

## **Human Rights Council resolution 24/16 on the role of prevention in the promotion and protection on human rights**

**1.a. Please describe legislative, judicial, administrative and other measures aimed at prevention of human rights violations and abuses in place at the domestic level, both with regard to direct prevention (aiming to prevent violations from occurring by reducing the risk factors that cause violations) and indirect prevention (aimed at ensuring non-recurrence through investigation and addressing causes of violations, as well as accountability).**

### **Domestic Violence**

According to article 48 of the Moldavian Constitution, the family is the natural and fundamental constituent of society, based on the principle of equal rights for women and men. The family has the right to be protected by the State and by society.

Preventing and combating domestic violence is an important public health problem that needs to be solved for the right of citizens to live without violence.

In order to eradicate this social scourge, on 01.03.2007 was adopted the Law no. 45-XVI on Preventing and Combating Domestic Violence (hereinafter Law no. 45).

The law states that preventing and combating domestic violence is a part of national policy for the protection and support of the family and is an important public health issue to strengthen, protect and support the family, to ensure compliance with the fundamental principles of the law on family, equality between women and men in their human right to life without violence. Subjects of domestic violence represent persons in relationship of marriage, divorce, cohabitation, guardianship, their direct or collateral relatives, husbands relatives and other dependents of these persons in a relationship of marriage, their children, including adopted children, those born out of wedlock, those under guardianship or trusteeship, other persons on maintenance.

Legal philosophy mechanism provided by Law no. 45 is focused on providing urgent protection of victims of domestic violence. An important component of the mechanism for resolving complaints about violence in the family is the procedure for requesting and obtaining victim protection measures against the aggressor events, provided in the Law no.45 arts.13-15.

Legislation permits use of both procedures, civil and criminal. Protective measures are set by the Court by the way of conclusion issuance of protection orders release. Thus, the protection order is meant to provide physical and mental integrity of the person, on which dominates danger of being affected by any of the forms of violence under Law no. 45. Accordingly, the prosecutor's involvement in the process of obtaining protection measures for victims of domestic violence, in terms of criminal and civil proceedings is welcomed, and where appropriate, even necessary (for instance in civil procedure at the request of the victim, of reasons (health status or condition of dependency on the uncontrolled abuser etc.) can not act by themselves and in the interest of incapable persons).

We mention the authorities' efforts to improve the mechanism for implementation of the Law on preventing and combating domestic violence with a new rule of Criminal Code of the Republic of Moldova - Article 201<sup>1</sup>, which describes domestic violence as a crime, being operated and changes in legislation of Criminal and Civil Procedure to enforce protection orders to victims of domestic violence.

In order to improve the mechanism to combat domestic violence, police officers are sensitized as a body of establishment on the importance of effective involvement in combating this scourge. Any signal about domestic violence must be presumed to be a complaint about committing or preparing to commit a crime and police officers should be trained professional and moral to deal with the situation.

During 2014 the Ministry of Internal Affairs of the Republic of Moldova successfully finished the implementation of the National Action Plan in the field of the Human Rights on 2011-2014 (NAPHR), approved by the Parliament Decision no.90 from 12.05.2011 (86% of the established actions were accomplished, and 48 actions will be accomplished during 2015) and the

MIA Action Plan in the field of the Human Rights on 2013-2014, approved by the MIA Order no.344 from 06.11.2013.

The goal of the NAPHR was to ensure the implementation of a single policy in the field of the human rights by the governmental authorities and the civil society representatives, in order to remedy the situation, to identify the problems and to establish the priorities in this field.

It is worth to mention that the efforts of the Republic of Moldova in order to ensure the observance the human rights were appreciated by the Council of Europe and European Union in the context of the visa liberalization discussions.

Also, during 2014, the MIA made a draft law on order securing and restoring during the demonstrations and mass meetings, and agreed with the General Prosecutor Office – on the necessity of the elaboration of a Strategy on prevention of the anti-social and deviant behavior. In the end of 2014, the MIA elaborated an Order regarding the integrated management of crisis in the field of the public security.

In order to implement the Government Decision no. 494 from 08.07.2011 on the approval of the Action Plan on supporting the Roma population from the Republic of Moldova for 2011-2015, the MIA implemented the opened employment of the Roma representatives for the police vacancies in the MIA system, thus being eliminated the previous impediments concerning hiring certain categories of candidates (candidates pertaining to certain vulnerable groups, female candidates belonging to certain ethnic group).

On 11 May 2011 the Council of Europe adopted the Convention on preventing and combating violence against women and domestic violence (Istanbul Convention). Convention obligates states members of Council of Europe to exercise due diligence to prevent, investigate violence against women and domestic violence, punish offenders and compensate victims of violence.

Acting in accordance with the provisions of Article 4 of the Constitution, the Government has set out in the Action Plan for 2012-2015 ratifying the Istanbul Convention. The execution of the planned measure requires the need to align national legislative and institutional framework of the Istanbul Convention provisions.

Recently the Ministry of Labour, Social Protection and Family has finalized a draft law amending and supplementing certain laws, including the Law on Preventing and Combating Domestic Violence; Law on police activity and police status; Law on State-guaranteed legal assistance; Law on Local Public Administration; Law on official statistics; Law on aliens in the Republic of Moldova; Law on weapons and ammunition for civil purpose; Criminal Code; Contravention Code; Code of Criminal Procedure; Code of Civil Procedure. Draft law contains provisions regarding the issue by the police emergency protection orders.

**Combating discrimination**, including on grounds of sex, is indispensable process of equality for all people, and the state Moldova signatory of relevant international treaties, has committed to adopt such legislative and other measures, including sanctions in case of need, prohibiting all discrimination against women.

The legal equality between women and men are regulated by the Constitution, the Law on Equal Opportunities for Women and Men, the Law on Gender, other regulations.

According to art. 24 of the Law on Equal Opportunities for Women and Men, for breach of legislation on equality between women and men as subjects of legal relations who commit actions of discrimination based on sex is liable under the law.

In Republic of Moldova violations that are based on acts of discrimination, depending on the seriousness of the consequences incurred and other circumstances, shall be punished, as appropriate, in accordance with arts. 176 and 346 of the Criminal Code or art. 54 of the Contravention Code.

According to the art. 77 of the Criminal Code offense for reasons of hatred or religious hatred constitutes an aggravating circumstance to be taken into account in determining the sentence for the crime committed. Based on the provisions of art. 19 of the Criminal Procedure Code, criminal prosecution body is obliged to take all measures provided by law to investigate all aspects of comprehensive and objective circumstances of the case, including those that mitigate or aggravate liability.

General's Prosecutor Office has supported the Ministry of Justice to initiate the procedure for completing the criminal rule amendments that will condemn the worst forms of discrimination, including the criminalization of all acts of discrimination on grounds of sex.

Adopted in another editorial, art. 176 of the Criminal Code, criminal liability for any distinction, exclusion, restriction or preference of rights and freedoms of the person or group of persons, any discriminatory behavior support in the political, economic, social, cultural and in other spheres of life, based on the criterion of race, nationality, ethnic origin, language, religion or belief, sex, age, disability, opinion, political affiliation or any other criterion.

Existing Criminal Code contains rules with regard to women: art. 67 para. (4) - unpaid community service can not be applied to pregnant women, women with children aged less than 8 years; art. 71 para. (3) - life imprisonment can not be applied to women and juveniles; art.72 para. (6) - convicted women shall serve the punishment of imprisonment in penitentiaries for women; art. 89 para. (2) letter g), art. 96 - deferral of the execution of punishment for pregnant women and women who have children under the age of 8.

Analyzing these provisions through the UN recommendations repealing penal provisions which constitute discrimination against women, the point that criminal laws are not discriminatory, in order to protect the mother and child and should be maintained.

In view of avoiding re-victimization in criminal proceedings, procedural law - criminal force prohibit those actions, the performance of which would risk trauma to the victim or the risk of human rights violations (art. 60 para. (41) Criminal Procedure Code) and special ways of hearing witness (art. 110 Criminal Procedure Code).

Annual General Prosecutor's Office reviews the Public Prosecutor in combating discrimination, racism and xenophobia and the state of compliance in the field, the following generalization is expected, according to the work plan of minors and human rights department in the month of November.

## **2.a. What actions-oriented policies, practices and strategies to prevent human rights violations and abuses have been put into place at the national level, including the establishment of independent national institutions, national human rights action plans and any carry warning mechanisms?**

Actually, the 32 women from the MIA take part to the National Program of Mentoring for Women „Inspire her!”, launched on November 20<sup>th</sup> 2014, which will continue till November 2015, realized with the support of the Center „Partnership for Development” and East-European Foundation and the Government of the Kingdom of Sweden, through SIDA and the US Embassy in the Republic of Moldova. The goal of this Program is to enhance the leadership capacities of the women and the image of women within the MIA.

Also, 10 women employed within the MIA took part to the Regional Conference for the women in Police (03-06.03.2015, Tbilisi, Georgia).

In order to increase the women percentage within the MIA was accomplished the following actions:

- It was elaborated and submitted for approval the draft act of modification of the Law on the Border Police no. 283 of 28.12.2011, the part regarding the social insurance of the women being in child care leave.
- During 2014, within the Border Police Department of the MIA, there were employed 72 women – border police officers, that represent 21,3% from the total number of the employed persons in 2014. Currently, in the Border Police work 758 women-border police officers, that constitute 21,3% from the total staff number.

In the same time, within the Border Police National College were admitted and currently are studying 23 women (I year– 11 women, II year– 12 women).

During the academic year 2014, the quota for admission within the MIA Academy „Stefan cel Mare” was excluded. In the result, 30% of women were admitted to study to the Police Academy.

The recruitment, maintenance and women promotion policies within the MIA were reviewed:

- a) The legal framework in force regarding the Border Police activity provides the equality of chances and equal treatment for men and women;
- b) The MIA staff exercises its functional powers based on instructions, regulations and unique job descriptions for all the identical positions, being inadmissible the gender work division. Within the MIA, the roles and the responsibilities of the employees are not delimited on gender criteria;

- c) The equality of men and women in employment is ensured by the strict adherence to legal and regulatory framework in the employment process;
- d) The regulatory framework of the career management is unique for the whole staff of the MIA;
- e) The transparency in the decision making process is ensured at the highest level according to the law requirements from the field (the access to the official web page of the MIA and its proper administration, the anonymous psychological assistance, audience schedule at the MIA leaders etc.).

We also mention the activities organized and conducted for the benefit of the MIA employees, in order to prevent the human rights violations and abuses. For example, during 2015, the representatives of the Border Police Department of the MIA participated in 2 training activities, where 3057 persons were trained. In 2014 were organized 12 training activities, where were trained 3057 persons.

## **2.b. Please describe how national human rights institutions contribute to prevention of human rights violations.**

In accordance with the Law no. 52 on People Advocate (Ombudsman) from 03.04.2014 the National Institution for the promotion and protection of human rights in Moldova contribute to the prevention of human rights violations by:

- *Monitoring and reporting on the observance of human rights and fundamental freedoms at the national level.*

The institution present annually to Parliament the report on the observance of human rights in the Republic of Moldova. Also during 2013-2014 years 13 thematic reports were made public with recommendations aiming the observance of human rights on various issues from the human rights area, monitors and provides information on the implementation by the State of recommendations of conventional UN committees, as well as Universal Periodic Review.

- *Contribution to the improvement of legislation related to human rights field.*

During 2013-2014 years were submitted to the Parliament and Government of the Republic of Moldova 15 proposals for improvement of the legislation on human rights field and exposed opinions on 127 drafts of normative acts related to human rights area. Also the Ombudsman filed 12 referrals to the Constitutional Court on control of the constitutionality of laws and decisions of Parliament, Presidential decrees, decisions and orders of the Government as well as the international treaties to which the Republic of Moldova is part.

- *Promotion of human rights and the mechanisms for their protection and training of professional groups and public officials.*

Recent years (2013 - 2014) were effective for the national Office of the Ombudsman on the size of the human rights promotion in the community, in aspect of increasing the realised actions, and the strengthening of relations with civil society. Increasing of activism in the field of human rights promotion was determined not least by additional financial support from financial resources for the implementation of the Strategy of Justice Sector Reform. In 2013 were organized 69 promotional activities, including an international and national conferences, meetings, roundtables, workshops, presentations, broadcast of spots, display of banners, organization of competitions. Also was organized 35 training activities of the population, 11 press conferences and briefings; were published 7 collection of leaflets and information materials on combating torture and ill treatment, discrimination, promotion of tolerance and cultural diversity, promotion of children rights; were organised two campaigns: of tolerance promotion and fight against torture and ill-treatment. The international Conference, with the topic "The Observance of children's rights to family habitation. Analysis of the existing situation in the Republic of Moldova trough the best practices of other countries", and the national Conference on theme of the implementation by local authorities of the National Action Plan on Human Rights. In 2014 the institution has organized 3 public awareness campaigns: The campaign on fight against torture and ill-treatment and Campaign "Family without violence" and a campaign to inform young people about the right to vote. Was held a campaign of children rights promotion, human rights Decade on the promotion of people with disabilities rights. Totally was organized 136 promotion and training actions. It was elaborated a social spot on the topic of promotion the rights of people with mental disabilities, were made 70 billboards to promote the Office of the People's Advocate and 50 on topic "Zero tolerance for torture".

- *Present proposals and recommendations of ratification or accession to international instruments in the field of human rights and freedoms and provides methodological support to ensure their implementation.*
- *Identify problematic aspects from human rights perspective during examination of the applications received from people during the audiences held in the office and in the territory, but also from information presented in the media, other credible sources, and provide general recommendations to the competent authorities in order to prevent human rights violations.*

One of the important sources for identifying system problems and legislative gaps for the Ombudsman remain to be complaints and information received within the audience. In 2013 were received 1587 petitions and 2880 persons were received in audience. Respectively in 2014 – 1310 petitions and 2532 persons in audience. As result were submitted to the competent public authorities notifications with recommendations for reinstatement in rights of persons, but also for undertaking measures for preventing the further human rights violations: in 2014 – 99 and in 2013- 74; in 32 cases were submitted proposals to improve the administrative apparatus. Also the Ombudsman during the reference period was informed in 95 cases presented in the media and other reliable sources.

The issue of human rights observance in the transnistrian region of Republic of Moldova also is in the attention of Ombudsman institution. In order to ensure compliance, and prevent human rights violations in the neighboring areas. On 17 October 2012 was opened a representative office of the Ombudsman Institution in Varnița village, raionul Anenii Noi. From the beginning of its activity 411 people have addressed, including 302 people from the localities that are under control of *de facto* Tiraspol administration.

**2. c. In those States that have established a national preventive mechanism under the Optional Protocol to the Convention against Torture, please provide information on any lessons learnt regarding prevention of torture that may apply to prevention of other human rights violations.**

The activity of torture prevention realized by national mechanism for torture prevention in the Republic of Moldova during the period 2008 – 9 May 2014 was focused on the unannounced visits to places where persons are deprived of their liberty, as one of the most effective methods of prevention of the phenomenon of torture. The presence of NPM in detention facilities provided by those 1143 visits assured the prevention of torture and ill-treatment.

Reports produced by the Ombudsman Institution on the visits constitute a credible source of documentation for ECHR in examining applications submitted to the Government of the Republic of Moldova, invoking claims under Article 3 ECHR. So, in 3 cases (*Silvestru, Mitrofan and Pisaroglo versus Moldova*) ECHR referred to the Ombudsman Institution findings with regard to conditions of detention in the penitentiary institution No.13.

Starting with 9 May 2014, the National Mechanism for Torture Prevention, created in accordance with Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment is not functioning, given the fact that the People's Advocate and the People's Advocate for Children's Rights are not appointed, who are, under the new provisions of the law, in charge to ensure the activity of the national mechanism for torture prevention.

The Ombudsman Institution compensates the gap created by conducting in continuation preventive visits in the places of detention, but undertaken actions in this context cannot be included in the mandate of national mechanism for torture prevention.

The MIA of the Republic of Moldova send written indications to the heads of the territorial subdivisions of the MIA regarding to the launching of the message „zero tolerance” of torture and bad treatment within the MIA staff, in order to ensure the observance of the rights and the freedoms of the citizens and the compliance of the legal framework.

Also, it is worth to mention that during 2014, the MIA were organized 60 training activities, in order combat the torture, inhuman or degrading treatment, being trained 1998 employees.

However, training of the employees of the Ministry of Internal Affairs in preventing human

rights violations and torture, inhuman and degrading treatment, is proceeding according to the Plan on thematic professional training, set out for 2014. Thus, according to this Plan, there were studied the following topics in the field of the human rights:

- Combating discrimination within the police activity;
- Mechanisms for combating discrimination, anti-discrimination legislation in the Republic of Moldova;
- Ensuring the protection of fundamental rights and freedoms of citizens concerning the processing of the personal data;
- Legal framework in the field of torture, inhuman and degrading treatment in the police prohibition;
- Ensuring the fundamental human rights and freedoms during mass activities.

#### **4. What measures have been taken to promote a human rights culture among the population and increase the level of human rights awareness in your country, including among public officials?**

*Information campaigns and promotion activities organized by the Ombudsman Institution:*

- 8 campaigns on public opinion awareness and information of the population regarding the human rights, in particular with regard to combating torture, domestic violence, promotion of tolerance, promotion of children rights, information for young people about their right to vote;
- Annually, between December 1 to 10 take place **Decade for Human Rights**, which includes activities in the country. In 2014 the event was dedicated to promoting the rights of persons with disabilities;
- 3 international conferences with the topics on: social inclusion of people with disabilities; 5 years of activity of the National Mechanism Torture Prevention in Moldova; child rights protection;
- 30 press conference held by the Ombudsman and CHRM employees where was discussed the pressing challenges related to the observance of human rights in the Republic of Moldova;
- In partnership with Radio Moldova were organized 3 children and young people contests on the topics "My rights. What I know about them? "" Zero tolerance for torture! 3 guarantees against torture "; "Tolerance is democracy";
- Were published and distributed 23 books, brochures, leaflets, collections on human rights;
- Permanently we conduct training activities for officials of the Department of Penitentiary Institutions, the police commissariats, but also for civil servants in ministries and departments, trade unions.

During 2014, the MIA of the Republic of Moldova undertook the following measures for the purposes mentioned above:

- placed the information with specific topic on the official web page of the MIA;
- placed the information on bulletin boards and ensured the good operation of the anticorruption hotline;
- ensured the examination of the received petitions and complaints;
- implemented the national policy documents that provide the incident action set to concerned topics.

#### **5. How have partnerships with civil society been strengthened to harness their experience and expertise to promote and protect human rights?**

In order to enhance the partnership with the civil society, the MIA signed several cooperation Agreements with Amnesty International, the Center for the Human Rights of the Republic of Moldova, Soros-Moldova Foundation, OSCE Mission in the Republic of Moldova and the National Union of the Youth and Students of the Republic of Moldova.

In addition, for the active involvement of the civil society in the development, monitoring and implementation of the national policies on integrated management of the state border, in the draft of the Governmental Decision on the National Council for Integrated Border Management, it was set to create an Advisory Group composed by the representatives of civil society, who will promote the principles of respecting the human rights and fundamental freedoms.

Also, during 2014, the MIA organized public debates concerning the adjustment of the legal framework that regulates the public meetings, where took part the National Council for Participation of the Government of the Republic of Moldova, the Promo-Lex Association, Amnesty International Moldova, the Informational Center Genderdoc-M.

The Ombudsman Institution signed 15 collaboration agreements with NGOs from the field of human rights. In 2013 the Ombudsman Institution organized in Comrat a forum for discussion between the ombudsman and civil society groups from ATU Gagauzia, and in 2014 - a cycle of consultation (4 meetings) with representatives of civil society active in the field of persons with disabilities rights protection.

However the Institution managed to establish cooperation relations with representatives of the NGO sector in left bank of Nistru interested in the activity of torture prevention. In 2014 was signed a partnership agreement with one NGO from transnistrian region of the Republic of Moldova which promotes the establishment of mechanisms for torture prevention under the "authorized representative for human rights" in Tiraspol.

Within this partnership the National Ombudsman Institution grant informational and methodological support in the field of international standards and mechanisms of human rights promotion in the eastern districts of the country, including in detention institutions.

So, at the end of 2014 was launched a cycle of workshops, in which were trained representatives of civil society from the left part of Nistru in the field of minimum standards set by international instruments to which the Republic Moldova is part, as well as in the field of European Court for Human Rights jurisprudence. In 2015, I semester is planned to continue the training cycle started last year.