



NGO information to the United Nations
Committee on the Rights of Persons with Disabilities

For consideration when compiling the List of Issues on the combined second
and third periodic reports of the
REPUBLIC OF MOLDOVA
under the Convention on the Rights of Persons with Disabilities

Submitted by

Moldovan Institute for Human Rights (IDOM)
Validity Foundation - Mental Disability Advocacy Centre

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I. Introduction

1. This submission provides an outline of issues of concern with regard to the implementation by the Republic of Moldova of its obligations under the Convention on the Rights of Persons with Disabilities (hereinafter “the Convention”), with particular focus on the enjoyment of the rights of persons with intellectual and psychosocial disabilities.
2. The submission has been written by the Moldovan Institute for Human Rights and the Validity Foundation – Mental Disability Advocacy Centre.
3. The **Moldovan Institute for Human Rights (IDOM)** is a non-governmental organisation formed by human rights experts with the aim to contribute to raising awareness, and promoting and protecting rights and liberties guaranteed by national and international legal frameworks. IDOM engages in the following areas of activity: defending and promoting the rights of persons with mental disabilities from psychiatric institutions and Temporary Placement Centres for Persons with Disabilities; respecting the rights of persons in detention (pretrial detention institutions, police inspectorates, police isolators); the right to health (litigating cases of malpractice and defending patients’ rights); strengthening the capacities of IDOM and ensuring its financial sustainability. For more information, please visit <https://idom.md/home>.
4. The **Validity Foundation – Mental Disability Advocacy Centre (Validity)** is an international non-governmental human rights organisation which uses legal strategies to promote, protect and defend the human rights of adults and children with intellectual and psychosocial disabilities. Validity’s vision is a world of equality where emotional, mental and learning differences are valued equally; where the inherent autonomy and dignity of each person are fully respected, and where human rights are realised for all persons without discrimination. Validity holds participatory status at the Council of Europe, and special consultative status at ECOSOC. For more information, please visit www.validity.ngo.

II. Situations of risk and humanitarian emergencies (Article 11)

5. On 24 February 2022, the Government of the Republic of Moldova declared a state of emergency in the country following the outbreak of war in neighbouring Ukraine. The Moldovan authorities introduced a special regime for entry and exit to the country and special measures for the protection of refugees, as well as for the protection of the country’s population and institutions. The government declared its readiness to receive refugees from Ukraine and has been cooperating with UN agencies as well as other local and international organisations to respond to the refugee crisis. In spite of this, we note that almost two years since the inception of the crisis, refugees with disabilities still face significant problems affecting their security and well-being, ranging from a lack of long-

term planning for integration to the absence of adequate measures to prevent discrimination and segregation.

6. A large part of the refugees chose to live with Moldovan families or benefited from free accommodation from Moldovan nationals or chose to privately rent houses/apartments/rooms. At the same time, the Ministry of Labor and Social Protection (MLSP), jointly with the National Social Assistance Agency (NSAA), licensed 136 Placement Centres for Refugees (currently around 44 placement centres are operating). About 2,171 people have been accommodated in these Centres, of which about 6.2% are persons with disabilities or those categorised as having ‘special needs’.¹ The Placement Centres are mostly focused on housing and feeding people without offering them support services, including psychosocial support.
7. In relation to these Centres, submitting organisations point out that the CRPD Committee’s Guidelines on deinstitutionalisation, including in emergencies highlights (the DI Guidelines) that “*persons with disabilities may be overrepresented in (...) segregated settings in refugee camps and migrant shelters...*”². Further, the DI Guidelines calls on States parties to “*ensure that refugees with disabilities have access to social assistance, mainstream services and reasonable accommodation, as required.*”³
8. Local NGO reports highlight the lack of accessible transport for persons with disabilities entering the country at the border-crossing with Ukraine.⁴
9. The authorities do not have a standard procedure for monitoring the situation of refugees with disabilities staying in the private sector (with families or at unauthorized or unofficial placement centres). Local administrations have provided for some degree of data recording through social workers, including in rural areas, but such efforts are sporadic. These were particularly related to the provision of humanitarian aid and one-off payments to host families, but do not reflect the needs of persons concerned.
10. In a statement made in February 2023, the State Secretary of the MLSP said that dealing with the wave of refugees was a major challenge for authorities as there was a lack of capacity and knowledge on how to intervene in these situations, a situation which also involved a significant number of refugees with disabilities.⁵ According to some estimates by UNHCR-Moldova, around 10% of refugees in Moldova are persons with disabilities, and 22% of refugee families have at least one member with ‘special needs’.⁶ Submitting organisations are of the opinion that further data collection is needed to

¹ https://www.anas.md/wp-content/uploads/2023/12/REACH_MDA_Factsheet_RAC-Monthly-Needs-Monitoring_2023-12-04_RO.pdf.

² CRPD Committee: Guidelines on deinstitutionalisation, including in emergencies (CRPD/C/5), para 18.

³ Ibid. 113.

⁴ <https://cdpd.md/refugiatii-ucraineni-cu-dizabilitati-necesita-mai-mult-sprijin-din-partea-autoritatilor-si-opd-urilor-din-moldova/>.

⁵ Ibid.

⁶ <https://www.unhcr.org/md/18623-231220.html>.

assess the needs and preferences of refugees with disabilities. Qualitative and up-to-date statistical data can help to provide refugees with disabilities with better support. This should be done through an inclusive approach to responding to situations of risk and humanitarian emergencies, and that in turn requires mainstreaming a disability perspective across all relevant legislation, plans and policies, and throughout the Moldovan Government's coordination with international humanitarian assistance agencies.

11. Taking into account the fact that they have left their homeland, many refugees (who are mostly women, older people, children and persons with disabilities) also face psychosocial challenges when integrating into the Moldovan society. The number of refugees who have developed mental health problems due to the armed conflict is not yet estimated. However, according to an OHCHR Monitoring Factsheet regarding the situation of Ukrainian refugees in Moldova from September 2023, 57% of respondents reported experiencing feelings of anxiety, worry and nervousness either daily (33%) or weekly (23%). 60% of respondents reported experiencing high levels of these feelings, and 86% of persons with disabilities reported having such feelings. Among interviewees, women reported experiencing anxiety and nervousness 1.8 times more frequently than men. Such feelings are also prevalent among people aged 60 and over. At the same time, 34 refugees from Ukraine who were interviewed (17%) reported feeling depressed on a daily (9%) and weekly (7%) basis, while 20 respondents described such feelings as happening "a lot".⁷ Ukrainian refugees with disabilities in Moldova encounter various barriers in accessing mental health services, including psychological support, but also other social services accommodated to their needs, such as rehabilitation.
12. According to the OHCHR Monitoring Factsheets, about 1 in 5 refugees from Ukraine and who said they had serious medical conditions reported experiencing challenges in accessing health services in Moldova. These needs were particularly high among persons with disabilities. Most respondents expressed a need for greater access to primary healthcare (37%), followed by secondary healthcare (23%), and 15% mentioned the need for improved access to emergency healthcare.⁸

Suggested questions to the Government of the Republic of Moldova:

- **What steps have been made to include a disability perspective in all legislation and plans relating to situations of risk and humanitarian emergencies, including in the country's cooperation with humanitarian agencies?**
- **What steps have been taken to provide refugees with disabilities with access to social assistance, mainstream services and reasonable accommodation, as required?**
- **What steps are being taken to prevent and stop the placement of refugees with disabilities in institutional settings, including Placement Centres for Refugees?**

⁷ <https://data.unhcr.org/en/documents/details/104509>.

⁸ Ibid.

- **What measures have been taken in line with the Sendai Framework for Disaster Risk Reduction 2015-2030, and with reference to the recommendation specified in para 23 of the CRPD/C/MDA/CO/1?**⁹
- **What steps have been made to provide refugees with disabilities from Ukraine with available, accessible and affordable healthcare services?**
- **What kind of social and health services are in place to alleviate and prevent high rates of anxiety and depression among refugees fleeing Ukraine?**

III. Equal recognition before the law (Article 12)

13. In 2017, the Republic of Moldova carried out extensive reforms to adjust its legislation in accordance with Article 12 of the UNCRPD. Amendments were made to the Civil Code No. 1107/2002, the Code of Civil Procedure No. 225/2003, the Family Code No. 1316/2000, the Enforcement Code (Codul de Executare) No. 443/2004, the Law on Mental Health No. 1402/1997, and other relevant legislative acts. Furthermore, as part of the same package of reform, and beginning in 2018, all individuals previously deprived of legal capacity were recognised, by law, as having full legal capacity.
14. The reform aimed to establish mechanisms for supported decision-making through two types of measures: contractual ('extrajudicial') measures, and judicial protection measures. While contractual measures, such as the assistance contract (Articles 74-75 of the Civil Code) and the future protection mandate (Articles 76-86), were novel to the national legal system, judicial protection measures, such as full or partial guardianship, continued to replicate the old measures. According to the law, the latter should only be used as a last resort when other measures are deemed ineffective. Thus, even though the institution of legal incapacity was formally abolished by law, the legislator retained guardianship as a measure of judicial protection, allowing once again for a legal mechanism that completely replaces the decisions of a person with intellectual or/and psychosocial disabilities with that of a guardian.
15. According to persons concerned and experiences of IDOM, judicial measures such as guardianship are still widely used in Moldova, and they are considered the default rather than a last resort. For example, IDOM challenged a decision in the court of first instance to apply guardianship as a judicial protection measure to a person for ten years, based on a forensic psychiatric opinion that was provided by three psychiatric experts. The Chisinau Court of Appeal overturned the first instance court decision after considering the opinion of a psychiatric specialist; the appeal was subsequently upheld by the Supreme Court of Justice of the Republic of Moldova.^{10 11}
16. Submitting organisations underline that, five since implementation of the reforms, no impact assessment has been carried out evaluate the results of the legislative adjustments to Article 12 of the UNCRPD.

⁹ "The Committee recommends that the State party include a disability perspective in all legislation and plans relating to situations of risk and humanitarian emergencies and that it adopt measures in line with the Sendai Framework for Disaster Risk Reduction 2015-2030."

¹⁰ <https://revista.un.md/decizie-istoric%C4%83-pentru-justi%C8%9Bia-din-moldova-un-t%C3%A2n%C4%83r-cu-dizabilit%C4%83%C8%9Bi-psihosociale-%C8%99i-a-redob%C3%A2ndit-5c25eec10a58>.

¹¹ https://www.facebook.com/cusens.md/videos/462341558354568/?so=channel_tab&rv=all_videos_car_d.

Feedback from V.I and V.E, two women with psychosocial disabilities whose legal capacity was restored in Moldovan Courts, with legal assistance of IDOM lawyers:

V.I:

“...many things have changed as a result of the guardianship court process. I should mention that there are problems with my mother now, who had been granted guardianship of me by the court, but the doctors diagnosed her as having dementia (...) I am very happy and satisfied that they annulled the guardianship, and I am grateful to IDOM lawyers who helped me, because I am capable, and manage myself. I am a saleswoman.

I consider that the first judge, who established my guardianship in the court of first instance, was not competent and professional enough, because I can work, I can support myself and I can manage my budget and all aspects of my life on my own. I got out of the vicious circle in which the ambulance and the police were often called at my mother's request, and then I was forcibly admitted to a psychiatric hospital, from where I could not get out on my own, and only after I was referred to IDOM was this problem solved.”

V.E:

I am glad that in 2015 the guardianship was terminated, and I was declared capable, and my legal capacity was restored, and I was able to freely exercise all my rights as a human being. However, I had problems with maintaining myself, and with my daughter, who wanted to put me under guardianship, and I was declared incapable at her request. But now I can say that I have re-established relations with my daughter, who takes care of me.

Regarding social services in the community, I can note that I was often refused help on the grounds that I have a daughter and I have a home, but no one took into account that, at that time, I was in conflict with my daughter, and I had nowhere to live.

After the court proceedings to restore my legal capacity, people and organisations started communicating with me and helping me, and I can say that the trial in which I was defended by the lawyer Alexandru Cebanaş, gave me the opportunity to assert myself and fully exercise all my rights.”

Suggested questions to the Government of the Republic of Moldova:

- **What plans have been adopted, and steps have been taken to ensure that all types of guardianship measures are abolished, including ‘judicial protection measures’ including full or partial guardianship?**
- **What plans have been adopted, and steps have been taken to ensure that all persons with disabilities can access support when exercising their legal capacity?**
- **Provide statistics on the number of contractual (extrajudicial) and judicial protection measures taken since the introduction of the amendments to the legal capacity legislation.**
- **Provide statistics on the number of cases where a guardianship procedure was initiated, but the person concerned was not placed under this measure.**

IV. Access to justice (Article 13)

17. Persons with intellectual and psychosocial disabilities, especially those placed/living in psychiatric and residential institutions, are considered by respondents to a nationwide survey on human rights as one of the groups most affected by human rights violations and social marginalization, thereby requiring the greatest attention from the perspective of human rights protection.¹² Irrespective of whether they are victims of, witnesses to or alleged perpetrators of crime, persons with disabilities have significant difficulties in accessing justice and engaging with justice actors, including in their interactions with police officers, lawyers, prosecution authorities and judicial officers. Persons under judicial measures of protection, such as guardianship, risk facing exclusion from participation in justice processes, especially in criminal procedures due to legal and practical barriers.^{13 14}
18. Despite the CRPD Committee's recommendations, the Republic of Moldova has not reviewed its legislation, including administrative, civil and criminal legislation, to explicitly include an obligation to ensure procedural accommodations in all judicial proceedings. National legislation does not contain a legal definition of the term "procedural accommodations."
19. Moldovan criminal justice legislation continues to allow for the exclusion of people with disabilities as defendants from judicial proceedings based on the "insanity defence" or findings of "irresponsibility" for their actions linked to "episodic mental illness" or "persistent mental condition" found at the time of the criminal act. As a result, accused persons with disabilities are denied the right to be heard in person, to participate in adversarial proceedings, to testify, or to request the recusal of the prosecution, judge, expert, interpreter, translator, or court clerk. Such limitations undermine the principles of equality of arms and non-discrimination, preventing people with disabilities from accessing justice on an equal basis with others. As the final outcome, these persons are subjected to security measures such as deprivation of liberty and forced medical treatment, often for indefinite periods of time, and they are deprived of core procedural safeguards for defendants, undermining their right to a fair trial.¹⁵
20. It is important to note that people with intellectual and psychosocial disabilities who serve as victims or witnesses in criminal proceedings face similar barriers. The criminal justice system in the Republic of Moldova includes ableist components that undermine equality before the law in direct contradiction with international law and standards. For example, Article 105(5) of the Code of Criminal Procedure provides that the hearing of a witness "*suffering from a mental or other serious illness*" shall be conducted with the consent of the doctor and in his presence. This is due to doubts about the credibility of their statements, a lack of procedural accommodations and trained staff all of which

¹² OHCHR, UNDP, UNFPA, "Perceptions of Human Rights in the Republic of Moldova", p. 24, accessible here: <https://www.undp.org/sites/g/files/zskgke326/files/migration/md/Human-Rights-Perceptions-Study-2018-ENG.pdf>.

¹³ After the reform of the Civil Code, and in the absence of secondary legislation and mechanisms that would develop alternative measures, judicial measures of protection, which rely on limiting or depriving legal capacity, are still predominant in Moldova. See more details on that in the "Evaluation of the national legislation and policies regarding access to justice", p. 39:

https://cdpd.md/wp-content/uploads/2023/01/Studiu_CDPD_2022_acces-justitie-PD_01.pdf.

¹⁴ https://cdpd.md/wp-content/uploads/2023/01/Studiu_CDPD_2022_acces-justitie-PD_01.pdf, p. 2

¹⁵ https://cdpd.md/wp-content/uploads/2023/01/Studiu_CDPD_2022_acces-justitie-PD_01.pdf.

represent systemic barriers to thoroughly investigating cases involving violations of this group's rights, preventing the truth from being discovered and meaningful reparations being provided.

21. Complaints by persons with intellectual and psychosocial disabilities are rarely properly investigated by prosecutors due to assumptions of unreliability and perceptions that their testimonies and allegations are likely to be inaccurate. Persons with disabilities' situations and circumstances can be difficult for justice actors, including judges, to understand and respond to because most justice actors have very little knowledge about disability, disability rights, and how they should engage with people with intellectual and psychosocial disabilities.
22. The Moldovan Ombudsman highlighted in a study regarding torture prevention that “*the recent death of a young man detained in the Chisinau police temporary detention facility¹⁶ is evidence that the police authorities have not learned all the lessons from the death of Andrei Braguta while in police custody in September 2017,¹⁷ as well as from the case when special intervention brigade Fulger used special means and force against the patients of the Chisinau Psychiatric Hospital.*”¹⁸ It can be concluded that police officers and others involved in arrests and investigations of criminal offences are not knowledgeable about the rights of persons with disabilities, and they do not know how to support or accommodate persons with disabilities during arrest or while under criminal investigation.
23. Neither the Ministry of Interior, the National Institute for Justice nor the National Council for Guaranteed Legal Aid (NCGLA, an entity responsible for the coordination of free legal aid) have training programmes or plans dedicated to disability rights.¹⁹
24. Some provisions of the Civil and Criminal Procedural Codes allow persons with disabilities to participate in hearings via videoconference. However, the provisions of Article 213(3) of the Code of Civil Procedure make a clear distinction that participation in the examination of civil cases by videoconference is recognised only for those with locomotor disabilities. These provisions were found discriminatory by the National Equality Body (Council for the Prevention and Elimination of Discrimination and the Ensuring of Equality).²⁰ In criminal proceedings (Article 32(2) of the Code of Criminal Proceedings), hearings through videoconference are recognised only for convicted persons in detention where matters relate to the execution of the sentence. Thus, the right to participate in the criminal process through videoconferencing is not provided for other participants in the trial.
25. Submitting organisations underline that there are no mechanisms to ensure that persons with disabilities still living in institutions have access to free legal aid services.

¹⁶ https://ombudsman.md/wp-content/uploads/2023/01/Raport_special_deces_Inspectoratul-de-politie-Chisinau.pdf.

¹⁷ http://ombudsman.md/wp-content/uploads/2019/03/BRAGUTA_Raport_pdf_FINAL-1.pdf.

¹⁸ <https://www.ohchr.org/sites/default/files/documents/hrbodies/spt-opcat/npm/2022-Torture-Prevention-Republic-Moldova.pdf>.

¹⁹ https://cdpd.md/wp-content/uploads/2023/01/Studiu_CDPD_2022_acces-justitie-PD_01.pdf p. 89.

²⁰ https://egalitate.md/wp-content/uploads/2016/04/Aviz-art.-213-si-216-CPC_votat.pdf.

Feedback from I.R. (who is the mother of C.R, a female with high support needs, using non-verbal communication):

“In the case in which my daughter is a victim of torture, which is at the first instance trial stage, I can say that I am satisfied with the quality of the work of the lawyers Valerian Mamaliga and Cebanaş Alexandru. Thanks to them, the case has been brought to court. It is the first case of its kind, but I do not agree that the criminal court, where my daughter is a victim, is prolonging the trial. It is already the third judge who is starting to examine the criminal case after two of them have already referred the case to another judge for various reasons.”

Suggested questions to the Government of the Republic of Moldova:

- **What steps are currently being taken by the Moldovan authorities to revise the criminal procedure legislation in order to abolish the "insanity defence" and findings of "irresponsibility", to ensure that persons with intellectual and psychosocial disabilities who are in conflict with the criminal law have access to a fair trial?**
- **What steps are currently being taken by the state to ensure that the statements of victims and witnesses with intellectual and psychosocial disabilities are duly taken into consideration in criminal proceedings?**
- **What plans have been adopted, and steps have been taken, to ensure that persons with disabilities receive procedural accommodations when exercising their right to access to justice?**
- **What measures are currently being used to measure the degree of satisfaction of people with disabilities with free legal aid services?**
- **How does the state party ensure that persons with disabilities living in institutions have access to free legal aid services? How does the state ensure the quality of these services and that they reflect the will and preferences of their clients with intellectual and psychosocial disabilities?**

V. Liberty and security of the person (Article 14)

Freedom from torture and cruel, inhuman or degrading treatment or punishment (art. 15)

Protecting the integrity of the person (Article 17)

Health (Article 25)

26. Persons with disabilities placed/living in psychiatric and residential institutions, such as Temporary Placement Centres for Persons with Disabilities and psychiatric hospitals, have been found on several occasions to be subjected to ill-treatment, sexual violence, including rape, forced sterilisation, and forced labour, both by the staff of these institutions and by other residents.²¹

27. Validity and IDOM filed the case of *I.C. v The Republic of Moldova* with the European Court of Human Rights on 15 July 2022. In this case, it was argued that the Moldovan

²¹ A relevant example is the ECHR judgement from February 2023 in the case of G.M. and Others v. the Republic of Moldova, available at <https://hudoc.echr.coe.int/eng#%7B%22documentcollectionid%22:%5B%22GRANDCHAMBER%22,%22CHAMBER%22%5D,%22itemid%22:%5B%22001-220954%22%5D%7D>.

Government had enslaved a woman with intellectual disabilities. Through a state-sanctioned contract, the applicant had been placed on a farm where she was subject to rape and forced labour for over five years. During this time, she tried to escape on numerous occasions, yet she was brought back each time with the justification that she had no other place to go. Also, in the ensuing criminal proceedings, the domestic courts acquitted the perpetrator of rape and trafficking on the ground that the person with disabilities had lived on the farm in accordance with the legal provisions in force. The case was communicated to the Moldovan Government on 9 January 2023.²² The exchange of observations is now closed, and submitting organisations, together with the applicant, are now awaiting the Court's judgment. We have also asked for a referral to the Grand Chamber for this case.

28. In another case, which was filed by Validity and IDOM, the case of *V.I. v The Republic of Moldova* (no. 38963/18),²³ submitting organisations are also awaiting judgment by the ECtHR. This case concerns allegations of inhuman and degrading treatment as well as forced treatment of a boy in a psychiatric hospital in Codru. In particular, it has been alleged that the administration of psychotropic drugs to the applicant, who was a minor amounted to torture. A judgment is expected in the course of 2024.
29. Complaints from residents who have experienced torture and ill-treatment in closed institutions are rarely investigated by prosecutors because of the assumption that people with mental disabilities are unreliable and, consequently, such allegations are inaccurate. It often happens that people with disabilities “with bad behavior” are incarcerated in special “strictly supervised wards” for isolation without being allowed to have telephones or other means of contact with the outside world. They are not provided with any mechanism to complain, being literally deprived of pen and paper. Isolation is applied to calm the person down, who consequently loses all desire to complain to anyone.
30. In 2018, based on the advocacy, monitoring and evaluation activity of IDOM, the Ministry of Health, Labour, and Social Protection ordered measures to close the strictly supervised wards in residential institutions.²⁴ However, IDOM has still received complaints from Temporary Placement Centres residents who claim that they are still being held in “strictly supervised wards”.
31. IDOM has conducted monitoring visits to psychiatric hospitals and Temporary Placement Centres for Persons with Disabilities and has documented widespread human rights violations, including the use of forced psychiatric treatment, overcrowding, and the use of restraints and seclusion techniques to control detainees.²⁵
32. Investigations by IDOM have shown that institutionalised persons with intellectual and psychological disabilities, particularly women and girls, are frequently subjected to

²²

[https://hudoc.echr.coe.int/#{%22appno%22:\[%2236436/22%22\],%22documentcollectionid%22:\[%22JUDGMENTS%22,%22DECISIONS%22,%22COMMUNICATEDCASES%22\],%22itemid%22:\[%22001-222978%22\]}](https://hudoc.echr.coe.int/#{%22appno%22:[%2236436/22%22],%22documentcollectionid%22:[%22JUDGMENTS%22,%22DECISIONS%22,%22COMMUNICATEDCASES%22],%22itemid%22:[%22001-222978%22]})

²³

[https://hudoc.echr.coe.int/#{%22appno%22:\[%2236436/22%22\],%22documentcollectionid%22:\[%22JUDGMENTS%22,%22DECISIONS%22,%22COMMUNICATEDCASES%22\]}](https://hudoc.echr.coe.int/#{%22appno%22:[%2236436/22%22],%22documentcollectionid%22:[%22JUDGMENTS%22,%22DECISIONS%22,%22COMMUNICATEDCASES%22]})

²⁴ <http://idom.md/2018/06/06/ministry-of-health-labour-and-social-protection-gives-assurances-that-rigorous-surveillance-sections-in-psycho-neurological-boarding-houses-will-be-closed/>

²⁵ Findings are on file with IDOM.

abuse and violence, including physical and verbal abuse, immobilisation, insults, restrictions of food, healthcare and other services, degrading conditions and isolation.²⁶

Feedback from C.R, a man with intellectual and psychosocial disabilities:

"Regarding the isolation of patients in closed wards, I can say about the temporary placement centre for people with disabilities in Balti that this kind of practice still persists, even recently, I was personally locked up in the closed ward of this centre where I was kept for about three days illegally because I am considered an inconvenient person for the placement centre because I know my rights and I often turn to different organisations and to the ombudsman with complaints about the illegal behaviour of the workers of the placement centre."

Feedback from R.I. (who is the mother of C.R):

"the act of torture committed by doctors at my daughter's psychiatric ward has been established, but there is no irrevocable decision in the criminal case yet and the proceedings are delayed... I can tell you that in the psychiatric ward, the doctors/health workers do not beat the patients; they only use 'legal' coercive measures. I saw once that a person was tied up in the evening, and they were already free in the morning. After she was immobilised and given the necessary treatment, they were nice to her. Things have changed from before. The doctors are much more professional; they gave her a separate room and they put two doctors to take care of her. The nurses also behave better with the patients (...)."

Suggested questions to the Government of the Republic of Moldova:

- **What efforts have been made so that the legal environment and the implementation thereof, including medical and forensic psychiatric treatment, are in accordance with the Committee's Guidelines on Article 14 of the CRPD? Specifically, when will involuntary detention and treatment on the basis of disability alone or in conjunction with other factors be abolished?**
- **What efforts have been made so that voluntary solutions, based on informed consent, supporting persons with psychosocial disabilities take the place of psychiatric treatment based on confinement?**
- **What steps have been taken to thoroughly investigate allegations of persons with disabilities who have experienced torture and ill-treatment?**
- **How many "strictly supervised wards" are in use, and when will these be completely closed down?**

VI. Living independently and inclusion in the community (Article 19)

33. According to paragraph 118 of the Combined second and third periodic reports submitted by the Republic of Moldova under article 35 of the CRPD (CRPD/C/MDA/2-3), the Moldovan Government approved the 2018–2026 National Program for deinstitutionalisation of persons with intellectual and psychosocial disabilities from residential institutions. The document aims to deinstitutionalise 50% of persons with

²⁶ Findings are on file with IDOM.

disabilities living in institutions by 2026 and wants to provide them with the support to live independently in the community. However, under community-based services, mainly small group homes were planned to be created for up to 6 persons with disabilities. During the reported period (2017-2020), 3 group homes were developed for 18 persons with disabilities requiring “24/24 hours of care” and 12 group homes (“supported living services”) were created for 63 persons with disabilities requiring “less support” from the state budget.²⁷

34. The State Report states thatL

“to prevent institutionalisation and facilitate the inclusion of persons with disabilities in the community, the following services were functional (in 2019):

- *3 Shared living services (family-type placement service) for 42 adults and elderly people with intellectual and psychosocial disabilities;*
- *4 Respite services for 160 children and adults per year (one person can benefit from Respite service 30 days per year)...”²⁸*

However, these “community-based services” are clearly in violation of the CRPD and the CRPD Committee’s General comment No. 5 (2017) on living independently and being included in the community (art. 19 of the Convention) and the DI Guidelines.²⁹

35. The State Report states that in 2019, 6 day-care centres for about 188 persons with disabilities (children and adults) were operating as forms of “community-based services”.³⁰ According to the DI Guidelines, “*definitions of community-based support services, including in-home and other support services, and personal assistance should prevent the emergence of new segregated services, such as group housing – including small group homes – sheltered workshops, institutions for the provision of respite care, transit homes, day-care centres...*”³¹

36. In several closed institutions for persons with disabilities, individual assistance plans for the residents have been developed, focusing on support measures, mainly of a medical nature, including rehabilitation. However, according to submitting organisations, persons deprived of their liberty and forced to live in closed settings cannot exercise their right to support in exercising legal capacity. In the context of deinstitutionalisation efforts, individual plans should follow the guidance given by the CRPD Committee in its DI Guidelines.

37. According to a report of the Moldovan Ombudsman from 2021 concerning human rights compliance in the Republic of Moldova, the Ombudsman also found the process of deinstitutionalisation of persons with disabilities to be flawed. There has been no significant progress in terms of social inclusion of people with disabilities. The

²⁷ Combined second and third periodic reports submitted by the Republic of Moldova under article 35 of the CRPD (CRPD/C/MDA/2-3). Para 119.

²⁸ Ibid. Para 122.

²⁹ CRPD Committee: Guidelines on deinstitutionalisation, including in emergencies (CRPD/C/5), para 28.

³⁰ Combined second and third periodic reports submitted by the Republic of Moldova under article 35 of the CRPD (CRPD/C/MDA/2-3). Para 122.

³¹ CRPD Committee: Guidelines on deinstitutionalisation, including in emergencies (CRPD/C/5), para 28.

Ombudsman reports continuing to receive complaints which show a failure to improve the situation.³²

Feedback R.C, a man with intellectual and psychosocial disabilities:

“I can say that there are problems in terms of inclusion in the community because the community is not morally ready to welcome us and the disabled people from the temporary placement centres into their circle because they have bad opinions about us. They consider us dangerous, and the local authorities and services in the community are not ready to give us the legal support to accommodate us in the community. Personally, I tried to integrate in my hometown, but I had problems with the mayor’s office, which did not want to help me and did not give me any support.”

Suggested questions to the Government of the Republic of Moldova:

- **Describe what efforts have been made so that Moldova’s deinstitutionalisation policy and plans are in line with the Convention, Article 19, General comment No. 5 and the Committee’s Guidelines on deinstitutionalization, including in emergencies (CRPD/C/5)?**
- **What efforts have been made to ensure that community-based support services assisting independent living are available to all persons with disabilities, that they are adequate and accessible, and available around the clock?**

VII. Work and employment (Article 27)

38. The data available suggest that access to the labour market for persons with disabilities is limited, and their employment rate is much lower than that of the general population. Discussions with and replies from representatives of National Employment Agency (ANOFM) and territorial subdivisions of the Agency show that, according to their information system, jobseekers with disabilities are registered without specifying the category of disabilities. At present, disability certificates generally preserve the percentage of the person’s work capacity, but as an example, a person with locomotor disabilities could be able to perform some work 100%, but the certificate will state their general capacity to work is 30%. There is no assessment of the person's ability to perform certain jobs, only recommendations or prohibitions not to perform certain jobs. According to ANOFM, during the year 2023, with the support of the territorial subdivisions for employment, 11,056 people were placed in the labour field, of which 268 people with disabilities (2.4%), and out of 3,284 unemployed, 268 (3%) are persons with disabilities.³³

39. According to Article 34 para. (4) of the Law on the social inclusion of persons with disabilities: *Employers, regardless of the form of legal organisation, who, according to the staffing scheme, have 20 employees and more, create or reserve jobs and employ people with disabilities in a percentage of at least 5 percent from the total number of*

³² <https://ombudsman.md/post-document/report-on-the-observance-of-human-rights-in-the-republic-of-moldova-in-2021/>.

³³

https://anofm.md/ro/node/20575?fbclid=IwAR2xq0uEpY_UOXIHR6fYc0FMCQLEeeFJxMVs7dL8UnHDIrSCDp6cNjw1mec.

employees. At the same time, the employers ensure the records of the requests (of the documents attached to them) of the persons with disabilities who applied to be employed in a separate register of strict records, which will contain documents regarding the hiring or refusal decisions, the reasons for the refusal, appeals, etc.

40. At the same time, Article 56 para. (3) of the Contravention Code of the Republic of Moldova no. 218, of 24-10-2008 stipulates that *The avoidance or refusal to reserve jobs and to employ in the field of work persons with disabilities in a proportion of at least 5 percent of the total number of employees, during a financial year, if, according to the personnel statements, there are 20 employees and more, it is sanctioned with a fine of 240 to 300 conventional units applied to the legal entity.*
41. According to a response from the State Labor Inspectorate addressed to IDOM, it does not have a database of information on employers in the Republic of Moldova that have more than 20 units in their staff. Even if during the planned controls carried out by the State Labor Inspectorate, starting from 1 July 2023 until 19 October 2023, 178 enterprises with more than 20 units in the staff were subject to control, and no infringements were found on the basis of Article 56 para. (3) of the Contravention Code of the Republic of Moldova. The aspect of respecting the employment quota of 5% is still in doubt, or mostly employers, according to unofficial data, do not give preference to the employment of people with disabilities.
42. While carrying out monitoring visits to Temporary Placement Centres for Persons with Disabilities, IDOM has regularly assessed for several years the extent to which access to the labour market is guaranteed and the engagement in work is ensured to residents. As a general remark, regarding the inclusion into the labour market, it can be ascertained that these institutions do not consider the needs of these people, as the centres' administration does not offer an institutional environment for them to be involved in work. From the discussions held with several beneficiaries, a monitoring group from IDOM noted that a significant number of residents of these institutions would like to work, but they do not know where to work or even they are not paid for their work. Only a very small number of beneficiaries are involved officially in jobs/work, usually on the territory of the institutions, such as on farms, in greenhouses, libraries, tailoring, etc.

Feedback T.I., woman with intellectual and psychosocial disabilities, living currently in a residential institution from Balti:

“Nobody helps us with the employment. Nobody needs us. They are afraid to hire us in the city because we are from the “boarding school”³⁴. I went to the employment agency; they refused us because they were dealing with refugees. I was on the register, but I was excluded from it because they couldn't find me a job. I was on the register for about 6 months, and they would call us and tell us about not finding work. We're not properly informed, and nobody has any interest in dealing with us seriously because we're from the “boarding school” and there's a prejudice against us, that we're dangerous and that we won't make it because we're mentally disabled.”

³⁴ This is how the residential institution in Balti is called by locals. This is due to the fact that the infrastructure of the residential institution was previously a boarding school.

Suggested questions to the Government of the Republic of Moldova:

- **What efforts have been made so that persons with disabilities can obtain work on the open labour market on an equal basis with others?**
- **What steps have been taken to efficiently implement the mandatory employment quota for persons with disabilities?**

VIII. Participation in political and public life (Article 29)

43. Since 2009, IDOM has been monitoring the observance of electoral rights in Temporary Placement Centres for Persons with Disabilities and Psychiatric Hospitals in the Republic of Moldova during general local elections, parliamentary and presidential elections. Election observation activities, especially in these institutions, have a special significance for ensuring the integrity of the electoral process and exercising citizens' rights to participate in the elections. As a result, in October 2018, upon referral by IDOM, the Constitutional Court declared unconstitutional Article 13 para. (1) pct. b) from the Electoral Code nr.1381/1997, by which persons with mental disabilities declared incapable do not have the right to vote.³⁵ Consequently, people with intellectual/psychosocial disabilities could thereafter vote on an equal basis with others,³⁶ except for those who were subsequently deprived of the right to vote by a final court decision.

44. The new Electoral Code nr. 325/2022, in Article 14 specified that the right to vote shall be granted to the citizens of the Republic of Moldova who have reached the age of 18, including on the day of the elections, except for those deprived of this right by a court decision establishing judicial protection measures. Article 15 of the Code indicates that the right to be elected shall be granted to the citizens of the Republic of Moldova, who have the right to vote and meet the conditions provided by this code. Thus, at present, people with disabilities, can be deprived of the right to vote and to stand for election by a court decision establishing a judicial protection measure, and thus their participation in political and public life may be prevented.

Suggested questions to the Government of the Republic of Moldova:

- **What measures with the Government take in order to ensure that every person with a disability can exercise their right to vote and stand for election without any exceptions, on an equal basis with others?**

³⁵ <https://www.constcourt.md/ccdocview.php?tip=hotariri&docid=669&l=ro>

³⁶ <https://idom.md/2018/10/24/at-idoms-referral-today-constitutional-court-declared-article-13-para-1-letter-b-of-the-election-code-persons-with-mental-disabilities-declared-incapacitated-may-not-vote-unconstitution/>.