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**SUBMISSION**  
of the  
People's Advocate Office  
for the 138<sup>th</sup> session (26 June - 28 July 2023)  
of the UN Human Rights Committee  
on the Suggested List of Issues prior to  
reporting to be adopted on the Republic of  
Moldova

*The Submission can be published on the Human Rights Committee's website.*

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## ABBREVIATIONS

**LOIPR**- List of issues prior to reporting

**PA**- People's Advocate (Ombudsman)

**PAO** - People's Advocate Office

**GANHRI**- Global Alliance of National Human Rights Institutions

**GPI**- General Police Inspectorate

**GBPI** - General Border Police Inspectorate

**LGBT**-Lesbian, Gay, Bisexual and Transgender

**TDC**- temporary detention centers

**CES** - Commission for Exceptional Situations of the Republic of Moldova

**MIA** - Ministry of Internal Affairs of the Republic of Moldova

**UN** - United Nations Organization

### Information about the authors of the submission

1. The People's Advocate Office is an autonomous institution, independent from any public authority, legal person, regardless of the property type and legal form of organization, and from any decision-maker at all levels. The Ombudsman institution was established in 1998 originally as the Human Rights Center, which became the People's Advocate Office in 2014. The People's Advocate work is governed by the UN General Assembly Resolution no. 48/134 of December 20, 1993, the Principles relating to the Status of National Human Rights Institutions (the Paris Principles)<sup>1</sup> and other international treaties in the field of human rights, as well as the Constitution and other laws of the Republic of Moldova.
2. The People's Advocate contributes to the protection of human rights and freedoms by preventing their violation, by monitoring and reporting on the situation of fundamental human rights and freedoms at national level, by improving the legislation related to human rights and freedoms, by promoting human rights and freedoms and the mechanisms aimed to safeguard them, as well as through international cooperation.
3. The accreditation of the People's Advocate Office with an "A" status by the Sub-Committee on Accreditation of the Global Alliance of the National Human Rights Institutions (GANHRI) in 2018 recognizes that the Ombudsman institution in Moldova is fully complying with the Paris Principles, which set out the minimum standards for the operation of national human rights institutions.
4. The People's Advocate Office protects, monitors and promotes human rights in the Republic of Moldova through research, counseling and awareness-raising.

### Introduction

5. The People's Advocate Office submits this written input to the List of issues prior to reporting (LOIPR) on the Republic of Moldova to be adopted by the Human Rights Committee during the 138th session to take place between June 26 and June 28, 2023.
6. The concerns/issues described below stem from the research the People's Advocate Office has carried out since the last periodic review in 2016. The Ombudsman notes that this list, although not exhaustive, is a summary of considerations on the most pressing human rights issues in light of the International Covenant on Civil and Political Rights in the Republic of Moldova.
7. In addition to the identified issues, we have formulated some questions, to which it would be useful to receive answers from the State during the next session, and recommendations for the State.

### National Human Rights Institution

8. In paragraph 7 of the Concluding observations on the third periodic report of the Republic of Moldova (2016)<sup>2</sup>, the Committee expressed concern at the lack of necessary financial and human resources for PAO to carry out its mandate effectively. The Committee called on the State Party to ensure that the People's Advocate Office has the financial and human resources necessary to carry out its mandate

<sup>1</sup> <https://www.ohchr.org/en/instruments-mechanisms/instruments/principles-relating-status-national-institutions-paris>

<sup>2</sup> <https://ccprcentre.org/files/documents/CCPR:C:MDA:CO:3.pdf>

effectively and independently in accordance with the Principles relating to the status of national human rights institutions (the Paris Principles).

9. The Sub-Committee on Accreditation of National Human Rights Institutions also recommended to the State to provide appropriate level of funding for the People's Advocate Office to carry out its mandate effectively and to guarantee its financial independence through the approval of its budget by the Parliament.

*Suggested questions for the State Party's List of issues prior to reporting:*

10. What mechanism does the State intend to apply to ensure the financial and operational independence of the People's Advocate Office?
11. What are the mechanisms for providing the People's Advocate Office with adequate working conditions and premises?

### **Human rights in Transnistria (art. 2)**

12. In paragraph 6 of the Concluding observations dated November 18, 2016 with a list of recommendations for the Republic of Moldova<sup>3</sup>, the Human Rights Committee recommended that the State Party should review its policies and take all measures appropriate to ensure that individuals in Transnistria can effectively enjoy their rights guaranteed under the Covenant, including those that were the subject of the recommendations made by the United Nations Senior Expert on Human Rights in Transnistria, Thomas Hammarberg.
13. The situation of the rights of the citizens of the Republic of Moldova on the left bank of the Nistru River has shown no improvement since the last reporting period. This is due, on one hand, to the situation caused by the armed conflict between Russia and Ukraine and, on the other hand, to the lack of openness on the part of the de facto authorities in the region. Despite the fact that the sector working groups had several meetings in 2022, no meeting to address the human rights issue took place. The Human Rights Group has not met for several years and all the proposals coming from the national authorities and from the Ombudsman have been rejected.
14. One of the human rights issues in the Transnistrian region continues to be the rights of persons in places of detention. Despite the fact that the representatives of the People's Advocate Office did manage to gain access to two prison facilities controlled by the unconstitutional authorities in 2022, overall, the latter continue to hinder access to the detention facilities. No independent national systemic monitoring institution has access there. PAO does not have a systematic access either. Likewise, there is no civil society in Transnistria to monitor the rights of persons in places of detention and any civic initiative is thwarted or controlled by the security forces in the region.
15. On the other hand, the Government of the Republic of Moldova has not implemented the recommendations of the Universal Periodic Review related to capacity building of the People's Advocate institution for monitoring and safeguarding human rights in the Transnistrian region.

<sup>3</sup> <https://ccprcentre.org/files/documents/CCPR:C:MDA:CO:3.pdf>

16. Thus, after the visit of the UN human rights senior expert, Thomas Hammarberg, there has been no significant progress in relation to human rights in the Transnistrian region. Given the above, the People's Advocate reiterates the importance of implementing the international recommendations on human rights protection on the left bank of the Nistru River and in Bender municipality.
17. More than that, the human rights situation on the left bank of the Nistru River has deteriorated after the adoption of the "Guretki" law, which prohibits the citizens living in that region to lodge complaints to the official authorities of the Republic of Moldova or international human rights bodies.

*Recommendations*

18. The State should take holistic human rights measures to enable the National Human Rights Institution of the Republic of Moldova, the People's Advocate Office, to unconditionally monitor all the places of deprivation of liberty on the left bank of the Nistru River.
19. The State should take measures to enhance the dialogue between human rights experts on the human rights issues on the left bank of the Nistru River;
20. 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 represent a mechanism for promotion and non-judicial protection of the human rights and freedoms in the administrative-territorial settlements on the left bank of the Nistru River and in Bender municipality.

*Suggested questions for State Party's List of issues prior to reporting*

21. What measures does the Government intend to take to ensure the dialogue at expert level on human rights issues on the left bank of the Nistru River?
22. What mechanisms will the State apply to ensure that the persons in the regions that are not under the control of the constitutional authorities of the Republic of Moldova have access to the constitutional public authorities?
23. What measures of protection will be taken in cases of human rights violations?

**Non-discrimination and equality (article 2, paragraph 1, 3, art.3 and art.26)**

24. In paragraph 11 of the Concluding observations with the list of recommendations for the Republic of Moldova, the Human Rights Committee welcomed the adoption of the Law no.121 on equality.
25. On the other hand, the Committee remained concerned about reports that individuals belonging to certain groups continue to face discrimination, including lesbian, gay, bisexual and transgender persons, Roma and Muslims. The Committee called on the national authorities to ensure that all individuals belonging to groups that have faced discrimination in the past are effectively protected from violations of their rights under the Covenant, including by ensuring that the rights of lesbian, gay, bisexual and transgender persons are effectively protected under Law no. 121, and combating stereotypes and prejudice against such persons through awareness-raising campaigns.

26. Indeed, the Republic of Moldova has improved the legislative framework since the last report in 2016 to provide better human rights protection for LGBTQIA+ persons.
27. Yet, despite such legislative improvements, discrimination against LGBTQIA+ persons continues to persist. Thus, the Ombudsman has called on the authorities to ensure protection of the rights of LGBTQIA+ persons, in particular during their mass events or gatherings.
28. Thus, given that currently the society is still quite unfriendly to sexual minorities, the authorities should adopt a holistic policy to inform and promote mutual acceptance and understanding that the members of these communities are active participants in the social life of the community.
29. 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.

#### *Recommendations*

30. The State should scale up efforts to reduce the stereotypes based on gender and gender identity.

#### *Suggested questions for State Party's List of issues prior to reporting*

31. What measures does the Government intend to take to reduce gender stereotypes?
32. How does the Government intend to ensure protection of the rights of LGBTQIA+ people during mass activities or gatherings?

#### *Gender equality* (arts. 2 and 3)

33. In paragraph 13 of the Concluding observations on the third periodic report of the Republic of Moldova from 2016<sup>4</sup>, the Committee welcomed the measures adopted by the Republic of Moldova to promote gender equality, including the legislative initiatives to establish a mandatory 40 percent quota of female candidates on the lists of political parties. The Committee, however, expressed concern that women remain underrepresented in Parliament and in decision-making positions.
34. As regards gender equality in Parliament, it should be noted that the situation has improved and that the Republic of Moldova has scaled up efforts to address the root causes preventing women from participating in the public and political life, particularly in decision-making positions, and in the years since the last report has conducted awareness-raising and capacity building campaigns on the importance of non-discriminatory participation of women in all aspects of public and political life.
35. The State has taken into account the Committee's recommendations and, as a result, the Parliament of the 11th legislature, instituted following the early elections on July 11, 2021, has the highest number of women MPs in the history of the Republic of Moldova, with 40 seats belonging to women.

#### *Recommendations*

36. The State should develop programs promoting equality between girls and boys.

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<sup>4</sup> <https://ccprcentre.org/files/documents/CCPR:C:MDA:CO:3.pdf>

37. The State should integrate topics related to violence against women and domestic violence in the initial and continuous training curricula for teachers.

*Suggested questions for State Party's List of issues prior to reporting*

38. What measures does the Government intend to take to strengthen the education services in relation to gender equality?
39. What measures does the Government intend to take to further ensure the presence of women in decision-making positions?

***Domestic violence*** (art. 3 and art.7)

40. In paragraph 15 of the Concluding observations with the list of recommendations for the Republic of Moldova from 2016, the Human Rights Committee expressed concern about reports of an increasing number of cases of domestic violence in the Republic of Moldova and the lack of prompt and effective investigation and prosecution of such cases.
41. The Committee also made some recommendations for the Republic of Moldova related to prevention of domestic violence and protection of victims of domestic violence (art.16) and was encouraged to adopt and implement a comprehensive strategy to prevent and suppress domestic violence against women, including by ensuring that all allegations of domestic violence are promptly, thoroughly and effectively investigated, that the perpetrators are prosecuted and, if convicted, punished with commensurate sanctions and that the victims have access to effective remedies and means of protection.
42. Finally, the Committee recommended taking awareness-raising measures to eradicate stereotypes that regard women as objects or commodities and providing training to State officials, in particular law enforcement officials, judges and prosecutors, to ensure that they are able to respond promptly and effectively to cases of domestic violence.
43. Given that the Republic of Moldova is the 35th member state to ratify the Council of Europe Convention on preventing and combating violence against women and domestic violence, which entered into force on May 1, 2022 in the Republic of Moldova, this issue has become even more topical.
44. The Government of the Republic of Moldova has approved the National Strategy for preventing and combating violence against women and domestic violence for the period of 2018 - 2023 through the Government Decision no.281 of April 3, 2018, which is based on the four-pillar approach of the Istanbul Convention.<sup>5</sup>
45. The analysis of the State Report on the implementation status of the 2021- 2022 Action Plan of the 2018 – 2022 National Strategy for preventing and combating violence against women and domestic violence in the period of January – June 2022<sup>6</sup> suggests that, while most of the actions planned by the Government have been completed, some of the actions have only partially been implemented.

<sup>5</sup> [https://www.legis.md/cautare/getResults?doc\\_id=128809&lang=ro](https://www.legis.md/cautare/getResults?doc_id=128809&lang=ro)

<sup>6</sup> <https://social.gov.md/wp-content/uploads/2022/10/Raport-monitorizare-Strategie-VF-I-semestru-2022-c.pdf>

46. Moreover, to date there is no central mechanism for collecting disaggregated data on violence against women and domestic violence. Such data are mainly collected by the General Police Inspectorate and only from the criminal or contraventional perspective.
47. Furthermore, 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. The state authorities should provide accommodation to the perpetrators who are removed from their homes and have nowhere else to go.
48. Despite the campaigns conducted in 2022 to raise public awareness about violence against women and domestic violence, there is still insufficient information in the rural areas about gender stereotypes, the legal remedies and specialized services available to victims.
49. Currently, the Republic of Moldova does not have a concept for provision of specialized training to professionals in the judicial and social sectors, such as criminal investigation officers, prosecutors, lawyers, who deal with cases involving victims of domestic violence and sexual violence.
50. Finally, the national legal framework, in particular the Law No. 45 of 1 March 2007 on preventing and combating domestic violence, is not aligned to the Council of Europe Convention on preventing and combating violence against women and domestic violence.

#### *Recommendations*

51. The State should scale up efforts to align the national legislation with the Istanbul Convention standards.
52. The State should revise and align the legal and procedural framework on combating gender-based violence in the context of the armed conflict to the Istanbul Convention.
53. The State should take measures to raise awareness of the provisions of the Covenant and anti-discrimination legislation among judges, lawyers, law enforcement and the general public.

#### *Suggested questions for State Party's List of issues prior to reporting*

54. Did the Government take awareness-raising measures to end stereotypes regarding women as objects or commodities as recommended and what were those measures?
55. Since 2023 is the last year of implementation of the 2018 – 2023 National Strategy for preventing and combating violence against women and domestic violence, it would be useful to know what its implementation status is and if a new strategy is under way.
56. What legislative measures the Government intends to take for better alignment with the international framework?

#### ***Unplanned pregnancies (art. 3, 17 and 24)***

57. In the paragraph 17 of the Concluding observations, the Committee expressed concern about the rate of unplanned pregnancies, particularly among adolescents, due to the limited use of contraceptives and



family planning services, which hinders the ability of women to make independent and informed choices about their health and reproduction.

58. The Committee recommended the State to include sexual and reproductive health education in school curricula.
59. Sexual education in schools remains to be a sensitive issue. Children lack knowledge about their bodies and rights, about gender equality, sexual orientation, gender identity and healthy relationships. Sexual education plays a critical role in preventing and combating child sexual abuse, sexual violence and sexual exploitation.

#### *Recommendations*

60. The State should include a curriculum on children's rights and sexual education in the national compulsory education program.
61. The State should strengthen the mechanism of educational inclusion of the children with disabilities, in particular those with mental disabilities.

#### *Suggested questions for State Party's List of issues prior to reporting*

62. Do the public authorities intend to develop a sexual education curriculum?
63. Does the Government plan to include the human rights and sexual education subject in school in accordance with the good practices of other countries?

#### *Torture and ill-treatment (art. 2, 7 and 14)*

64. In paragraph 21 of the Concluding observations, the Committee remained concerned at reports of torture and cruel, inhuman or degrading treatment in the Republic of Moldova, particularly by police officers during arrest and the preliminary investigation period. Furthermore, the Committee expressed concern at deficiencies in the response of the State to cases of torture or cruel, inhuman or degrading treatment, which fall short of the relevant international human rights standards.
65. 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]<sup>7</sup>, case of CRETU [ill treatment during arrest by police, 2009]<sup>8</sup>, case of MATASARU [ill treatment while in police custody]<sup>9</sup>, case of CANUDA [ill treatment by police officers on the day of arrest]<sup>10</sup>, case of POVESTCA [insufficient medical assistance while in detention]<sup>11</sup>, case of STRAISTEANU and AGACHI [ill treatment while in

<sup>7</sup> <https://promolex.md/21978-ctedo-confirma-existenta-problemelor-sistemic-grave-din-justitia-penala/?fbclid=IwAR0oKyLJMK6FpPqIDRsL6gO1-l4vKP9mHI2VGAYeKmS2NQjH0x7tz7VTh1c&lang=ro>

<sup>8</sup> <https://hudoc.echr.coe.int/eng#%7B%22itemid%22%3A%5B%22001-215337%22%5D%7D>

<sup>9</sup> <https://hudoc.echr.coe.int/eng#%7B%22itemid%22%3A%5B%22001-215342%22%5D%7D>

<sup>10</sup> <https://hudoc.echr.coe.int/eng#%7B%22itemid%22%3A%5B%22001-217253%22%5D%7D>

<sup>11</sup> <https://hudoc.echr.coe.int/eng#%7B%22itemid%22%3A%5B%22001-215339%22%5D%7D>

detention]<sup>12</sup> and case of G.M and others [forced termination of pregnancies and birth-control measures applied in a neuropsychiatric residential asylum]<sup>13</sup>.

66. PAO's findings related to the fundamental safeguards in police custody give rise to compelling concerns. The commitments to eradicate torture involve, among other things, the use of non-offensive techniques during arrest, provision of all available safeguards against abuse, professional attitude to police work, respect for human dignity, creation of a professional environment for police officers, appropriate protective equipment, clear operational processes, regular training. According to PAO's findings, 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.
67. Another issue concerns the investigation and prosecution of cases of torture and ill-treatment, which is not carried out properly.
68. The prosecution system has undergone some changes. The torture prevention department is now in the Prosecutor's Office for Combating Organized Crime and Special Cases, which prosecutes special cases including those involving torture.

#### *Recommendations*

69. The State should step up efforts to prevent and combat torture in the police system, as the General Police Inspectorate (GPI) has failed to do so.
70. The State should address the issue of identifying and refurbishing temporary detention rooms in the police inspectorates which do not have temporary detention facilities.
71. The State should ensure medical examination of the detained persons for injuries/other allegations.
72. The cases of ill-treatment of persons during apprehension, detention in police inspectorates and transfer to other places etc. should be further registered and reported.

#### *Suggested questions for State Party's List of issues prior to reporting*

73. What measures will the Government take to prevent and combat torture in the police system?
74. How does the State intend to monitor human rights during arrest and preliminary investigation?
75. What does the State intend to do to streamline the mechanisms of identification, reporting, prosecution of cases of torture and collection of evidence?

#### ***Abuse and ill-treatment in residential institutions and psychiatric hospitals (art. 3, 7, 9 and 16)***

76. In paragraph 23 of the Concluding observations, the Committee expressed concern at the forced detention of and the non-consensual administration of psychiatric treatment to persons with disabilities on the grounds of mental or intellectual incapacity and the reports of serious abuse and ill-treatment committed by caregivers, health professionals and staff of psychoneurological residential institutions and psychiatric hospitals, including rape, forced contraceptive measures, forced abortions, neglect, restraint and seclusion.

<sup>12</sup> <https://hudoc.echr.coe.int/eng#%7B%22itemid%22:%5B%22001-215341%22%5D%7D>

<sup>13</sup> <https://hudoc.echr.coe.int/eng#%7B%22tabview%22:%5B%22document%22%5D%2C%22itemid%22:%5B%22001-220954%22%5D%7D>

77. PAO received reports of 56 deaths in 2022 (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)<sup>14</sup>. The **incidence** of physical restraint applied on patients is still high (136 cases).
78. Patients are not engaged in occupational activities and spend most of their time in their unfriendly wards under the influence of strong psychotropic medication.
79. An incident that drew PAO's attention took place on October 27, 2022 in the public institution Clinical Psychiatric Hospital in Codru town<sup>15</sup>, where a fire broke out during a riot of a group of patients undergoing coerced treatment. The riot was suppressed with the help of the law enforcement agencies, namely the police, a prosecutor and the special intervention police brigade "Fulger". During the monitoring visit the patients complained that they had inhaled tear gas and had been beaten by Fulger officers. At least 5 patients had visible injuries. At the time of the visit, the injuries detected by the members of the monitoring commission had not been documented by the medical staff of the institution. In conclusion, the Ombudsman notes that the safety of patients in the Psychiatric Hospital in Codru town is not ensured and that there are incidents of behavior towards patients that is not compliant with the legislation. Finally, the accommodation conditions in the Moldovan psychiatric hospitals continue to be a cause for concern.

#### *Recommendations*

80. The State should take measures to develop crisis management strategies, provide training and develop good human rights practices, classify patients by illness and likelihood of assault, individualize treatment and reduce agitated behavior by engaging patients in occupational activities etc.
81. The State should scale up efforts to adopt a national mental health program.
82. The State should provide funding for the renovation of the Clinical Psychiatric Hospital to improve both the placement conditions for patients and job satisfaction of the medical personnel.

#### *Suggested questions for State Party's List of issues prior to reporting*

83. What measures does the Government plan to take to develop the educational/interactive/occupational services in psychiatric institutions?
84. What measures does the Government plan to take to ensure the right to life of patients in residential institutions?
85. How does the Government intend to address the high number of reported deaths of patients in psychiatric institutions?

#### *Pretrial detention (art.9)*

<sup>14</sup> <http://ombudsman.md/news/siguranta-in-sistemul-psihiatric-si-rezidential-in-anul-2022/>

<sup>15</sup> <http://ombudsman.md/wp-content/uploads/2023/04/Raport-special-Monitorizarea-respect%C4%83rii-drepturilor-pacien%C8%9Bilor-plasa%C8%9Bi-la-tratament-prin-constr%C3%AEngere-cu-caracter-medical.pdf>

86. According to the recommendations in paragraph 26, the State should bring its legislation and practice into compliance with article 9 of the Covenant, taking into account the Committee's general comment no. 35 (2014) on liberty and security of persons, in which the Committee generally considers a period of 48 hours as sufficient to bring arrested individuals before a judge.
87. The Criminal Procedure Code of the Republic of Moldova currently stipulates 72 hours.
88. The number of persons detained for up to 72 hours in the temporary detention facilities of territorial police units reached 3682 in 2022 and of those detained for more than 72 hours - 1097.

#### *Recommendations*

89. The State should strengthen the internal mechanisms of the police system to make sure that the 72 hour requirement for temporary detention is complied with in all the cases, as this is one of the fundamental safeguards during apprehension and preventive detention.

#### *Suggested questions for State Party's List of issues prior to reporting*

90. What measures has the State taken in light of the recommendation of the Committee in paragraph 26?
91. What measures has the State taken to reduce the time of detention before the person is brought before a judge?

#### *Conditions of detention (art.10)*

92. In paragraph 27 of the Concluding observations with the list of recommendations for the Republic of Moldova from 2016, the Human Rights Committee expressed concern that overcrowding, inter-prisoner violence, poor hygiene conditions and lack of access to proper health care continued to persist.
93. The Committee recommended that the Republic of Moldova should take concrete steps to improve conditions in prisons and detention facilities in line with the Covenant and the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules).
94. The influence of the criminal subculture, unsafe environment for inmates and staff, overcrowding, poor conditions of detention, lack of effective medical care and occupational activities are among the most commonly reported issues in the prison system; the detainees from vulnerable groups continue to be subjected to acts of ill-treatment, harassment and intimidation, particularly on the part of other detainees; there is a pressing shortage of professional, educational and specialized staff; the rate of inter-detainee violence, bodily harm and hunger strikes is on the rise<sup>16</sup>, while the available remedies are either ineffective or are used disproportionately and excessively.
95. A fundamental safeguard against ill-treatment and impunity is the medical examination of detainees immediately after the violent incident has taken place or force has been used. The medical personnel in most cases do not regularly visit convicts in their housing facilities, so injuries are documented only at the request of the convicts or when the medical personnel has been notified by prison administrative

<sup>16</sup> <http://ombudsman.md/rapoarte/prevenirea-torturii/anuale/>

staff<sup>17</sup>. We assume that not all the injuries, alleged acts of torture or ill treatment are recorded and documented. It is also regrettable that the allegations of psychological torture are not recorded and investigated.

- 96.** During the monitoring visits, the Ombudsman received complaints from detainees with allegations of inhuman and degrading treatment because of inadequate detention conditions, including: inappropriate accommodation 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 prison administration, disagreement with searches and other actions of staff, inadequate accommodation for women, sick persons and persons with special needs, etc.

#### *Recommendations*

- 97.** The State should strengthen the mechanism for protecting detainees against any form of violence.
- 98.** The State should ensure adequate staffing of prison system with qualified, professional and motivated personnel.
- 99.** The State should develop clear instructions for the use of physical force and special means in closed spaces.
- 100.** The State should develop a training program to build the skills of prison staff to assess the risk of prisoners developing self-injurious behavior.

#### *Suggested questions for State Party's List of issues prior to reporting*

- 101.** What measures will the State take to address overcrowding in prisons?
- 102.** What measures is the State taking to ensure access to adequate health care in prisons?
- 103.** How does the Government intend to improve the poor hygiene conditions in prisons?

#### ***Right to a fair trial and administration of justice (art. 14)***

- 104.** In paragraph 29 of the Concluding observations on the third periodic report of the Republic of Moldova, the Committee expressed concern at reports that corruption remains endemic and systemic in the judiciary, thus undermining the effective administration of justice in the State party. In paragraph 30, the Committee recommends the State to take concrete and effective measures to ensure the proper administration of justice, in accordance with article 14 of the Covenant.
- 105.** Just like in the previous years, the right to a fair trial continued to be a controversial issue in the Moldovan society. Moreover, the right to a fair trial has become even more topical 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 institutions in the justice and prosecution chains to ensure their independence,

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<sup>17</sup> <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>

integrity, efficiency, accountability and transparency, including through effective verification of activities and democratic oversight, in particular by filling all the remaining vacancies in the Supreme Council of Magistracy and its specialized bodies.

- 106.** While supporting the government's initiatives to safeguard the right to a fair trial, the Ombudsman cannot disregard the poor situation 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 suggests that corruption in the judiciary, late enforcement of judgements, limited access to judicial documents and excessive bureaucratization of the justice system continue to be an issue in the Republic of Moldova. It should be noted that the number of complaints lodged with the People's Advocate Office related to access to justice increased by 33% in 2022 and is considered by citizens as the most important problem.
- 107.** The People's Advocate also notes that the right to a fair trial is a sensitive issue for the vulnerable persons. 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 the planned amendments to the Law on state fee no. 1216/1992, which aim at introducing a fee on several procedural actions of the parties in proceedings, including for the request for 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 of the parties in proceedings to the violations committed 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 of the *lex ferenda* and delivered its opinion to the Parliament<sup>18</sup>.
- 108.** 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.

### *Recommendations*

- 109.** The Parliament and the Government should strengthen the public consultation mechanism with the national civil society and the international partners on areas related to the right to a fair trial.

### *Suggested questions for State Party's List of issues prior to reporting*

- 110.** What measures is the Government taking to improve the State Tax Law No. 1216 of 3 December 1992 following the recommendations received from the National Human Rights Institution and civil society?
- 111.** What exactly does the Government intend to do to prevent and combat corruption in the justice system?

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<sup>18</sup> <http://ombudsman.md/news/opinia-avocatului-poporului-la-proiectul-legii-taxei-de-stat-initiativa-legislativa-nr-484-din-27-12-2022/>

***Freedom of expression (art. 19)***

- 112.** In paragraph 31, the Committee expressed concern about the continued concentration of media ownership and that the media is heavily influenced by political and private interests that may not reflect public interest. It also reiterates its concern at the use of civil defamation laws against independent journalists.
- 113.** The State party should step up its efforts to increase media pluralism and the diversity of views and information accessible to the public and also to ensure that independent journalists and media outlets can fulfil their functions without undue interference.
- 114.** In this regard, the latest developments related to the intimidation of journalists in courts have been causing concern. 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 measures. The right to freedom of expression and the right to freedom of assembly are considered cornerstones of a democratic society. The Ombudsman notes that peaceful gatherings create an environment in which issues of public interest are raised, and that media representatives must have the right to collect and disseminate information of public interest without fear of reprisals.<sup>19</sup>
- 115.** 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. 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 capacity of human rights defenders, make sure that the population is informed fairly and objectively and draw public attention to the human rights abuses and violations.
- 116.** In the context of the approval of the Decision no.54 by the Commission for Exceptional Situations on December 16, 2022, which suspends the broadcasting license of specific media service providers during the state of emergency, the People's Advocate started an investigation into the reasons and grounds of such a decision and sent a request for clarifications to CES and the Audiovisual Council. Thus, while the national authorities should have sought to strike the right balance between the right to freedom of expression, the right to property and the information security measures, by suspending the broadcasting licenses they went beyond the minimal interference requirements. The People's Advocate is of the opinion that in such cases the authorities should identify efficient measures with legitimate aims without the slightest interference with the right to freedom of expression.

***Suggested questions for State Party's List of issues prior to reporting***

- 117.** How does the Government plan to protect journalists against intimidation and threats?

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<sup>19</sup> <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>

118. What measures does the Government plan to take to ensure the right to freedom of expression?

***Freedom of assembly (art. 21)***

119. In paragraph 33, the Committee expresses concern about the significant number of reported violations of the Law on assemblies and the Code on administrative offences, which may suggest the assemblies are excessively regulated; the nature of cases that have led to the prosecution of organizers of assemblies, which may create a chilling effect on the enjoyment of the right to freedom of assembly; and reports that law enforcement officials have warned individuals against participating in political assemblies.
120. To address these violations, the Committee recommended the State to guarantee the right to freedom of assembly without any undue restrictions or obstacles in law or in practice, and take appropriate measures to ensure that organizers and participants of assemblies do not face any acts of intimidation, including police interference prior to the organization of assemblies.
121. The People's Advocate monitored the freedom of assembly and association, including during the public demonstrations in different parts of the country. 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<sup>20</sup> putting in place certain rules related to 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 intervention.<sup>21</sup> 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 that they threatened national security.
122. In relation to this fundamental right, the People's Advocate reviewed in 2022 a draft law on the amendment of the Law no.26/2008 on assemblies initiated by the Ministry of Internal Affairs. The Ombudsman's comments on the draft referred to the relevant standards, some objections and recommendations related to formulation of 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 organizer's and participants' obligations, forced dispersal of gatherings, sanctions for violation of rules related to gatherings. The draft law, however, has not been submitted for review and enactment by Parliament.
123. There can be no democracy when people are not free to meet and share ideas, send messages to national authorities and society. Peaceful assemblies are a form of direct democracy, a channel of

<sup>20</sup> [https://gov.md/sites/default/files/document/attachments/dispozitia\\_cse\\_a\\_rm\\_nr.54\\_din\\_16.12.2022\\_r\\_0.pdf](https://gov.md/sites/default/files/document/attachments/dispozitia_cse_a_rm_nr.54_din_16.12.2022_r_0.pdf)

<sup>21</sup> <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/>



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.

#### *Recommendations*

**124.** The Government 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.

#### *Suggested questions for State Party's List of issues prior to reporting*

**125.** Does the State intend to amend the legislation on assemblies?

**126.** How does the State intend to ensure the right to freedom of assembly without applying undue restrictions or impediments?

#### *Juvenile justice (art. 10, 14 and 24)*

**127.** In paragraph 39, the Committee expresses concern at reports that no time limit has been established with regard to the pretrial detention of children throughout the entire legal process and that education and psychological support in detention remain inadequate. The Committee is also concerned about the quality of lawyers assisting children in conflict with the law and that children convicted of crimes are sometimes held in adult detention facilities.

**128.** The Ombudsman for Children considers that detention rarely responds to the specific needs of children at group or individual level, including the need for appropriate education, family and community contacts, sport, leisure etc. On the contrary, it often exacerbates their vulnerability, exposing them to various kinds of risks, such as discrimination, abuse, violence, poor living conditions, inadequate health care and nutrition.

**129.** In the thematic report "Evaluation of the psychological support services for child victims of violence"<sup>22</sup>, the People's Advocate for Children Rights notes that provision of proper psychological services, especially psychological assistance to children who are victims of violence, neglect, exploitation and human trafficking, must be the main goal of the country's efforts to prevent and reduce this phenomenon.

**130.** The persons providing psychological services must meet the qualification standards and requirements so as to be able to respond to the needs of those children. Regrettably, because currently the psychology practice is not regulated and there is no entity to monitor the quality of the psychological services, it is impossible to evaluate their effectiveness.

**131.** Given that currently there is no system for working with children up to the age of 14 years and the cross-sector mechanism and the mechanism for application of alternatives to detention and/or legal proceedings for children is not operational and there are also challenges related to their social reintegration, we consider that the Law no. 299 of November 30, 2018 on the measures and services for children with deviant behavior requires amending.

<sup>22</sup> <http://ombudsman.md/wp-content/uploads/2022/05/Raport-Evalu.pdf>

### *Recommendations*

- 132.** The State should develop and implement a comprehensive strategy for mental health care in the prison system.
- 133.** The State should make sure that when dealing with criminal cases on crimes committed by juveniles, in particular those in state custody, courts, prosecutors, lawyers and other participants in the proceedings plan their activities in full compliance with the criminal procedure rules and are guided by the continuity and no delay principles.
- 134.** The State should develop and integrate training modules on psychological assistance to child victims or potential victims of violence, neglect, exploitation and human trafficking into the initial and continuous education programs for the professionals in the institutions providing services to children.
- 135.** The State should facilitate creation of specialized psychological assistance services for children at risk/victims of crime to respond to their needs and to the number of beneficiaries of such services.

### *Suggested questions for State Party's List of issues prior to reporting*

- 136.** How does the Government intend to ensure education of and psychological support to the children in detention?
- 137.** Does the State plan to develop a mechanism for the evaluation and monitoring of the psychological services provided to child victims of violence, neglect, exploitation, human trafficking and the children held in detention?
- 138.** When will the Law on psychology practice regulating the mechanism of certification/licensing of psychologists, registration of psychologists, quality standards, which will allow the unification of standards for the provision of psychological services to the population, quality assurance, and availability of counselling, psychotherapy and support, be drafted and approved?

### *Rights of persons granted international protection (refugees)*

- 139.** The armed conflict started by Russia in Ukraine forced the national authorities to act immediately to ensure prompt management of the entry-exit segment of the state border. Thus, on February 24, 2022 the Parliament of the Republic of Moldova declared a nation-wide state of emergency.
- 140.** Since the beginning of the state of emergency there have been reports of direct discrimination against the persons with disabilities or those belonging to ethnic minorities granted international protection. Some managers of accommodation centers refused to accommodate persons with disabilities. The Roma people and other ethnical minorities were subjected to unfair treatment during the accommodation process leading to their segregation. The monitoring also revealed a hostile attitude of service and assistance providers towards Roma persons granted international protection.<sup>23</sup>
- 141.** During its monitoring visits, the People's Advocate Office also received reports of abuse against refugees accommodated in the temporary placement centers.

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<sup>23</sup> <https://ombudsman.md/wp-content/uploads/2023/03/Summary-Report-on-refugee-Situation-in-the-Context-of-the-Armed-Conflict-in-Ukraine-February-December-2022.pdf>

142. Other cases reported to the People's Advocate Office involved intimidation of female beneficiaries, including minors, and forced eviction from the accommodation premises, sometimes at night and in low temperatures.
143. In many cases, the well-being of refugees was affected not so much by conflicts, but rather by the inadequate intervention by police jointly with the managers of the placement centers and the local governments.
144. On the other hand, the quality of those interventions was affected by the fact that the above mentioned actors lacked the necessary skills to deal and communicate with foreigners. Finally, such behaviors were prompted by the lack of supervision systems in most centers and shortage of staff trained to ensure security and order in accommodation centers. In conclusion, the safety of refugees in accommodation facilities, in particular mothers with children, should remain a priority for the authorities, given the major risks they face.
145. The number of asylum claims submitted at the Airport reached 110 in 2022. The information on entry to the country is available there only in the state language, even if the official webpage of GBPI mentions Russian and English. The lack of information in foreign languages, especially languages for international communication, limits the right of foreign citizens to receive truthful information regarding the provisions of the legislation and entry conditions, etc. and they have to get information from indirect sources, other than the official ones, which is often misleading.<sup>24</sup>
146. 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 travel document were refused entry to the Republic of Moldova through the International Chisinau Airport, such cases falling within the scope of the law on the legal regime of foreigners.

#### *Recommendations*

147. The State should pay greater attention to the services and humanitarian assistance for refugees and make sure they are provided to all the groups of beneficiaries in a fair manner and in a way that does not lead to segregation and discrimination.
148. The State should make sure public officials comply with the international standards on the protection of persons requiring international protection.
149. The State should design and put in place mechanisms and procedures to reduce hate speech towards the persons accommodated in temporary placement centers.

#### *Suggested questions for State Party's List of issues prior to reporting*

150. What measures does the Government plan to take to ensure fair treatment in temporary accommodation centers for persons enjoying international protection?
151. How does the Government intend to ensure that the rights of the persons who benefit from international protection are respected by the personnel of the temporary placement centers?

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<sup>24</sup> Thematic report "Access of foreigners to the Republic of Moldova through the Border Crossing Point "Chisinau International Airport", <https://ombudsman.md/rapoarte/tematice/>