



UQAM



**Clinique internationale
de défense des droits humains**

HUMAN RIGHTS INFORMATION CENTER (HRIC/CIDO) AND UQAM'S
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ON THE UNIVERSAL PERIODIC REVIEW
OF REPUBLIC OF MOLDOVA

Introduction

1. The present report has been developed on the basis of information received from the representatives of several groups vulnerable to human rights violations. Prior to the beginning of the work on the reports, the representatives of the groups have been empowered by CIDO¹ in the domain of basic methodology of human rights monitoring and reporting within the UPR mechanism. Moreover, the inclusive process of human rights monitoring has been facilitated by continuous assistance from CIDO and the final compilation and drafting of the unified report by UQAM's International Clinic for the Defense of Human Rights². Thus, the report highlights weaknesses in regards of the rights of several marginalized and vulnerable social groups from Republic of Moldova.

Summary

2. This report discusses the rights of persons with disabilities, those of religious minorities and, lastly, the rights of the Roma people.

Persons with disabilities

3. While the Republic of Moldova has ratified the *Convention on the Rights of Persons with Disabilities* (CRPD) in 2010, it appears that little progress was made in terms of deinstitutionalization, social services offered to this group, as well as accessibility to public services. Currently, there are 184 345 persons in Moldova living with a disability, 27 625 of which have severe disabilities and 119 929 who have less severe disabilities. Although Law n° 60 on the Social Inclusion of Persons with disabilities³

¹ Human Rights Information Center (HRIC/CIDO) is a non-governmental organization operating in the Republic of Moldova. The organization specializes in the monitoring, the defence as well as the promotion of Human rights within the country and abroad.

² The CIDDHU is an academic project hosted by the Faculty of Political Science and Law of the University of Quebec in Montréal. It allows students to acquire practical experience in the defense of human rights at the national and international level. The Clinic's mission is to support the actions of civil society aimed at the promotion and protection of human rights by offering assistance to victims of human rights violations and to their defenders.

³ *Lege privind incluziunea sociala a persoanelor cu dizabilitati*. Online: <<http://lex.justice.md/md/344149/>>.

was adopted by the parliament to address that reality, the programs remain insufficient, and more broadly, the government fails to implement the those programs adequately.

4. As it has already been mentioned in 2011 in Moldova's Alternative Report to the Committee on Economic, Social and Cultural Rights⁴, persons with disabilities in Moldova suffer from exclusion. Persons with physical disabilities as well as mental disabilities often experience institutionalization because of a tendency in Moldova to treat them only from the medical perspective of mental illness. The institutionalization is a barrier to accessing care and services adapted to their particular needs. Moreover, institutionalization leads to social exclusion and therefore violates article 26 of the CRPD. Finally, it has been repeatedly proven that institutionalized persons with disabilities suffer from grievous violence and abuses in Moldova⁵.

5. Paragraph 53 of *Law n° 60* prescribes that government has to implement a service offering assistance to people with severe disabilities in the form of a personal assistant. As it is, only 1892 persons are employed by the state as personal assistants whereas there are 27 625 persons⁶ in need of the service. Some of the persons with disabilities need personal assistance daily, others require very specific care. The authorities are justifying the lack of assistance to these persons by the insufficiency of financial resources. However, the difficulty to implement efficient access results from insufficient resources dedicated towards this issue.

6. In accordance with their obligation regarding the CRPD, Moldova's government created three programs: (1) Mobile Team; (2) Respiro; and (3) Personal Assistance. While these programs are known to work to provide some relief, they depend on the resources allocated by the local authorities which are insufficient. Furthermore, the government should provide more oversight to make means and ends meet. In substance, this problem translates itself in poor accessibility and social integration of people with disabilities. The three programs are not present in each of the 35 districts. As a matter of fact, there are Mobile Teams in only 16 districts and Respiro services in only 5.

7. Another major issue regarding the services offered by the state to persons with disabilities is that of funding. Paragraph 57 of the *Decision no 314 Approving the framework regulation on the organization and functioning of social "Personal Assistance" and minimum quality standards*⁷ addresses this state obligation. Yet its vague and loosely normative nature leaves a significant loophole in said *Decision*, thus rendering it obsolete. Moreover, persons living in rural areas are even more discriminated because of the new amendments to *Law no. 397-XV* on local public finances. It provides that the financing of social services for local issues will strictly come from local authorities. This policy increases the disparity in the quality of social services local authorities can provide to their population. Rural regions are disadvantaged by this policy as their revenues are uneven, the same way their sources of income can be precarious. Finally, regarding institutional funding, the government's *Decision no. 520*, approved in

⁴ Report submitted by CIDO in collaboration with the NGO Homo Diversus.

⁵ The experts of the Committee against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Special Rapporteur recently recommended that the Transnistrie's Psychiatric hospital should be closed because of reported cases of violence, abuses and bad treatments.

⁶ According to the data received from the Ministry of Labour, Social Protection and Family through an access to public information request.

⁷ pentru aprobarea Regulamentului-cadru privind organizarea și funcționarea Serviciului social „Asistență personală” și a Standardelor minime de calitate. Online: <<http://lex.justice.md/viewdoc.php?id=343395&lang=1>>.

2006, prescribes the rules of budgeting for persons placed in institutional care on food provision, medicine and materials, dressing, clothing, shoes, soft inventory, hygienic products, health, games and toys of persons living in social institutions. Although they are indexed annually, these rules are outdated and do not reflect the real needs of social services beneficiaries. Consequently, the state fails to answer the needs of these persons.

8. It has been commonly used as a plea by the state that its poor economy and lack of resources hinders its ability to fulfil its obligations towards persons with disabilities. However, one cannot ignore the severe corruption that weakens the government. The government often pleads the lack of resources to justify a cut in services and delays in the evaluation procedure for the eligibility of persons. Nevertheless, the Court of Account highlighted 1391 cases of non-compliance with legal regulations, noting discrepancies and shortcomings both in economic-financial management, as well as in financial reporting (the difference represented about 4,7 billion lei out of over 44, 393 billion, which is equivalent to a little more than 10% of the total amount)⁸. The same Court also pointed to the problems of inconsistency and inefficiency in the allocations' attribution and in the inadequate utilization of financial resources affected to the public sector development. It is also worth mentioning that Moldova has recently lost at least \$1 billion through the banking system as a result of a massive fraud scheme⁹, which is about 1/8 of the nominal GDP of the country. By this behaviour, the state does not attempt to fulfil its international obligations to act with the maximum of its available resources to protect the rights guaranteed by the ICESCR¹⁰. Moreover, by not taking the responsibility to implement effective social programs, the Republic of Moldova has not met its obligations to take all appropriate measures to fulfil its obligations by virtue of article 33 of the CRPD.

9. According to article 16 of the Constitution, every person in Moldova is equal before the law and public authorities without discrimination of any kind. Because of its lack of consideration for access to public services, the government of Moldova is ignoring its obligations towards persons with disabilities. Despite its commitment to article 9 of the CRPD, no regulation is yet effective concerning accessibility issues. The government does recognize that accessibility is a major issue for persons with disabilities. In that order, a Planning and Construction Code was elaborated to adapt infrastructures. However, no public institution has been created in order to oversee the adaptation of public infrastructures to the needs of persons with disabilities.

10. In particular, the right to education of children with disabilities is severely violated because no accommodated school transportation and special teaching programs are made available for them. None of the scholarly institutions are adapted to their reality and specific needs. Based on CIDO's research, school principals and teachers motivate that children with disabilities usually decide to stay home, that it is better for them and they are not able to keep up with the school program or that they have difficulties getting to school and it is more convenient for them to stay home. The authorities do not see it as their responsibility to undertake specific measures to ensure their integration, but rather as the personal choice of these families. Therefore, these children are confined at home, and to add insult to injury, the government omits to provide them with a sufficient allocation to fulfil their needs and those of their

⁸ *Annual report 2014*, Court of Accounts reports, p.16, online: <http://www.ccrm.md/public/files/file/raport/rap_anual/RaportAnual_2014_ro.pdf>.

⁹ *Final report prepared for the National Bank of Moldova by Kroll, April 2015*, online: <miamioh.edu/cas/_files/documents/havighurst/kroll-project.pdf>.

¹⁰ Paragraph 2 (1), *International Convention on the Economic, Social and Cultural Rights*.

family. Moreover, those suffering from a minor disability and who are able to integrate the current education system are often discriminated and marginalized by other students and even by the teachers.

The State of Moldova should:

- Attribute appropriate financial resources and increase the number of qualified staff members in order to make the current social programs (Mobile Team, Respiro and Personal Assistance) effective;
- Amend article 57 of *Decision no 314* in order to clearly define the financial obligations of the government concerning persons with disabilities;
- Make available detailed information on the funds allocated to people with disabilities and to social services in respect of article 57 of *Decision 314* as a means of transparency;
- Develop at a national scale a sensitization and awareness raising strategy about persons with disabilities;
- Integrate a strategy of social inclusion of persons with disabilities to all the existing public policies such as those concerning employment, public transportation, education, and so on;
- Proceed to the establishment of a public institution in charge of the effective verification of the public infrastructures accessibility;
- Adapt the public infrastructures to ensure access to persons with disabilities and avoid discrimination;
- Eradicate the corruption that occurs in the country by making public spending transparent and accessible.

Religious minorities

12. The Moldovan Constitution guarantees the equality of all under its article 16 and freedom of conscience under article 31. The extent to which the latter guarantee applies has since been further specified in Law no 125 on religious cults and their component parts. However, section 15(5) of the same law affirms the historical and cultural predominance of the Moldovan Orthodox Church (MOC) which is a part of the Russian Orthodox Patriarchate. Such a contradictory statement may lead to discriminatory attitudes towards religious minorities, and may contravene the principle of equality and that of freedom of conscience of religious minorities as shall be demonstrated.

13. The *Report on the Snapshot Study of the Right to freedom of thought, conscience and religion (fundamental religious freedoms and rights) in the Republic of Moldova*¹¹ indicates that 150 000 persons belong to religious minorities. They represent 5% of Moldova's population but there are no studies that could help understand the proportion of the non-religious population. The most frequently discriminated groups are: Jehovah's Witnesses, Pentecostals, the Islamic League, the Christ's Church and Falun Dafa. Their followers are extremely vulnerable for a number of reasons. First, the MOC is known to influence Moldova's policy making. Second, religious minorities are often the targets of violence and discrimination. Third, they lack the legal remedies needed to seek redress and they often face an unfair trial in trying to defend their rights in court. Lastly, their freedom of association is often denied, as well as the possibility for them to publicly register their group as a religious organization.

¹¹ This report has been submitted by *Coalitia Nediscriminare, CIDO* and *Consiliul National al Tineretului din Moldova* in April 2013. Online: <www.cido.org.md/attachments/article/79/Summary%20EN.pdf>.

14. The proximity between the government and the MOC lies in the electoral dependency of the former on the latter. This proximity can be illustrated by the fact that the main leader of the MOC enjoys a diplomatic passport and diplomatic plates, while no other religious groups' representatives benefit from the same privileged treatment. The MOC's interference in public affairs can be observed in the entirety of the policy making process, and in many aspects of public life such as education and healthcare. This violates the principle of secularism, which is enshrined in the Constitution, at its core and discriminates against other religious cults in Moldova. This gave way to situations like the withdrawal under the pressure of MOC of a course called "Life Skills" in high schools. This course had been introduced as a joint initiative of the Ministry of Education and UNICEF. It taught students about sexual and reproductive rights. In 2010, under the pressure of the MOC, the government replaced "Life Skills" with a course on Orthodox Christianity, which is taught in schools by priests or teachers actively supporting the church and children are taught to pray and read religious books. At the same time, non-orthodox and non-religious children are not offered an alternative and have to either attend these classes with everyone else or spend their time in the library or on the playground by themselves.

15. In compliance with paragraph 35(8) of the Constitution, the state must guarantee the right to a secular education, as well as freedom of cult. However, many state actions tend to violate this right. Every year, on September 1st, Orthodox priests come to sanctify schools all over the country and the consent neither of the parents or the children is required. While Moldova proclaims secularity, its public schools are much influenced by the Russian Orthodox Church and in 3 schools out of 10, religious ornaments such as crucifixes, bells and crosses cover the schools' walls¹². Moreover, it is documented that schools are known to schedule exams on holidays not pertaining to Orthodox Christianity. As a result, students of other faiths, like those of the Seventh Day Adventists Church, end up being discriminated against in their capacity to attend both school and practice their religion. Furthermore, Muslim groups reported inappropriate interventions (attitudes and comments) towards girls wearing a veil (hijab).

16. Rural regions of Moldova are more frequently cited as places where violations of religious freedom occur as a result of the generally lower education rates¹³. Religious-motivated violence is also more common in these regions. Verbal harassment, assault and vandalism have been reported repeatedly, and in various communities. A few examples shall suffice to illustrate the severity of the problem. Religious leaders of non-Orthodox faiths are often the targets of violence. In 2010, a drunken Orthodox priest assaulted a Pentecostal Minister. In 2011, 33 cases of assaults on Jehovah's Witnesses were reported¹⁴. Legal actions to obtain justice in response to these crimes are weak and scarce. Victims of this violence and discrimination can expect little or no effective remedies in Moldovan courts. In addition, no public authority of oversight exists to safeguard non-orthodox believers' religious fundamental rights, except for the ombudsman institution, who has a very weak and inactive civic position. It thus might result in a violation of paragraph 20(1) of the Constitution which guarantees access to effective protection from competent courts to all citizens without discrimination.

17. Again according to the Constitution, paragraph 15(2) forbids the State to interfere with the activities of religious cults. Nevertheless, the Moldovan government, on the one hand, does not comply with this

¹² *Preliminary findings - Study discrimination in the school system of the Republic of Moldova*, report by CIDO in 2013, p. 8.

¹³ Report Summary: *On the Snapshot Study of the Right to Freedom of Thought, Conscience and Religion (Fundamental Religious Freedoms and Rights) in the Republic of Moldova*, p. 2.

¹⁴ *Ibid*, p. 4.

obligation, and on the other hand, refrains from stopping the dominant MOC from interfering. This problem also trickles down to state bureaucracy. The administrative process allowing registration of religious groups is strongly tinted by the government's interests. Numerous cases of religious minorities (Islamic League, Falun Dafa) attempting to register themselves as a recognized organization have been unduly delayed, or treated differently. For example, additional documents were required.¹⁵

18. Freedom of association is also subject to violations in Moldova for religious groups other than Orthodox Christians. In the specific case of Falun Dafa, their traditional symbol was qualified by a court decision as an extremist one and, as a result, the Falun organisation was dissolved. Therefore, the organization is unjustifiably deprived of its freedom of association. Similarly, the organization sees its freedom of conscience, guaranteed under article 31 of the Constitution in its first paragraph, violated by the state. Indeed, the government's monopolistic interpretation of Falun Dafa's faith is contrary to the spirit of tolerance and respect that the Legislator breathed into the Constitution. This situation is also experienced by other religious minorities who have been interrupted during funeral processions by Orthodox Church priests. For instance, in 2011, Seventh Day Adventists reported that a local Orthodox used a gun to interrupt a funeral procession¹⁶. Recently, on the 2nd of March 2016, a synagogue of the city of Orhei has been attacked and violently vandalized.

The state of Moldova should :

- Cancel the MOC leaders' diplomatic privileges;
- Reintroduce the course "life skills" in public schools;
- Introduce a mandatory training sensitizing teachers to Moldova's different constituting cults and to the right to a secular education;
- Ensure the secularity of public schools and the non-discrimination of other religious groups;
- Hold a nation-wide campaign to sensitize the population to freedom of cult;
- Implement standards to ensure an impartial, transparent and fair registration process for cults in order to avoid arbitrary decision making;
- Appoint persons for the position of Ombudsman who are known for their impartiality and devotion to the cause of human rights in order to better support victims of religious violence;
- Elaborate and implement a mechanism of sanctions for bureaucrats in order to ensure their impartiality and fair treatment of everyone regardless of their beliefs.

Roma people

19. The Roma people are considered to be the most marginalized minority of the Republic of Moldova. Given the numerous stereotypes and the precarious living conditions to which they are subjected, they repeatedly face social exclusion and discrimination in many aspects of Moldovan society. Discrimination against women in particular, as well as the lack of access to education and the labour market are problems more acute for the Roma people. Furthermore, the lack of government will to collect updated statistics and to adopt appropriate public policies adds a barrier to their social inclusion.

¹⁵ It should be noted that Falun Dafa is a widespread pacifist organization using a millennia old Asian symbol on their flag representing luck. This symbol was wrongfully introduced in the West under its inverted form by Adolf Hitler who used it for his Nazi Party.

¹⁶ *Report Summary : On the Snapshot Study of the Right to Freedom of Thought, Conscience and Religion (Fundamental Religious Freedoms and Rights) in the Republic of Moldova*, p. 3.

20. Discrimination against Roma women is more strongly observed in politics. Women in general are underrepresented in elections and in local authorities, and the situation is even worse for Roma women. This reality is the direct consequence of a very gendered vision of women's place in the public sphere versus domestic life, as well as limited access to education and other opportunities in life. Having interiorised these stereotypes and stigmas, women end up lacking the confidence to take equal part in the public sphere, be it local or national. To counter this situation, the government has adopted the *Action Plan Supporting the Roma Population in Moldova for 2011-2015*. The latter promotes equality and non-discrimination against women in particular. However, 4 years later, no effective measure has been implemented to operationalize it.

21. Roma women are discriminated against at a very young age. This can be observed in their right to education. 45% of Roma girls don't have access to a formal primary education, while the percentage for their male counterpart is 33%. Worst yet, only 2% of Moldovan women don't have access to this primary education, highlighting the discrepancy between the two social groups. This inaccessibility is experienced differently for Roma girls than it is for Roma males. Females' stereotyped role combined with poverty disproportionately pressures them to drop out of school when reaching puberty. In addition, young girls are often forced into arranged weddings. As a consequence, high illiteracy rates are found among Roma females. In fact, only 63% of Roma women are literate while 99% of non-Roma women are. For Roma men, the percentage is of 77%. This illiteracy intersects with their social exclusion, adding to the other factors.

22. Beyond the gendered discriminations experienced by Roma women in their access to education, Moldova's education system in its entirety discriminates against Roma people. Only 4% of the latter have access to higher education in contrast with the national average of 38%. Poverty creates further obstacles in terms of the accessibility of education, such as unaffordable tuition fees and availability lack of school transportation. In 2011, it was noted that Roma children were subject to discriminatory treatment from teachers and peers in schools. This situation remains unchanged to this date. In certain schools, Roma children are excluded from participating in extracurricular activities. It was also reported that in conflict situations between Roma and non-Roma children, teachers refrain from intervening to settle the dispute. This negligence strengthens Roma children's vulnerability.

23. Given their low education level, the Roma people, generally, do not have a choice but to accept precarious jobs, like seasonal ones and labour in the informal sector. This precariousness is aggravated in rural regions: job opportunities are scarcer, and Roma people are thus more inclined to accept seasonal employment, for example in the North of the country. This temporary migration towards the North has an impact on Roma families, for the children end up deprived of education as this mobility prevent them from completing a regular school year. Furthermore, these jobs rarely offer the stability and security of a formal contract. Instead, they are the result of a verbal agreement, which limits Roma people's access to social protection including medical insurance and pension. Their average monthly income varies between 22 and 113 euros. Workplaces are also an environment of discrimination for Roma people as a result of their employers' and colleagues' attitudes, thereby once more aggravating social exclusion.

24. The shortcomings described above are little documented because the authorities make no efforts in order to hold a reliable census and gather valid information on the Roma people's situation. According

to a 2004 census, there were 12 271 Roma living in Moldova, that is, 0.4% of the total population. However, on September 19th of 2013, the authorities registered 14 474 Roma, out of which only 270 were initially counted for. This reveals a worrisome ignorance on the government's part, and shortcomings towards its duty to possess up-to-date statistics on the whole population.

25. All of the abovementioned discriminations documented in 2011 are still afflicting the Roma people and all governmental decisions¹⁷ taken in regards of Roma since then show the authorities' knowledge of the discriminatory reality. Nevertheless, none of the government's action plans were made operational. All failed to translate into effective changes for this vulnerable group. No local public institution exists in order to facilitate employment accessibility, professional training, or to improve education accessibility. Also, Roma marginalisation and social exclusion reveal a broader social issue which the government has the responsibility to react to through sensitization policies aimed at the Moldovan population.

The state of Moldova should:

- Provide effective means to empower Roma women both in participating in elections and in being represented in public institutions;
- Develop training and capacity building strategies in order to include and promote Roma women participation in decision-making;
- Implement specific sensitization programs to fight stereotypes and discrimination that particularly restrain Roma girls' access to education;
- Implement positive measures, such as scholarships, to promote Roma women's, and generally Roma people's, access to higher education;
- Fight Roma children school absenteeism through sensitization campaigns directed at parents, in order to raise awareness for the importance of education, and through campaigns to sensitize Moldovans on the necessity to provide Roma children with a healthy and non-discriminatory school environment;
- Provide better physical access to schools in rural regions by offering adequate and affordable school transportation;
- Provide History and Geography courses that include and promote the Roma culture;
- Provide optional Romani language courses in school in the communities where Roma people reside;
- Implement accessible professional training programs both in cities and rural regions, and facilitate their accessibility for Roma communities by means of public subsidies;
- Take effective measures to improve documentation on the living conditions of Roma people, including their access to healthcare and social services;
- Stay informed on the specific situation of Roma through up-to-date statistics;
- Create broad sensitization campaigns to fight prejudice and stereotypes against Roma.

¹⁷ Government Decision « Action Plan supporting the Roma population in Moldova for 2011-2015 »;
Government Decision no. 494 du 07/08/2011 « On Approving the Action Plan on supporting the Roma population in Moldova for 2016-2020 »;
Government Decision no. 557 of 17/07/2013 « On Approving the regulation framework for Roma community mediator ».