

**The alternative follow-up report  
of the Office of the People's Advocate of the Republic of Moldova  
to the UN Committee on Economic, Social and Cultural Rights (CESCR)**

**9. The Committee recommends that the State party take all measures necessary to:**

**(a) Provide both the Ombudsman and the Equality Council with sufficient financial and human resources and ensure that the way these institutions are financed does not undermine their independence;**

**(b) Ensure adequate follow-up to the recommendations and decisions made by these institutions;**

**(c) Ensure that they are fully in compliance with the principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles).**

*Financial independence: legal provisions*

According to Law no. 52 of 03.04.2014 on the People's Advocate (Ombudsman), the People's Advocate Institution is autonomous and independent from any public authority, legal entity, no matter of the type of property and legal organization form, and any individual in the decision making position at all levels. The interference into the activity of the People's Advocate, the deliberate ignoring by the responsible officials at all levels of the referrals and recommendations of the People's Advocate, as well as the impeding in any form of his/her activity involve liability in conformity with the legislation.

The guarantees of independence of the People's Advocate are enshrined also in the Constitution of the Republic of Moldova (art. 59<sup>1</sup>)<sup>1</sup>.

The Office of the People's Advocate (OPA) is funded from the state budget within the limits of budget allocations approved through the annual budget law<sup>2</sup>. Following the amendments to the Law no. 181 of 25.07.2014 on public finances and budgetary-fiscal responsibility<sup>3</sup>, in order to consolidate the financial independence of the institution, the draft budget is prepared and approved by the independent/autonomous budgetary authority, with the advisory opinion of the Ministry of Finance. The draft budget is submitted to the Government to be included in the draft state budget, which will be submitted to Parliament for adoption. In case of disagreement, the independent/autonomous budgetary authority presents to the Parliament for settlement its objections to the draft budget approved by the Government.

*Budget*

Starting with 2017, there was an increase in the Office's budget. Meanwhile, the allocations for financing the activities carried out by the People's Advocate and

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<sup>1</sup> Law no. 70 of 13.04.2017 introduced a new Chapter III<sup>1</sup>, specifically devoted to the People's Advocate, in the Constitution.

<sup>2</sup> Law no. 52/2014 (art. 37 para. (1))

<sup>3</sup> Law no. 147/2018 (art. 51<sup>1</sup>)

the People's Advocate for children's rights in exercising his/her duties increased as well (in 2016 – 7844,9 thousand MDL; in 2017 – 10932,7 thousand MDL; in 2018 – 12458,0 thousand MDL; in 2019 – 13302,8 thousand MDL).

The financial resources allocated by the state authorities both for the financing of the institution and for human rights promotion were in accordance with the draft budget prepared by the OPA.

#### Budget for human rights promotion

Only for the promotion activities carried out by the Office<sup>4</sup> were allocated in 2017 - 500.0 thousand MDL, in 2018 - 2000.0 thousand MDL, in 2019 - 1800.0 thousand MDL, in 2020 - 1600 thousand MDL. The budget reduction for these purposes is conditional upon objective factors, such as the identification of external sources of funding (international partner organizations - Council of Europe, UNICEF, etc.) or the purchase of services at a lower price than initially estimated.

#### Staffing

By Law no. 164 of 31.07.2015 for the approval of the Regulation on the organization and functioning of the OPA, the staff of the institution in number of 65 units was approved. The staffing may be amended by the Parliament at the motivated proposal of the People's Advocate.

Staff turnover and low pay, which has a negative impact on the institution's performance, are also challenges for the OPA. 41 persons, including civil servants, staff employed in the People's Advocate cabinet, technical service staff and the staff of the territorial representations currently operate in the Office.

#### Problematic aspects

Ensuring healthy working conditions for the People's Advocate and the staff continues to be problematic.

The building where the People's Advocate and the employees of the institution operate, handed over to the management of the OPA in 2016, does not correspond to the construction norms and technical standards. According to the conclusions of the technical expertise, the building is in a damaged state, with a degree of seismic resistance almost zero, which poses an increased danger to life and health. It is recommended the demolition of the existing building and the construction of a new one that corresponds to standards in construction.

The impossibility of adapting the building to the needs of people with locomotor, sensory and other impairments create serious impediments to their involvement in the actions organized by the institution and limits their access to the People's Advocate.

#### Accreditation

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<sup>4</sup> Editorial services (editing studies, reports, other information materials), organizing public events, hiring experts, etc.

The Office of the People's Advocate was reaccredited with "A" status by the Sub-Committee on the Accreditation (SCA) of the Global Alliance of National Human Rights Institutions (GANHRI) in Mai 2018. The SCA encouraged the Moldovan NHRI to continue advocating for amendments of its enabling law in order to include a transparent and participatory selection process and to continue advocating for the provision of adequate funding to effectively carry out its mandate.

**59. The Committee recommends that the State party review the draft health code with a view to fully addressing all the challenges facing the current health-care sector, particularly including those mentioned in paragraph 56 above, and ensuring that the draft is based on a human rights approach and is fully in line with article 12 of the Covenant.**

**Right to health**

**56. The Committee is concerned at the challenges facing the health-care system in the State party, in particular:**

(a) The compulsory health insurance system leaves around 20 per cent of the population uncovered;

(b) The optimization process in the health-care sector further restricts access to health-care services, particularly in rural areas;

(c) The overall quality of health-care services is poor and no mechanisms are in place to monitor and control public health facilities;

(d) Roma, persons with disabilities, persons living with HIV/AIDS, refugees and asylum seekers and other disadvantaged and marginalized individuals and groups are discriminated against in accessing health-care services (arts. 2 (2), 9 and 12).

Regarding the situation of the health care policies, we have to mention that the Health Code was not yet adopted.

**The right to health care is not guaranteed to all persons**, especially to vulnerable groups: those lacking financial resources, a job, to uninsured persons caring for a child up to the age of 2 years (single parents).

By Law no. 138 of 20.11.2020, the list of subjects of compulsory health insurance was extended by including the insured persons who have reached retirement age according to the national legislation and receive their pension from another state. The legislative amendment was operated as a result of the proposal submitted by the People's Advocate to the Ministry of Health, Labour and Social Protection, in 2018<sup>5</sup>. The list was also supplemented by war veterans and

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<sup>5</sup> Report on the observance of human rights and freedoms in the Republic of Moldova in 2019, p. 16

participants in the liquidation of the consequences of the Chernobyl Nuclear Power Plant<sup>6</sup>.

Data of the sociological study “Perception of Human Rights in the Republic of Moldova” (2018), conducted at the request of the Office of the People’s Advocate denote the respondents’ rather negative attitude towards the way in which the right to healthcare is respected:

- The right to health care is one of the most violated rights in the perception of the population;
- About 62% of respondents mention that a person’s economic status affects the right to health protection;
- 56% of respondents state that the health insurance does not provide its holder with an adequate level of medical services;
- 48% of interviewees noted that the State does not provide equal access to qualitative medical services to all;
- These statements denote a major dissatisfaction of population with the health system and a deterioration in perception of the respect of the right to healthcare;
- Roma people sometimes face a discriminatory attitude, do not receive proper health care service, due to high costs of the services and medication.

The study on ”Upholding the rights of the foreign citizens in the state custody”, elaborated in 2019 by the OPA shows that there is limited access to medical assistance of foreigners placed in the Temporary Placement Centre for Foreigners (TPCF) of the Bureau for Migration and Asylum (lack of medical stuff, refusal to provide health care). The TPCF administration and employees have no knowledge and abilities of how to treat and work with HIV-positive people (a case of isolation of a HIV-positive person from other detainees was identified)<sup>7</sup>.

The People’s Advocate submitted a proposal to the Ministry of Interior, to revise the normative framework in the field of asylum and compulsory health insurance (Law no. 270 of 2008 on asylum in the Republic of Moldova and Law no. 1585 of 1998 on compulsory health insurance), in order to respect the right to health of asylum seekers under its jurisdiction and to ensure access to healthcare services for all persons, without any discrimination, including for vulnerable groups. The proposed revision consisted in the necessity to complete the list of beneficiaries of compulsory state health insurance with vulnerable groups of people listed in article 21 of Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 laying down standards for the reception of

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<sup>6</sup> [http://ombudsman.md/wp-content/uploads/2020/09/Report-on-the-observance\\_engleza-.pdf](http://ombudsman.md/wp-content/uploads/2020/09/Report-on-the-observance_engleza-.pdf)

<sup>7</sup> Thematic study ”Upholding the rights of the foreign citizens in the state custody”, 2019, p. 49

[http://ombudsman.md/wp-content/uploads/2020/06/EN\\_Studiul\\_Situatia\\_str%C4%83inilor\\_FINAL.pdf](http://ombudsman.md/wp-content/uploads/2020/06/EN_Studiul_Situatia_str%C4%83inilor_FINAL.pdf)

applicants for international protection (minors, unaccompanied minors, disabled people, elderly people, pregnant women, single parents with minor children, victims of human trafficking, persons with serious illnesses, persons with mental disorders and persons who have been subjected to torture etc.). The problem is not solved. The Ministry mentioned that is working on this issue.

According to the findings of the survey on the observance of Human Rights in the provision of Pre-Hospital Emergency Medical Services (PEMS) in the Republic of Moldova”, elaborated in 2016 by the People’s Advocate, the current condition of the PEMS service indicates a high risk of violation of fundamental human rights, in particular of the right to access to qualitative medical services and the right to respect the time required for the emergency situation.

It has been observed the following:

- Underfunding of the PEMS service, a deplorable state of endowment the service with the necessary equipment. During the last years was pursued the trend of reducing the financing of the service, despite the fact that the needs are increasing (the wear and tear of the equipment and ambulances purchased long time ago, the repair of the outdated buildings, etc.);
- The lack of ambulances or the use of ambulances with a high degree of wear and tear (of over 80%) severely affect the quality of the PEMS service provided to people in medical emergencies, affecting their right of access to health services, the right to quality and safe services;
- The lack of adequate endowment of the ambulances decreases the chance of survival of the patient in serious health condition, with the violation of his or her right to life;
- Only 56.7% of the rural population have access to PEMS stations in the district center;
- Although regulatory requirements on the distance of location of PEMS stations are observed, in order to ensure the operability and functionality of the service, nevertheless, there is a delay of the PEMS due to reasons not related to the responsibility of the service (poor road and local infrastructure). These circumstances impede the rapid access of the PEMS service to the place of call and thus affect the patient's right to respect for time;
- Insufficient supply of ambulances with specific equipment for providing the necessary assistance to the medical-surgical emergency group seriously influences the quality of the assistance provided, according to the needs of the patient in a life-threatening situation;
- Acute shortage of medical staff due to the lack of policies to attract, maintain and motivate the medical staff in the PEMS service (especially in the rural area), the difficult working conditions with a degree of danger and the low pay led to

the abandonment of the profession by the doctors and the refusal of the young specialists to work in the field. As a result, the access of patients to the PEMS service is severely reduced, with the serious repercussions on their life and health;

- The deplorable state of the PEMS buildings, as well as the insufficient supply with drinking water and sanitation in some PEMS violates the right of the employees to decent working conditions, as well as the patients' right to quality healthcare;
- The access to PEMS service is limited by the lack of financial means of the population. Refusal of treatment is more often indicated by respondents with a low socio-economic level (about 44% of respondents), but also by persons with disabilities (43,8%) and retired persons (41,3%).

The results of the thematic report of the People's Advocate on the assessment of the insurance level of the patient's right to safety and quality of medical equipment, elaborated in 2019, shows that the health system does not have sufficient institutional and functional capacities for the full implementation of the Law on medical devices number 102 of 09.06.2017. The lack of an efficient system of monitoring and assessment of medical devices is attested.

The health system does not have a strategic document in the field of medical device management, technical regulations, minimum standards for equipping medical-sanitary institutions of different level. The non-optimal distribution of the acquired devices determines their inefficient use. Some devices equipped with medical institutions have an operating life of up to 40 years (international norms being up to 10 years).

The current technological potential of medical devices within some public medical-sanitary institutions is morally and physically exceeded, with major deficiencies (65% of Roentgen devices have a wear from 75 to 100%), which present the risk of harm to patients and staff working with these devices.

The degree of endowment of Emergency Receiving Units (ERU) at national level constitutes on average 67%, which does not correspond to the approved norms. About one third of the hospital institutions report shortage of some necessary equipment, compulsory according to the standard of equipment of the (ERU).

There is an insufficient number of equipment required in life emergencies. 80% of the institutions report an insufficient number of vital signs monitors, which do not cover the number of beds in the Intensive Care Section (ICS), or they have a very high wear rate and do not meet the needs of a qualitative medical act. Some

institutions report coverage of 50 or even 45% (every second bed with a serious patient, which requires monitoring, is not equipped with such a system).

Sub-financing of public health care institutions leads to limitation of the budget necessary for maintenance and repair of the medical devices (both staff capacities, and adequate testing and calibration devices) and endangers the patient safety.

There is an acute lack of biomedical engineering specialists in the maintenance, verification and use of medical devices (especially at district level).

**73. The Committee urges the State party to take immediate and effective measures to ensure that students affected by the school optimization process are provided with all necessary support, including sufficient transport services, to participate in all school activities and that the vehicles provided are accessible by students with disabilities. The Committee recommends that the State party assess the impact of the optimization process on the fulfilment of its obligations under articles 13 and 14 of the Covenant and introduce any necessary revisions into the policy accordingly.**

Despite the State's efforts to ensure sufficient transport services, it is found that the transportation of students to schools is not fully provided, especially children from small localities where there are a small number of children are affected.

At the same time, the transport units used do not correspond to the safety requirements and needs of children with disabilities.

Yours sincerely,

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Secretary General