

**Theses from the Report of the People's Advocate on the observance of
fundamental human rights and freedoms in the Republic of Moldova in 2020**
**([http://ombudsman.md/wp-content/uploads/2021/04/Raport-2020-FINAL-
RED.pdf](http://ombudsman.md/wp-content/uploads/2021/04/Raport-2020-FINAL-RED.pdf))**

In 2020, there were multiple human rights violations in the Republic of Moldova and some exaggerated restrictions were imposed that had a negative impact on certain freedoms and democratic processes in our country. The COVID-19 crisis has led to deepening poverty, growing inequalities, structural and enhanced discrimination and a worsening of the human rights situation.

The pandemic highlighted neuralgic areas of the human rights system in the Republic of Moldova and the authorities have not always been able to cope with the challenges posed by the inefficient management of the situation or system deficiencies that have not allowed prompt and appropriate actions. The decisions of the authorities in managing the health crisis were influenced more by the political factor and less by the specialists in the field. The authorities have broadly ignored human rights based approaches.

The biggest challenges were related to ensuring the right of access to medical services, information of public interest, the right to work and to a decent life, to freedom of movement, freedom of expression.

The lack of transparency, ignoring the recommendations from the People's Advocates and other entities or experts in various fields have determined the developments we are currently witnessing in terms of the epidemiological situation and its negative effects on citizens, on the business environment, with long-term socio-economic impact.

In 2020, several events took place that contributed to the restriction of the democratic space in the Republic of Moldova. These include attacks and intimidation towards the independent press and the associative sector; non-transparent and non-participatory decision-making process; the adoption in Parliament of a set of legislative acts without respecting the legislative procedure; the perpetuation and maintenance of hate speech in the public space; electoral process with many irregularities; maintaining of a selective justice and impunity for some human rights violations. All these had negative effects on the public confidence in the democratic institutions in our country.

In 2020, no progress has been registered in terms of **increasing the independence and efficiency of justice, countering threats to the rule of law**. Current problems attested by the People's Advocates related to the realization of the **right to a fair trial** are *delays in the examination of cases by courts; the low level of quality of legal services, including those of state-guaranteed legal*

assistance; failure to ensure within a reasonable time the translation of the court act/judgment; disagreement with court decisions/judgments; violation the terms of informing the parties about the decisions issued by the courts, reason for which the terms of appeal are lost, or forced execution is reached; the impunity of actors in the justice system who admit deviations.

There have been great suspicions regarding the correctness and objectivity of the investigation of resonance files in which former or current officials or politicians are targeted.

Even in 2020, no progress has been registered in the process of finalizing the draft law no. 301 of 01.07.2016 for the amendment and completion of some legislative acts regarding the regulation of crimes based on prejudice.

In the Republic of Moldova, there are two major problems that lead to the violation of **individual freedom and people security**: *the excessive application of the preventive detention measure and holding in police custody of people detained for more than 72 hours.* The findings of the European Committee for the prevention of torture (CPT) following a visit to the Republic of Moldova in February 2020 state that people suspected of committing a crime may be detained in so-called "police isolators" for a period of 72 hours after arrest, before being brought in court, and **some people are detained for up to two months**; that *the arrest and temporary detention, in cases where people are most vulnerable to torture and ill-treatment, are over applied and the alternatives to detention are rarely used.*

In the presidential elections of 2020, citizens of the Republic of Moldova living abroad had the opportunity to express their **right to vote**, including based on an expired passport. For the presidential elections from November 1, 2020 were opened more polling stations than for the parliamentary elections from February 24, 2019. However, the number of polling stations was not enough and citizens settled abroad had to travel very long distances and wait in huge lines to exercise their right to vote. It is to be appreciated the increase of the number of ballots at the polling stations abroad from 5000 to 10000 ballots. However, there have been cases where the number of ballots has not been sufficient. There is still a problem of ensuring the access of people with disabilities in the polling stations.

Presidential election that was held in 2020, although admitted free and democratic, had a very aggressive campaign, particularly in the second round of elections, with hate speech and even calling for violence.

The People's Advocates consider that the COVID-19 pandemic has further emphasized the need to identify and implement alternatives to the exercise of the right to vote, such as electronic voting or postal voting.

The applications received during 2020 to the People's Advocate Office on the **right to work and labour protection** concerned aspects on the dismissal or suspension of the employment contract; forcing the employer to sign an application for leave or even resignation, etc. The Government approved¹, starting with January 1, 2021, the minimum guaranteed amount of wage in the real sector (enterprises, organizations, institutions with financial autonomy, regardless of the type of property and the form of legal organization) in the amount of 2935 MDL. At the same time, **the amount of the minimum wage in the country, in the amount of 1000 MDL², has not been changed since October 1, 2014.**

The state of emergency, declared in connection with the pandemic with COVID-19, exacerbated the existing problems until its onset in the **field of social protection**. The created situation imposed the intervention of the People's Advocates in several cases such as the impossibility of raising the pension and other social benefits for beneficiaries who do not have bank cards, including pensioners from the left bank of the Dniester, pension beneficiaries from the Republic of Moldova (problem solved by the Decision of the Committee for Exceptional Situations); financial difficulties of socially vulnerable families with children; in the localities being in quarantine, have been found the defective supply of medicines, products of first necessity; lack of access to quality drinking water and adequate food in some sanitary-medical institutions, especially in rural areas; ambiguities regarding the granting of the quarantine allowance; the impossibility to complete the retirement file for the people who during the state of emergency have reached the retirement age resulting in the impossibility to benefit from the medical insurance policy as people insured by the state; non-granting of unemployment benefits and subsidies to patent holders³.

According to World Bank estimates, in 2020 extreme poverty in the Republic of Moldova is expected to reach about 13% as households face the impact of the crisis, including job losses (estimated 70,000 jobs) and earnings⁴.

Data from the COVID-19 Pandemic Impact Assessment Report on vulnerable groups and the economic situation, conducted by UNDP jointly with UNFPA, show that **18% of poor people in the Republic of Moldova have lost their jobs, 67% of poor households don't have enough income / savings to cover their monthly expenses (83% in urban areas!), and 65% chose cheaper food.**

The amount of the minimum old-age pension covers only 64.7% of the subsistence minimum for pensioners (an increase of 5.95% compared to 2019), the amount of the minimum pension in

¹ Decision of the Government of the Republic of Moldova no. 165 of 09.03.2010 "On the minimum guaranteed amount of wage in the real sector", point 1;

² Decision of the Government of the Republic of Moldova no. 550 of 09.07.2014 "On establishing the amount of the minimum wage in the country"

³ <http://ombudsman.md/despre/stiri-covid-19/>

⁴ <https://pubdocs.worldbank.org/en/453701608708692970/Moldova-Economic-Update-Special-Focus-Dec-22-Romanian.pdf>

case of severe disability covers only 48.5%, and the amount of the state social allowance is only 32.3% of the subsistence minimum for an elderly people.

The health crisis has exacerbated existing problems in the field of social protection and assistance, which, not being solved in time by appropriate measures, led to a deterioration of the human rights situation, increased inequality in society and further affected vulnerable people. Mitigating the negative economic and social effects of the pandemic crisis required the urgent adoption of a package of economic and social measures in response to the challenges posed by the pandemic.

The **field of protection of people with disabilities** has also been severely affected by the COVID 19 pandemic, which revealed the human and financial cost of poor state investment in health and social protection services among groups of people with disabilities.

Violations of the right to health have been identified, by reducing access to health services, stopping appointments for specialized health services and for medical examination in order to extend the degree of disability; limited access to information; limiting financial income as a result of job loss; the differentiated amount of compensation for transport services provided to people with disabilities, depending on their place of residence, is discriminatory; our country has not ratified the optional protocol to the UN Convention on the rights of people with disabilities on the examination of Individual and collective complaints.

The People's Advocates were notified on various aspects of the **violation of the patient's rights to health protection**. Most often, the reduction or postponement of planned hospitalizations was invoked, which led to the aggravation of diseases; limited access to health services among patients with chronic diseases; violation of the patient's right to information; reduced accessibility to medicinal products on the pharmaceutical market in the country, for patients with rare diseases.

The pandemic has impacted heavily on the health system, highlighting the fact that the system does not have the necessary resources, both human and financial, to ensure an adequate level of services quality in the medical system and to ensure access for all people for whom medical services are extremely important and vital. At the same time, it has been demonstrated that there is no action plan for exceptional situations. Likewise, the problem of medical malpractice remains unresolved for several years.

In 2020, on the background of the pandemic, there was a continuous deterioration of the situation regarding **freedom of expression**. The problems previously attested in the field remained unsolved, and in the context of the constraints imposed by the health crisis, some of them worsened.

The year 2020 was marked by several cases of pressure and intimidation against people who have publicly expressed their critical views on the situation in the country, particularly related to the health crisis management. There have been several cases in which freedom of opinion has been

restricted by attempts by public officials to silence people who have dared to express publicly their dissatisfaction on the conditions in medical institutions, lack of protective equipment, medical equipment⁵. More medical staff have been threatened with revenge, dismissal and even criminal cases for disclosures about the pandemic situation and in medical institutions.⁶

The decline on the mass-media freedom over the last seven years has continued. Working on the front lines of the pandemic and exposing themselves to potential health risks, journalists have faced verbal attacks and pressure, including from politicians or officials because of critical views expressed on the management by the authorities of health crisis.

The People's Advocate noted the lack of progress in respecting the **right to access information**. During the state of emergency, was imposed a barrier to the timely provision of information of public interest, with the adoption by the Commission for Exceptional Situations of a provision ordering the tripling of deadline for the submission of information by public institutions and authorities (from 15 to 45 days). Extending the deadline to 45 days has considerably limited the access of journalists and people to information of public interest.

Even in 2020, was failed to adopt the amendment project and completion of the package of laws containing the recommendations of the Centre for Independent Journalism, the Independent Press Association and other non-governmental media organizations on the operation of amendments, including the Law on access Information, the Law on freedom of expression, the Law on the protection of personal data.

In the conditions of the state of emergency imposed by the coronavirus pandemic and, respectively, the restrictive measures, the **situation of victims of domestic violence** has worsened even more. On the one hand, isolation, social distancing, restrictions on freedom of movement are necessary conditions to avoid COVID-19 infection. On the other hand, in these conditions, the aggressors, being longer in the same space with the victim, control them even more. In the context of the COVID 19 pandemic, **over 90.4% of victims of domestic violence were women**.⁷

More **rights of the residents of the Transnistrian region** have been limited due to the measures imposed by the de facto authorities in connection with the prevention of the spread of the Covid-19 virus. It was restricted the **right to free movement** of people who daily moved from one bank of the Dniester to another to go to work, to benefit from medical services, to access ATMs, etc. If until March 16, 2020, 24 unauthorized posts and 15 posts of the Peacekeeping Forces were located at the

⁵ <https://tv8.md/2020/04/06/premierul-ii-raspunde-femeii-din-soroca-care-s-a-plans-pe-conditiile-din-spital-nu-este-sens-acum-de-facut-live-uri-glamuroase/>

⁶ <https://diez.md/2020/04/12/tanarul-care-a-vorbit-ieri-despre-echiparea-medicilor-pe-timp-de-pandemie-a-fost-presat-sa-stearga-videoul/>

⁷ The evaluation "The needs of women affected by domestic violence, gender-based violence and the systemic response to cases of domestic violence in the context of the Covid-19 crisis", conducted by PA International Center "La Strada", 2020;

administrative border, then in March-July 2020, another 37 posts were set unilaterally by Tiraspol around the settlements under jurisdiction of constitutional authorities.

Despite the decisions on suspending the processing of **personal data** and their transmission to the *de facto* authorities on the left bank of the Dniester, some institutions have continued to exchange information, including information referring to COVID 19 cases with the indication of the identity data of the infected people among the employees of the national police in the security zone, without the consent of the citizen.

The Tiraspol entities continue to forcibly incorporate young people for long-term service into the so-called "Transnistrian armed forces". The constitutional authorities react late, only after the young people are placed in the barracks in Tiraspol.

Also in 2020, there were registered actions of arrest and arbitrary detention of people on the left bank of the Dniester, actions registered in recent years, which demonstrate that these processes are systemic.

The residents of the Transnistrian region are restricted in their freedom to express alternative or free opinions, to criticize the *de facto* authorities in the region. The local⁸ "Criminal Code" contains a series of articles that provide harsh punishment for expressing alternative opinions that are interpreted by the *de facto* authorities as an offense or slander. Thus, in 2020, through a series of detentions, arrests, intimidations, continued abusive actions encroaching on the freedom of opinion, to receive or communicate information or ideas without the interference of those who manage the uncontrolled territory on the left bank of the Dniester.

The right to health protection was violated due to the restriction of the right to free movement, residents of the Transnistrian region not having access to the compulsory health insurance system that covers the costs of treating diseases caused by insured events in which the Government of Moldova acts as insured.

The **problem of pensions and social benefits** in the administrative-territorial settlements on the left bank of the Dniester and the Bender municipality has not been solved. Failure to realize the right to social assistance and protection remains to be generated largely due to the lack of local legal public authorities in the eastern districts of the country.⁹

⁸ <http://www.vspmr.org/legislation/laws/zakonodateljnie-akti-v-sfere-ugolovnogo-tamojennogo-administrativnogo-prava/ugolovniy-kodeks-pridnestrovskoy-moldavskoy-respubliki.html>

⁹ Law on the basic provisions of the special legal status of the settlements on the left bank of the Dniester (Transnistria) no. 173 of 22.07.2005.

Even in 2020, the problems of the 8 lyceums and gymnasiums related to the equipping these educational institutions with buildings that correspond to the requirements in the teaching and educational process were not solved.

Observance of the Child's Rights

The People's Advocate for Children's Rights *considers that in 2020 no progress has been made in the field of observance of the child's rights*. Moreover, this year's challenges, caused by the SARS-CoV-2 pandemic crisis, highlighted the existing gaps and highlighted new ones.

Firstly, it has been affected the educational process due to the restrictions imposed to reduce the risk of contamination and the transition to online education. The distance educational process has considerably reduced the quality of pupil's education, some of whom did not have access to education due to lack of gadgets or their insufficiency in families with several children. Over **30% of children in the education system did not have the opportunity to participate in online classes** because they did not have computers or mobile phones. Another problem, at the time of the closure of educational institutions, was *the lack of children the only meal they receive every day, but also that related to the supervision of children at home by adults*.

The distance educational process was difficult and due to *insufficient training or in general the lack of necessary training of teachers to provide teaching activities within the distance educational process*.

In the conditions of pandemics and distance education, the number of cases of *temporary school abandonment* has increased, those of exploitation of children through work, especially during the agricultural season. During the health crisis, the educational process of *children with special needs* who study in specialized educational institutions or auxiliary schools was completely stopped, they being closed. For children with special needs, the educational process, between March and May 2020, was provided exclusively by their parents.

The Children's Ombudsman conducted an opinion poll on the effectiveness of the educational process¹⁰, which represents the child's opinion on distance learning. **17% of respondents mentioned that they couldn't fit into the educational process and over 77% of children the social isolation of children who do not have access to the internet.**

In 2020, no progress has been made in **providing educational institutions with medical staff, drinking water and sanitation conditions**. According to data presented by the Ministry of

¹⁰ <http://ombudsman.md/wp-content/uploads/2020/07/Rezultatele-Formularului-proces-educa%C8%9Bional-la-distan%C8%9B%C4%83.pdf>

Education, Culture and Research in a monitoring conducted in 2020, **351 schools (30.9%) have toilets outside the institution building and need to improve hygienically and sanitary conditions.**¹¹ Thus, children, especially those in rural areas, face a lack of hygiene conditions, privacy and safety when going to the toilet in the school yard. This situation is not recent, it has existed for decades.

One of the problems identified by the People's Advocate for Children's Rights, with reference to ensuring the principle of child participation, during 2020, was the **social isolation of children who do not have access to the internet.** According to the latest surveys presented by several organizations, including public authorities, **over 3,000 children from all over the Republic of Moldova remain isolated from the social and educational environment because they do not have an internet connection.**

According to statistics presented by the Ministry of Health, Labour and Social Protection¹², **from the beginning of the pandemic until January 1, 2021, 8092 children were infected** throughout the country, including 1843 on the left bank of the Dniester.

The People's Advocate for Children's Rights denotes the violation of children's rights in the segment of treatment of the Covid-19 virus at children, **lack of information and lack of access to information.** Thus, from several complaints and telephone calls received to the People's Advocate Office, especially at the beginning of the pandemic, it was attested that the minors were forced and transported to medical institutions without accompanying parents/legal representatives. Even in the case of infection of all family members, children were separated from their parents and treated in different medical institutions. Worse, children were not provided with the necessary information about their health and that of their parents, the conditions of hospitalization and treatment, which created anxiety in children and affected them psycho-emotionally.

Another issue, analysed by the People's Advocate for Children's Rights in terms of respecting the right to health during 2020 **was the observance of the right to health care of children suffering from rare diseases. Interventions in this segment are delayed and the legislation in this regard is imperfect. National legislation does not contain the notion of "rare disease", and at national level, there is no national program for the control of rare diseases.**

During the restrictions on the unfavourable situation with the Sars-Cov-2 virus, it was impossible to monitor and **report acts of violence against children** or by children, an action that was carried out by teachers based on the multisectoral intervention mechanism.

Currently in the country, there are **1310 registered children with temporary status left without parental care.** The forms of protection of the child left without parental protection are ineffective.

¹¹ Letter of the Ministry of Education, Culture and Research no. 03/1-09/3973 of 28.07.2020;

¹² <https://msmps.gov.md/>

The People's Advocate for Children's Rights considers that the national authorities **have failed to ensure adequate protection based on the best interests of the child in a street situation during a pandemic.**

The Children's Ombudsman draws attention to poor practices in the implementation of national legislation, policies and strategies, inefficiency of intersectoral cooperation mechanisms in the field of child rights protection, a fact established in the conclusions of the Thematic Report "Assessing the efficiency and effectiveness of intersectoral cooperation mechanisms in the field of child rights protection".

It also draws attention to the need to bring national legislation into line with relevant international standards for the protection of children, in particular the UN Convention on the Rights of the Child and the signing/ ratification of the third Optional Protocol to the Council of Europe Convention on the protection of children against sexual exploitation and sexual abuse (Lanzarote Convention), as well as international standards in the field of online child safety.

Preventing and combating the torture

In 2020, the Ombudsman received more than 445 applications from detainees containing allegations of **inhuman and degrading treatment due to inappropriate detention conditions**: *inadequate detention conditions; overpopulation; poor and insufficient quality food; lack of effective medical care (lack of medicines, lack of doctors, medical equipment), dental pain; unsanitary hygiene (parasitic insects, presence of dirt, lack of beds, presence of rodents, lack of adequate ventilation, access to daylight, deplorable condition of toilets, dirty conditions in bathrooms; lack of privacy in toilets and bathrooms; (some lead to illness with tuberculosis), insufficient warming during the winter, relations between detainees, discriminatory treatment, intimidation and harassment by the administration, etc.*

Even if the state imposed a compensatory remedy for detention in poor conditions, this does not mean that prison authorities must give up their provision of at least the minimum standards of detention. **Detention of people can easily be qualified as contrary to art.3 of the Convention and European case law.** These findings have been repeatedly drawn by the UN Committee against torture (2014, 2017), the European Committee for the Prevention of Torture (2015-2020), the Ombudsman (2002-2020) and the Council for the prevention of torture (2017-2020).

More than 4200 detainees of about 6500 were detained in overcrowded conditions in penitentiary institutions. Material conditions remain below the allowable limit, deplorable and/or inhumane.

Furthermore, the employees quite often resort to the use of force and special means to restore internal order, and the documentation of the facts is not always objective.

The situation in residential institutions has not changed. Accommodation remains unsuitable for the specific requirements and needs of residents. 80% of residents continue to experience pain due to dental disorders and other illnesses, not included in the unique medical assistance program.

The lawyers' access to clients in detention has been largely restricted due to restrictions imposed in the context of the health crisis. Some lawyers were subjected to searches and intimidation under the pretext of complying with protection commitments before and after meetings with detained clients. At the same time, law enforcement officials and prosecutors had physical access to detainees and convicts.

The problem of overcrowding persists, including due to the fact that some penitentiary institutions cannot physically secure the minimum detention limit set by the rules of the Committee for the prevention of torture. At the same time, state policies are focused more on maintaining the penitentiary population than on depopulating or reducing to place in detention.

During January 28 and February 7, 2020, the Republic of Moldova was visited by members of the European Committee for the prevention of torture (CPT). Here are some of the CPT's findings: **excessive use of force** by staff on detainees; acts of **violence and intimidation fuelled by well-established informal hierarchies** in the country's penitentiary system; unsatisfactory conditions of detention; **acts of deliberate self-harm** are still considered a disciplinary offense.

On 12 February 2020, a moratorium was applied on the application of the compensatory appeal, which lasted until 1 June 2020. Subsequently, the Ministry of Justice drew up a draft amendment to the compensatory mechanism, which was not approved during the reporting period.¹³

As of December 31, 2020 **there were 5242** complaints filed in court for detention in poor conditions due to the application of preventive and compensatory mechanism. In total, only 200 detainees were released from detention by combining the reduction of punishment with released on parole (in 2019 - only 53 detainees released). The amount of monetary compensations offered to the detainees is over 2124504 MDL.

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¹³ https://cancelaria.gov.md/sites/default/files/document/attachments/proiectul_371_0.pdf