

**SUBMISSION PREPARED BY THE HUMAN RIGHTS RESOURCE GROUP FROM  
MOLDOVA <sup>1</sup> FOR THE UNIVERSAL PERIODIC REVIEW OF REPUBLIC OF  
MOLDOVA BY THE HUMAN RIGHTS COUNCIL**

This compilation of information has been produced in December 2010-March 2011 by the Human Rights Resource Group for the United Nations Office of the High Commissioner for Human Rights in the process of preparing for the Universal Periodic Review of Moldova by the Human Rights Council. The issues identified below reflect this Group's assessment of key priorities for the effective implementation of Moldova's human rights obligations and reflect the expertise of the Group's members and NGOs they represent.

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**Equal Treatment and Discrimination (People living with HIV/AIDS, LGBT, Roma, Gender)**

**People Living with HIV/AIDS (PLHIV)**

The most serious human rights violations faced by the PLHIV relate to<sup>2</sup>:

**Violation of the right to privacy:**

- ◆ Illegal disclosure by doctors of data regarding patients' HIV status to third parties;
- ◆ Abusive coding or otherwise distinguishing with special signs the medical cards and/or medical referral forms of HIV-positive patients and their children by medical personnel;
- ◆ Mandatory inclusion of the code of diseases in the official sick leave forms issued by doctors – to be presented to employer for official records.

**Arbitrary or unlawful interference with family life:**

- ◆ Absolute medical ban for PLHIV to adopt children<sup>3</sup> and also impediments to adoption of children with HIV/AIDS by others;<sup>4</sup>
- ◆ Refusals by the Bureau of Migration and Asylum within the Ministry of Interior to issue immigration certificates to HIV/AIDS positive foreign citizens<sup>5</sup> already married to Moldovan citizens;
- ◆ Mandatory medical examination, including testing for HIV/AIDS, for all persons as a precondition for presenting documents for registering for the marriage.

**Discrimination in accessing residential state social care institutions:**

- ◆ Refusal by the Social Assistance Office to place a person living with HIV in the residential state social institution due to HIV status<sup>6</sup>.

**Discrimination and barriers to access employment:**

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<sup>1</sup> The Human Rights Resource Group is an informal coalition of 13 human rights activists from Moldova who act both in their individual capacity and/or represent well-known human rights watchdog groups. The Group's aim is to monitor, document, and report human rights violations occurring in the country and undertake advocacy efforts for resolving them. The Group was established in 2010 and it is supported by the Soros Foundation – Moldova and the Open Society Foundations.

<sup>2</sup> Findings of the Moldovan Institute for Human Rights (IDOM), based on consultations provided to 142 PLHIV and 29 cases litigated in 2010; available at <http://aids.md/aids/files/223/idom-report-programme-litigation-january-march-2010-en.pdf>.

<sup>3</sup> Government Decision No.512/2003 on the list of medical contraindications for persons who intend to adopt children.

<sup>4</sup> Joint Ordinance of the Ministry of Education (no. 113 of 11 April 1994), the Ministry of Health (no. 64 of 5 April 1994) and the Ministry of Justice (no. 47 of 11 April 1994).

<sup>5</sup> Article 24 of the Law No. 23-XVI on the prophylaxis of HIV/AIDS infection, 16 February 2007.

<sup>6</sup> Ministerial Instruction regarding the accommodation in social institutions under the jurisdiction of the Ministry of Labor and Social Protection, adopted on 16 February 2000 by the Ministry of Health and the Ministry of Labor and Social Protection.

- ◆ Unjustified practice of mandatory HIV/AIDS testing as condition for employment in a variety of jobs (e.g. police officer, tattoo specialist, confectioner, military service).

*Recommendations:*

- ◆ Adopt as soon as possible the anti-discrimination law currently pending as draft before the Parliament;
- ◆ Monitor and punish the breach of confidentiality in medical institutions and tackle the negligent attitude of the medical staff towards PLHIV for ensuring equal access to quality health care;
- ◆ Eliminate the mandatory indication of the disease codes in all medical sick leave forms in the country;
- ◆ Allow for adoption of children with HIV/AIDS, as well as the adoption of children by PLHIV;
- ◆ Clarify the list of occupations that justify a HIV test upon employment and ensure that PLHIV are not prevented from accessing employment;
- ◆ Amend the Inter-Ministerial Instruction regarding the accommodation in state social institutions (adopted in 2000) to permit access to residential institutions for PLHIV.

## **LGBT Community**

According to a 2010 sociological study,<sup>7</sup> Moldovan population shows strong homophobic attitudes.<sup>8</sup> These often materialize as discrimination and other acts against LGBT in most areas of public life followed by impunity for such violations.

The most frequent violations of rights of the LGBT community are related to:

### **Denial of freedom of association and assembly:**

- ◆ Lengthy processing and refusal by the State Registry in 2008 to register the LGBT group HomoDiversus by asking for additional information and documents, and then motivating refusal on the fact that information was missing in some provided documents;<sup>9</sup>
- ◆ Repeated unjustified interdictions since 2002 to LGBT group Gender-Doc to hold public gatherings and marches by the municipal authorities in Chisinau and lack of protection by law enforcement agencies from homophobic attacks in cases where no official permission to assembly is required by law;<sup>10</sup>
- ◆ Lack of enforcement of a Supreme Court decision that found violation of right to assembly by Chisinau authorities.<sup>11</sup>

### **Degrading treatment and harassment by law enforcement authorities:**

- ◆ Illegal raids of LGBT meeting venues and interrogations and blackmailing by police of persons who are perceived as gay, including registration of personal data and threats to reveal person's sexual orientation to family and employers. Sometimes these result in the death of those threatened<sup>12</sup>;
- ◆ Lack of investigation by the Ministry of Interior into the allegations of abuse and harassment by law enforcement officers, resulting in total impunity, lack of remedy for victims, and indirect encouragement for police officers to continue abusing.

### **Lack of access to quality health care:**

- ◆ Referral of homosexual persons by medical doctors to psychologists and psychiatrists to undergo treatment for alleged "homosexual pathology or deviation";

<sup>7</sup> *Soros Foundation Moldova, Perceptions of the Population from the Republic of Moldova on the Phenomenon of Discrimination: Sociological Study, Chisinau, 2010, <http://soros.md/files/publications/documents/Studiu%20Sociologic.pdf>.*

<sup>8</sup> For example, 92% of respondents would not want to have as a neighbour or relative a homosexual person.

<sup>9</sup> The refusal was based on grounds that information on member fees, as well as Council's functions in case of closing down of the Association were missing. The registration was possible only through the decision of the Supreme Court at the end of 2009.

<sup>10</sup> The 2008 Law on assembly states that a gathering of less than 50 persons does not need an authorization. However, it does not apply for LGBT groups. In May 2008, the bus with 47 participants that arrived one block away from the place of assembly was blocked by aggressive counter protesters and no security was provided by the police.

<sup>11</sup> Five court cases on the violation of the freedom of assembly have been initiated, but no actions to repair the damage or cease the interdictions to hold a public march during the next years were undertaken. Two cases are pending before ECtHR.

<sup>12</sup> At the end of 2010, after an interrogation, pressure and threat by two police officers to reveal the sexual orientation to relatives, a young man committed suicide. His last words when he called his mother were "Mom, I'm sorry, I'm gay".

### **Discrimination in employment<sup>13</sup>:**

- ◆ Questioning, reprimand, and pressure by the employer to resign once the sexual orientation and gender identity is revealed;
- ◆ Illegal dismissals by using unjustifiable formal reasons not related to the sexual orientation and gender identity.

### **Lack of timely recognition of the new identity of transsexual persons:**

- ◆ Unjustified and unreasonable delay in recognition and formal change of identity documents in several cases for persons in advanced stage of hormonal therapy with facial and physical traits of the opposite sex by the Civil Status Service.<sup>14</sup> Frequently, persons in advanced stage of hormonal therapy are required to present a medical certificate on surgical sex correction issued outside Moldova.

### *Recommendations:*

- ◆ Adopt the draft anti-discrimination law with the sexual orientation as one of the grounds covered;
- ◆ Effectively and immediately investigate all reported instances of illegal interrogation, harassment and blackmail of LGBT by law enforcement officers;
- ◆ Bring to justice all persons or entities discriminating on grounds of sexual orientation;
- ◆ Ensure effective fulfilment of right to assembly for all public gatherings – allow public marches and ensure protection by law enforcement against homophobic threats;
- ◆ Annul the requirement to present additional certification from abroad for change of identity documents for transsexual persons.

### **Roma**

The Roma are the most vulnerable and politically under-represented ethnic group that face widespread and systemic discrimination in accessing most rights guaranteed. They are at a higher risk of being marginalized by state authorities as well as by non-state actors<sup>15</sup> and have inadequate living standards, high illiteracy levels and high unemployment.<sup>16</sup> The main documented violations are related to:

### **Discrimination of Roma children in access to quality education:**

- ◆ Widespread negative attitudes and discriminatory behaviour by school teachers towards Roma children leading to high school drop-out;
- ◆ Lack of access to higher education by Roma compared to non-Roma due to the fact that they are placed last in the list of disadvantaged groups falling within the 15% quota guaranteed for representatives of such groups;<sup>17</sup>

### **Ill-treatment and harassment by law enforcement bodies:**

- ◆ Systematic and continuous harassment, including instances of ill-treatment of Roma by police;
- ◆ Failure by prosecution to investigate complaints against police or other individuals submitted by Roma, on grounds of their ethnicity.

### **Discrimination in access to health care:**

- ◆ Overt and tacit refusal by medical personnel (medical doctors and nurses) to provide medical services, including emergency assistance, to patients of Roma origin.<sup>18</sup>

<sup>13</sup> Cases documented during 2006-2011 by GenderDoc-M Information Centre, [www.lgbt.md](http://www.lgbt.md).

<sup>14</sup> Case N.C. March-July 2009, documented by the GenderDoc-M Information Centre.

<sup>15</sup> *SOROS Foundation-Moldova*, Survey “Perceptions of population of Moldova on the phenomenon of discrimination”, p.6, available at <http://soros.md/files/publications/documents/Studiu%20Sociologic.pdf> [accessed 12 March 2011].

<sup>16</sup> UNDP report “Roma in the Republic of Moldova”, 2007, p.9, available at <http://undp.md/publications/roma%20report/Roma%20in%20the%20Republic%20of%20Moldova.pdf> [28 February 2011].

<sup>17</sup> Ministry of Education, Order no. 630/2010 on approval of the Regulation on organizing and conducting the admission to Bachelor degree (first cycle) in higher education institutions from Moldova. Only 4% of Roma graduated from university.

<sup>18</sup> *Roma National Center*, Submission for CERD “Roma situation in republic of Moldova”, available at [http://www2.ohchr.org/english/bodies/cerd/docs/ngos/RNC\\_Moldova78.pdf](http://www2.ohchr.org/english/bodies/cerd/docs/ngos/RNC_Moldova78.pdf), p. 4 [accessed 14 March 2011].

### **Discrimination in access to employment:**

- ◆ Direct refusal by employers to hire Roma due to their ethnicity. The Roma National Center monitored several cases when Roma have been refused a job due to their ethnicity.

### **Access to housing:**

- ◆ Failure to allocate to Roma land for housing by responsible authorities at local level, even if they are included in the lists to receive the land, and the non-Roma on the same list receive the land.

### *Recommendations:*

- ◆ Adopt the draft Anti-discrimination Law in conformity with international and European standards, currently pending before Parliament;
- ◆ Effectively investigate complaints coming from Roma, and stop harassing them;
- ◆ Guarantee access to emergency medical assistance for all Roma, including in rural areas;
- ◆ Provide for separate budgetary places (quota) for Roma applicants to higher education institutions.

### **Gender Equality**

The main issues related to gender equality in Moldova relate to:

#### **Inefficient legal framework:**

- ◆ The 2006 Law on Equal Opportunities between Women and Men, as well as the 2010-2015 National Programme of Ensuring Gender Based Equality from 2009, have little procedural or monitoring mechanisms for ensuring effective implementation.

#### **Lack of Representation and of Participation in Decision-making Process:**

- ◆ Women are poorly represented in both legislative and executive branch – there is only one woman member of the Government and there are 21 women in the Parliament (out of 101)<sup>19</sup>;
- ◆ The number of women elected as local and county councils is still low—16.9% of rayon councils and 28.7% of local councils are women<sup>20</sup>;

#### **Discrimination in Employment:**

- ◆ Unequal pay for equal work - women receive salaries and pensions in some cases six times lower than men for performing the same work<sup>21</sup>. During last years women earned approximately 76% of what men earned for equal work<sup>22</sup>;
- ◆ Refusals by private employers to employ women of reproductive age due to perceived belief that they will go on maternity leave shortly after employment.

#### **Lack of Protection and Remedies from Domestic Violence:**

- ◆ Failure by state authorities to protect women victims of domestic violence and spousal abuse - unless it results in serious injury.<sup>23</sup> A striking 40 % of women indicated in 2008 that they had been victims of a violent act at least once in their lifetime.<sup>24</sup> Although the Law on Preventing and Combating Domestic Violence provides for a possibility for issuing protection orders, a vast majority of victims face

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<sup>19</sup> Comparing to previous Parliaments when there were 25 women members of Parliament and one woman as head of Ministries (during 2009-2010) and 20 women members of Parliament and four women as heads of Ministries (during 2005-2009).

<sup>20</sup> Daniela Terzi-Barbarosie, Women's Invisible Violence and Political Participation in Republic of Moldova, 2009, available at [http://www.alegeriprogen.md/files/1592\\_Violenta\\_Invizibila.pdf](http://www.alegeriprogen.md/files/1592_Violenta_Invizibila.pdf) [accessed 3rd March 2011].

<sup>21</sup> Free Europe, Women Discrimination in Pension Calculations, 13th of September 2009, available at <http://www.europalibera.org/content/article/2156796.html> [accessed 3rd March 2011].

<sup>22</sup> UN Special Rapporteur on Violence against Women, its Causes and Consequences, Addendum: Communications to and from Governments, A/HRC/14/22/Add.12, 2010, <http://www.unhcr.org/refworld/pdfid/4c1b42c32.pdf> [accessed 1st March 2011].

<sup>23</sup> UN Special Rapporteur on Violence against Women, its Causes and Consequences, Yakin Ertürk, Mission to Moldova, A/HRC/11/6/Add.4, 8 May 2009.

<sup>24</sup> US Bureau of Democracy, Human Rights, and Labor, 2009 Human Rights Report: Moldova, March 11, 2010.

difficulties when appealing to police to deal with an abusive spouse.<sup>25</sup> Furthermore, women victims are occasionally accused by the same police officers for provoking the violence.<sup>26</sup>

- ◆ Lack of an efficient mechanism for identification, assessment or monitoring of domestic violence cases<sup>27</sup> and a special regime to guarantee an effective remedy. There are no government standards for the quality of social, psychological and legal assistance for victims;<sup>28</sup>
- ◆ Inadequate national legal framework in ensuring real protection against domestic violence. Lack of programs to promote the safety of victims of violence, physical and psychological rehabilitation effective remedies for victims;
- ◆ Low quality of provided rehabilitation services caused by the reduced number of organizations/shelters that can offer such services;<sup>29</sup>
- ◆ Failure to enforce protection orders and to prevent further ill-treatment of victims.<sup>30</sup>

#### **Lack of Protection and Remedies against Trafficking:**

- ◆ Failure to prosecute, convict or punish any high ranking public figures complicit in trafficking<sup>31</sup> and failure to take necessary actions to recover the material and moral damages suffered by victims;
- ◆ Lack of free legal aid for victims of trafficking when they appear in court;
- ◆ Lack of a special compensation fund designed for victims of human trafficking based on state confiscation of perpetrators' assets;
- ◆ Improper governmental funding of rehabilitation centres. The international community continues to bear most of the costs of victim protection, assistance and rehabilitation in Moldova.<sup>32</sup>
- ◆ Lack of monitoring and data collection on the implementation of the national Action Plans to counteract trafficking in human beings;<sup>33</sup>

#### *Recommendations:*

- ◆ Adopt the draft anti-discrimination law as soon as possible with provisions prohibiting sexual harassment;
- ◆ Elaborate effective measures for promoting presence of women in state representative and administration bodies, including providing a minimum quota for women in such bodies;
- ◆ Ensure effective investigation by police of complaints from victims of domestic violence;
- ◆ Allocate resources for the establishment of additional shelters, free counselling services and other necessary measures for the protection of victims;
- ◆ Create an efficient and functional mechanism of victims' compensation for medical services and restitution of damaged/destroyed goods or their equivalent by creating a special state fund;
- ◆ Investigate, prosecute, and convict those public officials found guilty of complicity in trafficking. The national budget should include a line item specifically for combating trafficking in persons;

<sup>25</sup> According to Ministry of Internal Affairs, 2,992 petitions were received in 2008; in 2009 - 2862 petitions in regard to domestic violence. It is not clear how many of these result in protection orders or other forms of ending the abuse.

<sup>26</sup> According to "La Strada" report from November 2010, 161 victims of domestic violence faced difficulties when appealed to police, and in 93 cases they were not satisfied by police measures often reduced to warnings or a fee paid by the victim. (*Timpul [Times] Newspaper*, Domestic Violence, a Gender Problem, 15 November 2010, available at <http://www.timpul.md/articol/violenta-domestica-o-problema-gender-17693.html> [accessed 1st March 2011].

<sup>27</sup> According to the information provided by local NGO *La Strada* : [www.lastrada.md/actiuni\\_curente/en.html](http://www.lastrada.md/actiuni_curente/en.html).

<sup>28</sup> The number of shelters created by NGOs and providing such assistance is under the minimum of social necessity.

<sup>29</sup> *Immigration and Refugee Board of Canada*, Moldova: State protection available to female victims of domestic violence, 25 November 2005, MDA100680.E, available at: <http://www.unhcr.org/refworld/docid/45f147fd20.html> [accessed 14 March 2011].

<sup>30</sup> Two cases have been lodged with the ECtHR with the request for interim measures: *Mudric v. Moldova* n. 74839/10 and *Eremia v. Moldova* no. 3564/11. In both cases, after being issued protection orders, women were beaten up again and threatened with death. [www2.ohchr.org/english/bodies/hrc/docs/followup/ngos/NGOsContribution\\_Moldova97.pdf](http://www2.ohchr.org/english/bodies/hrc/docs/followup/ngos/NGOsContribution_Moldova97.pdf)

<sup>31</sup> *US Government*, Trafficking in Persons Report 2010, available at <http://moldova.usembassy.gov/tip-2010-eng.html>, [accessed 7 March 2011].

<sup>32</sup> Nine maternal and youth centres created by UNDP in nine regions offer assistance services to victims of domestic violence;

<sup>33</sup> *La Strada*, Evaluation of the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the parties: Republic of Moldova, Chisinau, 2010.

- ◆ Ensure free legal aid for victims of crimes through amending the Law on state guaranteed legal aid;
- ◆ Provide funding to local NGOs for the assistance, rehabilitation and reintegration of victims of human trafficking.

## Prohibition of Torture, Ill-treatment

The most serious violations related to prohibition of torture are the following:

- ◆ Legal framework on torture and ill-treatment is conducive to impunity for torture and ill-treatment;<sup>34</sup>
- ◆ Regular use of torture and ill-treatment<sup>35</sup> by law enforcement agents in order to extract confessions from suspects in a criminal investigation;<sup>36</sup>
- ◆ Lack of effective investigations of and punishment for acts of mass torture and ill-treatment by police in the aftermath of April 2009 elections;<sup>37</sup>
- ◆ Use of ill-treatment and torture of detained persons after April 2009<sup>38</sup> and lack of effective investigations thereof, including lack of competent forensic examinations<sup>39</sup>. According to a recent survey, 4 out of 10 men experience physical abuse or mistreatment while in police detention;<sup>40</sup>
- ◆ Intimidation by police of victims and witnesses of acts of torture and ill-treatment and denial by investigative judges of requests for witness protection<sup>41</sup>;
- ◆ Lack of efficiency and functionality of the National Preventive Mechanism on Torture (NPM) established in 2007 and lack of its visibility to the public - there are only six NPM members out of 11 vacancies.

*Recommendations:*

- ◆ Abolish the statute of limitations for crimes of torture and exclude the overlap between Articles 309/1 and 328 (2) c) of the Criminal Code;
- ◆ Conduct effective investigation of all torture complaints, leading to identification and conviction of the perpetrators and rehabilitation of the victims; regularly monitor and assess the extent of the phenomenon of torture;
- ◆ Transfer police detention facilities from the Ministry of Internal Affairs jurisdiction to that of the Ministry of Justice;
- ◆ Improve the system of forensic examination;
- ◆ Create an effective mechanism for victim and witnesses protection regarding torture and other ill-treatment allegations, under the authority of a different body than the police.

## Access to Justice

<sup>34</sup> Torture is defined as a less serious or serious crime that offers the possibility of applying an alternative sanction to detention; in practice many of the acts of torture are qualified as aggravated circumstance of the crime of excess of power or authority rather than torture.

<sup>35</sup> Torture methods such as severe beatings, with fists, rubber truncheons, and baseball bats, including on soles, electro-shocks, asphyxiation through gas masks, putting needles under fingernails and suspension are used in order to extract confessions from suspects. In general these acts are performed when suspects refuse to “cooperate”.

<sup>36</sup> UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Manfred Nowak, Mission to the Republic of Moldova, 12 February 2009, (A/HRC/10/44/Add.3) p. 11, para. 26 – 27, available at <http://bit.ly/fwhEU8>.

<sup>37</sup> The investigations of April 2009 events were lengthy and lawyers complained of several drawbacks of the investigations carried out by prosecutors. District courts have not yet delivered any conviction based on torture in respect to these events. In December 2010 two police officers were sentenced to 4 and 2 years of imprisonment with suspension of the execution.

<sup>38</sup> Interview with L.Popovici, Director of Center for Rehabilitation of Torture Victims “Memoria”, held on 10 March 2011.

<sup>39</sup> Interview with V.Mihailov and O.Doronceanu, Public defenders, Public Defender Office, Chisinau, held on 9 March 2011.

<sup>40</sup> *Soros Foundation – Moldova*, Victimization and Public Confidence Survey. Benchmarks for the development of criminal justice policy in Moldova, 2010, p. 35, available at <http://bit.ly/eK2JUJ> [accessed 11 March 2011].

<sup>41</sup> *Soros Foundation – Moldova*, Entrenching Impunity. Moldova’s response to police violence during the April 2009 post-election demonstrations”, 2009, p. 61-62, available at <http://bit.ly/f6S644> [accessed 11 March 2011].

The main violations of the right to access to justice in Moldova are related to:

**Unreasonable delay in examination of cases:**

- ◆ Excessive delays and postponements of court hearings (at local and central level), with 62% of all scheduled hearings postponed;<sup>42</sup>
- ◆ Unsatisfactory organization of hearings by judge and management of the judicial system, together with late appearance of one of the parties to the proceedings;
- ◆ Lack of procedure allowing to appeal against an unreasonably delayed case, excepting under the general appeal procedure;<sup>43</sup>
- ◆ Moldovan procedural legislation does not fully comply with the criteria established by the European Court of Human Rights (ECtHR) in assessing the reasonableness of the length of proceedings;<sup>44</sup>

*Recommendations:*

- ◆ Adopt measures prohibiting court practices for scheduling numerous cases at the same time, and addressing court practices of rescheduling of court hearings;
- ◆ Adopt the law introducing the legal procedure to challenge court delays by providing to the parties the right to lodge judicial complaints against lengthy proceedings in pending cases;
- ◆ Amend the Civil Procedure Code (art. 192) and the Criminal Procedure Code (art. 20) in order to fully comply with the principles of appreciation of the reasonable term established by the ECtHR.

**Reduced functionality of the legal aid system:**

- ◆ Delayed access to a lawyer at police stations in spite of clear regulations of calling and appointing a lawyer to every arrested person, irrespective of his/her financial status. In 2010, only 10% of people called to or detained by police were allowed to call a defence attorney;<sup>45</sup>
- ◆ The low quality of legal services caused by the lack of internal documents for professional standards for legal professionals;
- ◆ Failure of the State to implement the primary legal assistance at the level of communities;
- ◆ No actions undertaken in order to implement the legal aid in civil, administrative and misdemeanour proceedings, which should start from January 2012.

*Recommendations:*

- ◆ Analyze the reasons of delayed access to a lawyer at police station and take all measures to effectively implement the right to prompt access to a lawyer;
- ◆ The Bar should adopt a set of professional standards for lawyers' activity;
- ◆ Adopt a state policy and a working plan with respect to institutionalizing the paralegals providing primary legal assistance, and implement the mechanism for NGOs participation in providing of state guaranteed legal assistance.

**Non-enforcement or late enforcement of judgments:**

- ◆ Excessive and unreasonable delays in the enforcement of judgments admitted by public authorities and by enforcement bodies. While in 2008 the rate of real enforcement of all type of judgments represented 56.2 %, in 2010 – only 46% of judgments have been effectively enforced;<sup>46</sup>
- ◆ Reduced number of cases when administrative or criminal sanctions against the ill-intentioned debtors have been applied.<sup>47</sup>

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<sup>42</sup> OSCE Trial Monitoring Programme for the Republic of Moldova. Final report (April 2006 – November 2008), Chisinau, 2009, p. 30-32, available at <http://www.osce.org/moldova/documents/70945> [accessed 28 February 2011].

<sup>43</sup> Although the draft *Law on state compensation of damages caused as a result of violation of reasonable time* has been prepared by the Ministry of Justice in March 2010 and approved by Government in January 2011, the Parliament has not yet examined it.

<sup>44</sup> The Moldovan legislation does not list the criteria regarding the importance of the trial for the applicant, as stated by ECtHR.

<sup>45</sup> Redpath Jean, *Victimization and public confidence survey: Benchmarks for the development of criminal justice in Moldova*, Soros Foundation Moldova, Chisinau ("Imprint Plus"), 2010, p.36, available at <http://www.soros.md/files/publications/documents/Victimisation%20Survey.pdf> [accessed 28 February 2011].

<sup>46</sup> The Enforcement Department, *Information on the activity of enforcement offices in the period January - June 2010*.

### *Recommendations:*

- ◆ Adopt the law ensuring the possibility to appeal against the excessive delay (non-observance of reasonable time) in enforcement of judgments, for accelerating the procedure and for seeking compensation of damages caused by failure to observe reasonable time;
- ◆ Revise the mechanisms for accountability and stimulation of debtors to voluntarily execute the enforcement documents.

## **Freedom of Expression and Information**

The most serious violations related to freedom of expression and information are:

- ◆ The reticence and low awareness of public officials toward free access to information. The monitoring of the access to information conducted in 2010 revealed that only 34.5% of public information requests have been satisfied by public authorities;<sup>48</sup>
- ◆ Reduced effectiveness and poor implementation of the Law on access to information and Law on transparency in the decision-making process;<sup>49</sup>
- ◆ Political dependence of the Broadcasting Coordinating Council (BCC) and corruption of its members. During 2007-2010, the BCC was constantly accused by the NGOs and opposition media of favouring the governing party/ies in issuing/withdrawing broadcast licenses;<sup>50</sup>
- ◆ Inappropriate procedure for appointing the BCC members allowing to appoint the BCC members on political criteria;
- ◆ Political influence and control over the public TV channel in Gagauzia autonomy impeding the independent information and the plurality of opinions, especially during the local elections of the governor of the autonomy held in December 2010;<sup>51</sup>
- ◆ Total control and permanent interventions in the activity of the mass media from the separatist Transnistria region by separatist administration and business circles supporting it. Uncomfortable journalists and newspapers are intimidated and persecuted, either by administrative means and legal harassment<sup>52</sup>, or through public defamation campaigns<sup>53</sup>.

### *Recommendations:*

- ◆ Amend the legislation on transparency in the decision-making process by eliminating equivocal provisions on the period of notification, and the public consultation mechanisms and procedures and by introducing clear sanctions for public authorities not complying with the law's requirements,
- ◆ Establish measures to enforce the independence and accountability of the Broadcasting Coordinating Council;

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<sup>47</sup> *Center for Human Rights*, Report on human rights observance in the Republic of Moldova in 2008, p.11-12, available at: [http://www.ombudsman.md/file/Rapoarte/Raport\\_2008.doc](http://www.ombudsman.md/file/Rapoarte/Raport_2008.doc) [accessed 28 February 2011].

<sup>48</sup> *Access-Info*, Monitoring study "Access to information and transparency in the decision-making: attitudes, perceptions and trends", Chisinau 2010, available at <http://www.acces-info.org.md/upload/studiu.pdf>, [accessed 11 March 2011].

<sup>49</sup> The Law on transparency in the decision-making process (2008) contains certain vaguely worded and equivocal provisions and lack of direct sanctions for public authorities not complying with the law's requirements.

<sup>50</sup> In September 2007, BCC withdrew the broadcasting license of the "TVR1 Romanian TV channel" in favor of another company and then restored it as a result of amiable settlement in 2010.

<sup>51</sup> *Independent Journalism Center*, Final monitoring report "Media Monitoring in the Election Campaign for the Early Parliamentary Elections of November 28, 2010", Chisinau 2011, available at [http://www.ijc.md/Publicatii/monitorizare/Report\\_elect\\_final\\_en.pdf](http://www.ijc.md/Publicatii/monitorizare/Report_elect_final_en.pdf) [accessed 11 March 2011].

<sup>52</sup> In April-May 2010, the editor chief of the Transnistrian public TV channel "Pervii respublicanskii" and his colleagues-supporters were dismissed for the critics against the activity of TV channel management. In May 2010, the newspaper "Russkii Proriv" was closed after being sentenced for defamation of a local lawyer and obliged to pay a fine of almost 100 000 USD. In 2010, the journalist Ernest Vardanean was arrested by the Transnistrian secret service on accusation of spying for the Republic of Moldova and sentenced to a 15-year imprisonment.

<sup>53</sup> *Promo-Lex*, Research paper "Human rights in Transnistrian region of Moldova", Chisinau 2007, available at [http://www.promolex.md/upload/publications/ro/doc\\_1232983867.pdf](http://www.promolex.md/upload/publications/ro/doc_1232983867.pdf) [accessed 11 March 2011].

- ◆ Take pro-active and effective measures for reforming the public TV in Gagauz-Yeri;
- ◆ Investigate the cases of arrested journalists in Transnistrian region and take measures to release them.

## Children's Rights

The main areas of concern regarding Republic of Moldova's international obligations on the rights of the child are related to:

### **Underdeveloped Justice for children system:**

- ◆ Lack of specialized juvenile or children's courts and connected services to ensure treatment according to the best interest of the child (including children victims and witnesses). The limited usage of already existing possibilities of applying extrajudicial measures and restorative justice practices lead to an aggravation of the situation of children in conflict with the law;<sup>54</sup>
- ◆ Lack of facilities in police stations allowing to detain juveniles separately from adults;
- ◆ Detention of juvenile suspects for periods longer than those allowed of 24 hours,<sup>55</sup> and excessive detention of accused juveniles;<sup>56</sup>
- ◆ Ill-treatment during the initial period of police custody<sup>57</sup> and inhuman conditions in the pre-trial detention facilities where most juveniles are detained.
- ◆ Moldovan legislation and practice are incompatible with international standards barring the use of isolation or solitary confinement as a disciplinary measure for juveniles.

### *Recommendations:*

- ◆ Establish pilot programmes for secondary and tertiary prevention, directed at children involved in: criminal conduct, minor crimes, and in extra-judiciary measures;
- ◆ Create separate panels of judges for juveniles;
- ◆ Create conditions for keeping arrested juveniles separate from adults;
- ◆ Take prompt administrative and, when appropriate, criminal action in response to violations of the rights of children by police officers;
- ◆ Reduce the usage of pre-trial arrest for juveniles and ensure that the total length of detention does not exceed six months;<sup>58</sup>
- ◆ Prohibit the use of isolation cells as a disciplinary measure for juveniles.

### **Trafficking in children:**

- ◆ Increasing number of children victims of child trafficking, with children in the age of 14-17 becoming victims of recruitment. The percentage of trafficked children grew from 15% in 2004 to 20% in 2009.<sup>59</sup> The recent report produced by International Center "La Strada" shows that 80% of victims of child trafficking are female.<sup>60</sup>

<sup>54</sup> UNICEF Regional Office for Central and Eastern Europe/Commonwealth of Independent States, Assessment of juvenile justice reform achievements in Moldova, Chisinau, 2010, p.19, available at:

[http://www.unicef.org/ceecis/UNICEF\\_JJ\\_Moldova2010.pdf](http://www.unicef.org/ceecis/UNICEF_JJ_Moldova2010.pdf) [accessed 28 February 2011].

<sup>55</sup> Center for Human Rights, Report on human rights observance in the Republic of Moldova in 2009, p.156, available at:

<http://www.ombudsman.md/file/Raport%202009%20redactat.doc> [accessed 28 February 2011].

<sup>56</sup> Although the maximum length of detention before trial is four months for accused juveniles, this limit does not apply to detention during trial and appeal

<sup>57</sup> UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Manfred Nowak, Mission to the Republic of Moldova, A/HRC/10/44/Add.3, 12 February 2009, para. 26.

<sup>58</sup> UN Committee on the Rights of the Child (CRC), CRC General Comment No. 10 (2007): Children's Rights in Juvenile Justice, 25 April 2007, CRC/C/GC/10, para.83.

<sup>59</sup> International Center for Women Rights Protection and Promotion "La Strada", Overview of the Child trafficking phenomenon in the Republic of Moldova 2010, Chisinau, 2010, p. 24, available at:

[www.lastrada.md/publicatii/ebook/Child\\_Traffick\\_En\\_corr2.pdf](http://www.lastrada.md/publicatii/ebook/Child_Traffick_En_corr2.pdf) [accessed 25 February 2011].

<sup>60</sup> Most girls that became victims of child trafficking were exposed to sexual exploitation (around 60%), while boys were exploited in agriculture, construction and housework. Both boys and girls were exploited in begging.

*Recommendations:*

- ◆ Implement the National Plan to Prevent and Combat Trafficking in Human Beings 2010-2011, by promoting cooperation between institutions;
- ◆ Organize trainings for police officers, prosecutors, judges and rehabilitation services on how to prevent, protect and assist the children victims or potential victims of trafficking;
- ◆ Bring perpetrators of sexual abuse and exploitation to justice;
- ◆ Ensure capacity building of health care professionals and social workers to provide family education for better parenting, life skills education for preventing trafficking and youth unemployment, establishing youth friendly centres and developing community services for children in difficulty.

**Children with disabilities:**<sup>61</sup>

- ◆ Inefficient social services policy for children with disabilities and their families. There are only 30 rehabilitation centres for children established in the country and there is no centre in seven districts, where approximately 1,800 children with disabilities live;<sup>62</sup>
- ◆ Segregated educational system for children with disabilities, offering reduced opportunities for their rehabilitation, socialization and development<sup>63</sup>, and leading to social exclusion;
- ◆ Limited access to mainstream education caused by the lack of comprehensive policies on inclusive education, and practical mechanisms for children's integration in mainstream educational institutions. The mainstream schools are not ready to accept children with special educational needs yet;<sup>64</sup>
- ◆ Lack of statistical data about the school drop-out rate and about the enrolment rate for the children with disabilities.

*Recommendations:*

- ◆ Collect statistical data on the school drop-out rate and on the enrolment rate for the children with disabilities;
- ◆ Establish the mechanism of developing and providing social and rehabilitative services for children with disabilities throughout the country;
- ◆ Adopt the Concept of Inclusive Education.

**Right to education:**

- ◆ Failure to ensure the general compulsory education for all children and to increase the gross enrolment rate for general compulsory education from 94.1% in 2002 up to 95 % in 2010. The enrolment rate has decreased during the last years: from 91.6% in 2007 to 90.7% in 2009,<sup>65</sup> mostly in the rural areas;
- ◆ Persisting practice of informal payments (for repairs, furniture, requisites) in the public and free education system, leading to drop-out and discrimination toward children from poor families.

*Recommendations:*

- ◆ Establish real mechanisms for including socially disadvantaged children in the school system;
- ◆ Adopt a new Education Code, including clear "anti-discrimination" and "inclusive education" provisions;
- ◆ Adopt an anti-discrimination law including clear provisions regarding access to education and having an effective enforcement mechanism.

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<sup>61</sup> As for 01.01.2011 in Moldova there are registered 176,253 persons with disabilities, 8.6% of which are children.

<sup>62</sup> *Alfredas Zabieta*, Assessment and Recommendations on Child Disability Prevention and Care System in Moldova, Chisinau, 2009, p. 22, [accessed 28 February 2011].

<sup>63</sup> Ministry of Education, UNICEF, Rapid assessment of residential care institutions for children from the Republic of Moldova. General report. Auxiliary boarding-schools for children with mental disabilities, Chisinau 2007, p. 55, [accessed 7 March 2011].

<sup>64</sup> *UNICEF Moldova*, Baseline Study on Basic Education in the Republic of Moldova from the perspective of Child-Friendly Schools, Chisinau, 2008, available at [http://www.unicef.org/moldova/ro/educatia\\_de\\_baza\\_eng.pdf](http://www.unicef.org/moldova/ro/educatia_de_baza_eng.pdf), [accessed 5 March 2011].

<sup>65</sup> National Bureau of Statistics, Education in the Republic of Moldova 2010, Chisinau, 2010, available at [http://www.statistica.md/public/files/publicatii\\_electronice/Educatia/Educacia\\_RM\\_2010.pdf](http://www.statistica.md/public/files/publicatii_electronice/Educatia/Educacia_RM_2010.pdf), [accessed 25 February 2011].