

March 2016

**Republic of Moldova
Reporting for the UN Universal Periodic Review**

**26th session of the UN Human Rights Council on Universal Periodic Review
(Second round)**



This report was prepared by the Nondiscrimination Coalition (CND), whose expertise is related to **the rights of people with disabilities and their discrimination in the Republic of Moldova.**

The **Nondiscrimination Coalition** is a non-governmental organization whose major aim is the protection and promotion of human rights and freedoms. The coalition was formed as a response to acute problems in terms of human rights in the Moldovan society, and thus aims to contribute to the development and consistent application of a nondiscriminatory legal framework in Moldova; as well as to promote positive international practices to prevent discrimination.

CND was founded in 2006 as a voluntary union of six civic associations. Since March 26, 2013, CND is officially registered as a legal entity.

Address:

54, Ismail street, of. 6

Chisinau, MD-2005

Republic of Moldova

www.nediscriminare.md

Contact person:

Roman Banari, Lawyer

E-mail: roman.banari@yahoo.com

Mobile: +373 68505098

+373 79556429

Introduction

The total number of persons with disabilities in Moldova is 184345(including 13021 children), which is about 5% of the total population of the country.

In 2010 Republic of Moldova has ratified¹the UN Convention on the Rights of Persons with Disabilities(CRPD). The Convention proposes a new concept of approach to people with disabilities, i.e. transition from social and health protection to the approach in the light of human rights, social inclusion, human value and equal opportunities.

The first step towards implementing the Convention was the adoption of the Social Inclusion Strategy for Persons with Disabilities(2010-2013). The Strategy includes the reformation of the government's policy on disability and includes guidelines for activities in adjusting the social care system to EU standards and the UN Convention².

Secondly, on 30 March 2012 the Parliament adopted the Law No. 60 on social inclusion of people with disabilities. The law is very good and comprises very important chapters, which **ensure equal rights of people with disabilities as other citizens** to social security, healthcare, rehabilitation, education, employment, public life, physical environment, transportation, information technology and systems, communication technology and other utilities and services available to the general public.

Additionally, the Law No. 121 on ensuring equality from 25 May 2012 ensures the right of people with disabilities against discrimination. Moreover, other important steps were taken to reform the system of social inclusion of people with disabilities³.

It is necessary to acknowledge and appreciate the Republic of Moldova's commitments to advance the realization of the rights of persons with disabilities, making many efforts related to this group, despite the limited resources⁴.

Nevertheless, the *State does not deal adequately with the implementation of all these results achieved by reforming the system of social inclusion of people with disabilities.*⁵ *The results of reforms do not benefit directly the people with disabilities and frequently the laws and decisions remain for most of the interested people only on paper, due to lack of implementation mechanisms and of sanctions established by Administrative Offences Code for violation of provisions of Law No.*

¹ Law No. 166-XVIII of 09.07.2010

²Social Inclusion Strategy for Persons with Disabilities was approved by Law No. 169-XVIII of 09.07.2010

³Anew system of determining disability for children and adults was approved by Government Decision No. 65 from 23.01.2013 on the determination of disability and working capacity, which was developed according to the International Classification of Functioning, Disability and Health. From 2010 to 2014 by Government were approved new forms of social services for persons with disabilities, namely: *Supported Living Service, Community Home Service, Mobile Team Service, Personal Assistance, Service Respite Service, Family placement for adults Service, Communication services for people with hearing disability using sign language and vocational rehabilitation service* (<http://mmpsf.gov.md/ro/content/protectie-sociala>).

⁴Statement of the United Nations Special Rapporteur on the rights of persons with disabilities, Catalina Devandas Aguilar, on the conclusions of her official visit to the Republic of Moldova, 10 to 17 September 2015

<http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=16441&LangID=E#sthash.9uGIrpi9.dpuf>

⁵Report of the Special Rapporteur on the rights of persons with disabilities on her mission to the Republic of Moldova, 2 February 2016 A/HRC/31/62/Add.2

60/2012. Thus, this situation limits the rights of persons with disabilities to enjoy their rights on equal basis with others. These violations of people's rights often are qualified as discriminatory attitudes of the state, which continues to fail in honoring its obligations, provided by legislation and conventions to which Moldova is part.

It is necessary to mention that among the criteria for discrimination identified in the decisions issued by the Council on the Prevention and Elimination of Discrimination and Ensuring Equality (CPEDEE), the majority of cases of discrimination examined by Council are based on grounds of disabilities⁶. Studies show that people with disabilities still hold a top position among the most discriminated groups in Moldova and we have unsatisfactory statistical indicators on respecting the human rights of people with disabilities^{7,8,9}.

PAST RECOMMENDATION ISSUED BY THE UN HUMAN RIGHTS COUNCIL AND THEIR STATUS OF IMPLEMENTATION

- Recommendation n°76: *Continue efforts to adopt and implement the legislative framework to prevent, punish and eliminate all forms of discrimination, with special attention to gender equality and discrimination based on sexual orientation and disability*
- Recommendation n°78: *Implement the Law on Social Protection of Disabled Persons as well as international obligations that Moldova has agreed regarding people who are disabled*

As it was mentioned above, on 30 March 2012 the Parliament adopted the Law No. 60, in compliance with CRPD, but it shows a very slow progress in its implementation, because the law has just a formal obligation for implementation, due to lack of implementation mechanisms and sanctions established by Administrative Offences Code for violating the law.

Also the Law on ensuring equality was adopted on 25 May 2012, to ensure the right of people with disabilities against discrimination.

- Recommendation n°79: *Develop, in compliance with CRPD, a legal framework that ensures an environment without barriers or obstacles, and includes access to goods and services*
- Recommendation n°19: *Eliminate discriminatory practices against persons with disabilities in the medical setting and ensure physical access of children with disabilities to educational and public institutions, as part of its implementation of the Strategy of social inclusion of persons with disabilities*

⁶ Nondiscrimination Coalition Report on „Monitoring of activity of Council on the Prevention and Elimination of Discrimination and Ensuring Equality during the year 2015”, p.13

<http://nediscriminare.md/wp-content/uploads/2016/02/RaportCPEDAE2015.pdf>

⁷ CPEDEE's [Report on the work undertaken in 2014](#).

⁸ Promo-LEX Report on „Human Rights in Moldova” https://promolex.md/upload/publications/ro/doc_1437047545.pdf.

⁹ CPEDEE's [General Report on the situation in preventing and combating discrimination in the Republic of Moldova in 2015](#), p.10.

The Law No. 60/2012 contains the general obligation of the public authorities to ensure the accessibility of the physical environment for the persons with disabilities.

Moreover, the Action Plan on the implementation of measures to ensure accessibility for people with disabilities to social infrastructure¹⁰ and new State standards in constructions¹¹ were approved.

Despite of these, in Moldova in general is observed a severe lack of accessibility of the physical environment and transportation. The capital Chisinau, where most sidewalks, official buildings and other public places lack even the basic accessibility measures, such as ramps, is almost entirely inaccessible. Public transportation and taxis are also generally not accessible¹².

The Association „MOTIVATION” of Moldova has developed the accessibility map, where 1152 buildings were included (state, educational, health institutions, stores, companies, etc.), the majority being located in the municipality of Chisinau¹³. Only 16% of those were evaluated as accessible for wheelchair users. The number of accessible buildings for the persons with sight disabilities is lower.

But even more alarming is the situation that currently are being built and put into operation buildings without accessibility measures to the need of disabled persons, flagrantly violating the Law No. 60/2012 and another provisions of Moldovan legislation.

Persons with disabilities face a number of barriers when exercising their human right of access to justice. Firstly, persons with disabilities are often denied procedural accommodation in court, while the accessibility of court buildings and services themselves remains a serious challenge¹⁴.

• Recommendation n°87: *Continue pursuing awareness raising campaigns aimed at eliminating stigmatization of persons with disabilities, the difficulties they face at the labour market and in general, their exclusion from social life*

Annually, in the period of International Day of People with Disabilities, the State institutions, international agencies and NGOs organize diverse activities to raise awareness of the society about rights of people with disability. Such events as trainings and various thematic meetings also are organized throughout the year. Despite the awareness-raising measures, the social inclusion of people with disabilities is still an issue, and the statistics show that people with disabilities, especially those with mental disabilities, are among the groups with the highest rate of discrimination¹⁵.

The stigmatization and exclusion of persons and children with disabilities affect their ability to enjoy their human rights. Children with disabilities are often perceived as being abnormal or

¹⁰ Government Decision no. 599 from 13.08.2013

¹¹CP C.01.02-2014(Design of the buildings and structures, with the due regard on accessibility for the persons with disabilities) and NCM C.01.06-2014(General requirements on security for the construction objects on their use and accessibility for the persons with disabilities)

¹²Report of the Special Rapporteur/mission to Moldova, point.29

¹³<http://motivatie.md/harta-accesibilitate/>

¹⁴Report of the Special Rapporteur/mission to Moldova, point 53

¹⁵ CPEDEE's General Report/2015, p.7-9

unhealthy, and are reportedly at times seen as a burden to their family. These stigmatizing views are interlinked with and are mutually reinforced by a lack of community support services that cater to their needs¹⁶.

In Moldova, persons with disabilities are still mostly perceived as being devoid of agency, unable to make a positive contribution to society and best accommodated in social-care systems segregated from society at large.

Although the level of the employment of people with disabilities through the National Agency of Employment is constantly growing (from 71 people in 2010, to 220 people in 2014)¹⁷, according to the National Bureau of Statistics, the employment rate remains, however, insignificant – out of the total number of employees in Moldova (796600 persons, excluding self-employed and freelancers) only 0.9% are people with disabilities¹⁸. People with disabilities continue to be excluded from the labor market, a treatment that demoralizes them and increases their fear of trying to integrate into society.

- Recommendation n°23: *Undertake efforts to prevent child labour, the segregation of children with disabilities in educational system and prevent the crimes committed against children, especially smuggling and sexual harassment*
- Recommendation n°59: *Consider ways and means to ensure the right to education of children with disabilities, also in collaboration with the relevant international organizations and agencies*
- Recommendation n°86: *Improve the levels of assistance provided to children, especially disabled children, children in vulnerable groups, orphans and street children, and ensure their full integration into society, and take all measures to put an end to child labour*

According to the data provided by Ministry of Labor, Social Protection and Family, in “neuropsychological institutions” (so-called “internats”) on 1th February 2016 were 2095 of people with disabilities, from which 1052 were male and 1043 female.

From the total number of beneficiaries, 635 persons are deprived of their legal capacity, from which 374 were deprived in the period from 2010 to 2015. During this period of time, only 3 institutionalized persons were restored in their legal capacity.

Additionally, in the same period 259 persons were deinstitutionalized, while 374 people were institutionalized¹⁹.

Beginning from 2011 the state has started to implement deinstitutionalization programs for children with disabilities from the institutions that are inefficient and where beneficiaries sometimes are subjected to physical, mental and sexual abuse perpetrated in these institutions²⁰. At the same time the Government approved some types of social services for people with disabilities for

¹⁶Report of the Special Rapporteur/mission to Moldova, points 18-21.

¹⁷ CPEDEE's *General Report/2015*, p.15

¹⁸ <http://www.statistica.md/newsview.php?l=ro&idc=168&id=4976>

¹⁹The answer of Ministry no.01-352 from 29.02.2016 to Nondiscrimination Coalition request.

²⁰Report on observance of the rights of patients at the psychiatric hospitals and psychoneurological facilities of the Republic of Moldova, for the period of July 01, 2013 – June 31, 2014, Doina Ioana Străisteanu, Pilot Project of the Ombudsman on Psychiatric Hospitals, <http://dis.md/baaps/>

deinstitutionalization from the institutions, including children, such as: the housing service for children with severe mental disabilities „*Community House*”²¹ and „*Supported Living Service*”²² for individuals with mild mental disabilities, etc.

On the other hand, there has not been developed a concrete Action Plan regarding closing the segregating “neuropsychological institutions” and their replacement with alternative community services.

Meanwhile, many positive initiatives in the education field were implemented. Despite of this, a number of barriers to the fulfillment of the right of persons with disabilities to education still persist. They include administrative barriers faced by children with disabilities when registering for final examinations. The Government should therefore make a greater effort to provide high-quality bilingual education in sign language and writing for hearing impaired children²³, to do more in ensuring access to quality inclusive education for all children with disabilities, including those that may face particular barriers to access, such as hearing impaired children, children with intellectual and psycho-social disabilities, girls and Roma children with disabilities²⁴. It would also be crucial to enhance efforts to guarantee the physical accessibility of all educational settings. The school buses from all over the country do not provide the possibility to transport a person in a wheelchair.

Persons with mental or intellectual disabilities

In accordance with data provided by the Ministry of Justice, in the period from 2005 to 2015 in Moldova, 2532 person were deprived from their legal capacity by Courts. From the total number of persons declared incapable, just 8 persons were restored in their legal capacity.

During the period 2010-2015, when the Convention was ratified, 1755 people have been deprived of their legal capacity²⁵.

Persons that are declared incapable have no access to justice because of a lack of legal standing, only the person’s guardian or the public prosecutor can bring a civil case on behalf of a person deprived of legal capacity to court, if there is a public issue at stake²⁶.

Once the person is declared incapable, he/she loses automatically the other rights: to get married, to take care of his/her own children, to elect and to be elected, to be a member of any non-governmental organization, etc.

On 7 May 2015 the Moldovan Parliament adopted the Law No.87, which strengthens the rights of disabled people. Due to this law, for the first time in Moldova, the right to vote of people who have been deprived of legal capacity on the basis of their disability was legally recognized. The new law also allows persons under guardianship to appeal against decisions that deprive them of or restrict their legal capacity. It also establishes administrative sanctions for failing to make services or

²¹<http://www.keystonemoldova.md/en/what-we-do/community-homes.php>

²²<http://www.keystonemoldova.md/en/what-we-do/supported-living.php>

²³Report of the Special Rapporteur/mission to Moldova,p.34

²⁴Statement of the United Nations Special Rapporteur on the rights of persons with disabilities, Catalina Devandas Aguilar, on the conclusions of her official visit to the Republic of Moldova

²⁵The answer of the Ministry no.03/3193 from 29.02.2016 on Nondiscrimination Coalition request.

²⁶Report of the Special Rapporteur/mission to Moldova, points 51-53

premises accessible for people with disabilities, etc.²⁷ However, the President, referring to an incorrect translation in Romanian of article 12 of the Convention, withheld approval of the legislation and returned it to Parliament for revision²⁸.

Recommendations:

1. To implement the relevant recommendations from the previous cycle, which were addressed to Republic of Moldova, related to *employment, stigmatization, segregation, education, etc.*;
2. To ratify the Optional Protocol to the Convention on the Rights of Persons with Disabilities;
3. To adopt and implement the next Moldova's National Human Rights Action Plan, taking into account the previous recommendations made by international human rights mechanisms on the rights of persons with disabilities ;
4. To promulgate the of Law No.87 adopted by Parliament on 7 May 2015, establishing a right of appeal against guardianship, a right to vote for persons under guardianship and establishing (in its original text approved by the Government) administrative sanctions for violating the rights of disabled people;
5. To review the existing legislation on legal capacity in the light of current human rights standards and substitute outdated system on guardianship and introduce systems of support for the exercise of legal capacity in accordance with article 12 of the Convention on the Rights of Persons with Disabilities;
6. To establish the moratorium on institutionalization of people with disabilities in „neuropsychological institutions” and deprivation of legal capacity and to establish expedited ways of restoring legal capacity for those deprived of it;
7. To establish an efficient mechanism to redistribute public funds from institutions to community services, and allocate sufficient resources from the central budget for the development of support services in local communities;
8. To stop the construction and putting into operation of buildings without accessibility measures for the need of disabled persons;
9. To establish an efficient mechanism of implementation and control on the accessibility requirements at all stages of design, execution and use of constructions;
10. To approve a mechanism of sanctions for companies, institutions and organizations of any form of property, which do not comply with the legal provisions on elimination of the existing barriers and adequate equipping of the social infrastructure (building, transport means, telecommunications, etc.), pursuant to the standards in force;
11. To adopt an effective action plan on renovation of old buildings and public spaces in the view of ensuring the accessibility for the persons with disabilities, including road infrastructure (pedestrian crossings, installation of sound traffic lights, public transport stations, etc.), to adapt urban and interurban transport;

²⁷OHCHR Press briefing note on Republic of Moldova

<http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=15948&LangID=E>

²⁸Report of the Special Rapporteur/mission to Moldova, point 12



12. To organize trainings for the representatives of the public authorities and courts, in order to facilitate the application of the legal measures to prevent the discrimination of disabled persons.