



REPORT

**ON OBSERVANCE OF HUMAN
RIGHTS AND FREEDOMS
IN THE REPUBLIC OF MOLDOVA
IN 2017**

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CHAPTER I

OBSERVANCE OF HUMAN RIGHTS AND FREEDOMS IN THE REPUBLIC OF MOLDOVA

RIGHT TO A FAIR TRIAL

The right to a fair trial is one of the foundations that ensures the rule of Law. The realization of this fundamental right directly correlates with the existence of an accessible, independent, efficient and integrated justice system. Based on the work of the People's Advocate, but also in line with the recommendations submitted by the regional and international human rights bodies, we find a number of issues related to the realization of the fundamental right to a fair trial.

The right of the person to a fair trial is guaranteed in Articles 8, 10 and 11 of the Universal Declaration of Human Rights, Article 14 of the International Covenant on Civil and Political Rights, Article 6 of the Convention for the Protection of Human Rights and Fundamental Freedoms and Article 13 of the UN Convention on the Rights of Persons with Disabilities.

The human rights treaties that have been listed above provide a very broad description of this right, highlighting some essential elements of the right to a fair trial, such as a fair trial within a reasonable time by an independent tribunal and impartially established by law, respecting the right to privacy, the principle of presumption of innocence, the right to defense, including the provision of free legal aid and other procedural rights to contribute to the realization of this right.

The provisions of this right are also found in Articles 20, 21, 26 of the Constitution of the Republic of Moldova. These articles regulate free access to justice, the presumption of innocence and the right to defense.

Both the People's Advocate and some UN mechanisms, which have mandates to monitor the implementation of the obligations the State has undertaken with the ratification of human rights treaties, have made recommendations for the State to intervene with measures that contribute to duly achieving the right to a fair trial.

In the Alternative Report filed with the UN Human Rights Council in the Universal Periodic Review of the Human Rights Situation in the Republic of Moldova, the People's Advocate noted that it is necessary to implement the actions to eradicate corruption in the system, to ensure the continuity of the reform by identifying and developing the general

framework on future policies to pursue efforts to build an accessible, efficient, independent, transparent, professional, and responsible public sector of justice.

The UN Committee on Economic, Social and Cultural Rights recommended strengthening the capacity of the judiciary to respond to corruption actions and to ensure effective protection of victims of corruption, their lawyers, anti-corruption activists, denouncers and witnesses.

According to the Committee on Civil and Political Rights, the State party needs to take concrete and effective measures to ensure the right to a fair administration of justice, in accordance with Article 14 of the Covenant and General Comment no. 32 (2007) on the right to equality before the courts and tribunals and on a fair trial. In particular, it should: ensure that the remuneration of judges is sufficient and that their mandate is long enough to guarantee the independence and integrity of the court; to ensure an immediate, thorough, independent and impartial investigation into all accusations of infringement of the procedure and to prosecute and bring to justice those responsible, including the officer of the judicial bodies, who are involved in this; to ensure that judges, as a rule, are *de jure* and *de facto* protected from any sanctions or retaliation for unpopular judgments.

The UN Committee on the Rights of Persons with Disabilities recommends that the State party: to ensure appropriate provision of appropriate procedures, gender and age based on free choice and preferences of persons with disabilities and to establish appropriate safety measures to enable persons with disabilities to participate in all judicial proceedings on equal terms with others; to increase training and capacity-building programs on the Convention, so that law enforcement and people with disabilities increase their legal awareness; to provide access to free legal aid, including for people with disabilities still living in institutions; to be guided by Article 13 of the Convention¹ to the implementation of the Objective 16.3 of Sustainable Development Objectives².

The UN Committee on Racial Discrimination, recalling its General Recommendation no. 35 (2013) on combating racist hate speech, recommends that the State party: to ensure that Article 346 of the Criminal Code³ fully complies with Article 4 of the Convention⁴ and that this amended article is implemented in order to prosecute incidents of hate speech; to adopt a comprehensive legislation to criminalize hate crimes and ensure that such legislation complies with the Convention and that racial motivation is listed as an aggravating circumstance; to carry out educational campaigns to address the fundamental causes of prejudice and promote tolerance and respect for diversity, including in particular on the role and responsibilities of journalists and

¹ Effective access to justice for people with disabilities;

² Promoting the rule of law at national and international level and ensuring equal access to justice for all;

³ Deliberate actions aimed at enforcing national, ethnic, racial or religious indignation, differentiation or division;

⁴ General obligations of States parties;

civil servants; ensure that all incidents of hate crimes and hate speech are investigated and prosecuted and that offenders are punished without regard to their official status; to provide data on the number of hate crimes and cases of reported hate speech, criminal prosecution, convictions and compensation to victims; to strengthen the role of prosecutors in supporting victims of racial discrimination for reporting violations.

As a result of the examination of applications, the hearing of persons and information appeared in the media, a number of problems have been identified that relate to that right. These include the issue of delaying the examination of cases in the courts and the enforcement of judgments.

The delay in examining cases in the courts is the result of several factors: excessive postponement of court hearings; complexity of the dispute; abuse of appeal by parties to the process; performing long-term expertise acts; postponement on the grounds that the lawyers of the parties involved in the trial were missing; the presentation of evidence from both sides in dispute and others.

In this context, the People's Advocate draws attention to the fact that one of the main tasks in the activity of the courts is the observance of the reasonable term to judge the cases. This depends directly on the ability of individuals to achieve their constitutional right to effective remedy by competent courts against acts infringing their legitimate rights and freedoms.

Issues related to the enforcement of judgments refer to the procedure for collecting the fee for the exercise of the powers of the bailiffs. According to the Enforcement Code, the bailiff is entitled to the remuneration of his work and the reimbursement of expenses related to his activity. In the process of investigating a case it was found that although the bailiff did not collect any amount from the debtor for the maintenance pension, he requested the payment of the execution costs and the bailiff's fee from the person in whose favor the payments were to be made. Moreover, although the debtor had died, and in the meantime the debt of 80 000 MDL was accumulated, the bailiff seized the arable land plots of the debtor, who had to pay the minor daughter's maintenance pension. For the registration of property rights on the agricultural land, as the legal heir, the minor's mother requested the bailiff to remove the seizure from the respective lands, but the executor refused, claiming the payment of the execution costs and of the fee.

The Ombudsman considered the actions of the bailiff unjustified and unlawful, taking into account the provisions of the Enforcement Code which state that the enforcement procedure is based on the principle of respect for human rights and cannot have the purpose of causing physical and moral or material injury. Following the Ombudsman's recommendations addressed to the bailiff and to the President of the National Union of Bailiffs, the insurance measures

applied to the above-mentioned real estate were canceled, the person being reinstated as a legal heir.

Another problematic issue, addressed by the People's Advocate and in the previous Report, is the vicious practice imposed by some bailiffs to seize the debtors' wages and pensions accounts. In some signaled cases, the bailiff accepted the settlement of the matter by conciliation, in other cases it is noted that the bailiff is reluctant to apply the seizure to the debtor's money means, only in the amount stipulated by the Enforcement Code. In particular, the Office of the People's Advocate recorded 2 cases in which the persons claimed that the bailiff had seized the bank accounts, including pensions, contrary to the provisions of the Enforcement Code. In such a situation, people have found themselves without sources of existence for a long time, which is a violation of the right to a decent living. In the examined cases people did not benefit from a pension for more than 20 months.

The Ombudsman draws attention to the fact that, according to the Enforcement Code, the salary and other income of the debtor may be retained on the basis of an enforceable document not more than in an amount of 20%⁵. At the same time, regarding the pension, it is specified that the part of the pension in the amount of the minimum guaranteed amount of salary in the real sector cannot be traced, except for the cases of receiving the maintenance pension⁶.

The People's Advocate considers illegal the actions of the bailiff in such cases. The Disciplinary Board of Bailiffs was notified of the above. At the same time, this issue was approached by the People's Advocate at a working meeting with the National Union of Bailiffs President, who noted that the implementation of the stated provisions is difficult because the bailiffs cannot hold the information regarding the origin of funds from the debtor's bank account.

The bailiff is obliged to play an active role throughout the enforcement process by making an effort to achieve by legal means the obligation stipulated in the enforceable document, respecting the rights of the parties in the enforcement procedure and of other interested persons. Thus, by virtue of the principle established in the Code of Ethics of Bailiffs, the bailiff must perform the necessary diligence, acting promptly and in accordance with the legitimate requests of the person in whose name / benefit he is acting in order to perform with competence, fairness and timeliness legal and professional duties, and if the law does not provide, within optimal and predictable deadlines, with respect for the person, the fundamental rights and freedoms of the individual.

Another issue concerning the right to a fair trial is the right of any person accused of being informed as soon as possible in a language he understands and in a detailed manner about the

⁵ Enforcement Code, Article 106, paragraph (2);

⁶ Idem, Article 101, paragraph 1);

nature and cause of the charge brought against him. These issues are covered by international standards, such as Article 10 paragraph 1(1) of the Framework Convention for the Protection of National Minorities⁷ and Article 6 of the Convention on Human Rights and Fundamental Freedoms⁸.

The People's Advocate was notified of such a case and, after his intervention, the person concerned was reinstated. It was found that this problem was caused by the lack of translators / interpreters in the personnel states and the presence of malfunctions in the procedure for engaging the authorized / unauthorized translators / interpreters in the activity of the law enforcement bodies, in this case - of the prosecutor's office.

In 2017, the Ministry of Justice elaborated the draft Justice Sector Development Strategy 2018 - 2021 aiming at the application and implementation of the regulatory framework approved in the framework of the Justice Sector Reform Strategy 2011 - 2016, representing a continuation of the reforms initiated previously.

At the same time, increasing the quality and efficiency of the act of justice and fighting corruption in order to ensure fair access to public goods for all citizens is one of the priorities of the National Development Strategy „Moldova 2020”, approved by the Law no. 166 of 11.07.2012.

In spite of the State's efforts to improve the situation regarding the right to a fair trial, in 2017, the European Court found violation of Article 6 of the Convention by the Republic of Moldova in the cases: *Manoli and Cereale Flor J.S.C., and Rosca*. In these cases, the Court found issues relating to the applicant's conviction in the appeal court without directly hearing the victim or witnesses, after being acquitted by the court of first instance, and the unlawful quashing by reviewing an irrevocable court order.

In the same context, the United Nations Committee on the Elimination of All Forms of Racial Discrimination expose don the case *Salifou Belemvire vs. Republic of Moldova (hate crime)*. The Committee found violation of Article 6 of the Convention on the Elimination of Racial Discrimination⁹.

Seven years after the implementation of the Justice Sector Reform Strategy began, citizens' confidence in national justice reached 16%, according to data from the Public Opinion Survey on

⁷ „The Parties undertake to recognise that every person belonging to a national minority has the right to use freely and without interference his or her minority language, in private and in public, orally and in writing”;

⁸ „Everyone charged shall have, in particular, the right to be informed promptly and in detail in a language which he understands of the nature and cause of the charge against him”;

⁹ Protection and effective remedy before national courts and other competent state bodies;

Moldovan Judiciary, conducted for the Superior Council of Magistracy¹⁰ during the period of December 2017.

According to the survey data among the actors in the Justice field, the most affected by the distrust of the citizens are the judges - 78%, followed by the prosecutors - 77%, the policemen - 70% and the lawyers - 62%. Despite the low degree of trust in the judiciary, most of the participants in the poll, responded that they had no negative experiences in the courts. Of the citizens who participated in any trial in the court, 58% rated the judge who examined the case as impartial and objective. Approximately half (49%) of citizens who participated in a trial claimed that judicial procedures were fair to a large or very large extent.

At the same time, the poll shows that a total of 75% of the population is of the opinion that corruption in the Moldovan judiciary is much or very much present. Among those who interacted with the courts, 83% of the respondents said that it is very much or much present in the system.

Although half of the people who interacted with the courts say they provide conditions for people with special needs, every fifth citizen who took part in a trial said that no conditions were created for these people. Two-thirds of those claiming that the courts do not provide access for disabled people have specified that there are no access ramps in buildings. Other reasons mentioned by the respondents refer to the lack of elevators, the lack of specially arranged offices for disabled people, the lack of the possibility of going to court.

The poll also showed that a large proportion of citizens do not know their rights in a trial, nor do they know where to get information.

European Commissioner for Human Rights Nils Muižnieks reiterated Council of Europe concerns about the situation in the justice sphere: deficiencies related to the efficiency and impartiality of justice; the existence of signals on the biased attitude of prosecutors in court proceedings and on cases of intimidation and harassment of lawyers; performing justice in Moldova in a selective manner. The recommendations on ensuring public access to court hearings have been reaffirmed, especially in those where dignitaries are concerned and which are related to corruption.¹¹

The Commissioner also said that „a lack of public trust in the judiciary can be extremely damaging to a democracy, therefore, the authorities should continue to invest sustained and decisive efforts to improve its credibility and ensure that the public in general benefits from an effective and fair system”.

¹⁰ http://crjm.org/wp-content/uploads/2018/02/Brosura_finala.compressed.pdf;

¹¹ Press release on the official website of the Council of Europe on the visit to Chisinau (<https://www.coe.int/en/web/commissioner/-/republic-of-moldova-important-advances-on-addressing-domestic-violence-but-more-progress-needed-in-justice-reform>);

Other measures, in the opinion of the European Commissioner, should include changing the composition of the Superior Council of Magistracy by abolishing the *ex officio* participation of the Prosecutor General and the Minister of Justice. The Commissioner also recommended continuing the reform of the disciplinary proceedings against judges in order to ensure the integrity of the system and to promote the independence of the judiciary as a whole and of individual judges. Further efforts are needed to enhance the professional competence of the judiciary and improve the reasoning of decisions taken by courts, including in the cases related to detention on remand.

In the context of the above, the People's Advocate considers it necessary to continue the reforms initiated in the field of justice, and to take firm actions to ensure an accessible, efficient, independent, transparent, professional and responsible justice system for society.

At the same time, the implementation of actions to eradicate corruption in the justice system is imperative, given that this issue directly and negatively affects the image of Republic of Moldova justice, both in relation to the citizens of their own country and in relation to the development partners.

At the same time, all actions to be taken by the authorities must also take into account the interests and needs of disadvantaged or minority groups by integrating human rights into the decisions of authorities at all levels so that human rights are genuinely respected, as established by the Constitution of the Republic of Moldova, but also according to the obligations of the state resulting from the human rights commitments assumed internationally by the Republic of Moldova.

THE PEOPLE'S ADVOCATE RECOMMENDS:

- Continuation of efforts for reforming the justice system to ensure its accessibility, independence, efficiency, transparency and integrity;
- Taking firm actions for implementing the recommendations of regional and international human rights bodies that relate to the justice system and have been exposed above;
- Adopting a comprehensive legislation to criminalize hate crimes, in line with the provisions of UN Convention on the Elimination of Racial Discrimination;
- Implementing programs for increasing legal awareness of the population, especially of vulnerable groups.

INDIVIDUAL FREEDOM AND PERSONAL SECURITY

Individual freedom and personal security are one of the most sensitive and complex values of the human being, which alongside other fundamental rights occupy a primordial role within a democratic society. In this context, the People's Advocate notes that the Republic of Moldova faces a very serious problem that has a direct and negative impact on this fundamental right, this being the excessive application of preventive detention.

This right is governed by Article 9 of the Universal Declaration of Human Rights, Article 5 of the Convention for the Protection of Human Rights and Fundamental Freedoms, Article 9 of the International Covenant on Civil and Political Rights and Article 14 of the Convention on the Rights of Persons with Disabilities.

The fundamental right to freedom and the personal security is provided by Article 25 of the Constitution of the Republic of Moldova, which provides that *„(1) Individual freedom and security of person are inviolable. (2) Searching, detaining in custody or arresting a person shall be permitted only in cases and pursuant to the procedure established by the law. (3) The period of detention in custody may not exceed 72 hours. (4) The arrest shall be carried out under a warrant issued by a judge for a period of 30 days at the most. An appeal may be lodged against the validity of the warrant, under the law, at the hierarchically superior court of law. The term of the arrest may only be prolonged by the judge or by the court of law, under of the law, to a period not exceeding 12 months. (5) The person detained in custody or under arrest shall be immediately informed on the reasons of his/her detention or arrest, and shall be notified of the charges brought against him/her as soon as possible; the notification of the charges shall only be made in the presence of a lawyer, either chosen or appointed ex officio. (6) If the reasons for detention in custody or arrest have ceased to exist, the release of the person concerned must follow without delay.”*

Account should also be taken of the Rules on the use of remand in custody, the conditions in which it takes place and the provision of safeguards against abuse proposed by the Committee of Ministers of the Council of Europe, which are set out in the Annex to Recommendation Rec (2006) 13 on the use of remand in custody¹².

The mentioned document with recommendation character provides that, with regard to both presumptions, innocence and freedom, the detention on remand of persons suspected of committing the criminal offense must be an exception rather than a rule.

¹² Adopted by the Committee of Ministers on 27 September 2006 at the 974th meeting of the Prime Ministers;

There must be no obligation that persons suspected of committing the offense (or certain categories of such persons) are under detention on remand. In separate cases, detention on demand should only be applied in strictly necessary cases and as a last resort and should not be applied as a punishment measure. In order to avoid the inappropriate application of detention on remand, the widest possible range of alternatives, less restrictive measures relating to the behavior of the suspected offender, must be available.

Thus, detention on remand must be an exception to the right to liberty and security and should be applied in cases where certain evidence is presented, accompanied by arguments, which would certainly confirm the likelihood of actions committed by suspects.

Arrest is an exceptional measure. As a result, arrest can be ordered only in certain cases and only for certain reasons, which must be shown in a concrete and convincing manner in the decision of the body which orders it¹³.

Concerning individual freedom and personal security, the Republic of Moldova has received some recommendations from international human rights organizations. Thus, the Committee on Civil and Political Rights argues that the State party should adapt its legislation and practice to Article 9 of the Covenant, taking into account the general comment of the Committee on Human Freedom and Personal Security No. 35(2014), in which the Committee considers 48 hours as a whole to be enough time for arrested persons to be brought to court.

At the same time, the Committee on the Rights of Persons with Disabilities urges the State party to revise and abolish the legal provisions that legitimize forced hospitalization and non-consensual psychiatric treatment on the grounds of deficiency; to take all legal and other measures necessary to stop the deprivation of liberty of persons with disabilities based on a real or perceived deficiency.

The detention on remand measure continues to be a problem for the Republic of Moldova justice. In recent years, several studies have shown that most of the demarches for prolonging the detention on remand have not attached any relevant evidence, however most of them are accepted in court.

At the request of the Ombudsman, the General Prosecutor's Office of the Republic of Moldova provided statistical information¹⁴ for the years 2015 - 2017 on the detention on remand requested by the court, according to Article 175 of the Code of Criminal Procedure¹⁵.

Statistical data provided by the General Prosecutor's Office

¹³ Decision of the Constitutional Court of the Republic of Moldova no. 3 of 23.02.2016;

¹⁴ The Prosecutor General's answer no. 11-2d/17-4139 of 20.09.2017;

¹⁵ Article 175 of the Code of Criminal Procedure – *The notion and categories of detention on remand*;

	2015	2016	8 months 2017
<i>Total number of detained persons</i>	3941	4278	3022
<i>Number of requests for detention on remand by prosecutors</i>	2441 (61,9% of those detained)	2674 (62,5% of those detained)	1990 (65,8% of those detained)
<i>The number of people detained on remand</i>	2061	2238	1697
<i>Share of persons detained on demand from those detained</i>	53,05%	52,31%	56,1%
<i>Share of persons detained on demand from the number of prosecutors' requests</i>	84,4%	83,7%	85,3%
<i>Number of prosecutors' appeals of the rulings on rejecting arrests</i>	90	112	84
<i>Number / share of those admitted</i>	25 27,8%	16 14,2%	29 34,5%
<i>The number of appeals lodged by defendants at rulings on ordering arrests</i>	392	572	504
<i>Number / share of those admitted</i>	53/13,5%	54/9,4%	28/5,5%

According to the data of the above table, there is observed a large share of the prosecutors' demarches regarding the application of the detention on remand admitted by the investigating judge. At the same time, the proportion of appeals lodged by judges admitted by the judges of the Court of Appeal, is diminishing.

The issue of detention on remand, though old, has come to the attention of the media as well as to the competent authorities on the occasion of resonance files, including the case of Andrei Braguta, who died in August 2017 while he was in detention on remand in the isolator¹⁶.

On 29 August 2017 in the media there appeared information about the death of the citizen Andrei Braguta, under dubious conditions, in the penitentiary system of the Republic of Moldova. Andrei Braguta was detained by the police for non-dangerous violence against a

¹⁶ <https://www.europalibera.org/a/dreptul-tau-arestul-preventiv/28742204.html>

person with a responsible position, and after 10 days of imprisonment he died in the Penitentiary no. 16. The allegations of ill-treatment of the victim were supported by relatives and lawyers.

The People's Advocate complained about this widely publicized case, qualifying it as a case of special social importance. The results of the *ex officio* investigation of the case of death in state custody of A. Braguta were exposed in a special report¹⁷. As a result of the investigation, it was ascertained that since the moment of detention of the citizen A. Braguta by the police employees until his placement in the penitentiary institutions there were breached the minimal safeguards against ill-treatment and no respect for human dignity has been ensured. The indifference, negligence and human factor (of police employees, medical staff), the series of interrupted reforms, the failure of institutional communication between the criminal and the civil system, the lack of documentation and the failure to report the acts of torture, the lack of clear internal regulations regarding the intervention in situations exceptional and isolation of persons with disabilities or disorders, non-observance of the detention procedure (Article 167 of the Code of Criminal Procedure), insufficient supervision, the impossibility of managing behavioral crises, etc. are only a few subjective elements of this vicious process, which led to a tragic end - the death of the victim.

The European Court found violation of Article 5 of the Convention by the Republic of Moldova in the cases: *Vasilciuc v. Republic of Moldova*, *Gumeniuc v. Republic of Moldova*, *Braga v. Republic of Moldova*, *Ialamov v. Republic of Moldova*, *Greco v. Republic of Moldova*.

In these cases the Court found problems with the applicant's unjustified arrest, which led to the arrest in another state for extradition to the Republic of Moldova; the contravention arrest of the applicant on the basis of the conversion of the unlawful contravention fine through a judicial procedure of which he was not even informed; detention in the Republic of Moldova on the basis of a conviction issued by the so-called „Transnistrian authorities”; the arrest of the applicant as a result of the judge's admittance of the arrest demarche lodged by exceeding the procedural period prescribed by law; granting inadequate compensation for abusive detention.

At the same time, on 21 December 2017, the Constitutional Court pronounced the Decision on the unconstitutionality of paragraph (2), Article 232¹⁸, and some of the provisions of paragraph (4), Article 308¹⁹ of the Code of Criminal Procedure of the Republic of Moldova.

¹⁷ <http://ombudsman.md/sites/default/files/document/attachments/raportspecial.pdf>

¹⁸ Except for the timeframe provided for appeals, the act made by the prosecutor is considered to have been lodged in due time if the date on which it was transferred to the register of documents issue was within the time limit required by the law to carry out the act;

¹⁹ Following the examination of the demarche, the investigating judge adopts a reasoned statement on the application of the detention on remand or arrest at home or rejects the demarche. Based on the ruling, the judge issues an arrest warrant that is handed to the prosecutor and the accused and is immediately executed;

The Court has pointed out that if the person has been illegally detained, including as a result of non-compliance with the deadline for lodging the arrest extension demarche, the person must be compensated for deprivation of liberty carried out in arbitrary conditions.

The People's Advocate supports the concerns of European Commissioner for Human Rights Nils Muižnieks as to the need for additional efforts to increase the professional competence of the judiciary and to improve the motivation of court decisions including in cases of detention on remand.

The detention of the persons to be sued must not be a rule, but release may be subject to safeguards ensuring their appearance at court hearings, for all other procedural documents and, where appropriate, enforcement of the judgment.

Personal freedom is a fundamental condition that everyone must take advantage of. Its deprivation is likely to have a direct and negative impact on the enjoyment of many other rights, starting with respect for private and family life, continuing with freedom of assembly, association and expression, and freedom of movement.

In addition, each deprivation of liberty places the affected person in an extremely vulnerable position and expose him / her to the risk of torture and inhuman or degrading treatment. Judges must therefore always bear in mind that, in order not to fail to guarantee freedom of substance, any detention must be exceptional, objectively justified and not go beyond what is strictly necessary.

RECOMMENDATIONS:

- Reviewing the practice of alternative measures of detention on remand, so that it can be applied as an exceptional measure;
- Enhancing the professional competence of the judiciary in order to improve the motivation of decisions taken by the courts in the case of the application of the detention on remand measure.

FREEDOM OF EXPRESSION

The situation regarding respect for the right to freedom of expression has been pursued with increased attention by the People's Advocate due to the major developments in this area during 2017, especially in the part of the national legal framework, but also by the development partners' reactions, as well as of the regional and international human rights monitoring mechanisms, to these changes.

Freedom of expression is enshrined in Article 19 of the Universal Declaration of Human Rights, Article 19 of the International Covenant on Civil and Political Rights, Article 10 of the European Convention on Human Rights.

Under the mentioned treaties, every individual has the right to freedom of opinion and expression. This fundamental right includes the freedom to have opinions without interference from the outside, as well as the freedom to seek, receive and disseminate information and ideas by any means and independent of state borders, in oral, written, printed or artistic form, or by any other means of his / her choice.

The exercise of the mentioned freedoms entails special duties and responsibilities and, for these reasons, this right may be subject to certain limitations which, however, must be expressly laid down by law and which are necessary in a democratic society for national security, territorial integrity or public security, the defense of order and the prevention of criminal offences, the protection of health or morals, the protection of the reputation or the rights of others in order to prevent the disclosure of confidential information or to guarantee the authority and impartiality of the judicial power. No one has to suffer because of his / her opinions.

At the same time, Article 21 of the UN Convention on the Rights of Persons with Disabilities states that States parties shall take all appropriate measures to ensure that persons with disabilities can exercise their right to freedom of expression and opinion, including the freedom to seek, receive and impart information and ideas on an equal footing with others and through all forms of communication of their choice, as defined in Article 2 of the Convention²⁰.

²⁰ including by: (a) Providing information intended for the general public to persons with disabilities in accessible formats and technologies appropriate to different kinds of disabilities in a timely manner and without additional cost; (b) Accepting and facilitating the use of sign languages, Braille, augmentative and alternative communication, and all other accessible means, modes and formats of communication of their choice by persons with disabilities in official interactions; (c) Urging private entities that provide services to the general public, including through the Internet, to provide information and services in accessible and usable formats for persons with disabilities; (d) Encouraging the media, including providers of information through the Internet, to make their services accessible to persons with disabilities; (e) Recognizing and promoting the use of sign languages.

The Constitution of the Republic of Moldova divides the content of this fundamental right into the freedom of opinion and expression enshrined in Article 32 and the right to information enshrined in Article 34.

According to the jurisprudence of the Constitutional Court, freedom of expression is one of the foundations of democratic society and a condition for the progress and fulfillment of the person.²¹

Freedom of expression is an essential right in the constitutional system of the Republic of Moldova. At the same time, it is a right that can substantially affect the rights of others.²²

Regarding the right to information, it is clear from the jurisprudence of the Constitutional Court that it is a fundamental right of the person, because the development of the person in society, the exercise of the freedoms provided by the Constitution, including the freedom of thought, opinion, creation, expression in public by word, image or other possible means, also implies the possibility to be informed about social, political, economic, scientific, cultural life, etc.²³

Article 34 of the Constitution gives legal expression to the person's access to any information of public interest. The content of this right includes: the right of the person to be promptly, fairly and clearly informed of the measures envisaged or taken by the public authorities; free access to sources of political, scientific and technical, social, cultural information etc.; the possibility to receive personally and in good conditions radio and television broadcasts; the obligation of public authorities to provide the necessary legal framework for the free and wide dissemination of information of all kinds.²⁴

The right to information is a multidimensional right. It serves multiple categories of individual and group interests and is an initial condition for public participation in the democratic process. Access to information has important consequences for the proper functioning of a democratic regime.²⁵

²¹ Judgment of the Constitutional Court of the Republic of Moldova No. 28 of 23.11.2015 on the control of the constitutionality of some provisions of Article 1 of the Law no. 54 of 21 February 2003 on counteracting extremist activity (the use of Nazi symbols) (Notification no. 29a/2015) §47;

²² Judgment of the Constitutional Court of the Republic of Moldova Nr. 12 of 04.06.2013 on the control of the constitutionality of some provisions regarding the prohibition of communist symbols and the promotion of totalitarian ideologies (Notification no. 33a/2012), §92;

²³ Judgment of the Constitutional Court of the Republic of Moldova No. 12 of 16.06.1998 on the control of the constitutionality of some provisions of the Law no. 603-XIII of 3 October 1995, * Law no. 1399-XIII of 5 December 1997, ** Parliament's Decision no. 1383-XIII of 26 November 1997 *** and Parliament's Decision no. 1385-XIII of 26 November 1997 **** (designation of the heads of the public broadcasting institution), §3;

²⁴ Idem. §3;

²⁵ Judgment of the Constitutional Court of the Republic of Moldova No. 16 on the exception of unconstitutionality of Article 10 paragraph (4) of the Law no.151 of 30 July 2015 on the Government Agent (access to information) (Notification no. 29g/2016), §49;

In the Report on the observance of human rights in 2016, the People's Advocate submitted a series of recommendations on speeding up the process of adjusting Articles 15 and 16 of the Law on Access to Information to European Standards²⁶; ensuring the training of officials in the field of access to information and for the effective application of the Law on access to information; developing the tools and methodologies needed to ensure the right to information; ensuring the drafting of the Regulation on the rights and obligations of officials in the process of providing documents, official information by public authorities that have not yet developed such a document; ensuring that public authorities publish on their official web pages all information of public interest which targets the interests of citizens.

At the same time, we recall that in its recent Recommendations, the Committee on Civil and Political Rights stated that the Republic of Moldova should step up its efforts to increase the pluralism of the media and the diversity of views and information available to the public, taking note of the general comment of the Committee no. 34 (2011) on freedom of opinion and expression. The Committee also recommends that the State party ensure that independent journalists and the media can carry out their functions without undue intervention.

As regards respect for freedom of expression and opinion and access to information for persons with disabilities, the UN Committee on the Rights of Persons with Disabilities recommends that the State Party recognize the sign language in official interaction; to invest in the training of interpreters in mimic-gesture (sign) language and to ensure interpretation in the sign language for services open to the public so that children suffering from hearing impairment have equal access to inclusive, qualitative education; to apply accessible information and communication formats and accessible technologies that are suitable for people with disabilities, paying special attention to children with disabilities in inclusive education, including Internet access, Braille, Easy Read, simple formats in connection with all public services.

The People's Advocate points out that in his 2017 report, the Secretary General of the Council of Europe, points out the need for strong safeguards to protect the media from unjustified political influences: „The Council of Europe (CoE) member states should guarantee a pluralist landscape in which contradictory opinions can be expressed and all political parties can be subject to checks and controls. Democratic governments must ensure that the media within their operational borders can do so, regardless of strong interests. Restrictions for media

²⁶ On 27 June 2014, a group of deputies registered in Parliament a bill that provided for the amendment and completion of Articles 15 and 16 of the Law on Access to Information and Article 71 of the Contravention Code, aimed at removing the deficiencies present in Law no. 982, as well as adjusting the legal framework to the provisions of the Council of Europe Convention of 18 June 2009 on access to official documents. The draft proposed to modify the procedure for registering applications on access to information, shortening the deadline for disclosing information and tightening sanctions for breach of access to information legislation for persons responsible for the presentation of information. But the draft was withdrawn without being examined;

monopolies must be enforced so that journalists are able to perform their work without interference, threats of violence and / or intimidation”²⁷.

Recommendations with the same content are expressed by the Venice Commission experts in their opinions and reports: „Media pluralism is achieved when there is a multitude of autonomous and independent media at the national, regional and local levels, ensuring a variety of media content reflecting different political and cultural views”²⁸. „When a particular political group has a very high political influence, the media pluralism and the independence of the journalist profession require special protection measures”²⁹.

Actions related to the realization of the right to freedom of expression are also stipulated in the National Action Plan for the implementation of the Republic of Moldova - European Union Association Agreement during the period 2017 - 2019³⁰, which includes several goals related to the development and consolidation of the media. In the Recommendation No.1 / 2017 of the EU-Republic of Moldova Association Council of 4 August 2017 on the EU-Moldova Association Program [2017/1489], priority is given to supporting the freedom and pluralism of the media, including the adoption of a new Audiovisual code in line with the recommendations of the Council of Europe, the European Union and the OSCE, in order to bring the legislation of the Republic of Moldova into line with the Audiovisual Media Services Directive and to urgently address the concentration of media ownership rights and the monopolization of the advertising market; as well as the reform of the national broadcasting institution.

It is also proposed to improve the competences and tasks of the Audiovisual Coordination Council in order to strengthen its independence.³¹

Objectives on improving the situation of the media and the freedom of expression are also found in the Action Plan of the Republic of Moldova - Council of Europe for 2017 - 2020³². This document also mentions that the Moldovan authorities shall ensure compliance with European standards regarding the prevention of excessive media concentration; strengthening the independence, transparency and efficiency of the surveillance bodies of public broadcasters, complying with the recommendations of the Committee of Ministers of the Council of Europe on freedom of expression on the Internet.

²⁷ <https://edoc.coe.int/en/an-overview/7345-pdf-state-of-democracy-human-rights-and-the-rule-of-law.html>

²⁸ [http://www.venice.coe.int/webforms/documents/?pdf=cdl-pi\(2016\)011-e](http://www.venice.coe.int/webforms/documents/?pdf=cdl-pi(2016)011-e), Compilation of Venice Commission opinions and reports concerning freedom of expression and media, Strasbourg, 19 September 2016;

²⁹ (CDL-AD(2005)017, Opinion on the compatibility of the laws “Gasparri” and “Frattini” of Italy with the Council of Europe standards in the field of freedom of expression and pluralism of the media, §37 and §40);

³⁰ http://www.gov.md/sites/default/files/document/attachments/intr07_98.pdf

³¹ <http://eur-lex.europa.eu/legal->

content/RO/TXT/?uri=uriserv:OJ.L_.2017.215.01.0003.01.RON&toc=OJ:L:2017:215:TOC

³² <https://www.coe.int/ro/web/chisinau/action-plan>

The People's Advocate appreciates certain actions taken by the authorities to improve the situation in the sphere of media freedom.

Thus, by the Disposition of the Speaker of Parliament in June 2017, was created a Parliament Working Group on the improvement of the Moldovan media legislation, with the support of the joint project of the European Union and the Council of Europe „Promoting freedom and pluralism of the media in the Republic Moldova”. According to the Working Group's Regulation, it is to become a „communication platform and a permanent cooperation mechanism between the Parliament of the Republic of Moldova and the representatives of the media institutions, international institutions and NGOs in the field”. The Regulation also states that the Working Group will take into account, in its work, the recommendations of the international partners of the Republic of Moldova as well as of the non-governmental organizations in the field, including the Roadmap for media development in the Republic of Moldova, developed by Media Forum.

The core priorities of the Working Group are the following:

- Development of the Media Development Strategy of the Republic of Moldova;
- Development of a new Code of the Audiovisual;
- Development of the Strategy on Information Security of the country;
- Consultation / Finalization of legislation on access to information (versus personal data protection, EU countries experience in the field);
- Developing a new Media Law (written and on-line media);
- Improving the Electoral Code on reflection of the electoral campaign in the media;
- Improving the legislation on advertising, competition;
- Identifying legal solutions for providing tax incentives for domestic media production.

Thus, the draft Concept of the National Media Development Policy of the Republic of Moldova (2018 - 2025) and the Code of Audiovisual Media Services of the Republic of Moldova, which can be found on the Parliament's web page³³ under the heading „Improving Media Legislation”. The documents concerned were developed taking into account the international standards in the field, as well as the opinion of the media organizations in the country. In this way, if adopted in the current versions, they could help to improve the national media framework and the conditions of activity of the media institutions.

In the Annual Report for 2016, the People's Advocate mentioned the fact of the Code of Contravention amending in 2016 in the sense of tightening punishments for violation of

³³<http://www.parliament.md/Actualitate/%C3%8Embun%C4%83t%C4%83%C8%9Birealegisla%C8%9Bieimassmedia/tabid/255/language/ro-RO/Default.aspx>

legislation on access to information or on petitioning. According to the data provided by the Ministry of Internal Affairs, 140 minutes for committing the offense provided for in Article 71 paragraph (1) of the Code of Contravention were drawn up. In the reply sent by the MIA (Ministry of Internal Affairs), it is also mentioned that 101 persons were sanctioned, in 76 cases - fines were paid, 14 cases were sent to the National Union of Bailiffs and other 13 - were judged by the court. At the same time, four minutes were drawn up for the purpose of submitting a reply with incorrect data, a contravention under paragraph 2 of Article 71.

Also, the Parliament adopted the Law on Supplementing the Audiovisual Code of the Republic of Moldova with norms on securing the information space, in force since 12 February 2018, following publication in the Official Gazette. The new regulations are meant to protect the country's information space from possible misinformation attempts and / or manipulative information from the outside and not to accept media challenges. At the same time, the Audiovisual Code is complemented by a new paragraph stipulating that on the territory of the Republic of Moldova will be admitted only broadcasting of informational, analytical, military and political television and radio programs produced in the EU Member States, the USA, Canada, as well as in the states that have ratified the European Convention on Transfrontier Television.

Against this background, the People's Advocate recalls that the Committee of Ministers of the Council of Europe requests in Recommendation CM / Rec (2016)4 from Member States to also protect citizens' right to receive information: „Freedom of expression is applicable not only to “information” or “ideas” that are favorably received or regarded as inoffensive or as a matter of indifference, but also to those that offend, shock or disturb the State or any sector of the population. In this way, freedom of expression facilitates robust public debate, which is another prerequisite of a democratic society characterized by pluralism, tolerance and broadmindedness. Any interference with the right to freedom of expression of journalists and other media actors therefore has societal repercussions as it is also an interference with the right of others to receive information and ideas and an interference with public debate.”³⁴

During the public debates organized by the Parliament of the Republic of Moldova on the subject concerned, the Secretary General of the European Federation of Journalists, Ricardo Gutiérrez, warned that „propaganda corrodes democracy by manipulating public opinion. But an adequate response to propaganda should focus on promoting media pluralism, ethical journalism and public debate. In a democratic state, freedom of expression must be strongly protected ...”

Council of Europe and OSCE experts have also said that the proposed anti-proliferation measures may be ineffective and do not meet European standards on freedom of expression and

³⁴ https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=09000016806415d9#_ftn1

freedom of broadcasting³⁵. Even in situations where propaganda from other states is a serious problem, it is difficult and often counterproductive to try to limit this by restrictive legislation. Restrictions on freedom of expression and media freedom should be avoided as much as possible. There should be no attempts to prohibit propaganda through legislation because this notion and what is related to it is difficult to be defined objectively³⁶.

Similarly, the conclusions of the Council of the European Union on the current relationship with the Republic of Moldova of 26 February 2018³⁷ refer to the antipropagetic amendments made in the Audiovisual Code: „European Union acknowledges that disinformation and propaganda can have considerable negative effects, but it also notes that the measures adopted should be necessary, proportionate and in conformity with the relevant international law provisions, in order not to curtail media freedom or hinder access to information”.

Research studies in this area also highlight a number of issues.

Thus, a study conducted by the Center for Policies and Reforms shows that the realization of the right to information is quite problematic³⁸. The study shows that at a request for information with a response time of 15 working days to only 43% of the requests submitted, according to the Law on Access to Information, the authorities provided a response. In the case of 28% of the requests, the authors of the study received a response exactly on the last day of the prescribed period. 14.3% of the requests received replies with the exceeding of the deadline stipulated by the law. Approximately one third of requests were not met by the authorities.

According to the findings of the authors of the study, most frequently these are the officials who refuse to provide the requested information under the pretext of protecting state secrecy, fiscal or commercial secrecy or personal data. Often the information is submitted late, the answers are formal or incomplete, the information request procedure is excessively bureaucratic. The lack of information of public interest on the authorities' web pages or the keeping of information that is no longer current, the negative attitude towards information seekers and / or the passing of responsibility from one institution to another were also noted.

The authors of the study also find that officials from several public institutions often apply (intentionally or by ignorance the provisions of the legislative framework) the Law on petition but not the Law on access to information. Thus, if a request for information is treated as a petition, the time limit for examining the request for information is 30 working days (Article 8 of Law 190 on petition). Also, legislation on petition can be used to reject the request (application)

³⁵ <https://europeanjournalists.org/blog/2016/08/04/excessive-restrictions-on-foreign-broadcasters-in-moldova/>

³⁶ <http://www.osce.org/fom/175681?download=true>

³⁷ <http://www.consilium.europa.eu/media/32960/st06280-en18.pdf>

³⁸ The study „How the State restricts the right of the media to public information” was carried out in August 2017 by the representatives of the Center for Policy and Reform. <http://cpr.md/informatia-de-interes-public>

because it would not be in line with the bureaucratic rigor of a petition (Article 5 paragraph (2) of the Law on Petition. For these reasons, it is very important to apply the corresponding provisions of the existing legal framework.

Compared to 2016, our country lost four positions in the Reporters Without Borders (RSF) ranking, ranking in 2017 on the 80th position of 180 countries. According to the estimates of the experts from the nominated organization, „media freedom has never been so threatened in the Republic of Moldova” and the Audiovisual Coordinating Council is lacking in independence. In the report of the organization, the most serious challenges are mentioned as the lack of editorial independence and transparency of media ownership.

At the same time, Freedom House in its report for 2017 notes that media freedom in the Republic of Moldova is still limited by Law on Media, which is outdated or inadequately implemented, as well as by pressures on journalists by government officials, media institutions owners and other forces. Property concentration remains a problem, and smaller local level institutions hardly compete with well-funded companies. According to Freedom House, the media of the Republic of Moldova remained partially free in 2017, our country being ranked 56 on a 100-point scale.

In the Council of Europe (CoE) Action Plan for the Republic of Moldova 2017-2020³⁹ it is mentioned that „in general, the media enjoys a significant degree of pluralism and a relatively small degree of censorship. However, the issue of the transparency of the ownership of radio and television stations, of the neutrality of the Coordinating Council of the Public Audiovisual remain as factors influencing the independence of the media. The new legislation on media ownership (property) transparency was adopted in February 2016, but current owners will only have to comply with it in 2021 when their licenses expire”.

The Council of the European Union made public the conclusions on EU relations with the Republic of Moldova, which also referred to the situation regarding freedom of expression and media pluralism: „A prerequisite for a democratic society is media freedom and pluralism. In this context, as a first step to guarantee these freedoms, the Council urges the Republic of Moldova to pursue the long overdue comprehensive reform of the audiovisual code that would enhance transparency and competition in the sector, with a view to addressing the concentration of media ownership, guaranteeing media freedom and pluralism, creating a business environment conducive for the activity of independent media outlets and offering high quality information to its citizens”.⁴⁰

³⁹ <https://www.coe.int/ro/web/chisinau/action-plan>

⁴⁰ <http://www.consilium.europa.eu/media/32960/st06280-en18.pdf>

A monitoring report of the degree of implementation of the provisions of the National Action Plan for the implementation of the Association Agreement between the Republic of Moldova and the European Union in the period 2017 - 2019 regarding the media segment by the representatives of the Association of Independent Press shows a „chronic delay in fulfilling the commitments and, on the other hand, an insignificant impact of the commitments made in the real change for the well-being of the media”⁴¹.

The above findings coincide with the observations previously made by People`s Advocate, which calls for the reiteration of its recommendations on the need to adjust the Law on Access to Information to Council of Europe standards⁴², in particular as regards the modification of the procedure for registering applications with regard to access to information, the reduction of the time limit for the presentation of information.

The People's Advocate also draws the attention of the public authorities to the obligation of civil servants to observe their duties in the process of providing information of public interest, in accordance with legal norms, because often, through bureaucracy, indifference and lack of accountability, it is restricted the right to information.

Or, the access to documents and information held by public bodies ensures transparency in public administration, which is a key element of good governance and an indicator of a genuinely democratic and pluralistic society.

In the context of the above, the People's Advocate considers that, in order to ensure the effective realization of the right to freedom of expression, concrete actions by the authorities are needed to eliminate the problems related to the legal framework, to strengthen the state institutions which mandate is to ensure respect for the right to freedom of expression, to strengthen the capacity of civil servants and to promoting among the population the mechanisms that can be used to respect this fundamental right.

RECOMMENDATIONS:

1. Adjusting of Articles 15 and 16 of the Law on Access to Information to European Standards;
2. Monitoring the proper application of the provisions of Article 11 of the Law no. 982 on guaranteeing free access to information of persons by civil servants;
3. Informing the officers responsible for conducting the procedures for the provision of official information on sanctions applied in case of non-observance of the provisions of the Law on access to information and its placement on the websites of public institutions;

⁴¹ http://www.api.md/upload/files/Raport_nr.3_UE_RM_RO_.pdf

⁴² Council of Europe Convention on Access to Official Documents, ratified by our state in 2013;

4. Distribution to the general public of information on the possibility of addressing to law enforcement bodies in the event of non-observance of their right of access to information;
5. Ensuring that up-to-date public interest information is posted on the central and local authorities' websites;
6. Application by the public authorities of the Law on the protection of personal data, the processing of information requests, with respecting the European and international standards;
7. Adoption, as a result of public debates, of the Concept of the National Media Development Policy of the Republic of Moldova (2018 - 2025) and the Audiovisual Media Services Code of the Republic of Moldova in a coordinated version with the external partners and civil society experts and which will include provisions on media ownership transparency, combating media monopolies;
8. Strengthening the independence of the Audiovisual Coordination Council;
9. Countering ownership concentration in the media and ensuring the protection of fair competition on the advertising market by improving competition and advertising legislation, in line with good Community practice, European and international standards.

RIGHT TO HEALTH PROTECTION

The right to health protection is provided by Article 36 of the Constitution of the Republic of Moldova: „(1) *The right to health protection is guaranteed. (2) The minimum health insurance provided by the State shall be free of charge. (3) The structure of the national health security system and the means aimed at protecting the physical and mental health of the individual shall be provided for by organic law.*”

This right is also found in Article 12 of the Covenant on Economic, Social and Cultural Rights, Article 25 of the UN Convention on the Rights of Persons with Disabilities.

The right to health protection and healthcare is also enshrined in Articles 11 and 13 of the Revised European Social Charter.

The right to health is taped through the light of the international provisions, the accent being put on the rights of the patient, they being stipulated in the European Charter of Human Rights which includes **14 rights of the patient**.

Regarding the observance of the right to health protection, in the Report on the Observance of Human Rights in the Republic of Moldova in 2016, the People's Advocate recommended:

- Creation by the Ministry of Health an independent professional medical expertise body which will examine objectively the requests and claims of patients.
- Revision of the regulatory framework on periodic checking of medical equipment which are held and used by the medical institutions and adjusting it to the international standards.
- Revision by the National Council of Evaluation and Accreditation in Health of the criteria of evaluation and accreditation of medical sanitary institutions under the aspect of human rights respect.
- Revision of the mechanism of assigning funds for PEMS (Pre-hospital Emergency Medical Assistance) from CHIF (Compulsory Health Assistance Insurance) budget, foreseeing the service real necessities.
- Elaboration of curriculum and initiation of initial and continuing training courses in the field of medical legislation and human rights for medical staff for respecting the rights of patients while realizing the medical act.

At the same time, in his Alternative Report, filed with the UN Human Rights Council in the Universal Periodic Review to which the Republic of Moldova has been subjected, the People's Advocate noted that the health system is marked by corruption, conditioned by poverty and lack of effective tools to combat this phenomenon.

In the process of assessing the level of respect for human rights by the Republic of Moldova, several international mechanisms have made recommendations to the State.

Thus, the UN Committee on Social and Economic Rights recommends the State party to take all measures to: ensure that the Compulsory Health Insurance Scheme covers each person in the State Party; ensure that the optimization process does not limit the physical and financial accessibility of health services, especially among people with disabilities, the elderly and those living in rural areas; improve the quality of health services by ensuring a sufficient number of qualified medical workers, modernizing medical equipment and facilities and establishing mechanisms for regulating public health institutions; address the issue of discrimination faced by disadvantaged and marginalized people and groups, in particular Roma people, people with disabilities, people living with HIV / AIDS, refugees and asylum seekers in accessing health services and raising awareness among health workers with regard to the special needs of these persons.

The Committee also recommends that the State party take effective measures to combat excessive tobacco consumption and the high incidence of lung disease among Roma women; to run information campaigns on free primary health care services and other available medical services.

The Committee recommends the State Party to take all effective measures to: (a) provide access to information and services on sexual and reproductive health, including modern contraceptives for all; (b) provide comprehensive sexual and reproductive education and age-appropriate education in all educational institutions, according to the provisions of the Law on Reproductive Health; (c) ensure that the medical insurance policy covers abortion; (d) put an end to the practice of sterilizing by constraining women with disabilities, Roma women and rural women and abolishing legislation that allows for the interruption of pregnancy without consent. The Committee draws the State Party's attention to its General Comment No. 22 (2016) on the right to sexual and reproductive health.

According to the Committee's Recommendations, the State Party needs to step up its efforts to combat the spread and effects of HIV / AIDS, including by extending free anti-retroviral treatment coverage and reviewing the provisions of the Criminal Code criminalizing HIV transmission. The Committee calls upon the State Party to review the Law on the Prevention of HIV / AIDS Infection No. 23-XVI of 2007 in order to protect patient confidentiality. It is also recommended that the State Party intensify its efforts for the treatment and prophylaxis of tuberculosis, especially multidrug resistant tuberculosis.

The Committee also recommends that the State Party apply the human rights approach to the treatment of drug users and provide healthcare, psychological support and adequate rehabilitation. The Committee calls on the State Party to maintain harm reduction programs for drug users.

In the same context, the UN Committee on the Protection of Persons with Disabilities recommends that the State Party raise awareness of the rights of people with disabilities among health professionals by training and promulgating ethical standards and ensuring the availability and accessibility of services and facilities of health care for all people with disabilities across the country, including emergency services; to take measures to ensure that women with disabilities have access to affordable medical services and facilities, including in the field of sexual and reproductive health.

Similarly, the United Nations Committee Against Torture recommends that the State Party step up its efforts to improve healthcare services in penitentiary institutions, including by employing an adequate number of qualified medical staff who receive training relating to the *Handbook on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol)*; to establish and ensure the implementation of rules to facilitate requests for private medical care from detainees and referral to the services of outside specialists and to accommodate the needs of detainees with disabilities in the penitentiary environment; to transfer responsibility for medical units from penitentiaries from the Department of Penitentiary Institutions to the Ministry of Health, Labor and Social Protection; to ensure that the Penitentiary Hospital is subordinated to the Ministry of Health; to undertake measures to reduce overcrowding, to improve the material conditions, including by renovating and equipping patients' rooms, to provide adequate food and medicine; to provide individualized treatment plans and medicines for patients with psycho-neurological diseases, including antipsychotic drugs.

The Committee also recommends that the State separate healthy detainees from those suffering from active tuberculosis in all places of detention, providing specialized medical assistance to detainees suffering from active and multidrug-resistant tuberculosis and provide them with adequate ventilation; to put in place adequate measures to effectively prevent and control the further spread of HIV in penitentiary institutions; to adopt a gender-sensitive approach and to meet the needs of personal health services and personal hygiene of women in the penitentiary system in line with international standards.

The right to health is addressed in the light of international provisions, with emphasis on rights of patient, as set out in the European Charter of Patients' Rights, which stipulates 14 rights

of the patient. These rights are important in the relationship between the citizen and the health system.

From a legal point of view, the rights of the patient are defined in the legislation of the Republic of Moldova as rights deriving from the fundamental human rights to life and health, which include social rights related to *accessibility*, *quality* and *equity* in obtaining medical assistance, as well as individual rights relating to the respect of the patient as a human being, of his dignity and integrity, achieved in the use of health services or in connection with his / her voluntary participation as a human subject in biomedical research.

At the same time, it is important to mention that by ratification of the Convention on Human Rights and Biomedicine⁴³, the Republic of Moldova once again committed itself to take appropriate measures in order to ensure fair access to good quality health services. The signatory States must provide explanations as to how their internal law ensures the effective implementation of all the provisions of this Convention.

The People's Advocate argues that the health system should primarily aim at promoting, restoring and maintaining the health of the population, based on 3 fundamental objectives:

- disease prevention of population (primary objective);
- meet the expectations of the population (vis-à-vis health services);
- providing financial protection against costs in the event of illness.

Ensuring accessibility to health services is considered worldwide as a fundamental right of the individual and is a basic condition for improving the health of the population.

At present, a person who has a compulsory insurance policy and needs access to the health care system has several options. In the case of an addressing to a doctor in the public institution, a number of challenges arise, including: waiting, overworking of medical workers, which often leads to indifferent treatment and diminishing the quality of the medical act.

Being known the level of salary of healthcare workers, for the identified shortcomings, there are apologies for the identified shortcomings. These „excuses” do not make the patient or the system „healthier”.

Another option is to call on the services of private medical institutions, where waiting lists are usually shorter and medical staff are more motivated, including because of better working conditions and decent pay. In addition, in some cases some specialists and / or services can be found only in private clinics.

Few insurance policy holders know about the second option, namely, that they can receive services based on the insurance policy in some private medical institutions.

⁴³Law on the Ratification of the Additional Protocol to the Convention on Human Rights and Biomedicine, concerning Biomedical Research no. 271 of 30.11.2012;

The management of the compulsory healthcare assurance process, the quality control of the healthcare provided and the implementation of the normative framework for medical insurance, as well as the management of the public expenditures for health care are the basic attributions of the National Health Insurance Company (NHIC).

The beginning of 2017 was marked by higher tariffs for medical services. The People's Advocate convened a working meeting on 28 February 2017 and warned the responsible authorities that unjustified price increases would lead to the impossibility of achieving the right to health of several categories of Moldovan citizens, especially by those who do not have the policy of compulsory medical insurance. At the same time, he mentioned that these price increases could prejudice the right to health protection of both people who do not have a medical insurance policy and those who have it. In fact, access to medical services is at the top of human rights issues, according to a study conducted in 2016 on the request of the OPA (Office of the People's Advocate)⁴⁴.

Throughout 2017, health care beneficiaries continued to invoke human rights violations in health care, in particular as regards: indifferent attitude and lack of respect for the patient by healthcare workers, non-respect of confidentiality, breach of the right to correct patient information, access to specialized treatment, to the avoidance of undue suffering and pain, as well as limited access to quality standards, the provision of costly treatments, and so on.

The right of patient to personalized treatment

This implies that each patient is entitled to diagnostic and treatment programs tailored to individual requirements, where economic criteria must not prevail over the right to care. The People's Advocate examined applications in which patients invoked limited access to healthcare services corresponding to their state of health, which led to its aggravation or even the establishment of disability.

It is necessary to mention that the Law on Patient Rights and Responsibilities No. 263 of 27.10.2005 stipulates the right of the patient to respect his / her moral and cultural values, his // her religious and philosophical beliefs in the process of providing health services. The law recognizes the patient or his / her legal representative as the main participant in the decision on medical intervention.

The right of patient to avoid undue pain and suffering

⁴⁴ http://ombudsman.md/sites/default/files/document/attachments/ro-raport_do_final_pentru_tipar.pdf;

This right implies that every person has the right to be free of pain and suffering as much as possible in each phase of the illness he / she suffers from. It is important for the state to ensure palliative care appropriate to each patient and his / her health.

The special report elaborated by the People's Advocate after investigating the case of Niculina Bulat highlighted the deficiencies of the medical system in this chapter⁴⁵.

The patient being in the terminal phase had the right to palliative care to avoid undue pain. The patient N. Bulat was not referred to palliative care services when her condition had become considerably worse, although from 2010 in the Republic of Moldova there exist the National Standard of Palliative Care.

According to the World Health Organization, palliative care is intended to improve the quality of life of patients and their families when facing life-threatening diseases by preventing and eliminating suffering, by early identification, evaluation and treatment of pain and other problems of physical, social, psycho-emotional and spiritual nature.

With the signing of the Resolution on palliative care by the Republic of Moldova, the state pledged to develop these services, acknowledging the beneficial impact and their necessity. In this context, health officials recognize that medical institutions lack well-trained specialists in palliative care.⁴⁶

Another problem identified in the investigation of this case is the procedure for compensating the expenses for the displacement of patients with chronic renal insufficiency at the medical institutions that carry out the dialysis.

However, according to the Order of the National Health Insurance Company no. 45-A of 13 February 2006⁴⁷ patients are reimbursed only for the public transport trip.

The People's Advocate considers that the compensation of travel expenses for public transport in accordance with the provisions in force does not even cover the real costs, since, depending on the severity of the illness, the patients are moving for dialysis sessions 2 or 3 times a week.

The cases of N. Bulat and A. Braguta, investigated by the People's Advocate, have also highlighted other systemic problems in this field⁴⁸, namely: the lack of cooperation between emergency, primary and hospital health services; faulty management in ensuring the implementation of the provisions of the normative acts in force (laws, orders, regulations, clinical protocols, etc.); insufficient monitoring of the patient by the family doctor; non-

⁴⁵ http://ombudsman.md/sites/default/files/document/attachments/raport_special_bulat_pdf.pdf;

⁴⁶ www.e-sănătate.md;

⁴⁷ Order of the National Health Insurance Company no. 45-A of 13 February 2006: For patients with chronic renal insufficiency, the dialysis medical institutions cover public transport expenses from / at home to carry out dialysis;

⁴⁸ <http://ombudsman.md/sites/default/files/document/attachments/raportspecial.pdf>;

compliance with the professional obligations and principles laid down in the Code of Conduct of the Medical Worker and the Pharmacist; the lack of monitoring of the patient's state in the whole health system and the lack of inter-sectoral collaboration (between the rings of the health system), in terms of transmission of information for monitoring / continuation of patient treatment, etc.

Compliance with the right to fair information

Poor communication between the patient and the physician would be one of the basic factors that generates a violation of the patient's primary right to fair information. However, fair information of the patient is particularly important in order to make the right decision regarding treatment and proposed interventions. This conclusion comes as a result of the examination of the Ombudsman's requests for breaches of the right to health protection.

In the opinion of the People's Advocate, effective observance of the right to fair patient information would diminish patients' discontent with physicians.

Another factor, which, in the opinion of the People's Advocate, generates the violation of patients' rights, would be ignorance by a large number of medical workers of the provisions of the medical legislation.

The Law on Patient Rights and Responsibilities No. 263 of 27 October 2005 stipulates in Article 5 that the patient is entitled to comprehensive information about his / her own health, methods of diagnosis, treatment and recovery, prophylaxis, as well as potential and their therapeutic efficacy.

Code of Ethics of the medical worker and pharmacist stipulates that the medical worker must show maximum vigilance in the provision of medical services and in avoiding the foreseeable complications of the patient in their care⁴⁹;

Compliance with quality standards

This right implies that every person has the right to access high-quality services in compliance with fixed standards.

The People's Advocate examined applications for limited access or even total limited access to high-performance services.

Patient E.B. has addressed to the family doctor to receive treatment for foot pain. The doctor examined the patient superficially without referring her to any other specialist. The treatment prescribed by him did not work. Finally, the patient was recommended for hip

⁴⁹ Decision of the Government of the Republic of Moldova on the approval of the Code of Ethics for the medical worker and the pharmacist no. 192 of 24.03.2017;

prosthesis surgery and had to wait for a long time (about 3 years) to benefit from the intervention. The patient was subjected to surgery only after the intervention of the People's Advocate to the appropriate Ministry.

Hip and knee endoprosthesis remains a problem of the health system, based on the number of applications on this subject addressed to the Ombudsman. According to a press release from the Ministry of Health, Labor and Social Protection, until 2017 the hip and knee endoprosthesis surgical interventions were performed only at the Institute of Emergency Medicine and at the Hospital of Traumatology and Orthopedics. Annually, these two medical institutions made about 800 interventions, but the waiting list far exceeded this number, and the patients were forced to wait up to 5 years to benefit from such an intervention⁵⁰

Ensuring access to costly treatment (including endoprosthetic surgery) is a frequent issue in the applications addressed to the People's Advocate.

According to the legislation in force⁵¹, the State supports financially, covering from the state budget some of the expenditures for the costly treatments abroad for medical services that cannot be performed in the country.

Every citizen of the Republic of Moldova can benefit from the state support for the treatment abroad in case of impossibility to provide such treatment in medical institutions in the country.

The People's Advocate concluded that patients are not always informed of the possibility of receiving expensive treatment abroad.

For example, the citizen T. has benefited from numerous investigations in the medical institutions of the Republic of Moldova, but it was not possible to establish a final diagnosis. In this case, the Ombudsman asked the Ministry of Health, Labor and Social Protection to set up a ministerial commission to assess the possibility of sending patients abroad, although the patient had to be informed by the family doctor or specialist.

Also regarding the observance of the patient's right *to quality standards* and the security of services rendered in health care can be mentioned the case publicized in 2017 regarding the *irradiation of some patients at the Balti Hospital with the Roentgen apparatus*.

With reference to this case, the administration of the Balti Hospital mentioned that the amounts allocated by the local public authorities as founder served only for the repair works. On the grounds that the National Health Insurance Company cannot redirect resources for the purchase of medical equipment, the institution is unable to purchase the necessary equipment.

⁵⁰ <http://msmps.gov.md>;

⁵¹ Order of the Ministry of Health no. 979 of 27 May 2016 „On selecting patients for expensive treatment and / or investigations”;

On the other hand, the National Council for Health Assessment and Accreditation communicated that the institution was subject to accreditation in 2013. Since some services did not accumulate the required number of points according to the accreditation scale, the institution was partially accredited. Regarding the imaging service, the non-conformities to the assessment and accreditation standards were related to the insufficient level of completion with medical staff and continuous professional training, the environmental conditions in the rooms, the quality of the management of the medical act, the degree of wear of some medical devices. The information on the preliminary results of the accreditation activity was presented at the summarizing meeting with the participation of the Administration of the Health Department of the Balti Mayoralty (the founder's representative) and the administration of the institution.

Following the adoption of the partial accreditation decision, the institution's administration did not take the necessary steps to adjust the work of non-accredited services to the assessment and accreditation standards and did not request the reassessment procedure for accreditation purposes.

The People's Advocate considers that both systemic problems, such as the financing of medical institutions, and the negligent attitude of managers, generate serious violations of patient rights.

In conclusion, it is necessary to assign to the Ministry of Health, Labor and Social Protection the quality of founder of all public hospitals in the country. This will ensure, among other things, the optimization of expenditure in the health system and the efficient management of financial resources.

The problems mentioned previously by the People's Advocate are also current in the reference year: obsolete medical equipment, acute shortage of medical staff, especially in rural areas, under-funding of the medical system and adequate provision of medical institutions, deplorable state of some medical institutions.

The problem of endowment with proper medical equipment is still targeted by the People's Advocate. The assessment of the situation in this chapter has already been initiated and is to be carried out in 2018.

The People's Advocate reiterates the need to create effective mechanisms for out-of-court settlement of patient complaints and dispute resolution in the health sector. At the same time, it is necessary to adopt an effective normative framework and to create functional institutions for dealing with malpractice cases. This is because there is currently no specific legislation in the Republic of Moldova on malpractice that establishes and regulates the civil liability of the health service provider.

Access for people with disabilities to health services

According to a sociological study⁵² on social inclusion of people with disabilities, conducted by Keystone Moldova Association, 2/3 of people with disabilities indicated that they have access to health services along with other citizens, 10% said they have more benefits than ordinary citizens in accessing medical services and 18% - that have fewer access to medical services. More than 80% of the respondents indicated that they have little or no access to recovery and rehabilitation services, sanatorium sheets, special means and equipment according to needs. 60% said they had little or no access to compensated drugs.

The results of this study highlighted several barriers faced by people with disabilities in accessing health services, namely: the impossibility of persons with mobility disabilities to access specialized home care services; low cooperation degree between health centers and protection and social assistance institutions, which leads to a lack of coherence in the delivery of socio-medical services; reduced physical accessibility of health centers for people with locomotory and sensory disabilities; lack of modern medical investigation equipment adapted to the needs of persons with locomotor and sensory disabilities; limited access for people with disabilities, especially those with cerebral palsy, spasticity with epileptic syndrome, to dental services; reduced access of disabled people to free prosthesis, rehabilitation and recovery services.

The findings of this study must be added to the Ombudsman's concerns about respect for the rights of persons with disabilities previously voiced on various occasions, but also in his reports.

Access of detained persons to health services

During the reference period the People's Advocate was notified by a large number of detained people who have invoked the violation of their right to health.

In the examined applications, the persons in custody of the state invoked most frequently the failure to provide adequate medical care, the treatment prescribed by the specialist doctor or the provision of delayed medical care (with delays of 6 - 12 months).

The People's Advocate intervened in several cases to the Department of Penitentiary Institutions with recommendations to optimize the time and quality of medical services provided to detained persons. It is obvious that persons in state custody become vulnerable, being dependent on the employees' decisions in the system.

⁵²<https://www.soros.md/files/publications/documents/Studiu%20Incluziunea%20Sociala%20a%20Persoanelor%20cu%20Dizabilitati%202017.pdf> ;

Also, following the address of the People's Advocate to the Ministry of Health, Labor and Social Protection and the Department of Penitentiary Institutions, detained persons can benefit from the treatment of viral hepatitis according to the National Program for Combating Viral Hepatitis B, C, and D. Administration of Pruncul Penitentiary Hospital informed the People's Advocate that 99 patients have already begun investigations necessary for their inclusion in the antiviral therapy of chronic hepatitis C.

Given that the state must provide quality medical services for any person, it was found that the medical institutions subordinated to the Ministry of Justice were not subject to the health assessment and accreditation procedure although the assessment and accreditation of health services in penitentiaries was planned for the 1st quarter of 2016⁵³. This casts doubt on the quality and safety of the medical act given to the persons in these institutions.

It was also found that the radiological cabinet of the Penitentiary no. 13 Chisinau does not have the Radiological Authorization for the functioning, control or sanitary surveillance.

The right to health protection of people in detention is also jeopardized by the crisis of employees, especially those with medical studies, as stated in the report of the Department of Penitentiary Institutions.

The right to health care lies at the heart of the National Public Health Strategy for 2014 - 2020⁵⁴. The general principles of the Strategy have been developed in accordance with international and national documents governing public health. In particular, the Framework Health Policy of the World Health Organization „Health 2020” is envisaged, which aims to support the interactions of the Government and Society with a view to significantly improve the health and well-being of the population, reducing inequalities in health, strengthening public health. Priority will be given to the implementation of the Post-2014 Action Program of the International Conference on Population and Development and the Post-2015 Agenda for Sustainable Development.

The cross-cutting aspects of the Strategy include human rights, reproductive rights and gender equality, inclusive partnerships and humanitarian assistance. The strategy foresees the development of national capacities to ensure fair access to integrated health services.

RECOMMENDATIONS OF THE PEOPLE'S ADVOCATE:

1. Implementation of the recommendations put forward by international mechanisms of human rights monitoring;

⁵³ Action Plan on the reorganization of medical services in penitentiaries for 2015 - 2016, approved by the Government Decision no. 901 of 27.10.2014, point 20;

⁵⁴ Government Decision of the Republic of Moldova on the approval of the National Public Health Strategy for 2014 - 2020, no. 1032 of 20.12.2013;

2. Performing periodic control on the compliance / implementation by the health professionals and managers of the public medical and sanitary institutions of the normative acts in force in the field of health (laws, orders, regulations, clinical protocols);
3. Revision of the individual professional performance indicators of the medical workers, including in the list of performance indicators of the principles of conduct according to the Code of Ethics of the medical worker and the pharmacist;
4. Creating a mechanism for assessing the quality of medical services provided, based on respecting patient rights, establishing indicators for measuring the quality of the medical act;
5. Organization and implementation of an integrated information system in all health care institutions, for patient monitoring and ensuring continuity of treatment;
6. Developing health policies that meet the needs of patients with terminal or life-limiting illnesses to ensure the integration of palliative care into the health system at all levels;
7. Review by the National Council for Health Assessment and Accreditation of the criteria for assessment and accreditation of medical-sanitary institutions in terms of respect for human rights;
8. Development of an effective regulatory framework for investigation and resolution of cases of medical errors and malpractice;
9. Organization of initial and continuous training of health workers in the field of medical legislation and human rights in order to ensure the observance of patient's rights as part of the medical act;
10. Development of the Curriculum and initiation of palliative care courses for the training of palliative specialists.

RIGHT TO A CLEAN ENVIRONMENT

The situation regarding the respect for the right to a clean environment can be characterized by the existence of a legal framework at national level that meets the standards in the field, but which, regrettably, is not properly applied. In the Republic of Moldova, the waste collection and processing network as well as the sewerage network is poorly developed, especially in rural areas, which has a strong negative impact on the quality of the environment. It is also necessary to develop aqueduct networks at national level in order to ensure the access of the population to quality drinking water resources.

By the provisions of Article 37, the Constitution of the Republic of Moldova expressly recognizes the fundamental right to a clean environment: „(1) *Every individual has the right to live in an ecologically safe and healthy environment, to consume healthy food and to use*

harmless household appliances. (2) The State shall guarantee to every individual the right to free access and dissemination of the trustworthy information regarding the state of the natural environment, living and working conditions and the quality of food and household appliances. (3) Concealment or distortions of information regarding the elements that are harmless to human health are prohibited by the law. (4) Private individuals and legal entities are liable for the damages caused to a person's health and property due to ecological infringements."

In this way, the obligations on the state to ensure the legal framework for the exercise of this right, as well as obligations on the persons to protect and improve their living environment are imposed.

The right to a healthy environment is of particular importance for the conduct of life in appropriate conditions, so that national organizations, bodies and institutions have a stronger role to play in environmental protection by introducing measures to prevent and punish acts of irreparable or long-lasting consequences, which can seriously affect the health or even the lives of people, notably by failing to comply with the legal regime of waste, which pollutes the environment, thus harming the ecological balance.

From a legal point of view, the right to a healthy environment falls within the category of social-economic rights, rights which ensure the material, physical and cultural development of the person, allowing him / her to participate as actively as possible in the social life.

The People's Advocate points out that the right to a healthy environment must be ensured by the state through legal and organizational measures and means.

The Republic of Moldova was the first country to ratify the Aarhus Convention⁵⁵, by the Parliament's Decision No. 346-XIV of 7 April 1999, since it became lawful throughout the country, being an international regulation that takes precedence over any other instrument of domestic law, except for those which contain more favorable provisions.

The Aarhus Convention is based on the recognition of the right of any person in the current and future generation to enjoy an appropriate environment for his or her well-being and health. In order to contribute to the protection of this right, the Aarhus Convention guarantees access to information, justice and public participation in environmental decision-making, as well as imposes certain obligations on the Parties and public authorities in respect of these rights.

At the same time, through the Moldova-EU Association Agreement⁵⁶, the Republic of Moldova has made certain commitments, by which the national legislation in the field will be adjusted to the Community Acquis.

⁵⁵ Convention on Access to Information, Justice and Public Participation in Environmental Decision-Making.

⁵⁶ Law no. 112 of 02.07.2014 for the ratification of the Association Agreement between the Republic of Moldova on the one hand and the European Union and the European Atomic Energy Community and their Member States on the other part.

In order to implement the Association Agreement, at national level, the National Action Plan for the implementation of the Republic of Moldova - European Union Association Agreement for 2017 - 2019⁵⁷ was approved which provides in Chapter 16 „Environment” concrete activities to be carried out in the field of environmental protection, including in the field of waste management and resources.

The People's Advocate **recommended** to the authorities the following in the Report on the observance of human rights for the Republic of Moldova for 2016:

- Making efficient the sectorial policies for supervising, managing and protecting the water resources;
- Water quality monitoring on a national level, systematically and coordinated;
- Strengthening the efforts for extending the sewage networks of the country, especially in the rural localities together with the construction of new aqueducts;
- Consolidation of capacities of public local authorities to elaborate the project documentation for getting from the National Ecological Fund in the field of water supply and sewage system for their locality;
- Intensifying the efforts for realizing the control and evaluating the ecological situation from the Republic of Moldova from the point of view of waste management and acknowledging about it the population;
- Undertaking immediate measures for elaborating optimal solutions for the problem of waste storage from Chisinau municipality;
- Monitoring of the strict compliance with the interdictions imposed for the rent of forests and concession of the rent right of the forest areas to other persons and undertaking legal actions for bringing forests which are exclusively state-owned for the benefit of all citizens, undertaking necessary measures for extending forest areas;
- Promotion of ecological education for young generation at all levels, as component part of a modern educational system.

Although the number of requests to the Ombudsman concerning the violation of the right to a clean environment is insignificant, the People's Advocate has notified the responsible environmental authorities about some cases broadcast by the news agencies.

One of the cases on which the investigation was initiated *ex officio* is the one about the desperate situation of the inhabitants of the Sercani village, Orhei district. According to

<http://www.mfa.gov.md/img/docs/Acordul-de-Asociere-RM-UE.pdf>

⁵⁷ Government Decision no. 1472 of 30.12.2016 on the approval of the National Action Plan for the implementation of the Moldova – European Union Association Agreement for 2017 - 2019

information broadcast by media sources, about 600 inhabitants of the Sercani village did not have access to drinking water. Due to the heat, the wells in the locality dried up and the aqueduct installed in 2016 did not work.

The information reported in the media has raised serious concerns about respect for the right to water, implicitly the right to a decent living for the inhabitants of the Sercani village.

In the investigation process, it was found that the project „Water Supply, Evacuation and Sewage Treatment in the Sercani Village” was financed by the National Ecological Fund. The works were finalized and on 06.02.2017 the final reception report was drawn up. Responsibility for the correct and appropriate use of the financial sources as well as for the quality of execution and according to the project documentation belonged to the Pohrebeni Mayoralty.

According to the information of 17.08.2017, presented by the acting mayor of the Pohrebeni commune, the aqueduct operated between November 2016 - July 2017 and from July 2017 it did not work due to technical defects to be removed.

In view of the People's Advocate's mission to contribute to ensuring governance based on the principles of good governance, the monitoring of the case was considered relevant, as well as the attention of the local public authority on the need to act to ensure the right to water for the inhabitants of the Sercani village, ensuring optimal management of public financial resources.

Respectively, following a repeated address to the Mayor of Pohrebeni commune, the Ombudsman was informed on 04.11.2017 that the aqueduct was repaired and is functioning, the population being provided with drinking water.

In the Republic of Moldova, it is very important that central, regional and local governments have the capabilities and skills necessary to carry out their own tasks, cooperating and coordinating activities effectively within a multilevel governance system. There is also room for significant improvements in administrative capacity as well as the implementation of environmental legislation.

Both authorities and public associations concerned with this area should focus on increasing the degree of ecological education of the population.

In a request addressed to the People's Advocate, the increase in drinking water tariffs for the inhabitants of Vulcanesti village, Nisporeni district, is invoked, namely from 13 MDL / 1 m³ to 26 MDL / 1 m³ of water.

The inhabitants of this locality were deprived of drinking water and used the water from the wells, which dry out during the summer. The local public authority has obtained a grant with which it has built an aqueduct. Taking into account the location of the locality and the overall cost of the works, it was necessary to increase the prices for the drinking water pumping service. The authorities state that this tariff is calculated without taking into account the depreciation of

the investment and covering only the current maintenance costs in order for the service to operate. The amount of the depreciation charge would have constituted 56 MDL / 1m³ of water.

The People's Advocate was informed that as a result of several discussions with the community, solutions were identified that would allow a lower tariff to be approved as of 1 January 2018, this being 20 MDL / 1m³ of drinking water.

Another environmental problem identified at country level is the quality of drinking water.

According to a study carried out by „Apa-Canal Chisinau”, the water from over 80% of the wells in the country does not meet the sanitary norms, and the water from 60% of the underground sources is not good for drinking. Specialists took samples from over 800 localities. The worst situation was found in Telenesti, Criuleni, Ungheni and Falesti.⁵⁸

According to the Public Health Center data, of the total population of urban areas has sustainable access to safe drinking water sources 93.4% and in the rural area - only 30.3%.

The lack of sewerage and wastewater treatment systems, including in children's institutions, affects the hygienic living conditions of the population and leads to pollution of groundwater and the spread of water-borne diseases.

The Public Health Center informs that the Sanitary-hygienic laboratory within the institution performs research on the *quality* index for the network and bottled drinking water, water from wells and springs, surface water, waste water. The tests are designed to determine the content of toxic metals, petroleum products, detergents, nitrates, nitrites, chlorides, ammonia, sulfates, fluorine, phenol, chemical and biological oxygen consumption, hardness and retention of pesticides etc.

As a result of the assessment of the sanitary condition and of the laboratory investigations of the water quality, it was established that in 2015 the share of water samples from the networks of aqueducts per total (communal urban, rural aqueducts, departmental aqueducts, including medical-sanitary institutions and for children), which do not meet the hygienic norms according to sanitary and chemical indicators, constituted 17.3%, compared to 17.6% (in 2013) and 16.1% (in 2014), and according to the microbiological indicators – 6.7%, compared with 7.8% (in 2013) and 10.9% (in 2014), indicating a water quality stabilization with a tendency to improvement⁵⁹.

The People's Advocate approached the issue of drinking water quality and supply in the Alternative Report to the UN Human Rights Council, which reviewed the human rights situation in the Republic of Moldova during the second cycle of the Universal Periodic Review of 4

⁵⁸ https://www.publika.md/-apa-potabila-de-proasta-calitate-pesto-80-la-suta-din-fantatile-din-tara-nu-corespunde-normelor-sanitare-_2985703.html;

⁵⁹ <http://cspchisinau.md/?p=1805>;

November 2016. Among the recommendations made to the Republic of Moldova as a result of this process, there are also recommendations regarding water quality and water supply.

At the same time, the UN Committee on Economic, Social and Cultural Rights states that, from the point of view of the human right to water, everyone has the right to sufficient, safe, acceptable, physically and financially available water for personal and household consumption. These five basic attributes are the foundation of water security.

Although the legislation of the Republic of Moldova correctly reflects the environmental requirements agreed at EU level, their implementation is generally a challenge caused, among other things, by the lack of adequate planning, coordination and funding. The implementation gap is problematic in a number of areas, particularly with regard to waste management.

Moreover, the main source of pollution in the country is unauthorized landfills. According to the Court of Auditors' report⁶⁰ 99.7% or 1147 landfills located in urban and rural areas do not meet the requirements of environmental legislation. One example that denotes this is the Waste Landfill Area near Bubuieci commune, of which the People's Advocate was also *ex officio* notified. Although the land did not meet the criteria of a landfill, however, the daily transport of thousands of tons of waste was tolerated, which directly led to environmental degradation, there was leakage of liquid waste in the soil and from there - in groundwater, and then - in rivers and lakes, a real ecological catastrophe.

Collection, sorting and waste management is one of the major issues facing our country.

At present, the absence of a waste recycling and recovery system is increasingly felt due to the increase in the quantity and diversity of waste.

It is worth mentioning that the following issues have been identified at national level in terms of waste management:

- The main method of waste management is storage, which in most cases is done in non-compliant deposits or storage facilities;
- The waste stream data base is incomplete, the quantities and types of waste / composition are not known precisely because they are not sorted, weighed properly, due to lack of the relevant equipment;
- Possible secondary resources are not capitalized, they are lost in fairly large quantities, the recycling rate is very low, because waste is not sorted properly;
- Low level of civic awareness about sanitation activities and their importance;
- Lack of public awareness campaigns demonstrating the importance of proper waste management;

⁶⁰ <http://www.ccrm.md/auditul-curtii-de-conturi-997-sau-1147-de-gunoisti-situate-in-mediul-urban-si-cel-rural-nu-corespund-cerintelor-legislatiei-de-mediul-1-1854>;

- In terms of assessing the impact of non-compliant landfills on environment (whether it is city deposits or landfills in rural areas), this can only be done on the basis of accurate data on the condition of the environment, but at country level there are no concrete studies addressing this issue.

The real situation shows that although the legislative framework on environmental protection through correct waste management is in line with European Union standards, public authorities in the field have not acted with sufficient exigency in all areas, as proof is the large quantities of waste abandoned or poorly managed, with harmful effects to the environment.

In the context of the above, we consider that there has been no significant progress on waste management.

As a result, the UN Committee on Economic, Social and Cultural Rights has been concerned about the serious pollution of soil and water caused by waste disposal methods at landfills, as well as by the extensive use of persistent agricultural chemicals and organic pollutants, including pesticides and insecticides.

In its Final Comments of 6 October 2017 on the third Periodic Report of the Republic of Moldova, the Committee recommends that the State Party use environmentally friendly methods for managing, monitoring, collecting and treating waste as an alternative to landfills; establish appropriate waste recycling programs; promote patterns of consumption and sustainable production. The Committee calls on the State Party to ensure full monitoring and regulation of the use of harmful chemicals in agriculture.⁶¹

RECOMMENDATIONS OF THE PEOPLE'S ADVOCATE:

- To evaluate the current situation at the waste disposal polygon near Bubuieci commune by carrying out a monitoring of the condition of water, air, soil;
- To acquire and place an efficient leachate treatment plant at the Uzinelor street landfill for household waste;
- To take steps for implementing an effective system of selection and processing of waste;
- To give priority attention to the ecological education of the population by designing and implementing a national plan of action for the sensitization and public awareness to environment protection issue;

⁶¹ Final observations of the UN Committee on Economic, Social and Cultural Rights of 6 October 2017 on the Third Regular Report of the Republic of Moldova, pages 68 and 69 ;

- To streamline sectoral policies for overseeing, managing and protecting water resources; monitoring water quality at national level in a systematic and coordinated way;
- To strengthen efforts for expanding the sewerage network and the sewage treatment system in the country and especially in rural areas, along with the construction of new aqueducts.

RIGHT TO WORK AND LABOR PROTECTION

As part of the People's Advocate's work, the information provided by the National Confederation of Trade Unions in Moldova and the State Labor Inspectorate, as well as the review of the Republic of Moldova by the international human rights monitoring mechanisms, a number of issues concerning respect for the right to work and work safety were identified.

The Constitution of the Republic of Moldova stipulates in Article 43 that *“(1) Every person shall enjoy the right to work, to freely choose his/her profession and workplace, to equitable and satisfactory working conditions, as well as to protection against unemployment. (2) All employees shall have the right to social protection of labor. The measures of protection shall bear upon labor safety and hygiene, working conditions for women and young people, introduction of a minimum wage per economy, weekly rest and annual paid leave, as well as difficult working conditions and other specific situations. (3) The length of the working week shall not exceed 40 hours. (4) The right to hold labor bargaining and the binding nature of collective agreements is guaranteed.”*

At the same time, the right to work and work safety is guaranteed by Article 23 of the Universal Declaration of Human Rights, Articles 6 and 7 of the Covenant on Economic, Social and Cultural Rights, Article 27 of the UN Convention on the Rights of Persons with Disabilities.

In the Report on the observance of human rights for 2016, the People's Advocate recommended the Government to step up efforts to guarantee a minimum national salary sufficient to ensure a proper standard of living for employees and their families, and to establish a mechanism to determine and regularly adjust the minimum wage proportional to the subsistence minimum. At the same time, the Ombudsman also mentioned the need to adopt and promote active incentives to engage young people, stimulate entrepreneurship and create attractive jobs.

In order to ensure the realization of this right, international human rights monitoring bodies have recommended to the Republic of Moldova, under the review process, to take a number of measures.

The Committee on Economic, Social and Cultural Rights therefore recommends the State Party to step up its efforts to improve the general employment situation and, in particular, effectively implement the 5% quota for the employment of people with disabilities and ensure that people with disabilities are guaranteed reasonable accommodation at the workplace; to increase the employment of Roma people, including women, by improving vocational and

technical education and employment services; encourage employers to employ people with disabilities and Roma people, including through facilities programs.

The Committee also recommends that the State Party to increase the minimum wage, especially in the public sector, to a level that ensures decent living for workers and their families; to constantly adjust salaries to the cost of living; to strengthen employers' compliance with minimum wages through labor inspections and complaint mechanisms; and to ensure sanctioning employers who do not offer minimum wages.

It is recommended that all necessary steps be taken to ensure that all employee salaries are fully declared and that all late and unpaid wages are paid without further delay.

Another recommendation by the Committee is to adopt the legislative framework on equal pay for equal work and to further reduce the pay gap between women and men, including by combating stereotypes related to the role of both sexes and by improving women's professional skills and opportunities to engage in non-traditional occupations.

The Committee also recommends to take all the necessary measures to prevent accidents at work, enhance occupational safety and health and strengthen labor inspections, including by revising the Law No. 131 on State Control of Entrepreneurship Activity and Allocation of Human and Financial Resources sufficient for labor inspectorates. The Committee draws the attention of the State Party to its General Comment No. 23 (2016) on the Right to just and favorable conditions of work.

The Committee notes the need to step up efforts to ensure that the children of Moldovan migrant workers abroad receive full care from family members or designated caregivers and are not deprived of their economic, social and cultural rights, including health and education, and to provide support to alternative caretakers in this respect; to step up efforts to retain labor force, especially skilled workers and health and education workers, including through appropriate facilities; to extend bilateral agreements to include provisions on social protection and full employment for these workers in the country where they are employed and to ensure that they can fully benefit from the social security system when they return; to facilitate the integration into the labor market of returning migrant workers by increasing vocational training and job opportunities.

The Committee for the Protection of Persons with Disabilities recommends that the State Party integrate the rights of persons with disabilities and the availability of affirmative action in their national employment strategies and of the respective agencies, making the implementation of the Law no. 60 on employment, including binding and incentive measures for employers; to

support the employment of people with disabilities in the labor market in accordance with the Convention and taking into account the target 8.5 of Sustainable Development Objectives⁶².

Throughout 2017, the same concerns have been addressed which aims at respecting the right to work and protection of work, namely: low wages, salary arrears, employment of people and others. These issues have been identified from applications lodged with the Office of the People's Advocate, from audience members and the media.

According to the information provided by the National Confederation of Trade Unions of Moldova in the IIIrd quarter of 2017, the amount of arrears to pay wages in units in the national economy was 203.6 million MDL. Thus, more than 630 thousand employees did not receive their salaries on time.

According to the same sources, the largest arrears were registered in the following fields of activity: in transport and storage - 95 million MDL (over 39 thousand employees), in manufacturing industry - 32.7 million MDL (90.9 thousand employees), in the field of water collection, treatment and distribution - 10.1 million MDL (over 4.8 thousand employees), in construction - 6.4 million MDL (22.7 thousand employees), in forestry and forestry exploitation- 5.5 million MDL (over 3 thousand employees).

The Ombudsman dealt with 2 cases for the reinstatement of persons claiming arrears of salary.

The Labor Inspectorate of the Trade Unions reported that during the year 2017, 531 work visits were carried out regarding the observance of the legislation and other normative acts in the field of work, safety and health at work, with a number of 42 711 employees. Following the work visits, a record of 11 989 violations and deviations from the provisions of legislative and normative acts in the field of labor were recorded, out of which 9 673 violations in the field of occupational safety and health and 2147 violations of labor relations. Another 169 violations relate to non-compliance with collective labor agreements at unit level, of the collective agreements at national and / or branch level, and of trade union rights.

The main violations of the labor legislation are the inadequacy of the workplace with minimum requirements, the failure to release individual protective and work equipment, the failure to carry out the assessment of risk factors, the failure to pay salaries, the non-observance of the working and rest regime, the failure to observe the legal provisions regarding the dismissal of employees, non- payment of additional work, etc.

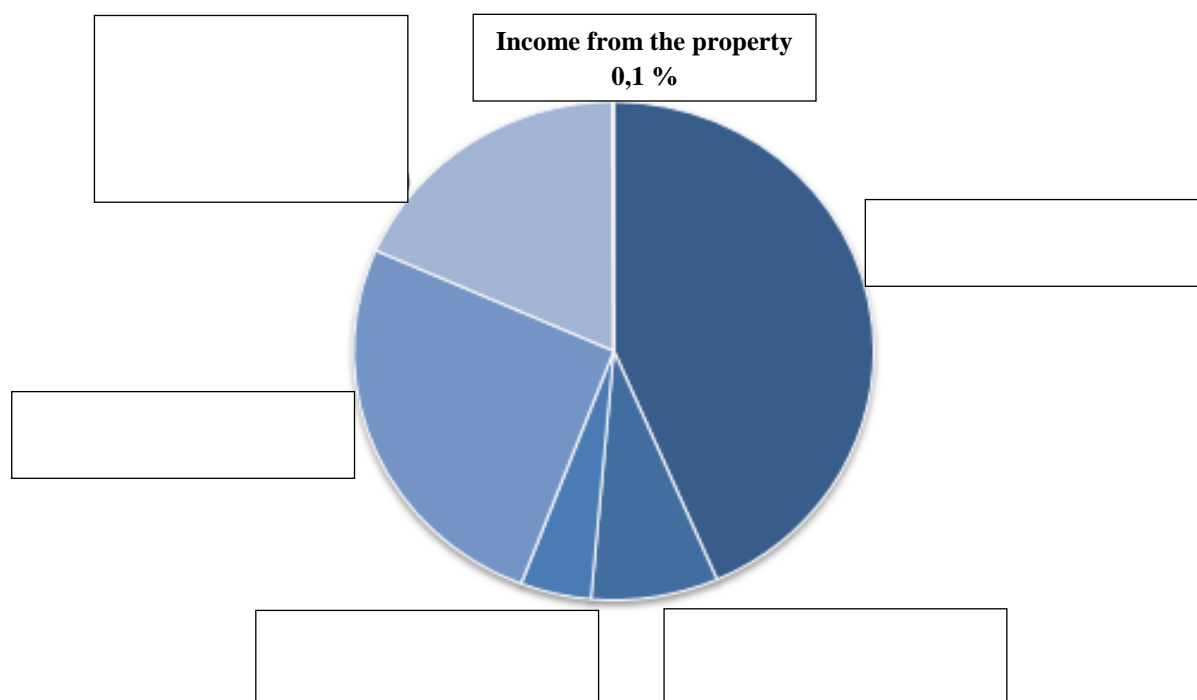
⁶² By 2030, full and productive jobs and decent work for all women and men, including for young people and people with disabilities, and equal pay for work of equal value must be achieved;

The subsistence minimum is the indicator representing the size value of the minimum consumption volume of material goods and services to meet the main needs, maintain health, and sustain human sustainability.

The People's Advocate points out that the minimum salary in the country, amounting to 1000 MDL⁶³, has not been changed since 01.10.2014. If we report the amount of the country's minimum wage to the minimum subsistence level of the working-age population, which constituted in the first half of 2017 - 1980,9 MDL⁶⁴, we find that it covers only about 50% of the minimum subsistence value. And this, given that the annual inflation in 2017 constituted 7.3%, including to food products - 9.7%, non-food goods - 4.1% and services rendered to the population - 7.9%.

Statistical data shows that earnings from wage activity is the most important source of revenue, with 43.5% of the total available revenues, their contribution increasing compared to the IIIrd quarter of 2016 by 1.9 percentage points.

The structure of total available income in the IIIrd quarter of 2017



Analyzing the labor market situation for the past years, we find that in 2017 there was a non-essential increase in the unemployment rate.

Workforce, employment and unemployment

	2014	2015	2016 IIIrd	2017 IIIrd

⁶³ Government Decision of the Republic of Moldova „On Setting the Minimum Salary by Country”, no. 550 of 09.07.2014;

⁶⁴ Data of the National Bureau of Statistics;

			quarter	quarter
Population employment rate over 15 years, %	44,2	45,2	43,5	42,4
Number of unemployed, thousands of people	43,9	44,0	38,7	44,6
Unemployment rate, %	3,3	3,3	2,9	3,4

Source: National Bureau of Statistics

Employment of young people is one of the main problems and in order to stop their migration abroad, viable solutions are needed.

The analysis of the data on the situation of young people on the labor market shows that at present, of the total number of people employed in the labor market, every fifth is aged 15-29⁶⁵.

Unemployment rate among young people

	15-24 years	15-29 years
year 2014	9,5%	7,2%
year 2015	10,7%	7,2%
year 2016	11,2%.	8,1%.
year 2017 (IIIrd quarter)	12,6%	7,7%

Statistical data reveal an increase in the youth unemployment rate in 2017 compared to previous years.

Young people, especially those who do not yet have any previous work, face major problems in their placement. This is so because employers prefer to hire people with some work experience and professional qualifications, which essentially reduces the chances of young people to get a job. On the other hand, young people do not accept the wages and working conditions proposed by employers at the beginning of their professional career, considering them to be inferior, low wages, unattractive jobs, lack of professional experience, limited job offers, inadequate training in labor market requirements, etc.

Ensuring the right to work for people with disabilities remains an issue that requires plenary involvement of the authorities. The People's Advocate considers that the barriers faced by these people in their employment are: low level of information; low motivation of people with disabilities; low level of training and skills of people with disabilities and the unwillingness to learn a job in the face of lack of employment; low level of vocational education training for the educational inclusion of people with disabilities; inaccessible infrastructure; limited access for

⁶⁵ Statistically, young people on the labor market are people aged 15 - 24 or 15 - 29 years. International statistics qualify the 15 - 24 year old occupational group. Youth-related employment policies in the Republic of Moldova refer to young people aged 15 - 29;

people with disabilities to support services for employment. In fact, these challenges have been mentioned by the disabled people themselves.

Also, the statistical data show a trend of population migration abroad in the search for jobs.

The People's Advocate sent a recommendation to the Ministry of Economy and the Ministry of Labor, Social Protection and Family with a view to amending and completing the provisions of Article 14, Article 18 paragraph (1), and Article 19 of the Law on state control over entrepreneurial activity, no. 131 of 08.06.2012, as well as paragraph (2) of Article 11 of the Law on State Labor Inspectorate no. 140-XV of 10.05.2001, in order to be brought in full compliance with the provisions of Articles 12 and 16 of the ILO Convention no. 81/1947 on labor inspection in industry and commerce, so as to remove barriers to the exercise of state control over compliance with legislative and other normative acts in the field of labor by the State Labor Inspectorate. These authorities disregarded the recommendation of the Ombudsman.

By Law no. 188 of 21.09.2017 several amendments and additions were made to the Labor Code. Among the main amendments and additions to the Labor Code were: the termination on the employer's initiative of the individual contract of indefinite term, as well as of the fixed-term contract on the grounds that the employee held the old-age pension status; reducing the unpaid additional leave for 2 years (from 6 years to 4 years); the employer will not have to motivate the decision on the unsatisfactory outcome of the probationary period. In general, the changes introduced represent decreases in employees' rights and guarantees in the context of the State's discretion.

In the opinion of the People's Advocate, in order for these amendments not to be considered as a breach of the right to work, they must correspond to General Comment no. 18 and 23 of the International Covenant on Economic, Social and Cultural Rights. These comments state that States Parties have a positive obligation that the laws, policies, programs and resources allocated help to facilitate access to employment for all members of society. The right to work, at any level and in any form, must be ensured by respecting the criteria of accessibility, availability, adaptability and acceptability.

By Government Decision no. 1473 of 30.12.2016 was approved the National Employment Strategy for 2017 - 2021⁶⁶. In this policy paper, the State aims at balancing the labor market by increasing its employment and quality, enhancing the competitiveness and employability of the labor force, along with a greater degree of inclusion in the labor market, especially social and vulnerable groups. It is believed that by achieving these objectives it will contribute both to the alleviation of poverty and social exclusion level and to the sustainable development of the

⁶⁶ Approved by Government Decision of the Republic of Moldova no. 1473 of 30.12.2016;

economy and thus to the improvement of the quality of life of the population of the Republic of Moldova.

At the same time, it is mentioned that the elaboration of the Strategy results from the priorities of the National Development Strategy „Moldova 2020”, the provisions of the Association Agreement between the Republic of Moldova and the European Union as well as with the Global Sustainable Development Agenda 2030 (Sustainable Development Objective 8 in particular) for contributing to meeting the commitments to promote the Decent Work Agenda undertaken by our country by ratifying international standards and norms⁶⁷ that promote employment and job rights, better employment opportunities, social protection and decent working conditions, effective social dialogue, etc.

The specific objectives of the Strategy aim to promote formal employment and a favorable environment for the development of competitive enterprises, creation of equal employment opportunities as a result of the implementation of non-discriminatory employment policies in the labor market, correlation of education system with labor market requirements for better qualifications and competencies, as well as harnessing the potential offered by the migration phenomenon for sustainable development. The strategy also proposes promoting better labor market governance, in particular through effective mechanisms for substantiating, implementing, monitoring and evaluating policies with an impact on the labor market.

In the context of respecting the right to work and labor protection, the Constitutional Court issued the Decision no. 3 of 31.01.2017⁶⁸, which states that the prohibition to hold the citizenship of a state other than the Republic of Moldova for contracted military and students of higher education institutions is unconstitutional. The Constitutional Court has ruled that these limitations are not proportionate to the legitimate aim pursued, namely the assurance of loyalty to the state, affecting the right to work and study, contrary to Article 16⁶⁹ combined with Articles⁷⁰ and 43⁷¹ of the Constitution.

The People's Advocate appreciates the fact that the Parliament of the Republic of Moldova abrogated by the Law no. 144 of 13.07.2017 the provisions that were declared unconstitutional with regard to the contracted military and the students of the higher education institutions of military education.

⁶⁷ The European Convention on Human Rights, the revised European Social Charter, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Rights of Persons with Disabilities, the International Organization for Migration, including the eight fundamental treaties, etc.;

⁶⁸ Decision on the control of the constitutionality of certain provisions of the Law no. 162-XVI of 22 July 2005 on the status of the military (*the ban on having multiple citizenship by contract military*) (notification no. 126a/2016) no. 3 of 31.01.2017;

⁶⁹ Equality before the law and public authorities;

⁷⁰ Right to education;

⁷¹ Right to work and labor protection;

Thus, it is noted that there are problems regarding the employment of persons with disabilities, women, Roma and young people. At the same time, equal pay for equal work is not ensured, no minimum wage is paid to cover subsistence expenses and to ensure a decent standard of living for workers and their family members. There are arrears in paying salaries and the rules of safety and health at work are not observed.

The People's Advocate considers that in order to solve the above mentioned problems, the authorities need to take immediate and firm measures in the field of education, strengthening the institutions with control functions, and implementing policies that ensure the inclusion of vulnerable groups in the workforce.

In the context of those mentioned **THE PEOPLE'S ADVOCATE RECOMMENDS:**

- Adaptation of the education system to labor market requirements and implementation of lifelong learning and retraining programs;
- Strengthening the institutions with control functions in the field of respecting the right to work and labor protection in order to effectively combat the phenomena such as black work, salary in the envelope, dangerous work conditions;
- Effective developing and implementing of inclusive policies for different vulnerable groups such as people with disabilities, representatives of the Roma, women and young people;
- Adopting the legislative framework on the principle of equal pay for work of equal value and further reducing the pay gap between women and men, including by combating gender stereotypes and by improving women's professional skills and opportunities to engage in non-traditional occupations;
- Development of mechanisms for stimulating and subsidizing employers who have additional expenses for reasonable accommodation of jobs reserved for persons with disabilities.

At the same time, the Ombudsman reiterates his previous **recommendation** on strengthening the state's efforts to guarantee a national minimum wage sufficient to ensure an adequate standard of living for employees and their families and to establish a mechanism to regularly determine and adjust the minimum wage proportionally to the minimum of existence.

RIGHT TO SOCIAL PROTECTION

The People's Advocate brings to the attention of the authorities the most relevant issues regarding the observance of the right to assistance and social protection, which have been identified as a result of his work, but also in the context of the recommendations of international human rights monitoring bodies, from which it can be concluded that problems in this area have persisted for a long time, and the measures taken by the authorities have not contributed to considerable progress.

The Constitution of the Republic of Moldova enshrines this right in the provisions of Article 47: „(1) *The State shall be bound to take actions in order that every person has a decent standard of living that would ensure him/her and his/her family members health protection and welfare including food, clothing, shelter, medical care, as well as necessary social services.* (2) *All citizens have the right to be insured in case of: unemployment, disease, disability, widowhood, old age or other situations where, due to causes beyond one's control, one loses the source or means of obtaining the necessities of life.*”

At the same time, the right to social assistance and protection is enshrined in Article 22 of the Universal Declaration of Human Rights, Article 9 of the Pact on Social, Economic and Cultural Rights, Article 28 of the UN Convention on the Rights of Persons with Disabilities.

In the Annual Report on the Observance of Human Rights in the Republic of Moldova in 2016 the People's Advocate recommended that the authorities ratify the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights; to review the mechanisms for indexing / compensating the incomes of the population as a result of rising prices and tariffs for consumer goods and services, and to identify the levers to help the population, especially the socially vulnerable strata; to improve the human resources management in the field of social protection; to ensure the implementation of legal provisions in the field of social protection, including through the elaboration of implementation mechanisms in due time.

In the framework of the Evaluation of the Republic of Moldova by the Committee on Economic, Social and Cultural Rights, the Committee reiterated its previous recommendations that pensions should be increased to a level that ensures decent living and, as a first step, to reach the minimum subsistence level. The Committee also recommends that the State party: immediately remedy the situation of parents caring for children with disabilities; examine the conditions of social security programmes, strengthen coordination between different social security programmes and streamline the process of granting social security benefits in order to

guarantee the continuity of social benefits; to ensure that self-employed professionals, the majority of whom are women, have equal access to social security programmes; to raise public awareness of social security programmes and their application procedures and to provide assistance to Roma people and people in rural areas to request the necessary insurance and identity documents.

At the same time, the Committee also recommends that the State Party step up its efforts to combat poverty, with a special focus on people in rural areas and retired persons. The Committee also urges the State Party to ensure that all eligible persons benefit from the „Social Aid” program, and to increase the amounts of benefits to a level that will provide beneficiaries with a decent living standard. In addition, the Committee also recommends that the State Party review the eligibility criteria, including the list of assets, to ensure that all people in need benefit from the „Social Aid” program.

In the same context, the State is encouraged by the Committee to revise the system for granting disability certificates to ensure that the assessment reflects the characteristics, circumstances and needs of people with disabilities and to allocate sufficient funds to provide personal assistance to all persons with disabilities.

The Committee recommends that the State party consider the possibility of ratifying the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights.

The Committee for the Protection of Persons with Disabilities, in the evaluation process, recommends that the State Party provide an adequate standard of living for persons with disabilities and their families, including by ensuring reasonable accommodation in respect of pensions and social allowances; to ensure that social protection and poverty reduction programs take into account the additional costs related to disability; to ensure that people with disabilities have access to community social services and public housing programs and that these services and programs are also available in rural and remote areas; to pay attention to the links between Article 28 of the Convention and Target 1.3.1. of Sustainable Development Objectives⁷².

The issues raised in the addresses to the People's Advocate in 2017 do not differ substantially from those addressed in previous years. Failure to ensure the right to a decent living for every person, implicitly social benefits under the minimum subsistence, low wages, insufficient social services, provision of living space for groups / families in situations of increased risk of vulnerability, misapplication of the legal provisions for establishing the old-age

⁷² Proportion of population covered by social protection plans / schemes, by gender, distinguishing children, the unemployed, the elderly, the disabled, pregnant women, newborns, victims of work accidents, and the poor and vulnerable;

pension, misapplication of the „Personal Assistance” service - are some of the problems arising from the applications received at the Office of the People's Advocate.

The case of N. Bulat, the dependent young woman of hemodialysis procedures, widely publicized at the end of 2017, has emphasized besides systemic health issues the problematic aspects in the field of social protection. The People's Advocate issued a Special Report resulting from the investigation of this case, which was submitted to the competent authorities. The Ombudsman found that insufficient due diligence was exercised by social security officers at Community level in the proper performance of their duties.

Another very important aspect in the process of social assistance and protection, but which is carried out in a bad way, is the monitoring and coordination of the work of the social assistance system staff together with the territorial structure of social assistance⁷³.

Investigation of this case denotes the lack of public administration's capacity to respond to the exigencies of individuals, which is rather reactive than proactive, and the managerial capacity to implement decentralized responsibilities is not sufficiently strengthened.

We have also established a defective collaboration of structures at community level: mayoralty, social assistance, medical worker.

The social benefits that were granted to N. Bulat, but which are relevant in many similar cases, do not cover either the subsistence minimum, not to mention an assessment of the needs of persons with severe disabilities. According to the National Bureau of Statistics, the average *subsistence level in the 1st half of 2017* was 1866.3 MDL⁷⁴ per person.

Another problematic aspect that emerges from the investigation of the mentioned case is the implementation of the social service „Personal Assistance”. The conclusions of the Special Report on this subject confirm the findings of the People's Advocate in the Thematic Report „Integration of People with Severe Disabilities into the Community: the Impact of the Social Service „Personal Assistance”,⁷⁵ elaborated in 2017.

One of the problems identified in the investigation of the N. Bulat case, which was also dealt with in the Thematic Report mentioned above, refers to the legal provisions, according to which, persons with severe disabilities who are entitled to maintenance allowance are placed in the situation to choose between the allowance and the admission to the social service with the payroll of the person who supports them. Please note that the allowances established in accordance with the Law on state social allowances for certain categories of citizens no. 499 of 14.07.1999 are paid from the state budget through the social insurance budget and the financing

⁷³ Law on Social Assistance no. 547 of 25.12.2003 Article 14 letter g);

⁷⁴ <http://www.statistica.md>

⁷⁵ www.ombudsman.md

of the social service „Personal Assistance” is made from the budget of the local public authorities.

According to the data provided by the territorial structures of social assistance and family protection at the time of requesting the information (July 2017), 2277 persons benefited from the service and 4279 were on the waiting list. Accumulated data show that in 15 administrative-territorial units out of 37, there is an overstatement of 100 applications for the number of satisfied applications regarding the given service, and in 4 administrative-territorial units, besides the satisfied ones, there are still 200 applications for this service.

One of the main issues addressed by the respective territorial structures is the inability of local authorities to meet the needs / demands of this social service from insufficient financial resources in the local budget of the IInd level.

At the same time, the authorities concerned mentioned other dysfunctions / shortcomings related to the implementation of this social service: lack of psychological unity within the Service; lack of training curricula and training of personal assistants; lack of the Service Operational Manual; the insufficiency of financial resources for the development of the specialized service „Respiro”⁷⁶; inadequate remuneration of personal assistants.

The People's Advocate considers that the accumulated statistical data highlights the inability of the local public administration to implement this service of major importance for people in difficulty. The central authorities have transferred the entire financial burden on the shoulders of local authorities, who are forced to support the work of the service through various methods. And one example is hiring personal assistants on a 0.5 salary quota to meet a higher number of requests.

Consequently, the access of persons with disabilities to social services, meant to support their plenary integration into society, remains limited.

In the examination of a request regarding the method of establishing the old-age pension, the People's Advocate found the incorrect application by the social security bodies of the provisions of the Law on the Public Pension System no. 156 of 14.10.1998, in connection with changes in retirement age. In particular, the infringement complained of was expressed by the refusal to accept the applicant's documents and to establish her old-age pension in accordance with the legal provisions in force on 30.06.2017. Therefore, on 30 June 2017, the applicant cumulatively covered the conditions for retirement age and the length of service to qualify for a retirement pension, that is to say, the age of 57 years for women under the provisions in force at that time. Starting with 1 July 2017, through the modifications introduced by the Law no. 290 of

⁷⁶ The specialized service „Respiro” aims to provide specialized assistance for 24 hours to persons with severe disabilities for a period of up to 30 days a year, during which families, relatives or caregivers enjoy a rest period;

16.12.2016, the retirement age for women is 57 years 6 months, and later, according to the Table no. 2 of Article 41 of the Law no. 156 of 14.10.1998.

The representatives of the National Pay Office of Social Insurance, responsible for controlling and enforcing social rights legislation, mentioned that the applicant had only one day (30.06.2017) in order to qualify for a pension at the age of 57 and according to the established practice 30 days referred to in Article 32 is not applicable to such a situation. At the same time, it has been confirmed that such cases have been reported and in all cases the acceptance of the necessary documents was refused.

The People's Advocate considered unjustified and illegal the actions of the representatives of the social insurance bodies and subsequently submitted to the National Pay Office of Social Insurance a Report recommending the immediate return of the person as well as ordering the correct application of the legal provisions by all the employees in the social security system to ensure the respect for human rights.

Respectively, the National Pay Office of Social Insurance informed the People's Advocate that the Territorial Pay Office of Social Insurance Buiucani has established the applicant's old-age pension starting with 30 June 2017. Additionally, upon request, the People's Advocate was informed that retirement pensions have been re-examined and established for another 9 persons who have met the above-mentioned requirements.

Insurance with housing of groups / families in situations of increased risk of vulnerability is another problem arising from the applications addressed to the People's Advocate. The People's Advocate was notified by a mother with 4 children who lives in a room in the demise of a residential block in Chisinau municipality under inappropriate conditions, without access to water and sewage. Due to poor sanitary and hygienic conditions, family members have health problems. The family lived for a long time (since 2001) in the temporarily assigned area, hoping that the authorities will provide them with adequate housing. As a result of the investigation of the case, the Ombudsman recommended to the Chisinau Mayorality to identify the best solutions for ensuring the right of the family to a decent living.

Another problematic aspect is the granting of the right to housing to young people for whom the status of child left without parental care has been established. At the age of 16-18, orphan youth leave the Placement Centers where they have spent their childhood. Without a family, without a job, without the safety of tomorrow, but, especially without a home, they risk social marginalization. They are in a position to do it on their own, in an environment that is alien to them. The place of living is one of the biggest problems for boarding schools' graduates.

According to Article 19 of the Law on the Rights of the Child no. 338 of 15.12.1994, leaving the state institutions, orphaned children should return to the parents' home that the state

should keep. If this is not possible, this category of young people should benefit, in turn, from housing.

From an application addressed to the People's Advocate, it follows that the citizen R. S., who has the status of a child left without parental care, is in the list to benefit from housing in Chisinau municipality for more than 15 years, and since 2006 he has been included in the priority list for the allocation of housing (under the no. 34). The People's Advocate was informed that the Regulation under which the young person was included in the priority list is no longer in force, which indicates that the petitioner was automatically removed from the housing list without being informed of the need to submit a new application, according to the provisions of the Regulation on the registration, the manner of assignment and use of social housing⁷⁷.

In such circumstances, the situation of the persons who have been registered by the local public authorities for the benefit of housing remains uncertain.

The upward trend in prices and tariffs on consumer goods and emergency services further aggravate the situation of the population and affect the realization of the right to a decent living, especially for socially vulnerable groups.

The National Bureau of Statistics informs that annual inflation (for the last 12 months from December 2016 to December 2017) constituted 7.3%, including: food products - 9.7%, non-food goods - 4.1% and services rendered to population - 7.9%.⁷⁸

The NBS (National Bureau of Statistics) data reveal a significant increase of the tariffs for health services for this period - by 75.5%, especially:

- paid medical services - 2.1 times,
- medical analyzes of the persons hospitalized in the hospital - 2.0 times,
- medical laboratory services - by 83.6%,
- hospital treatment - by 74.0%,
- physiotherapeutic services of the hospitalized persons - by 59.0%,
- dental services - by 26.3%<
- child maintenance payments in nurseries and kindergartens - by 18.8%
- communal housing services - by 5.9% (including garbage transportation - by 27.9%, aqueduct and sewage - by 22.2%)

Evolution of prices and tariffs for consumer goods and services during 2015 - 2017

⁷⁷ Government Decision of the Republic of Moldova „On the approval of the Regulation on the registration, the manner of assignment and use of social housing”;

⁷⁸ <http://www.statistica.md/newsview.php?l=ro&idc=168&id=5493>;

Goods and services	December 2017 in % versus:	December 2016 in % versus:	December 2015 in % versus:
	December 2016	December 2015	December 2014
TOTAL	7,3	2,4	13,6
Food products	9,7	2,8	14,3
Bread	0,9	1,7	9,4
Vegetables	39,4	-7,0	49,1
Fruits	22,6	8,4	33,9
Meat, products of meat and canned meat	8,1	0,6	1,9
Milk and dairy products	1,0	2,1	6,9
Sugar	3,5	10,1	19,2
Eggs	1,8	16,5	7,1
Vegetable oil	-5,8	6,4	21,4
Non-food goods	4,1	3,2	14,1
Ready-made clothes	6,2	4,9	14,2
Footwear	6,3	9,4	12,2
Drugs	-3,7	-1,2	20,0
Fuels	5,1	1,6	3,2
Construction materials	2,3	1,4	10,7
Services	7,9	0,5	11,3
Communal-housing services	5,9	-4,9	17,5
Drinking water and sewage	22,2	1,3	13,5
Electricity	3,9	-9,9	34,5
Natural gas through network	0,0	-10,1	9,7
Central heating	6,5	7,1	0,0
Passenger transport	-0,8	0,4	2,5
Public alimentation	6,1	4,6	11,7

source: National Bureau of Statistics

The National Bureau of Statistics informs that in the IIIrd quarter of 2017, *the available incomes* of the population constituted an average of 2 224.4 MDL per person per month and the *monthly average consumption expenditure* of the population averaged 2301 MDL per person. At the same time, the monthly average subsistence minimum per person in the Ist semester constituted 1866.3 MDL. These data indicate that *monthly average consumption* expenditure exceeds the monthly average subsistence level set for one person but also *the available incomes* of the population. We come back to the need for the authorities to make efforts to identify efficient solutions and mechanisms to support the population in connection with the increase in prices and tariffs, as well as adjusting the minimum wage, minimum pensions and social benefits to the minimum subsistence level.

According to the sociological study data⁷⁹ conducted by Keystone Moldova Association in 2017, more than 90% of people with disabilities mentioned social benefits as the main source of income. The share of people with disabilities (64%) who indicated that their incomes did not reach the strict minimum is two times higher than in the general population (31%). More than 80% of respondents indicated that their income does not cover at all or slightly covers primary needs (food, clothing / footwear) and rehabilitation services.

The statistical data provided by the National Pay Office of Social Insurance attests that the amount of the pension for 71.8% of the pension beneficiaries is below the minimum subsistence level set for pensioners.

Indicator denomination	Number of beneficiaries (persons)	The rate of the respective beneficiaries of the total number of pension beneficiaries (%)
Total number of pension beneficiaries	716015	
of the total number of pension beneficiaries, the amount of which is below the minimum subsistence level for pensioners* (up to 1566.60 MDL), divided into categories: (persons)		
Old-age pensions	388869	54,3
Disability pensions	110015	15,4
Survivors' pensions	11200	1,6
Pensions for seniority	63	0,0
Pensions of certain categories of civil aviation employees	11	0,0
Civil servants' pensions	315	0,0
MEPs' pensions	0	0,0
Pensions of local elected representatives	0	0,0
Pensions of government members	0	0,0
Pensions of customs workers	0	0,0
	0	0,0
Pensions of employees of the force organs	453	0,1
Pensions of the participants in the liquidation of the Chernobyl accident	83	0,0
Pensions of military in term and their family members	547	0,1
Pensions of some employees in the field of culture	21	0,0
Early retirement pensions	2719	0,4

⁷⁹ Sociological study. Social inclusion of people with disabilities;

The People's Advocate proposed to the Ministry of Labor, Social Protection, the initiation of the procedure for amending and completing the article 6 of the Law on the social protection of the citizens who suffered from the Chernobyl catastrophe no. 909-XII of 30.01.1992, so that the category of persons who participated on their own initiative in eliminating the consequences of the Chernobyl accident to benefit from the protection of this law. The Ombudsman was informed of the authorities' intention to extend social protection measures to this category of citizens. Until now, the changes have not been made.

At the same time, the Ombudsman proposed to the Ministry of Transports and Road Infrastructure the initiation of the procedure for amending and supplementing the provisions of paragraph (6) of Article 64 of the Road Transport Code and the abolition of bureaucracy so that war veterans can benefit from an accessible, adaptable and acceptable mechanism to free trip with all means of public transport. Subsequently, the People's Advocate was informed about the activity of a working group analyzing this issue. At the moment no changes to the legal framework have been made in line with the Ombudsman's recommendation.

In the context of the realization of the right to social assistance and protection, the People's Advocate points out that the National Development Strategy „Moldova 2020”, approved by the Law no. 166 of 11 July 2012, establishes as one of the priorities the development of ensuring the financial sustainability of the pension system to guarantee an adequate salary replacement rate.

On 9 February 2017, the Constitutional Court declared unconstitutional the legal provisions⁸⁰ by which mothers who resigned during pregnancy and at the time of childbirth do not have a job were private to the maternity allowance.

In its argumentation, the Court noted that there is an unfair attitude between wives who have not worked at all and those who have worked partially in the months preceding maternity leave. Although, on the day of birth, the two categories of women have the same status - dependent persons, the legislation provided social remuneration only for unemployed wives throughout the pregnancy.

The Ombudsman appreciates the efforts of the authorities to reform the disability determination system in order to ensure the fairness, impartiality and transparency of the process, but most importantly, to change the approach that has hitherto been focused only on the medical side but with the changes to be made the emphasis will be on the psycho-social aspect.

⁸⁰ Constitutional Court Decision no. 6 of 09.02.2017, „On the exception of the unconstitutionality of Article 16, paragraph (5) of the Law no. 289 of 22 July 2004 on indemnities for temporary work incapacity and other social insurance benefits, as well as point 49 of the related Regulation, approved by the Government Decision no. 108 of 3 February 2005 (maternity allowance)”;

In this context, on 12.03.2018, the executive approved the Regulation on the organization and functioning of the National Council for the Determination of Disability and Labor Capacity and the Instruction on the Determination of the Disability Degree⁸¹.

The People's Advocate points out that the aforementioned problems regarding the realization of the right to social assistance and protection persist for a long time. The problem of housing provision for orphan children, the way in which certain social services are provided due to poor financial cover, the need to linking minimum pensions and social benefits to the minimum of existence are issues that the Ombudsman mentioned in previous reports, but to which, as can be seen from the above, no significant progress has been made.

In the context of these, the People's Advocate **RECOMMENDS:**

- Proper implementation of the recommendations of international human rights monitoring bodies;
- Implementation of the recommendations previously set out by the People's Advocate in his reports;
- Reviewing the way of financing the existing social services system and remodeling them according to the current needs of people with disabilities;
- Analysis of the opportunity to exclude the requirement to refuse the monthly allowance for care and supervision in the case of granting a personal assistant for persons with severe disabilities.
- Development of a mechanism for assessing the quality of social services provided, based on both quantitative performance indicators and qualitative indicators for assessing beneficiaries' perceptions;
- Establishment of a cooperation mechanism between the local public authority and the territorial structure of social assistance for the monitoring and coordination of the work of the social assistance system staff, as well as of the beneficiaries;
- Establishing effective intra- and inter-sectoral coordination mechanisms at community level (mayoralty, social worker, medical worker);
- Uniform and coherent implementation of legal provisions in the field of social assistance, correlated with beneficiaries' social needs and problems;
- Continuous improvement of the capacities of representatives of local public authorities and human rights structures, including the protection of persons with disabilities.

⁸¹ <http://www.gov.md/ro/content/guvernul-aprobat-un-nou-mecanism-de-determinare-dizabilitatii>

CORRUPTION AND HUMAN RIGHTS

„...the phenomenon of corruption undermines democracy and the rule of law, leads to violations of human rights, undermines the economy and erodes the quality of life ... the phenomenon of corruption constitutes a threat to the values of the rule of law, democracy and human rights, undermines the principles of good governance, justice and social justice, distorts competition, hampers economic development and jeopardizes the stability of democratic institutions and the moral foundation of society. Thus, it is imperative to provide legal, adequate and effective means, compatible with the ongoing process of modernization and technology, so that the criminal phenomenon of corruption can be controlled and diminished”... these are the judgments of the Constitutional Court of the Republic of Moldova on the influence of corruption on respect for human rights.⁸²

The Republic of Moldova has ratified several treaties in the field of combating corruption. These refer to the United Nations Convention Against Corruption⁸³, adopted in New York on 31 October 2003, the Civil Convention on Corruption adopted by the Council of Europe on 4 November 1999⁸⁴, the Criminal Law Convention on Corruption, adopted in Strasbourg on 27 January 1999⁸⁵.

At the same time, the issue of combating corruption also contains recommendations from international human rights monitoring bodies. In this regard, the People's Advocate points out that the UN Committee on Economic, Social and Cultural Rights recommends the Republic of Moldova to step up its efforts to fight corruption, in particular: (a) To raise awareness among the general public and civil servants about the need to combat corruption, including the phenomenon of bribery; (b) Strengthen the enforcement of anti-corruption legislation and combat impunity for corruption acts, especially those involving senior civil servants; (c) Strengthen the capacity of the judiciary to respond to corruption acts and to ensure effective protection of victims of corruption, their lawyers, anti-corruption activists, denouncers and witnesses; (d) Improve public governance and ensure transparency in the management of public activities.

⁸² Constitutional Court Decision no. 7 of 16 April 2015 (see, inter alia, Judgments no. 4 of 22 April 2013, no. 22/2013 and no. 26/2014;

⁸³ Ratified by the Law no. 158 of 06.07.2007;

⁸⁴ Ratified on 17 March 2004;

⁸⁵ Ratified by the Law no. 428 of 30.10.2003;

In the same context, the People's Advocate reminds CM / Rec (2014) 7 of the Committee of Ministers of the Council of Europe to Member States on the protection of whistleblowers⁸⁶, which recommends that Member States have a regulatory, institutional and legal framework to protect those who, in the context of employment relationships, report or communicate information on threats or damages in the public interest.

On 30 March 2017, by Decision no. 56, the Parliament of the Republic of Moldova adopted the National Integrity and Anti-Corruption Strategy for the years 2017 - 2020.

From the perspective of the new anti-corruption document, for the Republic of Moldova is important the objective no. 16 of the 2030 Agenda for Sustainable Development⁸⁷, which follows „*promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels*”.

One of the pillars of the Strategy, namely Pillar VI, refers to the People's Advocate, and the objective of this pillar is to develop the People's Advocate to prevent corruption by empowering public institutions to respect human rights and to ensure the protection of whistleblowers

The role of the Ombudsman in preventing corruption and the relevance of combating corruption in order to ensure the realization of human rights is reflected in the description of the pillar VI issue.

Thus, it is mentioned that, according to the US State Department Report on the Situation of Human Rights in the Republic of Moldova for 2015, „*Widespread corruption has continued to be the most important issue for human rights*”⁸⁸. Any act of corruption, no matter what form - bribery, negligence, excess or abuse, also involves violations of human rights. The People's Advocate has a key role to play in ensuring respect for human rights, its mission is to prevent their violation by monitoring and reporting on how to respect human rights and fundamental freedoms at national level by improving human rights and freedoms legislation, through international collaboration, and by promoting human rights and freedoms and their defense mechanisms.

At the same time, it is noted that citizens' rights are most often affected by maladministration and bureaucracy in public institutions, administrative irregularities,

⁸⁶ Adopted by the Committee of Ministers on 30 April 2014;

⁸⁷ Sustainable Development Goals (SDG)¹¹, adopted by the United Nations (hereinafter - UN) Member States in New York at the Sustainable Development Summit of 25 September 2015. The objectives were included in the 2030 Agenda for Sustainable Development and were set to eliminate poverty, fight inequality and injustice by 2030.

Specific objectives of Objective No. 16 for sustainable development are:

- Building effective, accountable and inclusive institutions at all levels (16.6)
- Ensuring public access to information and the protection of fundamental freedoms (16.10)
- Promoting and enforcing non-discriminatory laws and policies for sustainable development (16.b);

⁸⁸ <http://www.state.gov/documents/organization/253089.pdf> ;

unfairness, discrimination, persecution by superiors, abuse of power, lack of responses and reactions from the part of authorities, as well as their unjustified refusal or delays in providing information.

The persecution of persons denouncing or warning, in the public interest, of committing irregularities, abuses or violations within the institutions has worrying connotations. At present, no public authority has assumed the function of protecting and representing the interests of those who denounce (whistleblowers) / warns of potential corruption offenses and other illegal practices. Thus, the fundamental rights of whistleblowers are seriously affected (right to work, the right to non-discrimination, the right to a fair trial, etc.), which demotivates other people to oppose corruption and illegalities.

Thus, based on the duties of the People's Advocate, provided by Law no. 52 of 03.04.2014, the role of the Ombudsman in the National Integrity and Anti-Corruption Strategy for 2017 – 2020 was established.

In the context of these, the People's Advocate draws attention to the strongly negative impact of corruption on human rights, and calls on authorities at all levels to make every effort to prevent and combat corruption, both by approving the relevant regulatory framework, by strengthening institutional capacities, by informing and educating the population and, last but not least, by financially ensuring the proper implementation of the National Integrity and Anti-Corruption Strategy for 2017 - 2020.

OBSERVANCE OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN THE ADMINISTRATIVE-TERRITORIAL LOCALITIES ON THE LEFT BANK OF THE DNIESTER RIVER AND BENDER MUNICIPALITY (TRANSNISTRIA)

The People's Advocate constantly monitors the situation regarding the observance for human rights and freedoms in the Transnistrian region of the Republic of Moldova, despite the fact that his access to the Transnistrian region is limited. In this regard, the People's Advocate reiterates the urgent need to identify effective mechanisms for the protection of human rights in the uncontrolled territory as well as to settle the Transnistrian conflict in peaceful and transparent ways.

The People's Advocate's work on this segment was aimed at helping to identify and strengthen national mechanisms for ensuring human rights in this region of the country. In large part, the People's Advocate perceived the essence of systemic problems as a result of the complaints received in the process of hearing the citizens, studying and analyzing the situation from open sources and information in the media, reports from civil society organizations and opinions of activists in the region.

At the same time, the People's Advocate reacted to cases where national authorities have admitted human rights violations.

In order not to put to risk the employees of the Office of the People's Advocate and the citizens who live in the localities on the left bank of the Dniester River and in the neighboring localities to be persecuted, in order not to prejudice the negotiation process, the People's Advocate chooses the best ways to solve each individual problem.

Since October 2012 when the Office of the People's Advocate has opened in Varnita village, a settlement located in the area with increased security regime, the accessibility of the People's Advocate for the inhabitants of the administrative-territorial districts on the left bank of the Dniester river and Bender municipality (Transnistria) has increased, and the Varnita representation bears discussions for representatives of the civil society in the region.

In 2017, the Varnita Representation registered 273 written applications and verbal addresses, most of them coming from citizens residing in the Transnistrian region. (approximately 80%).

Among the problems raised by the applicants were: maladministration with national and civil status documents, especially minors; interference with free movement and private property; violation of the right to work and social protection.

The most common problem for many years is the documentation with civil status documents (about 40% of the total number of addressing) as well as the recognition of civil status facts produced and recorded in the Transnistrian region.

By Law no. 310 of 22 December 2017, the Parliament supplemented the Law no. 100/2001 on civil status acts⁸⁹, to simplify the documentation process for the citizens from the left bank of the Dniester river. It follows that the Government of the Republic of Moldova, within 3 months from the date when the law enters into force, to draw up the normative acts necessary for the execution of the procedure for confirming the acts and the civil status facts in accordance with this law.

The People's Advocate Welcomes Parliament's work in this respect, but is worried about the activity of the Civil Status Service of the Agency of Public Services.

Some aspects generating bureaucracy and delays in delivery of public services by the Agency of Public Service

From the notifications of the citizens, the People's Advocate identified problems in the process of drafting civil status acts, which are not only procedural but also bureaucratic.

Thus, citizens are currently denied the appointment to get the services directly at the counter in the territorial subdivisions of the Agency. Only programming by phone is acceptable.

In the opinion of the People's Advocate, the request for programming only by phone is not a good one for the citizens from the left bank of the Dniester river, in the case when, at the state level, the problem of blocking the telephone connection between localities on the banks of the Dniester River is not solved.

Another problem faced by the citizens from the left bank of the Dniester River is that when drawing up birth certificates on the basis of civil status copies issued by de facto authorities on the left bank of the Dniester River, the certificate issued initially does not include the identification number (IDNP).

According to paragraph (1) of Article 20 of the Law no. 100 of 26.04.2001 on civil status acts, as a basis for preparing the birth certificate can be: the medical act of birth issued by the health unit in which the birth took place; the medical certificate of birth issued by the private health unit, by the doctor who witnessed the birth or to which the mother referred to after birth (*when the birth occurred outside the sanitary unit*) or by a private physician who witnessed the birth; minutes and certificate of sex and age of the child - for recording the birth of a child found.

⁸⁹ „Articolle 13¹ . Certification of civil status acts and facts

Civil status facts produced and registered in the localities on the left bank of Dniester River and Bender municipality (Transnistria) may be certified by issuing the civil status documents by the competent authorities of the Republic of Moldova if their registration has occurred under conditions similar to those regulated by the legislation of the Republic of Moldova.”;

In the absence of the documents provided for in paragraph (1) of Article 20 of the same Law, the registration of the child's birth is based on the decision of the court on the determination of the fact of the birth of the child by a concrete woman.

The entry in the birth act and in the birth certificate of the personal numerical code is stipulated in point b), paragraph (1), Article 29 and respectively point a), paragraph (1), Article 30 of the Law no. 26.04.2001 on civil status acts. Thus, the Law no. 100/2001 does not provide for the procedure of registration of the identification number when the birth certificates are originally issued on the basis of copies of the civil status documents or other documents issued by the Tiraspol authorities.

In order to improve the conditions for granting the civil status services to the inhabitants of the left bank of the Dniester River, the provisions of the Department of Information Technologies of the Republic of Moldova allowed the civil status certificates to be issued on the basis of copies of the civil status documents issued by the state authorities subordinated to Tiraspol, unless in these acts there are no changes on the basis of the court decisions (pronouncements) issued by the Transnistrian courts.

Regarding the registration of the personal numerical code upon the completion of the civil status duplicate based on the copy of the civil status document issued by the civil state authorities subordinated to Tiraspol in the provisions of the Agency of Public Service (*Department of Information Technologies of the Republic of Moldova*) there was provided no mechanism for excluding the need to perfect one and the same document repeatedly.

This way, citizens get the situation after receiving the duplicate of the birth certificate, (*without entering the identification number in it*), on the basis of the copies of the civil status documents issued by the civil state authorities subordinated to Tiraspol, to address to the territorial subdivisions Issuance of Identity Acts Issuance Services within the Agency of Public Services, where according to point 8 of the Regulation on the State Registry of the Population approved by the Government Decision no. 333 of 18.03.2002, the person's registration takes place (*assigning the identity number*) without issuing identity documents from the National Passport System.

Subsequently, the citizen is to address repeatedly to the territorial subdivisions of the Civil Status Services of the Agency of Public Services in order to complete one and the same document but in this case the registration number is entered in the birth certificate.

Despite the fact that the Civil Status Service and Identity Acts Issuance Service are subdivisions of the Agency of Public Services, there is no mechanism for issuing the birth certificate with the initial registration of the identification number leading to the delays in the process of documenting the population from the left bank of the Dniester River.

The problem of documenting the children from the administrative-territorial districts on the left bank of the Dniester river and Bender municipality (Transnistria) left without parental care was also addressed in the previous reports of the People's Advocate.⁹⁰

According to unofficial sources, there are about 1731 children in the territorial guardianship and trusteeship offices subordinated to Tiraspol, of which under the trusteeship 1027, 670 children are placed in boarding houses and children's homes, and 34 children are educated in family-type children's homes. These 1731 children have no legal representatives, and the acts issued by the so-called authorities from the left bank of the Dniester river have no legal power, nor is the legal status of these children established. This situation is alarming because any of these children is at risk of being trafficked⁹¹.

The People's Advocate reiterates the imperative need to identify a guardianship authority responsible for ensuring the protection of children in the Transnistrian region and to develop mechanisms for ensuring the functionality of Law no. 99 of 28.05.2010 in the administrative-territorial units on the left bank of Dniester river and Bender municipality (Transnistria) on the legal status of adoption.

In the opinion of the People's Advocate, the issue of children left without parental care in the administrative-territorial settlements on the left bank of Dniester river and Bender municipality (Transnistria) can be solved by: establishing the guardianship authority for the left bank of the Dniester River (*in the border area, according to the NPOSA (National Pay Office of Social Insurance model)*); developing clear and non-bureaucratic provisions on documenting civil status facts (*birth, death, marriage, divorce, adoption, etc.*) from Transnistria; the nomination of legal representatives for orphan children from the left bank of the Dniester River (*for example: director of the boarding school in the region holding the nationality of a recognized state*); the elaboration of a simplified mechanism for determining the legal status of the child without parental care in Transnistria; ensuring the access of the representatives of the guardianship authorities on both banks of the Dniester river, to carry out duties related to the protection of children; identification of a mechanism of surveillance, monitoring and protection of children in the uncontrolled area to exclude any form of abuse (*for example: border control*).

The issue of the disclosure by the National Pay Office of Social Security of personal data has been exposed in the People's Advocate Report on the Observance of Human Rights in the Republic of Moldova in 2016². In this regard, the People's Advocate expresses his confusion and concern that, despite Decision no. 169 of 12 August 2016 on the suspension of personal data

⁹⁰ Raport privind respectarea drepturilor omului în Republica Moldova în anul 2016; http://ombudsman.md/sites/default/files/document/attachments/raport-ombudsman_2016.pdf;

⁹¹ Cazul Greciușchin <https://www.kp.md/daily/24356/542869/> ; <https://www.kp.md/daily/24410.5/584730/>

processing operations issued by the National Center for the Protection of Personal Data, the National Pay Office of Social Insurance continues to exchange information, without the consent of the citizen, with the Transnistrian Social Insurance Center. It is alarming that the data sent illegally to the *de facto* authorities on the left bank of the Dniester river are the basis for unconstitutional prosecution of the citizens of the Republic of Moldova who have to flee from the region in the localities under the control of the legal authorities of Moldova.

In previous reports, the People's Advocate pointed out that, in order to realize the fundamental rights and freedoms guaranteed by the Constitution of the Republic of Moldova, the persons residing on the left bank of the Dniester River and in the neighboring localities are required to apply for „Transnistrian citizenship”. On the one hand, the possession of this citizenship offers them the possibility to move freely through the illegal posts set up by the unconstitutional authorities at the administrative border, to be employed by the employers working on the left bank of the Dniester river, to legalize their right to property, Transnistrian model driving licenses that facilitate free movement in the given area, to receive social assistance and protection, health care provided by the Transnistrian authorities, benefit from income tax exemptions as non-residents and customs payments. On the other hand, „Transnistrian citizenship” raises certain obligations towards the unconstitutional authorities and implies certain consequences: double taxation (real estate tax and land tax), the obligation to pass the military service in the Transnistrian armed forces etc.⁹²

In this respect, the People's Advocate exposes his perplexity regarding the amendments and additions to article 53 of the Law no. 113-XVI of 7 June 2007 on road traffic safety, by which the citizens are in fact required in some cases to perform Transnistrian driving licenses⁹³.

⁹² Report on the Observance of Human Rights in the Republic of Moldova in 2015 http://ombudsman.md/sites/default/files/document/attachments/raport_2015_final.pdf

⁹³ Article V of the Law no. 280 of 16.12.2016 on the amendment and completion of some legislative acts Article 53 of the Law no. 131-XVI of 7 June 2007 on Road Traffic Safety, shall be amended and completed as follows:

shall be supplemented by paragraphs (2¹) and (2²) with the following contents:

„(2¹) It is forbidden to circulate on the public roads of the vehicles with plates with registration number in the administrative-territorial units on the left bank of Dniester river and Bender municipality in the case of drivers of motor vehicles holding a driving license of the Republic of Moldova, issued in the manner established by the national legislation, and with the place of residence on the territory of the Republic of Moldova, as well as the circulation of motor vehicles with plates with a registration number from a foreign state not recognized by the Republic of Moldova.

(2²) By way of derogation from paragraph (2¹) the traffic on the public roads of the motor vehicles with the plates with the registration number in the administrative-territorial units on the left bank of Dniester river and Bender municipality is allowed in the case of the drivers of motor vehicles holding a driving license of the Republic of Moldova issued in the manner established by the national legislation, with the place of residence on the territory of the Republic of Moldova, if the motor vehicles are owned by the economic entities in the administrative-territorial units on the left bank of Dniester river and Bender municipality and if the drivers of the motor vehicles are their employees.”

paragraph (5) shall be repealed.

However, the People's Advocate welcomes the progress made by the Government in the process of negotiations for solving the problems faced by the citizens of the Republic of Moldova in the context of the Dniester conflict.

Thus, in 2017 several protocol decisions were signed, such as: the protocol decision „On opening the bridge over the Dniester river near the localities”; the protocol decision on the application of apostille on study papers from the Transnistrian region; the protocol decision on the functioning of the Moldovan schools teaching in Latin script; the protocol decision on the organization of telecommunications.

The People's Advocate welcomes the efforts of the Reintegration Policy Bureau to eliminate the discriminatory rules introduced by the *de facto* Tiraspol administration on 13 May 2014, against the public servants of the Republic of Moldova and their children in the calculation of communal payments and payments for childcare in institutions of preschool education in the Transnistrian region.

RECOMMENDATIONS:

In the context of the above, as well as of the problems mentioned in the previous reports, the People's Advocate reiterates that the state of uncertainty regarding the observance of human rights on the left bank of the Dniester river is generated not only by the actions / inactions of the Transnistrian authorities but also by other factors. These include: the lack of mechanisms to ensure human rights in the uncontrolled space; non-intervention or ineffective intervention by central public authorities in some cases when possible; the lack of legislative regulations that could provide solutions for certain segments; bureaucracy and negligence or abuse of service admitted by some civil servants; insufficient information of the public about the attributions and services provided by the public authorities, low legal culture, etc. Without claiming an exhaustive approach to human rights issues in the Transnistrian region, the People's Advocate mentions the importance of efficient use of all mechanisms available in the Transnistrian conflict settlement process, aimed at boosting the negotiation process and achieving perceptible results.

The results of consultations within the Transnistrian conflict settlement format „5 + 2” require the development of clear strategies for the future, the revision and adoption of the sectoral working group strategy approved by the Government Decision for the implementation of the President's initiatives on confidence building and security in the context of the process settling the Transnistrian problem no. 1178 of 31.10.2007. At the same time, we reiterate the need to establish a sectoral working party on human rights, which should be one of the priorities of this process.

CHAPTER II

OBSERVANCE OF CHILD RIGHTS IN THE REPUBLIC OF MOLDOVA IN 2017

RIGHT TO LIFE, SURVIVAL AND DEVELOPMENT

The protection of the right to life is enshrined in international norms, first of all, but also in the internal rules of law, given the importance that a person's life presents not only to her but also to the whole society. Thus, Article 3 of the Universal Declaration of Human Rights states that „everyone has the right to life, liberty and security of person”. Article 6 of the International Covenant on Civil and Political Rights states that „The right to life is inherent in the human person, and must be protected by law, and no one can be arbitrarily deprived of life”. European Convention on Human Rights⁹⁴ guarantees the right to life of any person but at the same time regulates the cases in which it may be affected. Also, the UN Convention on the Rights of the Child⁹⁵, provides in Article 6: „States Parties recognize that every child has the inherent right to life. States Parties shall ensure to the maximum extent possible the survival and development of the child”.

At national level, the Republic of Moldova guarantees the right to life through the Constitution of the Republic of Moldova, Article 24⁹⁶ and the Law on the Rights of the Child no. 338 of 15 December 1994⁹⁷, which in Article 4 provides for the obligation to recognize the child's right to life and physical and psychological inviolability.

Analyzing the problem of the alignment of the national legislation with the international provisions in the field of child rights protection, the People's Advocate for the Rights of the Child considers that the state has largely fulfilled the obligations of conformity of the national legislation with the rigor stipulated by the international bodies to which the Republic of Moldova is a party.

The UN Committee on the Rights of the Child submitted in the Republic of Moldova some recommendations on the right to life in 2017⁹⁸:

- To strengthen its efforts to reduce the high levels of poverty among children, especially among children with disabilities, single-parent households, rural families, families with

⁹⁴ <http://lex.justice.md/index.php?action=view&view=doc&id=285802>

⁹⁵ <http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=356341>

⁹⁶ http://lex.justice.md/document_rom.php?id=44B9F30E:7AC17731

⁹⁷ <http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=311654>

⁹⁸ http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/Countries.aspx?CountryCode=MDA&Lang=EN

more than three children and Roma families, including by increasing benefits, ensuring equal access to social programs, including for housing;

- To strengthen the capacity of the Social Support Service for families with children to provide adequate social services with particular attention paid to children living in poverty in rural areas;
- To improve all social protection programs to further improve children's outcomes and poverty reduction strategies in order to establish a coherent framework for identifying priority measures against the exclusion of children, especially those in vulnerable situations, and to rationalize the eligibility criteria.

The Children's Ombudsman welcomes the state's actions to ensure respect for the child's right to life, but considers it imperative to point out some gaps in this chapter.

The events consumed in early 2017 that are significant by the suicide of many children who were involved in the online game „Blue Whale”⁹⁹ shows low efficiency of measures taken by the state authorities in the protection of children then they are in the online space. National institutions

must

Year	Suicide attempt			Suicide		
	Under 13 years of age	13-16 years old	17-18 years old	Under 13 years of age	13-16 years old	17-18 years old
2012	2	73	33	7	11	6
2013	8	59	20	1	12	4
2014	4	51	41	0	14	6
2015	6	64	33	4	3	3
2016	4	88	40	6	14	13
2017	10	76	31	1	14	3

strengthen actions to prevent and counteract the risks to children that may occur when navigating in the virtual space.

⁹⁹ <https://observator.tv/social/detalii-cutremuratoare-in-cazul-adolescentilor-sinucigasi-din-chisinau-victime-ale-jocului-balena-albastra-ultimele-mesaje-date-de-cei-doi-202100.html>

A revision of the legislative framework governing this area is needed. Internet safety must be a priority for the competent authorities in order to ensure the best interests of the child.

The Children's Ombudsman also addressed this issue in the Report on the Observance of Human Rights in the Republic of Moldova in 2016 as well as during the year 2017, it is necessary to mention in this context the alarming findings of the Special Commission created by the Parliament of the Republic of Moldova to examine the situation in the field of prevention and combating the phenomenon of suicide among children and young people. The Commission mentions¹⁰⁰ that the act of suicide and suicidal behavior are not defined in any policy document, only the Criminal Code criminalizes the actions of determination to suicide. Legislation of the Republic of Moldova has not been and does not include attributions of the central and local public administration authorities in the field of suicide prevention. In the absence of exhaustive regulations, the so-called preventive actions were sporadically achieved and lacked continuity. In the absence of policies, no services have been created in this way, and the People's Advocate concludes on a stringent need to re-evaluate national policies at the given chapter.

However, the Children's Advocate noticed a reaction from the central authorities by conducting raids to monitor the risk areas by police bodies¹⁰¹ and the issue by the Ministry of Education, Culture and Research of a circular on activities to prevent suicide in educational institutions, which refers to the normative acts in force, lists the actions to be taken in such cases and recommends several useful online sources¹⁰².

Despite the situation at the policy level, the Children's Ombudsman notes a change in the attitude of civil society by organizing in 2017 various events, including those supported by the media, to carry out actions to prevent suicide¹⁰³, to maintain a hot line¹⁰⁴ and addressing these issues by journalists¹⁰⁵.

¹⁰⁰ http://adevarul.ro/moldova/social/comisia-speciala-constatat-lipsa-politicilor-prevenire-suicidului-actiuni-intarziate-1_59b60a035ab6550cb80cb8b1/index.html

¹⁰¹ http://agora.md/stiri/29992?fb_comment_id=1242762289172558_1243009415814512#f1b5361dd6bc1

¹⁰² <http://mecc.gov.md/ro/content/ministerul-educatiei-emis-o-circulara-cu-privire-la-activitatile-de-prevenire-suicidului>

¹⁰³ <http://www.pentruviata.md/>

¹⁰⁴ <http://ea.md/ajuta-linia-verde-de-prevenire-a-suicidului-sa-ajunga-in-100-de-localitati-iata-cum-poti-contribui-la-100-challenge/>.

¹⁰⁵ <http://www.media-azi.md/ro/stiri/club-de-pres%C4%83-prevenirea-suicidului-printre-adolescen%C8%9Bi-%C8%99i-cum-ar-trebui-s%C4%83-abordeze>

An alarming situation regarding the protection of the right of the child to life is also the abandonment of the newborns by their parents in places that pose a threat to the life and health of children¹⁰⁶. From the investigations and monitoring carried out by the Children's Ombudsman, we find that the given situation is based on several factors of development. The state does not have a viable planning and family support policy that could guarantee newborn babies a happy future with their parents. Another cause underlying this problem is the increase in the number of „children who give birth to children”¹⁰⁷.

Public authorities have not developed a sexual education policy that would provide children with the necessary information about a healthy and beneficial relationship between children of different gender. At present, the Criminal Code of the Republic of Moldova, in the light of the provisions of Article 163, regulates¹⁰⁸ the sanction for the endangerment of the person but, in our opinion, this provision is not sufficient to ensure respect for the best interests of the child in this matter.

The Ombudsman notes the need to implement viable mechanisms that would ensure that children are no longer found in the street.

Also during the year 2017 the Children's Ombudsman was also concerned about the issue of respecting children's right to life in road traffic¹⁰⁹. Analyzing the given issue, the People's Advocate notes that national authorities have taken certain steps to ensure the safety of children in traffic (installation of special signaling devices, lighting of pedestrian crossings, installation of speed limiters). However, we note that these actions have failed to resolve significantly the situation. The People's Advocate for the Rights of the Child believes that the competent authorities have to tighten the normative framework for the attestation of the drivers. It is also necessary to develop at national level a policy to promote safety in road traffic.

Another issue raised by the People's Advocate for the Rights of the Child, in the context of guaranteeing the right to life and development of the child, is the situation of children up to 3 years of age living together with their mothers in detention facilities. On 23 March 2017 the People's Advocate for the Rights of the Child, together with UNICEF representatives, made a working visit to Penitentiary No.16 Pruncul. The members of the commission visited the spaces predestinated for mothers with children up to 3 years of age and the hospital working within the institution. As a result of the visit, it was found that

¹⁰⁶ <http://protv.md/stiri/actualitate/o-mama-din-comrat-si-a-aruncat-copilul-nou-nascut-la-gunoi-baietelul---1878011.html>

¹⁰⁷ http://www.prime.md/ro/mame-minore-63-de-adolescente-de-pana-la-16-ani-au-nascut-anul-trecut_55163.html

¹⁰⁸ <http://lex.justice.md/md/331268/>

¹⁰⁹ <http://independent.md/infografic-numarul-accidentelor-trafic-crescut-107-decedati-doar-jumatate-de/#.WpVxvrOYOpo>

there is no pediatrician to work in the institution, which could offer specialized consultations to the children in the penitentiary. Also, the institution is not supplied with drugs intended for children, non-governmental organizations and charities are the ones which provide them at the request of the institution's administration. The administration of the penitentiary confirmed the lack of budget allocations for the maintenance of children who up to the age of 3 are with their mothers in the detention facility. During the year 2017 the Children's Ombudsman also monitored the situation of children up to 3 years old from Penitentiary No. 7 Rusca, where there were 12 children.

We mention that the situation of the children in both detention facilities is similar and needs to be rectified urgently. In this regard, the People's Advocate for the Rights of the Child has submitted several recommendations to the Department of Penitentiary Institutions and the relevant Ministry in order to change the situation of these children:

- Proposals to the Parliament and the Government on the need to create a separate budget line for the children concerned should be submitted, if a decision is made on the maintenance of children and further in detention facilities until the age of 3 years.
- To analyze the possibility to reduce the term of stay of children in the detention facility until the age of 1 year,
- To ensure the deprivation of liberty institutions with mothers with children up to 3 years old with pediatricians.

The Children's Ombudsman, during the year, also addressed the issue of coverage by journalists of information on children. The Ombudsman considers that the media have an indispensable role in the mediatization of child rights violations and safety, privacy, security, education, health and social protection of children and all forms of exploitation. At the same time, the People's Advocate for the Rights of the Child recalls that any informational message must take into account the basic rules in the mediatization of a case which subject is related to children; the media should not interpret and report on children's circumstances just as isolated events but should talk about the phenomenon by analyzing the causes of these events.

The People's Advocate for the Rights of the Child mentions that he is open to collaborating with the media in order to defend and promote the rights of children and to ensure their respect at national level.

The People's Advocate for the Rights of the Child emphasizes that children themselves are disturbed by the content and the quality of news concerning them, of which the children

communicate to the Ombudsman during his visits in the territory. Children mention that the material, especially news with subjects related to children, are predominantly negative, reflect children in critical situations, victimize or remit them, do not respect the privacy of the person, damage the image of the child and of the family. The children also shared with the Ombudsman that the number of programs (news) with or about children with a positive content is extremely low compared to negative content.

The Press Council found that at least 10 TV sites and TV stations violated deontological norms in reflecting the subject of abuse committed on a minor in the Ialoveni district. In the pictures presented by the media institutions appears a girl verbally and physically assaulted by some young people in a kindergarten¹¹⁰. Two of the five notifications examined in the Press Council meeting on 6 October 2017 concerned specifically violations of deontological rules for the protection of minors¹¹¹. Some press institutions reflect online gaming issues that could induce teenagers to suicide¹¹².

In the context of ensuring the right to life and child development, the People's Advocate for the Rights of the Child notes the following system deficiencies: the state does not fully assume the obligation to support families with children at risk; the collaboration between the local public authorities of Ist level and IInd level is inefficient and poorly developed; local Ist level authorities do not have consolidated capacities to establish partnerships with local and republican non-governmental organizations, economic agents and decentralized or deconcentrated services in order to develop social services in line with people's needs; the number of local non-governmental organizations which are active on the social service delivery segment is very small; intersectoral collaboration mechanism does not work effectively; cooperation mechanisms between public authorities and beneficiaries are poorly developed.

RECOMMENDATIONS:

¹¹⁰ Several television stations and news portals from the Republic of Moldova broadcast on 04 and 05 November 2017 a news on physical aggression and alleged rape committed by a group of people on a 16-year-old girl in Ialoveni district. The images shot with the mobile phone (which origin was silenced by media institutions) contained explicit scenes of violence even though the faces of the protagonists were blurred. The images depicted scenes in which a person, in the given case, a minor, was subjected to degrading and humiliating treatment that affects her human dignity. <http://consiliuldepresa.md/ro/news/view/consiliul-de-pres-cere-mass-mediei-s-in-cont-de-interesul-superior-al-copilului-n-reflectarea-abuzur>

<http://consiliuldepresa.md/ro/news/view/cazul-minorei-agresate-consiliul-de-presa-face-apel-catre-institutiile-mass-media-sa-relateze-faptel>

¹¹¹<http://consiliuldepresa.md/ro/news/view/consiliul-de-presa-atentioneaza-mass-media-sa-asigure-protectia-copiilor-victime-ale-abuzurilor>

¹¹² <http://consiliuldepresa.md/ro/news/view/apel-al-consiliului-de-pres-ctre-jurnaliti-i-redaciile-instituiilor-mass-media-n-legtur-cu-mediatiza>

- The best interests of the child should be the main argument in solving any problem related to the respect of the rights of the child.
- The Government of the Republic of Moldova shall identify financial resources to meet the needs of socially-vulnerable families raising and educating children in correlation with the minimum subsistence, including for the payment of indemnities to uninsured persons.
- Employing within the local public authorities of Ist level the specialist for the protection of children's rights, according to the *Law on the Special Protection of Children at Risk and of Children Separated from Parents* no. 140 of 14.06.2013;
- Development of placement services for mothers with children, creation, development of nursery system;
- Strengthening partnership relations between the Directorates of Social Assistance and Family Protection with families at risk;
- Development of mechanisms to monitor how beneficiaries manage social assistance;
- Developing an automated information system on social assistance for families with many children;
- Further implementation of the provisions of the Intersectoral Strategy on the Development of Parental Skills and Competencies for 2016 - 2022.
- Including *Child Safety* component as a priority integral part of the National Security Strategy;
- To ensure the protection of the child's identity and the non-disclosure of personal data that may expose it in public in an unfavorable light, confidentiality must be strictly observed, especially when the child or his / her parents are victims of violence, trafficking in human beings that are in conflict with the law, or suffer from deep suffering;
- Promoting / encouraging positive topics that highlight the child's personality and successes. It is necessary that in the children's materials to be asked and heard and presented the voice / opinion of the child over the decisions that concern him, which affects his / her everyday life;
- The media's renouncement from the sensational, narrow approach of the subject in favor of case analysis, of the complexity of the phenomenon and the causes that have caused certain facts or situations;
- Study and use by journalists of international standards in the field of personal data protection.

RIGHT TO NAME AND CITIZENSHIP

This right is provided by Article 7 of the Convention on the Rights of the Child¹¹³, Article 28 of the Civil Code¹¹⁴ and Article 55 of the Family Code¹¹⁵ of the Republic of Moldova, which stipulate that every child must be registered immediately after birth and have a name. The right to name and citizenship is a subjective right and its harming results in successive violations of other rights, such as the right to health, social assistance and protection, education, etc.

In the opinion of the Human Rights Committee, the child must have a name and the right to acquire a citizenship, these being special measures of protection and recognition of his / her legal personality. Birth registration is the first recognition of the child's existence, it is the recognition by the state of the importance of each child in its own right and its legal status. Birth registration is an essential element of child-related planning - that is, the demographic base on which different strategies can be developed. Registration at birth is a means of guaranteeing the other rights of the child: benefiting from state-owned facilities, protection by setting age limits (employment, enlistment in the army or criminal liability) and the prevention of child trafficking and infanticide.

Despite the fact that in Moldova the registration of children at birth is an obligation of parents or representatives of the child, and the issue of birth certificates is free, the *issue of children without name* remains of major importance.

Although there is a legal framework, state authorities with competences in this area do not intervene in time and with sufficient and effective measures to document the child, therefore these children are not able to benefit from social, medical assistance, they are not to be part of the educational system and unable to engage in work, etc.

Non-documentation of children was the main subject in the *Thematic Report on the observance for children's rights to name and citizenship*¹¹⁶, carried out by the People's Advocate for the Rights of the Child in 2017, which purpose was to report on the legislative

¹¹³ „The child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and, as far as possible, the right to know and be cared for by his or her parents”;

¹¹⁴ „Every individual has the right to a name established or acquired under the law. The name includes the surname and first name, and in the case provided by law, and the patronymic. The surname is acquired through the effect of the parentage and changes due to the change of the civil status under the conditions stipulated by the law. The surname is established at the date of birth, based on the birth statement.”;

¹¹⁵ „The child is entitled to a surname and first name. The child acquires the surname of his parents. If parents have different surnames, the child will take the surname of the father or mother, based on their common agreement. The child will wear a simple or two first names, according to the will of both parents. In case of a dispute between parents about the surname and / or the first name of the child, the local guardianship authority decides.”;

¹¹⁶ http://ombudsman.md/sites/default/files/document/attachments/studiul_documentarea_0.pdf

shortcomings faced by law enforcement officers in the documentation as well as adaptation to the existing social reality.

According to the authorities, the reasons for non-registration of the child born in the Registry of Civil Status Documents, in most cases, is caused by the lack of identity papers or their irresponsibility. Other causes of infringing the right to name of the child through non-registration of the birth of the child are:

- Disagreements that occurred when establishing the child's paternity;
- The refusal of the former husband of the mother to submit the statement of consent of removal of the paternity presumption, under the conditions provided by Article 47 paragraph (3), (4) of the Family Code;
- Parents insistence to record the birth of the child according to their domicile and subsequent lack of responsibility for declaring the birth to the civil status body;
- Loss or damage to the act confirming birth;
- Parental disagreement on the assignment of IDNP personal numerical code, often for religious reasons;
- The plurality of the citizenship of the parents, which creates difficulties in the process of registration of the births registered in the Republic of Moldova, compared to those not subject to registration. In these cases, the parents initially register the birth of the children at the diplomatic missions of the foreign states which citizenship they hold, and subsequently transcribe the civil status act to the Civil Status Offices of the Republic of Moldova;
- Child abandonment outside medical institutions;
- Illegal introduction of children on the territory of the Republic of Moldova.

In 2017, according to the information gathered, there were **169 children without unidentified identity** at the local guardianship record, with 176 less compared to 2013. Of the total number of undocumented children in 2017, 78% are raised by biological families, and 16% - in placement services. According to the age criteria, the chart is the following:

- 31% of children are aged 13 - 17 years;
- 27% - aged 8 - 12 years;
- 23% - aged 4 - 7 years.

These data reconfirm the negligence of the guardianship authorities who know that these children come from vulnerable families where parents ignore the rights and interests of the child but do not intervene to document the child. The neglect of the competences allowed by these authorities is more evident in the case of undocumented children who are in placement services. It is certain that the child is in the eyes of the authority, however, the authority does not take measures to document the child.

This example is eloquent to illustrate a state of affairs existing for undocumented children. Often the documentation of these children is possible and is within the rigors of the law, but there is no desire for state officials to see behind the bureaucratic procedures the fate of children whose rights are violated, including due to the lack of documentation. Regretfully, in several cases the bureaucratic machine was put into movement to the intervention of the Ombudsman's authority, although the solutions were obvious and it was only necessary for the official to act in the spirit of the law, in the best interest of the child, to look in a wider perspective than the one offered by departmental papers.

Another problem in the area of child non-documentation relates to the situation when the child is in the educational system, the teachers know that he / she does not have identity documents, but do not notify and do not request the intervention of the guardianship authority. Thus, in the petitions examined by the Ombudsman were encountered situations when the child is already completing the gymnasium, but because he / she has no identity papers, he / she cannot continue his / her studies or cannot be employed or benefit from certain facilities.

In the situations described, the big part of guilt is that of parents who are irresponsible and delay the birth registration of children. More complicated are the cases where neither the parents of these children have identity papers. Here, the main role lies with the guardianship authority, which has the responsibility to empower parents and guide / assist them in the documentation process. The period of the person's documentation is essential if the child is to become / or has become a parent. When the procedures for establishing identity are delayed, a vicious circle is created: the parent without identity papers - without identity papers, the child will not be able to perfect the documents until the parent's papers are perfected.

Full responsibility for child documentation lies with the guardianship authority in the

The Children's Ombudsman was notified by the guardianship authority of a local community about the failure to document two Roma children. The guardianship authority affirmed that for 15 years it has made efforts to document these children, but efforts have resulted in total failure. The Children's Ombudsman intervened with the authorities responsible for documenting children. During the examination of the case, it was found that the delay in solving the situation of the children was due to the maladministration between the authorities, the authorities „self-exempting itself” and blaming another authority.

situation of the abandoned child, which requires urgent intervention to determine the status and form of protection.

The Children's Ombudsman was addressed by a mother whose child was not documented. The child was born at home, the parent received the act stating the birth, but soon lost it. At the age of 12, the child was placed at a boarding school for orphaned children and without parental care. For two years, the administration of the boarding school as well as the local guardianship authority were aware of the fact that the child had no identity papers but did nothing to solve the problem.

Mother stated that she had addressed the guardianship authority to get support in documenting the child, but without any results, on the other hand, the guardianship authority claims the mother's lack of interest in documenting the child. The child has received identity papers only as a result of the People's Advocate for the Rights of the Child .

Children and adults without identity remain potential victims of exploitation and trafficking in human beings.

Failure to ensure the right to name and citizenship of the child leads to the violation of other rights, namely:

- Government has the quality of insured¹¹⁷, that is, compulsory health insurance for preschool children, pupils, children not enrolled in the educational process up to the age of 18, but medical services are to be granted under an act confirming the identity of the child;

- The state guarantees the right to education to all children until they reach the age of 18¹¹⁸. On the one hand, the educational institution includes the child in the education process, in order not to damage his / her right to education, on the other hand, at the end of the gymnasium cycle, the student is unable to obtain the Gymnasium Studies Certificate in the absence of an act, confirming his / her identity;

- For orphaned children and those under guardianship / trusteeship, the state, in order to ensure the right to social assistance and protection, approved the temporary rules for money spending for students in vocational and crafts schools, secondary specialized and higher

¹¹⁷ Law on Compulsory Medical Assurance, no. 1585 of 27 February 1998;

¹¹⁸ Article 35 of the Constitution of the Republic of Moldova, Article 13 of the Education Code of the Republic of Moldova;

education institutions, boarding schools and children's home¹¹⁹. The financial means are granted on the basis of the document confirming the identity of the orphan child or of the child under guardianship / trusteeship;

- The individual acquires the work capacity at the age of 16. At the same time, the person can conclude an individual labor contract at the age of 15 if, as a consequence, there will not be endangered his / her health, development, training and professional development¹²⁰. To avoid exploitation of children through work, and to comply with the legal provisions that prohibit undeclared work¹²¹, the employment of the child in the workplace is to be done on the basis of an identity document;

- In order to ensure a minimum guaranteed monthly income for disadvantaged families, the Law on Social Welfare No. 133 of 13 June 2008 was adopted. The social assistance applicant, together with the application for social assistance, is to present the identity documents of all family members¹²². Based on demand, identity papers and family composition, family income will be determined and the amount of social assistance will be established. The amount of minimum guaranteed monthly income for each family member is determined from the minimum guaranteed income for the applicant, for another adult family member, for each child, etc. In the absence of identity documents of family members, the amount of social assistance will be determined differently from the real needs of the family;

- In the absence of an identity document, a young person cannot be admitted to the driving license exam and cannot obtain a driving license¹²³.

- In the absence of a document confirming the identity, the child is restricted to the right to free movement (when entering and leaving the country).

However, although the absence of the identity document of a person restricts the assurance of more rights, this is not an impediment to the child's detention, arrest or condemnation. The person who has committed an injurious action is to be held accountable. In such cases, at the request of the competent authorities, a provisional identity card is issued to the person detained or in retention on demand.

¹¹⁹ Government Decision of the Republic of Moldova „On the approval of the Provisional Norms of Money Expenditures for Orphan Pupils (Students) and those under Guardianship / trusteeship in vocational and Crafts Schools, Specialized Secondary and Higher University Education Institutions, Boarding Schools and Children's Homes”, No. 870 of 28 July 2004;

¹²⁰ Labor Code, Articles 46, 96, 100, 306;

¹²¹ Labor Code, Article 7;

¹²² Government Decision of the Republic of Moldova for the approval of the Regulation on the establishment and payment of social aid, no. 1167 of 16 October 2008;

¹²³ Government Decision of the Republic of Moldova on approving the Regulation on the driving license, the organization and conducting of the examination for obtaining the driving license and the conditions for admission to the road traffic no. 1452 of 24 December 2007;

Statistical data tells us the number of children without identity that are in the view of the authorities and not the real number of children to whom the right to name and citizenship is not ensured.

The cases of children whom the right to name and citizenship is still not ensured are on the record of the authorities for a number of years and are among the most complex.

Access to child care and assistance services is conditional upon ensuring the right to name and citizenship.

The situation regarding the documentation of the children from the left bank of Dniester river remained the same in 2017, there is no state mechanism for monitoring the process of documenting the persons in the region controlled by the unconstitutional authorities and the problems faced by the children have not changed.

In this context, the Children's Ombudsman welcomes the adoption of Law No. 310 of 22.12.2017 on the completion of Law No. 100/2001 on civil status acts which provides that: „Civil status facts produced and registered in the localities on the left bank of the Dniester River and Bender municipality (Transnistria) may be certified by the issuing of civil status documents by the competent authorities of the Republic of Moldova if their registration occurred under conditions similar to those regulated by the legislation of the Republic of Moldova.”¹²⁴

Taking into account the problems faced by parents, legal representatives of children and / or representatives of guardianship authorities in the process of documenting children, the following **RECOMMENDATIONS** are proposed to improve the situation:

1. Decrease in state fees for issuing the birth certificate for late registration and reduction of the birth certificate period from 30 days to 10 days;
2. Making efficient the activity of the inter-sector cooperation mechanism on the segment of respecting the child's right to name and citizenship;
3. Establishing / streamlining the mechanisms responsible for population recordings at local level;
4. Funding of the specialist in the protection of child rights from the state budget and not from the local budget;
5. Parents' accountability by guardianship authorities in documenting the child and involving parents directly in the documentation process;
6. Elaboration of a national policy on stimulating documentation of Roma people;

¹²⁴ <http://lex.justice.md/md/373827%20/>

7. Creating a viable mechanism that will guarantee the right to name and citizenship and to children from the left bank of the Dniester River;
8. Identifying solutions for parents who, for religious reasons, refuse to document children because of IDNP attribution;
9. Intensifying efforts to monitor and keep the record of future mothers, particularly of those from vulnerable families and / or non-educative families as well as ensuring postnatal child supervision;
10. Ensuring the schooling of children without identity papers.

PROTECTION OF CHILDREN WITHOUT FAMILY AND THE RIGHT TO NOT BE SEPARATED FROM PARENTS

In the provisions of Articles 9 and 20 of the *UN Convention on the Rights of the Child*¹²⁵ the State's powers to grant special protection to children who are deprived of the family environment or parental care are found. As well as the obligation to prevent child abusive and forced separation from their parents, except when the stay of the child in the family environment is contrary to the best interests of the child.

At national level, the Republic of Moldova implemented the provisions of the Convention under the *Law on the Rights of the Child* no. 338 of 15 December 1994, which in Articles 16 and 17 provides for the right of the child to habitation in the family, as well as the rights of the child living separately from parents. Also, the Republic of Moldova adopted the *Law on the Special Protection of Children at Risk and Children separated from Parents*, no. 140 of 14.06.2013, which establishes the procedures for identification, evaluation, assistance, referral, monitoring and record of children who have remained temporarily or totally deprived of parental care.

Analyzing the conformity of national legislation with international standards, the People's Advocate for the Rights of the Child considers that the Republic of Moldova partially fulfilled the obligations assumed with the ratification of the Convention. In support of this idea, the UN Committee on the Rights of the Child presented in 2017 to the Republic of Moldova the following recommendations for improving the situation of child's rights in the segment of children deprived of parental care and of children separated from their parents:

1. To take all appropriate measures to ensure the care and maintenance of these children; to consider the adhering to the Hague Convention of 19 October 1996 on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in respect of Parental Responsibility and Measures for the Protection of Children, the Hague Convention of 23 November 2007 on the International Recovery of Child Support and Other Forms of Family Maintenance and the Protocol of 23 November 2007 on the Law Applicable to Maintenance Obligations.
2. To improve the enforcement of the Law on the Special Protection of Children at Risk and Children Separated from their Parents by providing adequate funding and an adequate number of qualified staff, to strengthen the co-ordination between all service providers

¹²⁵https://www.unicef.org/moldova/CRC_RO.pdf

- within the guardianship authority and to further review the regulations, framework and minimum quality standards to ensure their full compliance;
3. To continue to support and facilitate family-type care for children whenever possible, including by increasing the financial assistance for families affected by poverty, so that a child should never be removed from parental care simply because of financial and material shortcomings, both in law and in practice; to strengthen prevention services, including through the implementation of the National Parental Training Program and through psychosocial interventions for addressing alcoholism in the family, with a view to continuously reducing the institutionalization of children;
 4. To further extend alternative care services, including placement services in the family of the professional parental assistant and family-type family homes, and to ensure their availability in all regions of the State Party, particularly for disabled children, those aged 0-3 years and those whose parents have emigrated abroad.
 5. To ensure adequate support for children leaving the care system, including by providing housing, in accordance with the Law on the Rights of the Child No. 388 of 15.12.1994 and the Law on Housing no. 75 of 30.04.2015, and by other support services to help them in the transition to an independent life;
 6. To increase the number of social assistants involved in attracting programs to identify children at risk from all regions and link these children with appropriate child protection mechanisms.
 7. To ensure the accreditation of all providers of alternative care services through the National Accreditation Service for Social Services Providers and their adequate supervision by the state, including regular examination of the placement of children in alternative care, and to monitor the quality of such care in particular by creating accessible channels for reporting, monitoring and correcting ill-treatment of children;
 8. To take urgent action to ensure the children staying in prison with their mothers adequate living conditions for the physical, mental, moral and social development of children and to seek alternative measures to institutionally isolate pregnant women and mothers with young children, whenever possible.

The People's Advocate for the Rights of the Child, monitoring the way the state protects children without families and realizes their right not to be separated from their parents, concludes that state authorities have admitted more violations in this area which must be removed or corrected. Children deprived of parental care are the most vulnerable group of children and require increased attention from the authorities. Regarding children left without parental care, we cannot speak of violation of only one right, because usually the violations of the rights of these children

form a continuous and perpetual chain. Thus, the trusteeship authorities with competences in this compartment are to strengthen their capacities to identify in time, assess in all aspects, provide the necessary assistance, refer to the services concerned, systematically monitor children at risk in the purpose of preventing the separation of children from parents as well as for family integration where the separation occurred.

Throughout 2017, the People's Advocate for the Rights of the Child noted with concern that the implementation of the child protection system is a lacuna that does not fully correspond to international standards. The reasons why children are deprived of parental care are diverse (emigrated parents, detained parents, divorced parents, deceased parents, abandoned children, unaccompanied immigrant children, children in the streets, etc.). The National Assistance and Protection System should ensure that it grants to all these groups of children a treatment without discrimination and which covers the needs of each child left without parental care.

Some of the most vulnerable are children whose parents have committed criminal offenses and are sentenced to custodial sentences. In such cases, children are often stigmatized by society and are associated with parents who have committed the crimes. The People's Advocate for the Rights of the Child notes from the examined applications that in such cases children can be neglected by both relatives and authorities, with situations where the children follow the way of the parents, and later they reach the bank of the accused. It is known that the punishment of the parent negatively affects the child, without having any blame. The effects can be the most serious, in all its aspects and with consequences for the rest of their life.

During the visits to the detention places made by the People's Advocate for the Rights of the Child, the detained parents have informed him several times on the negligence of the guardianship authority, which either did not determine a form of child protection and does not provide support and services he / she needs, either the authority does not know or „pretends” that it does not know about the detention of the parent who has been in prison for many years. Investigating the situations described, the Children's Ombudsman found that the facts invoked were confirmed, and it is regrettable that the authorities intervened only after the Children's Ombudsman has been notified, despite the fact that the identification, assessment and assistance of children at risk is the direct attribution of guardianship authority.

The Children's Ombudsman was also informed by the detainees about the fact that during the period of detention the guardianship authority requested the court to deprive them from the parental rights. In these cases, the Ombudsman intervened in the court with conclusions according to the duties established by Article 25 paragraph (3) of the Law on the People's Advocate (Ombudsman) in the best interest of the child in order not to separate him / her from his / her parents. In this compartment the Children's Ombudsman also warns the guardianship

authorities about the necessity of knowing and observing the provisions of the Decision of the Plenum of the Supreme Court of Justice „On the Judicial Practice of Examination of Civil Matters on the Deprivation of Parental Rights”¹²⁶, stipulating that persons who do not exercise their parental rights due to circumstances beyond their control may not be deprived of parental rights. In the described situations, the parent who is in detention and is not able to work because of health problems, because of the lack of work or cares for a child up to three years, as well as in other motivated situations, is unable to maintain his / her children left at home. Again there is evidence of a violation by the guardianship authority that must provide support and assistance to the child and help him or her to overcome the difficult situation marked by the lack of parent, but in no case to take measures that would lead to his / her separation.

In this context, the UN Committee on the Rights of the Child recommends that the Member States in this chapter establish a viable mechanism that will ensure that the child for as long as it is impossible to join his / her parents in a friendlier climate which will be aimed at facilitating his / her integration into society without being overshadowed by the actions committed by his / her parents. The Committee also points out that the given circumstances should not in any way prevent the child from communicating more with his / her detained parent, a serious violation in the Committee's view is the attempts of the national authorities of the states to deprive the private person of the freedom of parental rights and to declare the child as the subject of national / international adoption¹²⁷. The Children's Ombudsman considers these notifications to be imperative and appeals to the competent authorities to review the national child protection mechanism and bring it in line with the highest international standards in the field.

Another situation in the given segment is the situation of children whose parents have left the country for long term and have not designated a legal representative of the child during his / her absence. There are frequent cases when children are left alone or, at best, at the expense of their grandparents, relatives or known persons. This situation is contrary to the best interests of the child and represents an enormous risk to his / her life and development and leads to violation of the child's rights under the Convention. The People's Advocate for the Rights of the Child believes that the state must strengthen the national mechanisms to make responsible the parents who go abroad to avoid situations where children without parental care have no legal representative. From the applications addressed to the People's Advocate for the Rights of the Child, we find that in many situations the trusteeship authorities, within the territorial range that they administer, do not know the exact number of the children left without parental care due to the departure of their parents abroad. This situation can lead to child marginalization, school

¹²⁶ http://jurisprudenta.csj.md/search_hot_expl.php?id=280

¹²⁷ http://tbinternet.ohchr.org/_layouts/treatybodyexternal/TBSearch.aspx?Lang=en&TreatyID=5&DocTypeID=11

dropout and even danger to the child's life. The UN Committee on the Rights of the Child recommends the states experiencing a massive number of migrant populations to create viable mechanisms for the registration and protection of children who are temporarily left without parental care¹²⁸.

From the notifications received by the Children's Ombudsman, as well as from the audience of citizens and telephone calls, it was found that the guardianship authority does not establish a schedule of meetings with the child or establishes it after multiple addresses and insistence from the parent who lives separately from the child, although national legislation stipulates the parent's right to communicate with his / her child¹²⁹. In establishing the schedule of meetings it does not take into account the particularities and needs of the child's age, the activities in which the child is trained, where and with whom and under what circumstances he / she is going to spend the time for meetings. Often, the expected time for meetings is too short, or meetings take place in the presence of both parents who are in conflict, creating stressful situations for the child. Similarly, it is found that the decision on how the child will meet his / her parent is taken by a single specialist who is not always impartial, who does not discuss with both parents and does not listen and does not take into account the child's opinion. In many cases, the content of the decision is unclear or formal, lacking relevant allegations that served as a basis for establishing a schedule for meetings

In the opinion of the Children's Ombudsman, these shortcomings are due to the fact that the guardianship authorities do not have an administrative act that would provide for the standardized procedure for establishing appointment charts, applicable to all tutors, and the specialists do not have the skills and training necessary to react promptly to conflicting situations that arise between parents when drawing up the chart. The lack of a psychologist within the Departments of Social Assistance and Family Protection is also considered a deficiency in this segment, which is imperative in parental litigation regarding child raising and education. In most cases, parents do not take into account the psycho-emotional state of children as a result of their separation and use the child as a „revenge mechanism” in the conflict between them.

In the Children's Ombudsman's view, there were situations where one of the parents goes abroad by taking the child with him / her without the consent of the other parent, these actions being qualified as child stealing and his / her illegal removal from the country. These actions of parents directly affect the development of the child and lead to violation of the right to protection of the child.

¹²⁸ http://tbinternet.ohchr.org/_layouts/treatybodyexternal/TBSearch.aspx?Lang=en&TreatyID=5&DocTypeID=11

¹²⁹ <http://lex.justice.md/md/286119/>

Undoubtedly, in order for a child to feel protected and develop a sense of security in the future, it is absolutely necessary for his / her family to create an environment that offers emotional safety. Parents are responsible for forming secure attachment relationships by giving the child the love and respect he or she needs by being available, open to his / her needs and able to respond genuinely to them, especially in critical cases. Thus, the child knows that regardless of the situation, the parents will be present, support or defend him / her and the child will receive the attention he or she needs.

A consequence of the unfavorable climate in the family is the situation when children leave home and choose to live in the street. At present, the exact number of street children is unknown, and most of the actions taken by the responsible authorities are not enough to keep the child at his / her parents' home or in the placement center, these being effective for a short period of time, finally, the child goes out again in the street.

One year after the first approach to the problem of street children, the People's Advocate for the Rights of the Child attests that the actions taken by the public authorities did not make any changes to this chapter. Respect for rights and protection of the child in a street situation is a matter that must be a priority for all the institutions concerned on this subject and which requires an immediate solution.

Currently, in the record of the Chisinau territorial guardianship authority, there are 393 children in conflict with the law, 209 children with deviant behavior (with the risk of committing crimes), 77 re-socialized minors the atonement of punishment, 164 - children from socially vulnerable families, 69 - children who have dropped out of school, 33 - children who stray and other categories of children at high risk¹³⁰. Children in street situations usually come from socially vulnerable families. In most cases, families are single-parent families, alcohol is consumed in many families, and violence is being practiced, with the parent having an anti-social lifestyle, so parents do not serve as a model of behavior and do not represent authority for the child.

Another category is the orphaned children following the death of their parents or those left without parental care as a result of abandonment or the deprivation of parents' rights, and the legal representatives (relatives, grandparents) are not able to control the children.

¹³⁰ According to the data of the Ministry of Internal Affairs, in the year 2017 among the crimes that registered increases are: child trafficking (+ 25.93%), illegal removal of children from the country (+ 54.55%) compared to the previous year. The Ministry of Health, Labor and Social Protection organized 9 children repatriation missions in 2017, repatriating 22 children, including: 6 children from Ukraine (5 missions) and 16 children from the Russian Federation (4 missions). Children are frequently victims of patrimonial crimes, 277 criminal cases were started according to the constitutive elements of the criminal offense provided by Article 186 of the Criminal Code (2016-247); 57 – according to the Article 187 of the Criminal Code (2016-47) and 3 (2016-2) – according to the Article 188 of the Criminal Code 112

From the analyzes and statistical data of the authorities it is found that those children who were taken from the street and accommodated in the placement centers or returned to the parents / legal representatives, soon return to the street.

The People's Advocate for the Rights of the Child considers that the phenomenon of returning of the children to the streets is caused by the fact that the public authorities with attributions in the field do not develop and place the child and the parents in special programs of education and behavior change and the measures taken and the support financial support from the state are not enough to reduce poverty and, in some cases, the resocialization of families abandoned by children.

At the same time, the Children's Ombudsman notes that the state does not have strategies and standards for working with children to prevent antisocial behavior, and reiterates the lack of the child protection specialists in the Law on the Special Protection of Children at Risk and concludes that the system of child protection is incomplete and prejudicial. The mayor, as a local guardianship authority, fails to keep in view the child rights protection segment as a guardianship authority, and the community social assistant, who has taken over the responsibilities of the child's rights specialist, is professionally trained to assist adults and not the children. The lack of financial sources in the local budgets is the main reason invoked by mayors to justify the failure of this specialist.

The People's Advocate for the Rights of the Child has repeatedly invoked the necessity to modify the legal framework for including the specialist for the protection of the rights of the child in the scheme of assigning the territorial guardianship authority, with salary from the state budget, in order not to allow a discriminatory approach of child protection in relation to that of the adult beneficiary.

The Children's Ombudsman welcomes the decision of the Government of the Republic of Moldova to assume the payroll of specialists for the protection of child rights from the state budget, starting with 1 January 2019, and intends to monitor the implementation of this provision.

During the year 2017, the People's Advocate for the Rights of the Child was informed about the issues related to the lack of status and form of protection for children left without parental care; the lack of a mechanism for early identification of parents intending to leave abroad and insufficient information to parents on the obligation to appoint a legal representative for the child and communication with the local guardianship authority; the lack of a unified database of children who are left without parental care after the parent leaves the country or abandons him / her; deficiencies in the exercise of the powers of the guardianship authorities in the identification, evaluation, assistance, referral, monitoring and recording of children who have

been temporarily or permanently left without parental care; infringement of the rights of the child to maintain relations with both parents and relatives as a result of establishing their domicile after divorce of parents.

In the context of those mentioned in this chapter, in order to remedy the situation, the People's Advocate for the Rights of the Child shall submit the following **RECOMMENDATIONS:**

1. To train all actors involved in the protection of children's rights following the separation of parents, divorce, on the application of custody judgments, establishment of guardianship, establishment of domicile, drafting charts of meetings (judges, lawyers, prosecutors, employees of guardianship authorities);

2. To sensitize the society on the children left without parental care, to carry out awareness raising campaigns on parents' responsibility to inform the guardianship authorities that they intend to go abroad over a long period of time and to communicate about the person who shall take care for the child;

5. To further strengthen the capacities of the specialists within the guardianship authorities to identify operative, assess in all aspects, provide the necessary assistance, refer to the relevant services, systematically monitor and record the children who have been temporarily or totally deprived of parental care;

6. To develop the Instruction on the procedure of examining and establishing the schedule of meetings between parent and child;

7. Ensure with the unit of specialist in the protection of children's rights the local tutelary authorities and the unit of psychologist - the territorial guardianship authorities;

8. To support and facilitate family-type care of children, including by increasing financial assistance for families affected by poverty;

9. Ministry of Education, Culture and Research jointly with the Ministry of Health, Labor and Social Protection shall develop strategies to prevent child antisocial behavior and strategies for the development of relevant services;

10. To enhance the accountability degree of the authorities working in social assistance, education, health fields, in law enforcement bodies in order to streamline the mechanism of intersectoral cooperation.

RIGHT TO HEALTH

The definition given seventy years ago by the Constitution of the World Health Organization of the right to health is just as current and relevant today: „The enjoyment of the highest attainable standard of health is one of the fundamental rights of every human being without distinction of race, religion, political belief, economic or social condition”.

Protecting the child's right to health is essential to the identity and mandate of the People's Advocate for the rights of the child. Guaranteeing the right to health for all children means that they must have access to the health services they need, when and where they need it, without suffering from financial or other impediments. No child has to suffer or die because he / she is poor or because he / she cannot have access to the health services he / she needs. Health is also obviously determined by respect for other fundamental human rights, including access to safe drinking water and sanitation, safe and healthy food, adequate living conditions, and education, to safe living and working conditions. The right to health also means that everyone must have the right to control their own health and their own body, including access to sexual and reproductive information and services, without violence or discrimination. All children have the right to health and must be treated with respect and dignity. No one should be subjected to medical experiments, forced medical examination or prescribed treatment without informed consent.

The protection of the right to health is found in Article 24 of the UN Convention on the Rights of the Child whereby the State assumes a positive obligation to guarantee access to health and medical services, with emphasis on primary and preventive health care, on health education and on reducing infant mortality.

Universal Declaration of Human Rights provides that „Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control. Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.”

At national level, the State's obligation to respect the child's right to health is enshrined in Articles 4, 11, 12, 15, 29 of the Law on Child Rights, no. 338 of 15 December 1994, which provides for the physical and spiritual health of the child.

The People's Advocate for the Protection of the Rights of the Child mentions that the Republic of Moldova has largely fulfilled its obligations to align national legislation with international health standards.

However, the Children's Ombudsman opts for a broader approach to the given subject. The right to children's health is a universal right, extending not only to prevention, promotion and health protection services, but also encompasses curative, rehabilitative and palliative actions undertaken in a timely and appropriate manner. The right to health also provides the child with the opportunity to grow and develop to his / her full potential and to live in conditions that enable him / her to meet the highest health standards by implementing programs addressing the underlying determinants of health. A holistic approach by the state to the health sector will make children's right to health a broader framework of international human rights obligations.

The recommendations of the UN Committee on the Rights of the Child of September 2017 encourage the State to strengthen the following areas:

- To continue efforts to ensure access to quality healthcare, in particular to perinatal healthcare and emergency pediatric healthcare in all regions of the State Party, including extending the mechanism of inter-sectoral cooperation in the medical and social fields;
- To improve the national immunization program for preventing outbreaks of preventable diseases by vaccination and to create awareness programs, including campaigns on immunization;
- To ensure that medical institutions are appropriately equipped with qualified equipment, medicines, materials and human resources, especially in rural areas;
- To take further steps to improve the practice of exclusive breastfeeding during the first six months of life, including awareness-raising measures, by informing and training relevant staff, in particular maternity staff, and parents.

The Children's Ombudsman welcomes the actions of public authorities to ensure that the child's right to health is respected, but considers it imperative to mention gaps in this chapter. The People's Advocate for the Rights of the Child draws attention to the fact that non-observance of professional ethics on the part of doctors and the medical errors causes serious health consequences for children, which often end with the death or disability of the child. A conclusion determined by the cases investigated by the Office of the People's Advocate indicates that there are enough shortcomings and reservations in this chapter¹³¹.

¹³¹ Cases investigated or monitored by the institution of the ombudsman: case of the Family Doctors' Office in Pirita village, Dubăsari district; the case of the Urgent Medical Assistance Substation Dubasari (on the death of the 4-year-

These facts have also been confirmed in the Study on the Evaluation of National Policies in the Field of Medical Malpractice and Enforcement of Patients' Rights in the Republic of Moldova, drafted in 2017 by the Institute for Human Rights of Moldova¹³², which concludes that **the number of causes of malpractice increases every year**.

The year 2017, as well as the previous one, has demonstrated **the disastrous state of affairs** in the field of children's nutrition in educational institutions - nurseries, kindergartens and schools, as well as in other educational institutions where children are present. During the extraordinary meeting of the National Council for the Protection of the Rights of the Child, organized at the request of the Children's Ombudsman¹³³ several issues were discussed: lack of a unique menu adapted to the child's age that would provide healthy growth and development, financial rules for feeding a small child, poor quality of purchased food for the preparation of children's food, lack of a quality control body of prepared meals, non-qualitative and expired food, fraudulent procurement process.

Thanks to the activism of parents, the media analyzed and covered several topics in this chapter¹³⁴. To ensure the quality of food for children in educational establishments and to regulate the feeding process of children and pupils, the Government of the Republic of Moldova approved the Decision „On feeding pupils” no. 234 of 25.02.2005; the Minister of Education issued Order no. 42 of 30.01.2017 „On financial rules for feeding children / students from educational institutions”¹³⁵ registered at the Ministry of Justice of the Republic of Moldova no. 1198 of 22.02.2017; the National Center for Public Health elaborated the „Methodical recommendations on the organization of balanced nutrition in children's institutions”, the Minister of Health issued the Order no. 638 of 12.08. 2016 „On the

old in the ambulance car on the way to the hospital); the case from Telenesti (medical mistake: removal of other organs during the surgery at birth); the case from Balti (from the negligence of a obstetrician to the provision of medical assistance, a patient and her newborn died), the case of the Institute of Mother and Child (abortion at the Institute of Mother and Child WC, by a patient at the age of 19 (<http://www.jurnal.md/ro/social/2017/10/10/cinci-medici-risca-ani-de-inchisoare-pentru-malpraxis-dupa-ce-o-fetita-de-4-ani-a-murit-din-greseala-lor/> <http://today.md/ro/news/social/640> <http://oficial.md/social/medic-obstetrician-condamnat-pentru-malpraxis-soldat-cu-doua-decese> <https://www.zdg.md/editia-print/social/calvarul-nasterilor-in-republica-moldova-nu-rage-nebuno>);

¹³²http://idom.md/wp-content/uploads/2017/10/IDOM_Draft-Studiu-Malpraxis_31-OCTOMBRIE-2017-1.pdf

¹³³http://ombudsman.md/sites/default/files/demers_catre_p.filip.pdf

¹³⁴ Due to the activism of the parents, the media analyzed and reflected the subjects like: the buckwheat served to the children at the Kindergarten no. 157 of the capital, were cereal moth larvae¹³⁴; A new campaign to check the food blocks in the general education institutions in the capital¹³⁴, Irregularities in kindergartens persist - report¹³⁴, Children in the capital, hospitalized with acute diarrheal diseases, A number of irregularities detected at child placement centers,¹³⁴ Nutrition in kindergartens: New menus, hungry children. (http://noi.md/md/news_id/214302, http://noi.md/md/news_id/208255, http://noi.md/md/news_id/204570,

<http://www.jurnal.md/ro/social/2017/2/13/alimentatia-in-gradinite-meniuri-noi-copii-flamanzi>);

¹³⁵<http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=369307>

Recommendations for a Healthy Diet and Proper Physical Activity in Educational Institutions of the Republic of Moldova”¹³⁶.

Although it was discussed throughout the year about the necessity of improving the quality of food, we can conclude that in 2017 the financial norms for the feeding per child in the educational institutions increased non-essential. By Order of the Minister of Education no. 42 of 30.01.2017¹³⁷ the provision stipulating financial performance of the parents to provide children with food was excluded.

At the end of 2017, during the XIIIth edition of the National Conference „Anticorruption for Human Rights”¹³⁸, organized by the Office of the People's Advocate, jointly with the National Anticorruption Center, also addressed the topic of fraudulent purchase of food for children.

The unsettled problem of feeding children in the kindergartens of Chisinau municipality has led the Children's Ombudsman and many non-governmental organizations to appeal to parents who want to get involved in solving problems related to children's food in the public kindergartens in Chisinau by providing advice on the forms of parents involvement, monitoring food services, supporting parents in the dialogue with authorities on procurement, and strengthening the skills of parents who want to monitor the process of feeding children in kindergartens, in the long run.

In the opinion of the Children's Ombudsman, the state does not currently identify optimal solutions for public procurement, food quality certification, ensuring efficient food quality control, food preparation, monitoring, including parental involvement, of food quality.

The lack of budgetary funds in this area, but also in others, should not be an excuse, as countries investing in children have a future. However, all actions must comply with the best interests of the child.

Another topic of monitoring by the Children's Ombudsman is *vaccination of children*, which has been widely addressed in previous years.

The actions taken by the Republic of Moldova Government, the civil society and the development partners of the Republic of Moldova did not lead to a noticeable success. Thus, the People's Advocate for the Rights of the Child is concerned that the number of vaccinated children has fallen below the 95% safety level recommended by the World Health Organization. Even though all vaccines are free, some parents refuse to immunize their children because they are afraid of possible side effects or have had such reactions. In the Republic of Moldova, only tuberculosis vaccine reached the target of 95% and the other 11

¹³⁶lex.justice.md/UserFiles/File/2016/mo293-305md/anexa_638.doc

¹³⁷<http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=369307>

¹³⁸<http://ombudsman.md/ro/content/conferinta-anticoruptie-pentru-drepturile-omului-abordarea-bazata-pe-principiile-respectarii>;

types are safe under the World Health Organization (WHO) safety. The tendency to decrease immunization is more pronounced in Chisinau, Balti and the eastern districts, according to the data presented at the Press Club dedicated to the Immunization Week in the Republic of Moldova¹³⁹.

Another issue related to the vaccination of children is the interference with the *right to health with the right to education*. Pursuant to Article 52 of the Law on State Public Health Surveillance No. 10-XVI of 3 February 2009, *systematic prophylactic vaccination of the population is guaranteed and provided by the state to the ages and to the population groups established in the National Immunization Program (NIP)*. NIP for 2016 - 2020, was approved by the Government Decision of the Republic of Moldova no. 1113 of 06.10.2016, and Chapter III, point 21, Objective 2, subpoint 1), letter e) of the named Program provides *ensuring the admission in the collectivities of children, in the absence of reasoned and documented medical contraindications, only of the vaccinated children*.

Guaranteeing the right to health by the state implies its obligations and efforts to: reduce new-born mortality, infant mortality and healthy development of the child; prophylaxis and treatment of epidemic, endemic, occupational and other diseases, as well as the fight against these diseases by creating conditions that would provide medical services and medical assistance in case of illness.

Under the Law on State Public Health Surveillance, *this surveillance covers all areas of life and activity of the population that can adversely affect human health, and priority areas in public health surveillance by state are: surveillance, prevention and control of communicable diseases; etc.*

Under these conditions, Article 52 paragraph (6) of the Law on State Public Health Surveillance, provides for the non-admission of unaccompanied children to collectives and educational institutions and for recreation, reveals a current problem for the Republic of Moldova, which falls within the national legislative system, and ensure children's right to health and do not impair their right to education and training. **On the contrary, by providing health, safe conditions are created that favor effective education and training.** Plus, to that, **disease-related absenteeism, child health status after disease, antiepidemic and quarantine measures to be applied in epidemics diminish the efficiency of the training and education process.**

Based on the above, the right to studies or education (Article 35 of the Constitution) does not fall within the category of rights proclaimed in Articles 20-24 of the Constitution. **The right to education, by its nature is a relative and not an absolute right**, which implies that in

¹³⁹<http://moldnova.eu/ro/vaccinarea-republica-moldova-ministerul-sanatatii-lupta-cu-google-15259.html/>

certain situations established by law, it may be limited. Also, according to the jurisprudence of the European Court of Human Rights, the right to training requires state regulation, but it must never touch the substance or affect other rights¹⁴⁰. In the opinion of the Children's Ombudsman, the state must ensure that this compartment is a mechanism that is consistent with the best interests of the child.

In the process of monitoring the right to health, the People's Advocate for the Rights of the Child also found *the problem of lack of doctors and medical practices in educational institutions, insufficient training of medical staff and insufficient provision of first-aid medicines*. Children and teachers are not trained and prepared to be able to give first aid. Medical staff are still subordinated to the MECR (Ministry of Education, Culture and Research), so there is a lack of continuous training of physicians. At the last meetings with decision-makers from MHLSP (Ministry of Health, Labor and Social Protection) and MECR, a consensus was reached to return the medical staff from schools to the MHLSP, which would provide the possibility of obtaining the necessary continuous training. However, until now the teachers are in the subordination of the MECR, and MHLSP considers that the managers of the educational institutions, according to the Government Decision „On the Approval of the Additional Health Services Nomenclature for Children, Pupils and Students in Educational Institutions” no. 934 of 04.08.2008, are responsible for the continuous training of medical staff. The same normative act stipulates that MHLSP will ensure the evaluation of the level of quality of the additional health services provided to children, pupils and students in the educational institutions.

During the year 2017, the People's Advocate for the Rights of the Child was also concerned about the diagnosis and treatment of rare diseases in children. It is obvious that the Republic of Moldova does not have a rich practice in this chapter, as it does not have any protocols for action in case of diagnosis of rare diseases. The Children's Ombudsman, aware of the complexity of the problem raised, recommends that the national authorities progressively and as far as possible implement the procedures for the diagnosis and treatment of rare diseases.

The People's Advocate makes the following **RECOMMENDATIONS**:

- The Children's Ombudsman reiterates his previous recommendations¹⁴¹ on the complete endowment of ambulances and the modernization of the first medical aid;
- Increasing the financial norms to ensure the quality of children's nutrition;

¹⁴⁰ ECHR judgment of 23 July 1968 in the „Belgian Linguistic” Case, Series A no. 6, point 32, §5;

¹⁴¹ http://ombudsman.md/sites/default/files/document/attachments/raport_anual_copii_2016_0.pdf;

- Ensuring the delivery of high-quality primary health care at educational institutions at all levels.

RIGHT TO EDUCATION

Article 28 of the UN Convention on the Rights of the Child provides that States Parties recognize the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity, they shall, in particular: a) make primary education compulsory and available free to all; b) encourage the development of different forms of secondary education, including general and vocational education, make them available and accessible to every child, and take appropriate measures such as the introduction of free education and offering financial assistance in case of need; c) make higher education accessible to all on the basis of capacity by every appropriate means; d) make educational and vocational information and guidance available and accessible to all children; e) take measures to encourage regular attendance at schools and the reduction of drop-out rates.

At national level, the right to education is enshrined in the Constitution of the Republic of Moldova in Article 35: „The right to education shall be ensured by way of compulsory comprehensive school system, by secondary education and vocational education, higher education system, as well as by other forms of education and continuous training. The fundamental right to education is also regulated in the Education Code¹⁴². Article 2 of the law on children's rights no. 338 of 15.12.1994 provides: „The State shall guarantee to every child the right to a level of life appropriate to his / her physical, intellectual, spiritual and social development. The state is taking action to help parents, as well as other people responsible for children's education and development.”

From the perspective of transposing international law and ensuring the right to education, the People's Advocate for the Rights of the Child considers that the state partially fulfilled the obligations of compliance of the national legislation with the rigor stipulated by the international bodies to which the Republic of Moldova is a party.

The UN Committee on the Rights of the Child **recommends** the state:

- Ensure the right to free and compulsory education for all children at primary and secondary levels and to continue efforts to improve access to education including pre-school education, of Roma children, especially girls, and children in poor families, especially from rural areas, by removing obstacles to education, including inadequate funding, socio-economic causes and transport;

¹⁴²[http://lex.justice.md/md/355156/;](http://lex.justice.md/md/355156/)

- Strengthen their efforts to improve retention and reduce abandonment rates, in particular by eliminating the practice of juvenile marriage, to develop and promote quality vocational training, improve the skills of children, especially of those who drop out of school, and provide adequate institutions and facilities;
 - To perform a comprehensive curriculum analysis at all levels to provide a quality curriculum that meets the needs and interests of the child, including through the integration of cultural diversity and adaptation to the school environment in order to promote the inclusion of ethnic minorities in classroom lessons and in extracurricular activities;
 - Take steps to increase the overall quality of education, especially in rural schools, to increase the number of qualified teachers and provide teaching materials and books as well as pedagogical methods;
 - To ensure the observance of quality standards imposed on all schools on water and sanitation systems and to ensure access to playgrounds, other sports and cultural facilities for all children, especially those in marginalized environments.
 - To promote education in mother tongue and bilingual language at all levels through qualified bilingual teachers;
 - To further expand access to early education for all children and further improve the institutions, including through the provision of teaching materials, books and pedagogical methods.

The People's Advocate for the Rights of the Children reiterates the issues addressed in the *Report on the Observance of Human Rights in the Republic of Moldova in 2016* but also in the *Alternative report submitted to the Committee on the Rights of the Child*¹⁴³ on: overcrowded and theorized school curriculum, lack or insufficiency of teachers, lack of medical staff in educational institutions, failure to comply with sanitary and hygienic norms in the respective institutions, lack of recreation facilities for children in educational institutions, insufficient extra-curricular activities, unskilled children, school drop-out, children's nutrition, which does not contain the nutritional needs, and non-food for fifth-to-twelfth grade children, informal payments in school, transportation of pupils without ensuring their security.

Monitoring the respect of children's right to education remains one of the priorities of the People's Advocate for the Rights of the Child and throughout 2017.

¹⁴³ http://ombudsman.md/sites/default/files/document/attachments/justitia_pentru_copii_1.pdf;

In the **Forums in the discussions with children**, following the monitoring and multiple meetings of the Children's Ombudsman with teachers and children were the same, a number of issues and difficulties have been addressed to prevent the full realization of this right. The children, parents and teachers mentioned the following: „School curriculum is overloaded, overly theorized and of high complexity. Its content does not contribute enough to developing the child's individual potential and training as a personality, active civilian spirit, prepared to cope with the realities of life. For the most part, students are not able to prepare homework for themselves and call for help from parents or take overtime. At the same time, children do not acquire skills and abilities to help them solve the daily problems they face in real life. The education system does not contribute to the formation of the personality with the spirit of initiative, own opinion, tolerance and respect for human rights”.

The People's Advocate for the Rights of the Children considers it necessary to revise the School Curriculum. In this respect, the Ombudsman appreciates the efforts of the Ministry of Education, Culture and Research, which in 2017 approved the National Curriculum Framework, which will ensure the implementation of fundamental changes under the Education Code, including the implementation of the new Framework Plan with prior piloting his.

The Ombudsman emphasizes the need to combine the efforts of all actors involved in this process, relying on the competence and responsibility of educators and parents in order to optimize the review process, especially with regard to avoiding issues so consistently criticized by specialists and society. The child's best interest should be one of the pillars of this document, thus ensuring the multilateral development of children.

In this context, the Children's Ombudsman is restoring the idea of introducing a course on the rights of the child, in which children will know their rights and responsibilities, how and ways to denounce violations or abuses committed against children, and learn about national institutions for defending the rights of the child. This course is necessary for the proper orientation of children in the area of human rights and for the education of active citizens. The form, volume, and way of completing the course would be the subject of a discussion with the specialists and would be a first step in implementing this idea.

Another topic sensitive to the whole of society is the sexual education of children and young people. Reality shows that there is not enough work in this area to provide children with the right education. In this respect, it is necessary to have a sexual education course with scientific approaches. Children need to be taught about the physiological and social aspects of sexual relations. They need to understand the health risks and responsibilities, including those

of a social nature, that involve sexual life. All this would help to redress the situation, educate a healthy generation that would avoid the consequences of ignorance in the field.

Children with mental and / or motor disabilities have the same rights as all children, and by ratifying the UN Convention on the Rights of Persons with Disabilities and the Convention on the Rights of the Child, the Republic of Moldova has undertaken to protect this category of children.

Issues related to inclusive education in the Republic of Moldova are related to: the imperfection of funding mechanisms, especially in the context of the *allocation of financial means based on norms per pupil*, it is important and necessary to individually assess each child with special needs, and the amount allocated must meet their needs; interfere with the inadequacy of the intersectoral collaboration mechanism for evaluating the child with developmental problems; the insufficient level of skills development of teachers who did not receive training in inclusive education compared to those who attended training courses (the longer the training period, the more the attitude towards inclusion has evolved towards the positive); stereotypes of society / community and reticent attitudes towards children with special needs; the acute shortage of teaching materials and requisites for the smooth running of the inclusive education process; conditions and low accessibility in educational institutions for children with physical disabilities; inadequate insurance with well-trained support teachers in the field of assistance to children with disabilities; reduced transparency in the management of the financial resources allocated to the Early Childhood Education Institution; data collection systems for children with CES and disabilities are not harmonized to adequately provide statistical information to serve as a basis for program planning, which calls for mapping of support services

People's Advocate for the Rights of the Children *condemns and considers inadmissible the tolerance and promotion, especially in the public space, of the idea that children with disabilities are a „hindrance” for other children and should not attend „normal” schools*. Such ideas spread intolerance, discrimination and hate in society towards children / people with disabilities, to promote the position of inaction, exclusion in society, which consequently leads to segregation of children. In this context, the Ombudsman considers it necessary to emphasize the importance of actions to educate society, children, parents, teachers in the spirit of inclusiveness and equal opportunities. It is necessary to educate the idea of social inclusion, when children, teachers and parents will understand that these notions are not abstract but relate to their lives, are what happens in their classroom, in their school. Society must understand that inclusion is taking place here and now and not

somewhere, in a particular place with an abstract person. That is why more awareness-raising activities need to be carried out on the need for integration and social dialogue with people with disabilities. A very important role is played by teachers who have the mission to educate themselves in this respect, by force of their own example, through extracurricular activities, through discussions, etc., both the children and adults.

During the year 2017, the People's Advocate for the Rights of the Child expressed his concern about the lack of provision by local authorities of means of transport tailored to the needs of children or their lack. There are quite often notified situations where the means of transport intended for transporting students to the district schools do not meet the necessary requirements. Moving children without being accompanied by an adult is a risk to them. Likewise, the behavior of the transport manager who speaks brutally with children, speeds and / or does not comply with road traffic rules is also undesirable. The irresponsible and careless attitude of a bus driver led to the situation when a child was „forgotten” in a bus¹⁴⁴. There are frequent cases where children are imposed by the driver or by situation to „push the bus” for reaching their destination in the winter¹⁴⁵ and more deplorable the situation in which students are transported by carriage¹⁴⁶.

Due to insufficient means of transport, children are forced to move to a „district school” on foot, at great distances, under unsafe conditions, under all weather conditions. Parents are required to pay for transport or to displace their child with their own means. The existing transport is not adapted to the special needs of children with mobility limitations¹⁴⁷.

¹⁴⁴https://www.publika.md/caz-revoltator-la-ungheni-un-copil-de-doar-doi-ani-a-fost-uitat-in-microbuz-pentru-aproape-7-ore-_2983138.html

¹⁴⁵http://www.realitatea.md/-video--operatiunea-autobuzul--la-soldanesti--elevi-nevoiti-sa-scoata-vehicolul-din-zapada-pentru-a-ajunge-la-ore_70467.html

¹⁴⁶ Students from Dumbrava did not have access to the educational institutions in the capital following the cancellation of the municipal minibus route no. 193. According to the statements of the inhabitants of Dumbrava locality, 142 children from the locality who are studying in the educational institutions in the capital can not go to schools because the minibus route no. 193 they were using was canceled. The Ombudsman considers that the situation created hinders the access to education of the child. The People's Advocate for the Rights of the Child requested from the General Direction of Public Transport and Communication from Chisinau Municipality the information regarding the means by which the children from the Dumbrava village are provided access to the educational institutions in the capital in the absence of the municipal minibus route no. 193.

https://observatorul.md/social/2017/11/27/35930_un-pedagog-ajuns-la-spital-dupa-un-incident-cu-autobuzul-scolar

<https://oamenisikilometri.md/haiduciieducatiei/>

¹⁴⁷ A report on the implementation of the European Social Charter in the Republic of Moldova was prepared by Dr. Olivier De Schutter, Council of Europe expert. The report was prepared both on the basis of desk research and on an inquiry mission held in Chisinau in December 2017. <http://www.infoeuropa.md/politici-sociale/o-protectie-sporita-a-copiilor-contra-utilizarii-lor-in-calitate-de-fora-de-munca-si-un-acces-mai-bun-la-scoli-sunt-unele-dintre-recomandarile-pentru-republica-moldova>;

All these problems need to be resolved urgently and the solutions shall be lasting and qualitative, to ensure pupils' security and access to school.

În 2017 The People's Advocate for the Rights of the Child participated in the public hearings organized by the Commission on human rights and interethnic relations within the Parliament of the Republic of Moldova¹⁴⁸. The subject of the hearings was the linguistic policy in the Republic of Moldova, the real situation and the perspectives of the development, as well as the assurance of the rights of the national minorities. At the hearings, the Children's Ombudsman reported about ensuring children's rights to national, linguistic and cultural identity through two rights: education and information.

The Ombudsman noted that international treaties recognize the right of national minorities to education in their mother tongue and encourages the states to ensure to the children the respect of this right, especially in the localities where ethnic minorities are majority. In this respect, it was stressed that there are not enough teachers in the Republic of Moldova who can teach in the languages of national minorities, emphasizing the existing problems regarding the right to education of the Roma children. Another problem is the lack of teaching staff for the teaching of the Romanian language for non-native. Regarding the closure of schools in the process of optimization, the Ombudsman noted the importance of giving children the opportunity to study in their mother tongue.

The People's Advocate for the Rights of the Child also monitored the respect for the right to education of minors in penitentiary institutions.

Following the intervention of the Children's Ombudsman, in Penitentiary no. 10, at the request of the children, besides the compulsory secondary education program, the lyceum school curriculum was also implemented. Thus, children will be able to obtain a baccalaureate diploma to continue their studies at the university. At the same time, training courses were organized in the penitentiary, in order for the minors to acquire a profession that would facilitate their employment.

In the full realization of the child's right to education, an important role is also the link between school and family, which can be a fruitful union, provided the objectives of the common educational activity process for socialization and the personality of the child are understood. In the same context, it is indicated that most of the issues related to school-to-family collaboration stem from:

- the gaps existing between the actual problems of the school and those declared;

¹⁴⁸ <http://ombudsman.md/ro/content/avocatul-poporului-pentru-protectia-drepturilor-copilului-despre-dreptul-copiilor-de-fi>;

- insufficient promotion of performance indicators that would allow the evaluation of the effectiveness of the school-parent partnership not only at the level of attitudes (lack of information stands);
- lack of opportunities to popularize school successes and results (on the site, page or business card of the institution, etc.);
- formal attitude of managers towards parental involvement in decision-making;
- superficial knowledge or ignorance of legislative acts by both parties;
- parents' indifference to the organization and content of the educational process, as well as to the results of the assessment of their children's knowledge;
- the unwillingness of parents to collaborate with the educational institution and to contribute to the achievement of the educational objectives and to follow the school situation and the child's behavior in the educational institution;

The teacher-parent relationship directly influences child's education. Communication between these two actors is essential to have effective collaboration for the benefits of children through multiple actions. The standards deriving from a holistic, system-based approach that places the child at the heart of education reform and turns the school into a child-friendly one, must also provide conditions for a school-friendly relationship between teacher and parent. It is necessary to create digital catalogs or effective educational management platforms in all educational institutions that would provide parents with access from anywhere and at any time to the child's school situation, access to the child's marks and absences, whether using a laptop, tablet or mobile phone, would provide the opportunity to contact teachers quickly and directly, to inform about future exams, allow access to statistics and rankings. Thanks to this form of transmission of information, parents and pupils would quickly find out their day-to-day evolution and would be instantly communicated by messenger by teachers, school master, secretaries or school leadership. Another way of working would be to organize educational activities with parents, such as conducting more practical workshops for parents and teachers, which would include examples of activities, materials and strategies for the physical, intellectual and emotional growth stages of the children of different ages and provides participants with a course support: portfolio and long-term bibliography.

Education requires a stronger commitment than any other development activity because it does not involve a single effort but a continuous and multilateral effort and for its efficiency we propose the following **RECOMMENDATIONS:**

- Ministry of Education, Culture and Research, shall consult the opinion of civil society, parents and especially children in the process of developing, implementing and monitoring education policies.
- The Ministry of Education, Culture and Research shall elaborate, review and approve the normative and methodological acts on the regulation of the necessary services activity in order to ensure the educational inclusion of children and young people with CES.
- National information and awareness campaigns should be carried out at national level in order to combat discrimination and stigmatization of people with disabilities, to educate society on tolerance towards people with disabilities, to raise awareness of the need for equal opportunities for children / people with disabilities, to form a respectful attitude towards persons with disabilities as members of society, equal in equal rights.
 - National information and awareness campaigns should be carried out to inform and raise public opinion, to raising awareness of the need to change attitudes towards children with CES and their situation.
- Strengthen inter-sectoral cooperation relations between state authorities in order to ensure the right to education for all children.
- Identify an insurance mechanism for each educational institution with a medical cabinet and a qualified medical specialist, the school medical cabinet should be equipped with all the necessary medication for the first aid.
- Transfer of medical staff to the Ministry of Health, Labor and Social Protection subordinated for guaranteeing continuous training and observance of their professional career.

RIGHTS OF CHILDREN WITH DISABILITIES

Both the Supreme Law of the Republic of Moldova¹⁴⁹, and international standards establish the need for specific measures to protect children with disabilities. The UN Convention on the Rights of the Child¹⁵⁰ stipulates that States Parties recognize that children with mental or physical disabilities must be assured of a fulfilled and decent life, under conditions that guarantee their dignity, foster their autonomy and facilitate their active participation in the community life.

Following the ratification of the UN Convention on the Rights of Persons with Disabilities¹⁵¹, the Government of the Republic of Moldova has developed and initiated the process of implementing the public social inclusion policy of people with disabilities and including children with disabilities.

The Committee on the Rights of the Child¹⁵² in *its Observations* recommended that the State continue to strengthen its efforts to implement the legislative framework and policies for the effective protection of the rights of children with disabilities and to take all the necessary measures to ensure the inclusion of each child in all spheres of social life.

It is necessary to mention that in 2017 the Government of the Republic of Moldova took actions to improve the situation of children with disabilities, namely:

- The Ministry of Education, Culture and Research has approved the „Training Course for Behavioral Psychotherapist” for the „SOS-Autism” Public Association;
- The Ministry of Health, Labor and Social Protection, in partnership with AO „People in Need”, draws up and pilots the *Social Inclusion Strategy* (Soroca, Edinet, Dubasari and Balti) in four regions, focusing on information actions, partnership development and social services as close as possible to the beneficiaries;
- *The National Program for Social Inclusion of People with Disabilities for 2017-2022* was approved¹⁵³;

¹⁴⁹ Constitution of the Republic of Moldova, Article 51;

¹⁵⁰ UN Convention on the Rights of the Child, Article 23, paragraph (1), ratified by Parliament's Decision No. 408-XII of 12.12.1990 on the accession of the Moldavian Soviet Socialist Republic (MSSR) to the International Convention on the Rights of the Child;

¹⁵¹ UN Convention on the Rights of Persons with Disabilities, ratified by the Republic of Moldova through Law no. 166 of 09.07.2010;

¹⁵² Final observations of the Committee on the Rights of the Child on the Fourth and Fifth Periodical Reports of the Republic of Moldova * of 20.10.2017;

¹⁵³ <http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=371431>;

- ***The Action Plan on the Implementation of Measures to Ensure Accessibility of People with Disabilities to Social Infrastructure for 2017-2020***¹⁵⁴ was also approved;
- The legal framework has been modified¹⁵⁵ to provide the right of a person with disabilities to be accompanied freely and free by a guide dog in all means of transport.

International standards aim primarily at collecting real and diversified statistical data¹⁵⁶, ensuring inclusive education for children with disabilities and their social inclusion¹⁵⁷.

The Republic of Moldova does not currently have a single database reflecting the actual number of persons / children with disabilities both by severity and disability types: of the locomotor apparatus, sensory or mental disability, a phenomenon already reflected in the Children's Ombudsman previous reports¹⁵⁸. We reiterate the idea that evidence of children with disabilities by type of disability would allow authorities to have a real picture of disability related needs.

According to data published by the National Pay Office of Social Insurance¹⁵⁹, in the Republic of Moldova there are **11676 beneficiaries of allowance for children with disabilities**, which presumes that this is officially the number of children with disabilities.

With regard to the social inclusion of people with disabilities, during the year 2017, the Children's Ombudsman continued to monitor the inclusion of children with autism spectrum disorders based on the findings and recommendations of the Thematic Report **„Social Inclusion of Children with Autistic Spectrum Disorders in the Republic of Moldova”**, elaborated in 2016. We find that the situation of these children remained unchanged compared to the previous year. Although at the public policy level some measures are being taken, in practice both these children and their families in the process of social inclusion, continue to face barriers and stigmatization on the part of the community as well as of local public authorities.

For the same purpose, of the monitoring of the way of social-educational inclusion of children with special needs in 2017 was elaborated the **„Report on Social Inclusion of Children with Sensory Disabilities!”**¹⁶⁰, focusing on inclusive education as a key element in the process of social inclusion of children with disabilities.

¹⁵⁴ <https://monitorul.fisc.md/editorial/un-nou-act-de-sprijin-pentru-persoanele-cu-dizabilitati.html>;

¹⁵⁵ <http://lex.justice.md/md/316972/> ;

¹⁵⁶ UN Convention on the Rights of Persons with Disabilities, article 31;

¹⁵⁷ UN Convention on the Rights of Persons with Disabilities, Articles 7 and 24 and the UN Convention on the Rights of the Child, Article 23;

¹⁵⁸ http://ombudsman.md/sites/default/files/document/attachments/raport_tematic_autismul.pdf;

¹⁵⁹ Information on Pension Beneficiaries, State Social Allowances and Allowances for Families with Children on the record of the National Pay Office of Social Insurance as of 01 January 2018;

¹⁶⁰ http://ombudsman.md/sites/default/files/document/attachments/raport_copii_diz_0.pdf

According to the report, in the residential institutions study 48.3% of the total number of children with hearing disabilities and about 60.3% of all children with visual impairments.

The identified inefficiencies, the lack of accessibility of the infrastructure of educational institutions and information, restrict the access of children with sensory disabilities to education.

In the case of total hearing loss, the cochlear implant, whose cost is not included in the centralized budget sources of the Ministry of Health, Labor and Social Protection, is usually used. For this intervention, beneficiaries have to pay at least 25 thousand euros (according to estimates of NGOs working in this area).

A particular problem in this chapter is the limited access to the use of modern working methods with children attesting hearing problems. Specialists in the Psycho-Pedagogical Assistance Services recognize that they do not have the best work equipment and do not have enough knowledge in the field.

Although in the Republic of Moldova the state language is the Romanian language, the mimico-gestural language continues to be predominantly adapted to the Cyrillic script, by virtue of historical circumstances. The specialists in the field mention that there is a difference in the mimic-gestural language from one locality to another, which implies the need for concrete measures to improve the situation.

The only institution that prepares interpreters in mimic-gesture language is the Deaf Association of Moldova. According to the information in the State Register of interpreters and certified translators and updated on 30 March 2017, 17 interpreters are working in the Republic of Moldova for the deaf, mute or mute-deaf signs.¹⁶¹

According to MECR information, no higher education institution is currently preparing deaf-pedagogues. Only at the „Ion Creanga” State Pedagogical University, within the Faculty of Psychology and Special Psychopedagogy, there are the courses „Psychopedagogy of hearing impaired people” and” Methodology of education and therapy for people with hearing deficiencies and the mimico-gestural language”.

The Committee on the Rights of Persons with Disabilities ¹⁶² in its final *Observations* recommends to the Republic of Moldova: „*To invest in the training of interpreters in mimico-gestural language and to ensure interpretation in the mimic-gestural language for services open to the public so that deaf children have equal access to inclusive, qualitative education...*”.

¹⁶¹ http://www.justice.gov.md/public/files/file/persoane_authorized/traducatori/2017/extras_Registru_interpretilor_a_ctualizat_la_30.03.17.pdf;

¹⁶² Final remarks of the Committee on the Rights of Persons with Disabilities concerning the initial report of the Republic of Moldova of 12.04.2017, point 41;

The situation of children with visual impairments is not better. Although the Law on Social Inclusion of Persons with Disabilities and the Law on Equality ensures that disabled people can participate in all areas of life without discrimination, as well as other members of society, *de facto*, the provisions are ignored. No person with visual impairment was provided with technical means of optical correction and visual aid. The state does not provide such services for visually impaired people.

Although, *Action Plan for the years 2015-2017 for the implementation of the Inclusive Education Development Program in the Republic of Moldova for 2011-2020*¹⁶³ provides for access to information and means of communication, including information and communication technologies and systems, children and young people with disabilities in educational institutions (Braille alphabet, gesture language, etc.) and the development of didactic auxiliaries according to the needs of children and young people with severe deficiencies, at the moment, students studying in general educational institutions have limited access to textbooks edited in the Braille alphabet.¹⁶⁴ MECR (Ministry of Education, Culture and Research) states that „all pupils in special education institutions benefit from free textbooks. For children with severe vision deficiencies, some textbook content is printed in Braille by teachers in educational institutions.”¹⁶⁵

Another aspect is the public policy of reorganization and optimization of educational institutions. Due to the insufficiency of financial sources and the implementation of the public de-institutionalization policy, several special schools for children with disabilities have been closed down over several years. The situation in question would not have been to the detriment of the child if sufficient and effective community conditions were created for the children concerned.

We reiterate that the UN Convention on the Rights of the Child stipulates expressly that any action aimed at the child must pursue the best interests of the child, i.e. the well-being of the child.

¹⁶³<http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=362471>;

¹⁶⁴<http://www.investigatii.md/ro/investigatii/discriminare/autoritatile-se-fac-a-nu-vedea-problemele-nevazatorilor>;

¹⁶⁵MECR Letter No. 02 / 15-3997 of 02.08.2017 addressed to the People's Advocate for the Rights of the Child ;

During a meeting with the mayors from Cahul district, the problem of deinstitutionalization of children who study at the Special boarding school for Deaf and Hearing Impaired Children in Cahul was discussed in connection with the intention of the authorities to close this educational institution.

Those attending the meeting have appreciated negatively the prospects of the pupils in this school after the closure, noting that the educational institution ensures the education and training of the pupils in the south of Moldova, and the policy of deinstitutionalization, provided that the measures for achieving the right to inclusive education are not ensured, comes to the detriment of the child's best interest. Once again, it was mentioned that any reform, especially those concerning children, must be elaborated and ensured both in practice and financially. The closure of this educational institution, where specialized teachers have been assembled, who have a rich experience of working with hearing impaired and deaf children, is a mistake given that effective and plausible inclusion measures for these children have not been created.

In the year 2017 the Children's Ombudsman continued to monitor the situation of children placed in Boarding houses for children with mental deficiencies Orhei and Hancesti in the process of deinstitutionalization. The monitoring results, findings and recommendations of the Ombudsman for public authorities were included in the thematic study „*Assessment of the situation of children placed in the Boarding houses for children with mental deficiencies Orhei and Hancesti in the process of deinstitutionalization*¹⁶⁶”.

During the monitoring it was found that the situation regarding the living conditions and the care of the children in these institutions is relatively good; in the field of rehabilitation and social inclusion there are serious deficiencies to be liquidated.

Analyzing the staff status of the institutions concerned, it was found that they lack the specialists (psychologist and / or psychotherapist) competent to conduct psycho-behavioral therapies with the beneficiary children. Specialty literature and good practice demonstrate that any mental deficiency diagnosed requires specific, differential treatment, which involves individualized psychological therapies. Psychological therapies and specialized counseling are extremely necessary in the process of social integration of these children. In the above-

¹⁶⁶ http://ombudsman.md/sites/default/files/document/attachments/raport_diz_2017_red.pdf;

mentioned study, the People's Advocate for the Rights of the Child draws attention to the actual aim of these psycho-neurological institutions, namely to provide temporary placement services to children with mental disabilities for the purpose of recovery, rehabilitation, social and family (re)integration. For these reasons, it is insisted on improving the status of staff and establishing an individual rehabilitation program for each child in such institutions.

Disabling, without a reasonable basis, the compulsory medical insurance policy for 50 beneficiaries once the age of majority was reached, was another systemic problem identified in the monitoring. The existing situation, appreciated by the People's Advocate for the Rights of the Child as a violation of the right to health, created the risk of not being able to grant, if necessary, the medical assistance under the Single Compulsory Medical Insurance Program¹⁶⁷. Following the intervention of the Children's Ombudsman, on 8 November 2017, MHLSP and the National Health Insurance Company signed an Agreement (No. 33/17 / 01-24 / 10) on the transmission of nominal lists of unemployed persons insured by the Government, fact which created prerequisites for solving the problem.

Another important issue, which is a major concern and requires an urgent solution, is to stop paying social benefits (invalidity allowance, transport compensation) in some districts of the country for children with disabilities who are placed in the Social Professional Work Parental Care Service. The competent authorities justify these actions by the fact that the status of beneficiaries of this service is similar to that of children in full state maintenance.

The People's Advocate for the Rights of the Child points out that such actions are abusive, as long as they are not legally regulated, and in this context has sent relevant reactionary acts at the address of the decision-makers. Even more so, according to the appreciation given by the representatives of the Department of Social Assistance and Family Protection, the social benefits mentioned do not cover all the needs of children with disabilities

In the opinion of the People's Advocate for the Rights of the Child, the lack of a clear indicator showing precisely the minimum existence of a disabled child is an impediment to assessing the real needs of children with disabilities. Knowing these needs is a determining factor in designing relevant and effective public policies to protect children with special needs. The problem has been addressed by the Children's Ombudsman since 2013¹⁶⁸, but so far the authorities have not taken any action in this respect.

¹⁶⁷ Law on compulsory health insurance, no. 1585 of 27.02.1998, article 4 paragraph (4);

¹⁶⁸ http://ombudsman.md/sites/default/files/document/attachments/raport_temat.pdf , Thematic study „Monitoring the standard of living of families where there are people with severe disabilities who require care from a third person”;

In order to ensure the respect of the rights of children with disabilities, the People's Advocate for the Rights of the Child makes the following **RECOMMENDATIONS**:

- To take into account the child's best interest and opinion in all actions taken to ensure respect for the rights of children with disabilities;
- To provide social benefits to all children with special needs;
- The Directorate of Social Assistance and Family Protection shall plan the expenses and allocate the financial means based on the number of children with disabilities and their needs;
- To develop an efficient mechanism for collecting disaggregated statistical data (by type of disability, age, severity of disability, place of living, etc.) of persons / children with disabilities;
- To develop a formula for calculating the minimum existence of disabled persons / children; To develop the skills of psychologists within the Republican Center for Psychological Assistance in providing the cognitive-behavioral therapy necessary for all children with disabilities;
- To ensure all psycho-neurological institutions with qualified staff of psychologists and psychotherapists, as well as other institutions which objective is the psychosocial rehabilitation of the child.

RIGHT TO OPINION AND CIVIL LIBERTIES

The UN Convention on the Rights of the Child provides in Articles 12-17 the civil rights and freedoms of the child by which the State Party undertakes not to restrict the child's right to express his / her opinion and will, the right to obtain and disseminate information and to expressing the views, the right of the child to freedom of thought, conscience and religion and the right of the child to meet with others and to establish or join associations unless the exercise of these rights will be harmful to life, health or will not be exercised in the best interests of the child.

At national level, the provisions of Article 40 of the Constitution of the Republic of Moldova state that „Meetings, demonstrations, manifestations, processions or any other assembly are free and may be organized and conducted only peacefully and without the use of any kind of weapon”.

Also, the Law on the Protection of Children Against the Negative Impact of Information No. 30 of 07.03.2013 in Article 3 states: „The publicly accessible information shall be considered information with a negative impact on children: encouraging behaviors that offend human dignity; which relates to the mockery or abuse of an individual or group of people in connection with ethnic origin, national, racial, or sexual affiliation in relation to the illness, social condition, spoken language, religion, beliefs or shared opinions; which presents paranormal phenomena staged so as to produce the impression of reality;”.

The recommendations of the UN Committee provide for the following actions, which the Republic of Moldova must undertake:

- Take steps to ensure the adoption and effective implementation of legislation that recognizes the child's right to be heard in relevant legal and administrative procedures, including by setting up systems and / or procedures to respect this principle by social workers and courts;
- Set up tools for public consultation on national policy making so that it is standardized at a high level of inclusiveness and participation, including through the involvement of the National Consultative Council for Children and Local Councils for Children and in consultation with children in regarding the issues that affect them;

- Continue to carry out programs and awareness-raising activities that promote the meaningful and empowered participation of all children in the family, community and school, including in student councils;

Analyzing the compliance of national legislation with international standards, the People's Advocate for the Rights of the Child notes that the potential of children is not exploited on a large scale because the state recognizes or insufficiently invests in the necessary measures for them to enjoy their civilian rights and freedoms. Disaggregated data by age, gender, and disability are not available on most segments for those interested, to identify gaps and support the allocation of adequate resources for children. Generic policies on the protection of civil rights and freedoms for children or youth often fail to address them in all their diversity and to an extent insufficient to meet the objective of guaranteeing the realization of children's rights. The costs of inaction and failure are great: the foundations established during childhood in terms of emotional security, expression of opinion, freedom of association, freedom of thought and religion are important not only for individual optimal development but also for the present and future social and economic development.

The People's Advocate for the Rights of the Child underlines that the right to freely express one's views and take due account of it (Article 12) is a fundamental duty of the state to achieve the rights of children in all areas. Public authorities need to ensure that children are given a real chance to express their opinion on all aspects affecting them, especially within their families, in their schools and in their communities. For minors to be able to exercise this right safely and properly, public authorities, parents and other adults working with or for children must create an environment based on trust, exchange of information, ability to listen and to demonstrate favorable orientation, with equal participation of adolescents, including in decision-making processes.

The Children's Ombudsman also indicates that the state should introduce measures to guarantee children the right to express their opinion on all matters of interest to them, according to their age and maturity, and to ensure that they are given an appropriate weighting, decisions on education, health, sexuality, family life and judicial and administrative proceedings. The state must ensure that adolescents are involved in the development, implementation and monitoring of all relevant policies, services and programs affecting their lives, at school and at community, local, national and international level. The on-line environment offers emerging significant opportunities to consolidate and expand their engagement. Measures should be accompanied by the introduction of safe and accessible complaints and redress mechanisms so that national authorities can provide a comprehensive response to adolescent complaints and access to subsidized or free legal services and other assistance suitable.

As regards the right to express their opinion, the Children's Ombudsman finds a violation of this right in this right as well as when children are receiving medical treatment without communicating at least general health information and treatment to them.

Knowledge of the child's opinion is imperative for the Children's Ombudsman and for this purpose during the year 2017 he had several meetings with children. At these meetings the child's opinion was consulted on several topics:

1. Meetings in the educational institutions in the country, in 2017 the Ombudsman met with over 2300 children of different ages¹⁶⁹.
2. Meetings at the National Library for Children „Ion Creanga”, Chisinau. The children mentioned that they would like adults to have more confidence in them, to show more respect for their opinion, and to involve them more closely in decision-making processes. Children want to participate actively in decision-making and make sure that their opinions are respected.
3. Discussion Forums with the topics: „Child and Adolescent Participation in the Reporting and Monitoring Process of the UN Convention on the Rights of the Child - Challenges and Engagement of Public Authorities” and „Involving Children and Youth in Monitoring the Recommendations of the UN Committee on the Rights of the Child”¹⁷⁰, where was discussed the opinion on the most violated rights and where the children spoke with representatives of public authorities about the problems they are facing, about respecting their rights in the light of the Recommendations of the UN Committee on the Rights of the Child.
4. „Democracy from childhood” workshop on the International Day of Democracy at the Parliament of the Republic of Moldova where the children discussed the ways in which each citizen participated in the democratic processes, about the age reduction for the

¹⁶⁹ Theoretical Lyceum of Varnita, Anenii-Noi district, Theoretical Lyceum „Mihai Eminescu” from Anenii-Noi, Theoretical Lyceum „Petre StefanucA”, Ialoveni district, Theoretical Lyceum „Mircea Eliade”, Nisporeni, Theoretical Lyceum „Hyperion” from the Gura-Galbenei village, Cimislia district, Theoretical Lyceum „Dimitrie Cantemir” from Cantemir city, Theoretical Lyceum „Constantin Spataru” from Leova city, Boarding Gymnasium no. 3 of Chisinau, Theoretical Lyceum „Stefan Voda” from Stefan Voda, School for children with hearing impairment no. 12 of Chisinau, Theoretical Lyceum „N. Iorga” Chisinau, Theoretical Lyceum „Onisifor Ghibu” from Chisinau, Theoretical Lyceum „Ion Creanga” from Chisinau, Theoretical Lyceum „Orizont” from Chisinau, Theoretical Lyceum „Principesa Natalia Dadiani” from Chisinau, Theoretical Lyceum „George Coabuc”, Theoretical Lyceum „A. Mateevici” from Donduseni, Gymnasiums of the Stoicani and Slobozia Cremene villages from Soroca district, Gymnasium „Vasile Pirvan” from Gotesti commune, Cantemir district, Lyceum „Stefan Voda” from Stefan Voda city, Theoretical Lyceum „Ion Vatamanu” from Straeni and Theoretical Lyceum from Puhoi cillage, Ialoveni district, Gymnasium no.2 of Balti, Gymnasium „Sergiu Moraru” from Obreja Veche village, Falesti district, Theoretical Lyceum „Olimp” from Singerei, Theoretical Lyceum „Alexandr Puskin” and Theoretical Lyceum „Mihai Eminescu” from Ungheni city, Gymnasium „Dumitru Matcovschi” from Vadul-Rascov, Soldanesti, Gymnasium from the Izbiste village, Criuleni district.

¹⁷⁰ <http://ombudsman.md/ro/content/forumul-de-discutie-al-ombudsmanului-cu-copiii-din-moldova-la-editia-doua>

exercise of the right to vote, from the age of 16. The children expressed different pros and cons in the area of the proposed discussion.

5. „Open Doors Day”. In the context of the International Children's Day, on June 1, the Children's Ombudsman traditionally organizes this action.
6. The „Know Your Rights!” Raffle where the children talked about the child's rights and the ways of defending these rights, based on the importance of personality development in the spirit of dignity, freedom, equality and solidarity, and have won gifts.
7. The anti-cafe in Balti, to which only the child-related issues related to the right to access to justice, the right to privacy and freedom of expression, the right to free movement, the right to physical and mental integrity, the right to property, the right to education, the right to work and the forms of legal liability.

During the discussions, children were particularly interested in the topic of their opinion in the decision-making process regarding the content of the school curricula, especially the optional courses they attend, and the extent to which they think it is ensured to them a safe and non-discriminatory environment, without violence in virtual space (especially on social networks), etc.

In addition to these actions carried out at the initiative of the Children's Ombudsman, children participating in the forum also committed to disseminating information on children's rights and evaluating the opinion of colleagues on how it was taken into account by public authorities and institutions in the decision-making process.

A student from Chisinau, the volunteer Vlada Simon, carried out an evaluation of the children's opinion on respecting the children's rights in her school „Mihai Viteazul” Lyceum. For this, together with the Children's Ombudsman, she developed a questionnaire that was proposed to be fill by 160 children in the lyceum she is learning. The results of the questionnaire were as follows:

According to it, the first question „*Do you know about the existence of the People's Advocate for the Protection of Children's Rights in the Republic of Moldova?*” 79% of the eighth-grade students responded „yes” and 21% did not know anything about the Children's Ombudsman.

Students in the ninth grade knew 40% and 60% did not know; in the sixth grade 91% of children said they knew about the People's Advocate, and only 9% - that they did not know. The reason being that the author of the survey had previously held discussions on the work of the Ombudsman.

At the question „*Do you know how to address the People's Advocate for the Protection of Children's Rights?*” 4 variants of response were proposed. Most children (60% - 70%) said they knew about the Green Line of the child phone - 0800 11 116. Quite a few (40% - 60%) said they

knew they could address to the Children's Ombudsman, and 20% - 40% of children said they did not know how to go to the Children's Advocate.

At the question „*How do you think, which are the most frequent rights infringed of the child??*” 4 variants of response were proposed: *the right to education, the right to opinion, the right to health, the right to rest*. The children were asked to explain why the right is violated. The children have indicated different causes: The right to education, in their view, is violated because some children grow up in poor families who cannot give them equal chances. The right to health is infringed, in the opinion of children, because medicine is paid and not all can afford expensive investigations. The right to rest, in the opinion of children, is violated because children are forced to do more than they should, including more themes. The right to opinion, the children consider it to be not respected because, although adults ask the opinion of the children, they do not take into account the opinion of the children, often even neglects them.

At the question „*What could adults do for these rights not to be violated?*” children said that adults should be more interested in the opinion of the children, ask the specialists what solutions are good for children and all this taking into consideration the opinion of the children.

At the question „*What could you change?*” children had 3 positions: some (50% -60%) said they did not know what they could change, 20% said they would never change anything because they are not heard by adults, about 20% said they could make the mature to hear their opinion.

The People's Advocate for the Rights of the Child appreciates very much the initiatives and involvement of children in the activities of promoting the rights of the child. The contribution of each child is precious in that it is the proof of educating young generations in the spirit of respect for human rights. It is important to talk to children about their children's rights.

Another issue analyzed by the People's Advocate for the Rights of the Child is Article 13 of the Convention, which states that children have the right to freedom of expression and that the exercise of this right may be subject only to the restrictions laid down in Article 13 paragraph (2). The obligation of parents and caregivers is to provide them with appropriate guidelines according to their evolving capacities. Children have the right to seek, receive and share information and ideas and to use their means of dissemination, including speech, writing and sign language and a non-verbal expression as images and artwork. Means of expression include, for example, books, newspapers, brochures, posters, banners, digital and audiovisual media, and personal clothing and style.

The Children's Ombudsman also draws attention to respect for the child's right to religious affiliation. The People's Advocate for the Rights of the Child urges the State to strengthen the implementation mechanisms of Article 14 of the Convention, which emphasizes the child's right to religious liberty and recognizes the rights and duties of parents or legal

representatives to guide the child in a manner compatible with his or her best interests and capabilities (see also Article 5 of the Convention). In other words, the child must exercise the right to freedom of religion, not the parent, and the parental role gradually diminishes, while the child grows up, and the child gains an increasingly active role in the exercise of adolescence choices. Religious freedom should be respected in schools and other institutions, including when choosing to attend religious education classes, and religious discrimination should be banned.

Another issue monitored by the Children's Ombudsman is the *child's right to associate and participate in peaceful demonstrations*. During the year 2017, the Children's Ombudsman repeatedly warned public authorities and parents about the phenomenon of child involvement in political demonstrations¹⁷¹. In the opinion of the People's Advocate for the Rights of the Child, children are entitled to participate in meetings if they are peaceful, if participation in these events does not endanger the life and health of children and their dignity is not prejudiced. Children must be accompanied by their parents / legal representatives. According to the provisions of Article 3, 13, 14 and 17 of the UN Convention on the Rights of the Child, all actions relating to the child must take into account the whole of its best interests. Thus, state authorities, public and private persons and other entities in the field must ensure that any organized action is consistent with the best interests of the child.

Respect for the right to assembly and association is one of a great extent to the development of children. The State should guarantee the right of adolescents to freedom of association and peaceful assembly in all its forms, provided that the restrictions defined in Article 15 paragraph (2) of the Convention are respected, including the provision of safe premises and conditions to the children. Legal recognition should be given to adolescents to set up their own associations, clubs, organizations, parliaments and forums, both at school and outside school, to form online networks, join political parties and join or form their own unions. Measures should also be introduced to protect human rights defenders, adolescents, especially girls, who often face threats and gender-specific violence.

Children have also drawn the attention of the People's Advocate to the protection of the rights of the child and the violation of the right enshrined in Article 17 of the Convention „Access to appropriate information”. The state must ensure the dissemination of information for children, according to their age and development. During the meetings, the children mentioned that there are no radio and television broadcasts, educational, developmental and cultural, which would be appropriate to their age and which would contribute to their development. The children

¹⁷¹ <http://ombudsman.md/ro/content/avocatul-poporului-pentru-protectia-drepturilor-copilului-atentioneaza-organizatorii>

spoke of the harmfulness of the information disseminated through the media, noting that they did not provide a source of information and education.

The People's Advocate for the Rights of the Child draws the attention of the public authorities responsible for the coordination of media activity to the State's obligation to give priority to the broadcasting of children's programs and children's involvement in national television / radio posts.

The Children's Ombudsman also returns to the issue of access to information for children with disabilities. In this context, the People's Advocate for the Rights of the Child brings to the knowledge of the children with disabilities, of which he has taken note during several meetings with these children, who mentioned the lack of reasonable accommodation for their situation and who mentioned the lack of reasonable adaptation for their situation and disability at all TV stations broadcast in our country, there is no translation into sign language or titration of informative broadcasts, news, development and entertainment programs, there is no adaptation for child-oriented content, there are no books and other materials for children in Braille. This critical situation significantly reduces the access of children with disabilities to information, creates conditions for discrimination on the basis of disability, diminishes their chances of social integration. As long as the state does not create the conditions for reasonable adaptation for people with disabilities, we cannot talk about the success of social integration of people with disabilities and children in particular. The Children's Ombudsman insists on the above-mentioned aspects, particularly in light of the importance of effective and successful communication in the last few years. However, in the absence of adaptation, apart from effective social dialogue processes, a significant number of children with disabilities still remain in its closed system without being included in the universal circuit of social dialogue.

The Children's Ombudsman *recommends* to the state to allocate sufficient financial and human resources for enabling the authorities to effectively fulfill their obligations under the UN Convention on the Rights of the Child on the issue of the observance for children's rights and freedoms.

PROTECTION AGAINST ABUSE AND NEGLECT

The UN Convention on the Rights of the Child, in accordance with the provisions of Article 19, supplements the child's right to be protected from abuse and neglect and, under Article 37, guarantees protection against cruel, inhuman and degrading treatment and punishment, under Article 39 the State's obligation to take measures for the physical and psychological rehabilitation of children who have been victims is regulated¹⁷².

Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (Lanzarote Convention) provides: „Preventing and combating sexual exploitation and sexual abuse committed against children; protecting the rights of children who are victims of sexual exploitation and sexual abuse; promoting national and international cooperation against sexual exploitation and sexual abuse committed against children.”

The State's obligation to protect the child's inviolability by protecting it from any form of exploitation, discrimination, physical and psychological violence is also stipulated by the *Law on the Rights of the Child*¹⁷³ and *Education Code*¹⁷⁴.

The UN Committee on the Rights of the Child in the Final Remarks sets out the State's obligations to „Establish mechanisms, procedures and guidelines to ensure mandatory reporting of cases of sexual abuse and sexual exploitation of children and to ensure effective investigation of acts of sexual abuse and sexual exploitation and to bring to justice those guilty of such acts, including from law enforcement institutions” and „Strengthen the implementation of the mechanism of intersectoral co-operation in the field of identification, evaluation, referral, assistance and monitoring of child victims and potential victims of violence, neglect, exploitation and trafficking, approved in 2014, by ensuring adequate human, technical and financial resources”.

Children's protection against abuse and neglect is always in the eyes of the People's Advocate for the Rights of the Child and the findings on this subject have also been reported in the *Alternative Report* to the UN Committee on the Rights of the Child, abuse and neglect, including psychological abuse, both at home, in institutions and at school, as well as by the lack of assistance for child victims of abuse and neglect. The Ombudsman also drew attention to the increase in the incidence of sexual abuse and sexual exploitation of children, including in the

¹⁷² http://ombudsman.md/sites/default/files/conventia_ro.pdf

¹⁷³ <http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=311654>

¹⁷⁴ <http://lex.justice.md/md/355156/>

family and especially among girls, as well as the inaction of law enforcement and case investigators.

The extent of the violence phenomenon has been confirmed by children at meetings with their Ombudsman. Throughout the year, the People's Advocate for the Rights of the Child met with children from different localities in the country, and many of them admitted to being subjected to violence. The same thing was pointed out by the children and young people who participated in the discussion forums entitled „Preventing and Removing Family and School Violence: A Multidisciplinary Approach to the Phenomenon” organized in 2017 jointly with the Parliament of the Republic of Moldova, civil society and local public authorities¹⁷⁵, in eight districts of the country.

In the forums, the People's Advocate for the Rights of the Child talked about the state's obligation to protect children against abuse, pointing out that violence is a concomitant violation of many child rights: the right to physical integrity, human dignity and child protection provided by law. The Ombudsman noted that the authorities need to strengthen their efforts to ensure that all children are protected against domestic violence, schooling and society. Preventing and combating violence against children is one of the most important missions of the state. This can seriously affect the child's well-being, personal development and social interaction. Replacing violent practices with positive educational methods, respecting the child instead of humiliating, abandoning indifference and accepting violence against children are just some of the practices that need to be rooted in society to overcome this phenomenon. In this respect, the intersectoral mechanism, which task is to identify and protect the child at risk, needs to be strengthened. Last but not least, the school has a major responsibility in educating and training non-violent attitudes and behaviors, including in mobilizing parents and the local community to engage more actively in tackling violence and diminishing the causes that trigger them.

The Ombudsman is of the opinion that several child information campaigns are needed concerning institutions and organizations providing violence services and advice. Promoting legislation that provides protection to victims of domestic violence, sexual abuse and trafficking, informing young people about the negative (medium and long term) effects of violence, etc. No less important is the support of child victims of violence, encouraging them to talk about acts of violence, and providing the necessary support for psychological rehabilitation.

These issues were also reported by the children participating in the forum. They also spoke about measures that, in their view, could be taken to reduce the risk of child abuse in all

¹⁷⁵ <http://ombudsman.md/ro/content/forumul-de-discutie-al-avocatului-poporului-pentru-protectia-drepturilor-copilului-cu-copiii>,
<http://ombudsman.md/ro/content/avocatul-poporului-pentru-protectia-drepturilor-copilului-participat-la-cel-de-al-doilea>,
<http://ombudsman.md/ro/content/ombudsmanul-copilor-prezent-la-cel-de-al-cincilea-forum-impotriva-violentei-desfasurat-la>,
<http://ombudsman.md/ro/content/avocatul-poporului-pentru-protectia-drepturilor-copilului-participat-la-cel-de-al-patrulea>

forms of abuse. Among the proposed ones are restricting foreigners' access to educational institutions, installing surveillance camps, creating recreational places in school, educating children about positive relationships and peaceful resolution of conflicts, and how to react when witnessing cases of violence.

Children, at the Ombudsman's request, have conducted several surveys among students in their institutions. Analyzing the surveys, we find that 70% of the respondents mentioned that the most frequent form of punishment they are subjected to in the family is moral aggression. Children are punished for bad grades at school, neglect of domestic responsibilities, and parents' disobedience. Moral and psychological aggression are the most prevalent forms of punishment in school. According to the students, they are punished for unfulfilled themes, talk during classes, and disrespectful attitudes towards teachers. As a result of the polls conducted, the children established that the safest environment for the child remains the family, while the online environment is perceived as the most unsafe.

The children also came up with some recommendations regarding the provision of educational institutions with a psychologist and a doctor. Children want the conversations between parents and schoolteachers to be individual and to ensure confidentiality. Conducting more information campaigns related to safety in the on-line environment. Likewise, the students mentioned that they want more calm behavior from teachers and parents and more open and sincere discussions to explain their mistakes. The People's Advocate for the Rights of the Child supported the recommendations made by children, mentioning that they would contribute to their implementation in practice.

The People's Advocate for the Rights of the Child noted the role of student councils in preventing violence by participating in / organizing activities that present ways to protect themselves against danger and abuse. Children were encouraged to report the violence they know and to engage in volunteering and supporting abused children. The Children's Ombudsman also assured them he will be their support and would be awaiting their calls *Hot Line „Child's phone 0 800 11116”*¹⁷⁶.

In the forums, the People's Advocate for the Rights of the Child underlined that the Office of the People's Advocate is a mediator between state authorities and citizens and urged children / parents / legal representatives to address issues and / or conflicts which they face in the case of actions or inactions of public authorities.

¹⁷⁶ <http://ombudsman.md/ro/content/avocatul-copilului>

The Children's Ombudsman has repeatedly warned the press, including the last press conference on „The right of the child to be protected against abuse and violence”¹⁷⁷ to be very careful about the dissemination of violent material, especially with the participation of children, because the information disseminated can be detrimental to the mental and physical health of children for their physical, mental, spiritual and moral development. Also, the distribution of violent images with the participation of children is, in fact, the continued abuse of the child to be protected. The Ombudsman points out that children are also disturbed by the unilateral content and the negative outlook of the news that concerns them.

The People's Advocate for the Rights of the Child welcomes the launch of the *Study on Childhood Adverse Experience and its Influence on Risk and Health Problems in Young Students in the Republic of Moldova*¹⁷⁸, noting that there is still a signal of the prevalence of physical, emotional and sexual abuse in families in the country and reiterates the need to combine efforts to reduce the risk of child maltreatment. The Ombudsman stressed that the results of the study are worrying, and they show that childhood experiences most often negatively affect young people's behavior, with the effect of diminishing the capacity for social integration. More attention needs to be paid to preventing and early detection of problems faced by children.

On 13 December 2017, at public hearings held in the Parliament of the Republic of Moldova¹⁷⁹ regarding the cases of sexual abuse of minors, identified in the educational institutions of the Republic of Moldova, the People's Advocate for the Rights of the Child said that the child protection system in our country has fundamental deficiencies. The lack of the child protection specialist who must be, according to Law no. 140 on the special protection of children at risk, is felt. The mayor, as local trusteeship authority, physically fails to control the condition of children at risk. In schools, a discipline should be introduced to tell children about interpersonal relationships, to develop their ability to communicate, a very important aspect in avoiding conflicts. The presence of the psychologist in institutions is indispensable, as it can prevent child abuse cases and the ability to communicate about abuse. Equally important is the education that children receive at home in our country, not all parents are ready to talk to children about violence, including forms of sexual abuse.

Another form of violence against the child is the exploitation through work. There are serious problems in Moldova in the field of child labor protection. There are children who are undergoing heavy, dangerous and lasting work. They are trained in agricultural work, in

¹⁷⁷ <http://realitatealive.md/live-conferin-a-de-pres-a-sus-inuta-de-avocatul-poporului-pentru-protectia-drepturilor-copilului-maia-banarescu-cu-tema-dreptul-copilului-de-a-fi-protectat-impotriva-abuzului-i-violen-ei--67401.html>

¹⁷⁸ <http://ombudsman.md/ro/content/maia-banarescu-voi-sustine-continuare-orice-actiune-ce-are-drept-scop-prevenirea-si>

¹⁷⁹ On the occasion of the World Day for the Prevention of Child Abuse (19 November);

households, in the construction industry, are often victims of trafficking in human beings, are being drawn into networks of sexual services and child pornography in other illegal activities such as begging, drug trafficking. It is essential to stress that the state is obliged to ensure that no child is involved in work that is not appropriate for his or her age and development, whether they are of a family or commercial nature.

As mentioned, from the discussions with the children in the Forums held during the year, but also during the meetings with the children, the specialists, the parents, following the monitoring visits, the appeals addressed to the Ombudsman, the calls to the Hot Line „The child's phone” it is clear that the phenomenon of violence against children is caused by several factors such as poverty and excessive alcohol consumption affecting many socially vulnerable families; lack of parenting skills to educate children; traditions and stereotypes in society that justify violence; lack of knowledge in children about the elements of abuse and abusive behavior, ways and means of defense, indifference and tolerance on the part of society towards acts of violence regarding communication / denunciation, negative impact of on-line media information, inability of mass media to report the cases of violence.

The People's Advocate for the Rights of the Child appreciates the efforts made by public authorities by intensifying violence prevention actions, announcing / denouncing cases of violence, examining them and protecting victims of abuse, but considering them to be insufficient, rigid and segmental. The actors involved in the prevention and protection of the child against violence, party of the intersectoral mechanism do not have the necessary skills to identify and assure the protection and support measures, circumstances that reduce the efficiency of their intervention. Also, there is a lack of rehabilitation services for victims and abusers, but also a lack of legal framework in the field of prevention of complex psycho-emotional behavior of children.

There is no single data base on violence against children. Currently, each entity publishes, as part of the intersectoral mechanism, information in terms of its activity, which becomes known only within the limits of functional competence. This is also supported by representatives of civil society.

The Children's Ombudsman emphasizes that there is little official data indicating the real proportions of this phenomenon due to insignificant reporting rates of cases, especially those consumed in the family. Domestic violence is traditionally accepted and often takes place in the „privacy” of the home, not perceived as a violation of children's rights, but rather as a personal problem. For example, corporal punishment applied to children as a method of disciplining is often considered a right of parents and, unfortunately, children continue to be afraid that if they make complaints that they have been subjected to violence, they will not be taken seriously or by

professionals who have addressed will tell them that this is not so serious. Some children are convinced that the professionals they will address will keep the case secret but will not solve it. Regrettably, in recent years, there has been an increase in the number of cases of victimization of children through acts of attempt on lives, health, development, dignity or morality. The role of abusers is carried out in many cases by the parents, legal representatives or other persons in the care of the children. The information presented by the General Police Inspectorate confirms that during the year 2017 the number of child victims of crime increases.

To remedy the situation in this compartment, the People's Advocate for the Rights of the Child makes the following **RECOMMENDATIONS:**

- To take real and effective measures to strengthen the implementation of the mechanism for intersectoral cooperation in the field of identifying, assessing, referring, assisting and monitoring child victims and potential victims of violence, neglect, exploitation and trafficking by providing human resources (*child rights specialist*), appropriate technical and financial resources;
- Effective and efficient investigation of acts of sexual abuse and exploitation;
- Expand national and international cooperation on preventing and combating sexual exploitation and sexual abuse of children;
- Further ensure the necessary training of all specialists working with and for children, including the systematic training of staff implementing the legal framework on the prevention of domestic violence;
- Take steps to monitor and ensure that reporting on child abuse and neglect is obligatory for all people working with and for children, especially children with disabilities;
- Employment in each educational institution of a psychologist as well as with a wage unit that will implement policies to protect children's rights in these institutions;
- To create and operate a single database on violence against children;
- The media should draw attention to the dissemination of violent material, especially those with children's participation / involvement, the information disseminated shall correspond to criteria that minimize or exclude the harmful aspects for the mental and physical health of children, their physical, mental, spiritual and moral development;
- The media should abandon the sensational, narrow approach of the subject in favor of the analysis of the case, the complexity of the phenomenon and the causes that caused the situation.
- Promote / encourage dissemination of positive topics that highlight the child's personality and successes;

- The child's opinion should be listened to and taken into account when decisions are made on children;
- Increase the number of participants in training in parental education programs;
- Involvement of civil society and the private environment to undertake positive education programs for children;

ADMINISTRATION OF JUVENILE JUSTICE

In accordance with the provisions of Articles 37 and 40 of the UN Convention on the Rights of the Child and the United Nations Minimum Rules of Procedure on the Administration of Juvenile Justice „The Beijing Rules”, „States Parties recognize the right of every child alleged as, accused of, or recognized as having infringed the penal law to be treated in a manner consistent with the promotion of the child's sense of dignity and worth, which reinforces the child's respect for the human rights and fundamental freedoms of others and which takes into account the child's age and the desirability of promoting the child's reintegration and the child's assuming a constructive role in society”¹⁸⁰.

Articles 7 and 8 of the European Convention on Human Rights guarantee that no one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence under national or international law at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the criminal offence was committed, the Convention also guarantees to any person the fact that his case will be judged fairly, publicly and within a reasonable time, by an independent and impartial tribunal established by law¹⁸¹.

Moreover, international bodies pay particular attention to the respect of reasonable time limits in court cases in which children are trained.

At national level the legality of the judicial proceedings in the processes in which the children appear is guaranteed by the provisions of Articles 21, 26 and 117 of the Constitution of the Republic of Moldova ¹⁸² and the Penal Code. The People's Advocate for the Rights of the Child considers that the state has largely fulfilled the obligations of conformity of the national legislation with the rigor stipulated by the international bodies to which the Republic of Moldova is a party.

However, the UN Committee on the Rights of the Child submitted to the Republic of Moldova a few observations in 2017¹⁸³:

- Absence of a specialized judiciary system for minors in the State Party, lack of legislation on child victims, witnesses and offenders and lack of interview facilities tailored to children outside the capital;

¹⁸⁰<http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=356341>

¹⁸¹<http://lex.justice.md/index.php?action=view&view=doc&id=285802>

¹⁸²http://lex.justice.md/document_rom.php?id=44B9F30E:7AC17731

¹⁸³http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/Countries.aspx?CountryCode=MDA&Lang=EN

- The duration of detention on remand, the quality of legal services provided to help children in conflict with the law, detention conditions, inadequate access to quality education, including training, ill-treatment, including beatings, detention in isolation and children held in detention facilities for adults.

The People's Advocate for the Rights of the Child analyzing the situation in the field of justice in the juvenile justice segment finds several issues that need to be improved. Procedures followed in the national judicial system are characterized by a high degree of formalism and insufficiently adapted to the child's age. The reform of the national juvenile justice system has been aimed at limiting or even avoiding excessive contact with the formal justice system, observing how human rights are respected (including of children) as the main motivation for changes to criminal law. However, the Code of Criminal Procedure contains a limited sum of special provisions for the cases involving children who have committed crimes.

Article 40 of the Convention on the Rights of the Child emphasizes that it is preferable not to be subject to standard legal procedures and institutionalization, with a whole range of provisions, such as those relating to care, guidance and supervision, guidance, probation periods, family placement, general and vocational education programs and alternative solutions to institutional care in order to provide the children with a treatment in the interests of their well-being and proportionate to their situation and the committed crime.

Regardless of the model of legal treatment applied to children who have committed crimes, they will have to respect the best interests of the child. In this respect, an appropriate weight will be given to the beliefs and opinions of the child (who must be treated as a full holder of rights, exercised according to his or her capacity for development). When applying the provisions on juvenile delinquency, account must be taken of the physical and mental well-being and the child's legal, social and economic interests. All other rights of children in conflict with criminal law such as the right to dignity, freedom, equal treatment, non-discrimination, etc., must be respected.

According to official statistics of the Ministry of Internal Affairs, during the twelve months of 2017, by minors and with their participation there were committed 798/941 offenses, which represents a decrease of -15.2%, as compared to the same period of the previous year. Thus, out of the total number of criminal cases started, the criminal investigation was completed in 738/885 cases, out of which 540/553 - were sent for examination to the court, 191/325 - were discontinued, 6 cases were classified and one case has been suspended¹⁸⁴.

¹⁸⁴ http://politia.md/sites/default/files/nota_12_luni_2017_sait.pdf

As a result of the analysis of the situation in the given compartment, it was ascertained that during the reporting period compared to the same period of the previous year: theft - 555/636, robbery - 52/61, hooliganism - 29/27, drug related offenses - 14/17, sex offenses - 16/27, burglaries- 8/12, 4/3 - killing and intentional injury of bodily integrity - 2/2 bodily¹⁸⁵.

The Children's Ombudsman reiterates the recommendations made in his report of the previous year¹⁸⁶ and reminds the institutions involved that although the authorities have made progress over the last few years to strengthen the justice system for children by introducing new mechanisms taken from the experience of other states and adapting them to the specific social realities for the Republic of Moldova. However, according to the findings highlighted in the Alternative Report of the Office of the People's Advocate to the Committee on the Rights of the Child¹⁸⁷, some issues identified over the years persist, the authorities have not taken appropriate action to address these issues. Thus, judges in few cases apply other coercive measures than detention on remand, and the mediation mechanism is inoperative. Although efforts have been made to strengthen the hearing mechanism for minors under special conditions, it is found that the hearing facilities do not meet the standards in the field and are not used properly, including due to lack of staff or knowledge, of the technical conditions. It was found that no significant progress was made in preventing and combating juvenile delinquency compared to previous years, namely on the grounds that there is no public policy document, a national plan for the prevention of juvenile delinquency, developed in accordance with international standards in the field.

The People's Advocate for the Rights of the Child draws the attention of the legislator to the given chapter and to the poor performance of the participants in the judicial process (prosecutor / lawyer). Children note that defendants who are appointed *ex officio* do not visit them in penitentiaries and do not help them build an effective defense line. In many cases, children do not even know their defenders until the court hearing. Moreover, defenders and prosecutors in many cases even allow themselves not to appear in court proceedings, which is why the period of examination of cases does not correspond to the principle of observance of reasonable time parameters.

In line with the provisions of the UN Committee on the Rights of the Child the Comment No. 10 of 2007, judging the causes of children must be a priority for the Member States and should be limited to the least possible time requirements¹⁸⁸.

¹⁸⁵ Idem

¹⁸⁶ http://ombudsman.md/sites/default/files/document/attachments/raport_anual_copii_2016_0.pdf

¹⁸⁷ http://ombudsman.md/sites/default/files/document/attachments/justitia_pentru_copii.pdf

¹⁸⁸ http://tbinternet.ohchr.org/_layouts/treatybodyexternal/TBSearch.aspx?Lang=en&TreatyID=5&DocTypeID=11

Another specific situation that worries the Children's Ombudsman is related to the Draft Law „on Measures and Services for Children with Deviant Behavior”, which was proposed by the Ministry of Justice. In the Ombudsman's opinion, this project does not meet international standards and rigor in the area of child rights protection and cannot be sustained for promotion by the People's Advocate for the Rights of the Child. The project contains vague and unclear terms that will lead to widespread and distorted interpretation by the actors involved in the implementation process. Also, the proposal on the creation of a „specialized center” for children who commit serious criminal offenses but do not incur criminal liability is in contradiction with the principle of respecting the best interests of the child.

Finally, the Children's Ombudsman draws the legislator's attention to the phenomenon of administering judicial processes in civil cases of divorce and establishing a child's home by the courts. Following requests from the Office of the People's Advocate and investigations carried out by the officers of the Office, we find that the courts do not take into account the child's opinion, and in other cases, the bailiffs apply methods that violate the child's rights standards.

Analyzing the current situation, the Children's Ombudsman, comes with a series of **RECOMMENDATIONS** aimed to improve the juvenile justice system management:

- To draft a new law referring only to children who have committed criminal offenses but are not subject to criminal liability;
- Consider the possibility of including children who commit less serious offenses and do not fall under the scope of criminal law as subjects of the Law on the Special Protection of Children at Risk and Children separated from Parents No. 140 of 14 June 2013;
- To involve local and international non-governmental organizations in the development and implementation of training programs for the social and psychological assistance staff for minors (juveniles) in penitentiary institutions;
- Enhance the involvement of the guardianship and trusteeship authority in forced execution on cases involving minors;
- To train the bailiffs, the representatives of the guardianship authorities and other actors involved in the relationship between the minor and the justice system;
- Develop a methodology on the application of alternative measures to detention, wherever possible.

SITUATION OF CHILDREN IN DETENTION INSTITUTIONS

Under the UN Convention on the Rights of the Child, the basic principles for admitting deprivation of liberty must comply with the following conditions: the arrest, detention or imprisonment of a child must be lawful and should be used only as a last resort; and for a shorter period of time; and no child will be deprived of liberty illegally or arbitrarily.

The People’s Advocate for the Rights of the Child notes with concern that in many cases minors are under detention on remand for lengthy inadmissible periods of up to one year, which constitute a serious violation of Article 37 letter (b) of the Convention. The Children’s Ombudsman reiterates the importance of an effective package of alternatives for national authorities to comply with their obligation under Article 37 point (b) of the UN Convention to use deprivation of liberty only as a last resort. In addition, empowered institutions undertake to take certain legislative measures and other appropriate measures to reduce the use of detention on remand. In some cases, the application of the detention on remand measure as a punishment violates the presumption of innocence. Thus, it is imperative that the law clearly defines the conditions under which it is determined whether or not the child should be placed in custody, in particular in order to ensure his / her participation in the judicial proceedings and whether he / she constitutes an immediate danger for itself or for others. The length of detention on remand should be limited by law, the periodic review of the period of detention of remand is imperative.

Analyzing the existing practice in juvenile detention segment, the Children’s Ombudsman reminds the competent authorities of the need to reconcile national practices with international standards, the United Nations Rules for the Protection of Juveniles Deprived of their Liberty¹⁸⁹, Principles for the prevention of juvenile delinquency „Principles of Riyadh”¹⁹⁰ and the United Nations Minimum Rules of Procedure on the Administration of Juvenile Justice „The Beijing Rules”. The Republic of Moldova is due to reassess the national provisions in the given chapter and to increase the compatibility of the internal norms with those mentioned above.

According to the official data of the Department of Penitentiary Institutions of the Republic of Moldova¹⁹¹, in 2017 in detention on remand there were 28 minors (in 2016 - 26 minors), out of which 16 minors were 17 years old.

Number of juvenile offenders and average length of detention

Years	2013	2014	2015	2016	2017

¹⁸⁹ Adopted by Resolution 45/113 of 14 December 1990;

¹⁹⁰ Resolution 45/112 of 14 December 1990;

¹⁹¹ https://drive.google.com/file/d/1KJL2oqLxllwZGLqHwzLWkbiqR1C_O_Ii/view

Number of children	32	27	31	30	36
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Source: Department of Penitentiary Institutions of the Republic of Moldova

598/5000

In the course of its work, in accordance with the duties laid down in the Law on People's Advocate (Ombudsman) No. 52 of 2014, the People's Advocate for the Rights of the Child undertook during 2017 several visits to the institutions of detention facility where minors are placed. As a result of these visits, monitoring reports were drawn up and several acts of reaction were transmitted to the respective institutions. However, it should be noted that the situation has not experienced a clear change, and the problems have remained unresolved.

During the visits to the Penitentiary for Minors No. 10 Goian the People's Advocate for the Rights of the Child has reported several deficiencies that lead to the violation of children's rights and make it difficult or even impossible to educate children and their subsequent reintegration into society. Although there are psychologists in the penitentiary that are meant to provide counseling and support to children in their situation, it was found that minors are not satisfied with the psychological services provided and highlight that cannot benefit from confidential conversations with the psychologist. Another problem identified by the Children's Ombudsman is that the psychological programs in the penitentiary are inefficient and fail to meet the needs of children.

Also, the Children's Ombudsman found in 2017 that Penitentiary No. 10 Goian also had cases of abuse and physical violence against children, violence applied by the prison staff. From the sentences of juvenile offenders, the blows are applied in places difficult to detect by ways and procedures that leave no visible traces on the body. Violence is largely handled by the same workers, in situations where minors are deemed not to comply with the orders or are not „silent” enough. In this section, we mention that, under the provisions of Article 19 of the UN Convention on the Rights of the Child, the State has an obligation to protect children from all forms of ill-treatment committed by parents or persons responsible for childcare.

The People's Advocate for the Rights of the Child is also worried that from the period since 2014 until now the Children's Ombudsman has not received any postal letter from the juvenile detainees.

In the discussions with the children, it was mentioned that in many cases, to write a letter, minors are forced to go to the service collaborator to ask for paper sheets, envelopes and stamps, after which they hand the letter to the same collaborator for the letter to be entered in

the mailbox. This procedure is in contradiction with international norms and standards and limits the child's right to privacy. The fact that the letters do not reach the recipient leads us to conclude that they are either not transmitted by the penitentiary staff or are not taken over by the employees of the post office.

During the year, the People's Advocate for the Rights of the Child also examined the issue of transfer from preventive detention isolators to Penitentiary No. 10. As a result of the received requests and the investigations carried out on the given cases, we conclude that minors are not transferred from the isolators to the penitentiaries in reasonable terms. Moreover, there have been cases when the Administration of the Penitentiary No. 10 Goian refused to take certain juveniles, which they considered more „problematic”.

Another Systemic Deficiency to which the Children's Ombudsman draws the legislator's attention to the provisions of Article 254 of the Enforcement Code of the Republic of Moldova „At the age of 18, the commission established in the penitentiary in the composition set forth in article 219 of this Code decides on the opportunity to continue to execute punishment by the convict in the juvenile penitentiary up to the age of 23”.¹⁹². We mention that during the year, the People's Advocate Office registered more requests from children requesting the Children's Ombudsman's intervention to help prevent their transfer to mature prisons and to maintain them in juvenile penitentiary until the age of 23, as provided for in the national law. Children argue that their transfer to the mature penitentiary will make it problematic or even impossible to join the general or specialized education system and will foster their deepening in the criminal culture. Many children also claim that the transfer will endanger their lives and their health. In this regard, we mention that the reports and recommendations of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment and the UN Subcommittee on the Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment have repeatedly pointed out that it is not advisable to transfer the detainee if presumed that the new situation will create a risk situation for his / her life, health and development. In this context, it is also of particular relevance the Recommendation No. R (89) 12 of the Committee of Ministers to Member States on penitentiary education, which highlights the fact that the implementation of the penitentiary education system helps to humanize them (penitentiaries) and is an important means of facilitating the return of the detainee to society, prepared both from a moral and educational point of view.

The situation is worse in the detention on remand isolators, where are minors placed in the criminal prosecution procedure. The UN Committee on the Rights of the Child

¹⁹² <http://lex.justice.md/index.php?action=view&view=doc&id=336538>

recommends that Member States pay close attention to this group of children, in particular by respecting the presumption of innocence. The Committee concludes that, irrespective of the model of legal treatment applied to children who have committed crimes, they will have to respect the best interests of the child. In this respect, an appropriate weight will be given to his beliefs and opinions (the child being treated as a full holder of rights, exercised according to his / her ability to develop). When applying the provisions on juvenile delinquency it is necessary to take into account the physical and mental well-being and the legal, social and economic interests of the child. All other rights of children in conflict with criminal law, such as the right to dignity, freedom, equal treatment, non-discrimination, etc., must be respected.

The People's Advocate for the Rights of the Child is concerned about the fact that they took place in Penitentiary No. 13, when a minor was raped by his cell colleagues. Besides the extremely serious degree of the act itself, especially because a minor was subjected to sexual violence, the staff of the Department of Penitentiary Institutions had little scruples about the moral aspects of the case, they found this as a good source to write about this news and placed it on the official website of the institution, in which they allowed the disclosure of the personal information of the persons involved in the conflict¹⁹³. This information was also taken over by several news portals that published it with the name of the minor involved¹⁹⁴.

The UN Committee on the Rights of the Child urges Member States to create mechanisms that will not allow personal information to be leaked about children who are involved in criminal proceedings.

In this regard, the People's Advocate for the Rights of the Child recommends to line authorities to strengthen the mechanisms on the personal data protection segment of minors under their custody.

Another violation notified by the Children's Ombudsman in the same case is that the penitentiary administration has admitted alcoholic beverages to cells that we suppose it is manufactured locally or brought to the institution through the collaborators of the detention facility. We point out that, according to the provisions of the Law on the production and circulation of ethyl alcohol and alcoholic production no. 1100 of 30 June 2000¹⁹⁵, the marketing of alcoholic products to children is prohibited. By admitting the penetration / production of alcohol products in the penitentiary, the institution's collaborators admitted a strict violation of child rights.

¹⁹³ <http://penitenciar.gov.md/ro/content/cronica-evenimentelor-din-penitenciari-%C3%AEn-zilele-de-s%C4%83rb%C4%83tori>

¹⁹⁴ <https://crimemoldova.com/news/kriminal/eugen-zagorjevschi-unul-dintre-asasinii-minorei-din-str-eni-i-ar-fi-violat-colegul-de-celul/>

¹⁹⁵ <http://lex.justice.md/viewdoc.php?action=view&view=doc&id=334893&lang=1>

The People's Advocate found that there is no well-defined mechanism in the penitentiary regarding the distribution of minors in cells. This factor leads to the fact that minors are randomly assigned to the cells without regard to their psychological compatibility and without taking into account the age criterion. This practice leads to conflicts and misunderstandings between them and can have serious consequences for their life and health.

The Children's Ombudsman is worried that there is no psycho-educational program within the penitentiary system that aims to reduce sexual aggression among prisoners. We hope that with the entry into force of the Law on the penitentiary administration system no. 300 of 21 December 2017, the situation with regard to the protection of children's rights in the institutions will improve.

During the year 2017 the People's Advocate for the Rights of the Child monitored the observance of the right to health in the segment of medical services and nutrition of children in the penitentiary system.

The Children's Ombudsman, from interviews with the children detainees, notes that in the provision of medical services the state authorities violate their rights by providing unsatisfactory quality medical care and by administering treatment without initial consultation of the patient. Children mention that in some cases they consume pills that are brought without specific packs and without specific data on manufacturing and shelf life.

Children also mention the poor quality of food in the penitentiary, food is of poor quality and virtually it is never taking into account the specific diet of detainees. Several children mention that due to their health they have to feed themselves after a specific diet recommended by a doctor, which is not taken into account by the penitentiary administration. Moreover, children are forbidden to receive a lot of food from outside, although these products may improve their situation and in the warmer year of the year juveniles do not receive fresh fruit or vegetables. We note that, in line with the recommendations of the UN Children's Rights Committee, limiting the dietary intake of children in detention is a violation of rigor and standards in the field.

In conclusion, the People's Advocate for the Rights of the Child has the following

RECOMMENDATIONS:

- To replace the positions of psychologists who will contribute to maintaining a favorable psychological climate for the development of minors in penitentiary institutions;
- To elaborate in the penitentiary institutions working methodologies focused on the principle of respecting the rights of the child;

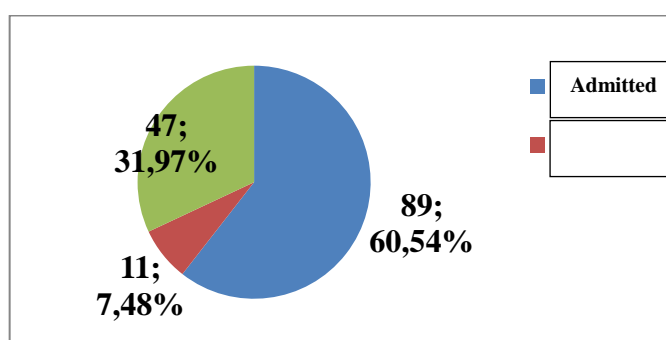
- To minimize contact between juvenile detainees and mature detainees;
- To create socio-educational services that correspond to the realities and real needs of resocialization.

ACTIVITY OF THE PEOPLE'S ADVOCATE FOR THE PROTECTION OF CHILDREN'S RIGHTS IN NUMBERS IN 2017

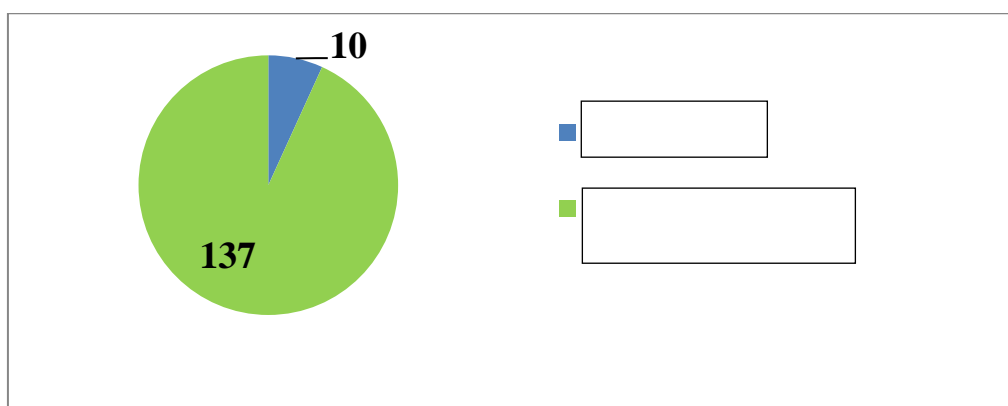
In the process of examining the applications submitted to the People's Advocate for the Rights of the Child, several violations were found to the child rights observance compartment. The most serious ones are: protection against abuse and neglect, lack of documentation of children; the protection of children left without parental care; preventing juvenile delinquency and ensuring child-friendly justice; respecting the right to education; respecting the right to health; deinstitutionalization and inclusion of children with disabilities; respecting the rights of disabled children; protection of children in detention facilities; the inefficient activity of the intersectoral mechanism; lack of specialist for the protection of children's rights; lack of psychologist in educational institutions; lack of a medical assistant in educational institutions. These findings are made on the basis of citizens' complaints requesting the intervention of the Children's Ombudsman under the mandate conferred by the Law on the People's Advocate (Ombudsman), no. 52 of 3 April 2014.

Applications filed with the People's Advocate for the Rights of the Child in 2017

During the period 01 January 2017 – 31 December 2017, the People's Advocate for the Rights of the Child received 147 applications. There is stated an increase in the number of complaints compared to previous years (2016 - 95 applications addressed). Out of the total number of complaints, 89 applications met the admissibility conditions and were accepted for examination.



Of the total number of complaints to the People's Advocate for the Rights of the Child, 7.41% (10 applications) are from children and the rest are from their legal representatives (137 applications).



The People’s Advocate for the Rights of the Child considers that the small number of childcare complaints is caused by the lack of media coverage of the Child Ombudsman's Institution as well as the lack of knowledge of the situations in which these can be addressed, but also the way or ways they can call the Ombudsman.

In this context, the Children's Ombudsman welcomes and encourages children to address the People’s Advocate for the Rights of the Child immediately if they need help in defending their rights.

Classification of applications for the allegedly infringed right

Themes of complaints	received	accepted	returned	remitted
Right to family	47	27	15	5
Right to education	28	21	5	2
Free access to justice	4	3	1	0
The right to private property and its protection	4	3	1	0
Right to health	9	5	3	1
Right to information	3	1	1	1
Right to social assistance and protection	17	15	1	1
Right to name and citizenship	5	3	2	0
Right to defense	3	2	1	0
Right to life and to physical and mental integrity	7	7	0	0
Right to work	2	0	2	0
Protection against abuse and neglect	18	2	15	1
TOTAL	147	89	47	11

Statistical data indicates that the complaints received by the Children's Ombudsman frequently invokes violations of the following rights: to family, education, social assistance and protection, and the lack of adequate measures by state institutions to protect the child against all forms of violence, harm or abuse, abandonment or neglect, maltreatment or exploitation.

In the process of investigating applications accepted for examination, the People's Advocate for the Rights of the Child, pursuant to Articles 24 and 25 of the Law on the People's Advocate (Ombudsman) is empowered in situations where violations of children's rights or freedoms are found, to submit to the authority or person responsible who has accepted these violations recommendations for the immediate restoration of the rights of the child.

Dynamics of procedural actions / reaction acts

Procedural actions	2017
Report with recommendations on the measures to be taken for immediate restoration of rights of the petitioner (Article 24 of the Law no. 52 of 03.04.2014)	28
Demarche (for initiating a criminal / disciplinary proceeding in respect of the person in charge of committing the offenses that caused the considerable damage to human rights and freedoms (Article 25 paragraph (1) letter b) of the Law no. 52	4
Referral to the case of violation of service ethics, delay and bureaucracy (Article 25 paragraph (1) letter d) of the Law no. 52	4
Actions in court / intervention in the process to submit conclusions (Article 25 paragraph (2) and (3) of the Law no. 52	8
Conciliation agreement (Article 23 paragraph (3) of the law no. 52	1
Proposals to improve the operation of the administrative apparatus pursuant to paragraph 6 of point 7 of Chapter II of the Regulation on the Organization and Functioning of the Office of the People's Advocate	1
Proposals and recommendations for improvement of legislation (Article 27 letter (a) of the Law no. 52)	4
Referral of the Constitutional Court in order to control the constitutionality of the normative acts	2

(Article 26 of the Law no. 52)	
Opinions on draft normative acts (Article 27 letter (b) of the Law no. 52)	1
TOTAL	53

Therefore, most reaction acts are reports, conclusions in court and notifications. Basically, in all the cases examined the recommendations were met.

In order to improve the legislation on the rights and freedoms of the child, the People's Advocate for the Rights of the Child submitted during 2017 proposals for improving the legislative framework or eliminating the causes and conditions that create preconditions for violation of children's rights and freedoms as follows:

Institution	Normative act	Accepted / Rejected
MHLSP	Completion of Law no. 60 of 30.03.2012 on the social inclusion of persons with disabilities (psychological assistance until the age of 18); Developing a normative framework that will regulate the organization / activation of the specialized state institution providing psychological services to children with disabilities and of the legal representative.	Rejected
MIA	Amending and completing the Government Decision no. 328 of 24.05. 2012 on the Regulation on the Organization and Functioning of the Automated Information System The Register of Forensic and Criminological Information (consolidation of a clear mechanism of holding the unique record of the crimes committed by the inhabitants of the Republic of Moldova who have committed crimes on the territory of other states)	Accepted
MIA	Completion of Law no. 26-XVI on Assemblies, Criminal Code, Contravention Code (incrimination of political assemblies that attract minors to political demonstrations)	Accepted
MHLSP	Amending and completing the Law no. 140 on the special protection of children at risk and of children separated from their parents, i.e. the clear regulation of the right to pay the allowance for children under guardianship / trusteeship, due to the inability of the biological parent to protect them and provide them with the appropriate care.	Accepted

The People's Advocate for the Rights of the Child in the process of monitoring the observance of rights and freedoms of the child and the realization, at national level, by central and local public authorities, by the persons with responsibility at all levels of the provisions of the UN Convention on the Rights of the Child in the reporting period has produced the following studies with UNICEF financial support:

- The „Monitoring, Assessment and Reporting Mechanism for the Implementation of UN Committee Recommendations on the Rights of the Child” study;
- The „Assessing the needs for adjusting the regulatory framework for mechanisms to ensure the protection of children at risk to international standards in order to ensure proper monitoring of the UN Convention on the Rights of the Child” study;
- Thematic report „Respecting Children's Rights to Names and Citizenship”;
- Thematic report „Assessment of the situation of children placed in boarding houses for children with mental deficiencies Orhei and Hancesti in the process of deinstitutionalization”;
- Thematic report „Social Inclusion of Children with Sensory Disabilities”.

Following the findings established within these reports, the Children's Ombudsman submitted the relevant recommendations to the relevant authorities

In order to ensure the respect for children's rights and freedoms, the People's Advocate for the Rights of the Child is entitled to act *ex officio* for assisting a child in distress or at risk, without the consent of parents or legal representatives.

Thus, during the year 2017, the Children's Ombudsman made an *ex officio* referral in 19 cases, in which the violation of the right to health was registered - 4; the right to education - 3; protection against abuse and neglect - 9 and the right to family - 3.

Ex officio referrals were made after the publication of information about minors and / or the involvement of minors in the media, social networks and on the basis of the information obtained from the Hot Line „Child's Phone” (0 800 11116).

**Phone calls
to the Hot Line „Child's Phone” (0 800 11116) in 2017**

The allegedly infringed right	Adult	Child	Urban	Rural	Total
Right to life and to physical and mental integrity	3		3		3
Right to defense	10		6	4	10
The right to free movement	5		3	2	5
Right to intimate, family and private life	21	2	11	12	23
Right to information	2		2		2
Right to education	21		10	11	21
Right to health	8		4	4	8
Right to work	1			1	1
The right to private property and its protection	2			2	2
Right to social assistance and protection	22	1	9	14	23
Protection of the family and orphaned children	4		1	3	4
Protection of mother, children and young people	1		1		1
Protection of people with disabilities	2			2	2
Right to petition	1			1	1
Protection from abuse and neglect	18		6	12	18
Torture and deprivation of liberty	2		2		2

During the year 2017, 126 phone calls were registered at the Office of the People's Advocate at the Hot Line „Child's Phone” (0 800 11116). Of the total number of calls, 123 came from adults and 3 - from children.

Statistical data shows that citizens are mostly seeking legal advice to protect the child in the event of violence against the child, the right to the necessary social assistance, or issues related to the right to a maintenance allowance.

5 cases were taken for examination (family violence / violation of a parent's meeting schedule / refusal to support the child / termination of guardianship allowance).

It is important to note that often at the Hot Line „Child's phone” (0 800 11116) people requires legal advice and not necessarily child rights issues.

The People's Advocate for the Rights of the Child finds a small number of calls to the Hot Line „Child's Phone” (0 800 11116) directly from children because they can only be made from a fixed telephone number, but also due to insufficient media coverage.

CHAPTER III

TORTURE PREVENTION

The year 2017 evoked the multitude and complexity of the problems still faced by the state in the context of ensuring human rights and fundamental freedoms in places of detention.

The case of Braguta brought back on the public agenda the incapacity or unwillingness of the authorities to eradicate the phenomenon of torture and impunity. From the moment of his detention by the police employees until his placement in the penitentiary institutions, the minimum guarantees against ill-treatment (CPT rules) and human dignity were totally or partially violated. Indifference, negligence and human factor; the range of initiated but not completed reforms; the failure of institutional communication, especially between the institutions of the criminal and civil systems;; misrepresentation and misreporting of acts of torture; the lack of clear internal regulations regarding the intervention in exceptional situations and the isolation of people with disabilities or disorders; non-observance of the detention procedure provided by Article 167 of the Code of Criminal Procedure of the Republic of Moldova; the inadequacy of the employees responsible for the supervision and security of the detainees; the impossibility of managing behavioral crises, etc. are only a few subjective elements of this vicious process that led to a tragic end - the death of a person in custody of the state¹⁹⁶.

The systemic problems and the degree of involvement of the authorities in this case have been repeatedly exposed by the People's Advocate, international bodies and civil society organizations.

In other respects, the reforms initiated cannot achieve expected results unless there is full political and financial support in this area. Therefore, by analyzing the situation in the field of torture prevention, the People's Advocate aims to provide a useful working tool for all authorities involved in the ongoing process of reforming the penitentiary system, police and health care from the perspective of ensuring respect for human dignity and the rights of private persons of freedom, as well as of employees working in these systems.

This chapter has as main source the findings of 48 preventive visits carried out in 48 places of detention between February and December 2017. To highlight certain aspects of the detention system, the results of investigations carried out by the Investigation and Monitoring Directorate within the Office of the People's Advocate, (Balti, Cahul, Comrat, Varnita) as well as the data on the specifics of the applications sent and returned by the Directorate for Demand

¹⁹⁶ Special report on the results of the *ex officio* investigation of the case of death in state custody of the citizen Andrei Braguta, <http://ombudsman.md/ro/advanced-page-type/tematic>;

Management within the Office of the People`s Advocate during 2017. According to the Office of the People`s Advocate data, in 2017 - 488 applications were received from the places of detention, of which 86 were taken for investigation. The bad conditions of detention are claimed in most applications. Other sources of information are the over 300 informative notes received from the Office of the People`s Advocate through the operational system within the Department of Penitentiary Institutions, media information, the associative sector reports, the reports of the concerned authorities (*Department of Penitentiary Institutions, General Police Inspectorate, Ministry of Health, Labor and Social Protection*), as well as the findings of international authorities in the files (the Committee Against Torture, the Subcommittee on Torture Prevention).

The People's Advocate recalls that in his torture prevention activity, he makes recommendations to the authority or person responsible for improving the situation of persons deprived of their liberty, improving the conditions of detention and preventing torture. Thus, in 2017, 48 reports were drawn up with 350 recommendations to improve the situation in places of detention and prevention of torture. The implementation rate of the recommendations is average.

1. Preventing torture in the work of the authorities

Parliamentary Committee on Human Rights and Inter-Ethnic Relations

On 22 November 2017 Parliament's Human Rights and Inter-Ethnic Relations Committee held public hearings on „Preventing torture and ill-treatment in penitentiaries, in pre-trial detention institutions, in psychiatric institutions,” with the participation of national decision-makers. Thus, the Committee has ordered the following:

Government:

until 1 April 2018

To implement the CAT Recommendations / Session 62

To allocate the financial resources for implementing the Strategy for the development of the penitentiary system 2016 - 2020 (Government Decision 1462/2016)

To implement the Action Plan to reduce ill-treatment to police

(Government Decision 748/2017)

To develop a public policy framework to oversee the implementation of international recommendations

To submit to Parliament for approval the Policy of the Justice Sector 2018 - 2021

To improve the enforcement of ECtHR's decisions

To create the mechanism for the enforcement of the Law 235/2008 on civil control over respect for human rights

To implement the progressive system of punishment enforcement

To develop and implement an interdepartmental normative framework to prevent abuses at police

To allocate the necessary financial resources for current repairs in penitentiaries and police isolators

To create in the premises of Psychiatric Hospitals adapted sectors for the treatment of the remanded, according to Article 490 of the Code of Criminal Procedure

To finance the establishment within the MHLSP of the responsible department for the monitoring of persons with mental deficiencies in detention

To present concrete and real practical solutions to overcome systemic problems in detention facilities

To ensure the construction of the new penitentiary

To strive to improve prison conditions in penitentiaries, including Penitentiary No. 13 Chisinau

To approve documents related to staff policy, work efficiency, employment of detainees

Create the Department of Penitentiary Care under the subordination of the DPI (Department of Penitentiary Institutions)

To place detainees in the category of people who have health insurance

To develop policies to prevent domestic violence, combat and rehabilitation

To develop and implement mechanisms to prevent and combat child abuse

To consult civil society in the state's policy of preventing and combating torture and ill-treatment

To increase the attractiveness of the penitentiary functions, to stimulate the staff of the penitentiary institutions

To establish protection / legal assistance mechanisms for employees surveyed for allegations of torture

To ensure respect for the right to free online and offline expression, the protection of personal data

To strengthen the functionality of the MNPT in accordance with the OPCAT provisions

Ministry of Justice:

To elaborate feasibility studies for penitentiary reconstruction

To develop a concept of attracting and retaining medical staff and reducing their influence on them by managers

To establish and apply a legal mechanism for the compulsory medical examination of detained persons

To ensure security in prisons (penitentiaries)

To exclude any cases of torture

To provide food for people three times a day

To develop the human resources of authorities with competencies to prevent and combat torture

To ensure training of collaborators in the system

To assess professionally penitentiary chiefs and other collaborators

To identify a mechanism for verifying people in detention about mental health

To draw up regulations on detained persons who do not have identity papers (to establish their status at detention)

Ministry of Internal Affairs:

- To ensure security in temporary detention isolators
- To stop the activity of all provisional detention cells in the basements of police inspectorates
- To implement effective policies to prevent and combat domestic violence, support victims and supervise the enforcement of protection ordinances
- To provide policemen training
- To organize and conduct campaigns in the field of torture, ill-treatment prevention

Ministry of Health, Labor and Social Protection:

- To install video surveillance cameras in all psychiatric and psycho-neurological institutions
- To develop policies to prevent all forms of violence
- To create a mechanism to support victims of violence and supervise the enforcement of protection ordinances

General Prosecutor's Office:

- To investigate cases of torture in detention facilities as a matter of urgency
- To monitor the provision of psychological and pedagogical assistance to minors subject to torture
- To respond to all cases of torture in detention
- To ensure the promptness of the prosecutors' reaction to the complaints made by the deputies in Parliament
- To monitor the observance of the detainees' food regime
- To organize human rights training courses for prosecutors

**Superior Council of
Magistracy:**

To ensure the increase in the role of courts in the individualization and execution of criminal penalties

To eliminate the mechanical increase of sentences for recidivists

To eliminate recidivism for light and less serious offenses

To allow the courts to apply the fractional penalty regime (in prison and in freedom)

To ensure the proportionality of detention on remand

People's Advocate:

To monitor the way public authorities, apply legislation to prevent and combat torture and violence

To report on cases of non-observance of human rights and fundamental freedoms

To address a tense attitude towards torture in institutions that provide detention

In the opinion of the People's Advocate, the Committee on Human Rights and Inter-Ethnic Relations, through its judgment, emphasized the existence of systemic problems and encouraged the executive authorities with political support. However, largely the implementation of the Committee's Decision is about the capacity and availability of considerable budget injections in the system for insurance of detention, including continuing to support reforms in the justice and the system of execution of sentences. The People's Advocate reminds that all these activities are to be carried out with respect for human dignity and fundamental principles.

Police commitment in preventing torture

Following the People's Advocate's recommendations as well as the international commitments undertaken, the police authority has proposed priorities on:

- Implementation of the Police Development Strategy for 2016-2020 and the Action Plan;
- Implementation of the National Public Order and Security Strategy for 2017-2020 and the Action Plan;
- Approval of mandatory minimum standards for detention facilities and specialized transport units for detained persons in Police custody;
- Initiation of the procedure for elaboration of the project documentation and estimate for the provisional detention isolators within the police subdivisions (10 projects carried out);
- Acquisition of 10 standard escort transport units;
- Making training activities on human rights;
- Development of operational procedures for detention in custody, detention and escort;
- Regulating procedures for disrupting the activity of insulators and / or cells.

Commitment of the prison authorities to prevent torture

In 2017, according to the Report on the balance sheet of the penitentiary system, the penitentiary authority:

- Established the progressive system of the execution of punishment;
- Analyzed the functionality of all penitentiaries under EUTAP 4 support;
- Established the therapeutic community in Penitentiary No. 9 Pruncul for behavioral change and treatment of drug addicted persons deprived of their liberty;
- Piloted the methodology for the individual treatment plan for minors and adults;
- Piloted the training program for the release of persons deprived of their liberty;
- It has put into operation a new housing sector in Penitentiary No. 2 Lipcani with the capacity of 100 seats;
- Began the designing works of the construction of the new penitentiary in Chisinau with the capacity of 1500 seats;
- It purchased three trucks for transporting detainees;
- Established the hearing system for detainees by videoconference and examination by the investigation judges of matters under Article 469 of the Code of Criminal Procedure, in specially designated premises at the headquarters of the penitentiary institutions;
- Has re-evaluated the accommodation capacity of the penitentiary system (accommodation limits);

- Approved the number, duration and frequency of phone calls in detention;
- Simplified the procedures for granting the right to travel without escort for persons deprived of their liberty;
- Acquired funding for HIV and TB programs for detainees;
- Ensured the detainees with the access to antiviral treatment of Hepatitis C, rapid HIV testing and viral hepatitis C;
- Approved the penitentiary inspection procedure in terms of assessing the level of execution of the functions of custodial sentences
- Approved the Regulation on the operation of the video monitoring system in the Department of Penitentiary Institutions;
- It approved the Regulation on the Joint System of Records of Petitions within the Department of Penitentiary Institutions.

2. Jurisdiction of the ECtHR's in cases pronounced in 2017

In 2017, the ECtHR's issued three judgments condemning the Republic of Moldova for violating Article 3 of the Convention for the Protection of Human Rights and Fundamental Freedoms.

It is worth appreciating that at the basis of the Bastovoi Cause as Probative Support, the People's Advocate Monitoring Reports on the situation in Prison No. 13 were used. The Court noted that the Government has not provided any evidence in support of its claim that considerable improvements have taken place in recent years.

Stricto sensu, the Court notifies the Republic of Moldova of the urgent need to resolve custody under minimum conditions of detention at the Penitentiary Institution No. 13 in Chisinau. This judgment reflects on the whole system of punishments that is still incapable of ensuring respect for human dignity in isolation as follows:

Violation	ECtHR's findings	Decision
The applicant complained about detention under inhuman conditions in Penitentiary No.13 Chisinau in the period of 2013, as well	The Court found that during his detention in Prison 13, the applicant was subjected to detention conditions of severity exceeding the	Case of Valentin Bastovoi vs. Republic of Moldova of 28 November 2017

<p>as the lack of an effective remedy for allegations concerning poor conditions of detention.</p> <p>The applicant alleged that he was detained in a cold, overcrowded cell, without natural light or ventilation, because of the lack of beds, the detainees were forced to sleep in turn, the bunks were not separated from the rest of the cell.</p>	<p>inherent level of suffering in detention and that violation of Article 3 of the Convention had taken place. Similarly, the Court concluded that the remedies referred to by the Government in its argument were ineffective for persons who continue to be detained under conditions incompatible with Article 3 of the Convention.</p> <p>The Court awarded the applicant EUR 8000 in respect of non-pecuniary damage and EUR 650 in respect of costs and expenses.</p>	<p>(application no. 40614/14).</p>
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In the **Braga** case, in addition to other violations, the Court ruled that there had been inhuman treatment of the applicant during his stay in the hospital detention facility no. 16. The 23-day period was sufficient for the High Court to find ill-treatment. However, the conviction takes place for the 2001 period. It should be noted that according to the situation found in 2017 in Penitentiary no. 16 there are prerequisites for improving the situation regarding the detention conditions.

Violation	ECtHR's findings	Decision
<p>The applicant complained of being subjected to inhumane and degrading treatment at Penitentiary No. 16 Pruncul from 25 October to 21 November 2001</p>	<p>The Court found that the applicant's detention between 25 October and 21 November 2001 was inhuman and represented a degrading treatment within the meaning of Article 3 of the Convention</p> <p>The Court unanimously ruled that the Republic of Moldova should pay the applicant EUR</p>	<p>Braga Cause vs. Moldova and the Russian Federation of 17 October 2017</p> <p>(application no. 76957/01)</p>

4 000 (including for violation of Article 5 (1) of the Convention)

Grecu's case comes to encourage authorities to combat impunity over police abuses, unfortunately also valid during the reporting period. Failure to ensure effective investigation and compensation for acts of torture must meet, on the one hand, the level of satisfaction and rehabilitation of the victim, on the other - preventing new facts.

Violation	ECtHR's findings	Decision
The applicant complained about the violation of Article 3 of the Convention as a result of police ill-treatment and ineffective investigation of ill-treatment and abusive detention during 22 February 2002	The Court noted that the amount of compensation is not commensurate with the damage suffered for illegal detention, police maltreatment and failure to investigate maltreatment.	Grecu Cause vs. Republic of Moldova of 30 May 2017 (application no. 51099/10)
The applicant complained about the actions in the national courts, which granted her compensation.	The Court found that there had been violations of Article 3 and Article 5 of the Convention due to the illegal detention, ill-treatment and omission to investigate the alleged ill-treatment.	
	The Court awarded the applicant damages amounting to EUR 11800 for non-pecuniary damage and EUR 840 for costs and expenses.	

3. Recommendations of the UN Committee against Torture

On 7-8 November 2017, the Anti-Torture Committee analyzed the Third Periodic Report of the Republic of Moldova. The Committee welcomed the positive aspects of the ratification of international treaties (*The Convention on the Rights of Persons with Disabilities, the Rome Statute of the International Criminal Court, the Convention on the Status of Stateless Persons*

and the Convention on the Reduction of Statelessness, the recognition of the Committee's competence to receive and examine communications under Articles 21, 22 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment), reviewing the legislation and amending policies, programs and administrative measures to implement the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

In this exercise, the Ombudsman Institution, as a National Human Rights Protection Institution (NHRI), presented the *Alternative report on measures taken by the State to meet the commitments made under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*. Likewise, NHRI representatives participated in the sessions of the Committee Against Torture (CAT) in the confidential dialogue with the Office representatives and at the session rounds with questions for the representatives of the State - Republic of Moldova. In large part, the recommendations made by the People's Advocate to the state were found in the Committee's concerns and recommendations:

Ombudsman's recommendations / 2017	CAT Recommendations / Session 62/2017
Revision of the Law on the People's Advocate (Ombudsman) no. 52/2014 to ensure the functioning of the National Torture Prevention Mechanism	Revision of the legal framework (Law 52/2014) on the national mechanism for the prevention of torture (ambiguous framework, doubling of responsibilities, overlaps of activities, Council's efficiency, public visibility, etc.)
Ensuring adequate funding of the detention facility to improve the conditions of detention in pre-trial detention facilities and in prisons	Reducing Overcrowding (Penitentiary No. 2, Penitentiary No. 6, Penitentiary No. 7, Penitentiary No. 15, Penitentiary No. 18, Prison No. 13) Improvement of detention conditions in the six penitentiary institutions
Elaborating internal regulations for standardizing the actions of the penitentiary administration to ensure the right to independent medical assistance	
Reassigning the function of supervising the places of detention to prosecutors by making the necessary amendments to the Law on Prosecutor's Office	Complaints solving mechanism regarding their treatment and detention conditions

Ensure adequate conditions for the transport of imprisoned persons	
Ensuring respect for patients' rights in detention to be informed about treatment, quality and healthcare in a timely manner, access to healthcare. Ensuring the repair of medical facilities in pre-trial detention centers and penitentiaries. To carry out a comprehensive assessment of the needs and real access to specialized medical services of detainees in public sanitary institutions and the penitentiary system by developing the minimum package of necessary services based on gender issues	Providing medical assistance in the penitentiary system
Ensure detainees, especially minors, with educational programs and daily professional activities, to create conditions for the employment of convicts, including the diversification of socio-educational programs	
Revitalizing occupational therapy programs for patients in psychiatric and psycho-neurological institutions	Improvement of material, nutritional and hygienic conditions in all psychiatric hospitals, residential and psycho-neurological institutions
Ensuring equal pay for staff in the penitentiary system, police, health, etc.	
Improving the knowledge of medical personnel and staff of detention institutions, including in the field of respect for human rights	To train collaborators of detention institutions on the administration of detainees for the purpose of preventing violence
Ensuring staff training in proper documentation of bodily injury results	To establish an obligation for all collaborators to record cases of physical force and special measures
Improving documentation of trauma and self-mutilation cases	Ensuring fundamental legal safeguards for all detained or detained on remand To promptly investigate allegations of torture

Until **6 December 2018**, the Republic of Moldova is to provide the Committee against Torture with information on the steps taken following the recommendations on:

- The National Torture Prevention Mechanism;
- Ensuring fundamental legal safeguards for persons deprived of their liberty and
- The death in detention of the citizen Andrei Braguta.

4. Summary of the situation in places of detention The People's Advocate's Findings

Prison (penitentiary) institutions

The activity of the penitentiary system should be carried out in strict accordance with the principles of legality, respect for human dignity and human rights, with the exclusion of conditions that would lead to inhuman and degrading treatment.

The penitentiary system of the Republic of Moldova has the mission to execute punishments and deprivation measures in order to increase the safety of society and prevent recidivism and includes 17 penitentiary institutions. These activities are to be carried out in strict accordance with respect for human dignity, human rights, the elimination of conditions that could lead to inhuman and degrading treatment, facilitating the readaptation and reintegration into society of the individuals in custody. Similarly, one of the main tasks of the penitentiary system is to ensure the safety of detention facilities. Safe spaces, material conditions conforming to international standards, favorable working environment for system employees are essential conditions for the exercise of all fundamental rights of persons deprived of their liberty.

For two decades, the same systemic problems have been raised, such as under-funding of detention facilities, overcrowding, lack of hygiene, precarious health care, staff shortages, hostile relationships and abuse, self-mutilation, lack of rehabilitation and social integration programs, and special means, detention in semi-basements, cold cells, insufficient light, humidity, poor hygiene conditions, non-functional sewerage and ventilation system, lack or insufficiency of bed linen, essential hygiene cloths and items, inefficient disinfecting and pest control measures, etc.

The obsolete and inadequate infrastructure of the cellular system, which does not allow the separation of convicts in small sectors, combined with the lack of custody staff, leads to the

perpetuation of violence and subcultures in the penitentiary environment. Intimidation and ill-treatment of certain categories of detainees is a serious phenomenon criticized by the Committee Against Torture. These shortcomings are constantly reflected in international reports, in the judgments of the European Court of Human Rights, in the People's Advocate Reports, in the media and the associative sector. The penitentiary system continues to face serious problems on issues including, but not limited to, the provision of minimum guarantees of detention, in particular because of the passivity of the political factor and insufficient actions of the executive.

The People's Advocate appreciates the efforts of the penitentiary system representatives to solve the systemic problems raised. However, greater involvement is needed to improve the situation in the field. In the Republic of Moldova, we are witnessing a double sanction imposed on the convicted person: on the one hand, the deprivation of liberty, sufficient for the punishment to achieve its purpose, and on the other hand, to bear the inhuman conditions of detention that go beyond the lower limit of the norm which regulates them, and which creates frustration and rebellion among the detainees. And this is the reason why punishment no longer achieves its purpose, or even more, induces a state of insecurity or, in some cases, endangers the lives of the persons in custody. There are sufficient reasons to impose a series of measures, beyond the ones written on paper, so that this narrow social category can later be reintegrated into society.

The People's Advocate reiterates that there can be no talk of performance as long as there are no financial resources for reforming the whole system. Minor investments are not felt. The People's Advocate calls on the executive authorities to identify and supplement the budget of the Department of Penitentiary Institutions (*National Penitentiary Authority in 2018*) - in order to ensure the human treatment of the beneficiaries and the implementation of the reform initiated in the context of the mentioned Strategy. The lack of financial means cannot be justified for decades.

Similarly, the People's Advocate emphasizes the need to develop managerial culture, including attracting foreign funds into the punitive system. Also, system employees are to be continuously trained in the field of human rights. However, the planned hours are insufficient to assimilate perceptions and awareness of fundamental principles and values. Here again, the People's Advocate reminds us of the necessity of investing in human resources through decent salaries, optimal and reasonable working conditions, and professional advantages. A penitentiary system will be effective in terms of fair, adequate and motivating work for its employees.

Prison overcrowding

On 31 December 2017, **7635** people were in the penitentiary system, compared to **7762** who

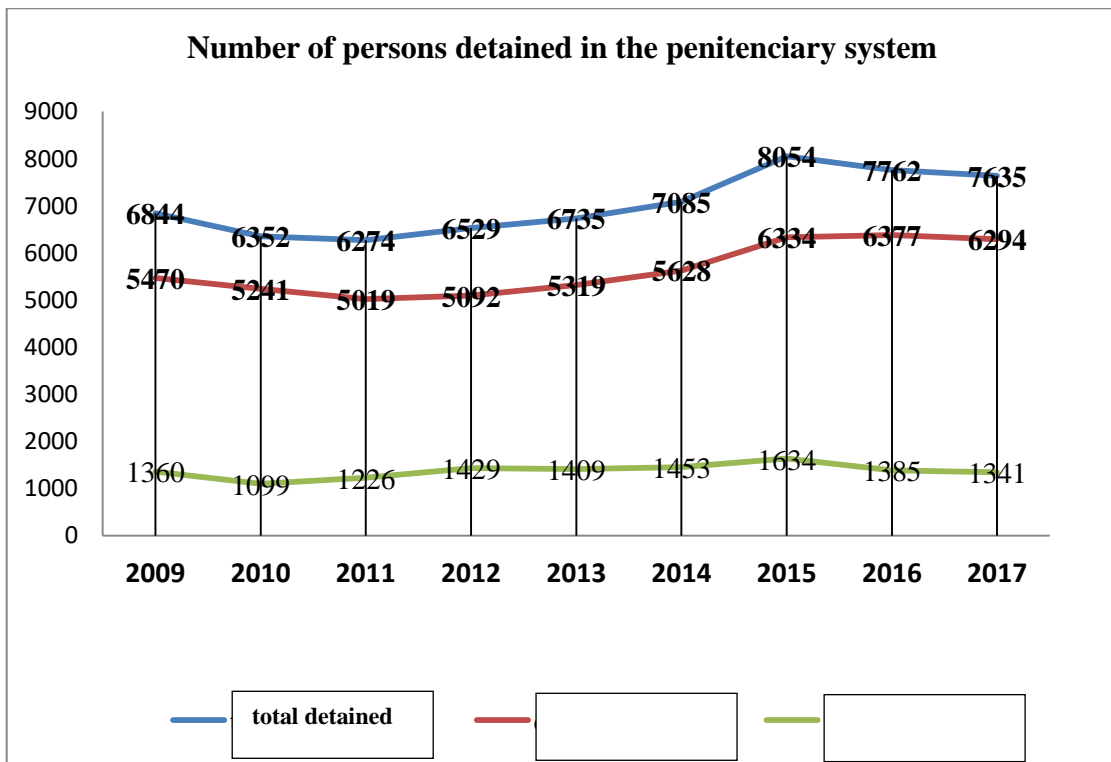
were owned by 31 December 2016.

In this regard, the Department of Penitentiary Institution (DPI) claims a 127-fold decrease in the number of people in custody. Decreasing the number of people in detention is caused by:

- applying Law 210/2016 on Amnesty in connection with the 25th anniversary of the proclamation of the independence of the Republic of Moldova;
- application by the prosecution bodies and the courts of the provisions of Article 186 of the Code of Criminal Procedure (*period of holding a person in custody and its extension shall not exceed 12 months*) according to the judgment of the Constitutional Court no. 3 of 23.02.2016 on the exception of unconstitutionality of paragraphs 3), 5), 8) and 9) of Article 186 of the Code of Criminal Procedure.

The total number of persons deprived of their liberty consists of: convicted - 6294 (in 2016 - 6377), remanded - 1341 (in 2016 - 1385); arrested in contravention - 4 (in 2016 - 12).

Of the total number of persons deprived of their liberty, 491 are women (in 2016 - 520); 70 - minors (boys / girls - 69/1) (compared with 2016 - 62 / 2); 108 - ex-civil servants (in 2016 - 137) and 123 - sentenced to life imprisonment (in 2016 - 118).



On 29 December 2017 the Order of the Minister of Justice no. 1159 approved the maximum number of persons admitted for detention in prisons. Thus, according to the last assessment of the accommodation capacity of the penitentiary system, it was established that, subject to compliance with the CPT rules stipulating that an inmate must have an area of at least 4m² of space in detention facilities in penitentiary institutions **6735 persons** can be placed, compared to 7635 persons held at the time of the assessment (31 December 2017). **Respectively, we are witnessing overcrowding of 900 people¹⁹⁷.**

As part of the preventive work, the People's Advocate found overcrowding in:

- Penitentiary No. 7 Rusca (Preventive visit from 16 February 2017);
- Penitentiary No.3 Leova (Preventive visit from 04 May 2017);
- Penitentiary No.17 Rezina (Preventive visit from 26 September 2017).

Inhuman conditions of detention

Ensuring minimum conditions of detention in penitentiary institutions remains a major problem. Currently, the state cannot honor its obligation to provide safe and secure detention facilities.

¹⁹⁷ Activity Report of the Department of Penitentiary Institutions for 2017.

In the case of *Sisanov v. Moldova* (application no. 11353 / 16), the Court concluded, under Article 46 of the Convention, that the national authorities must implement without delay a remedy or a set of remedies with a preventive and compensatory effect and to guarantee damages for breach of the provisions of Article 3 of the ECtHR's. Thus, in 2017 by Law 163/2017, the so-called „compensatory mechanism” was approved for the prevention or convicted persons who claimed bad detention conditions. This mechanism is due to enter into force on 1 January 2019. The legislator has concurred that victims of allegations of inhumane and degrading treatment will thus be able to benefit from a national compensatory appeal, both by remittance and by reducing the period of detention. However, an estimate of the compensatory value for each day of detention, recognized as inhuman for about 7000 detainees, would be an excessive burden on the public budget, but also an unfairness to other vulnerable categories of people (*for example: for a detention day estimated to a detainee would be 100 MDL * 30 days = 3000 MDL / month*).

The solution in this case belongs to the national courts. The task of ensuring that there is no violation of the conditions of detention lies with the administration of the penitentiary institution. Alternative Evidence Support for Ill-Treatments can be used by the People's Advocate Reports on the situation in places of detention. Respectively, the People's Advocate has shown a tendency on the part of their convicts and defenders to capitalize their Visits and Request Reports in presenting their findings in national courts as accessory interveners. In three such cases, the applicants were successful.

In 2017, the People's Advocate investigated 47 applications for inhumane detention conditions. Most of the applications came from Penitentiary no. 13 Chisinau, Penitentiary no. 15 Cricova, Penitentiary no. 11 Balti and Penitentiary no. 4 Cricova.

In this regard, the People's Advocate remitted 9 reaction acts regarding the improvement of the material conditions of detention.

For example, in Block 3 of Penitentiary no. 13 Chisinau, the cells are in semi-solid, cold, with insufficient natural and artificial light, moisture and mold persist and the sewerage and ventilation system are inoperative, lack of bedding, facts that reach a minimum level of severity and can constitute inhuman treatment.

During the documentary visits, employees of the Office of the People's Advocate found a poor sanitary and hygienic condition of the cells, including generated by the detainees; moisture and mold; obsolete and deplorable condition of mattresses, the presence of parasitic insects, rats; lack of cabinets for the storage of personal belongings; insensitive sanitary groups (wc / washrooms) and with pungent odor, places where privacy is not ensured; cold rooms, especially bathrooms; lack of spaces for drying clothes; placing the table for

consumption next to the WC; lack of electric current, uninsulated electrical wires; lack of ventilation and limited access to natural light, etc.

In the absence of occupational programs for detainees, they only spend their detention time in cell except for the recreation period, which encourages violence among detainees.

A vicious practice, ascertained by the People's Advocate, is to place those who declare hunger strikes or seek protection in the penitentiary disciplinary isolators. These spaces are usually located in the basement, they are narrow, some have the windows blocked so that daylight does not penetrate, the darkness persists. Thus, those who have claimed the violation of custody rights are subjected to ill-treatment by placing them in harmful and degrading conditions, being a form of double penalty and not a form of protection.



Isolator Penitentiary no. 13



Isolator Penitentiary no. 11

In another case investigated, the People's Advocate found that persons with status of convinced person during the periods of criminal prosecution, participation in court hearings or other procedural actions are held in the provisional detention isolator:

In P.O. case, the petitioner invoked the unmotivated detention for more than 30 days in a criminal prosecution isolator contrary to his status of convicted person, as well as the refusal of the penitentiary institution to transfer him to the place of execution of the sentence. Additionally, the petitioner has completed that he is suffering from a malady that aggravates his state of health due to detention in the condition of the isolator. On the opinion of the People's Advocate, the penitentiary administration organized the escort of P. O. at the place of execution of the punishment. Similarly, the penitentiary administration has argued that the delay was due to insufficient means of

escort (transport and escort workers), as well as compliance with a predefined schedule by the Department of Penitentiary Institutions.

In view of the length and delay of criminal investigations and / or trial, convicts are required to be in isolation conditions / regimen other than prescribed by court order for long periods, contrary to the general rules of the Enforcement Code (Article 173, paragraph (4)).

These practices are multiple and the People's Advocate considers them to be a vengeance measure on the part of the penitentiary administrations for defaming their actions. In this regard, the People's Advocate reiterates the need to escort convicts whenever necessary and only during the duration of the criminal investigation / prosecution process, and then to return the convict to the place of execution of the sentence.

Furthermore, we mention that the Delegations of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) in examining prison health care services clearly express their attachment to the general principle that detainees have the same right to the same level of medical care as well as people living in freedom. This principle is based on the fundamental rights of the individual.¹⁹⁸

Article 169 of the Enforcement Code stipulates that convicts have the „*the right to the defense and the respect of the dignity, rights and freedoms by the institution or organ that enforces the punishment, including the absence of torture or of cruel, inhuman or degrading treatment or punishment, and, indifferent of his / her consent, to a medical or scientific experience endangering his / her life or health, benefiting, where appropriate, from state protection measures*”. In this context, the People's Advocate reiterates that the European Court of Human Rights has in several cases condemned the Republic of Moldova for violating Articles 3 and 5 of the ECHR for inhuman and degrading detention conditions, including the right to liberty and security.

According to the Department of Penitentiary Institutions for the functioning of the penitentiary system in 2017, 456 million MDL out of 475 million MDL were allocated from the state budget. For current repair services, 0.3% of the amount was spent, for capital investments - about 6.7%, for bedding and clothing accessories - 1.4%.

Medical insurance in penitentiaries

¹⁹⁸ The 3rd General Report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) (CPT/Inf (93) 12);

In 2017, the People's Advocate investigated 32 requests for allegations of breaches of the right to health protection in the context of providing the necessary medical assistance. The petitioners have claimed that they have difficulty in accessing public health services, including the fact that prisons cannot escort because of lack of staff. Similarly, detainees complained about the quality of healthcare provided, the fact that they had to buy drugs on their own or on behalf of their relatives. Two applications have been examined in which the provision of healthcare has been invoked with a delay of 6 to 12 months, which has led to a worsening of the state of health.

An old issue, but which the People's Advocate considers to be repeatedly addressed, is related to the deficiency / delays in examining cases of release from detention due to serious / incurable illness.

For example, in 2017, the Medical Consultative Committee of the Department of Penitentiary Institutions examined 56 files on release from detention due to illness. Of the 56 files, only 22 were accepted and handed over to the court. Out of 22 court sentences - 6 people were proposed for release. Meanwhile, 4 people have died. Only 2 out of 56 people were discharged conditionally due to illness. According to the information provided by the Department of Penitentiary Institutions, in the year 2017 there were 42 deaths due to the disease (cardiovascular, oncological), of which 3 suicides.

According to the rules in force, the penitentiary administration can proceed with the release from detention of the person suffering from a serious illness. In practice, this procedure is troublesome both because of the judges' actions / inaction and of the Specialized Medical Consultative Commission within the Department of Penitentiary Institutions. Both institutions are not in a hurry to take a decision on the release from prison of the person in serious condition. This also includes the length of proceedings for the examination of cases and the absence of a time limit for the delivery of the judgment. Many times, court hearings are postponed for long periods of time and do not take into account the serious condition of the detained person's health.

The People's Advocate, without intervening in the trial, claims that any person should be treated with respect, especially in the advanced state of the disease, and that the vicious practices are to be abolished. We recall that in the case of *Dorneanu v. Romania* (application no. 1818/02), the Court held that the detention of a person with terminal cancer in detention is inhuman treatment contrary to the provisions of Article 3 of the Convention.

In the same vein, the People's Advocate concludes that it is necessary to revise the Order of the Ministry of Justice no. 331/2006 regarding the approval of the *Regulation regarding the presentation of the grave convicts for the release of the punishment, in order to give the person,*

the opportunity to receive treatment in favor of his life, in the public sanitary institutions. The focus is on man and human value. A penalty may also be enforced by other non-custodial measures.

A successful case solved by the People's Advocate was to reinstate detainees with viral hepatitis C in the National Program for Combating Hepatitis B, C, D. According to the Department of Penitentiary Institutions, the People's Advocate intervention facilitated the inclusion of 7 patients in the antiviral therapy program.

In the framework of the torture prevention activity, the People's Advocate forwarded recommendations to the penitentiary institutions as follows:

Penitentiary No. 7	<ul style="list-style-type: none"> - Avoiding self-administering of medication, rather than through medical staff; - Ensuring the safety of medical procedures; - Ensuring waste management; - Ensure the functionality of the spine collection cabin.
Penitentiary No.10	<ul style="list-style-type: none"> - Elaboration and approval of standard operational procedures for the provision of medical assistance to juvenile detainees; - Ensuring the management of drugs and their strict evidence; - Ensuring the quality of dental and psychiatric care.
Penitentiary No.13	<ul style="list-style-type: none"> - Ensuring the collection of morphopathological decisions (cause of death); - Repair of the medical service room with the arrangement of the medical quarantine isolator and the sanitary-hygienic regime, the safety of the medical procedures, the waste management; - Ensuring detainees with sufficient medication; - Collecting health indicators for women and minors; - Complete information of people in custody about the treatment and medication administered; - Ensuring the access of the detained persons to the medical staff, shortly after lodging the application.
Penitentiary No. 11	<ul style="list-style-type: none"> - Conducting the theoretical and practical training of the penitentiary medical staff regarding the medical ethics, confidentiality of the medical act and the conduct of the person on hunger strike; - Ensuring control over the adequate implementation of the comprehensive package of HIV prevention services, including occupational safety of staff; - Revision and approval of the Institutional Infection Control Plan; - Establishment of a system for recording the health indicators of women and minors; - Ensuring appropriate tuberculosis screening, including isolated (medical insulator) conditions of the detained, of people with evidence of tuberculosis or other infectious diseases;

	<ul style="list-style-type: none"> - Ensuring that the gynecologist examines all newly arrived women; - Ensuring detainees with sufficient quantities of medication according to the spectrum of established diseases.
Penitentiary no. 17	<ul style="list-style-type: none"> - Review and optimization of the medical service and the hospital for the adequate provision of the medical assistance to detainees; - Ensuring control over the adequate implementation of the comprehensive package of HIV prevention services, including occupational safety of staff; - Ensuring the functionality of the ventilation system in the tuberculosis hospital; - Prohibition of intersection of flows with people with tuberculosis; - Cessation of kitchen activity in tuberculosis hospital; - Making information sessions for tuberculosis detainees on treatment opportunities; - Conducting theoretical and practical training of prison staff on searching security (including assurance with the individual set) and TB infection control; - Provide medical office repair; - Exclusion of permission to receive antituberculous medicines through parcels;
Penitentiary No. 3	<ul style="list-style-type: none"> - Ensuring the repair of the medical service rooms with medical quarantine facilities, the risk-reduction consumables warehouse and the ambulatory treatment room; - Performing the dismantling of equipment (radiological) and ensuring the functionality of the dental equipment (compressor, armchair); - Ensuring the sanitary-hygienic regime, the safety of the medical procedures and the waste management generated by the medical activity according to the legislation in force; - Ensuring detainees with sufficient quantities of medication according to the spectrum of established diseases; - Continue the good cooperation practice with the public healthcare institutions within the Ministry of Health in order to provide medical assistance to detainees.

In 17 applications, detainees have complained to the People's Advocate that they have been subjected to violence, inhuman and degrading treatment by guards, including during searches. 8 complaints came from Penitentiary No. 15 Cricova. In all cases, the People's Advocate has handed to the prosecutor's office demarches on the initiation of criminal prosecution.

525/5000

According to the Department of Penitentiary Institutions, in 2017 there was registered the provocation of bodily injuries to 1106 persons (auto-mutilation, intimidation between detainees, injuries, etc.). 602 complaints were handed over to the prosecutor's offices. As a result of the referrals, 17 minutes were initiated under Article 78 of the Code of Conduct. Similarly, there were 280 internal investigations, resulting in disciplinary sanctioning of 4 collaborators. For three cases, the prosecution authorities started criminal prosecution.

Doubtful deaths in the penitentiary

In 2017, the People's Advocate made an *ex officio* notification of 5 cases of dubious deaths in prisons. In all cases of death, at the Ombudsman's demarches, criminal proceedings have been initiated. Those findings are to be disclosed by the Prosecutor's Office.

On 27 October 2017 on the site crime.md¹⁹⁹ there appeared a news story about the suspicious death of a young girl (Case of B. M.). The People's Advocate has authored and made the necessary inquiries, including documentary visits. Although the employees of the penitentiary no. 16 sustained the death to be a natural death, however, following the forensic expertise it was found that death resulted from the anaphylactic shock, allergic reaction. A criminal investigation was initiated on the case.

After 2 days in the penitentiary system, the young **Andrei Braguta** died. An investigation of negligence is in progress. However, the People's Advocate initiated his own investigation, finding that both the human factor and the non-observance of seemingly minor internal norms could have helped to worsen his health.

According to *the Special Report* ²⁰⁰ of the People's Advocate, Andrei Braguta was in the penitentiary system for two days, on 24-26 August 2017. On 24 August 2017, for about 40 minutes, the last one was held in the prison of the Penitentiary Escort Service no. 13 during the drawing up of the personal file for the preventive stage at Penitentiary No. 16 with the status of a

¹⁹⁹ <https://crimemoldova.com/news/social/o-de-inut-din-penitenciarul-nr-16-a-decedat-n-condi-ii-suspecte/>

²⁰⁰ <http://ombudsman.md/ro/advanced-page-type/tematic>

penitentiary hospital, after which he was escorted to Penitentiary no. 16, where he died on 26 August 2017, at 03.00 a.m. in the Psychiatric Section.

An attempt to place Andrei Braguta in Penitentiary No. 13 was taken on 21 August 2017. After the expiry of the restraining period (72 hours), the weekend and the Conclusion of 18 August 2017 issued by the Chisinau Court Judge, with the headquarters in Ciocana, Iurie Obada, the employees of the Preventive Detention Isolator of the Chisinau Police Department (CPD) staged down Andrei Braguta at Penitentiary No. 13 for placement in the criminal prosecution isolator. On that day, the special service of Penitentiary No. 13 admitted Braguta's placement on the basis of the documents in the personal file, but the medical service refused to receive it on the grounds that medical information was insufficient, inconclusive, unclear anamnestic data, medical examination contained the clinical and paraclinical examination, including the consultation of the psychiatrist.

According to the explanation of the head of the medical service of Penitentiary no. 13, „...21 on August 2017 police officers brought the detainee Braguta Andrei to Penitentiary no. 13 - Chisinau. Thus, I personally examined the detainee, but he presented a clinically unclear picture, did not react to external stimuli and was placed in the intake area in a horizontal position. For this reason, having no anamnestic data, whether it was on medical records in the civil sector as well as other objective data on the detainee's state of health, we explained to the police officers that it is necessary for the detainee Braguta Andrei to be examined first clinic and paraclinical within the Emergency Hospital and subsequently on the basis of the medical conclusion will be decided the subsequent tactics and if necessary to transfer it to Penitentiary No. 16-Pruncul”. The document also states that „as a result of this discussion, the employees of the MIA Escort Battalion took the detainee Braguta Andrei to escort him to the Emergency Hospital and on that day they did not return”²⁰¹

At the beginning of the investigation, the People's Advocate was informed that Andrei Braguta did not get to Prison No. 13 on 21 August 2017. At the same time, Department of Penitentiary Institutions employees argued that there had been an attempt to place Andrei Braguta in this penitentiary. Subsequently, the administration of Penitentiary No. 13 acknowledged the refusal to receive the detainee in isolation. Respectively, in the process of investigation, the People's Advocate found that both parties **did not mention the refusal to place Andrei Braguta in penitentiary No. 13 of insulator type**. Similarly, it was found that Department of Penitentiary Institutions employees escorted Andrei Braguta to the Institute of Urgent Medicine, but there was no medical examination at the request of the Penitentiary

²⁰¹ Conclusion of the Department of Penitentiary Institutions to the service investigation referring to the death of the detainee Braguta Andrei in Prison No. 16-Pruncul from 7 September 2017;

Medical Service no. 13. Finally, Department of Penitentiary Institutions employees decided to place the prevention in the Department of Penitentiary Institutions, which took place after 06.00 p.m. At this stage, the People's Advocate found that the administration of Penitentiary No. 13 and Department of Penitentiary Institutions did not execute the Conclusion of the training judge of the Ciocana Court, according to which Andrei Braguta was to be placed under arrest. At the same time, the People's Advocate wanted to find out if this violation was intentional and / or a systemic problem.

Therefore, Article 200 paragraph (1) of the Enforcement Code of the Republic of Moldova provides that „...*the reception of the convict in the penitentiary shall be carried out by the administration of the penitentiary, upon determination of the identity, based on the execution order, of the conviction decision, identity documents, other documents in the manner provided by the Statute of the execution of the sentence by the convicted persons*”. At the same time, point 14, section 14 of the Statute of execution of sentences by convicts provides that „...*for the reception of detainees in prisons is the cumulative assembly of the following acts: the act that constitutes the basis of the detention and the document confirming the identity of the detainee. In the case of the reception of a detainee in transit or of a detainee transferred from another penitentiary institution or from the institution that performed the detention, it is necessary to present, in addition to the acts mentioned above, the accompanying list and the personal file of the detainee, as well as the order of the Director of the Department of Penitentiary Institutions regarding his transfer*²⁰².

The normative provisions cited above indicate the obligation to receive the persons in the penitentiary system, the medical examination or any other medical documents that are not necessary for accession. On the contrary, the responsibility of the penitentiaries is to carry out the medical examination of detainees, irrespective of their condition. Here, the legislator included the guarantee of reporting all the cases of ill-treatment, torture, injuries declared and observed in the process of receiving detainees, and did not prohibit their non-placement in the penitentiary system.

The People's Advocate received complaints about the refusal to place remanded in the penitentiary because of lack of medical examination. This involved an overload for the Police Escort Service to carry the remanded to emergency services, health centers or medical centers, for the preparation of medical records, and subsequently to replace them in the criminal investigation isolator.

The People's Advocate finds this „*procedure*” a formal one, which generates delays in the

²⁰² Statute of execution of punishment by the convicts;

process of receiving in the penitentiary system of the remanded, respectively, which violates the detention procedures. In this way, the People's Advocate reiterates the abolition of refusal to accept detainees in the absence of medical records, as well as the strict observance of the provisions of Article 200 of the Enforcement Code and paragraph 18 of the Statute of execution of punishment by the convicts.

In December 2017, the People's Advocate was informed about the death of the 41-year-old M. Z. (who was on the record of the narcologist) of natural death. The People's Advocate initiated an investigation, after which he found that the cause of M. Z. could be overdosing of methadone / or improper administration, supplemented by detention under insubstantial conditions, lack of ventilation, overcrowding, passive smoking, as well as medical negligence. These materials were handed over to the prosecutor's offices.

Situation in psychiatric hospitals

On 20 September 2017 at 12.09 a.m., a message was posted on the social network „Facebook” on allegations of ill-treatment to a patient hospitalized in Section 4 of the Clinical Hospital of Psychiatry in Chisinau²⁰³. In the placed message, the user Irina Rotari claims that her daughter Cristina Rotari (the name was made public by the tutor) being admitted to treatment in Section 4 of the Clinical Psychiatric Hospital was physically assaulted by Section employees. In support of her statements, Irina Rotari has posted 4 pictures showing bruising on the patient's body in a public group.

Given that public images presumed allegedly ill-treatment, employees of the Office of the People's Advocate made a precautionary visit to document the case. The purpose of the visit was the primary verification of the actions / inactions of public institutions, the persons with responsibilities at all levels in terms of functional attributions, national legislation and international human rights standards in the context of ensuring the right to physical and mental integrity and the necessary medical assistance compared to the patients in custody of the Clinical Hospital of Psychiatry.

At the time of the visit, in Section no. 4, of the Curative Block no. 3 of the Clinical Psychiatric Hospital were 84 patients (3 at discharge), of which 38 were admitted to the Salon for patients with severe conditions. The capacity of Section 4 is 90 persons.

During the visit, discussions were held with the deputy director of Public Medical-Sanitary Institution Psychiatric Hospital, Chief of Section 4 of Women and the Psychiatrist of the

²⁰³ <https://www.facebook.com/groups/396011323875941/>

Section, as well as with other employees, but also with the beneficiaries. Among the major problems specified by hospital staff are included: *lack of staff, insufficient motivation, lack of clear regulations on immobilization, observance of the right to privacy by the installation of video cameras in the hall and salons, contact with relatives, cooperation with the Mental and Community Health Centers, irresponsibility of public actors towards post-discharge patients, lack of psycho-educational activities, as well as normative and structural - as a result of the reforms in the health field.*

With respect to the patient Cristina Rotari, during the visit, the employees of Office of the People's Advocate observed bruises and lesions on the inferior limbs, cheeks in the left eye area of different dimensions with a fresh location. The patient was repeatedly hospitalized on 4 September 2017 with the free consent of her mother, Irina Rotari. At examination in the Inpatient Section, according to the medical record, body injuries are missing. Immobilization, separation actions, according to the SCP employees towards the Rotari patient were not applied. Similarly, there was no increase in drug treatment, in order not to damage the state of health. Information on law enforcement reporting on bodily injuries is missing. Until the day of the visit, the Psychiatric Hospital did not request the patient's forensic examination and did not take any protective or safety measures.

This relevant case recalls the issues previously addressed by the People's Advocate in the mental health system regarding the safety, security, life and integrity of patients.

The People's Advocate recalls that when a person makes credible claims that he has undergone treatments, contrary to Article 3 of ECHR, by the police or other agents of the State, an official effective investigation is required. And if the State fails to do so, there may be a situation falling under Article 3 of the Convention. It should be noted that this obligation derives also from the provisions of Article 10 paragraph (31) of the Code of Criminal Procedure, according to which the burden of proof of non-application of torture and other cruel, inhuman or degrading treatment or punishment rests with the authority in whose custody is the person deprived of his / her liberty, placed at the disposal of a state body or at its direction, or with his or her consent or tacit consent. The results of the investigation into allegations of ill-treatment were not made public. The victim is assisted by lawyers from the Institute for Human Rights.

Within the prevention activity, the Orhei and Chisinau psychiatric hospitals were visited. During visits no allegations of ill-treatment were found. However, it has been observed that there are practices of applying blows to patients for internal violations, smoking and alcohol

consumption; lack of clear immobilization procedures; insufficiency of ergotherapy; placement of male and female patients, etc.

Thus, the People's Advocate made recommendations to the psychiatric institutions as follows:

**Chisinau Psychiatric
Hospital**

28/02/2017

1. Regular provision of people with furniture to keep their personal belongings with hygienic products and clean bed linen.
2. Immediate stopping the marketing of alcoholic beverages to detainees and initiating an internal investigation.
3. Securing Section 13 with a specially designed place for smoking.
4. Providing detainees with daily walks according to the legislation in force.
5. Excluding hijacking practices against persons held for violations of the regime.
6. Training medical and non-medical staff in documenting body injuries and methods of immobilization.
7. Respecting the safety of medical procedures and waste management resulting from medical activity.
8. Extend the range of activities proposed to patients, including ergotherapy.

**Psychiatric and
Phthisiopneumology
Hospital of Orhei**

20/07/2017

1. Renaming the medical-sanitary institution according to the specialized profile in accordance with the national legislation (to exclude the phrase ftiziopneumology from the name of the hospital and the psychophysiopneumology department).
2. Establishment and use of the premises of the admissions department as intended so as to respect

the confidentiality and privacy of persons during the medical examination.

3. Creating treatment conditions or excluding cases of taking over very serious patients requiring intensive care / reanimation care.
4. Systematic realization of clinico-morphological conferences with the representatives of other hospitals, to discuss cases of death.
5. Exclusion of cases of joint placement of people in treatment by coercion with those under ordinary treatment.
6. Ensure the keeping of strict medical drugs in specially arranged places (safe), thus avoiding access to them by third parties.
7. Placement of female patients in salons, separated from male patients.
8. Ensure access to outdoor walks at least once a day for all patients, avoiding abusive restrictions.
9. Elaboration and approval of Registers of nominal records of people who benefit from walks with their corresponding completion.
10. Providing hospital salons with specially arranged places for keeping personal belongings (bedside).
11. Ensure that registrations in hospital registries, approved according to the Nomenclature, are made with accuracy, timely and accordingly.
12. Avoiding overcrowding in salons, which does not correspond to the minimum standards of accommodation in case there are other salons.
13. Extending the range of therapeutic activities, especially of psychosocial rehabilitation, to prepare patients for an autonomous life and return to their families. Ergotherapy should occupy an important place in the rehabilitation program, providing for motivational action, an assessment of the skills of understanding and communication, the accumulation of specific skills, and the improvement of the perception of one's own image. Identifying solutions for employing an occupational therapist.
14. Revising the list of required registries in the institution and for each section / unit, including the person responsible for completing the data.
15. Identification of solutions for collaborating with district hospitals in order to avoid cases of taking responsibility for taking patients who need to be hospitalized in the resuscitation department.
16. Ensuring collaboration with the social assistance service for the social reintegration of persons with legal problems.

Chisinau Psychiatric

1. Elaboration of standard operational procedures for the interaction of medical and non-medical personnel

- in case of exceptional situations, including interaction with the police.
2. Revision of the Public medical-sanitary institution Regulation of the Clinical Psychiatric Hospital with the inclusion of express provisions for the prevention of torture, inhuman and degrading treatment, as well as inclusion in other institutional acts (individual employment contracts, job description, etc.)
 3. Continuous training of medical and non-medical personnel in documenting body injuries and methods of immobilization.
 4. Extending the range of activities proposed to patients, including ergotherapy for the proper realization of the rights of persons with disabilities suffering from mental disorders in medical and social rehabilitation during and after treatment, according to the provisions of Article 16.4 (b) of the Law on Mental Health;
 5. Revision of the costing methodology of services rendered in the Public medical-sanitary institution Clinical Psychiatric Hospital with adjustment of the corresponding normative acts;
 6. Harmonization of the legal framework regarding the social protection measures of the staff involved in granting psychiatric assistance;
 7. Review of intersectoral and interdepartmental normative acts on the organization of healthcare for people with mental disorders;
 8. . Continuation to renovate medical section to create appropriate treatment conditions for patients and employees;
 9. Elaboration and approval of an efficient mechanism for collaboration of Public medical-sanitary institution Clinical Psychiatric Hospital with the Community mental health centers;
 10. Development and approval of tools to monitor and evaluate staff knowledge, attitudes and practices in relation to patients, including the prevention of torture;
 11. Continuous training (based on an Approved Annual Plan) of staff in the documentation of traumatic injuries in accordance with the provisions of the Istanbul Protocol and Order no. 77 of 31.12.2013 for the approval of the Regulation on the procedure for the identification, registration and reporting of alleged cases of torture, inhuman or degrading treatment;
 12. Elaboration, approval and implementation of the Standard Registers of Body Loss Documentation in accordance with the provisions of the Istanbul Protocol and the Regulation on the procedure for the identification, registration and reporting of alleged
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- cases of torture, inhuman or degrading treatment;
13. Elaboration and approval of the TB infection controlling institutional plan within the Public medical-sanitary institution Clinical Psychiatric Hospital.
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Situation in psycho-neurological boarding schools

In 2017, the Office of the People's Advocate received information on the issue of documentation of beneficiaries and medical care at boarding schools.

As a result of the preventive visits, it was found that the beneficiaries are engaged in work, contrary to their will, the placement of the beneficiaries as a punishment in closed spaces; lack of mechanisms / levers to solve conflicts between beneficiaries; inadequacy of occupational and reintegration activities; insufficient technical staff; low knowledge of human rights workers; demotivating salaries; lack of complaints mechanism; minimal contact with the outside world; lack of mechanisms to protect employees against abuses by the beneficiaries, quality of health care, poor nutrition, etc.:

Psycho-neurological boarding school in Balti
16/03/2017







1. Take urgent action to ensure the institution with qualified medical staff at least according to the current state and the public placement of the job vacancy announcements.
 2. To review the staffing policy and establish the necessary states in line with the provisions of the Framework Regulation to ensure a sufficient number of specialized staff (social assistants, psychologists).
 3. Improvement of health professionals / employees within the institution, including in the field of respect for human rights.
 4. Elaboration of mechanisms for the protection of beneficiaries and staff of violent actions from other beneficiaries.
 5. Excluding the practice of involving beneficiaries in solving conflicts between beneficiaries.
 6. Exclusion of the practice of transferring beneficiaries to closed sections as a disciplinary punishment.
 7. Disallowing the practice of engaging the beneficiaries in activities related to maintaining cleanliness beyond their will. Elaboration of mechanisms for recording the time of the beneficiaries' involvement in household activities, as well as the establishment of stimulus measures.
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8. Elaboration of a clear and accessible mechanism for submitting complaints by the beneficiaries, including the installation of post boxes on each floor of block no. 2, where the beneficiaries are detained. Informing patients about competent complaints bodies.
9. To equip the closed sections of block no. 2 with phones and to facilitate access to them.
10. To ensure the contact of the residents with the outside world.
11. Identifying, arranging and using a special meeting space / meeting rooms to ensure that visits are conducted in a safe and confidential manner.
12. Taking measures for accessing the funds of the National Health Insurance Company in order to ensure the beneficiaries with quality medical services, but also to increase the salaries of the medical staff.
13. Ensuring the training of medical personnel in the correct documentation field of the cases of finding bodily injuries.

Situation at the National Center for Anticorruption Isolator

On 15 June 2017, a monitoring visit was carried out at the National Anticorruption Center (NAC) isolator. The isolator has 6 cells and was refurbished in 2016. Complaints about allegations of torture have not come. The isolator is in good condition. However, following the analysis of the situation on the ground, the People's Advocate submitted the following

RECOMMENDATIONS:

-  Information about rights and obligations
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Situation in preventive detention isolators

The Police General Inspectorate (PGI) has 38 police inspectorates holding preventive detention isolators. Of the 38 isolators, eight have ceased their activity - on the recommendation of the People's Advocate because of deplorable detention conditions, another 12 are semi-detached and 3 in the basement. Of the 687 cells according to the documentation - only 138 are functional at country level with a capacity of 360 beds (most of bunk beds).

During the year 2017, the employee of the Office of the People's Advocate made 21 visits to preventive detention isolators, including 10 visits with members of the Council for the Prevention of Torture.

In addition to the poor conditions of detention (*health care, hygiene, linen, illumination, walk, food, water quality, bath, moisture, isolator in the basement, improvised wc., etc.*) in over 100 monitored cells there were gaps in the documentation of the retention process, (absence) of medical surveillance, detention over 72 hours (from 5 days to 6 months); lack of accommodation for people with disabilities or special needs; unsatisfactory / adapted transport conditions for the detained; registers with errors; the lack of state of personnel in charge of the isolator (these functions are complementary) and / or the inadequacy of the employees; lack of a mechanism for receiving / reporting complaints about torture; non-uniform practices for handling situations inside isolators; lack of external, including civil, supervision of the work; lack of information on rights and obligations to detain in custody, etc.

For the most part, the General Police Inspectorate accepts the People's Advocate's recommendations on preventing and improving the situation and helps to overcome them. On the issue of improving the material conditions, the General Police Inspectorate assumed, by adopting the Police Development Strategy, to ensure minimum conditions of detention in custody in about 15 preventive detention isolators, renovating them until 2020. There is no solution during the transition period, and material detention conditions are likely to remain unsatisfactory. Increased crime, return to restraint practice with isolation (*non-custodial measures are difficult to be managed*) contributes to the increase in the number of people in custody, including those announced in the tracking. Therefore, the duration of investigations and procedures continues to determine the impairment of the freedom and safety of persons²⁰⁴.

²⁰⁴ <http://ombudsman.md/ro/advanced-page-type/npm-reports>.

The detention of persons over 72 hours remains the most serious problem identified in preventive visits, as well as one that harms human rights and fundamental freedoms. Here are some examples:

Edinet Police Inspectorate	2 people detained between 14 and 21 days. Reason: lack of identity acts
Chisinau Police Department	3 people detained over 72 hours. Reasons: Difficulties in documenting Request of prosecutors
Briceni Police Inspectorate	1 person detained over 3 months The reason: a foreign citizen. Lack of identity act
Riscani Police Inspectorate	1 Roma person detained over 5 days Reason: Impediments in documentation
Ungheni Police Inspectorate	1 person (minor) detained for 2 months Reason: Absence of identity act
Anenii Noi Police Inspectorate	Typically, detained people are hold more than 72 hours Reason: Non-documentation with identity acts
Hincesti Police Inspectorate	1 old person detained over 25 days Reason: The impossibility of documentation
Orhei Police Inspectorate	1 person detained over 14 days Reason: The impossibility of documentation

The issue of the detention of detainees over the legal term of 72 hours due to the lack of *documentation* was pointed out in the *Report on Braguta case*²⁰⁵. The legal norm provided for in Article 200 of the Enforcement Code obliges the penitentiary administration (which also provides for the custodial of the remanded) to receive in the penitentiary persons with identity and / or medical documents. However, the People's Advocate found a solution to that situation, namely:

²⁰⁵ <http://ombudsman.md/ro/advanced-page-type/tematice>

Therefore, Article 200 of the Enforcement Code of the Republic of Moldova, provides that „...*the reception of the convict in the penitentiary shall be carried out by the administration of the penitentiary, upon determination of the identity, based on the execution order, of the conviction decision, identity documents, other documents in the manner provided by the Statute of the execution of the sentence by the convicted persons*”.

At the same time, point 14 of Section 14 of the Statute of Execution of Punishment by convicts provides that „...*for the reception of detainees in prisons is the cumulative assembly of the following acts: the act that constitutes the basis of the detention and the document confirming the identity of the detainee. In the case of the reception of a detainee in transit or of a detainee transferred from another penitentiary institution or from the body that carried out the detention, it is necessary to present, in addition to the acts mentioned above, the accompanying list and the personal file of the detainee, as well as the order of the Director of the Department of Penitentiary Institutions regarding his / her transfer*²⁰⁶.

The normative provisions quoted above indicate the obligation to receive the persons in the penitentiary system. Medical examination or any other medical documents are not required for accession. *On the contrary*, the responsibility of the penitentiaries is to carry out the medical examination of detainees, irrespective of their condition. Here, the legislator included the guarantee of reporting all cases of ill-treatment, torture, injuries declared and observed in the process of receiving detainees, and did not prohibit their non-placement in the penitentiary system. It is not necessary for the Police Escort Service to carry out the detainee to emergency medical services, medical centers or medical points for the preparation of medical records, and then to be replaced in the criminal investigation isolator when there is a medical sector in the penitentiary.

The People's Advocate finds this „procedure” a formal one, which leads to delay in the process of receiving in the penitentiary system of the detainees, respectively the violation of the detention procedures. In this way, the People's Advocate reiterates the abolition of refusal to accept detainees in the absence of medical documents, as well as the strict observance of the provisions of Article 200 of the Enforcement Code and point 18 of the Statute of execution of the punishment by convicts.

Regarding the *refusal* of admission to the penitentiary due to lack of identity act, the People's Advocate understands that the process of identifying detainees in the Republic of Moldova is flawed due to the lack of a centralized system of evidence of persons between the Agency of Public Services and the police, as well as the subjective factors. However, the law

²⁰⁶ Hotărârea Guvernului R.Moldova „Cu privire la aprobarea Statutului executării pedepsei de către condamnați nr.583 din 26.05.2006”, (MO nr.91-94);

allows for the placement of detainees on the basis of the act constituting the basis of detention and acts confirming the identity. Consequently, the closure of the court (which establishes the identity of the detainee / remanded) is to be treated as a court act, the non-execution of which presupposes a criminal act. Furthermore, as a finding document could be: minutes on detention or even driving license, birth certificate, self-declaration (affidavit) / relatives.

In general, access to public lawyers is assured. There are still reservations about ensuring all guarantees against torture and ill-treatment (*access to a doctor, access to the interpreter, information about procedural rights and obligations; communication about the place of residence, etc.*). For example, communication about the place of apprehension occurs through the call made by the on-call policeman, chief of the police, investigator, lawyer, via social networks, in the absence of standardized procedures. These facts were communicated by police officers, because no notes in any register are being made. Some policemen say it is the responsibility of the person who made the detention to inform relatives of the place of detention and not on the isolator, which is to be clarified by the General Police Inspectorate.

The medical examination on detention, entry - exit from isolator or post-hearing is not fully realized and in some police inspectorates at all or only at the request of the detainee. The situation on the ground is different, so each police inspectorate has its own practice of overcoming the situation in conjunction with the general rule. Some inspectorates have the feldsher function in the states of personnel, some require nurses from the Public Health Centers or from the 903 Service, and some, such as the detention isolator in the Chisinau Police Department (Tighina Street, Chisinau municipality) has no medical staff for more than 1-2 years. This situation has a negative impact on the victims of abuse and leads to non-compliance with international commitments to ensuring safeguards against torture and the Istanbul Protocol.

It is also necessary to mention here the lack of spaces for medical investigations, first need and first aid kits, insufficiency of medicines, etc..²⁰⁷.

5. The issue of investigating allegations of ill-treatment

As a result of the reform of the Prosecutor's Office, the supervision of places of detention was excluded from prosecutors' duties even though the Prosecutor's Office has a specialized subdivision to combat torture.

²⁰⁷ <http://ombudsman.md/ro/advanced-page-type/npm-draft-recommendations>

For over two years, supervision of the lawfulness of detaining in custody and detention was not carried out or was occasionally carried out by prosecutors.

In the process of the Prosecutor's Office reform, the Office of the People's Advocate became the main data collector on the situation of ill-treatment in the detention system.

However, the People's Advocate considers that the reactive mechanism of prosecutors in combating ill-treatment is extremely important, and changing the legal framework is imperative. At the same time, the People's Advocate will concentrate his efforts on the prevention of torture or inhuman or degrading treatment.

Following the case of Braguta, prosecutors resumed their activity in the field, receiving complaints and exercising control of legality as a general measure to combat torture.

1. Prevention of torture activity through OPCAT provisions

Normative framework

According to Articles 30 - 32 of the Law on the People's Advocate (Ombudsman) no. 52/2014, for the purpose of protecting individuals against torture and other cruel, inhuman or degrading treatment or punishment, the Torture Prevention Board (hereinafter the *Council*) is hereby established under the Office of the People's Advocate as a National Torture Prevention Mechanism in accordance with the *Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*. In order to ensure the protection of persons against torture and other cruel, inhuman or degrading treatment or punishment, the People's Advocate shall ensure that members of the Council carry out preventive and monitoring visits in places where persons deprived of their liberty are, or may be, placed there by the provision of a state authority or its indication, or with its consent or tacit consent.

The council is made up of 7 members. The People's Advocate and the People's Advocate for the Rights of the Child are members of the Council. The other members are proposed by the civil society, they are selected through a competition organized by the Office of the People's Advocate and are appointed for a 5-year term that cannot be renewed. The People's Advocate is *ex officio* Chairman of the Council.

Members of the Council shall independently select the places to be visited and the persons with whom they wish to discuss. After each visit, a report shall be drawn up, including, where appropriate, proposals and recommendations on the improvement of the situation. The Council may draw specialists and independent experts from different fields, including lawyers, doctors, psychologists, to carry out preventive and monitoring visits.

The resources required to carry out the Council's tasks for contracting specialists and experts are included in a separate budget line, an integral part of the Office of the People's Advocate budget. Members of the Council, except for members of the law, shall be entitled to a remuneration of 10% of the average monthly salary for each day on which they have carried out preventive visits to places of detention or attended meetings of the Council.

The members of the Council operate on the principles of independence, impartiality, objectivity and confidentiality, have a service certifications and enjoy the guarantees of independence and inviolability established for the People's Advocate.

In its work, the Council is assisted by a specialized subdivision of the Office of the People's Advocate.

The Council's Organization and Functioning Regulations are approved by the People's Advocate, with the approval of the Commission on Human Rights and Ethnic Relations.

On 31 July 2015, the Parliament of the Republic of Moldova adopted Law no. 164 on the approval of the Organization and Functioning Regulation of the Office of the People's Advocate.

In order to achieve the provisions of Article 30 of the Law no. 52/2014, following the reorganization of the Center for Human Rights in the Office of the People's Advocate, there began the procedure for the creation of the Council for the Prevention of Torture as a national mechanism for the prevention of torture.

On 30 June 2016, the Organizing and Functioning Council of the Council for the Prevention of Torture was endorsed by Parliament's Human Rights and Interethnic Relations Commission and on July 4th - approved by the People's Advocate. The Regulation establishes the organization and functioning of the Council, its internal principles and procedures.

On 11 July 2016, the People's Advocate announced the contest to select members of the Council for the Prevention of Torture. Due to lack of sufficient files, the contest was prolonged.

It was only on 24 October 2016 that the Council for the Prevention of Torture was established in the Office of the People's Advocate as a national mechanism for the prevention of torture under the Law on the People's Advocate (Ombudsman) no. 52 of 03.04.2014.

The Council for the Prevention of Torture has *de facto* started its activity in November 2016 by making the first visits to the places of detention - expert-guided training visits contracted under the Council of Europe's project „Support to Criminal Justice Reforms in the Republic of Moldova”, funded by the Government of Denmark.

Thus, in the drafting of the Law no. 52 of 03.04.2014, the formula of the National Mechanism for Prevention of Torture was considerably modified, the attributions being transmitted to a collegiate body consisting of individuals proposed by the civil society, whose activity is provided by the People's Advocate.

During the implementation of the Law no. 52 / 2014, there were certain shortcomings that have a considerable impact on the proper exercise of the People's Advocate and the Office of the People's Advocate. The legislative gaps with regard to the establishment and functioning of the national mechanism for the prevention of torture were highlighted in the Report²⁰⁸ of the Council of Europe's Directorate General for Human Rights and Rule of Law (Directorate for Human Rights), elaborated following a detailed analysis of Chapter V of the law, which regulates the organization of torture prevention. According to this document, „Problems arising in connection with current legal provisions are related to fundamental aspects of their content and structure rather than to general compliance with international standards. Thus, some provisions of the law refer to the Council for the Prevention of Torture as a separate legal entity that exercises the mandate of a National Torture Prevention Mechanism. However, other provisions refer to the People's Advocate as MNPT. **The key issue - which is the national mechanism for preventing torture in the Republic of Moldova - is not a matter of formality, but an essential issue of legal clarity, responsibility and obligation, which has not been solved.** According to the Report, it is essential that MNPT and civil society, especially NGOs, work closely together, which implies an atmosphere of mutual respect and the willingness of both sides to cooperate. On the other hand, there are strong arguments against the assumption by civil society representatives (NGOs) of responsibility for the exercise of public functions. In principle, this can be considered to be inconsistent with the specifics of NGOs and creates ambiguous situations in the relationship between the People's Advocate as a state institution and NGOs as important representatives of civil society. This also raises very complicated practical problems with the MNPT decision-making process”.

After one year of activity of the Council for the Prevention of Torture as a National Torture Prevention Mechanism in accordance with the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment Concerns about the Functioning of the National Torture Prevention Mechanism in the Current Form have been confirmed.

Major shortcomings have arisen in the decision-making process within the „5 versus 2” formula, which affects the independence of the People's Advocate and the People's Advocate for the rights of the child. However, according to the Paris Principles, the independence of a

²⁰⁸ Report of the General Directorate of Human Rights and the Rule of Law (Directorate for Human Rights) of the Council of Europe on Law no. 52 of 3 April 2014 of the Republic of Moldova on the People's Advocate (Ombudsman) Chapter V, National Mechanism for Torture Prevention, Ref DGI (2015) 25 of 28 November 2015, http://www.coe.md/images/stories/Articles/CJR-Project/npm_omb_law_md_opinion_ro.pdf

National Institution for the Protection of Human Rights is a fundamental principle that ensures the existence and functionality of such an institution²⁰⁹.

At the moment, we cannot claim that the work of the Council for the return of torture brings added value to the Ombudsman's torture prevention activity. Rather, there is a dangerous tendency to position members of the Council for the Prevention of Torture proposed by civil society as an autonomous and independent entity to the Office of the People's Advocates and to the People's Advocates, using the financial and material resources of the institution, but also assuming some attributions of the People's Advocates appointed by the Parliament of the Republic of Moldova. All this and in the condition of both People's Advocates being unable to intervene.

Another component in the debate is that the People's Advocates have the power to carry out torture prevention activity under Article 24 paragraph (2) of the Law no. 52/2014, being a distinct structural subdivision in this respect (now, the Prevention of Torture Section). Respectively, there is a confusion about the role of employees of the Office of the People's Advocate as part of the torture prevention activity.

In addition to these issues, there are persistent divergences of views on the findings and recommendations per visits. People's Advocates are therefore required to support their recommendations on improving the situation in places of detention submitted in the exercise of their mandate, or to accept the recommendations proposed by the members of the Council.

Another issue related to the activity of the National Torture Prevention Mechanism is the Council's members' request to manage the financial resources allocated for the torture prevention activity. It is necessary to mention repeatedly that the People's Advocate ensures that the members of the Council perform the preventive and monitoring visits and that the resources necessary for the performance of the Council's attributions for the prevention of torture, the remuneration of the members of the Council and the contracting of the specialists and independent experts involved in the visits are included in a separate budget line, which is an integral part of the Office of the People's Advocate budget.

The People's Advocate reiterated his concern about the functionality of the National Torture Prevention Mechanism model established in the Republic of Moldova at the 62th Session of the United Nations Committee Against Torture that took place between 06-08 November 2017 in Geneva.

²⁰⁹ In the IInd cycle of the Universal Periodic Review Assessment (Geneva, 8 November 2016), 10 recommendations were made to ensure the independence of the Ombudsman's Office.

Financing the work of the Council

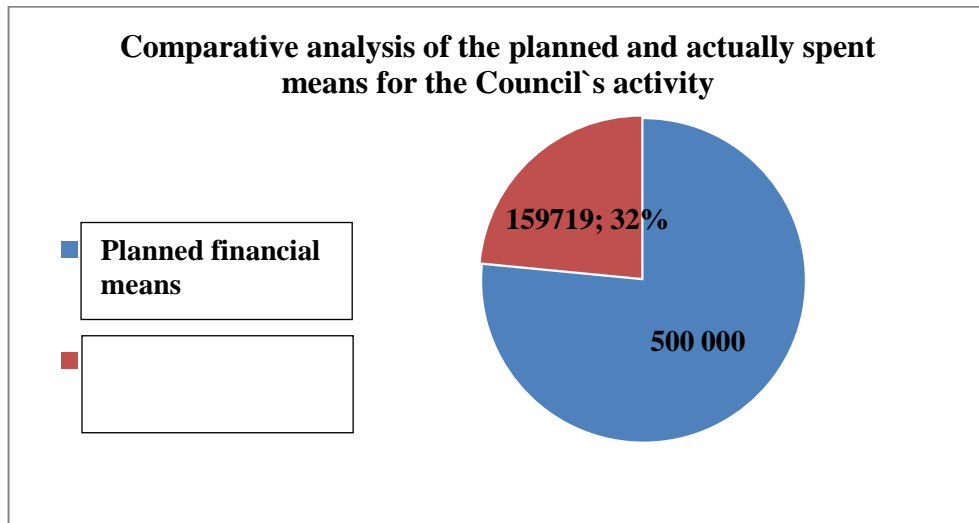
For the activity of the Council for the Prevention of Torture in 2017, 500 000 MDL were allocated from the Office of the People's Advocate budget. The draft budget of the Office of the People's Advocate was drafted and submitted to Parliament and the Ministry of Finance before the creation of the Council for the Prevention of Torture. Respectively, the financial resources required for its work were predicted, taking into account the actual expenditures and the workload performed by the Office of the People's Advocate in the field of torture prevention in previous years.

They were allocated for work remuneration (carrying out visits and attendance at Council meetings), contracting experts and independent specialists attracted to the visits, purchasing of measuring equipment (professional mustimeters, laser rangefinders, etc.), organization of promotional activities, fuel, office equipment, protection equipment.

No.	Expenditure component	Planned (MDL)	Achieved (MDL)
1	Remuneration of Council Members (visits / attendance at meetings)	368 300	72 853
	<i>Including attracting experts / specialists</i>	46 359	0
2.	Press conferences / promotional activities	5 000	0
3.	Purchase of equipment, inventory items	42 000	34 467
4.	Fuel	69 100	---
5.	Office supplies	10 000	----
6.	Water and other materials	5600	---
7.	Current repairs		41 587
8.	Remuneration of members of the Council (visits / attendance at meetings) for 2016		10812
	TOTAL	500 000	159 719

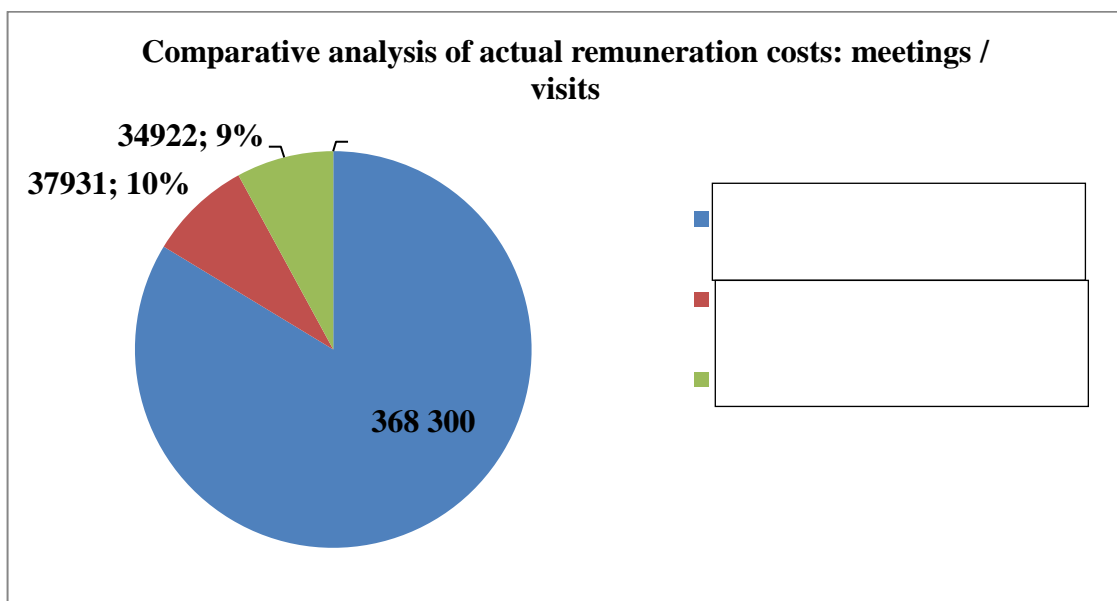
Of the planned amount of 500 000 MDL, 159 719 MDL were actually spent. It was not possible to calculate the fuel consumption for visits by members of the Council, distinct, as the transport unit was used by all employees of the Office of the People's Advocate during the year of management. At the same time, the Office of the People's Advocate's budget also incurred other indirect costs incurred indirectly for securing the work of the Council: setting up a working area for the Torture Prevention Section and Council members, making the furniture, purchasing a

metal safe for keeping the equipment, antimicrobial gel, protective masks, household goods, maintenance of the transport unit, etc.).

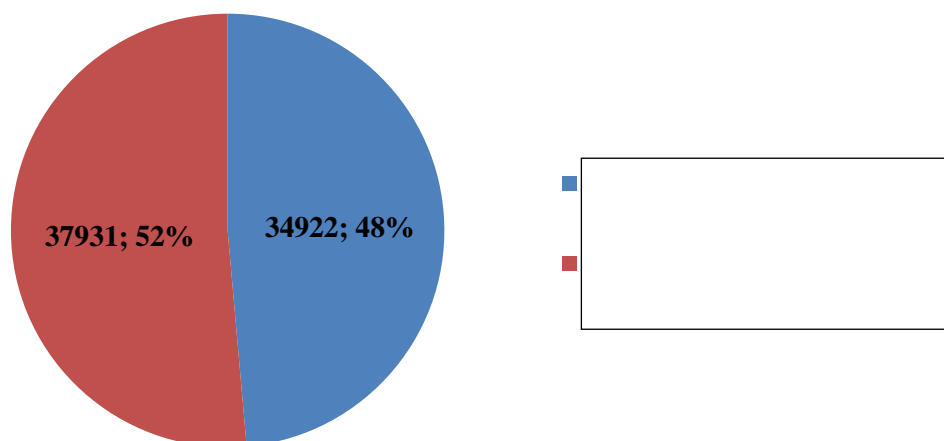


For the remuneration of the Council members, 368300 MDL were planned. In the planning of financial resources for labor remuneration, 220 visits to the places of detention were estimated with the participation of 2 members of the Council and the organization of 12 meetings with the participation of all members of the council. *De facto*, the members of the Council participated in 22 visits, 2 to 3 persons, with 52 visits participations (34922 MDL). 10 ordinary meetings and an extraordinary meeting were convened, being paid 55 meeting attendance (37931 MDL).

For the remuneration of the work, 72853 MDL were actually spent, of which 34922 MDL for the visits and 37931 MDL for attendance at the meetings.



Comparative analysis of actual remuneration costs: meetings / visits



According to Article 31 paragraph (5) of Law 52/2014, the Council may draw specialists and independent experts from different fields, including doctors, lawyers, psychologists, to carry out preventive and monitoring visits. In order to ensure the efficient accomplishment of the Council's attributions in this respect, the participation of the specialists / experts was estimated in 72 visits, with 46359 MDL planned for this purpose. During 2017, the Council members did not request the recruitment of independent specialists / experts to carry out preventive visits.

The promotion activities of the Council were organized within the framework of the Council of Europe project „Support to Criminal Justice Reforms in the Republic of Moldova” financed by the Government of Denmark.

At the same time, the Office of the People's Advocate contributes to the training of the members of the Council in this activity. In this respect, with the support of the Council of Europe, a number of training activities were organized within the project.

The financial resources included in the separate budget line for the needs of the Council, which have not been capitalized, were directed to carry out the activities of the People's Advocate and ensure the functioning of the Office of the People's Advocate.

Council activity

As mentioned, the members of the Council independently choose the places to be visited and the persons with whom they want to discuss.

According to point 4 of the Regulation on the Organization and Functioning of the Council for the Prevention of Torture, three types of visits are carried out in the context of the torture prevention activity

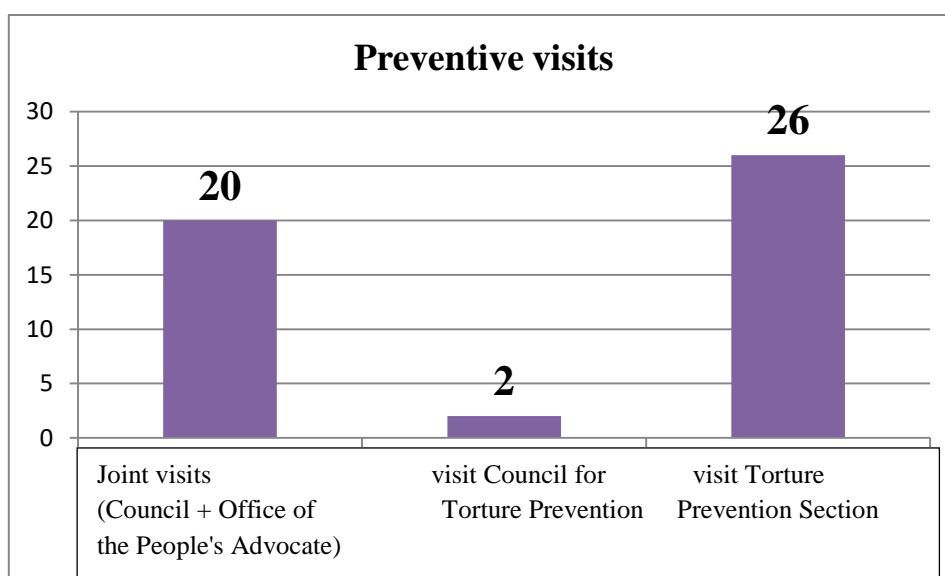
- **Monitoring visits** – planned visits to places of detention, with their preparation and subsequent assessment, targeting thematic issues.
- **Preventive visits** – planned visits to places of detention with the purpose of regularly examining all aspects of detention.
- **Ad-hoc visits** - unplanned visits that occurred momentarily.

Visits are made by members of the Council, either by the members of the Council together with employees of the Office of the People's Advocate (mixed groups), or by the employees of the Office delegated by the People's Advocate / People's Advocate for the Rights of the Child,

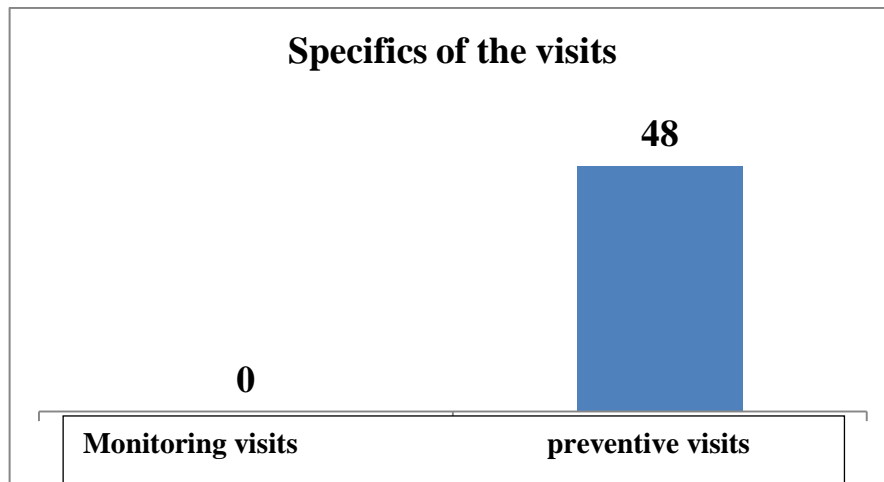
During the year 2017, in the context of torture prevention, 48 preventive visits were made to detention facilities. There have been 45 reports of visits containing about 350 recommendations to improve behavior towards prisoners, improve prison conditions and prevent torture. The implementation rate of the People's Advocate's recommendations is average.

All People's Advocate's reports, reactions, and the responses of the authorities concerned are placed on the Office of the People's Advocate website (www.ombudsman.md) in order to prevent and raise public awareness.

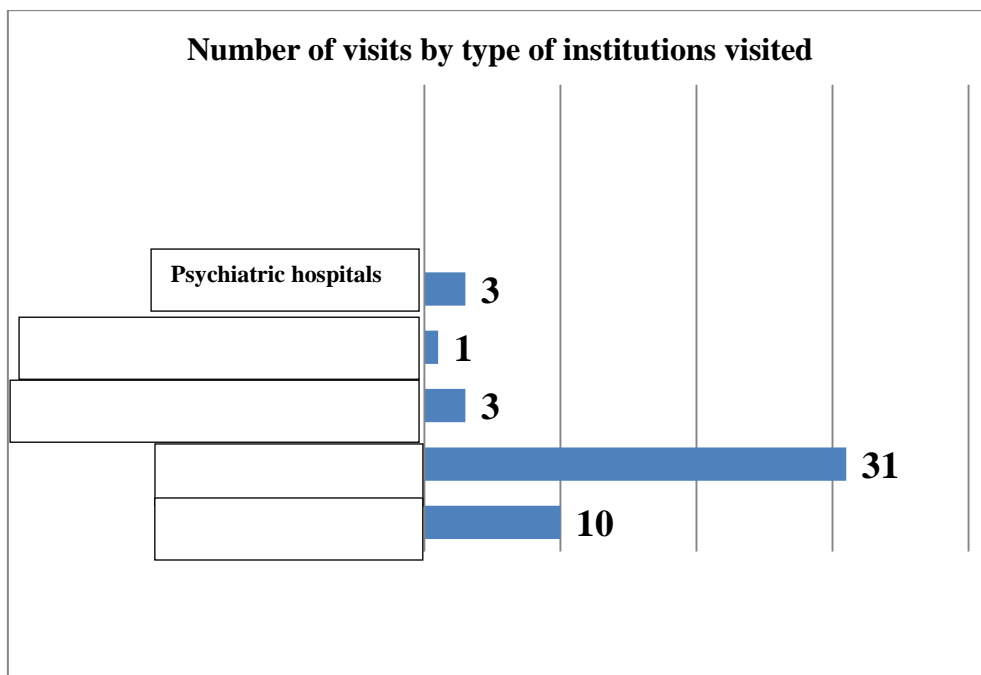
All People's Advocate's reports, reactions, and the responses of the authorities concerned are placed on the Office of the People's Advocate website (www.ombudsman.md) in order to prevent and raise public awareness.



All visits in 2017 were preventive. No monitoring visit was made.

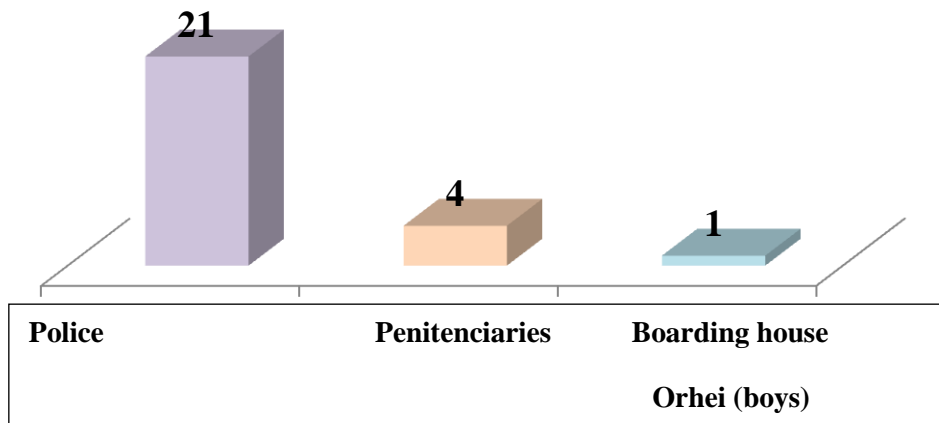


Among the top of the places of detention visited were the preventive detention isolators, afterwards the penitentiaries, following the psycho-neurological hospitals and the psychiatric hospitals. Similarly, this year, after a period of more than 2 years, the isolator of the National Anticorruption Center was visited.



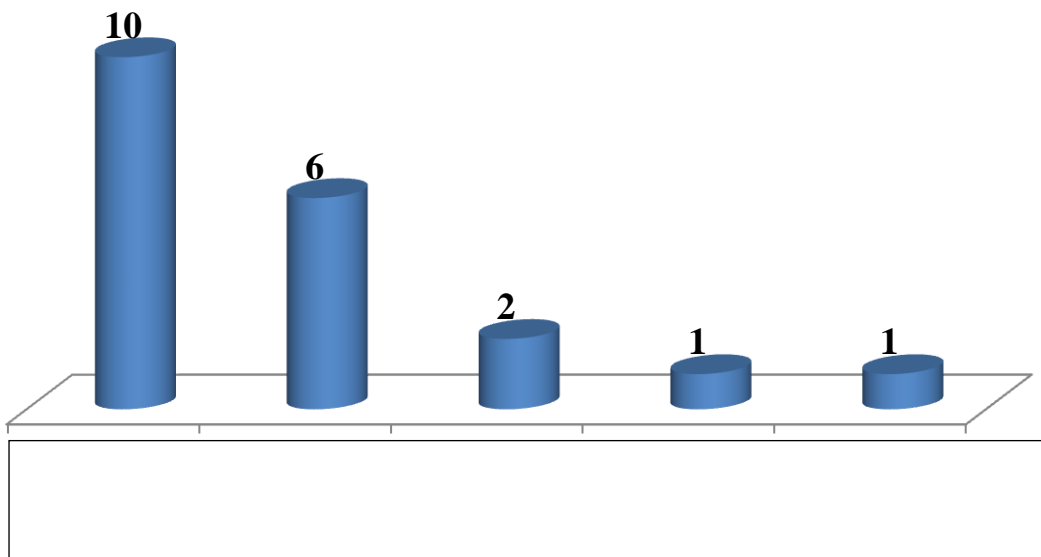
Employees of the Office of the People's Advocate (Prevention of Torture Section) carried out 21 preventive visits to police inspectorates, 4 in penitentiaries and a visit to the boarding house for mentally handicapped children (boys) of Orhei city.

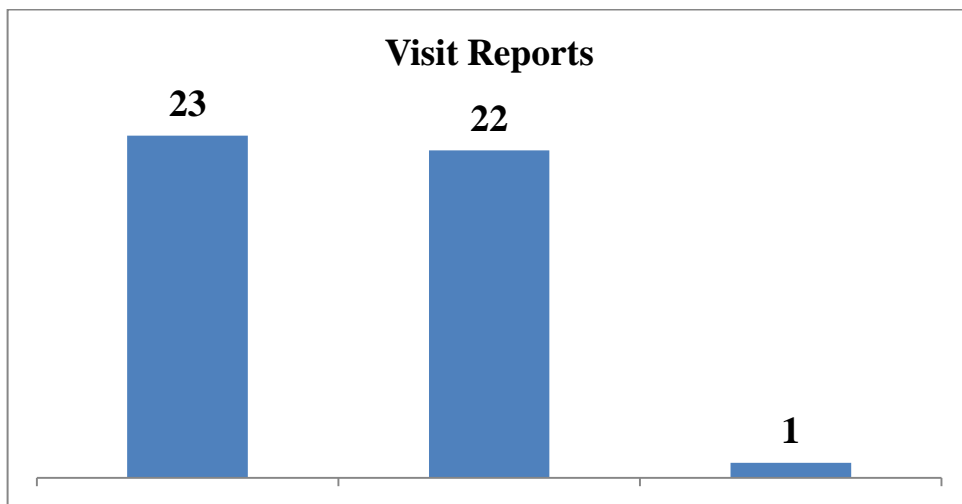
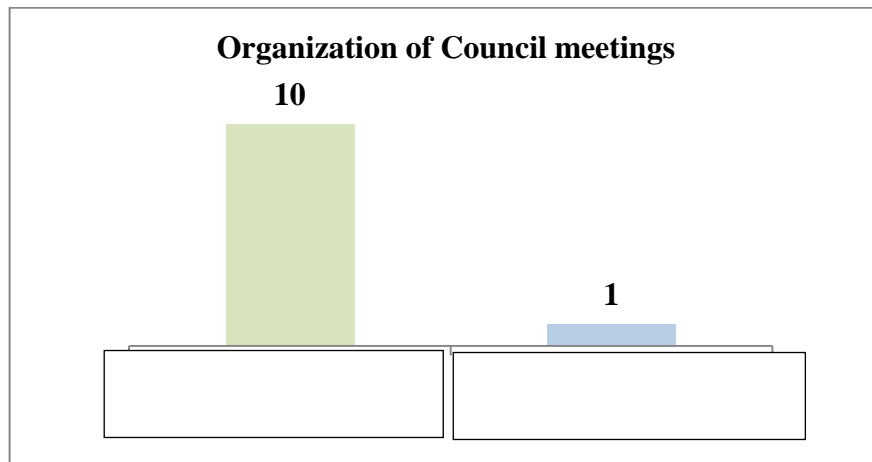
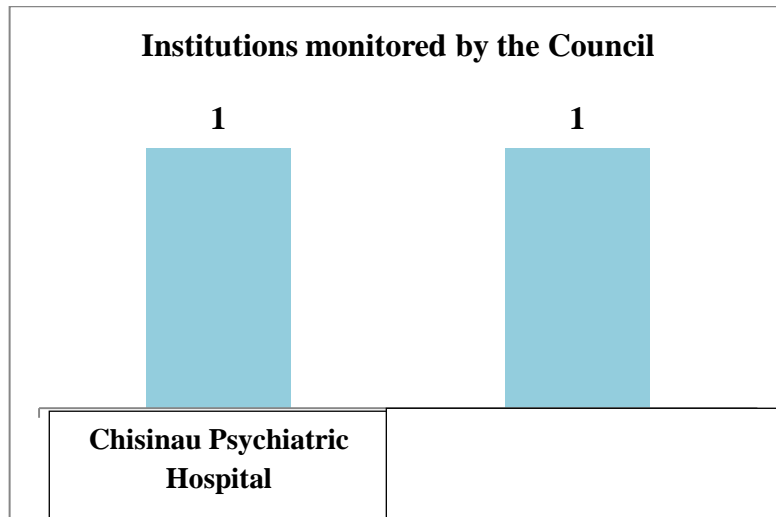
Institutions monitored by the Office of the People's Advocate

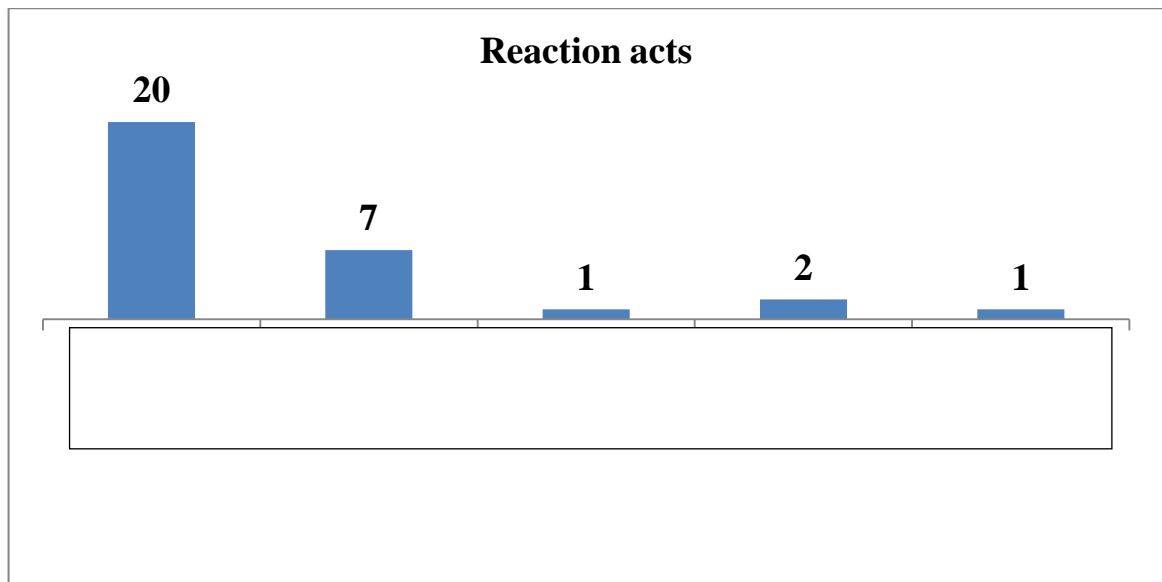


Similarly, in mixed groups, 10 visits were made to the police inspectorates, 6 to penitentiaries, 2 to psychiatric hospitals, 1 visit to the psycho-neurological boarding school in Balti and a visit to the National anti-corruption center isolator:

Institutions monitored in a mixed group







9. Prevention through training

According to Article 28 letter d) of the Law on People's Advocate (Ombudsman), the Ombudsman carries out activities promoting human rights and freedoms by contributing to strengthening education in the field of human rights and freedoms and participation in the development of formal and non-formal educational programs. In this context, the People's Advocate proposed as a priority the training of the employees of the institutions that ensure the detention of the persons. In order to accomplish this task, **in the year 2017, 11 trainings were organized for the employees of the penitentiary system**, as follows:

Date of training	Subject	Profile	No. of participants
27 March 2017	National mechanisms for the protection of human rights / Law 52/2014	Direction of boarding, surveillance and escorts troops of the Department of Penitentiary Institutions (escort employees)	15
14 April 2017	Minimum standards on the treatment of detainees	Direction of boarding, surveillance and escorts troops of the Department of Penitentiary Institutions (escort employees)	15
24 May 2017	ECtHR's case law on ill-treatment and effective remedies	Department of Penitentiary Institutions Training Center (Penitentiary Legal Service)	13

12 June 2017	International provisions on the prevention of torture and impunity	Direction of boarding, surveillance and escorts troops of the Department of Penitentiary Institutions (employees)	25
05 July 2017	Standards on the application of physical force and special means	Department of Penitentiary Institutions Training Center (regime and surveillance employees)	37
01 August 2017	National, regional and international mechanisms for the defense of human rights	Penitentiary no. 16/9 (employees / physicians)	32
02 August 2017	Law 52/2014 on People's Advocate	Penitentiary no. 16/9 (employees / physicians)	33
10 October 2017	Ill-treatment in penitentiary system	Department of Penitentiary Institutions Training Center (employees in the penitentiary and surveillance system)	19
03 November 2017	Initiation in Human Rights	Department of Penitentiary Institutions Training Center (trainees sub-officers)	16
27 November 2017	Prevention of torture and ill-treatment in penitentiary institutions	Department of Penitentiary Institutions Training Center (officers)	38
13 December 2017	Torture in national and international regulations, ECtHR's practice	Department of Penitentiary Institutions Training Center (Escort Service)	17
Total	11 trainings	260 employees of the penitentiary system	

GENERAL RECOMMENDATIONS:

- 1) Implementation of the Committee against Torture Recommendations of 8 November 2017;
- 2) Implementation of the Parliamentary Commission on Human Rights and Inter-Ethnic Relations Recommendations of 22 November 2017;
- 3) Implementation of the People's Advocate Recommendations on improving prison conditions, improving behavior towards persons deprived of their liberty and preventing torture, presented in 2017;
- 4) Continuing and fully supporting the political and financial reforms of the penitentiary system, police and social and mental health institutions.

CHAPTER IV

PROMOTION OF HUMAN RIGHTS

Promoting, informing and training in the field of human rights is a major direction in the work of the Office of the People's Advocate in line with the Paris Principles - document setting international standards for the functioning of national institutions for the protection of human rights. *The Paris Principles stipulate alongside other core competencies of national human rights institutions „to promote human rights ... by raising public awareness, especially through information and education, and by using all the media”²¹⁰. The role of national institutions for the protection of human rights of information, training, and enhancement of the human rights culture in society is also mentioned in Article 9 of the United Nations Declaration on Human Rights Education and Training²¹¹: „National human rights institutions have an important role to play in promoting human rights, including, where necessary, a coordinating role, in promoting human rights education and training by, inter alia, raising awareness and mobilizing relevant public and private actors”.*

All these activities aim at promoting a culture of respect for human rights and changing attitudes, behaviors, a better understanding and acceptance of the values of human rights in society. However, the impact of the actions in question is difficult to estimate, the progress being felt only over time, and the realization of the promotional task involves some costs without which the effort does not have the desired effect.

The work of promoting human rights and human rights protection mechanisms is carried out by the Office of the People's Advocate through actions to inform the general public or target groups to raise public awareness or decision-makers (conferences, round tables, sessions, meetings, forums, contests, exhibitions, elaboration of information panels, development and broadcasting of video spots, etc.), by publishing and distributing informative materials, by collaborating with the media and by training activities.

In recent years, the Office of the People's Advocate has stepped up its work on this segment, **in 2017 the number of promotion actions (174²¹²)**, as well as **the number of beneficiaries was growing (over 5800 people)** compared to previous years. In order to achieve the promotional

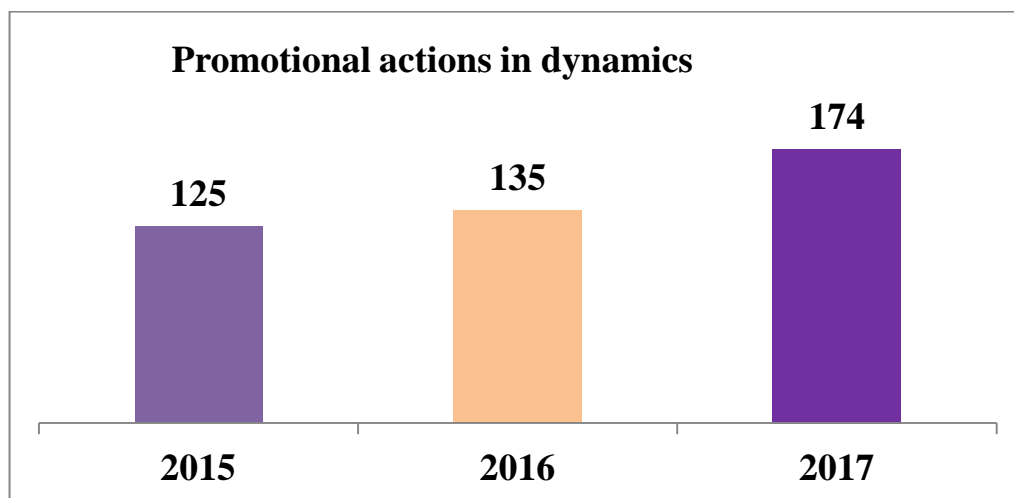
²¹⁰ The Principles on the Status of National Institutions (the Paris Principles), adopted by UN General Assembly Resolution 48/134 of 20 December 1993;

²¹¹ The Declaration on Human Rights Education and Training was adopted by United Nations General Assembly Resolution 66/137 of 23 March 2011;

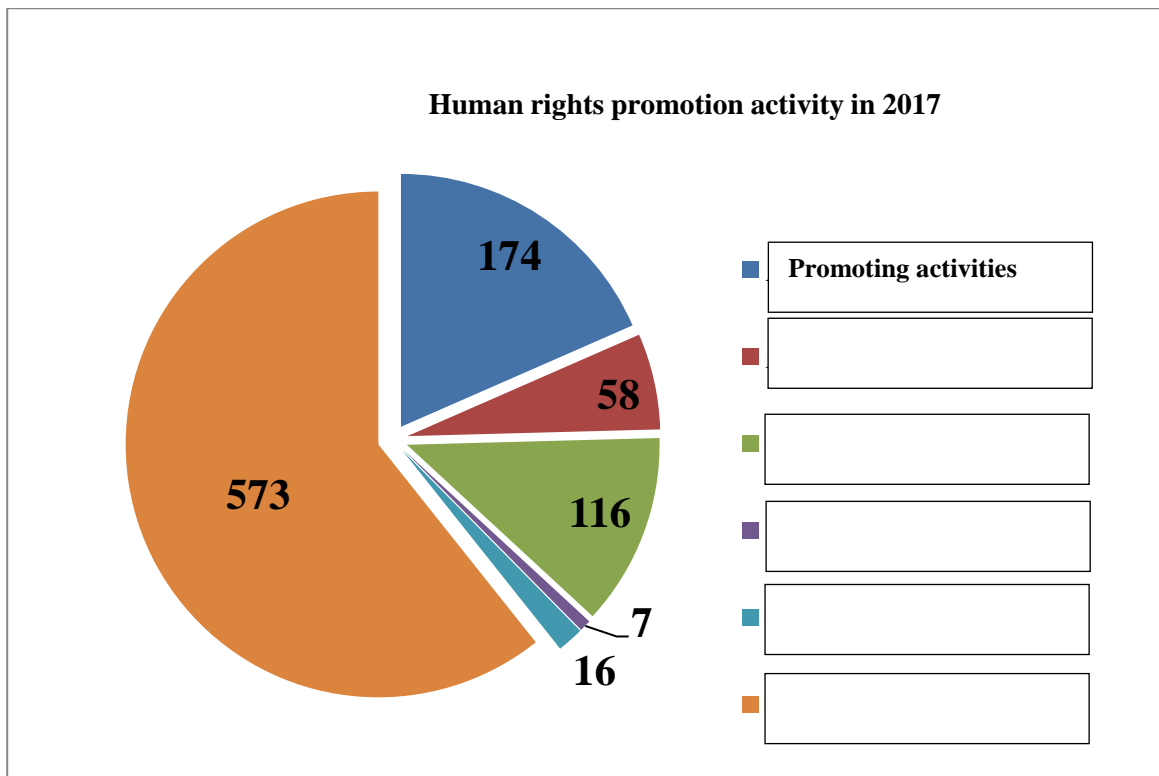
²¹² This figure does not include the number of edited information material and press events;

attribution, the financial means of the institution's budget were used, as well as funds from the international partners of the Office, such as UNICEF²¹³. Some activities were carried out jointly with other public institutions, which implied their financial contribution to the organization of events. Also, in 2017, a large number of activities were organized in the new meeting hall arranged at the end of the previous year with the financial support of UNDP Moldova, after the 2016 transmission to the institution's balance of the entire edifice on the 16 Sfatul Tarii where it is located the Office of the People's Advocate. This has relieved the Office's budget of additional expenses for the rent of the halls in the case of organizing events with the involvement of a smaller number of participants.

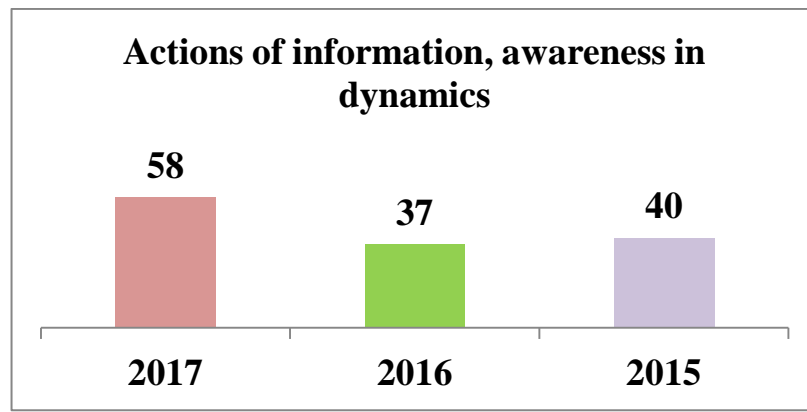
Among the main challenges faced by the Office of the People's Advocate in fulfilling the promotional attribution can be mentioned the insufficient activity of attracting extrabudgetary funds; lack of staff in the promotion subdivision - SPDORIC, reduced competencies of the employees of the institution for carrying out the training activities, the fact that the institution does not have a conference hall with a capacity of 50-100 persons.



²¹³ The project „Capacity building of People's Advocate for the Rights of the Child for the Independence of Monitoring and Reporting of the Rights of the Child in the Republic of Moldova”;



1. Information and public awareness activities



Among the most important information / awareness-raising activities can be highlighted the International Conference „Legal Regulation of Child Status in Contact / Conflict with the Law”; National Conference „Anti-corruption for Human Rights”; Discussion Forums with Children's Advocate for Children's Rights on June 20 and November 19; the Decade for Human Rights, the events of public presentation of the conclusions of the Report on observance of the human rights and freedoms in 2016 and the chapter on the Report on observance of the rights of the child (12 and 27 April).

On 12 December 2017, the Office of the People's Advocate jointly with the National Anticorruption Center held the 13th edition of the National Conference „Anti-Corruption for Human Rights”, which had the financial support of the Norwegian Ministry of Foreign Affairs and UNDP Moldova.

The conference was attended by more than 120 people, including dignitaries, anti-corruption experts, representatives of the central and local public administration, as well as the international community, civil society and the media.

The topics discussed at the meeting focused on „The role of public sector integrity in respecting human rights” and „Integrity in the business environment: strengthening national efforts”. Two workshops took place at the event, discussing how the corruption phenomenon affects the realization of the right to a healthy environment and the right to education. The second workshop was moderated by the People’s Advocate for the Rights of the Child, Maia Banarescu.

Traditionally, shortly after the People's Advocate's Report on the observance of human rights and fundamental freedoms in the Parliament last year, the People's Advocate presented his opinions, conclusions on the subject and recommendations as to how the situation could be improved.

At the presentation of the Report, which took place on April 12, 50 people participated, including the Chairman of the Parliamentary Commission on Human Rights and Inter-ethnic Relations Vladimir Turcan, representatives of Parliament, Ministry of Justice, Ministry of Labor, Social Protection and Family, Ministry of Regional Development, Ministry of Economy, Ministry of Internal Affairs, Ministry of Foreign Affairs and European Integration, Ministry of Environment and its subdivisions, General Prosecutor's Office, OSCE, UNDP, Audiovisual Coordination Council, National Confederation of Trade Unions and representatives of civil society: Promo Lex, Center for Legal Resources, Amnesty International, Roma National Center, Disabled Persons Union, RCTV Memoria, Keystone Moldova, Association of the Blind and the Association of the Deaf.

In 2017, for the first time, the People's Advocate for the Rights of the Child's view of the situation regarding the respect of children's rights was also made public in a separate event - a meeting held on April 27.

The event organized with the support of UNICEF Moldova was attended by approximately 50 people: representatives of the relevant public authorities, civil society. Several suggestions

have been made in the debates both on the content, manner of presentation of the information, as well as on the concept, structure of the report.

At the beginning of the autumn-winter session of Parliament, for the first time in the last 10 years, **The People's Advocate's Report on the observance of human rights and fundamental freedoms in 2016 was heard in the plenary session of the Legislature.** People's advocates pointed out in the communications presented the most important findings and recommendations of the Report and answered several questions from Members, most of them referring to respect for the right of access to justice, electoral law, access to information, the issue of documenting children, respect for human rights in the Transnistrian region.

Several meetings with the participation of decision-makers were convened by the People's Advocate to examine current human rights issues that required involvement and urgent consideration.

Thus, on 28 February, the People's Advocate convened a meeting with the participation of the representatives of the Parliamentary Commission for Social Protection, Health and Family, of the Ministry of Health, National Health Insurance Company, as well as of independent experts in the field of medicine and economy on the issue of the increase in price of medical services, for extensive documentation on this topic and consultation of experts in the field.

Previously, the Ombudsman made an *ex officio* referral linked with the increase in price of medical services for determining the extent to which these price increases were justified by type of service and if the price / income ratio of the people was taken into account. The meeting was attended by deputies, representatives of the Ministry of Health, National Health Insurance Company, independent experts.

In another case, the People's Advocate intervened as a mediator in the matter of unauthorized waste disposal polygons around Bubuieci, a problem that came to the attention of the Ombudsman of the signals in the press. In order to solve the problem, the Office of the People's Advocate organized a workshop on 3 February 2017 with the participation of decision-makers.

A number of activities, public meetings were conducted by the People's Advocate in common with Council members to monitor the implementation of the UN Convention on the Rights of Persons with Disabilities - the expert council created a year ago at the Office of the People's Advocate.

The People's Advocate together with the members of the Council of Experts on Monitoring the Implementation of the UN Convention on the Rights of Persons with Disabilities *launched an appeal to the public authorities* in the country²¹⁴ in order to protect and respect the rights of people with disabilities. In the Appeal, the Ombudsman and members of the Council reminded to central and local public authorities of their duty to contribute to ensuring and promoting the rights of persons with disabilities in order to ensure, prevent and eliminate their discrimination in society.

Also, on 29 June, an open meeting of the Council of Experts was held to monitor the implementation of the UN Convention on the Rights of Persons with Disabilities, which discussed the results of the first year of activity. It was mentioned that the structure in question became a platform for discussion and action. One of the achievements of the Council was the submission of a proposal to amend the Electoral Code for the purpose of granting the right to vote to those who lacked the capacity to exercise and the approval of a package of laws that would ensure the implementation of Article 12 of the UN Convention on the Rights of Persons with Disabilities. Among other activities of the Council, mention was made of the intervention to the municipal authorities regarding the reasonable accommodation, according to the needs of persons with disabilities, of the parking places and the access ways to them in the area of M. Sadoveanu Street²¹⁵. Also, People's Advocate intervened, at the request of a member of the Council of Experts, with conclusions in the case of publishing an article with a discriminatory message and an instigator of hatred towards persons with disabilities, the media institution, by court decision, being obliged to withdraw the newspaper with the article in question.

On 4 December 2017, in the context of the International Day of People with Disabilities, another Council meeting was held to monitor the implementation of the UN Convention on the Rights of Persons with Disabilities. During the event was presented the Thematic Report „Integration of people with severe disabilities into the community. Impact of the social service „Personal assistance””.

Officials of the Office of the People's Advocate have been involved in organizing important activities organized by central public authorities, capitalizing on these opportunities to promote human rights and presenting information on the duties and powers of the institution.

²¹⁴http://ombudsman.md/sites/default/files/scrisoare_0.pdf

²¹⁵The Expert Council was created on the basis of Article 34 of the Law on the People's Advocate no. 52 of 03.04.2014 and Article 10 of the Law on Social Inclusion of Persons with Disabilities no. 60 of 30.03.2012, aiming to provide the Office of the People's Advocate with advice and assistance in monitoring the implementation of the UN Convention on the Rights of Persons with Disabilities, Promoting and Protecting the Rights of Persons with Disabilities;

Already the third consecutive year the employees of the Office of the People's Advocate were present with an exhibition of informative materials at the European Town, which took place on 13 May 2017, in the Stefan cel Mare Public Garden.

The Officials of the Office of People's Advocate attended the event organized by the Legislative on the occasion of the Democracy Day on September 15, opening a news stand on the Ombudsman's Institution and its activities. Along with a further 14 public institutions reporting to the Parliament, the Office of the People's Advocate presented at the exhibition a crunch of its work, discussed with the visitors and distributed informative materials edited by the institution.

Promotion activities organized by the People's Advocate for the Rights of the Child, Maia Banarescu

The Year 2017 was a prolific period for the People's Advocate for the Rights of the Child in matters of promoting the rights of the child, informing about its duties and competences. The Children's Ombudsman, supported by a UNICEF funded project, has managed to make himself visible at the national level, launching more initiatives and engaging in the most active way in monitoring the situation of child rights. In making these efforts, the People's Advocate for the Rights of the Child has succeeded in effectively cooperating with relevant authorities, civil society, the media and, what is very important, with children. Maia Banarescu has been in permanent dialogue with them both through the two discussion forums held in June and November, as well as the numerous visits to different localities of the country from different districts.

Visits on field

In the first months of 2017, the People's Advocate made **17 visits** to various localities in the country to hand out diplomas and gifts to children winners of the Children's Drawing Contest entitled „Your Health - Your Right, Your Future”, organized by the Children's Ombudsman in the Decade of Human Rights of the previous year. In the context of visits to educational institutions (lyceums and gymnasia) from villages and cities: Balti, Drochia, Soroca, Falesti, Stefan Voda, Ungheni, Sangerei, Comrat, Maia Banarescu met and discussed with about 1 200 children and teachers; she informed them about the duties of the People's Advocate for the Rights of the Child, organized promotional actions.

Between October and December 2017, the People's Advocate for the Rights of the Child, Maia Banarescu participated in all 9 public forums / public hearings on the subject

of preventing and combating violence organized by the Parliamentary Committee on Social Protection, Health and Family in partnership with the Platform of Joint Dialogue of Deputy Ladies of the Parliament of the country.

The regional forums entitled „Preventing and Eradicating Domestic Violence and School Violence: Multidisciplinary Approach to the phenomenon” took place in Leova, Cantemir, Cimislia, Hincesti, Nisporeni, Ialoveni, Anenii Noi, Ceadar-Lunga and Drochia districts with over 400 people aged between 13 and 60 years participating to them. Besides these activities, on 12 December this year, Maia Banarescu also took part in the event of finishing the contest „chOOSE a life without violence!”, including the award ceremony held at the Parliament of the Republic of Moldova.

In-country visits have as objectives not only promotional / information activities, the Children's Ombudsman met with local public authorities and discussed concrete issues in the area of child rights in the given regions.

On 16 February, the Executive Committee of the ATU Gagauzia and the Office of the People's Advocate organized a working meeting with the theme „Gagauzia - for children”. The People's Advocate for the Rights of the Child, Maia Banarescu, has discussed various child rights issues in this region and possible solutions for them. As a result of the work meeting, the Bashkan of the ATU Gagauzia, on March 15, in Comrat, created a Committee for the Coordination of the Child Rights Protection System in ATU Gagauzia, whose member also became the head of the Comrat Representation Office of the People's Advocate, Svetlana Mironova.

The first meeting of the Committee took place on 22 March 2017. The agenda included issues on the methodology for assessing the situation of children at risk; services that can be offered to children and families in ATU Gagauzia. It was decided in the near future, in cooperation with „Lumos Moldova” Foundation, to develop a strategy for ATU Gagauzia in order to provide qualified and effective assistance to children at risk. Also, at the meeting of the Committee was discussed the strategic plan for the development of the inclusive education system in ATU Gagauzia.

On 31 March 2017, the People's Advocate for the Rights of the Child, Maia Banarescu, met with the representatives of the public authorities in the Varnita village and the Anenii Noi district. The main topic addressed at the meeting was the documentation of children with national identity documents and civil status, as well as the recognition of civil status acts produced and registered in the Transnistrian region.

On 12 May 2017 the People's Advocate for the Rights of the Child, Maia Banarescu, organized a working meeting in the context of the International Family Day, in collaboration with the Balti Representation of the Office of the People's Advocate. The representatives of the Ministry of Labor, Social Protection and Family, the representatives of the Social Assistance and Family Protection Departments of Rezina, Telenesti, Soldanesti, Singerei, Floresti, Falesti, Balti, Glodeni, Rascani, Drochia, Soroaca, Donduseni, Edinet, Briceni, Ocnita were invited to the event.

The People's Advocate for the Rights of the Child Maia Banarescu and the head of the Balti Office of the People's Advocate, Valentin Cocarla, discussed with the representatives of the public authority in Balti municipality and the mentioned districts issues aimed at ensuring the welfare and social security of children, respecting the rights of children from families with many children or with low incomes.

The People's Advocate for the Rights of the Child, Maia Banarescu, met on 1 August 2017 with the local trusteeship authorities in Hancesti district to discuss the difficulties they face in exercising their competencies in cases of children at risk and in solving the problems of respecting the rights of the child as a whole.

Children's Ombudsman, Maia Banarescu, met on 7 June 2017 with the representatives of the guardianship authorities in Cahul district.

Working meeting „Practice of the implementation of the UN Convention on the Rights of the Child. Respecting the best interests of the child: problems and solutions” was aimed at initiating a dialogue with the authorities working in the field of child rights protection in order to identify the difficulties faced by the guardianship authorities in Cahul district and the problems encountered in this sphere. The meeting was attended by several mayors from the villages of Cahul district, representatives of the Social Assistance and Family Protection Directorate, child rights specialists, lawyers.

To document or identify issues related to ensuring children's rights, the People's Advocate for the Rights of the Child Maia Banarescu also visited some of the institutions, organizations.

On 4 April 2017, the People's Advocate for the Rights of the Child Maia Banarescu made an informative visit to the Republican Experimental Center for Prosthesis, Orthopedics and Rehabilitation and to the „LOW VISION,, Medico-Social Rehabilitation Center for people with low vision. The purpose of the visit was to identify the perspectives of people with locomotory and visual disabilities in the aspect of their access to free medical services.

On 23 March 2017, People's Advocate for the Rights of the Child, Maia Banarescu, together with representatives of UNICEF, made a working visit to Penitentiary no. 16 - Pruncul. She was interested in the conditions existing in the predisposed spaces for mothers with children up to 3 years, as well as the hospital that operates within the institution. The Children's Ombudsman and the UNICEF representative discussed with detainees and prison administration to find out more about the conditions of detention of women with children.

Problems in respecting the rights of children in detention were addressed by the People's Advocate for the Rights of the Child during several visits to Penitentiary no. 10 Goian and Penitentiary no. 13, during the meetings with decision-makers at the Department of Penitentiary Institutions and the Ministry of Justice.

Children's Advocate advocated to identify urgent solutions for improving the situation of children in detention on remand in Penitentiary No. 13, mentioning the conditions of disastrous detention, the lack of extraregional activities and the negative influence of the mature detainees' quota on the behavior of minors.

Maia Banarescu proposed to examine the possibility of their urgent transfer to Penitentiary No. 10 Goian. The Ombudsman referred to the need to ensure adequate living and development conditions for children with their mothers under the age of three years by providing separate budget lines in the budgets of penitentiary institutions. The People's Advocate also recommended that the number of psychologists / psychopedagogues be increased to provide the necessary assistance to children and to develop psychosocial programs to reduce aggressive behavior and re-socialization.

Maia Banarescu has been in an intense dialogue with the decision-makers of the Department of Penitentiary Institutions and the Ministry of Justice and in the context of the incidents registered at Penitentiary no. 13 and reported by the press on the application of force to minors in this institution²¹⁶.

These, as well as the problems related to the assistance and protection of children in contact / conflict with the law as well as on the prevention of juvenile delinquency were the theme **International Conference „Legal Regulation of the Status of the Child in Contact / Conflict with the Law” - October 19, organized by the People's Advocate for the Rights of the Child, Maia Banarescu.**

The international conference called into question the amendment and completion of the legislation regarding the determination of the legal status of the child in contact with and conflict

²¹⁶ <http://ombudsman.md/ro/content/functionarii-oficiului-avocatului-poporului-au-verificat-semnalele-privind-aplicatia-fortei>

with the criminal law but who has not reached the age of criminal responsibility and the extent to which the protection of these children is ensured.

Representatives of the human rights institutions in Lithuania and Romania, as well as policy-makers, government experts, academics, civil society representatives discussed at the conference on socio-legal ways to prevent, control and mitigate juvenile delinquency in the Republic of Moldova, European models of legal regulation of the status of the child in contact / conflict with the law and the prerequisites for legislating the status of the child committing criminal offenses under the age of criminal liability.

Representatives of the Ombudsman Institution of Lithuania, the Romanian People's Advocate Institution, UNICEF, the Ministry of Justice, the Ministry of Education, Culture and Research, the Ministry of Health, Labor and Social Protection, the Ministry of Internal Affairs, the General Prosecutor's Office, the Superior Council of Magistracy, the National Council for the Protection of Child's Rights, the Municipal Child Protection Directorate, the Terre des Hommes, the Criminal Reform Institute, the CNPAC, the Institute of Criminal Sciences and Applied Criminology attended the conference.

The International Conference on „Legal Regulation of the Status of the Child in Contact / Conflict with the Law” was organized by the People's Advocate for the Rights of the Child under Action L1 (Chapter 27) of the National Action Plan for the Implementation of the Republic of Moldova - EU Association Agreement for 2017-2019.

The People's Advocate for the Rights of Child saw a range of issues that went beyond the list of topics to be prioritized in 2017. The Ombudsman reacted to some signals about child rights violations or system issues that require operative involvement. The Children's Advocate for the Rights of Child also addressed the problems of street children, exploitation of children through work, application of violence against children, alimentation of children in preschool and pre-university education institutions, these topics being the themes of some working meetings or press conferences.

Several topics have been dealt with in detail through the development of studies or thematic reports, an effort supported by UNICEF Moldova.

On 5 April, at a public event, the conclusions of the Thematic Report „Social Inclusion of Children with Autistic Spectrum Disorders in the Republic of Moldova” were made public.

On 31 October 2017, the People's Advocate for the Rights of the Child Maia Banarescu has publicly presented the Report on the Social Inclusion of Children with Sensory Disabilities.

On 19 December 2017, with UNICEF support, the People's Advocate for the Rights of the Child Maia Banarescu has publicly presented the study „Respecting the child's right to name and citizenship”.

On 18 December 2017, the People's Advocate for the Rights of the Child has publicly presented the thematic study „Assessment of the situation of children placed in the boarding house for children with mental deficiencies Orhei and Hincesti in the process of de-institutionalization”.

On 15 December 2017, with UNICEF support, the People's Advocate for the Rights of the Child held a working session in which the Mechanism for Monitoring, Evaluation and Reporting on the Implementation of the Recommendations of the UN Committee on the Rights of the Child has been presented.

The permanent dialogue with children was maintained through the organization of two discussion forums, which in 2017 aimed at consulting children's opinion, involving them in monitoring the implementation of the Convention on the Rights of the Child, and the recommendations of the UN Committee on the Rights of the Child authorities of the Republic of Moldova.

On 20 June 2017, the second Ombudsman Discussion Forum with children in Moldova took place, entitled „Child and Adolescent Participation in the Reporting and Monitoring of the UN Convention on the Rights of the Child - Challenges and Involvement of Public Authorities”. The Forum was organized in collaboration with UNICEF Moldova. The event was attended by 44 children from all over the country.

The first part of the Forum was the children's dialogue with the representatives of the public authorities, represented by the president of the parliamentary commission, appointments and immunities, Raisa Apolschii, Deputy Prime Minister for Reintegration, Gheorghe Balan, Health Minister, Ruxanda Glavan, Deputy Minister of Labor Viorica Dumbraveanu, head of the Department of Education at the Ministry of Education, Valentin Crudu, Deputy Minister of Justice, Anatolie Munteanu, head of the Department of Control and Methodology of the Civil Status Service, Liudmila Gutu, Chief of the Chisinau Municipal Department, Child Rights Protection, Rodica Terehovschi.

The children were subsequently informed about the role of the People's Advocate for the Rights of the Child and the participation of children in the process of monitoring the implementation of the Convention on the Rights of the Child on the process of reporting to the UN Committee on the Rights of the Child on the implementation of the Convention on the Rights of the Child.

The children also shared their experience of their activity in youth and student's councils: National Council of Students, National Network of Local Councils of Moldovan Youth. The participants discussed the activities to monitor the implementation of the Convention on the Rights of the Child, which could underpin the action plan to monitor the implementation of the Convention.

On 16 November 2017, the People's Advocate for the Rights of the Child, organized with the support of UNICEF another discussion forum with children with the theme „Involving children and young people in monitoring the recommendations of the UN Committee on the Rights of the Child”.

40 children and adolescents from 20 educational institutions from different localities of the country (Chisinau, Balti, Congaz, Lipoveni, Stefan Voda, Donduseni, Soroaca, Leova, Varnita, Tighina, Vulcanesti) attended the forum, members of the pupils' councils and also from the National Council of Students, the National Youth Council of Moldova and the National Network of Local Councils for Youth.

Among the actions intended for children is the festivity **Day of the „Open Doors” at the Office of the People's Advocate, organized by the Children's Ombudsman on June 1, attended by about 100 children and parents.** Partner of the Children's Advocate in organizing the event was the Terre des hommes Moldova Foundation. As moderators of some activities were representatives of the Resource Center for Teenagers and Youth, CRAT from Balti.

Children's Advocate has made a presentation to the Ombudsman's Institution, the children discussed with the People's Advocate, Mihail Cotorobai, with the employees of the Office.

Within five workshops, children were presented with master-painting, quilling, carving in wood. As the moderator of the painting workshop was the painter Elena Revutcaia, who illustrated several books for children, including „Neznaika in the Wonderland” by Nikolai Nosov, „Ceasornicul din tei” by Arcadie Suceveanu, „Pippi Longstocking” by Astrid Lindgren.

The children had the opportunity to draw pictures on the asphalt, to participate in a game on corruption and human rights and to learn about the art of the original decorations - quilling.

After spending the event at the Office of the People's Advocate, the children were invited to go with the Children's Advocate in the Stefan cel Mare Public Garden, where the Ombudsman and the Terre des hommes Foundation organized a „Know Your Rights!” quiz

In the context of the day of adoption of the UN Convention on the Rights of the Child on 16 November the People's Advocate for the Rights of the Child, Maia Banarescu, discussed with 60 students on their rights in an activity organized at the National Library for Children „Ion Creanga”.

30 children participated on 15 September 2017 at the Workshop „Democracy from childhood”, held in the context of the International Day of Democracy in the Parliament of the Republic of Moldova and moderated by the People's Advocate for the Protection of the Rights of the Child. The workshop was attended by deputies Raisa Apolischi, Alina Zotea and Elena Bondarenco.

Other promotional activities

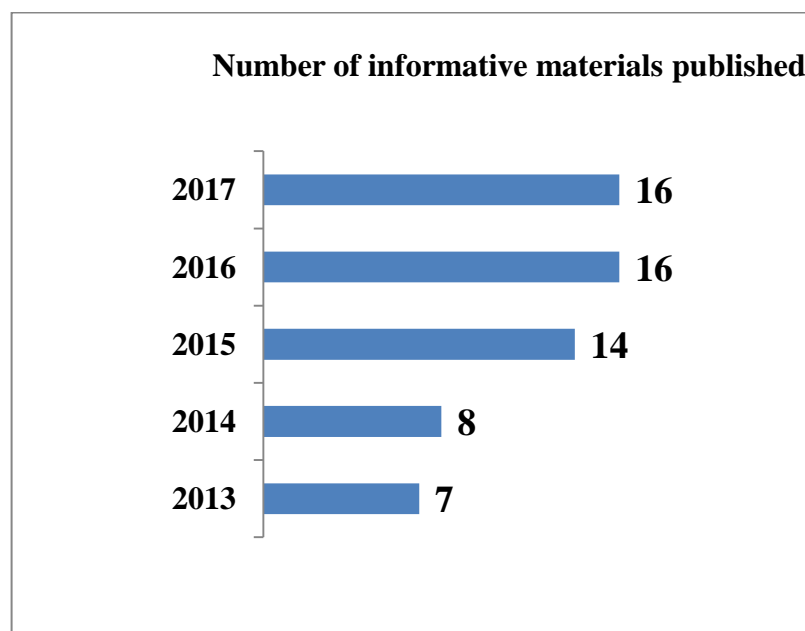
During the public presentation of the Report on the Observance of Human Rights and Fundamental Freedoms in the Republic of Moldova in 2016, the Office of the People's Advocate has disseminated two spots for the promotion of the People's Advocates and the Office of the People's Advocate, which were previously carried out. Spots were broadcast for two weeks at a central television station (Regional Canal) and at 10 regional television stations.

Also, the institution has developed and produced **20 informative panels**, containing information materials with anti-torture message and prevention of ill-treatment, which will be located in penitentiary institutions in the country.

1. Editorial activity

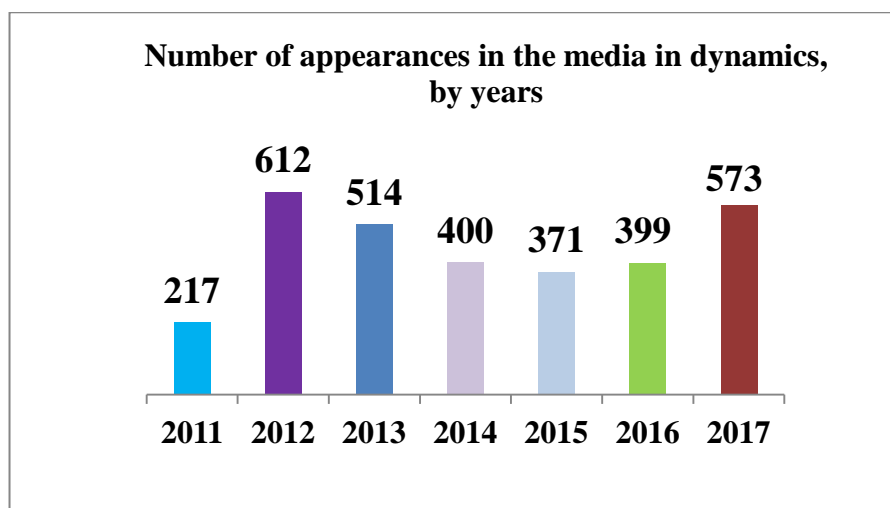
In the reference period, the Office of the People's Advocate has published **16 book titles and informative materials**: Report on the Observance of Human Rights and Fundamental Freedoms in the Republic of Moldova in 2016 in Romanian, Russian and English; Report on the Observance of children's rights in 2016 in Romanian and English; brochures „Law no. 52 on People's Advocate (Ombudsman)” and „Office of the People's Advocate's in 2016”. There were also published: the brochure „Recommendations for the Republic of Moldova in the IInd round of the EPU”²¹⁷, 4 Leaflets with the Patient Rights („Patient Right to Freedom”, „Patient Rights to Privacy”, „Patient Right to Preventive Measures”, „Patient Right to Accessibility”), brochures „Patient Rights” in Russian, „I am a child - I have rights!” (in Romanian and Russian versions), „Internet for children” (in Russian and in Romanian), „Corruption in medicine” (flyer), „People's Advocate for the Rights of the Child”, „UN Convention on the Rights of the Child” (in Romanian and Russian). Maps, booklets with the institution logo were also edited.

²¹⁷ The Principles on the Status of National Institutions (the Paris Principles), adopted by UN General Assembly Resolution 48/134 of 20 December 1993;



2. Collaborating with the media

Collaboration of people's advocates with the media has improved over the reference period, as opposed to 2016.

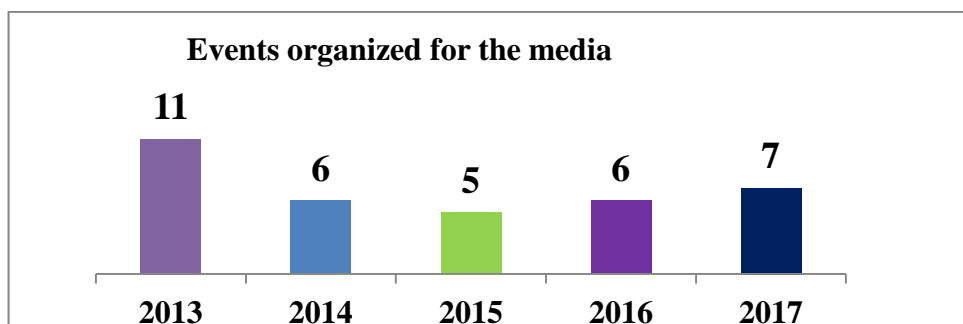


This is explained by the greater number of information / promotion activities organized by the institution during the reporting period, but also by the involvement of the People's Advocate in the investigation of two resonance cases, such as the case of suspicious deaths during the stay in the custody of the state, of Andrei Braguta and on the death of Niculina Bulat, orphan in dialysis

who did not receive adequate medical assistance. People's advocates also responded to several media signals about human rights violations.

The most important press releases of the People's Advocates in 2017 refer to the Bubuieci village landfill situation; the decision to increase the cost of medical services; signals about the application of ill-treatment to a beneficiary from the Public Medical-Sanitary Institution Clinical Psychiatric Hospital of Codru city; media reports of a number of patient irradiation with X-ray during investigations due to the old device, without operating authorization, used by doctors; the Andrei Braguta case; the case of Nicoleta Bulat; the topics targeting children who lead a street way of life in Chisinau and the exploitation of children in rural areas; the signals on the application of physical force to convicts in Penitentiary no. 13, including on minors.

In 2017, the People's advocates held six press conferences and held an informal meeting with journalists at the end of the year.



On 20 April, People’s Advocate for the Rights of the Child has organized a press conference on the topic „Problems addressed to the Advocate for the Protection of the Rights of Child in the first year of activity. Findings on the situation and short-term objectives”.

On the occasion of the International Torture Victims Support Day, ombudsmen and officials of the Office of the People's Advocate **held a press conference on the situation in the Republic of Moldova on the eradication of torture, ill-treatment, inhuman and degrading treatment chapter.**

On 10 August, People’s Advocate for the Rights of the Child, Maia Banarescu, convened a **press conference on the topic „Involving children in work - normality or labor exploitation?”.** Also People’s Advocate for the Rights of the Child held another press conference entitled **„The**

right of the child to be protected against abuse and violence” in the context of the International Day Against Violence.

On 5 December, **the People's Advocate, Mihail Cotorobai, and the officials of the institution Alexandru Zubco and Ada Simon, presented at a press conference the conclusions of the Special Report on Andrei Braguta.**

On December 8, on the occasion of the International Human Rights Day, the People's Advocate estimated at a press conference the human rights situation in the Republic of Moldova and referred to the significance of the 2017 edition of the International Human Rights Day.

On December 14, the People's Advocate, Mihail Cotorobai, and the People's Advocate for the Rights of the Child, Maia Banarescu, **met in an informal setting with a group of journalists** to discuss the relationship between the Ombudsman Institution and the media and how this can be improved in order to increase the visibility of the institution in the efforts to promote human rights and educate the human rights culture in society.

Several teams of journalists were awarded at the event, which in 2017 mirrored human rights issues and worked effectively with the Ombudsman Institution: **The People's Advocate handed out a diploma for Moldova Radio Europa Libera, People's Advocate for the Rights of the Child gave diplomas to journalists from TVR Moldova, Sputnik Moldova and Radio Moldova.**

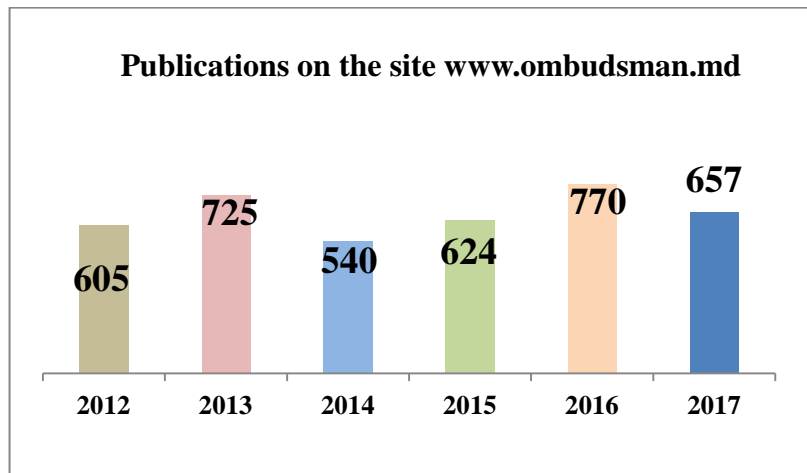
In the context of the Media Forum, 2017 edition, **14-15 November. The People's Advocate has made public a message of solidarity with the media** in which he stressed that he supports it in its demarches to the authorities to create a favorable environment for the development of a free and independent press in the Republic of Moldova. The Ombudsman called upon the authorities to carry out, in the spirit of European standards, the media provisions included in the Government's Program of Activity for 2016-2018, to examine responsibly and implicitly the media issues set out in the Road Map of the 2017 edition of the Moldovan Mass Media Forum²¹⁸.

Office of the People's Advocate Website

The site www.ombudsman.md continued in 2017 to be further an effective tool for the promotion of human rights and information on the work of People's Advocates: monitoring,

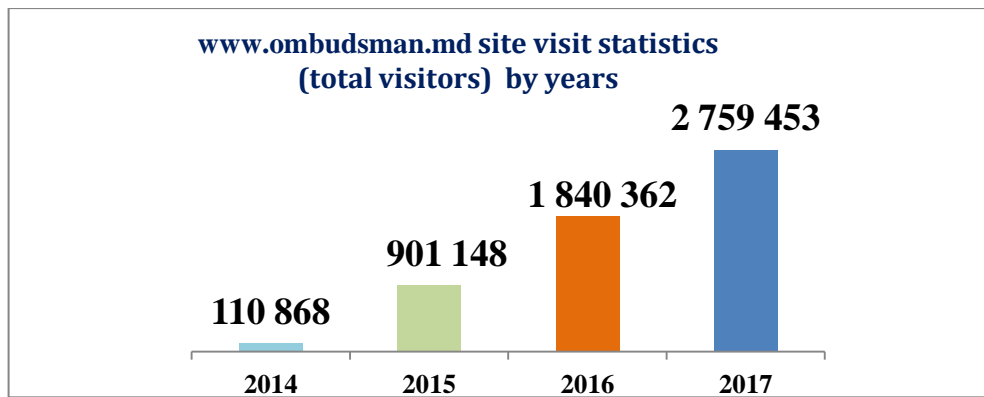
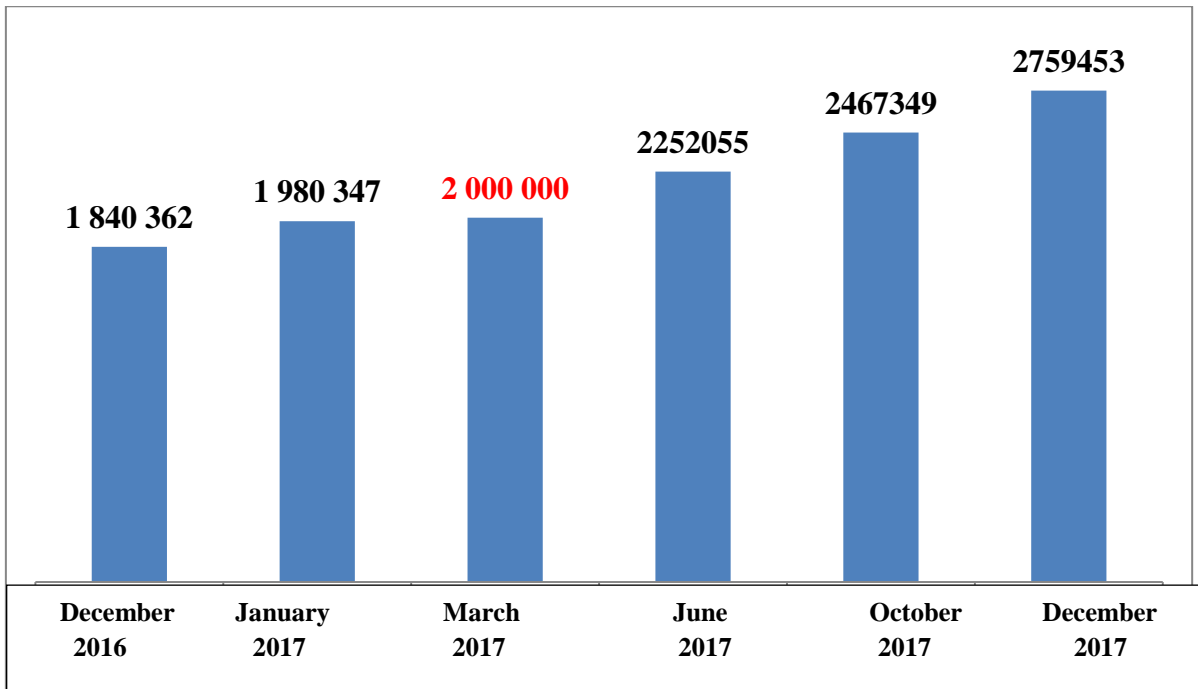
²¹⁸ <http://ombudsman.md/ro/content/mesajul-avocatului-poporului-mihail-cotorobai-contextul-forumului-mass-media-editia-2017-din>

investigating, reporting, promoting human rights, organized by the Office of the People's Advocate, cooperation with external partners. The number of publications has remained on average at the level of previous years – **657 publications on the site in 2017.**



The annual dynamic of unique visitors to the institution's web site and the Office of the People's Advocate **Facebook** account is a positive one. **The number of unique visitors increased from 52 623 in 2016 to 80 365 in 2017.**

Dynamics of the number of views on the site www.ombudsman.md it is also positive: from December 2016 to December 2017, the number of views increased by approximately 920 000, an average of 80 000 views per month, reaching the 2 million mark in March 2017. *The number of visitors to the site increased by almost one million compared to 2016.* From 1 840 362 to 2 759 453 at the end of December 2017.



The annual visitor dynamics of the Office of the People's Advocate Office **account on Facebook is also positive**: in 2015 there were 910 people who tracked the account in 2016 - 1557, and in 2017 - 1792, the average impact of posts was 3600 views.

Training activity

The human rights training activity in 2017 was aimed at strengthening the concept approved in the previous year - training in human rights field is becoming a priority for the Office of the People's Advocate, training activities involve serious training of trainers, activities are geared towards meeting the identified needs of target groups of trained people.

In this regard, the Office of the People's Advocate filed a grant application in 2017 as part of the **„Program for Funding Initiative / Projects for Human Rights Change” a request for funding to strengthen the capacity of the People's Advocate to promote human rights through training. The program is part of the UNDP Project „Strengthening the Technical Capacities of National Institutions for the Promotion and Protection of Human Rights” funded by the Ministry of Foreign Affairs of Denmark.**

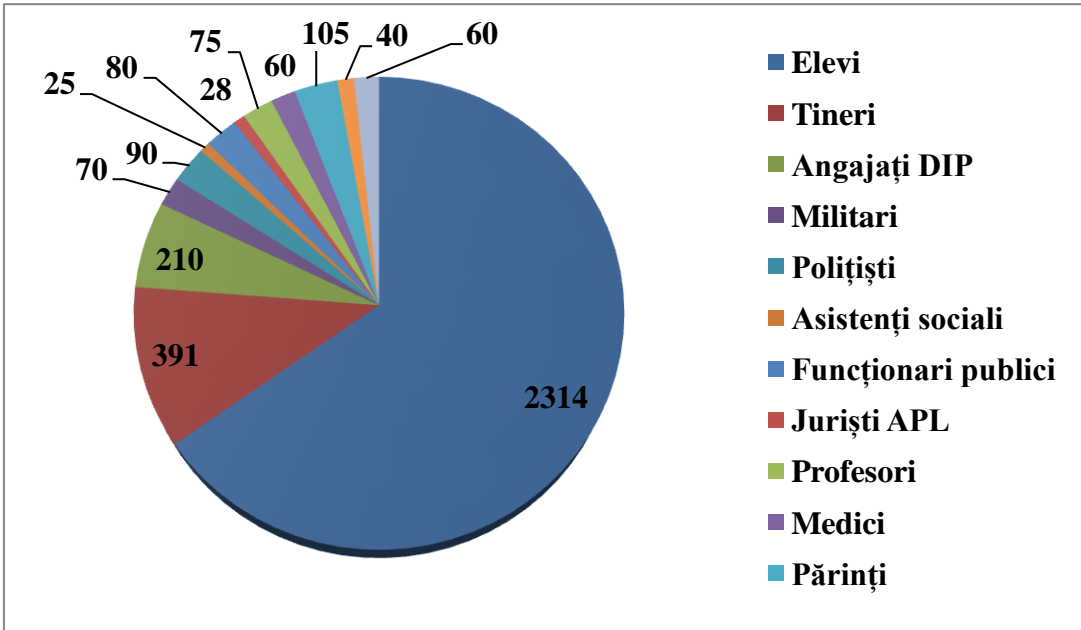
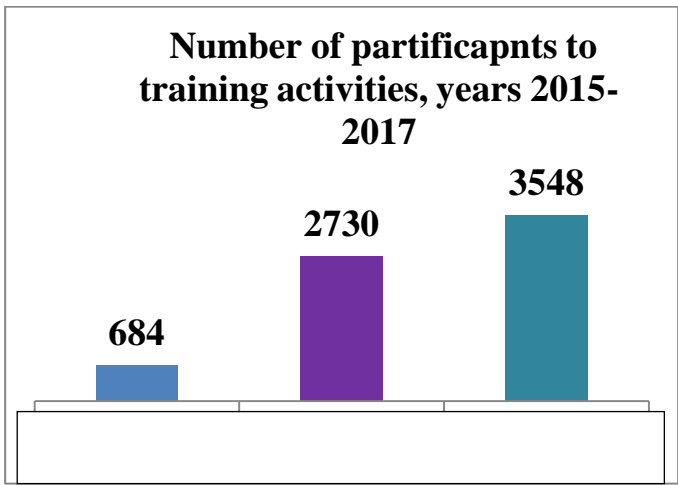
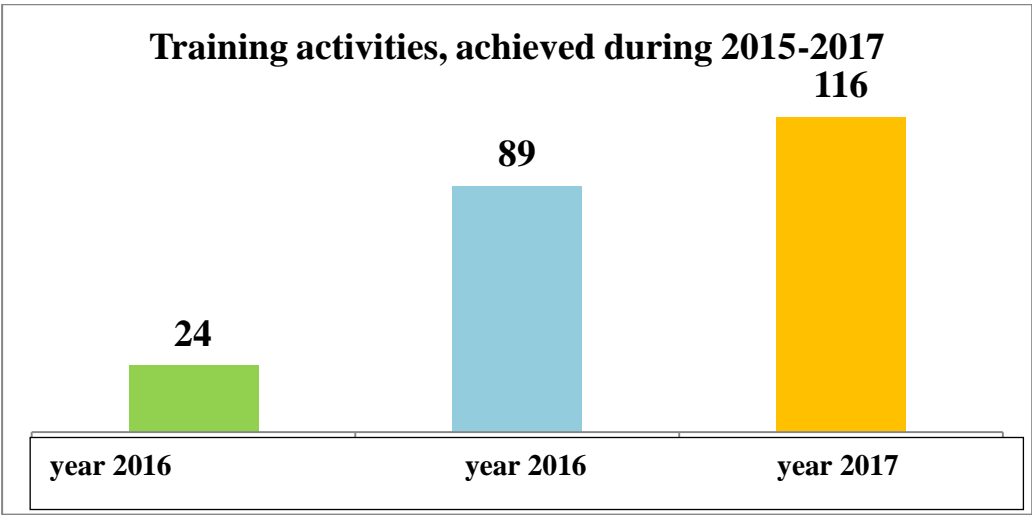
The initiative of the Office of the People's Advocate's was launched to strengthen the capabilities of the institution's employees in the field of human rights promotion by developing the methodology for designing training programs. Applying this methodology will enhance the skills of the institution's employees to provide training for both vulnerable groups and employees of public institutions.

Thus, the officials of the Office of the People's Advocate will be able to design more qualitative, complex and effective training programs that will contribute to the systemic integration of the Human Rights Approach, which will have a positive impact on respect for human rights in the Republic of Moldova.

In order to achieve these objectives, an expert was contracted to work together with the Office of the People's Advocate to develop the training program design methodology.

At the same time, for the successful implementation of the training programs that will be designed based on the methodology, it is necessary to strengthen the skills of the Office of the People's Advocate as trainers. To this end, employees of the Office of the People's Advocate will be trained. At the time of writing, the methodology was developed and discussed within the institution. The next steps of the project are to be implemented in 2018.

At the same time, the employees of the Office of the People's Advocate continued to organize the training activities, as planned in the previous year. **In total, in 2017 the staff of the Office of the People's Advocate held 116 training sessions. The total number of trained persons was - 3548 persons.**



Categories of trained people, number of people

The themes of the training activities

Several themes that have become traditional for the training activities of the Office of the People's Advocate have been dealt with: the duties and obligations of the People's Advocates as a mechanism for the defense and promotion of human rights, the work of the Office of the People's Advocate (6 activities), the People's Advocate's duties for the rights of the child (29 activities), children's rights (17 activities), combating torture and ill-treatment, ECHR jurisprudence (6 activities), prevention of violence (37 activities). At the same time, new topics were addressed in the training activities. For the first time, the training actions focused on combating corruption (2 activities), children's security on the Internet (26 activities), the human rights approach in the activity of public authorities (1 activity), the right to opinion and free expression (1 activity), patient rights (1 activity).

In 6 activities, the right to work was discussed, to other 6 activities - the national and international human rights defense mechanisms, at 3 activities were made discussions on combating discrimination, 5 training - about the right to privacy, opinion and freedom of expression, the rights of young people have been studied in 8 training activities.

The duties and obligations of the People's Advocates as a mechanism for the defense and promotion of human rights, the Office of the People's Advocate	6
The duties of People's Advocate for Children's Rights	29
Child rights	17
Combating torture and ill-treatment, ECHR jurisprudence	6
ABDO in LPA activity	1
Children and their security on Internet	26
Violence in school	17
Domestic violence	20
Human rights defense mechanisms	6
Respect for human rights in police work	4
Combating corruption	2
Combating discrimination	3
Labor law	6

Patient rights	1
Minority rights	1
Right to privacy, opinion and freedom of speech	5
Rights of young people	8

The satisfaction rate of the trained persons, monitored for a large part of the activities, was high (on average 78%), over 70% of the trained persons appreciated the level of the training and the trainer, mentioning that they have raised their level of knowledge in the proposed themes.

The estimates outlined above were based on the questionnaires that are proposed to be filled in to all those attending the training. Also, questionnaire analysis allows the Office of the People's Advocate to identify training needs as well. The questionnaire includes a heading where the participant can enroll the topics and subjects that interest him but have not been approached.

Thus, the analysis of target group responses has highlighted the fact that professionals are interested in issues related to the defense of their rights in the exercise of their profession, labor law issues, human rights protection mechanisms, the work of the Ombudsman and his role in society, social security and others.

Non-discrimination and anti-discrimination mechanisms are subjects of interest to the representatives of national minorities; the right to privacy, the right of young people to decent living are topics indicated by young people to be interesting to them.

External Co-operation of the Office of the People's Advocate

During the reference period, the People's Advocates have actively engaged themselves in the work of international organizations in the field to which the Office of the People's Advocate is a party (European Network of National Institutions for the Protection of Human Rights - ENNHRI, Global Alliance of National Institutions for the Protection of Human Rights - GANHRI, International Organization of Ombudsmen - IOI, European Organization of Ombudsmen - EOI, Francophone Ombudsmen and Mediators Association- AOMF, European Network of the Children's Rights Ombudsmen - ENOC), but has also developed its relations with its partners from other states, particularly Romania and Georgia.

International events where Ombudsmen and staff of the Office of the People's Advocate participated in 2017:

1. **06 February 2017** - the meeting of the Working Group of the UN Committee on the Rights of the Child (presession 76) on the implementation by the Republic of Moldova of the provisions of the UN Convention on the Rights of the Child.
2. **19-21 September** - Annual Conference of the European Network of Ombudsmen for Children's Rights (ENOC) held in Helsinki, Finland. The conference debated the topic „Sexual Relations and Education: Implementing the Right of Children to Be Informed”.
3. **2-3 November** - The International Conference, organized by the Armenian Ombudsman on „The Right to a Child to Live in a Family”, held in Yerevan.
4. **27 November** - International Seminar „Institutions for the Protection of Children's Rights: Best Practices in the World”, held in Minsk, Belarus in the organization of the Ombudsman in this country.
5. **4 December** - The Moldova Open Day event organized by the Council of Europe in Strasbourg.
6. **On 5 and 6 December**, participation at the Third Annual Regional Conference of the Center for Child Protection for South Eastern Europe. The event took place in Tirana, Albania
7. The 4th International Symposium of Ombudsman Institutions, on Migration and Refugees, which took place on **2-3 March 2017** in Ankara, in the organization of the Turkish Ombudsman's Office.
8. Participation in the General Assembly of the Global Alliance of National Institutions for the Protection of Human Rights (GANHRI) and the Annual Conference with the topic „Early Warning, Conflict Prevention and Restoration of Peaceful Societies: the Role of National Institutions for the Protection of Human Rights” **March 2017**, in Geneva.
9. Participation in the workshop organized by the Ombudsman of the region of Catalonia in Spain on the challenges of human rights. The event took place in Barcelona from **3 to 4 April 2017**.
10. Participation on **19 April 2017** at the International Conference organized by the Georgia Ombudsman on the occasion of the 20th anniversary of the establishment of the Ombudsman's Office (Public Defender's Office) in the country. The theme of the conference was: „Evolution and Challenges of National Institutions for Human Rights with Multiple Mandates”.
11. Participation in **4-5 May** at the seminar organized by the Association of Ombudsmen and Francophone Mediators in cooperation with the Mediator Institution of the Kingdom of Morocco. The workshop was held in Rabat, Morocco and aimed at consulting the

- Ombudsman's views on the creation of a deontological guide to the Ombudsman and INDO staff that would strengthen citizens' trust in the national human rights institution.
12. Participation in **16-17 May** 2017, at the first forum of the National Mechanisms for Prevention of Torture held in Astana with the title „Prevention of Torture: Kazakhstan and International Practice”.
 13. Participation on **23-24 May** in Strasbourg, France at the annual seminar organized by the European Commission for the Elimination of Racism and Intolerance of the Council of Europe.
 14. Making a study visit to the Spanish Ombudsman's Office, located in Madrid, on **5-8 June**. During the visit, the employees of the Office of the People`s Advocate learned about the activity of the Spanish Ombudsman Institution. The visit was organized within the PCE CoE / EU PCF project „*Supporting national efforts to prevent and combat discrimination in the Republic of Moldova*”.
 15. Participation in the International Forum „The Role of the Ombudsman in Improving Human Rights Law: Expectations and Perspectives”, held on **6-8 September** 2017 in the Kyrgyz Republic, in the organization of the Ombudsman in the country.
 16. Participation on **21-22 September** 2017 at the General Meeting of the European Institute of the Ombudsman, as well as at the „Two Decades After the Establishment of the People's Advocate Institution” event, which took place in Bucharest.
 17. Taking a study visit from **18 - 20 October**, of the People's Advocate, the members of the Torture Prevention Council, officials from the Torture Prevention Section, and other employees of the Office of the People's Advocate at the People's Defender's Office in Georgia. The visitation was carried out with the support of the Council of Europe within the framework of the project „Support for Criminal Justice Reforms in the Republic of Moldova” financed by the Government of Denmark. The purpose of the visit was to study the experience of Georgia's MNPT.
 18. Participation in the **Ombudsman International Conference held on 25-26 September in Istanbul**. The conference discussed the importance of a better understanding of the role of ombudsmen in ensuring the protection of human rights and promoting good governance, strengthening cooperation to this end by establishing dialogue between Eastern and Western Ombudsmen.
 19. Participation in the works of the International Conference with the theme „20 years since the signing of the Convention on Human Rights and Biomedicine. The event took place in Strasbourg on **24-25 October** 2017, in the organization of the Council of Europe, and

aimed at discussing the challenges that arise in the realization of human rights in the context of scientific and technological progress in the field of biomedical science.

20. On **29-30 November**, participation in the ENNHRI General Assembly and in the seminar organized by the European Network of National Institutions for the Protection of Human Rights (ENNHRI) on the joint commitment of national human rights institutions and the European Union for protection and promotion of Human Rights, which took place in Brussels.
21. Participation in Tashkent on **11 December** 2017 at the International Conference on Human Rights through the Constitution and Action Strategy for the Five Priority Areas of the Republic of Uzbekistan organized by Majlis Oliy of the Republic of Uzbekistan in collaboration with the OSCE Mission in the country.
22. From **20 to 25 November** 2017, the employees of the Office of the People's Advocate made a study visit to several human rights institutions in Romania. The program covered discussions and visits to the People's Advocate Institution's central office and its Iasi and Bacau territorial offices. Also, the delegation of the Office of the People's Advocate visited the National Council for Combating Discrimination, an autonomous state authority under parliamentary control, working in the field of discrimination. The program also included visits to the Socola Mental Health Institution, the „Bucium” Community Services Complex for children at risk, The Juvenile Educational Center for Targu Ocna, the School of Penitentiary Agents from Targu Ocna, the Penitentiary in Tirgsor Nou (Ploiesti).

CHAPTER V

ACTIVITY OF THE OFFICE OF THE PEOPLE'S ADVOCATE

MANAGEMENT OF APPLICATIONS

According to the Principles of the Statute of the National Institutions for the Promotion and Protection of Human Rights (Paris Principles) adopted by United Nations General Assembly Resolution 48/134 of 20 December 1993 „A national institution may be authorized to hear and consider complaints and petitions concerning individual situations. Cases can be brought before it by individuals, their representatives, third parties, non-governmental organizations, associations of trade union or any other representative organizations”.

This principle is also reflected in the Law on People's Advocate (Ombudsman) no.52 of 03.04.2014. Pursuant to Article 16 letter a) of the Law No. 52, one of the duties of the People's Advocate is to examine applications for breaches of human rights and freedoms.

The People's Advocate examines the applications of individuals, regardless of their nationality, age, gender, political affiliation or religious beliefs, who live permanently, are temporarily in the territory of the country, whose rights and freedoms are presumed to have been violated by the Republic Moldova. The People's Advocate does not substitute its powers for public authorities, law enforcement bodies and courts and examines requests for decisions, actions or inactions of public authorities, organizations and businesses, irrespective of the type of ownership and legal form of organization of non-commercial organizations and persons with functions of all levels that, in the petitioner's view, violated his rights and freedoms.

In order to notify the People's Advocate, the person must comply with several conditions: the application is filed until one year has elapsed from the day of the suspected violation of the petitioner's rights or freedoms, or the day he learned of the alleged violation; the name, surname and domicile of the petitioner, the brief description of the circumstances of the case, the name of the authority or the name of the person in charge of the actions and / or inactions of the violation of rights or freedoms, if that person is known; if the facts relied on in the application were the subject of examination by other authorities, copies of the replies of the authorities concerned.

Under Law no. 52, the People's Advocate cannot receive the application, which is in court proceedings for the substantive examination, with the exception of applications for actions and / or inactivity of the judge; the examination of which falls within the competence of other bodies (initiation of criminal prosecution, explanation of the court decision); on the adjudicated case, on which there is a sentence or a court order on the merits; which contains slanders and insults,

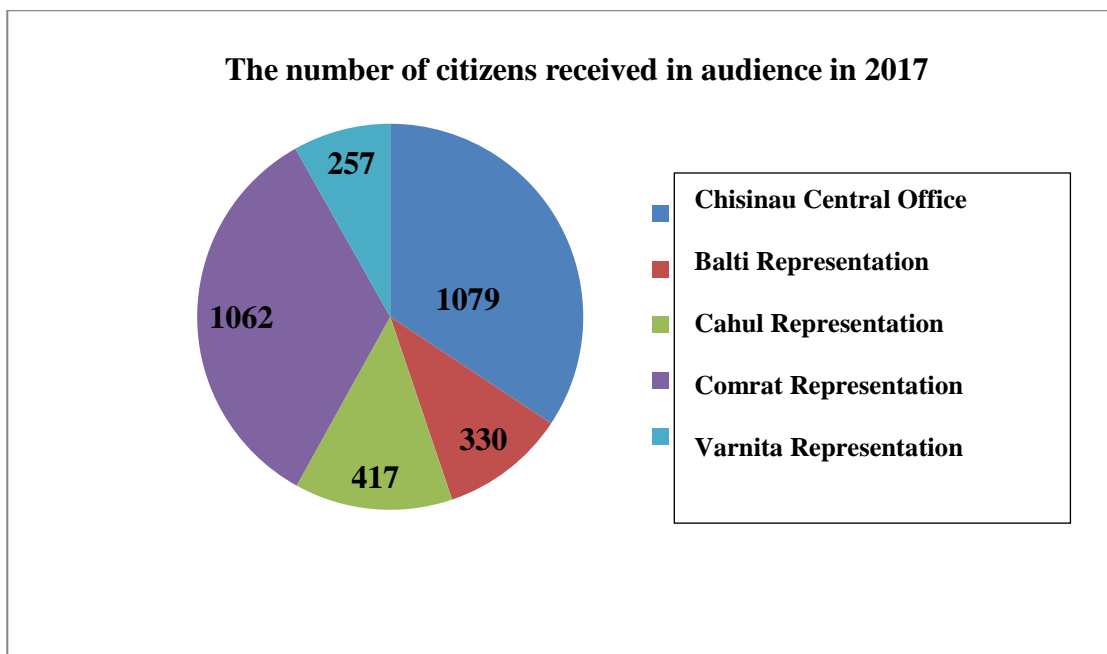
discredits the state authorities in general, local authorities, citizens' associations and their representatives, which incites to national, racial, religious and other hate for which liability is prescribed by law.

Thus, the People's Advocate is an out-of-court mechanism for ensuring respect for human rights and is an alternative to amicable settlement of conflicts between petitioners and public authorities, organizations and businesses, irrespective of the type of ownership and form of organization, by non-commercial and people with positions of responsibility of all levels.

Applications addressed to the People's Advocate are made personally or by post, fax, email or other means of communication. The application may also be filed by a representative of the person injured, by non-governmental organizations, trade unions and other representative organizations on its behalf. It is worth mentioning that the application from a person in detention, of a person in the criminal investigation isolators, from the military in the military units is not subject to censorship and is sent by the administration of the respective institution to the People's Advocate within 24 hours. Also, according to Article 36 paragraph 2 letter b) of the Law no. 1402 of 16.12.1997 the complaints and requests of the patients from the psychiatric stationaries are presented without censure to the People's Advocate or, as the case may be, to the People's Advocate for the Protection of the Rights of the Child. Applications to the People's Advocate are exempt from state tax.

The accessibility of the People's Advocates is ensured not only by facilitating the procedures for submitting applications personally, but also by fax, post, e-mail or other means of communication, persons who consider that they have been harmed by rights are addressed daily to the Office of the People's Advocate to receive the necessary information support to decide how to solve the problem. If the question raised concerns the competence of our institution, the person is helped to submit a correct application to the People's Advocate or the People's Advocate for the Rights of the Child.

Thus, in 2017, the employees of the Offices of the People's Advocate received 3145 people in the audience. 1079 persons addressed to the central office, 417 people addressed to the Cahul office, 1062 addressed to the Comrat representation, 330 people addressed to the Balti representation, and 257 addressed to the Varnita representation. The analysis of the number of requests for information assistance shows that about 35% of the persons addressed to the central office and 33% have addressed to the Comrat representative, leaving the potential of some representations unaffected.

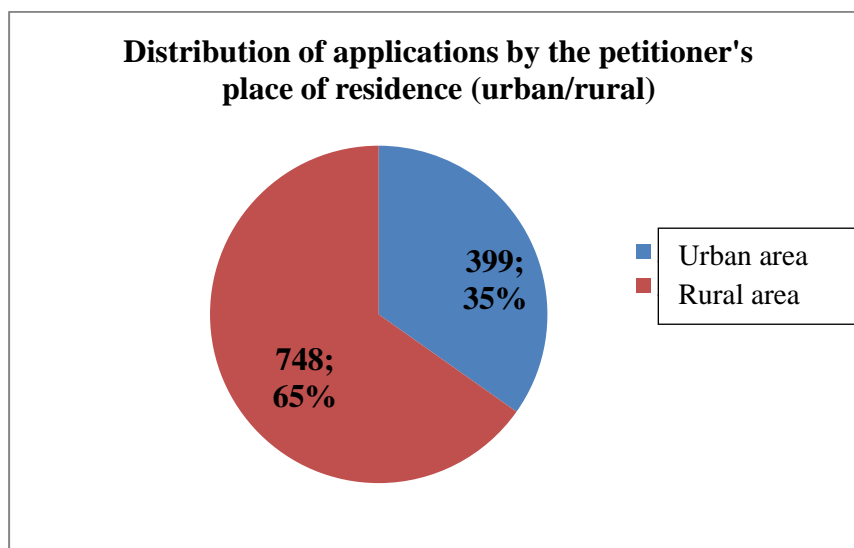


In the year 2017, 1147 applications were received by the Office of the People's Advocate, of which 1023 applications were lodged at the Central Office, 124 applications - at the institution representations (Balti Representation - 52 applications, Cahul Representation - 35 applications, Comrat Representation - 21 applications, Varnita Representation - 16 applications).

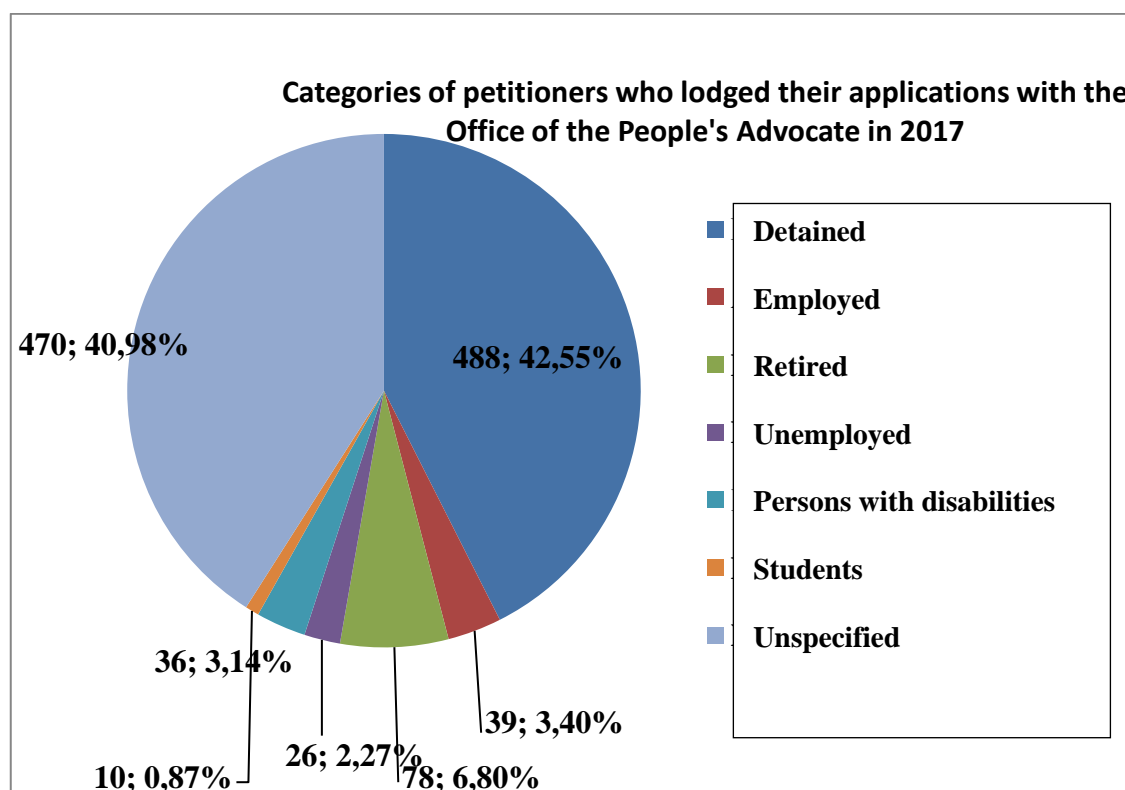
<i>Application lodged the Office of the People's Advocate in 2017</i>	
Chisinau Central Office	1023 applications
Balti Representation	52 applications
Cahul Representation	35 applications
Comrat Representation	21 applications
Varnita Representation	16 applications
Total	1147 applications

The low share of applications directly lodged to the territorial representations of the Office of the People's Advocate is due to the fact that the population in these regions prefer to make oral requests during the daily audience. During the audience, the person receives the necessary information to decide how to solve the problem. Often problems are solved during audience and the need to lodge an application to the People's Advocate is not more relevant.

The analysis of applications lodged in 2017, depending on the petitioners' domicile, shows that about 65% of the applications come from the urban area²¹⁹.



The most frequent applications lodged with the Office of the People's Advocate in 2017 were signed by detained persons, retired people, disabled persons, people not in employment, pupils.

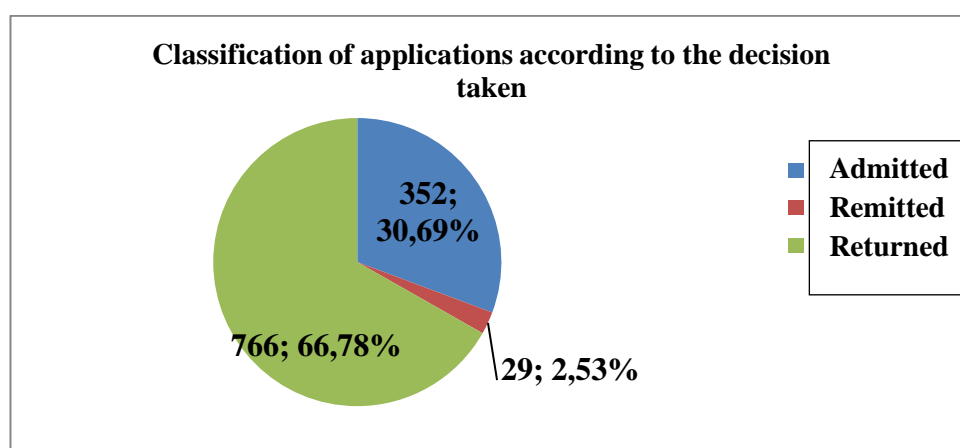


²¹⁹ The analysis of the applications, depending on the petitioners' domicile, was carried out on the basis of Law no. 764-XV of 27.12.2001 on the administrative-territorial organization of the Republic of Moldova;

According to the provisions of Article 21 of the Law on People's Advocate (Ombudsman) no. 52 of 03.04.2014, upon receipt of the application, the People's Advocate has the right to accept it for examination, to return it without consideration, explaining to the petitioner the procedure that he is entitled to use it to defend his rights and freedoms; to remit the request of the competent bodies to be examined in accordance with the legislation on petitions.

Out of the 1147 registered applications, 352 (30.64%) were accepted for examination, of which 89 were applications in the field of child rights. In all cases, procedural actions were taken under Article 25 of Law no. 52 of 03.04.2014. During the examination, acts of reaction were issued, the contest of the institutions and the persons responsible, the necessary information, documents and materials were requested, monitoring visits were carried out, proposals for amending the legislation were submitted, etc. According to Article 21 paragraph 1 letter c) of the total number of applications, 29 applications (2,52%), out of which 11 applications in the field of child rights were sent to the competent authorities for examination in accordance with the legislation on petitions.

Of the number of applications received, 766 (around 66.78%), of which 47 were applications in the field of child rights, were not accepted for examination because they did not meet the conditions for admissibility²²⁰. The large number of applications that did not meet the conditions of admissibility denotes that the People's Advocate's duties are insufficiently known by the population. Thus, in petitions restitution decisions, the petitioners are explained in detail on the procedures that they are entitled to use to defend their rights and freedoms, at the same time the citizens are informed about the work of the People's Advocate.



²²⁰ The application was filed after the expiration of one year from the day of the suspected violation of the petitioner's rights or freedoms, or the day the petitioner learned of the alleged violation; the petitioner's name, surname and domicile or surname, surname of the person injured in the rights was not mentioned in the application; the application was not signed; the application was in court proceedings for substantive examination, except for applications for actions and / or inactivity of the judge; examination of the applications was within the competence of other bodies (initiation of criminal prosecution, explanation of the court decision); the application was on an adjudicated case, on which there was a sentence or a court order on the merits;

As a result of the analysis of the applications received, it was found that most of the petitioners invoked the alleged violation of the ***right to life and to physical and mental integrity*** – 316 applications received. Issues addressed by petitioners: conditions of detention (179 applications); acts of torture (13 applications); the right to life (5 applications); the right to information (41 applications); actions of the administration of the place of detention (24 applications); conditional release or amnesty (23 applications); reviewing the criminal file (20 applications); transfer to another penitentiary (15 applications). Out of the number of applications lodged, 86 applications met the admissibility criteria and were accepted for investigation.

Another frequently violated right is ***free access to justice***, which constitutes the subject of addressing in 171 applications. The addressed issues are: the public character of judicial debates (3 applications); the presumption of innocence (28 applications); non-retroactivity of the law (4 applications); the contradictory principle (5 applications); the right to an effective appeal (57 applications); delays in examining cases (17 applications); the right to compensation for the damage (3 applications); the binding nature of court judgements (3 applications); failure to comply with court rulings (8 applications); disagreement with the court judgement / sentence (64 applications); are considered innocent and disagree with the final sentence (28 applications) complain about police action or sector inspector (12 applications); complain about the prosecutor's actions (5 applications); calls for the interpretation or revision of the legislation (9 applications); manifests disagreement with the actions of the bailiff (7 applications); require compensation for damage (5 applications). Of these, 12 applications met the admissibility and content conditions and were accepted for investigation.

Violation of the right to assistance and social protection was invoked in 96 applications. The issues addressed were: recalculating the pension (36 applications); requesting financial or material assistance (33 applications); the impossibility of paying communal services (6 applications); request input in employment (4 applications). Of these, 26 applications were accepted for examination.

Right to information was invoked in 88 applications. Problems addressed being receiving information (69 applications); distribution of information (16 applications). Of the total number, 11 requests were accepted for investigation in the specialized directorates of the Office of the People's Advocate.

Another right allegedly violated is the ***right to health protection*** - 62 applications received, the issues addressed are: minimum medical insurance (12 applications); the right to information (2 applications); the right to adequate treatment (38 applications). Out of the total number of requests, 29 requests met the admissibility conditions and were accepted for investigation.

Classification of applications under the allegedly infringed right, compared to 2015 and 2016			
Themes of Addresses	2015	2016	2017
Free access to justice	259	296	171
Right to life and to physical and mental integrity	195	230	316
Individual freedom and personal safety	7	5	3
Right to defense	35	35	63
The right to free movement	8	2	4
Intimate, family and private life	68	78	92
Right to information	75	116	88
Right to education	4	20	32
Right to health	33	40	62
The right to a clean environment	4	6	4
Right to vote and right to be elected	-	-	-
Right to administration	6	6	22
Right to work and labor safety	48	74	33
Right to private property and its protection	80	49	61
Right to social assistance and protection	91	133	96
Right to petition	19	8	9
Right to citizenship	2	2	19
Others	9	8	72

Note: „Other” includes applications where no violation of a constitutional right is invoked and cannot be included in the automated bookkeeping system addressed to the Office of the People's Advocate, such as consumer rights, requesting legal consultations, and so on.

In the process of investigating applications accepted for examination, in accordance with the Law no. 52, certain procedural actions were taken and certain types of acts were developed as follows:

Dynamics of procedural actions / acts of reaction, compared to 2015, 2016			
PROCESSUAL ACTIONS	2015	2016	2017
Report with recommendations on the measures to be taken for immediate restoration of rights of the petitioner (Article 24 of the Law no. 52/2014)	62	65	135
Demarche (for initiating a criminal / disciplinary proceeding in respect of the person in charge of committing the offenses that caused the considerable damage to human rights and freedoms (Article 25 paragraph (1) letter b) of the Law no. 52/2014)	4	9	14
Referral to the case of violation of service ethics, delay and bureaucracy (Article 25 paragraph (1) letter d) of the Law no. 52/2014)	11	19	7
Actions in court / intervention in the process to submit conclusions (Article 25 paragraph (2) and (3) of the Law no. 52/2014)	2/2	9/7	13
Conciliation agreement (Article 23 paragraph (3) of the law no. 52/2014)	1	2	2
Proposals to improve the operation of the administrative apparatus (point 7, paragraph 6) of the Law no. 164/2015)	2	1	6
Request for judicial expertise (article 11 letter m) of the Law no. 52/2014)	1	1	-
Proposals and recommendations for improvement of legislation (Article 27 letter a) of the Law no. 52/2014)	8	15	14
Referral of the Constitutional Court in order to control the constitutionality of the normative acts (Article 26 of the Law no. 52/2014)	2	3	3

Opinions on draft normative acts (Article 27 letter (b) of the Law no. 52/2014)	60	80	59
Special / Thematic / Alternative Reports	1	0/4/2	1/3/4

Procedural actions and reactionary acts of the People's Advocate in 2017 are as follows:

Dynamics of procedural actions / reaction acts				
PROCESSIONAL ACTIONS	Total	Child rights	Preventing torture	Other areas
Report with recommendations on the measures to be taken for immediate restoration of rights of the petitioner (Article 24 of the Law no. 52/2014)	135	28	70 ²²¹	37
Demarche (for initiating a criminal / disciplinary proceeding in respect of the person in charge of committing the offenses that caused the considerable damage to human rights and freedoms (Article 25 paragraph (1) letter b) of the Law no. 52/2014)	14	4	5	5
Referral to the case of violation of service ethics, delay and bureaucracy (Article 25 paragraph (1) letter d) of the Law no. 52/2014)	7	4	1	2
Actions in court / intervention in the process to submit conclusions (Article 25 paragraph (2) and (3) of the Law no. 52/2014)	13	8	-	5
Conciliation agreement (Article 23 paragraph (3) of the law no. 52/2014)	2	1	-	1
Proposals to improve the operation of the administrative apparatus (point 7, paragraph 6) of the Law no. 164/2015)	6	1	-	5
Request for judicial expertise (article 11 letter m) of the Law no. 52/2014)	-	-	-	-
Proposals and recommendations for improvement of legislation (Article 27 letter a) of the Law no. 52/2014)	14	4	-	10
Referral of the Constitutional Court in order to control the constitutionality of the normative acts (Article 26 of the Law no. 52/2014)	3	2	-	1
Opinions on draft normative acts (Article 27 letter (b) of the Law no. 52/2014)	59	1	-	58
Special / Thematic / Alternative Reports	1/6/4	-/5/1	1/-/-	-/1/3

According to the provisions of Article 38 of the Law no. 52 / 2014, in other municipalities and cities, representations of the Office may be created as territorial subdivisions depending on the place, number of population, specific activities, degree of autonomy and other

²²¹ În unele cazuri același aviz a fost înaintat mai multor autorități;

factors. Thus, in the organizational structure of the Office of the People's Advocate there are already 4 territorial representations with the status of structural subdivisions: Balti representation, Cahul representation, Comrat representation and Varnita representation.

The mission of the Representations is to contribute to the achievement of the duties of the People's Advocate in the territory.

Employees of the representations, being empowered by the People's Advocate, may receive and examine applications for violations of human rights and freedoms, verify compliance with the compliance of public authorities, organizations and enterprises, irrespective of the type of property and legal form of organization, by non-commercial organizations, by the persons in charge of any level of their attributions regarding the observance of human rights and freedoms.

Balti representation during the year 2017 received 52 applications. The most common issues addressed in the applications were: security and personal dignity; free access to justice; private property; intimate and private life; the right to work; the right to defense. 21 training and information activities were carried out in the field of human rights promotion. A round table with representatives of the 15 districts in the jurisdiction of the representation was organized and held. Representation employee attended the inauguration event of the X-ray cabinet at Penitentiary Institution no. 11 in Balti.

Cahul representation during the year 2017 received 35 applications. Of these, 31 applications met the admissibility conditions and were accepted for examination, being positively settled. The issues addressed in the applications were: the right to education; the right to work; security and personal dignity; the right to health protection; the right to private property. There have been held several human rights promotion activities: 20 training in educational institutions, collaboration relations have been established with 3 media sources: newspaper „Cahul Expres”, newspaper „Gazeta de Sud”, the news portal *ziuadeazi.md*. In the local press, Cahul representation has published 5 articles.

At the **Comrat representation** in 2017, were received 21 applications which fulfilled the conditions of admissibility and were accepted for examination and respectively positively settled. The issues addressed in the applications were: the right to social assistance and protection; the right to health protection; the right to citizenship. There have been held various human rights training activities on the promotion of human rights: 1 conference; 4 seminars; 21 trainings of the population in the field of human rights in educational institutions. 6 leaflets were also developed. The Comrat representation worked effectively with the media, registering in 2017 - 48 appearances on television; 42 - on the radio. At the same time, the employees

represented the Office of the People's Advocate in 22 roundtables; 13 working sessions and 2 seminars. Cooperation agreements have been signed with the People's Assembly of the ATU Gagauzia and the ATU Gagauzia Police Department.

Varnita representation during 2017 received and examined 16 applications. The most common issues addressed in the applications were: the right to petition; the right to work; life. In the process of examining applications, the employees of the representation identify ways of handling the applications so that his / her personal security and of the person who have been addressed no to be endangered. At the same time, it is taken into account not to prejudice the activity of the Joint Control Commission in the area with increased security regime of the Dniester conflict. Thus, the Ombudsman in the process of examining applications does not apply all the procedural tools offered by the Law on the People's Advocate (Ombudsman). 4 training activities were conducted on the promotion of human rights, and at 27 events the Office of the People's Advocate was represented.

HUMAN RESOURCES MANAGEMENT

Human resources management implies continuous improvement of the work of all employees in order to achieve the mission and organizational objectives. In the public field, human resource management is an essential condition for increasing performance in the organization.

To ensure a high performance, the People's Advocate Office needs highly qualified specialists and extensive knowledge of human rights. Personnel fluctuation over many years has a clear negative impact when employees lose their skills and experience and consequently reduce the performance of the institution. Payroll is a very small one, compared to other public authorities, complex tasks and high workload per person creates a considerable disadvantage to employees, which leads to their demotivation.

Many of the competitions organized by the People's Advocate Office are unfair because the participants in the civil service contest do not meet all the requirements for the proposed functions. It is difficult to motivate specialists with great experience and skill to apply to the positions put forward by the Office, because salaries are not attractive.

Limited funding does not allow us to provide a continuous learning process that covers all the needs. Activity specificities require extensive knowledge because human rights legislation and strategies are constantly evolving, approaches are numerous and diverse, and educational institutions currently offer a narrow specialization in this field.

An important factor in achieving the proposed objectives is the development of self-training plans and capabilities. The elaboration of the personalized professional development plan is done by studying the profile literature, familiarizing with colleagues / exchange of experience, participating in human rights discussions, consulting web pages from the Internet. The existence of the capability plan contributes to the identification of the training needs and to the correct and qualitative fulfillment of the duties and tasks.

For the year 2018, it is planned to approve the new staffing state, to review the organizational structure and modify the institution's scheme. The reorganization process provides for the establishment of new structural subdivisions. Of the total number of senior civil servants, currently appointed, only 30% have been trained in management. Modern management involves a large number of skills and orientations, with emphasis on rational problem solving and logical thinking. To be successful, a manager needs to perform several roles and functions. A manager needs a rich bag of knowledge in a variety of areas and skills to enable him / her to fulfill a range of functions, all of which will help him / her improve his / her

decisions and skills from a qualitative point of view. In order to ensure an efficient activity of the subdivision, it is planned to strengthen the knowledge of the heads of the subdivisions with the necessary training.

We will not be able to generate comparable results if employees are not trained in a permanent training process. We aim to become an organization that learns and achieves results.

Structure and strength of human potential

From a structural point of view, the Office of the People's Advocate is constituted by the People's Advocate and his deputies, the People's Advocate for the Rights of the Child, the Secretary General, the structural subdivisions with the status of directorates, sections, services and territorial representations. The Office's general direction is exercised by the People's Advocate. The organizational and administrative work of the Office is led by the Secretary-General. The staff of the Office is composed of civil servants, technical service staff and other staff.

According to Article 34 of the Law on the People's Advocate (Ombudsman) no. 52 of 03.04.2014, the Office of the People's Advocate provides organizational, legal, informational and technical assistance to the People's Advocate for the exercise of his / her duties.

On the territory, the activity is carried out through the 4 representative offices: The Balti Representation, the Cahul Representation, the Comrat Representation, the Varnita Representation.

At the end of 2017, 41 people were working in the Office of the People's Advocate.

Following the amendment of the legislative acts regulating the rules on the establishment of the structural subdivisions of the public authority, the need to update the personnel status was established. For the first semester of 2018, it is planned to approve the new staffing state, review the organizational structure and modify the institution's scheme.

At the time of drafting this report, the organizational structure includes:

Subdivisions reflecting the fields of specialization:

1. Directorate for Reforms, Policies and Reporting;
2. Directorate for Investigation and Monitoring;
 - Section for civil and political rights;
 - Section for social, economic and cultural rights;
3. Child Rights Directorate;

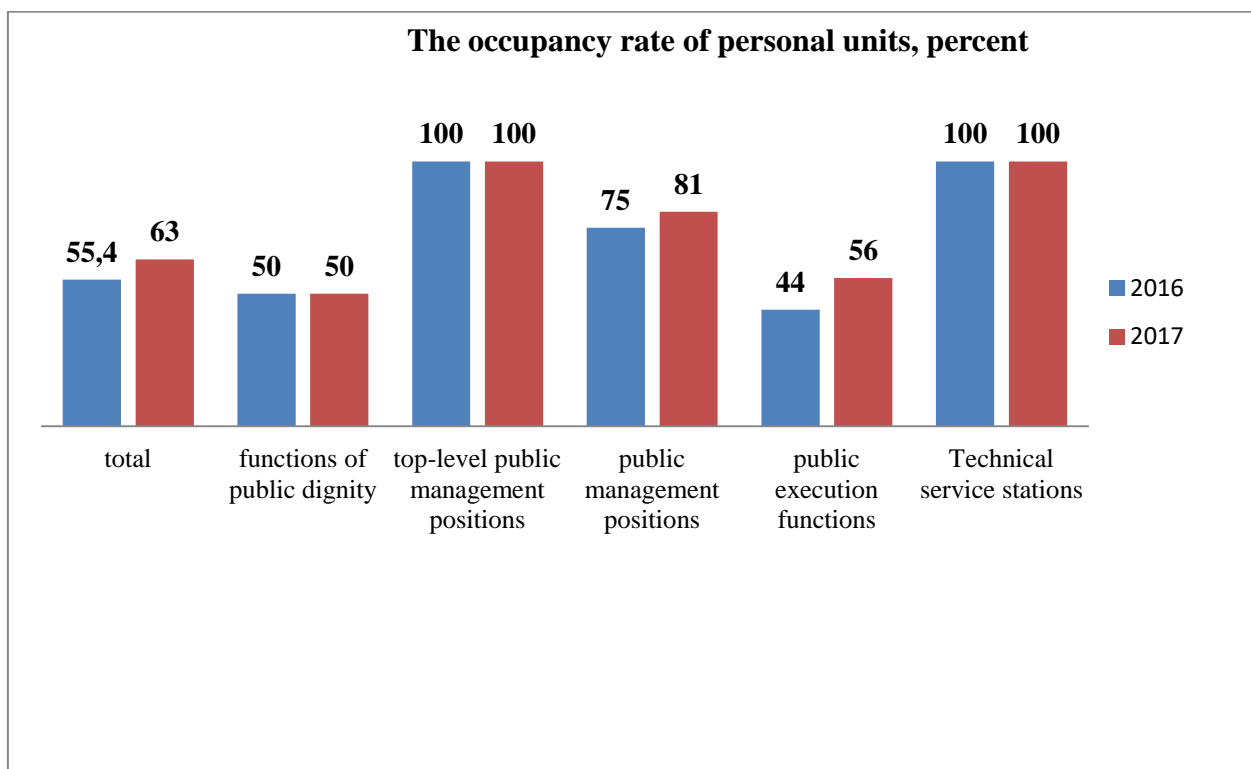
4. Directorate for Application Management;
5. Prevention of torture section;
6. Section for Human Rights Promotion, International Relations and Communication;

Subdivisions of support:

7. Legal Service;
8. Finance Service;
9. Internal Audit Service;
10. Human Resources Service;
11. Secretariat Service;
12. Logistics Service.

The degree of occupation of public offices and posts

The occupancy rate of the units of personnel was calculated as the ratio of the number of employees to the staff category limit.

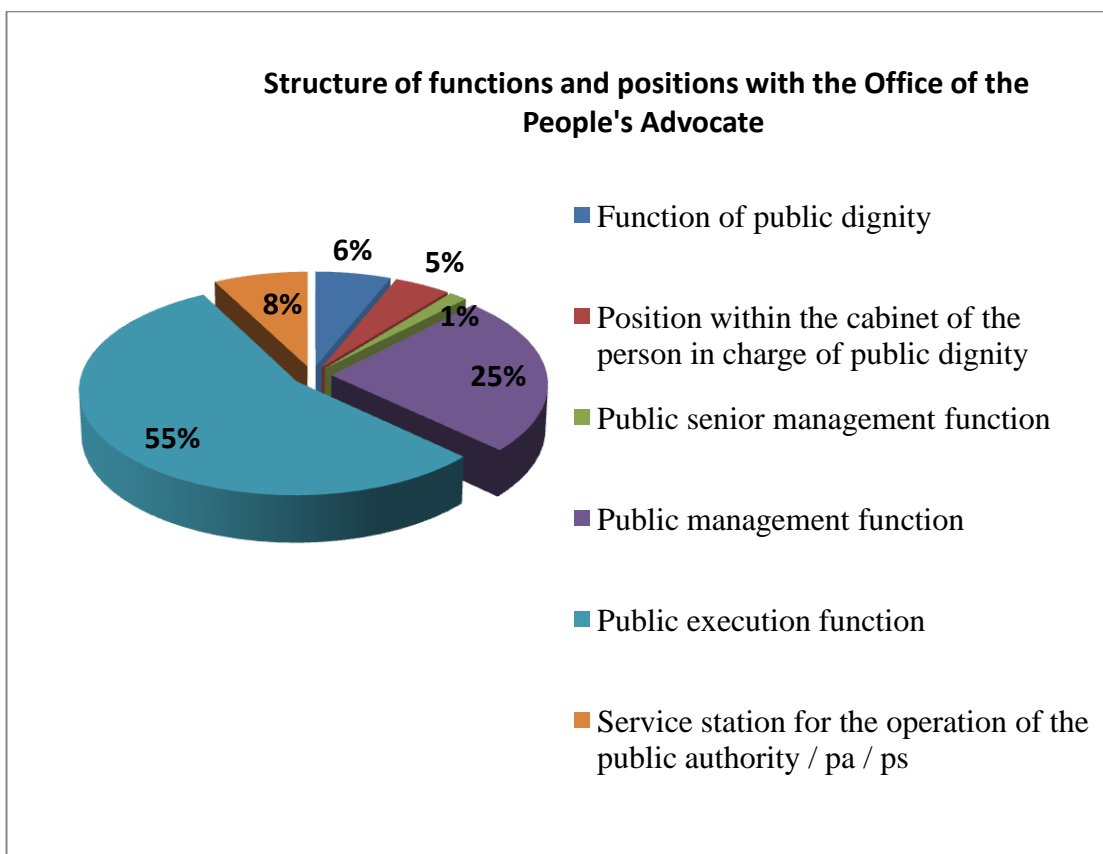


The survey of collected data denotes the fact that the largest share is recorded for the civil servants and the servants from the technical servicing stations that ensure the functioning of the public authority, being followed by the civil servants of execution.

In 2017, the public dignity functions and the public execution functions held the highest weight in the structure of the vacant positions - 50% and 46%.

Depending on the position occupied within the Office of the People's Advocate, the staff structure at 31.12.2017 was the following:

- Officials holding public dignity functions – 2 persons;
- Higher-level senior civil servants - 1 person;
- Management civil servants - 13 persons;
- Execution civil servants - 20 persons;
- Service staff to ensure the operation of the institution and auxiliary personnel - 5 persons.



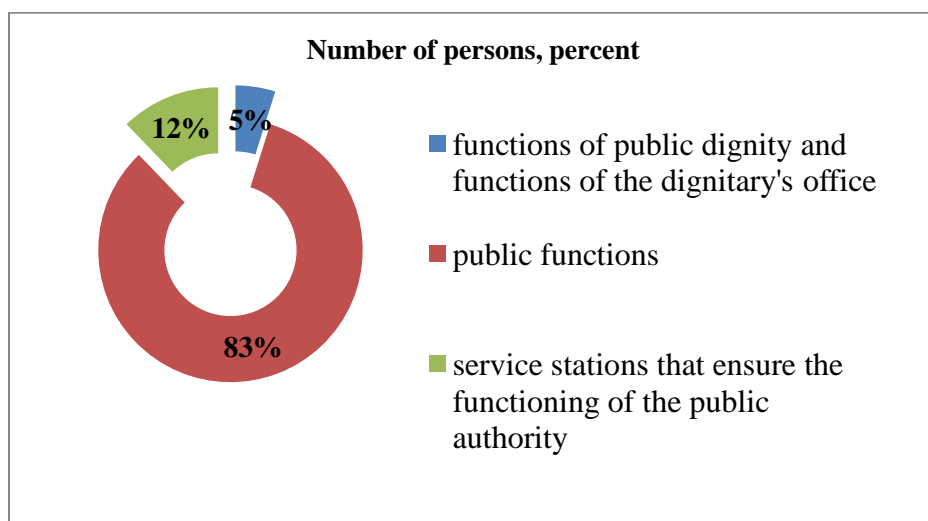
The dynamics of human resources in 2017 as compared to 2016 was marked by the increase of the number of employees by about 8%.

Dynamics of staff

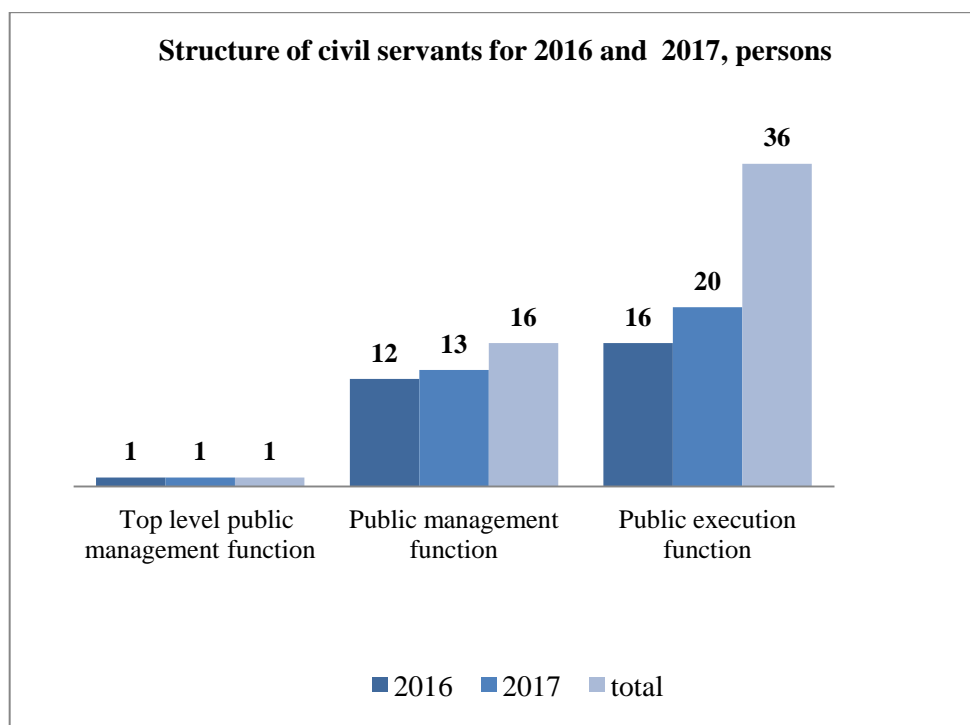
Indicators	Year 2016	Year 2017	Absolute Dynamics 2016/2017 (persons)	Relative Dynamics 2016/2017 (%)

Units approved under the state of personnel	65	65	-	-
The number of persons	36	41	+5	114

The analysis of the organizational structure of the Office of the People's Advocate in Moldova for 2017 denotes that the majority share in the staff structure is held by the public offices, followed by the technical servicing posts that ensure the functioning of the institution and the share of the public dignity functions and the functions of the dignitary's office.

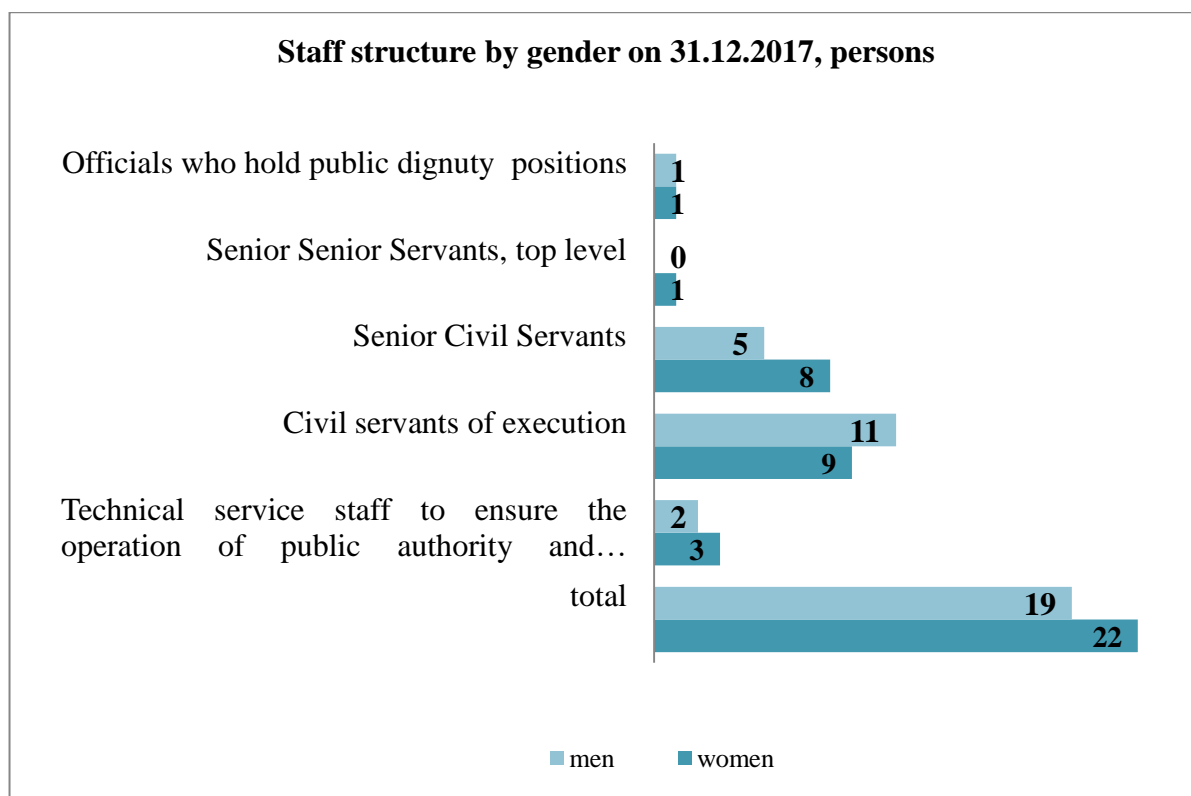


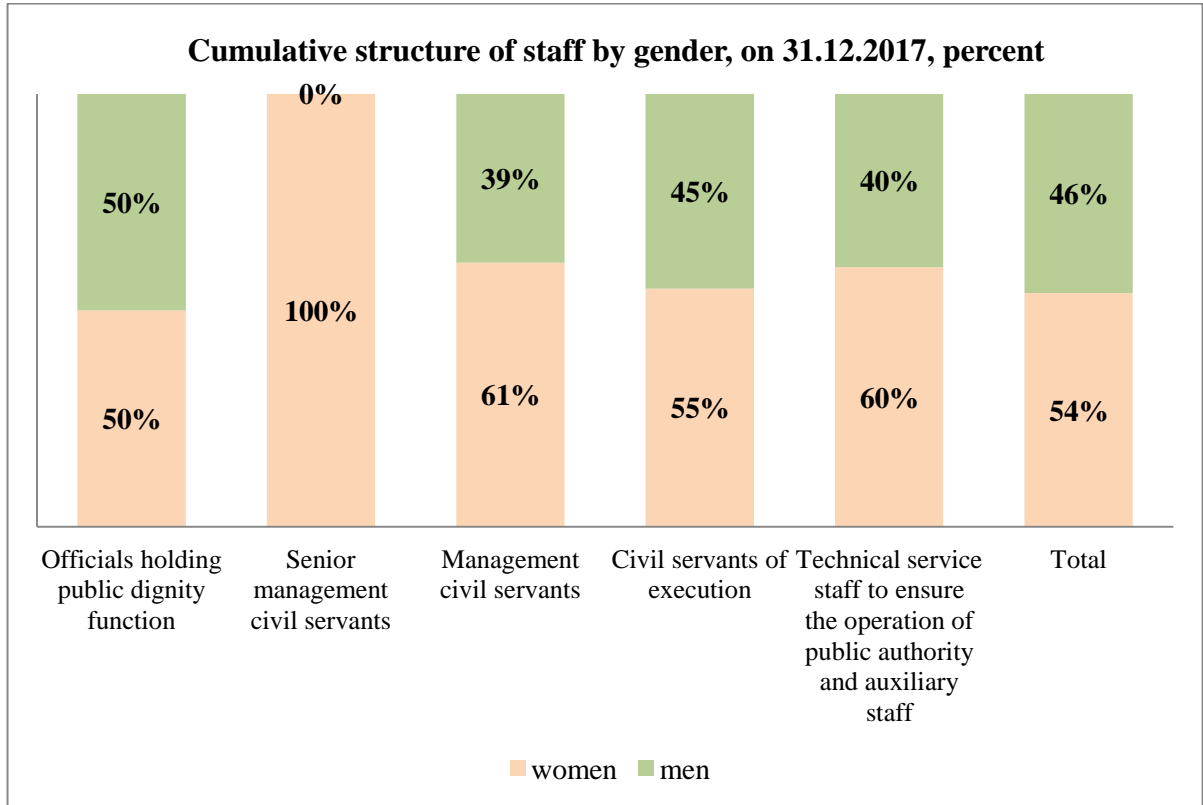
In the structure of the staff limit of the Office of the People's Advocate, civil servants account for 83% of the total number of employees. With regard to the degree of public function occupation in 2017, 20 out of 36 public execution positions were occupied at the end of the year, accounting for 55.5%, 13 out of 16 leading public positions (including senior level civil servants and public dignity functions), which represents 44.4%.



Gender analysis of civil servants and other categories of employees

An important place in the analysis of human resources is the analysis of the staff structure by age and sex. The number of employees by gender by category of staff in the Office of the People's Advocate is shown in the diagrams below.





Generalized data reveals that the share of men in the total number of employees is 38.9%, lower than that of women, which is 61.1%. At the same time, both the share of men and that of women occupying public positions of public dignity and execution functions is 50%.

Staff structure by age, people

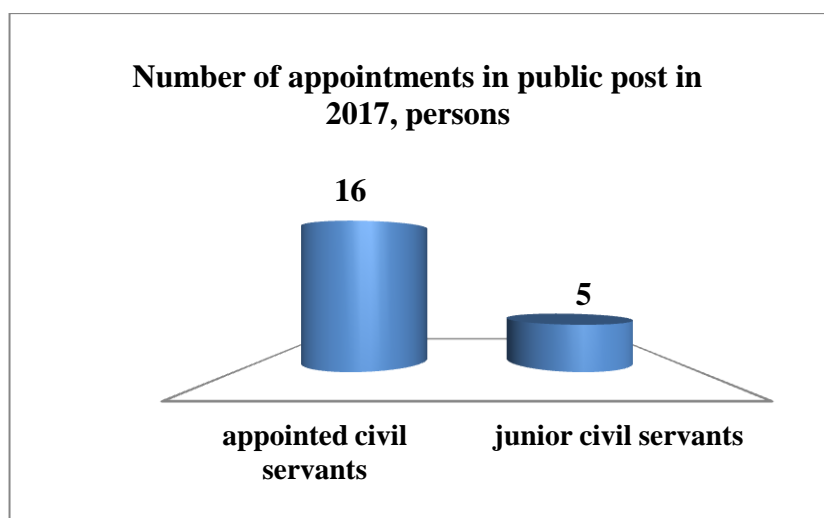
Number of officials per age category, persons						
Indicators	total	position of public dignity	senior management position	management position	Executive position	Technical service post
> 25 years	0	0	0	0	0	0
25-35 years	17	0	0	5	11	1
35-45 years	12	0	0	4	6	2
45-55 years	6	0	1	3	2	0
55-63 years	4	1	0	1	1	1
63 years <	2	1	0	0	0	1

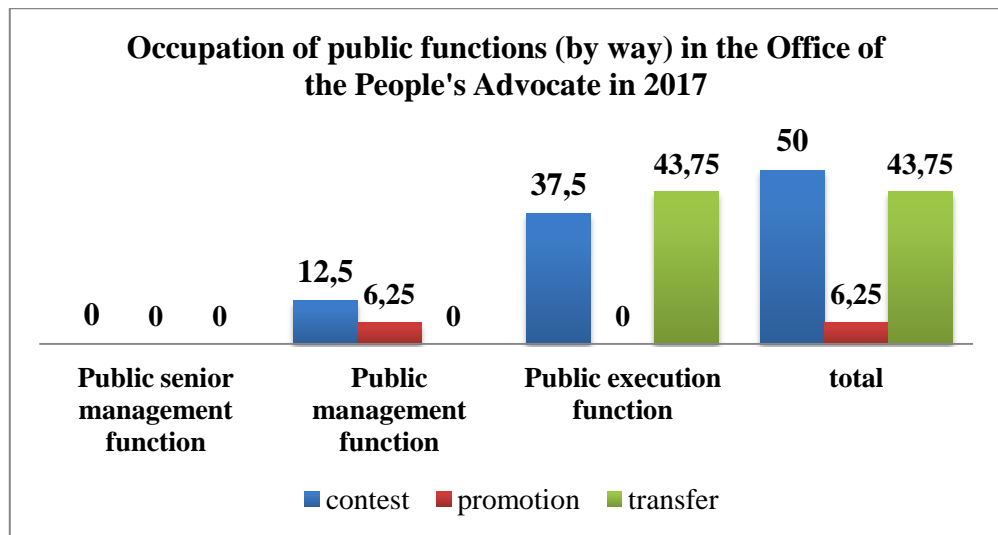
- > 25 years
- 25-35 years
- 35-45 years
- 45-55 years
- 55-63 years
- 63 years <

Occupation of public functions

Occupation of public positions (vacancies and temporary vacancies) is made on the basis of Law no. 158 of 04.07.2008 on the public function and the status of civil servant; occupying the position of public dignity - based on special laws; occupying other positions - based on the Labor Code. Occupation of public functions is done through the following ways: through competition based on the principles of open competition, transparency, competence and professional merits; by promoting a public position in a higher rank based on merit, including the evaluation of professional performance; by transfer between public authorities or subdivisions of the institution.

In the Office of the People's Advocate in 2017, appointments and assignments were made in 16 public positions and 2 technical service posts (2 leading public positions, 14 public execution positions and 2 technical service posts that ensure the functioning of the public authority). Of the total number of civil servants, 4 civil servants were appointed to public office for the first time. Upon expiration of the probation period, all debutants were confirmed in public positions held. The number of appointments in public positions classified under the terms of public employment is shown in the diagrams below.

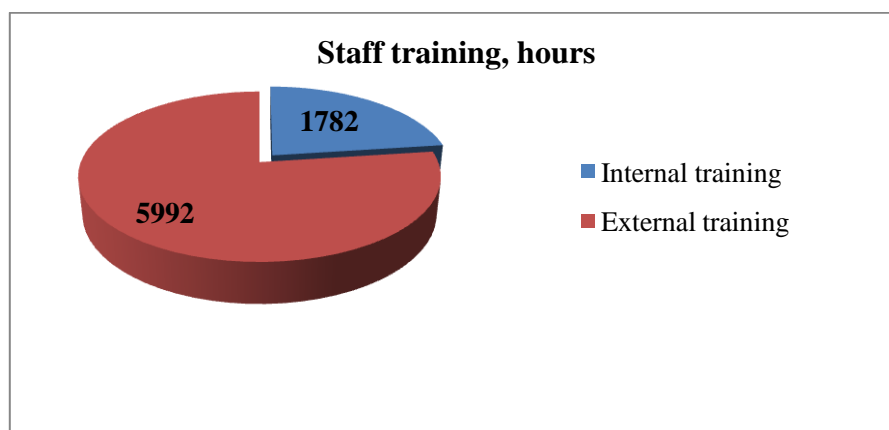




Professional development

In 2017 training was provided for 46 employees (civil servants - 44 persons), who benefited from 7774 training hours in total. The capacity of public servants in the institution has been developed both in the framework of internal and external training.

Training is a planned process that allows to provide information, knowledge, skills required to perform a performing activity by any employee in the job he / she is in. Thus, one of the key priorities in the activity of the institution in the short and medium term is to increase the managerial and professional capacities of the personnel. This objective is achieved by developing training programs for different categories of staff in relation to their needs and the requirements imposed by the standards in the field.



The relations within the Office of the People's Advocate are established as a result of the acts and norms for carrying out general and specific tasks. Hierarchical relations and functional relations are established. The success of communication within the Office of

the People's Advocate is decisively attributed to its manager, who is making a continuous effort to acquire knowledge and skills training in organizational and interpersonal communication. Most work tasks involve the competence and effort of many people, so emphasis is placed on communication based on specialization and functional complementarity. Communication is an indispensable element for the optimal functioning of the Office of the People's Advocate. Continuous exchange of views generates unity of viewpoints and, implicitly, action by harmonizing knowledge about goals, ways and means to achieve them. Communication is the process through which exchanges of views and ideas take place to achieve the individual and joint objectives of the Office.

FINANCIAL MANAGEMENT AND CONTROL

The Internal Audit Unit was completed in 2017, which mission within the framework of the Office of the People's Advocate is to provide objective and independent advice by assessing the functionality of the Financial Management and Control System (MFC), designed to add value and improve the operations of the institution.

In accordance with the National Audit Standards and the Law on Public Internal Financial Control no. 229 of 23 September 2010, internal audit is qualified as an independent and objective activity that provides the entity with a degree of control over operations, contributes to adding value to them, assists the entity in achieving its objectives, evaluating through a systematic and methodological processes, forwarding proposals to strengthen and improve their effectiveness.

Thus, in order to implement one of the recommendations of the Court of Auditors, the internal audit performed the advisory mission on identifying and describing basic processes. There were identified 50 processes that have been categorized into three categories of processes: managerial, operational, and support. As a result of the process identification, 23 were described as follows:

I. Managerial processes:

1. The process of elaborating, approving and controlling the implementation of the Strategic Development Program;
2. The risk management process;
3. The process of assessing the annual performance of staff;
4. The process of self-assessment of the financial management and control system with the issuance of the declaration on good governance;
5. The process of general inventory of assets and liabilities.

II. Operational processes:

1. The process of planning, organizing and conducting prevention and monitoring visits in the prevention of torture;
2. The process of monitoring the observance of children's rights on the basis of hotline information;
3. The process of monitoring the observance of child rights on the basis of self-notifications with the necessity to carry out monitoring visits;

4. The process of drafting and submitting complaints to the Constitutional Court in order to control the constitutionality of normative acts;
5. The process of providing primary information assistance;
6. The process of prior examination of applications registered by the Office of the People's Advocate and their examination under the area of competence;
7. The process of investigating applications accepted for examination;
8. The process of organizing editorial activity;
9. The process of managing the Office of the People's Advocate webpage and official pages on Facebook and Twitter.

III. Support processes:

1. The process of organizing and conducting public procurement by requesting pricing;
2. The process of representing the Office of the People's Advocate in the proceedings pending before the courts;
3. The process of planning, finalizing and approving the budget;
4. The budget execution process;
5. The process of determining and calculating the salary;
6. The process of the movement of entry documents and their execution;
7. The process of carrying out internal audit missions;
8. Staff recruitment process;
9. The process of examining referrals by the Disciplinary Board.

In order to achieve the provisions of Article 16 paragraph (1) of the Law on Public Internal Financial Control, the 2017 self-assessment of the financial management and control system for the year 2016 was carried out within the framework of the Office of the People's Advocate. Its purpose was to determine the functionality of the current MFC system and, consequently, the assessment of its compliance with the normative framework in the field, the Declaration on Good Governance was issued on 31 March 2017. The basic objective was to increase the accountability of the managers of the institution responsible for strengthening a favorable internal control environment.

Development priorities for 2018:

- performing assurance missions that aim at evaluating the processes and bringing value added by providing recommendations for improvement to achieve the objectives set;

- improving the quality assurance of the audit activity by developing the quality assurance and improvement plan, covering all aspects of the internal audit activity.

BUDGET OF THE OFFICE OF THE PEOPLE'S ADVOCATE

According to Article 37 of the Law on People's Advocate no. 52/2014, the Office has its own budget, which is part of the state budget. The annual budget of the Office is approved by the Parliament, at the proposal of the People's Advocate. The reduction of approved expenditures related to the activity of the Office is allowed only by Parliament's decision.

According to the budget limits approved for 2017, 10932.7 thousand MDL were allocated to finance the activity of the Office of the People's Advocate from the state budget means. Throughout 2017, the institution's budget was increased by 620.1 thousand MDL, a donation from UNICEF, according to a partnership agreement. As a result, the total budget of the institution amounted to 11552.8 thousand MDL. Allocated funds have been distributed to cover two-component spending:

- 00101 Control over respect for human rights - allowances in the amount of – 11298,4 thousand MDL
- 00453 National Mechanism for torture prevention - allowances in the amount of – 254,4 thousand MDL.

The level of execution of the institution's budget as at 31.12.2017 constituted 93.3%, being influenced by the fact that only the amount of 415.7 thousand MDL from 620.1 thousand MDL which had to be transferred from UNICEF was actually accounted in the institution's account. Respectively, the means gap of 204.4 thousand MDL remained in the budget, i.e. it was not consumed by the institution. The difference of funds was not actually received, according to the bilateral agreement, due to the fact that it was decided to repeal certain project activities.

The percentage of execution per each budget line is as follows:

Name of expenditure, by components	Planned, thousand MDL	Executed thousand MDL	% execution
Control over respect for human rights			
Staff expenditure	6589,3	6436,4	97,7
Goods and services	2940,2	2382,1	81,0
Social benefits	33,0	29,0	87,9
Other expenses	95,6	90,8	95,0
Fixed assets	1393,2	1391,8	99,9

Stocks of circulating materials	247,1	246,9	99,9
Total per component	11298,4	10577,0	93,6
National Mechanism for Torture Prevention			
Goods and services	5,0	-	0
Other expenses	118,3	83,7	70,8
Fixed assets	21,2	21,2	100
Stocks of circulating materials	109,9	97,2	88,4
Total per component	254,4	202,1	79,4
TOTAL	11552,8	10779,1	93,3

The deviations between the planned means and the actual budget execution to the budget line of goods and services are due to the fact that savings have been made on heat, travel, other expenses.

Failure to execute the budget in the component of the *National Torture Prevention Mechanism* is caused by the fact that the Office of the People's Advocate cannot influence the decisions of the members of the Council for the Prevention of Torture on the actual number of visits to the which they consider necessary to visit and to determine the frequency / number of visits.

The Office of the People's Advocate has the obligation to ensure the visits by meeting the needs. For this reason, in the process of planning the financial means to ensure the activity of the National Mechanism for Prevention of Torture it is necessary to take into account the possible expenses, which could intervene during the budgetary year.

Staff costs account for the most of the institution's total budget, namely 58.3%. The increase in the labor remuneration fund was necessary to cover the expenses related to the transfer of civil servants to the following payroll levels, according to the Law on the salary system for civil servant's number 48 of 22.03.2012. The other part of the funds allocations allowed the institution to cover its maintenance costs and carry out the activities planned in the Annual plan of the institution.

During the year, all payments to employees, state budget, suppliers were made in due time, there are not any expired debts.

The lack of a headquarters appropriate to the institution's needs remains an unresolved issue right from the start of its work. According to the results of the expertise carried out since 1998, the demolition of the existing building and the construction of a new premises are recommended.

In 2017 the Office of the People's Advocate drafted and submitted to the Ministry of Finance the proposal for a capital investment project with the annexation of the project documentation.