



# EQUAL RIGHTS TRUST

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## The Equal Rights Trust and Promo-LEX Association

Alternative report submitted to the 17th session of the Committee on the Rights of Persons with Disabilities in relation to the initial report submitted by:

### Republic of Moldova

February 2017

#### **Statement of Interest**

1. The Equal Rights Trust (the Trust) and Promo-LEX Association (Promo-LEX) jointly submit this alternative report to the Committee on the Rights of Persons with Disabilities (the Committee) commenting on the initial report submitted by the Republic of Moldova (Moldova).
2. The Equal Rights Trust is an independent international organisation whose purpose is to combat discrimination and promote equality as a fundamental human right and a basic principle of social justice. Established as an advocacy organisation, resource centre and think tank, it focuses on the complex relationship between different types of discrimination and inequality, developing strategies for translating the principles of equality into practice.
3. Promo-LEX Association is a non-governmental organization that aims to advance democracy in the Republic of Moldova, including in the Transnistrian region, by promoting and defending human rights, monitoring the democratic processes, and strengthening civil society through a strategic mix of legal action, advocacy, research and capacity building.
4. Together, our two organisations have been actively involved in promoting improved protection from discrimination in Moldova since 2013. During the project “Empowering civil society in Moldova and Transnistria to combat discrimination through documentation, litigation and advocacy”, we worked in partnership to increase the capacity of civil society to combat discrimination in Moldova through documentation, litigation and advocacy. In the course of this project, our two organisations undertook research on patterns of discrimination and inequality in Moldova, including as it affects persons with disabilities, which culminated in the publication of the report: *From Words to Deeds: Addressing Discrimination and Inequality in Moldova* (the Report).<sup>1</sup>
5. The findings and conclusions of the Report inform this submission to the Committee. This submission focuses on the extent to which Moldova has met its obligations to respect, protect and fulfil the rights under the Convention on the Rights of Persons with Disabilities (the Convention). Given the comprehensive nature of our Report, this submission does not provide an exhaustive account of its findings in respect of discrimination affecting persons with

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<sup>1</sup> The Report can be accessed here:

[http://www.equalrightstrust.org/ertdocumentbank/From%20Words%20to%20Deeds%20Addressing%20Discrimination%20and%20Inequality%20in%20Moldova\\_0.pdf](http://www.equalrightstrust.org/ertdocumentbank/From%20Words%20to%20Deeds%20Addressing%20Discrimination%20and%20Inequality%20in%20Moldova_0.pdf).

disabilities, but instead focuses on providing the Committee with new and timely information relevant to its assessment of Moldova's implementation of the Convention.

6. In addition to the Convention itself, this submission relies on the Declaration of Principles on Equality (the Declaration),<sup>2</sup> a document of international best practice on equality. The Declaration was drafted and adopted in 2008 by 128 prominent human rights and equality advocates and experts, and has been described as "the current international understanding of Principles on Equality".<sup>3</sup> It has also been endorsed by the Parliamentary Assembly of the Council of Europe.<sup>4</sup>
7. This submission is divided into six parts assessing the extent to which Moldova has met its obligations under the Convention in relation to: accessibility, equal recognition, institutionalisation, education, healthcare, and employment.

### **Accessibility – Article 9**

8. Article 9 of the Convention provides that states parties are required to ensure access on "an equal basis with others" to the physical environment, transportation, information and communications, and to other facilities and services open or provided to the public, in both urban and rural areas. As noted by the Committee, "[a]ccessibility is a precondition for persons with disabilities to live independently and participate fully and equally in society".<sup>5</sup>
9. However, our research found evidence that accessibility of public infrastructure and transport and information for persons with disabilities is a major problem in Moldova. Indeed, the Ombudsman noted in 2015 that some persons with disabilities face serious difficulties in accessing public institutions, housing and public transport.<sup>6</sup>
10. National law and policies mandate the creation of accessible conditions in general infrastructure.<sup>7</sup> However the inaccessibility of public buildings and social institutions continues to create barriers for persons with disabilities. The lack of accessibility in Moldova has been criticised by, among others, the UN Special Rapporteur on the Rights of Persons with

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<sup>2</sup> *Declaration of Principles on Equality*, Equal Rights Trust, London, 2008.

<sup>3</sup> *Naz Foundation v Government of NCT of Delhi and Others*, High Court of Delhi, WP(C) No. 7455/2001, Para 93.

<sup>4</sup> Parliamentary Assembly of the Council of Europe, *Resolution and Recommendation: The Declaration of Principles on Equality and activities of the Council of Europe*, REC 1986 (2011), 25 November 2011, available at: [http://assembly.coe.int/ASP/Doc/ATListingDetails\\_E.asp?ATID=11380](http://assembly.coe.int/ASP/Doc/ATListingDetails_E.asp?ATID=11380).

<sup>5</sup> Committee on the Rights of Persons with Disabilities, *General Comment No. 2: Article 9: Accessibility*, UN Doc. CRPD/C/GC/2, 22 May 2014, para.1.

<sup>6</sup> Office of the Ombudsman, *Activity Report*, 2015, p.42, available at: [http://www.ombudsman.md/sites/default/files/document/attachments/raport\\_2015\\_red.pdf](http://www.ombudsman.md/sites/default/files/document/attachments/raport_2015_red.pdf).

<sup>7</sup> Law on Authorising the Execution of Construction Works, (Law No. 163 of 9 July 2010), Article 1; Law on the Quality of Construction, (Law No. 721 of 2 February 1996), Article 9; Law on the Social Inclusion of Persons with Disabilities (Law No. 60 of 30 March 2012), Articles 19 and 26; Decision approving the Adoption of Action Plan on Implementation of Measures to Ensure Accessibility for People with Disabilities to Social Infrastructure (Government Decision No. 599 of 13 August 2013), available at: <http://lex.justice.md/index.php?action=view&view= doc&lang=1&id=349254>.

Disabilities,<sup>8</sup> the NGO Association “MOTIVAȚIE”<sup>9</sup> and the Council on the Prevention and Elimination of Discrimination and Ensuring Equality (CPEDEE), with the latter finding that 60% of public administration authorities which it monitored were not accessible and that 60% of court buildings lacked access ramps.<sup>10</sup>

11. There is a particular issue with accessibility in Moldovan penitentiaries. In 2015, the Ombudsman estimated that 207 out of 7,600 detainees had some form of disability and concluded that current levels of accessibility are insufficient and need to be improved.<sup>11</sup> Promo-LEX has assisted Tatiana Machina, a woman who uses a wheelchair who was detained for four years between 2011 and 2015, to challenge the inaccessibility of the prison facility in which she was detained.<sup>12</sup> Ms Machina was detained in a cell which was not adapted for persons with motor disabilities and as a result was unable to perform basic activities such as personal hygiene and eating without the assistance of another person. The CPEDEE upheld her complaint of discrimination<sup>13</sup> and Ms Machina’s claim has now been communicated to the European Court of Human Rights.<sup>14</sup> In addition to Article 9 of the Convention, the failure to provide reasonable accommodation to persons with disabilities who are deprived of their liberty is a clear violation of Article 14(2) of the Convention.
12. Although the Law on Social Inclusion of Persons with Disabilities creates obligations on public and private entities to ensure the accessibility of transportation and prohibits the refusal to provide transport to a person with disabilities,<sup>15</sup> there is evidence that persons with disabilities face difficulties in accessing transportation in Moldova. One of the Trust’s interviewees, Iuliana, told researchers how she was not permitted to board a bus by the driver because she requires the use of a wheelchair and she was unaccompanied; she described the driver as ‘very brutal and mean’.<sup>16</sup> Another interviewee, Mariana, discussed her experience of being overcharged by taxi companies as a result of her disability:

*I am a wheelchair user. When I order a taxi, I do not inform them that I am in wheelchair, because asking for a wagon costs 10–15 lei [€0.45–€0.68 Euro] more than asking for a non-wagon car...When I asked why I should pay more, the driver replied that it is because I am in wheelchair and it is in the trunk. There were cases when I was asked to pay 20 lei [€0.9 Euro] more. Why, I asked? Because it is a wagon, the driver replied. And I start to explain*

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<sup>8</sup> Human Rights Council, Report of the Special Rapporteur on the Rights of Persons with Disabilities on her Mission to the Republic of Moldova, UN Doc. A/HRC/31/62/Add.2, 2016, Para. 29.

<sup>9</sup> Association “Motivation”, Holistic Report: Monitoring of Rights of Persons with Disabilities in Republic of Moldova, 2014, p.34.

<sup>10</sup> Council on the Prevention and Elimination of Discrimination and Ensuring Equality, Activity Report, 2015, pp. 47-48.

<sup>11</sup> Office of the Ombudsman, Monitoring the Rights of Persons with Disabilities in Detention, 2015, p. 9, available at: [http://www.ombudsman.md/sites/default/files/document/attachments/diz\\_pen1.pdf](http://www.ombudsman.md/sites/default/files/document/attachments/diz_pen1.pdf)

<sup>12</sup> Promo-LEX Association, “Press Statement on the Case of Tatiana Machina”, 12 January 2015, available at: <https://promolex.md/index.php?module=press&cat=0&&item=1660&Lang=en>

<sup>13</sup> 1 Council on the Prevention and Elimination of Discrimination and Ensuring Equality, Decision No. 155/14 of 11 December 2014, available at: [http://egalitate.md/media/files/files/decizia\\_nr\\_155\\_depersonalizat\\_1273504.pdf](http://egalitate.md/media/files/files/decizia_nr_155_depersonalizat_1273504.pdf).

<sup>14</sup> *Machina v. Republic of Moldova* (App. No. 69086/14).

<sup>15</sup> Law on the Social Inclusion of Persons with Disabilities (Law No. 60 of 30 March 2012), Article 20.

<sup>16</sup> Equal Rights Trust interview with Iuliana, 14 July 2015, Hîncești town, Hîncești region.

*that the wheelchair is my legs and I do not want to pay because of this. The taxi operators say that this is normal and that I have to pay more.*<sup>17</sup>

13. In addition to problems with access to the built environment, both the Ombudsman and the Special Rapporteur on the Rights of Persons with Disabilities have noted the difficulties faced by persons with total or partial hearing or sight loss in accessing information.<sup>18</sup> It is estimated that there are around 5,000 persons with hearing impairments in Moldova, however, there are only nine sign language interpreters in the country.<sup>19</sup> There have been welcome efforts to regulate broadcasting to improve accessibility, for example Article 13(4) of the Moldovan Broadcasting Code requires 20% of all programming to be given in sign language. There is also a 2012 regulation on the Official Websites of Public Authorities on the Internet which requires websites to be adapted to ensure access for persons with disabilities.<sup>20</sup> However, as indicated by the Ombudsman, more needs to be done to ensure the accessibility of information for persons with disabilities.<sup>21</sup>

### **Recommendations**

- The Equal Rights Trust and Promo-LEX call on the Committee to recommend that Moldova take measures to improve the implementation of existing national law regarding accessibility for persons with disabilities and to increase accessibility of public buildings and infrastructure, transport and information for persons with disabilities.

### **Equal recognition before the law – Article 12**

14. As a party to the Convention, Moldova is obligated to provide for the right to equal recognition before the law for all adult men and women with disabilities and to ensure that legal capacity is a universal right for all people. The Committee has stated that rules on mental capacity should never be used to deny a person the right to recognition before the law.<sup>22</sup> Further, Article 12(3) of the Convention, recognises the right of persons with disabilities to access support in order to exercise their legal capacity, which means that persons with disabilities must be able to receive support to make decisions about their lives, in a way that respects their will and preference.<sup>23</sup>
15. Moldovan law provides for the denial of legal capacity to persons with certain mental disabilities; Article 24 of the Moldovan Civil Code provides for the deprivation of legal capacity

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<sup>17</sup> Equal Rights Trust interview with Mariana, 24 March 2015, Chişinău.

<sup>18</sup> Office of the Ombudsman, Activity Report, 2015, p. 42, available at: [http://www.ombudsman.md/sites/default/files/document/attachments/raport\\_2015\\_red.pdf](http://www.ombudsman.md/sites/default/files/document/attachments/raport_2015_red.pdf), p.42; Human Rights Council, Report of the Special Rapporteur on the Rights of Persons with Disabilities on her Mission to the Republic of Moldova, UN Doc. A/HRC/31/62/Add.2, 2016, Para. 39.

<sup>19</sup> Office of the Ombudsman, Activity Report, 2015, p. 43, available at: [http://www.ombudsman.md/sites/default/files/document/attachments/raport\\_2015\\_red.pdf](http://www.ombudsman.md/sites/default/files/document/attachments/raport_2015_red.pdf); Office of the Ombudsman, Observance of the Rights of People with Disabilities, 2015, available at: <http://www.ombudsman.md/en/content/observance-rights-people-disabilities>.

<sup>20</sup> Decision approving Official Websites of Public Authorities on the Internet, (Government Decision No. 188 of 3 April 2012), available at: <http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=342699>.

<sup>21</sup> Office of the Ombudsman, Activity Report, 2015, p. 43, available at: [http://www.ombudsman.md/sites/default/files/document/attachments/raport\\_2015\\_red.pdf](http://www.ombudsman.md/sites/default/files/document/attachments/raport_2015_red.pdf)

<sup>22</sup> Committee on the Rights of Persons with Disabilities, General Comment: No. 1: Article 12: Equal Recognition before the Law, UN Doc. CRPD/C/GC/1, 2014, Para. 13.

<sup>23</sup> *Ibid.*, Para. 14.

where a person is “not able to realise or control his/her actions because of a psychiatric condition (mental illness or deficiency)”. Persons denied capacity under this provision are placed under guardianship, and guardians are empowered to execute all legal acts in the name of and on behalf of the incapacitated person. An examination of the guardianship system undertaken by the Equal Rights Trust and Promo-LEX indicates that there are a number of aspects of the system which are inconsistent with Moldova’s obligations under the Convention.

16. As of February 2015, there were approximately 4,000 persons with disabilities who had been deprived of legal capacity and subjected to guardianship orders under the Civil Code.<sup>24</sup> We have received reports of abuses experienced by those deprived of legal capacity under this system. For example, in one case, E.T. was deprived of her capacity following a complaint from her husband: her court-appointed guardian was a relative who was hostile towards her and she has been held in Cocieri Psychiatric Institution against her will since 2006.<sup>25</sup> There are also reports of abuses by guardians who do not act in the best interests of the persons declared incapacitated: one person under guardianship who was interviewed for a UN report stated that “[I feel] like a beggar (...) I am forced to starve and freeze because all my money goes into the guardian’s hands and she spends it on everything except my necessities”<sup>26</sup>
17. There are only two institutions in the country, the Chişinău Psychiatric Hospital and the Bălţi Psychiatric Hospital, which are authorised to form psychiatric evaluation commissions, specialised bodies of psychiatrists with the power to conduct assessments of an individual’s legal capacity at the request of a court.<sup>27</sup> To date, there are no standardised tools or approved methodologies for assessing a person’s mental capacity and reports filed with the court consist mostly of information on the medical diagnosis of the person.<sup>28</sup>
18. The Civil Code provides that if the facts justifying any limitation of legal capacity change, the courts shall recognise the legal competence of the person or cancel the limitation of the legal competence.<sup>29</sup> Historically, however, persons without legal capacity did not have legal standing in the Moldovan courts and were not permitted to file requests or challenge court decisions, including any decision depriving them of capacity.<sup>30</sup> Thus, one of the most problematic elements of the guardianship system was that persons deprived of legal capacity were unable to file requests or challenge court decisions that established this incapacity, meaning many of those declared incapacitated could never restore their legal capacity.
19. Recently however, there has been some progress on this issue by the Constitutional Court. In November 2014, the Constitutional Court issued a decision by which it found unconstitutional the legal provisions that prohibit persons declared incapacitated from filing requests and petitions to the Ombudsman.<sup>31</sup> Following this decision, legislative number of legislative

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<sup>24</sup> Organisation for Security and Cooperation in Europe, Final Report: Parliamentary Elections in Moldova (English), 2015, p. 6, available at: <http://www.osce.org/odihr/elections/moldova/144196>.

<sup>25</sup> Equal Rights Trust, *From Words to Deeds: Addressing Discrimination and Inequality in Moldova*, p. 181.

<sup>26</sup> United Nations Partnership on the Rights of Persons with Disabilities, *The Human Rights of Persons with Mental or Intellectual Impairments in the Republic of Moldova: An Assessment of Key Aspects of the Domestic Law and Policy Framework in Light of the UN Convention on the Rights of Persons with Disabilities*, 2015, p.17.

<sup>27</sup> *Ibid.*, pp. 45–46

<sup>28</sup> *Ibid.* p. 48.

<sup>29</sup> Civil Code, Articles 24(3) and 25(2).

<sup>30</sup> Civil Code, Article 308.

<sup>31</sup> Constitutional Court, Decision No. 27 of 13 November 2014.

reforms guaranteed to persons deprived of legal capacity the right to vote and to challenge court decisions that deprived them of legal capacity.<sup>32</sup>

20. In November 2016, the Constitutional Court issued a decision by which it found unconstitutional those provisions of the Civil Procedure Code, which limited or denied procedural rights for persons deprived of legal capacity.<sup>33</sup> In particular, the Court found that provisions which deny persons who have been deprived legal capacity of the ability to file a request or claim in Court, to participate in court hearings and trials and to challenge a decision establishing their incapacity were unconstitutional.<sup>34</sup> The Court also noted that there must not be an automatic total deprivation of legal capacity for all mental disorders and that guardianship must only be imposed as a last resort, following the exhaustion of less restrictive measures.<sup>35</sup>
21. In addition, Promo-LEX understands that a draft law seeking to improve support for persons with mental disabilities, including persons deprived of legal capacity has been placed before Parliament. This draft law, which seeks to repeal many provisions which discriminate against persons with mental disabilities, is currently undergoing legislative scrutiny. These are welcome developments. However, following the decision of the Constitutional Court, it is essential that the state reviews the system of guardianship in order to bring its practice into line with its obligations under the Convention, and that it takes immediate steps to ensure compliance.

### **Recommendations**

The Trust and Promo-LEX urge the Committee to recommend that the state party:

- Urgently review the guardianship system and the practice of deprivation of legal capacity under the Civil Code and cease the discriminatory application of this system against persons with mental disabilities;
- Develop a standardised approach for assessing a person's mental capacity and ensure that, rather than removing legal capacity, it puts in place such supportive and other measures as are necessary to ensure that persons with disabilities are able to exercise their legal capacity
- Investigate all allegations of abuse experienced by persons deprived of legal capacity and take action to address substantiated claims.

### **Institutionalisation – Articles 14, 15 and 19**

22. Article 19 of the Convention states that all persons with disabilities have the right to live independently, while Article 14 states that disability should in no case be the basis for deprivation of liberty.
23. Despite these guarantees, in Moldova, the institutionalisation of persons with disabilities – particularly those with mental disabilities – remains a significant phenomenon. A 2015 study indicated that approximately 2,500 children and adults with mental disabilities were resident

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<sup>32</sup> Law No. 87 on the Amendment and Completion of Some Legislative Acts.

<sup>33</sup> Constitutional Court, Decision No. 33 of 17 November 2016.

<sup>34</sup> *Ibid.*

<sup>35</sup> *Ibid.*

in six specialized institutions.<sup>36</sup> In addition, there are three psychiatric hospitals administered by the Ministry of Health. It is estimated that annually, residential care facilities for persons with disabilities take in 1,700 people with mental (intellectual or psycho-social) disabilities and the average duration of the stay in these institutions is 9.7 years in psycho-neurological residential institutions and 7.6 years in psychiatric institutions.<sup>37</sup> There is a direct relationship between the deprivation of legal capacity and the long-term institutionalisation of persons with disabilities in healthcare or residential care facilities. Most of those declared as without legal capacity, many of whom have mental disabilities, are placed in psychiatric institutions denying them the ability to live independently.<sup>38</sup>

24. In addition to the concerns raised in respect of Articles 14 and 19 of the Convention by the fact of institutionalisation itself, there is evidence of shocking discriminatory violence and abuse towards people with mental disabilities held in such psychiatric institutions, in breach of the prohibition on torture and other forms of ill treatment under Article 15 of the Convention. In 2015, the UN Special Rapporteur on the Rights of Persons with Disabilities noted with serious concern the treatment of persons with disabilities living in psychoneurological residential institutions (“internats”) and psychiatric hospitals, referring to “shocking reports of ill-treatment, violence, including sexual and gender-based violence, perpetrated by staff members, neglect, restraint, forced medication and seclusion”.<sup>39</sup>
25. In September 2015, there was widespread public condemnation in response to the release of images of children with bruises and mutilated genitals, children bound to wheelchairs and worms in the food of children with severe mental disabilities in Orhei Psycho-neurological “internat” to widespread public outcry.<sup>40</sup>
26. Women with mental disabilities are particularly vulnerable to abuse: in 2013, 18 women with disabilities resident at the Bălți facility alleged they had been sexually abused and subject to coercive measures including forced abortion by senior staff members.<sup>41</sup> The incidence of abuse is compounded by the failure to investigate and prosecute well-documented and widespread allegations. To date, although there has been a first instance decision in respect to the case of

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<sup>36</sup> United Nations Partnership on the Rights of Persons with Disabilities, *The Human Rights of Persons with Mental or Intellectual Impairments in the Republic of Moldova: An Assessment of Key Aspects of the Domestic Law and Policy Framework in Light of the UN Convention on the Rights of Persons with Disabilities*, 2015, p. 18 and p. 66, available at: [http://www.mdac.org/sites/mdac.info/files/moldova\\_report\\_2015\\_english.pdf](http://www.mdac.org/sites/mdac.info/files/moldova_report_2015_english.pdf).

<sup>37</sup> National Bureau of Statistics of the Republic of Moldova, *The situation of persons with disabilities in the Republic of Moldova for 2012*. 2013, available at: <http://www.statistica.md/newsview.php?l=ro&id=4253&idc=168>.

<sup>38</sup> Office of the High Commissioner for Human Rights, *The System of Guardianship in Practice in the Republic of Moldova: Human Rights and Vulnerability of Persons Declared Incapacitated*, 2013, pp. 10-18, available at: [http://md.one.un.org/content/dam/unct/moldova/docs/pub/STUDY\\_The\\_System\\_of\\_Guardianship\\_in\\_Practice\\_in\\_Republic\\_of\\_Moldova.pdf](http://md.one.un.org/content/dam/unct/moldova/docs/pub/STUDY_The_System_of_Guardianship_in_Practice_in_Republic_of_Moldova.pdf)

<sup>39</sup> Human Rights Council, Report of the Special Rapporteur on the Rights of Persons with Disabilities on her Mission to the Republic of Moldova, UN Doc. A/HRC/31/62/Add.2, 2016, Para. 48.

<sup>40</sup> Realitatea MD, “Children are Treated like Animals”, 3 September 2015, available at: [http://www.realitatea.md/video-18-imagini-groaznice-la-orfelinatul-pentru-persoane-cudzabilita-i-din-orhei-copiii-sunt-t\\_26132.html](http://www.realitatea.md/video-18-imagini-groaznice-la-orfelinatul-pentru-persoane-cudzabilita-i-din-orhei-copiii-sunt-t_26132.html).

<sup>41</sup> UNDP, *Prevention and Combating Torture in Residential and Neuropsychiatric Institutions*, 2015, p.61, available at

[http://www.md.undp.org/content/moldova/ro/home/library/democratic\\_governance/prevenirea-i-combaterea-torturii-ininstitutiile-rezideniale-i-n/](http://www.md.undp.org/content/moldova/ro/home/library/democratic_governance/prevenirea-i-combaterea-torturii-ininstitutiile-rezideniale-i-n/)

the women at the Bălți facility, this has been appealed and judgment of the Court of Appeal is pending.

27. Moreover, there has yet to be a court decision in Moldova which finds that violence experienced by persons with disabilities in internats or other institutions constitutes torture or inhuman or degrading treatment. This may be attributable to the considerable difficulties faced by victims in challenging instances of abuse. Although victims have recourse to the prosecutor's office, the Ombudsman and the Ombudsman for Psychiatry, each has its deficiencies. The Prosecutor's Office only receives a very limited number of complaints.<sup>42</sup> The procedure for pursuing a complaint before the Ombudsman is limited to failures in the provision of healthcare services and requires complaints to be filed in the first instance with the relevant healthcare facility, creating scope of abuse of process.<sup>43</sup> Finally, although the Ombudsman for Psychiatry has considerable monitoring powers, it can only initiate discussions with healthcare facilities and make non-binding recommendations.<sup>44</sup>
28. The Trust and Promo-LEX also received allegations of other forms of mistreatment of persons in residential institutions, including denial of food and health services, and subjection to forced labour. For example, A. told us:

*I have lived for 18 years in Badiceni psycho-neurological internat [residential institution]. They force us to do work on the territory of the institution: to sweep, to maintain the ground, to paint, to do repairs. They tell us "If you do not work you will not eat and will have to sleep outside or in the toilet." Sometimes they take us to their homes to work. They give very little money. For working from 8am until 9pm, they pay us only 30 lei [€1.5 Euro] per day. When we ask for more, the nurse says: "You want more? At the institution they give you medicine and feed you for free". I buy many drugs. I go to the pharmacy to buy them with my own money. The medicines that they give me in the institution are out of date, with expiry dates from 2002 or 2003. Once, they made me clean the garbage from a sewer and I refused. They beat me very hard with a stick. Many people died from beatings and injections and negligence of the medical staff. We live 25 people in the same room but there are many rooms that are reserved for visitors from the ministry. We bathe only once a week. The room stinks. We do not have a dining room or canteen, so we eat in the room.<sup>45</sup>*

29. We also received reports from female residents in the Bălți facility, who spoke about their treatment by the institution's staff. For example, S.T. stated that she was pregnant but that the

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<sup>42</sup> Prosecutor General's Office, The Phenomenon of Torture in Figures: 2014, 2015, available at: <http://www.procuratura.md/md/com/1211/1/6052/>; and Prosecutor General's Office, The Phenomenon of Torture in Figures: 2015, 2016, available at: <http://www.procuratura.md/md/news/1211/1/6532>

<sup>43</sup> Law on Mental Health, (Law No. 1402 of 16 December 1997), Article 37.

<sup>44</sup> Ministry of Health Order on Services to Protect the Rights of Patients in Psychiatric Institutions (Ombudsman for Psychiatry) (Order No. 1185 of 29 October 2014), available at: <http://www.cnms.md/ro/departamente/serviciul-pentru-ap%C4%83rarea-drepturilorpacien%C5%A3ilor-%C3%AEn-sta%C5%A3ionarele-de-psihiatrie>; Equal Rights Trust, *From Words to Deeds: Addressing Discrimination and Inequality in Moldova*, p. 188.

<sup>45</sup> Equal Rights Trust interview with A, 7 June 2015, Bădiceni, Soroca rayon.



food she was given did not meet her nutritional needs; she also said that the administration of the institution was exerting pressure on her to give up the child for adoption.<sup>46</sup>

### **Recommendations**

The Trust and Promo-LEX urge the Committee to recommend that the state party:

- Cease the widespread practice of institutionalisation of persons with mental disabilities
- Investigate and prosecute allegations of abuse within residential institutions and bring anyone found to have committed such abuse to justice

### **Education – Article 24**

30. Article 24(1) of the Convention guarantees “the right of persons with disabilities to education (...) without discrimination and on the basis of equal opportunity”. Moldova should be commended on its strong legal framework in relation to disability and education: national law prohibits discrimination in education and provides for the right of every person to choose an inclusive education.<sup>47</sup> However, our research found that a number of problems remain.
31. As a part of its process of “deinstitutionalisation” Moldova has closed five special boarding schools for children with disabilities, leading to 220 children being placed in social services or reintegrated with their extended families.<sup>48</sup> However, as of 2015, 1,300 children remain in boarding schools; these institutions often lack the required materials and expertise necessary to afford children with disabilities effective access to education.<sup>49</sup>
32. Moreover, although the process of re-integration of children into mainstream education is a positive development, non-governmental organisations have identified challenges. For example, the Legal Assistance Centre for Persons with Disabilities has recorded that many mainstream schools are unwilling to take children with disabilities.<sup>50</sup> The inability of schools to cater to the needs of students with disabilities has been widely covered in the media. In December 2014, the Centre for Information on Human Rights interviewed the mother of a child with disabilities who stated that her son is home schooled, but only receives two hours of teacher training per week.<sup>51</sup> Similarly, several cases of discrimination have been lodged with the CPEDEE. For example, in November 2013, two kindergartens from Chişinău refused to enrol a child of four with diabetes because she required a special menu and specific attention

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<sup>46</sup> Equal Rights Trust interview with S.T. on 28 May 2015, Bălţi psycho-neurological Internat, Bălţi city.

<sup>47</sup> Law on Ensuring Equality, Article 9; Education Code of the Republic of Moldova (Code No. 152 of 17 July 2014).

<sup>48</sup> Legal Assistance Centre for Persons with Disabilities, Submission to the Committee on the Rights of Persons with Disabilities for Moldova, 2015, p. 28-29, available at: [http://www.advocacy.md/sites/newadvocacy/files/Raport%20de%20alternativa%20CRPD\\_ROM.pdf](http://www.advocacy.md/sites/newadvocacy/files/Raport%20de%20alternativa%20CRPD_ROM.pdf)

<sup>49</sup> *Ibid.*

<sup>50</sup> *Ibid.*

<sup>51</sup> Human Rights Information Centre, “Trained at Home but the Teachers Rarely Show Up”, Discriminaire Media, 4 December 2014, available at: <http://discriminare.md/invata-ladomiciliu-insa-profesorii-pasesc-foarte-rar-pragul-copiilor-cu-dizabilitati>

from teachers and medical staff; the CPEDEE found that the child had been subject to discrimination on account of her disability.<sup>52</sup>

33. The Trust and Promo-LEX also found evidence that persons with disabilities face difficulties in accessing higher education, S. told us:

*In 2014, I graduated with a Masters in psychology at State University of Moldova. None of the buildings were accessible. Every time I went to the university was a challenge for me. The Dean of the faculty was the most responsive and organised classes on the ground floor, though some classes were held on other floors which required me to ask for help climbing the stairs every time, which was not exactly easy. The biggest problem was the lack of an accessible bathroom for people in wheelchairs. One building – building number five – had only one lift, which did not work.<sup>53</sup>*

### **Recommendations**

The Trust and Promo-LEX urge the Committee to recommend that the state party:

- Accelerate the process of deinstitutionalisation for children in special boarding schools, and develop a mechanism to monitor progress and identify obstacles
- Ensure educational facilities are accessible for persons with disabilities and take action against educational facilities which are inaccessible.

### **Healthcare – Article 25**

34. Article 25 of the CRPD guarantees the right of persons with disabilities “to the enjoyment of the highest attainable standard of health without discrimination”. This requires states parties to “provide persons with disabilities with the same range, quality and standard of free or affordable health care and programmes as provided to other persons”.
35. Although Moldovan law guarantees the right to health protection,<sup>54</sup> there is evidence that persons with disabilities face difficulties in accessing healthcare. A report by Association “MOTIVAȚIE” in 2013 found that persons with disabilities encounter prejudice from healthcare professionals and that lack of reasonable accommodation can further impede access to healthcare.<sup>55</sup> One example of failure to provide reasonable accommodation given in the report is the case of a person with mobility difficulties who explained that he was unable to go to the hospital or to see his doctor unless he used an ambulance, and stated that he often had to source the ambulance himself, as authorities were unwilling to help.<sup>56</sup>

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<sup>52</sup> Council on the Prevention and Elimination of Discrimination and Ensuring Equality, Decision No. 005/2013 of 25 November 2013, available at: [http://egalitate.md/media/files/files/decizie\\_proiect\\_cauza\\_005\\_13\\_f\\_v\\_final\\_2502223.pdf](http://egalitate.md/media/files/files/decizie_proiect_cauza_005_13_f_v_final_2502223.pdf).

<sup>53</sup> Equal Rights Trust Interview with S. on 25 May 2015, Chișinău.

<sup>54</sup> Constitution of the Republic of Moldova, 29 July 1994, Article 36; Law on Healthcare (Law No. 411 of 28 March 1995), Article 2.

<sup>55</sup> Association “Motivation”, Analysis of the Individual Experience of People with Disabilities in Republic of Moldova: 1 February – 31 July 2013, 2014, p. 83, available at: <http://www.cod.rs/wp-content/uploads/2014/06/Raport-interviuri-EN.pdf>

<sup>56</sup> *Ibid.*, p. 80-81.

36. Focus groups conducted under our joint project also revealed evidence of discrimination against persons with disabilities in healthcare. Participants in a focus group in Cahul town stated that medical staff discriminated against people with disabilities.<sup>57</sup> At a focus group in Chişinău, participants indicated that persons with multiple sclerosis suffer discrimination most frequently in medical institutions.<sup>58</sup>
37. Moreover, our Report reveals the multiple discrimination experienced by women with disabilities in accessing healthcare. Article 6 of the Convention emphasises the vulnerability of women with disabilities to such discrimination and requires states parties to take measures to ensure the “full and equal enjoyment” of “all human rights and fundamental freedoms” for such women. The number of women with disabilities in Moldova giving birth is low, with only two women with disabilities giving birth at the Mother and Child Centre (one of Moldova’s leading institutions for gynaecology and paediatrics) in 2013.<sup>59</sup> It has been argued that this may be attributable to lack of accessibility in hospitals.<sup>60</sup> Our research found that the attitudes of medical staff may also be a contributing factor. For example, Mariana told the Trust’s researchers:

*I went to a gynaecologist. The doctor received me and for half an hour she talked about contraception, what is contraception, why it is important. The doctor talked about contraception because when I entered her office I said I wanted her to check me and let me know what are the risks of becoming a mother (...) She told me about contraception, about how hard it is to be a mother; she asked why would I want to be mother and said that there are so many methods of contraception that are really good and she can recommend them to me. [She also said] in case you get pregnant, I will not register you – I do not want such statistics. I was discouraged and left. After one year, I went to another doctor who examined me and told me everything was fine.<sup>61</sup>*

## **Recommendations**

The Trust and Promo-LEX urge the Committee to recommend that the state party:

- Adequately train healthcare professionals to ensure that persons with disabilities have equal access to healthcare
- Take steps to address the multiple discrimination experienced by women with disabilities.

## **Employment – Article 27**

38. Article 27 of the Convention requires Moldova to “recognize the right of persons with disabilities to work, on an equal basis with others”, and the right to a “work environment that is open, inclusive and accessible to persons with disabilities”. As in the area of healthcare,

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<sup>57</sup> Equal Rights Trust focus group with 12 persons with disabilities, 11 July 2015, Cahul town, Cahul rayon.

<sup>58</sup> Equal Rights Trust focus group with 10 people with multiple sclerosis, 4 August 2015, Chişinău

<sup>59</sup> Discriminare Media, “Women with Physical Disabilities Would Give Birth if Gynecological Surgeries Could be Adapted”, 20 March 2014, available at: <http://discriminare.md/femeile-cudzabilitati-locomotorii-ar-naste-daca-cabinetele-ginecologice-ar-fi-adaptate>.

<sup>60</sup> *Ibid.*

<sup>61</sup> Equal Rights Trust Interview with Mariana, 24 March 2015, Chişinău.

national law guarantees non-discrimination for persons with disabilities in employment: Article 8 of the Labour Code prohibits discrimination in employment and Chapter V of the Law on Social Inclusion of Persons with Disabilities sets out the rights of persons with disabilities in employment. Once again, however, these guarantees are not matched by implementation.

39. Article 34(4) of the Law on Social Inclusion of Persons with Disabilities sets out a requirement that all employers with 20 or more employees employ persons with disabilities as at least 5% of the total workforce. However, this quota is not underpinned by any independent implementation mechanism and unemployment remains a problem for persons with disabilities. Data obtained from the National Bureau of Statistics demonstrates that less than 1% of the Moldovan workforce was made up of persons with disabilities in 2014 and only 46.1% of those persons recognised as having a disability were employed, with the severity of disability directly correlating to employment opportunities.<sup>62</sup> Of those persons categorised as having a slight disability, 62% were employed; of those categorised as having a moderate disability, less than half (48.2%) had found employment; while just 14.6% of those classified as having severe disabilities were employed.<sup>63</sup>
40. Primary research conducted for our report revealed incidences of direct discrimination in employment experienced by persons with disabilities. For example, Alina told us:

*During my work, I had to go on a sick leave. Because treatment lasted several weeks and the administration found out about my diagnosis, they asked me to leave the job because they thought I could fall on the floor at any time, losing my consciousness. Even after I told them about multiple sclerosis they did not give up. I was asked to quit the job. The most interesting thing is that this organisation is an organisation working in the field of human rights. They wanted to fire me because of my disease. I asked them not to do so, because it would cause problems for me when I try to find another job in the future – I'd be labelled as if I have a stamp on my face (...) What do you think, if I go somewhere to get employed and the work records state "dismissed due to illness" will they employ me? I worked five years in this organisation and I wanted to avoid a scandal, so I left.<sup>64</sup>*

Our research also identified evidence of discrimination experienced by persons with disabilities in employment produced by other organisations. One woman with mental disabilities was reportedly denied employment as a manicurist because the owner feared she would attack the clients with scissors.<sup>65</sup> Another was reportedly refused an interview due to the supposed additional cost of ensuring compliance with the legal regulations surrounding persons with disabilities.<sup>66</sup>

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<sup>62</sup> National Bureau of Statistics of the Republic of Moldova, *The Situation of People with Disabilities in Moldova*, 2015.

<sup>63</sup> *Ibid.*

<sup>64</sup> Equal Rights Trust Interview with Alina, 04 August 2015, Chişinău

<sup>65</sup> Discriminare Media, "Employees with Mental Disabilities become a Scarecrow for many Companies", 11 February 2015, available at: <http://discriminare.md/angajatii-cu-dizabilitatimintale-devin-o-sperietoare-pentru-multe-companii>

<sup>66</sup> Discriminare Media, "People with Disabilities Expect Changes in Labour Protection", 28 January 2015, available at: <http://discriminare.md/persoanele-cu-dizabilitati-asteapta-schimbari-indomeniul-protectiei-muncii>.

**Recommendations**

- The Trust and Promo-LEX call on the Committee to recommend that Moldova address the discrimination experienced by persons with disabilities in employment and adopt measures to increase the participation of persons with disabilities in the workforce.