases, the search took place with the participation of the officers of the special intervention brigade "Pantera". According to one of the inmates, they were there to intimidate. To investigate this case the People's Advocate requested more information from the National Administration of Penitentiaries and concluded that both during and after the search the safety of the person in state custody was jeopardized, while the barriers to getting requested information, in the Ombudsman's view, inevitably lead to violation of the right to a fair trial.



RECOMMENDATION 1.5.1: *The Ministry of Justice should develop a mechanism for providing the person (subjected to search) with information and a copy of the search report and, where appropriate, for allowing the access of the prisoner or his/her representatives to the things seized during the search;*

RECOMMENDATION 1.5.2: *The Ministry of Justice should ensure that honor and dignity of the person deprived of liberty is respected during searches.*

The People's Advocate appreciates the authorities' efforts to fight crime, including with the participation and involvement of convicts, but reminds that a person deprived of liberty is in a position of subordination and vulnerability in relation to prison personnel and other participants in the search. Therefore, the People's Advocate considers that the prison administration has the obligation to ensure the security and human dignity in places of deprivation of liberty, preventing prisoners' exposure to treatment likely to threaten their honor and personal dignity, including during searches.

The reports coming from the psychiatric hospital in Codru town were also a reason for concern for the People's Advocate in 2022. During one of the monitoring visits, the patients complained that they had inhaled tear gas and had been beaten by the officers of the special intervention brigade "Fulger". At least 5 patients had visible bodily injuries, which allegedly had been caused on the day and as a result of the intervention of Fulger officers. At the time of the visit, the injuries detected

58 European Convention on Human Rights: commentary on the European Court of Human Rights judgments against Moldova. Conclusions and recommendations, pg. 82.

59 <http://probatuine.gov.md/persoane-monitorizate-electronic-2022>

by the members of the commission were documented by medical staff as required by the Order of the Prosecutor General's Office no.77 of December 31, 2013 on the approval of the Regulation on the identification, recording and reporting of alleged torture, inhuman or degrading treatment. To further investigate the case, the People's Advocate requested additional information (including from Prosecutor General's Office) to establish all the circumstances of the intervention of the Fulger officers⁶⁰. In conclusion, the Ombudsman notes that the safety of the patients in the Psychiatric Hospital in Codru town is low and there are incidents of ill-treatment of patients.

1.6. Freedom of assembly and expression

The civil liberties are a litmus test by which a genuine democratic society, where people have the freedom of assembly and expression, will break away from a community that only pretends to recognize the democratic values. Cornerstone of any society, the freedom of assembly and expression is enshrined in all the international instruments, while the UN Committees established under the relevant Conventions, provide a comprehensive interpretation regarding the implementation of these regulations based on the mandate of each institution and each treaty.

The People's Advocate notes a slight improvement in the reporting period in relation to the freedom of assembly and expression, which however is most likely due to partial lifting of COVID-19 related restrictions. Therefore, the Ombudsman calls on the public authorities to seize the momentum and take positive measures to strengthen the standards related to protection of freedom of assembly and freedom of expression.

Regarding **the right to freedom of expression**, on December 16, 2022, the People's Advocate, Ceslav Panico, initiated the investigation of the rationale behind the Decision no.54 of the Commission for Exceptional Situations (CES), in particular paragraph 9, sending a request for additional information to CES and the Audiovisual Council.⁶¹ The Ombudsman considers that, if the balance or proportionality between limitation of these rights and the intended purpose cannot be demonstrated, such provisions interfere with the fundamental rights to freedom of expression and the right to property. The Ombudsman is concerned that such restriction of the fundamental right might be unjustified and contrary to the provisions of art.54 of the Constitution.

Going further, the People's Advocate considers that in the case of the suspension of the broadcasting licenses of audiovisual media service providers the authorities should identify efficient measures with legitimate aims without the slightest interference with the right to freedom of expression. The People's Advocate advised the authorities to identify alternative, less intrusive measures that are reasonably related to the legitimate aim pursued, safeguarding the right to freedom of expression and to property. The suspension measures must be reviewed exclusively by court, applying the fair trial safeguards and in light of the legality and legitimacy test necessary in a democratic society.

In the reporting period, the Ombudsman provided an opinion on the draft law no. 123/2022 on combating spread of disinformation⁶², which was subjected to public consultation. The draft aimed to revise the legal framework on the protection of the public information space – an objective of the Information Security Strategy of the Republic of Moldova, by amending the Law no. 753/1999 on the Security and Intelligence Service of the Republic of Moldova, the Law no. 64/2010 on freedom of expression, the Criminal Code no. 985/2002, the Law no. 212/2004 on state of emergency, siege and war, the Law on electronic communications no. 241/2007, Contraventional Code no. 218/2008 and Code of audiovisual media services no. 174/2018. The People's Advocate called on the Parliament to consider the recommendations received following the public consultations to improve the draft law, so as to achieve a fair balance between the efforts to ensure the information security of the

60 <http://ombudsman.md/news/comisia-speciala-din-cadrul-oficiului-avocatului-poporului-a-efectuat-o-vizita-de-documentare-la-spitalul-clinic-de-psihiatrie-din-orasul-privind-incidentul-produs-in-ziua-de-27-octombrie-2022/?fbclid=IwAR0vleuBlolw-hVYts4E1eUF2n5Np0FBbUPkCOOFI4P3qNw6UMC2Mb8h8dQ>

61 <http://ombudsman.md/news/avocatul-poporului-solicita-comisiei-situatii-exceptionale-examinarea-opunitatii-de-revizuire-sau-abrogare-a-deciziei-privind-suspendarea-licentei-de-emisie-a-unor-furnizori-de-servicii-media-dec/>

62 <https://multimedia.parlament.md/proiectul-de-lege-privind-masurile-de-contracarare-a-fenomenului-de-raspandire-a-dezinformatiei-va-fi-supus-consultarilor-publice/>

state and the right to access information and the freedom to distribute information, as well as freedom of expression.

After a public consultation process, the Parliament passed the Law no.143/2022 on the amendment of the Code of audiovisual media services no.241/2018, which defines disinformation and introduces sanctions for disinformation. This law was also subjected to the constitutionality check by the Constitutional Court, in particular the definition of disinformation.⁶³ The Court ruled that the challenged provision is sufficiently foreseeable, and the subjects of the law (providers and distributors of media services, media professionals) can justifiably conclude on their own or with the help of an expert what constitutes false information in the light of the aim pursued by Art. 1 of the Code of Audiovisual Media Services no. 241/2018, and are able to adapt their conduct accordingly. It is the competence of the courts of general jurisdiction to decide, on a case-by-case basis, whether false information has been distributed during a program or show, taking into account, among other things, the standards of the European Court of Human Rights related to the difference between statements of fact and statements of value-judgement (*see Sekmadienis Ltd. v. Lithuania, 30 January 2018; ATV Zrt v. Hungary, 28 April 2020; Milosavljević v. Serbia, 25 May 2021; NIT S.R.L. v. Republic of Moldova, 5 April 2022, etc.*).

On April 14, 2022, the Parliament passed the Law no.102/2022 on the amendment of certain normative acts, which introduced provisions prohibiting the dissemination of symbols associated with and used in military aggression actions in art. 1 of the Law no.54/2003 on countering extremist activities and the contraventional liability for such actions in art. 365⁵ of the Contraventional Code no.218/2008.

Given that a referral on the constitutionality of those provisions was under review to the Constitutional Court, the latter requested the opinion of the Venice Commission.

In its opinion, the Venice Commission noted that states are not prevented from passing legislation banning or even criminalizing the use of certain symbols, but recalled that such a ban or criminalization needs to comply with the three requirements for lawful restrictions, more specifically legality (provided for in the law), legitimacy (should have a legitimate aim), necessity and proportionality (should be necessary in a democratic society), given that such legislation interferes with the right to freedom of expression safeguarded by art. 10 of the European Convention on Human Rights and art.32 of the Constitution of the Republic of Moldova.

In the opinion of the Venice Commission, the amendments introduced by the Law no.102/2022 overall comply with these requirements. According to the law-maker, since the beginning of the war in Ukraine, in Moldova there has been an increasing use of the symbols used in this war that support, justify and glorify aggression, which leads to social tensions and facilitates the spread of inter-ethnic hatred. The Venice Commission considers that, in this specific context, it is plausible to argue that the display of the symbols used by the Russian armed forces in the current war could produce an actual and immediate danger of disorder and a threat to the national security and the rights of others, including those of Ukrainian war refugees, and that there is a pressing social need to impose a ban on such use. The Venice Commission recommended some further legal clarifications, as follows: 1) introducing an explicit specification of the category of symbols “created by stylizing” other prohibited symbols, and of the terms “propaganda or glorification”, in the definition of extremist activity under Article 1 (item. b) of the Law no.54/2003 on counteracting extremist activities and 2) clarifying the two-track system of criminally sanctioning the use of prohibited symbols and dispelling any possible uncertainties as to the relationship between the symbols described in the Criminal Code and in the Law on counteracting extremist activities/the Contravention Code.

In the same context, the People’s Advocate is concerned about the latest developments related to the intimidation of journalists in courts. Without denying the procedural requirements put in place for the smooth running of court proceedings, the Ombudsman notes that intimidation of journalists during court proceedings is unacceptable and reminds of the need to ensure a fair balance between freedom of expression, freedom of assembly and public order. The right to freedom of expression and the right to freedom of assembly are considered cornerstones of a democratic society, as there

63 Decision of the Constitutional Court no.173 of December 13, 2022.

can be no democracy when people are not free to meet and share ideas, send messages to national authorities and society. For this reason, peaceful assemblies are a form of direct democracy, a channel of communication between the government and the people. Violation of this right undermines democracy and the performance of the Government, which becomes isolated from its own people. The Ombudsman notes that peaceful gatherings create an environment in which issues of public interest are raised, and media representatives have the right to collect and disseminate information of public interest without fear of reprisals.⁶⁴

The People's Advocate is concerned about protesters' intimidations and threats against journalists. A particular case in this sense which is in the spotlight of the Ombudsman is that of a journalist from the national TV channel who received death threats through a social network. The Ombudsman notes that freedom of the press includes, but is not limited to, the freedom of journalists to collect and disseminate information of public interest without being censored, but also safeguards for journalists against any retaliation in relation to that. In other words, journalists must be protected from any actions which, by their nature, threaten their lives. Moreover, protection of journalists must be one of the primary concerns of the state, as journalists, in their role as human rights defenders, make sure that the population is informed fairly and objectively and draw public attention to the human rights abuses and violations.

Regarding **freedom of assembly** and association, the People's Advocate notes that on October 13, 2022, the Commission for Exceptional Situations of the Republic of Moldova (CES) approved the Decision no. 42 putting in place rules related to the public order and access to free movement on public roads, access and evacuation routes to the public institutions in order to promptly respond to situations requiring emergency interventions.⁶⁵ The Ombudsman considers these provisions unjustified and even abusive as they are not proportionate to the legitimate aim pursued. In the Ombudsman's opinion, there were no grounds to justify that such a measure was necessary in the form it was adopted. Apparently, the decision to impose these restrictions is not based on any consolidated analysis made by the public authorities. The public institutions did not provide evidence that the peaceful gatherings during the state of emergency would have led to violation of public order and threatened national security.

In relation to this fundamental right, the People's Advocate reviewed a draft law on the amendment of the Law no.26/2008 on assemblies initiated by the Ministry of Internal Affairs. In his opinion, the Ombudsman made reference to the applicable standards, some objections and recommendations related to definitions, key principles, place of gatherings, participants, prohibited gatherings, notification procedure, procedure for holding simultaneous gatherings, exceptions from the notification procedure, registration of gatherings, the obligations of organizers and participants, forced dispersal of gatherings, sanctions for violation of rules related to gatherings. The draft law, however, has not been submitted for Parliament review and enactment.



RECOMMENDATION 1.6.1: *The Ministry of Internal Affairs should revise the draft law on the amendment of the Law no. 26/2008 on assemblies taking into account the freedom of assembly standards and the proposals collected during the public consultations, so as to effectively safeguard the right to freedom of assembly.*

The Ombudsman also calls the authorities' attention to the protection of the rights of LGBTQIA+ persons, in particular during the events or mass gatherings which they organize, as currently the society is still quite unfriendly to the sexual minorities, and considers that authorities should have a holistic approach to this issue by promoting mutual information and acceptance among persons as active participants in the social life of the community.

64 <http://ombudsman.md/news/avocatul-poporului-condamna-atacurile-asupra-jurnalistilor-din-ultimele-saptamani-si-comportamentul-antisocial-al-unor-protestatari-in-cadrul-manifestatiilor-din-30-octombrie-2022/?fbclid=IwAR2B45j0UZoTp688-QMD9blCqSFJ-2COgfn0YiuWaSq85bbGPw2400-y9CY>

65 <http://ombudsman.md/news/avocatul-poporului-solicita-comisiei-pentru-situatii-exceptionale-si-institutiilor-abilitate-asigurarea-unui-echilibru-just-intre-dreptul-la-libertatea-intrunirilor-si-respectarea-ordinii-publice/>

The People's Advocate calls on the public authorities to adhere to the international standards and practices regarding the elimination of social segregation and discrimination, so that minority communities can see themselves as active participants in the society in which they live.

In this respect, the People's Ombudsman recommends to public authorities to strengthen the efforts to reduce the stereotypes based on gender and gender identity.

1.7. Prevention of violence against women and domestic violence

The year 2022 was a quite important year for human rights developments in Moldova as it was marked by the entry into force of the Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention). By ratifying the Convention, Moldova succeeded to convince the international community that it is at least trying to reduce violence against women and domestic violence. As this is the first year that this international mechanism is applied after entry into force, Moldova will be subjected to the initial test of compliance with the standards put in place by the Convention. The Ombudsman notes that the national authorities submitted on time (October 3, 2022) the initial state report to the GREVIO Committee.⁶⁶

Having analyzed the state report and based on his own findings, the People's Advocate notes that the situation on violence against women and domestic violence is quite unsatisfactory. Despite the legislative proposals made in 2019⁶⁷ to ensure full compliance of legislation with the provisions of the Istanbul Convention and to increase the efficiency of the community and institutional response to violence against women, certain preconceived interpretations and misrepresentation of the provisions of the Istanbul Convention have made some groups of population wrongly perceive it as a threat to family values.

The purpose of the Convention is not to regulate family life and/or family structures; it does not provide a definition of "family", nor does it promote a particular type of family environment. The Convention rather requires that governments ensure the safety of victims who, threatened by their family members, are in danger. While Moldova has made some progress, in particular by passing legislation and national strategic documents on prevention and combating domestic violence and violence against women, they are still insufficient to provide proper protection to women victims of violence.

The Ombudsman commends the state for providing truthful information in the above-mentioned report, thus contributing to the likelihood that the recommendations that will be sent by the experts of the evaluation mechanism will be as close to the realities of the Republic of Moldova as possible. On the other hand, the People's Advocate notes that **a central mechanism for collecting disaggregated data on violence against women and domestic violence** is still missing; such data is collected mainly by the General Police Inspectorate and only from the criminal and contravention perspective.

It should also be noted that the existing mechanism does not meet all the human rights protection requirements, as the lawmaker has not yet regulated the situation of the perpetrator who, based on a court decision, is removed from the victim's home. This is the case of perpetrators who live together with the victims as a family and who, following the application of the victim protection mechanism, is forced to leave the place. Therefore, while supporting the procedure and mechanism of protection of victims of domestic violence, the People's Advocate still notes that the perpetrators' rights cannot be neglected either and the state should make sure they have a decent place to move to. Moreover, the Ombudsman calls on the state authorities to provide accommodation to the perpetrators removed from their homes who have nowhere else to go. Therefore, the Ombudsman recommends diversifying the Behavior Guidance Centers for domestic aggressors and including accommodation services so as to provide accommodation to those who have nowhere to go after they have been removed from their homes based on a court decision.

⁶⁶ <https://www.coe.int/en/web/istanbul-convention/moldova>

⁶⁷ <https://rm.coe.int/good-practices-in-the-progress-of-ratification-en/16809feffc>

The Ombudsman encourages and recommends to the national authorities to strengthen the partnerships with the civil society in preventing and combating violence against women. The Ombudsman reminds the public authorities that just like the Istanbul Convention, the UN Committee on the elimination of discrimination against women stresses that the civil partnership is one of the best instruments that can help the state to make progress in ending violence.



RECOMMENDATION 1.7.1: *The Parliament and the Government should join efforts to align the national legislation with the standards of the Istanbul Convention. It should be noted that most *lex ferenda* initiatives in this sense currently exist or are drafts or pending public consultation.*

Additionally, while this issue will be described in more detail in the section on protection of persons granted international protection, the Ombudsman recommends:



RECOMMENDATION 1.7.2: *The Parliament and the Government should revise the legal and procedural framework on combating gender-based violence in the context of the armed conflict in Ukraine in line with the Istanbul Convention.*

1.8. The rights of whistleblowers

The tasks of the People's Advocate related to the protection of whistleblowers include:

1. to review the requests for protection received from whistleblowers; consider *ex-officio* initiatives to provide protection to the whistleblowers who have made public disclosures provided that they clearly consent to receive such protection;
2. to facilitate cancellation of retaliation measures and the peaceful resolution of conflicts between whistleblowers and public or private entities;
3. to recommend measures for immediate reinstatement of whistleblowers;
4. to file action in court and ensure intervention during court proceedings to present conclusions to protect the rights and freedoms of whistleblowers.

Because the whistleblower institution is something new for the law system of the Republic of Moldova, the People's Advocate assumes that neither the public authorities, nor the private organizations have experience of effectively applying the Law 122/2018. Moreover, the Moldovan citizens are not familiar with the whistleblower concept and the potential whistleblowers are still not very familiar with the available safeguards and how to use this instrument.

Despite this, the Ombudsman strongly believes that whistleblowers are one of the best sources of information about the illegal and unethical practices taking place in entities (public or private). They have a better knowledge of violations and can provide first-hand information playing a key role in the fight against corruption. Yet, given that the disclosures whistleblowers make can significantly affect their professional life, or even threaten their personal security, they must be encouraged, informed and protected throughout the entire process. They need to be provided clear information about the procedures, the safeguards and the assistance they can receive from the public sector actors and civil society, including mass-media.

Data on whistleblower cases. In 2022 the People's Advocate continued the investigation of 7 cases which started the year before. Some of them are briefly presented below.

In one of the cases, neither the first instance court, nor the Court of Appeal took into consideration the conclusions of the People's Advocate and looked at the case merely as a labor dispute, not from the perspective of the whistleblowing mechanism. However, the Supreme Court of Justice

cancelled the disciplinary sanction and reinstated the whistleblower. This was the first time when a whistleblower was reinstated due to the intervention of the People's Advocate.

In other three cases, the whistleblowers challenged the retaliation actions in the administrative litigation court; their claims were partially admitted; the court reviewed them as labor disputes without integrating the whistleblowing mechanism and took into consideration just some of the findings of the People's Advocate.

The Ombudsman remains firm on his previous *recommendations* to familiarize the entire society with the whistleblower mechanism, the most important elements related to whistleblowers: subjects, rights, obligations and protection measures; to contribute to the development of integrity-based professional behaviors and attitudes; to identify the role of employees and employers in disclosing illegal practices; to inspire the participants to use the channels and instruments provided by the whistleblower institution to promote integrity-based behaviors and demonstrate zero tolerance to illegal practices.

1.9. The rights of persons during the enlistment process

In 2022, the People's Advocate received complaints concerning alleged violations of the rights of the persons to be enlisted in the compulsory military service. The People's Advocate notes the essential role of public authorities in protecting human rights and freedoms, especially during the interaction between state institutions and the population. Therefore, the state, through authorities, must make sure that every individual can freely use his/her rights and prevent and, where necessary, respond to any behavior that may result in violation of human rights.

The People's Advocate notes that the forms, conditions and methods of preparing persons for military service are clearly defined in the Law no.1245/2002 on preparing citizens for defending the country. Article 6, par. (1) and par. (2), of this law, stipulates that territorial commissions for recruitment and enlistment to military and civilian service are established to organize the recruitment and enlistment of citizens in military and civilian service in level II administrative-territorial units and autonomous territorial units with special status. The work of the recruitment-enlistment commissions is coordinated by the State Enlistment Commission. The Regulation on enlistment in the military or short-term military service, approved through the Government Decision no. 864/2005, regulates the conditions for recruitment to military service.

The People's Advocate notes that any action taken by the personnel engaged in the recruitment-enlistment process in relation to recruits must take into account the latter's right to human dignity, must not initiate and support conduct likely to break down the person's normal civil resistance by creating in that person a state of fear, including threats of violence or other punishments to compel recruits to obey instructions. The Ombudsman believes that the position of the recruitment-enlistment commission in relation to recruits allows it to take any necessary action or measure to protect human rights during the recruitment and enlistment process.

Finally, the Ombudsman highlights the general rule for interpretation of the legal norms, according to which a norm should be interpreted in a way that allows its application, not in the way that justifies the impossibility of its application (*actus interpretandus est potius ut valeat quam ut pereat*). Such approach is in line with the Decision of the Constitutional Court no.21 of 2015.⁶⁸ Therefore, the People's Advocate calls on the personnel engaged in recruitment-enlistment to make use of this interpretation rule. In other words, once a person has the right to choose civilian service instead of military service, the personnel in charge of recruitment must not start from the assumption that the recruit is fit for military service, but must check first if the recruit meets the legal conditions for using this right.

68 <https://www.constcourt.md/ccdocview.php?tip=hotariri&docid=550&l=ro>



RECOMMENDATION 1.9.1: *The Ministry of Defense should revise the enlistment mechanism so as to start primarily with the assessment of the conscientious objection or other valid circumstances brought up by the person.*

1.10. Human rights and freedoms in the administrative-territorial localities on the left bank of Nistru River and in Bender municipality (Transnistria)

In carrying out his core functions, such as monitoring, fact finding, reporting, raising awareness of human rights in the regions outside the control of the government, the Ombudsman, being independent from the government, applies a variety of approaches, taking into account the issues related to security and safety, access and strategic priorities.

The situation related to the rights of the citizens of the Republic of Moldova on the left bank of the Nistru River showed no improvement in the reporting period, on one hand, because of the armed conflict between Russia and Ukraine and, on the other hand, because of the reluctance of the de facto authorities in the region. Despite the fact that the sector working groups had several meetings in 2022, no meeting was held to address the issue of human rights. Thus, the Ombudsman notes that neglecting the human rights issues thwarts the reunification process. Having made several written requests, the Ombudsman calls on the state authorities to include the Ombudsman institution in sector groups other than those related to human rights.

The biggest concern of the People's Advocate continues to be related to the rights of the persons in places of detention in the Transnistrian region. Despite the fact that the representatives of the People's Advocate Office did manage to gain access to two prison facilities managed by the unconstitutional authorities, overall, the latter continue to prevent the access to the places of deprivation of liberty. The Ombudsman notes that the Government of the Republic of Moldova did not implement the recommendations of the Universal Periodic Review (UPR) concerning the capacity building of the People's Advocate institution for monitoring and protection of human rights in the Transnistrian region.



RECOMMENDATION 1.10.1: *The Parliament of the Republic of Moldova should take holistic human rights measures so as the National Human Rights Institution in the Republic of Moldova – the People's Advocate Office – can unconditionally monitor all the places of deprivation of liberty on the left bank of the Nistru River.*

Providing the access of the Ombudsman to the detention facilities in uncontrolled territories would represent alignment with the international human rights standards and the standards of the National Human Rights Institutions.

The situation concerning **freedom of movement** in the Transnistrian region saw significant deterioration in 2022. After the outbreak of the Russia – Ukraine conflict, the authorities of the self-proclaimed breakaway state have tightened the security measures hindering the freedom of movement in the region. These measures included installation of additional security posts at access points and establishment of additional checkpoints inside the region. Thus, the People's Advocate received complaints from people about impediments or even persecutions while trying to leave the region.

Additionally, the People's Advocate monitored in 2022 the developments related to **pensions and social benefits** in the administrative-territorial localities on the left bank of the Nistru River and in Bender municipality also addressed in the 2020⁶⁹ and 2021⁷⁰ reports on human rights and freedoms in the Republic of Moldova. The general conclusion is that the failure to guarantee the right to social assistance and protection is largely due to the lack of constitutional local governments in the

69 https://ombudsman.md/wp-content/uploads/2021/06/Raport-2020-FINAL-RED_18-iunie-1.pdf, Report on the observance of human rights and freedoms in the Republic of Moldova in 2020, pg 46

70 <https://ombudsman.md/wp-content/uploads/2022/09/Report-on-the-observance-of-human-rights-in-the-Republic-of-Moldova-in-2021.pdf>, Report on the observance of human rights and freedoms in the Republic of Moldova in 2021, pg 37

eastern districts of the country⁷¹, and lack of an integrated pension mechanism to address the issue of pension delivery to the citizens on the left bank of the Nistru River.

Provision of pensions and social benefits on the left bank of the Nistru River is a facet of social security under law highlighted by the Ombudsman in the previous reports containing recommendations to identify financial resources and initiate the amendment of the Law no.156/1998 on the public pension system so as the periods during which the persons worked in the economic entities on the left bank of the Nistru River controlled by the constitutional authorities to be considered when calculating the pension benefits.

Regrettably, the situation has not improved and the Ombudsman continues to be of the opinion that the national authorities should consider adding Bender municipality to the list of localities falling in the scope of the Law no.1591/2002 on additional social protection to certain pension beneficiaries and categories of the population.

Freedom of expression and freedom of conscience in the Transnistrian region are other two areas that were high on the agenda of the Ombudsman, who repeatedly expressed concerns about the limitations introduced in the so-called Transnistrian legislation, allegedly aimed at counteracting activities which can give rise to suspicions of extremism. Moreover, the Ombudsman criticized repeatedly the adoption of the "Guretky law" by the self-proclaimed authorities⁷², which prevents the citizens on the left bank of the Nistru River to lodge complaints to the constitutional authorities of the Republic of Moldova. Thus, the People's Advocate requested the assistance of international and national partners to stop the effects of this law. No tangible results, however, have been achieved so far in this sense.

As regards the freedom of conscience and religion, the Ombudsman notes the deterioration of the situation related to the **conscription of the persons known to be conscientious objectors**. While the 2013 Hammarberg report⁷³ mentions some signs of improvement due to the regulation of the alternative service, in reality the alternative service does not differ much from the military service, namely because the persons do the alternative service within military units.

Following up on the issue of conscription, the Transnistrian authorities continue to conscript young people into the so-called "Transnistrian armed forces". This is all the more alarming as the findings and recommendations in the Ombudsman's annual reports are ignored by the constitutional authorities.

The separatist authorities continue to forcibly recruit the young people who have already completed the military service in the Armed Forces of the Republic of Moldova, those transferred to the reserve service before the completion of the 12 month period and those who have completed the short-term military service under art. 4 and art. 5 of the Law no.1245/2002 on preparing citizens for defending the country, the students of military education institutions, those who have completed training provided by military departments, the citizens who have received training provided by the civil defense and volunteer sanitary instruments of the Red Cross, those who have completed training provided by the Armed Forces Reserve training centers and are exempt from compulsory military service under art. 32, paragraph 1, item b) of the Law no.1245/2002 on preparing citizens for defending the country.

All the cases of young recruits who refuse to serve in the "Transnistrian armed forces" are referred by the territorial military commissariat to the investigation committee in Tiraspol for criminal investigation and prosecution under article 325 of the Criminal Code of the Transnistrian Moldovan Republic.

The People's Advocate is of the opinion that in order to prevent the forced recruitment of young people into the "Transnistrian armed forces", no references/records should be made in the military service books issued by the territorial military centers of the Ministry of Defense of the Republic of Moldova, which allow the de facto authorities on the left bank of the Nistru River to identify the

71 Law no. 173/2005 on the basic provisions of the special legal status of the localities on the left bank of the Nistru River (Transnistria)

72 <https://moldova.europalibera.org/a/la-tiraspol-drepturile-omului-sunt-la-discre%C8%9Bia-autorit%C4%83%C8%9Bilor-nerecunoscute/31717065.html>

73 https://childhub.org/sites/default/files/library/attachments/1583_Senior_Expert_Hammarberg_Report_TN_Human_Rights_original.pdf

young people who have completed the short-term military service, the students of the military education institutions, those who completed training provided by military departments, the citizens who have received training provided by the civil defense and volunteer sanitary instruments of the Red Cross, those who have completed training provided by the Armed Forces Reserve training centers.

Additionally, protection measures are necessary for the young people who try to evade recruitment into the "Transnistrian armed forces" and cannot go back to the region controlled by the de facto Transnistrian authorities.


A high profile case that took place in 2022 was that of Victor Plescanov, a resident of Tiraspol town who was sentenced to 3 years and 2 months in prison on September 26 for planting the Ukrainian flag. The illegal sentence was handed down by the so-called "Tiraspol court" for "incitement to extremism". Victor Plescanov is a civic activist from the Transnistrian region, who, after Russia's invasion of Ukraine on February 24, 2022, criticized the abuses committed by the Russian army, including its illegal deployment in the Transnistrian region. On December 29, 2022, the People's Advocate asked for the immediate and effective intervention of the embassies of the development partner countries to free Victor Plescanov, sentenced illegally by the separatist authorities to 3 years and 2 months in prison for "incitement to extremism" after criticizing the Russian army and the de facto Transnistrian authorities on social networks and hanging the flag of Ukraine on the balcony of his apartment.

The first time the representative of the People's Advocate Office had access to the places of detention in the Transnistrian region was on September 20 and 23, 2022. Even if the access was limited and the meetings with the two prisoners were not confidential, these visits are a step forward in the process of monitoring the situation of the persons deprived of liberty in the Transnistrian region.

The visits of the representative of the People's Advocate Office to the places of detention in the Transnistrian region in 2022 were a positive development, which must be supported, encouraged and taken forward by the constitutional central government.

The People's Advocate Office will continue the bilateral discussions with the human rights representative from Tiraspol and within the human rights working group, where the People's Advocate is a member, to contribute to the protection of the right to liberty and security in the region which is beyond the effective control of the state.

Thus, the People's Advocate recommends:



RECOMMENDATION 1.10.2: *The Government should include the representatives of the People's Advocate Office as observers or experts in the Joint Control Commission and in the sector working groups for promotion of security and confidence building measures in the context of the Transnistrian settlement process, which to a large extent touch upon various areas of human life in the region and are a mechanism of promotion and non-judicial protection of the human rights and freedoms in the administrative-territorial localities on the left bank of the Nistru River and in Bender municipality;*

RECOMMENDATION 1.10.3: *The Parliament and the Government should design and put in place a mechanism to protect the human rights and fundamental freedoms enshrined in the Constitution with particular focus on the development of institutional mechanisms for the protection of human rights in the Transnistrian region;*

RECOMMENDATION 1.10.4: *The Government should take steps to strengthen the human rights dialogue at expert level to address human rights issues on the left bank of the Nistru River.*

The People's Advocate reiterates the importance of implementing the international recommendations on the protection of human rights in the Transnistrian region and in Bender municipality.

CHAPTER II

THE RIGHTS OF THE CHILD



2.1 The right to the highest attainable standard of health

Priority no. 1 of the Strategic Development Program of the People's Advocate Office for the period of 2023 - 2030: "All people have access to quality and reliable healthcare services"

"States Parties recognize the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. States Parties shall strive to ensure that no child is deprived of his or her right of access to such health care services".⁷⁴ The People's Advocate for Children Rights advocates for the right to health to be guaranteed for all children and that every child has access to the health services *they need, when and where they need them*, without any financial or other impediments.

The People's Advocate for Children Rights monitored the right to the highest attainable standard of health in 2022 in terms of the mental health of the child. The mental health of children and young people remains to be a challenge, especially that the legal framework on mental health has not been updated and the social acceptance level is low. The people's perception of the persons with mental and intellectual disabilities are overwhelmingly dominated by negative attributes: "mentally ill/mental problems" (40% of the general population), "bastards" (18%), "retarded" (8%) etc., indicating that our society is not ready yet for the integration of such persons.⁷⁵

In 2021, 1.5 thousand children aged 0-17 years were identified as having primary disability (new case); 60% of them are from rural areas. Every fourth child diagnosed with disability was aged 0-2 years, and every third was aged 3-6 years. The predominant causes of primary disability remain mental and behavioral disorders (31.3%), congenital malformations, deformities and chromosomal abnormalities (21.9%) and nervous system diseases (13.1%).

According to the *World mental health report: transforming mental health for all* Report, "millions of people around the world suffer in silence, experience human rights violations or are negatively affected in their daily lives". It is estimated that around 8% of children aged 5 to 9 years and 14% of teenagers (aged 10 to 19 years) live with mental disorders, while half of the mental disorders in adults develop from the age of 14, and $\frac{3}{4}$ around the age of 24.⁷⁶

It should be noted that the national primary health care system has a network of 40 community mental health centers (CMHC) across the country since 2017.⁷⁷ CMHC serve as a link between the psychiatric hospitals and other community services. They operate in the primary health care institutions at district and municipal level and are contracted by the National Health Insurance Company (NHIC) based on the global budget formula. CMHC have a service delivery methodology and quality standards. The methodology is based on case management and provision of consultative healthcare, psychosocial treatment and rehabilitation services, support and social inclusion. CMHC have multi-disciplinary teams of professionals. The multidisciplinary therapeutic teams are made of psychiatrists, psychotherapists, psychologists, social workers, mental health nurses and other professionals depending on the peculiarities of their work.

The shortage of doctors in community services is particularly noticeable among child psychiatrists. While the National Mental Health Program for the period of 2017-2021 and its action plan⁷⁸ included "*organization of a network of mental health services to respond to the needs of persons with mental disorders and ensuring accessibility to safe, quality mental health services for adults and children throughout life at all health care levels*" and "*creation of regional specialized services for children with mental health problems: early intervention centers and specialized treatment centers*

74 Article 24 of the UN Convention on the Rights of the Child

75 Study on perceptions and attitudes to equality, developed under the national project co-funded by the European Union and Council of Europe, Chisinau, 2021, available at https://egalitate.md/wp-content/uploads/2016/04/studiu-privind-perceptiile-si-atitudinile-fata-de-egalitate_study-on-perceptions-and-attitudes-towards-equality.pdf

76 <https://www.who.int/publications/i/item/9789240049338>

77 <https://sanatate-mintala.md/>

78 https://www.legis.md/cautare/getResults?doc_id=100948&lang=ro

for children with autism spectrum disorders”, nationwide only 15.5 child psychiatrist positions are filled: in 12 rayons there are no child psychiatrists at all, while in 4 rayons they work only part-time (with 0.25% involvement).

Thus, the Ombudsman for Children recommends:



RECOMMENDATION 2.1.1 *The Ministry of Health should address the shortage of staff in the community mental health centers, in particular in the rural areas;*

RECOMMENDATION 2.1.2 *The Ministry of Health should ensure the creation and operation of safe, quality mental health services for adults and children throughout life.*

The Ombudsman for Children investigated the reports of children who had been institutionalized in psychiatric hospitals without following the legal procedure. For example, in the case of child F from a socially vulnerable family from a rural community, the failure of the local government, which by law is the guardianship authority, to properly manage the case resulted in the institutionalization of the child in a psychiatric facility just because this was the easiest solution, although it did not take into account the will and the best interests of the child.

Lack of coordination and involvement and in some cases even carelessness shown by the representatives of the social protection services, health care services, local governments, law enforcement authorities etc. undermine protection of these rights.

Another example is the case of the 12-year old A, placed in a placement center for children separated from their parents. The girl was hospitalized for psychiatric treatment in the Clinical Psychiatric Hospital twice in 2022 – on July 8 and September 27, where she stayed from 16 to 20 days beyond the medical treatment period, because the decision-makers at the placement center for children separated from their parents hesitated to take her back for reasons, which in the opinion of the Ombudsman for Children are unjustified.

Given the cases described above, the People’s Advocate for Children Rights makes the following recommendations:



RECOMMENDATION 2.1.2 *The Government should strengthen the cross-sector mechanism for pre-hospital intervention in cases of children with mental disorders;*

RECOMMENDATION 2.1.3 *The Ministry of Labor and Social Protection should ensure creation of social services for the children suffering from mental disability;*

The Ombudsman for Children notes that the healthcare services provided in the psychiatric hospital facilities, in particular in the psychiatric units for children, do not respond to their specific needs. Currently there are no minimal quality standards in place for the psychiatric inpatient medical services that would respond the children’s needs. The accommodation conditions are inadequate and do not allow for privacy. There are wards with multiple beds, where both girls and boys are accommodated. The hospital units are not separated by age or gender, which is a violation of the right to privacy. In the sections for children there are persons under the age of 18 forced into treatment who committed serious offences. Same sex persons were seen in wards.

As regards the children with rare diseases, the children who receive palliative care, the children with sensory disorders, autistic children and premature children, the People’s Advocate reiterates the recommendations made in the previous thematic reports and annual reports⁷⁹.

79 <https://ombudsman.md/wp-content/uploads/2021/11/Raport-Orhei-H%C3%AEnce%C8%99ti-final-.pdf>
<https://ombudsman.md/wp-content/uploads/2021/11/Raport-privind-implementarea-recomand%C4%83rilor-autism.pdf>

In addition, the People's Advocate for Children Rights makes some general recommendations concerning the children's right to health:



RECOMMENDATION 2.1.4 *The local governments should allocate adequate financial and human resources and put in place efficient mechanisms for the protection of the rights of children with mental disorders and their families at local level;*

RECOMMENDATION 2.1.5 *The primary health care system should be strengthened in terms of screening and provision of primary health care to families with children with mental illnesses, in particular in the areas where the access to medical services is difficult.*

2.2. Civil rights and freedoms

Priority no. 9 of the Strategic Development Program of the People's Advocate Office for the period of 2023 - 2030: "All children enjoy the rights protected by the UN Convention on the Rights of the Child"

The UN Convention on the Rights of the Child regulates in articles 12 – 15, on one hand, the right of children to express their views freely, the freedom of expression, freedom of thought, conscience and religion, and freedom of association and, on the other hand, the responsibility of duty-bearers to protect those rights, *guaranteeing the best interest of the child*. Thus, the state has the obligation to take all necessary measures to ensure that no child is marginalized in the exercise of these fundamental freedoms. The People's Advocate for Children Rights notes that the state did not take any significant measures to protect the civil rights and freedoms of the children in the reporting period. In addition, the Ombudsman for Children notes that the national authorities failed to fully implement the recommendations of the Committee from the previous reporting period.⁸⁰

To align to the provisions of the General Comment no. 2/2208 of the UN Committee on the Rights of the Child on the role of independent national human rights institutions in the promotion and protection of the rights of the child⁸¹, the People's Advocate for Children Rights has developed one of the most significant tools for consultation of children – the Children's Consultative Council of the People's Advocate for Children Rights.⁸²

The purpose of the Council is to provide the opportunity to all children, according to their abilities, to express their views in a way that is accessible/suitable to them, to make themselves heard as active members of the society on all topics/issues affecting their lives, to facilitate the access of children to information that promotes health and social, spiritual, moral, emotional and physical well-being, to guide the People's Advocate for Children Rights in defining priorities and identifying the topics, issues and challenges related to children's rights to be included in the thematic/special/annual reports.

During the activities carried out by the Children's Consultative Council, the children learned that freedom of opinion, freedom of conscience, thought, expression, religion and association are the cornerstones of their civil rights. They also identified some issues in this respect, claiming that they have to hide or lie about their real interests and activities when, for instance, parents decide for them what hobbies they should have, or when decision-makers from public authorities decide for them. Children complained about the events organized in their schools without being asked their opinion and some of them even being forced to participate in such activities, while those who are

80 <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G17/324/41/PDF/G1732441.pdf?OpenElement>

81 https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2FGC%2F2002%2F2&Lang=en

82 <http://ombudsman.md/news/ombudsmanul-copilului-va-fi-consultat-in-activitatea-sa-de-consiliul-consultativ-pe-langa-avocatul-poporului-pentru-drepturile-copilului/>

not involved are left out and marginalized. They also complained that they are not consulted when decisions related to the education process are made.

Some of the problematic areas identified during the working meetings of the Children's Consultative Council are *lack of an effective mechanism for hearing children's views in schools; the curricular and extra-curricular activities are not agreed with children; violation of personal space by checking personal belongings, such as personal rooms or telephones, etc.*

Therefore, the People's Advocate for Children Rights recommends the following:



RECOMMENDATION 2.2.1: *The Government should strengthen the mechanism of consulting children in all the areas affecting them;*



RECOMMENDATION 2.2.2: *The Ministry of Education and Research should strengthen the mechanisms of consulting children in the education process.*

Another finding of the People's Advocate for Children Rights in the reporting period was the limited participation of children in the decision making process in the education institutions. Therefore, the People's Advocate for Children Rights recommends that:



RECOMMENDATION 2.2.3: *The Ministry of Education and Research should strengthen the mechanism of involving children in the decision making process.*

Another event where children had the opportunity to share their opinions was the traditional National Children's Forum "Children's Rights in and to Education", held on November 19, 2022.⁸³ The National Forum is one of the most prominent platforms where children can make their voice heard and involve in the decision-making process. During the Forum, children addressed the most pressing issues in the education sector, such as lack of sexual education, limited participation of children in the decision making process and inclusive education that fails to respond to the needs of the children. Thus, the People's Advocate recommends:



RECOMMENDATION 2.2.4: *The Ministry of Education and Research should include children's rights and sexual education in the compulsory national education program.*



RECOMMENDATION 2.2.4: *The Ministry of Education and Research should strengthen the mechanism of educational inclusion of children with disabilities and in particular of those with mental disabilities.*

Finally, the People's Advocate for Children Rights welcomes the efforts of the state to create opportunities for children to make their voices heard, thus implementing one of the recommendations of the 2021 Report on human rights in the Republic of Moldova, in particular by ratifying the Optional Protocol to the United Nations Convention on the Rights of the Child on a Communications Procedure.

83 <http://ombudsman.md/news/avocatul-poporului-pentru-drepturile-copilului-a-organizat-cea-de-a-6-a-editie-a-forumului-national-al-copiiilor/>

2.3. The right of the child to education

Priority no. 2 of the Strategic Development Program of the People's Advocate Office for the period of 2023 - 2030: "The education system provides equal opportunities, promotes social cohesion and human rights"

The Parliament of the Republic of Moldova ratified the Convention on the Rights of the Child on December 12, 1990 and thus committed to make these rights known to all adults and children.

Article 29 of the Convention on the Rights of the Child states that education must be directed to a) the development of respect for human rights and fundamental freedoms, and for the principles enshrined in the Charter of the United Nations and b) the preparation of the child for responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin.

These provisions, therefore, develop the meaning of the Convention on the Rights of the Child with regard to the relationship between the state and the child, the contribution of the child to building a social community based on mutual respect between human beings, peaceful coexistence and equal rights.

By ratifying the Convention on the Rights of the Child the Republic of Moldova recognized children as right-holders and assumed a multitude of obligations towards children through its structures/institutions, which are duty-bearers. The rights are functional when there is a functional relationship between duty-bearers and right-holders. For this relationship to work, those who have obligations must be able to fulfill those obligations, while those who have rights must be empowered to demand that their rights be respected.⁸⁴

Going further, the People's Advocate for Children Rights believes that the respect for human rights depends equally on two objective factors:

- a) the extent to which duty-bearers comply with their positive and negative obligations to respect fundamental human rights and freedoms;
- b) how well the right-holders know their fundamental rights and freedoms.

What connects and supports the relationship between duty-bearers and right-holders is the responsibility of the state to both guarantee/protect rights and make them known to right-holders.

The human rights education contributes to the second factor above, by building civic skills for using rights and responsibilities, which are crucial in a democratic society. Human rights education means education, training, dissemination, information, practices and activities which, by equipping learners with knowledge, skills and understanding and by shaping their attitudes and behavior, aim to empower them to contribute to building a universal culture of human rights in the society in order to promote and protect the human rights and fundamental freedoms.


The human rights education is defined as a learning process which aims at:

- promoting the understanding of own rights and related responsibilities;
- developing an attitude of respect and recognition of the uniqueness of each person;
- building the skills that will empower children to take action to promote and defend human rights.⁸⁵

84 Human Rights Education Curriculum (HRE) https://mecc.gov.md/sites/default/files/curriculum_optional_educatie_pentru_drepturile_omului_cl_i-iv.pdf

85 Human Rights Education Curriculum (HRE) https://mecc.gov.md/sites/default/files/curriculum_optional_educatie_pentru_drepturile_omului_cl_i-iv.pdf

Thus, just like in the previous periods, the human rights education was one of the priorities of the mandate of the People's Advocate for Children Rights and in 2022 this issue was intensively discussed at the meetings of the Children's Consultative Forum, during which children formulated the following recommendations for the public authorities:



RECOMMENDATION 2.3.1: *School psychologists and teachers should conduct information sessions with children starting from the primary school level and parents on discrimination and where children can go for support;*

RECOMMENDATION 2.3.2: *Teachers should organize interactive activities (games, debates) to encourage team work between children from the same or different classes;*


RECOMMENDATION 2.3.3: *During the "Education for Society" class, teachers should organize games/activities to help children understand non-discrimination in a practical way;*

RECOMMENDATION 2.3.4: *Teachers should encourage all students, whether active or less active, with higher or lower academic performance, to participate in the student councils or other initiative groups;*

RECOMMENDATION 2.3.5: *Schools should have a box in a safe place for collection of anonymous letters about cases of discrimination, which should be considered by teachers and school management on a weekly basis;*

RECOMMENDATION 2.3.6: *Information sessions on discrimination should be organized for teachers.*

After the COVID-19 outbreak the education system has not been successful in coping with the challenges caused by the pandemic and even if the pandemic restrictions have already been lifted, the authorities keep on using the pandemic as an excuse for their failure to fully implement the recommendations related to the children's right to education. Thus, the national education system has failed to address the already deeply entrenched problems, such as discrimination, bullying, inadequate sanitation and nutrition, failure to provide the children from vulnerable groups with necessary school equipment etc. Therefore, the People's Advocate for Children Rights makes the following recommendations:



RECOMMENDATION 2.3.7: *The Ministry of Education and Research should strengthen the educational system by adopting a holistic approach towards disadvantaged children during crisis situations or situations of public danger.*

Another issue the People's Advocate for Children Rights looked into in the reporting period was how safe and supporting the learning environment is. During the monitoring visits to education institutions carried out in 2022, the Ombudsman for Children identified potential risks to which children might be exposed. More specifically, children are not informed about life and health safety during the sports classes and extra-curricular activities. An example in this sense is the case of a student who died during the sports class at the Ecology College in Botanica Sector, Chisinau municipality reported by mass-media.⁸⁶

86 <https://echipa.md/2022/04/12/tragedie-la-colegiul-de-ecologie-din-chisinau-o-adolescenta-a-murit-subit-in-timpul-orei-de-sport/>

Thus, in the context of the obligation of the authorities to effectively ensure the right of children to a safe and supportive learning environment⁸⁷, the Ombudsman for Children Rights recommends:



RECOMMENDATION 2.3.8: *The Ministry of Education and Research should develop a holistic mechanism for protecting the life and health of children during the academic program;*

RECOMMENDATION 2.3.9.: *The Ministry of Education and Research should put in place mechanisms to monitor the health of children in the education system through regular medical examination.*

Violence in the educational environment continues to be a major issue in the Republic of Moldova. Violence in the school environment is not something new. However, while in the past it limited to the relatively autonomous space of the school, the school environment has become lately more permeable and transparent, absorbing the tensions and challenges faced by the society. In the cultural and political context of the Republic of Moldova, as well as the European context, it is widely recognized and promoted that school must be a safe place, free from any conflicts and manifestations of societal violence.

The Ombudsman for Children welcomes the adoption of the Law no.36/2022 on the amendment of the Education Code no.152/2014, which introduces the definition of "bullying" - *a form of aggression which is intentional, repeated and involves imbalance of power between children, pupils or students, and refers to behavior by which a child, a pupil or a student or a group causes pain, harm, suffering, powerlessness or humiliation. This kind of aggressive behavior usually happens in education institutions and in education and learning facilities.*⁸⁸

The high number of complaints received by the People's Advocate for Children Rights alarmingly suggests that school violence continues to take root. The People's Advocate for Children Rights considers that there are sufficient grounds for gathering together a multidisciplinary team, involving teachers, psychologists, sociologists and juvenile justice professionals to investigate violence in school institutions. The investigation should clarify the nature, reasons and causes of violence and abuse in schools and explain the significant differences in the manifestations of this phenomenon, suggest models of cooperation between all the education, justice and public administration actors in order to prevent and end the phenomenon. Thus, the People's Advocate for Children Rights recommends:



RECOMMENDATION 2.3.10: *The Ministry of Education and Research should strengthen the mechanisms for documentation, reporting and intervention in cases of abuse and violence committed against children or by children;*

RECOMMENDATION 2.3.11: *The Ministry of Education and Research should strengthen the mechanisms for informing the professionals and children how to prevent and deal with the cases of abuse and violence against children;*

RECOMMENDATION 2.3.12: *The Government should strengthen the mechanism of cross-sector cooperation on prevention of cases of abuse and violence in schools for a more effective intervention of duty-bearers to provide adequate protection to children;*

RECOMMENDATION 2.3.13: *The Ministry of Education and Research should strengthen the direct communication mechanisms for children in cases of abuse and violence.*

87 Decision no. 613/1441 of 27.05.2013 „on the health services in pre-university education institutions”, pg. 20

88 https://www.legis.md/cautare/getResults?doc_id=130322&lang=ro

In 2022, the People's Advocate continued to monitor how the right to education of the children with special needs is respected. Despite some progress, overall there are still cases of discrimination against the children with disabilities in the education system caused by lack or shortage of assistant teachers and professionals (psychologists, psycho-educators, speech therapists); attitudinal barriers on the part of teachers in the process of integration of children with special needs; inadequate financial allocations for inclusive education; lack of continuous information for teachers on how to deal with the children with disabilities, in particular those with the Down syndrome and mental disabilities.⁸⁹ This is also confirmed by the 2021 annual report of the Council for Discrimination Prevention and Equality⁹⁰, according to which one of the major challenges is the infrastructure and information that is inaccessible for the persons with disabilities. The inclusion of children with disabilities in the education system is hindered by the lack of appropriate guidelines on measures to reasonably respond to the needs of children with disabilities, shortage of teachers who speak sign language, obstruction of the access to higher education for persons with hearing impairments. Therefore, the People's Advocate for Children Rights recommends:

RECOMMENDATION 2.3.14: *The Ministry of Education and Research should provide adequate funding for inclusive education;*

RECOMMENDATION 2.3.15: *The Ministry of Education and Research should make sure that teachers are constantly informed how to deal with the children with disabilities, in particular those with the Down syndrome and mental disabilities;*



RECOMMENDATION 2.3.16: *The Ministry of Education and Research should ensure the accessibility of infrastructure and information for the persons with disabilities;*

RECOMMENDATION 2.3.17: *The Ministry of Education and Research should provide the children with visual and hearing impairments with the necessary equipment;*

RECOMMENDATION 2.3.18: *The Ministry of Education and Research should revise the teaching load of the support teachers by reducing the number of children with special needs assigned to them.*

As regards the quality of food and health services in schools, the results of the monitoring carried out by the People's Advocate for Children Rights and the complaints received suggest that it continues to be an issue. Children claim that food is often of poor quality, and not tasty, which is why they prefer to buy food outside the school or bring food from home. Fruits and vegetables are missing in the school meals. As for the access to the medical services in education institutions, children mentioned that the medical personnel are often absent (working part-time – with 0,5–0,25% level of involvement), first-aid kits are missing in the medical rooms, and the medical services are, therefore, unavailable.

In this regard, the People's Advocate for Children Rights recommends:



RECOMMENDATION 2.3.19: *The Ministry of Education and Research should revise the budgets of the education institutions, so as to provide appropriate funding for hiring and training medical staff to provide adequate medical services.*

89 Work-life balance: parents' needs and the role of social policies/ Inga Chistruga-Sinchevici; scientific editor: Olga Gagauz; National Institute for Economic Research, Center for Demographic Research. – Chisinau: NIER, 2021

90 Available online: https://egalitate.md/wp-content/uploads/2016/04/CPEDAE_raport_-2021-final_site-1.pdf

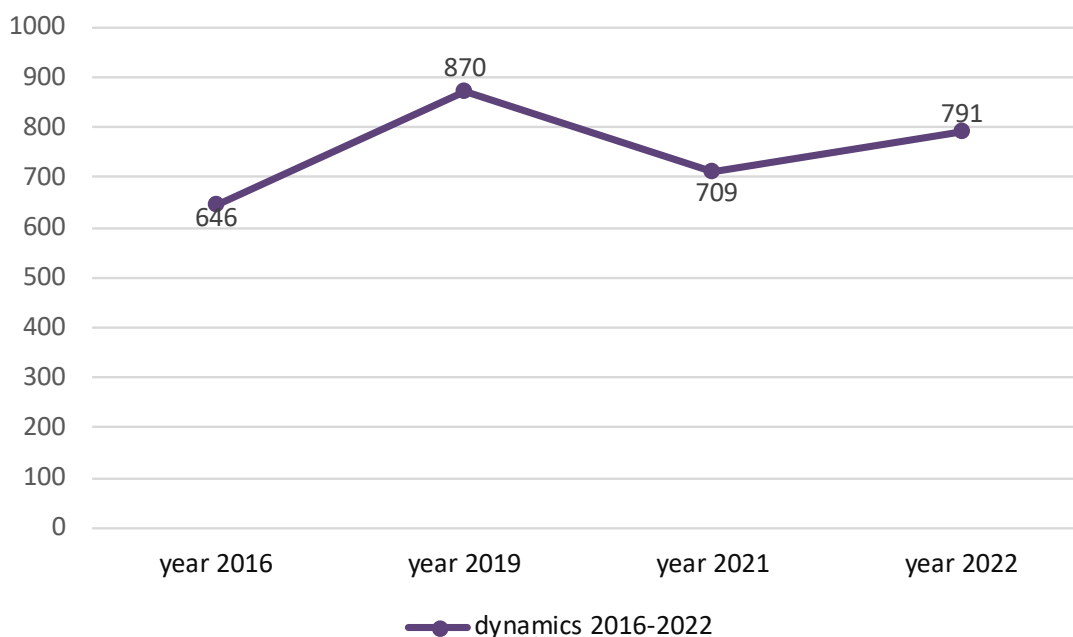
2.4. The rights of children in street situations

The phenomenon of children in street situations is present in the Republic of Moldova. This stark observation is the result of perhaps one of the saddest analytical exercises which derives from the mandate of the People's Advocate for Children Rights. The General comment no. 21/2017 on children in street situations to the United Nations Convention on the Rights of the Child defines these children as: a) *children who depend on the streets to live and/or work, whether alone, with peers or with family*; and (b) *a wider population of children who have formed strong connections with public spaces and for whom the street plays a vital role in their everyday lives and identities*.⁹¹

Monitoring the rights of children in street situations was one of the priorities of the seven-year mandate of the People's Advocate for Children Rights. In the case of these children, the monitoring revealed violation of all the rights stated in the UN Convention for the Rights of the Child and the failure of the national authorities to put in place effective response mechanisms.

The interventions of the People's Advocate for Children Rights have been continuous and substantial and included research and monitoring, thematic reports, training for duty-bearers, meetings with decision-makers and representation in court. In addition, through advocacy efforts, this issue got on the agenda of the public authorities at all levels, including the parliament for parliamentary scrutiny.⁹² Regrettably, the national authorities, as duty-bearers, have failed to improve the system of protection of the rights of the children in street situations.

Figure 1.5. Fluctuations in quantitative indicators



The available data allows to observe a wider spectrum of indicators and allows the People's Advocate for Children Rights to make the following conclusions:

1. The number of children in street situations in 2022 was higher by 145 than in 2016;
2. Most of these children are aged 14-15;
3. Most of these children come from rural areas;
4. Most of these children are girls.

91 General comment no. 21/2017 on children in street situations, pg. 3, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G17/170/34/PDF/G1717034.pdf?OpenElement>

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

Figure 2.5. Disaggregated data on children in street situations in years 2016–2022

	2016	2017	2018	2019	2020	2021	2022
Number of children who have run away from home or from other form of protection	646	640	671	870	835	709	791
Under the age of 13	211	176	152	221	246	188	204
Aged 14-15	276	310	313	465	393	348	289
Aged 16-17	159	154	206	184	196	158	298
Rural areas		359	398	380	481	345	591
Urban areas		281	273	490	354	364	757
Girls		361	372	499	494	420	420
Boys		279	299	371	341	289	371
Found children	641	635	663	861	829	698	773

The People’s Advocate for Children Rights has constantly advocated for strengthening the institution of the *child protection specialist* in the level I public authorities⁹³. Having such specialists on the payroll of the level I local governments (municipalities) would allow for a more efficient interaction of the children in street situations with the authorities and for a more effective case management. Undoubtedly, the figures indicated in the table above can be reduced by strengthening the human and administrative resources of the public authorities as the first and the most important link in the chain of the authorities in charge of managing each individual case of children in street situations.

One of the main reasons why children are on the streets is the *negative family environment*. Physical, emotional and, in some cases, sexual violence are characteristic elements of a family environment that at some point has become an unsafe and undesirable place for the child. When their natural needs are not met, children seek another refuge where they can feel safe or find love, protection, understanding and empathy. Thus, children go to places where these needs are satisfied or where they can keep relationships which arise from the need to communicate with other children, especially at puberty age.

Alcohol consumption by family members affects children differently. In some cases, they see a negative family life model, while in other cases children are abandoned by their alcoholic parents and, in the best case scenario, live in protection centers or on the street. Occasional or, worse, excessive drinking can have serious short- or long-term consequences on minors. Moreover, studies have shown that drinking, even in small amounts, increases the risk of addiction in children. The risk of developing alcohol addiction is 4 – 5 times higher in children who start drinking at the age of 14 than in those who do it at the age of 19.⁹⁴ The life scenario of a child with alcohol addiction is truly disastrous.

The child protection actors describe the behavior of the children in street situations as follows: have violent behavior in groups; manipulate through behavior and stories they tell about themselves; knowingly or unknowingly, they ignore the moral norms of behavior; blackmail and demonstrate delinquent behavior; lie. They often adopt such behaviors in order to survive in the hostile street environment, created by other children in street situations, homeless people, adults, police etc. The support professionals must try to mitigate these types of behavior, which is not an easy thing to do.


93 *child protection specialist* – a person employed by the level I local government (municipality), whether civil servant or not, who has a Bachelor or Master degree in social assistance, pedagogy, psychology, law, public administration or other relevant humanitarian area and provides support to the local guardianship authority in protection of children’s rights

94 Responsible drinking. <https://www.consuma-responsabil.ro/alcoolul-si-minorii/>

No child should live on the street. The street is an environment which gives children a negative education; the norms and values they learn there are contrary to the norms and values generally accepted in the society. The main task of the child protection professionals, therefore, should be to monitor the new cases of children at risk, children in street situations, that come into their view. On the other hand, the parents who make children go on the street because of their violent behavior, neglect, ignorance, illness etc. must be educated, supported, punished, as appropriate, so as their children finally have their right to life, health, education respected in the family.

In conclusion, the range of deficiencies in this area clearly remains to be very wide. Lack of financial and human resources has implications almost at all the stages of planning and, even more, implementation of response measures. Thus, monitoring the implementation of the state policies on protection of children in street situations continues to be one of the priority activities of the People's Advocate for Children Rights.

Hence, the People's Advocate recommends:



RECOMMENDATION 2.4.1: *The Government should provide systemic and well-planned training to the professionals working in centers providing support to the children in street situations and children at risk, as their qualifications are not always sufficient to manage such cases;*

RECOMMENDATION 2.4.2: *The Ministry of Education and Research should provide training to teachers on communication with the children at risk and the children in street situations, with a focus on raising their awareness that these children in the future will make the living in their communities comfortable or uncomfortable;*

RECOMMENDATION 2.4.3: *The local government should employ child protection specialists to improve their interaction with the children in street situations;*

RECOMMENDATION 2.4.4: *The Government should ensure close cross-sector cooperation, where all the actors (social assistant, teacher, psychologist, police) do their jobs effectively so as to achieve real and positive results in preventing or helping children in street situations. Their interventions should be immediate, accurate and should respond to the needs of such children. The specialist who identifies the case should be trained how to follow up on it to make sure it has been managed successfully.*

2.5. Children in contact with the justice system

Protection of children against violence, neglect and exploitation is a challenge for the Moldovan authorities. Despite the important steps taken by the legal system recently to improve the response of the state to acts of violence against children, violence and child abuse remain widespread in the Republic of Moldova. Unfortunately, in our society violence is still sometimes perceived as a “normality”, a “method” of punishing and disciplining, and a practice of educating children without being aware of the consequences of such behavior. Abuse and violence against children are fueled by social norms and attitudes.

While the official statistics show that the number of children victims of violence was lower by 9.6% compared to 2020, and the number of children who experience neglect was lower by 21.9% than in 2020⁹⁵, professionals stress that this data includes only the reported cases and, in reality, the incidence of violence against children is much higher. In fact, not all the cases are reported because of poor awareness of the procedures or because of the myths about violence existing in society. Furthermore, the discrepancy between statistical data also comes from the fact that each institution

⁹⁵ https://statistica.gov.md/ro/situatia-copiiilor-in-republica-moldova-in-anul-2021-9696_59431.html

has its own methodology for recording cases of violence against children, which does not allow to see the overall picture and make an objective comparison of the national data with the data from other countries. Although the authorities have committed to creating a single information system for data collection, no progress has been made in this regard.

The respondents interviewed for the "Analysis of the child protection system" study commissioned by the People's Advocate for Children Rights and conducted in 2022 consider that the response of the state to the acts of violence committed against children is ineffective because of ineffective cooperation between the guardianship authorities and the representatives of the prosecution and investigation bodies. One of the respondents mentioned that some care services are not considered to be part of the cross-sector cooperation mechanism put in place by the Government Decision no.270/2014; the criminal investigation professionals refer to data protection to not report such cases to the guardianship authority in charge of providing assistance to children etc.

Existing research on juvenile justice consistently demonstrate the link between the children's offending behavior and their experiences of violence, abuse and neglect at home. Research findings suggest that **inadequate (parental) care is a fundamental and widespread contributor to the development of anti-social or offending behaviors in children**. The vast majority of the children interviewed for the research reported having experienced varying degrees of poor care and, in some cases, neglect, which appear to have contributed to their offending behavior. Poor and inadequate parenting can have serious implications for a child's physical, mental and emotional development. Studies have shown that children who have experienced neglect are more prone to behavioral difficulties, which may lead to anti-social and even criminal behavior. Poor parenting and insufficient attention and supervision apparently become a major problem where parents are unable or unwilling to devote sufficient time or energy to or behave appropriately with their children.⁹⁶

The Republic of Moldova adhered to a number of international standards on protection against ill-treatment, including the UN Convention on the Rights of the Child, which define the commitments the country was supposed to deliver on after the ratification of the above-mention Convention on December 12, 1990. The observations of the People's Advocate for Children related to the rights of prisoners, in particular juvenile prisoners, reveal a number of shortcomings in the penitentiary system, which clearly deviate from the international standards.

Deprivation of liberty is in itself one of the most brutal infringements of the inalienable human rights and should be possible only in cases prescribed by law and regulated in the most predictable and explicit manner. Deprivation of liberty requires a balance between *the powers of the authorities* and *the rights and freedoms of the individual*. The more often these two components are out of balance, the more vulnerable the individual is. This is why, deprivation of a child of his/her liberty must be *in conformity with the law and used only as a measure of last resort and for the shortest appropriate period of time*⁹⁷. Where deprivation of a juvenile of his /her liberty is absolutely necessary, it must aim at his/her re-education and re-integration in the society.

Therefore, while all the persons deprived of their liberty are vulnerable because of the coercive power of the state, *children* are one of the most vulnerable groups of prisoners due to their age, maturity and the long-term harmful effects of detention on their well-being and development. Children's physical and emotional development is different from adults. They have specific needs and require special protection. Therefore, even if the child has ended up in prison, *it is necessary to take all the measures to minimize the coercive elements /restrictions of the life in prison and diversify the learning and personal development opportunities*.⁹⁸

96 „Children in conflict with the law. Needs assessment of primary, secondary and tertiary prevention services in Moldova”, UNICEF, 2015, <https://www.unicef.org/moldova/media/1296/file/Children-in-conflict-with-the-law-2015.pdf>

97 Art. 37 of the UN Convention on the Rights of the Child

98 Эндрию Койл, «Подход к управлению тюрьмой с позиций прав человека», pg.126

The data of the National Administration of Penitentiaries published on official information platforms⁹⁹ allow to observe the quantitative indicators on juveniles taken into state custody (Figure 2.6)

Figure 2.6. Disaggregated data on the number of children deprived of liberty in the period of 2016 – 2022

	2016	2017	2018	2019	2020	2021	2022
Total	63	63	71	63	56	64	48
Pre-trial detention (at the end of the reporting period)	26	29	25	14	16	20	13
Sentenced to prison (during the reporting period)	37	34	46	49	40	44	35
Boys	61	62	67	60	54	64	47
Girls	2	1	4	3	2	0	1

The data above suggests that the number of children deprived of their liberty was smaller at the end of the reporting period than in the previous years, which makes the People’s Advocate for Children Rights hopeful that this is the result of the criminal justice policies and a change of attitude on the part of the law-enforcement agencies, because detention rarely responds to the specific needs of the children at group or individual levels, including the need for adequate education, contacts with their families and community, sports, leisure etc. On the contrary, it often exacerbates their vulnerability, exposing them to various forms and situations of risk, such as discrimination, abuse, violence, poor living conditions, inadequate health care and nutrition.

The People’s Advocate for Children Rights advocated the use of alternatives to detention for delinquent children, and currently the national legislation provides for alternatives to detention during criminal investigation, trial and post-conviction stages.

Deprivation of liberty means deprivation of rights, agency, visibility, opportunities and love. Depriving children of liberty is depriving them of their childhood.¹⁰⁰

The court can apply house arrest¹⁰¹, provisional release on bail¹⁰² and provisional release under judicial control¹⁰³ as alternatives to pre-trial detention based on a request from the prosecution authority or the defense. The lawmaker has gone further with the imperative nature of its norms and, besides the general provisions, equally valid, has put in place the obligation of the court, after adopting a decision on the preventive measure to be applied, to decide on the transfer of the child under supervision in accordance with the provisions of art.477 paragraph (1) and art.184 of the Criminal Procedure Code no.122/2003.¹⁰⁴

99 <https://www.anp.gov.md/index.php/rapoarte-de-bilant-semestriale-anuale>

100 Global Study on Children Deprived of Liberty, Manfred Nowak

101 Art. 188 of the Criminal Procedure Code no. 122/2002

102 Art. 190 of the Criminal Procedure Code no. 122/2002

103 Art. 191 of the Criminal Procedure Code no. 122/2002

104 Art. 184 paragraph (1) of the Criminal Procedure Code no. 122/2003 – The placement of the minor under supervision requires that one of the parents, guardian, curator or another trustworthy person, as well as the manager of the special education institution the minor attends undertakes in writing to make sure the minor will come, when summoned, to the prosecution authority or court, and to prevent the actions stipulated in art. 176, paragraph (1)

When writing this report, the authors checked the judicial statistics publicly available on the website of the Agency for Court Administration.¹⁰⁵ The Report on the examination of requests for arrest warrant and other alternative measures (art.182, 191, 192 of the Criminal Procedure Code no.122/2003) provides information about the number of requests for arrest/extension of arrest and home arrest, but no data on the court decisions concerning the transfer of minors under supervision adopted during the examination of the request for application of preventive measure on minors. In the broader context of the discussions on the frequency of application of arrest as preventive measure and given the imperative nature of the provisions of art.477, paragraph (1), and art.184 of the Criminal Procedure Code no.122/2003, the People's Advocate for Children Rights is of the opinion that a breakdown of statistical data would be useful and necessary.¹⁰⁶

The alternative punishments, in general, deserve an in-depth approach, as imprisonment is not always the best response to the committed offence. On the contrary, given the systemic enforcement-related deficiencies caused by objective factors, such as underfunding, lack of qualified staff, overcrowding, hierarchization of prison population, imprisonment for a longer period of time might slow down or even cancel out all together the reeducation process.

In the reporting period, the People's Advocate called for the revision of the mechanism put in place by the Law no.299/2018 on the measures and services for children with deviant behavior,¹⁰⁷ passed by Parliament on November 30, 2018. Its enactment was the result of a difficult process, involving contradictory debates on the prospects of the services intended to replace the outdated practices of dealing with the following categories of subjects:

- a) children who have committed an offence under criminal law but who are not criminally liable;
- b) children who have committed an offence under contraventional law, but who are not liable under such law.

In accordance with the provisions of art.5 of the Law no.299/2018 on the measures and services for children with deviant behavior, the measures intended for children with deviant behavior such as

- a) specialized supervision;
- b) placement in a guardianship service or family-type service;
- c) placement in residential service;
- d) placement in a highly specialized residential service are applied in accordance with the cross-sector cooperation mechanism approved by the Government.

The People's Advocate for Children Rights is deeply disappointed with the Law no.299/2018 on the measures and services for children with deviant behavior, which, although enacted after complicated debates and consultations, remains inactive because the government has not found solutions for the cross-sector cooperation mechanism, which is the key to the success of this legislative initiative.

The People's Advocate for Children Rights welcomes the decision of the Ministry of Justice and National Administration of Penitentiaries to start in March 2023 the transfer of the children in pre-trial detention at Penitentiary 13 to the Detention Center for minors and young people in Goian. By doing so, the Republic of Moldova will achieve the goal that no child is detained in inhuman and degrading conditions, which are specific to the national prison system, which is also one of the priorities of the mandate of the People's Advocate for Children Rights who jointly with the relevant public authorities dedicated a lot of efforts in this regard.¹⁰⁸

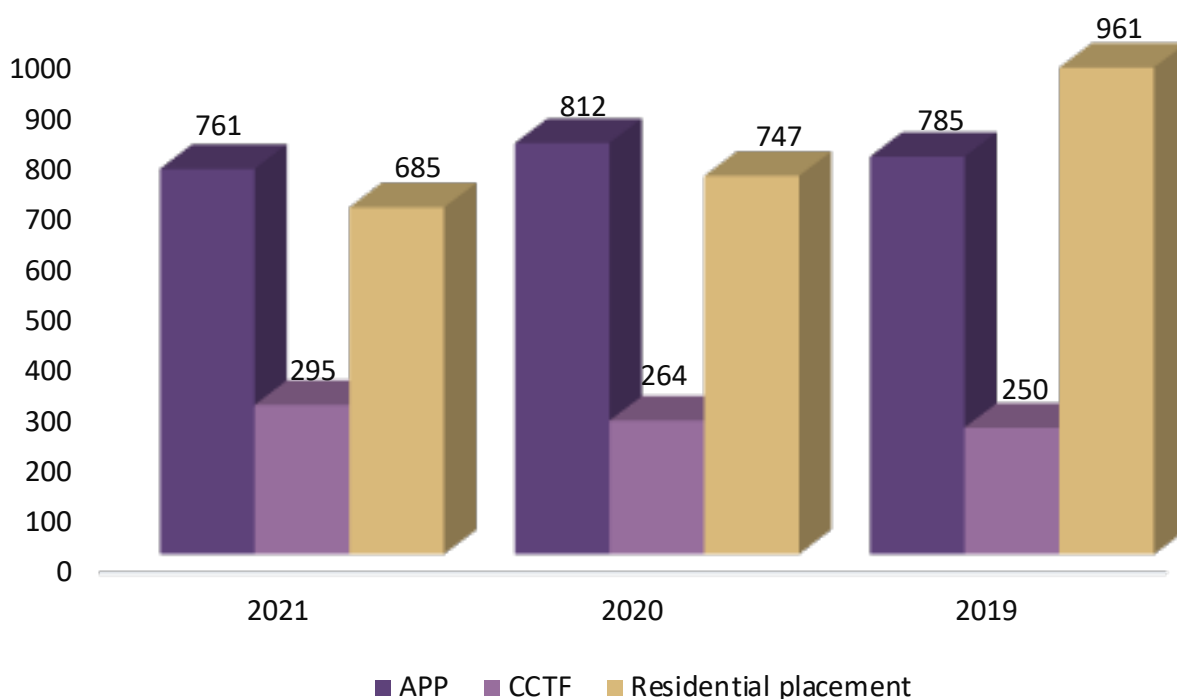
105 Available at <http://aaij.justice.md/ro/report-type/rapoarte-statistice?page=2>

106 Thematic report on the situation of the rights of the child held in state custody during criminal proceedings or sentence enforcement <http://ombudsman.md/news/prezentarea-publica-a-raportului-tematic-evaluarea-respectarii-drepturilor-copiiilor-aflati-in-custodia-statului-in-legatura-cu-urmarirea-penala-sau-executarea-pedepsei/>

107 https://www.legis.md/cautare/getResults?doc_id=110737&lang=ro

108 <https://ombudsman.md/news/avocatul-poporului-pentru-drepturile-copilului-insista-asupra-necesitatii-respectarii-drepturilor-si-libertatilor-fundamentale-ale-minorilor-si-tinerilor-preveniti/>

Figure 3.6. Number of children placed in the residential system and family-type services



Despite all these efforts, however, the shortage of services at local level and lack of training programs for providers of services for children with deviant behavior encourage the placement of these children in residential-type services and, consequently, can undermine the care system reform: on one hand, the authorities work on the deinstitutionalization of children with non-deviant behavior held in residential care facilities and, on the other hand, if the institutions included in the deinstitutionalization process do not have a moratorium on new admissions, they will admit children with deviant behavior.

Lack of involvement during the adoption of the Law no. 299/2018 on measures and services for children with deviant behavior produced knock-on effects. One of such effects is that the alternative services are not always available for the children with deviant behavior and the professional parental assistants and parent educators are not ready to receive these children in foster care, especially that there are no programs to reduce deviant behavior at community level.¹⁰⁹ Therefore, the People's Advocate for Children Rights recommends:

RECOMMENDATION 2.5.1: *The Government should step up cooperation in areas like violence, abuse and neglect in family, which are triggers of antisocial behavior in delinquent juveniles and must be closely monitored through the multidisciplinary mechanisms of the state;*



RECOMMENDATION 2.5.2: *The Ministry of Justice should organize the enforcement system so as to exclude any risk of ill-treatment of prisoners. Staffing, training and motivation of personnel should become an immediate priority. The enforcement system must put in place a follow-up mechanism for the recommendations made by the Council for the Prevention of Torture and measures to address the deficiencies;*

109 "Analysis of the child protection system" study

RECOMMENDATION 2.5.3: *When dealing with criminal offences committed by minors, in particular the minors placed in state custody, courts, prosecutors, lawyers and other participants in the proceedings should plan the activities in full compliance with the criminal procedure rules and follow the continuity and no delay principles;*

RECOMMENDATION 2.5.4: *The Government should prioritize the development of the cross-sector cooperation mechanism put in place by the Law no. 299/2018 on the measures and services for children with deviant behavior;*

RECOMMENDATION 2.5.5: *The judicial authorities should engage in the development/revision and implementation of policies on application of community measures and sanctions and follow up on them in order to ensure their broad understanding in the judicial community.*

2.6. The right of the child to name and nationality

The UN Convention on the Rights of the Child regulates in art.7 the right of the child to name and nationality in a broader sense, addressing the legal and social issues related to the moment of child's birth and those related to the right of every child to know and be cared for by his/her parents.¹¹⁰ Going further, according to this international standard, the state parties undertake to respect the right of the child to preserve his or her identity, including nationality, name and family relations as recognized by law without unlawful interference (unless necessary for the best interests of the child).¹¹¹

Article 15 of the UN Declaration of Human Rights¹¹² stipulates that everyone has the right to a nationality and that no one can be arbitrarily deprived of his or her nationality nor denied the right to change his or her nationality.

Furthermore, the European Convention on Nationality¹¹³ adopted by the Council of Europe on November 6, 1997 establishes principles and rules related to the nationality of natural persons and rules regulating military obligations in cases of multiple nationality, to which the internal law of States Parties must conform. For the purpose of this Convention, "nationality" means the legal bond between a person and a state and does not indicate the person's ethnic origin.

Chapter III of the Convention establishes the rules relating to nationality which the States Parties must comply with. Thus, each State Party must provide in its internal law for its nationality to be acquired *ex lege* by the following persons:

- a) children one of whose parents possesses, at the time of the birth of these children, the nationality of that State Party, subject to any exceptions which may be provided for by its internal law as regards children born abroad. With respect to children whose parenthood is established by recognition, court order or similar procedures, each State Party may provide that the child acquires its nationality following the procedure determined by its internal law;
- b) foundlings found in its territory who would otherwise be stateless.

110 The child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and, as far as possible, the right to know and be cared for by his or her parents.

111 Article 8 of the Convention on the Rights of the Child

112 Universal Declaration of Human Rights, adopted by the UN General Assembly on December 10, 1948

113 European Convention on Nationality, in effect for the Republic of Moldova since March 1, 2000

In article 5, the Law no. 338/1994 on the rights of the child¹¹⁴ enshrines the rights of the child to a name and a nationality. When a child is born, he/she has the right to a name and is registered under the provisions of the Family Code no. 1163/1997.

According to art.55 of the Family Code no.1163/1997, the child has the right to a name and a surname. The child is given the parents' surname. If parents have different surnames, the child takes father's or mother's surname as agreed by parents. The name of the child is given by parents. The child's surname or name can be changed only with the consent of the guardianship authority. If the child has reached the age of 10 the child's surname or name can be changed with the consent of the child.

According to the Civil Code of the Republic of Moldova, any individual has the right to the name established or acquired under law. The surname is acquired by provenience and changes as a result of a change in marital status under law. The first name is established on the date of birth registration on the basis of the birth declaration.¹¹⁵ The name of a person is nothing but an identifying attribute because the person's personality must be distinct from the personality of other persons in the interpersonal relationships. The name is a personal non-property right, and entails the prerogative of a person to have and use his/her own name.

The registration of the child at birth is regulated by the Law no.100/2001 on civil status documents. The obligation to declare the child's birth, as a matter of priority, rests with the parents. The special law establishing the rules related to the nationality of the Republic of Moldova is the Law on the citizenship of the Republic of Moldova no.1024/2000, on the basis of which the Regulation on acquisition and loss of citizenship of the Republic of Moldova was approved.¹¹⁶

Although the Constitutional Court had ruled on the constitutionality of the regulations above, the proposal to amend art.11 of the Law on the citizenship of the Republic of Moldova no.1024/2000 was taken up by a Member of the Moldovan Parliament and passed the first reading on December 29, 2022. Once passed in final reading, this law will guarantee the right of every child born in the Republic of Moldova to the Moldovan nationality and will contribute to reducing the number of stateless persons.¹¹⁷

The research conducted by the People's Advocate in 2022 reveals that in practice the implementation of the regulations on the right to a name and nationality is still deficient as evidenced by the high number of children without identity documents. An example in this sense is the case of the child X, whose guardian complained to the People's Advocate for Children Rights that the child's right to a name and to education had been violated, asking for support with the rectification of the child's educational certificate according to the identity card. More specifically, the person had been appointed as guardian of child X, a citizen of the Russian Federation, left without parental care after the death of his mother. Subsequently, the Migration and Asylum Bureau granted the child the right of temporary residence for family reunification. The secondary school graduation certificate of the child contained essential errors made by the representatives of the education institution in the child's name and surname, which therefore did not match the name and surname in the birth certificate and passport issued by the authorities of the Russian Federation, and the child's residence permit issued by the Migration and Asylum Bureau. This mismatch between the child's school graduation certificate and identity documents suggests that they belong to different persons, which is not the case, and the child may face difficulties with admission to high school, further education or employment. The requests of the child and his guardian to fix the mistakes were ignored by the education institution and the district Education Department. Instead, the child and the guardian were blamed of causing troubles.

To solve this case and restore the rights of the minor, but also to address this issue at system level, the People's Advocate for Children Rights requested the support and guidance of the Ministry of Education and Research of the Republic of Moldova. It should be noted that the rights of the child were finally restored only due to the intervention of the People's Advocate for Children Rights.

114 Law no. 338/1994 on the rights of the child

115 Article 36 of the Civil Code of the Republic of Moldova no. 1107/2002

116 Government Decision no.1144/2018

117 <https://www.parlament.md/ProcesulLegislativ/Proiectedeactele legislative/tabid/61/LegislativId/6062/language/ro-RO/Default.aspx>

To this end, the People's Advocate for Children Rights recommends the following:



RECOMMENDATION 2.6.1: *The Government should ensure a constructive cross-sector cooperation for identification of undocumented children and make concerted efforts to restore their rights;*

RECOMMENDATION 2.6.2: *The national authorities should organize and conduct outreach and support campaigns for parents on the procedure for documenting children and the risks for the children without identity documents.*

2.7. Protection of children granted international protection (refugee children)

The 1951 Convention and its 1967 Protocol relating to the status of refugees lays down the same standards for children as for adults. No difference must be made between children and adults in terms of their rights to social security and legal rights.¹¹⁸ The Convention on the Rights of the Child is important for the refugee children, because it lays down comprehensive standards. It covers all the vital aspects of the child, including health, education and social security.

The children seeking refugee status or considered refugees in accordance with the applicable international or domestic law and procedures, whether unaccompanied or accompanied by their parents or by any other person, must receive appropriate protection and humanitarian assistance in the enjoyment of applicable rights set forth in international instruments.¹¹⁹

The monitoring carried out by the People's Advocate for Children Rights revealed that most of the refugee children in Moldova chose to attend the online classes provided by the Ukrainian authorities. To facilitate their studies, the accommodation facilities were provided with internet access networks, including with the support of non-governmental organizations. However, there were also refugee children who went to the Moldovan schools, according to the reports of some managers of the temporary placement centers and social assistance representatives. Given that temporary protection had not been activated, only the minor asylum-seekers fully enjoyed the right to be enrolled in the Moldovan education system. On the other hand, the right only to attend classes does not provide the safeguards and finalities provided by the state educational system. Most of the refugee children, regardless of their status, chose to study in Russian or Romanian language schools in Moldova. On the other hand, the refugee children belonging to marginalized groups, such as those with disabilities or Roma children, had limited access to education, one of the reasons being the refusal of their legal representatives.

Thus, the monitoring revealed some challenges faced by both the national authorities and children themselves in securing and making use of the right to education. The language barrier is one of the reasons the refugee children preferred to attend the online classes provided by the Ukrainian authorities despite their desire to socialize with other children. The difference in subjects taught in Moldovan and Ukrainian schools, as well as the recognition of the study periods, recognition and equivalence of study documents, the movement of refugee families to different Moldovan localities or their leaving the country after a certain period of time were other challenges faced by the national public authorities related to securing the right to education for refugee children.

Summarizing the above, schooling is available only for the refugee children, whose legal representatives or parents have been granted the legal status of asylum seeker in Moldova. Thus, the national authorities should ensure the access to education for the refugee children from Ukraine with all the safeguards and finalities established by the Education Code of the Republic of Moldova.

118 Convention on the Rights of the Child

119 Art. 22 of the Convention on the Rights of the Child

In all actions concerning children, the best interests of the child shall be a primary consideration. The right of the child and his or her parents to leave or enter a State Party for the purpose of family reunification or to maintain the child-parent relationship¹²⁰ must be dealt with by the state in a positive manner.

As of February 24, 2022 the crossing of the state border from Ukraine to the Republic of Moldova has been authorized through the border crossing points. While originally the entry of the minors was allowed based on the birth certificate, national identity document (ID card), passport¹²¹, later they also were allowed to enter Moldova with the medical birth certificate.¹²² To ensure the protection of the children from Ukraine, on April 14, 2022, CES approved the Regulation on the cross-sector cooperation mechanism for the identification, assistance and monitoring of children at risk coming from Ukraine during the state of war (hereinafter *Regulation*) through its Decision no.14 of April 2022 (annex no.3). This mechanism aims at preventing any risks of abuse and human trafficking and is not applicable to a child with full capacity¹²³ - a child who has acquired full capacity through marriage or has reached the age of 16 and has been granted full capacity based on a decision of a guardianship authority or a court decision.¹²⁴ When crossing the border to the Republic of Moldova, the border police must identify the children at risk based on the following criteria: *the child is unaccompanied; the child is accompanied by an unauthorized person; the child is accompanied by a legal representative, but there is doubt as to the identity of the child or that of the legal representative; the child claims he/she is in imminent danger or there is information/assumptions that he/she is in imminent danger; the child does not have identity documents, or presents expired, damaged ID documents or copies of ID documents instead of originals.* Thus, the border police must not allow the children who do not meet the requirements of this Regulation to leave the Republic of Moldova.¹²⁵ Further, the Ministry of Labor, Social Protection and Family approved by its Decision no.36 of May 5, 2022 the template form for the quick assessment of the best interests of the child at risk coming from Ukraine during the state of war.¹²⁶

Under the Ukrainian law, children aged 16 can travel unaccompanied to other countries. Despite this right and the existing specific legal criteria, the cross-sector protection mechanism was applied to all the children intending to transit the Republic of Moldova, even to those who had valid identity documents and did not meet any of the risk criteria. Consequently, the protection mechanism hindered the free movement of the refugee children who did not meet the risk criteria and who were forced to present power of attorney or other documents to confirm the purpose and final destination, a process that took a lot of time. Going further, the requirements related to the exit from the country in some cases exceeded the positive margin of protection. While it is an obligation of the state to ensure the security and safety of minors while transiting the Republic of Moldova and facilitate the transit in order to facilitate family reunification, the state seemed to unintentionally interfere with the right to free movement of the 16-17 year old persons.

The State shall provide the child with adequate care when parents or other persons responsible for him or her fail to do so.¹²⁷ The states must take as soon as possible all appropriate measures to provide the necessary representation of unaccompanied minors granted temporary protection by a legal guardian or, where necessary, by an organization concerned with the assistance and welfare of children. During the temporary protection period the unaccompanied minors must be placed with adult relatives; with a foster-family; in centers with special facilities for minors, or in other accommodation suitable for minors with the person accompanying them during the trip. The states must take the necessary steps to make such placement possible.¹²⁸ Similarly, as no distinction

120 Art. 10 of the Convention on the Rights of the Child

121 CES Decision no.1 of February 24, 2022

122 CES Decision no. 3 of February 27, 2022

123 Paragraph 3 of Annex 3 to the Regulation on the cross-sector cooperation mechanism for the identification, assistance and monitoring of children at risk coming from Ukraine during the state of war in Ukraine

124 Paragraph 4.2 of Annex 3 to the Regulation on the cross-sector cooperation mechanism for the identification, assistance and monitoring of children at risk coming from Ukraine during the state of war in Ukraine

125 Paragraph 13 of Annex 3 to the Regulation on the cross-sector cooperation mechanism for the identification, assistance and monitoring of children at risk coming from Ukraine during the state of war in Ukraine

126 https://social.gov.md/wp-content/uploads/2022/05/Ordin-nr-36_05.05.2022_Modelul-actului-de-evalua-re-rapida.pdf

127 Art. 3 of the Convention on the Rights of the Child

128 Convention on the Rights of the Child

must be made between adults and children, the state should provide to refugee children access to adequate accommodation, medical care and protection from all forms of abuse and violence.

During the period of the state of emergency, the accommodation of refugees from Ukraine was allowed in the placement centers managed by the Ministry of Labor and Social Protection based on the needs assessment made by the social assistants in accordance with the standards developed by the National Social Assistance Agency.¹²⁹ The minors are accommodated together with their parents or with an adult family member responsible for them under law.¹³⁰ In case of unaccompanied minors, their accommodation is the task of the local guardianship authority, which applies the protection measure for children separated from their parents approved through the Law no.140/2013 on the special protection of children in risk situations and children separated from their parents.¹³¹

Despite the generally friendly attitude towards the families with children and young people who were provided with the minimum necessary things to meet their basic needs during their stay in the temporary placement centers, there were cases when they were exposed to certain risks. For instance, some refugees were accommodated with minors without having legal representation documents and, consequently, the intervention of the guardianship authority was requested. There was also the case of a refugee mother with five children who agreed to the accommodation of one of her minor children in the placement center, because the separate housing offered to her by the local government was too small to accommodate the entire family. The protection of children in the placement centers unauthorized by NSAA was also in the focus of the People's Advocate for Children Rights. Thus, there were reports of acts of violence committed by the managers of the placement centers and of forced eviction of refugee mothers with children from the accommodation premises, sometimes at night and in low temperatures. Though the authorities had been notified of these cases, their intervention was slow or even a box ticking exercise. In conclusion, because of both shortage of qualified staff in the placement centers and poor cooperation with the guardianship authorities and the hostility of some managers of placement centers, the protection mechanisms for refugee children were not properly applied. Therefore, the state should take positive measures to prevent such situations from happening. In this respect, the People's Advocate for Children Rights recommends:



RECOMMENDATION 2.7.1: *The Government should ensure full social inclusion of the children granted international protection in line with the UN Convention on the Rights of the Child;*

RECOMMENDATION 2.7.2: *The Government should take all possible measures to ensure the reunification of the unaccompanied children with their families.*

129 Paragraph 20 of the CES Decision no.1 of February 24, 2022

130 Paragraph 18 of the Regulation on organization and operation of the temporary placement center for refugees approved through the Order no. 21 of 26.02.2022

131 Paragraph 10 of the Regulation on organization and operation of the temporary placement center for refugees approved through the Order no. 21 of 26.02.2022

2.8. The rights of children in Transnistria

The eight Latin-script schools in the Transnistrian region subordinated to the Ministry of Education and Research of the Republic of Moldova have not been yet provided with their own premises to meet the standards of the national and international legislation. The authorities of the breakaway region continue to oblige the children attending these schools to register at the illegal military centers.

Five of the eight Latin-script schools are forced to rent the premises from the so-called local structures in the region, while 2 institutions temporarily operate in a different locality than the one where students and teachers live.

Despite the commitments agreed on in the Protocol Decision of November 25, 2017 on the operation of the Moldovan Latin-script schools, some of which were implemented, there has been no progress in relation to the provision of the education institutions with adequate buildings and the use of land around those buildings (paragraphs 4 and 7 of the Protocol Decision).

Lack of kindergartens in the administrative-territorial localities on the left bank of the Nistru River and in Bender municipality has not been addressed as well and children continue to have difficulties with the school subjects after attending the Transnistrian kindergartens, because the educational process is not compliant with the national regulations and is mostly carried out in Russian and very rarely in "Moldovan" Cyrillic alphabet.

In 2021, the People's Advocate for Children Rights recommended that the national authorities should create a multifunctional educational facility to ensure the succession of levels and cycles in the education system in accordance with the provisions of the Education Code of the Republic of Moldova and the right of children to engage in recreational activities specific to their age and to participate freely in the cultural and artistic life.

Both the chair of the parliamentary commission for culture, education, research, youth, sport and mass-media and the Ministry of Education and Research supported the initiative.

Regretfully, nothing has been done to take it further and the children in the region continue to attend the Transnistrian kindergartens, where the educational process is not compliant with the national regulations.

The People's Advocate for Children Rights recommends to the national authorities to use all the available mechanisms to implement the provisions of the Protocol Decision of November 25, 2017 on the operation of Moldovan Latin-script schools and also reminds of and reiterates the recommendations on the Transnistrian region made in the previous reports.

CHAPTER III

TORTURE PREVENTION



Priority no. 8 of the Strategic Development Program of the People's Advocate Office for the period of 2023–2030: "The person's right to liberty and safety is ensured; torture and ill-treatment are eradicated"

The UN Human Rights Council adopted the Universal Periodic Review outcomes of the Republic of Moldova on July 4, 2022.¹³² The Report contains 20 general recommendations on prevention and prohibition of torture and ensuring decent detention conditions. All the recommendations were accepted by the Republic of Moldova.¹³³

In 2022, ECHR delivered 7 relevant judgements against the Republic of Moldova: case of COSOVAN [unreasonable pre-trial detention and inadequate medical treatment in prisons]¹³⁴, case of CRETU [ill-treatment during arrest by police, 2009]¹³⁵, case of MATASARU [ill-treatment while in police custody]¹³⁶, case of CANUDA [ill-treatment by police officers on the day of arrest]¹³⁷, case of POVESTCA [insufficient medical assistance while in detention]¹³⁸, case of STRAISTEANU and AGACHI [ill-treatment while in detention]¹³⁹ and case of G.M and others [forced termination of pregnancies and birth-control measures applied in a neuropsychiatric residential asylum]¹⁴⁰.

Between December 5 and 13, 2022, CPT carried out an ad hoc visit to the Republic of Moldova.¹⁴¹ CPT visited 3 prison establishments (P4, P13 and P18) recommending 5 urgent measures to be implemented by the national authorities (compared to 3 urgent measures recommended during the previous visit in 2020). The CPT report will be sent to Government in June-July 2023.

3.1. Summary of torture prevention activities

In 2022, **72 preventive visits** were carried out to places of deprivation of liberty¹⁴², which resulted in **29 reports** with **570 recommendations**.¹⁴³ In addition, the People's Advocate Office involved in **7 high-profile cases** ending with **7 special reports**¹⁴⁴, prepared **3 thematic reports on pressing issues**¹⁴⁵ and **15 quarterly thematic reports** on safety in places of deprivation of liberty¹⁴⁶. Overall, the implementation rate of the medium-term recommendations is about 60%, while that of the long-term recommendations (*resources and policies*) – around 10-15%. Additionally, to promote the recommendations of the People's Advocate and of the Council for the Prevention of Torture (CfPT), **6 meetings** were held with the representatives of the National Administration of Penitentiaries (NAP), National Anticorruption Center (NAC), Ministry of Defense (MD), Ministry of Internal Affairs (MIA) and the parliamentary commission on human rights and inter-ethnic relations. There was no interference in the monitoring process and no overlapping visits as part of the prevention mandate.

132 <https://www.ohchr.org/en/hr-bodies/upr/md-index?fbclid=IwAR3PJzvDwmhRrumwAMesCwbNvqiUcJzr32oSiKGYumNA-kwl92ekpAff3GM>

133 <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G21/341/45/PDF/G2134145.pdf?OpenElement>

134 <https://hudoc.echr.coe.int/eng#%7B%22itemid%22%3A%5B%5C%22001-216352%22%5D%7D>; <https://promolex.md/21978-ctedo-confirma-existent-probleme-lor-sistemic-grave-din-justitia-penala/?fbclid=IwAR0oKyJMK6FpPqIDRSL6gO1-l4vKP9mHI2VGAYeKmS2NQjH0x7tz7VTh1c&lang=ro>

135 <https://hudoc.echr.coe.int/eng#%7B%22itemid%22%3A%5B%5C%22001-215337%22%5D%7D>

136 *Ibidem.*

137 *Ibidem.*

138 *Ibidem.*

139 *Ibidem.*

140 <https://hudoc.echr.coe.int/eng#%7B%22tabview%22%3A%5B%5C%22document%22%2C%22itemid%22%3A%5B%5C%22001-220954%22%5D%7D>

141 <https://www.coe.int/ro/web/cpt/-/council-of-europe-anti-torture-committee-cpt-carries-out-a-visit-to-moldova>

142 51 visits (36 monitoring visits; 6 follow-up visits; 5 fact-finding visits; 1 announced visit; first ever 3 forced return monitoring visits) undertaken by the Torture Prevention Department of the People's Advocate Office and 21 preventive and monitoring visits undertaken by the Council for the Prevention of Torture.

143 The Council for the Prevention of Torture prepared and shared with authorities 20 visit reports with 400 recommendations, while the Torture Prevention Department prepared and shared with authorities 9 visit reports with 170 recommendations.

144 Special report "Ill-treatment based on discrimination in a military facility. The Pavlescu case"; Special report "Torture allegations at the Police Inspectorate Soroca. The Gutu and Covalciuc case"; Special report "Authorization of forced hospitalization contrary to the right to freedom and security of the person"; Special report "The right to professional life and the presumption of innocence upon arrest. The Voloc case"; Special report "Use of physical force and special means by police"; Special report "Suspicious death in the preventive detention facilities of the Police Department Chisinau" and Special report "Violent death at Balti Psychiatric Hospital" available at <http://ombudsman.md/rapoarte/speciale/>

145 Thematic report "Freedom of assembly during the events of May 8 and 9, 2022"; Thematic report "Access of foreigners through the border crossing point "Chisinau International Airport" and Thematic report "Fundamental safeguards upon apprehension by carabinieri"

146 <http://ombudsman.md/activitate/prevenirea-torturii/prevenirea-torturii/>

Between January and June 2022, the People's Advocate Office conducted the first national campaign "Observ Carabinierul"¹⁴⁷, and in the period of June 26 – 30, 2022, the fourth campaign "EuNUaplic166/1-EuRespect Demnitatea UMANĂ"¹⁴⁸. The Torture Prevention Department of the People's Advocate Office (TPD) organized and participated in 3 national conferences as speakers¹⁴⁹ and had several appearances in mass-media.

Additionally, TPD delivered training on torture prevention (**34** online and offline **training activities**) to **657 employees** of the NAP, General Inspectorate of Carabineers (GIC), General Inspectorate of Border Police (GIBP) and MIA.¹⁵⁰

The prevention activities were supported by the donor organizations, including the Council of Europe in Moldova under the "Strengthening the human rights compliant criminal justice system in the Republic of Moldova" project; Soros Foundation Moldova under the institutional project "Carabineers for Human Rights"; the International Center for Migration Policy Development (ICMPD) under the institutional project "Capacity for a rights-based return system for Moldova", and by the civil society organizations "Centrul de Drept al Avocaților", "Promo-LEX", "IDOM" and "Homecare".

The access of the People's Advocate Office to places of deprivation of liberty in the Transnistrian region of the Republic of Moldova remains limited. For the first time, the Varnita Office of the People's Advocate Office carried out 2 fact-finding visits to 2 prisons in the region on two individual cases.¹⁵¹

3.2. Prohibition of torture

The legal framework on combating and preventing torture

Art. 24 of the Constitution of the Republic of Moldova guarantees to every individual the right to life and physical and mental integrity and stipulates that no one may be subjected to torture or any cruel, inhuman or degrading punishment or treatment.¹⁵²

Torture is criminalized under art.166¹, paragraph (3), of the Criminal Code of the Republic of Moldova no. 985/2002¹⁵³ and the definition of torture was fully transposed from art. 1 of the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment¹⁵⁴. Article 166¹, paragraph (1), of the Criminal Code of the Republic of Moldova no. 985/2002 provides for the punishment for "any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person, which represents inhuman or degrading treatment". The criminal legislation also contains anti-torture safeguards, such as:

- a) criminal law is not intended to cause suffering or harm human dignity. No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. [art. 4 par. (2)];
- b) extradition of a person is prohibited if that person is in danger of being subjected to torture in the country of origin [art. 13 par. (2)];

147 <http://ombudsman.md/news/final-de-campanie-observ-carabinierul/>

148 <https://www.facebook.com/hashtag/eunuaplic1661eurespectdemnitateauman%C4%83>

149 Conference of the Ombudsman "Carabineer institution – between present and future" <http://ombudsman.md/news/premiera-conferinta-stiintifico-practica-a-ombudsmanului-institutia-carabinierilor-intre-prezent-si-viitor/>; National conference "National security and protection of human rights in a democratic society", organized by the National Institute of Intelligence and Security "Bogdan Întemeietorul", the People's Advocate Office and the Center for Security and Crisis Management Studies, <https://sis.md/ro/content/dialog-privind-protect%C8%9Bia-drepturilor-omului-prin-prisma-asigur%C4%83rii-securit%C4%83%C8%9Bii-na%C8%9Bionale> and the national conference "State, Security and Human Rights in a Digital Era", State University of Moldova, <https://usm.md/?p=15846>

150 <http://ombudsman.md/activitate/prevenirea-torturii/prevenirea-torturii/>

151 <http://ombudsman.md/news/in-premiera-angajatii-oficiului-avocatului-poporului-au-efectuat-o-vizita-in-penitenciarul-subordonat-entitatilor-de-la-tiraspol/>

<http://ombudsman.md/news/reprezentantul-oficiului-avocatului-poporului-a-vizitat-un-detinut-in-izolatorul-de-ancheta-din-penitenciarul-nr-3-%d1%83%d0%b8%d0%bd-3-din-mun-tiraspol/>

152 Article 24 of the Constitution of the Republic of Moldova

153 https://www.legis.md/cautare/getResults?doc_id=133090&lang=ro#

154 <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-against-torture-and-other-cruel-inhuman-or-degrading>

- c) the statute of limitation does not apply to cases of torture [art. 60 par. (8)];
- d) no milder punishment can be applied [art. 79 par. (4)];
- e) no partial suspension of sentence can be applied [art. 90¹ par. (4)];
- f) no amnesty can be applied [art. 107, par. (3)];
- g) prohibition of torture in wartime [art. 135¹, par. (1), item d); art. 137, par. (3), item b)].

Additionally, torture is prohibited by art.5, par. (3) of the Contraventional Code of the Republic of Moldova no.218/2008, while art. 439⁵ prohibits extradition if the person is in danger of being subjected to real treatment in the country of origin.¹⁵⁵

The Criminal Procedure Code of the Republic of Moldova no.122/2003 also contains regulations in this sense. Thus, art.10, par. (3) and (3¹), provides for the burden of proof and prohibits torture during criminal proceedings; art.11 stipulates that forced confinement of a person in a medical institution is allowed only on the basis of a reasoned court decision; art. 58 and art.60, par. (4) and (5¹), stipulate the rights of the victim of torture and the injured party; art.143, par. (3¹), requires that forensic expertise is conducted; art. 262 stipulates the obligation to notify immediately the prosecutor about torture; art. 270, par. (5) – the competence of prosecutor to investigate torture and art. 546, par.(6), item c) regulates the refusal of extradition¹⁵⁶.

The Criminal Enforcement Code of the Republic of Moldova no.443/2004 prohibits in art. 167¹ any acts of torture, cruel, inhuman or degrading treatment or other ill-treatment; in art. 169 the convicted person is guaranteed the right not to be subjected to torture and art. 232, par. (7) requires that relatives be notified about the fact that the convicted person has been subjected to torture.¹⁵⁷

The special legislation regulating police, carabinieri and the prison system prohibits to the personnel in these systems to apply and tolerate torture. However, such regulations are missing for other law-enforcement entities (Security and Intelligence Service (SIS), Customs Service (CS), Border Police (BP), State Protection and Guard Service (SPGS) etc.).

The grounds, conditions and limits for the use of physical force, special means and firearms by special subjects are regulated by Law no. 218/2012 on the use of physical force, special means and firearms.¹⁵⁸ The professional intervention mechanism is established in the Professional Intervention Guidelines¹⁵⁹, while the procedure of identification, registration and reporting of allegations of torture, inhuman or degrading treatment is established in the Joint Decision no. 77/2013 of the Prosecutor's General Office¹⁶⁰, in art. 4 of the Law no. 218/2012 on the use of physical force, special means and firearms, in art. 232 of the Criminal Enforcement Code no. 443/2004 and par. 515 of the Sentence Enforcement Statute for convicted persons¹⁶¹.

The responsibility for **combating torture** lies with the Prosecution. Only prosecutors have the competence to prosecute acts of torture in accordance with art.270, par. (5) of the Criminal Procedure Code of the Republic of Moldova no.122/2003. If the notification or the fact-finding document gives rise to any suspicion that an offence stipulated in art. 166¹ of the Criminal Code of the Republic of Moldova no. 985/2002 has been committed, the prosecutor must deliver a decision on it within 15 days under art. 274, par. (3¹) of the Code. There are 1-3 prosecutors in every prosecution office assigned for this and the overall process is coordinated at central level by the Anti-Torture Section of the Prosecutor's Office for Combating Organized Crime and Special Cases¹⁶².

155 https://www.legis.md/cautare/getResults?doc_id=125094&lang=ro

156 https://www.legis.md/cautare/getResults?doc_id=133060&lang=ro#

157 https://www.legis.md/cautare/getResults?doc_id=132859&lang=ro#

158 https://www.legis.md/cautare/getResults?doc_id=132062&lang=ro#

159 https://politia.md/sites/default/files/ghid_privind_interventia_profesionala_in_exercitiul_funcției.pdf

160 https://www.legis.md/cautare/getResults?doc_id=44302&lang=ro

161 https://www.legis.md/cautare/getResults?doc_id=110142&lang=ro#

162 https://www.legis.md/cautare/getResults?doc_id=133648&lang=ro

Deficiencies in the national legislation on prevention and combating torture

Art. 166¹, par. (1) of the Criminal Code provides for the punishment of *“any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person, which represents inhuman or degrading treatment”*. However, the law-maker (i) does not define *“inhuman treatment”* and *“degrading treatment”* and (ii) condemns such acts only if intentionally committed. On the other hand, any form of inhuman or degrading behavior, whether intentional or unintentional (premeditated or not), is prohibited. The international standards guide us to focus on *“the person as such”* and less on the subjective side of the crime. The state has an obligation to ensure the integrity of the person taken into custody. Hence the need for the lawmaker to define both terms in order to leave no room for interpretations to the detriment of the victim of torture. Some practitioners, however, believe that there is no need for the lawmaker to define both terms, since prosecutors and courts have a leading role in the criminal proceedings and can apply the case law of the European Court.

The criminal procedure legislation requires that a psychological examination of the victim of torture is conducted. However, in practice, such examination is carried out after a long period of time after the act of torture was committed and, therefore, does not give effects. In the absence of such instruments, the victims of torture in places of detention cannot receive any effective protection against ill-treatment. Similarly, they cannot benefit from rehabilitation, because it has not been institutionalized yet.

Even if the special legislation on the law enforcement authorities has some regulations that prohibit the use of torture, it still protects torturers from criminal liability. Overall, the legislation, which is outdated in some parts, must be revised and aligned to the international standards in order to provide better protection against abuse and clarity on liability for such acts.

Article 11 of the Criminal Procedure Code stipulates that forced confinement of a person in a medical institution is allowed only based on a reasoned court decision. According to art. 490 of the Criminal Procedure Code, forced confinement in a psychiatric institution can be used for suspects or accused, when illness is ascertained, and based on a prosecutor’s request to the investigating judge, who further issues a decision in this regard. The court reviews and decides regularly, at least every six months, if use of coercive medical measures is still needed. The Government, however, has not taken any action to adopt safeguards against torture, forced confinement and treatment in psychiatric institutions. Neither the Law no. 1402/1997 on mental health¹⁶³ or the Criminal Procedure Code have been amended so as to protect the rights against forced confinement.

With the amendment of the Law no.3/2016 on prosecution, the prosecutors’ anti-torture powers have been substantially reduced (the legality verification was removed). Moreover, after the Anti-Torture Unit was included in the Prosecutor’s Office for Combating Organized Crime and Special Cases, its efficiency in terms of identification and fight against torture has also reduced.¹⁶⁴ The law-maker/Prosecutor General’s Office should institutionalize the Anti-Torture Unit in a prosecution office specialized in combating torture. The rate of criminal cases on allegations of torture, inhuman and degrading treatment is quite low compared to the number of complaints.¹⁶⁵ Although the anti-torture prosecutors must deal strictly with the provisions of Article 166/1 of the Criminal Code, they are also involved in prosecution of other criminal cases. The effects of these institutional changes are visible.¹⁶⁶ Impunity is on the rise.

The Law no. 218/2012 on the use of physical force, special means and firearms cannot be applied in closed places of detention and does not provide solutions in this sense. This law is useful only in open spaces and can mostly be applied only by the police. This law should be revised by adding other permissive criteria for the use of physical force and special means, as well as by revising the list of the special means. Thus, specific provisions should be included for: the prison system (use of special means in closed spaces), carabineer institution, national army, customs service, information

163 https://www.legis.md/cautare/getResults?doc_id=131976&lang=ro#

164 <http://ombudsman.md/wp-content/uploads/2021/10/raportUPR2021.pdf>

165 <http://procuratura.md/md/d2004/>

166 <https://promolex.md/23000-raport-evaluarea-mecanismului-de-prevenire-si-combatere-a-relelor-tratamente-in-sistemul-penitenciar-din-republica-moldova/?lang=ru>

and security service, border police etc. The lawmaker should also consider including in the scope of the law the personnel of the psychiatric and residential institutions, which also use restraint measures without any legal instruments.

Other regulations that need to be included in the Law no. 218/2012 are related to the improvement of the mechanism for registration, reporting and notification about the use of force and special means; strengthening the role of medical personnel in the places of deprivation of liberty and civil personnel in the process of reporting and registration of injuries or other allegations; introduction of clear criteria for the use of firearms by law- enforcement officers; description of human rights principles that must be followed when physical force and special means are used. Thus, amendment of this law is necessary because lack of clarity in the legal framework gives rise to concerns related to human rights.

No amendments were made to the legal framework in 2022 to address the issues above.

Impunity for acts of torture

A study conducted by LRCM (Legal Resources Center of Moldova), based on 71 irrevocable judgments of the Supreme Court of Justice (SCJ) issued between July 2013 and February 2022 on offences committed between 2006 and 2018, suggests that 75% of the judgements refer to allegations against police officers; 8% against education employees and 6% against representatives of private security services.

Out of 102 persons charged in those cases, 73 were convicted. Other 17 persons were acquitted and in case of other 12 persons the criminal proceedings were ceased on procedural grounds (such as expiry of the statute of limitations or violations in the process of resuming criminal investigation). Though 71 persons were sentenced to imprisonment, only 20 of them ended up in prison.

The acquittal rate in these cases is five times higher than the average acquittal rate in the court system (about 3%). In courts, the acquittal rate is 38%, which is 13 times higher than the average acquittal rate in the country. In other 12% of cases, trials were discontinued. Only 50% of the defendants were convicted by first instance judges. The first instance convictions were overturned in the Court of Appeal in 59% of cases.

Available data suggests that prosecutors have more chances of success in the court of appeal, where the acquittal rate drops threefold to 13%, and the trial termination rate falls to 5%. The statistics on convictions at the Superior Court of Justice are similar to those in the Court of Appeal.¹⁶⁷ Judicial practice is not uniform. Every second first instance judgement is overturned by the Court of Appeal and further by the Superior Court of Justice. The average duration of trials on cases of torture and ill-treatment is 6 years (the shortest – 1 year and the longest – 11 years).

In 2022, the Prosecutor General's Office received and investigated 485 allegations of ill-treatment. Criminal prosecution was started only in 69 cases, 8 of which involve allegations of ill-treatment against minors. In other 404 cases criminal prosecution was refused. In over 83% of the allegations of torture/ill-treatment, prosecutors considered that the facts did not constitute a crime and, therefore, the alleged offenders remained unpunished.

Thus, in 2022, the Prosecutor General's Office started and investigated 156 criminal cases on ill-treatment, 87 of which were pending since 2021. Criminal prosecution was completed only in 43 of them (which is less than 28%) and only 15 were sent to court. In 24 cases the criminal prosecution was discontinued or dropped.

¹⁶⁷ <https://crjm.org/en/trial-and-punishment-of-torture-and-ill-treatment-case-law-analysis/>

Data suggests that in the cases involving torture/ill-treatment the rate of prosecution of the persons who tolerate or commit such acts is low. Compared to the number of allegations received in 2022, the 15 criminal cases sent to court would account for 3.09%, which suggests impunity, especially considering the high rate of acquittal of torturers by courts.¹⁶⁸

3.3 The situation of the persons detained in prisons

General findings

The findings and issues mentioned in the annual, visit and thematic reports of the People's Advocate and the Council for the Prevention of Torture remain valid.¹⁶⁹ All the issues that have not been addressed over time have dramatically surfaced in the prison system. Some of the issues reflected in the comments of the international¹⁷⁰ and national institutions do not refer only to the prison system and require prompt, clear, transparent and responsible political will.

The influence of the criminal subculture, lack of safety for inmates and personnel, overcrowding, poor conditions of detention, lack of effective medical care and job opportunities are among the most commonly reported issues in the prison system. The inmates from vulnerable groups continue to be subjected to ill-treatment, harassment and intimidation, particularly by other inmates; there is a pressing shortage of professional, educational and specialized staff in the places of deprivation of liberty; the rate of inter-prisoner violence, bodily harm and hunger strikes is on the rise^{171, 172}, while the available remedies are either ineffective or are used disproportionately and excessively.

The compensatory and amnesty mechanisms seem to fail to achieve the intended purpose and seem to not apply to the prisoners with life sentences.¹⁷³ The non-custodial measures are still rarely applied. The plans related to the renovation of prison infrastructure have entered a period of stagnation (in particular, the construction of a new prison and completion of the construction of the arrest processing facility etc.).¹⁷⁴ Therefore, Moldova risks further criticism for inaction at international forums.

According to the Government's Action Plan for the years 2021-2022, in relation to the "Improvement of detention conditions" action, the Government committed only to approve a decision on the implementation unit for the construction of a new prison.¹⁷⁵ On February 9, 2022, the Ministry of Justice approved by Order no. 36 the Regulation on staffing of the Implementation Unit of the Chisinau penitentiary construction project.¹⁷⁶

The other priorities of the Ministry of Justice related to the prison system include: (1) introduction of a progressive and individualized system of sentence enforcement [a concept paper has been approved]; (2) facilitation of employment of prisoners; (3) improvement of the internal control mechanisms [reorganized unit in NAP]; (4) reorganization of medical care in prison facilities by strengthening the independence of medical personnel; (5) capacity building for personnel and (6) strengthened cooperation with the civil society.

168 <https://procuratura.md/sites/default/files/2023-03/RAPORT%20DE%20ACTIVITATE%202022.pdf>

169 <http://ombudsman.md/rapoarte/anuale/>; <http://ombudsman.md/rapoarte/prevenirea-torturii/anuale/>; <http://ombudsman.md/consiliul-pentru-prevenirea-torturii/rapoarte/>

170 <https://www.ohchr.org/en/countries/moldova>

171 <http://ombudsman.md/rapoarte/prevenirea-torturii/anuale/>

172 <http://ombudsman.md/rapoarte/prevenirea-torturii/anuale/>

173 https://www.legis.md/cautare/getResults?doc_id=134481&lang=ro

174 <https://gov.md/ro/advanced-page-type/government-activity-program>

175 https://gov.md/sites/default/files/document/attachments/hg_nr.235_13.10.2021-engl.pdf

176 https://www.legis.md/cautare/getResults?doc_id=129951&lang=ro

Statistics on the persons deprived of liberty

According to NAP data, the total number of persons detained in prisons was **6084** as at January 1, 2023 (in 2021 – 6396 persons), including **1037 in pre-trial detention** (in 2021 – 1694), **326 women** (in 2021 – 370), **34 minors** (in 2021 – 58), **1 minor girl, no mother with children** (in 2021 – 6 mothers with 6 children under the age of 3), **72 former civil servants** (in 2021 – 117) and **128 persons sentenced to life imprisonment** (in 2021 – 127).¹⁷⁷

Despite the international and national recommendations to substantially reduce the prison population and overcrowding, **on June 10, 2022 the Ministry of Justice increased de jure, through its Order no.150, the detention capacity of some of the prison facilities. These adjustments are contrary to the international standards and national regulations.**¹⁷⁸ Most prison establishments cannot physically accommodate the detention threshold. During its visits, CfTP found overcrowding in P3, P4 and P18 (far beyond the capacity established in the Order of the Ministry of Justice no.150).

P1	P2	P3	P4	P5	P6	P7	P8	P9	P10	P11	P12	P13	P15	P17	P18
Detention capacity approved by MJ in 2021															
Total number: 6273															
336	286	307	713	170	693	231	279	467	64	258	261	570	470	516	652
Overcrowding (de facto)															
357	289	360	695	157	679	287	105	453	36	315	146	948	483	274	622
+21	+3	+53				+56				+57		+378	+13		
Detention capacity approved by MJ in 2022															
Total number: 6612															
355	363	366	728	180	753	280	279	448	164	258	169	816	464	337	652
Overcrowding found during the preventive visits															
		382	783									815		277	669

The Order of the Ministry of Justice no.150 also provides for opening pre-trial facilities in all prison establishments (except for P16), probably with the aim to depopulate the existing ones. The People's Advocate is concerned that not all the prison facilities have spaces suitable for the detention of those on remand, who, therefore, risk being placed in disciplinary sectors in inhumane conditions.



RECOMMENDATION (repeated): *The Ministry of Justice, the General Prosecutor's Office, Superior Council of Magistracy should strengthen the national mechanisms to facilitate depopulation or reduce the number of persons in places of detention, including through the effective application of non-custodial measures and/or other types of punishment;*

RECOMMENDATION: *The Ministry of Justice should revise and align the detention threshold for prison facilities established through its Order no.150 to the international standards.*

¹⁷⁷ <http://anp.gov.md/rapoarte-de-bilant-semestriale-anuale>

¹⁷⁸ <https://promolex.md/wp-content/uploads/2022/11/Report-Evaluation-of-the-mechanism-for-preventing-and-combating-ill-treatment-in-the-penitentiary-system-of-the-Republic-of-Moldova-.pdf>

Safety of the persons detained in the prison system

The data available from the operational reports of the prison system¹⁷⁹ reveal **23 deaths** (18 cases less than in 2021)¹⁸⁰, **20 suicide attempts** (13 cases less than in 2021), **383 serious cases of violence** between prisoners (24 cases less than in 2021), **202 cases of self-harm** (45 cases less than in 2021), **13 cases of assault** on staff (15 cases less than in 2021); **29 cases of use of tear gas** (16 cases more than in 2021) and **8 cases of use of physical force on female detainees** (2 cases less than in 2021). Special means or physical force was used on prison inmates every day. The number of **incidents involving minors** in detention reached **91** (3 cases less than in 2021).

The most common injuries reported in the prison facilities are the **accidental injuries** (from falling off the bed, slipping in the bathroom or on the floor, while playing football, accidental self-injury in the cell, while opening cans, etc.), followed by **intentional injury** (minor self-injury, including as a protest); **injuries caused by brawls** (blows or minor violence between prisoners); **injuries resulting from acts of violence** (serious or exceptionally serious ill-treatment among prisoners); **injuries received upon admission to the detention facility** (persons brought in by the police with injuries received during or before apprehension); **injuries received at work** (at work or in household facilities); **injuries received as a result of the use of physical force or special means** (bruises from twisted limbs or handcuffs, etc.); **injuries caused by personnel** (only 3 cases of use of force reported by prisoners). The lack of effective involvement by the Prosecutor General's Office to check the legality of the information reported by NAP leads to a juridical – practical gap, which affects the safety of the prisoners and victims. PAO, on the other hand, does not have the legal instruments to step in on issues that go beyond its anti-torture prerogatives. Yet, many cases of “accidental injuries or fractures” raise reasonable suspicion of possible abuse or ill-treatment. Their proper investigation could deter the criminal or informal phenomenon.

A fundamental safeguard against ill-treatment and impunity is the medical examination of prisoners immediately after the violent incident or use of force has taken place. The medical personnel in most cases do not visit the inmates regularly, and injuries are documented only at the request of the inmate or if the medical personnel have been notified by the prison personnel.¹⁸¹ We assume that not all injuries, alleged acts of torture or ill-treatment are recorded and documented. At the same time, it is regrettable that the complaints of psychological torture from prisoners, whether convicted or awaiting trial, are not registered and investigated.¹⁸²

An effective way of dealing with incidents that threaten prison order is to make sure that all officers receive training on the use of recognized control and restraint equipment and the proportionate use of force and special means.

The influence of criminal subculture, the safety of inmates and staff, poor prison conditions and lack of medical care continue to be some of the most reported problems in prison establishments. Regrettably, prisoners from vulnerable groups continue to be subjected to ill-treatment, harassment and intimidation on various grounds.

The large number of incidents of inter-prisoner violence with serious consequences raises questions about the protection and security in prisons. The violent and oppressive authoritarian structure of the inmate hierarchy, which involves humiliation, extortion and assault on vulnerable inmates or those who do not obey the “informal rules”, is perhaps the most worrying side of prison life. In these circumstances, the fight against criminal subculture and its influence must be a priority. This should be a priority not just for the prison system, but also for politicians, who must demonstrate a firm, unconditional and prompt will to address this issue. On the other hand, the failure to carry out effective internal investigations and the refusal to prosecute cases involving serious violence in prisons raises doubts about the commitments of the authorities related to protection of human rights in the places of deprivation of liberty, rule of law and other social and human values.

179 These data do not necessarily reflect the data published by NAP. They have been processed based on a separate methodology of PAO and refer only to the serious and exceptionally serious cases.

180 The age of the deceased ranged from 20 to 72 years. The most common preliminary causes of death include: HIV / TB infection (1 case); cancer (4 cases); diseases of the cardiovascular system (5 cases); diseases of the digestive system (7 cases); traumatic injuries, poisoning (2 cases) and suicide (4 cases).

181 <http://ombudsman.md/wp-content/uploads/2023/01/12-9-72-2451-2452-ANP-raport-monitorizare-P-4-Cricova-din-14-15.09.22.pdf>

182 <http://ombudsman.md/wp-content/uploads/2023/01/12-9-72-2451-2452-ANP-raport-monitorizare-P-4-Cricova-din-14-15.09.22.pdf>

On the other hand, there have also been some positive developments that have to be mentioned. For example, in P3 all the inmates in sectors I and II (regardless of their category) are allowed to use the common areas, such as the football ground, tennis table, library (even those who are detained under Article 206 of the Enforcement Code) in order to exclude any form of discriminatory treatment. The 2021-2022 data show that the cases of hunger strikes, self-harm, suicide attempts, use of physical force and special means, assault on staff went down in P3, suggesting improved communication between prison personnel and inmates, as concluded in the CfPT visit report.¹⁸³



RECOMMENDATION: *The Ministry of Justice should strengthen the mechanism for supervising the persons deprived of their liberty against any form of violence.*

Human resources in prisons, safety of prison personnel

The total number of staff positions in the prison system was 2940 as at December 31, 2022 (*in 2021: 2951 positions, including 1108 officers, 1615 prison agents and 228 contract-based positions*) and only 2505 positions were filled. The number of personnel is falling. The ratio of inmates to prison personnel remains **critical**: 1 staff member to 4/6 inmates during the day or 1 staff member to 10/30 inmates or 4 staff members to 600 inmates during the night. Despite the previous wage increase for agents, such measures seem to be insufficient to motivate staff. In addition to the challenges related to staffing, the prison system faces lack of education, social, medical and occupational professionals, whose services are necessary to respond to the detainees' real needs, including in the context of the progressive sentence enforcement mechanism.

This not only hinders security and prison regime activities, but also makes it almost impossible to prevent incidents of violence or other forms of ill-treatment in prison facilities or other major risks.



RECOMMENDATION (repeated): *The Government should provide support to ensure adequate staffing in prisons with qualified, professional and motivated staff.*

A positive development worth mentioning is the drop in the number of assaults on staff from 22 cases in 2021 to 14 in 2022.

Cases of assault on staff, including *headbutting, dragging, knocking to the ground with blows to the head, punching in the face, attacks with improvised weapons, spraying with paint, stabbing and other forms of ill-treatment*, were reported in prisons no. 2, 3, 6, 7, 11, 16, 17 and 18.

Criminal proceedings were started on all of these cases. These data do not include the cases of verbal abuse, intimidation and insults by prisoners/informal leaders.

The reports of constant abuses towards staff received by the People's Advocate suggest that apparently the criminal punishment for disobeying legitimate demands is not severe enough to deter them. The lack of a mechanism to protect personnel against psychological abuse and physical assaults is a major problem for prison personnel. Given the growing influence of the criminal sub-culture and poor staffing, we call on the authorities to revisit this issue and address the potential major risks the prison personnel might be exposed to. The use of physical force under art. 233 of the Enforcement Code is also not the most appropriate and reasonable solution.

Therefore, to protect prison personnel, the authorities should revise the legal mechanism for punishing prisoners for acts of violence against prison personnel.

183 <http://ombudsman.md/wp-content/uploads/2022/11/Raport-privind-vizita-de-monitorizare-la-Penitenciarul-nr-3-Leova.pdf>

The physical conditions of detention

In 2022, the PAO team carried out 2 monitoring visits - one to P7 (thematic visit) and one to P18 (follow-up visit), while CfPT visited five other prisons (P16, P17, P3, P4 and P13).

The major finding of the visits is that the physical conditions of detention continue to be **inhuman**.

- **PAO's report on the follow-up visit to P18 (18/05/2022).** There have been certain improvements in the physical conditions of detention, in particular: closing and reconstruction of premises where the persons on hunger strike use to be placed; launch of renovation of roofs of accommodation premises; refurbishment of prison library; organization of spaces for religious worship, accreditation of the medical unit, organization of the medical isolation wards. Despite these positive developments, certain vulnerabilities identified during the previous visits have not been addressed yet, in particular the physical condition of Sector 10, Block B: the large capacity dormitory accommodates 51 inmates and does not meet the minimum detention standards; overcrowding; worn out furniture, lack of movement space inside cells; noise pollution, lack of an adequate lighting and ventilation system etc. All of this constitutes degrading treatment and is inconsistent with the human dignity principle. The prison management committed to identify solutions to reorganize the barrack-type cells. Further, we preliminarily note that the level of implementation of the previous recommendations is 50%.¹⁸⁴
- **CfPT's visit report on P16 (prison hospital):** The prison does not meet the national standards of a medical institution, does not have a sanitary authorization and accreditation for provision of medical services. Prisoners' right to health is violated due to treatment in inadequate conditions, shortage of medical staff and failure to comply with the national treatment protocols and standards.¹⁸⁵
- **CfPT's visit report on P17:** CfPT notes the unequal treatment of inmates in terms of the physical conditions of detention and access to common areas, which supports discrimination and criminal subculture in the prison, tacitly supported by prison personnel. CfPT also calls for actions to improve the quality of food by engaging qualified staff. Additionally, CfPT found deficiencies in relation to the minimum living conditions, many of the cells requiring renovating.¹⁸⁶
- **CfPT's visit report on P3:** CfPT notes overcrowding in three living settings; careless approach to separation of detainees; detention of prisoners in quarantine longer than legally allowed; overall poor detention conditions except for Block 4; some cells require disinfection (bedbugs, insects, cockroaches); lack of available cells.¹⁸⁷
- **CfPT's visit report on P4:** The detention conditions in P4 are poor and inadequate, with overcrowding in common areas, while there are also modernized apartment-like cells with 1-2 bed places. The solitary confinement cells are used, despite the signs restricting their use. The common sanitary facilities are not operational and are in a terrible condition. Hygiene products are missing etc.¹⁸⁸
- **CfPT's visit report on P13:** The detention conditions in P13 are poor and inadequate. P13 continues to be overcrowded. There is shortage or even lack of personnel and guards, and buttons to call for help. There are no sanitation/laundry services. The walking areas are also

184 <http://ombudsman.md/wp-content/uploads/2022/07/Raport-privind-vizita-de-follow-up-Penitenciarul-Nr-18-Br%C4%83ne%C8%99ti.pdf>

185 http://ombudsman.md/wp-content/uploads/2022/04/Raport-CpPT_P16_22.02.2022-FINAL_FINAL_pe-site_expediat-autoritatilor.pdf

186 <http://ombudsman.md/wp-content/uploads/2022/07/Raport-privind-vizita-preventiv%C4%83-%C8%99i-de-monitorizare-efectuat%C4%83-la-Penitenciarul-nr-17-Rezina-din-cadrul-Administra%C8%9Biei-Na%C8%9Bionale-a-Penitenciarelor-la-date-de-08-aprilie-2022.pdf>

187 <http://ombudsman.md/wp-content/uploads/2022/11/Raport-privind-vizita-de-monitorizare-la-Penitenciarul-nr-3-Leova.pdf>

188 <http://ombudsman.md/wp-content/uploads/2023/01/12-9-72-2451-2452-ANP-raport-monitorizare-P-4-Cricova-din-14-15.09.22.pdf>

used to dry clothes. Violence between inmates and acts of self-harm persist, ending up in disciplinary sanctions. CfPT notes the difficult access to the medical facility for the elderly people or those with disabilities.¹⁸⁹

During the monitoring visits, the Ombudsman received complaints from inmates with allegations of inhuman and degrading treatment, including: *inappropriate detention conditions, overcrowding, poor and insufficient food, poor health care (lack of medication, doctors and medical equipment), untreated toothache, poor hygienic conditions (parasitic insects, rodents, dirt, lack of beds, lack of proper ventilation, lack of daylight, bad condition of toilets, dirt in bathrooms; lack of privacy in toilets and bathrooms), relations between inmates; discriminatory treatment, intimidation and harassment by the administration; disagreement with searches and other actions of personnel; spaces that do not respond to the needs of women, sick persons and persons with special needs, etc.*

The Ombudsman supports the government's commitment to ensure proper conditions in closed spaces and urges the government to consider conducting a comprehensive assessment of the situation. The annual allocations in this sense do not seem to be helpful because they are fragmented and insufficient. The enforcement of custodial measures would probably require revising, given the limited annual public budget.

Application of release mechanisms

According to the NAP data, 1864 convicts were released in 2022 (1729 in 2021), accounting for a 7.81% increase compared to 2021; 651 persons were released at the end of the sentence (693 in 2021), accounting for a 6.06% decrease; 228 persons had the unexecuted part of imprisonment substituted with a milder form of punishment (252 in 2021), accounting for a 9.52% decrease; early conditional release – 204 persons (269 in 2021), accounting for a 24.16% decrease; 224 persons were released following amnesty (10 in 2021) - the increase was due to the implementation of the Law no. 243/2021; 4 persons were pardoned (3 in 2021), 7 persons were released due to illness (8 in 2021), 49 persons were released for other reasons (48 in 2021), 493 persons were released through the compensatory mechanism (435 in 2021), accounting for a 13.33% increase, and 1183 persons were released from pre-trial detention (1013 in 2021).

While **3239** prisoners were eligible for amnesty in 2022, only 234 were granted amnesty. According to the prison management and detainees, the amnesty applications are examined in alphabetical order, not against specific criteria in a proportional manner. The positive obligation of the special commissions, however, requires that examination of applications must be transparent and should take place in the presence of the applicant. Yet, during the fact-finding visits, inmates complained that courts were reluctant to conduct hearings online. While the state should offer equal opportunities to all prisoners to be granted amnesty thus facilitating the depopulation of prisons, the Order no. 44 of 18 February 2022 on the approval of the Framework Regulation on special amnesty commissions does not regulate the sequence of examination of applications, some convicted persons having to wait three to six months for the decision of the special commission. Although some of the shortcomings of the amnesty procedure were addressed in 2022, in general the process remains to be cumbersome. Prisoners dubbed this form of release “eternal amnesty”.

The “compensatory mechanism” seems to become less and less effective and requires revising. The low rate of positive solutions or the high rate of rejections of actions in court indicate some sort of lack of concern on the part of the public authorities and courts about the bad situation in detention. Moreover, no form of release applies to those sentenced to life imprisonment.

According to Promo-LEX, the Government does not have a policy paper with a clear vision for the depopulation of prisons. The current release instruments are not fully used.¹⁹⁰

189 <http://ombudsman.md/wp-content/uploads/2023/01/Raport-privind-vizit-de-monitorizare-la-Penitenciarul-nr.-13-Chi%C5%9Fin%C4%83u-din-30-noiembrie-2022.pdf>

190 <https://promolex.md/wp-content/uploads/2022/07/Not%C4%83-analitic%C4%83-Implementarea-politicilor-de-depopulare-a-penitenciarelor-din-Republica-Moldova-%C3%AEn-contextul-pandemiei-de-COVID-19-2.pdf>



RECOMMENDATION: *The Parliament and the Government should address the deficiencies related to the application of the compensatory remedy and the Law on amnesty from 2021, and consider applying it to certain categories of detainees (e.g. life-sentenced prisoners).*

Use of force and special means against prisoners

Physical force was used in prisons for disobedience in **279** cases, i.e. 169 fewer cases than in 2021 (475 cases in 2021), and special means was used in **253** cases, i.e. 136 cases fewer than in 2021 (389 cases in 2021). All these cases were properly documented. These figures do not include the cases of verbal abuse, which happen every day. The firearm was never used in the reporting period.

The “tear gas” was used as a special means in 29 cases (P3, P4, P15, P17, P12, P1), including for *disobedience, aggressive behavior, for restoring prison order and security, resistance, property damage, ignoring the demands from personnel, instigation of disobedience and mass riots.*¹⁹¹



RECOMMENDATION (repeated): *The Ministry of Justice should develop clear instructions for the use of physical force and special means in closed spaces.*

Self-harm among prisoners

The number of reported cases of self-harm in 2022 reached **729**, i.e. 110 cases fewer than in 2021, including 202 cases of serious self-mutilation by inmates.

The reasons for resorting to serious self-injury include disagreement with the court decisions, the actions of the prison management, poor prison conditions and medical care or treatment. Some prisoners refused to say the reason. To cause self-harm, *prisoners stitched their mouths or eyes; ingested foreign bodies, substances; had their lower and hind limbs amputated; and inflicted life-threatening injuries on themselves.* According to the information received by PAO, inmates received timely medical care.

The operational reports suggest that inmates quite often resort to self-harm to draw the attention of the prison management seeking either to challenge inaction or action from the latter or to protest against the court judgements. Apparently, there are serious communication issues between the prison management and inmates. Either prison personnel refuses/ignores the complaints from inmates or the inmates attempt to abuse their rights. As a result, the prison personnel that is not targeted in the complaints from inmates use special or physical means to “calm them down” and the complaints remain unaddressed, and rather delayed until inmates inflict self-injuries on themselves again. On the other hand, the situations described above require active involvement of qualified staff (educators, psychologists, doctors etc.). It should be noted that courts do not take any action in response to the decision of prisoners to announce a form of protest.



RECOMMENDATION (repeated): *In order to discourage self-harm, the Ministry of Justice should focus more on prevention, counselling, reeducation, resocialization etc. instead of “punishing the person again” by extending the detention period, or affecting the person before “conditional release” or other form of release;*

RECOMMENDATION: *The Ministry of Justice should develop and implement a comprehensive mental health care strategy for the prison system;*

RECOMMENDATION: *The Ministry of Justice should develop a training program for prison personnel to build their skills to assess the risk of prisoners developing self-injurious behavior.*

191 http://ombudsman.md/wp-content/uploads/2022/01/Raport_periodic_sigurantaANP2021.pdf

Organization of work in prison establishments

There are about 5200 prisoners in the Moldovan prisons who are fit for work; **1116** of them participate in the paid work programs (*895 in 2021*). Currently **448** prisoners are involved in paid work in prisons (*220 in 2021*) and other **668** prisoners are involved in household work, which means that only 13% of the total number of inmates are employed.

Only 6 prisons (out of 17) have inmates involved in paid work, with female inmates outnumbering the male inmates.

According to NAP, not all prisons can arrange sufficient workplaces for all inmates. Another challenge for NAP is the lack of security and surveillance staff, as well as lack of proper prison infrastructure, while the private sector is not very willing to employ prisoners.

Use of physical force against female inmates

PAO received reports of 8 cases of use of physical force and special means against female inmates in prison no.7 Rusca (*10 in 2021*). In 6 cases force was used against the same woman. The reasons for using this exceptional measure mentioned by personnel include *refusal to go in the cell, aggressive behavior, self-harm and attempted assault and assault on prison personnel, intention to cause self-harm, property damage and threats*.

Following the analysis of the information received from prison no. 7 Rusca, we regretfully conclude that the reasons for using force against women originated from the inability of prison personnel to manage conflicts and that the exceptional measure could be avoided.



RECOMMENDATION: *The Ministry of Justice should develop the skills of the prison personnel to use force and special means in a proper, legal, proportional manner and only as a last resort, in particular against female inmates.*

3.4 Situation of the persons apprehended and held in police custody

General findings

PAO's findings in relation to the fundamental safeguards in police custody give rise to compelling concerns. The commitments to eradicate torture involve, among other things, use of non-offensive techniques during arrest, providing all safeguards against abuse, professional attitude to police work, respect for human dignity, creation of a professional environment for police officers, provision of appropriate protective equipment, clear operational processes, regular training.

According to the data collected by PAO, police officers often misuse their legal prerogatives during arrest. The cases of bodily harm resulting from the use of force against a person during arrest continue to be on the rise. The case of torture in Soroca prison¹⁹² is an example of how the police failed to put an end to ill-treatment. If this case had not been given publicity, the dry reports on the use of force prepared by the police would not have received proper consideration. **The People's Advocate is concerned about the use of torture in some particular cases that happened in 2022, even if such cases do not have a systemic nature.**

There is some confusion in relation to the registration, reporting on and horizontal reporting of cases of abuse during police detention. At the same time, the cases when investigating judges issued interlocutory orders on the allegations by defense or the suspect concerning torture or other acts of ill-treatment in police custody are few. Similarly, there is an extremely big gap between the number of complaints submitted to the prosecution authorities and the number of initiated criminal

192 <http://ombudsman.md/news/alegatii-de-tortura-la-inspectoratul-de-politie-soroca-raport-special/>

cases. It is worth reminding that an effective investigation must meet five criteria – adequacy of competence, thoroughness, impartiality and independence, promptness and public scrutiny, which does not happen in the current practice.

The recent death of a young man held in the Chisinau police temporary detention facility¹⁹³ is evidence that the police authorities have not learned the lessons from the death of Andrei Braguta while in police custody in September 2017¹⁹⁴, as well as from the case of the Chisinau Psychiatric Hospital when the special intervention brigade Fulger used special means and force against patients.¹⁹⁵

Apprehension and temporary police detention

The number of persons apprehended and detained in the temporary detention facilities of the territorial police units in 2022 reached around 4779 persons (174 persons more than in the year before), including 4375 men, 262 women, 48 minors and 94 contraventional offenders (90 men and 4 women), with 3682 persons detained for up to 72 hours and 1097 persons detained for more than 72 hours. The number of times when the persons were transferred/escorted to some other places reached 19748 - 4436 to prisons, 11331 to courts, and 3982 to other institutions.¹⁹⁶



RECOMMENDATION (repeated): *The Ministry of Internal Affairs should develop internal mechanisms for the police system to make sure that temporary detention does not last more than 72 hours as required by the law, as this is one of the fundamental safeguards related to apprehension and preventive detention.*

Allegations of abuse and ill treatment from the police

In 2022, 456 incidents of insulting police officers were reported (452 while on duty), involving 790 officers, showing a decrease of 24.6% compared to 2021. For insults, property destruction or damage, disobedience, obstruction of legitimate activities, threat or violence against police officers, 578 contraventional reports were issued and 3 criminal cases were initiated. As regards the ill-treatment of police officers, the number of incidents increased by 8.58% compared to 2021, more specifically 139 incidents involving 114 police officers, including 132 incidents during the working hours.

On the other hand, 128 criminal cases were opened in 2022 against 161 police officers (compared to 156 cases in 2021). Of the total number, 33 cases were sent to court, and 13 cases were closed.¹⁹⁷ Because the data provided by the police does not indicate the actual number of cases of torture or other ill-treatment during detention, it is difficult to make an exhaustive analysis.

PAO received information¹⁹⁸ about 245 cases of apprehension of people with injuries received before apprehension (*14 cases more than in 2021*); 38 cases of injuries caused by police officers in Chisinau, Hincesti, Cahul, Balti, Causeni, Straseni, Riscani, Edinet, Cantemir and Orhei police departments to the persons in police custody (*15 cases more than in 2021*); 2 cases of self-harm in temporary detention facilities of the Edinet police inspectorate and Chisinau police department (*3 cases less than in 2021*), 1 case of **self-injury in the car** of Anenii Noi police inspectorate (*2 cases less than in 2021*) and 3 cases of ill-treatment of apprehended persons **committed by** the police officers of Buiucani, Center and Orhei police inspectorates.¹⁹⁹

193 <http://ombudsman.md/news/constatarile-avocatului-poporului-privind-decesul-dubios-in-izolatorul-politiei-din-chisinau/>

194 http://ombudsman.md/wp-content/uploads/2019/03/BRAGUTA_Raport_pdf_FINAL-1.pdf


195 <http://ombudsman.md/news/comisia-speciala-din-cadrul-oficiului-avocatului-poporului-a-efectuat-o-vizita-de-documentare-la-spitalul-clinic-de-psihiatrie-din-orasul-codru-privind-incidentul-produs-in-ziua-de-27-octombrie-2022/>

196 https://politia.md/sites/default/files/raport_activitate_12_luni_2022_.pdf

197 https://politia.md/sites/default/files/raport_activitate_12_luni_2022_.pdf

198 These data were collected by PAO from the operational reports of the penitentiary system and refer only to the persons placed/held in the temporary police detention facilities of the police inspectorates and do not cover the persons to whom the non-custodial preventive measure was applied

199 <http://ombudsman.md/news/siguranta-la-retinerea-persoanelor-de-politie-in-anul-2022/>



RECOMMENDATION: *The Ministry of Internal Affairs should make sure that the legal instructions are followed so as the registration and reporting of all cases of injuries/violence/ill-treatment upon apprehension and during the detention of persons are in line with the CPT requirements and the provisions of the Joint Order of PG 77/2013²⁰⁰;*

RECOMMENDATION: *The Ministry of Internal Affairs should instruct the subordinated institutions to properly implement the CPT recommendations on medical examinations, in particular in relation to the allegations of ill-treatment in detention or during apprehension;*

RECOMMENDATION: *The Ministry of Internal Affairs should step up efforts to prevent and combat torture in the police system, because the General Police Inspectorate (GPI) has failed to do so.*

Excerpt from the special report “Allegations of torture at Soroca police inspectorate (PI)”

On the night of January 31, 2022, two civilians were severely ill-treated by the police officers of Soroca police inspectorate, for no particular reason, but with the intention and purpose of showing superiority and punishing the victims because they had dared to ask for police help. The victims were in police custody for over 3 hours, without any criminal or misdemeanor procedural status. The police officers cruelly maltreated them upon apprehension, during transportation, in front of and inside the police inspectorate. Other police officers also participated in the abusive actions and were complicit in the alleged acts of torture. The Ombudsman found that neither the applicable criminal procedural or contravention legislation, nor the institutional rules expressly require that police authorities (or any detention institution) ensure the fundamental safeguards against abuse towards the persons “*stopped, transported for further hearings; called to the police with/without summons; without any procedural status upon admission to police inspectorates; forcibly brought by the police on the pretext of documentation; suspended from driving; who ask for police help in the street; who call the police and then change their minds about asking for help; who in the opinion of the police officer behave suspiciously etc.*”. Therefore, the persons who come into first contact with police officers without having any procedural status remain extremely vulnerable to potential acts of ill-treatment.²⁰¹

The case above shows that GPI has a long way to go in terms of prevention and combating abuse. Respecting the human dignity of the person in detention must become a priority.

The physical conditions in the temporary detention facilities, safety of the persons held in police custody

Only 14 out of the 47 territorial and specialized units of GPI have renovated temporary detention facilities (TDF) with a capacity of 102 cells for the preventive detention of 247 persons simultaneously. The only operational old-type temporary detention facility is in Calarasi police inspectorate.²⁰²

The concerns regarding the situation of the persons held in TDF (besides the physical conditions) are related to the procedural issues, such as (a) not all the persons in police custody are subject to medical examination; (b) medical examination is not always carried out upon admission to/release from TDF; (c) taking the detained persons for hearings out of the TDF; (d) confidentiality of

200 https://www.legis.md/cautare/getResults?doc_id=44302&lang=ro

201 <http://ombudsman.md/news/alegatii-de-tortura-la-inspectoratul-de-politie-soroca-raport-special/>

202 <https://ombudsman.md/wp-content/uploads/2022/09/Report-on-the-observance-of-human-rights-in-the-Republic-of-Moldova-in-2021.pdf>, pg.220

medical data is not ensured; (e) lack of medical staff at night; (f) poor medication management; (g) inappropriate location of medical facilities; (h) lack of conditions for the detention of persons with disabilities; (i) lack of adequate food for the detained persons with chronic illnesses; (j) internal registers and medical files are not properly filed etc.²⁰³

A common problem for all police inspectorates (PI) is the lack of waiting and temporary detention rooms. None of the PIs that do not have temporary detention facilities has special rooms for temporary detention. While waiting for the decision on the procedural status, or to be visited by a lawyer or the Detention and Escort Service, the apprehended persons wait near the security post, in the corridor, on chairs, in the courtyard of the PI, etc. The process can last from 10 minutes to 2 hours.



RECOMMENDATION (repeated): *The Ministry of Internal Affairs should continue the reforms aimed at improving the physical conditions in the temporary detention facilities; identify and refurbish temporary detention rooms in the police inspectorates without temporary detention facilities; ensure medical examination of the apprehended persons for injuries/other allegations; continue to register and report the acts of ill-treatment committed during apprehension, detention in police inspectorates and during the transfer of the apprehended persons to other places etc.*

3.5 The situation of the persons apprehended at the border

In 2022, the border crossing points (BCP) were intensively monitored with particular focus on the foreign nationals arriving from Ukraine. In the context of torture prevention actions, follow-up visits were carried out to 2 BCP and to the Border Police Sector (BPS) of the General Border Police Inspectorate (GBPI).²⁰⁴ The implementation rate of the previous recommendations was high, which is commendable.

Between October 26 and December 7, 2022, PAO carried out three preventive monitoring visits (unannounced) to the International Chisinau Airport BCP of GBPI. The purpose of the visits was to monitor observance of the rights of foreign nationals, refugees, asylum seekers and/or the persons apprehended for illegal crossing of the state border, placed in the sterile zone, and to make recommendations for improvements.

The major findings of the monitoring include: (a) there is an information board with leaflets on the rights of asylum seekers in three languages, as well as the contact details of relevant organizations in the entrance area of the airport provided by the NGO “Centrul de Drept al Avocaților” (Lawyers’ Law Center) in partnership with GBPI, PAO and the Migration and Asylum Bureau (MAB) with the financial support of UNCHR; (b) only one of the two rooms intended for asylum seekers is in use and the accommodation facilities there are satisfactory; (c) no records are kept of the date, time, number, duration of placement of asylum seekers; (d) 10 asylum claims were submitted at the airport BCP between January 1 and December 7, 2022; (e) information on entry to the country is available only in the state language, despite the fact that the official webpage of GBPI mentions Russian and English. The lack of information in other languages, especially those for international communication, both limits the right of foreigners to receive truthful information about the legal provisions and entry conditions, etc., and misleads them, because they have to rely on indirect sources, other than the official ones; (f) there is no information in the ICA BCP about the conditions of entry into the Republic of Moldova. Foreigners find out that they have been denied access only when they reach the desk of the border police officers, who abuse their power to make individual decisions on admission, even if the persons have all their papers in order; (g) 681 persons were denied the entry to Moldova between October 25 and December 7, 2022; (h) the reason for denial

203 <http://ombudsman.md/consiliul-pentru-prevenirea-torturii/rapoarte/>

204 http://ombudsman.md/wp-content/uploads/2022/08/Raport_vizita_Criva-Mamaliga-2.pdf/

http://ombudsman.md/wp-content/uploads/2022/11/Raport_vizita_PTF_Ocnita_Otaci_SPF_Ocnita_28.10.2022_pe-site-1.pdf

was “does not justify the purpose of the trip”; (i) starting October 2022 the general rule for the entry of foreigners for tourism purposes for a period of 90 days is either not applied, or has been applied selectively based on the individual and subjective decisions of the border police employees; (j) the persons whose entry has been denied cannot use the right of access to justice, because they are voluntarily or forcibly returned before they can use it *de facto* and *de jure*; (k) there is no complaint mechanism for abuses committed by border police; (l) the persons placed in the sterile zone have their passports collected, which leads to conflicts with border guards; (m) the facilities in the sterile zone are not suitable to support the stay of persons for 24 hours and more; lack of facilities cause suffering to them; (n) the mechanism of applying the non-refoulement principle by the border police officers in cases of forcible return of the persons in the country of origin or transit is not clear etc.

3.6 The situation of persons in psychiatric hospitals

There are three psychiatric institutions in Moldova: the Clinical Psychiatric Hospital in Chisinau, which can accommodate 740 persons (*CPH Chisinau*), the Psychiatric Hospital in Orhei, which can accommodate 145 persons (*PH Orhei*) and the Psychiatric Hospital in Balti, which can accommodate 530 persons (*PH Balti*). They provide comprehensive specialized, curative and rehabilitative health services to patients with mental illness or behavior disorders.

In the reporting period, PAO received reports of **56 deaths** (97 in 2021), **80 cases of injuries received in institutions** (66 in 2021), **71 hetero-aggressive incidents** among patients (59 in 2021), **136 cases of use of restraints** on patients (159 in 2021), and **313 patients** admitted to the institution with visible signs of accidents or injury, and **4 cases of assault** on staff (13 in 2021).²⁰⁵

The incidence of physical restraint is still high (136 cases). CPH Chisinau²⁰⁶ claims that restraints are used as a last resort after all other alternative methods of handling incidents have been tried and that the most common reasons for using restraints are *hostility upon admission; irritability, failure to cope with the excited patient; refusal to take medication; assaultive behavior; suicide attempts by swallowing broken glass, unpredictable behavior, alertness; threats to medical staff; property damage; hyper-aggressiveness towards medical staff and other patients; delusion*. According to CPH, patients were immobilized “with the help of wide leather straps with soft padding, which can be tied to the bed, and adjustable cuffs” in a room intended for immobilization and no other patients were there; restraint had been coordinated with specialists; the persons under restraint were under supervision; no injuries were reported after the use of restraint devices; physical restraint lasts between 15 – 60 minutes. Additionally, CPH claims that it has not used chemical restraint since the first half of 2022.

The assaults between patients (84 cases) and on the personnel of the psychiatric facility (4 cases) reveal deficient management of aggressive patients, lack of a therapeutic alliance between patients and the medical professionals and lack of a dynamic patient monitoring strategy.

Excerpt from the special report “Violent death in the Psychiatric Hospital in Balti”²⁰⁷

On September 10, 2022, in the ward nr. 6 in the women’s section of the Balti Psychiatric Hospital, a patient was allegedly murdered by strangulation. Following the ex-officio examination of the case, the People’s Advocate found (a) failure of the State to safeguard the patient’s right to life; (b) lack of effective and/or sufficient supervision mechanisms; (c) lack of effective and/or sufficient crisis management mechanisms; (d) failure to put in place and apply isolation procedures for patients with communicable diseases; (e) failure of the Psychiatric Hospital to improve the condition of its beneficiaries; (f) incomplete internal investigation; (g) failure to manage aggressive patients; and (h) lack of patient engagement activities.

205 <http://ombudsman.md/news/siguranta-in-sistemul-psihiatric-si-rezidential-in-anul-2022/>

206 CPH Chisinau is the only institution reporting such incidents

207 <http://ombudsman.md/news/raport-special-privind-constatarile-avocatului-poporului-privind-decesul-violent-la-spitalul-de-psihiatrie-balti/>

During the monitoring visits, the CfPT members found that the infrastructure of the psychiatric facilities does not respond to the needs of the persons with physical disabilities. Furthermore, the poor physical conditions for treatment contribute to accidents resulting in injuries; the sanitary facilities are often flooded with water and become slippery; there are no elevators, tiles on the floor; because of the weathered steps the persons get injuries; the walking areas are not safe and accessible; ventilation is not possible, the heating system is worn-out, there is neither natural, nor artificial light; the sanitary and hygienic standards are not observed.²⁰⁸

It should also be noted that patients are not engaged in occupational activities and spend most of their time in their unfriendly wards under the influence of strong psychotropic medication.

On October 28, 2022, the People's Advocate started an investigation into allegations of ill-treatment of patients as a result of the acts of vandalism they committed as a form of protest against coercive treatment and the intervention of the special intervention police brigade Fulger.²⁰⁹

The People's Advocate encourages the administrations of the psychiatric facilities to develop crisis management strategies, provide human rights training and develop good human rights practices, classify patients according to their illness and likelihood of assault, individualize treatment and reduce agitated behavior by engaging patients in occupational activities etc.

3.7 The situation of persons in the temporary placement centers for persons with disabilities

The National Social Assistance Agency (NSAA) of the Ministry of Health, Labor and Social Protection manages the following placement centers for persons with disabilities in Moldova: the placement center for persons with disabilities in Chisinau (*accommodation capacity – 210 persons, at the beginning of 2022 the center accommodated 139 persons*); the placement center for older persons and persons with disabilities in Cocieri (*accommodation capacity – 355 persons, at the beginning of 2022 the center accommodated 329 persons*); the placement center for persons with disabilities in Balti (*accommodation capacity – 550 persons, at the beginning of 2022 the center accommodated 415 persons*); the placement center for persons with disabilities in Badiceni (*accommodation capacity – 450 persons, at the beginning of 2022 the center accommodated 334 persons*); the placement center for persons with disabilities in Brinzeni (*accommodation capacity – 300 persons, at the beginning of 2022 the center accommodated 257 persons*); the placement center for persons with disabilities in Cocieri (*accommodation capacity – 250 persons, at the beginning of 2022 the center accommodated 95 persons*); the placement center for children with disabilities in Orhei (*accommodation capacity – 350 persons, at the beginning of 2022 the center accommodated 185 persons*); the placement center for children with disabilities in Hincesti (*accommodation capacity – 315 persons, at the beginning of 2022 the center accommodated 247 persons*).²¹⁰

PAO received reports of **36 deaths** caused by *acute renal failure, acute heart failure, endogenous intoxication, cardiopulmonary insufficiency, acute multiple organ system failure, diabetic coma, bronchopneumonia, road accident, mechanical asphyxia/ food asphyxiation, SARS-CoV-2 complications*. The investigation into these cases based on the available files and records received from the placement centers suggests that some of the factors causing death could be: the failure to treat common diseases, despite the fact that the persons notified about their needs and sufferings; inadequate medical kit, suitable only for first aid; the failure to reduce the suffering of people with severe illnesses; the failure to refer the person to district or specialized hospitals; shortage or lack of qualified medical personnel to respond to the needs of beneficiaries; lack of control programs for communicable diseases, infections and intra-hospital complications; careless management of complaints, which are often seen as inconsistent, leading to delayed measures to stop the disease or

208 <http://ombudsman.md/consiliul-pentru-prevenirea-torturii/rapoarte/>

209 <http://ombudsman.md/news/comisia-speciala-din-cadrul-oficiului-avocatului-poporului-a-efectuat-o-vizita-de-documentare-la-spitalul-clinic-de-psihiatrie-din-orasul-codru-privind-incidentul-produs-in-ziua-de-27-octombrie-2022/>

210 www.anas.md


establish an early diagnosis for effective treatment; the treatment prescribed often in the terminal phase is not individualized and does not take into account the somatic symptoms of the person or the side effects that the person may develop, etc.

In 2022, fewer **incidents of aggression between residents** were reported (only 13 compared to 34 in 2021). It is important to note that residents consciously plan and commit assaults, including because they are aware that no punishment will follow. Some assaults are repetitive, sometimes against the same victims. The People's Advocate strongly believes that engaging residents in occupational, education, leisure activities can prevent such anti-social behavior.

None of the placement facilities has an **organizational chart** that would respond to the complexity of their activity and workload and fundamental adjustments are required to achieve an appropriate staff-to-beneficiary ratio. Moreover, the rate of residents with severe and acute disabilities is still high in the temporary placement centers, requiring greater control and assistance efforts; the organizational chart of some of the placement facilities does not include the position of psychologist.

Therefore, we believe that the services of a psychologist are necessary for reshaping the beneficiaries' behavior, improving their emotional condition, for the assessment, reassessment and deinstitutionalization of the persons. Creation of a rehabilitation climate; provision of adequate care to problematic beneficiaries; assistance to residents with musculoskeletal disorders; dynamic observation of the behavior of beneficiaries and intervention in case of behavioral disorders; organization of occupational therapy activities, etc. require a complete and efficient professional team.


In terms of the physical condition of the temporary placement centers for persons with disabilities, the monitoring visits revealed overcrowding; lack of access to daylight and artificial light; lack of a ventilation system; lack of proper conditions for the mobility of the persons with disabilities; lack of personal facilities for storage of personal belongings; worn-out furniture in bedrooms; elements which can lead to self-injury; damp and uncomfortable sanitary facilities; the food does not meet the quality and sanitary standards (inadequate to maintain good health and well-being). The total amount allocated per day for the three main meals and a snack (yoghurt, fruits) between meals is 58.50 MDL (around 3 EUR); the occupational activities are missing, and the beneficiaries of the placement centers are left to think of ways how to spend their time, usually leading to acts of aggression, provocations and depression; the mobile devices for information and entertainment are not accessible for everyone, indicating discrimination between beneficiaries; the access to the placement facilities and the courtyard is still a challenge for the persons with disabilities; the lack of a strategy and qualified personnel to work on the development of human autonomy undermines rehabilitation. Therefore, inaction turns the placement center into an institution where beneficiaries are isolated for an indefinite period of time; the careless attitude towards the will and complaints of beneficiaries prevents the anticipation of adverse consequences, which otherwise could be prevented by establishing a constructive therapeutic alliance between the beneficiary and personnel.²¹¹



RECOMMENDATION: *The Ministry of Labor and Social Protection should adapt the placement facilities to the physical and intellectual needs of their beneficiaries, including the access roads;*



RECOMMENDATION: *The Ministry of Labor and Social Protection should develop and implement a strategy for conflict resolution among residents;*



RECOMMENDATION: *The Ministry of Labor and Social Protection should increase the number of employees, including by hiring or contracting alternative occupation, education and socialization services for beneficiaries, as well as services to provide medical, therapeutic, occupational therapy support to residents.*

211 <http://ombudsman.md/consiliul-pentru-prevenirea-torturii/rapoarte/>
<http://ombudsman.md/rapoarte/prevenirea-torturii/>

3.8 The situation of refouled persons

For the first time in its experience, PAO monitored three operations of forcible return of foreign nationals from our country (one on aircraft and two ground operations). The purpose of the monitoring was to observe how the Migration and Asylum Bureau (MAB) applies the forcible return of foreign nationals and to make recommendations, where appropriate.

The preliminary findings of the monitoring exercises are: (a) the return missions were successful and without incidents; (b) MAB officers demonstrated diligence, professionalism and dedication towards the returned persons; (c) the returned persons were not subjected to any form of abuse or indecent behavior; (d) both the returned persons and passengers felt safe and did not realize that a return mission was taking place due to the professionalism of the escort; (e) PAO's observer had free access to all the processes, documents and was free of any influence during the monitoring process.²¹²



RECOMMENDATION: *The Ministry of Internal Affairs should increase the budget allocations for the forcible return operations;*



RECOMMENDATION: *The Ministry of Internal Affairs should acquire special non-offensive safety and protection equipment to be used in forcible return operations;*



RECOMMENDATION: *The General Migration Inspectorate staff should receive training on the communication techniques and use of force in forcible return operations.*

The situation of persons in military units

On November 10 and 11, 2023 mass-media reported on allegations of abuse and harassment on grounds of sexual orientation against the conscript Marin Pavlescu (*the name is public*) serving in the Motorized Infantry Brigade no. 2 "Stefan cel Mare".²¹³

On April 21, 2022 the People's Advocate finalized the investigation and delivered the special report²¹⁴ containing the following findings and recommendations for the military system: (a) the enlistment process is not compliant with the provisions of the Enlistment Regulation; (b) examination of personal files and the military suitability tests are often obsolete; (c) enlistment takes place as if "on a conveyor belt" and, therefore, the likelihood of enlistment of young men who are not physically and mentally ready for the difficult military service is high; (d) the military units discriminate young men with low adaptability during military service, subjecting them to various forms of degrading treatment; (e) the management and education of conscripts is not based on the human-rights approach; (f) the management of the military units supports the discriminatory behavior by not punishing it effectively; (g) the civilian personnel in military units engaged in providing counselling to conscripts fail to comply with the requirement related to the confidentiality of the discussions with the conscripts; (h) the general approach is that there is no need or reason to intervene in military life; (i) failure to educate a spirit of non-discrimination in military units; (j) lack of alternatives to enlistment; (k) ineffective protection mechanisms for conscripts etc.

Additionally, during the monitoring visits to the military units,²¹⁵ the team of the TPD (Torture Prevention Department) found that: (a) the recreational areas do not meet the requirements; (b) the recreational areas are poorly equipped; the beds are orthopedically unsuitable, which can cause health issues; (c) the obsolete medical devices used in the medical facilities of the military units are not suitable to meet the health requirements, for the examination and treatment of the person; (d)

212 http://ombudsman.md/wp-content/uploads/2023/02/RAPORT_monitorizare_Returnare.pdf


213 <https://newsmaker.md/ro/video-un-tanar-din-moldova-a-anuntat-public-ca-este-gay-si-ca-refuza-sa-se-intoarca-in-unitatea-militara/>

214 http://ombudsman.md/wp-content/uploads/2022/04/Raport_Special_cazul_pavlescu_FINAL-3.pdf

215 http://ombudsman.md/wp-content/uploads/2022/03/Raport_unitatea-militara_FINAL_pe-site-1.pdf

http://ombudsman.md/wp-content/uploads/2022/10/Raport_unitatea-militara_Brigada1_B%C4%83l%C8%9Bi.pdf

lack of qualified personnel undermines maintenance of controllable health indicators; (e) availability of only one nurse who cannot cope with the large number of conscripts; (f) the allocations for equipment and military uniform are limited; (g) nutrition is not suitable for frequent and energy consuming exercises; (h) the mental health condition of conscripts is not kept confidential, leading to suicidal behavior, fights and anxiety among conscripts; (i) the military environment is hostile and offensive towards the conscripts with non-traditional sexual orientation.



RECOMMENDATION: *The Ministry of Defense should make sure that conscripts are treated with dignity and non-discrimination and that they are safe and secure;*

RECOMMENDATION: *The Ministry of Defense should make sure that any injury or other serious incident happening during the military service for reasons of retaliation, abuse, violence or other forms of violence and punishment are recorded, promptly and effectively investigated and that the perpetrators are punished;*

RECOMMENDATION: *The Ministry of Defense should make sure that the mechanisms of protection of the conscripts reporting abuse are effective, reliable and operational. The military personnel (career soldiers), on the other hand, should have sufficient leverage for control and supervision.*

CHAPTER IV

BENEFICIARIES OF INTERNATIONAL PROTECTION



4.1. The rights of persons granted international protection (refugees)

The humanitarian crisis in early 2022 took by surprise not only the authorities of the Republic of Moldova, but also the entire international community. Thus, as a National Human Rights Institution and given its mandate to protect human rights, the Ombudsman stepped in without delay and, immediately after Russia's military aggression against Ukraine started, created the Consultative Council²¹⁶ gathering together civil society organizations to ensure greater protection for the persons in crisis situations fleeing the war and seeking shelter. Jointly with the Consultative Council, the Ombudsman closely monitored the response of the national authorities and made recommendations to address the detected deficiencies.

The armed conflict started by Russia in Ukraine forced the Moldovan authorities to act immediately to ensure both effective management of the entry-exit segment of the state border and protection of the rights of the persons from Ukraine seeking refuge in our country in line with the international and regional emergency standards, priorities and related indicators.²¹⁷ All of a sudden, the Republic of Moldova has become a host and/or transit country for the persons fleeing the armed conflict having to deal with a massive and unexpected influx of foreigners. Because of the limited capacity of the *Asylum Department of the General Migration Inspectorate to manage the individual applications for recognition of refugee status or humanitarian protection under the conditions and within the timeframe regulated by Law*²¹⁸, managing the influx of the persons fleeing the war required interventions by other relevant authorities.

According to the data of the Migration and Asylum Bureau, between February 24, 2022 and December 16, 2022 it received **11,532 asylum applications**.²¹⁹ In early October 2022, due to the urgent need to grant temporary protection to refugees, the Moldovan Government drafted a decision on temporary protection,²²⁰ which, however, was not approved until January 18, 2023. The decision **became effective** as of March 1, 2023.

Thus, at international and EU level, it was agreed that **temporary protection** is the most appropriate measure in the circumstance describe above.²²¹ At EU level, the massive influx of displaced persons is established through a decision of the European Council adopted by a qualified majority on the proposal of the European Commission, which took into account the proposals received from Member States.²²² In the context of the urgent humanitarian appeal to address Ukraine's needs for protection and assistance, the UN High Commissioner for Refugees welcomed the support expressed by many EU Member States for activating the temporary protection provided for by Council Directive 2001/55/EC in order to enable immediate and temporary refuge, and for facilitating the sharing of responsibility for people fleeing Ukraine among Member States. To respond to this situation, it should be established that there is a mass influx of displaced persons within the meaning of Directive 2001/55/EC, in order to grant temporary protection for them.²²³ Although the Republic of Moldova has activated the EU Civil Protection Mechanism to support Ukrainian nationals,²²⁴ at national level there is no legal document establishing the mass influx of displaced persons that would enable granting temporary protection.

216 <http://ombudsman.md/news/pe-langa-oficiul-avocatului-poporului-va-fi-creat-un-consiliu-consultativ-temporar-pentru-prevenirea-incalcarii-drepturilor-refugiatilor/>

217 <https://emergency.unhcr.org/entry/81190/emergency-priorities-and-related-indicators> ;

218 Art.3 of the Law no.270/2008 on asylum in the Republic of Moldova

219 <http://bma.gov.md/ro/content/%E2%80%9Eprimul-la-datorie%E2%80%9D-%E2%80%93-mai-prezint%C4%83-activitatea-%C3%AEncep%C3%A2nd-din-data-de-24-februarie-prin>

220 <https://particip.gov.md/ru/document/stages/proiectul-hotararii-de-guvern-privind-acordarea-protectiei-temporare-numar-unic-771mai2022/9701>

221 Paragraph 16, Council Implementing Decision (EU) 2022/382 of 4 March 2022 establishing the existence of a mass influx of displaced persons from Ukraine within the meaning of Article 5 of Directive 2001/55/EC, and having the effect of introducing temporary protection

222 Art. 5 of the Council Directive 2001/55/EC of 20 July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof

223 Paragraphs 8, 9 and 10 of the Council Implementing Decision (EU) 2022/382 of 4 March 2022 establishing the existence of a mass influx of displaced persons from Ukraine, within the meaning of art. 5 of the Directive 2001/55/CE, and having the effect of introducing temporary protection

224 <https://www.consilium.europa.eu/ro/policies/eastern-partnership/moldova/>

According to the national legislation, *temporary protection is activated through a Government Decision at the proposal of the Ministry of Internal Affairs, based on a report submitted by the General Migration Inspectorate supporting the need to grant temporary protection, which should regulate the temporary protection measures and timeframe. The report must be based on the assessment of the situation made by the Asylum and Integration Department taking into account the causes of possible influx of people.*²²⁵ Temporary protection is granted for one year. However, where the reasons for temporary protection persist, it can be extended by 6 months, for a maximum period of 1 year, but must not exceed 2 years.²²⁶

Thus, the Ombudsman notes that the national legislation has not been yet harmonized with the provisions of the Directive 2001/55/CE, which makes its application in the national legal system impossible and recommends:



RECOMMENDATION 4.1.1: *The Parliament and the Government should transpose the Directive 2001/55/EC into the national legislation.*

It should be noted that establishing the existence of an influx of displaced persons in legislation is absolutely necessary given the legal effects and safeguards resulting from it in relation to temporary protection, with all its elements - international assistance and administrative cooperation. In addition, temporary protection requires a broader scope, as it *is also provided to other categories of displaced persons, to stateless persons or nationals of third countries other than Ukraine legally residing in Ukraine or to their family members.*²²⁷

On February 24, 2022 the Parliament of Moldova adopted the Decision no. 41 declaring a 60-day state of emergency and authorizing the Commission for Exceptional Situations of the Republic of Moldova (CES) to adopt response measures.²²⁸ Despite the adoption of a number of response measures related to the *entry of foreign nationals coming from Ukraine* through the CES Decision no.1²²⁹ on February 24, 2022 and other subsequent CES decisions, the overall approach of the national authorities to the status of foreign nationals and the protection they have the right to in the Republic of Moldova was quite ambiguous.

Although after the outbreak of the war, CES through its Decision no. 14 of April 14, 2022 allowed the Ukrainian nationals to *apply for the right to temporary stay to the General Migration Inspectorate without having to submit the criminal record*²³⁰, the requirement to submit such application in itself is an indication that the same conditions for granting the right to temporary stay in the Republic of Moldova apply for Ukrainian nationals as for other foreign nationals.²³¹

Considering that granting temporary protection is critical when there is a mass influx of foreign nationals, the People's Advocate made recommendations for the relevant public authorities also calling for the cancellation of the abusive requirement to apply for temporary stay.²³² Although the authorities ruled out the registration requirement for refugees, temporary protection is still not granted.

Despite the findings mentioned above, the People's Advocate also notes the positive practices in relation to refugees during the exceptional period. Such positive practices include cancellation of the requirement to provide the criminal record when applying for the right of stay, or allowing them to apply for the right of temporary stay for the purpose of work without having to comply with the requirement to pay the monthly average salary projected for the running year and for the right of temporary stay for studies, without providing proof that they can support themselves.²³³

225 Art. 21, paragraphs (1) and (2) of the Law no. 270/2008 on asylum in the Republic of Moldova

226 Art. 21, paragraph (3) of the Law no. 270/2008 on asylum in the Republic of Moldova

227 Paragraphs 13 and 14 of the Council Implementing Decision (EU) 2022/382 of 4 March 2022 establishing the existence of a mass influx of displaced persons from Ukraine within the meaning of Article 5 of Directive 2001/55/EC, and having the effect of introducing temporary protection;

228 Art. 2 paragraph (1) of the Parliament Decision no. 41 of February 24, 2022 declaring a 60-day state of emergency;

229 Paragraphs 1, 2, 2², 20 and 25 (e) of CES Decision no.1 of 24 February 2022;

230 Paragraph 17 of the Decision no. 14 of April 14, 2022;

231 Art. 32 of the Law no. 200/2010 on the regime of foreigners;

232 <https://ombudsman.md/wp-content/uploads/2022/06/Report-No-1-on-the-monitoring-the-observance-of-the-rights-of-foreigners-from-Ukraine-in-the-context-of-the-state-of-emergency-for-the-period-from-February-25-to-April-30-2022.pdf>

233 Paragraph 13 of the CES Decision no. 30 of July 13, 2022

In conclusion, the Ombudsman is of the opinion that the procedures for granting international protection in the Republic of Moldova are not sufficiently aligned to the relevant international and regional standards and recommends the following:



RECOMMENDATION 4.1.2: *The Ministry of Internal Affairs should align the internal procedures related to the national mechanisms of international protection with the applicable UN and EU standards.*

On the other hand, the partial mobilization of reservists announced by the Russian Federation on September 21, 2022 led to an increased influx of **Russian nationals** to the Republic of Moldova. While the EU authorities introduced restrictions on travel for tourist and leisure purposes for Russian nationals, some countries allowed the entry to specific categories of Russian nationals, including journalists, dissidents, civil society representatives, essential travelers, family members of EU citizens etc.²³⁴ These restrictions also affected a large number of Moldovan nationals, who had to turn to Moldovan diplomatic authorities for support. Thus, the People's Advocate made some recommendations for the President of the Republic of Moldova, the Government and the Ministry of Foreign Affairs and European Integration to facilitate the return of the Moldovan citizens to Moldova as quickly as possible. The People's Advocate commends the efforts made by the Embassy of the Republic of Moldova in the Russian Federation in this regard.

Finally, the Ombudsman provides below several cases of human rights violations upon admission of foreign nationals requiring a form of protection to the Republic of Moldova. In this respect, some persons mentioned they had experienced **reluctance** and **abuse** on the part of the border police when they applied for asylum:

„After my friend and I were denied access to the Republic of Moldova, although we presented proof of the presence of relatives, we were taken to the sterile zone, where for a long time we had no access to water and food, and we could go to the bathroom only accompanied by a security officer, who often was not there. After some time, we were approached by UNHCR representatives, who helped us fill out the asylum application. After they left, some employee came to us (did not introduce himself) and threatened “they will not give you refugee status; after they keep you here for a couple of days you will be deported. Stop making troubles. I suggest you leave to Turkey tomorrow, buy tickets and leave”.

*“After I was denied access to Moldova, I told the border police officers I wanted to speak to their higher manager. The answer was “he is not coming here”. To my question if I could ask for asylum, the answer was “it’s too late. You should have mentioned you wanted to apply for asylum at the passport control desk”.*²³⁵



RECOMMENDATION 4.1.3: *The Ministry of Internal Affairs should make sure the system personnel comply with the international standards for protection of persons requiring international protection;*

RECOMMENDATION 4.1.4: *The Ministry of Internal Affairs should develop intervention guidelines and instructions for its personnel;*

RECOMMENDATION 4.1.5: *The Ministry of Internal Affairs should provide progressive training to its staff working at the border crossing points on the rights of persons granted international protection.*

234 <https://www.zf.ro/business-international/elvetia-ia-atitudine-si-suspenda-facilitatile-acordate-cetatenilor-21167626>;
<https://romania.europalibera.org/a/rusi-intrati-in-ue-fuga-mobilizare-razboi/32055693.html>

235 <http://ombudsman.md/rapoarte/tematice/>

The People's Advocate Office **has monitored the situation on the Ukraine - Moldova border** since February 24, 2022. It should be noted that border crossing was allowed based on valid identity documents: for minors – birth certificate, national identity document (ID card), passport, while for adults – national identity document (ID card) or passport.²³⁶ Later the requirement to present a valid identity document when crossing the state border was cancelled and the entry for minors was allowed based on the medical birth certificate.²³⁷ Further on, the entry to Moldova was allowed based on other types of identification documents, including their copies.²³⁸ As of February 24, 2022, according to UNHCR Moldova, Moldova received 721 469 refugees from Ukraine and 358 398 refugees left Moldova back to Ukraine.²³⁹

The monitoring of the situation on the border carried out by the People's Advocate Office revealed that refugees who did not have a valid passport or a travel document were refused entry to the Republic of Moldova through the Romania-Moldova border crossing point, as well as through the International Chisinau Airport, such cases falling within the scope of the law on the legal regime of foreigners. It is worth reiterating that *everyone has the right to leave any country, including his/her own*. [1] Freedom of movement is an indispensable condition for the free development of a person. The restrictions imposed on the exercise of rights are legitimate only if they are necessary *in the interests of national security, public order, health or public morals* and are consistent with the other rights recognized by the International Covenant on Civil and Political Rights. [2] The restriction must be justified and serve a well-defined purpose, so the **mandatory requirement** to present a valid passport or travel document in an exceptional situation, as the armed conflict is, despite having another **valid identification document**, is not proportionate to the stated purposes. *When refugees need the assistance of a foreign country to exercise their rights and they cannot make use of such assistance, States shall issue identity papers to any refugee in their territory who **does not possess a valid travel document***. [3] This obligation is even more pertinent as the national authorities have not provided the refugees with travel documents when they left the country. Such restriction should not harm human dignity or be **associated** with unfair treatment. In the case of Moldova, the entry from Romania without a valid passport or a travel document was allowed only for a limited period of time and such restriction is disproportionate and contradicts the purpose for which it was necessary.

On the other hand, notwithstanding the provisions of the Law no. 200/2010 on the regime of foreigners in the Republic of Moldova, carriers who transport foreign nationals to the Republic of Moldova who do not meet the entry requirements, within 24 hours after they are refused the entry into the Republic of Moldova are obliged to take them back to the place of boarding or to another place where foreign nationals choose to go and where they will be accepted. The carrier is obliged to bear the living expenses and all costs related to the return of those people.²⁴⁰

The CES Decision no. 55 of December 22, 2022 facilitated the return of the **refugee Ukrainian nationals** to Ukraine by allowing their entry to Moldova through the Romania-Moldova border crossing points and the border crossing point at Chisinau Airport **until February 1, 2023** based on the identity documents stipulated in paragraph 1 of the CES Decision no.1 of February 24, 2022. At the same time, they were allowed to leave Moldova to Ukraine based on the documents they used to enter the country.

Therefore, apparently **the status of Ukrainian refugees is associated with the status of foreigners**, which leads to unfair treatment given the risks faced by the former and the reasons why they left their country of origin.

236 CES Decision no. 1 of February 24, 2022

237 CES Decision no. 3 of February 27, 2022

238 CES Decision no. 3 of February 27, 2022

239 <https://data.unhcr.org/en/country/MDA>;

240 CES Decision no. 54 of December 16, 2022



RECOMMENDATION 4.1.6: *The Government should revise the border crossing mechanism for the persons fleeing the war and facilitate the entry to or transiting of the Republic of Moldova for such persons.*²⁴¹

As regards the rights of the persons granted international protection, the People's Advocate draws the attention to ***the accommodation conditions for the persons coming from Ukraine***. Despite the existence of some rules approved by the Ministry of Labor and Social Protection, there are no regulations approved at Government level to establish minimum standards and procedures for accommodation of foreigners granted temporary protection in the Republic of Moldova. Therefore, one of the recommendations made by the Ombudsman in the Report no. 1 on the monitoring the observance of the rights of refugees in the context of the war in Ukraine was that the Government should approve such regulations.²⁴²

Go back a little, on March 26, 2022, the Ministry of Labor and Social Protection approved through its Order no. 21/2022 the *Regulation on the organization and operation of the temporary placement centers for refugees and the staff number and expenditure ceiling*, granting the placement center the status of specialized social facility managed by NSAA for the temporary placement of refugees from Ukraine. The Regulation establishes some minimum standards and regulates the operation, internal order of such facilities, etc. At the beginning of the state of emergency driven by the armed conflict in Ukraine there were 93 active placement centers for refugees, which could accommodate altogether 7338 persons, while the number of accommodated persons was 4436, the occupancy rate being 60,45%.²⁴³ The number of temporary placement centers fell along the way to 68, varying from time to time because their operation was closely linked to the variations in the number of refugees in the country.²⁴⁴ As of December 12, 2022 there were 66 temporary placement centers for refugees (TPCR) authorized by NSAA²⁴⁵ with a capacity to accommodate 3684 persons, while the number of accommodated persons was 2415, i.e. around 3% of the total number of refugees in Moldova.

These figures are approximate, because some temporary placement centers for refugees (TPCR) still operate without authorization or because some of the Ukrainian nationals are hosted by families. Moreover, there is no data about the number of Ukrainian refugees on the left bank of the Nistru River.

To assess the implementation status of the minimum standards²⁴⁶ established by the Regulation on the organization and operation of the temporary placement centers for refugees, between March and December 2022, the members of PAO's Consultative Council monitored around 75 temporary placement centers and found that the minimum standards for accommodation of refugees were only partially met.²⁴⁷

The first finding was that the minimum standards do not respond to the needs of the persons with special needs and mothers with children up to the age of 3, although *during their stay in those centers beneficiaries can request specialist assistance for the persons with special needs*.²⁴⁸

Additionally, despite the provisions of the Regulation on the delimitation of TPCR area, not all TPCR are located in separate premises. Some of them were opened in hospital facilities, student facilities, centers for persons with disabilities or for rehabilitation of victims of domestic violence, the

241 <https://ombudsman.md/wp-content/uploads/2023/02/Report-No-3-on-the-monitoring-of-the-respect-for-the-rights-of-refugees-in-the-context-of-the-armed-conflict-in-Ukraine-for-the-period-August-December-2022.pdf>

242 Report no.1, paragraph 16, pg. 11; <https://ombudsman.md/wp-content/uploads/2022/06/Report-No-1-on-the-monitoring-the-observance-of-the-rights-of-foreigners-from-Ukraine-in-the-context-of-the-state-of-emergency-for-the-period-from-February-25-to-April-30-2022.pdf>

243 CES Decision no. 15 of April 20, 2022

244 <https://www.anas.md/wp-content/uploads/2022/07/Capacitatea-de-munca-1.pdf>

245 https://www.anas.md/wp-content/uploads/2022/12/REACH_MDA_Factsheet_RAC-Weekly-Needs-Monitoring_2022-12-12_RO.pdf

246 Paragraph 3 of the Regulation on organization and operation of the temporary placement centers for refugees approved through the Order of the Ministry of Labor and Social Protection no. 21/2022

247 <https://ombudsman.md/wp-content/uploads/2022/06/Report-No-1-on-the-monitoring-the-observance-of-the-rights-of-foreigners-from-Ukraine-in-the-context-of-the-state-of-emergency-for-the-period-from-February-25-to-April-30-2022.pdf>

248 Paragraph 29, g) of the Regulation of the Ministry of Labor and Social Protection no.21/2022

segmentation of buildings in those cases being rather formal. Though it has been a year since the beginning of the armed conflict, the premises of the placement centers have not been re-assessed so far in terms of their compliance with the minimum standards approved by the Ministry of Labor and Social Protection.

Other findings following the monitoring of TPCR include: insufficient furniture; lack of privacy; irrationally distributed goods; insufficient shower facilities and toilets. Overall, all TPCR had natural lighting, electricity, heating, sewage and water supply.

Finally, contrary to the requirement to respect the principle of non-discrimination at all the accommodation stages, accommodation of ethnic or religious minorities in some TPCR was problematic from the very beginning, because of the hostility of the TPCR managers and personnel. For example, there were reports of direct discrimination against Roma persons and other ethnic or religious minorities – the volunteers who mediated accommodation for refugees were warned by some TPCR managers that they would not admit Roma persons to the centers and were told to refer “only Ukrainians” there (somebody even said “pure Ukrainians”). In other cases, volunteers were asked to find out the ethnicity of people before referring them, while some TPCR managers were contacted by local police and warned that the centers should not accept Roma people.²⁴⁹ Similarly, the persons with disabilities were also not admitted to some of the TPCR, on the grounds that not all centers are adapted to respond to the needs of such people, this leading to their segregation.



RECOMMENDATION 4.1.7: *The Ministry of Labor and Social Protection should develop and put in place mechanisms and procedures to reduce hate speech towards the persons accommodated in the temporary placement centers.*

Another standard established by the above-mentioned Regulation is related to creating conditions for ensuring confidentiality of personal data. Except for a couple of TPCR, mainly in the capital town where the database of beneficiaries was filled out electronically, because of lack of separate premises for storing personal data most of the TPCR did not comply with this standard. Despite the recommendations made in this sense, the situation has not changed. In most of the cases, the collected information is stored in different places, such as the reception room of the placement centers, the offices of the territorial social assistance entities, the offices of the managers of the placement centers even if they are not officially employed there. There were cases when the beneficiaries’ data were written in different notebooks, on pieces of paper or even in personal phones. In some TPCR the register of refugees is kept only in electronic form, in others only on paper, while some centers use both methods.

Going further, the monitoring of the temporary placement centers carried out by the People’s Advocate also revealed deficient procedures in terms of **security and safety in the placement centers, protection of personal data of beneficiaries and protection of private life of the accommodated persons**. The People’s Advocate notes that not all the facilities provide physical security as often the guards are people who are not qualified or physically able to do such a job. There are also cases when the managers of the centers do not ensure proper protection of the personal data of the accommodated beneficiaries, which is often processed abusively by unauthorized persons. The Ombudsman also received reports of abusive taping of beneficiaries during their stay in TPCR.



RECOMMENDATION 4.1.8: *The Government should immediately approve a framework regulation on the organization and operation of the temporary placement centers for persons in difficulty.*

249 <https://ombudsman.md/wp-content/uploads/2022/06/Report-No-1-on-the-monitoring-the-observance-of-the-rights-of-foreigners-from-Ukraine-in-the-context-of-the-state-of-emergency-for-the-period-from-February-25-to-April-30-2022.pdf>

Employment of the persons granted international protection was another issue monitored by the People's Advocate. During the state of emergency, Ukrainian nationals have the right to work in the Republic of Moldova without a temporary stay permit for work. Ukrainian nationals can be employed based on a fixed-term employment contract for the period of the state of emergency.

According to the latest data collected by the National Employment Agency, the private sector employed **911 Ukrainian nationals** as at December 5, 2022²⁵⁰, including **670** women and **241** men. Most of them work in Chisinau (**679**), TAU Gagauzia (**45**), Balti (**31**), Ungheni (**19**) and Cahul (**18**). **More than 180 employers** expressed openness to employ Ukrainian nationals, offering around **2400 vacancies**. Other around 700 Ukrainians have registered at the territorial employment agencies to receive support with employment.



RECOMMENDATION 4.1.9: *The Ministry of Labor and Social Protection should adopt a National Strategy to facilitate employment of refugees fleeing the Russian aggression against Ukraine.*

250 <https://anofm.md/ro/node/20103>

CHAPTER V

PROMOTION OF HUMAN RIGHTS



5.1. Promotion of human rights

The National Human Rights Institutions (hereinafter NHRI) are a vital part of a country's human rights protection system. Through their efforts to raise awareness, provide advice, monitor, promote and hold authorities accountable, NHRIs play a central role in overcoming major human rights issues, addressing both the persistent and immediate concerns about discrimination and inequality.

According to the Principles relating to the status of national human rights institutions (the Paris Principles), the People's Advocate Office "...should have the mandate to promote and protect human rights". Promotion of human rights includes supporting adoption of and compliance with the international and regional human rights regulations, because protection, monitoring and promotion of human rights are essential for the National Human Rights Institutions. Respect for and promotion of human rights and fundamental freedoms are core values of our society and instill justice, dignity, equality and respect.

Promotion of human rights is one of the core activities of a National Human Rights Institution.

The Paris Principles provide a legal and independent framework for promotion of human rights. The UN 2030 Sustainable Development Agenda has an indicator on the existence of national human rights institutions in compliance with the Paris Principles (indicator 16.a.1).

5.2. Human rights education

The human rights education, awareness-raising and training activities are an essential element of the mandate of a National Human Rights Institution, which according to the Paris Principles must "assist in the formulation of programs for the teaching of, and research into, human rights and to take part in their execution in schools, universities and professional circles; publicize human rights and efforts to combat all forms of discrimination, in particular racial discrimination, by increasing public awareness, especially through information and education and by making use of all press organs".

The **campaigns** joined by the People's Advocate Office aimed at increasing the awareness of the population (rights-holders) and duty-bearers of their rights and obligations.

The "16 Days of Activism against Gender-based Violence" campaign was on the People's Advocate agenda because its purpose was to raise awareness. The society was also mobilized through advocacy activities, which inspired actions to combat gender-based violence in its many forms: sexual harassment, child marriage, early or forced marriage, domestic violence and rape. The People's Advocate Office contributed to the campaign by carrying out activities advancing towards its goal of eradicating gender issues.

The People's Advocate for Children Rights joined and contributed to the "19 Days of Activism for Prevention of Violence and Abuse against Children and Youth" campaign with targeted actions aimed at increasing awareness of the civil society about the vulnerability of children to exploitation, abuse and violence.

In partnership with the General Inspectorate of Carabineers, the People's Advocate Office conducted between December 2021 and March 2022 the campaign for civil monitoring of carabineers "Observ Carabinierul" ("I monitor carabineers"), which promoted the transparency, effectiveness and professionalism of carabineers in action from the point of view of the citizens, with a focus on monitoring their behavior towards the apprehended persons.

The campaign "Eu Nu Aplic 1661" ("I do not apply 1661") is the fourth cooperation with the National Administration of Penitentiaries and the Asylum and Migration Bureau (joined first time), National Public Security Inspectorate, National Social Assistance Agency and psychiatric hospitals.

In 2022, the People's Advocate Office traditionally placed great emphasis on the training of staff of the National Administration of Penitentiaries, in particular on torture prevention, but also continued to provide training to carabinieri and border police (all together 34 activities). The training delivered to the General Inspectorate of Carabinieri covered three areas: observance of human rights during the public order missions, torture prevention and freedom of expression (14 activities). The training and outreach activities on torture prevention focused on issues like the national and international torture prevention mechanisms, the asylum procedure, torture prevention in the activity of carabinieri, and the target groups were the staff of NAP, psychologists/social assistants, border police officers, prison staff, GBPI staff, carabinieri and policemen, staff of the Professional Development Department of the "Stefan cel Mare" Academy (18 activities). Jointly with GBPI, "Centrul de Drept al Avocaților" NGO (Law Center of Lawyers) and MAB, the People's Advocate Office delivered training to border police on the asylum procedure (2 activities). The purpose of all these activities was to cultivate human rights values in the civil servants with special status engaged in security and public order activities. Overall, around 660 persons (staff from NAP, GIC, GBPI and MIA) received training on issues related to their mandates.

Promotion of the **whistleblower mechanism** is another area of intervention of the People's Advocate Office as the authority responsible for ensuring the protection of whistleblowers in the Republic of Moldova. Thus, there is always openness and support on the part of the institution for any type of activities or events dedicated to it. The whistleblower mechanism involves disclosing illegal practices in public and private entities, investigation into such disclosures, the rights and safeguards of whistleblowers, the obligations of employers, the competences of the authorities responsible for investigating the disclosures made by whistleblowers and of the authorities responsible for the protection of whistleblowers. Training on these issues (3 activities) was delivered to 150 judges and court employees. PAO focuses its efforts on improving the regulatory and institutional framework on the protection of whistleblowers, in accordance with the European directive on protection of whistleblowers – a well-defined goal, which will have a positive impact on whistleblowers.

The representative offices of the People's Advocate Office in Balti, Cahul, Comrat and Varnita also delivered human rights training. The topics of the sessions were diverse, including freedom and security of persons, the right to health, the right to a fair trial, protection against domestic violence and non-discrimination.

Thus, during the reporting period, PAO's representative offices delivered training to over 800 persons, including around 500 children. The purpose of the training activities was to improve the knowledge of human rights among general population and, ultimately, to contribute to strengthening the rule of law and the genuine democratic mechanisms in the Republic of Moldova. Such training also contributes to empowering the general population to communicate with the state authorities by formulating properly their requests.

In the reporting period, the People's Advocate Office carried out 46 activities aimed to promote the rights of the children, including the rights of the children deprived of liberty; the competences of the guardianship authority related to the rights of the child; the child's right to opinion; the best interests of the child and the cross-sector intervention mechanisms in case of children in difficult situations; the UN Convention on the Rights of the Child and its principles; the National Institution for Protection of the Rights of the Child; human trafficking etc. The overall number of participants in those activities was around 1500 rights-holders (children) and duty-bearers, including 945 children and young people and 561 adults (professionals and parents).

Additionally, the People's Advocate Office gave **three public lectures**. One of the areas covered in those lectures was juvenile delinquency, more specifically the theoretical and practical aspects of the detention regimes applied to children deprived of liberty. The participants learned about the detention regime in the prison for juveniles, as well as about the rights of the juvenile offenders serving their sentences under the three regimes - initial, general and re-socialization, as well as about the detention conditions and the re-education activities for juvenile offenders. Torture prevention and everything that is related to it is paramount in the work of PAO and familiarization of students with these activities gives them a full picture of the work of a NHRI and other relevant authorities.

The People's Advocate participated in a public lecture at the State University on the legal protection of human rights and spoke about the role and mandate of a National Human Rights Institution, in particular that of the People's Advocate Office of the Republic of Moldova. The event was attended by around 30 students.

The Ombudsman spoke to the students about the mandate of the Ombudsman, the management of the People's Advocate Office, cooperation of PAO with the national institutions and external partners, as well as about the protection of rights and mechanisms for the protection of migrants in the Republic of Moldova and actions taken by PAO in relation to the refugees from Ukraine.

The People's Advocate for Children Rights gave a public lecture on child victims of human trafficking to school students, speaking to them about the rights and fundamental freedoms of children and their importance in creating a favorable environment for their growth and development, safe from any negative factors, as well as about the work of the Ombudsman for Children and the latter's role in protecting rights by promoting them and preventing their violations, and through cooperation.

During the 2022 **National Forum on Mediation**, the Ombudsman stressed the importance of respecting human rights, the role of mediation in ensuring human rights, reiterating the openness of the People's Advocate Office to support any project aimed at improving the mediation instrument.

With the financial support of the Soros Foundation Moldova under the "Carabineers for Human Rights" project, the People's Advocate Office in partnership with the General Inspectorate of Carabineers organized in July 2022 the Conference "Institution of Carabineers today and tomorrow".

The conference served as a platform for sharing views on the institution of carabineers from the theoretical and practical perspective, with a focus on legislation, good practices, comparative studies, professional development, psychological assistance, external assistance, the relations between carabineers and other law-enforcement actors, the role and duties of carabineers during the apprehension of persons, respecting human rights and engagement in activities aimed at maintaining and restoring public order etc.

The People's Advocate appreciated the recent progress made by the institution of carabineers, stressing that the General Inspectorate of Carabineers became more transparent, professional and closer to the people.

5.3. Cooperation at national level

Recognizing the importance of a regular dialogue with international organizations established in the Republic of Moldova, the media, civil society and central and local governments, the People's Advocate participated in different meetings during 2022, including the meetings of the **parliamentary committees**, to promote the primary goals related to human rights protection and promotion and prevention of human rights violations. The People's Advocates also kept constantly in touch with the National Administration of Penitentiaries to make sure the rights of the persons held in state custody and serving custodial sentences or of those who are in pre-trial detention are respected.

Another major event in 2022 was the **meeting of the People's Advocates with the Deputy Prime Minister for Reintegration**, during which the participants discussed issues related to the monitoring and protection of human rights in the Transnistrian region, as well as to the work of the Varinta representative office of the People's Advocate Office. To establish an effective cooperation on issues related to equal pay and pension reform, the People's Advocate had a meeting with the President of the National Trade Union Confederation of Moldova.

National security and defense were a subject of the discussion between the People's Advocate and the Ministry of Defense. During the meeting the participants defined the priority areas of cooperation between the People's Advocate Office and the Ministry of Defense, the challenges faced by the National Army in terms of human rights protection and promotion, agreed on delivery of training of trainers for the Ministry of Defense, adoption of the human rights-based approach

(HRBA) in all the documents and business processes of the National Army and the support required for revising legislation from human rights perspective.

Additionally, the People's Advocate had **a meeting with the Secretary General of the Government** on the 2030 Sustainable Development Agenda, in particular on improvement of the data collection system; a working meeting with the Deputy Director of the National Anticorruption Center and a consolidated dialogue with the Ministry of Internal Affairs.

Increased attention was given to the cooperation with the **civil society**, which involved awareness raising and training activities. Such cooperation is a positive practice, because due to their experience and expertise, the non-governmental organizations provide their input, which is important in maintaining a dialogue that is useful for both parties. To this end, the People's Advocate had meetings with the Soros Foundation Moldova, Promo-LEX, IDOM, CDA and Amnesty International Moldova. Thus, the People's Advocate Office and Promo-LEX agreed on further joint human rights protection and promotion actions. One of the priority areas of cooperation is related to the improvement of the justice and detention system, healthcare in detention facilities, so as to achieve an equivalence between the national health care system and the health care system in prisons.

It should be noted that, jointly with the civil society, the People's Advocate Office developed its Strategic Development Plan for 2023–2030.

As a result of the working meetings with stakeholders, the People's Advocate Office will put in place a new effective planning system for PAO, develop a new strategic plan with new performance indicators and assess the risks associated with the objectives, so as to make sure the People's Advocates fulfil their mandates effectively.

In June 2022, the People's Advocate took part in the **international conference "Making right to information work in practice: from new law on access to information to institutional changes in the Republic of Moldova"**. The conference aimed at identifying the most appropriate legislative and institutional solutions to make public institutions more transparent and develop new laws on access to public information.

The Ombudsman stressed the importance of the right to access information and that this rights is not fully respected in Moldova, also pointing out several important issues related to the access to information, such as the need to preserve and/or develop alternative mechanisms of access to information for the persons from vulnerable and marginalized groups (children, persons with special needs, ethnic and linguistic or religious minorities, persons deprived of liberty etc.) and put in place accountability mechanisms for authorities for provision of information, in particular information of public interest.

Another event attended by Ceslav Panico, the People's Advocate, was **the fourth Congress of the National Trade Union Confederation of Moldova (NTUC)**, where NTUC management presented the report on the implementation of the 2017–2022 Strategy of NTUC and the participants set the goals for the period of 2022 – 2027 and approved the new NTUC president, selected by NTUC Board last December, into office.

During the event, the People's Advocate welcomed the positive progress of the trade union movement and the performances achieved by NTUC management bodies, mentioning PAO's openness for cooperation on protection of salaries and incomes of the population, employment and protection on the labor force market, social security, trade union rights and labor law, occupational safety and health, strategies for youth and promotion of the fundamental right to work.

Another event in which the People's Advocate Office team took part is the **Human Rights and Civil Activism Summer School** organized by Promo-Lex and Soros Foundation Moldova, where the participants discussed about human rights in general: historical developments, categories, key concepts, the current situation of human rights in Moldova and Ukraine; the civil society and civic activism and human rights; the international human rights protection mechanisms etc.

Among the most important events organized by the People's Advocate Office was the **launch of the Concept on the draft law on human rights defenders**.

The need to develop regulations on human rights defenders derives from the commitments of the Republic of Moldova made at the UN General Assembly and the Human Rights Council by supporting all the resolutions and joint declarations on human rights defenders.

The People's Advocates stressed the importance and the necessity of such regulations from the perspective of the practices of protection of human rights/children's rights in our country.

Additionally, ***the People's Advocate for Children Rights held a meeting with non-governmental organizations dealing with environmental issues*** on the amendments intended to be made to certain national regulations related to the issue of burning of tires. The conclusion following these discussions and the analysis of the international and national environmental standards was that the proposed amendments seemed to be directly linked to the right to life and health – inalienable rights guaranteed by the Constitution and international instruments to which the Republic of Moldova is a party.

During the reporting period, a number of activities were carried out as part of the regular cooperation between the National Human Rights Institution and the local public authorities (TAU Gagauzia, Balti municipality, Bender town, Cahul rayon) and the central public authorities, where the most pressing issues related to human rights were raised. The Ombudsmen, as NHRI representatives, made recommendations for the central and local governments and will continue to monitor their implementation.

Cooperation was also established between the People's Advocate Office and the Audiovisual Council, as the communication standards in the audiovisual field are one of the crosscutting areas of PAO's work, and with the **academia**, based on 2 agreements signed in 2022.

Thus, one of the ***agreements was signed with the Academy of Public Administration*** for a five year term, which can be extended. This agreement aims at intensifying the bilateral relations in common areas of work. The purpose of the agreement was to develop the functional and human resources capacities, contributing to the development of the professional skills of the personnel and institutional integrity. The cooperation areas between the two institutions covered in the agreement are capacity development of human resources, integrity policies, training, joint implementation of projects, including in research and development of institutional capacity, internships for MA students, joint organization and participation in events.

The other ***cooperation agreement*** was signed between the ***People's Advocates and the Law Faculty of the State University of Moldova*** during a public event with students and faculty managers, where the participants discussed potential projects and joint activities.

The purpose of this cooperation agreement is to facilitate the interaction between the educational system and the system of promotion of human rights and freedoms and prevention of their violation through monitoring and reporting on the situation of human rights and fundamental freedoms at national level.

During the event, the Ombudsmen agreed with the teachers and students to cooperate towards improvement of legislation on human rights and freedoms, promotion of human rights and freedoms and their safeguards, ensuring the respect of rights and freedoms of children and implementation of the provisions of the UN Convention on the Rights of the Child at national level by the central and local governments, decision-makers at all levels, by involving Law Faculty teachers, students, MA/PHD students in the practical and outreach activities carried out by the People's Advocate Office etc.

In conclusion, the outstanding achievements of the People's Advocates related to the cooperation with the state actors contribute to the achievement of one of the objectives of the Paris Principles.

In 2022, ***the People's Advocates had meetings with the representatives of international organizations in Moldova***, including the Head of UN Human Rights Office in Moldova, the head of the OSCE/ODIHR Democratization Department, the Delegation of the Advisory Committee on the Framework Convention for the Protection of National Minorities and with the Council of Europe Commissioner for Human Rights. During those meetings, the People's Advocate stressed that

maintaining a regular and effective dialogue will support the efforts related to the protection and promotion of human rights and fundamental freedoms.

The People's Advocate also had meetings with the representatives of embassies, more specifically the embassies of Sweden, the Federal Republic of Germany, the Republic of Latvia, the Kingdom of the Netherlands, Romania, the Swiss Cooperation Office and the EU Delegation. The purpose of those meetings was to strengthen the cooperation between PAO and embassies by defining the common areas of intervention, such as the work of PAO and the People's Advocate; monitoring the human rights situation and the implementation of international instruments; monitoring the human rights situation in Transnistria; promotion of human rights; the cooperation of the Ombudsman institution with the public authorities and the civil society and development of PAO's Strategic Development Plan.

Additionally, the People's Advocate had **a meeting with the Deputy Head of OSCE Mission to Moldova**, Antti Karttunen, and **a meeting with the Head of OSCE Mission to Moldova**, Claus Neukirch. The discussions focused on the monitoring of the human rights situation, including in the Transnistrian region, capacity-building for the national human rights institution and development of human rights training projects.

The **cooperation with the Council of Europe Office in Chisinau became more intense** in 2022. As a key exponent of the National Human Rights Institution in Moldova, the Council of Europe has always supported PAO and its activities. This cooperation materialized in a large number of meetings with the People's Advocates and joint actions/activities carried out both in broader areas of intervention and on specific priorities related to human rights and children's rights. The People's Advocates and PAO staff have always been and will continue to be promoters of the values of the Council of Europe – democracy, rule of law and respect for human rights and freedoms.

Finally, the **People's Advocate had meetings with the experts of the EU-Moldova Association Project** and with the representatives of the Danish Institute against Torture -Dignity to identify new cooperation areas related to the monitoring of the situation of the rights of the persons deprived of liberty.

In conclusion, the People's Advocate Office, represented by the People's Advocates, has strengthened its position as a National Human Rights Institution in its relationship with the international partners and has built new partnerships to ensure a greater engagement in its area of intervention.

5.4. Media appearances

The People's Advocates had several appearances in the media and discussions with national and local journalists in the reporting period.

After the People's Advocate took office, he gave an interview for a web portal focused on the justice sector developments in the Republic of Moldova (www.justitietransparenta.md), where he talked about the planned activities, the human rights situation in the country and the rights that are most often violated, and about what the state should do to protect human rights.

Another web portal, *Ziarul de Garda*, released a journalistic material about the activities and priorities of the Moldovan NHRI, and the most violated rights in Moldova. In another material (podcast) produced by *Ziarul de Garda*, the People's Advocate spoke about corruption, in particular its implications on human rights; whistleblowers; the big corruption cases and the rights of defendants; paid protesters; detention facilities; situation in psychiatric hospitals; the rights of refugees from Ukraine; Transnistria and political prisoners; rights of LGBTQ community; the relationship of the People's Advocate with the government.

The People's Advocate also spoke to *TVN.md* about the situation of human rights in the north of the country and about the priorities of the Ombudsman for the following period.

The challenges faced by PAO and possible solutions were the focus of the interview given by the People's Advocate to *juridicemoldova.md*.

The People's Advocate for Children Rights participated in two talk shows at *TV8 channel*, where she spoke about the hearing rooms for children and about the ratification of the Protocol no.3 to the Convention on the Rights of the Child, while at *TV21 channel*, she spoke about the rights of children and at *TV6 channel* - about the children with disabilities, in particular the autistic children. Finally, the People's Advocate for Children Rights gave an interview for *INP* on the topic "Supporting justice reform through multimedia coverage of cases of alleged injustice".

5.5. International cooperation

After two years of pandemic, the year 2022 was marked by the war in Ukraine, which shook the entire world, in particular Europe and even more the Republic of Moldova, triggering an economic and humanitarian crisis. Waves of refugees fleeing the war in Ukraine came to Moldova, which has become a transit country, but also a destination country for those of them who sought to settle here forever or temporarily.

Immediately after the crisis started, the People's Advocate Office, prioritized its activities, focusing on monitoring the situation of the rights of the displaced persons from Ukraine and how the national authorities fulfill their international obligations related to the rights of refugees.

The war in Ukraine has accelerated Moldova's accession process to the European Union. The European Council granted Moldova a European perspective and the candidate status, putting forward a number of conditionalities Moldova should comply with before accession negotiations can start. Thus, the People's Advocate Office as a National Human Rights Institution can play a critical role in transmitting and implementing international standards at national level and transferring the human rights expertise to the regional and global human rights fora.

The activities of the People's Advocate Office were strongly linked with these unique events for Moldova.

5.6. Documentation visits

A large number of official representatives of the European Union and United Nations institutions visited the People's Advocate Office in the reporting period to assess the progress made by the Republic of Moldova in relation to the fundamental human rights and the rule of law. The issues addressed during these visits included:

- Involvement of the People's Advocate Office in the ***management of the refugee crisis, in monitoring the rights of refugees*** and the challenges faced by the institution in this regard, discussed with the Council of Europe Commissioner for Human Rights, Dunja Mijatović; the Special Representative of the Council of Europe Secretary General on Migration and Refugees, Leila Kayacik; the UN High Commissioner for Human Rights, Volker Türk, and the UN Special Representative of the UN Secretary General on Sexual Violence in Conflict, Pramila Patten. Additionally, during these meetings, opportunities were identified for developing cooperation on preventing and combating sexual violence, human trafficking, sexual exploitation of refugee women and minors, who are particularly vulnerable in armed conflicts.
- ***the role of the People's Advocate Office in monitoring justice and human rights policies and practices***, discussed with the Director of the OSCE Office for Democratic Institutions and Human Rights (ODIHR), Matteo Mecacci, who at the request of the People's Advocate monitored the evaluation and election of the new members of the Superior Council of Magistracy and the Superior Council of Prosecutors and assessed the legislation regulating this procedure.

- **good practices of managing inter-ethnic relations.** PAO was visited by the Advisor to the OSCE High Commissioner on National Minorities, Natalia Mirimanova. The issues raised during the meeting related to the prevention of discrimination and protection of national minorities, examination and investigation of complaints about discrimination based on nationality and the rights of national minorities at local level.
- **the progress made in relation to women's rights.** The Ratification of the Istanbul Convention and of the Optional Protocol to the United National Convention on the Rights of Persons with Disabilities, which promote human rights and fundamental freedoms, was discussed during the meeting with Inese Lībiņa-Egnere (Latvia, PPE/CD) and Pierre-Alain Fridez (Switzerland, SOC) - monitoring co-rapporteurs of the Parliamentary Assembly of the Council of Europe (PACE).

Exchange of experience and best practices

The People's Advocate Office, accredited with the "A" status according to the Paris Principles, internationally recognized standards, has an extensive experience of promoting and protecting the fundamental rights of all the people in the Republic of Moldova and can serve as a model for other National Human Rights Institutions. Thus, in 2022, PAO was invited to share its good practices at international events, including:

- **The meeting of the heads of the National Human Rights Institutions** from the OSCE region organized in Warsaw by the OSCE Office for Democratic Institutions and Human Rights (ODIHR). The meeting focused on building resilient National Human Rights Institutions and how to address threats facing NHRI;
- **Regional seminar in Warsaw on integrating the issue of sexual and gender-based violence in detention monitoring**, organized by the OSCE Office for Democratic Institutions and Human Rights (ODIHR) for the National Preventive Mechanism to develop oversight mechanisms for integrating the issue of sexual and gender-based violence in detention monitoring and operationalizing the ODIHR guidance note for oversight mechanisms;
- **International conference in Kyrgyzstan** on the engagement of National Human Rights Institutions in protection of the rights of migrants, where the People's Advocate Office, as a National Human Rights Institution, shared its experience of protecting the rights of migrants, including the experience of establishing the Consultative Council for the prevention of violation of the rights of refugees intended to identify and address the risks of abuse, harassment, human trafficking or violence to which the women, men and children fleeing the armed conflict in Ukraine and seeking refuge in the Republic of Moldova might be exposed;
- During the **International Forum in Baku** on the mechanisms to protect human rights in the private sector, PAO representatives discussed about protection against violations of human rights in the Moldovan private sector, the risks and challenges in the implementation of the system of protection against violations of human rights by companies and the opportunities for the development of the protection system;
- **The International Conference on sharing knowledge and experience related to human rights and migration**, organized by the Ombudsman Institution in Turkey, where the Moldovan Ombudsman talked about the role of the People's Advocate Office in monitoring the rights of refugees, the interventions of PAO and the Consultative Council to protect the rights of refugees, stressing the positive practices and recommendations made to the public authorities to improve the exceptional situation caused by the war in Ukraine;
- Alongside countries like Germany, Hungary, Ireland, Poland, Romania, the People's Advocate Office shared the practices and experience of dealing with the human rights situation of the refugees from Ukraine and human rights related challenges within **the European Network of National Human Rights Institutions – ENNHRI**. A separate section is dedicated to this subject on ENNHRI's website;

- Under the auspices of the **OSCE Centre in Ashgabat, the People's Advocate Office shared its practices with the Ombudsman Institution of Turkmenistan** on the role of the National Human Rights Institution of Moldova in protecting women's rights and gender equality;
- **The People's Advocate for Children Rights took part in the extraordinary meeting of the European Network of Ombudspersons for Children (ENOC)**, where she raised the issue of the refugee children from Ukraine, how Moldova protects their rights, shared good practices of managing the refugee crisis, in particular in the countries neighboring Ukraine;
- The purpose of the **bilateral meetings with the Ukrainian Parliament Commissioner for Human Rights and the Ombudsman from Romania** was to establish relations to strengthen the powers of Ombudsmen for ensuring the rights of refugees from Ukraine settled in the Republic of Moldova, for coordination of the response of the Ombudsman institutions to the challenges faced in the management of the refugee crisis and securing the rights of the Ukrainian refugees;
- **The study visit to Romania** aimed at familiarizing with the activities of the counterpart national human rights institution in Romania and sharing experience and the best practices in protection, promotion and monitoring of human rights and freedoms;
- In the context of **Moldova's accession to the European Union**, the People's Advocate Office was invited to participate in the 13th round of the annual Human Rights Dialogue in Brussels, where the representatives of the Ministry of Justice, the Ministry of Education and Research, the Prosecutor General's Office, the Audiovisual Council, the Central Electoral Commission and the People's Advocate Office discussed the developments related to the implementation of human rights policies, the current situation and agreed on the next steps regarding the commitment of the Republic of Moldova to continue efforts to implement the human rights standards as an EU candidate country;
- **ENNHRI General Assembly held in Brussels** to enhance the promotion and protection of human rights, democracy and the rule of law following the COVID-19 pandemic and the permanent and devastating consequences of the war against Ukraine. The ENNHRI Board drafted an Operational Plan for 2023, which sets out the key activities for 2023.

Partnerships

- **The People's Advocate Office signed a Memorandum of Understanding on the complaints mechanism** related to the actions carried out by the European Border and Coast Guard Agency Frontex in Moldova based on the Agreement between the European Union and the Republic of Moldova on operational activities carried out by the European Border and Coast Guard Agency in the Republic of Moldova, in order to ensure the feasibility of the mechanisms of handling complaints concerning allegations of possible violations of fundamental rights in the context of the operational activities of Frontex in Moldova;
- By signing a **bilateral Partnership Agreement**, the People's Advocate and the Representative of the United Nations High Commissioner for Refugees in Moldova have joined forces to provide assistance and support for securing the rights of refugees from Ukraine;
- **The Memorandum of Cooperation between the People's Advocate Office of the Republic of Moldova and the Ombudsman Institution of the Kyrgyz Republic** is underpinned by the generally recognized principles and norms of international law, including the 1948 Universal Declaration of Human Rights, the 1966 International Covenant on Civil and Political Rights, the 1966 International Covenant on Economic, Social and Cultural Rights, the Paris Principles relating to the Status of National Human Rights Institutions;
- Given the Republic of Moldova's status as a candidate country for accession to the European Union, the People's Advocate Office **became a member of the European Network of Ombudsmen (ENO)**. ENO facilitates cooperation between ombudsmen on issues of common interest related to the protection of the rights of EU citizens and residents under EU law.

5.7. Events

In 2022 the People's Advocate Office stood out with two large events, more specifically the Human Rights Forum 2022 and the Forum of Children.

The 2022 Human Rights Forum entitled "Mainstreaming human-rights based approach and equality in the Moldova's EU accession agenda" is a novelty for the People's Advocate Office. The event was organized by the People's Advocate Office in partnership with the Council of Europe Office in Chisinau, UN Human Rights Office (OHCHR) and UN High Commissioner for Refugees (UNHCR). The forum was impactful due to the issues addressed (human rights education for all; rights of refugees and their social and economic inclusion in Moldova; zero tolerance for torture and ill-treatment; effective prevention and response; human rights as a priority in the justice and anticorruption reform), the moderators and speakers who provided useful information and addressed pressing issues, the efficient organization of the event, the issues discussed in relation to human rights and the rights of refugees, as well as of great interest for the beneficiaries of the People's Advocate Office, state actors, non-commercial organizations and foreign partners. The Forum has been a significant event for the whole society and supports the current and future efforts of the National Human Rights Institution to improve the level of trust, visibility and capacity-building for protecting, promoting and securing human rights in Moldova in the context of the country's EU accession agenda.

The ***sixth National Forum of Children "Children's Rights in and to Education"***, organized by the People's Advocate for Children Rights in partnership with the Center for Information and Documentation on the Rights of the Child in Moldova, with the State University of Moldova, ERIKS, Save the Children Romania and UNICEF as co-partners, took place in November 2022 and was attended by child human rights defenders from Moldova and Ukraine.

During the National Forum of Children, the authorities discussed the recommendations received from children and suggested solutions and the current and future programs in the areas addressed. A decision made at the Forum was to visit the schools where most of the issues raised during the Forum of Children were reported. After this event, the national authorities will pay more attention to the requests received from children and professionals. The Forum of Children laid the foundation for further changes in some structures of the public institutions, amendment of legislation, improvements in the education institutions.

ANNEXES



Recommendations of the People's Advocate



Recommendations for the Parliament

The Parliament should:

1. Approve a National Health Strategy;
2. Pass a Code that will bring together and standardize the legislation in the health sector;
3. Jointly with the Government, strengthen the implementation and monitoring mechanisms of the Strategy for ensuring the independence and integrity of the justice sector for the years 2022 – 2025;
4. Jointly with the Government, strengthen the public consultation mechanism with the national civil society and the international partners in areas related to the right to a fair trial;
5. Consider the opinion of the People's Advocate on the draft law on the state fee and make amendments in line with the human rights-based approach;
6. Ratify article 4 of the Revised Social Charter;
7. Ratify the UN Convention on the protection of the rights of migrant workers and members of their families;
8. Jointly with the Government, step up efforts to align the national legislation with the standards of the Istanbul Convention. It should be noted that most *lex ferenda* initiatives in this sense currently exist or are drafts or pending public consultation;
9. Jointly with the Government, revise the legal and procedural framework on combating gender-based violence in the context of the armed conflict in Ukraine in line with the Istanbul Convention;
10. Take holistic human rights measures so as the Moldovan National Human Rights Institution – the People's Advocate Office – can unconditionally monitor all the places of deprivation of liberty on the left bank of the Nistru River;

11. Jointly with the Government, design and put in place a mechanism to protect the human rights and fundamental freedoms enshrined in the Constitution with particular focus on the development of institutional mechanisms for the protection of human rights in the Transnistrian region;
12. Jointly with the Government, address the deficiencies related to the application of the compensatory remedy and the Law on amnesty from 2021, and consider applying it to certain categories of detainees (e.g., life-sentenced prisoners);
13. Jointly with the Government, transpose the Directive 2001/55/EC into the national legislation.

Recommendations for the Government

The Government should:

1. Identify, approve and make adequate allocations to local governments for provision of social assistance to all the persons with severe disabilities. Additionally, there must be a mechanism in place to allow for revising and topping up the allocated amounts, when appropriate;
2. Include the representatives of the People's Advocate Office as observers or experts in the Joint Control Commission and in the sector working groups for promotion of security and confidence building measures in the context of the Transnistrian settlement process, which to a large extent touch upon various areas of human life in the region and are a mechanism of promotion and non-judicial protection of human rights and freedoms in the administrative-territorial localities on the left bank of the Nistru River and in Bender municipality;
3. Take steps to strengthen the human rights dialogue at expert level to address human rights issues on the left bank of the Nistru River;
4. Ensure adequate staffing in prisons with qualified, professional and motivated staff;
5. Revise the border crossing mechanism for the persons fleeing the war and facilitate the entry to or transiting of the Republic of Moldova for such persons;
6. Immediately approve a framework regulation on the organization and operation of the temporary placement centers for persons in difficulty.

Recommendations for the Ministry of Health

The Ministry of Health should:

1. Put in place new monitoring mechanisms for the implementation of national policy programs and strengthen the existing ones;
2. Revise the employment policy for healthcare professionals so as to reduce their exodus;
3. Scale up efforts to adopt the national mental health program;
4. Jointly with the Government, identify appropriate resources to renovate the Public Psychiatric Hospital in order to improve the accommodation conditions for patients and the satisfaction of the medical staff with the working environment;
5. Revise the geographical distribution of medical centers and professionals so as to bring the qualified health care and services as close as possible to the patient's home (especially for those who are seriously ill).

Recommendations for the Ministry of Labor and Social Protection

The Ministry of Labor and Social Protection should:

1. Conduct a study to identify the number of persons with severe disability and their individual needs;
2. Keep record of and regularly revise the lists of persons with disabilities;
3. Build the capacities of the State Labor Inspectorate by amending the law that regulates its operations;
4. Adopt a national employment strategy;
5. Jointly with the Ministry of Justice, strengthen the mechanism of employment of prisoners/ those in pre-trial detention;
6. Jointly with the Ministry of Justice, strengthen the mechanism of employment of former prisoners;
7. Adapt the placement facilities to the physical and intellectual needs of their beneficiaries, including the access roads;
8. Develop and implement a strategy for conflict resolution among residents;
9. Increase the number of employees, including by hiring or contracting alternative occupation, education and socialization services for beneficiaries, as well as services to provide medical, therapeutic, occupational therapy support to residents;
10. Develop and put in place mechanisms and procedures to reduce hate speech towards the persons accommodated in the temporary placement centers;
11. Adopt a National Strategy to facilitate employment of refugees fleeing the Russian aggression against Ukraine.

Recommendations for the Ministry of Justice

The Ministry of Justice should:

1. Develop a mechanism for providing the person subjected to search with information and a copy of the search report and, where appropriate, for allowing the access of the prisoner or his/her representatives to the things seized during the search;
2. Ensure that honor and dignity of the person deprived of liberty is respected during searches;
3. Jointly with the General Prosecutor's Office and the Superior Council of Magistracy, strengthen the national mechanisms to facilitate depopulation or reduce the number of persons in places of detention, including through the effective application of non-custodial measures and/or other types of punishment;
4. Revise and align the detention threshold for prison facilities established through its Order no.150 to the international standards;
5. Strengthen the mechanism for supervising the persons deprived of their liberty against any form of violence;
6. Develop clear instructions for the use of physical force and special means in closed spaces;
7. Focus more on prevention, counselling, reeducation, resocialization etc. instead of "punishing the person again" by extending the detention period, or affecting the person before "conditional release" or other form of release;
8. Develop and implement a comprehensive mental health care strategy for the prison system;

9. Develop a training program for prison personnel to build their skills to assess the risk of prisoners developing self-injurious behavior;
10. Develop the skills of the prison personnel to use force and special means in a proper, legal, proportional manner and only as a last resort, in particular against female inmates.

Recommendations for the Ministry of Internal Affairs

The Ministry of Internal Affairs should:

1. Revise the draft law on the amendment of the Law no. 26/2008 on assemblies taking into account the freedom of assembly standards and the proposals collected during the public consultations, so as to effectively safeguard the right to freedom of assembly;
2. Develop internal mechanisms for the police system to make sure that temporary detention does not last more than 72 hours as required by the law, as this is one of the fundamental safeguards related to apprehension and preventive detention;
3. Make sure that the legal instructions are followed so as the registration and reporting of all cases of injuries/violence/ill-treatment upon apprehension and during the detention of persons are in line with the CPT requirements and the provisions of the Joint Order of PG 77/2013;
4. Instruct the subordinated institutions to properly implement the CPT recommendations on medical examinations, in particular in relation to the allegations of ill-treatment in detention or during apprehension;
5. Step up efforts to prevent and combat torture in the police system, because the General Police Inspectorate (GPI) has failed to do so;
6. Continue the reforms aimed at improving the physical conditions in the temporary detention facilities; identify and refurbish temporary detention rooms in the police inspectorates without temporary detention facilities; ensure medical examination of the apprehended persons for injuries/other allegations; continue to register and report the acts of ill-treatment committed during apprehension, detention in police inspectorates and during the transfer of the apprehended persons to other places etc.;
7. Increase the budget allocations for the forcible return operations;
8. Acquire special non-offensive safety and protection equipment to be used in forcible return operations;
9. Align the internal procedures related to the national mechanisms of international protection with the applicable UN and EU standards;
10. Make sure the system personnel comply with the international standards for protection of persons requiring international protection;
11. Develop intervention guidelines and instructions for its personnel;
12. Provide progressive training to its staff working at the border crossing points on the rights of persons granted international protection.

Recommendations for the Ministry of Defense

The Ministry of Defense should:

1. Revise the enlistment mechanism so as to start primarily with the assessment of the conscientious objection or other valid circumstances brought up by the person;
2. Make sure that conscripts are treated with dignity and non-discrimination and that they are safe and secure;
3. Make sure that any injury or other serious incident happening during the military service for reasons of retaliation, abuse, violence or other forms of violence and punishment are recorded, promptly and effectively investigated and that the perpetrators are punished;
4. Make sure that the mechanisms of protection of the conscripts reporting abuse are effective, reliable and operational. The military personnel (career soldiers), on the other hand, should have sufficient leverage for control and supervision.

Recommendations for the General Migration Inspectorate

The General Migration Inspectorate should:

1. Provide training to its staff on the communication techniques and use of force in forcible return operations.

Recommendations for the Bar Association and the Union of Bailiffs

The Bar Association and the Union of Bailiffs should:

1. Improve the training mechanism for current and future professionals by incorporating the human-rights based approach.



Recommendations for the Government

The Government should:

1. Strengthen the cross-sector mechanism for pre-hospital intervention in cases of children with mental disorders;
2. Strengthen the mechanism of consulting children in all the areas affecting them;
3. Strengthen the mechanism of cross-sector cooperation on prevention of cases of abuse and violence in schools for a more effective intervention of duty-bearers to provide adequate protection to children;
4. Provide systemic and well-planned training to the professionals working in centers providing support to the children in street situations and children at risk, as their qualifications are not always sufficient to manage such cases;
5. Ensure close cross-sector cooperation, where all the actors (social assistant, teacher, psychologist, police) do their jobs effectively so as to achieve real and positive results in preventing or helping children in street situations. Their interventions should be immediate, accurate and should respond to the needs of such children. The specialist who identifies the case should be trained to follow up on it;
6. Step up cooperation in areas like violence, abuse and neglect in family, which are triggers of antisocial behavior in delinquent juveniles and must be closely monitored through the multidisciplinary mechanisms of the state;
7. Prioritize the development of the cross-sector cooperation mechanism put in place by the Law no. 299/2018 on the measures and services for children with deviant behavior;
8. Ensure a constructive cross-sector cooperation for identification of undocumented children and make concerted efforts to restore their rights;
9. Ensure full social inclusion of the children granted international protection in line with the UN Convention on the Rights of the Child;
10. Take all possible measures to ensure the reunification of unaccompanied children with their families.

Recommendations for the Ministry of Education and Research

The Ministry of Education and Research should:

1. Strengthen the mechanisms of consulting children in the education process;
2. Strengthen the mechanism for the involvement of children in the decision making process;
3. Include children's rights and sexual education in the compulsory national education program;
4. Strengthen the mechanism of educational inclusion of children with disabilities and in particular of those with mental disabilities;
5. Strengthen the educational system by adopting a holistic approach towards disadvantaged children during crisis situations or situations of public danger;
6. Develop a holistic mechanism for protecting the life and health of children during the academic program;
7. Put in place mechanisms to monitor the health of children in the education system through regular medical examination;
8. Strengthen the mechanisms for documentation, reporting and intervention in cases of abuse and violence committed against children or by children;
9. Strengthen the mechanisms for informing the professionals and children how to prevent abuse and violence against children;
10. Strengthen the direct communication mechanisms for children in cases of abuse and violence;
11. Provide adequate funding for inclusive education;
12. Make sure that teachers are constantly informed how to deal with the children with disabilities, in particular those with the Down syndrome and mental disabilities;
13. Ensure the accessibility of infrastructure and information for the persons with disabilities;
14. Provide the children with visual and hearing impairments with the necessary equipment;
15. Revise the teaching load of the support teachers by reducing the number of children with special needs assigned to them;
16. Revise the budgets of the education institutions, so as to provide appropriate funding for hiring and training medical staff to provide adequate medical services;
17. Provide training to teachers on communication with the children at risk and the children in street situations, with a focus on raising their awareness that these children in the future will make the living in their communities comfortable or uncomfortable.

Recommendation for the Ministry of Health

The Ministry of Health should:

1. Address the shortage of staff in the community mental health centers, in particular in the rural areas.

Recommendation for the Ministry of Labor and Social Protection

The Ministry of Labor and Social Protection should:

1. Ensure creation of social services for the children suffering from mental disability.

Recommendation for the Ministry of Justice

The Ministry of Justice should:

1. Organize the enforcement system so as to exclude any risk of ill-treatment of prisoners. Staffing, training and motivation of personnel should become an immediate priority. The enforcement system must put in place a follow-up mechanism for the recommendations made by the Council for the Prevention of Torture and measures to address the deficiencies.

Recommendations for the local governments

The local governments should:

1. Allocate adequate financial and human resources and put in place efficient mechanisms for the protection of the rights of children with mental disorders and their families at local level;
2. Employ child protection specialists to improve their interaction with the children in street situations.

Recommendations for the central and local governments

The central and local governments should:

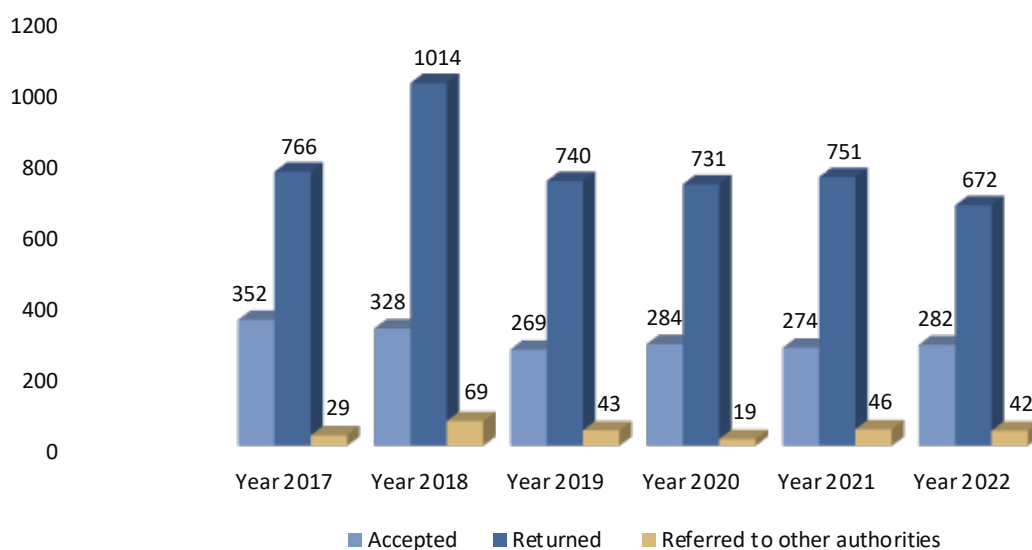
3. Strengthen the primary health care system in terms of screening and provision of primary health care to families with children with mental illnesses, in particular in the areas where the access to medical services is difficult;
4. Provide the opportunity to school psychologists and teachers to conduct information sessions with primary school children and parents on discrimination and where children can go for support;
5. Provide support to teachers for organization of interactive activities (games, debates) to encourage team work between children from the same or different classes;
6. Make sure that teachers encourage all students, whether active or less active, with higher or lower academic performance, to participate in student councils or other initiative groups;
7. Make sure schools have a box in a safe place for collection of anonymous letters about cases of discrimination, and that teachers and school management consider them on a weekly basis;
8. Deliver information sessions on discrimination to teachers;
9. Make sure that when dealing with criminal offences committed by minors, in particular the minors placed in state custody, courts, prosecutors, lawyers and other participants in the proceedings plan the activities in full compliance with the criminal procedure rules and follow the continuity and no delay principles;
10. The judicial authorities should engage in the development/revision and implementation of policies on application of community measures and sanctions and follow up on them in order to ensure their broad understanding in the judicial community;
11. Organize and conduct outreach and support campaigns for parents on the procedure for documenting children and the risks for the children without identity documents.

Human Rights Statistics in 2022

Article 16 of the Law no. 52/2014 on the People's Advocate (Ombudsman) stipulates the responsibility of the People's Advocate to receive, investigate and respond in writing within a given legal time frame to complaints concerning alleged violations of human rights and freedoms.

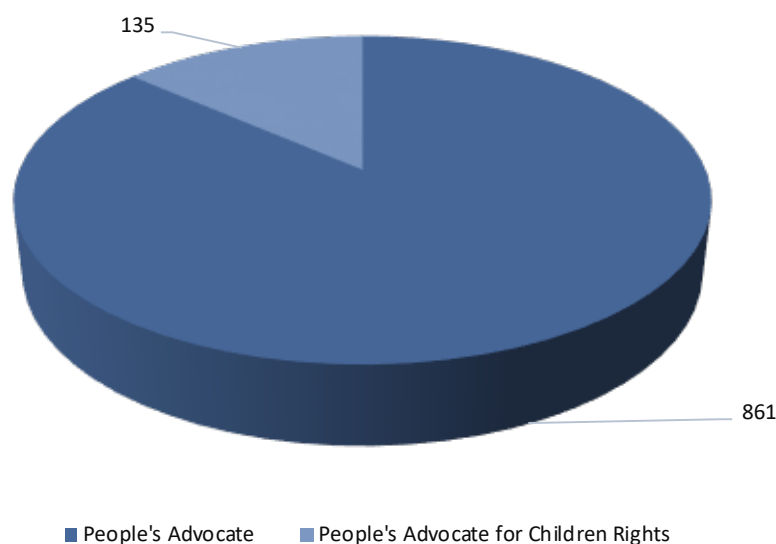
The People's Advocate Office, including its representative offices, receives an average of about 1300 complaints every year. About 75% of them are returned without investigation because they do not fall within the competence of the People's Advocate or do not meet the admissibility criteria laid down in articles 19 and 20 of the Law no. 52/2014.

Complaints received by the People's Advocate Office



In 2022, the People's Advocate Office received 996 complaints (including 36 received by its representative office in Balti, 21 – by its office in Cahul, 5 – by its office in Varnita and 5 - by the office in Comrat). Of the total number of complaints received, 861 (86,5%) were addressed to the People's Advocate and 135 - to the People's Advocate for Children Rights (76 to Children Rights Department and 59 to Complaints Management and Investigation Department).

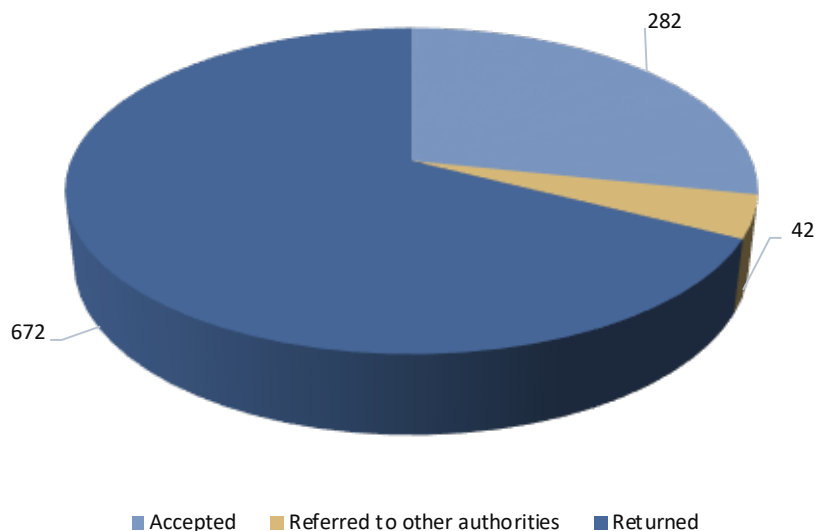
Complaints received by the People's Advocate Office in 2022



Going further, the People’s Advocate investigated 221 complaints and the People’s Advocate for Children Rights investigated 61 complaints (in total 282 out of the 996 received complaints). Investigations were followed by the procedural actions stipulated in art.25 of the Law no.52/2014.

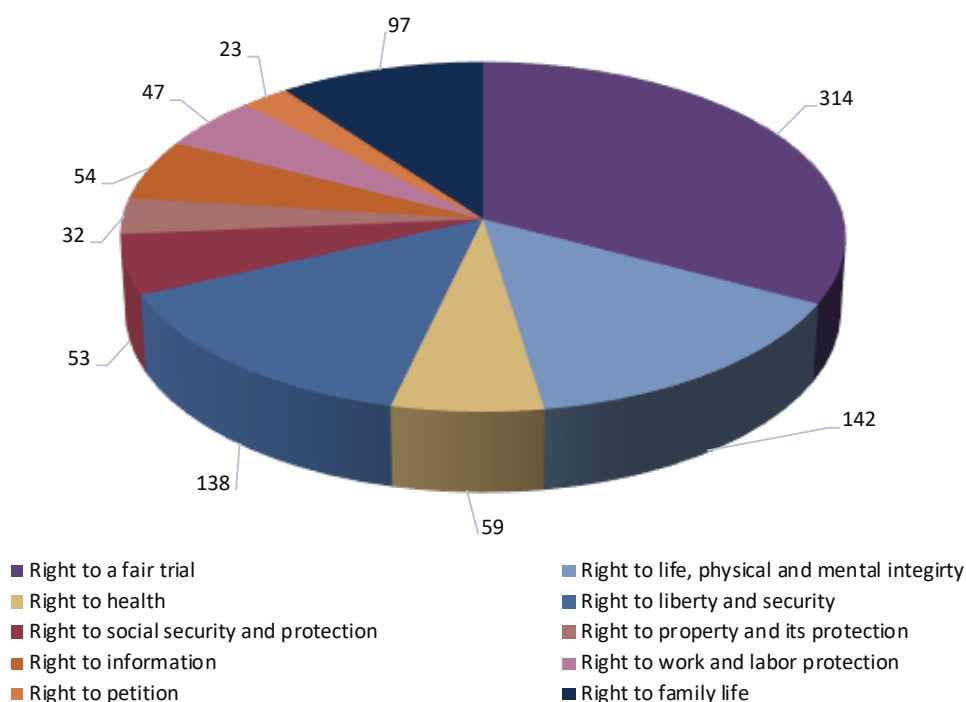
Other 42 complaints were referred to relevant authorities (19 by the People’s Advocate and 23 by the People’s Advocate for Children Rights), while 672 complaints were returned under art. 18, 19 and 20 of the Law no. 52/2014 (615 by the People’s Advocate and 57 by the People’s Advocate for Children Rights), explaining the procedure the petitioners are entitled to use to protect their rights and freedoms.

Classification of complaints by decision (year 2022)



The most frequent allegations of violations received by the People’s Advocate Office in the reporting period related to:

Alleged Human Rights Violations (year 2022)



There were also allegations of violations of the right to education, a healthy environment, free movement, freedom of opinion and expression, freedom of assembly, protection of personal data etc.

Following the investigation of the 282 complaints, the People's Advocate Office found violation of human rights and freedoms in 152 cases. As a result of the subsequent intervention by the People's Advocate and the People's Advocate for Children Rights, 120 persons had their rights restored. At the end of the year, 52 complaints were still under investigation.

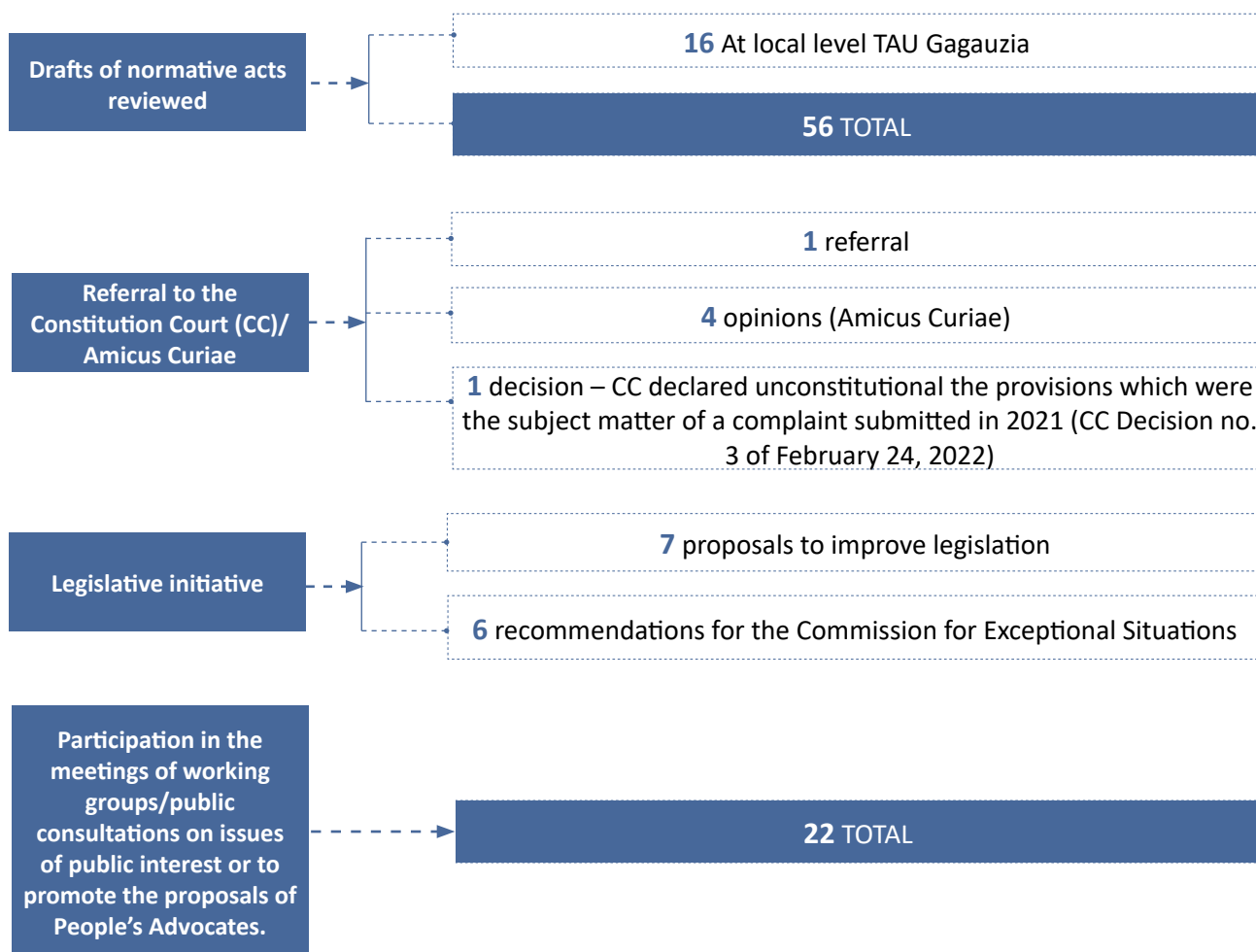
Since 2019 the People's Advocate Office has also received under Law 122/2018 complaints from whistleblowers. It should be noted that the general public in Moldova is still not familiar with the whistleblower concept and the potential whistleblowers are still not very familiar with the available safeguards and how to use them.

Complaints from whistleblowers				
	2019	2020	2021	2022
Received	1	3	7	7
Accepted	1	2	4	
Returned	-	1	3	7
Completed investigations (rights restored)		2	4	
Self-initiated investigations				1
Under monitoring	1	-		1

The investigation of complaints requires taking specific procedural actions and preparing specific documents:

Statistics on procedural actions/response documents					
Procedural actions	2018	2019	2020	2021	2022
Opinion with recommended measures to be taken for immediate restoration of petitioner's rights (art. 24 of the Law no. 52/2014)	57	41	71	39	46
Request to initiate criminal /disciplinary proceedings against a decision-maker who committed significant violations of human rights and freedoms (art. 25 par. (1) item b) of the Law no. 52/2014)	9	7	10	4	5
Notification of breach of professional ethics, delays and bureaucracy (art. 25 par. (1) item d) of the Law no. 52/2014)	9	1	6	-	3
Filing a lawsuit/intervention during trial to present the findings (art. 25 par. (2) and (3) of the Law no. 52/2014)	1/11	4/12	3/9	15	12
Conciliation agreement signed by parties (art. 23 par. (3) of the Law no. 52/2014)	1	-	-	-	
Proposals for improvement of the performance of administrative apparatus (par. (6) item 7) of the Law no. 164/2015)	-	8	13	3	59
Request for an expert legal opinion (art. 11 of the Law no. 52/2014)	-	-	-	-	

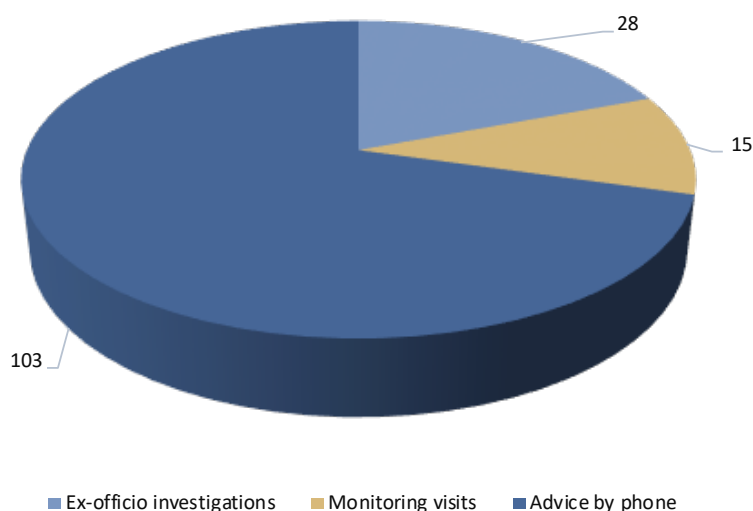
Public Policy and Legislation Department



Children Rights Department

In 2022, the Children Rights Department (CRD) provided assistance/advice to 103 persons, received 10 complaints, started 3 ex officio investigations (self-initiated) and completed 28 ex officio investigations.

Activities carried out by the Children Rights Department (year 2022)



Additionally, CRD carried out 15 monitoring visits and prepared five thematic reports: “Status of the rights of children with serious illnesses”, “Status of the rights of street children”, “Analysis of the child protection system”, “Status of the rights of children with mental illness” and “Implementation of recommendations of the People’s Advocate for Children Rights”.

Finally, CRD carried out 48 outreach activities to promote children’s rights with 1536 children, professionals (teachers, social workers, psychologists etc.) and 8 training activities with 300 professionals (managers, teachers, legal experts, social workers, police officers, social reintegration officers).

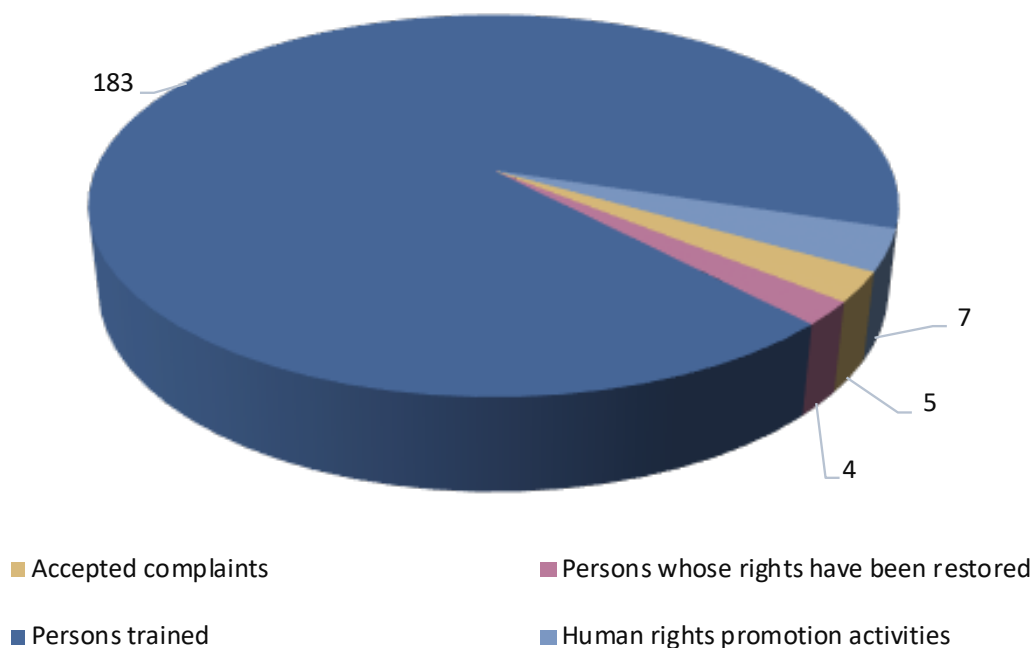
Activities carried out by the Children Rights Department (year 2022)



Varnita representative office

In the reporting period, the Varnita office carried out 7 activities to inform/train 183 „rights-holders” on children’s rights and protection of victims of domestic violence. The rights-holders and duty-bearers were informed about the duties of the People’s Advocate and the People’s Advocate for Children’s Rights, the mechanisms for the protection and prevention of violation of the rights of children, and received leaflets, outreach materials produced by the People’s Advocate Office. In 2022, the Varnita office accepted 5 complaints for investigation - one investigation was terminated and in the other 4 cases the persons had their rights restored.

Activities carried out by the Varnita office (year 2022)



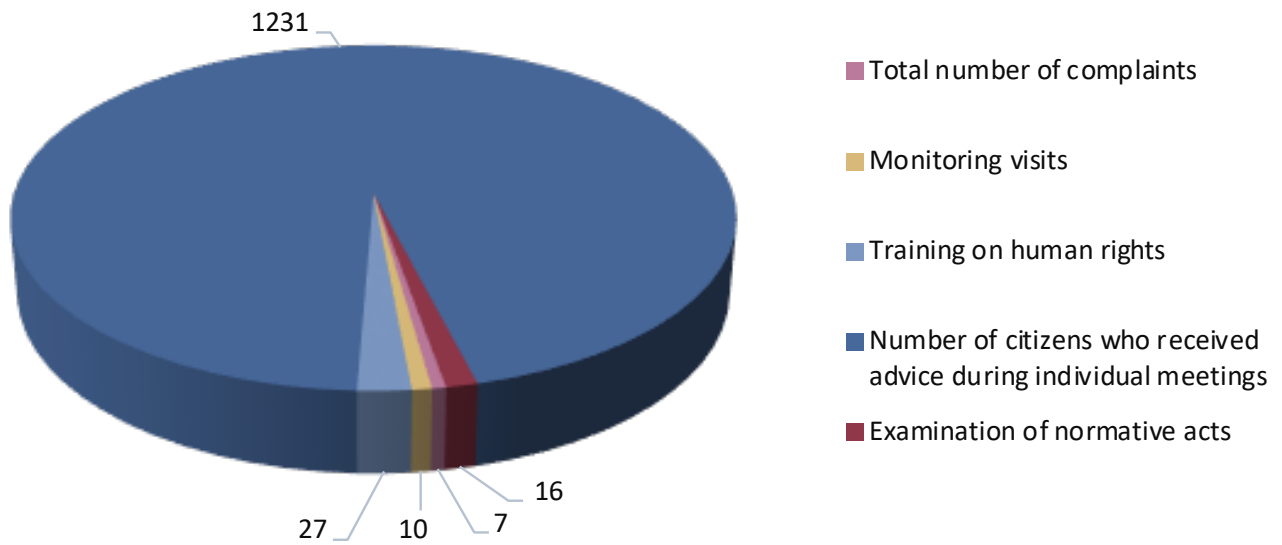
Individual meetings with citizens at Varinta office (year 2022)

Subject matter	Employed	Unem- ployed	Retired	Disability	Total
Private property	6	5	6	1	18
Right to work	1	1			2
Right to social assistance and protection	3	7	7	3	20
Free access to justice		1	1		2
Right to health	3	1	1	2	7
Family life	5	3	2		10
Free movement	5	5			10
Right to a nationality	8	5	3		16
Right to education	1				1
Right of defense		1			1
Right to privacy	23	26	4		53
Other		5	3		8
Total (148)	55	60	27	6	

Comrat representative office

In the reporting period, the Comrat office carried out 10 monitoring visits, reviewed 16 drafts of normative acts and one legislative initiative, accepted for investigation 7 complaints, 3 of which were successfully completed (2 – right to social assistance and protection; 1 – right to family life) and delivered training on human rights to 27 persons in education and prison facilities. Additionally, the Comrat office personnel had individual meetings with 1231 persons and carried out 99 activities related to promotion of human rights and communication with mass-media.

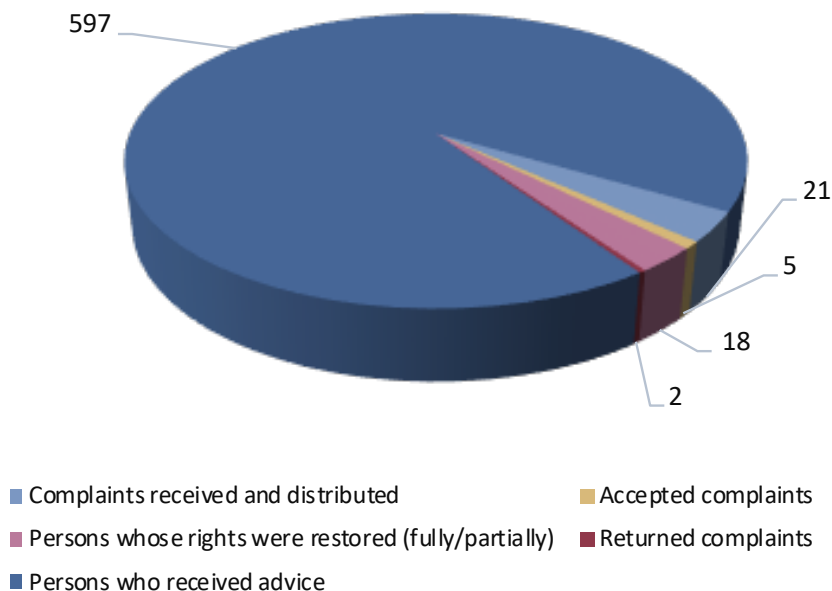
Activities carried out by Comrat office (year 2022)



Cahul representative office

The Cahul office received and distributed 21 complaints in 2022: 5 complaints were accepted for investigation, 2 complaints were returned and one complaint was referred to relevant authorities; 18 persons had their rights restored (fully/partially). The total number of those who received advice in 2022 reached 597.

Activities carried out by Cahul office (year 2022)

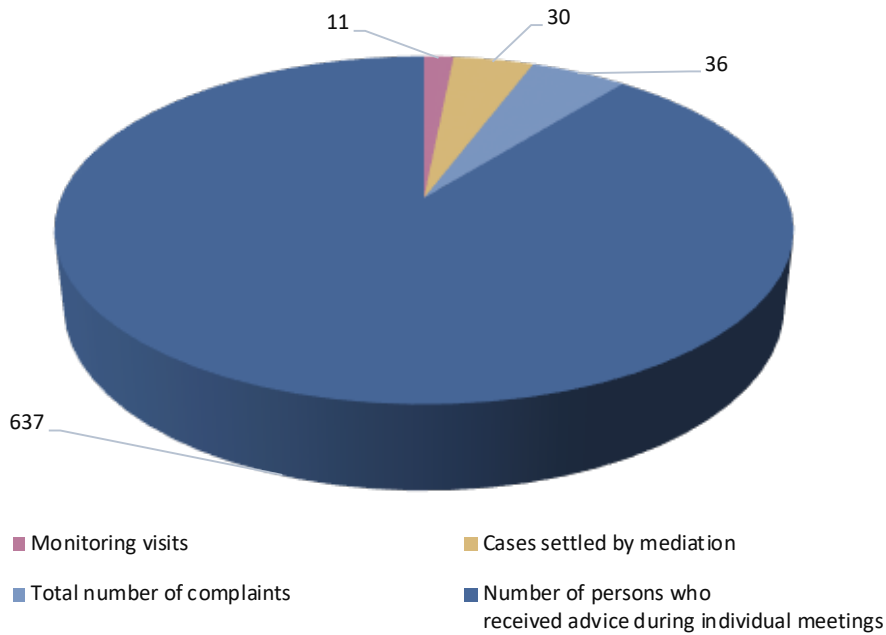


Balti representative office

The Balti representative office examined 36 complaints: 8 complaints were returned, 18 complaints were found inadmissible, 5 complaints were referred to PAO's units in Chisinau and 5 complaints were accepted for investigation. Additionally, the Balti office conducted 5 self-initiated investigations.

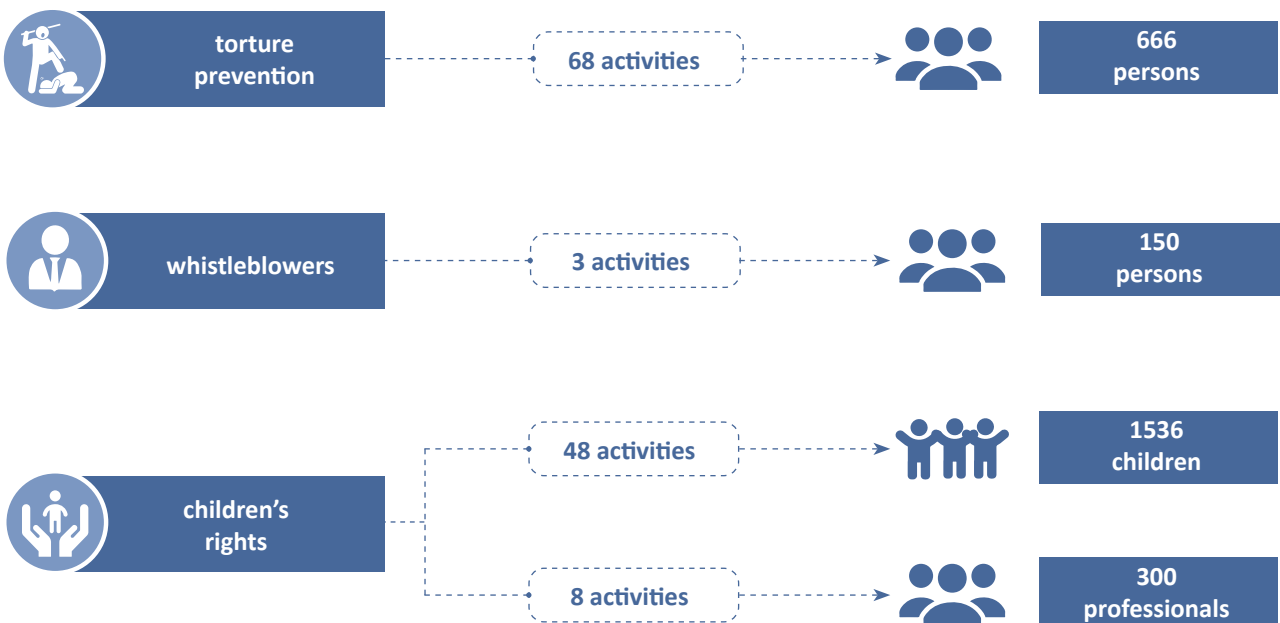
In the reporting period, 30 cases were settled by mediation, 11 monitoring visits were conducted, 637 persons received advice during individual meetings, and investigation of 31 complaints resulted in restoration of rights.

Activities carried out by Balti office (year 2022)

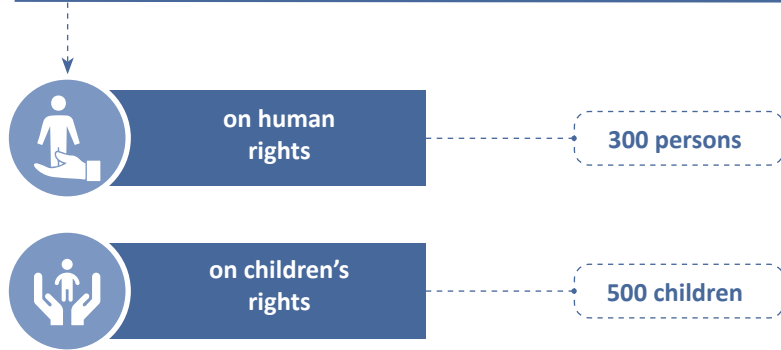


Training and outreach activities carried out in 2022

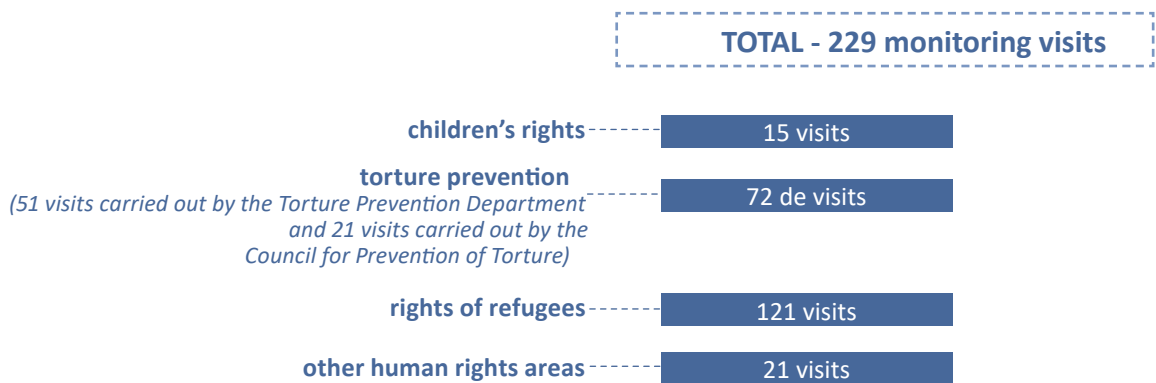
TOTAL – 3154 persons received training and information



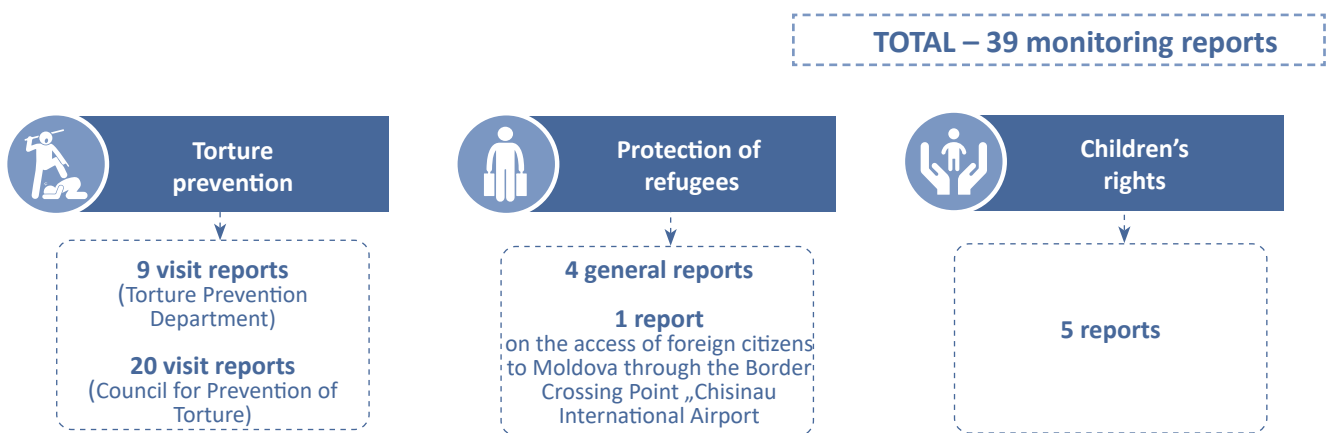
Training and outreach activities carried out by the territorial representative offices of the People's Advocate Office



Human rights monitoring visits in 2022



Human rights monitoring reports in 2022



Human Resources Management in 2022

The structure of the People’s Advocate Office includes the People’s Advocate and his deputies, the People’s Advocate for Children’s Rights, the secretary general, and structural and territorial units. The People’s Advocate is responsible for the overall management of the People’s Advocate Office, while the organizational and administrative operations of the institution are entrusted to the secretary general.

Organizational chart of the People’s Advocate Office

Structural Units

Secretariat Service	Public Policy and Legislation Department
Legal Service	Monitoring and Reporting Department
Human Resources Service	Torture Prevention Department
Internal Management Support Service	Children Rights Department
Internal Audit Service	Complaint Management and Investigation Department
Financial-Administrative Section	Human Rights Promotion and Communication Department

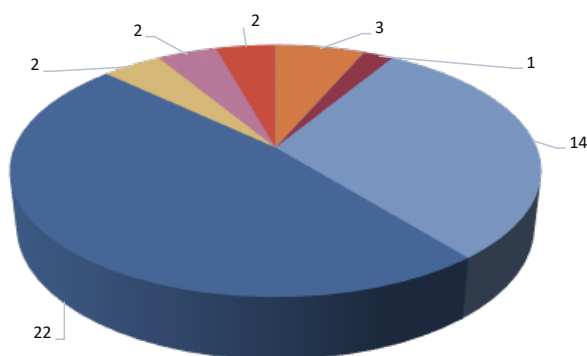
The People’s Advocate Office is represented across the country by 4 representative offices:

Territorial Units

Varnita office	Balti office
Comrat office	Cahul office

At the end of 2022 the People’s Advocate Office had 46 employees

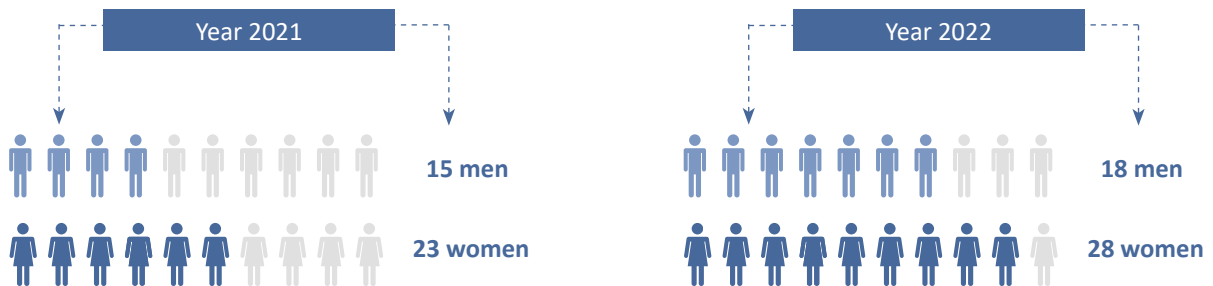
Number of PAO staff by type of employment in 2022



■ Political appointees (pa)	■ Senior civil servants (scs)	■ Middle-level civil servants (mcs)
■ Execution civil servants (ecs)	■ Personnel of the political appointee office (ppao)	■ Technical staff supporting institutional operations (ts)
■ Support staff (ss)		

Gender staffing breakdown

The analysis of PAO staff structure by gender shows that women (28) outnumber men (18).



Personnel structure by age group

The analysis of the personnel structure by age group shows that most PAO employees are in the 36 – 45 years age group.

