** **

Information from CSOs

in relation to the review of the Republic of Moldova **on the implementation of International Covenant on Economic, Social and Cultural Rights**

- 62 Session (18 Sep 2017 - 06 Oct 2017)

1. **REPORTING ORGANIZATIONS**

**Centre of Legal Assistance for People with Disabilities (CLAPD), is** national CSOs registered on 14 July, 2006 by the Ministry of Justice of Moldova. **CLAPD mission is to advocate for protection, promotion and monitoring of the rights of people with disabilities. CLAPD has more than 10 years of expertise in advocacy for the rights of people with disabilities at national and local level and 25 programs developed.** CLAPD had a leading role in the CSOs campaign for the ratification of CRPD by Moldova (2010), in drafting the first Alternative Report on the CRPD (2015). <http://advocacy.md>

**Motivatie (Motivation) Moldova –** is an organization of people with disabilities founded in 2002. Its mission is to improve the quality of life of persons with disabilities and achieve a higher degree of their social inclusion. Motivatie Moldova has as a main target group person with physical impairments and wheelchair users. Motivatie Moldova has a leading role in public campaigns for accessibility. <http://motivatie.md>

**"Infonet" Alliance** - is a CSO founded in 2007. "Infonet" is working in providing the right to information access for people with disabilities, especially with sensory impairments, providing the right to vote to persons with disability.
<http://www.infonet.md/>

**The Association of Deaf Persons**, established in 1940, is the main organization representing persons with hearing disabilities in Republic of Moldova

1. **REPLY TO LIST OF ISSUES**

***General******information***

***6. Please provide information on the impact of the decision of Parliament to halt the implementation of Law No. 397-XV on Local Public Finance of October 2003 and subsequent amendments thereto on the provision by local governments of social services, including social protection, health care and education. Please also provide information on the measures taken to mitigate the impact of that decision.***

According to the Law No. 397-XV on Local Public Finances of October 2003 (in force since January 1, 2015) the financing of social services at local level is the responsibility of local public authorities. Starting from the available financial situation, local public authorities can target resources according to local needs. Prioritizing the use of financial resources belongs exclusively to local public authorities.

**The legislation does not provide for any mechanism to guarantee the financing of social services at the local level and to ensure compliance with the state's obligation to guarantee citizens the right to social protection.**

Insufficient financing of local social services, jeopardizing the reform of de-institutionalization.

The UN Committee on the Rights of Persons with Disabilities (hereafter the CRPD Committee) in the Concluding Observation in relation to the first periodic report of the Republic of Moldova (April 2017) expressed its concern” about the slow progress of the deinstitutionalization process. State party lacks the legal measures providing for the independent living of persons with disabilities who are deinstitutionalized, including a lack of clarity regarding the responsibilities of central and local authorities in the provision of community-based services.”

**Proposed recommendations:**

To adopt legal measures, clarify the responsibilities and resource allocations of central and local authorities in order to secure the right to independent community life and basic social protection;

***Issues relating to general provisions of the Covenant (arts. 1-5)***

***Non-discrimination (art. 2 (2))***

***10. part.1 Please provide updated information on the steps taken by the State party to reform the disability certification system and the achievements made to date in that regard.***

The criteria for determining the disability for adults (Order of Ministry of Labor, Social Protection and Family and Ministry of Health nr.12-70 from 28.01.2013) and criteria for determining the disability for children (Order of Ministry of Labor, Social Protection and Family, Ministry of Education and Ministry of Health nr.13-71-41 from 28.01.2013) are not entirely connected to the modern standards, in particular the Convention on the Rights of Persons with Disabilities. There is a lack of tools, methodical practical application guides for these criteria.

National Council for Determining Disability and Working Capacity has 22 local branches that are working at the territorial level and 4 specialized councils: pediatrics, oncology, etc. In these are activating 101 physicians, 27 nurses, 23 social assistances and 12 educational psychologists. Concerning the adults, the team has a social assistant. The educational psychologist is involved only in the team for children. The staff involved in the activity is not given an adequate training in applying the social model on determining the disability or in elaborating the Individual Rehabilitation Program, etc.

Since 2013 until the present, the change on determining the disability is small. Although there are involved resource teachers and social assistances in the Committee on determining the disability, their role is non-significant and the present approach is predominantly a medical one. In this case, we meet persons with disabilities who are leaders of NGOs, very active in the community, with university degree and with a disability certificate where it is written”0% preserved working capacity”.

CRPD Committee in Concluding Observation is concerned that the medical approach to disability still persists and is wide-spread in the State party as reflected in its legal framework and the medical assessment of disability, including in the determination of the working capacity of persons with disabilities.

**Proposed recommendations:**

To recommend the State to intensify its efforts to implement a human rights-based approach to disability, and to ensure that disability determination focuses on the barriers for the social participation of persons with disabilities and refers to individual requirements, will and preferences.

***10. part.2 …Please also provide updated information on the measures taken to improve the accessibility of buildings and public transport, as well as information, for persons with disabilities.***

Lack of accessibility is one of the major factors that discriminate people with disabilities in the Republic of Moldova and limits them to the realization of their fundamental human rights.

The Special Rapporteur on the rights of persons with disabilities, Catalina Devandas-Aguilar, undertook a visit to the Republic of Moldova from 10 to 17 September 2015. In her report it is mentioned:[[1]](#footnote-1)

” While in the Republic of Moldova, the Special Rapporteur observed a general, severe lack of accessibility in the physical environment and transportation, a situation that does not appear to have improved since the Special Rapporteur on Disability of the Commission for Social Development raised a similar concern in 2013. Chisinau, where most sidewalks, official buildings and other public places lack even the most basic accessibility measures, such as ramps, is almost entirely inaccessible for wheelchair users. Owing to the lack of accessibility to buildings and infrastructure, many of the meetings of the Special Rapporteur with government officials and other actors had to be held on the premises of the United Nations. Public transport and taxis are also generally not accessible. The Special Rapporteur received reports that public funds designed to improve accessibility were not used for that purpose, in spite of the accessibility requirement recently introduced for all public procurement processes for transportation and street maintenance.”

The Law no. 60 of 30.03.2012 is not providing any evaluation and monitoring mechanism to comply the accessibility access. Thus, the public buildings, the infrastructure of the roads, all the types of transport have very low degree of accessibility. The access to information of the persons with sensory are still inaccessible.

There are two main reasons: the lack of evaluation and monitoring service/inspection on the compliance with the accessibility conditions and ascertainment of the violation cases if they exist. Second reason is the absence of an efficient accountability mechanism of responsible persons for failure to comply with the legislation.

National normative documents NCM C.01.06-2014 and CP C.01.02-2014 are provided to be used for the design of the buildings under construction/reconstruction. These normative documents are copied from the Russian Federation and in some respects, correspond to international and European standards in the area of accessibility. Most architects do not know the content of these normative documents. The Ministry of Regional Development and Constructions has not made the sufficient effort to facilitate the knowledge of these normative acts by the designers, project checkers and builders.

In 2016, the Centre for Legal Assistance for People with Disabilities and the Association “Motivation” organized protests in front of the courts because they are not offering appropriate accessibility conditions (<http://www.ipn.md/en/societate/77017>) .

In this judicial process, it was found that no Court in the capital city (Chisinau) is accessible for the users of wheelchair: There is no accessible ramp at the entrance, and no accessible WC. The same situation is regarding the inaccessibility of the Courts in the regions of the country.

**Proposed recommendations:**

* Take all measures to ensure the implementation of legal guarantees to accessibility in all areas including urbanism, construction, and public services;
* Improve the national legislation and the technical norms in constructions, so that they meet the international and European standards in the field of accessibility. Ensure that the sanctions for non-compliance are developed for all areas of accessibility, and enforced;
* Adopt a time-bound accessibility plan of action and ensure its implementation and monitoring in close consultation with persons with disabilities through their representative organizations;
* Organize trainings for designers, architects, builders, construction inspectors, and urban planners, in order to respect the principles of accessibility and universal design, especially in the construction / reconstruction of new buildings.

***Issues relating to the specific provisions of the Covenant (arts. 6-15)***

 ***Right to work (art. 6)***

***13. Please provide statistical data for the reporting period on: (a) labour force participation; (b) employment rates; (c) the proportion of employment in the formal economy and in the informal economy; (d) underemployment rates; and (e) unemployment rates, disaggregated by sex, age, ethnicity and disability.***

The National Bureau of Statistics, starting with January 2017, began collecting data on the employment rate of persons with disabilities in the regular "Labor Force Survey". The data collected are not yet published.

The research “The use of time by persons with disabilities” made by National Statistics Office in 2012, shows a rate of employment “three times lower for the persons with disabilities, comparing to the general population: 10,6 % for persons with disabilities and 38,4% for general population.”[[2]](#footnote-2)

According to the” Household Budgets Survey” (2015) – 41.4% of the total number of persons with disabilities, of age of 15 years old and more, are employed, as compared to 65.9% in the case of persons without disabilities. The numbers need to be adequately interpreted, given the fact that the *general* employment rate in Republic of Moldova 2015 was of 40,3%.

**Taking into account the available statistical data, we estimated that the rate of employment of persons with disabilities in Republic of Moldova is between 15-20%.**

***14. Please provide information on the measures taken to improve the overall low level of employment and to tackle the reportedly high level of unemployment among young people, women, persons with disabilities and Roma. Please also provide information on the implementation of the regulation requiring companies with 20 employees or more to hire persons with disabilities as 5 per cent of their workforce.***

Although the Law no.60 of 30.03.2012 on the social inclusion of persons with disabilities stipulates the obligation to ensure the 5% quota for the employment of disabled persons, this does not apply in practice. A 5% quota was also provided for by the previous 1991 Social Protection for Disabled Act, but it has never been implemented. If an implementation mechanism will not be approved, the quota in Law no. 60 of March 30, 2012 will have the same fate. It is necessary for the Government to approve a Regulation explaining how the law applies: what means the obligation of the "employers to create or reserve 5% of the jobs for persons with disabilities", how is informed about these places and the role of the Agency National Labor Force, etc. Without these, the sanctions for non-compliance with the 5% quota cannot be applied, which has been introduced in 2016 in the Contravention Code.

In the Concluding Observations, the CRPD Committee is concerned about” significant unemployment and inactivity rates of persons with disabilities and the fact that national employment strategies and relevant agencies are inadequate to facilitate and promote the employment of persons with disabilities, and to implement the minimum 5% mandatory employment quota for persons with disabilities.”

**Proposed recommendations:**

Mainstream the rights of persons with disabilities and the availability of affirmative actions into national employment strategies and respective agencies, enforcing the implementation of Law no. 60 regarding employment, including the mandatory quota and incentive measures for employers. Approval of a Government Regulation describing the mechanism of 5% quota application.

*Right to social security (art. 9)*

***21. Please provide information on the current social security system, including both contributory and non-contributory programmes, particularly in terms of public spending allocated to each programme as well as the eligibility, coverage and level of benefits of each programme. Please also provide detailed information on the measures taken or planned to reform the pension system and on how those measures address the challenges facing the current pension system. Please indicate what measures the State party is taking to ensure that pensioners, whose minimum monthly pension is below MDL 1,000, enjoy an adequate standard of living.***

The actual legislation keeps extremely small the amount of” disability allowance” /” state social allowance” on base of Law no.499 of 14.07.1999 on State Social Allowances for certain categories of persons, those who do not have a qualifying employment (contributory) period to receive “disability pension”.

In 2016, 45 455 persons with disabilities were receiving” state social allowance”, that is about 24% from the total number of persons with disabilities in Republic of Moldova. The average amount of” state social allowance” for 2016 was 402 MD lei (18,9 Euro) per month. For 2017 the average amount of” state social allowance” will be 423 MD lei, according to Law no.286 from 16.12.2016 regarding the social insurance budget for 2017. For comparison, the average amount of a disability pension for 2017 is 1072, 84 MD lei.

This means that many persons with disability that are receiving” state social allowance” are forced to survive with the amount of about 18,9 Euro per month, which is not in correspondence with Target no1.1 Sustainable Development Goals (Agenda 2030).

Only children with severe disability, persons with severe disability from childhood and persons with visual impairments with severe disability, additional to “disability pension” or “state allowance” receive the” allowance for care”. The average amount of this payment is 747 MD lei.

Persons with disabilities with the income lower than the MGMI (Monthly Guaranteed Minimum Income), can apply to receive the **Social Aid (MGMI -765 lei** and **Heating Allowance for winter period (MGMI – 1024 lei)[[3]](#footnote-3).** The goal of the Social Aid is to ensure a MGMI for disadvantaged families (not only persons with disabilities), offered based on the assessment of the family’s monthly average global income and the need for social assistance. The family receives the deference between MGMI and their de facto income (including all social benefits).

**Main disability benefits in Republic of Moldova**

|  |  |  |  |
| --- | --- | --- | --- |
|  | **Have a qualifying employment period** | **Do not have a qualifying employment period** | **Comments** |
| Severe disability(0–20% preserved working capacity) | disability pension+ allowance for care\* | disability allowance+ allowance for care\* | \* ”allowance for care” receive: children with severe disability, persons with severe disability from childhood and persons with visual impairments with severe disability. |
| Accentuated disability(25–40% preserved working capacity) | disability pension | disability allowance |  |
| Medium disability(45-60% preserved working capacity) | disability pension | disability allowance |  |

Proposed recommendations:

* To recommend the State to ensure that every persons with disability receive disability social protection benefits to provide for an adequate standard of living, including covering costs related to disability, taking in to account Target no1.1 Sustainable Development Goals

***22. Please provide information on the implementation of the Social Aid Programme, including the eligibility criteria, the number of eligible households, the number of households actually receiving the benefit and the amount of the benefits received. Please also indicate the steps taken to minimize the targeting errors of the Programme and to ensure that all the eligible households, particularly those of Roma and people living in rural areas, can claim their entitlements without administrative and financial burdens.***

The application of the Law on Social Aid nr.133 from 13.06.2008, needs to be improved:

* Persons with disabilities who have an income lower than the Minimum guaranteed monthly income (MGMI), for instance those who receive” state allowance”, are forced to submit periodically (i.e, every 6 months) the package of document to request Social Aid.
* - Improving the family welfare evaluation mechanism. It does not allow people with disabilities to access Social Aid. The mechanism does not take into account the specific needs and expenses of people with disabilities (cars, washing machines, mobile phones that may be necessary for some people with disabilities). Not all persons with disabilities with the income lower than the MGMI receive Social Aid. Difficulties faces persons with disabilities, which do not have officially established residence visa, and adults with disabilities living with their parents.
* Another problem reported is that in some cases Social Aid discourages persons with disabilities to seek employment.

Proposed recommendations:

To recommend the State to provide safeguard that all persons with disabilities can have access to Social Aid and are not becoming dependent on Social Aid, but encouraged to seek for employment.

To increase the amount of retirement / allowance, especially for people with disabilities with high support needs (above the MGMI threshold), so that the person does not have to submit documents for Social Aid every few months.

To improving the family welfare assessment mechanism and taking into account specific needs of people with disabilities.

*Right to an adequate standard of living (art. 11)*

***27. Please provide information on the outcome of the measures taken to provide social housing to disadvantaged and marginalized families and individuals. Please include disaggregated data on the number of social housing units provided annually over the reporting period. Please indicate the measures taken to address the protection gap for children without parental care, including graduates of boarding schools, and enable them to access social housing under the Law No. 75 on Housing. Please clarify the steps taken to increase the provision of protected housing arrangements and personal assistance to persons with disabilities, instead of institutionalization, and include information on the annual budget allocated to such measures and institution-based services, respectively, for the reporting period.***

According to the Government Decision no. 447 of 19.06.2017 for the approval of the Regulation on the bookkeeping, the manner of assigning and using social housing ", paragraph 38.

"Social housing is offered to the eligible categories in the following proportions:

a) 10% - for persons with severe disabilities;

b) 15% - to families with infants with severe disabilities;

c) 50% - to young families, within the meaning of Law no. 215 of 29 July 2016 regarding youth, who do not have a dwelling;

d) 15% - Families in which triplets, quadruplets or more children simultaneously;

e) 10% - to young people who have been declared without parental care until the age of 18 years or until the full exercise / assignment of full-fledged capacity and who have not benefited from state housing. "

Thus, facilities for social housing are provided only for persons with "severe" disabilities (about 15% of the total number of people with disabilities). Other categories of people with disabilities do not have the right to access social housing.

Proposed recommendations:

To expand the facilities provided by the legislation on social housing and other disabled persons.

*Right to education (arts. 13-14)*

***31. Please provide information on the steps taken by the State party to address the consistently low level of enrolment in preschool, primary and secondary education, particularly among Roma children and children living in rural areas. Please also provide information on the steps taken by the State party to remove all the informal costs that preclude many disadvantaged and marginalized children from going to school.***

***32. Please provide detailed information on the school optimization measures, including their impact on children’s access to education, the challenges faced in implementation and the measures taken to address them. Please also provide information on the number of schools that have been closed and the number of students affected by the measures.***

***33. Please provide information on the implementation of the inclusive education programme for children with disabilities at all levels in all public and private educational settings, provided for in the 2014 Education Code. Please clarify whether the provisions in the Code allowing for segregated schooling have been repealed. Please provide information on the implementation of the 15 per cent quota set for persons with disabilities in professional schools and universities.***

The sign language is not adequately recognized as an official language of the State party. The teachers of the special schools for deaf children and with hearing disabilities do not receive training in sign language, consequently they do not pose the necessary communication skills to effectively use sing language in teaching school subjects.

The insufficient training of sign language interpreters resulting in an inadequate number of interpreters in public and private services and the lack of access to bilingual education for deaf children.

The status of the sign language in Republic of Moldova is legitimated by the Law no. 60 of 30.03.2012 and Regulation on the operation of the Service of Interpretation into Sign Language for Persons with Hearing Impairments was approved by Government Decision no. 333 of 14.05.2014.

The art. 25 para. 1 of the Law no. 60 of 30.03.2012 provide, „The State recognizes and promotes sign language and other alternative modes of communication as a means of communication between people.”

Annually, through the Ministry of Labor, Social protection and Family used to be allocated the amount of 500 000 MD lei from the state budget for the insurance of sign language interpretation service. Unfortunately, year by year, the amount was decreased with the explanation that 50% of the amount could not be capitalized by the Association of Deaf Persons in Moldova. This was happening because:

* In 2016 was 1 interpreter for 195 persons with hearing disabilities. We mention that the European average varies from 1 interpreter for 70-100 persons with hearing disability.
* The price per hour of sign language interpreting varies from 25 to 31,36 MD lei (1,1 – 1,7 Euro), which is very low.
* The costs of transportation to the place where the service is going to be delivered and the time of transportation is not charged. Also, the costs on creating jobs for the sign language interpreters is the responsibility and the task of the Association of Deaf Persons. For this reason, although the services are highly requested, they are available only partially on the territory of Republic of Moldova.

The Republic of Moldova, via the Ministry of Education, had undertaken measures that, according to the opinion of the Association of Deaf Persons, highlight problems in the implementation of inclusive education programs relating to persons with hearing impairment: closing the special/residential institutions for deaf children, merging the Vocational school for persons with hearing disability in Chisinau with … the Vocational school for children with visual impairments; inclusion of children with hearing disability in the general education institutions. The Association of Deaf Persons is pronouncing in the favour of inclusion of children with hearing disability in the pre-school, gymnasium, high school and high education institutions, but it finds, unfortunately, that the teachers lack an appropriate training and they haven’t received such a training since 2010, which would allow this inclusion. The Association of Deaf Persons is pleading for the announcement of moratorium when closing a school, special/residential institutions for deaf children, until the remedial of the above causes.

The majority of the educational institutions are not having physical accessibility conditions: access ramps, accessible WC, sufficiently large doors, contrasting marking, etc. In some cases, the ramps are built only as a formality, in practice is not possible to use them. The school buses that ensure the transportation of the children to the schools in the republic are not accessible for children with wheel chair.

In this case, children with disabilities are forced to opt for home schooling because of the lack of elementary accessible measures.

A major problem of children with disabilities (especially with hearing and visual impairment) stays to be the access in the lyceums, professional schools, college and university. The lack of support services in the secondary educational institutions (vocational), the fact that he buildings and the educational programs are not adapted, makes them inaccessible for children with disabilities in the most of the cases.[[4]](#footnote-4)

**Proposed recommendations:**

* Recognize sign language in official interaction
* Invest in the training of sign language interpreters and provide sign language interpretation for services open to the public and so that deaf children have equal access to a quality, inclusive education
* The Ministry of Education to approve a model regarding the “reasonable adaptation” of the educational institutions and a plan regarding the gradual accessibility (reasonable accommodation) in those 1300 educational institutions from Republic of Moldova.
* Development of support services in the educational secondary professional institutions, in the specialized medium education and superior in order to increase the access to education of people with disabilities.
* Ensure that no child is refused admission to mainstream schools on the basis of disability, ensure accessibility and allocate the necessary resources to guarantee reasonable accommodation to facilitate the access of students with disabilities to quality, inclusive education, including pre-school and tertiary education;
* Make training on inclusive education and its implementation mandatory for administrative staff and teachers.

Cultural rights (art. 15)

34. Please provide information on the steps taken to provide education in both the official and mother tongues in the regions where languages other than the official language is spoken. Please also provide information on the measures taken to protect and preserve minority languages, particularly the Gagauz language. Please further provide information on the measures taken to ensure that persons belonging to linguistic and ethnic minority groups take part in cultural life, taking into consideration of the Committee’s general comment No. 21 (2009) on the right of everyone to take part in cultural life.

Unfortunately, the majority of cultural institution are not physically accessible for persons with disabilities.

Concert halls, theatres, public libraries were built during the Soviet time, and it is missing a for their reasonable adaptation. No cultural institution is having an accessible ramp according to the standards, accessible WC or other facilities. The other persons with disabilities are discriminated in their access to the cultural events.

**Proposed recommendations:**

Approval of a plan, of technical recommendations and allocation of resources for the reasonable adaptation of cultural institutions (libraries, concert halls, theatre, etc.) for people with disabilities.

31.08.2017

1. <http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session31/Documents/A%20HRC%2031%2062%20Add.2_E.docx> [↑](#footnote-ref-1)
2. <http://www.statistica.md/public/files/publicatii_electronice/Utilizarea_timpului_RM/Note_analitice_rom/04_brosur_ROM.pdf> [↑](#footnote-ref-2)
3. Law on Social Aid nr.133 from 13.06.2008 [↑](#footnote-ref-3)
4. *Social inclusion of people with disabilities in Republic of Moldova*, Soros Foundation Moldova. Keystone Moldova, Chișinău 2017 <http://soros.md/en/publication/incluziune-sociala-persoane-cu%20dizabilitati> [↑](#footnote-ref-4)