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The Universal Protection of Human Rights and Eastern Europe: Moldova

■ **ABSTRACT:** *This research explores the universal protection of human rights with a focus on its application and challenges in Eastern Europe, particularly in Moldova. The universal protection framework, established through international treaties and organisations such as the United Nations, aims to ensure that all individuals, regardless of nationality, enjoy fundamental rights and freedoms. In Eastern Europe, the post-Soviet transition has posed unique challenges to the implementation and enforcement of these rights. Moldova, a country striving towards European integration, faces complex issues such as corruption, political instability, and systemic inefficiencies that hinder the full realisation of human rights protections. This paper examines Moldova's progress in aligning with international human rights standards, the obstacles it faces, and the role of both national and international actors in promoting and safeguarding these rights. In analysing Moldova's human rights landscape, this paper will contribute to a broader understanding of the challenges and opportunities in ensuring universal human rights in the context of Eastern Europe's evolving political and social dynamics.*

■ **KEYWORDS:** *human rights, protection, equality, non-discrimination, international law*

1. The historical development of human rights in The Republic of Moldova

In recent decades, human rights research has acquired the proportions of a political and legal phenomenon, in this process all subjects of public international law are involved. The problem of fundamental human rights and freedoms stands

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alongside that of international peace and security, being one of the major problems of both international political life and the national political life of each state.¹

The Republic of Moldova is a relatively young state, and its territory was previously a part of the Soviet Union under the name The Moldovan Soviet Socialist Republic (RSSM). On 27th April 1990, the Supreme Soviet of the Moldavian Soviet Socialist Republic (MSSR) adopted the Law on the State Flag, and on 23rd June 1990 – the Declaration on the Sovereignty of the Moldovan SSR.²

On 4th July 1991 the Law on Citizenship of the Republic of Moldova,³ one of the most liberal states in Eastern Europe, was adopted.

On 27th August 1991 the Parliament of the Republic of Moldova, convened in an extraordinary session, adopting the text of the Declaration of Independence of the Republic of Moldova.⁴ The Republic of Moldova was solemnly declared, by virtue of the peoples' right to self-determination, in the name of the entire population of the Republic of Moldova and in front of the whole world: a 'sovereign, independent, democratic, sovereign state, free to decide its present and future, without any outside interference, in accordance with the sacred aspirations of the people in the historical and ethnic space of its national development'.

This declaration also 'guarantees the exercise of the social, economic, cultural rights and political freedoms of all citizens of the Republic of Moldova, including persons belonging to national, ethnic, linguistic and religious groups, in accordance with the provisions of the Helsinki Final Act and the documents adopted later, of The Paris Charter for a New Europe'.⁵

On 3rd September 1991, the President of the Republic of Moldova signed the Decree on the creation of the Armed Forces of the Republic of Moldova,⁶ with the primary objective of ensuring the sovereignty and territorial integrity of the state. On the same day, the Decree on the subordination of customs institutions located on the territory of the Republic of Moldova was signed.

With the adoption of the Declaration of Independence, the Republic of Moldova became a subject of public international law.⁷ This meant that Moldova acquired the ability to enter into legal relations with other states and international organisations, being recognised as a sovereign state by the international community. International recognition was essential to securing global support in the

1 Ciobanu, 2007, p. 94.

2 Declaration of the Sovereignty of the Soviet Socialist Republic of Moldova No. 148-XII of 23.06.90.

3 Law No. 596-XII of 5 June 1991. On the citizenship of the Republic of Moldova.

4 Law No. 691 from 27 August 1991 regarding the Declaration of Independence of the Republic of Moldova.

5 Ibid.

6 Decree of the President of the Republic of Moldova No. 193 of 3 September 1991. [Online]. Available at: <https://www.army.md/?lng=2&action=show&cat=154> (Accessed: 15 August 2024).

7 Smochină, 2011, p. 154.

process of political, economic and social development. Joining the United Nations (UN), the most important international organisation, was a priority objective for the new state.

Resolution 46/223 is a significant document that officially marks the Republic of Moldova's admission to the United Nations as a full member.⁸

The Constitution of the Republic of Moldova, adopted by Parliament on 29th July 1994, is the principal political-legal instrument that established the final separation from the totalitarian regime. It provided the country with a new constitutional order that connects Moldova to the values of the civilised world, based on respect for and the promotion of citizens' rights and freedoms, political pluralism, a market economy, the rule of law, justice, social solidarity, equality, and social justice. In this way, the essential political aspirations of the national liberation movement at the end of the 1990s were realised⁹, although, the change of the state language, from 'Moldovan' to 'Romanian' according to the Declaration of Independence in the Constitution of the Republic of Moldova, was only carried out in 2023.

In addition to this, a new institution was established – the Constitutional Court¹⁰ – the only authority of constitutional jurisdiction in the Republic of Moldova, also invested with the function of guarantor of the state's responsibility towards the citizen (Art. 134, para. (3) of the Constitution). The constitutional provisions were developed in the Law on the Constitutional Court.¹¹ During the course of the three decades since its adoption, constitutional norms were modified that targeted various areas: incompatibilities, immunity and the independence of the people's representatives, the institution of citizenship, the judicial system, the administrative-territorial organisation, the status of village and town authorities, and the election and competence of the President of the country (from Parliament to popular vote). Some changes were determined by the integration of the Republic of Moldova into international structures and the commitment to adjust domestic legislation to international human rights standards, amongst which can be mentioned: the abolition of capital punishment, the issuance of the mandate of the court, the implementation of additional guarantees in order to preserve the secrecy of correspondence, and the regulation of cases of restriction of the exercise of the rights and freedoms of citizens, etc.¹²

8 Admission of the Republic of Moldova to membership in the United Nations: Resolution No. 46/233 adopted by the General Assembly. [Online]. Available at: <https://moldova.un.org/sites/default/files/2019-10/UNDAF%20Moldova%20EN.pdf> (Accessed: 15 August 2024).

9 The Constitutional Court, 20 years since the adoption of the Constitution of the Republic of Moldova. [Online]. Available at: https://www.legis.md/cautare/getResults?doc_id=142462&lang=ro# (Accessed: 30 September 2024).

10 Constitutional Court of the Republic of Moldova.

11 Law on the Constitutional Court No. 317-XIII of 13.12.1994, Official Journal of the Republic of Moldova, No. 8 of 07.02.95 Art. 86.

12 Zaporozhan and Crigan, 2019, p. 78.

Today, more than twenty resident and non-resident UN specialised agencies, funds, and programs operate in Moldova.¹³

The Republic of Moldova acceded to the Universal Declaration of Human Rights, adopted in New York on 10 December 1948, through Parliament Decision No. 2174-XII on 28 July 1990.

2. The relationship between the Republic of Moldova and the UN from a human rights perspective

The Republic of Moldova joined the United Nations on 2nd March 1992 by the adoption of the UN General Assembly Resolution AG A/RES/46/223.¹⁴ Considering the universal character of the United Nations, the Republic of Moldova recognises the important role of the Organisation for the promotion of democracy and human rights, peace keeping and international security, economic and social development, good governance and respect for the rule of law.

Currently, over 20 specialised agencies, funds and programmes have their representation or project based offices in Chisinau.

UN activity in Moldova is carried out in accordance with the UN-Moldova Partnership Framework for Sustainable Development for the period 2018-2022,¹⁵ signed in Chisinau on 16th May 2017, by the Prime Minister of the Republic of Moldova, the UN Resident Coordinator and the representatives of the organisations of the UN system in the Republic of Moldova. The final evaluation concerning the implementation of the UN-Moldova Partnership Framework for Sustainable Development for the period 2018-2022, mentioned that the United Nations has provided significant contributions in the respective outcome areas of governance, human rights and gender equality; sustainable, equitable and inclusive economic growth; environmental sustainability and resilience; and inclusive and equitable social development.¹⁶

On 13th May 2010, following elections in the UN General Assembly, the Republic of Moldova was elected for the first time as a member of the Human Rights Council for the period 2010-2013, with the support of 175 member countries¹⁷.

¹³ The United Nations in Moldova.

¹⁴ UN-Moldova Partnership Framework for Sustainable Development for the Period 2018-2022. [Online]. Available at: <https://moldova.un.org/sites/default/files/2019-10/UNDAF%20Moldova%20EN.pdf> (Accessed: 25 August 2024).

¹⁵ UN-Moldova Partnership Framework for Sustainable Development for the Period 2018-2022.

¹⁶ Bajbaktari and Hadârcă, 2022, p. 109.

¹⁷ Letter dated 10 March 2010 from the Permanent Representative of the Republic of Moldova to the United Nations addressed to the President of the General Assembly. [Online]. Available at: <https://documents.un.org/doc/undoc/gen/n10/294/09/pdf/n1029409.pdf>, (Accessed: 15 September 2024).

As the Republic of Moldova is a party to UN Treaties, which are monitored by the relevant UN Committees, it is obliged to participate and take part in the monitoring rounds which are broadly divided into two main categories, initial and periodic monitoring procedures. Thus, so far the Republic of Moldova has participated in 46 monitoring rounds for all UN Conventions to which the Republic of Moldova is a party.

Currently, most monitoring rounds (14) have been spent on behalf of the UN Committee on the Elimination of All Forms of Racial Discrimination. The UN Committee noted that the progress of the State in the recent period is indicated, but issues such as the protection of persons belonging to ethnic and national minorities, the protection of persons belonging to vulnerable groups, and stereotypes and prejudices do not allow the full integration of these persons into the community to remain valid. Thus, the Committee has highlighted the fact that people belonging to ethnic or national minorities continue to be under-represented in decision-making bodies and do not fully participate in society. Key limitations have also been noted on the right to receive and disseminate information. Thus, the Committee points out that the State has not provided sufficient resources for the dissemination of information in the mother tongue of minorities. The Committee also notes the lack of television and radio broadcasts in the mother tongue of minorities.

The UN Committee against Torture, Inhuman and Degrading Treatment has carried out four rounds of monitoring in the Republic of Moldova since 2003. Over the years, the Committee has highlighted the fact that the Republic of Moldova has considerable problems with the conditions of detained prisoners. Committee members have repeatedly called for the situation to be remedied with a view to improving detention conditions. The problem of Prison No. 13 remains valid to this day.

State monitoring under the International Covenant on Civil and Political Rights was already carried out in six rounds in 2002, during which the Committee alerted the Committee to the necessity of ensuring civil rights and freedoms. The Committee draws particular attention to the implementation of civil rights and freedoms by the Republic of Moldova. In addition to the reminders on the respect of civil rights and freedoms, the Human Rights Committee also made specific recommendations for the Republic of Moldova, targeting the following areas. 1. Freedom of expression: The Committee called for measures to protect journalists and ensure a free media environment free from censorship or intimidation. 2. Minority rights: The specific needs of vulnerable groups such as ethnic minorities, persons with disabilities, and the LGBTQ+ community were highlighted, with the aim of ensuring the protection and promotion of their rights. 3. Independence of the judiciary: The importance of strengthening the independence of the judiciary in order to guarantee a fair trial and to prevent abuses of power was emphasised. 4. Prevention of torture and abuse: The Committee insisted on the implementation

of effective measures to prevent torture and inhuman or degrading treatment in detention facilities 5 Civic participation. It was recommended that citizens' participation in decision-making be supported, including by promoting transparency and accountability of authorities.

3. The UN Treaties to which the Republic of Moldova is a party

Since becoming a member of the United Nations in 1992, the Republic of Moldova has ratified numerous core international human rights treaties. These include the Universal Declaration of Human Rights (1990)¹⁸, the International Covenant on Civil and Political Rights (ICCPR) in 1993, the International Covenant on Economic, Social and Cultural Rights (ICESCR) in 1993, the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) in 1994, the Convention on the Rights of the Child (CRC) in 1993, and the Convention on the Rights of Persons with Disabilities (CRPD) in 2010, as well as 45 Conventions adopted in the field of labour law protection, under the auspices of the International Labour Organisation.¹⁹ By ratifying these instruments, Moldova has committed to implementing the provisions contained therein and reporting on its progress to UN treaty bodies. Moldova has not yet ratified the UN Convention on the Protection of Persons from Enforced Disappearance and the UN Convention on the Protection of the Rights of Migrant Workers and Members of their Families.

Starting from the fundamental principle of international law – *pacta sunt servanda*²⁰, it is up to the states parties to the conventions to respect the assumed obligations in good faith. States are obliged to act with sincerity and loyalty during negotiations and to respect the terms and conditions of the agreements they have signed. The provisions of the UN conventions to which the Republic of Moldova is a party are mandatory.²¹

■ 3.1. The United Nations treaty in the field of human rights

The United Nations Convention on the Status of Refugees, concluded in Geneva on 28th July 1951, entered into force for the Republic of Moldova with the adoption

18 Parliament Decision of Republic of Moldova Nr. 217-XII of 28 July 1990. [Online]. Available at: https://www.legis.md/cautare/getResults?doc_id=115562&lang=ro (Accessed: 11 September 2024).

19 International Conventions of the International Labor Organization to which the Republic of Moldova is a party. [Online]. Available at: <https://social.gov.md/informatie-de-interes-public/colaborare-internationala/tratate/conventii-internationale/> (Accessed: 11 September 2024).

20 Vienna Convention on the Law of Treaties, 1969, Art. 26. [Online]. Available at: https://legal.un.org/ilc/texts/instruments/english/conventions/1_1_1969.pdf (Accessed: 18 October 2024).

21 Burian et al., 2021, p. 75.

of Law No. 677 on 23rd November 2001.²² Through this law, the Parliament of the Republic of Moldova committed to implementing the provisions established in the Convention. It is important to note that, in accordance with Article 1, point 1 of Law No. 677/2001, the state reserved the right to apply the Convention only within the territory actually controlled by the constitutional authorities, thereby excluding the separatist region of 'Transnistria'. In addition to this territorial reservation, the Republic of Moldova made six other reservations, including a specific reservation concerning Article 21 of the Convention, which excludes the obligation to provide housing to refugees.

At the national level, the protection of foreigners is ensured primarily by the Constitution of the Republic of Moldova.²³ Article 19 of the Constitution stipulates that foreign citizens and stateless persons have the same rights and duties as citizens of the Republic of Moldova, with exceptions provided by law. The Constitution also specifies that the right to asylum is granted and withdrawn in accordance with the law and in compliance with the international treaties to which the Republic of Moldova is a party.

Following the ratification of the 1951 Convention, the Republic of Moldova obliged to establish a legislative framework regarding the status of refugees. Accordingly, on 25th July 2002, the Parliament of the Republic of Moldova adopted Law no. 1286 regarding the status of refugees,²⁴ which aimed to ensure the alignment of national standards regarding the protection of refugees with international standards in the field. It is important to note that one of the positive aspects that was instituted by the national legislator at that time, but which was not preserved over time with the repeal of this law, were the provisions stipulated in Art. 6, para. (2) which provided for the prohibition of return or expulsion from the territory of the Republic of Moldova until all ordinary avenues of appeal had been exhausted. However, this provision was not included in the new Law No. 270 of 18th December 2008, regarding asylum in the Republic of Moldova.

Another impact on the protection system established by the Geneva Convention arose with the onset of the armed conflict between the Russian Federation and Ukraine. In the early stages of the conflict, particularly in February 2022, many specialists, including representatives from several local NGOs, called for the activation of specific protection mechanisms under the Geneva Convention on the Status of Refugees,²⁵ namely the granting of refugee status. In this context, while

22 Law No. 677, 23 November 2001 for the Accession of the Republic of Moldova to the Convention on the Status of Refugees. [Online]. Available at: https://www.legis.md/cautare/getResults?doc_id=61722&lang=ro (Accessed: 30 September 2024).

23 Constitution of the Republic of Moldova.

24 Law No. 1286, 25 May 2022 Regarding the Status of Refugees. [Online]. Available at: https://www.legis.md/cautare/getResults?doc_id=29710&lang=ro# (Accessed: 15 August 2024).

25 Geneva Convention on the Status of Refugees, 1951. [Online]. Available at: https://www.unhcr.org/ro/wp-content/uploads/sites/23/2016/12/1951_Convention_ROM.pdf (Accessed: 15 August 2024).

we acknowledge the need to provide necessary protection to individuals affected by the conflict, regardless of their origin, we believe that granting refugee status may not always be the most appropriate form of protection. According to Article 1, paragraph (2) of the UN Convention on the Status of Refugees, to qualify for refugee status, an individual must meet specific criteria. This includes having a well-founded fear of persecution due to race, religion, nationality, membership in a particular social group, or political opinion. Additionally, the individual must be outside their country of citizenship or habitual residence and be unable or unwilling to seek protection from their country of origin due to such fear. Alternatively, if the person lacks citizenship, they must find themselves outside their habitual residence due to such events and be unable or unwilling to return because of that fear.

Moreover, it should be noted that Law No. 270/2008 establishes a separate form of protection for individuals who do not meet the criteria for refugee status. This form of protection is termed 'humanitarian protection' and is granted when there are serious and well-founded reasons to believe that the individual would face a real risk of harm if returned to their country of origin. Humanitarian protection is provided when the individual is unable or unwilling to obtain protection from their country of origin due to this risk.

Pursuant to Art. 21 of Law no. 270/2008 regarding asylum in the Republic of Moldova, the Government of the Republic of Moldova adopted Decision no. No. 21/2023 regarding the granting of temporary protection to displaced persons from Ukraine.²⁶ In this regard, the conditions for granting temporary protection to displaced persons from Ukraine, and the action plan for granting temporary protection to displaced persons from Ukraine, were established.

Another important treaty in terms of the evolution of the human rights protection system in the Republic of Moldova is the International Covenant on Civil and Political Rights ratified by the Republic of Moldova on 26th January 1993.²⁷ At that stage, the national legislator made a reservation that prevented the Human Rights Committee from examining individual complaints received from citizens. Subsequently, the Parliament of the Republic of Moldova ratified two Optional Protocols: the first, concerning the abolition of the death penalty, was ratified in 2006, and the second, on individual communications, was ratified in 2007. For both ratified protocols, the national authorities maintained a reservation regarding their applicability in the territory on the left bank of the Dniester River. This

26 Government Decision No. 21, 18 January 2023 regarding the granting of temporary protection for people displaced from Ukraine, Official Journal, No. 21-22. [Online]. Available at: https://www.legis.md/cautare/getResults?doc_id=135260&lang=ro (Accessed: 15 July 2024).

27 UN Human Rights, Reporting Status for Republic of Moldova. [Online]. Available at: https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/countries.aspx?CountryCode=MDA&Lang=EN (Accessed: 15 October 2024).

reservation was due to the inability of the constitutional authorities to exercise effective control over the separatist region of Transnistria.

The first initial Report on the implementation of the International Covenant on Civil and Political Rights was presented by the Republic of Moldova only eight years after its ratification in 2001, for the meeting of the Human Rights Committee for the seventy-fifth meeting in 2002. The UN Human Rights Committee noted this delay in its Concluding Observations²⁸ at the end of the hearing. The Committee also pointed out the fact that the State party did not provide – in its report or in its oral presentation – more detailed information regarding the situation in the Transnistrian region. Although the Committee acknowledged that the Moldovan authorities have limited control over the Transnistrian region and that parallel governance structures have been established there, it stressed the importance of assessing the exercise of rights under the Covenant across the entire territory under the State party's jurisdiction. Nonetheless, the Committee welcomed the State party's commitment to seek durable solutions to this issue, which would help it better fulfil its responsibilities under the Covenant in that region.

One of the most significant recommendations from the Committee, at the stage of the initial evaluation of the state in 2002, was dedicated to the independence of the judicial system where it is mentioned that 'The Committee is concerned with the short initial appointments of judges after which they must fulfil certain criteria to obtain an extension of their mandate'.²⁹ Unfortunately, this recommendation managed to be implemented by the state only 19 years later, when Law no. 120 of 23rd September 2021, for the amendment of the Constitution of the Republic of Moldova³⁰, by which Art. 116 of the Constitution of the Republic of Moldova and it was specified that the judges of the courts are appointed, according to the law, until reaching the age limit.

At the same time, the UN Committee for Human Rights highlighted legislative limitations that restricted the right to assembly and demonstration. While the reduction of the prior notification period for public events from 15 days to 5 days was achieved with the adoption of Law No. 26 on 22nd February 2008, many other recommendations have not been fully addressed. This delay in implementation indicates a broader problem with prioritising and effectively executing reforms that align with international human rights standards.

The continued failure to meet the Committee's recommendations underscores the need for a more robust and sustained effort by the Republic of Moldova

28 International Covenant on Civil and Political Rights, 1966. [Online]. Available at: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=C-CPR%2FCO%2F75%2FMDA&Lang=en (Accessed: 25 July 2024).

29 International Covenant on Civil and Political Rights, 1966.

30 Law No. 120, 23 September 2021 for amending the Constitution of the Republic of Moldova. [Online]. Available at: https://www.legis.md/cautare/getResults?doc_id=127960&lang=ro (Accessed: 25 July 2024).

to enhance its human rights framework. This includes addressing legislative gaps, improving the independence of the judiciary, and removing restrictive measures that hinder fundamental freedoms. Until these issues are comprehensively addressed, the country's commitment to human rights will remain under scrutiny, and its ability to meet international obligations will continue to be challenged. Since the ratification of the Optional Protocol on the communication of complaints, four individual communications have been submitted to the UN Human Rights Committee against the Republic of Moldova. Of these four requests, three were declared inadmissible. This outcome reflects that these cases did not meet the criteria for admissibility set out by the Committee, such as issues of procedural requirements, lack of substantiation, or other reasons as determined by the Committee's guidelines. The remaining case, which was not declared inadmissible, highlights the on-going scrutiny and challenges faced by the Republic of Moldova in the area of human rights compliance and enforcement. The handling of these communications underscores the importance of the country's continued efforts to align its practices with international human rights standards and address any shortcomings in its legal and institutional frameworks.³¹

The Republic of Moldova ratified the International Covenant on Economic, Social and Cultural Rights on 26th January 1993,³² thereby committing to uphold economic, social, and cultural rights alongside the civil and political rights guaranteed by the International Covenant on Civil and Political Rights. Moldova only accepted the communication procedure for this Covenant in 2013. Despite this acceptance, there have been no requests or communications submitted to the Committee for examination to date.

Notably, Moldova did not formulate any reservations regarding the territorial application of the Covenant. This means that the obligation to ensure respect for the rights guaranteed by the Covenant extends to all citizens of Moldova, including those residing in the region to the left of the Dniester, which is effectively outside the control of the constitutional authorities.

In response to this situation, the UN Committee on Economic, Social and Cultural Rights recommended that Moldova establish mechanisms to protect the rights of citizens living in regions not effectively controlled by the central government. This recommendation underscores the need for Moldova to develop strategies and frameworks to ensure that economic, social, and cultural rights are upheld even in areas where its authority is limited.

The Republic of Moldova, upon ratifying the International Covenant on Economic, Social and Cultural Rights on 26th January 1993, did not make any reservations regarding the territorial application of the treaty. This absence of

31 Communications no: CCPR/C/133/D/3278/2018, CCPR/C/135/D/3050/2017, CCPR/C/139/D/2870/2016, CCPR/C/139/D/4097/2022. [Online]. Available at: <https://documents.un.org/doc/undoc/gen/g23/250/53/pdf/g2325053.pdf> (Accessed: 25 October 2024).

32 UN Human Rights, Reporting Status for Republic of Moldova.

reservations means that the government is obligated to uphold the rights guaranteed by the Covenant across the entire territory, including areas such as the region to the left of the Dniester, which is not effectively controlled by the constitutional authorities.

In light of this, the UN Committee on Economic, Social and Cultural Rights has recommended that Moldova establish mechanisms to ensure the protection of citizens residing in regions where the central government's authority is limited. This recommendation highlights the need for Moldova to develop and implement measures to safeguard the economic, social, and cultural rights of all its citizens, regardless of their geographical location, thereby ensuring compliance with the Covenant's provisions even in areas with restricted government control.

For this purpose, the government authorities established the Reintegration Policy Office,³³ which aims to establish bilateral dialogue between the constitutional authorities and the self-proclaimed authorities of the separatist region. However, it should be noted that the authorities failed to achieve considerable progress in ensuring economic, social and cultural rights not only on the left side of the Dniester but also on the right side, where the government authorities exercise their constitutional control.

One significant impediment to realising the rights outlined in this treaty is the broad discretion granted to governmental authorities in implementing its provisions. Phrasings used in the Pact and by the Committee, such as 'the state will progressively ensure economic, social, and cultural rights' or 'the state will, to the extent possible, ensure the stipulated rights,' provide authorities with leeway to evade fulfilling their obligations.

The most pressing challenges in implementing this treaty are evident in areas such as housing, employment, and social assistance. National authorities struggle to enforce these provisions, with a key argument being the lack of financial resources.

Ratified by the Republic of Moldova on 26th January 1993, the UN Convention on the Elimination of All Forms of Discrimination remains a cornerstone for ensuring equality in the country. Despite the Convention's ratification in 1993, the first specialised national legislation addressing equality was only adopted through Law No. 121 on 25 May 2012, which is focussed on ensuring equality. Prior to this, protection against discrimination was only provided in the Constitution and in various sectorial laws, such as the Audiovisual Law (later replaced by the Code of Audiovisual Media Services of the Republic of Moldova), which did not fully meet the Convention's requirements.

33 Government of the Republic of Moldova, Bureau of Reintegration Policies, Chisinau: Government of the Republic of Moldova. [Online]. Available at: <https://gov.md/ro/advanced-page-type/biroul-politici-de-reintegrare> (Accessed: 22 July 2024).

According to the Art. 2, lit. (d) of the Convention, the state party is obliged to undertake appropriate means, including if the circumstances require it, through legislative measures, to prohibit racial discrimination practiced by individuals, groups or organisations and to put an end to it. It is important to mention that following the adoption by the Parliament of Law no. 2 of 2nd February 2023, a set of changes were introduced to the entire regulatory framework regarding the field of non-discrimination and ensuring equality. As a result, Law no. 121 of 25th May 2012 on ensuring equality, has become a more effective and operative tool in preventing and combating discrimination, as well as ensuring equality. Thus, the aforementioned law was supplemented with a series of criteria on the basis of which discrimination is prohibited, such as: social origin, national origin and social status, health status and HIV status, gender identity, sexual orientation, political opinions or any other opinions, wealth, birth or any other criterion. Likewise, changes and additions were introduced in Law 121/2012 to detail the meaning of direct and indirect discrimination, as well as positive measures. New notions of continuous discrimination³⁴ and prolonged discrimination³⁵ were also introduced. Provisions have also been introduced prohibiting discrimination regarding access to services and goods available to the public and regarding their provision.³⁶ In this sense, people are protected from any form of discrimination in the process of offering medical, social, banking, transport, cultural or other available services.

We also wish to draw attention to the changes made to Article 9 of the Law, which have significantly revised the mechanism for prohibiting discrimination in the field of education.

Specifically, the revised article addresses issues such as limiting access to education across institutions of any level and type. It also covers restrictions or the undermining of equality within the educational process, including the assessment of knowledge. The updated provisions extend to ensuring equality in scientific and pedagogical activities, combating harassment, and preventing racial segregation. Furthermore, the amendments encompass any other actions that contravene legal provisions aimed at safeguarding equal treatment in education. These changes enhance the legal framework and aim to create a more inclusive and equitable educational environment.³⁷ The same article was com-

34 Law 121/2012 on Ensuring Equality, Art. 2 – continuous discrimination – any act of discrimination that is characterized by the continuous commission, during an indefinite period, of the discriminatory action or inaction and which is consumed at the moment of their termination or at the moment of the occurrence of some events that prevent this act. Law 121/2012 on Ensuring Equality. [Online]. Available at: https://www.legis.md/cautare/getResults?doc_id=144448&lang=ro# (Accessed: 29 August 2024).

35 Ibid. Prolonged discrimination – any act of discrimination characterized by two or more identical actions and/or inactions committed with a single purpose, making up a whole.

36 Law 121/2012 on Ensuring Equality, Art. 8.

37 Law 121/2012 on Ensuring Equality, Art. 9.

pleted with the measures that educational institutions must undertake to ensure the principle of non-discrimination, such as: ensuring accessibility in the field of education, the development of didactic materials in the field, the training of teaching staff and management regarding the application of methods and means of preventing facts of discrimination and reporting to the competent authorities; the inclusion in the internal regulations of the provisions on the prohibition of discrimination and ensuring equality. Additionally, in order to more effectively protect victims of harassment by applying liability for harassment in all spheres of life depending on the seriousness of the actions committed, amendments were introduced to the Criminal Code by introducing Art. 70/2 – Harassment³⁸ and Art. 70/3 – Victimization.³⁹

In accordance with General Recommendation No. 35 of 2013, the Committee on the Elimination of All Forms of Racial Discrimination recommended that states adopt comprehensive legislation to criminalise hate crimes, including racial criteria as an aggravating circumstance. In light of recent socio-political developments both nationally and globally, which have seen a rise in the use of hate speech, legislative updates have been made to address these issues.

In response, the legislator has revised Article 346 of the Criminal Code to specifically address incitement to violent actions based on prejudice. This amendment aims to tackle hate speech more effectively. Furthermore, Article 77 of the Criminal Code now recognises the commission of an offense on the grounds of prejudice as an aggravating circumstance.

Additionally, Article 134/21 of the Criminal Code has been introduced to define prejudiced motives. This article encompasses the perpetrator's preconceived notions based on factors such as race, colour, ethnicity, national or social origin, and other related criteria. These changes aim to strengthen the legal framework against hate crimes and provide a more robust response to prejudiced actions.

The aggravating circumstance related to prejudice has been incorporated into specific categories of offenses within the Criminal Code. This includes offenses against life, health, liberty, honour, and dignity, as well as those related to sexual life, political and constitutional rights, property, public health, and social

38 Harassment, i.e. the manifestation of physical, verbal, non-verbal behaviour or other actions that lead to the creation of an intimidating, hostile, degrading, humiliating or offensive environment, with the aim or effect of harming the dignity of a person based on the criteria of race, colour, national origin, ethnic and social status, citizenship, language, religion or belief, age, sex, gender identity, marital status, sexual orientation, disability, health status, HIV status, opinion, political affiliation, wealth, birth or any other criterion.

39 Any action or inaction resulting in negative consequences for the person who filed a complaint or brought an action in court for the purpose of ensuring the principles of equality and non-discrimination or for the purpose of providing information, including testimonies, that refer to the complaint or action brought by to another person.

coexistence. This incorporation aims to ensure that crimes motivated by prejudice are met with more severe penalties.

Similarly, this aggravating circumstance has been introduced into the Contravention Code, with its definition provided in Article 46/3. The Contravention Code has also been updated to include penalties for incitement to discrimination based on prejudice, as outlined in Article 70/1 and incorporating Article 52. Notably, the code now specifically addresses hate speech and incitement to discrimination by electoral competitors during the election period and within campaign materials, recognising these actions as punishable offenses.

In addition to these legislative changes, Law No. 148 of 9th June 2023, has been enacted to address the right to access information of public interest. This law is crucial for upholding human rights and freedoms within the state. It governs the exercise and protection of this right, delineates the obligations of information providers, establishes legal liabilities for non-compliance, and sets up a monitoring and control mechanism to ensure enforcement.

In the context of providing information of public interest upon request, Article 21 of Law No. 148/2023 stipulates that such information should be communicated in the language in which it is available. This provision has raised concerns among several experts, who argue that access to information should be provided in a manner that is both equal and comprehensible to all individuals.

During the public consultations on the draft law regarding access to information of public interest, expert groups highlighted Article 10, paragraph (1) of the Framework Convention for the Protection of National Minorities No. 94/1995. This article asserts that individuals belonging to national minorities have the right to use their minority language freely, without interference, in both private and public contexts, and in both oral and written forms. Furthermore, it guarantees the right to use mimetic-gestic language and other alternative means of communication.

Additionally, Article 7 of the Law on the Rights of Persons Belonging to National Minorities and the Legal Status of their Organizations No. 382/2001 emphasises that individuals from national minorities have the right to freely use their mother tongue in both written and oral forms. This law also provides for the right to access, disseminate, and exchange information in their own language.

In light of these considerations, it is recommended that the State revise the legislative provisions to ensure that all national minorities have equal access to information of public interest in a manner that accommodates their linguistic needs.

Under certain circumstances, Article 2 of the Convention, States Parties must implement specific and concrete measures in the social, economic, cultural, and other domains to ensure the adequate development or protection of certain racial groups or individuals belonging to such groups. This aims to guarantee them the full enjoyment of human rights and fundamental freedoms on equal terms.

These measures must not,⁴⁰ perpetuate unequal or special rights for the various racial groups once the goals for which they were adopted have been achieved. To fulfil this provision, the Government of the Republic of Moldova enacted Decision No. 576 on 3rd August 2022, approving the Program for the support of the Roma population in the Republic of Moldova for the years 2022-2025.

The Program for the Support of the Roma Population for 2022-2025 has been approved and is included in Chapter 9 of the Action Plan for the implementation of the measures proposed by the European Commission in its Opinion on the application for accession of the Republic of Moldova to the European Union. This demonstrates the Republic of Moldova's commitment to creating an inclusive environment that promotes diversity, intercultural dialogue, linguistic integration, and the integration of the Roma group into various aspects of state life.

Also, the program is designed to address the multifaceted challenges and constraints faced by the Roma population and aims to bring about fundamental changes to improve their situation. The document outlines 9 priority areas, encompassing objectives and actions related to education, health, employment, social protection, Roma participation in public life and decision-making processes, anti-discrimination efforts, Roma migrant rights and the combating of human trafficking, the role of community mediators, and cultural and media initiatives.

Consequently, we consider that the partial state has succeeded in implementing the provisions of the Convention on the Elimination of All Forms of Racial Discrimination.

The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, ratified in 1996, along with its Optional Protocol, ratified in 2006,⁴¹ have laid the groundwork for establishing a human rights-oriented justice system in the country. These instruments form the basis for the prohibition of violent behaviour by state agents against individuals. They underscore Moldova's commitment to ensuring that justice is administered in a manner that respects and protects human dignity, and they provide a framework for addressing and preventing acts of torture and ill-treatment by state authorities.

The UN Convention served as the foundation for establishing mechanisms to protect against abuses by authorities. One such mechanism is the National Mechanism for the Prevention of Torture, created under Law No. 52/2014, concerning the People's Advocate. This mechanism is designed to ensure compliance

40 Program for supporting the Roma population in the Republic of Moldova for the years 2022-2025, 217/MEC/2022. Chisinau: Government of the Republic of Moldova. [Online]. Available at <https://gov.md/ro/content/cu-privire-la-aprobarea-programului-pentru-sustinerea-populatiei-de-etnie-roma-din-republica> (Accessed: 14 July 2024).

41 The General Assembly resolution 39/46 of 1984, Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. [Online]. Available at: <https://legal.un.org/avl/ha/catcidtp/catcidtp.html#:~:text=The%20Convention%20against%20Torture%20and,been%20ratified%20by%20%20States> (Accessed: 14 October 2024).

with the Convention's standards and to safeguard individuals from torture and ill-treatment by state authorities (Ombudsman).⁴² The Council for the Prevention of Torture was established in accordance with the provisions of Law No. 52 on the People's Advocate (Ombudsman).⁴³ This council plays a crucial role in monitoring and preventing torture and ill-treatment, in line with the legal framework set out by the People's Advocate Law.

The Council for the Prevention of Torture, established as a collaborative effort between civil society and the Office of the Ombudsman, was formed through a competitive selection process. The Ombudsman and the Children's Rights Ombudsman serve as ex-officio members, contributing to the Council's diverse composition and ensuring a broad perspective in its operations.

The Council functions as a national mechanism for the prevention of torture, in accordance with the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Its primary objective is to protect individuals from torture and other forms of cruel, inhuman, or degrading treatment or punishment.

Since its establishment in 2007, the National Mechanism for the Prevention of Torture (NPM) in the Republic of Moldova has been actively engaged in its mission. Under two previous mandates, the NPM has conducted over 1,200 visits to places where individuals may be held. These visits aim to prevent ill-treatment and propose improvements to the conditions of those in custody.

Recently, the Ministry of Justice and the General Prosecutor's Office have undertaken initiatives to amend various legislative frameworks, including executive-criminal, criminal, and procedural-criminal legislation, as well as certain government decisions and Joint Order 77/2013. These efforts, supported by civil society organisations and public administration bodies, seek to enhance the legal and procedural mechanisms related to the prevention of torture and the protection of human rights.

One of the most significant recent amendments is the addition of Article 276, paragraph 12, to the Criminal Procedure Code. This provision states: 'Criminal prosecution shall be initiated in the absence of a complaint by the victim if the offense referred to in Article 152, paragraph (1), or Article 155 of the Criminal Code No. 985/2002 was committed in places of detention.'

This amendment, supported by the Public Prosecutor, aims to enhance public confidence in the justice system, particularly for those individuals who are victims of abuse in detention facilities. It addresses situations where victims may be unable to report abuse due to justified fear, ensuring that such offenses are prosecuted even in the absence of a formal complaint.

42 Law No. 52, 3 April 2014 on the People's Advocate. [Online]. Available at: https://www.legis.md/cautare/getResults?doc_id=141519&lang=ro# (Accessed: 15 August 2024).

43 Ibid.

However, although these provisions resolve conflicts between detainees and enable the authorities to investigate them ‘more effectively’.(...) This practice could create uncertainty and vagueness in researching and documenting specific concrete facts. From the rule mentioned above, not only is the process of registration and initiation of criminal prosecution unclear, but also the manner of referral to the prosecuting authority. In this case, however, a ‘conflict of jurisdiction’ would arise, where any statement, complaint or other information that provides grounds to assume that the person has been subjected to torture, inhuman or degrading treatment, as provided for in Article 166¹ of the Criminal Code or other cruel punishment or treatment while in State custody, is to be submitted or forwarded immediately to the prosecutor for examination by Article 274 paragraph (3¹) of the CPC⁴⁴, and only after the prosecutor finds that the act does not contain the elements of the offense referred to in Article 166¹ of the CPC. Still, there are reasonable grounds to assume that the offense referred to in Article 152 paragraph (1) or Article 155 of the CPC may have been committed. Shall the prosecutor forward the information to the prosecuting body to decide on initiating criminal proceedings. This situation will also have an impact on the reasonable time limit for examining complaints, as they will be received late for examination by the prosecution body. This creates the danger of destruction or disappearance of evidence, and the potential influence of the victim or witnesses, which can compromise the objectivity and transparency of the evidence. This can have a general impact on criminal proceedings and the rights of the parties involved. If all the information from places of detention is examined and investigated, the prosecuting body will be overburdened, and the quality of investigations into cases where the victim complains about the unlawful actions of another person will be undermined. However, the position of the victim in such cases is crucial. The course of the criminal prosecution and the decision to convict a person, based on Articles 152 and 155 of the Criminal Code, must be solely supported by the victim’s statements, which will attest to and claim the physical injury caused. These offenses fall under the category of crimes against the life and health of the person.

On 28th December 2023, amendments were made to the Criminal Code. Article 149 was amended to include paragraph (1²), which states, ‘Deprivation of life by the imprudence of a public figure or by an official on duty,’ and Art. 157 was amended to include paragraph (2) which provides ‘Serious or moderate harm to bodily integrity or health due to imprudence of a public figure or an official on duty.’ Although the legislator introduced a separate norm for ‘agents of the State,’ we believe it created legal uncertainty regarding the absolute right ‘Prohibition of torture’ as punished by Art. 166/1 CC. Thus, ‘public agents’ could face less severe penalties under this provision, potentially circumventing the stricter punishments

44 Criminal Code of the Republic of Moldova. [Online]. Available at: https://www.legis.md/cautare/getResults?doc_id=140290&lang=ro# (Accessed: 15 July 2024).

associated with ‘acts of torture, including injury and deprivation of life while exercising one’s duties.’ This situation undermines the international commitment to effectively combat ‘torture.’ As of the time of preparing the Annual Report, this provision has not yet been published in the Official Gazette⁴⁵. Other changes approved at the end of the year were, according to the original text, some military offenses (Art. 366 Criminal Code (contempt against the officer), Art. 371 Criminal Code (desertion)). Thus, the responsibility for such offenses was transposed in Art. 56² and Art. 56³ of the Contravention Code. The People’s Advocate believes these are positive amendments because they will facilitate the situation of conscripts, including because the cancelled military offenses do not present a high degree of danger by their nature. The last necessary amendment to the relevant criminal legislation concerns supplementing Art. 90, para. (4) of the Criminal Code. The new rule will ban sentencing with conditional suspension of punishment for individuals who committed acts of torture according to Art. 166¹, paras.(2)-(4) of the Criminal Code.

Another vital act in terms of human rights protection in the Republic of Moldova is the 1989 UN Convention on the Rights of the Child. Thus, the Convention was ratified by the Republic of Moldova on 26 January 1993⁴⁶. Subsequently, in 2004 the Optional Protocol on the involvement of children in armed conflict was ratified,⁴⁷ in 2007 the Optional Protocol on the sale of children, child prostitution, and child pornography was ratified,⁴⁸ and in 2022 the Optional Protocol on the communication procedure was ratified.⁴⁹

Subsequently, the Republic of Moldova adopted Law No 338 /994⁵⁰, on the Rights of the Child, which was subsequently repealed by Law No 370/2023⁵¹. This law brought national standards into line with international regulations, and

45 Parliament of the Republic of Moldova. The draft law for the amendment of some normative acts (amendment of the Criminal Code and the Offenses Code). Chisinau: Parliament of the Republic of Moldova. [Online]. Available at: <https://www.parlament.md/Procesul-Legislativ/Proiectedeactenormative/tabid/61/LegislativId/6497/language/ro-RO/Default.aspx> (Accessed: 15 August 2024).

46 Convention on the Rights of the Child in International Treaties No. 1, Art. 52.

47 Law No. 15, 2 June 2004 for the Ratification of the Optional Protocol on the Involvement of Children in Armed Conflict. [Online]. Available at: https://www.legis.md/cautare/getResults?doc_id=26126&lang=ro (Accessed: 15 August 2024).

48 Law No. 29, 22 February 2007 for the ratification of the Optional Protocol to the Convention on the Rights of the Child regarding the Sale of Children, Prostitution, and Child Pornography. [Online]. Available at: https://www.legis.md/cautare/getResults?doc_id=7303&lang=ro (Accessed: 15 August 2024).

49 Law No. 117, 5 May 2022 for the ratification of the Optional Protocol to the United Nations Convention on the Rights of the Child on a communications procedure. [Online]. Available at: https://www.legis.md/cautare/getResults?doc_id=131326&lang=ro (Accessed: 29 August 2024).

50 Law No. 338, 15 December 1994.

51 Law No. 3701, 30 November 2023.

thus national legislation became compatible with the provisions of the international treaty.

The Republic of Moldova has participated in the reporting procedures before the UN Committee on the Rights of the Child since 2002, and the last round of monitoring was spent in 2017. In total there were only three rounds of reporting on the Convention. The Committee has on several occasions drawn the attention of the State party to the need to comply with the provisions of the Convention, but the recommendations forwarded by the Committee have remained largely unimplemented. The UN Committee on the Rights of the Child has emphasised the importance of protecting children's rights to life and development in accordance with the UN Convention on the Rights of the Child. Recent reports highlight progress but also shortcomings in ensuring this right in the Republic of Moldova. Public health problems, including limited access to health services in rural areas and the lack of an adequate support system for families, are critical issues.

The reports of the Moldovan Ombudsman for the Rights of the Child reflect concerns about poor living conditions and unequal access to essential development resources. There are signs of the need to improve health and education infrastructures to support the proper development of children, particularly in disadvantaged communities. The Ombudsman has reported that administrative procedures for birth registration can sometimes be complicated and can affect children from vulnerable families. It is essential to simplify these processes to prevent social exclusion.

The UN Committee has acknowledged that while Moldova has made progress in expanding access to education, significant inequalities persist. The quality of education varies considerably between different regions and social groups, and children from disadvantaged backgrounds continue to encounter obstacles in accessing education.

Civil society organisations have highlighted disparities in educational access between urban and rural areas, as well as among different socio-economic groups. They stress the need for systemic reforms to ensure that all children, including those with disabilities and from marginalised communities, receive quality education. The Ombudsman's reports reveal that, despite the introduction of policies aimed at combating violence against children, there are gaps in their implementation and insufficient resources for effective intervention. Additionally, there is a pressing need for increased education and awareness-raising efforts among both the community and authorities to prevent violence.

It is also noteworthy that, as of the writing of this report, no communications have been filed against the Republic of Moldova under Optional Protocol No. 3.

The United Nations Convention on the Elimination of All Forms of Discrimination against Women (CEDAW),⁵² adopted on 18th December 1979, was ratified by the Republic on 28th April 1994 through a decision of its Parliament, No. 42-XI. The Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women was ratified by Law no. 318-XVI of 15th December 2005, which entered into force on 28th February 2006. The seventh periodic report submitted by the Republic of Moldova under Article 18 of the Convention, was due in 2024.⁵³

Since ratifying the CEDAW Convention, Moldova has submitted its initial report to the Committee (2000), combined periodic reports – 2 and 3 in 2006, 4 and 5 in 2013 – an interim report on preventing and combating domestic violence (DV) in 2015, and the 6th periodic report in 2018.⁵⁴

The Constitution of the Republic of Moldova states in Art. 16 that ‘all citizens of the Republic of Moldova are equal before the law and public authorities, without distinction of race, nationality, ethnic origin, language, religion, sex, opinion, political affiliation, wealth or social origin’.

The basic normative framework that promotes the principle of gender equality in the Republic of Moldova is Law no. 5/2006 on ensuring equal opportunities between women and men,⁵⁵ and Law no. 121/2012 on equality.⁵⁶

Law No. 121/2012 on Ensuring Equality guarantees the prevention and combating of discrimination and ensures equality for all individuals under the jurisdiction of the Republic of Moldova. It applies across various spheres of life, including political, economic, social, cultural, and others. The law prohibits discrimination based on race, colour, national origin, ethnicity, social status, citizenship, language, religion or belief, age, sex, gender identity, marital status, sexual orientation, disability, health status, HIV status, opinion, political affiliation, wealth, birth, or any other criterion.

The authorities vested with attributions in the field of equality between women and men are: a) Parliament; b) The Government; c) Government Commission for equality between women and men; d) Ministry of Labour and Social Protection (specialized body); d1) State Labour Inspectorate; e) Ministries and other central administrative authorities (coordinating groups in the gender field);

52 Convention on the Elimination of All Forms of Discrimination against Women New York, 18 December 1979. [Online]. Available at: [https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-elimination-all-forms-discrimination-against-women#:~:text=27\(1\).-,Introduction,twentieth%20country%20had%20ratified%20it](https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-elimination-all-forms-discrimination-against-women#:~:text=27(1).-,Introduction,twentieth%20country%20had%20ratified%20it) (Accessed: 15 August 2024).

53 United Nations, Human Rights, Treaty's Body.

54 Ibid.

55 Law No. 5, 9 February 2006, regarding ensuring equality of chances between women and men, Art. 1. [Online]. Available at: https://www.legis.md/cautare/getResults?doc_id=144448&lang=ro# (Accessed: 8 August 2024).

56 Law 121/ 2012 on Ensuring Equality, Art. 1.

f) Local public administration authorities (gender units); g) National Bureau of Statistics; h) Equality Council.⁵⁷

The Equality Council is an autonomous, impartial and independent public authority, created in 2013.⁵⁸

Law No. 343/2022 extends and specifies the competences of the Equality Council. Key enhancements include the expansion of non-discrimination criteria to encompass gender identity, marital status, sexual orientation, health status, and HIV status. The law also aims to improve data collection on equality, non-discrimination, and diversity, enhance monitoring, evaluation, and annual reporting; strengthen the institutional framework for better implementation of the principles of equality and non-discrimination; and refine complaint examination procedures.

Gender-based violence remains one of the most pervasive and severe forms of discrimination against women, with lasting impacts on victims, their children, families, communities, and society at large. Recognising the gravity and prevalence of this issue is crucial for effective prevention and intervention. However, victims of gender-based violence often struggle to identify their situation or seek help due to various objective and subjective barriers. The development of a strong human rights protection framework highlights the need for universal, regional, and national regulations that prohibit gender-based discrimination and violence as a form of discrimination.

According to the Report on the Gender Equality Index for 2022, the level of gender equality in the Republic of Moldova has shown a notable improvement compared to previous years. The average level of equality between women and men, assessed across six strategic areas, was estimated at 62 points. This represents a 3-point increase from the previous year.⁵⁹

Violence against women and girls can manifest itself in various forms throughout different stages of life, each with distinct characteristics and impacts. At the prenatal stage, violence can include sex-selective abortions, where the sex of the unborn child influences the decision to terminate the pregnancy. Physical abuse directed at pregnant women also falls into this category, as does the coercion of women into forced pregnancies, often under duress or through societal pressure.

As women and girls grow older, the forms of violence they encounter can become increasingly varied and severe. In adolescence and adulthood, intimate partner violence is a prevalent issue, encompassing physical, emotional, and

⁵⁷ Law No. 5, 9 February 2006, Art. 15.

⁵⁸ Equal Council of the Republic of Moldova. [Online]. Available at: <https://egalitate.md/en/> (Accessed: 12 July 2024).

⁵⁹ Report on the Gender Equality Index, 2022 – What is the level of equality between women and men in Moldova?, p. 4. [Online]. Available at: https://progen.md/wp-content/uploads/2022/03/CPD_Indexul-Egalitatii-de-Gen-2022.pdf (Accessed: 30 August 2024).

psychological abuse within relationships. Sexual violence, including rape and sexual harassment,⁶⁰ also represents significant and pervasive problems that affect women across different environments, including workplaces, educational institutions, and public spaces.

In the later stages of life, violence can continue to affect women through physical abuse and neglect, particularly in contexts where women may be vulnerable due to age or dependency. This ongoing violence highlights the need for comprehensive strategies and protections to address and prevent abuse at every stage of a woman's life, ensuring safety and dignity for all.

Law No. 45/2007, concerning the prevention and combatting of violence in the family, is a crucial legislative measure in addressing violence and discrimination against women and girls.⁶¹ This law has undergone multiple amendments and updates to respond to emerging forms of violence, such as online abuse, and to meet evolving challenges. The law aims to provide a comprehensive, multidisciplinary, and professional approach to handling cases of violence against women. These amendments have been designed to enhance the effectiveness of the legal framework in combating various forms of domestic violence and ensuring that appropriate support and protection mechanisms are in place for victims.

Law No. 196, the emergency restriction order was introduced by amending Law No. 45-XVI regarding the prevention and combating of family violence in 2016.

The Republic of Moldova has progressively strengthened its legal framework to address domestic violence and violence against women, integrating specialised services at various levels, from prevention to intervention. The legislation includes the following key regulations:

- Law on Social Services, no. 123/2010⁶²: This law establishes the foundation for social services aimed at supporting vulnerable groups, including victims of domestic violence.
- Government Decision no. 998 of 28th December 2014: This decision approves the Regulation on the organisation and operation of the National Council for the Accreditation of Social Service Providers, ensuring that service providers meet specific standards and are properly accredited.
- Government Decision no. 95 of 7th February 2014: This decision approves the Regulation on the accreditation procedure of social service providers, further ensuring that those offering support services are qualified and meet the necessary criteria.

60 Pădureand Țurcan-Donțu, no date, p. 15.

61 Law No. 45 of 1 March 2007 regarding prevention and combat of domestic violence. [Online]. Available at: https://www.legis.md/cautare/getResults?doc_id=141510&lang=ro# (Accessed: 15 July 2024).

62 Law No. 123, 18 July 2010.

- Government Decision no. 129 of 22nd February 2010: This decision approves the Framework Regulation for the organisation and operation of rehabilitation centres for victims of domestic violence, providing a structured approach to supporting those affected by such violence.
- Government Decision no. 1200 of 23rd December 2010: This decision approves the Minimum Quality Standards for social services provided to victims of domestic violence, ensuring that the services offered meet essential quality requirements.
- Government Decision no. 575 of 19th July 2017: This decision approves the Regulation on the organisation and operation of the free telephone assistance service for victims of domestic violence and violence against women, as well as the minimum quality standards for this service, providing an accessible support line for those in need.
- Law no. 198/2007 on State Guaranteed Legal Aid (SGLA).

According to the Report of the National Council for Legal Assistance Guaranteed by the State, in July 2008, the number of cases saw significant fluctuations, the highest being recorded in 2017 with 65,322 cases. The second highest was recorded in 2022, with 64,132 cases, marking a 5% increase in beneficiaries compared to 2021. In 2023, 2,642 cases had the status of victim/injured party of the crime (about 6% of the total volume), of which 1,690 were victims of domestic violence and 144 were victims of human trafficking.⁶³ These statistics underscore the essential role of the State Guaranteed Legal Assistance (SGLA) system in providing access to justice for marginalised and at-risk populations, ensuring that vulnerable individuals receive the legal support they need.⁶⁴

These regulations collectively aim to offer comprehensive support to victims of domestic violence and violence against women. They address various aspects, including prevention, immediate assistance, rehabilitation, and ongoing support. The goal is to ensure that essential services are not only available but also accessible to those in need, providing a robust framework for protecting and assisting victims throughout their recovery process.

Starting on 1st January 2024, a new governmental structure was established – the National Agency for the Prevention and Combating of Violence against Women and Domestic Violence – which operates on the basis of a regulatory framework approved by the Government, with specific functions to ensure comprehensive and effective efforts to combat of violence against women.

⁶³ National Council for Legal Assistance Guaranteed by the State, 2023.

⁶⁴ National Council for Legal Assistance Guaranteed by the State, 2022.

■ 3.2. *National regulations concerning the equal pay between women and men*

Article 43 of Constitution provides the right to work and labour protection ‘Everyone has the right to work, to freely choose work, to fair and satisfactory working conditions, as well as to protection against unemployment.’⁶⁵

According to Article 1 of the Labour Code, ‘equal work’ refers to work performed in the same positions under identical requirements related to education, professional training, skills, efforts, responsibility, the nature of the activities, objectives, and working conditions. On the other hand, ‘work of equal value’ pertains to work performed in different positions or roles that are recognised as equivalent based on similar requirements related to education, professional training, skills, efforts, responsibility, the nature of the activities, objectives, and working conditions.⁶⁶

The Labour Code has been amended, mainly by LP107 from 21st April 2022, and MO141-150 from 13th May 2022 (Art. 254), in effect since 13 May 2022. The amendments are in many regards progressive and complete legal definitions of remuneration, equal work and work of equal value.⁶⁷

Remuneration is defined as monetary compensation that includes a basic salary (tariff salary, salary of the position), as well as all additions, increments, awards and other incentives and payments granted to the employee by the employer based on the individual employment contract for the work performer.

According to the Global Gender Gap Index Ranking of 2023, the Republic of Moldova held 19th position.⁶⁸

The ratification of the International Labour Organisation (ILO) Convention no. 190 on the Elimination of Violence and Harassment at the Work Word in December 2023 is also an important step towards eliminating violence and harassment in the workplace.⁶⁹

Since ratifying the optional protocol, the Committee for the Elimination of Discrimination against Women has examined three communications submitted against the Republic of Moldova.⁷⁰

⁶⁵ Constitution of the Republic of Moldova.

⁶⁶ Labour Code of the Republic of Moldova, Art. (1).

⁶⁷ Law No. 107 of 21 April 2022, for the modification of some normative act. [Online]. Available at: https://www.legis.md/cautare/getResults?doc_id=131234&lang=ro (Accessed: 25 October 2024).

⁶⁸ World Economic Forum, 2023, Global Gender Gap Index Ranking, Table 1.1. Geneva: WEF. [Online]. Available at: https://www3.weforum.org/docs/WEF_GGGR_2023.pdf (Accessed: 15 June 2024).

⁶⁹ Law No. 440, 28 December 2023 for the ratification of ILO Convention No. 190 regarding violence and harassment in the world of work. [Online]. Available: https://www.legis.md/cautare/getResults?doc_id=141320&lang=ro (Accessed: 15 September 2024).

⁷⁰ Communication to CEDAW vs Republic of Moldova (CEDAW/C/76/D/105/2016; CEDAW/C/66/D/58/2013; CEDAW/C/66/D/58/2013). [Online]. Available at: <https://juris.ohchr.org/SearchResult> (Accessed: 25 July 2024).

The United Nations Convention on the Rights of Persons with Disabilities and its Optional Protocol were adopted by the United Nations General Assembly on 13th December 2006. They were open for signature at the United Nations Headquarters in New York on 30th March 2007. On the opening day, an unprecedented 81 countries signed the Convention. This international human rights treaty aims to protect the rights and dignity of persons with disabilities, serving as a crucial and effective pillar for promoting and safeguarding their rights.

Using Law No. 166/2010⁷¹, the Republic of Moldova ratified the UN Convention on the Rights of Persons with Disabilities (CRPD), signalling its commitment to align national legislation and practices with the Convention's standards. This ratification highlights the significant role played by civil society, disability organisations, and individuals with disabilities in advocating for and advancing the ratification process.

Additionally, using Law No. 162/2021, Moldova ratified the Optional Protocol to the UN Convention on the Rights of Persons with Disabilities.⁷² The Optional Protocol introduces an individual communications procedure, enabling individuals or groups from ratifying states to submit complaints directly to the Committee on the Rights of Persons with Disabilities. This mechanism provides an important avenue for addressing violations of disability rights and further strengthens Moldova's commitment to upholding the rights of persons with disabilities.

The ratification of the Convention on the Rights of Persons with Disabilities (CRPD) by the Republic of Moldova represents a significant shift in how the country addresses disability issues. Prior to this ratification, the focus was primarily on social protection and health concerns related to individuals with disabilities. However, the CRPD emphasises a human rights-based approach, highlighting the importance of viewing persons with disabilities as equal citizens with the same civil, political, social, and cultural rights as others.

A key aspect of the CRPD is its commitment to ensuring independent living for people with disabilities. This includes individuals with intellectual and psychosocial disabilities. The Convention advocates for the de-institutionalisation of these individuals, aiming to transition them from residential institutions to community-based settings. This approach promotes greater social inclusion and provides support through community-level social services, reflecting a broader recognition of the rights and human value of individuals with disabilities.

The Convention reaffirms 'the universality, indivisibility, interdependence, and interrelatedness of all human rights and fundamental freedoms and the need to guarantee to persons with disabilities the right to their full enjoyment without

71 Law No. 166, 9 July 2010.

72 Law No. 162, 4 November 2021 regarding the ratification of the Optional Protocol to the United Nations Convention on the Rights of Persons with Disabilities. [Online]. Available at: https://www.legis.md/cautare/getResults?doc_id=128616&lang=ro (Accessed: 15 July 2024).

discrimination'⁷³ and recognises that 'disability is an evolving concept resulting from the interaction between persons with impairments and attitudinal and environmental barriers which hinder their full and effective participation in society on an equal basis with others.'⁷⁴

An important aspect of the protection of human rights is also to ensure equal opportunities and equal treatment of all persons irrespective of any criteria, thereby guaranteeing respect towards the principle of non-discrimination. The Constitution of the Republic of Moldova Art. 16 (2) states that 'All citizens of the Republic of Moldova are equal before the law and the public authorities, without any discrimination as to race, nationality, ethnic origin, language, religion, sex, political choice, personal property or social origin'. According to Art. 20, paras. 1 and 2 of the Constitution, 'Every citizen has the right to obtain effective protection from competent courts of jurisdiction against actions infringing on his/her legitimate rights, freedoms and interests. No law may restrict the access to justice'.

Initially Law no. 821-XII from 24th December 1991, regarding the social protection of the disabled, and then Law No. 60 from 30th March 2012 on the social inclusion of persons with disabilities⁷⁵ contain provisions on equality and non-discrimination of persons with disabilities, banning all forms of discrimination on grounds of disability (Art. 8), and provisions for the protection of the rights of persons with disabilities, and liability for their breach, including legal aid on an equal basis with other citizens in all areas of life (Art. 10).

Law No. 60/2012 introduces an important concept of 'reasonable accommodation', which aims to ensure the right of persons with disabilities to exercise, on an equal basis with others, all the human rights and fundamental freedoms (Art. 2). The law also sets out provisions on the promotion of equality and the elimination of discrimination against persons with disabilities in various areas of life (Art. 6, para. 2; Art. 8, para. 8; Art. 19, para. 2; Art. 27, para. 6a; Art. 29 para. 2; Art. 33, para. 7a; Art. 35, para. 2). Under these provisions, the State is responsible for developing national policies for the prevention, treatment, rehabilitation, reasonable accommodation and social inclusion of persons with disabilities, and promoting reasonable accommodation measures for social facilities in the fields of education, health, employment⁷⁶, etc.

The Republic of Moldova, with its initial report due in 2012, has been continuously working to align its legislation and policies with the provisions of the UN Convention on the Rights of Persons with Disabilities. This ongoing process

73 Convention on the Rights of Persons with Disabilities, 2006.

74 Convention on the Rights of Persons with Disabilities, 2006, Preamble.

75 Law No. 60, 30 March 2012 on Social Inclusion of Persons with Disabilities. [Online]. Available at: https://www.legis.md/cautare/getResults?doc_id=22959&lang=ro (Accessed: 5 August 2024).

76 Ibid.

reflects a significant shift in how the country approaches disability issues, moving from a medical model to a social model of disability.

The medical model traditionally views disability as a condition that resides within the individual and focuses on diagnosis and treatment. In contrast, the social model, which the Republic of Moldova is increasingly adopting, emphasises the role of societal barriers and attitudes in creating and perpetuating disability. It asserts that disability arises from the interaction between individuals with impairments and an environment that fails to accommodate their needs, rather than solely from the impairments themselves.

As part of this transition, Moldova has been adjusting its legal and policy frameworks to address disability more comprehensively. This includes efforts to enhance accessibility, ensure inclusion in various aspects of life, and uphold the rights and dignity of persons with disabilities. The aim is to create an environment where persons with disabilities can fully participate in society and enjoy their rights on an equal basis with others.

The country's commitment to these changes demonstrates its alignment with international human rights standards and its efforts to foster a more inclusive and supportive environment for persons with disabilities.

In the combined second and third periodic reports submitted by the Republic of Moldova under Article 35 of the Convention, pursuant to the optional reporting procedure, due in 2020,⁷⁷ Republic of Moldova reported that it reported significant progress in its efforts to enhance the social inclusion of persons with disabilities. Notably, the Republic of Moldova approved the National Program on Social Inclusion of Persons with Disabilities for the years 2017–2022⁷⁸. This program represents a comprehensive, cross-sectorial approach to the social inclusion of individuals with disabilities. It aims to ensure that their fundamental rights are upheld on par with those of other citizens across all areas of social life. The program is designed to facilitate the full participation of persons with disabilities in society by addressing barriers and promoting accessibility and inclusion in various sectors, such as education, employment, and public services.

The approval and implementation of this program underscored Moldova's commitment to integrating the principles of the Convention into national policies and practices, reflecting a holistic and inclusive approach to supporting persons with disabilities.

In the third cycle of the Universal Periodic Review (UPR 2022), the Republic of Moldova accepted 186 out of 209 recommendations received, a decrease of 2.11% compared to the second cycle. The majority of the accepted recommendations concerned improving the policy and institutional regulatory framework, reducing

77 Convention on the Rights of Persons with Disabilities.

78 Government Decision No. 723, 8 September 2017 regarding the approval of the National Program for Social Inclusion of Persons with Disabilities for the years 2017–2022. Official Journal, No. 335–339.

inequalities, civil and political rights, economic, social, and cultural rights, gender equality, children's rights, and the rights of other vulnerable groups and persons.⁷⁹

In 2023, an evaluation of the implementation of the National Human Rights Action Plan for 2018-2022⁸⁰ was finalised, which showed that this public policy document was achieved at an average level. The evaluation report PNADO of 2018-2022 showed that, on the one hand, the rate of institutionalisation of persons with disabilities was reduced, and on the other hand, the rate of persons with disabilities who were deprived of the right to make decisions on their own was not achieved.

To monitor the implementation of the UN Convention on the Rights of Persons with Disabilities, the Government has approved a Set of Indicators for Monitoring the UN Convention on the Rights of Persons with Disabilities. This framework encompasses structure indicators, process indicators, and outcome indicators. Structure indicators evaluate the availability and adequacy of resources and institutions responsible for implementing the Convention, including policies, programs, and organisational structures. Process indicators assess the effectiveness of the activities and processes involved in ensuring compliance with the Convention, such as the execution of policies and initiatives. Outcome indicators measure the tangible results and impacts of these measures on the rights and well-being of persons with disabilities, including improvements in accessibility, inclusion, and participation in society.

Governmental Decision No. 421/2024, on the approval of the Matrix of Statistical Indicators on Persons with Disabilities, introduced a comprehensive set of indicators aimed at improving the collection and analysis of data related to both adults and children with disabilities. This matrix includes statistics on various aspects such as employment status, unemployment, and pension beneficiaries among persons with disabilities⁸¹. The decision also amends Governmental Decision No. 357/2018,⁸² concerning the determination of disability. The new matrix is designed to enhance the centralised system for collecting statistical data on

79 UN Human Rights Council. Universal Periodic Review – Republic of Moldova. [Online]. Available at: <https://www.ohchr.org/en/hr-bodies/upr/md-index> (Accessed: 25 August 2024).

80 Evaluation Report of the National Action Plan in the Field of Human Rights for the Years 2018-2022. Chisinau: Government of the Republic of Moldova. [Online]. Available at: https://cancelaria.gov.md/sites/default/files/raport_de_evaluare_pnado_2018-2022.pdf (Accessed: 3 July 2024).

81 Governmental Decision No. 421, 30 March 2024. [Online]. Available at: https://www.legis.md/cautare/getResults?doc_id=143753&lang=ro (Accessed: 3 November 2024).

82 Government Decision No. 357/2018 concerning the Determination of Disability, Annex 1. [Online]. Available at: https://www.legis.md/cautare/getResults?doc_id=119169&lang=ro (Accessed: 3 November 2024).

disability, thereby facilitating more effective analysis and the utilisation of the data to support and benefit individuals with disabilities.

A new plan, the National Program for the Advancement of Disability and Other (PNADO) for 2024-2027, is set to be adopted. This program aims to align itself with several key sectorial policy documents to ensure a cohesive approach across various areas. It integrates with the National Strategy 'Health 2030,' the National Strategy 'Education 2030' and the Youth Sector Development Strategy 'Youth 2030.' Additionally, it aligns with the Strategy for Strengthening Interethnic Relations in Moldova for 2017-2027 and its implementation program for 2023-2025, the National Program for Child Protection for 2022-2026, and the Program for the Support of the Roma Population for 2022-2025. The PNADO also supports the Employment Program for 2022-2026, the Strategy for Ensuring the Independence and Integrity of the Justice Sector for 2022-2025, and the Program for Promoting and Ensuring Gender Equality for 2023-2027. Furthermore, it complements the National Program for Preventing and Combating Violence against Women and Domestic Violence for 2023-2027, the National Program for Preventing and Combating Trafficking in Human Beings for 2024-2028,⁸³ and the Program for the Development of Civil Society Organizations for 2024-2027. This comprehensive approach is designed to ensure synergistic consistency and effective implementation of policies and programs across these various sectors.

In conclusion, the Republic of Moldova has demonstrated a robust commitment to advancing the rights and inclusion of persons with disabilities through significant legislative and policy reforms. The ratification of the UN Convention on the Rights of Persons with Disabilities and its Optional Protocol marks a pivotal moment in Moldova's human rights landscape, reflecting the country's dedication to aligning its national practices with international standards. This commitment is further underscored by the adoption of Law No. 166-XVIII, which marked a shift from a medical to a social model of disability, emphasising human rights and social inclusion.

The extensive amendments to national legislation, including the Civil Code and the establishment of the National Agency for the Prevention and Combating of Violence against Women and Domestic Violence, highlight Moldova's proactive approach to addressing discrimination and violence. The National Program on Social Inclusion of Persons with Disabilities for 2017-2022, alongside ongoing and future initiatives, illustrates a holistic and integrated strategy for supporting persons with disabilities across various dimensions of social life.

The Republic of Moldova's engagement with international monitoring mechanisms, such as the UN Committee on the Rights of Persons with Disabilities,

⁸³ The National Program for Preventing and Combating Trafficking in Human Beings for 2024-2028. [Online]. Available at: https://gov.md/sites/default/files/document/attachments/subiect-08-nu-714-cs-2023_0.pdf (Accessed: 3 November 2024).

and its response to the Committee's recommendations, reflect a sincere effort to tackle the challenges faced by persons with disabilities. The commitment to deinstitutionalisation, improved access to justice, and the implementation of comprehensive action plans, underscores Moldova's resolve to foster an inclusive and supportive environment for all its citizens.

Moreover, the introduction of Government Decision No. 421/2024,⁸⁴ which includes a matrix of statistical indicators, represents a crucial step towards enhancing data collection and analysis. This initiative will strengthen the centralised system for tracking disability-related data, thereby facilitating more informed decision-making and policy development.

As Moldova prepares to implement the National Program for the Advancement of Disability and Other (PNADO) for 2024-2027, its alignment with key sectorial strategies promises a synergistic approach to addressing the multifaceted needs of persons with disabilities. The integration of this program with national strategies on health, education, youth, interethnic relations, child protection, and gender equality ensures a comprehensive and coordinated effort to promote the rights and well-being of persons with disabilities.

In summary, Moldova's legislative reforms, strategic planning, and active engagement with international human rights mechanisms reflect a significant and ongoing commitment to improving the lives of persons with disabilities. The country's efforts in advancing disability rights and ensuring inclusive policies will be instrumental in fostering a more equitable and just society, where all individuals, regardless of their abilities, can participate fully and equally in all aspects of life.

■ 3.3. *International treaties and the Constitution of The Republic of Moldova*

The Republic of Moldova, as a sovereign state, is committed to the observance and implementation of international treaties to which it is a party. These treaties profoundly influence the domestic legal framework, resulting from the principle of *pacta sunt servanda* and the supremacy of international law under national law.⁸⁵

A brief look at international law or universal or regional treaties reveals that there is no document that would regulate the model and forms of constitutional litigation. Constitutional review derives from the principles of law, to defend human rights and to ensure a remedy against unconstitutional acts of Parliament, thus establishing legislation adequate to the constitutional provisions and international treaties to which a state adheres⁸⁶.

84 Government Decision No. 421 of 16 July 2024, Annex 1.

85 Judgement of Constitutional Court of Moldova, Nr. 12 of 7 May 2020. [Online]. Available at: <https://www.constcourt.md/ccdocview.php?tip=hotariri&docid=738&l=ro> (Accessed: 30 December 2024).

86 Tanchef et al., no date, p. 4.

The Constitution of the Republic of Moldova is considered the state's supreme law, which means that any rule that contradicts the Constitution cannot be applied.

The Constitution of the Republic of Moldova on Article 4 of Human Rights and Freedoms, establishes:

'Constitutional provisions on human rights and freedoms shall be interpreted and are enforced in accordance with the Universal Declaration of Human Rights, with the conventions and other treaties to which the Republic of Moldova is a party'. It also states that, 'wherever disagreements appear between the conventions and treaties on fundamental human rights to which the Republic of Moldova is a party, and its domestic laws, priority shall be given to international regulations.'⁸⁷

According to Article 8 of the Constitution, entitled 'Respect for international law and international treaties'. 'The Republic of Moldova undertakes to respect the Charter of the United Nations and the treaties to which it is a party, to base its relations with other states on the principles and norms of international law unanimously recognised.'⁸⁸

Compliance with international commitments by the Republic of Moldova is provided by Art. 8 of the Constitution, according to which the Republic of Moldova undertakes to respect the Charter of the United Nations Organisation and the treaties to which it is a party, to base its relations with other states on the unanimously recognised principles and norms of international law. According to the theory and practice of international law, by unanimously recognising the principles and norms of international law, the established principles and norms of international law will be understood to have a general and universal character. The unanimously recognised norms and principles of international law are enforceable for the Republic of Moldova to the extent that it has expressed its consent to be bound by the respective international acts.⁸⁹

Furthermore, concerning the operative part of the Decision, the Court concluded that Article 4 of the Constitution guarantees fundamental human rights and freedoms that are constitutionally enshrined, as well as the universally recognised principles and norms of international law, meaning those principles and norms are of a general and universal nature.⁹⁰

Regarding the issue of non-compliance between internal legislation and human rights protection standards, the Constitutional Court established that in cases of inconsistencies between international pacts and treaties concerning

⁸⁷ Constitution of the Republic of Moldova, Art. 4.

⁸⁸ Ibid.

⁸⁹ Decision No. 55, 1999 of the Constitutional Court of the Republic of Moldova. [Online]. Available at: https://www.constcourt.md/public/ccdoc/hotariri/ro_1999_h_55.pdf (Accessed: 3 September 2024).

⁹⁰ Ibid.

fundamental human rights and the internal laws of the Republic of Moldova, legal bodies are obliged to apply international regulations.

The Constitutional Court of the Republic of Moldova has issued numerous decisions that reflect its approach to the correlation between international and national legislation. In Decision No. 22 of 2007, the Constitutional Court was required to issue an opinion on the compatibility of the constitutional provisions with the provisions of the Rome Statute of the International Criminal Court, adopted on 17th July 1998, within the diplomatic conference of the United Nations. The complaint concerned the immunities enjoyed, according to national legislation, by high state dignitaries, judges and deputies. The Court concluded that the provisions of the Rome Statute of the International Criminal Court were compatible with the provisions of the Constitution of the Republic of Moldova.⁹¹

In Decision no. 6 of 2017,⁹² the Court ruled that if national legislation contravenes an international obligation, the courts must give priority to international norms. This principle is essential for ensuring respect for fundamental rights, guaranteed by both the Constitution and international treaties. Also, the Court emphasised the importance of interpreting national legislation in accordance with international standards, thereby demonstrating the Republic of Moldova's confidence in its alignment with global norms.

This alignment is particularly evident in the Republic's obligations to respect UN conventions, a commitment that promotes democracy, the rule of law, and the protection of human rights.⁹³

■ 3.4. *Legislative process according to the United Nations treaties*

The Republic of Moldova is firmly committed to the protection of human rights and the alignment of its national legislation with international treaties. The Constitution of Moldova guarantees that foreign citizens and stateless individuals possess rights comparable to those of Moldovan citizens, with the right to asylum being governed by applicable laws and international agreements. However, recent asylum law lacks a provision that prohibits expulsion until all legal appeals have been exhausted, which stands in contradiction to the 1951 Convention on Refugees. In the realm of civil and political rights, Moldova has made significant strides toward judicial independence.

91 Decision No 22, 2007 of the Constitutional Court of the Republic of Moldova. [Online]. Available at: https://www.constcourt.md/public/ccdoc/hotariri/ro_2007_h_22.pdf (Accessed: 23 September 2024).

92 Decision on the Inadmissibility of Reports No. 9g/2017 and No. 9g-1/2017 of the Constitutional Court of the Republic of Moldova. [Online]. Available at: <https://constcourt.md/public/ccdoc/decizii/ro-dcc6201701199g2017roca72d.pdf> (Accessed: 30 September 2024).

93 Judgement of Constitutional Court Nr. 27 of 13 November 2020. [Online]. Available at: <https://www.constcourt.md/ccdocview.php?tip=hotariri&docid=748&l=ro> (Accessed: 30 December 2024).

A noteworthy amendment in 2021 permits judges to be appointed until they reach a specified age limit. Nevertheless, limitations on the right to peaceful assembly persist, as the required notification period for demonstrations has only been reduced from 15 to five days, following recommendations from the United Nations Committee. Moldova's approach to economic and social rights has evolved, particularly with the introduction of laws aimed at combating discrimination.

While the UN Convention on the Elimination of All Forms of Discrimination against women was ratified in 1993, specialised legislation aimed at promoting equality was not established until 2012. Recent amendments in 2023 have broadened the non-discrimination framework, incorporating additional criteria and enhancing protections in education and public services.

The implementation of the Convention against Torture has resulted in the establishment of the National Mechanism for the Prevention of Torture, which is designed to safeguard individuals from ill-treatment by the authorities. Significant revisions to the Criminal Procedure Code now allow for the prosecution of torture allegations without the necessity of a victim's complaint in detention settings.

Concerning children's rights, Moldova ratified the Convention on the Rights of the Child in 1993 and has since enacted legislation to align national standards with international mandates. This commitment has continued with the ratification of optional protocols pertaining to issues such as armed conflict and child exploitation. In relation to women's rights, the Constitution guarantees equality, supported by laws aimed at combating gender-based violence and promoting gender equality across various sectors.

In alignment with the principles outlined in the UN Convention on the Rights of Persons with Disabilities, significant legislative adjustments were made in the Republic of Moldova. Referring to Law No. 201/2016, various existing legislative acts were amended to conform with the Convention's requirements. This law marked a substantial step toward integrating the Convention's human rights approach into national legislation.

Additionally, Government Decision No. 592 of 24th July 2017, further supported this integration by amending and supplementing 49 normative acts across different sectors. These modifications aimed to harmonise national regulations with the Convention's standards, ensuring that the rights of persons with disabilities are fully recognised and protected in various areas of public life, including social services, education, employment, and accessibility.

In 2018, amendments were made to Articles 50 and 51 of the Constitution of the Republic of Moldova, replacing the words 'persons with handicap' with the words 'persons with disabilities'.⁹⁴

94 Report no. 35c/2018, Opinion on the draft law to amend articles 50 and 51 of the Constitution of the Republic of Moldova (Persons with Disabilities). [Online]. Available at: <https://www.constcourt.md/public/ccdoc/avize/ro-ACC3201835c2018b7fb2.pdf> (Accessed: 30 September 2024).

In 2016, the set of indicators for monitoring the implementation of the Convention was approved.

The actions undertaken by the Republic of Moldova, following the ratification of the Convention, can be listed as follows:

- The regulation and development of different types of social services for people with disabilities (Community Houses, Sheltered Housing, Personal Assistance, Mobile Team, Respiro, Adult Foster Care, Free Telephone Assistance, Day Centre for People with Disabilities, etc.), for the period 2010-2019.
- The approval of the National Program for Social Inclusion of Persons with Disabilities (for the years 2017-2022).
- The reform of the institution responsible for determining disability and work capacity, from 2013.
- The approval of the National De-institutionalisation Program and the Residential Institutions Transformation Plans, for the period 2018-2026.⁹⁵
- The increase of social allowances, valorisation and indexation of disability pensions.
- The regulation of the minimum package of social services and allocation of financial means to the local public administration for the social services 'Personal assistance', 'Monetary support', 'Support for families with children', starting from 2018.
- The approval of provisions for subsidising employers who create or adapt jobs for people with disabilities and improve access to employment services, starting from 2019.
- The approval of mechanisms for granting facilities for the import of means of transport intended for the transportation of persons with locomotor system disabilities, as well as tax exemptions for road use, etc.

The National Program for the Deinstitutionalisation of Persons with Intellectual and Psychosocial Disabilities, developed and approved by the National Agency for Social Assistance (NASA) for the period 2018-2026, represents a pivotal initiative in Moldova's efforts to align with the UN Convention on the Rights of Persons with Disabilities. This program is a direct response to the challenges identified by the UN Special Rapporteur on the Rights of Persons with Disabilities following their September 2015 monitoring visit to Moldova.

During its visit, the UN Special Rapporteur highlighted several critical issues related to the deinstitutionalisation process, including the persistence of residential institutions and the insufficient availability of community-based social services for individuals with intellectual and psychosocial disabilities.

⁹⁵ Government Decision No. 893/2018, 12 September 2018 regarding the approval of the National Program for the Deinstitutionalization of Persons with Intellectual and Psychosocial Disabilities for the years 2018-2026 and its Action Plan. [Online]. Available at: https://www.legis.md/cautare/getResults?doc_id=109067&lang=ro (Accessed: 3 October 2024).

The Program aims to address these challenges by promoting the transition from institutional care to community-based services, thereby enhancing the autonomy and inclusion of persons with disabilities in society.

The overarching goal of the program is to provide support and services in community settings, thereby reducing reliance on institutional care and improving the quality of life for individuals with disabilities. This initiative aligns with the Convention's emphasis on independent living and social inclusion, marking a significant step towards achieving comprehensive and sustainable reform in the field of disability rights in Moldova.⁹⁶ These issues were also extensively analysed during the hearing in Geneva (March 2017) of the First Country Report on implementing the UN Convention on the Rights of Persons with Disabilities.

Following the presentation of the Report, the Committee on the Rights of Persons with Disabilities, in its Concluding Observations at paragraph 37, recommended to the Republic of Moldova: (a) to accelerate the deinstitutionalisation process and ensure the implementation of the moratorium; (b) to develop and execute, without delay, an action plan on the implementation of deinstitutionalisation reforms, indicating deadlines and periods for the closure of all residential institutions (c) to adopt legal measures providing for people with disabilities to be able to live independently, including personal assistance, and to clarify the responsibilities and allocation of financial resources for the development of services by central and local authorities; (d) to involve people with disabilities, through their representative organisations, in all stages of the deinstitutionalisation process (planning, implementation, evaluation, and monitoring).

The Republic of Moldova is committed to ensuring adequate access to justice for persons with disabilities on an equal basis with other persons, by providing age-appropriate procedural accommodations to facilitate their influential role as direct and indirect participants, including as witnesses, in all judicial proceedings, including at the investigative and other preliminary stages.⁹⁷

Until 2nd June 2017, the Civil Code of the Republic of Moldova⁹⁸ provided a framework for declaring an adult natural person legally incapable. This process was applicable to individuals with mental disorders, such as mental illness or mental deficiency, who were unable to understand or direct their actions.

A court could declare such an individual legally incapable if it was determined that their mental condition impaired their ability to manage their own affairs. Once declared incapable, the person was placed under guardianship. A guardian was appointed to make legal decisions and act on behalf of the incapacitated individual, handling their financial and personal matters.

⁹⁶ Ibid.

⁹⁷ Cazacu, 2018, p. 9.

⁹⁸ Civil Code of the Republic of Moldova, No. 1107 of 06.06.2002. Title III, Chapter I. Official Journal of the Republic of Moldova, No. 82-86. [Online]. Available at: http://www.legis.md/cautare/getResults?doc_id=143668&lang=ro# (Accessed: 30 August 2024).

If the individual's mental condition improved or was resolved, they could petition the court to reassess their capacity. If the court found that the person had regained the ability to understand and manage their actions, the declaration of incapacity would be lifted, and guardianship would be terminated.

During the period of incapacity, the individual was unable to legally enter into contracts or make decisions independently. The guardian was responsible for managing their legal and personal affairs.

This approach, while intended to protect individuals with severe mental health issues, faced criticism for potentially undermining their autonomy and rights. In response to international standards, such as those outlined in the UN Convention on the Rights of Persons with Disabilities, Moldova has been revising its legal framework to better respect and uphold the rights of persons with disabilities.

Compliance with the Convention's commitments after signing was not achieved in the short term, nor in time for the legislative change in the matter of legal capacity of the natural person. Decision of the Constitutional Court No. 33 of 17 November 2016, which declared Article 24 of the Civil Code of the Republic of Moldova No. 1107-XV of 6 June 2002 unconstitutional, and the declaration of incapacity to act is no longer applicable. Protective measures in the form of guardianship are aimed only at persons who are completely lacking in discernment, against whom the application of other less restrictive protective measures proves to be ineffective. In the current version of the Civil Code, Chapter I, new sections were introduced, which regulate both the legal status of the natural person and the legal capacity of the natural person, but also the measures to be taken to protect the natural person. These revolutionary changes introduced new concepts and visions regarding the acting capacity of the adult natural person.⁹⁹

Fundamental human rights and freedoms are regulated, mainly by the following normative acts: Civil Code no. 1107/2002, Criminal Code no. 985/2002, Civil Procedure Code no. 225/2003, Criminal Procedure Code no. 122/2003, Education Code no. 152/2014, Law no. 514/1995 regarding judicial organisation, Law no. 158/2008 regarding public office and civil servant status, Law no. 1349/1997 regarding parliamentary lawyers, Law no. 382/2001 regarding the rights of persons belonging to national minorities and the legal status of their organisations, Law no. 5/2006 ensuring equal opportunities between women and men, Law no. 45/2007 regarding the prevention and combating of family violence, Law no. 105/2008 regarding the protection of witnesses and other participants in the criminal process, Law no. 241/2005 preventing and combating human trafficking, Law no. 1585/1998 regarding mandatory health care insurance, Law no. 23/2007 regarding the prevention of HIV/AIDS infection, Health Protection Law no. 411/1995, Law no. 105/2018 regarding the promotion of employment and unemployment insurance,

⁹⁹ Cazacu, 2018, p. 10.

Law no. 133/2008 regarding social assistance, Law no. 270/2008 regarding asylum in the Republic of Moldova, Law no. 274/2011 regarding the integration of foreigners in the Republic of Moldova, Law no. 125/2007 regarding religious cults and their component parts, Law no. 338/1994 regarding the rights of the child, Law 60/2012 regarding the social inclusion of persons with disabilities, etc.

The Ombudsman's legal status, mandate, duration, and powers are regulated by Law No. 52/2014 on the People's Advocate (Ombudsman).¹⁰⁰ In February 2023, the regulatory framework was updated to align with the latest international trends and standards, enhancing the effectiveness of the Ombudsman institution. This update included improvements in the procedures for selection, appointment, and dismissal, as well as an expansion of the Ombudsman's competencies.

In 2019, the National Council for Human Rights was established. The Council serves an advisory body of the Government, designed to provide an efficient mechanism for the development and evaluation of policy documents related to human rights, in the context of implementing international commitments.

The self-proclaimed region of Transnistria remains largely outside the reach of effective human rights monitoring, and the government in Chişinău continues to make efforts to implement projects and oversee human rights observance in the region. In its country report, the US State Department, drawing on various sources, highlighted several serious human rights violations, including: forced disappearances; torture and cases of cruel, inhuman, or degrading treatment or punishment by the authorities; harsh and life-threatening prison conditions; arbitrary arrest or detention; political prisoners or detainees; significant issues with the independence of the judiciary; arbitrary or unlawful interference with privacy; serious restrictions on free expression and media, including criminal libel laws; serious limitations on internet freedom; substantial interference with the freedom of peaceful assembly and association, including overly restrictive laws on the organisation, funding, or operation of nongovernmental and civil society organisations; severe restrictions on the freedom of movement; serious and unreasonable restrictions on political participation; high levels of government corruption; significant government restrictions or harassment of domestic and international human rights organisations; lack of investigation and accountability for gender-based violence, including domestic or intimate partner violence.¹⁰¹

¹⁰⁰ Law No. 52, 3 April 2014 on the People's Advocate.

¹⁰¹ Moldova 2022 human rights report, 2022, p. 15. [Online]. Available at: https://md.usembassy.gov/wp-content/uploads/sites/210/415610_MOLDOVA-2022-HUMAN-RIGHTS-REPORT.pdf (Accessed: 30 September 2024).

According to Government Decision No. 164, dated 6th March 2024, the National Program for Ensuring Compliance with Human Rights for the period 2024-2027 was approved.¹⁰²

The purpose of the program is to enhance the quality of life in the Republic of Moldova, so that every person lives their life with dignity, and people's aspirations and activities are the basis of development efforts at both national and local level.

In the third cycle of the Universal Periodic Evaluation (UPU 2022), the Republic of Moldova accepted 186 out of 209 recommendations received, registering a decrease of 2.11%, when compared to the 2nd evaluation cycle. Most of the accepted recommendations aim to: improve the institutional and policy normative framework; reduce inequalities; increase civil and political rights; balance economic, social and cultural rights; increase gender equality; protect the rights of the child; reach and protect other vulnerable groups and people.¹⁰³

Enumerating these international mechanisms, we mention that the Republic of Moldova is not a party to two fundamental conventions in the field of labour migration (the International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families and ILO Convention no. 143).¹⁰⁴ Several limitations of labour rights faced by migrant workers who are citizens of the Republic of Moldova were identified, in particular limitations regarding: the right to free movement, professions that can be exercised by migrant workers in the destination states and access to trade union rights, restrictions imposed by sponsorship requirements, the need to leave the country after dismissal or termination of the employer's activity, etc. Emerging from the latest events that shook the whole of Europe, the general recommendation to ratify the fundamental conventions in the field of labour migration is presented.¹⁰⁵

102 Government Decision No. 164, 26 March 2024 for the approval of the Regulation regarding the activity of border representatives. [Online]. Available at: https://www.legis.md/cautare/getResults?doc_id=91107&lang=ro (Accessed: 30 September 2024).

103 UN Human Rights Council. Universal Periodic Review – Republic of Moldova.

104 International Labour Organisation, no date.

105 Cebotari, 2023, p. 164.

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