

**CENTRE FOR HUMAN RIGHTS
FROM MOLDOVA**



REPORT

on observance of human rights
in the Republic of Moldova
in 2013

Chişinău
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CHAPTER I

Observance of human rights in the Republic of Moldova

1. Non-discrimination and the principle of equality of opportunity

The protection of minorities' rights is a crucial element of human rights protection that is found both in national legal policies and mechanisms, as well as in international ones. Ensuring the equality of all human beings before the law and providing through law equal protection against any type of discrimination and incitement to discrimination is one of the commitments of the state in the process of democratization. In order to identify the existing problems in this respect and to remedy them, the Center for Human Rights (CHR) organized in 2013 three working meetings in the districts Riscani (on 21.11.2013)¹, Cahul (on 26.11.2013)² and in the municipality of Chisinau (on 05.12.2013)³ on the topic "*Observance of the rights of the persons who belong to national minorities through the prism of the Framework Convention*".

The provisions of the Framework Convention for the protection of national minorities, which promotes their full and effective equality by ensuring adequate conditions for plenary integration in society, affirmation and development of ethnic and cultural identity, served as a starting point for the discussions. Issues of observance of national minorities' rights in Moldova were broadly addressed during the meetings.

It has been stated with concern that a serious obstacle, for full inclusion into society of some representatives of national minorities and the fulfilment of their social, economic and

political rights, is their *insufficient knowledge of the state language*. The ombudsmen have raised this issue⁴ previously and reiterate that the state follows to make efforts to facilitate the study of the state language by speakers of other languages. It is equally important that the state provide adequate conditions for national minorities to study their mother-tongue languages: Ukrainian, Bulgarian, Romani, Hebrew, Polish etc. and contribute to the development of the national community culture through adequate implementation of existing national legal mechanisms⁵. It is possible to speak about a real multicultural society only through maintaining and developing the cultural, linguistic and religious traditions specific of these groups. In this context, we consider necessary that the state should provide the training of teaching staff for the instruction of ethnic minorities' languages based on the needs.

It is important to promote the social inclusion of national minorities, their active involvement in the public, economic and cultural life, as well as to support the local authorities, on whose territories the national minorities live densely, in their efforts of socio-economic community development and poverty eradication. It is also imperative that the culture, history, religion, traditions of the ethnic minorities, as well as those of the majoritarian population, are known and promoted.

The active participation of the Roma population in the decision-making process and the guarantee of their fundamental rights were among the topics discussed during the working meetings organized by the Ombudsman

¹ <http://www.ombudsman.md/ro/stiri/reuniunea-lucru-respectareadrepturilor-persoanelor-ce-apartin-minoritatilor-nationale-prin>

² <http://www.ombudsman.md/ro/stiri/reuniune-lucru-temarespectarii-drepturilor-minoritatilor-nationale-desfasurata-cahul>

³ <http://www.ombudsman.md/ro/stiri/reuniunea-lucru-respectareadrepturilor-persoanelor-ce-apartin-minoritatilor-nationale-prin-0>

⁴ Annual Report of CHR 2012, page 11

⁵ Government Decision No. 336/09.07.91; Government Decision No.428/23.06.92; Government Decision No. 219/25.04.91; Government Decision No. 494/08.07.2011

institution⁶. Although Roma have made some progress in the process of social inclusion, they still face the phenomenon of marginalization.

Roma community representatives spoke about the difficulties they encounter in being employed. The officials of the Employment Agency mentioned that such cases are not excluded, but the main reason for high unemployment among Roma is lack of their documentation. The members of Roma community often refuse offers of employment because of the low pay or because they do not accept the proposed job. Moreover, because of lack of identity cards, Roma have no access to health care, as they do not have medical insurance.

Another sensitive issue is that Roma children are not attending schools, the causes of the phenomenon bearing a social and economic character. An unfavorable influence in this sense have some Roma traditions. It has been stated that in some cases the parents themselves motivate that the kids have to go abroad to work with them to help or that education is not important when it comes to support the family. Frequently, the Roma children are not enrolled in school because they do not possess identity cards. On the other hand, the school dropout rate among Roma children is high, which affects the educational process and the quality of education obtained by them.

We believe that the State should respond appropriately to determine the representatives of this ethnic group to enroll their children in school. Also, it is necessary to create a favourable and friendly environment of instruction for the schooling of these children but also to develop mechanisms to allow Roma minors, who were absent from school for a long time, to complete their studies.

Equal treatment principle is a fundamental value of all international instruments on human rights, which condemn executions, arbitrary detention and human rights violations based on sexual orientation or gender identity⁷.

⁶ <http://www.ombudsman.md/ro/stiri/problemele-integrare-sociala-si-participare-romilor-viatapublica-atiencia-avocatului>

⁷ On December 18, 2008, the UN General Assembly examined a strong declaration drafted by France and the Netherlands on behalf of the European Union, co-sponsored by sixty-six countries from the whole region. It appealed to global decriminalization of homosexuality and condemned human rights violation based on sexual orientation and gender identity.

Being a party to a number of international acts, the Republic of Moldova has made a commitment to develop non-discriminatory policies, including for LGBT persons. The adoption of the Law on Equality No. 121/25.05/12 was an important step in this respect.

The ombudsmen reported with concern that some local public authorities (LPA)⁸ do not comply with the provisions of this law when LGBT persons are targeted. The ombudsmen requested the mentioned LPA to display tolerance towards this category of people.

On 30.04.2013, the Popular Assembly of Gagauz Administrative Territorial Unit adopted the Law on the Principles of Equality, Fairness and Objectivity No. 89-X/V, which was subsequently promulgated by Mihail Formuzal, Governor of Gagauzia, and entered into force on the day it was published in the Official Bulletin of Gagauzia "Express-Kanon". The given Law excludes any protection for sexual minorities from this region having as argument the preservation of the cultural traditions and customs of the Gagauz community. Even at the stage of its being drafted the Ombudsman Institution sent notifications to the Popular Assembly and the Governor of ATU Gagauzia to review its provisions and exclude the norms that directly affect the rights and freedoms of persons belonging to LGBT⁹ group. Since the authorities did not take into consideration the proposed recommendations at the adoption of the legal act, it was contested in court¹⁰. On 20.06.2013, the Court issued a decision, which allowed the appeal and annulled the illegal provisions of the mentioned Law.

According to the national and international legislation in the field, all persons shall have equal and equitable access to the opportunities available in the society. Therefore, it is important that any decision made by public au-

⁸ The Ombudsman stated that in 2012, some local public authorities issued discriminatory decisions against sexual minorities and requested their annulment (CHR Report 2012, p.15).

⁹ Notification acts of parliamentary advocate (<http://www.ombudsman.md/ro/stiri/avocatul-parlamentar-tudor-lazarprincipiul-egalitatii-trebuie-sa-ocupe-loc-prioritar-procesul>)

¹⁰ Notification acts of parliamentary advocate (<http://www.ombudsman.md/ro/stiri/avocatul-parlamentar-tudor-lazar-ataca-instanta-legea-caracter-discriminatoriu-adoptata>)

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thorities does not deviate from the principle of equality. Yet, the application of an equal treatment to all members of society, regardless of race, language, sex, religion, etc. demonstrates the degree of democratization of a state.

The principle of non-discrimination is enshrined in our Constitution. It means accepting the human beings regardless of the characters that distinguish them and recognizing their values and rights to live in peace as being equal before law.

Although, the Republic of Moldova has undertaken and continues to take actions to ensure equal opportunities and to fight discrimination in society in the recent years, the efforts made are still insufficient to talk about the eradication of the phenomenon.

According to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) *"discrimination against women shall mean any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field."*¹¹

Paragraph 2, Article 5 of the Law on Equal Opportunities for Women and Men states that *"the promotion of a policy or undertaking discriminatory actions shall be removed by competent public authorities under the law."*

The need to promote a non-discriminatory policy was reaffirmed by the Constitutional Court. At the request of the parliamentary advocate, by its Decision of November 1, 2012¹², the Court declared unconstitutional the word *"women"* in the compound *"women-military"*, article 32, paragraph 4, letter d) and j) of the Law on the Statute of the Military, as well as items 67 letter j), 88, paragraph 4, letter b), 108 letter i), 116 letter e), 131 of the Regulations on the Fulfilment of Military Service in the Armed Forces.

¹¹ Article 1 of the Convention on Elimination of All Forms of Discrimination against Women (CEDAW)

¹² Constitutional Court Decision on review of the constitutionality of the provisions of the Law on the Statute of the Military (<http://www.constcourt.md/ccdocview.php?tip=hotariri&docid=429&l=ro>)

The Constitutional Court also suspended the review of the constitutionality of the phrase *"but not included in the calendar term of military service"* letter j), paragraph 4, article 32 of the Law on the statute of the military. In this way, in our opinion, new opportunities were created for the competent public authorities to remove the impediments at legislative level for achieving the social rights of the military in order to include the parental leave for childcare in the length of service and receive payment from state social insurance budget.

In 2013, the process of drafting the Military Code¹³ began, which follows to provide for social security and fair treatment of the military personnel. The ombudsmen warn, however, that before the adoption of this document, there are grounds for condemning the Republic of Moldova to the ECHR.

Gender equality topic is up-to-date in many areas of social life including employment. Although the Moldovan legislation provides equal opportunities to women and men in their employment, women, who decide to become mothers, can hardly find a job. Employers often perceive employment of pregnant women as a burden, which is why they often refuse to offer them jobs. Thus, discrimination of pregnant women at hiring is one of the key issues that should be addressed in the implementation of gender strategy development.

The creation of impediments in career development by a public or private authority denotes discriminatory actions on grounds of gender. The case of citizen D.S. is revealing in this regard.

The ombudsmen find that frequently the authorities responsible for the implementation of equal opportunity policies do not promote the active participation of women in all spheres of life. In this context, the CHR recommends to empower independent and objective commissions to carry out a gender audit with the involvement of representatives of the civil society.

Application of domestic violence is one of the forms of discrimination against women in society. The given phenomenon is monitored by the Institution of Parliamentary Advo-

¹³ Draft of the Military Code (<http://www.army.md/?lng=2&action=show&cat=168&submenuheader=0>)

Case of D.S.

The petitioner said that after she informed the employer of her pregnancy he created unfavorable conditions and inconveniences at her workplace. Thus the employer, without issuing any legal dispositions and without the petitioner's consent, disposed her removal to different subdivisions of the institution which were situated at a long distance from the petitioner's residence. In such a way, the woman's commuting became more complicated. Moreover, the petitioner mentioned that she was deprived of a computer, office supplies, etc. at the workplace to create difficulties for the timely fulfillment of the job tasks.

In response to the petitioner's situation, the CHR notified the hierarchically superior body of the given institution addressing necessary recommendations for the achievement of the petitioner's rights.

Because the responsible institution did not react adequately, the petitioner was forced to appeal to court.

cases¹⁴. As in previous years, the complaints filed by the CHR on this topic claim delayed intervention of the enforcement officials, responsible for the prevention and control of

In 2013, the Republic of Moldova was sentenced to ECHR for domestic violence acts ignored by the local authorities. Having filed several complaints against her husband, the victim of domestic violence requested a protective order in April 2011 but she had to wait for five months until her request was approved. The court established that this kind of delay is a case of sex discrimination.

¹⁴ Annual Report of CHR 2012, pages 8-9.

the phenomenon, insufficient knowledge of the protection mechanisms guaranteed by the state, etc. It was also stated that because of fear of the abuser, the victims of domestic violence hesitate to use the protection mechanisms provided by the state. Often, the persons subjected to domestic violence waive it at the stage of addressing the court or of the issuance of protection orders for the removal of the abuser from the family.

The most frequent reasons invoked by the victims are the fear to remain alone to provide for the family and the fear to be followed/harassed by the aggressor. The conclusion that emerges here is that the victims of domestic violence are not certain that the social assistance institutions and the police will secure necessary protection. Therefore, we believe that in order to remedy the situation it is necessary that the social assistance institutions, the police and psychologists specialized in the field should cooperate closer.

2. Free access to justice

To make the justice sector affordable, efficient, independent, transparent, professional and accountable to society to correspond to European standards and ensure the rule of law and observance of human rights, the Strategy of Justice Sector Reform for the period 2011-2016¹⁵ is being implemented for the second consecutive year. We consider that it is for the benefit of the country and society the fact that the Government has started the reform of the justice sector and registered tangible results in a short period. Several laws were adopted/modified to ensure the integrity of the justice actors, the salaries of the judges were raised, and several judges were dismissed or prosecuted.

At the same time, the surveys demonstrate a low level of trust in justice. For example, the biannual surveys, conducted by the Institute of Public Policies, contain a constant question regarding the citizens' degree of trust in state institutions, including justice. The answers to the

¹⁵ Law on the approval of the Strategy of Justice Sector Reform for the period 2011-2016, No. 231 of 25/11/11; Parliament Decision on the approval of the Action Plan for the implementation of the Strategy of Justice Sector Reform for the period 2011-2016, No. 6 of 16/02/2012.

question “How much do you trust in justice?” given in 2013 show a considerable decrease of the degree of trust of the citizens of the Republic of Moldova in justice. The analyses of the answers of the type “considerable trust” and “to some degree” prove that this indicator constituted 13 % in April and 15 % in November, compared to 24 % in March 2008 and 27 % in October 2008¹⁶.

Compared with the indicator of trust in justice, far fewer people accept the situation of the pension (4%), salaries (5%), and fighting corruption (5 %). More people are satisfied with what the state is doing in the field of education (30%), medical care (24.5%), culture (24%), and agriculture (21%). The indicator of trust in justice is placed in the middle of this scale and the situation in justice seems to be a relatively satisfactory one. Another concern is the fact that only 1 % of the respondents consider ensuring of an independent justice as the most important issue (among the priority directions are: raising the living standard (10%), economy development (29.9), reinforcement of the order in the country (24.8 %) ¹⁷.

We are aware that solving the social-economic problems is of major importance for the people, who barely survive day-by-day, bearing in mind that their income is well below the subsistence minimum (see chapter “Social as-

become a dangerous phenomenon of general mistrust in the efficiency and integrity of the public authorities and even in the state.

The citizen perceives his security based on the level of confidence he has in justice, the latter being the terminus-authority he appeals to when claiming a legitimate right. The citizen’s trust in justice is conditioned by its quality, unrestricted access, timeliness, competence, efficiency, the integrity of the representatives of the justice sector being important.

The Barometer of Global Corruption (BGC) of 2013 conducted annually by Transparency International shows that 34 % of the respondents (or their relatives) from the Republic of Moldova gave bribes to the actors in the judicial system. According to the same survey and the opinion of the respondents, the most corrupt are justice (80 %), internal affairs bodies (76%), political parties (75%), and the Parliament (75%)¹⁸.

The increase of the degree of trust in justice cannot be achieved solely through administrative measures. The judges’ fair attitude towards litigants is more important. Thus, the random distribution of cases, judges’ irreplicable personal conduct, prompt solution of cases, unitary judicial practice, annihilation of corruption are only some of the prerequisites for restoring trust in the judiciary.

Analysis of ECHR judgements on Moldova according to articles in 2013:

- ***The right to life (Article 2 of the Convention) – 1 violation (material aspect) and 1 violation (procedural aspect);***
- ***Inhuman and degrading treatment (Article 3 of the Convention) – 8 violations (material aspect) and 8 violations (procedural aspect);***
- ***The right to liberty and security (Article 5 of the Convention) – 1 violation;***
- ***The right to a fair trial (Article 6 of the Convention) – 5 violations;***
- ***The right to respect private and family life (Article 8 of the Convention) – 3 violations;***
- ***The right to effective remedy (Article 13 of the Convention) – 4 violations;***
- ***Prohibition of discrimination (Article 14 of the Convention) – 2 violations;***
- ***Respect for property (Article 1 of the Additional Protocol) – 3 violations.***

sistance and protection”). However, the lack of citizens’ trust in justice on the social level may

¹⁶ Barometer of Public Opinion, November 2013, http://www.ipp.md/public/files/Barometru/BOP_11.2013_anexa.pdf.

¹⁷ Ibidem

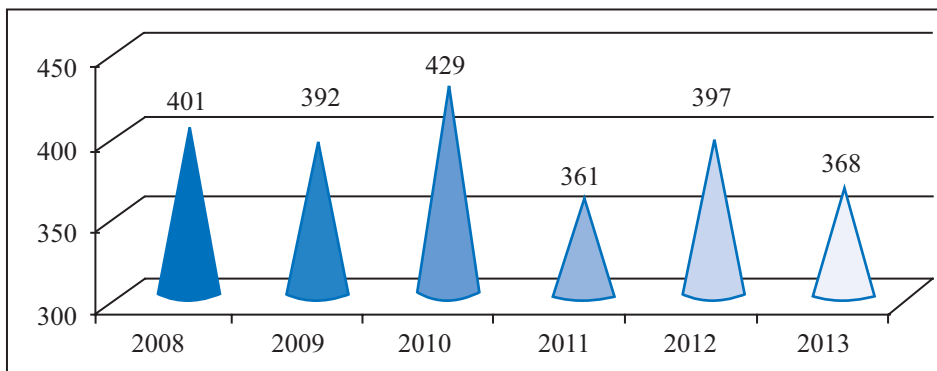
Statistical analysis of the European Court of Human Rights for 2013 shows a significant increase of the number of applications assigned to a judicial body: 1356 compared to

¹⁸ <http://www.transparency.org/gcb2013/country?country=moldova>

934 in 2012 and 1017 in 2011. However, the number of applications considered inadmissible or terminated also increased -3143 compared to 1905 in 2012 and 550 in 2011.

In the period 1997 – 2013, the ECHR pronounced 273 decisions against the Republic of Moldova regarding the violation of the following rights: ill treatment – 16 %; liberty and safety of person – 13 %; fair trial – 25 %; property protection – 20 %; other rights – 26 %.

Concerning Moldova, the Court ruled in 19 cases during 2013, of which in 18 rulings at least one violation of the Convention was found.



The most important decision, from the legal point of view, pronounced by the Court during 2013 against Moldova is the case *Eremia vs. Moldova* (application No. 3564/11, decision of May 28, 2013) regarding the failure

of the national authorities to take appropriate measures to protect the complainants against domestic violence.

According to the pronounced decisions, the Government of the Republic of Moldova was obliged to pay compensations in the amount of 315,363 EURO in 2013 (compared to 842,856 EURO in 2012 and 371,258 EURO in 2011).

In 2013, at least 368 applicants appealed to the Centre for Human Rights with complaints about the quality of justice, of which 72 cases alleged delay of hearings, 78 cases – failure to execute the rulings; 167 cases – infringement of proceedings.

In the context of the issues raised above, the data on complaints made to the CHR in the period 2008-2013 show that the number of petitioners who alleged infringement of free ac-

cess to justice remains, with a few exceptions, a constant one.

In previous reports on human rights in the Republic of Moldova, current issues referring to ensuring the right to free access to justice

Citizen C.V. appealed to the Centre for Human Rights and complained that Orhei District Court delayed the examination of the criminal case against him. The case is pending for more than a year without holding any hearing and prolonging the preventive measure, the arrest.

While examining the given petition, the ombudsman found indices of violation of human rights and freedoms, especially under Article 6 of the Convention for the protection of fundamental rights and freedoms, as well as non-compliance with the provisions of items 3 and 25 of the Regulations on the volume, methods, reasons and verification procedure of the organizational activity of the courts in carrying out justice. After examining the notification of the ombudsman and the informative note made on this case by the judicial inspection, the Superior Council of Magistracy got informed on the intention of a SCM member to take disciplinary action against the judge.

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and the right to a fair trial¹⁹ were repeatedly mentioned, which registered, in general lines, the same deficiencies as in 2013. These were related to the following: the conduct of the judges contrary to the deontological norms; delay in examining the civil and criminal cases; non-execution of court decisions; prolonged examination by the Plenum of the Supreme Court of Justice of the appeals for annulment based on the modifications in the Criminal Code; the drafting of the decisions beyond the deadline established by law; infringement of the term for the delivery of court decisions; errors made by employees of legal institutions, which led to the violation of the legal rights of the participants in the process; issuing executive orders based on decisions that were not final; inadequate reasoning of judgements; disagreement with the final and irrevocable decisions.

A new issue examined by the Centre for Human Rights in 2013 refers to non-execution of court rulings of national courts on the territory of other states because of lack of qualified legal assistance. *Citizen P.L. notified the CHR that she was in possession of a final and irrevocable decision²⁰ on collecting material and moral damage after her husband's death. The decision followed to be enforced on the territory of the State of Israel.*

The petitioner repeatedly requested the state authorities to take necessary measures to enforce the execution of this court ruling. P.L. claims that the Ministry of Foreign Affairs and European Integration (the Diplomatic and Consular Mission of the Republic of Moldova in the State of Israel) left her in a state of uncertainty²¹ about the prospect of solving the problem. The letter of Israeli authorities²² clearly stated that the petitioner was recommended to get a lawyer to be represented in court in order to enforce the ruling on the territory of this State.

Efficient implementation of the petitioner's fundamental rights to a fair trial and to property is subject to lack of money for paying a lawyer on the territory of the State of Israel.

¹⁹ <http://www.ombudsman.md/ro/rapoarte-anuale>

²⁰ Decision of Riscani sector, Chisinau Municipal Court of June 20, 2005

²¹ The letter of the General Direction on Consular Affairs within the MFAEI of 26/11/2012

²² Legal Assistance to Foreign Countries, Jerusalem 18.01.2011.

It should be noted that the constitutional provisions of article 120 on the binding nature of sentences and other final court decisions also apply to procedures for the recognition and enforcement of foreign court decisions in accordance with international legal assistance instruments that the Republic of Moldova is a party to.

In accordance with article 5 of the Vienna Convention on Consular Relations²³, the Consular Office, has the function "subject to the practices and procedures obtained in the receiving State, representing or arranging appropriate representation for nationals of the sending State before the tribunals and other authorities of the receiving State, for the purpose of obtaining, in accordance with the laws and regulations of the receiving State, provisional measures for the preservation of the rights and interests of these nationals, where, because of absence or any other reason, such nationals are unable at the proper time to assume the defence of their rights and interests".

The court decision has not been enforced so far. In our opinion, the Ministry of Foreign Affairs and European Integration must use all possible legal levers at their disposal to ensure that the rights of Moldovan citizens are realized on the territory of other states.

We highly appreciate the efforts made to develop the legal information system and its harmonization to European standards. Yet, we repeatedly voice our concern²⁴ in connection with the fact that complete, with no restrictions, access to court rulings that contain a significant amount of personal data such as name, surname, patronymic, year of birth, origin, residence, nationality, citizenship, education, information related to physical, physiological, psychic, economic characteristics of the people, etc. are placed on the official websites of courts. In our opinion, this is contrary to the provisions of the Convention for the protection of individuals with regard to Automatic Processing of Personal Data No. 108, the Law on protection of personal data No. 133 of 08/07/2011 and the Recommendation R (95)11 of the Committee of Ministers of the

²³ Parliament Decision on adherence of the Republic of Moldova to international conventions, No. 1135-XII of 4/08/1992

²⁴ Report on the observance of human rights in the Republic of Moldova in 2010, www.ombudsman.md

Council of Europe and violates the right to private life of the parties and other participants in the process²⁵.

We are of the opinion that the inclusion of court decisions that contain personal data in sources of data available to the public at large (a forced interference of the representatives of the judiciary) cannot go beyond the limits of judicial processes. Using information and communication technologies to provide access to jurisdiction raises justified concerns about efficient protection of personal data. For this reason, quantitative and qualitative changes are necessary to manage the information and data. In addition, the possibility of ensuring a balance between the public's right to information and the obligation of the State, signer of Convention No.108, follows to be examined to guarantee the right to personal data, including in cases of processing the information for electronic dissemination of court decisions. This balance may vary depending on various criteria related to the nature of litigation or the categories of involved persons. In our opinion, it is necessary to revise the Regulations on the publication of court decisions on the webpage approved by Decision of the Superior Council of Magistracy No. 472/21 of 18/12/2008 and include the guidelines for the publication of court decisions that would establish certain rules for processing personal data.

Meanwhile, contrary to the provisions of Article 10, paragraph (4) of the Law on the Judicial Organization No. 514 of 06/07/1995²⁶, not all the court decisions can be found on the official websites of the courts.

According to Recommendation No. (81)7 of the Council of Ministers on measures facilitating access to justice, *measures should be taken to facilitate or encourage, where appro-*

²⁵ Recommendation R (95)11 of the Committee of Ministers to member states concerning the selection, processing, presentation and archiving of court decisions in legal information retrieval systems: where issues of privacy and protection of personal data may arise in computerised legal information systems, they shall be regulated by domestic law in accordance with the principles laid down by the Convention on the Protection of Individuals with regard to Automatic Processing of Personal Data

²⁶ „Court decisions of the Courts of Appeals and the Supreme Court of Justice shall be placed on the website”

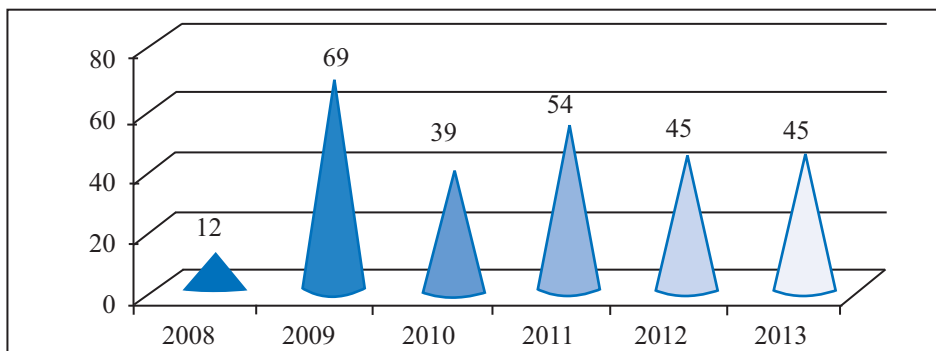
priate, the conciliation of the parties and the amicable settlement of disputes before any court proceedings have been instituted or in the course of proceedings. In this context, we consider necessary to streamline the functioning of the mediation procedure in specific areas such as family, civil and commercial, labour, administrative, consumer protection disputes as an alternative dispute resolution. Given the advantages of this mechanism, we encourage the reconciliation of the parties before the start of the legal proceedings and hope that the new Law on Mediation,²⁷ whose draft was prepared by the Ministry of Justice, will have a positive impact for the speedy resolution of litigations and will help avoid the overloading of the courts.

Everybody without exception has the right to defence and limiting this right would be an obvious violation of the provisions of Article 26 of the Constitution of the Republic of Moldova. The State has the positive obligation to take measures to ensure the observance of this right and respectively, to include it in legislation and in the practical implementation of ways of effective defence of the people who cannot afford to hire a lawyer.

The data on the applications filed by the Centre for Human Rights in the period 2008 – 2013 show that the number of petitioners, who alleged violations of the right to defence, remains, with few exceptions, a constant one.

Petitioner D.B. detained in prison No. 15 in Cricova, alleged denial of qualified legal assistance. The ombudsman urged the National Council of Legal Assistance Guaranteed by the State to respond appropriately under the Law on legal assistance guaranteed by the state. Subsequently, as a result of repeated appeals to the Committee of Human Rights and Inter-Ethnic Relations of the Parliament, it was stated that the competent institution has not taken any measures to provide the inmate with legal assistance guaranteed by the state.

²⁷ <http://justice.gov.md/pageview.php?l=ro&idc=192>



During 2013, 45 complaints were registered covering the following allegations: the territorial office for legal assistance guaranteed by the state does not react to the request for legal assistance; the unsatisfactory quality of the legal advice offered by lawyers; failure to return the original copies of the documents submitted at the request of the lawyers; not informing the client on the undertaken actions; the refusal of the territorial offices of the National Council for State Guaranteed Legal Assistance to offer legal assistance guaranteed by the state.

Given that qualified legal assistance, including the one guaranteed by the state, is a guaranteed procedure in the context of the fundamental right to defence, the Centre for Human Rights addressed this issue in the previous reports submitted to the Parliament²⁸.

According to the Report, the lawyers were asked to give an appreciation of the work of the system of legal assistance guaranteed by the state²⁹ within the current mechanism for monitoring the quality of legal assistance guaranteed by the state. In the opinion of 89 % of the respondents to the questionnaire, the work of the system is necessary and effective, 8 % believe that this system is necessary but inefficient, 3 % gave no answer. In this context, we encourage the National Council of Legal Assistance Guaranteed by the State to further promote a clear message and namely that the system of legal assistance guaranteed by the state is designed for the vulnerable people ensuring efficient functioning of territorial subdivisions.

Independent and efficient judiciary is an

²⁸ Report on the observance of human rights in the Republic of Moldova in 2012, www.ombudsman.md

²⁹ The support for the Justice Sector Reform in Moldova „Project implemented by the United Nations Development Programme in Moldova

obligatory prerequisite to advance the dialogue with the European Union. The efficiency of other reforms, in the situation when there is doubt regarding the independence of the judiciary and its ability to respond impartially to conflicts, will decrease.

The complexity of the judiciary and its multilateral character requires continuous and integrated approach of each element of the system. The instability and discontinuity of one element can generate a chain reaction capable to cause the crisis of the whole system. In this sense, we uphold that when other actors, involved in the implementation of the reform of the justice system, will either be late in carrying out their tasks or will not have the necessary support on behalf of the state, in the meaning of adjusting the salaries, the normative framework, the work conditions, they will baffle and compromise the reform process.

3. The right to life and physical and mental integrity

Chapter II of the Constitution of the Republic of Moldova – *the Fundamental Rights and Freedoms* – starts with Article 24 – **the right to life, physical and mental integrity**. Article 24 actually regulates three fundamental rights:

- 1) The right to life
- 2) The right to physical integrity
- 3) The right to mental integrity

The right to life is the most natural human right and is protected by law. This right is an essential one and is enshrined in the Universal Declaration of Human Rights.

Respecting the right to life, physical and mental integrity naturally implies prohibition

of torture, inhuman and degrading punishment or treatment. Application of such processes and treatments is a serious offense against human dignity. These are primitive practices forbidden by law.

According to article 23¹ of Law No. 1349 of 17/10/1997 on Parliamentary Advocates, the ombudsmen are empowered to ensure the protection of people against torture and other cruel, inhuman and degrading treatments and punishments. Together with the members of the Advisory Committee, the ombudsmen are authorized to periodically make preventive visits to places where there are or might be imprisoned people placed at the disposal of a state institution or its indication, with its agreement or tacit consent. In its activity of prevention of torture and other cruel, inhuman or degrading ill treatment and punishments, the Ombudsman presents to the authorities or to the competent person in charge its recommendations on the improvement of the behaviour towards detainees, detention conditions and torture prevention. In the case when the Ombudsman does not agree with the taken actions, he has the right to address a superior body to take appropriate measures in order to enforce the recommendations contained in his notification and/or to inform the public opinion, including disclosing the names of the persons authorized to act on behalf of that authority.

During 2013, the CHR received 224 complaints alleging violation of the right to physical and mental integrity, including:

- 150 complaints alleging poor conditions of detention in the institutions providing imprisonment;
- 32 complaints alleging torture;
- 32 complaints which reported violation of personal dignity;
- 10 complaints alleging violation of the procedure of detention or arrest.

By December 31, 2013, the ECHR pronounced 273 judgements on cases against Moldova, of which 19 in 2013. Of the 19 judgements pronounced in 2013, the Republic of Moldova was convicted for violation of Article 3 of ECHR (*prohibition of torture*) of the following categories:

- **Maltreatment** (*Iurcu vs. Moldova* – application No. 33759/10, Decision of 9/04/2013,

received damage – 13,500 euro; *Ipati vs. Moldova* – application No. 55408/07; *Gorea vs. Moldova*, Decision of 5/2/2013, received damage – 10,500 euro);

- **Failure of authorities to protect the complainants against domestic violence** (*Eremia vs. Moldova* - application No. 3564/11, Decision of 28/5/2013, received damage – 17,150 euro; *Mudric. v. Moldova* – application No. 74839/10, Decision of 16/07/2013, received damage – 17,150 euro; *B. v. Moldova* – application No. . 61382/09, Decision of 16/07/2013, received damage - 18,000 euro);

- **Inadequate investigation of maltreatment** (*Iurcu v. Moldova* – application No. 33759/10, Decision of 09/04/2013, received damage - 13,500 euro; *Ipati v. Moldova* – application No. 55408/07, Decision of 05/02/2013, received damage – 10,500 euro; *Gorea v. Moldova*, *Feodorov v. Moldova* – application No. 40424/06, Decision of 29/10/2013, received damage - 5,650 euro; *Eduard Popa v. Moldova* – application No. 17008/07, Decision of 12/02/2013, received damage – 24,000 euro; *Ceachir v. Moldova* – application No. 50115/06, Decision of 10/12/2013, received damage – 8,000 euro);

- **Detention in poor conditions** (*Mitrofan v. Moldova* – application No. 50054/07, Decision of 15/01/2013, received damage – 6,500 euro; *Ipati v. Moldova*, application No. 55408/07, Decision of 05/02/2013, received damage – 10,500 euro; *Segheti v. Moldova*, application No. 39584/07, Decision of 15/10/2013, received damage – 6,500 euro);

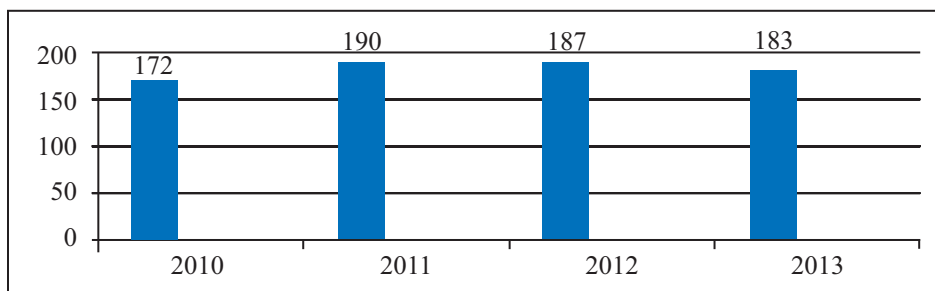
- **Inadequate investigation of a rape** (*N.A. v. Moldova*, application No. 13424/06, Decision of 24/09/2013, received damage – 11,150 euro).

Thus, the amount of damages received in 2013 for the violation by the Republic of Moldova of Article 3 of ECHR is 148,900 euro. The European Court condemned our country for domestic violence and inadequate investigation of rape by extending the area of application of Article 3 of ECHR to tacit violence admitted by state authorities or ineffective investigations of this phenomenon.

The activities conducted within the National Preventive Mechanism against Torture are reflected in a separate section, the annex to the annual CHR Report.

4. The right to social assistance and protection

The issue of the right to social assistance and protection was frequently invoked in the appeals to the Centre for Human Rights in the reference year as well. A relatively equal number of petitions were registered in the recent years in this regard.



The nature of reported complaints is also the same: difficulties that people in social risk situations face – families with many children, elderly, low income, young people, persons with disabilities and those who take care of them, unemployed, persons released from places of detention, etc. In particular, the petitioners invoke the ridiculous income, social benefits under the subsistence level, permanent increase of prices on consumer goods and tariffs for basic needs, deficiencies in establishing social aid/aid for the cold period of the year, disagreement with the method of determining/calculating pensions, the worsening of the financial situation of the individuals, who were not able to pay in time for the utilities etc.

Providing decent living for any person, including for socially vulnerable groups, as required by the Constitution of the Republic of Moldova³⁰, continues to be a challenge for the competent public authorities on the background of evolution of prices and tariffs for goods and basic services. To overcome this situation, we believe that the authorities should strive to identify as soon as possible the possibilities of supporting the population, and in the medium term, to revise the regulatory framework and the mechanisms for adjusting

³⁰ Article 47 of the Constitution of the Republic of Moldova

the minimum wage, minimum pension, and social benefits to the minimum subsistence level.

According to the National Bureau of Statistics³¹, in the third quarter of 2013, the average monthly income constituted 1,755.5 lei and the average monthly consumption expenditures of the population 1,888 lei per person. Salaries are the most important source of income – 41.9 % of the available total revenue and 20.3 % are social benefits.

According to the same source, remittances from abroad continue to be an important source of household budget, they accounted for 17.5 % of the total revenues.

However, the State reaffirms in the National Development Strategy “Moldova 2020”³² the fact that the tendency to reduce poverty and economic growth are closely correlated in the Republic of Moldova with the flow of remittances and the consumption generated by them.

In this context, the UN Special Rapporteur on extreme poverty and human rights, Magdalena Sepulveda warned, on a visit to Moldova in the period 8-14 September 2013³³, that “economic growth based on migrants’ remittances is not only unsustainable, but also a model of non-inclusive development. Moreover, this approach hides the enormous sacrifices of those who are forced to leave in search of better opportunities and the dramatic impact on those left behind, especially children and the elderly.”

Official data show that in the first quarter of the year 2013, 35,248 children have one parent gone and 13,316 children have both

³¹ <http://www.statistica.md/newsview.php?l=ro&idc=168&id=4276>;

³² Law No. 166 of 11.07.2012 on Approval of the National Development Programme „Moldova 2020”

³³ In June 2014, the UN Special Rapporteur on extreme poverty and human rights, Magdalena Sepulveda, will prepare a report on Moldova, in which she will include appropriate recommendations.

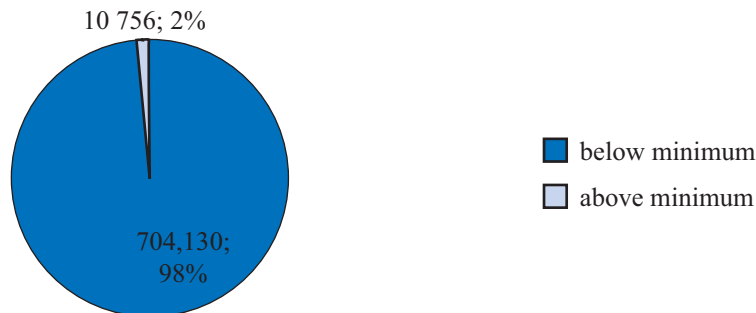
parents gone (in 2011 – 37,188 children with one parent gone abroad and 14,814 children with both parents gone; in 2012 - 38,524 children with one parent gone abroad and 15,599 children with both parents gone).

People whose income consists only of social benefits, the majority of them below the subsistence level, are in a particularly difficult situation. Based on the information on the number of pension and social allowance beneficiaries registered at the National Social Insurance House as of 1/1/2014³⁴, we conclude that the majority of beneficiaries (98 %) receive state pension/ social allowance under subsistence level.

Implementation of the Recommendations of the UN Committee on Economic, Social and Cultural Rights of May 2011 demonstrates the interest and the commitment of the state in taking actions for the remedy of the situation in terms of ensuring a decent living for every person. In this context, we support the opinion expressed by the UN Special Rapporteur on extreme poverty and human rights regarding the need for sustainable and accountable implementation mechanisms and of a disaggregated database in the key areas.

The ombudsmen have had serious reservations about the efficiency of the Law on Sub-

Structure of pension and social allowance beneficiaries in relation to the subsistence minimum



We welcome the Government intention to improve the situation of state pensions and social allowances by granting a state financial support³⁵ in the amount of 90, 60 and 50 lei. However, we consider that it is not enough to ensure an adequate standard of living for the given beneficiaries, while the prices for services and essential goods increase yearly and even monthly.

The elaboration of the Action Plan³⁶ on the

³⁴ www.cnas.md

³⁵ According to Law No. 51 of 28.03.2013 on completion of some legislative acts of 1 April 2013, state financial support is monthly granted to some beneficiaries of state pensions/social allowances, whose quantum after the indexation of 1 April 2013 does not exceed 1,300 lei.

³⁶ Government Decision No. 974 on the approval of the Action Plan for the implementation of the concluding observations of the Committee on Economic, Social and Cultural Rights, adopted in Geneva on May 20, 2011 on the second Periodic Report of the Republic of Moldova on the Implementation of the International Covenant on Economic, Social and Cultural Rights.

sistence³⁷ exposed in the previous Report³⁸, which in the ombudsmen's view does not regulate the modality/stages of adjusting the amount of benefits and the minimum salary per country to the level of at least this minimum. The same source mentioned the difficulties of obtaining disaggregated data on vulnerable persons/families.

The UN Committee on Economic, Social and Cultural Rights recommended the increase of pensions, so that they allow an adequate standard of living, and, as a first step, to achieve the minimum subsistence level³⁹.

³⁷ Law No. 152 of 5/7/2012 on Subsistence

³⁸ Report on the Observance of Human Rights in the Republic of Moldova for the year 2012, www.ombudsman.md.

³⁹ Recommendation 12 of the Concluding Observations of the Committee on Economic, Social and Cultural Rights adopted in Geneva on May 20, 2011 on the second Periodic Report of the Republic of Moldova on the Implementation of the International Covenant on Economic, Social and Cultural Rights.

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Evolution of prices and tariffs on consumer goods and services in the period 2011-2013

Goods and services	December 2013 (%) compared to:	December 2012 (%) compared to:	December 2011 (%) compared to:
	December 2012	December 2011	December 2010
Food products/average	2,2	5,4	7,4
Vegetables	3,4	22,7	4,5
Fruits		11,4	14,1
Meat, cooked and canned meat	3,2	8,4	5,4
Milk and dairy products	4,2	4,8	11,7
Eggs	1,7	19,5	32,3
Non-food products/average		3,6	5,2
Clothing	3,3	4,3	2,6
Footwear	3,1	3,4	5,1
Fuel	1,8	5,1	10,9
Services/average	1,6	3,0	11,6
Housing services		3,6	22,0
Drinking water and sewerage	6,9	15,2	6,6
Electricity	1,4	7,3	10,3
Natural gas through network	1,8		40,1

Source: National Bureau of Statistics

However, the actions and the indicators contained in the Action Plan for the implementation of this recommendation, in our opinion, will not ensure developments in this regard.

The ombudsmen express concern about the situation of these people. The petitioners of the given category, in most cases having no financial sources and whose liable goods and

The ratio between the average pension and minimum subsistence level in the period 2009-2013

	2009	2010	2011	2012	2013, 1st quarter
Subsistence level, monthly average per person, lei	1187,8	1373,4	1503,0	1507,5	1608,3
Subsistence level for pensioners, lei	1022,8	1184,3	1305,6	1302,8	1341,4
Average monthly set pension ⁴⁰ , lei	775,5	810,9	873,9	957,6	1020,8
The ratio between the average monthly set pension and the average value of the minimum subsistence level for pensioners, %	75,8	68,5	66,9	73,5	76,1

In these circumstances, low-income people accumulate debts in paying the utilities and are sued in court by the providers. Thus, in 2013 a number of people appealed to the Centre for Human Rights invoking the worsening of the situation due to lack of money to pay for housing and communal services but also the costs for the enforcement of the writs of execution.

valuables are subject to enforcement, risk to be deprived of housing.

In other cases, people report being forced to request to disconnect their homes from heating not to accumulate debts. Respectively, they endure the cold and risk to get ill with

⁴⁰ Average monthly set pension as of July 1, 2013.

The family G. from Chisinau complained that its income, which consists of the bedridden wife's social benefits and care allowance are not enough to pay for utilities. For this reason, a court decision was issued and the bailiff was to take enforcement action, including prosecution of all liable goods for the execution of the writ.

various diseases, including tuberculosis. In another petition addressed to the ombudsman, a family from the district Anenii Noi, village Maximovca (3 people with disabilities) complained that the delivery of heating to the block, where they reside, stopped 17 years ago. Due to unbearable conditions in the cold season, a family member got ill with tuberculosis and died. The local public authorities affirm that they do not have financial resources to install autonomous heating in this case. Finally, after repeated notifications to the Head of Anenii Noi district, the ombudsman was informed that the given family was offered material support to purchase and install a hot water appliance.

Such cases should alert the competent authorities to identify the socially vulnerable families and find optimal solutions, including rational management of available financial resources.

Since 2011, the Centre for Human Rights mentioned several issues related to the setting of social benefits/allowances for the cold season of the year in its reports⁴¹. The flux of citizens' complaints to the Centre for Human Rights on the given issue confirms the im-

Citizen V.M. from Anenii Noi district complained to the CHR that the payment of the social benefit/allowance for the cold season was stopped. The ombudsman notified the Social Inspection which found that the decision of the Department of Social Assistance and Family Protection was unfounded. The ombudsman recommended the reinstatement of the petitioner.

perfection of the normative framework, but, sometimes also, the irresponsible attitude of the officials to the setting of this social benefit. In some cases only after the intervention of the ombudsman, it was acknowledged having committed errors in setting the social benefit/allowance for the cold season and the petitioners were reinstated.

We reaffirm the importance of the Social Inspection in verifying fair and uniform application of the regulatory framework, which manages social benefits/allowances for the cold season and social services, but not least important is its role in improving the regulatory framework in the inspected areas.

Homeless people are in an extremely difficult situation. A representative of the civil society addressed the Centre for Human Rights who invoked several problems of this category of persons, such as documents, the impossibility to benefit of social services due to lack of identity cards that might confirm the place of permanent or temporary residence. The only form of possible social protection is temporary placement in shelters, which do not cover all the needs of the given category of citizens. Moreover, currently there is no official database/ estimates on the number and profile of these people, which would facilitate the development of assistance programmes for them. After notifying the authorities in charge on the problems homeless people face, the ombudsman was informed that the Ministry of Labour, Social Protection and Family prepared a draft of Government Decision on the approval of a Regulatory Framework on the Organization and Functioning of the Social Service for housing and social adaptation of homeless people and Minimum Quality Standards.

The UN Committee on Economic, Social and Cultural Rights urged the Republic of Moldova to ratify the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, which recognizes the competence of the Committee to receive and examine complaints from individuals or groups of people, who pledge victims of violation of rights stipulated in the Covenant. Such recommendations were made to the Republic of Moldova during the first Universal Periodic Review (UPR) of the Republic of Moldova.

The feasibility Study prepared in 2013 on the accession to the Optional Protocol of the

⁴¹ www.ombudsman.md

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International Covenant on Economic, Social and Cultural Rights recommends the ratification of this treaty. The Centre for Human Rights offers support in the development of this study, opts for the ratification and encourages the promotion of this important mechanism, so that authorities in charge and civil society enhance the realization of economic, social and cultural rights.

The Republic of Moldova partially ratified the Revised Social Charter⁴² but some of the most important articles were not accepted, such as article 14 (*right to social services*), article 23 (*right of elderly to social protection*), article 30 (*right to protection against poverty and social exclusion*).

The examination of the opportunity to accept these goals was one of the recommendations formulated previously by the ombudsmen⁴³. However, we encourage the Government to accept the procedure for submitting collective complaints to the European Commission on Social Rights under the Additional Protocol to the Social Charter.

It should be noted that in the Report on Moldova in 2013, the European Commission on Social Rights deplored the fact that our country accepted neither the mentioned articles nor the procedure of collective complaints according to which the citizen can file a complaint through an international NGO⁴⁴.

5. The right to private property and its protection

In order to enhance the human right to property, the concept of *goods* was extended by the jurisprudence of the European Court of Human Rights, so as currently it includes diverse patrimonial relations existent in society.

The European Court of Human Rights established in its jurisprudence that the right to property includes three distinct tightly connected norms: the need to respect the right to property, the possibility of depriving a holder

of this right through state actions, and the possibility to regulate the way of using the goods that form the object of the right to property.

The Court has highlighted that the last two norms should be interpreted in the light of the first norm, it is only in this way that a more efficient protection may ensure the right to property, as it guarantees the essence of the right to property.

As a rule, the disputes brought to Court deal with the relations between the state and individuals. Such disputes also refer to the domain of protection of the right to property in which the object of the complaint are the measures of legislative and administrative nature or court decisions through which the right to property was violated.

Under article 1 of the European Convention on Human Rights, the signatory state shall bear responsibility for the violations made by individuals, if these violations are made within domestic legislation, or the inactivity of authorities. The fundamental rights enshrined in the state's Constitution must be respected

Case of residents of block 5 in Moscova Boulevard

The Ombudsman Institution was notified by a group of residents of block 5, Moscova Boulevard, Chisinau municipality who reported that the Mayor's Office of Chisinau municipality issued to a legal entity an authorization to build lofts on the top of the block. According to the petitioners, the decision of building lofts on the given block issued by the municipal authority contravenes the legal norms, as it was granted without obtaining the agreement of, at least, all the residents living on the last floor. This served as reason to initiate a lawsuit. As result of examining the invoked arguments and the materials annexed to the petition, as well as the examination of the national and international legislation in the field, we concluded that the actions of the municipal authority contravene the legal principles and through this the right to property guaranteed to all citizens is affected.

⁴² Law No. 484-XV of 28/09/2001 on partial ratification of the European Revised Social Charter

⁴³ www.ombudsman.md /Report on the observance of human rights in the Republic of Moldova in 2011;

⁴⁴ <http://www.infoeuropa.md/interviuri/carta-sociala-europeana-instrument-eficient-de-protectie-a-drepturilor-sociale/>

both by the state in relation to its citizens and by the citizens in relation to themselves.

In this sense, the ombudsmen highlighted the negative consequences of loft building⁴⁵ on some blocks from Chisinau by private companies with the agreement of the public authorities and noted that the advantage of the right to property must weigh more than the disadvantage caused by the implementation of tasks imposed onto the property and the owner. The performance of such tasks should respect the principle of proportionality.

Having repeatedly analysed the situation in this area, the ombudsmen concluded that the state of affairs has not improved, which is also confirmed by the complaints registered by the CHR. Petitioners frequently invoke the principle of agreement in the process of loft building. An example is the case of the residents of block No. 5 in Moscova Boulevard, Chisinau municipality, which is under investigation in court. The Ombudsman National Institution intervened to submit conclusions under article 74 of the CPC of the Republic of Moldova.

Also, given the importance of a fair and proportionate legal regulation when it comes to dual position of the state in relation to property, the ombudsmen have repeatedly recommended to the local public authorities to improve the concept of loft building in the process of amendment of the legal framework in the field.

The criterion on which the observance of the right to private property is that of proportionality, and in this respect the European Court indicated that any restriction of the right to use private property by a public authority must be justified and not exceed the reasonable restriction stipulated in the national legislation of the signatory state.

In the course of the recent years, the Ombudsman National Institution attests more cases of interference of the local public authorities in the citizens' exercise of the right to property⁴⁶. The year 2013 is not an exception in this respect. The ombudsmen were notified by citizen O.P. that the Mayor's Office from

Case of O.P.

Petitioner O.P. requested Lapusna Mayor's Office to authenticate the signatures of the founder of the peasant's farm and its members in compliance with provisions of article 13 of the Law on peasants' farms (farmers) No. 1353-XIV of 03.11.2000. Without any explanation the petitioner was denied the execution of the request and was sent to a notary to solve the problem. In the answer to the CHR notification on execution of the provisions of the legal act in question, Lapusna LPA indicated that the refusal was a founded one, as article 37 of the Law on Notary No. 1453 of 08.11.2002 does not stipulate "authentication" of signatures on documents, just their "legalization"

Lapusna refused to authenticate the signatures of the founder and of the members of a peasant household unfoundedly, thus violating her right to property. Having examined the petitioner's arguments (a disabled person), in compliance with the national and international legislation in the field, the CHR concluded that the public authority created impediments in the fulfilment of the petitioner's fundamental rights and freedoms, for which the ombudsman addressed the court to claim them.

Such actions of the local authorities raise concern, given the role they have in implementing state policies. In our opinion, the authorities should review the eligibility criteria of the elected officials or to provide sufficient managerial training for the LPA administrative staff, which would diminish the negative effects arising because of their activity. LPA implements state policies, national programmes and public services at local level.

The imperfection of land lease legal procedure was among the topics mentioned in CHR previous reports⁴⁷ as well. Continuing the monitoring of the land rights in 2013, the Ombudsman employees got informed on the mentioned problem in 15 communities from

⁴⁵ CHR Annual Report, page 61

⁴⁶ The Ombudsman Institution was notified by a group of petitioners who expressed their disagreement with the LPA illegal actions in the authentication of a proxy. CHR Annual Report 2012, page 58

⁴⁷ CHR Annual Report, page 60

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the Administrative Territorial Unit of Gagauzia and in 21 communities from 8 northern districts of the country.

Although having previously been highlighted, the problem about the lack of land lease agreements and/or their signing with the infringement of legal norms is still a current one. The land lease contract is a mutually binding and onerous one, for whose signing it is necessary first of all the agreement of the parties. It should obligatorily contain a number of conditions⁴⁸ for being valid and must be compiled according to the sample contract on land lease⁴⁹. The category of sample contract is a permissive one and cannot compel the concerned parties to strictly respect all the clauses of the sample. Otherwise, it would lose its specific purpose: to serve as a guide to those who want to lease land or take land into leasing.

Following the carried out monitoring, we state with concern that the obligatory clauses of the land lease contract, signed between the lessee and lessor, do not correspond to the sample contract or lack altogether, to say nothing of the additional clauses, which might manifest the will of a party, especially of the one who leases the land.

According to the findings, the majority of agricultural land lease contracts do not cover the setting mechanism and the terms for the lease payments, as well as the liability for not paying them⁵⁰. Lessors often resort to court to

⁴⁸ Article 6, paragraph (3) of the Law on Agriculture No. 198/15/5/2003 sets obligatory requirements which prove the validity of the lease. These are: a) the contracting parties, their residence or office; b) the object of the contract; c) the act authenticating ownership right or other right of the renter to lease the plot; d) the registration of the contract in an established manner; e) the period of lease; f) the composition, form and amount of lease payment; g) the manner, term and place of lease payment; h) the rights and obligations of the parties; i) liability of parties; j) conditions of modification and termination of contract; k) conditions for using the objects found on the leased land, including equipment and agricultural machinery; l) re-cultivation conditions, as appropriate; m) complying with environmental standards

⁴⁹ Annex No. 1 of Government Decision on the implementation of the Law on lease in agriculture 72/30.01.2004

⁵⁰ According to the data of a CHR thematic report, only 50 % of the lessees timely pay the lease payments

claim the payments. Given the fact that they cannot work on their lands by themselves, one of the main reasons being their health⁵¹, landowners become victims of arbitrariness manifested by unilateral preparation of the lease contract.

Besides the obligatory clauses, the lease contract may include other ones that do not contravene the legislation in force, but not including an essential clause or non-observance of its written form may lead to its nullification⁵². Limited legal culture of the landowners leads to their signing of contracts that contain vividly unfair clauses. Some contracts provide for non-payment of rent in the case of lower yields due to natural disasters, which is unacceptable given that there are increased risks of their occurrence in our country. Also, there were found cases in which the value shares are managed without lease contracts or the contract does not contain the object of the concluded transaction and the worthiness of the asset, only the land surface being indicated.

Another issue related to lease in agriculture is the recording and registration of land lease contracts. It was stated that the majority of Community Mayor's Offices do not pay due attention to the procedure of registration of lease contracts. Typically, the records indicate only the information of the contracting parties and the term of the lease. There were identified cases when some citizens did not know the location of the land in their private property.

Under Article 11 of the Law on Leasing in Agriculture, "the land lease contract and of agricultural assets ... are entered into the register of lease contracts kept by the community Mayor's Office in whose territorial jurisdiction the land and other agricultural assets are found". Under Article 10 of the same Law "for failure to register the lease contract within the time limit, the lessor is liable in accordance to the law in force". However, not a single normative act stipulates the manner in which the guilty persons should be held liable. This imperfection of the legislation is well known by the community

⁵¹ According to the Report of the Centre for Strategic Studies and Reforms of 2001, the age factor is a motive for leasing the land: the older the landowner, the shakier is his health.

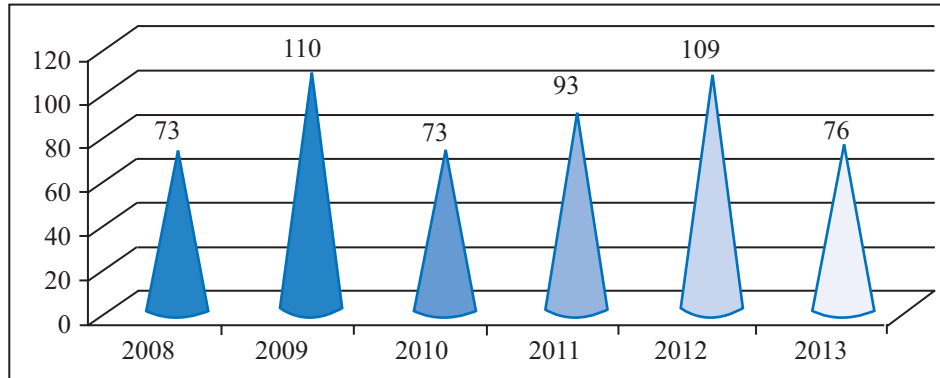
⁵² Article 6 of the Law on Agriculture No. 198/15.05.2003

Mayor's Offices and some lessees allow irregularities for which they know that they will not be penalized.

The analysis of the cases described above requires the improvement of the process and conditions of land lease through the creation of a legal mechanism that would allow proper application of the provisions of the Law on Leasing in Agriculture. In this regard, the ombudsmen come up with a number of recommendations⁵³, including clear regulations pertaining to the signing of land lease contract, as well as the creation and empowerment of a body with control functions of the essential contractual legal terms. This could be a first step in preventing and excluding the abuse on behalf of the actors involved and possible appeals to courts.

6. The right to labour and labour protection

The number of appeals of alleged violations of the right to labour and labour protection to the Centre for Human Rights in 2008-2013 is relatively constant.



In fact, the issues lately raised by petitioners are the same: salary arrears, low salaries, non-compliance with labour law, inadequate involvement of labour inspectors in investigating labour accidents, discrimination in hiring and dismissal, unemployment and undeclared work.

The salary arrears continue to be a sensible issue. It requires urgent solution to ensure decent living to employees and their families. According to the data of the National Confedera-

tion of Trade Unions, arrears in the payment of wages in the national economy branches were over 108 million lei⁵⁴ in 2013. It is even more alarming the fact that such cases are found not only in the private sector but in the public one as well. The ombudsmen intervene in the cases reported at the CHR through specific means (notifications with recommendations, mediation, etc.), but also through competent authorities with control functions in the field of labour law.

On the other hand, the CHR notes the refractory position, adopted by the employees of the State Labour Inspectorate (SLI), in the cases when they are notified about irregularities in some businesses. Based on the petition of a group of employees of "Giuvaier" enterprise⁵⁵ under the Ministry of Economy, who invoked violation of labour law, including non-payment of salaries in 2011 and correspondingly transfers to the social insurance fund, the ombudsman requested the SLI to check the observance of labour law and of health and labour safety norms at this enterprise.

The State Labour Inspectorate denied its responsibilities in the answer sent to CHR arguing that CHR "did not attach accurate informa-

Several employees of Boarding Gymnasium from Falesti complained about not being paid the salaries for three months. After the ombudsman intervened to Falesti Department on Education and the State Labour Inspectorate, salary arrears for two months were paid.

⁵⁴ www.sindicat.md

⁵⁵ Petition No. 03-768/13

⁵³ <http://www.ombudsman.md/ro/rapoarte-tematice>

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tion supported by evidence of the existence of cases of violation of labour laws, of accidents, modification or violation of security norms, fact that might present imminent danger to the life and/or property of the people and the environment with a damage estimated not less than 30 average monthly salaries, predicted by the Government (3,850 lei) for the current year”.

In these circumstances, the specialists of Labour Inspection “presume that Chisinau Jewellery Factory “Giuvaier” respects the labour legislation and security and health norms at the workplace”. However, they assured that while preparing the schedule of inspections, the State Labour Inspectorate will take into consideration the information brought to the attention by CHR.

According to the ombudsman, this case illustrates lack of receptivity and passivity displayed by the State Labour Inspectorate – institution designed to protect the employees’ rights and interests at the workplace.

The State Labour Inspectorate informed that as result of verifying the businesses that allow salary arrears, it was found at the moment of inspection visits that in 127 economic agencies the salary arrears amounted to more than 30 million lei, including debts from previous years in the amount of more than 11 million lei; 25 businesses had blocked their bank accounts. The labour inspectors concluded 58 Minutes on offense in connection with the admission of salary arrears. On January 1, 2014, it was reported on the payments of over 3.5 million lei.

Considering that work is either the only or the most important source of income and existence for the majority of employees, including old age insurance, the ombudsmen argue that any delay in salary payment affects the financial situation of the employee and his family, and consequently his right to a decent living.

We reiterate that the salary, in the sense of the European Court of Human Rights, is an “asset” and the right to salary is part of the right to property stipulated in Article 1 of Protocol No. 1 of the Convention for the Protection of Human Rights and Fundamental Freedoms.

Another aspect of concern is the employees’ safety and health at the workplace.

In 2013 according to an informative note of the State Labour Inspectorate⁵⁶, 3122 of

⁵⁶ http://www.inspectiamuncii.md/?lang=ro&menu_id=17

check-ups were conducted in the field of labour relations and 3087 in the field of labour safety and health. As a result, it was found that most frequently employers commit violations of the laws related to fixing the salaries and adapting the working conditions to the safety and health requirements at the workplace.

In 2013, the State Labour Inspectorate registered 443 cases of accidents at the workplace in which 477 employees were injured.

It should be noted in this context, that the President of the European Committee of Social Rights, Luis Jimena Quesada, expressed his concern in connection with the high number of labour accidents that occur in our country. He mentioned: “**Moldova holds the record for workplace accidents. That means that accidents at the workplace occur in average in Moldova more than in the other 47 member states to the Council of Europe...**”⁵⁷

Comprehensive and objective investigation of these cases is particularly important for the people who have suffered from labour accidents.

Citizen E.V. complained that the Prosecutor’s Office from the district Glodeni inefficiently investigated the serious accident at the workplace, because of which his wife died. However, after the carried out investigation, the Prosecutor’s Office deprived the petitioner of the right to ask for financial and moral compensation. Following the ombudsman’s intervention the General Prosecutor’s Office cancelled the order of termination of criminal prosecution issued by the Prosecutor’s Office from Glodeni and disposed to resume the investigation.

The situation of the victims in cases of undeclared work is even more serious. Although the Government developed a set of actions⁵⁸

⁵⁷ <http://www.infoeuropa.md/interviuri/carta-sociala-europeana-instrument-eficient-de-protectie-a-drepturilor-sociale>

⁵⁸ Government Decision No. 477 of 28.06.2011 on approval of the Action Plan to minimize the practice of paying salaries in “envelopes” and “moonlighting”.

in order to improve the state of affairs in this field, the problem continues to be current. According to the data of State Labour Inspectorate, in 2013, 287 people, who worked without legal employment, including eight minors, were found in 148 businesses, on which 126 Minutes on offense were registered.

In the opinion of ombudsmen, in order to counteract undeclared labour, an overall approach on behalf of the authorities is needed, as well as to develop efficient employment policies, to ensure adequate remuneration and a maximum degree of transparency and accessibility to the tax and social protection systems.

Following the unannounced visit to the Job Fair on February 2013 made by the employees of the Centre for Human Right, violations of the right to employment by imposing discriminatory conditions were found. Thus, having examined the offers and the private discussions with the employers' representatives, the CHR employees established that of the six institutions participating in the Job Fair, two imposed discriminatory age conditions and three on the grounds of gender. It was found that employers prefer employees under the age of 40 or 45. Men have more chances to be hired, while for certain positions young women are preferred but not pregnant ones. Because of the grounds mentioned above, some categories of people are from the very start deprived of the chance to enter the competition for a vacant position⁵⁹.

Even more alarming are the situations when pregnant women are exposed to pressure on behalf of the employers and forced to resign or are even fired. This is the case of an employee of "Air Moldova" Company who was fired even after her reinstatement by a court decision.

7. The right to education

Given that education is a complex domain with many levels and many involved and interested actors, the reforms and results in education can become visible only as result of consistent actions over a longer period. The Ministry of Education has identified the major problems and proposes its vision and strategic directions of development for a medium and long term in the draft of the Sector Development Strategy

⁵⁹ www.ombudsman.md

for the period 2014-2020 "Education 2020".⁶⁰ It seeks to change the emphasis in education in the favour of the quality of the educational process and the competences that the youth get within it.

Currently, general education⁶¹ is characterized by an oversized network of schools that are not fully used and cannot be modernized because of lack of needed investments for proper equipment. In the period 1990-2012, the number of pupils has halved, while the number of schools was reduced only by 14.6%. The average number of pupils per school decreased from 437 in 1990 to 267 pupils in 2012. Consequently, in 2005 the Ministry initiated a reorganization of the school network and the creation of district schools. In the period 2005 -2013, 206 institutions of general education were reorganized. The vast majority of reorganizations consist in transforming the lyceums into gymnasiums or the gymnasiums into primary schools. The result was to stop the reduction of average number of pupils per institution: the average number of pupils in a class increased from 19.2 in May 2012 to 20 in October 2012 (for comparison, in 2002 -2003 there were 22 pupils in a class). The average number of pupils per teacher increased from 10.9 in May 2012 to 11.2 in October 2012 (the average for the countries of the Organization for Economic Cooperation and Development was of 14 in 2009). According to our findings presented in the previous reports, one of the most serious problem, appeared as result of optimization of educational institutions, is linked with providing transportation for pupils to district schools: lack of vehicles, insufficient number of existing ones or their unfitness for the transportation of pupils. Such cases were broadcasted in 2013 as well⁶².

The community culture centres are in a deplorable state, because of lack of libraries or

⁶⁰ <http://particip.gov.md/proiectview.php?l=ro &idd=1112>

⁶¹ The state of affairs in pre-school, primary and general education is additionally reflected in Chapter „Observance of children's rights in the Republic of Moldova”

⁶² http://www.publika.md/video-elevii-din-copan-ca-sunt-transportati-la-scoala-ca-intr-o-cutie-de-conservaciu-un-autobuz-vechi-de-30-de-ani_1668031.html
<http://unimedia.info/stiri/video-parinti-din-s-cucioaia-gata-sa-plateasca--numai-sa-aiba-scoala-in-sat-64470.html>

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insufficient supplies of books, the precarious conditions of their activity due to lack of interest clubs and extracurricular activities, lack of specialists within Mayor's Offices to organize events for children and youth. Thus, the school is the educational core of the rural community assuming an important role in forming the future society.

We fully support the state policy that promotes the shift of emphasis in education in favour of its quality and encourage the authorities to make sure that the optimization of educational institutions will not affect the cultural and educational life in rural communities.

According to the assessment of the Ministry of Education, the quality of professional training is below the expectations of beneficiaries and employers and is not attractive enough. The assessment and certification mechanism of training results is imperfect, inefficient and with a high degree of corruption. The system of quality provision does not function at all levels of the educational process. Although the curriculum for vocational/technical training for some specialties has been revised in the recent years, the lack of an evaluation and accreditation structure of institutions and programmes of professional training impedes the qualitative improvement of the graduates. The network of secondary professional and specialized educational institutions is oversized and has an out-dated, physically and functionally, infrastructure, which is not adapted to provide access to education to persons with special educational needs. The existing technical and material base does not facilitate the development of professional competences in demand on the labour market and requires major upgrading. The cooperation of these institutions with businesses to use the modern equipment and technologies in the students' professional training is weak and episodic. Meanwhile, over one third of all unemployed are graduates from vocational secondary and specialized secondary educational institutions.

Despite the measures taken to modernize the higher education, the adjustment of the national system to the European one has not been completed yet. The doctoral studies became the 3rd cycle of higher education only in 2013⁶³, academic mobility is only formal, and ac-

ademic autonomy has not been enhanced yet. Higher educational institutions are not adapted enough neither to modern instruction nor to respond to people with special educational needs. They lack access infrastructure to study blocks and hostels and student-centred curricula. The material and technical base does not allow the implementation of new teaching technologies and carry out research relevant to the market⁶⁴.

The self-critical spirit of the Ministry of Education related to the state of affairs in the vocational/technical and higher education makes us believe that this institution will manage to meet the objectives and carry out the medium term tasks in the development of education, so that this system becomes the main factor of economic and social progress of the country.

Given that the establishment of Single European Higher Education Area requires the quality of education as a priority for the entire academic community, it is necessary to intervene with appropriate measures aimed at continuous improvement of the quality of higher education in accordance with requirements of Bologna Process and become fully competitive with the European education. In this respect, accreditation is recognized today as the most important way of determining the quality of education and the most effective tool to ensure and improve the quality of education.

Evaluation of the quality of educational services is a complex long-term task whose results can be appreciated only after a long period by a specialized body through special procedures, which verify the correspondence of the system of professional training to unified criteria and standards. The creation in 2013 of the National Agency for Quality Provision in Vocational Education following the amendment of the Law on Education⁶⁵ was a decisive step in the realization of the state policy in the sphere of quality education aimed at increasing the credibility and attractiveness of vocational education internationally, as well as at raising the competitiveness of specialists trained within the national educational system on the internal and external labour market.

During 2013, the Centre for Human Rights intervened in several cases connected with restricting access to higher education and viola-

⁶³ Law No. 239 of 18.10.2013 on the modification and completion of the Law On Education No. 547 of July 21, 1995

⁶⁴ EDUCATION -2020, Sector Development Strategy for 2014-2020

⁶⁵ Ibidem

tion of the principle of equality of all citizens before the law.

In the period of admission to higher education (first cycle) to higher educational institutions from the Republic of Moldova, the enrolling commissions refused to accept the documents of candidates, speakers of non-state language and holders of baccalaureate diplomas who wanted to enrol for a specialty with instruction in the state language. The legislation in force⁶⁶ does not limit the right of school graduates to admission to educational institutions with instruction in the Russian language or other languages.

The ombudsman **recommended⁶⁷ the Minister of Education to intervene urgently with necessary dispositions in order to remove any administrative practices derived from improper interpretation of the provisions of the Regulations on organizing and conducting admission to higher education (cycle 1) in higher educational institutions from the Republic of Moldova.** It should be mentioned that the Ministry of Education promptly responded to the request of the ombudsman and notified immediately the admission boards about the misinterpretation of some provisions of the mentioned Regulations and obliged them to accept the documents from the candidates, speakers of other languages, to a specialty with instruction in the state language at their request, as well as to remedy the specific cases⁶⁸.

The ombudsman proposed to the Government to initiate the amendment of the provisions of Article 178, paragraph 1 of the Labour Code and of item 1 of the Regulations on granting guarantees and compensations to the employees who combine work and studies, approved by Government Decision No. 435 of 23/4/2007, in order to provide fair guarantees and compensations for all those who combine work and studies. The initiative was made in view of the commitments made by the Republic of Moldova by adhering to the Bologna Process

but also the state's obligation to ensure equality of opportunity and treatment for each person involved in education assumed by our country by ratifying the Convention on the Fight against Discrimination in Education. The mentioned above Regulations sets guarantees and compensations to be granted to employees who study successfully in higher and secondary specialized, in specialized post-graduate, in vocational secondary, in secondary general (gymnasiums, lyceums, general secondary schools) educational institutions, in evening schools and part-time. Currently only employees who study in legally accredited educational institutions from the Republic of Moldova enjoy guarantees and compensations. Persons who combine work and studies in educational institutions from other countries are outside state's special protection with no objective and reasonable justification.

In our opinion, the state does not provide equal and fair conditions of access to opportunities available in the society for all the people, including opportunities to accede to higher education and creates a distinction between the employees who combine work and studies, with the effect of suppression of equality of opportunity and treatment in employment and performance of career. This violates the principle of equality of all citizens of the Republic of Moldova before the law (article 16 of the Constitution) and affects the right to labour and labour protection (article 43 of the Constitution).

Based on the constitutional right, the right of access to educational institutions must provide equal opportunities to any person to accede various types and levels of education on a merit basis and any limitation must be proportionate to the pursued aim. For this reason, the ombudsman requested the Constitutional Court to review the constitutionality of some provisions⁶⁹ that establish differentiated approach based on age of the candidates to post-graduate studies and master degree enrolment at the Academy of Public Administration. By Decision No. 26 of 19/9/2013 the Constitutional

⁶⁶ Regulations on Admission to higher education (cycle I) in higher educational institutions from the Republic of Moldova

⁶⁷ Recommendation of ombudsman Anatolie Munteanu no. 01-14/10 of 26.07.2013, on the grounds of article 29, letter b) of the Law on ombudsmen, <http://ombudsman.md/ro/stiri/comunicat-presa-13>;

⁶⁸ Answer of the Ministry of Education No. 03/10-467 of 26.07.2013.

⁶⁹ Item 16 of Government Decision No. 173 of 18/02/2008 on the approval of the Regulations on the organization and conduct of doctoral and post-doctoral studies, according to which „the age limit of full time students with budgetary support is of 35”, the phrase „of the age of 45, as a rule” item 4 of Government Decision No. 962 of 5/8/2003 on the functioning of the Academy of Public Administration under the President of the Republic of Moldova

Court accepted the ombudsmen's notification on the review of the constitutionality of some provisions related to age limit for master and doctoral degree studies. Item 16 of the Regulations on the organization and conduct of doctoral and post-doctoral studies, approved by Government Decision No. 173 of 18/02/2008 and the phrase "of the age of 45, as a rule" from item 4 of Government Decision No. 962 of 5/08/2003 on the operation of the Academy of Public Administration under the President of the Republic of Moldova, were declared *unconstitutional*. However, it should be noted that this issue was addressed⁷⁰ in the proposal for the improvement of the legislation in force submitted to the Ministry of Education in October 2011, which was left without examination by the specialized central institution that promotes the state policy in education.

Prohibition to train specialists in medicine and pharmaceuticals in private⁷¹ educational institutions is, in our opinion, an unfounded restriction of the fundamental right to education and a limitation of the freedom of choice of educational option, without the existence of a balance or proportionality between restriction of these rights and the pursued goal. The ombudsman notified the Constitutional Court on the review of the constitutionality of the provisions related to the training of staff in medicine and pharmaceuticals exclusively in state educational institutions.

Examining the notification, the Court noted that the regulation of the legal and organizational framework of state and private higher educational institutions and the institution of a special regime for their activity, as well as setting of restrictions are prerogatives of the legislator and considered that the object of the notification exceeds its scope of legal competences because the issues raised in the notification are a matter of opportunity, not a constitutional one. By Decision of the Constitutional Court No. 7 of 4/7/2013, the review of

⁷⁰ Reports on the observance of human rights in the Republic of Moldova in 2011 and 2012 <http://ombudsman.md/ro/rapoarte-anuale>

⁷¹ Article 2, paragraph (3) of Law No. 1070 of 22.06.2000 on approval of the Nomenclature of specialties for instruction in higher and specialized education; article 3, paragraph (2) of Law No. 142 of 7/7/2005 on the approval of the Nomenclature on domains of professional training and of specialties for the training of staff in higher educational institutions, cycle I.

the constitutionality of the norms contested by the ombudsman was terminated.

However, we maintain our view that effective protection of the right of choice in education requires the recognition through law of the right to open private educational institutions and the possibility that these institutions become part of the national educational system. Appearance of several providers of educational services at higher level is a positive factor because due to competition, the services become more diverse, qualitative and centred on beneficiary needs. Therefore, the creation and maintenance of private educational institutions ensures that the entire educational system serves the interests of society.

We also underline the need to preserve state neutrality and pluralism in the national educational system and recommend identifying reforms necessary to efficiently guarantee the right to freedom of educational choice.

8. The right to healthcare

The guarantee of the right to healthcare by the state entails its obligations and efforts to lower new-born mortality, infantile mortality and healthy child development; improvement of the situation of environmental and industrial hygiene; prophylaxis and treatment of epidemic, endemic, occupational and other types of diseases, as well as fighting them by creating conditions that would provide medical services and medical aid in case of sickness; legal organization of medical aid and of the system of medical care in case of sickness, accidents, maternity and recuperation; exercise control on medical professions and paramedical activity and other measures meant to protect a person's health. This guarantee, stipulated in the Constitution, is general and requires the state to ensure access to quality health services both through adopted laws and their actual implementation.

Violation of this right was invoked in 52 petitions which have as object of complaint dissatisfaction with the system of healthcare: mandatory healthcare insurance and the consequences of non-payment of mandatory health insurance premiums in a fixed amount; organization and quality of medical care services provided by public medical institutions, errors in diagnosis; deplorable conditions of the infrastructure of medical institutions; informal payments; the

quality of emergency medical services and lack/insufficiency of medical transportation, particularly in rural areas. Moreover, the existence of problems in the healthcare system (in particular connected with the quality of medical services, informal payments from patients, careless attitude of some doctors towards patients) is admitted by the President of the National Health Insurance Company⁷².

In 2013, the list of unemployed people residing in the Republic of Moldova, for whom the Government assumes the insurance,⁷³ was extended. These are students who study abroad, unemployed registered by employment territorial agencies, people, who look after a person with severe disability that needs care and/or permanent supervisions of another person; foreign recipients of a form of protection included in an integration programme during its development.

Like in the previous years, the unemployed, but payers of mandatory health insurance premiums in a fixed amount, continued to express their dissatisfaction with the cost of the insurance, which is annually increasing, in the context of precarious financial situation or lack of stable income. Many petitioners do not agree with the principle of compulsory medical insurance and application of fines and penalties for untimely payment of mandatory healthcare insurance premiums in a fixed amount in the context of difficult access to medical services, bureaucratic barriers and the phenomenon of informal payments.

Corruption is a big problem in the healthcare system. About 93% of Moldovans offer, in certain conditions, informal payments to doctors and other medical staff. The annual amount of such payments gets to over two milliard lei. Even insured people resort to such experience. People reward doctors financially in spite of the fact that they are insured and benefit of free of charge services. Many patients who offer informal payments to doctors do not have an income; their medical costs (treatment and drugs) are covered by transfers from abroad⁷⁴.

⁷² <http://vocea.md/asigurarea-in-sanatate-intre-a-dorisi-a-putea/>

⁷³ Law on modification and completion of some legal acts, No. 77 of 12/4/2013; the Law on completion of article 4 of Law No. 1585-XVIII of February 27, 1998 on mandatory medical care insurance No. 141 of 14/6/2013

⁷⁴ Opinion of the Director of the National Health

The Minister of Health admitted that 80% of citizens who come in audience complain that they have to give doctors informal payments⁷⁵.

The share of informal payments related to the direct payments constitutes 37% for services provided within primary and specialized outpatient care, and 94 % for hospital services⁷⁶. Particularly alarming is the situation regarding hospital services and drug costs in the context of annual increases of mandatory health insurance premiums, extension of medical care provided in insured persons and of the list of compensated drugs from mandatory health insurance funds.

Shortage of competent staff in public healthcare, especially in rural areas; the exodus of specialists and uneven distribution of medi-

Mandatory health insurance has not achieved its objective – to provide an autonomous state guaranteed system of financial protection of the population in healthcare and of equal opportunities in obtaining opportune and quality medical care by all citizens. This is the conclusion to make if to take into account the obligation of medical insurance and to compare the measures taken by the state for raising the mandatory health insurance funds with the quantum of the mandatory health insurance premium, the household income, the affordability and quality of provided medical services.

cal staff; insufficient quality and safety of medical care services; limited access to highly skilled emergency services in rural communities; the deplorable infrastructure and unsatisfactory sanitary-hygienic and sanitary-technical conditions of the medical institutions; outdated and insufficient medical equipment; unequal access

Insurance Company expressed at the 2nd edition of the National Healthcare Forum, November 25-26, 2013, Chisinau, www.moldova-suverana.md/article/plile-informale-n-sistemul-de-snatate-se-ridic-la-pest-2-mlrd-de-lei-3872

⁷⁵ Ibidem

⁷⁶ Institutional Development Strategy of the National Health Insurance Company for the period 2013-2017, www.cnam.md

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to quality services are key problems that the health care system is confronting and identified by the officials in the field⁷⁷.

The problem of efficiency and objectivity of the accreditation procedure in the health system is particularly acute. This is an important mechanism by means of which the state monitors the quality of medical services. Accreditation is the process through which the service provider demonstrates his own functional, organizational and administrative potential in service delivery and one of the levers to promote the principle of continuous quality enhancement of medical services. Obtaining the accreditation certificate is based on compliance with technical and material requirements, professionalism of healthcare and pharmaceutical staff, documentation and financial activity, compliance with medical-sanitary and pharmaceutical quality, effectiveness of diagnosis and treatment in medicine.

The principles and methodology of evaluation and accreditation in medicine are established in Law on Evaluation and Accreditation in Healthcare System No. 552 of 18/10/2001.

The analysis of the regulatory framework on evaluation and accreditation in medicine⁷⁸ related to the procedure of evaluation/accreditation itself and the attributions of the National Council of Evaluation and Accreditation in Healthcare System (NCEAHS) established by law⁷⁹, revealed lack of an instituted legal procedure of evaluation. Thus, the results of evaluation are assessed based on a methodology developed by NCEAHS, which, in our opinion, has arrogated improper attributions of drafting normative acts and thus violates the provisions of article 9 of the Law on Evaluation and Accreditation in Healthcare System. Under Law on modification and completion of some legislative acts No. 280 of 14.12/2007, NCEAHS was deprived of the attribution to draft legislation on the evaluation and accreditation of medical-

sanitary and pharmaceutical institutions and to submit it to the Government for approval.

We also attest violation of legal provisions regarding the accreditation of units performing medical-sanitary and pharmaceutical activity. Contrary to the provisions of Article 3, paragraph (2) of the Law on Evaluation and Accreditation in the Healthcare System No. 552 of 18.10.2001 according to which *“only units that obtained evaluation and accreditation and got an accreditation certificate have the right to perform medical-sanitary and pharmaceutical activity in the Republic of Moldova”*, it was instituted a practice, which de facto evaluates and accredits each subdivision separately, not the entire medical-sanitary institution.

From the Register of Accredited Institutions⁸⁰ results that in cases, when one or more subdivisions of an institution do not correspond to the standards governing the quality of medical services, the unit is accredited anyway. For example, according to the List of medical-sanitary institutions publicly accredited, updated on January 13, 2014, IMPS Scientific Research Institute of Mother and Child Care was accredited on 25.07.2012 (accreditation certificate No. 1633) and continues its activity having some subdivisions unaccredited (gastroenterology, pulmonology, paediatric surgery with the operating block (paediatrics), hospitalization divisions (paediatrics, maternity), the clinical-diagnosis laboratory, the bacteriological laboratory, immunological laboratory, pharmacy, milk kitchen). Some institutions are conditionally accredited (with great reservations) for a period of 6 months without issuing an accreditation certificate.

The situation in this respect raises serious question marks. The society expects answers from competent authorities: To what extent is the procedure of evaluation and accreditation compliant to the requirements of Law No. 552? How can a medical-sanitary institution, whose subdivisions do not correspond to the standards, be considered accredited? Why can a medical institution or one of its subdivisions, which was not accredited, continue its activity?

⁷⁷ Strategy of Expenditures in the sector „Healthcare”, 2012-2014, www.minfin.md/common/files/CCTM, National Healthcare Strategy for the period 2014-2020 approved by Government Decision No.1032 of 20/12/2013

⁷⁸ Law on Evaluation and Accreditation in Healthcare System No. 442 of 18/10/2001; Government Decision on the National Council of Evaluation and Accreditation in Healthcare System

⁷⁹ Article 9 of the Law on Evaluation and Accreditation in Healthcare System No. 552 of 18/10/2001

⁸⁰ www.cneas.ms.md; www.ms.gov.md/activitate/evaluare-acreditare

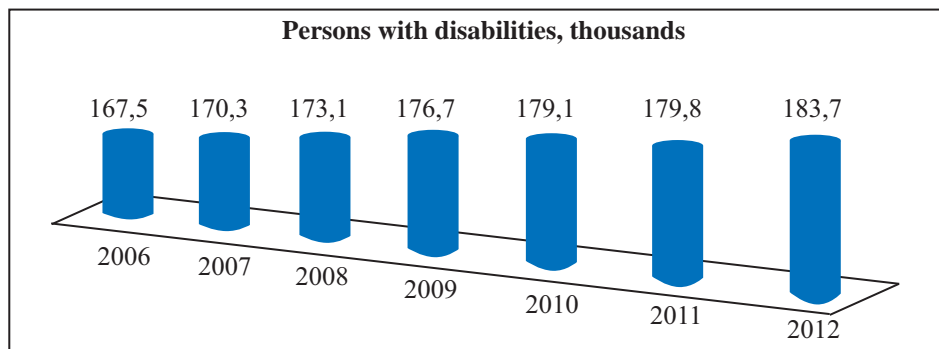
There are unaccredited institutions that operate and are contracted by the National Health Insurance Company (NHIC)⁸¹ such as IMPS District Hospital from Taraclia, IMSP Centre of Family Doctors from Drochia (conditionally accredited on 20.12.2013). We consider that the unaccredited medical-sanitary institutions, on the one hand, and NHIC, on the other, defy the legislation in force and assume undue risks by allowing the continuation of medical practice. Within these institutions, the patients are subject to high risk of being poorly treated in unsuitable conditions. There is also the risk of death among the consequences of such kind.

Professional responsibility in seeking and finding solutions, not compromises but perspectives, in the context of the serious economic situation and in the spirit of respect for patient's rights and interests, could bring a substantial change in the issue of accreditation of medical institutions.

9. Protection of persons with disabilities

According to the information submitted by the Ministry of Labour, Social Protection and Family⁸², 183,693 persons with disabilities were registered in our country on January 1, 2013.

Persons with disabilities	Number
Severe disabilities	27 413
Accentuated disabilities	121 454
Medium disabilities	34 826
Total	183 693



The statistics for the recent years denotes a continuous growth of the number of persons with disabilities in the Republic of Moldova.

Although, the Republic of Moldova has recently made progress in promoting the policies and developing programmes adjusted to international standards concerning the persons with disabilities, we cannot speak of a significant improvement of the situation of persons with special needs.

The nature of the appeals to CHR on issues this category of people face, was similar with that of previous years: social benefits below the subsistence level; lack of social services at community level; limited access to social infrastructure; limited access to information; low level of employment and employers' reduced motivation to hire persons with disabilities; society's tolerance towards the problems of such persons.

Citizen V.N., inhabitant of Chisinau, dependent on a wheelchair invoked the refusal of the local public authority to install an access ramp in the house where she lives. After the intervention of the ombudsman, Ciocana Sector Mayorality assured that the ramp would be set in a short time in the given block. In spite of this, the local authorities have not honoured their obligations by the moment of editing the present report.

⁸¹ <http://www.e-sanatate.md/News/2099/un-spital-raional-nu-are-acreditare-de-10-ani-dar-functioneaza>

⁸² http://mpsfc.gov.md/file/2013/rapoarte/Raport_implement_Strategie_%20FINAL_2012.pdf

We reiterate in this context that the authorities in charge must join efforts to set viable mechanisms for the implementation of the provisions of the Law on Social Inclusion

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of Persons with Disabilities⁸³, which will contribute to achieving the plenary commitments assumed by the Republic of Moldova at international level.

The problem of ensuring access of people with disabilities to the physical and communication environment was a priority on the working agenda of ombudsmen starting with 2009⁸⁴. The problems raised by ombudsmen in all these years regarding limited access of this category of people to social infrastructure remain, however, current up to now. Persons with impaired locomotion confront serious difficulties in realizing their rights. Due to lack or inadequate access ways to public institutions and residential buildings, they live almost isolated or are helpless, as they depend on another person to be able to move.

Significant progress in terms of social inclusions of the persons with special needs, their well-being or full exercise of their rights was not observed in 2013 either. The situation does not differ much from that of previous years – public institutions and residential buildings without or with impassable access roads, limited access to public transport and information and communication media.

Although there are regulations regarding building access roads to all public institutions⁸⁵, these are either missing or are impassable. Evidently, the issue in question is not included on the priority list of the authorities in charge.

To improve the situation, we recommend developing a medium-term action plan on gradual removal of existing barriers for full inclusion of persons with disabilities in society, ensuring their mobility, adaptation of the infrastructure, access to goods, services, communication and information technologies, monitoring compliance with the standards for equipping the residential blocks and buildings under construction with access ramps. We consider imperatively necessary to establish a set of indicators for the assessment of the degree of integration of persons with disabilities to social infrastructure. Accessibility should be

⁸³ Law on social inclusion of persons with disabilities No. 60 of 30/3/2012 (in force since 27/7/2012);

⁸⁴ Thematic report „Access of persons with special needs to social infrastructure: reality and necessity”, www.ombudsman.md;

⁸⁵ Chapter III of the Law on social inclusion of persons with disabilities No.60 of 30/3/2012

considered an indispensable prerequisite for the exercise of civil, political, social, economic and cultural rights. This objective is extremely up-to-date in the context of Republic of Moldova’s aspiration to European Union integration. Therefore, we recommend the Government to take into account the Opinion of the European Economic and Social Committee on the topic “Accessibility – a human right for people with disabilities”, adopted on January 21, 2014.

Ensuring the right to social assistance and protection is still a vulnerable issue for the persons with disabilities.

According to the data of the National Bureau of Statistics, the size of the subsistence minimum constituted an average of 1,608.3 lei per person⁸⁶ in the first semester of 2013.

Also, according to the estimates of the Ministry of Labour, Social Protection and Family⁸⁷, the average size of the disability pension was of 828.4 lei/per month⁸⁸ on January 1, 2013. The analysis of social benefits related to the minimum subsistence, considering the specific needs of people with disabilities (*permanent medical care, rehabilitation procedures, care given by another person*), demonstrates that state assistance does not meet the basic needs of these people.

This is in the conditions, in which, according to the data of the National Bureau of Statistics, the average monthly expenditure of household consumption of the population constituted 1656.1 lei per person, increasing by 9.6 % compared with the same period of the previous year. Based on these data, we conclude that the persons with disabilities spend much more than the subsistence minimum. Much more serious is the situation of beneficiaries of state social allowances.

It is for this reason, that protection and promotion of the rights of persons with disabilities is one of the priorities in the work of the ombudsmen. In the reference period, we conducted an assessment on ensuring the right to decent living for persons with severe disabilities.

The conclusion, after conducting the mentioned assessment, but also considering the

⁸⁶ <http://www.statistica.md/category.php?l=ro&idc=445&>;

⁸⁷ http://mpsfc.gov.md/file/2013/rapoarte/Raport_implement_Strategie_%20FINAL_2012.pdf;

⁸⁸ <http://cnas.md/lib.php?l=ro&idc=244&nod=1&>.

Categories of beneficiaries	Number of beneficiaries (persons)	Size of benefit (lei)
Pensions for people with disabilities	133 642	826.20
State social allowances		
For persons with disabilities	6 068	110.87
For persons with disabilities since childhood	26 939	304.48
For children with disabilities under the age of 18	14 044	307.32
In case of loss of bread earner	3 851	139.65

Source: National House of Social Insurance, as of January 1, 2014

A petitioner from Chisinau, who has been living with his bedridden wife for over 15 years, addressed the CHR and stated that the only source of existence for his family is the social allowance granted to his wife (a total of 1,100 lei/per month). It is mostly spent on drugs and payment of utilities to the extent of possibilities. In these conditions, both eat only once per day and have not bought clothes for themselves for more than 20 years.

appeals to the Centre, is that in the majority of cases in the families, where there is a person with severe disabilities, the caregiver becomes vulnerable. As a rule, the caregiver is not employed, which has a negative impact on the financial situation of the whole family.

Currently, care allowances⁸⁹, in the size of 500 lei, is a benefit of persons who care about:

- A child with severe disabilities under the age of 18;

Drochia District Council informed us that the funding of the social service „Personal Assistance” was approved only in June 2013 and only for 30 units of personal assistants, the demands being of 109 (27% of the demand). In Soroca, 214 demands were registered but only 30 units of social assistants are planned, which forms 27 % of the demands. In some districts, there is no service for persons with severe disabilities.

- A person with severe disabilities since childhood;

- A blind person with severe disabilities.

Since 2010, a number of social services have been created (“Mobile Team”, “Personal Assistant”, “Protected Home”, “Community House”, “Respiro”) designed to assist the most vulnerable categories of persons with disabilities, but they are far from enough to cover the needs of the persons/families in difficulty.

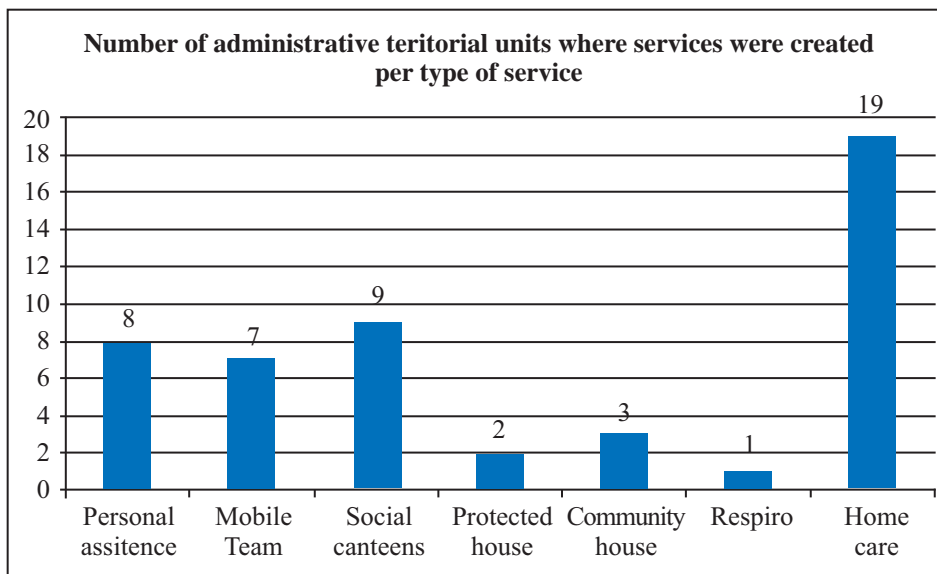
Given that the costs for the organization and operation of mentioned services are covered by the public administration and the associative sector, one of the core issues raised by the departments/divisions of Social Assistance and Family Protection is the insufficiency of financial means to provide for the given service. For this reason, local authorities are not able to create or hardly support the social services for providing necessary assistance to all people at risk.

According to the data submitted by departments/divisions of Social Assistance and Family Protection (see Table 1), the social services operate as follows:

- „Protected home”(effective since 17.08.2010) - in 2 districts (Călărași, Orhei);
- „Community House” (effective since 15.10.2010) - in 3 districts (Nisporeni, Orhei, Soroca);
- “Mobile Team” (effective since 30.09.2011) - in 7 districts;
- „Respiro”⁹⁰ (effective since 2.06.2012)- in 1 district (Orhei);

⁹⁰ “Respiro” is a specialized service created in June 2012. It is intended to provide social assistance, support, 24-hour care and supervision to persons with severe disabilities, within specialized centers or other social services for the families, relatives or other persons who look after them, so that they benefit of a maximum rest of 30 days per year.

⁸⁹ Law No. 499-XIV of 14/7/1999 on social allowances for some categories of citizens, article 14,15



Source: Departments/divisions of Social Assistance and Family Protection

Note: the chart does not contain information from the districts Cimislia, Glodeni, Ialoveni, Taraclia and Vulcanesti, which did not submit the requested information.

- „Personal assistant”⁹¹ (effective since 01.01.2013) - in 8 districts

We appreciate the efforts made by competent authorities in meeting the objectives of social inclusion of people with disabilities in terms of adoption of the legal framework but we are reserved about the efficiency of its implementation that would have a positive impact on people who rely on the given services.

This concern was also voiced by the UN Special Rapporteur, who visited our country last year. He mentioned: *“I think a law will not work if its implementation depends on local authorities who have no money. You cannot give them the right without giving sufficient money to implement a law”*.

We consider opportune the proposals made by NGOs, which work in this domain,⁹² on the inclusion of the period of care for a person/child with severe disabilities in the

⁹¹ „Personal assistant ” is a specialized service to provide assistance and care to children and adults with severe disabilities.

⁹² Association for Rehabilitation of Children with Infantile Cerebral Paralysis, Centre for Legal Assistance for Persons with Disabilities, Association for Support of Children with Disabilities „Steaua Calauza”, Association for support of persons with mental disabilities „Dor”

person’s period of contribution to benefit of pension.

The legislation in force⁹³ stipulates that only the period of care for a person with disabilities is included in the contribution period before the entry into force of the Law on State Social Insurance Pensions (January 1, 1999). Consequently, in the conditions when the alternative services do not provide for the full realization of the rights of persons in difficulty, it is necessary that the authorities offer viable solutions/opportunities including the inclusion of the period of care for a person/child with severe disabilities in the contribution period.

Lack of disaggregated official statistics on persons with disabilities and their needs, which might facilitate the adoption of public policies and the implementation of norms according to the Convention on the Rights of Persons with Disabilities⁹⁴, is a very important issue that we would like to warn the authorities about repeatedly. We underline that in the Study on the Practical Application of the Trust-

⁹³ Article 50, paragraph (1), letter (d) of Law No. 156-XIV of 14/10/1998 on State Social Insurance Pension

⁹⁴ www.ombudsman.md, Report on the observance of human rights in 2012

eeship System in the Republic of Moldova⁹⁵, we also reported about the lack of records of people who need support in exercising their legal capacity/declared disabled and of persons who offer such support.

We also reiterate the need to strengthen the national mechanisms for monitoring the implementation of the mentioned Convention, but also of the Law on Social Inclusion of Persons with Disabilities No. 60 of 30.03.2012 (in force since 27.07.2012). Achieving the desired goal is not possible only by adopting legal provisions without providing viable mechanisms and setting some performance indicators in the field. Both the persons with disabilities and the organizations that work in the field mention that several provisions of Law No. 60 of 30.03.2012 are not observed and implicitly article 20 on ensuring the access of persons with disabilities to public transport, norms on employment of persons with disabilities, etc.

It is regretful, but the state has not come up yet with an alternative variant on designing an independent monitoring mechanism for the implementation of the Convention on the Rights of Persons with Disabilities, in accordance with paragraph 2, Article 33.

10. The right to a healthy environment

Environment protection is directly aimed at the population's living conditions and health, but also at the capacities of sustainable development of society. That is why the solution of ecological problems should be a national priority. The existence of a healthy environment is an incontestable prerequisite for achieving the fundamental human rights as provided by the Constitution of the Republic of Moldova. This involves maintaining the quality of the main components of the environment: air, water, soil, flora and fauna in terms of sustainable development.

Although, the citizens' appeals do not directly invoke the violation of the right to a healthy environment, enshrined in article 37

of the Constitution, the ombudsmen intended to attract the attention of the authorities responsible for environment to the measures to be taken related to several issues in this field raised by the media.

Reckless economic activities, consumer indifference to the status and the quality of water, as well as destructive factors that led to the degradation of rivers and rivulets. Water is an essential element for life and natural processes. Our existence and economic activities totally depend on this precious resource. Moreover, water is a scarce source at global level, which requires addressing the issue in such a way as to provide the future generations with water reserves.

Wastes are a substantial pollution source in the Republic of Moldova. The issue of improper waste management is a current one for both the urban and rural areas. In rural areas, household waste is often dumped on river banks and in precipices. This leads to essential pollution of groundwater that is the main source of drinking water in rural areas.

Given the powers of the Ministry of Environment on issues of environmental protection and rational use of natural resources, and implicitly the exercise of state control over compliance with laws and regulations in the field, the latter was notified on several issues⁹⁶ broadcast by the media. We recommend the authorities in charge of the environment, both at central and local level, to take concrete actions to redress the situation in this domain in the nearest future. Urgent measures are needed, including drafting and implementing policies and strategies related to solid waste management and the accountability of the institutional system of waste management, based on cooperation between central and local public administration bodies.

The NGO Environmental Coalition "Earth Day 2014" developed the Black Book of ecological problems in Chisinau. The ecologists affirm that the most stringent problems in the capital are related to the state of green zones and of the Bic river⁹⁷, waste recycling and toxic wastes.

⁹⁵ The Study was carried out with the support of the UN High Commissar for Human Rights (OHCHR) aimed at supporting the reform of the right to equal legal capacity, according to article 12 of the Convention on the Rights of Persons with Disabilities, 2013.

⁹⁶ [http://www.timpul.md/articol/\(reportaj-foto\)-guno-iul-din-vadul-lui-voda-invadeaza-satele-vecine-43766.html](http://www.timpul.md/articol/(reportaj-foto)-guno-iul-din-vadul-lui-voda-invadeaza-satele-vecine-43766.html)

⁹⁷ http://www.noi.md/md/news_id/34364

First of all, the ecologists mentioned the waste disposal problems in the capital. For several years after the cessation of access to Tintereni dumping place, the administration from Chisinau transports the household wastes to the mine from Purcel in the suburb of the capital (village Bubuieci). According to the affirmations of the Chairman of Chisinau territorial branch of Ecological Movement from Moldova, "garbage dump at Purcel mine is a delayed effect bomb. The wastes are pressed and covered with clay. No soil hydro-isolation is performed, the wastes are not fenced." On a surface of 3 hectares, 1.2 million tons of waste have already been stored.

We also share the ecologists' concern about illegal felling of green plantations on land for construction, as well as the destruction of lawns for setting parking lots. The ombudsmen got informed from the media⁹⁸ on the intention of the municipal authorities to fell down a pine forest in the suburb of Chisinau where the building of a shopping centre is planned. Following the ombudsman's notification, the State Ecological Inspectorate cancelled the notices of attributing the land, issued to the economic agents for carrying out construction on the sectors of Balcani highway, city Chisinau, as being illegal.

We reiterate that the need to develop and apply a mechanism for public information in accordance with the provisions of Aarhus Convention⁹⁹, (idea also mentioned in the previous report¹⁰⁰), which provide that the procedures by which the state authorities deliver environmental information to the public shall be clear and easily accessible. For an efficient protection of environment, we consider that actions are necessary to evaluate environmental matters and to develop appropriate strategies to solve them, to promote ecological culture in the community. The change of attitude and behaviour towards environment and civic awareness are very important for transmitting a clean and healthy environment with the ob-

⁹⁸ Newspaper " Кишиневский обозреватель" of January 24, 2013

⁹⁹ Convention of 25/6/1998 on access to information, public participation in decision-making and access to justice in environmental matters. Article 5. Collection and Dissemination of environmental information

¹⁰⁰ www.ombudsman.md, Report on the observance of human rights in 2012.

servance of the three dimensions of sustainable development: economic, environmental and social to the future generations.

The ombudsmen reaffirm the recommendation on proper ecological education of the young generations within programmes developed by specialists of a particular school subject – ecology. Given that environmental education has a central place in European community policies to which the Republic of Moldova aspires, ecological education must become a permanent concern of all teachers. These proposals are certainly dictated by time and form part of the fundamental right to a healthy environment.

11. Freedom of assembly

During 2013, there were several meetings and manifestations in the country, especially in Chisinau, in which the protesters wanted to express their views on some events¹⁰¹. The way to maintain public order was an adequate one; everything was within the limits of the law even in cases when demonstrators resorted to violence¹⁰². In 2008, for example, the management of the situation failed to be in strict compliance with the legal norms on the freedom of assembly.

Article 40 of the Constitution, article 1 of the Law on Assembly No. 26 of 22.02.2008 and article 11 of ECHR provide protection only for peaceful assembly. The problem, which appears in this case, is whether the authorities have the right to prohibit the meetings on grounds of violation of peace before they take place. Relevant in this regard is the approach of ECHR decision *Stankov vs. Bulgaria* in 2001, in which the Bulgarian state prohibited the organization of a demonstration considering that "evidently" it was not going to be peaceful. The Court specified that a state could not simply invoke possible intended violence; to prohibit a protest on this ground would be

¹⁰¹ The statistics on the number and nature of conducted meetings in 2013, <http://intruniri.chisinau.md/#index.php?mod=meetings&do=Rapoarte&year=2013&targetid=maincontent>;

¹⁰² <http://www.jurnal.md/ro/news/protest-cu-imbranceli-la-re-edin-a-preziden-iala-foto-video-1148094/> ; <http://trm.md/ro/social/imbranceli-si-proteste-la-pri-maria-chisinau/> ; <http://www.prime.md/rom/news/social/item590/>.

bound to prove the violent intentions of each participant and organizer. Such an obligation is unlikely to perform; the state must not prohibit the intention but the violent behaviour.

Neither the invocation by the state of a possible violent counter-demonstration nor the possibility of an illegal event, on the occasion of the protest, are reasons to prohibit or to limit the meeting. The authorities have the obligation to act appropriately to ensure its peaceful conduct (case *Platform "Artze fur das Leben" vs. Austria*).

Although the ECHR qualified this type of refusal an illegal one¹⁰³, the authorities continued to invoke it in order to restrict the conduct of the march during the festival "Rainbow over the Dniester" organized by LGBT group in 2013.

The nature and purpose of the meetings are directly proportional with the degree of political maturity of a society and this is not manifested only by ensuring respect for fundamental human rights, but also by respect on behalf of citizens, representatives of political parties and civil society of the legal norms in the achievement of democratic processes, including the holding of meetings, assemblies and demonstrations.

Clashes often outbreak during meetings. We recall the clashes that took place in March 2013 between the supporters of a political party and the police. They held a meeting in front of the Palace of the Republic of Moldova, after which they decided, on the spot, to change the direction and march to the State Residence. According to the declaration of the Resource Centre for Human Rights¹⁰⁴, the meeting in question took place in violation of the law, since it exercised the right to a spontaneous non-numerous assembly ill-willingly and did not respect the procedure of prior notification of the meeting. Not announcing the conditions of the conduct of the meeting and non-observance of public order generated pushes and physical altercations with law enforcement representatives.

The autumn of 2013 was marked by two major events, the meetings on November 3 and November 28. It should be noted that al-

¹⁰³ Case "Gender Doc-M" versus Moldova, ECHR, 2012

¹⁰⁴ CreDO declaration; <http://www.credo.md/pageview?id=231>

The March "Rainbow over the Dniester"

In 2013, the Centre Sector Court, Chisinau, decided that the march of LGBT groups organized within the festival "Rainbow over the Dniester" could not be held in the centre of the capital but at the Summer Theatre in "Valea Morilor" park. This happened after the Chisinau Mayor's Office requested to change the venue of sexual minorities march by expressing the concern that this year there will be clashes between the homophobic protesters and the supporters of LGBT group. Although the application to conduct a counter-demonstration was submitted after the LGBT group's request, the Court ruled against the latter and changed the route of the march.

though an impressive number of demonstrators participated in both events, the authorities and the police managed to conduct the meetings by respecting the rights of the participants.

Simultaneously, in the period 29.10.2013 – 1.11.2013, the CHR received information that several civil servants from certain public institutions in the country were "invited" to attend the event. The names of the participants and of those who refused to participate were included in separate lists. However, some transport services providers were made to redirect their routes to Chisinau. The sources wished to remain anonymous.

The expression of opinion on issues and events affecting the public within meetings is proof of the maturity of a democratic society. The Ombudsman Institution urges the State authorities, as well as the representatives of political parties, to ensure the exercise of the right to the freedom of assembly and expression, which cannot be separated as they are protected by the Constitution of the country and international instruments. It is necessary to demonstrate respect and tolerance towards any human being, regardless of the criteria that differentiate them or what political views they share.

In this context, we would like to mention that civilized dialogue with exclusion of intimidation and aggression is a defining condition for freedom of assembly, an important prerequisite for ensuring free exchange of ideas, opinions and a guarantee of the respect for democratic principles and the rule of law.

12. Freedom of thought, conscience and religion

By the provisions of article 9, the European Convention protects fundamental values of human personality – thought, conscience, religion, as well as the possibility of social manifestation of ideas, religious beliefs, etc. The protection of the right to thought, conscience and religion signifies respect owed by state authorities to the diversity of beliefs, which may be expressed in social life, so that each individual be provided spiritual independence.

According to article 31 of the Constitu-

Case A.S.

The CHR was notified by citizen A.S., a parish priest, who invoked violation of the constitutional right to freedom of conscience provided by article 31 of the Constitution of the Republic of Moldova expressed through the manifestation of intolerance and lack of respect for the religious cult he practices on behalf of the community Mayor. The petitioner indicated that during the local council meeting he attended with other two church counselors, the Mayor demonstrated hostility towards the church ministers. According to the petitioner, the Mayor affirmed that he “will lock the holy places”, that the “priest must be accountable to the Mayor’s Office” and that the “priests must be shot or sent to Siberia as it was done during the revolution”. The petitioner mentioned that the representative of the local authority did not manifest such behavior for the first time.

tion, *the freedom of conscience is guaranteed and must be manifested in the spirit of mutual tolerance and respect. Any manifestations of animosity are prohibited in the relationship between religious cults.*

Through this article, the Republic of Moldova declares itself a secular state, a state that respects a person’s rights to freedom of conscience, ensures religious freedom and autonomy without discrimination, the legal regulations in this sense following to meet the constitutional provisions.

It is extremely important that in a democratic society based on the rule of law this right is not prohibited or restricted in any way. Any faith and religion has the same value and importance in relation with other religions, and no confession can be a priority.

There are a variety of religious groups and cults in the Republic of Moldova and it is important that the dialogue between them be based on mutual respect and tolerance.

During 2013, the Ombudsman Institution did not record cases of the state favouring a particular religious denomination. However, there were known situations in which the representatives of the public authorities displayed acts of intolerance towards the religion practiced by certain persons. An example in this sense is that of citizen A.S. in which the CHR intervened promptly by notifying the competent authorities to take measures in accordance with the law. The person concerned was imposed administrative sanction as consequence of intervention.

Also, the ombudsmen qualify the last year’s actions of desecration of graves in the Jewish Cemetery¹⁰⁵ and in the Honour Cemetery (Military Cemetery) from Chisinau¹⁰⁶ as disturbing. The ombudsmen condemned these and other events that bear xenophobic and discriminatory messages that entail criminal punishment¹⁰⁷.

The ombudsmen consider important that the state should pay more attention to the promotion of policies in the field of protection

¹⁰⁵ <http://trm.md/ro/social/risca-inchisoare-pentru-profanarea-mormintelor-din-cimitirul-evreiesc/>

¹⁰⁶ <http://unimedia.info/stiri/Profanare-de-morminte-la-Cimitirul-Militar-din-Chiinau-Ambasada-Romaniei-deplange-actele-de-vandalism-67491.html>

¹⁰⁷ Article 222 of Criminal Code of the Republic of Moldova

of the right to freedom of religion, thought and conscience based on tolerance. In offensive and defamatory cases, the authorities are obliged to intervene by adopting measures leading to their termination.

13. Observance of human rights in the Transnistrian region and adjacent communities

The issue of human rights in the Transnistrian region is in the centre of ombudsmen's attention since the foundation of the Centre for Human Rights. Depending on the factors that generate the violation of a right, we choose the most appropriate method to resolve the problem so that citizens feel as little as possible the deficiencies of the negotiations for the settlement of the Transnistrian conflict.

On October 17, 2012 the Centre for Human Rights opened a representation with the headquarters in the village Varnita, Anenii-Noi district. Since the beginning of its activity, 237 citizens appealed: 196 requested audiences and 14 submitted applications to the ombudsman.

Citizens referred to various matters that, in their opinion, create impediments in achieving their constitutional rights and freedoms. The most common raised issues were the deficiencies in the activity of the Office on Civil Status (80 cases); of Varnita Department of Registration and Documentation of Population (59 cases); the impossibility to legalize the documents for establishment of guardianship of underage children (13 cases).

Depending on the nature of legal relations, the most common complaints of the residents of the Transnistrian region and adjacent communities are related to the defective achievement of children's rights, the right to citizenship, freedom of movement, private property, the right to labour, social assistance and protection, healthcare, individual freedom and personal safety, physical and mental integrity.

Documenting the population by Bender Department of Registration and Documentation of Population (with the headquarters in the village Varnita) was an issue under our scrutiny during 2013 as well. Some aspects related to the documentation of the population

in the Transnistrian region were exposed in the Report on the Observance of Human Rights in 2012¹⁰⁸: unjustified refusal and delay in issuing identity cards; unfounded request of additional documents, such as proof of residence ownership or criminal record issued by "Department of Internal Affairs of the Ministry of Internal Affairs" from the Transnistrian region; lack of mechanisms to ensure the validity of the Soviet-type passport in the context of simplified procedure of confirmation of Moldovan citizenship for persons residing in localities on the left bank of the Nistru¹⁰⁹.

Although the Constitutional Court¹¹⁰ stated that inclusion of "residence visa" and its use in social relations contradicts the constitutional norms and principles being an obstacle in the exercise of the right to freedom of movement of the citizens of the Republic of Moldova, Bender DRDP (the division situated in Varnita) continued to request from citizens proof of residence ownership in the process of documentation. Without such a proof, the applicants were denied documentation and were recommended to find a person who would agree to register them in their own homes.

In the process of confirming citizenship of the Republic of Moldova, the applicants residing in the Transnistrian region were requested the submission of criminal records issued by "the Department of Internal Affairs of the MIA of "Moldovan Transnistrian Republic", which is contrary to the Regulations on the procedure of Acquisition and Losing Citizenship by citizens of the Republic of Moldova"¹¹¹.

Citizens applying for identity cards were not informed about the possibility to keep the old identity cards until the issuance of new ones. In these circumstances, people remain without documents until the new ones are issued, thus being exposed to permanent risk

¹⁰⁸ <http://ombudsman.md/sites/default/files/rapoarte/raport2012-final.pdf>

¹⁰⁹ Government Decision on measures for ensuring the confirmation of citizenship and population documentation in localities on the Left bank of Nistru (Transnistria) No. 959 of 9/9/2005

¹¹⁰ Constitutional Court Decision No. 16 of 19/5/1997 on the control of the constitutionality of the dispositions of item 10, paragraph 2 of the Regulations on the method of perfecting an issuing identity cards of the National Passport System

¹¹¹ Approved by Government Decision No. 197 of 12/3/2001

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because of the impediments to realize the right to free movement created by the Transnistrian authorities.

In our opinion, Bender DRDP intentionally or negligently failed to inform correctly and timely the citizens on the issues related to documentation and did not observe the law in force, the internal provisions and orders, as well as perform the professional norms typical of the documentation process in all these cases.

On August 9, 2012 the Centre for Human Rights sent to the address of the General Director of the State Enterprise "State Resource Centre "Registru" information on the defective procedure of population documentation by Bender DRDP (based in Varinta village), accumulated by Varnita Representation of the CHR in the examination of citizens' complaints.

As result of the carried out control by the SE "CRIS "Registru" together with the General Prosecutor's Office and the National Anticorruption Centre, a criminal prosecution against some employees of Bender DRDP (based in Varinta village) was initiated under Article 327, paragraph 1 of the Criminal Code "abuse of power or abuse of office".

In the course of 2013, appeals of the citizens of the Republic of Moldova, residents of Transnistrian region, continued to be registered (13 appeals). They dealt with **the impossibility of getting identity cards** in accordance with the legislation of the Republic of Moldova for the under-aged children and children who become of age, whose adoption or guardianship was approved by the Transnistrian authorities and whose subsequent documents were issued by the same authorities in accordance with acts valid only in this region.

This situation is generated by the impossibility to implement in the Transnistrian region protection of children remained without parental care and in risk situations. Issues on this topic were analysed in more details in the previous reports¹¹².

Although the Ministry of Labour, Social Protection and Family, the Ministry of Justice and the Integration Bureau within the State Chancellery pledged to take concrete actions

¹¹² Report on the observance of human rights in the Republic of Moldova in 2012, www.ombudsman.md/sites/default/files/rapoarte/raport2012-final.pdf

to redress the situation in this area, in 2013 we see that the situation has not changed.

The responsibility for ensuring the citizens' right to **healthcare** belongs to the state. Although the state aims to implement the basic strategies of the development of the healthcare system through a whole set of laws, the national legislation is not applicable in the Transnistrian region.

In order to provide the exercise of the right to healthcare on the territory of the Republic of Moldova to citizens insured by the state budget and residing on the left bank of Nistru, Bender Territorial Agency of the National Insurance Company (BTA of NIC), based in the village Varnita, was created by Government Decision No. 1219 of 30.10.2008¹¹³.

According to Government Decision no. 906 of 24.09.2010¹¹⁴, Bender TA of NIC, together with the local authorities, created and organized the activity of Commissions for the examinations of appeals from the citizens of the Republic of Moldova of the categories of people for whom the Government provides insurance: in Varnita, Anenii-Noi district (providing services for Bender, Tiraspol and Slobozia district), in Rezina (providing services for Ribnita and Camenca districts), in the village Cosnita, Dubasari district (providing services for Dubasari and Grigoriopol districts). The Commissions examine the requests of citizens for obtaining mandatory health insurance policies.

Currently, the insured people, citizens of the Republic of Moldova residents on the left bank of the Nistru and neighbouring the administrative border communities, registered on the family doctor's list, benefit of medical care in the conditions provided to all the people insured in the Republic of Moldova in accordance with the provisions of the Unique

¹¹³ By Government Decision No. 1053 of 26.12.2013, the territorial agencies of the National Insurance Company in Medicine were reorganized, so that of 13 territorial agencies there remained only 7. Bender Territorial Agency is to be liquidated/reorganized into an office of southeast territorial agency based in Causeni district.

¹¹⁴ Government Decision No. 906 of 24.09.2010 on the creation and activity of commissions for the examination of appeals of the citizens of the Republic of Moldova residing in communities on the left bank of the Nistru (Transnistria) and its adjacent communities for which the Government has the attribution of insurer.

Compulsory Health Insurance Program and the methodological norms of its application. The persons, who are not insured and registered on the family doctor's list, benefit of pre-hospital emergency medical care and primary medical care, as well as outpatient and inpatient specialized medical care in case of socially caused diseases with a major impact on public health.

Measures were taken to provide access to medical services for all the citizens, regardless of their place of residence. In our view, this is an area, in which the state managed to find optimal solutions, to ensure the achievement of a constitutional right by the citizens of the Republic of Moldova residing in the Transnistrian region.

Under provisions of article 4, paragraph (4), letter (n) of the Law on Mandatory Health Insurance No. 1585 of 27.02.1998, the Government has the attribution of providing insurance to disadvantaged people who benefit of social assistance in accordance with the Law on Social Benefits No. 133 of June 13, 2008. However, the people from disadvantaged families, residing in Transnistria and the neighbouring communities cannot benefit of insurance policies, because there are no departments/divisions of family social assistance and protection, which establish the right to social assistance.

Similarly, the socially vulnerable groups cannot benefit of social benefits and allowances for the cold period of the year under the Law on Social Benefits No. 133 of 13.06.2008, as well as of other social services. The Ministry of Labour, Social Protection and Family has not identified a procedure for solving the applications that come from the citizens in this region with the request to find a way to grant them social benefits and services. We recommend that the Ministry find an efficient solution for this category of citizens from the Republic of Moldova residing on the left bank of the Nistru.

Nor the **right to education** is fully provided. Despite the many efforts to solve the problems faced by the schools with instruction in the Romanian language, that function in the Transnistrian region, no significant progress has been made in this respect. The existing situation diminishes the quality of education and decreases the number of pupils. We believe that this issue should be a priority one on the agenda of talks in the existing formats with

Tiraspol, including within the Sector Working Group for Education and Science¹¹⁵.

We appreciate the fact that the issue of recognition of certificates of studies issued by the eastern districts of the Republic of Moldova and the city Bender has been completely solved¹¹⁶. In the context of promoting confidence-building measures between the two banks of the Nistru, by Order of the Ministry of Education No. 869 of 5.11.2012, the modality of perfecting certificates of study, issued by the educational institutions from the Transnistrian region, was simplified for the graduates who desire to continue their studies abroad or to be employed.

The share of the total number of student enrolment to higher educational institutions with budgetary funding is preserved for the graduates of schools from the Eastern districts of the country and the city Bender, who studied according to curricula approved by the Ministry of Education of the Republic of Moldova, and for graduates of the theoretical lyceum "A. Mateevici" from Sanatauca, Floresti district residing in the East. However, graduates of other educational institutions from Transnistria do not have too many chances to gain access to higher education in the situation when they do not benefit of the mentioned advantages and in the conditions of equivalence of marks of study certificates¹¹⁷.

Some aspects related to the observance of **the right to physical and mental integrity, freedom and safety of the person** in Transnistria were included in the "Report on Human Rights in the Transnistrian Region of the Republic of Moldova" made by Thomas Hammarberg in February 2013.

In the context of restriction of access for representatives of public authorities and offi-

¹¹⁵ Government Decision on the implementation of the President of the Republic of Moldova's initiatives for the strengthening of confidence and security in the context of Transnistrian problem settlement No. 1178 of 31/10/2007

¹¹⁶ Regulations on the legal effects of certificates of studies issued by educational institutions from the eastern districts of the Republic of Moldova and the city Bender of 21/01/2004, issued by the Ministry of Education.

¹¹⁷ In case of knowledge assessment, the marks of the five-point system, valid for the Transnistrian region, should be equivalent to the ten-point system, as follows: the marks „3”, „4” and „5” shall be equal to „5.5”, „7.5” and „9.5” respectively.

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cial of the Republic of Moldova to the Transnistrian region, the activity of the National Mechanism for the Prevention of Torture does not extend to the places of detention from the left bank of Nistru. Thus, a priority for the CHR in 2014 will be the creation of a common mechanism (with the involvement of international bodies) of periodic monitoring of the conditions of detention in the prisons from the Transnistrian region (action contained in the National Action Plan on Human Rights 2011-2014). We decided to create a working group to identify the best solutions to ensure completion of this action.

An aspect of the violation of **the right to property** is the fact that the economic agents registered in accordance with the legislation of the Republic of Moldova and who operate on the left bank of the Nistru and in adjacent areas benefit of utilities (water, sewer, electricity, gas, waste disposal) provided by Transnistrian economic agents. The bills issued by these providers do not correspond to the provisions of article 117 of the Tax Code and respectively, the economic agents cannot confirm the costs for the utilities, which, according to the Tax Code of the Republic of Moldova, are exempt from VAT.

In our view, the Ministry of Finance, together with other competent bodies and institutions should intervene to remove the difficulties/impediments these companies face

and contribute to the creation of a favourable background for small business development.

Considering the above, we come to the conclusion that lack of implementation mechanisms of the signed agreements in the process of negotiations between the constitutional authorities and the de facto authorities from Tiraspol; non-interference or inefficient interference of the central public authorities in some cases when it might be possible; lack of legal regulations that could offer solutions in some areas; bureaucracy, negligence or abuse by some state officials; insufficient information of the public about the attributions and services provided by the public authorities are factors that generate insecurity for the observance of human rights on the left bank of Nistru, as well as in the security zone in general.

In our opinion, the dynamics and results of the consultation in the "5+2" format of Transnistrian conflict settlement require the need to develop a clear perspective strategy, to review and adopt the sector working groups strategy, approved by Government Decision for the implementation of the President of the Republic of Moldova's initiatives on consolidation of confidence and security in the context of Transnistrian conflict settlement No. 1178 of 31.10.2007. Also, we consider the need for the creation of a sector working group on human rights as one of the priorities of this process.

CHAPTER II

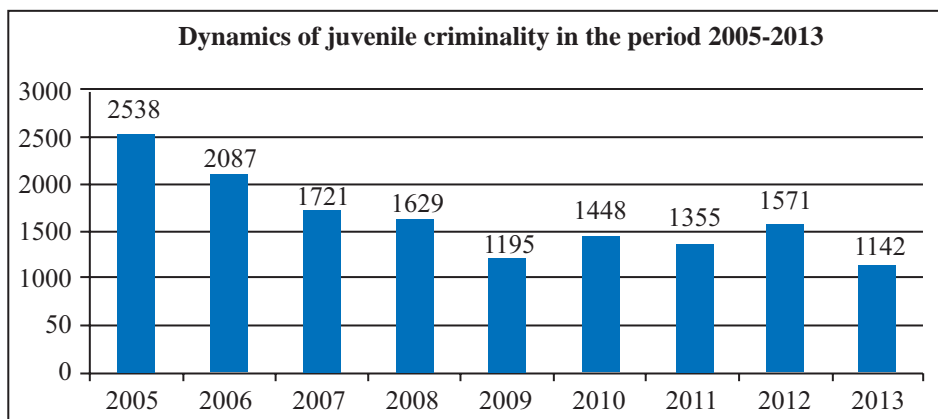
Observance of child's rights in the Republic of Moldova

1. Justice for children

Juvenile delinquency is an important factor that reflects the state of affair in the justice system for children. The increasing number of crimes, especially in a medium and long term, denotes the efficiency of the mechanisms implemented in the justice system for children. In this context, a thorough analysis of official statistics on juvenile delinquency will provide more clarity on the existing problems in the field.

During 2013, 1,142 crimes, committed by juveniles and with their participation, were registered; this being the lowest indicator on juvenile delinquency in the period 2005 -2013.

In the present report, we again draw the attention of the authorities to the lack of a clearly structured national strategy on preventing and combating juvenile delinquency, which might determine the competences of relevant institution to meet the principles of the United Nations Guidelines for the Prevention of Juvenile Delinquency ("The Riyadh Guidelines"¹¹⁸). We have to mention some basic principles: engagement in socially useful activities; humanistic not selfish orientation of the young people; to make efforts on the part of the entire society to ensure the harmonious development of

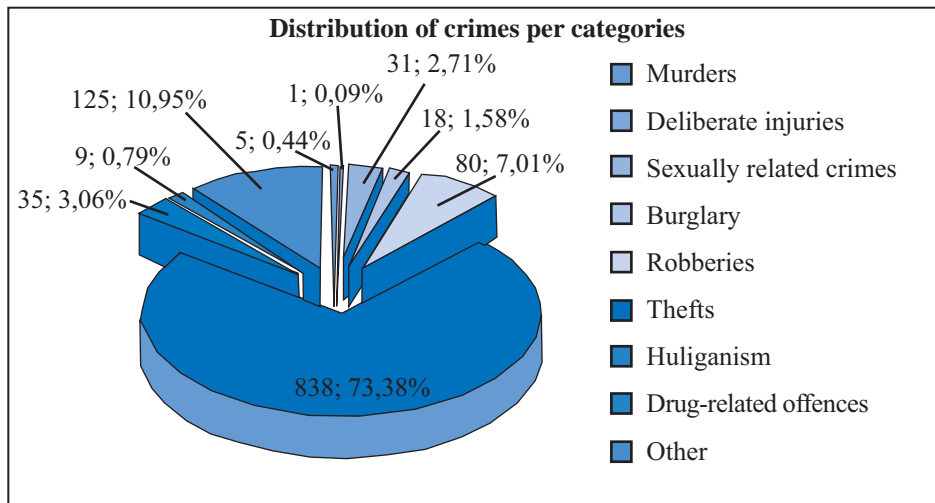


The analysis by type of crime, as shown in the diagram, indicates that the largest share is ascribed to crimes against property (burglaries – 18 cases or 1,58 %, robberies – 80 cases or 7,01 %, thefts – 838 cases or about 73,38%). This is a tendency characteristic of the previous years as well. The situation is similar on other types of crime.

The data presented in the Chart on page 252 reveal that, although the number of offenses decreased, the problems related to the policies of juvenile delinquency prevention remain largely the same.

adolescents, with respect for and promotion of their personality from early childhood; to pursue the orientation of a child to have an active role and partnership within the society and not to be considered as mere object of socialization or control. The Riyadh Guidelines also provide for the welfare of the young people, who, since childhood, should be the focus of

¹¹⁸ Report on the observance of human rights in the Republic of Moldova in 2012, p.139-142: http://www.ombudsman.md/sites/default/files/rapoarte/raport_2012_final1.pdf



any prevention programme; systematic study, as well as elaboration of measures should be for the child's development, to avoid incriminating and penalizing him for a behaviour that has no serious consequences; community services and programmes should be focused on prevention of juvenile delinquency operating as an active factor; the legal or control institutions should be appealed to only as a last resort. However, currently, the authorities' actions of juvenile delinquency prevention are sporadic and unilateral and are not adjusted to the criteria mentioned above.

The mediation institute is a relatively new but very important mechanism in the child justice system.

The newest type of justice, founded within social sciences is restorative justice. Mediation is part of restorative justice. Mediation is a process whereby the victim and the offender are given the opportunity, if they freely consent, to actively participate in the solution of the problems arising from the crime, through an impartial third party (mediator)¹¹⁹.

In the Chart on page 253 we observe, based on the official statistics of the General Prosecutor's Office¹²⁰, that in 2012 the major-

ity of criminal cases terminated during prosecution had the reconciliation of parties as legal basis. Thus, of 946 criminal cases terminated during the prosecution, 687 (or about 72.62 %) were closed pursuant to Article 109 of the Criminal Code on the grounds of reconciliation.

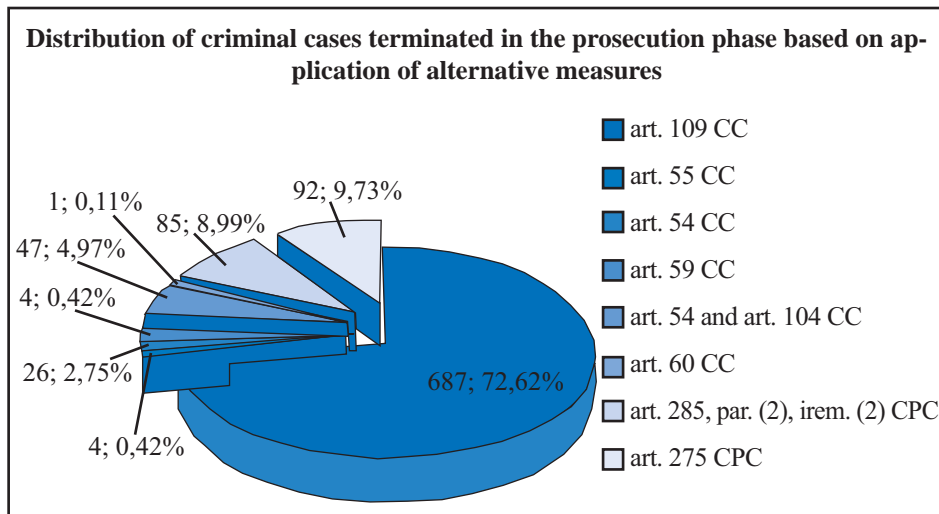
Similarly, this indicator was of 830 (91.71 %) out of a total of 905 criminal cases in 2011 and of 1,001 out of a total of 1,078 cases in 2010, which were terminated in the criminal prosecution phase.

The ombudsman considers that the legal provisions mentioned above are not necessarily the most effective method of resolving disputes outside the judicial process. The simplistic approach to disputes and the technical character of these mechanisms do not allow,

Code – exemption from criminal liability of minors; 47 – under article 54 and article 104 of the Criminal Code - exemption from criminal liability of minors with application of coercive educational measures, mostly in the form of entrusting the minor under parent supervision, persons who substitute them or state specialized and warning bodies; 4 criminal cases were terminated pursuant to the provisions of article 55 of the Criminal Code exemption from criminal liability and replacement with contravention liability, 4 cases were terminated under provisions of article 59 of the Criminal Code - conditional suspension; 1 criminal case was terminated under the provisions of article 60 of the Criminal Code on the ground of limitation of criminal liability; 85 cases – under article 385, paragraph (2), item (2) of Criminal Procedure Code – on the ground that the person has not reached the age to be held criminally liable; 92 – under the provisions of article 275 of the Criminal Procedure Code, circumstances excluding prosecution

¹¹⁹ Recommendation R 19(99) of the Committee of the Ministers of Council of Europe member states on mediation in criminal cases, adopted on September 15, 1999 at the 69th meeting of the Ministers' Deputies.

¹²⁰ According to official data, of 946 cases, 687 were terminated pursuant to article 109 of Criminal Code; 26 cases under the provisions of article 54 of Criminal



in the opinion of the ombudsman, to take into account the true feelings the victim has. Often, in cases of “imposed” application of the reconciliation of the parties on the premises of the court, the injured party is dissatisfied with its results.

For these reasons, the ombudsman is of the opinion that such disputes should be resolved by applying mediation because it not only has legal effects but also psychological and social ones, which are more advantageous than the simple application of the provisions of article 109 of the Criminal Code.

The essence of mediation consists in helping the parties in criminal proceedings to resolve the conflict in such a way that both the victim and the person, who committed the crime, leave the courtroom or the prosecutor's office with a sense of satisfaction. This is the most important advantage of the mediation institute – to offer an agreeable solution accepted both by the victim and by the person who committed the crime.

In this context, it is obvious that the mediation institution offers a much more qualitative approach to the reconciliation between the parties. It focusses on effective resolution of conflicts not on reporting positive indicators of settling controversial cases.

However, although adopted in 2007 the Law on Mediation is not applied, at least not in the mediation of criminal cases involving minor children. The application of the legal provisions is flawed for several reasons: it is not aimed at

de-judicialization of the criminal cases and the consequences that may arise (psychological discomfort, prolonged examination of cases, etc.); lack of tradition of amicable settlements of cases; lack of an updated database of mediators and of their offices the case could be referred to; mediators are self-employed and there is no motivation for the profession of mediation. All these greatly reduce the possibilities in question offered by the law.

The Law on Mediation is a determining act in providing a restorative process, but it will remain ineffective as long as the state agents are reluctant and do not establish mechanisms to ensure its functionality.

We mentioned earlier that during 2012, 85 criminal cases terminated during prosecution were under the provisions of article 385, paragraph (2), item (2) of the Criminal Procedure Code on the grounds that the person has not reached the age at which he can be held criminally liable. The ombudsman would like to repeatedly draw the attention to the fact that in 2010¹²¹ the only existing institution in the country for children with behavioural disorders, who have not reached the age when they can be held liable, was shut down. However, the state has not created an alternative institution to meet the international standards of juvenile justice management.

¹²¹ Government Decision No. 1183 of 22.12.2010 on the liquidation of the specialized boarding school for children with behavioural disorders, village Solonet, Soroca district

CHAPTER II

This problem was partly put in charge of alternative placement services for children, under the provisions of item 4, letter d) of the **Framework Regulations on Professional Foster Care Service**¹²². According to these provisions, service beneficiaries are children under the age of 14, who have committed a violation of criminal law, but are not held legally liable and are in at least one of the following situations: a) are temporarily or permanently deprived of family environment; b) their special needs cannot be met by their biological family; c) are or may become victims of some form of violence, human trafficking, abandonment or neglect, maltreatment, exploitation, while in care of one or both parents, legal representative or other person responsible for their care. Therefore, the children, who do not meet these conditions, cannot be placed in professional foster care service and are left without any attention on the part of the state. Thus, although the enactment provides a mechanism for such situations, based on the above said, we find that it can be applied only under certain conditions, only partly covering the needs.

In this context, the ombudsman recommends the state to intensify work to resolve this situation. Children with behavioural disorders need support to overcome the problems they face. Otherwise, much more efforts will be required for the rehabilitation of such minors, who will become a heavier burden to society.

The ombudsman welcomes the efforts made by competent authorities regarding the strengthening of the mechanism for hearing in the trial of child victims and witnesses. We refer here both to setting hearing rooms on the premises of prosecutors' offices, police offices and courts, and the proposals for the amendment of article 110¹ of the Criminal Procedure Code related to special cases for hearing juvenile witnesses. We would like to mention that according to the Resolution on setting hearing rooms for children and the amendment of arti-

¹²² Adopted by Government Decision No. 1361 of 7/12/2007

cle 110¹ of the Criminal Procedure Code¹²³, the following were established:

- from the funds allocated for 2013, the General Prosecutor's Office is to set up a room for assisting and hearing children in the following towns: Ocnița, Soroca, Orhei, Anenii Noi, Leova, Cahul. A similar room will be created in Calarasi from external funds. These rooms will be used to hear minor victims and crime witnesses under article 110¹ of the Criminal Procedure Code.

- From the funds allocated for 2013, the Ministry of Internal Affairs, is to set up 6 hearing rooms for minors suspected of having committed crimes or who are witnesses in other cases than those covered by article 110¹ of the Criminal Procedure Code.

- The courts will cease the process of setting up spaces for hearing minors. The funds allocated in 2013 for this purpose shall be redistributed for the purchase of audio-video equipment to facilitate the examination of materials of this type. The left finances will be used to set up hearing rooms for anonymous witnesses.

- In Chisinau, in cooperation and with the support of NORLAM, a house will be created, which will be used for hearing children, witnesses and victims of crimes, as well as for offering them psychological support and medical assistance.

- The house from Chisinau and the seven rooms set up by the General Prosecutor's Office are meant to cover relevant services on the whole territory of the Republic of Moldova. After 3 years of activity of these structures, the situation will be re-evaluated and, if necessary, the creation of other spaces can be decided.

According to the data of 2013 Annual Report on the Implementation of Pillar VI of the Justice Sector Reform Strategy, currently the rooms set for assisting and hearing children exist only in five courts: the Court of Appeals from Balti, the Court of Appeals from Cahul, the Court from Balti, the Court from Edinet, the Court from Hincesti. Nothing is mentioned about the spaces that were to be set up for this

¹²³ The amendment was approved during Sitting No. 5/13 of September 25, 2013 by the inter-institutional Working Group on optimal implementation of action 6.3.2, item 2 of the Action Plan for the Implementation of the Justice Sector Reform Strategy in the period 2011-2016.

purpose within the institutions of the Prosecutor's Office and the Ministry of Internal Affairs.

The ombudsman considers that the justice system for children should be a state priority because it has a strong impact on the future development of the children, either on the ones in conflict with the law or the ones in contact with the law. Regardless of the category, the children must benefit of quality and adapted to their needs services. It is necessary that the child victims or witnesses should be treated in such a manner as to avoid, as much as possible, their re-victimization in the justice system. Meanwhile, the minors, who have committed crimes, must be regarded first of all as children. It is mandatory that they be helped to reintegrate into society and only subsequently be treated as minors who committed crimes and who have to bear responsibility. Otherwise, as mentioned earlier, much more effort will be needed to rehabilitate these children, both victims and witnesses, as well as minors who committed offences. That will be a much heavier burden for the society. For these reasons, the justice system for children must be a priority for the state. It must be associated with a company's long-term investment.

2. The right to education

2.1. School fees

The issue of school fees was a current and sensitive one in 2013 as well. In the previous reports, the ombudsman warned that the collection of funds contravenes the provisions of article 35 of the Constitution of the Republic of Moldova, which stipulates that state education is free of charge. Nevertheless, funds are collected from parents.

Although apparently, the fees are voluntary and teachers have nothing to do with them, as the money is collected through parents' associations, still the educational institution has an active and decisive role. Parents are made to contribute financially by various means. One condition for the enrolment of the child in the educational institution is that parents accept to become members of the parents' association, in whose statute the financial obligations of the parents are mentioned. The cases examined by the ombudsmen during

the previous years and in 2013 as well, show that another method is stigmatizing children and influencing their success in school. Thus, during a visit to an educational institution in a rural community, the CHR employees found that parents were forced to pay 500 lei for the school fund and the class "treasury". The money was collected by the class teacher, in spite of the fact that there was a parents' association in the school, and whether or not the parents were members of the parents' association¹²⁴. *In the class teacher's opinion, the classmates should be aware that some pupils did not bring money or refused to clean the classroom, and at his proposal, the pupils approve, as a form of punishment, that they clean the classroom for several consecutive days, as this is the "class rules"*¹²⁵.

The ombudsman considers that such approaches lead to flagrant violation of children's rights, in particular the principle under article 2 of UN Convention on the Rights of Children, which guarantees equal rights for children and their non-discrimination.

For these reasons, we believe school fees as one of the fundamental causes of the problems of the educational system. That is because the collection of funds generates other problems, such as exercising pressures on parents and children, influencing the pupils' school performance, teachers' lack of objectivity, cheating in the final exams due to insufficient training of the pupils.

However, insufficient allocation of financial resources to cover the needs of the educational system reveals an inconsistent and underestimating attitude of the importance of this area in the context in which, in our opinion, a society provides a better future, first of all, through quality education.

¹²⁴ <http://ombudsman.md/ro/avocatul-copilului/drepturile-copilor-sint-incalcate-intr-institutie-invatamint-raionul-calarasi>

¹²⁵ The ombudsman requested the help of the district Prosecutor's Office and of the General Department on Education, Youth and Sport. As result of these actions, the Prosecutor's Office sent to the educational institution a notification in which it demanded the removal of the detected violations and the disciplinary sanction of the teacher. The manager of the institution approved an Order by which he forbade the collection of funds by the teaching staff. The given teacher was verbally warned on observance of child's rights.

If the state admits its inability to form a sufficient budget to cover the financial needs of the educational system, the ombudsman insists that the methods used to support the system be based exclusively on the principle of free consent, ensuring that these mechanisms will not be influenced or determined by the educational institution to which the parents' association belongs.

2.2. Inclusive education

In the context of constitutional provisions¹²⁶ and the commitments of the Republic of Moldova assumed with the ratification of the UN Convention on the Rights of the Child¹²⁷, the Government of the Republic of Moldova approved the Programme on the Development of Inclusive Education for the period 2011-2020¹²⁸, in accordance with which inclusive education is among the educational priorities. The Programme will be implemented in three stages: a) 2011-2012: drafting the legal framework for developing inclusive education; 2) 2013-2016: application of inclusive education models; c) 2017-2020: implementation of the Programme at a large scale.

In the context of the measures taken during the first stage, on March 30, 2012, the Parliament of the Republic of Moldova adopted Law No. 60 on Social Inclusion of People with Disabilities.

Under the provisions of article 27 of the mentioned above Law, people with disabilities shall be provided the necessary conditions for education, instruction and professional training, and under the provisions of article 29, they

¹²⁶ Under article No. 35 of the Constitution of the Republic of Moldova, everybody has the right to education. Education constitutes a unitary system achieved by a diversity of structures, forms, contents, educational technologies. The state educational policy is based on the principles of humanism, accessibility, adaptability, creativity and diversity.

¹²⁷ Provisions of article 23 of UN Convention on the Rights of the Child

¹²⁸ Government Decision No. 523 of 11/7/2011 on the approval of the Programme on the Development of Inclusive Education in the Republic of Moldova for the period 2011-2020.

While examining a case, it was found that the manager of the educational institution refused to create necessary conditions for a child with first degree locomotion disability and manifested indifference to the child's needs by invoking lack of financial resources for this purpose. At the intervention of the ombudsman, the local public administration reacted in proximal terms. So, it was decided that the pupils in the class, where the disabled child studied, will not have to move to different classrooms but stay only in one, without going to different floors. Also, a toilet was adapted to the needs of people with impaired mobility.

In another case, a child with first-degree disability did not attend the pre-school preparatory group because in the organizational chart of the pre-school institution, there was no position for a support educator. The mother's request was re-addressed by the Department on Education to the district Psycho-pedagogical Assistance Centre. Following the intervention of the ombudsman, necessary resources were found to pay for a support educator and include the position in the organizational chart of the institution.

Another child with disability was expelled from school on the ground of unsatisfactory performance, although the child had to be taught in a method specific to his peculiarities and needs, in accordance with provisions of article 27 of Law No. 60 on Social Inclusion of Persons with Disabilities and article 47 of the Law on Education No. 547 of July 21, 1997. Also, the child's knowledge had to be assessed in accordance with the provisions of the Concept on School Performance Assessment. This is a system of ideas, principles and methodological approaches on the organization and conduct of the assessment of school performance.

benefit of access to general (primary, secondary), secondary vocational and higher education.

However, under the provisions of article 47 of the Law on Education No. 547 of July 21, 1997, pre-university educational institutions operate in accordance with the provisions of the pre-noted law and bear responsibility for achieving state educational standards, the rights of children and staff, and the protection of pupils' life and health. The pre-university educational institution is competent to determine appropriate educational technologies, establish modalities for the implementation and control of the educational process, etc.

The implementation of the rules stipulated above is carried out with difficulty and has major flaws. This conclusion derives from the cases that came to the attention of the ombudsmen in 2013.

The ombudsman encourages the authorities not to hesitate in making prompt decisions in accordance with the constitutional provisions and international commitments, taking into account the child's best interest.

2.3. *Psycho-pedagogical services in the context of inclusive education*

In the context of state efforts for social inclusion of persons with disabilities¹²⁹, the Government ordered the creation of the Republican Psycho-Pedagogical Assistance Centre and District/Municipal Psycho-Pedagogical Assistance Service by Government Decision No. 732¹³⁰ of September 16, 2013. This is a public institution under the Ministry of Education.

¹²⁹ Under articles 10 and 24 of Law No.338-XVIII of December 15, 1994 on Child's Rights (Official Monitor of the Republic of Moldova, 1995, No. 13, article 127) with the ulterior modifications and additions, article 15, paragraph (1), article 33, paragraph (2) and article 43, paragraph (7) of the Law on Education No. 547-XIII of June 21, 1995 (Official Monitor of the Republic of Moldova, 2010, No. 200-201, article 660), as well as article 27 of Law No. 60 of March 30, 2012 on Social Inclusion of Persons with Disabilities (Official Monitor of the Republic of Moldova, 2012, No. 155-159, article 508)

¹³⁰ Government Decision No. 732 of September 16, 2013 on the Republican Psycho-Pedagogical Assistance Centre and District/Municipal Psycho-Pedagogical Assistance Centers.

The Government's Mission consists in ensuring the right to quality education for all the children, aiming at the organization of psycho-pedagogical assistance at national level.

The Psycho-Pedagogical Assistance Service is created by the decision of the district/municipal council in the territorial-administrative units of second level, including Chisinau, in the Territorial Autonomous Unit of Gagauzia and in Balti under the administration of district/municipal subdivision with attributions in the field of education and methodology of the Republican Psycho-Pedagogical Assistance Centre. The mission of the service consists in conducting assessment and providing psycho-pedagogical assistance at district/municipal level.

According to item 3 of the mentioned Decision, the Government *recommends* to the district/municipal Councils and the Executive Committee of the Territorial Unit Gagauzia the creation of the psycho-pedagogical assistance service in the subordination of district/municipal subdivisions with attributions in the field of education.

Also, under item 6, the Government *recommends* to local public authorities with attributions in the field, to provide for the implementation of Decision No. 732 of September 16, 2013, *within the limits of the approved funds*, taking into account the spending limits and the established personnel units.

In this context, the ombudsman considers that the provisions mentioned above should have a mandatory nature to ensure the observance of the right of all beneficiaries¹³¹, especially in order to facilitate access to education of children with special needs, which is extremely important in the context of Law No. 169 of July 9, 2010 on the approval of Social Inclusion Strategy of Persons with Disabilities (2010-2013). Otherwise, in the opinion of the ombudsman, the given Government Decision with have a formal character.

¹³¹ Beneficiaries of psycho-pedagogical assistance (children with special educational needs, children exposed to violence, school abandonment, parental care, labour exploitation, risk of human trafficking, juvenile delinquency and behavioural disorders, sexually transmitted diseases, risk of unhealthy nutrition, risk of early pregnancy, etc.)

2.4. Vaccination and restriction of access to educational institutions

The issue of children's enrolment to educational and recreational institutions remains unsolved.

The ombudsman believes that by paragraph (6), article 52 of the Law on State Supervision of Public Health No. 10 of 3.2.2009, the legislator established unduly restriction of the right to education of a minority group – the unvaccinated children, and neglected the principle of compulsory primary education. This restriction does not comply with the provisions of article 35, paragraph (1) of the Constitution and is not commensurate with the situation that caused it, which affects the substance of this right.

In this context, the ombudsman notified the Constitutional Court arguing that a fair balance between the need to protect the general interest, on one side, and the fundamental rights of the individual, on the other side, is a state entitlement. The special measure undertaken by the State in the Republic of Moldova to ensure the supervision of public health and protection of general interest, is in the detriment of the child's best interest and does not maintain a fair balance, based on which, the European Court of Human Rights has determined the objectives of the Convention on the Protection of Fundamental Human Rights and Freedoms.

On January 22, 2013, the Constitutional Court issued Decision No. 1 of termination of the review on the constitutionality of the contested rules. Three of the judges mentioned that according to European Court jurisprudence, "[...] once the state adopts a solution, it has to be enforced with clarity and coherence to the extent possible to avoid legal insecurity and uncertainty for the targeted legal subjects by the enforcement measures of this solution [...]"¹³². Similarly, under article 3, paragraph (2) of Law No. 780-XV of December 27, 2001 on Legislative Acts, "the legislative act must comply with legality, accessibility, accuracy [...]". In the judges' opinion, the contested legal norm does not meet these requirements. However, according to the three judges, the provisions of article 52, paragraph (6) of the Law on State Supervision of Public Health contradict the provisions of the Law on Patient' Rights and

¹³² ECHR Decision *Paduraru v. Romania*

Responsibilities, the Law on Health and the Law on Education. It is not clear from the disputed legal norm, whether children can be admitted to an educational institution in the absence of one vaccine or can be admitted only if they have been administered all mandatory vaccines guaranteed by the state. Also, it does not result from the Law whether the imposed restrictions refer to the children who are in risk groups (with medical contraindications) or who come from socially vulnerable families. The Law does not stipulate who is to bear responsibility for the education of unvaccinated children and how this can be provided. Based on the above, the three judges held that the legal norm does not comply with Articles 16, 24, 35 and 54 of the Constitution.

On the grounds of Article 29, letter a) of the Law on Ombudsmen No. 1349 of 17.10.1997, on April 4, 2013, the ombudsman submitted to the Parliament of the Republic of Moldova proposals for the amendment of the legislation in force, which would ensure a fair balance between the need to protect the general interest, on one hand, and the individual rights, on the other hand. So far, we do not have an answer to the submitted proposals.

3. The right to physical and mental integrity

3.1. Child abuse

An important step in preventing, identifying and reporting cases of child abuse, neglect, exploitation and trafficking was the issuance by the Ministry of Education of Order No. 77 of February 22, 2013¹³³, aimed to prevent violence against children and to regulate the identification, documentation and intervention actions of the employees in the educational system in cases of child abuse, neglect, exploitation and trafficking¹³⁴.

¹³³ Order on the procedure of institutional organization and intervention of employees of educational institutions in cases of child abuse, neglect, exploitation, and trafficking

¹³⁴ Thus, the manager of each institution is responsible for: appointing by order the coordinator for the prevention, identification, reporting and referring of cases of abuse, neglect, exploitation and trafficking; reporting to a hierarchically superior body on the situation in this respect quarterly; dismissal of teachers who apply violence against children

As a result of monitoring the application of the given provisions, we identified some flaws¹³⁵. In this context, the Ministry of Education issued Order No. 858 of August 23, 2013 on the Methodology of Application of the Procedure of institutional organization and intervention of employees in the educational system in cases of child abuse, neglect, exploitation and trafficking. The aim of the Methodology consists in offering explanations to the coordinators of violence prevention actions on ways of application of the procedure in educational institutions.

Subsequently, the Ministry of Education carried out another monitoring on the application of the provisions of Order No. 858. The results of the monitoring were included in a Report on cases of violence against children in accordance with *the Procedure of institutional organization and intervention of employees in educational institutions in cases of child abuse, neglect, exploitation, trafficking*. The Report was based on data provided by the district/municipal Departments on Education, Youth and Sports.

Thus, according to the results of the Report¹³⁶, in the period September – December 2013, 6,332 cases of violence against children were identified at the notification of children and parents, or by 2,618 cases more than in the period March – May 2013. These

figures include 3,026 cases of physical abuse, 1,940 cases of psychological abuse, 43 cases of sexual abuse, 1,164 cases of neglect, and 159 cases of labour exploitation. Of the total number, 384 were cases of suspected serious abuse (173 more than in the period March – May 2013) reported by the employees of the institutions with responsibilities in the field of protection of child's rights. In the opinion of the authorities, the increased number of cases of abuse against children, compared to the period March – May 2013, is due to the collaboration of the teachers with the parents and children. However, the directors of the institutions often do not report cases of child abuse not to harm the image of the institution and to avoid the procedures imposed by law, especially in cases of sexual abuse, severe neglect and labour exploitation. Some employees are intimidated and do not feel safe when reporting cases of violence.

Pupils reported the majority of abuse cases, 2,404; teachers reported 2,177. The parents and non-teaching staff reported 638 cases, and 619 cases respectively. According to the data of the Report, boys were subjected to violence more often, 4,154 cases compared to 2,178 cases involving girls.

The ombudsman considers that the taken actions are certainly an important step towards the consolidation of state mechanisms for the identification and reporting of cases of abuse. The assertion is based on the number of identified and reported cases. Thus, while the official statistical data showed only a few dozens of cases of violence, according to the information available to the ombudsmen following a Study carried out by the CHR in 2012, the real number was of several hundreds. We mention that with the implementation of the new monitoring methodology of the provisions of Order No. 858, the Ministry of Education already indicates thousands of identified and reported cases. This quantitative growth demonstrates the efficiency of the latest decisions of the authorities, on the one hand, and of the implementation mechanisms, on the other hand, which confirms that the given approach is a qualitative one.

The ombudsman encourages the authorities to continue to make efforts to strengthen the mentioned mechanisms, both at normative and institutional levels, through teacher

¹³⁵ a) School Regulations do not contain functional provisions on the ways to ensure children's safety in institutions; the job descriptions do not empower the employee with the protection of child against any form of violence; the teaching staff is confronted with difficulties in identifying suspected cases of abuse and assisting children, victims of violence;

b) the means of complaint submission from pupils about cases of abuse are not adapted for children/pupils of different ages;

c) the mechanism for submitting complaints from pupils and parents does not exist

d) actions of violence prevention with children and parents/caregivers are organized occasionally, especially only when serious cases of abuse occur and have a formal character

e) district/municipal departments on education and the managers of the institutions do not assess the impact of organized prevention actions on the educational environment, especially on diminishing the phenomenon in general

¹³⁶ <http://unimedia.info/comunicate/tot-mai-multe-cazuri-de-violenta-asupra-copilului-sint-identificate-si-raportate-de-cadrelor-didactice-in-colaborare-cu-elevii-si-parintii-3272.html>

CHAPTER II

training and ongoing monitoring and implementation of the Methodology of Application of the Procedure of institutional organization and intervention of employees in educational institutions in cases of child abuse, neglect, exploitation and trafficking.

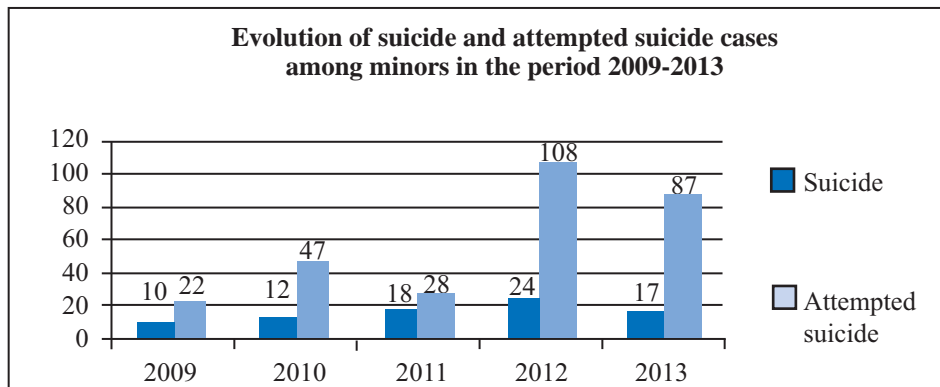
3.2. Suicide

According to the official statistical data of the Ministry of Internal Affairs¹³⁷, in 2013, the number of cases of suicide and attempted suicide among minors has decreased slightly compared with 2012. Yet, as observed in the chart below, the level registered in 2013 significantly outnumbers those registered in 2009, 2010 and 2011.

A similar situation is observed in cases of attempted suicide, where the same age category, 14-17, prevails.

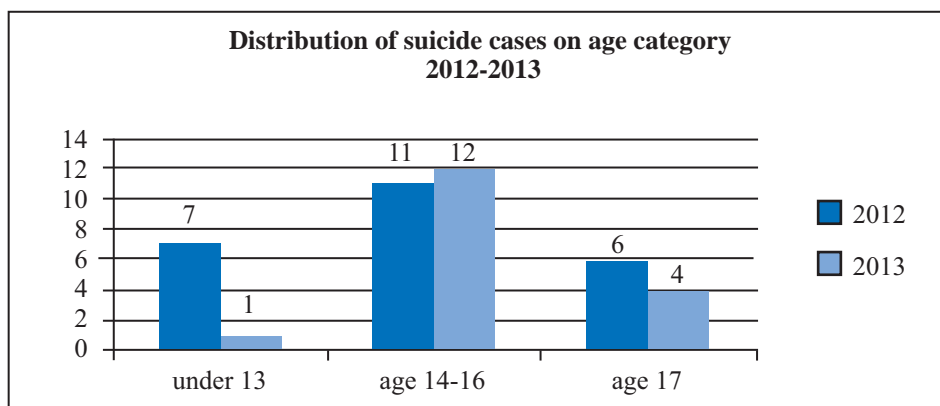
It was also found that most cases of suicide and attempted suicide are committed by girls. Thus, in 2012, there were 15 cases of suicide committed by girls, and 9 committed by boys, in 2013, 12 girls and 5 boys were involved in cases of suicide. As for attempted suicide, the difference is more pronounced, when they are distributed according to sex. In 2012, there were 94 cases of attempted suicide committed by girls compared to 14 committed by boys; in 2013 there were registered 75 cases of attempted suicide committed by girls compared to 12 cases committed by boys.

Both, the children victims of abuse and



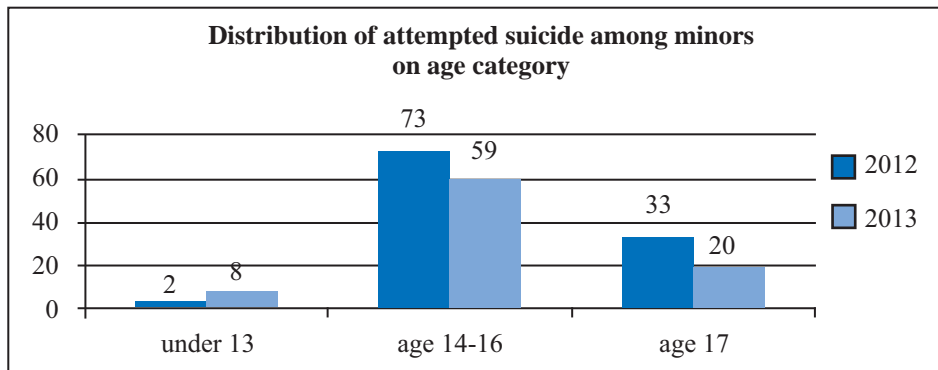
Statistical analysis shows that in the period 2012 – 2013, most suicides were committed by children aged 14 – 16.

those who display a predisposed suicidal behaviour need appropriate psychological support to overcome the difficult periods and



¹³⁷ <https://sheet.zoho.com/view.do?url=http://data.gov.md/download/794>

to manage to return to a normal life. In this context, we consider relevant the results of a



study conducted by the Institute of Education Sciences of the Academy of Sciences of Moldova. According to the study, violence, drug addiction, suicide, juvenile delinquency, emotional, learning, relationship, personal growth problems, discrimination, intolerance towards children with special educational needs are situations, which, as a rule, involve psychological assistance.

The ombudsman is of the opinion that the role of the educational institution is paramount in this context, as the educational institution is the first and the only institution with which the child is in permanent contact, which facilitates the early identification of children exposed to the risk of being abused, neglected, exploited, trafficked or who display suicidal predisposition. However, we believe that the mission in question should not be made the task of the psychologist only; it has to be carried out by efficient co-working of the teaching staff and of the school administration with the psychologist. Therefore, the teachers must have some specific knowledge. However, the newly created mechanisms do not offer such services, which would bring to attention the up-to-datedness of the problem on the functionality of the provisions stipulated in paragraph (7), article 43 of the Law on Education No. 547-XIII of July 21, 1995¹³⁸.

Also, according to the same Study, the following measures are necessary in order to optimize the psychological assistance in school: the implementation of effective models of school psychological service; modern management of psychological assistance in education; the creation of a well-organized coordinating

¹³⁸ http://ombudsman.md/sites/default/files/rapoar-te/raport_tematic_art.43_final.pdf

system of the school psychologist at all levels; clearly defined responsibilities of the school psychologist; streamlining documentation; provision of books, specialized literature, psycho-diagnostic equipment, workspace; providing advanced training and professional development programmes; creating conditions for professional development; effective collaboration of the teaching staff and school administration with the psychologist.

According to the ombudsman, the situation in this domain demonstrates the reactive character of the existing mechanisms, incoherence and defective interaction between the school, family, local public authority, police and social assistant. The solution of the problem is that the system should be a functional one. This requires a profound study of the phenomenon regarding the interaction of children with the state mechanisms.

4. The right to healthcare

During 2012, the ombudsman intervened in 7 cases related to presupposed medical errors with impact on the children-patients' health or which led to their death. The cases examined by the ombudsman confirmed the general tendency of delay of the prosecution. It took too long to perform forensic expertise, which issued contradicting conclusions. For this reason, in some situations, new international expertise was requested. In two of the cases, the results of international medical expertise offered evidence on committed violations with consequences supported by the children. **In 2013, the same problem remained a current**

one, which was also covered by the mass-media¹³⁹.

While examining the mentioned cases, it was found that there is lack of specific legislation on malpractice, of a national system of reporting medical errors. The practice of amicably solving disputes, related to medical errors, and apologizing to the patient, as well as granting material and moral damage caused to patients, is not applied. According to the ombudsman's conviction, the Ministry of Health does not take firm action to counteract the phenomenon of malpractice. The cases of damage caused to patients' health, or even worse their death, in the process of providing medical assistance, are not effectively investigated, are not admitted, and are not sanctioned. In the ombudsman's view, the time has come that doctors be excluded from the system for malpractice. It is also necessary to modify the assessment of professional competences of doctors, including through the number of complaints received from patients.

The ombudsman considers important the creation of an independent commission to carry out medical expertise in cases of malpractice, in whose activity lawyers and representatives of the civil society should be involved. It is also opportune the creation of a state fund for the treatment of patients, victims of malpractice, within the Ministry of Health.

The ombudsman appreciates the role of mass media in reporting cases of malpractice, given that 3 of the 7 examined cases of alleged malpractice were found out from the press. The ombudsman encourages the mass media to keep under control cases of medical errors and firmly combat this phenomenon in the future as well.

To ensure the observance of patient's rights, of their dignity and integrity, in order to strengthen fundamental human rights in the healthcare system, it is necessary to join the efforts of the Ministry, of the medical community of the country, the Ombudsman Institution, NGOs in the field and the media. The empowered authorities in the field must take resolute measures for effective examination of malpractice cases.

¹³⁹ <http://protv.md/stiri/social/un-copil-de-sase-ani-din-cahul-a-murit-dupa-ce-a-fost-diagnosticat---248791.html> <http://www.prime.md/rom/news/politics/item/4727/>

5. Protection of children in risk situations and left without parental care

On June 14, 2013, the Law on Special Protection of Children at Risk and Children Separated from Parents No. 140 was adopted. Under the provisions of article 23, paragraph (3), at the date of entry into force of the given Law¹⁴⁰, the Family Code No. 1316-XIV of October 26, 2000 shall be modified, including the abrogation of Chapter 17, which regulates the detection, registration and protection of children left without parental care.

Law No. 140 establishes the procedures of identification, assessment, assistance, reference, monitoring and registration of children at risk and children separated from parents, as well as the authorities and structures empowered with the application of the respective procedures.¹⁴¹

Under the provisions of article 5 of the above mentioned Law, the guardianship authorities must take all necessary measures to assist and support the children and their families in order to prevent the separation of the child from the familial environment, or where appropriate, to re(integrate) him into the family. The child's placement¹⁴² may be ordered by the guardianship authorities only in cases in which, after assessment, it is confirmed that keeping the child with the parents is impossible or contravenes his best interests. If the child is separated from the family, the territorial guardianship authority will dispose the placement of the child taking into consideration the priority of placement under guardianship of the extended family over other types of placement, and, in cases when this is impossible the priority of foster family services over residential ones.

One of the forms of family type placement is **guardianship and trusteeship**. Guardianship and trusteeship is established for the children left

¹⁴⁰ Under the provisions of paragraph (1), article 23 of the Law on Special Protection of Children at Risk and Children Separated from Parents, the given Law enters into force on January 1, 2014.

¹⁴¹ Article 1 of Law No. 140 on Special Protection of Children at Risk and Children Separated from Parents.

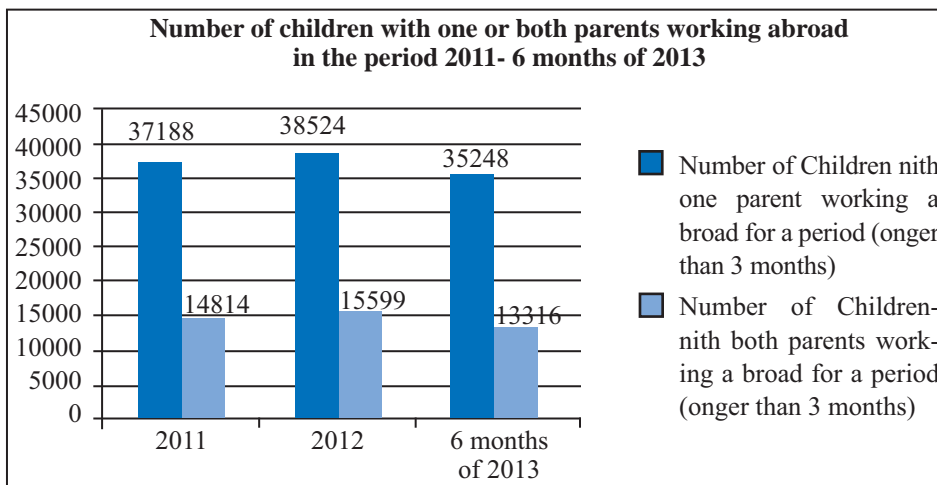
¹⁴² The placement of children may be emergent or planned under the provisions of articles 11 and 12 of Law 140 on Special Protection of Children at Risk and Children Separated from Parents.

without parental care aiming at their upbringing and education, as well as the protection of their legitimate rights and interests. Guardianship is established for children under the age of 14. At the age of 14, guardianship is replaced by trusteeship without the adoption of an additional decision issued by the custody authority. Trusteeship is established for the children aged 14 to 18 years old. Guardianship and trusteeship are established by the local public authorities within one month of receipt of application, on the basis of a written request of the custody institution¹⁴³.

The situation of children whose parents work abroad continues to be a serious problem. According to the official data of the Ministry of Labour, Social Protection and Family, there were 38,188 children with one parent working abroad and 14,814 children with both parents working abroad in 2011. In 2012, there were 38,524 children with one parent working abroad and 15,599 children with both parents working abroad. In the first six months of 2013, there were 35,248 children with one parent

working abroad, 3,595 children or 24.26 % of the total number of children, who have both parents working abroad, were placed under guardianship/trusteeship. In 2012, 2,814 children or 18.03 % of the children, who have both parents working abroad, were placed under guardianship/trusteeship. In the first six months of 2013, 1,560 children or 12.22% of the total number of children with both parents working abroad were placed under guardianship/trusteeship. We must also mention that the placement under guardianship/trusteeship is applied in most cases when both parents are gone abroad, while placement under other services is rarely encountered. Non-observance, for various reasons, of the procedure of setting up custody to ensure children's protection in the absence of parents (parents' irresponsibility, their limited legal culture, excessive bureaucratization of the process of establishing guardianship) does not discharge the authorities of their obligations.

Under the previous provisions of the Family Code¹⁴⁴, as well as under the new provi-



working abroad and 13,316 children with both parents working abroad.

When speaking about children who have only one parent working abroad, it is assumed that they remain in the care of the other parent. But, when children have both parents abroad, it is obvious that they must obligatorily be placed in the care of a guardian/curator.

According to the data provided by the local administration of second level, during 2011,

¹⁴³ Article 142, Establishment of custody, Family Code of the Republic of Moldova

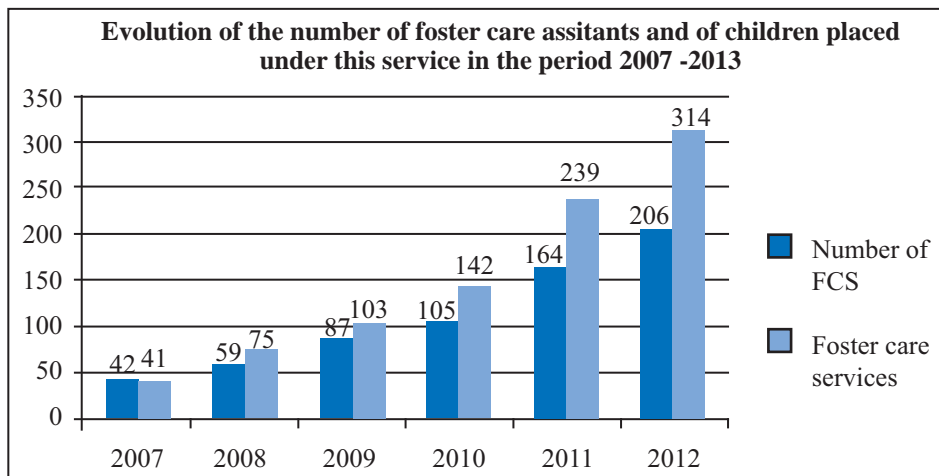
¹⁴⁴ Article 142, paragraph (4) of the Family Code expressly stipulates that guardianship and trusteeship are established by local public authorities within a month of receipt of the given application based on the written request of the custody authority. Yet, under article 114, paragraph (2) of Family Code, the custody authority, which was informed about the child left without parental care, is obliged, within 3 days, to conduct an assessment of the child's living conditions and if lack of parental care is confirmed, to issue a decision on registering the child and safeguard his legitimate rights and interest by offering temporary placement, allowed by law, until appropriate form of protection is determined in the manner provided by the present Code.

It results that the low share of children under guardianship/trusteeship is due to lack of decisive actions on part of custody authorities.

sions¹⁴⁵, the local custody authorities are obliged to take actions in case of identification of children at risk, to provide emergency placement of the children separated from parents, to ensure the establishment of guardianship/trusteeship over children whose parents are working abroad.

lack of financial resources. The ombudsman considers these actions/inactions as obvious proof of infringement of the child's right to social assistance and protection guaranteed by the Constitution of the Republic of Moldova under article 47.

Foster care – is another protection form of family type. It is a social service which offers the child substitute family care in the family of the professional parental assistant based on delimitation of the rights and responsibilities regarding the protection of children's legal rights and interests between the Social As-



The ombudsman considers that the custody authorities are not sufficient and effective, which is confirmed by the official statistics on the situation in the field. For these reasons, it is necessary to plan and implement measures to inform the public on children's rights, and perform ongoing monitoring of the number of children whose parents are working abroad.

However, in the monitoring of the activity of the district Department on Social Assistance and Family Protection and from the discussion with the employees, it was found that some local public authorities do not pay allowances for guardianship/trusteeship in accordance with the provisions of Government Decision No. 581 of 25.05.2006 on the Adoption of the Regulations on the conditions of setting and paying allowances for the adopted children and for the children under guardianship/trusteeship.

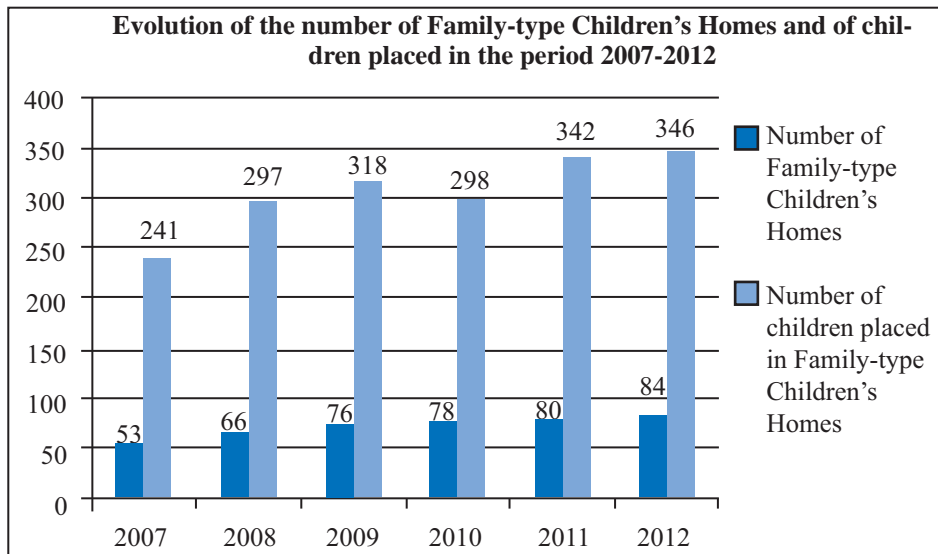
The reason invoked by the authorities is

¹⁴⁵ Law No. 140 of 14/6/2013, letter a), f), paragraph (1), article 6.

sistance and Family Protection Department / Department for Protection of Minors from Chişinău and the foster care assistant¹⁴⁶.

According to the data submitted by the territorial Social Assistance and Family Protection

¹⁴⁶ Government Decision No. 1361 of December 7, 2007 on the approval of Regulations-framework on Foster Care Service. The beneficiaries of this service are children, who are temporarily or permanently, in at least one of the following situations: a) are temporarily or permanently deprived of family environment; b) their special needs cannot be met by the biological family; c) are or may become victims of some form of violence, human trafficking, abandonment or neglect, ill-treatment, exploitation while in the care of one or both parents, of the legal representative or of any other person responsible for their care; d) are under the age of 14 and committed an offence but are not legally liable and are in at least one of the situation outlined in item 4 letters a), b), or c); e) are between 14 and 18 years old and have been applied a criminal penalty without imprisonment or have been released of liability and are in at least one of the situations outlined in item 4, letters a), b), or c).



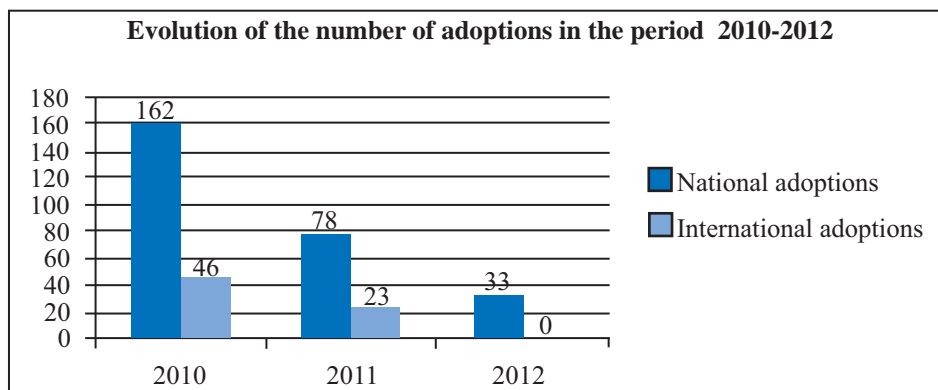
Departments reflected in the diagram, we attest an increasing number of children placed in this service and of the number of professional parental assistants (from 41 in 2007 to 206 in 2013).

Family-type Children's Home (FTCH) as a family-type of placement is an institution created based on a complete family that provides to the orphan child or the child left without parental care substitutive family care in the family of foster parent/educator¹⁴⁷.

The purpose of Family-type Children's Homes is to protect the orphan child or the child left without parental care, his socialization, and where appropriate his (re)-integration in the biological, extended or adoptive family.

From three to seven children under the age of 14 can be placed in Family-type Children's Homes. The number of total children, placed in FTCH shall not exceed seven.

The analysis of the diagram shows an evolution of the number of children brought up, educated and cared for in FTCH. This is due to deinstitutionalization of children in residential institutions. Thus, the children are offered the possibility to be grown up in a family environment, to enjoy the care and attention of parents-educators. Foster care, guardianship/trusteeship, family-type children's homes offer services that contribute to the harmonious development of the child's personality.



¹⁴⁷ Government Decision No. 937 of July 12, 2002 on the adoption of the Regulations of family-type children's home

Adoption is a special form of protection, applied in the best interests of the child, which is set between the adopted child and the

CHAPTER II

adopter, as well as the kinship between the adopted child and the adopter's relatives¹⁴⁸.

From the perspective of the child's right to protection, adoption is a way to provide a new permanent family to the children, who were irremediably separated from their biological family, especially due to death or abandonment. As a rule, adoption is not an appropriate solution for the children who were separated against the parents' will because of ill-treatment or neglect. According to the official data of the Ministry of Labour, Social Protection and Family, the number of national and international adoptions is decreasing.

The problems identified by the ombudsman during the meetings with the local public administration authorities and mentioned in the previous report¹⁴⁹ remain to be largely present in the reference period as well.

Although the civil society is aware of the value of adoption as a form of protection of children left without parental care and appreciates the efforts of adoptive families, a study¹⁵⁰ carried out by psychologists on the psycho-social needs of adoptive families reveals that adoptive parents are offered little attention and support in providing information and psycho-social assistance.

Access to informational resources before adoption, in order to exclude the risk of erroneous expectations in the preparation for the process, was essential for the adoptive parents. Lack of comprehensive information on this topic may lead to frustration, uncertainty, and other feelings affecting the situation of the adoptive family. Other categories of resources are the social ones, formal and informal, specialized services (medical, psychological, social assistance), economic resources, but also the socio-demo-

graphic characteristics of the adoptive parents.

The state must make efforts to support the family and protect the child at risk, so that he may return to his biological family where he was born. Adoption should be resorted to only when it is obvious that there is absolutely no other possibility to solve the problems the child is facing. If it is clear that a child was forever separated from his biological parents, he has the right to a new family environment, and if possible, adoption becomes the best choice.

Thus, we believe that in order to observe the child's right to family habitation, the state must provide favourable conditions for adoption and eliminate the bureaucratic barriers that discourage the applications for adoption.

The issue of protection of children at risk, and those left without parental care, was discussed at the international conference¹⁵¹ organized in the period 3–5 October 2013 in Chisinau by the Centre for Human Rights on the topic "*Observance of the child's right to family habitation, Analysis of the existing situation in the Republic of Moldova through the prism of positive practices of other countries*". The conference was attended by about 70 participants including officials from Moldova¹⁵² and 9 foreign guests¹⁵³.

It was stated, during the conference, that the problems which the Republic of Moldova is confronting are similar with those of other countries in the region, implicitly including from the ones attending the event. It was agreed that the difficulties that the system of protection of children at risk and children left without parental care is confronting remain

¹⁴⁸ Article 2 of the Law on the Legal Regime of Adoption No. 99 of 28/5/2010

¹⁴⁹ Report on the observance of human rights in the Republic of Moldova in 2012, pages 155-157; http://ombudsman.md/sites/default/files/rapoarte/raport_2012_final1.pdf

¹⁵⁰ During the international conference „*Observance of the child's right to habitation in the family*” organized by CHR on October 4 2013, Svetlana Rusnac, PhD in Psychology, presented the partial results of the study „*Psycho-social needs of the adoptive family. The adopted child's profile and of the adoptive family*”. http://www.ombudsman.md/sites/default/files/avocatul_copilului/CONF_INT_2013/adoptie_rusnac.pdf

¹⁵¹ The conference was held to carry out item 80, sub-item 8 of the National Action Plan on Human Rights in the period 2011-2014.

¹⁵² Vice-prime Minister, chairman of the National Council for the protection of children's rights, Tatiana Poting; the Minister of Labour, Social Protection and Family, Valentina Buliga, presidential councillor Mihail Sleahititchi, representatives of central public and local administration, employees of the judicial system, representatives of the civil society and of some diplomatic missions.

¹⁵³ ENOC Secretary, who is the commissar for children and youth from Scotland, Latvia Ombudsman, Deputy Ombudsman from Romania, the representative of the Office of Chancellor of Justice, the advisor of the ombudsman for children's rights from Croatia, the representative of the Office of the Commissar for human rights of the Ukrainian Rada, representatives of „Save the Children” organization in the Russian Federation.

up-to-date, despite the fact that the majority of countries focus on upbringing and educating children in a family environment and only as a last resort in the residential system. The state of affairs is maintained even though the adopted policy documents that provide deinstitutionalization and creation of placement services of family type and the number of services for the children who benefit of them is increasing. In the majority of countries, the development of such services, both quantitatively and qualitatively, is determined/conditioned by financial resources. The financial issue also influences the level of training professionals who work in this field.

For these reasons, the ombudsman believes that the state should pay more attention to this domain, including financially, in order to put into action without reservation the policy documents adopted over many years in the context of rallying the national legislation to the European and international standards.

6. Observance of the child's right to a name and nationality

Despite the fact that the international¹⁵⁴ and national¹⁵⁵ legal norms guarantee from

¹⁵⁴ According to article 7 of the UN Convention on the Rights of the Child, 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. States Parties shall ensure the implementation of these rights in accordance with their national law and their obligations under relevant international instruments in this field, in particular where the child would otherwise be stateless.

¹⁵⁵ According to Article 5, paragraph (1) of the Law on the Child's Rights No. 338-XVIII of December 15, 1994: (1) at the moment of birth the child has the right to a name and is registered in accordance with the provisions of the Marriage and Family Code. (2) Each child has the right to nationality. The conditions of acquisition and change of nationality shall be established by the law.

However, article 55 of the Family Code of the Republic of Moldova stipulates: (1) the child is entitled to a surname and a name. (2) the child acquires the surname of his parents. If the parents have different surnames, the child shall take the surname of his father or mother as mutually agreed. (3) The child shall get a simple surname or one consisting of two surnames, according to the will of his parents. (4)

birth the right of every child to a name and nationality, several cases of childbirths, which were not entered in the Register on civil acts, were the centre of attention of the ombudsman in 2012-2013. Therefore, these children do not officially exist. Accordingly, the given minors are restricted the exercise of the right to a name and nationality, being deprived of many benefits. Undocumented children are exposed to risks such as human trafficking, sexual exploitation, labour exploitation, organ removal, etc. It should also be mentioned that the actual number of children without identity documents is not known, similar to the number of adults who could not benefit of the right to have an identity. The CHR made a report on the topic "*Analysis of the situation in the country on the documentation of children with birth certificates*" and found that in the first half of 2013, 343 undocumented minor children were in the attention of local public authorities. Only the districts Taraclia, Glodeni, Ceadîrlunga, Briceni and Basarabasca reported that they do not have undocumented children. Most children without birth certificates are of the age 9-12, which is 38 %, 28 % of undocumented children are of the age between 13 -16 the Chart (see the Chart below).

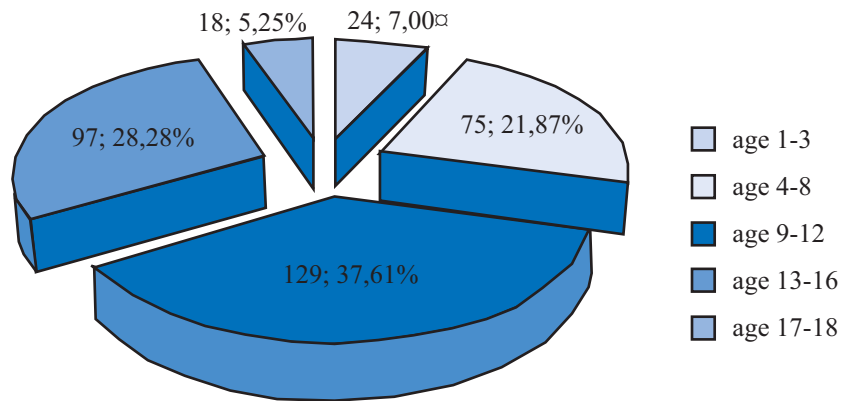
The majority of undocumented children (92.71 %) are raised in their biological families, the others in family type placement as seen in the Chart.

Of the total number of undocumented children, 247 are raised, educated and cared for by both parents and only 96 of undocumented children come from single-parent families. In some cases, the child has not been documented because they come from vulnerable families where parents themselves have no identity documents.

The specialists within Social Assistance and Family Protection Departments claim that the documentation of Roma children is more problematic (*44 minor children without birth certificates are tracked down by the local authorities*). Typically, Roma children remain without IDs because of frequent change of parents' residence, lack of parents' birth certificates, and the use by them of identity cards belonging to other people.

the guardianship authority decides, in case there is a dispute between the parents, related to the surname and/or the name of the child.

Age of undocumented children in the attention of authorities

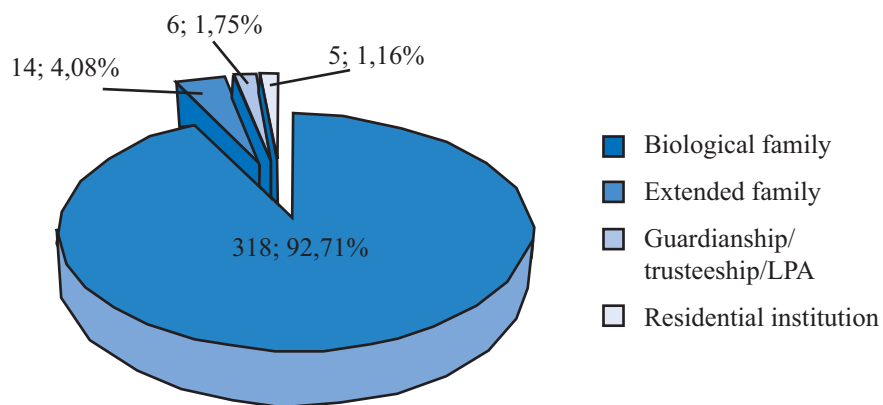


The documentation process can be lengthy because, in some cases, it is necessary first to establish the mother's identity and her documentation and then find the child's birth registration. However, the ombudsman found out about some situations in which, although the custody authority took the undocumented children, it did nothing to document them claiming that this is the responsibility of the parents.

Most children without birth certificates tracked down by the authorities live in the districts: Orhei (16 children), Stefan Voda (15 children), Ocnita (10 children), Edinet (10 children).

We appreciate the actions undertaken by the relevant bodies to ensure the respect of the right to a name and nationality. Here, we highlight the adoption of legislative and normative acts, which contribute to the simplification of the procedure of registration of newly-born children and help the young families in documenting their newly born by providing offices to representatives of the Ministry of Information Technology and Communications on the premises of maternities¹⁵⁶ and by granting them exemptions from some civil service fees¹⁵⁷, etc. Also, the sanction for the parents who do not comply with the deadline for the

Child placement



¹⁵⁶ Government Decision No. 258 of April 3, 2009.

¹⁵⁷ Government Decision No. 497 of July 2012

The children in a Roma family were not documented because their mother, who cohabitated with their minor father, had no identity card. The woman *affirms* that she was born in the Russian Federation and was brought to the Republic of Moldova in 1999 by a Roma person. When she crossed the border she showed a birth certificate that did not belong to her.

In 2012, the Prosecutor's *Office* filed a lawsuit on stating the fact of birth of the woman and subsequently of her children. The court requested the applicant to show evidence that she is the bearer of the name and surname that was to be *confirmed* by the court. That's because another person with the same name and surname had already been registered by the State Register of the Population. The Court disregarded the fact that the applicant was previously convicted and was holder of a provisional document of Sample 9. This judicial practice is motivated by the fact that Roma citizens use identity cards that do not belong to them.

declaration of the child's birth was established. Regretfully, despite all these measures, the issue of documenting children remains a current one. For these reasons, the ombudsman proposes to the relevant authorities to maintain

the issue in question in the centre of their attention by monitoring the situation related to the registration of future mothers and postnatal child supervision to further identify viable solutions.

CHAPTER III

Influencing public policies in the field of human rights and improving the legislation in this sphere

National Action Plan in the field of human rights for the period 2011-2014

The National Action Plan in the Field of Human Rights (NAPFHR) for the period 2011-2014, a national instrument that materializes the state policy on strengthening human rights protection, was approved by Parliament Decision No. 90 of 12.05.1011. The Document was revised¹⁵⁸ to meet the commitment of the Republic of Moldova to international organizations and introduce, in the given Plan, measures for the implementation of the recommendations made to our country within the Universal Periodic Review.

The Action Plan is considered a programming document, which outlines concrete tasks for a fixed term. It proposes solutions for the improvement of the situation in the field of human rights and positive changes in the key areas – accession to international legal instruments on human rights; provides access to information, freedom of expression, freedom of assembly and freedom of association; strengthening of justice and of the institutions on human rights protection; ensures the right to life and the right to physical and mental integrity; ensures the right to education; ensures the right to labour and favourable working environment; ensures access to quality services; ensures the right to healthcare; ensures the right to social protection; ensures the right to a healthy environment; prevents and combats discrimination; ensures the rights of the child; promotes and ensures human rights in the Transnistrian region of the Republic of Moldova; provides education and information on human rights; freedom of conscience, thought and religion; the rights of stateless persons, migrants, refugees and asylum seekers.

The plan contains 89 objectives and 282 actions, which indicate the stages of achieving the objectives, the needed financial resources

¹⁵⁸ Modified by Parliament Decision No. 327 of 27.12.2012, in force since March 8, 2013

and the existing ones for the implementation of the actions.

In the process of implementation of the Action Plan, it was observed that some objectives are also found in other policy documents, but not in all the cases the execution period, the institutions in charge and progress indicators coincide. In this context, it is requested that the Government ensures a more efficient coordination of the activity of ministries, other central administrative authorities and subordinated institutions in the process of elaboration and implementation of state policies.

A major problem is lack of financial coverage or insufficient funding from the state budget to achieve the NAPFHR objectives. This leads to non-execution of the planned actions or non-observance of the term of execution. In the created situation, the institutions in charge are constrained to identify the necessary financial resources independently. For example, in 2013, due to lack of financial resources, the CHR did not conduct the Study on manifestations of discrimination (objective 10, action 5 of NAPFHR) and the Study on national case law in the field of preventing and combating discrimination (objective 71, action 1 of NAPFHR). These studies will not be carried out in 2014 either if extra-budgetary resources are not found.

The lack of an efficient mechanism to monitor and assess the degree of implementation of the proposed objectives in the Action Plan, particularly by local public authorities, creates inconveniences in assessing the degree of implementation of NAPFHR at national level.

The Centre for Human Rights, as National Institution for the Promotion and Protection of Human Rights, aims at establishing direct contacts with the decision makers in the territory and offers to contribute, within the powers provided by the Law on Ombudsman, to im-

prove the activity of local public authorities related to ensuring and promoting human rights.

In this context, to create an overall picture on the degree of NAPFHR implementation, the Centre for Human Rights identified the difficulties and risks faced by local public authorities in implementing NAPFHR, the solutions to ensure the fulfilment of the planned actions, the modalities of cooperation with local public administration for this purpose¹⁵⁹. All these aspects were discussed during a working meeting organized by the Centre for Human Rights attended by representatives of local public authorities (*heads and deputy heads of districts, coordinators in the field of human rights*), members of the Commission for the implementation of the National Action Plan in the Field of Human Rights for the period 2011-2014, external partners of CHR, representatives of the civil society.

We reaffirm our previously announced opinion regarding the need for a separate position of coordinator on human rights, with wages and proper training. It is necessary to establish permanent and effective inter-sector dialogue between the local public administration and central authorities, in which the Ministry of Finances should have a special role and contribute to the funding of the planned actions at local level based on performance indicators. It is important to involve more actively the NGOs in the implementation of the activities of the National Action Plan in the Field of Human Rights. Last but not the least, it is necessary to optimize and facilitate the organization and implementation of the monitoring process of the degree of NAPFHR realization. In this context, the Ministry of Justice, as responsible for coordinating the implementation process of NAPFHR, elaborated in November 2013 the draft of a Methodological Guide for information and referral, which at the moment of writing of the present report, has not been approved yet.

During the meeting of the Commission for the Implementation of the National Action Plan in the Field of Human Rights for the period 2011-

2014¹⁶⁰ of November 18, 2013¹⁶¹, the opportunity of elaboration of a new action plan in the field of human rights for the period 2015-2018 was discussed. In our opinion, the elaboration of a new policy document in this field must necessarily be preceded by a profound analysis of the impact of the National Action Plans in the Field of Human Rights for the periods 2011 -2014 and 2004 -2008 on the human rights situation in the Republic of Moldova. In this respect, objective No. 83 "Study of the opinions on observance of human rights in the Republic of Moldova" was included, an action that was to be carried out in 2013. Regrettably, we note that following the review and modification of the Action Plan by Parliament Decision No. 327 of 27.12.2012 in force since March 8, 2013, this objective was excluded from the document.

Justice Sector Reform Strategy for the period 2011-2016

Building an accessible, effective, independent, transparent, professional and accountable to society justice sector, which would correspond to European standards, to ensure the rule of law, the observance of human rights and to contribute to the society's raise of confidence in the judiciary is the general objective of the Justice Sector Reform Strategy for the period 2011-2016¹⁶².

The implementation of the Justice Sector Reform Strategy for the period 2011-2016 is financially supported by the European Union based on the Financing Agreement between the Government of the Republic of Moldova and the European Union on the Support Programme of the Justice Reform signed in Brussels on June 14, 2012. The EU Support Programme of sector policy aims at supporting the Government in putting into action the Justice Sector Reform Strategy and focuses on governance issues and protection of human rights in the justice system. Under the principle "more for more",

¹⁵⁹ The working meeting on the topic „Implementation of the National Action Plan in the Field of Human Rights for the period 2011-2014. The role and contribution of local public authorities: problems and ways to improve the situation in the field”, <http://ombudsman.md/ro/stiri/reuniunea-lucru-implementarea-planului-national-actiuni-domeniul-drepturilor-omului-pe-anii>

¹⁶⁰ Created by Government Decision No. 70 of 6/2/2012

¹⁶¹ <http://www.justice.gov.md/libview.php?l=ro&idc=4&id=1605>

¹⁶² Law on approval of the Justice Sector Reform Strategy for the years 2011-2016 No. 231 of 25/11/2011

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this programme receives additional funding of eight million euro from Eastern Partnership Integration and Cooperation Programme (EaPIC) in order to promote democratic reforms and strengthen institutional capacity.

In the process of implementation of the Strategy, it was found that there is no coherence and consistency between some actions, including through the timetable, which implies inefficient use of human and financial resources. The equivocal wording of action provokes various interpretations on part of the subjects responsible for their implementation, and as result, they remain unexecuted or considered partly executed. In some cases, at the designation of institutions in charge, their powers and competences were not taken into consideration. However, the fulfilment of some actions is no longer appropriate, given the developments or the modification of the normative framework in certain areas. Therefore, it is necessary to adapt the Action Plan for the Implementation of the Justice Sector Reform Strategy to reality, to review the actions, the institutions in charge, the deadline for the fulfilment, the performance indicators.

According to the conclusions of the Quarterly Report No. 4 on monitoring the implementation of the Justice Sector Reform Strategy (monitoring period October 1 – December 31)¹⁶³, “the progress in implementing the Action Plan is slower compared to the third quarter of 2013”. Thus, of 257 planned actions to be carried out by the end of the year, 144 were fulfilled and 113 are still unfulfilled, which constitutes a ratio of 56% to 44 % correspondingly. The NGO representatives are also questioning the quality of the fulfilled actions.

The analysis of the performance of the institutions in charge for implementing the actions of the Strategy indicates that the Ministry of Justice has realized 57 % of the actions. Approximately the same share of fulfilment has been realized by the National Council of State Guaranteed Legal Assistance (50 %) and by the General Prosecutor’s Office (54 %). Better achievement rates has the National Anticorruption Centre (71 %) and the Centre for Human Rights (67 %). Among the institutions with a low achievement rate is the National Union of

¹⁶³ Report done within the Project „Monitoring of Justice Sector Reform for enhancing Government responsibility” by Promo-LEX Association and the Association on Efficient and Responsible Governance

Bailiffs, which has one planned and unfulfilled action and the Ministry of Internal Affairs, which has one fulfilled action of five planned.

Although the Ministry of Justice, the authority responsible for the coordination and monitoring of Strategy implementation, makes efforts to ensure the transparency of the reform of the justice sector, in our opinion, these are not sufficient to meet the current needs and the interests of the public in the reform process. Thus, contrary to the provisions of Law No. 231 of 25.11.2011, up to now, the Ministry of Justice has not created a website dedicated to the justice sector reform; the civil society and the key institutions from the justice sector have no possibility to make suggestions or comments on the progress of this reform. Multiple studies, which have already been conducted, are not yet publicly available. Not a single annual conference, with the participation of the civil society and key institutions from the justice sector, was organized to discuss and debate the annual reports of Strategy implementation¹⁶⁴.

We consider a serious omission not to publish the information about the distribution of financial resources disbursed by the European Union to support the implementation of the Strategy actions.

The ongoing reform of the justice sector aims to increase the efficiency, the quality of the justice act and public trust. In our opinion, for its impact to be felt, so as to match the growing expectations and needs of the society

¹⁶⁴ Law on the approval of the Justice Sector Reform Strategy for the period 2011-1016: “**Transparency of justice sector and relations with the public**”. The Ministry of Justice shall create a website dedicated to the justice sector reform, where current information on the process and progress of the justice sector reform will be placed. The civil society and key institutions from the justice sector will have the possibility to make suggestions and to comment on the progress of this reform. The working groups set up for ensuring the Strategy implementation shall be responsible for placing information and collecting comments/suggestions on the website.

Finally, the Ministry of Justice shall hold annual conferences with the participation of the civil society and the key institutions from the justice sector, where annual reports on Strategy implementation, as well as other relevant information, will be presented and debated. All these measures shall contribute to ensure transparency of the undertaken ongoing reforms and provide to everyone the real possibility of involvement and participation in the reform process”.

and justice to represent a real factor of social balance and stability in a rule of law state, a more serious approach to the process of reform implementation is necessary. The rush for reports to obtain the subsequent tranches of funding for the judicial reform without achieving effective actions, with the operation of all compartments, but also of the whole system, will not allow achieving the desired effect. Instead, a better and totally independent judiciary is essential for the protection and promotion of human rights in all the fields.

Contribution to the improvement of human rights legislation

According to the Paris Principles¹⁶⁵, the National Institution for the Promotion and Protection of Human Rights is required to submit to the Government, Parliament and other relevant bodies, opinions, recommendations, proposals and reports on any matter relating to the promotion and protection of human rights. These opinions, recommendations, proposals and reports, as well as any prerogative of the institution, cover the following areas:

a) Any legislative or administrative provisions, as well as provisions relating to the jus-

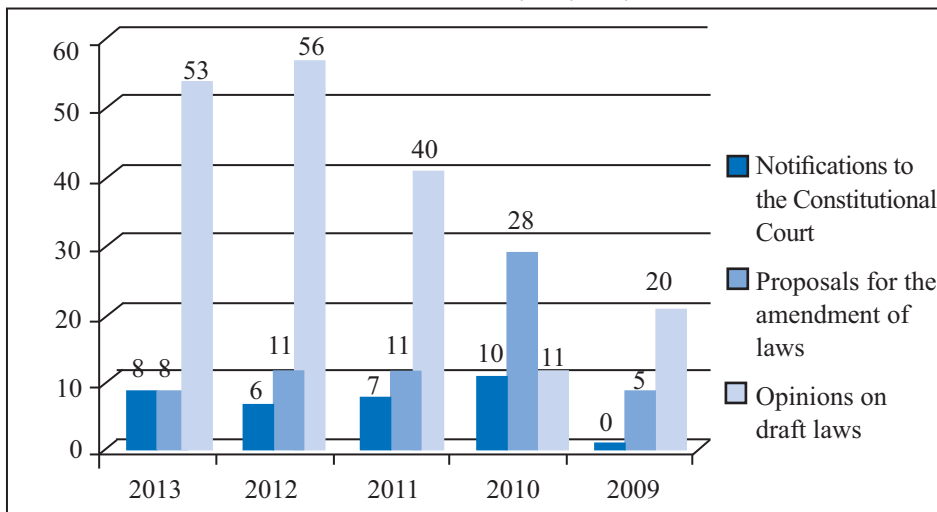
tice system aimed at providing and strengthening human rights protection. In this regard, the National Institution examines the legislation in force, draft laws and proposals to amend legislation and makes recommendations, which it considers appropriate to ensure that these provisions comply to the fundamental principles of human rights; if necessary, it recommends the adoption of new laws, the amendment of the existing laws and adoption or modification of administrative procedures;

b) Any case of violation of human rights it decides to examine;

c) Make reports on observance of human rights in the country and reports on other more specific matters;

d) Draw attention of the Government to human rights violations by submitting proposals for their counteraction, and, if necessary, to express its opinion on the positions and reactions of the government.

In this context, one of the main tasks of the Centre for Human Rights is to contribute to the improvement of legislation related to human rights by submitting proposals for the amendment of the regulatory framework and by notifying the Constitutional Court on the review of the constitutionality of regulatory acts and their compliance to the generally accepted principles and international laws on hu-



¹⁶⁵ Principles related to the Status of National Institutions for the Promotion and Protection of Human Rights (Paris Principles), adopted by UN General Assembly Resolution 48/134 of 20 December 1993.

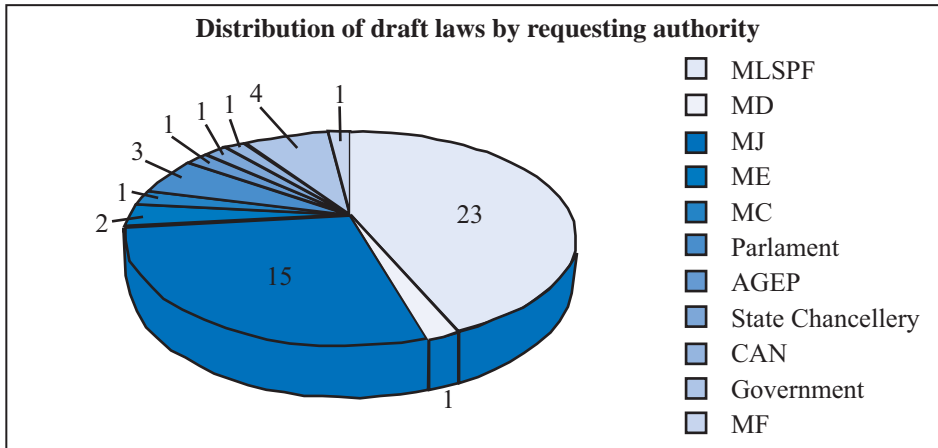
man rights. The expression of opinions on draft legislation is another effective way of ombudsmen's contribution in building a national regulatory framework according to human rights.

The ombudsmen exploit to the maximum the opportunities offered by the Law on Ombudsman. **Eight amendment proposals of the regulatory framework and eight notifications regarding the constitutionality of some laws were made**, which, in the ombudsmen's opinion, contravene the constitutional norms related to ensuring the right to physical and mental integrity, access to justice, the right to education, private life, property and freedom of movement.

The Centre for Human Rights expressed its views on 54 draft laws, at the request of central public authorities entitled to legislative initiation. As observed from the chart, more requests came from the Ministry of Labour, Social Protection and Family and the Ministry of Justice.

No. 1380 of 29.10.2002 on the Approval of sample-Regulations of the county (municipal) General Department on Education, Government Decision on the approval of the National Immunization Programme for the period 2011-2015, No. 1192 of 23.12.2010.

Given the number of appeals from the citizens of the Republic of Moldova, who hold citizenship of the Russian Federation, on the modality of establishing and paying pensions on the basis of the Agreement between the Government of the Republic of Moldova and of the Russian Federation on guaranteeing the citizens' right to pensions of 10.02.1995, the Ministry of Labour, Social Protection and Family was encouraged to resume negotiations with the authorities from the Russian Federation on the review of the Agreement.



Based on the analysis of data on violations of citizens' constitutional rights and freedoms and on the results of application examination, as well as after making preventive visits to places, where there are or can be persons held in custody, the ombudsmen submitted to the subjects entitled to legislative initiation proposals, or, if applicable, the completion of certain provisions of the Criminal Execution Law, Contravention Code, Law on Education No.547 of July 21, 1995, Law on State Supervision of Public Health No. 10 of 3 February 2009, Law on Administrative Offences No. 793 of 10.02.2000, Law on Identity Cards and National Passport System No. 273 of 9.11.1994, Law No. 55 of 5.04.2012 on Modification and Completion of Criminal Procedure Code of the Republic of Moldova, Government Decision

In the context of supporting the illegal removal of children as a result of parents' divorce, the ombudsman for the protection of child's rights requested the Minister of Labour, Social Protection and Family to initiate the procedure of concluding collaboration agreements with the signatory states of the Hague Convention on civil aspects of international child kidnapping¹⁶⁶ and set mechanisms for the implementation of the provisions of the Convention.

According to the reports on the execution of constitutional jurisdiction, developed by the Secretariat of the Constitutional Court on the classification of notifications submitted to

¹⁶⁶ The Hague Convention of 25 October 1980 to which the Republic of Moldova adhered by Parliament Decision No. 1468 of 29 January 1998.

the Constitutional Court, the ombudsmen are consistently ranked on the second place after the parliamentarians. Thus, in 2012, the deputies of parliamentary factions submitted 30 notifications, the ombudsmen – 5 notifications, the Supreme Court of Justice – 5 notifications, the Ministry of Justice – 2 notifications, the General Prosecutor – 1 notification. In 2011, the parliamentarians submitted 17 notifications, the ombudsmen – 6, the Supreme Court of Justice – 2, the Ministry of Justice – 2, the General Prosecutor – 2.

Thus, in 2013, the ombudsman Anatolie Munteanu requested the review of the constitutionality of item 16 of Government Decision No. 173 of 18.02.2008 on the approval of Regulations for the organization and conduct of doctoral and postdoctoral studies, according to which *“The age limit of candidates to full-time education financed from state budget shall be of 35”*, and the phrase *“as a rule, of the age of 45”* contained in item 4 of Government Decision No. 962 of 5.08.2003 on the operation of the Academy of Public Administration under the President of the Republic of Moldova. In the opinion of the ombudsman, the differentiation of candidates on the age criterion in the case of enrolment to doctoral studies in authorized institutions, as well as to master degree studies within the Academy of Public Administration, is discriminating and restricts access to master degree higher education and postgraduate studies (doctoral) and contradicts article 16, paragraph (2), article 35, paragraph (7), in conjunction with article 54 of the Constitution and a number of provisions of international laws in this field to which the Republic of Moldova is party.

The Government and Moldova State University supported the notification of the ombudsman.

By Decision No. 26 of 19 September 2013 of the Constitutional Court, the notification of ombudsman Anatolie Munteanu was accepted for review and the regulations subjected to constitutionality control were declared unconstitutional.

In another notification ombudsman Anatolie Munteanu requested the review of the constitutionality of articles 98, paragraph (2), letter b¹) and 104¹ of the Criminal Code and of the phrase *“in the last three months of sentence service in prison”*, contained in article

291¹ of Execution Code, as amended by Law 34 of 24 May 2012 on the Completion of Legislative Acts. The contested provisions relate to the establishment and application, in the aim of eliminating a hazard and preventing deeds under criminal law, of the security measure of *chemical castration* of sex offenders, which undermines the sexual inviolability of other persons, including underage children.

The ombudsman alleged, in particular, that the security measure *chemical castration*, in the conditions of the regulatory framework in force, constitutes inhuman and degrading treatment, as well as interference in intimate, family and private life and is contrary to the provisions of articles 24, paragraph (1) and (2), 28 and 54, paragraph (2) and (3) of the Constitution, articles 3 and 8 of the European Convention on Human Rights and Fundamental Freedoms, articles 7, 10 paragraphs (1), (3) and article 17 of the International Covenant on Civil and Political Rights, article 2 of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment, as well as articles 1, 2, and 5 of the European Convention for the Protection of Human Rights and Dignity of the Human Being with regard to the Application of Biology and Medicine. According to the ombudsman, the mandatory application of chemical castration in the condition of insufficiently regulated laws, without assessment of therapeutic need and against the will of the person, can be qualified as institutionalized degrading punishment, i.e. degrading punishment allowed by law, ordered and executed by state authorities, which affects human dignity and integrity, including through the anguish of waiting.

In examining the notification, the Constitutional Court ordered the written opinions of the President of the Republic of Moldova, the Parliament, Government, Ministry of Health, Department of Penitentiary Institutions, General Prosecutor’s Office, Ministry of Internal Affairs, the Supreme Court of Justice, Moldova State University, State University of Medicine and Pharmacy “Nicolae Testemițanu” from the Republic of Moldova.

By Constitutional Court Decision No. 18 of 7.04.2013, Article 98, paragraph (2), letter b¹), article 104¹ of the Criminal Code No. 985-XV of 18 April 2002, article 174, paragraph.(3¹) and article 291¹ of the Execution Code No. 443-XV

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of 24 December 2004 as amended by Law No. 34 of May 24, 2012 on the Completion of Legislative Acts, **were declared unconstitutional**.

Ombudsman Anatolie Munteanu requested to review the constitutionality of some provisions of the Law on Approval of Specialties for Training Personnel in Higher Educational and General Specialized Institutions No. 1070-XIV of 22 June 2000 and of the Law on Approval of Training Areas and Specialties for Training Personnel in Higher Educational Institutions, cycle I No. 142-XVI of 7 July 2005. The contested provisions are related to the Government's ensuring of *training medical and pharmaceutical staff exclusively in state educational institutions*. The author of the notification considers that the contested legal norms introduce restrictions of training personnel for the medical and pharmaceutical areas in private educational institutions, thus affecting the liberty of choice of the educational option, and in the existing situation, the fundamental right to education is unduly restricted, without there being a just balance or proportionality between the restriction of this right and the targeted purpose.

In the process of examining the notification, the Constitutional Court ordered the opinions of the President of the Republic of Moldova, the Parliament, the Government, the Ministry of Education, the Ministry of Health, the Ministry of Justice, the General Prosecutor's Office, who did not support the notification mentioning that the criteria for organization and functioning of the education system is a prerogative of the legislature.

The Constitutional Court considered that the subject of the notification exceeds the lawful scope of its jurisdiction because the issue addressed in the notification is a matter of convenience and not of constitutionality, and by Decision No. 7 of 04.07.2013, **ceased the review of the constitutionality of the norms contested by the ombudsman**.

According to the European Court of Human Rights, "the right to education by its very nature calls for regulation by the State, regulation which may vary in time and place according to the needs and resources of the community and of individuals".¹⁶⁷ Based on this state-

¹⁶⁷ ECHR, Case "Relating to certain aspects of the laws on the use of languages in education in Belgium"

ment, but also taking into account, the process of harmonization of the regulatory framework to international standards and the principles of Bologna Process, the trends of democratization of higher education and development of university autonomy, of ensuring the co-existence of public and private education, we maintain the view that the state should retain the principle of neutrality and pluralism in the national educational system. The state must clearly acknowledge, through laws, the right to open and administer private educational institutions, to offer the possibility that these institutions become integral part of the national educational system and to subject this recognition only to objective, fair and non-discriminatory conditions, as the Parliamentary Assembly of the Council of Europe underlines¹⁶⁸.

Ombudsman Tudor Lazar notified the Constitutional Court to review the constitutionality of some provisions of the Law on the modification and completion of certain legislative acts No. 29 of 6 March 2012. This Law excluded the ground for reviewing a court decision in the case of declaring a law unconstitutional by the Constitutional Court. For this purpose, letter f) of article 499 of the Civil Procedure Code was repealed. In his notification, the ombudsman reiterated that the cancellation of the right to request the review of a decision, which emerged from a law declared unconstitutional, restricts the access to justice in order to obtain an effective redress of the damaged rights on behalf of courts. The exclusion of this right constitutes a denial of legitimate rights and interests of the person and is contrary to Article 54 of the Constitution.

By Decision No. 16 of 25.06.2013, the Constitutional Court **declared unconstitutional** the rule contested by the ombudsman, noting that exclusion of letter f) of article 499 of the Civil Procedure Code is a violation of Articles 4, 20 and 54 of the Constitution.

In another notification submitted by ombudsman Tudor Lazar, the Constitutional Court was requested to review the constitutionality of articles 4 and 5 of Parliament Decision No. 3 of 15.02.2013 on the Report of the Investigation Committee for the elucidation of the manner of administration by competent bodies

¹⁶⁸ Resolution 1904 (2012) the right to freedom of educational choice in Europe

of the incident of December 23, 2023, which took place in the natural reservation "Padurea Domneasca". According to the ombudsman, the Investigation Committee conducted an extraordinary jurisdiction activity, without having, according to the Court, the capacity and the right to judge and to rule on litigation aimed, in principle, at the subjective rights of the involved parties. The Investigation Committee expressed and the Parliament, by its decision approved, findings likely to influence the outcome of judicial proceedings and verdicts by which the guilt of a person is stated. The Committee did not just state a fact and make suggestions/recommendations in this respect.

By its Decision of 23 September 2012, the Constitutional Court **rejected the ombudsman's notification**, the contested rules being recognized as constitutional to the extent to which the provisions of criminal procedure and disciplinary nature are not binding on the General Prosecutor's Office, the Superior Council of Magistrates and the Council of Prosecutors. The **Court also made an address to the Parliament** to exclude the gaps in the Parliament Regulations on the powers of investigation committees.

Ombudsman Aurelia Croitoru notified the Constitutional Court on the review of the constitutionality of Article 4, letter e) of the Law on Administrative Litigation under which administrative acts on exceptional situations were excluded from judicial review.

In her arguments, the ombudsman maintained that the principle of access to justice is applied, regardless of the quality of the person, and is materialized on the possibility of submitting any application, whose solution involves the competence of courts. The legitimate or illegitimate nature of complaints formulated in justice is the result of adjudication of the case and is stated in the court rulings. Under the Constitution of the Republic of Moldova, the right of access to justice cannot be restricted by law, since, in this way, the existence of the right is prejudiced as well.

While working on the Report, on February 11, 2014, the Constitutional Court ruled on the review of the constitutionality of the contested rule and concluded that the **contested provisions, which exclude the administrative acts**

related to exceptional situations from any form of judicial review, are unconstitutional. At the same time, the Court formulated an address to the Parliament in which it signalled the need to review integrally the norms, which exclude certain administrative acts from any form of judicial review.

Ombudsman Aurelia Grigoriu requested the Constitutional Court to review the constitutionality of article IV of the Law on modification and completion of certain legislative acts No. 158 of 5.07.2012 and the Law on the modification and completion of certain legislative acts No. 221 of 19.10.2012. According to the author of the notification, the modifications made by the mentioned legislative acts, especially by the phrases "resident and non-resident individuals" and "in the course of a calendar year", restrict the fundamental right to freedom of movement and the right to property of the citizens, who possess double citizenship, and who use vehicles registered outside the Republic of Moldova.

At the moment of writing the Report, **the notification has not been examined yet.**

Another notification submitted by ombudsman Aurelia Grigoriu has as object of examination the provisions of items (6) and (7) of Article 3 of the Law on Identity Cards of the National Passport System No. 273-XIII of 9.11.1994 with the modifications operated by Law on Modification and Completion of Certain Legislative Acts No. 11.07.2012, especially the phrases "identity cards and residence permits shall be filled out in the state language", "the information rubrics in the identity cards of the citizen of the Republic of Moldova are filled out in the state language and in Russian". The ombudsman considers that, as result of these modifications, a legislative vacuum was created regarding the obligation to take into account the will of the person belonging to national minorities to enjoy the right to use his name, surname and patronymic in the native language and the right to their official recognition.

On December 11, 2013, the Constitutional Court ruled on ceasing the process on the review of the constitutionality of the provisions cited above, on the grounds that the object of the notification does not raise issues of constitutional complaint.

CHAPTER IV

Promotion of human rights in the community

In 2013, the CHR organized 69 promotional events, including national and international conferences, meetings, round tables, workshops, presentations, publicity broadcasts, display of banners, competitions (*In 2011 – 54 meetings, conferences, round tables; in 2012 – 68 promotional events*).

There were also organized 35 training events for the population, 11 press conferences and briefings. The CHR published seven collections, pamphlets and informational materials, having as theme the fight against torture and ill-treatment, discrimination, promotion of tolerance and cultural diversity, promotion of the child's rights.

In 2013, one international and one national conferences and two campaigns to promote tolerance and combat torture and ill-treatment were held. *“Observance of the child's right to family habitation. Analysis of the current situation in the Republic of Moldova through the best practices of other countries”* was the theme of an international conference held by CHR, organized by the child ombudsman Tamara Plamadeala on 4 October 2013.

The event was dedicated to the 5th anniversary of the Institute of Ombudsman for Child's Rights in the Republic of Moldova. It was organized to implement item 80, subitem 8 of the National Action Plan in the Field of Human Rights for the period 2011-2014. During the three sessions of the international conference, the following topics were examined: ***the legal framework on protection of children without parental care and orphans; institutional mechanisms for the protection of children without parental care and orphans; national and international adoption – legal regulations and practical aspects.*** The international conference was attended by about 70 participants, among whom 9 foreign invitees: Thomas Baillie, ENOC Secretary, commissioner for children and youth from Scotland, Juris Jansons, ombudsman from Lithuania; Ionel Oprea, deputy ombudsman from Romania; Margit Sarv, senior advisor in the Justice Chancellery

Office; Daniejela Zagar, ombudsman advisor on child's rights from Croatia; head of the Department on the Observance of Child's Rights in the Office of the Commissioner for Human Rights of the Ukrainian Rada; representatives of the organization “Save the Children” from Russian Federation. The event was also attended by Moldovan officials with attributions in the field: Tatiana Poting, vice-prime Minister, chairperson of the National Council for Protection of Child's Rights; Valentina Buliga, Minister of Labour, Social Protection and Family; Mihail Sleahitichi, presidential advisor; representatives of central and local public administration, employees within the legal system; representatives of the civil society and of some diplomatic missions.

On December 10, which is the International Day of Human Rights, the Centre for Human Rights from Moldova held a working meeting on the topic ***“Implementation of the National Action Plan in the Field of Human Rights for the period 2011 -2014. The role and contribution of local public authorities: problems and ways to improve the situation in the field”***. The event gathered 65 participants: representatives of local public authorities (*district heads/ deputy-heads, coordinators in the field of human rights*), members of the Commission on the Implementation of the National Action Plan in the Field of Human Rights for the period 2011 -2014 (NAPFHR), CHR external partners. During the meeting, the difficulties that local public authorities encounter in NAPFHR implementation were highlighted; suggestions on possible solutions for ensuring the fulfilment of NAPFHR actions were made; ways of cooperation between CHR and local public authorities were examined. The challenges in the implementation of NAPFHR that the local public authorities encountered was the topic of discussion within the first session of the meeting, which was moderated by ombudsman Anatolie Munteanu, Director of CHR, and Viorel Furdui, Director of the Local Authorities Congress. The cooperation of central and local public authorities in NAPFHR

implementation was the topic of the second session of the meeting presided by Vladimir Grosu, vice-minister of Justice, who is also the President of the National Commission for NAP-FHR Implementation for the period 2011 -2014. Vladimir Grosu proposed the draft of the Methodological Guide on the Process of Monitoring the Degree of Implementation of the National Action Plan in the Field of Human Rights for the period 2011 -2014 within local public authorities for discussion.

Campaign against torture and ill-treatment

On June 25, the National Institution on Human Rights Protection, the Centre for Rehabilitation of Victims of Torture „Memoria” and Promo-LEX Association launched a monthly campaign to support the victims of torture and to prevent torture. It started on June 25, on the eve of the UN International Day in Support of Victims of Torture. The campaign included approximately 25 events, as well as placement of banners with anti-torture messages in 20 districts; round table discussions held in the municipalities Balti, Comrat and Cahul and in other communities from the country; donations of informative materials, lectures held to employees of law enforcement and penitentiary institutions.

The mentioned campaign was launched in a press conference jointly conducted by Olga Vacarciuc, ombudsman advisor, Ludmila Popovici, Executive Director of RCTV Memoria, and Vadim Vieru, Promo-LEX Association lawyer, who urged the public authorities, specialized institutions, representatives of civil society to intensify their efforts to combat torture and ill-treatment, to support the victims of torture and to promote zero tolerance towards this phenomenon.

Accordingly, within the anti-torture campaign, the Representation of the Centre for Human Rights from Balti organized, on the occasion of the International Day in Support of Victims of Torture, a round table discussion on the topic *“Torture prevention, commitment or task of the public authorities”*. Representatives of police inspectorates, military units, penitentiaries, carabinieri troops and Psycho-Neurological Boarding Home from the northern zone of the country participated in the meeting.

The actions undertaken by the ombudsman through the CPT recommendations on the improvement of detention conditions, as well as what follows to be done to combat torture in our country were proposed for discussion.

The employees of Comrat Representation of CHR held another round table discussion on the same topic. The event took place on June 26 on the premises of the Department of Internal Affairs from TAU Gagauzia and gathered representatives of this institution, heads of district police inspectorates and employees of temporary detention facilities within them, prosecutors, LPA and CPA representatives, representatives of State Chancellery and of other state institutions.

Within the campaign, Comrat Representation of CHR provided the broadcast of the social video advertisement *“Torture Leaves Scars”* by the local TV channels GRT, ENY, AI, and ATV. The employees of the Representation participated in a radio programme on the topic of fighting torture and ill-treatment. Brochures were published on the occasion of the 6th anniversary of the National Preventive Mechanism against Torture, the article entitled *“NPMT activity in the Republic of Moldova. Positive developments and existing problems”* was published in the local newspaper *“Vesti Gagauzii”*.

Within the anti-torture campaign, Cahul representation of CHR organized a round table on July 31, 2013. Representatives of police inspectorates, territorial and specialized prosecutors’ offices, as well as representatives of penitentiaries and military units in the region, participated in the event.

At the beginning of 2012, the Study Report *“Torture and ill-treatment of children /minors in the context of juvenile justice: spread, impact, prevention, case identification, offering support and reporting”* was launched. The study was carried out by the Centre for Human Rights from Moldova and the Centre for Rehabilitation of Victims of Torture “Memoria” with the financial support of UNICEF Representation in the Republic of Moldova. Representatives of international organizations, employees of the Ministry of Internal Affairs, of General Prosecutor’s Office, lawyers, members of the civil society participated in the event.

Following the collaboration, in December 2013, a round table discussion on technical presentation and launch of the project *“Say*

“NO” to torture and impunity in the Republic of Moldova and “YES” for a better life of underage children in detention facilities” was held at the CHR. The given project will be carried out by RCTV “Memoria” and the Department of Penitentiary Institutions. An agreement was signed during the event by Ludmila Popovici, director of RCTV “Memoria”, and Ana Dabija, deputy director of DPI.

The issue of combating torture was addressed by the ombudsman and the employees of CFR in about 60 information items, which appeared in the mass media on this topic, and also in 70 materials uploaded on the website of the institution.

Activities on fighting discrimination

Campaign for promoting tolerance

In the period November 15 -30, 2013, the Centre for Human Rights from Moldova conducted a Campaign for promoting tolerance, which included 26 events that took place in different parts of the country.

The Centre for Human Rights from Moldova, supported by “Teleradio-Moldova” Company, conducted within the programme “The Children’s Voice” a radio competition on the topic “Tolerance is Democracy” at the Radio Moldova Station, Children’s Department. Sixty-five children from different parts of the country participated in the competition. The children’s works will be used in the brochure on the topic of tolerance promotion, which will be published next year.

In the reporting period, the employees of the CHR organized workshops on the topic “Persons with disabilities: between discrimination and tolerance” at “Mihail Kogalniceanu” Lyceum from Chisinau, at the Theoretical Lyceum from Rusestii Noi, Ialoveni district, the Theoretical Lyceum from the village Budesti. The event was conducted in the form of an interactive discussion with play elements. The children pondered on the situation of the persons with disabilities, discussed the difficulties, social stereotypes and prejudices that these people face.

A series of meetings on the topic of promoting tolerance with the participation of senior grades pupils from the villages Congaz and Congazgic from Comrat district, and town

Basarabeasca were held by the employees of Comrat Representation of the CHR. They also delivered lectures on the topic of fighting domestic violence at Comrat State University, the Theoretical Lyceum “D. Caraciobanu” from Comrat, the Theoretical Lyceum “Mihai Eminescu” from the same place, the Theoretical Lyceum from the village Cotovscoe, Comrat district, the Gymnasium from village Ciucur-Mingir, Cimisia district. The topic was also addressed by Svetlana Mironova, head of Comrat Representation of the CHR at the meeting with the citizens from Comrat and by Veaceslav Ursu, head of Varnita Representation of CHR at the meeting with senior grades pupils from the local Theoretical Lyceum.

The employees of Comrat Representation of CHR held a round table discussion on the topic **“Youth and the right to work: problems and solutions”** at which students of Law and Economics Departments of Comrat State University participated.

“Realising the citizens’ rights to participate in public administration: experience and problems” was the topic of a round table discussion held by CHR from Comrat with the participation of representatives of civil society, NGOs „M-Liga”, „Vdohnovenie”, „Ecologhiceschii klub”.

Current issues on social integration of veterans, the elderly, and persons with disabilities were discussed during the scientific-practical conference, which also took place in Comrat with the participation of professors from Comrat State University and the directors of nursing homes for the elderly in the area.

Ombudsman Tudor Lazar participated in the Press Club **“Discrimination on Age Criteria”** organized by the Centre of Journalistic Investigations.

During the campaign of tolerance promotion, the CHR organized three regional meetings in the northern, southern and centre districts of the country, in Riscani, Cahul and Chisinau, respectively. The situation on the observance of the rights of persons belonging to national minorities through the framework of the Convention was examined during these meetings. The meetings were attended by district heads, deputy heads of district, representatives of district public institutions responsible for the observance of the human rights of minorities, representatives of civil society in the area, of UN

Office in Moldova, and Interethnic Relations Bureau. Based on the issues discussed in the meetings, Ombudsman Tudor Lazar made proposals and recommendations to competent authorities to improve the state of things.

Other events held during the year on fighting discrimination and promoting tolerance

On February 1, 2013, ombudsman Aurelia Grigoriu made a raid to the Job Fair with the participation of journalists from five media institutions: Publika TV, Canal 3 TV, TV, AP Info-Prim-Neo, Radio Moldova, Radio Vocea Basarabiei. Thus, discrimination of certain categories of people in employment was reported and relevant institutions were warned on the irregularities committed by employers.

On April 9, Comrat Representation of CHR organized a round table discussion on the topic *“Civil society participation in the decision-making process. The role of local authorities in social integration of Roma community in Gagauzia”*. Issues of social integration and participation of Roma community in the public life of the region, of identifying the role of local authorities in social integration of Roma community in Gagauzia were discussed during the meeting. Representatives of local public authorities, of Roma community, NGOs from the region participated in the event.

On April 24, Comrat Representation of CHR, in partnership with the European Centre “Pro Europa” held the scientific-practical conference on the topic *“Peculiarities of social inclusion of different ethnic groups in the Republic of Moldova”*. Topics regarding the political and legal peculiarities of social inclusion of ethnicities in our country, ethno-psychological research of ethnic identity, state policy on the process regulation of interethnic dialogue were debated during the conference. The project *“Transparency and accountability through common actions of media and civil society institutions from Moldova”* was presented. Ombudsman Tudor Lazar, Alexandru Tarnavski, vice President of Popular Assembly of ATU Gagauzia, Ludmila Mitioglo, leader of “Pro Europa” Centre, Ion Duminica, head of National

Minorities Department of the Academy of Sciences of Moldova, researchers who activate in the field of ethno-psychology, representatives of Bulgarian, Russian, Polish, ethnic communities, professors of Comrat State University participated in the event.

On April 17, 2013, the employees of Cahul Representation of CHR participated in the round table discussion on the topic *“Promoting the principle of non-discrimination against persons with disabilities in Cahul and Cahul district”*. The round table was attended by vice-president of Cahul district, LPA representatives, the president of the Association of the Blind from Cahul, the president of the Association of Persons with Impaired Hearing, the representative of the Department on Social Protection Policies of Persons with Disabilities within the Ministry of Labour, Social Protection and Family, representatives of the civil society, as well as persons with disabilities. Problems related to the employment of persons with disabilities, the LPA role in creating conditions for access to public services in Cahul and Cahul district were debated during the round table. Also, the report *“Access of persons with special needs to social infrastructure: reality and necessity”*, made by the Centre for Human Rights, was presented during the round table.

At the initiative of the National Institution for Human Rights, in May, a civic education lesson on the topic *“Intercultural Dialogue. Unity through Diversity”* was conducted in several educational institutions from the country, which was also the topic of the essays that pupils wrote. The CHR requested the managers of the educational institutions to send the children’s best essays, including their drawings. On May 31, during the festivities celebrating the end of the school year, 10 children-participants in the CHR event received ombudsman diplomas and books.

Human Rights Decade (20 promotional events)

In the period December 1-10, the Centre for Human Rights from Moldova, held, traditionally, the Human Rights Decade, which included promotional events of human rights and fundamental freedoms, instructional activities on constitutional rights and available

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opportunities for protecting them for the population.

The Decade -2013 had special significance as it was dedicated to the 65th anniversary of the adoption of the Universal Declaration of Human Rights. The CHR marked the event in a working atmosphere with discussions on the topic ***“Implementation of the National Action Plan in the Field of Human Rights for the period 2011 -2014. The Role and contribution of local public authorities: problems and ways of improving the situation in the field”***. The meeting ended with the ceremony of signing a cooperation agreement between the Centre for Human Rights and the Council for the Prevention and Elimination of Discrimination and Equality Ensuring. Also, the CHR Director, Anotolie Munteanu, handed in the awards of the Ombudsman, 2013 edition, to Ion Parea, Riscani district chairman, and to Amnesty International Organization from Moldova.

At the initiative of CHR, civic education lessons focused on the topic of the importance of the Universal Declaration of Human Rights took place simultaneously in the educational institutions from the country for the second consecutive year.

A Human Rights Decade was held in the theoretical lyceum from Varnita with the support of CHR Representation in this community. The Decade included a drawing competition, class lessons on the topic of human rights, roundtables, poster preparation, civic education lessons, and broadcast of a radio programme about the events within the Decade. Also in this period, at the suggestion of the head of Varnita Representation of CHR, a Commission on child’s rights was created within the Pupils’ Council that activates in the Theoretical Lyceum.

“The Ombudsman Institution - guarantor of observance of human rights” was the topic of the lecture delivered by the employees of Balti Representation of CHR at “Mihai Eminescu” Theoretical Lyceum from this town. They also participated in the works of the conference organized by the Law Department of Balti State University on the topic *“Preventing and Combating Violence”* and the roundtable *“Violence among Underage Children”* organized by the City Hall and Municipal Library “Eugen Coseriu”.

The employees of Cahul Representation

of CHR delivered lectures at Penitentiary No. 5, and “Mihai Eminescu” Lyceum from Cahul, also had a meeting with the journalists of “Cahul Express” newspaper.

The CHR donated books and informative materials in the field of human rights published by the National Institution for the Protection and Promotion of Human Rights to: “Alecu Russo” State University Library, Children’s Library, “Eugen Coseriu” Municipal Library from Balti, to the National Library for further distribution to district libraries, to the Library of the Academy of Sciences, Law Library, Cahul Municipal Library, Cahul State University Library, Comrat Municipal Library and Comrat State University Library, the Library from Cantemir and the gymnasiums from the villages Larga and Huluboaia.

In 2013, several events were held to promote CHR activity and to inform the citizens about the possibility of appealing to the ombudsman’s assistance.

For this aim, CHR produced a video and audio clip. In the period March 26 – April 16, they were broadcast for free by TV Moldova I and radio Moldova twice or three times per day. The clips were designed to inform citizens about the parliamentary advocates institution, the issues that they can address to CHR. The video clip was uploaded on YouTube and on the website of the institution.

In 2013, two public offices of ombudsman were opened in Balti on March 1, and in Comrat on April 5. These structures will help facilitate citizens’ access to assistance and legal advice on human rights.

Developing partnerships with the civil society, cooperation with LPA and CPA, external partners

Cooperation with the civil society

In the reporting period, the partnerships established in the previous years with several NGOs strengthened. The CHR organized some events in collaboration with RCTV “Memoria” such as: the joint study *“Torture and ill-treatment of children/underage children in the context of juvenile justice”*, which was made public; the anti-torture

campaign was held, which was carried out jointly with the Promo-LEX Association.

In 2013, the dialogue with regional NGOs intensified. The Comrat Representation of CHR organized a number of events with the participation of civil society from the region: "Vesta", "Pro-Europa", "Vdohnovlenie", "Institute of Democracy", "M-Liga".

Also, contacts with NGOs, which activate in the field of human rights, were established during regional meetings on the topic of observance of national minorities' human rights in Riscani, Cahul, and Chisinau.

The opening of public offices of the Ombudsman in Balti on March 1 and in Comrat on April 1 was possible due to active involvement of the NGOs on the site in ensuring the functioning of the given structures.

During the reporting period, the CHR signed five new collaboration agreements with various institutions and organizations.

In the first quarter of 2013, the Cooperation Memorandum between CHR and the National Institute of Justice was signed, which shortly materialized in concrete actions of training CHR employees.

Ensuring respect for human rights in the psychiatric institutions of the Ministry of Labour, Social Protection and Family, enhancing the professionalism of the employees and strengthening the relations between the civil society and state structures has been the purpose of signing the Collaboration Agreement between CHR and the Institute of Human Rights. In accordance with this Agreement, representatives of IHR and CHR realize joint monitoring and make preventive visits to psycho-neurological boarding homes, resulting in the elaboration of recommendations and proposals for the improvement of the regulatory framework in this domain. The agreement also provides for joint organization of various events to address issues on mental health and social protection of the given group of citizens. Such an event took place in December. During the press conference "*Violation of human rights in psychiatric institutions in Moldova*", held by Vanu Jereghi, IHR Director and Olga Vacarciuc, main ombudsman adviser, data on the detected irregularities in several psycho-neurological boarding homes and recommendations made to competent authorities to eliminate them were presented.

On December 5, the Centre for Human Rights from Moldova and the NGO "*Centre of Legal Resources in Moldova*" (CLRM) signed a collaboration agreement to implement the project "*Analysis of discrimination in employment in the Republic of Moldova*". The agreement provides for the cooperation of CHR and CLRM in analysing the compliance of national legislation in the field of non-discrimination in employment to the CoE and EU standards, identifying the victims of discrimination in employment, exchange of information on concrete cases of discrimination in employment; holding joint promotion events for raising public awareness on the issue.

On December 10, a collaboration agreement between CHR and the Council for the Prevention and Elimination of Discrimination and Ensuring Equality was signed aiming at strengthening the promotion, observance and protection of fundamental human rights and freedoms.

Another agreement was signed by the Centre for Human Rights from Moldova with the organization "*Nicolae Dumitrescu Academy*". The objectives of cooperation are related to establishing a partnership to promote international standards in fundamental human rights and freedoms.

External partners of CHR

In 2013, CHR signed a cooperation agreement with the Ombudsman Institution from Hungary. The agreement provides for mutual exchange of information on work experience in the field of protection and promotion of fundamental rights and freedoms, the joint organization of international meetings, provision of informational support.

As proof of the functionality of the established partnership between CHR and the Ombudsman Institution from Ukraine in 2012 was the joint action of May 17 of ombudsman Aurelia Grigoriu and her Ukrainian counterpart Valeria Lutkovskaia, who inspected the Moldovan-Ukrainian Customs, as reaction to the notification of some citizens from the Republic of Moldova complaining of being violated the fundamental right of crossing the Ukrainian border. Following the documentation visit, the ombudsmen identified the existing problems related to observance of human rights at

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crossing the state border and submitted a recommendation for their elimination to the administration of the Republic of Moldova, and, respectively, Ukraine.

Cooperation with LPA and CPA

In 2013, the CHR continued the cooperation with the traditional partners of the institution: Prosecutor’s Office, Department of Penitentiary Institutions, the Ministry of Internal Affairs, the Ministry of Justice, MLSPF, and the National Centre for Personal Data Protection, both in carrying out functions related to the reinstatement of petitioners, the activities of NMTP, as well as the promotion of human rights and training activities. Thus, the CHR employees conducted workshops in several public institutions. The attendance of the events organized on topics of the observance of human rights were based on principles of reciprocity.

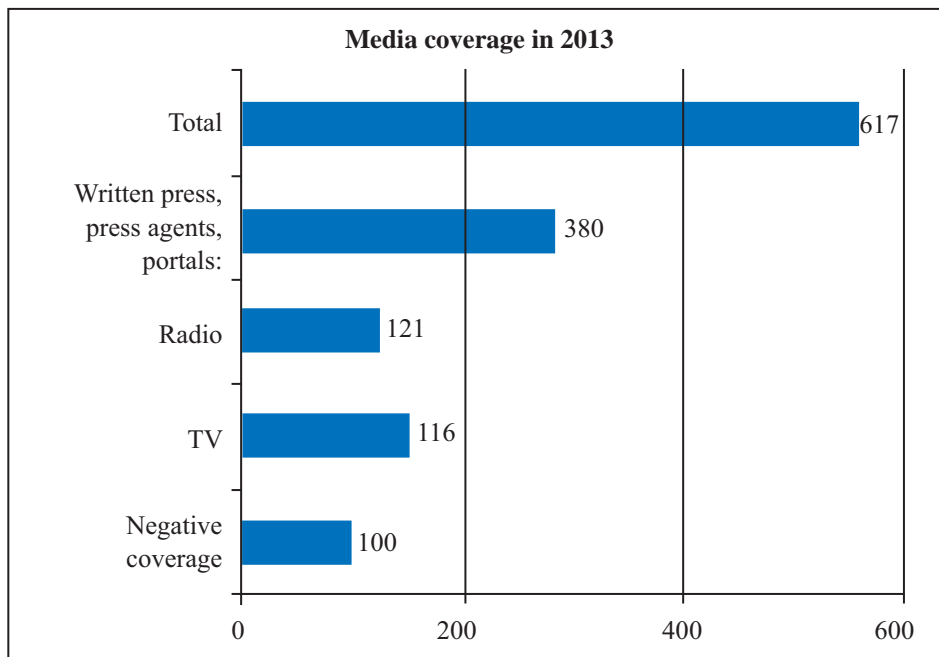
In 2013, positive developments in terms of intensifying the dialogue with local public administration were registered. Regional meetings on issues of observing the rights of minorities held in Riscani, Cahul and Chisinau, as well as the meeting, which took place on December 10 on the topic of NAPFHR implementation by LPA, helped establish direct contact with dis-

trict decision makers. These actions offered opportunities for a broad exchange of views on issues of human rights faced by local public authorities, but also occasions to once again reaffirm the willingness to work together to improve the state of things in the given area.

Media coverage of CHR activity, consolidation of relations with mass media

The positive tendency of CHR growing visibility in society was maintained in 2013, as well. The number of publications on the ombudsmen’s activity tripled, from 217 in 2011 to 614 topics covered in the media in 2012.

Thus, the statistical data on the visibility of the Institution in 2013, 617 publications, is comparable with that of last year. It should be mentioned that not all the information in the press had positive messages – *in over 100 topics there was criticism at the address of two ombudsmen involved in several scandals.* Their effect on the image of the institution was felt shortly after the occurrence of the incidents. In particular, in the period July-August, the message of the informative materials, the topics in the press about the ombudsmen concerned, but also about the CHR, as a



whole, was preponderantly a negative one. Subsequently, a decrease of media interest in ombudsmen, due to reduced credibility, is felt in society. Starting in September, the Centre for Human Rights was in the centre of public attention being examined by Government and Parliament and the subsequent adoption of the Law on Ombudsman.

The strengthening of cooperation capacities of CHR representations with media institutions in the regions failed in 2013, as well. That is why the coverage of CHR and of ombudsmen in mass media in the regions is insignificant: 100 for the whole year, compared to 108 in 2012. The statistics on cooperation with regional mass media is the following: *Comrat Representation – 79 cases of coverage in mass media, Cahul Representation – 11, Balti Representation – 8.*

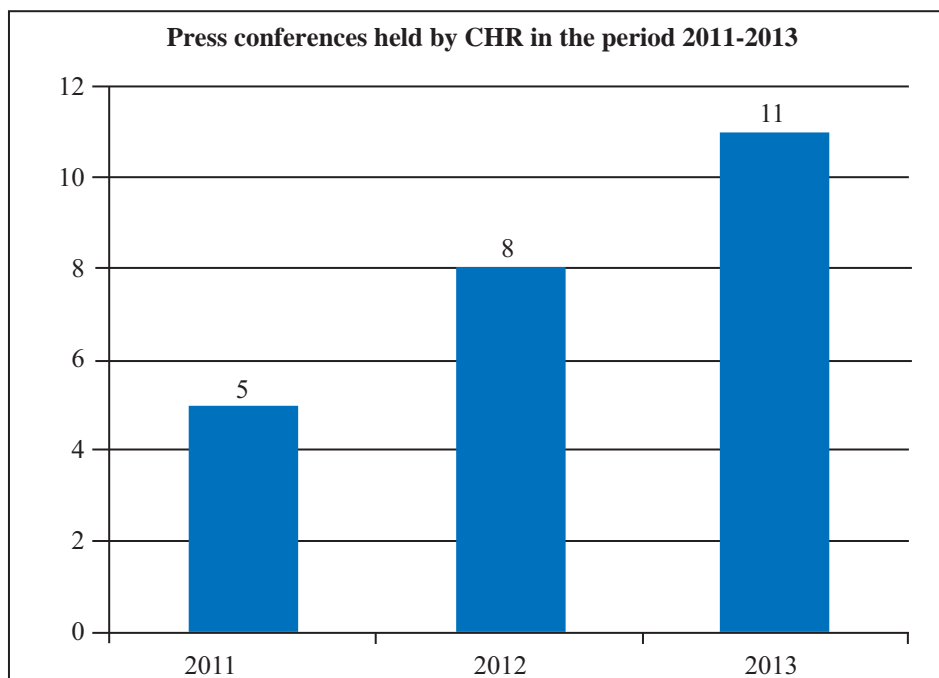
The topics on combating torture and ill-treatment (anti-torture campaign, CHR recommendation to cease the activity of Prison No. 13); the notifications of ombudsman Anatolie Munteanu on mandatory vaccination, castration of paedophiles, 35 age limit of post-graduate students in terms of discrimination; various issues related to the enforcement of child's rights; presentation of CHR Report for

2012 were mostly publicized.

By September 23, 11 press conferences and briefings were organized, compared to 7 in 2012. They covered issues about *mediation in criminal cases involving underage children; the draft law on children at risk; encyclopaedia on sexual life; public presentation of CHR Report for 2012; inspection Moldovan – Ukrainian border crossing points.* Press conferences were organized on the occasion of International Children's Day, of the International Day in Support of Victims of Torture and had as topics *"Children patients – victims of malpractice: lack of attitudes and solutions", "The closing of children' park in the capital: excess of power of the authorities of Riscani sector and of municipality Chisinau", "Violations of human rights in psychiatric institutions in the Republic of Moldova".*

Self-notifications of ombudsmen from the press

An argument in the favour of maintaining constant interaction between the CHR and the media is the increased number of CHR reactions to signals from the media about cases of human rights violations. In 2013, the ombuds-



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men got self-notified from mass media coverage of cases of violation of human rights on the topics: environmental pollution, catastrophic state of the river Bic, deforestation of some areas, degrading treatment of some persons by border guards, signals on cases of irregular relations in the army; on possible attacks on the freedom of the press; irregularities in the building of lofts; reorganization of the gymnasium from the village Troita Noua, Anenii Noi district; injustice committed by some employers; ill-treatment of patients in psychiatric hospitals, implicitly of a doctor's abuse of his patients with mental health problems. The last mentioned topic and the consequences after the ombudsman's intervention were largely covered in the media.

A good example of solving problems due to ombudsman's self-notification from the press was the refusal of the admission commissions of higher educational institutions to accept the documents of Russian school graduates, who requested enrolment to a department with instruction in the state language. In a letter sent to Maia Sandu, the Minister of Education, the CHR Director, Anatolie Munteanu recommended the officials to intervene with corresponding dispositions to eliminate any administrative practice derived from misinterpretation of the provisions of the Regulations on organizing and conducting enrolment to higher licentiate education (cycle I) in higher educational institutions from the Republic of Moldova. The Ministry of Education reacted to the ombudsman's notification. The Centre for Human Rights was informed (letter No. 2141 of 20.07.2013) that the *Ministry obliged the admission commissions to accept the documents of candidates, speakers of other languages, to a department with instruction in the Romanian language and to remedy the concrete cases by respecting the constitutional rights and the Law on Equality.*

Updating of CHR official webpage

In 2013, we succeeded in optimizing the structure and contents of CHR official webpage. During the press conference of official

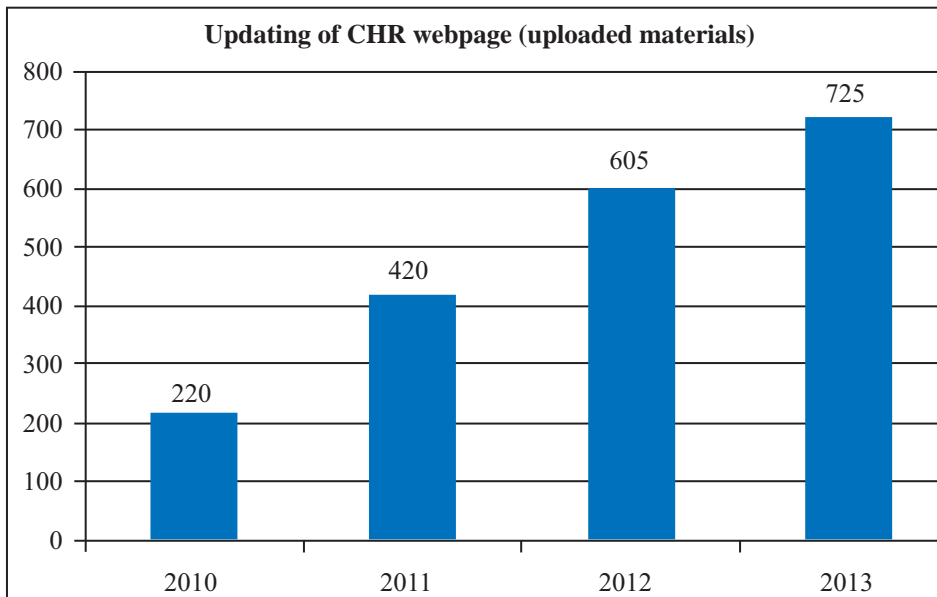
presentation of CHR Activity Report for 2012, on April 30, a new version of CHR webpage was launched. New accounts for on-line promotion, attached to the new site, were created on the social networks YouTube, Facebook and Twitter.

In the context of the international conference "*Children's rights to family habitation. Analysis of the current situation in Moldova through the best practices of other countries*", which took place on October 4, the children's page was launched on CHR site. It has as objective to inform the children about human rights, as well the creation of a virtual space for discussion on this topic between parents and children. Thus, the adults (parents, guardians, foster parents, teachers, social workers) will find useful materials, as well as answers to frequently asked questions. The page includes an online game on human rights for children.

In 2013, a new application was developed related to the activity of the National Mechanism for the Prevention of Torture. It will start at the beginning of 2014 in the form of an interactive map, with updated information on the visits made within the NMPT in every institution from the country where detainees are held. The information will be presented in accordance with the territorial-administrative structure and will contain data on each penitentiary separately. Besides the general picture of NMPT activity, the users will be able to access information on any institution: number of visits made within NMPT, the reports made on the visits, reactions and answers of the authorities in charge. Logical and well-structured presentation of information on NMPT work will ensure its transparency and access of any user to full and prompt information.

At CHR initiative, in 2014, the webpages of all central public institutions are to be completed with applications to facilitate the access for people with impaired vision to information posted on the central government websites.

In 2013, 725 items of information were placed on the institution's website in comparison with 605 in 2012, 420 during the whole 2011 year and 220 in 2010.



Training activities for the population

In 2013, the CHR employees contributed as trainers and conducted 35 training sessions for the population and some professional groups. The topics were related mostly to: observance of human rights in healthcare; information on women's rights; the right to social benefits; observance of child's rights; strengthening efforts to combat ill-treatment; enhancing the capacities of communities affected by TB; achievement of the rights of persons with disabilities and combating their discrimination; Roma participation in public life; social integration of persons with disabilities; protection of human rights in places of detention; mechanisms for protection of human rights.

Editorial activity

In 2013, the CHR published seven titles of informative materials, brochures and collections. The following publications appeared: **CHR Report for the year 2012**, the **Collection of the Proceedings** of the International conference "Five years after the establishment of NMPT in the Republic of Moldova", bilingual editions of the brochures "**Convention for the Rights of the Child**" and "**The Rights of the Child**", "**Legal Guide for Victims of Domestic Violence**", the leaflet "**Three Safeguards against ill-treatment**", a **calendar of international days on human rights for the year 2014**.

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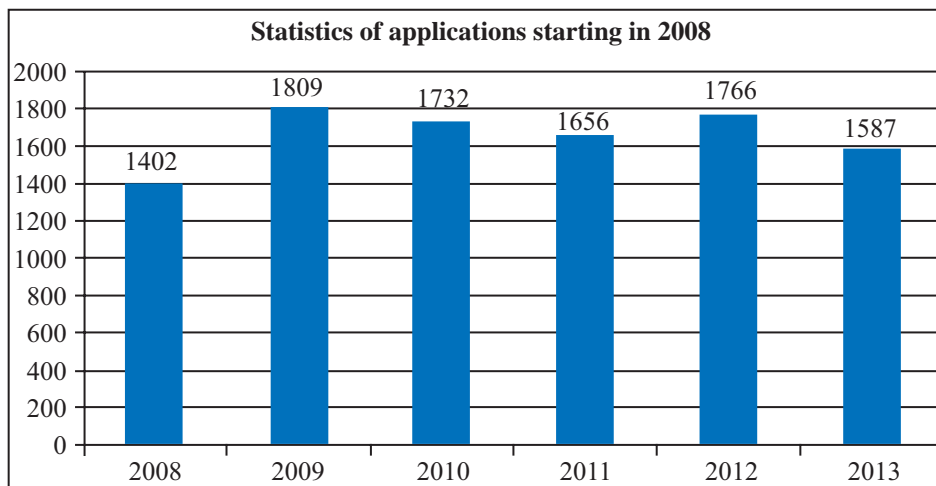
Other aspects of Centre for Human Rights activity in 2013

1. Activity of the Centre for Human Rights in figures

In the course of 2013, 1,587 applications were registered at the Centre for Human Rights from Moldova, out of which 1,261 by the Central Office in Chisinau, 70 by Cahul Representation, 143 by Balti Representation, 76 by Comrat Representation and 35 by Varnita Representation.

For example:

- in 72 cases (4.5 %), alleged delay of examination of cases is claimed;
- in 78 cases (4.9 %), non-enforcement of court decisions;
- in 51 cases (3.2 %) disagreement with the pronounced sentence/judgement is invoked;



The statistics of registered applications by the Centre of Human Rights from Moldova in the recent years shows a relatively constant number of appeals per year. Also, the most common reasons of complaints remain largely the same: alleged violations of the right to access to justice, of the right to personal safety and dignity, violation of the right to social assistance and protection, as well as the right to private property.

We note that since 2010 the most frequently addressed issue by the applicants was alleged violation of access to justice, the number of petitions being relatively constant. In 2013, the rate of appeals on this issue constituted 23 %, while in 2012 - 2011 – 22 %.

- in 167 cases (10.5 %) infringement of the principle of contradictoriness of the process.

The general analysis of the appeals to the CHR starting in 2008, according to the allegedly violated right demonstrates a decrease of the number of applications on the right to personal safety and dignity, which was more evident in 2011. We consider that could be caused by the intensification of the activity of the National Mechanism for the Prevention of Torture, as well as by other factors. Among these could be the creation in 2010 of the Division for Combating Torture under the General Prosecutor's Office, as well as appointment of specialized prosecutors within territorial offices, the creation of the hot-line for reporting cases of ill-

treatment to the General Prosecutor's Office. We also consider relevant, in this context, the equipment of the penitentiaries and police inspectorates with surveillance cameras, as well as continuous training on national and international standards in the field of human rights of the personnel in the institutions providing detention carried out by CHR employees.

Although the dynamics of appeals on this topic in the last ten years is decreasing, it is still on the second place of the total number of complaints, which demonstrates that ill-treatment persists in society.

In 2013, the most frequent problem invoked in this sense was the conditions of detention in penitentiaries – 150 cases. For comparison, in 2012, 133 similar complaints were recorded, in 2011 – 134. In 2013, application of torture and inhuman or degrading treatment was invoked in 32 cases, in 2012 – in 40 cases and in 2011 – in 50 cases. In 2013, 32 appeals were related to damage of personal dignity, in

2012 and 2011 in 28 cases. Also, various problems related to respect of detention or arrest procedure were invoked in 10 petitions registered by CHR in 2013, compared to 12 cases in 2012 and 3 cases in 2011.

On the other hand, a tendency of decreasing the number of petitions invoking non-observance of the right to social assistance and protection, and of the right to health protection is observed in the last three years.

The dissatisfaction of persons belonging to social groups with a high degree of vulnerability is linked with the failure to achieve the right to social assistance and protection, constantly being on the third position. In 81 cases, the petitioners claim that they are not provided with proper social benefits; 63 people consider that their right to a decent life is violated, and in 37 cases, people believe that the manner of calculating their benefits is not correct. The addressed problems can be solved only by elaborating/reviewing public policies in the so-

Classification of appeals related to the allegedly violated right

Field	2013	2012	2011	2010	2009	2008
1 Access to justice	368	397	361	429	392	401
2 Personal safety and dignity	224	217	280	422	536	264
3 The right to social assistance and protection	181	187	190	172	177	127
4 Private property	80	144	113	148	136	78
5 Access to information	121	93	130	160	146	131
6 The right to labour	76	109	93	73	110	73
7 Family life	81	116	92	117	88	27
8 The right to defence	45	45	54	39	69	12
9 Intimate and private life	7	6	21	12	12	4
10 The right to education	24	39	25	16	9	2
11 The right to petition	12	17	25	37	15	23
12 The right to movement	11	12	10	30	18	10
13 The right to health care	52	59	50	45	43	44
14 Personal freedoms	35	35	16	4	9	11
15 The right to administration	17	12	13	10	2	5
16 The right to citizenship	14	7	7	3	5	6
17 The right to vote and be elected		1	2	1	-	-
18 Other	239	270	170	5	98	178

Note. The rubric ,other' includes applications in which it is not invoked the violation of a constitutional right and they cannot be included in the automatic registration of appeals addressed to CHR, such as consumer's rights, requests for legal assistance, interpretation of regulatory acts, as well as applications with alleged violations, which took place outside the Republic of Moldova.

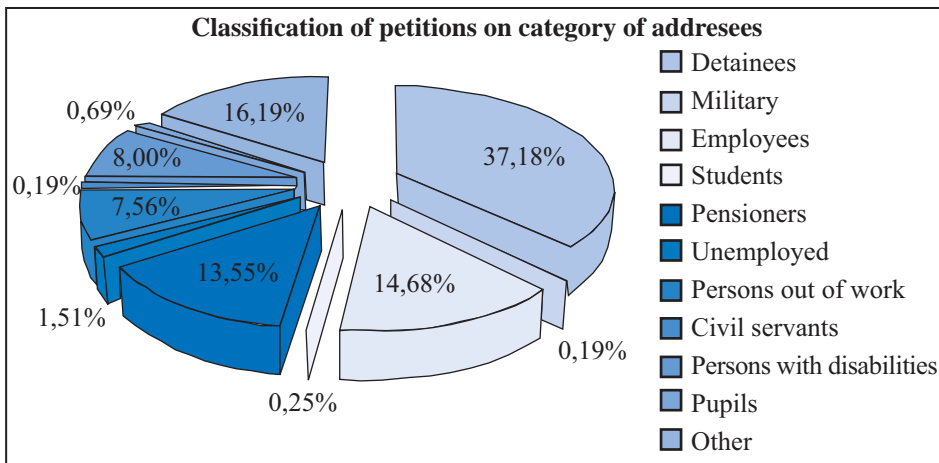
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cial and economic fields. For this reason, the ombudsmen intervene, especially in the cases which presuppose errors in determining social benefits and in those in which alternative solutions can be found.

Of the total number of persons, who in the reporting period addressed the Centre for Human Rights, 31.18 % are prisoners, 14.68 % are employees, 13.55 % are pensioners, 7.56 % are out of work, 8.00% are disabled persons, 0.25 % are students, 1.51 % are unemployed, as well as other less numerous categories. The data are reflected in per cent in the Chart below.

In 305 (19,3 %) cases, the applications were redirected for examination to competent authorities with reference to the provisions of article 20, letter c) of Law No. 1349 of 17.10.1997. The ombudsman established control on the results of examination. Other 560 (35.3 %) applications were rejected under articles 16, 17 and 18 of the Law on Ombudsmen. The petitioners were told the procedures they are entitled to use to defend their rights and freedoms.

The dynamic growth of the amount of petitions accepted for examination reflects the general trend of the institution's capacity to



The analysis of petitions, registered in the previous years, reveals that the appeals coming from prisoners are on the first place (an exception being 2008, when appeals coming from employees were on the first place), followed by petitions from employees. Also, the CHR notes a growing number of petitions coming from disabled persons and pensioners.

The examination of applications is aimed at the identification of the violated right, thorough check-up of the nature of the application in relation to the national and international legislative and regulatory framework, examination of possibilities for the ombudsman's involvement and in the cases, when this is impossible, the competent institution is found.

Of the 1,587 filed applications, 721 (45.4 %) were accepted for examination. In the given cases, reaction documents were issued; the help of competent bodies and authorized persons was requested; proposals to amend the legislation were submitted, etc.

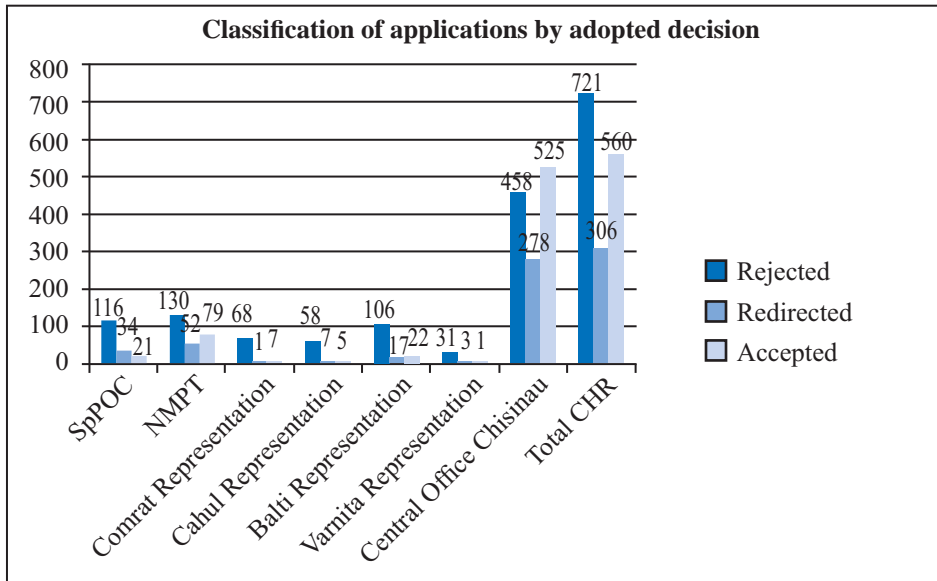
identify the ground for reaction. So, from 21 % of accepted petitions in 2008, the percentage share has evolved to 45,4 % in 2013.

Accordingly, this has generated a gradual increase of the number of reaction acts submitted by ombudsmen to public authorities, which are guilty of violating human rights and freedoms.

The main sources of identification of the system problems and of the legislative flaws for the ombudsmen serve the citizen's complaints and the information received during the receptions.

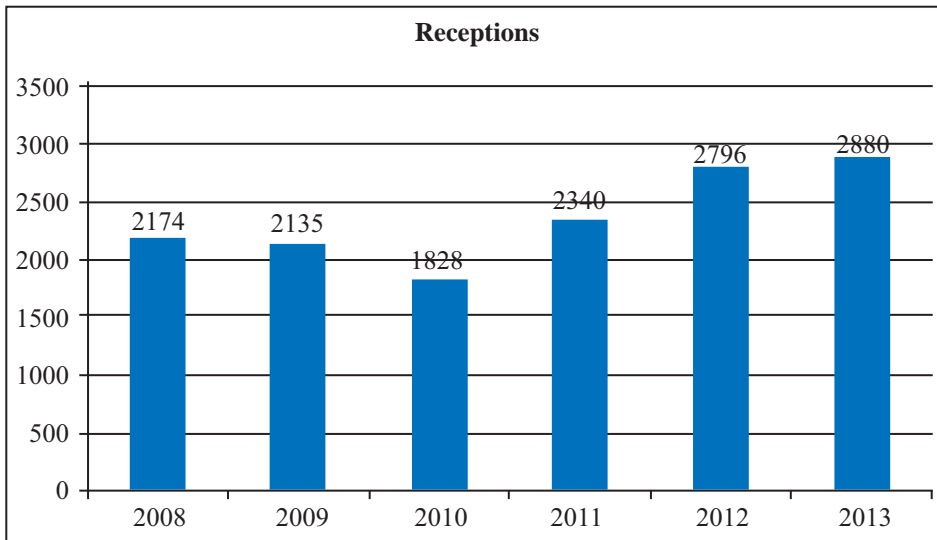
The reception of citizens takes place daily on the premises of the CHR and of the representations from Balti, Cahul, Comrat, Varnita, as well as on the premises of local public authorities or institutions, organizations specified by ombudsmen.

At the initiative of the Centre for Human Rights from Moldova, three Public Offices of Ombudsman were opened in Chisinau (2012),



in Balti and in Comrat (2013). These entities were created in order to strengthen the cooperation with the NGOs, which promote and protect human rights, and to achieve the rights of persons with disabilities, socially vulnerable and victims of violence.

The general picture on the number of people, who appealed to the institution, shows a slight decrease in the period 2008 – 2010 and a dynamic growth in 2011, this indicator being maintained in 2012 as well.



During 2013, the ombudsmen and employees of CHR received in audience 2,880 people, out of whom 1,020 (35,4 %) at the central office, and at the regional representations as follows: Comrat – 856 (29,7 %), Cahul – 515 (17,9 %), Balti – 320 (11,1 %) and Varnita – 169 (5,9 %).

Reaction acts

As result of examination of accepted applications, the following reaction acts were prepared and submitted to competent authorities on violations of citizen’s constitutional rights:

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Type of action/reaction act	2013	2012	2011	2010	2009	2008
Notice (pursuant to article 27 of Law No. 1349)	74	77	95	144	68	13
Requests (to initiate a criminal/disciplinary lawsuit against the official who committed violation that generated considerable damage to human rights and freedoms (art.28 letter b) Law No.1349)	18	22	13	32	33	8
Notifications on cases of breaches of service ethics, adjournment and bureaucracy, under article 28 letter d) of Law 1349	45	15	14	59	2	-
Notifications to the Constitutional Court (under art.31 of Law No. 1349)	8	6	7	10	-	2
Legal proceedings/applications on intervening in the process to submit conclusions (in accordance with article 74 of CPC)	26/15	15/44	6	6	-	-
Thematic reports	9	6	9	24	-	-
Conciliation agreement	5	4	8	1	-	-
Proposals to improve the administrative system under article 29 letter b) of Law No. in 1349	19	19	7	-	-	-
Proposals to improve human rights legislation (submitted to the Parliament and Government under article 29, letter a) of Law No.1349)	8	11	11	28	5	10
Self-notification	43	52	22	-	-	-
Notification to carry out expertise investigations (article 24, letter e)	4					
TOTAL	274	230	192	304	108	33

The data show a slight increase in the number of reaction acts compared to 2008.

Notices with recommendations (article 27 of the Law on Ombudsmen)

In the situations when breaches of petitioners' rights is confirmed, the ombudsmen submit to institutions or authorized persons, whose decisions or actions (inactions), in their opinion, violate human constitutional rights and freedoms, notices with recommendations on the measures that are to be taken for immediate restoration of the petitioner's violated rights.

In 2013, 74 notices with recommendations were prepared which were sent to central and local public authorities. For comparison, in 2012, 77 notices with recommendations were prepared, in 2011 – 95.

As in previous years, of the total number of submitted notices to concerned authorities, the Ministry of Justice, including its subordinated institutions, was most frequently notified on the issues of improving detention conditions and ensuring minimum detention norms according to national and international standards in the field. In the majority of cases, the concerned institutions took into consideration the ombudsmen's recommendations and undertook appropriate measures, within available financial resources, or promised to fulfil them in the nearest future. However, there were cases when the officials in charge of the concerned institutions did not react in any way to the ombudsmen's recommendations: Ministry of Defence (notice of 5.07.2013), Penitentiary No. 5 (notice of 24.06.2013), Penitentiary No. 9 (notices of 24.10.2013 and of 28.06.2013), Vocational Lyceum No. 1 (notice of 29.10.2013).

Institution concerned	2013	2012	2011
Government and central public authorities	4	1	7
Ministry of Labour, Social Protection and Family	8	13	18
Ministry of Education and subordinated institutions	3	7	11
Ministry of Internal Affairs, including subordinated subdivisions and de-concentrated services	3	16	18
Ministry of Justice, including subordinated institutions	22	16	23
Legal system	3	-	1
General Prosecutor's Office and bodies	1	-	3
Local Public Authorities	12	11	5
Mayor's Office/Chisinau Municipal Council	9	1	7
Legal entities	7	7	1
Ministry of Defence and subordinated institutions	1	3	1
Ministry of Finances	-	1	-
Ministry of Culture	1		
În total	74	77	95

Local public authorities constituted the second category of institutions that the ombudsmen frequently appealed to. The issues tackled in the notices to these authorities were diverse and included: ensuring the right to a decent living, respect of the right to private property, ensuring adequate conditions in educational institutions, documenting some children, taking measures to fight domestic violence.

It should be mentioned that the public

Citizen N. from the village Cisma, Orhei district claimed that she and her children are victims of domestic violence but the sector police officer does not respond adequately to her appeals. When the woman appeals to the police officer's help, the aggressor pays the imposed fines, after which he becomes more violent. The ombudsman submitted a notice to Orhei Police Inspectorate to provide protection measures to citizen N. and her underage children by submitting materials to the court. As result of the notice, on 5.11.2013, Orhei Court issued an order of protection, according to which the aggressor was imposed restriction measures being obliged to leave the residence temporarily.

authorities reacted promptly in all the cases alerted by the ombudsmen.

Although, compared to last year, the number of notices submitted to the Ministry of Labour, Social Protection and Family and its subordinated institutions decreased, the given concerned institution continues to be notified on issued related to establishing fair social benefits/services for socially vulnerable people.

Generally, the Ministry of Labour, Social Protection and Family and its subordinated institutions took into consideration the ombudsmen's recommendations, an exception being the Department of Social Assistance and Family Protection from Anenii Noi (notice of 24.10.2013), which has not reacted to the reported case.

Requests to initiate a disciplinary or criminal lawsuit (article 28, letter b) of the Law on Ombudsmen

In 2013, the ombudsmen intervened 18 times and submitted requests for the initiation of disciplinary or criminal lawsuits to competent bodies. For comparison, in 2012, 22 requests were submitted and in 2011 – 13 requests regarding the persons in charge, who committed violations, which generated considerable damage of human rights and freedoms. The following institutions were submitted requests to:

CHAPTER V

- General Prosecutor's Office and district prosecutors – 13
- Department of Penitentiary Institutions – 2
- Local public authorities – 1
- Ministry of Internal Affairs - 2

Citizen X., beneficiary of psycho-neurologic boarding home from Balti, complained of sexual abuse committed by the senior doctor of this institution. She noted that other women were also subjected to sexual abuse by the same person, who, in the opinion of the petitioner, took advantage of the helplessness of the persons staying in the boarding home.

Upon reception of the complaint, the employees of the CHR, accompanied by a psychologist, made a visit to check the accommodation conditions and discuss with several beneficiaries of the institution. So, petitioner X. told that she had a sexual intercourse with the doctor against her will in 2012.

Also, the ombudsman requested the General Prosecutor to check the circumstances reported by citizen X., as well as the information accumulated by CHR employees after their visit to Balti Psycho-neurologic Boarding Home. The investigations carried out by Balti Prosecutor's Office, resulted in opening on February 1, 2013, criminal proceedings on the ground of citizen X's complaint under the provisions of "article 171, paragraph (1) CC – "rape". Doctor F. was detained on the same day and at the moment, he is under house arrest.

In most circumstances, the ombudsmen intervened to competent authorities in the cases related to application of torture and inhuman and degrading treatment, illegal actions of police and prison staff, as well as of some medical staff from a residential institution. Eleven requests for initiation of criminal lawsuits addressed to the General and District Prosecutors, one to the Ministry of Internal Affairs and one to

the Department of Penitentiary Institutions. As a result, criminal proceedings were initiated in five cases, in four cases criminal proceedings were denied, and four cases are under investigation.

Also, five requests of disciplinary proceedings were sent to: the Department of Penitentiary Institutions (1), the Ministry of Internal Affairs (1), local public authorities (1) and General

Citizen X, inhabitant of the village Varnita, Anenii Noi district appealed to Varnita Representation. The petitioner reported that while he was walking with his wife on a street in the village, he was physically and verbally assaulted. He was threatened by an employee of Bender Police Inspectorate, who said that his "days are numbered". This is because he previously drove the car being drunk. The petitioner mentioned that the police officer had humiliated and unfoundedly blamed him several times. At the request of the ombudsman, Internal Security and Corruption Combating Service examined the case and by order of IPG of MIA, the police captain was disciplinary sanctioned with severe reprimand.

Prosecutor's Office (2). In three cases, it was decided to initiate disciplinary proceedings, in one case initiation of disciplinary proceedings was declined, and one case is under examination.

Notifications (article 28, letter d) of the Law on Ombudsmen

Under the provisions of article 28, letter d), the ombudsmen sent 45 notifications to persons in charge of all levels on the cases of negligence in work, of violation of work ethics, and of procrastination and bureaucracy, compared to 16 notifications in 2012. The following authorities were notified:

- Local Public Authorities – 31
- General Prosecutor's Office – 5
- Ministry of Education – 5
- National Union of Bailiffs – 1
- State Chancellery – 1
- Ministry of Health and subordinated institutions – 1

- Mayor's Office from Chisinau – 1

The examination of the cases on whose basis the given notifications were compiled, revealed several system flaws, such as:

- Improper exercise of work duties by the managers of some educational institutions of all levels, by directors of boarding schools for orphans from Orhei, of some social assistants, employees of Chisinau Mayor's Office and other local public authorities;
- exceeding of work duties by bailiffs;
- delay in criminal proceedings, especially in cases when underage children are involved.

Children, persons with disabilities and the elderly have to suffer most because of negligence and irresponsibility of the persons in charge.

The ombudsman took action in the case publicized on TB infestation of children in the kindergarten from village Cornesti, Ungheni district. Following the investigations, it was found that the fireman, who was hired without passing the prophylactic examination, was urgently admitted to district hospital from Ungheni and diagnosed with bilateral infiltrative pulmonary tuberculosis. The ombudsman proposed to local public administration to elaborate and implement a territorial programme of control and prevention of tuberculosis, to organize permanent events for the information and education of the community in order to prevent the spread of tuberculosis. The mentioned recommendation was examined at the meeting of Cornesti Village Council where Decision 2/1 on the prophylaxis and combating tuberculosis in the village Cornesti was approved.

General objections and proposals on improving the activity of the administrative body (article 29, letter b) of the Law on Ombudsmen

The ombudsmen submitted to central and local authorities objections and proposals on improving the activity of the administrative body in 19 cases, as it follows:

- Ministry of Education and subordinated institutions – 4;
- Local public authorities – 8;
- Government and central public authorities – 1;
- Ministry of Labour, Social Protection and Family – 1;
- Chisinau Mayor's Office – 2;
- Ministry of Internal Affairs – 1;
- Ministry of Justice, including subordinated institutions – 1;
- Ministry of Health and subordinated institutions – 1.

The proposals and objections of the ombudsmen aimed at improving the situation in various areas such as:

- To ensure the realization of the right to healthcare by elaboration, approval and implementation of regional programmes for the control and prevention of tuberculosis and organize continuous awareness activities for the population; to improve the administrative staff activity of the National Scientific and Practical Centre of Emergency medicine;
- To ensure the right to education of persons with disabilities and belonging to national minorities;
- To ensure the right of children without parental care to social assistance and protection, to assess the efficiency of social protection measures of homeless people, to intensify the activity of the Social Assistance and Family Protection Department from Edinet to overcome the difficult situation of the persons with disabilities;

In the majority of cases, the notified authorities displayed receptivity and took, with few exceptions, appropriate actions.

CHAPTER V

Conciliation of parties (article 23 of the Law on Ombudsmen)

Mediation is an alternative approach of solving the conflict between the parties amicably with the help of a third party. During 2013, the ombudsmen, in their capacity as mediators, settled five cases through conciliation of parties; conciliation agreements were signed, which served as ground for terminating the process of application examinations. We consider that the ombudsmen are to make use of their attribution as mediators in the cases when this is possible. This is because the application of this procedure has several advantages:

- finds a mutually beneficial consensus;
- avoids lengthy administrative and bureaucratic procedures;
- provides immediate involvement and solution;
- increases confidence in Ombudsman Institution.

The examples that follow, solved through conciliation, come to confirm the mentioned above:

1. On 7 February 2013, citizen C.C. appealed to Cahul Representation of CHR. The petitioner complained that the administration of "Ian Gasec" Gymnasium announced him that the unit of auxiliary worker position was made redundant without being notified in advance. After the ombudsman initiated a conciliation procedure on 15.02.2012, the conciliation agreement was approved and signed by the administration of "Ian Gasec" Gymnasium and citizen C.C. regarding the annulment of the process of making the unit of auxiliary worker redundant. Under the conciliation agreement, the petitioner continued to work until the redundancy of the unit was finalized as required by law.

2. Citizen V. Z, disabled of the 2nd degree, appealed to Balti Representation of CHR, invoking that the Communal Residential Enterprise refused to accept his application for the recalculation of the payment for the provided services (the lift service). The conciliation procedure started and the conciliation agreement was signed. Accordingly, the Enterprise accepted the petitioner's application for examination.

3. On 12.03.2013, citizen E.A. appealed to Cahul Representation in connection with non-

payment of salary arrears after dismissal from Ltd. Company "Noul Ered". On 27.03.2013, a conciliation agreement was signed between the Ltd. Company "Noul Ered" and citizen E.A.. The employer assumed the obligation to pay the salary arrears of the petitioner in a period of 5 days.

4. On 15.05.2013, citizen N. S. appealed to Balti Representation in connection with the fact that Balti Office of Civil Status refused to accept the application for the registration and legalization of the birth of the son born in Portugal. Under the concluded conciliation agreement, Balti OCS accepted the application for examination on 28.05.2013.

Filing civil actions under article 28 of the Law on Ombudsmen

After examining the complaints, the ombudsmen have the right to appeal to courts to protect the interests of the petitioners. This mechanism is applied in cases of massive or serious violations of constitutional rights and freedoms, in cases of special social importance, or in those in which it is necessary to defend the rights of the persons who cannot independently use the legal means of defence.

During the reporting period, 26 applications for summons to court in the defence of the petitioners' interests and 15 applications on intervening in the civil lawsuit to submit conclusions under article 74 of Civil Procedure Code were sent to court.

The following issues on violation of human rights were alleged in the requests made by ombudsmen in the petitioners' interests:

- reinstatement into rights of the child and material damage recovery;
- defence of the fundamental right to education;
- defence of the right to access to information and obligatory issue to citizen T. N. of family composition certificate by "GLC" enterprise;
- protection of the right to property and obliging GAS "Fintina Recea" to return to the petitioner the value share that belongs to him confirmed by ownership documents;
- provision of decent living and collecting payments for forced labour;
- protection of honour, dignity, and professional reputation, order of information de-

nial, collection of non-pecuniary damage and court costs;

- cancellation of Chisinau Mayor's Decision "On Removing Obstacles in Using Municipal Owned Land and Liberation of Land Occupied by Force" and collecting pecuniary damage;

- granting individual dwelling to persons leaving the orphanage facilities;

Pensioner M. C. appealed to Balti Representation alleging illegal the actions of the administrator of GAS "Fintina Rece" manifested by violating his right to property, particularly in terms of illegal disposition of value shares for temporary use by the mentioned above company. The ombudsman filed a summons to court in the pensioner's interests on the defence of the right to property and the obligation of GAS "Fintina Rece" to return the value share that belongs to him as right to property according to the documents confirming ownership.

Citizen I. V. alleged the fact that in the period 1979 – 1981 he did military service in the military unit from the city Ucmerghe, Lithuanian Republic as driver. During the military service, after an accident with emission of radioactive substances, he and other 6 soldiers from the anti-fire and exceptional emergencies group were involved in liquidating the consequences of the radioactive accident. Thus, as result of the activities for the elimination of the consequences of the accident, his health worsened. The ombudsman filed a lawsuit in the interests of citizen V. I. from town Lipcani, Briceni district related to recognizing that his disability occurred as result of his doing obligatory military service in the military unit No. 32158.

- annulment of the decision on the reorganization of the gymnasium from Troita Noua village, Anenii-Noi district;
- establishing that the occurrence of disability was the result of doing military service within the military unit.

Relevant examples:

2. Other aspects of Ombudsman Institution activity

Since the creation of the Centre for Human Rights from Moldova and up to now, the Institution has been carrying out its activity in a building that does not meet the requirements for the work of a national ombudsman office, especially regarding the working conditions of its employees and those of working with the citizens.

The Centre for Human Rights from Moldova is situated at present in a building from Chiusinau at the address 16 Sfatul Tarii, which has a surface of 324 m² with 17 offices.

According to the assessment performed by the State Service on Verification and Valuation of Buildings under the Ministry of Construction and Regional Development, the building is damaged, with an almost zero degree of seismic resistance. The building does not meet the building regulations and technical standards. This fact was confirmed by Act of Technical Expertise No. NDA-67 of 26.03.1998.

Accordingly, the employees of the Centre for Human Rights work in hazardous conditions without being provided any protection and safety in case of natural disasters.

On the other hand, over-crowdedness and lack of open spaces makes it impossible to ensure decent working conditions and fill vacancies.

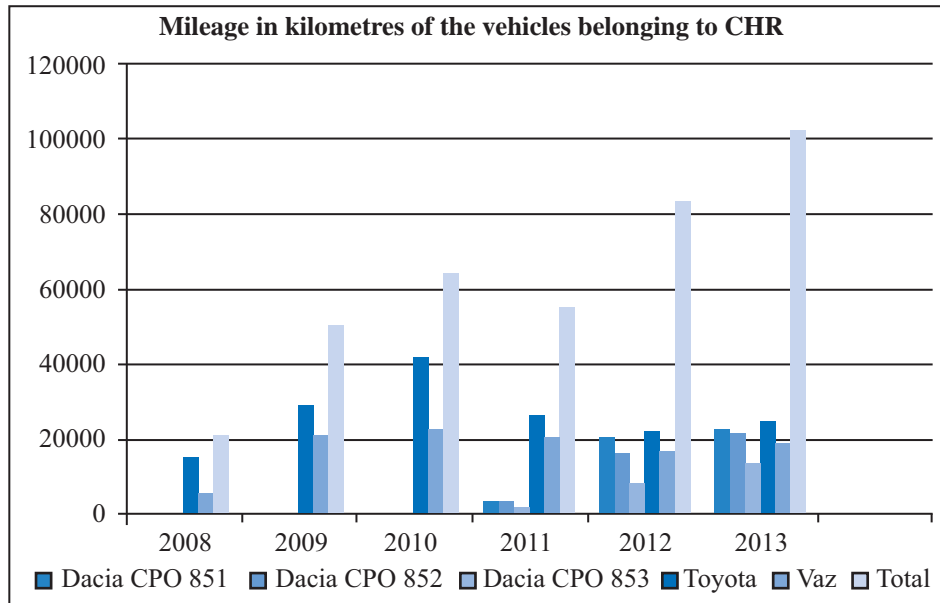
Lack of suitable headquarters continues to be an essential problem for the CHR. Nor the Representations of the National Institution for the Protection of Human Rights dispose of adequate premises.

Currently, the CHR possesses 7 cars, including: 2 cars of the make GAZ 2410 (made in 1991) and GAZ 3102 (made in 1993) transmitted to the Centre for Human Rights by Parliament Decision No. 163 of 18 May 2008. The cars have not been used because of bad tech-

nical condition and a consumption of about 16.5 litters of fuel per 100 km, which under current conditions is an exaggerated and irrational consumption and would significantly affect the limited budget of the institution.

To provide for the needs of the four ombudsmen and of the employees of the central office, two cars, with an exploitation period of about 16 years and a total mileage of 533,811 km, are used.

dova within the Technical Assistance Project “Supporting the Strengthening of the National Mechanism for Torture Prevention” provide the travel of the employees of CHR Representations, in accordance with the Regulations, to make preventive and monitoring visits to places of detention since the end of 2011. Such a purchase would not have been possible with the financial resources allocated to the Institution.

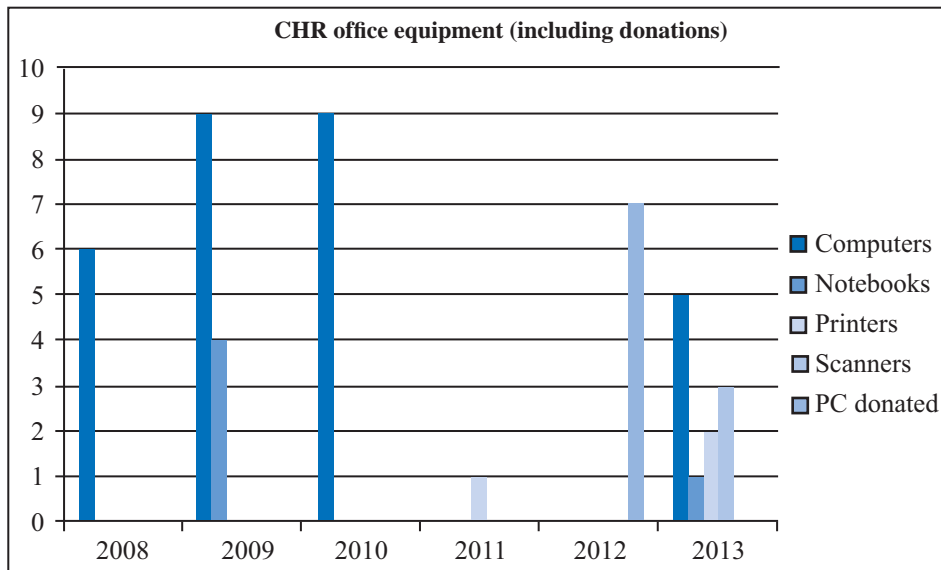


	Dacia CPO 851	Dacia CPO 852	Dacia CPO 853	Toyota	Vaz	În total
2008	-	-	-	15282 km	5639 km	20921 km
2009	-	-	-	29343 km	21093 km	50436 km
2010	-	-	-	42112 km	22620 km	64732 km
2011	3307 km	3420 km	1722 km	26402 km	20737 km	55588 km
2012	20535 km	16116 km	8478 km	22139 km	16487 km	83755 km
2013	22934 km	21716 km	13869 km	24694 km	18872 km	102085 km

The vehicles that the CHR possesses are not sufficient to carry out the activities for the protection and promotion of human rights in other communities, which results from the analysis of the routes and distances covered by the cars in the last six years.

The cars “Dacia Logan” (amounting to 362,100 lei total value), donated by UNDP Mol-

As for office equipment and supplies, the Institution of Ombudsman possessed 31 computers, out of which 9 (*manufactured in 1999-2001*) may be considered antique; 15 laser printers; a scanner and two photocopiers at the end of 2008. In the period 2008 – 2013, more up-to-date technical equipment was purchased and received as donations.



This enabled to improve employee performance indicators of efficiency, quality and promptness. In 2011, air conditioners were purchased and installed in 8 offices in order to improve the employee's working conditions. Sophisticated photo and video cameras were purchased to improve the work of Educational Programmes and Public Relations Service.

On 17 October 2012, Varnita Representation of the Centre for Human Rights was inaugurated. In order to create adequate working conditions for its employees, office equipment and furniture in an amount of about 40,000 lei was purchased in 2013 from the budget of the institution.

Annually, about 185,000 lei, from the budget allocated to the CHR, is spent for the maintenance of the Representations of the Centre for Human Rights.

Although the current location of the Representations leaves to be desired, all of them are provided with access to the legislative database of the Republic of Moldova, the data base of legal practice, consulting programmes and database update software, internet access.

In 2011, video conference equipment was purchased and is used for a better collaboration with the Representations.

Since the adoption of Law No. 200 of 26.07.2007, which establishes a mechanism of torture prevention at national level, the Centre for Human Rights is confronted with problems

regarding technical and material endowment of the activity of the National Mechanism for Torture Prevention.

Currently, the people involved in monitoring visits within NMTP use equipment purchased in 2009 under United Nations Development Programme, which is worn out, morally and technically outdated.

Providing suitable premises is the main concern related to material endowment, whose solution is imperative. For this aim, ombudsman Anatolie Munteanu, CHR Director, submitted requests to the Parliament and the Government of the Republic of Moldova. Both the good operation and efficiency of the Institution and ensuring effective monitoring of human rights observance in the Republic of Moldova depend on the solution of this problem.

CHR human potential

At the end of 2013, 44 people worked for the Centre for Human Rights, the need being of 55, as approved by staff units.

Regarding the dynamics of human resources, in 2013 compared to November 2008, a significant increase of 51.7 % of employees is observed, which is due to employment of executive civil servants. In 2013, the share of executive positions in the structure of vacancies was the highest – 28.6 %. This is also due to higher fluctuation of this category of employees.

CHAPTER V

Dynamics of staff in the last five years

Indicators	2008	2009	2013	Absolute dynamics (persons)		Relative dynamics (%)	
				2013/11.2008	2013/2009	2013/11.2008	2013/2009
Approved staff units	55	55	55	-	-	-	-
De facto staff, persons	29	37	44	+15	+7	151,7	118,9

On 31.12.2013, the CHR staff structure was as follows:

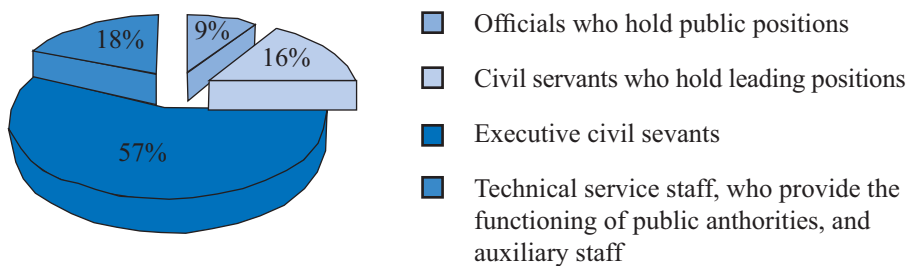
- officials who hold public positions – 4 persons
- civil servants who hold leading positions – 7 persons
- executive civil servants – 25 persons
- technical service staff, who provide the functioning of public authorities and auxiliary staff – 8 persons

Occupancy of public functions and positions

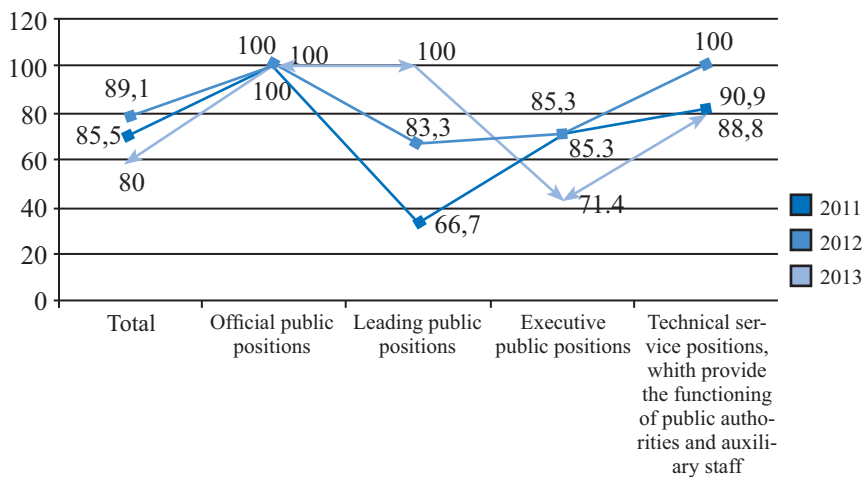
The degree of occupancy of staff units was calculated as the ratio between of number of employees and the number of authorized positions by category.

Data analysis shows that the occupancy of public functions and positions of the Institu-

Structure of staff by position, per cent



Occupancy of staff units, per cent





tion is within reasonable limits. A high degree of filling official public functions and technical service positions, who provide the functioning of public authorities, is noted. Substantial improvement of the situation is observed in filling leading public positions, by 33,3 % increase in 2013 compared to 2011.

The aggregate data reveals the existence of a uniform structure of the staff by gender, the share of men being equal to that of

service positions, who provide the functioning of the public authorities and auxiliary staff, are mostly occupied by men (62,5 %).

As observed from the data shown in the Table below, most of the staff fall within the age category of 25 – 54 years old, the average age is of approximately 37 years old. This shows the existence of a high potential workforce, which can be enhanced through continuous professional training (in the mentioned

Structure of staff by age, persons

Position	Under the age of 25	Between the age of 25-54	The age of 55 and over	total
Staff (total)	-	40	4	44
Civil servants	-	34	2	36
Technical staff who provide the functioning of public authorities and auxiliary staff	-	6	2	8

women. However, the share of men in leading public positions constitutes 57,1 % compared to that of women, which is 42,9 %. Technical

period, the employees showed increased interest for participation in professional development and training courses).

Structure of staff by qualification

	Officials holding public positions, persons	Civil servants holding leading positions, persons	Executive civil servants, persons	Technical service staff, who provide the functioning of public authorities and auxiliary staff, persons	Total, persons	Structure,
Total	4	7	25	8	44	100,0
PhD	1	1	1	-	3	6,8
Master	1	-	11	1	13	29,5
Bachelor	2	6	13	3	24	54,6
Secondary specialized education	-	-	-	4	4	9,1

The qualifications of employees by position held is shown in the Table above.

As can be seen 90.9 % of the employees possess higher education and post-graduate degrees.

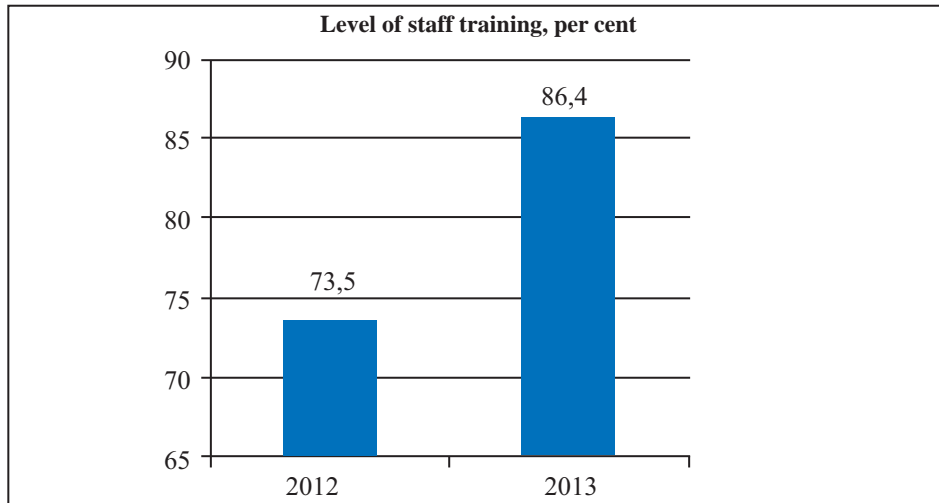
The employees with secondary specialized education constitute only 9 % of the staff and work in the administrative service, in the position of drivers.

36,3 % of all employees possess post-graduate degrees, which confirms the high level of professional qualification and skills of CHR employees.

Data on employees' professional development

In 2013, 38 people (including 36 civil servants) benefitted of 1,852 hours of internal and external training.

In 2013, an increase of the level of staff training of about 13 % compared to 2012 is observed, which confirms the fact that employee professional development training is one of the priorities of the personnel policy of the institution.



Setting training requirements

Training is a planned process, which enables the provision of information, knowledge, and skills necessary for the employees to carry out efficient work in the positions they perform. According to article 37 of Law No. 158 of 4.07.2008 on Public Positions and the Status of the Civil Servant, the public authority shall ensure staff professional development or to take actions to meet these needs. Thus, one of the key priorities in the work of the institution, in the short and medium terms, is to enhance the managerial and professional capabilities of the personnel. This objective can be achieved through the development of training programmes for various categories of personnel related to their needs and requirements imposed by the standards in the field.

In the case of persons who hold leading positions, it is proposed to implement a management training programme aimed at developing the managerial skills, which will have positive impact on the internal management system activity (planning, labour organization and coordination, activity monitoring and assessment).

For executive civil servants, it is proposed to apply a professional training programme aimed at developing professional skills necessary for performing work duties in the field. This is because the given category of specialists is decisive in providing prompt and qualitative reactions and interventions of the ombudsmen.

In the case of beginners and newly employed staff, it is proposed to use a training programme on core areas of competence of the Centre for Human Rights from Moldova to facilitate their prompt integration in the activity of the institution.

2013 Budget

In accordance with Law on State Budget for 2013 No. 249 of 2.11.2012, the Centre for Human Rights from Moldova was approved financial resources to cover basic expenses in an amount of 15,894.900 lei, including 10,060.500 lei from the Justice Reform Strategy.

According to Law on Budgetary System and Budgetary Process No. 847-XIII of 24.05.1996

and of the Order of the Ministry of Finances on Budgetary Classification No. 91 of 20.10.2008, the Centre for Human Rights allocated the financial resources, as follows:

Labour retribution expenses – 4,295,800 lei (including: salaries – 3,413,400 lei, state social insurance contributions – 746,300 lei, mandatory medical insurance – 111,800 lei, compensations for loss of temporary work capacity – 24,300 lei), which constitutes 73.6 % of the allocated amount of 5,834,400 without the allocation from the Justice Reform Strategy.

Expenses to ensure the functioning of the institution and direct conduct of ombudsmen activity in the amount of 1,830,300 lei (including 291,600 lei allocated from Justice Reform Strategy); 279,400 lei - for rent and utilities, 200,300 lei for inter-departmental security, 165,100 lei for car maintenance, 82,000 for publishing services and 811,800 lei for office supplies, telecommunication and mail. The membership fees to specialized international organizations constituted 45,700 lei, for business trips – 66,100 lei, for curriculum development – 14,200 lei, for personnel training – 245,400 lei and for website modification, information and computer services – 32,000 lei.

Following the amendment of Law on State Budget for 2013 by Law No. 277 of 15.11.2013, in force since 30.11.2013, the Centre for Human Rights was allocated financial resources in the amount of 9,768,900 lei from the account of financial resources, as budgetary support on behalf of the European Union for the fulfilment of the Action Plan for the Implementation of Justice Sector Reform Strategy for the period 2011 -2015, in order to purchase a building for the institution.

Although decisive steps have been taken, in the short period left until the end of the budgetary year, the additional budgetary allocation could not be used (*according to the procedure of public procurement, the deadline for submission and receipt of participation applications in tenders is of at least 40 days*).

The offers included in the public tender No.1744/13 of December 12, 2013 did not meet the requested requirements, which lead to cancelling the tender procedure. Given the demand of the Ministry of Finances on making all transfers by December 24, 2013, the Centre

CHAPTER V

Dynamics of financial resources from state budget in the period 2009-2013, without allowances from Justice Sector Reform Strategy

Indicators	Anul 2009	Anul 2010	Anul 2011	Anul 2012	Anul 2013
Labour remuneration	1867,7	1980,5	1916,8	2723,8	3 413,4
Contributions to state social insurance	373,0	435,9	421,6	590,8	746,3
Payments for goods and services	763,1	586,9	695,1	1090,3	1 367,0
Office supplies, materials and household items	84,9	72,3	53,6	71,6	152,7
Books and periodicals	10,0	10,0	6,2	0,8	21,3
Telecommunication and mail services	57,4	71,4	69,2	91,6	90,1
Car rental and maintenance	94,0	51,8	115,4	201,1	165,1
Current repairs of buildings and offices	0,8	9,5	2,9	7,1	5,4
Current equipment and tool repairs	131,7	2,4	2,6	5,5	11,7
Lease of venues	2,0	122,4	130,6	265,2	279,4
State symbols		3,5	0,2		
Publishing services	132,2	25,7	28,2	62,9	82,0
Protocol expenses	4,9	2,9		0,8	2,7
Inter-departmental security	138,6	126,5	200,3	200,3	200,3
Computer and information services	38,0	43,6	40,5	39,6	79,2
Sanitation	2,4	2,4	2,2	2,2	2,2
Goods and services not included in other rubrics	66,2	42,5	43,3	141,6	274,9
Business trips	32,4	37,4	50,9	61,4	66,1
Medical insurance contributions	56,7	66,2	63,7	88,8	111,8
Compensations for temporary loss of work capacity			1,0	5,9	24,3
Transfers abroad	12,0	19,1	36,1	33,7	45,7
Purchase of fixed assets	51,0	72,7	133,0		59,8
TOTAL	3155,9	3198,7	3318,2	4594,8	5 834,4

for Human Rights was unable to announce a repeated tender or to attribute the public purchase to a negotiated procedure.

Assets received free of charge during 2009-2013

- UNDP

Office equipment (computers, printers, monitors, video cameras, etc.) -281,100 lei;

Dacia Logan cars - 3 cars of 120,700 lei each, amounting to 362,100 lei

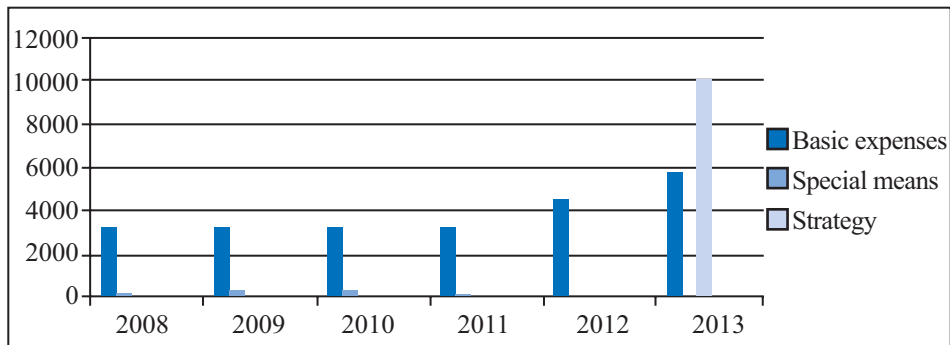
- State Chancellery

A set of computers (computer with keyboard and monitor, printer + scanner) - 11,300 lei

In total 654,500 lei.

Ratio between budgetary and special resources and means for the implementation of Justice Sector Reform Strategy

Year	Basic expenses	Special means	JSRS
2008	3223,4	156,7	
2009	3155,9	328,1	
2010	3198,7	310,8	
2011	3318,2	122	
2012	4594,8	87,4	
2013	5834,4	24,5	10060,5



Indicators and indicator sums forming expenditures for mandate execution

	2009	2010	2011	2012	2013
Books and periodicals	10.0	10.0	6.2	0.8	21.3
Car rental	94.0	51.8	115.4	201.1	165.1
Publishing services	132.20	25.70	28.20	62.90	82.00
Protocol expenses	4.9	2.9		0.8	2.7
Goods, services in other rubrics (workshops, working groups, thematic conferences)	66.2	42.5	43.3	141.6	274.6
Business trips	32.4	37.4	50.9	61.4	66.1
Transfers abroad	12.0	19.1	36.1	33.7	45.7
TOTAL	351.7	189.4	280.1	502.3	657.5

Dynamics of expenditures for mandate execution, in %

2009

Total budget/thousand lei	3155.9	100 %
Salary expenses (state social and medical insurance contributions)	2297.4	72.80%
Logistics expenses (premises rent, security, equipment and office repairs)	506.8	16.06%
Expenses for mandate execution	351.7	11.14%

2010

Total budget/thousand lei	3198.7	100 %
Salary expenses (state social and medical insurance contributions)	2482.6	77.61%
Logistics expenses (premises rent, security, equipment and office repairs)	527.0	16.47%
Expenses for mandate execution	189.4	5.92 %

2011

Total budget/thousand lei	3318.2	100 %
Salary expenses (state social and medical insurance contributions)	2403.1	72.42%
Logistics expenses (premises rent, security, equipment and office repairs)	635.0	19.14%
Expenses for mandate execution	280.1	8.44%