



**United Nations Country Team in Moldova Joint Submission for the Compilation prepared by the Office of the High Commissioner for Human Rights in accordance with paragraph 15(B) of resolution 5/1 of the Human Rights Council**

**FIRST UNIVERSAL PERIODIC REVIEW OF THE REPUBLIC OF MOLDOVA**

21 MARCH 2011

**1. INTRODUCTION**

1. This memorandum was prepared by the United Nations Country Team in the Republic of Moldova (“UNCT Moldova”). Due to space constraints, this document is not exhaustive but rather highlights key human rights issues. Further details on any of the matters discussed below are available from UNCT Moldova.

**2. BACKGROUND AND FRAMEWORK**

**A. Scope of international obligations**

2. The Republic of Moldova is party to seven of the nine core international human rights treaties.<sup>1</sup> It has not yet ratified the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and the International Convention for the protection of All Persons from Enforced Disappearance. It is also party to OP CAT, OP CEDAW, both Optional Protocols to the Convention on the Rights of the Child and both Optional Protocols to the International Covenant on Civil and Political Rights. Moldova is not yet party to OP CPRD or OP CESCPR and its has not yet accepted the complaints procedures under UN CAT or under ICERD. Moldova has imposed reservations and/or made declarations with respect to treaties including the two Optional Protocols to the International Covenant on Civil and Political Rights (ICCPR), including to the effect that it does not recognize their application on territories not controlled by the authorities (i.e. Transnistria), as well as on other matters.

**B. Constitutional and legislative framework**

3. The Constitution of the Republic of Moldova sets out at Article 4 that “Constitutional provisions for human rights and freedoms shall be understood and implemented in accordance with the Universal Declaration of Human Rights, and with other conventions and treaties endorsed by the Republic of Moldova. Wherever disagreements appear between conventions and treaties signed by the Republic of Moldova and her own national laws, priority shall be given to international regulations.”

**C. Institutional and human rights structure**

4. Public institutions explicitly charged with human rights roles include the Moldovan Centre for Human Rights, recognized as a “B-status” National Human Rights Institution since 2009. The Centre is the secretariat for four Ombudspersons – including one explicitly charged with children’s rights – as well as for Moldova’s Ombudsman-plus OP CAT mechanism. Also, a Parliamentary

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<sup>1</sup> International Covenant on Civil and Political Rights (ICCPR), International Covenant on Economic, Social and Cultural Rights (ICESCR), International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), International Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), Convention on the Rights of the Child (CRC), Convention on the Rights of Persons with Disabilities (CRPD).

committee is explicitly charged with human and minority rights. In its dialogues with international and regional human rights bodies, various institutions including the General Prosecutor's Office; the Ministry of Justice; the Ministry of Labour, Social Protection and Family; the Bureau on Interethnic Relations and other bodies have taken the lead on various aspects of Moldova's human rights implementation. All public bodies in Moldova have positive human rights duties under law.

#### D. Policy measures

5. A four-year National Human Rights Action Plan (2004-2008) lapsed at the end of 2008. Discussion has been ongoing since 2008 as to assessment of the impact of the previous plan and planning a follow-up. Specific sector plans and strategies exist in a number of areas relevant for human rights including as concerns persons with disabilities, Roma and gender equality.

### **3. PROMOTION AND PROTECTION OF HUMAN RIGHTS ON THE GROUND<sup>2</sup>**

#### A. Cooperation with international human rights mechanisms

6. The Republic of Moldova in the main undertakes timely reporting under international treaty review. Moldova has had successful and productive visits by Special Rapporteurs on Torture and Violence Against Women in 2008. It is unclear whether the Outcome document of the 2009 Durban Review Conference has been endorsed, because the Conference took place in the immediate wake of internal unrest in Moldova. Moldova extended a standing invitation to all Special Procedures in 2010. The Republic of Moldova is a member of the Human Rights Council.

#### B. Implementation of international human rights obligations

##### I. **Equality and Non-Discrimination**

7. The equality provisions of the Constitution (Article 16) are problematic insofar as they (1) set out an apparently exhaustive list of grounds not harmonious with international law; and (2) appear to limit equality to citizens of the Republic of Moldova. The legal and regulatory order of the Republic of Moldova includes an extensive range of provisions relevant for the implementation of human rights. A draft comprehensive anti-discrimination bill has been under preparation for over two years. It was withdrawn from Parliament and returned for work at the Ministry of Justice after mobilization by right-wing and church groups. Civil society, OSCE, UNCT and others have repeatedly offered comments and guidance. In February 2011, the Government sent the draft bill to Parliament for a second time, triggering vocal conservative opposition and a broad degradation of the public space, with high-level politicians making public anti-LGBT statements. It is unclear when – or even if – the bill will be adopted into law.

8. Gender equality: Following her 2008 visit to Moldova, the UN Special Rapporteur on Violence Against Women observed that whereas gender equality is ensured and promoted by law, in practice, women experience high levels of unemployment or are concentrated in low-paid jobs, and encounter strong patriarchal attitudes and deep-rooted stereotypes that perpetuate the subordinate position of women in the family and in society. Women face horizontal and vertical segregation at the labour market, which leads *inter alia* to discrepancies in wages of men and women. Representation of women in leadership positions in local public administration remains low. Currently only 17.4% of mayors, 16.9% in district councillors and 28.7% of local councillors are women. Only 21 out of 101 of MPs are women and there is only one woman Minister in the current Government. The Government approved, in December 2009, a National Program on Gender Equality (Gov Decision No. 933, 31 December 2009) and a Medium Term Action Plan for 2010-2012. A 2006 law sets out domestic provisions in the field of equal opportunities between men and women ("2006 Gender Equality Law"). The judicial machinery has nevertheless remained

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<sup>2</sup> Unless otherwise specified, the information provided below concerns the human rights situation in the Republic of Moldova not including Transnistria.

inactive in the face of widespread discrimination against women; there were no known cases of any official body identifying gender discrimination against any person. During the period, the Ministry of Labour, Social Protection and the Family was reportedly working on amendments to the 2006 Gender Equality Law, in order to improve its effectiveness.

9. Persons and groups exposed to discrimination: There are high levels of discrimination against Roma, persons living with HIV/AIDS and LGBT minorities. Children affected by HIV/AIDS are excluded from schools. There are reportedly no Roma in any positions of elected representation in any public body in Moldova. Discrimination against Roma in education, employment, housing and health care takes place with evident impunity. On repeated occasions during the period 2008-2011 -- most recently in March 2011 -- massive public mobilization has taken place to oppose equal protection of the law for LGBT minorities. On 15 March 2011, a nationally broadcast television program indicated that 60% of Moldovans believe that homosexuality should be punished, and 82% of Moldovans oppose LGBT minorities exercising the right to peaceful public assembly. All announced public gatherings by LGBT minorities have to date been banned or thwarted with violence. Despite firm empirical evidence of high levels of exclusion of these persons from basic goods and services, as well as other forms of negative treatment, there is an underdevelopment of policy and action to combat these discrimination harms.

10. Rights of Persons with Disabilities: There are currently more than 170,000 persons certified with disabilities (“invalidity”) in Moldova. Persons with disabilities face discrimination, social exclusion, poverty, unemployment, low quality education, inaccessibility to the general system of social protection and inaccessible environment, as well as pressure towards institutionalization. Despite the ongoing reform of the residential care system for children, work on reintegrating children with disabilities into family environments has made little progress (see below). In July 2010 a National Strategy on the Social Inclusion of Persons with Disabilities (2010-2013) supported by an Action Plan was adopted. In September 2010, the Republic of Moldova ratified the Convention on the Rights of Persons with Disabilities (CRPD). The Optional Protocol to the CRPD has not yet been ratified. In order to ensure the full implementation of the CRPD and the social inclusion disability reform, the following would constitute important steps in this area: (1) initiating system transformation from “medical” model to “social” model of disability, including the application of the definition of “disability” in line with the CRPD; (2) ensuring the right of persons with disabilities to participate in mainstream education, to provide genuine inclusion of persons with disabilities; (3) conducting a reform of the guardianship system (including amendments to the Civil Code), in particular ending the absolute nullification of all rights of persons placed under guardianship and introducing a system of supported decision-making; (3) adopting a comprehensive anti-discrimination law, including provisions for “reasonable accommodation”, in line with the Convention; (4) designating, as per CRPD Article 33, a coordination mechanism for the monitoring of the implementation of the rights of persons with disabilities; (5) developing a legal framework guaranteeing barrier-free environment, including access to goods and services, physical environment, transportation, information and communication; (6) developing social and medical services in communities, providing decentralization of services and reversing legacies of systematic institutionalization of persons with disabilities; (7) adjusting labour law and policies to ensure inclusive conditions in accordance with CRPD and other relevant standards.

## **II. Right to Life, Liberty and Security of the Person**

11. Ending Torture and Impunity for Torture and Related Acts: Although the government has made strong verbal commitments to end torture, concerns remain that further measures may be required to remove incentives for torture among police, including:

- Ensuring in practice that evidence or confession has been extracted by means of torture or other forms of ill-treatment are excluded;<sup>3</sup>
- Ending the system whereby, in practice, confession is viewed as the “crown of evidence”;
- Ending promotion in the criminal justice system based on numerical or percentage “targets” for crimes resolved.

Efforts to prosecute torture and related acts have remained without success. Even in the case of very high profile torture cases in the context of the April 2009 events, where high-level political will to bring perpetrators to justice has been pledged, only a handful of perpetrators are currently being tried, with no final court sentence issued to the date in any case. Many complaints have been dropped, reportedly frequently as a result of pressure by police and security services. The Government has not yet acted upon recommendations by the Council of Europe to establish an independent body for torture investigation. During 2010, specifically designated prosecutors were named to deal with torture cases. However, no independent investigators have been designated. As concerns forensic documentation of physical abuse, standards applied do not yet meet the requirements of the Istanbul Protocol. Forensic and other medical personnel are not independent, and courts defer excessively to official forensic sources. As a related matter, although the law specifies strict limits on pre-trial detention, in practice, detainees may spend periods of months in pre-trial or police isolators, being exposed to various forms of pressure or ill-treatment.

12. Torture Prevention: Moldova was given a one-year deadline from November 2009 by the UN Committee Against Torture to render functional the National Preventative Mechanism Against Torture, established under the Optional Protocol to the Convention Against Torture, including to ensure that, as a rule, and unless there are compelling human rights reasons to the contrary, the report and recommendations of each individual visit of the National Preventive Mechanism should be made public and posted on the Internet website of the Centre for Human Rights of Moldova shortly after the visit, following measures to ensure rights of personal security of person and privacy for detainees. This item remains outstanding, with little regular public reporting by the NPM.

13. Violence Against Women and Children: The UN Special Rapporteur on Violence Against Women has noted that, in Moldova, “Violence against women, within the family and in formal institutions, is said to be a widespread phenomenon. Domestic violence ... is, by and large, accepted as a normal aspect of private life by men and women alike and not considered as a problem warranting legal intervention.” The reported number of child victims of violence has steadily increased over the past few years and is known to be underreported. Corporal punishment, while officially banned, is still widely used. Studies indicate that 25% of children state that they are beaten by their own parents, 13% report being corporally punished in schools by their school teachers. According to the most recent 2010 survey results by National Bureau of Statistics, the total prevalence rate of spousal/partner violence against women over lifetime since the age of 15 is 63.4%. The prevalence rate of violence over lifetime among rural women (68.2%) is slightly higher than among urban ones (57.4%). The highest percentage of women who have ever experienced spousal/partner violence is among those in the age group of 45-54 (70.3%), followed by women in the age group of 55-59 (69.1%). However, even women in the age group of 15-34 report high percentages of such experiences (53.7% of the age group of 15-24 and 55.7% of the age group 25-34). Progress was made during the period September 2009-present in improving system-responses to domestic violence, with the first circa 50 protection orders issued by certain courts to victims under the 2008 Law on domestic violence. In addition, in September 2010, amendments were

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<sup>3</sup> According to Article 94 of the Code of Criminal Procedure, confessions obtained by means of violence cannot be admitted as evidence in court.

made to a number of laws to heighten the efficacy of the legal framework for combating domestic violence and other forms of violence against women, including by criminalizing domestic violence. Nevertheless, effective protection to victims in the main remains unavailable, particularly in rural areas. Serious attention should be paid to expanding the number, coverage and capacities of shelters for victims of domestic violence, development of services for perpetrators and proper action to ensure effective protection by police.

14. Trafficking in Human Beings: Vulnerable women and girls remain at risk of trafficking for sexual exploitation, while men are exposed to trafficking for labour exploitation, particularly in the agricultural and construction sectors. Children are also trafficked, for forced labour and begging in neighbouring countries. According to the “Victims of Human Trafficking: A Statistical Profile – 2009” developed by IOM Moldova, many of the trafficked women are graduates from boarding schools: they do not have families, housing or support and thus become easy targets for recruiters. The US Government placed Moldova on its Tier 2 Watch List for the second consecutive year in 2010, signalling very high concern in the area of impunity for trafficking.

15. Treatment in Psychiatric Care: In 2010 there were 60 persons involuntarily detained in hospitals under Article 28 of the Mental Health Law. An average of 240 persons per year are deprived of legal capacity by the medical psychiatric board. In all cases of deprivation of legal capacity based on mental health, there is complete deprivation of such capacity. There is no procedure of regaining the legal capacity, nor for benefiting from assisted support in decision making. Orders for periodic hospitalization are not always medically established. Patients do not participate in making their treatment plan; and the treatment plans are not individual. Conditions in hospitals are extremely poor. In some wards basic necessities are not provided, where there is nothing in the rooms except for the beds. In most wards there is no daily access to shower, public telephone. Alternative treatment methods are insufficient and there is almost no post-release care provided. Patients report the punitive application of medication in cases in which they object to treatment by medical staff and doctors. Mechanisms for monitoring human rights in psychiatric institutions are weak-to-non-existent.

16. Child Labour: Moldova is among the countries in Central and Eastern Europe most seriously affected by the Worst Forms of Child Labour (WFCL), including sexual and labour exploitation of children through a trafficking process, agriculture, illicit activities and street work. According to the Children’s Activities Survey,<sup>4</sup> the prevalence of child labour – children who need to be immediately removed from work -- is estimated at 18.3% of all children aged 5 to 17. The overwhelming majority of working children (95.3%) are engaged in agriculture. They are mostly elementary workers carrying out unpaid work for the members of their households. Among working children, 10.9 percent of boys and 8.5 percent of girls are found to have suffered from some sort of work related illness or injury. About 37.2 percent of working boys and 35.2 percent of working girls are found to work under unfavourable or unsafe working conditions. The Survey produced evidence that served as a basis for the draft a National Action Plan to Eliminate Child Labour in Moldova.

### **III. Freedom of Religion and Belief, Expression, Association and Peaceful Assembly, and the Right to Participate in Public and Political Life;**

17. Amendments in recent years to Moldovan law have significantly improved the legal framework in the area of freedom of association and peaceful assembly, and measures to foster the

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<sup>4</sup> National representative survey carried out by NBS in cooperation with ILO-IPEC and UNICEF in 2009 <http://www.statistica.md/pageview.php?l=en&id=3117&idc=350>

development of civil society. In practice, in many cases, peaceful assembly has been arbitrarily limited during the recent period, including via circumvention of the applicable domestic law. In May 2010, the Chisinau municipality mobilized successfully to ban an LGBT event, with the first instance court disregarding the content of the law. In August 2009, an Adventist gathering in the centre of Chisinau was similarly banned. There is evidently a need for further work to strengthen respect for freedom of assembly and association in practice in Moldova.

18. Freedom of Religion: Highly problematic treatment of groups not belonging to the Orthodox majority, including as a result of the regular intervention of the Orthodox Church hierarchy in governance. Particularly affected groups include Muslims, Protestants (including Adventists, Jehovah's Witnesses, Lutherans, Baptists and others), Jews and Falun Dafa. The Government continued not to register Muslim groups; no Muslim groups are currently registered in Moldova, with the most recent application rejected in early 2010. The community concerned has reportedly unsuccessfully applied four times for registration. There have been a number of assaults on Protestants, in particular Jehovah's Witnesses proselytizing in rural areas.<sup>5</sup> A high-profile anti-Semitic incident in December 2009 was condemned by a number of authorities, but the desecrated object was not replaced in Europe Square, contributing to a sense of impunity.

#### **IV. Economic, Social and Cultural Rights; Human Rights in Social and Related Services Provision**

19. The national 2010 MDG report<sup>6</sup> indicated that, while 21 out of 27 targets have already been achieved, there was a lack of progress – and sometimes even regression – in education, against HIV/AIDS and in water and sanitation sectors. Maternal health and mortality remain an issue: maternal mortality increased from 16 cases per 100,000 population in 2006 to 17.2 in 2009. The enrollment rate in primary and secondary education is decreasing: 94.4% in 2006 to 93.5 in 2009 for primary education; 90.5 in 2006 compared to 88.8% in 2009 for secondary education. Pre-school enrolment has however increased in recent years (70.1% in 2006, 75.5% in 2009 of children aged 3 to 6 years old). The infant mortality rate and mortality among children under 5 has improved somewhat in recent years.

20. Human Rights and Health Care: Human rights are only weakly anchored in the field of health care. Further attention would be warranted as to system-transforming policies do develop cultures of respect for – as well as mechanisms to challenge abuses of – the following:

- The right to free and informed consent: Although Moldova has ratified the Council of Europe's Convention on Human Rights and Biomedicine and passed a Law on Patients' Rights and Responsibilities (2005), persons seeking adequate information on which to base reasoned decisions about their own health and that of persons dependent upon them are often not provided with all relevant information in a language which they can understand by health care providers, prior to medical procedures. Medical practitioners frequently actively discourage persons from seeking information about proposed health interventions.
- Rights to privacy, confidentiality and data protection in the field of health: The current system of personal data management concerning persons who have tested HIV-positive prioritizes epidemiological concerns over privacy, confidentiality and data protection. Safeguards are missing or ineffective. Health care providers and other officials inform neighbours and others about the health care status of their patients, particularly where diseases with stigma or erroneously perceived to be a public health threat are at issue, most notably HIV/AIDS. Also

<sup>5</sup> <http://www.state.gov/g/drl/rls/irf/2009/127325.htm>

<sup>6</sup> [http://www.un.md/mdg/mdg\\_in\\_moldova/Millennium\\_ENG.pdf](http://www.un.md/mdg/mdg_in_moldova/Millennium_ENG.pdf)

currently couples are obliged to take a medical check and a special mandatory family planning lesson in order to be able to register officially their marriage.

- Non-discrimination and non-stigmatization: Some Romani communities report that emergency ambulance services do not respond to calls from Roma living in excluded settlements. Civil society groups working with the elderly report similar concerns as relates to older persons. Roma are much more likely to lack health insurance, as a knock-on effect of very high unemployment rates in the Romani community. Certain categories of persons – most notably persons with HIV/AIDS -- are stigmatized because of their health status, a problem aggravated by regular violations of client confidentiality by health providers, as well as discrimination in this area.

21. A number of areas identified by the ILO for improvement of trade unions' rights and core labour standards in the coming period include: (1) actions to enhance the capacities of the Labour Inspection to supervise the workers' rights fulfilment; (2) raising awareness of the need for setting up the alternative mechanisms for peaceful settlement of labour disputes; (3) improved protection of workers through enhanced capacities of social partners to negotiate collectively; and (4) improved action to end child labour. In addition, the Government should also proceed with efforts to ensure gender equality in the workplace, including through actions to combat sexual harassment in the workplace. As a positive measure, in September 2010, Parliament approved amendments to the criminal code which for the first time make sexual harassment in the workplace a crime. It remains to be seen how these new provisions will be implemented in practice.

22. Right to Education: MDG 2 on achieving universal primary education was one of the Goals under which the Government could not report achieving targets in 2010, as setbacks were indicated over previous years (general enrolment rate decreasing, poor quality, discrimination against Roma, children affected by HIV/AIDS, very poor children, children with disabilities). In spring 2010, the Chisinau Appeals Court struck down a decision of the Central Electoral Commission (CEC) to register a request for a republican referendum by a group calling for mandatory education in Orthodox Christianity in schools. The Ministry has introduced religious education as "optional", but it is unclear whether, in practice, the rights of persons not wishing to receive education in Orthodox Christianity are fully respected, or indeed whether the curriculum as applied in practice accurately reflects plural values.

23. In recent years, child-friendly schools, a new curriculum and new teaching methodologies have signalled some improvements in education. Some interesting initiatives began during 2010. For example, from September 2010, authorities began bussing children from the excluded Romani settlement of Schinoasa into mainstream education in the town of Tibirica. Until 2010, the children in the settlement attended a substandard school in the slum, which ended in the 4<sup>th</sup> class. Nevertheless, overall trends were troubling. Data gathered over two years and presented in a UNDP Policy Paper published in May 2010 points to troubling tendencies as concerns respect for human rights in the school system. Findings include the following:

- There is a high degree of intolerance in schools and the school system generally towards persons with disabilities;
- 82.5% of school principals who participated in the survey would accept a Romani person as staff member or student, but only 27.2% of teachers who participated in the survey would accept a Romani person as colleague and 26.3% as pupils/students.
- Less than one third of the students surveyed would accept having people living with HIV/AIDS as their classmate;
- 64% of students surveyed stated that they had witnessed violent behaviour by teachers towards the students and approximately 18% stated that it happened frequently.

NGOs additionally report that healthy children are often placed in auxiliary schools for children with intellectual disabilities. In many areas, children with disabilities are entirely excluded from formal education.

24. Right to Water and Sanitation: Water and sanitation were two of several areas where the Government reported during 2010 that, according to current developments, 2015 Millennium Development Goals targets in these areas would likely not be met. The proportion of the population with sustainable access to sewerage was just 47.9 percent in 2009, and only circa 55% of the population has access to adequate drinking water. Roma are disproportionately excluded from water and sanitation infrastructure.

25. Right to Social Security: The poverty rate in rural areas continued to grow in 2009, widening the gap between rural and urban areas. Analysis has shown that the most vulnerable social groups who are affected by absolute poverty are the elderly, those whose sole source of income is self-employment in agriculture, families with many children, Roma, and persons unemployed for long periods of time. In 2009 the child poverty rate was 28 percent, and the extreme poverty rate of children was 3 percent. In rural areas, the child poverty rate is nearly 38 percent compared to 13 percent in urban areas. Although social aid continued to expand, as of August 2010 it only covers 27% of the poorest decile and 7.6% of the second poorest.<sup>7</sup> Commitments to transform the social assistance provision framework from one delivering assistance according to a rigid system of fixed categories, primarily not reaching the most vulnerable, to a system based on delivery of goods and services to those most in need, remain as yet only in early phases of implementation.

26. There is a need to transform the public housing system to focus more extensively on the most vulnerable. At present housing assistance is also provided for certain professional categories, such as judges, police and prosecutors.

## **V. Migrants, Refugees and Stateless Persons; Human Rights Defenders; the Situation in Particular Regions or Territories**

27. Migrants, Refugees and Stateless Persons: The Republic of Moldova is a party to the 1951 Convention relating to the Status of Refugees and its 1967 Protocol. A number of key international treaties in this area have, however, not yet been ratified by the Government, including:

- The International Convention on the Rights of All Migrant Workers and Members of their Families (“Migrant Workers Convention”);
- The 1954 and 1961 United Nations Statelessness Conventions.

Although the Moldovan Government ratified in 2005 the Palermo Protocol on Smuggling of migrants by land, air and sea relative to the UN Convention on Transnational Organized Crime, it has to date not yet adjusted its domestic legislation in line with the provisions of the Protocol, especially in what regards the de-criminalization of illegal migration by ensuring that smuggled migrants are not liable on the basis of having been smuggled.<sup>8</sup> Thus, presently the smuggled migrants are criminally charged for illegal crossing of border, as are other illegal migrants are. A range of other issues of concern arise over the treatment of migrants including but not limited to (1)

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<sup>7</sup> Data from Every Child /OPM report on Monitoring the performance of the social support programme, October 2010

<sup>8</sup> Article 362 “Illegal crossing of state border” from the Criminal Code in its first paragraph incriminates the simple non-aggravated crossing of Moldovan state border, which is punishable with a fine of up to 400 Conventional Units, unpaid labor for the community up to 200 hours or with imprisonment of up to 2 years. Paragraph 4 of this article exempts from criminal liability asylum seekers and victims of trafficking, but it is silent in respect of smuggled migrants, who according to the Protocol mentioned above shall not become liable to criminal prosecution under this Protocol for the fact of having been the object of smuggling. This omission should be rectified, by adding in paragraph 4 of article 362 the smuggled migrants as exempted from criminal liability under this article.



the arbitrary detention of migrant children; (2) excessive periods of detention of migrants; and (3) lack of access to psychological assistance for migrants in detention.

28. Documentation of human rights issues concerning third-country nationals -- including migrants and refugees -- as well as of stateless persons, is neither qualitatively nor quantitatively adequate at present. There is a particular need for better research and documentation of, *inter alia*: (1) the numbers of stateless persons in Moldova and factors giving rise to statelessness; (2) racial discrimination and other forms of negative treatment of dark-skinned migrants; (3) treatment of irregular migrants on Moldovan territory.

29. Human Rights Defenders: Several human rights defender cases were noted during the period. The legal framework for the protection of Human Rights Defenders remains inadequate. There is no mechanism for the protection of a person outside the framework of an open criminal procedure. On the related matter of freedom of association and fostering the development of civil society, in November 2010, civil society reported difficulties with the registration of an organization defending the rights of blind people,<sup>9</sup> and delay in the registration of a human rights NGO.<sup>10</sup>

30. Human Rights in Transnistria: A number of cases of torture and arbitrary detention were reported during the period, including several cases achieving national prominence. Persons released from custody frequently fled the region with their family, fearing reprisals for reporting abuse. Civil society and non-Orthodox church groups continued to operate under severe constraints, with human rights NGOs for the most part operating from Chisinau. In Transnistria, all indicators related to children are worse than in the rest of Moldova (institutionalization rate, rate of children in detention, etc). Transnistria's isolation from international and regional justice mechanisms<sup>11</sup> continues to pose serious concerns as relates to the fundamental rights of persons in Transnistria. It is recommended that a high level study be carried out to examine possible models for improving access to justice for persons in Transnistria.

## **VI. Rights of the Child**

31. The most vulnerable children are from the poorest quintile, large families, living in one-parent or no-parent households, or Roma families, children with disabilities, children in institutions, and children in contact with the law. Rural, Southern and Transnistrian children show the highest vulnerability. Major determinants are poverty, discrimination, poor knowledge of parents and communities, and low quality and access to services. In addition to matters raised elsewhere in this submission as concerns the rights of the child, several specific issues follow below.

32. Child's Right to Family. In 2007, the government initiated reform of the system of residential institutions for children. Since then, the number of children in residential institutions has decreased by almost 40%, from circa 11,500 to around 6,900. The rate of child institutionalization nevertheless remains one of the highest in the region. Many children in institutions have one or more living parents. The reform has had almost no impact on children with

<sup>9</sup> <http://curaj.tv/reportaj/social/minjust-descurajeaza-crearea-de-ong-uri/>

<sup>10</sup> Human Rights Information Center (CIDO), as reported by its Vice-Chair.

<sup>11</sup> The European Court of Human Rights has found violations against Moldova (as sovereign) and Russia (as exercising effective control) in cases concerning Transnistria; the UN machinery addresses Transnistria-related communications solely to the Moldovan government; a number of monitoring bodies have either declined to review issues related to Transnistria (since no legal authority is effectively exercised there), or have been barred from the territory, or have not been exercise sufficient independence to be able to carry out work there.

disabilities in institutions, who represent over half of the total population of institutionalized children. Services to reintegrate these children into families, schools and communities are lacking.

33. Justice for Children: The number of children in detention has decreased from 363 in 2006 to 75 in 2010, mainly due to the Law on Amnesty in 2008, but also to increasing use of alternative sanctions and measures. Physical conditions in some facilities where children are detained have improved. In the main pre-trial detention facility in Chisinau where children are detained, the use of solitary confinement for children in detention was suspended in 2010 and it is rarely applied to other detention centers. Specialized prosecutors for dealing with cases of children were appointed nationally in 2010. The Ministry of Justice is currently conducting a study on the feasibility of juvenile judges and courts. Provision of free legal assistance was enhanced as a result of the establishment of the National Council for Legal Aid. Legislation and policies in regards to children under minimum age of criminal responsibility remain poorly defined. The Special School for under-aged offenders was closed as part of the reform of the child care system, but no new services have been created. Community- or school-based programs oriented at prevention of juvenile delinquency, early detection and referral of children at risk of offending or re-offending are weak or non-existent. The probation system, aiming to assist children sentenced to non-custodial sentences, has limited capacity. Children spend long periods of time in criminal investigation and trial since no maximum length is established by the law. Sentences imposed by the court are often quite lengthy. The proportion of children in the justice system in Transnistria is higher than in the rest of Moldova.

#### **4. ACHIEVEMENTS, BEST PRACTICES, CHALLENGES AND CONSTRAINTS**

34. In the recent period, progress has been made in a number of areas as detailed above. Of particular note are developments with respect to a nascent protection system for victims of domestic violence; and the reduction in numbers of persons in institutions and penitentiaries. Certain key judicial decisions deserve note, such as a December 2010 order by the Supreme Court that a residence permit be issued to a Russian national with HIV/AIDS, with family in Moldova and living on the territory. As a general matter, restrictions on civil society organizations, freedom of assembly, censorship in the media and other issues have appeared improved during the period since mid-2009.

35. On the other hand, several trends are of concern. In all areas where general improvements have been made, new patterns of discrimination are visible. Thus, where previously the right to peaceful assembly as such was thwarted, the recent period has seen infringements of this right primarily where ethnic, religious or LGBT minorities are at issue. As a related matter, the recent period has seen mobilization by conservative groups – in particular groups around the mainstream Orthodox Churches – to put pressure on policy and policy-makers. As a result, negative human rights impact is seen or threatened in a range of areas including but not necessarily limited to the right to education, sexual and reproductive rights, freedom of religion, freedom of peaceful assembly, and in other areas. In addition, progress is constrained in a number of areas as a result of legacies of policies antithetical to human rights, which are slow to be reformed. This is particularly the case in areas such as policing, the judiciary and treatment of persons in psychiatric care.

#### **5. CAPACITY-BUILDING AND TECHNICAL ASSISTANCE**

36. UN agencies are involved in technical assistance and capacity-building in a range of human rights areas, and human rights is central to the development work of the United Nations in Moldova. The agencies of the UN Country Team Moldova with active human rights programming include UNDP, UNICEF, UNFPA, UN Women, OHCHR, UNAIDS, WHO, IOM, UNHCR, ILO, as well as a number of non-resident agencies.