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Anti-Discrimination Center “Memorial”

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The Situation of Vulnerable Children in the Republic of Moldova

Joint Submission to the Human Rights Council

at the 40th Session of the

Universal Periodic Review

(Third cycle, November 2021)

Republic of Moldova

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TABLE OF CONTENTS

TABLE OF CONTENTS.....	0
I. Introduction.....	1
II. The Universal Periodic Review of Republic of Moldova under the Second Cycle (2016).....	1
III. The International Obligations of Republic of Moldova.....	1
IV. Protection of children affected by migration.....	1
V. Children in penitentiary institutions.....	3
VI. Children in probation system.....	4
VII. Problems of independent monitoring of closed Institutions of different types.....	4
VIII. Recommendations.....	4

I. INTRODUCTION

1. Anti-Discrimination Centre (ADC) Memorial and AVE Copiii made this joint submission in relation to the issue of deinstitutionalization of child care and penitentiary system and related violations of children's rights in Republic of Moldova: the report focuses on the situation of vulnerable children (in closed institutions of different kind, in contact with law, in migration).
2. Anti-Discrimination Centre (ADC) [Memorial](#) is a Human Rights NGO defending the rights of vulnerable groups (such as representatives of ethnic minorities and indigenous peoples, migrants, stateless persons, LGBTI and others) in Eastern Europe and Central Asia, through national and international advocacy, strategic litigation and education/information work.
3. The Association for Child and Family Empowerment "[AVE Copiii](#)" is a public, democratic, politically and religiously independent, non-profit-making organization. It was found in 1992 with the main goal of protection of rights of all children, and as well as providing of all opportunities for vulnerable sections of people to the access of different services, particularly for abandoned children, for abused children, victims of labor exploitation and of human traffic, and for homeless children. "AVE Copiii" is co-founder and active member of Alliance Non-governmental Organizations Active in the field of Social Protection of Children and Family, a national network which estimates more than 60 non-governmental organizations.

II. THE UNIVERSAL PERIODIC REVIEW OF REPUBLIC OF MOLDOVA UNDER THE SECOND CYCLE (2016)

4. Being subject to the UPR [under the second cycle in 2016](#), Republic of Moldova accepted a number of important recommendations related to the protection of children/minors against exploitation, abuse, violence, domestic violence, sexual violence, including in the context of trafficking (121.103 – 121.117); as well as the recommendation 122.31 Effectively guarantee the rights of migrants (by China). Republic of Moldova also noted 8 recommendations to ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

III. THE INTERNATIONAL OBLIGATIONS OF REPUBLIC OF MOLDOVA

5. Republic of Moldova is a party to core UN Human Rights treaties having relation to the problem of discrimination: International Covenant on Civil and Political Rights; International Convention on the Elimination of All Forms of Racial Discrimination; International Covenant on Economic, Social and Cultural Rights; Convention on the Elimination of All Forms of Discrimination against Women; Convention on the Rights of the Child; Convention on the Rights of Persons with Disabilities; it also signed the Convention for the Protection of All Persons Against Forced Disappearances.

IV. PROTECTION OF CHILDREN AFFECTED BY MIGRATION

6. The economy of Moldova is very much dependent on external migration which adversely affects both children migrating with their parents and children left behind. Children face a huge risk of neglect and homelessness, falling into exploitation and sexual abuse, dropout from school education, conflict with the law. In 2020-2021, in Moldova, as in the other countries, the situation is dominated by COVID-19, in economical dimension as well. [According to the World Bank](#), even before the COVID-19, the economy of Moldova slowed sharply in the last quarter of 2019. From the Human Rights perspective, the economic crisis deepens the already existing inequalities, and has negative implications on the already vulnerable families.
7. The State Border Police of Moldova stated that for the period from March to June, 2020, 300 000 persons entered Moldova, out of them approximately 70% are returning migrants. [IOM reported](#) that almost half of the Moldovan migrants have already lost jobs due to COVID pandemic and stopped sending money to their families. IOM also [reported](#) (2020) that High rates of dependency on remittances of vulnerable populations in Moldova, with a quarter of Moldovan households (237,000 households) receives remittances and for half of these households (118,000 households) remittances constitute more than 50% of the income; 23.4% of households, i.e. 224,000 households (30.5% in rural areas) would be placed below the poverty line if they did not receive remittances; with 17% of all migrants indicating that they already stopped remitting, this would concern 37,500 Moldovan households which will fall under the poverty line (i.e. some 108,750 persons).
8. Some families already struggle for survival, and do not have enough money to cover their basic everyday needs. The situation of elderly persons, especially those who have chronic or complicated diseases and need medical assistance is also complicated. **The situation of Roma minority** has already aggravated, as the majority of Roma worked informally or as seasonal workers in the other countries. Now being left without income they also cannot

get any assistance from the government as they did not work officially. The measures taken for distance education present the serious obstacles for Roma children to continue their studies. To afford distance learning, a child should have a computer or another device with access to the Internet. However, in Roma communities, it is [estimated](#) by Roma activists that only 11% have computers, and 10% have access to the Internet. This facilitates the drop-off of Roma children from schools. Moreover, the distance learning also demands the assistance of parents to children which is problematic, as many adults in Roma community have basic education or do not have any.

9. Similar obstacles with **access to education** have some other vulnerable groups of children - children left without parental care, including orphans, children from poor families, children with disabilities. They also face lack of computers or other devices and Internet connection, as well as lack of assistants who could accompany their distance learning (CCF/ HHC Moldova, 2020. [Research](#) on the situation of families with children at risk in the context of the pandemic caused by coronavirus). Many children lost any motivation to study, and do not want to continue. This is especially problematic for youth and teenagers, who lose any perspectives in life without education and part of their social payments. Currently, the assistance to vulnerable children and provision of computers/ telephones was performed only by NGOs, charities, international organizations and do not have systematic character.
10. Moldova has made significant progress in deinstitutionalization in the field of childhood. This applies, among other things, to the elimination of the system of police institutions – children's reception centers, where children in conflict with the law were previously placed, as well as children subject to repatriation to other countries and children – citizen of Moldovan repatriated from other countries. Transfer of children to relatives or other persons is facilitated by the Department for Family Protection and Child Rights Policy of the Ministry of Health, labour and Social Protection. Otherwise, the child is delivered to its family at its place of residence or to the social services institution where the child will reside. The persons or institutions that receive the child provide advance notification of arrival. However, independent monitoring and state control over the social institutions/ families that should be secure places for children who might be victims of exploitation and violence remain a challenge for the country.
11. At the same time, Moldova remains a member of the CIS, a post-Soviet integration association with inter-country multilateral agreements. One of them – the so-called Chisinau Agreement: the Agreement of Cooperation of States-Members of the Commonwealth of Independent States on the Return of Minors to their State of Residence (2002) is the main document regulating the movement of minors between former Soviet countries and establishing procedures for their repatriation. This document can no longer operate effectively due to the reform of transit institutions in several countries and overall changes in the political landscape of the region. It should be noted, however, that Moldova has an internal procedure, adopted by [government decision](#), regarding the assisted voluntary repatriation of children and persons at risk, which refers only to the country's citizens, not to foreign citizens at risk on the territory of the Republic of Moldova. Thus, Moldova is forced to follow the outdated Chisinau Agreement when repatriating children to the CIS countries, since there are no new agreements in this area. In addition, the return of Moldovan children to their homeland is difficult due to the fact that the Ministry of Labor, Social Protection and Family does not have sufficient funds to deliver children.
12. In Moldova after repatriation of migrant children they may follow such paths: (re)integration into the biological/ expanded family, or placement in foster care (family-type children's homes, professional parental assistance), temporary accommodation centers, or mother and child centers. The specific aspect of Moldova's practice is its wide interpretation of the concept of "family": documents on the repatriation of children refer to a "biological/expanded" (up to and including the 4th degree of relationship) family to which a child may be transferred if the family is prepared to care for him or her.
13. However, that practice of turning children over to relatives (sometimes distant relatives) without sufficient monitoring of what happens to them in the future, even though they face the risk of becoming victims of various forms of violence and exploitation is problematic. Currently, the analysis seems insufficient – of the circumstances of how the child got into a difficult situation and what was the role of the "extended family" in this (for example, how the family allowed the child to get into exploitation or slavery, what is the guarantees that the child would not appear to be in such situation again). In order to ensure the respect of the best interest of children in the situation of repatriation, it is necessary to establish the system of monitoring of the well-being of the children after return to the extended family. It is the monitoring that could prevent the further violation of children's rights and any harm children can experience.
14. At the same time, significant efforts have been made in Moldova to bring the procedure for the repatriation of children in line with modern international standards of children's rights. In 2008, the government approved [Regulations on the Procedure for Repatriating Child and Adult Victims of Human Trafficking and Illegal Migration and Unaccompanied Children](#) (approved by Resolution No. 948 of the Government of the Republic of Moldova of August 7, 2008). The Regulations factor in the principle of the best interests of the child and a child's right to have his or her own opinion regarding repatriation (children over the age of 10 give their written consent to repatriation) and provide for guarantees of control over a child's situation after repatriation. The Regulations also cite readmission treaties Moldova has signed with other countries. Amendments were made to this document in 2017 and it is now

known as Regulations on the Procedure for Repatriating Child and Adult Victims of Human Trafficking, Persons in a Difficult Situation, and Unaccompanied Children (Approved by Resolution No. 255 of the Government of the Republic of Moldova of April 27, 2017).

15. In practice, Moldova uses the professional guide “Working on the Case of a Child Discovered on the Territory of a Foreign State and Unaccompanied by Legal Guardians” (Approved by Order No. 52 of the Minister of Labor, Social Protection, and the Family of April 25, 2014). This guide details actions that government bodies, institutions, and specialists in the sphere of child protection must perform at various stages of the repatriation of different categories of children (new-borns, school-age children left without parental care, with special health problems, and so forth).
16. In 2018-2020, as a result of the cooperation of representatives of relevant ministries, Ombuds-institutions, civil society of Ukraine and Moldova, a model bilateral agreement on the repatriation of children was developed, in line with modern Human Rights standards, including the General Joint Comments of the UN CRC and CMW (Joint General Comment No. 3 (2017) of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and No. 22 (2017) of the Committee on the Rights of the Child on the general principles regarding the human rights of children in the context of international migration, CMW/C/GC/3/CRC/C/GC/22; Joint general comment No. 4 (2017) of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and No. 23 (2017) of the Committee on the Rights of the Child on State obligations regarding the human rights of children in the context of international migration in countries of origin, transit, destination and return, CMW/C/GC/4/CRC/C/GC/23). The conclusion of such an agreement would be a pilot example of best practice for the entire post-Soviet region, as well as for other countries with intensive migration with Moldova.
17. The problem of immigration detention of children also exists and should be stopped. In case of illegal stay or entry to the territory of the Republic of Moldova and when a person does not leave Moldova within the prescribed terms, he/she can be put into public custody for the period up to six months by the decision of the court. There is no provision for different treatment of migrant children in an irregular situation. Therefore, families with children or unaccompanied or separated migrant children are also placed in custody. There is one migrant accommodation centre in Moldova, established in 2004 in capacity of 200 persons and operated by the Ministry of Internal Affairs (according to the Council of Europe, [A Study of Immigration Detention Practices and the Use of Alternatives to Immigration Detention of Children](#), 2017, p.20).

V. CHILDREN IN PENITENTIARY INSTITUTIONS

18. Moldova has made significant efforts to improve the situation of minors in penitentiary institutions, both in improvement of the conditions and promotion of progressive practices. However, there are a number of points of concern.
19. For boys serving their sentences, there is a penitentiary institution no. 10 (Goieni) with modern conditions. There is opportunity for school education of the boys in the locality where they are escorted; however, decisions on participation of all boys in schooling sometimes are made on arbitrary basis.
20. There is no specialized penitentiary institution for juveniles in pre-trial detention. According to the policy matrix of the Financing Agreement *Support for justice sector reforms*, signed between the European Commission and the Government of the Republic of Moldova, all juveniles in conflict with the law, in state custody, were to be transferred to the renovated Goieni Penitentiary nr. 10, including for the pre-trial detention (currently, there are 4 penitentiary institutions for pre-trial detention: nr. 13 (Chisinau), nr. 11 (Balti), nr. 5 (Cahul) and nr. 17 (Rezina) in which both children and adults are detained). It was estimated that in the first half of 2020 the penitentiary will be ready to house the first detainees in pre-trial detention but project is delayed, and juvenile detainees are still housed in the old premises. The COVID19 pandemic also contributed to the delay. The situation in the institution #13 is of the greatest concerns, as it is quite an old one, boys and girls are detained there; the minor's cells are closed to the cells of adults; the special hygienic needs of girls are not covered by the budget. There is no specialized institution for women in pre-trial detention.
21. Girls are serving their custodial sentence in penitentiary No. 7 (Rusca) in area for pregnant women and those with children under three years. As there are quite few detained girls (1-3, data of the National Administration of Penitentiaries for 2020-2021), deprivation of liberty separately would turn to single isolation. Poor opportunity for education of the girls in a collective of children is a matter of concern.
22. Mothers with children under 3 years old serve their custodial sentences in Penitentiary no. 7 (Rusca) and in penitentiary nr. 16 (Pruncul) - *Mother's and Child's House*. The regime there is semi-closed, the detention conditions are much more favorable. Pregnant women and nursing mothers are provided with an additional food ration daily, they also have the right to purchase food using the money from their peculium account (amount of money received by a convict after serving his sentence, for work performed during detention). At the same time, there is no separate resources within detention institutions budget to provide food for children according to age standards, while often financial possibilities of detainees are poor. Besides, there is no separate budget line for ensuring the specific needs

of specialized medical care for children aged 0-3 meaning no pediatric unit in the staff (data of monitoring of the People's Advocate for the Rights of the Child, 2019).

23. For mothers and children being together is mutually beneficial, both for normal development of children and for better socialization of women at the post-penitentiary stage. At the same time, it creates challenges from the perspective of children's rights. Being *de jure* free, children experience isolation, lack of socialization with the outside world that negatively affects their development and social reintegration. A good practice of providing children of the detained mothers with nursery / kindergarten in the locality was elaborated in cooperation with civil society but delayed due to the pandemic. This project needs to be implemented and supported by the authorities, both in organizational and financial dimension.

VI. CHILDREN IN PROBATION SYSTEM

24. Currently, the National Probation Inspectorate implements several probation programs that also target minors, such as *Probation program for minors: Civic and vocational training for you and the community* (targets children who have been released from criminal liability / punishment, being applied the measure of educational coercion, in the context of the Criminal Code provisions, namely the obligation of the child to participate in a probationary program, either as an obligation imposed by the court in the context of other norms; *Aggression reduction program* (targets children and young people up to the age of 21, who are registered with the probation body who have problems related to violence / aggression); *Cognitive-Behavioral Programs: Motivation for Change and the Program for Reducing Pre-Delinquent and Criminal Behavior of Children and Adolescents at Risk*; *Psychoeducational intervention programs for substance users*; *Psychosocial assistance program at the presential stage (individualized)*; *Intervention program for the preparation for the release of convicts*.
25. On December 30, 2019, by Order no. 347, the Ministry of Justice approved the [Probation Planning Regulation](#) that regulates a complex of actions of supervision, assistance and counseling of the subjects of probation in order to achieve the objectives of probation. At the same time, there is no relevant analysis available on the implementation and results of the probation programs in relation to children in the Republic of Moldova.

VII. PROBLEMS OF INDEPENDENT MONITORING OF CLOSED INSTITUTIONS OF DIFFERENT TYPES

26. Closed institutions are not limited to penitentiary ones only. They include sanatoriums for children in contact with tuberculosis patients, boarding schools for children with special health conditions, including mental ones. In addition, social institutions, such as adaptation centers and shelters, should also be subject to independent monitoring.
27. Meanwhile, some other issues are also very important: compliance of an institution with the life, educational, development needs of the child; for example, whether the level of education in a particular institution is sufficient for the development of the child, what goals are pursued when placing the child in this institution. Thus, independent observers need more refined monitoring tools.

VIII. RECOMMENDATIONS

Based on this submission, the co-submitting organisations propose that Reviewing States make the following recommendations to the Republic of Moldova:

- Prevent children in getting into vulnerable situations in the context of migration and other factors through their full integration into schooling and out-of-school educative activities; support NGOs profiled in child care; with special focus on Roma children and their integration into school education.
- Stop immigration detention of children and separation from both parents, in line with the [position of the Council of Europe](#); elaborate adequate alternatives to detention in accordance with UN Committee on Migrant Workers and UN Committee on the Rights of the Child in the Joint General Comments No. 4 CMW/No. 23 CRC (2017) "On State Obligations Regarding the Human Rights of Children in the Context of International Migration in Countries of Origin, Transit, Destination and Return"
- For better protection of children in migration, conclude new bilateral agreements on the repatriation of children with account for the most current UN standards on the rights of the child, replacing the outdated legislation (namely, the CIS Chisinau Agreement).
- Ensure the effective protection of the rights of Moldova citizens working abroad; ratify the International Convention on the Rights of all Migrant Workers and Members of their Families.
- Join the 3rd Optional Protocol of the Convention on the Rights of the Child.

- Encourage progressive practices on reintegration of children in conflict with law: develop the system of probation; provide education for children serving their sentences; cooperate with civil society on creating conditions for independent monitoring of closed institutions.
- Place children in special children's penitentiaries only as the last resort, improve conditions in penitentiaries, ensure maximum openness of these institutions to external monitoring, create a procedure for regular visits to these places by relatives and independent NGOs' representatives.