

REPUBLIC OF MOLDOVA'S 2nd Universal Periodic Review

JOINT SUBMISSION OF PROMO-LEX ASSOCIATION, THE MENTAL DISABILITY ADVOCACY CENTRE, THE MOLDOVAN INSTITUTE FOR HUMAN RIGHTS AND THE LEGAL ASSISTANCE CENTRE FOR PERSONS WITH DISABILITIES TO THE UN UNIVERSAL PERIODIC REVIEW

26TH SESSION OF THE WORKING GROUP, OCTOBER - NOVEMBER 2016

RIGHTS OF PERSONS WITH MENTAL DISABILITIES IN THE REPUBLIC OF MOLDOVA

This Joint NGO Submission has been prepared by Promo-LEX Association, the Mental Disability Advocacy Centre (MDAC), the Moldovan Institute for Human Rights (IDOM) and the Legal Assistance Centre for Persons with Disabilities (CAJPD). The submission focuses on the rights of persons with mental disabilities, offering a critical perspective on relevant policies, legislation and practices.

Promo-LEX Association is a nongovernmental organization that aims to advance democracy in the Republic of Moldova, including in the Transnistrian region, by promoting and defending human rights, monitoring democratic processes, and strengthening civil society through a strategic mix of legal action, advocacy, research and capacity building. Promo-LEX Association has NGO consultative status with ECOSOC. For more information please visit <https://promolex.md/>

MDAC is an international human rights organization which uses the law to secure equality, inclusion and justice for persons with mental disabilities worldwide. MDAC'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 is fully respected; and where human rights are realized for all persons without discrimination of any form. MDAC has participatory status at the Council of Europe, and special consultative status at ECOSOC. For more information, please visit www.mdac.org.

Centre of Legal Assistance for People with Disabilities is a nongovernmental organization that advocates for protection and promotion of the rights of persons with disability. For more information visit www.advocacy.md.

IDOM is a nongovernmental organization formed by human rights experts with the aim to contribute to raising awareness, promoting and protecting rights and liberties guaranteed by national and international legal frameworks. IDOM engages in the following areas of activity: human rights and health (the rights of persons living with HIV/AIDS, the rights of persons with mental disabilities, patient's rights, reproductive rights); the rights of persons with mental disabilities; social, economic and cultural rights and the right to freedom from torture, or cruel, inhuman or degrading treatment or punishment. For more information please visit www.idom.md.

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I. BACKGROUND

1. The monitoring of psychiatric hospitals and the assessment of relevant policies and legislation by the patient's ombudsman¹, nongovernmental organizations^{2,3} and UN's special rapporteurs⁴ revealed gross human rights violations and multiple legislative and practical loopholes in ensuring the observance of the fundamental rights and freedoms of persons with mental disabilities placed in institutions and outside of them. This report presents and offers an analysis of these findings, focusing on the four following topics: deprivation of legal capacity, violations of the right to live independently and be included in the community, inhuman and degrading treatment and deprivation of the liberty and security of the person. Our assessment and recommendations will be linked, when possible, with the recommendations already adopted for the Government of the Republic of Moldova during the first cycle of the Universal Periodic Review (UPR).

II. FOLLOW UP TO THE PREVIOUS REVIEW

2. Following the first cycle of the Universal Periodic Review (UPR) of the Republic of Moldova in 2011, recommendations were adopted on various problems including torture, detention, persons with disabilities, discrimination and access to justice.⁵
3. The Republic of Moldova accepted most recommendations in full. Moldova also committed itself to implement specific recommendations regarding persons with disabilities which focus on efficient and impartial investigations of all allegations of torture and cruel, inhuman or degrading treatment, elimination of discriminatory practices against persons with disabilities in medical settings, the implementation of a reform of the residential care system and the implementation of the Law on Social Protection of Disabled Persons as well as of other international obligations that Moldova has agreed to regarding persons with disabilities (*see relevant recommendations of the first UPR cycle*).⁶
4. Although some actions have been taken, including the approval of the National Human Rights Action Plan,⁷ numerous concerns remain extant, particularly in relation to deprivation of legal capacity, to the right to live independently and be included in the community, the observance of the right not to be subjected to torture and inhuman and degrading treatment and violations of the right to liberty and security.
5. In its mid-term report to the United Nations Human Rights Council,⁸ the Moldovan Government reported on the implementation of the recommendations, referring to actions such as organizing seminars and trainings for judges and prosecutors,⁹ the adoption of¹⁰ legislation on the social inclusion of persons with disabilities,¹¹ development of social services for persons with disabilities (personal assistance and the "Respiro" service, which is a temporary care service, available for maximum 30 days per year).
6. We are concerned about the fact that, while some formal measures (law, policy) have been taken, this has not resulted in practical change, with such measures being, and are insufficient to implement previous UPR recommendations. Moreover, almost none of the reported actions refer to the specific problem of the persons with mental disabilities that are held in psychiatric institutions.
7. As we will further show in this submission, the human rights situation of the persons with mental disabilities in the Republic of Moldova remains worrisome. These persons are deprived of their legal capacity, illegally deprived of liberty, forced to live in segregated settings and subjected to forced treatments in conditions that can be considered cruel, inhuman or

degrading treatment or even torture. The adoption of specific recommendations for the Moldovan Government, during this UPR cycle, could contribute to the improvement of the situation of persons with mental disabilities.

III. SYSTEMIC HUMAN RIGHTS VIOLATIONS AGAINST PERSONS WITH MENTAL DISABILITIES

A. DEPRIVATION OF LEGAL CAPACITY

8. The Republic of Moldova ratified the Convention on the Rights of Persons with Disabilities (CRPD) without reservations in 2010.¹² During the first UPR cycle, Moldova committed itself to adopting disability specific legislation and taking measures to implement the international obligations it assumed in the field.
9. In 2012, the Republic of Moldova passed the “Law on the Social Inclusion of Persons with Disabilities”.¹³ The Law domesticates most of the provisions of the CRPD. Article 8(2) guarantees “persons with disabilities the right to enjoy the same legal capacity as all other citizens in all aspects of life and benefit, if necessary, from protection measures and legal assistance to exercise their legal capacity.”
10. Yet, the practice of depriving persons with disabilities of legal capacity and placing them under full guardianship is still widely used in the Republic of Moldova- with up to 4.000 persons being in such situation.¹⁴
11. Placement under guardianship is authorized under Article 24 of the Civil Code of the Republic of Moldova,¹⁵ according to which a court can order guardianship where a person “cannot understand or control his/her actions because of a psychological disorder (*mental illness or mental impairment*).”.
12. Equal recognition before the law is one of the basic principles of the Convention on the Rights of Persons with Disabilities, established in Article 12. To ensure the observance of this right, the state must take the measures necessary to provide persons with disabilities access to the support they may require in exercising their legal capacity.¹⁶
13. Substitute decision-making regimes must be ended and be replaced with systems of support based on the will and preferences of the person concerned with the objective of ensuring their personal autonomy and freedom of choice.¹⁷ One of the direct effects of depriving someone of his / her legal capacity is the disregard of that person’s will and preference in all spheres of life, including in relation to where and with whom they live, or decisions such as their placement in long-term residential institutions. Deprivation of legal capacity is linked with discrimination and forced medical interventions, which in certain circumstances can constitute torture or inhuman and degrading treatment.¹⁸ Torture is one of the grossest violations of the human right to personal integrity and dignity and implies a situation of helplessness in which the victim is under the total control of another person: deprivation of legal capacity can certainly create such a situation.¹⁹
14. According to Article 24 of the Civil Code, the guardian, as the legal representative of the person declared “incapacitated”, executes all legal acts in the name and on behalf of the person concerned. Persons deprived of legal capacity cannot, for example, file requests or challenge court decisions, not even those through which they were deprived of legal capacity.²⁰ Even if they manage to reach court, the law requires them to prove that the grounds upon which they were deprived of legal capacity have disappeared.²¹ For these

reason, once placed under guardianship persons are very likely to remain in that situation for all their lives. To the best of our knowledge there is only one case, decided by the courts in 2015, where a person has seen her legal capacity restored after being placed under guardianship.²² There is also a direct relation between deprivation of legal capacity and long-term institutionalization in healthcare or residential care facilities and most persons declared incapacitated are placed in psychiatric institutions.²³ Moreover, persons deprived of legal capacity are denied numerous fundamental rights and freedoms through the operation of law, including the right to marry, the right to property, the right to manage their finances, the right to leave a will, the right to work or the right to freedom of association.

15. It is true that some steps have been taken with a view to improving the situation. On May 7, 2015, the Parliament passed Law No. 87 on the amendment and completion of some legislative acts, which guaranteed people deprived of legal capacity the right to vote and to challenge court decisions through which they were deprived of legal capacity. The President of the Republic of Moldova, however, refused to promulgate the legislation and, therefore, the new provisions have never entered into force.²⁴
16. In 2014, the Constitutional Court of the Republic of Moldova found unconstitutional the legal provisions that prohibit people deprived of legal capacity to file requests and petitions to the National Ombudsman.²⁵ Nonetheless, the Moldovan legislation on legal capacity remains discriminatory and abusive, contravenes Article 12 of the Convention on the Rights of Persons with Disabilities expressly and restricts the fundamental rights and freedoms of persons declared "incapacitated".
17. The Republic of Moldova has therefore made insufficient progress in implementing key recommendations it received and accepted during the first UPR cycle (*see relevant recommendations in para. 73.19, 75.13 and 75.22*).²⁶

Suggested recommendations for the Government of the Republic of Moldova:

- **The Republic of Moldova should immediately abolish the system of guardianship for persons with disabilities. It should replace this with a system of supports which enable persons with disabilities to exercise their legal capacity on an equal basis with others, in compliance with Article 12 of the UN Convention on the Rights of Persons with Disabilities.**
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B. LIVING INDEPENDENTLY AND BEING INCLUDED IN THE COMMUNITY

18. There are almost 2,500 children and adults with mental (*intellectual or psycho-social*) disabilities who live in the 6 specialized institutions²⁷ functioning under the supervision of the Ministry of Labor, Social Protection and Family. Moldova also has 3 psychiatric hospitals administered by the Ministry of Health. The average duration of the stay in these institutions is 9.7 years in psycho-neurological residential institutions and 7.6 years in hospitals for somatic diseases.²⁸
19. The Special Rapporteur on Torture has stated that the isolation of persons with mental disabilities, irrespective of duration, can amount to cruel, inhuman or degrading treatment.²⁹ Moreover, the isolation of persons in psychiatric or residential care institutions for a long or indefinite period of time on the grounds of disability has no therapeutic benefit³⁰. In institutions, persons with disabilities are segregated from wider society and their community

networks, and lose control over almost all aspects of their daily lives. These can have extremely detrimental effects on the health and wellbeing of an individual.³¹

20. According to Article 19 of the CRPD, persons with disabilities have the right to live independently and be included in the community. This right is also closely connected with the right to legal capacity on an equal basis with others, because it requires that persons with disabilities must have the possibility to make choices about where and with whom they live.³²
21. These international provisions require the State to implement efficient deinstitutionalization strategies and to ensure there are adequate services in the community for persons with disabilities who need them. The right to live and to be included in the community is vital for the social inclusion of persons with disabilities, for personal development and for living a dignified life. Depriving people of this right and segregating them in residential institutions is an obsolete approach that contributes to isolation and stigmatization and breaches international law.
22. However, the segregation in institutions and the social exclusion of persons with disabilities remains an “ordinary” practice in the Republic of Moldova, with the right to live in the community not being explicitly acknowledged in national law.³³
23. Even though the Government of the Republic of Moldova has initiated a process of deinstitutionalization and has piloted, with extensive support from international and national NGOs and donors, some initiatives to move people out of institutions and into community-living settings, the process is slow and insufficient. According to Keystone Moldova in the last six years (2009-2015) there were 185 people who have been deinstitutionalized and now live with their biological/extended family or in community based services. Over the same period there were 105 new admissions into the 6 Moldovan institutions.
24. Moreover, there are significant problems also with providing the support people need to live in the community. For example, from the 17,000 requests for personal assistance or community support services submitted in the period of 2012-2014, only 8 % were accepted.³⁴ Most other applications were rejected for lack of public funding³⁵.

Suggested recommendations for the Government of the Republic of Moldova:

- **Include the right of persons with disabilities to live independently and be included in the community in national legislation.**
 - **Adopt a nationwide deinstitutionalization policy for all persons with disabilities, with a five year time limit for completing the process. The strategy should clearly set out annual quantitative, qualitative and budgetary indicators which assess progress in achieving the closure of residential institutions, development of individualized community-based services and accommodation, and improved accessibility of mainstream services.**
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C. INHUMAN AND DEGRADING TREATMENT

25. There are numerous reports³⁶ of human rights violations occurring in the Moldovan residential institutions for persons with disabilities. Such violations include, among others, physical and psychological abuses in the form of beatings and blows with hands, feet and other objects, immobilization, insults and verbal threats, isolation and restrictions of food, healthcare and other services as methods of punishment, and sexual abuses.

26. Another contributing factor to the perpetuation of human rights violations is the fact that institutions have low numbers of relatively unqualified staff. The situation sometimes results in the use of medication without prescriptions.³⁷ In such institutions treatment often only consists of pharmacotherapy, with few alternative therapies being available.³⁸

INVESTIGATION, PUNISHMENT AND REDRESS FOR VICTIMS

27. Despite this situation, the Moldovan Government has taken insufficient systemic measures to prevent or detect instances of abuse, with effective investigations and punishment of perpetrators being rare. Law enforcement in this area is woefully inadequate. There are still no court decisions establishing cases of torture or inhuman or degrading treatment in mental health facilities, despite regular and ongoing public reports of violations. Moreover, several inquiries³⁹ on allegations of rape and abuse of office in psycho-neurological residential institutions, dating as far back as 2013, are still underway, with little hope that perpetrators will be punished. This is a clear example of the inefficiency of the investigations into allegations of human rights violations committed inside institutions and against persons with disabilities.

Prosecutor's offices, which have the authority to investigate cases of torture and inhuman and degrading treatment and other forms of abuse, examine reported cases in accordance with general practices, without taking into account the specificity of crimes committed within psychiatric institutions or of dealing with persons with mental disabilities, who were subjected to abuse.

28. As a result, widespread abuses continue to take place under a culture of impunity.

Suggested recommendations for the Government of the Republic of Moldova:

- **Take measures to ensure the prevention and identification of torture and other human rights violations against persons with mental disabilities. Ensure that investigations are speedy and effective, and result in redress for victims and punishment for perpetrators. Procedural and age-appropriate adjustments should be made to investigations and support should be made available to persons with disabilities throughout investigations and judicial procedures.**

ACCESS TO JUSTICE AND MECHANISMS FOR REPORTING ABUSES AVAILABLE FOR PEOPLE IN INSTITUTIONS

29. People institutionalized in psychiatric institutions do not have access to an efficient mechanism for reporting violations of their fundamental rights or for filing complaints against such violations. National mental health legislation establishes that such complaints are to be examined by the Ombudsman. These complaints are to be filed at the administration of the healthcare facility, which then has to send them to the Ombudsman's office.⁴⁰
30. This procedure is flawed and lacks independence. In practice, it means that a person with disabilities who wishes to complain about abuses at the hands of staff in a residential institution are supposed to rely on the same staff to handle any complaints. Directors of institutions often ignore, tolerate or even encourage the behaviors reported in complaints. There is no third party that would be impartial and objective in receiving, registering and managing complaints. On the other hand, the mechanism established by the legislation is not sufficiently clear and transparent. There are no procedures for registering, tracking or managing complaints. In this context, the law does not offer guarantees that the filed

complaints will reach their destination—which is the Ombudsman’s office. Legislation also does not ensure the confidentiality of correspondence so the administration can learn about the content of the filed complaints and later persecute and subject the authors to new abuses for the very reason they had denounced the committed violations.

31. Another issue is the fact that, according to the law,⁴¹ complaints against abuses can be filed only ***in connection with the provision of healthcare services***. And yet there are many other forms of abuse, such as the application of physical force or psychological pressure, sexual violence, living conditions, forced labor, the violation of the right to freedom and safety, etc., for which the law does not establish the possibility to file complaints.
32. Persons with disabilities also have the possibility to complain to a Patients’ Ombudsman,⁴² who is mandated to monitor psychiatric hospitals and institutions. This institution was conceived in 2011 as an independent pilot project of the Ministry of Health, with the support from the United Nations Development Program.
33. Later this mechanism was institutionalized as part of the National Health Management Center.⁴³ The Patients’ Ombudsman has free access to any institution or room, and the power to inspect personal files, records, registers, etc.⁴⁴
34. However, it does not have a sufficient mandate to efficiently protect ill-treatment and torture victims. S/He can only initiate discussions with the administration of healthcare facilities and document identified violations. His/her conclusions and recommendations are not binding and s/he cannot intervene directly in exceptional situations or situations that endanger patients’ lives or health to stop such violations and has to comply with the general procedure of reporting such cases to competent authorities.
35. The person holding the mandate is working alone, which considering that only in psychiatric hospitals there are about 1810 beds⁴⁵, makes the body highly inefficient. While the mandate was officially institutionalized by the State, the current available funding for it is insufficient⁴⁶. Moreover, the body lacks institutional independence, as it functions under the supervision of the Ministry of Health⁴⁷.

Suggested recommendations for the Government of the Republic of Moldova:

- **Ensure that persons with disabilities in residential institutions have immediate access to effective and independent complaints mechanisms, as a transitional measure during the deinstitutionalization process.**
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D. RIGHT TO LIBERTY AND SECURITY

36. The Criminal Procedure Code of the Republic of Moldova and the Mental Health Law regulate the way in which, in certain conditions, persons with mental disabilities can be deprived of liberty. These regulations are ambiguous, incomplete and abusive because they do not establish sufficient protections against arbitrary detention.
37. Article 490 of the Criminal Procedure Code of the Republic of Moldova⁴⁸ provides for **forced hospitalization of arrested persons for psychiatric examination**. If a person suspected of having committed a crime shows signs of mental impairment, s/he is transferred for examination to a psychiatric hospital for an indefinite period of time until it is established that his / her state has improved.

38. In accordance with Article 31 of the Mental Health Law⁴⁹, a person hospitalized without his / her free consent is subjected to a mandatory examination by a commission of psychiatrists of the hospital within 48 hours. This commission decides on the *rationale* of the hospitalization and issues an opinion. If the commission establishes that compulsory hospitalization is required, they send an opinion to the court whose jurisdiction covers their psychiatric hospital within 24 hours to inform its decision on the further hospitalization of the person. Detention is therefore based on the decision of the commission, which is a non-judicial body, without effective due process guarantees. Courts are only informed *ex post facto*.
39. In accordance with Article 33, a judge examines the request for hospitalization in a psychiatric hospital without free and informed consent within 3 days from its receipt. Thus, a person with a mental disorder can be “*legally*” confined for 6 days. This legislative loophole favors abuses and arbitrary deprivation of liberty of persons with mental disabilities.
40. Unlike the deprivation of liberty as a preventive measure (arrests), the deprivation of freedom for psychiatric examination is performed without a verification and control mechanism and without the necessity of having a periodic review of the need for the person to remain hospitalized.
41. The Mental Health Law⁵⁰ regulates the conditions of forced in-patient treatment, allowing the healthcare facility not only to confine a person with disabilities, but also to subject him/her to forced treatment with no control mechanism being in place for such situations.
42. Another form of deprivation of liberty is the **placement of people under guardianship in social care institutions**⁵¹. People deprived of legal capacity can be placed there at the request of their guardian and with the consent of the local guardianship authority.⁵² The consent of the person concerned is not required and in practice they are rarely consulted.
43. These situations amount to arbitrary detention which breaches Article 9 of the International Covenant on Civil and Political Rights, Article 14 of the Convention on the Rights of Persons with Disabilities (*sometimes corroborated with other Articles of the CRPD*) and, in some circumstances, Article 5 of the European Convention on Human Rights.

Suggested recommendations for the Government of the Republic of Moldova:

- **Abolishing legislation that allows arbitrary deprivation of liberty of persons with disabilities and adopt a legislative and policy framework that:**
- **Ensures provision of mental health treatment and services only on the basis of free and informed consent, respecting the manner in which a person exercises their legal capacity.**
- **Prohibits civil or forensic psychiatric detention on the basis of only a psychiatric diagnosis and/or perceived risk of harm to oneself or others.**
- **Prohibits forced treatment, meaning treatment without informed consent, respecting that emergency health treatment as regulated under law is justified.**

¹ Report on the Rights of patients in psychiatric hospitals of Republic of Moldova for the period of April – September 2012/ Ombudsman for Psychiatry

² Alternative Report For The Un Committee On The Rights Of Persons With Disabilities, CAJPD, 2015, available at: <http://advocacy.md/sites/newadvocacy/files/Alternative%20Report%20CRPD%20-Moldova.pdf>

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- ³ The Institute for Human Rights of Moldova, Report on the monitoring visits in the psycho-neurological institutions in Republic of Moldova, 2013
- ⁴ Report of the Special Rapporteur on extreme poverty and human rights, Magdalena Sepúlveda Carmona/2013/A/HRC/26/28/Add.2
- ⁵ Human Rights Council (2011). *Report of the Working Group on the Universal Periodic Review: Republic of Moldova*. A/HRC/19/18, Recommendations 74.44 (Poland), 73.48 (Germany), 73.54 (Norway), (Norway), 75.35 (Canada), 73.59 (Italy), 75.13 (Norway), 73.6, 73.27 (USA), 75.4 (France), 75.36 (Poland), 75.37 (USA), 75.38 (Nepal), available at http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session19/A-HRC-19-18_en.pdf.
- ⁶ Human Rights Council. (2011). *Report of the Working Group on the Universal Periodic Review: Republic of Moldova*. A/HRC/19/18, Recommendation No. 73.45 (United Kingdom), 73.19 (Thailand), 73.51 (Israel).
- ⁷ Decision No. 90 of May 12, 2011, on the approval of the National Human Rights Action Plan for 2011–2014: <http://lex.justice.md/md/339395/>.
- ⁸ The Government Middle Term Report on the implementation of UPR Recommendations, available at http://www.justice.gov.md/public/files/drepturile_omului/midterm_report_UPR_revazut.pdf.
- ⁹ The Government Middle Term Report on the implementation of UPR Recommendations, p.12, available at http://www.justice.gov.md/public/files/drepturile_omului/midterm_report_UPR_revazut.pdf.
- ¹¹ Law No. 60 of March 30, 2012, on the Social Inclusion of Persons with Disabilities, published: July 27, 2012, in Official Gazette No. 155-159, Article No.: 508.
- ¹² Law No. 166-XVIII of July 9, 2010.
- ¹³ Law No. 60 of March 30, 2012, on the Social Inclusion of Persons with Disabilities, published: July 27, 2012, in Official Gazette No. 155-159, Article No.: 508.
- ¹⁴ See Legal Assistance Center for Persons with Disabilities. (2013) *The Right to Legal Capacity of Persons with Disabilities. A Comparative Study of the Legislation of the Republic of Moldova and International Standards in the Field*: http://soros.md/files/publications/documents/Anexa%201_%20Studiu%20comparativ.%20Drept%20la%20capacitate%20juridica.pdf and the United Nations Human Rights Office of the High Commissioner, Mental Disability Advocacy Centre et. al. (2015). *The Human Rights of People 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*, pp. 45-64, available at http://www.mdac.org/sites/mdac.info/files/moldova_report_2015_english.pdf.
- ¹⁵ Civil Code of the Republic of Moldova No. 1107 of June 6, 2002, published: June 22, 2002, in Official Gazette No. 82-86 Article No.: 661.
- ¹⁶ For more details, see Committee on the Rights of Persons with Disabilities. (2014). General Comment No. 1 Article 12: Equal recognition before the law, CRPD/C/GC/1, available at <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G14/031/20/PDF/G1403120.pdf?OpenElement>.
- ¹⁷ UN Committee on the Rights of Persons with Disabilities, C/ESP/CO/1, September 19-23, 2011.
- ¹⁸ Report of Special Rapporteur for torture and other cruel, inhuman or degrading treatment or punishment Manfred Nowak, A/63/175, para. 49.
- ¹⁹ Report of Special Rapporteur for torture and other cruel, inhuman or degrading treatment or punishment Manfred Nowak, A/63/175, para. 50.
- ²⁰ Article 308, Civil Procedure Code of the Republic of Moldova, No. 225 of May 30, 2003, published: June 12, 2003, in Official Gazette No. 111-115.
- ²¹ Civil Code of the Republic of Moldova No. 1107 of June 6, 2002, published: June 22, 2002, in Official Gazette No. 82-86 Article No.24 (3).
- ²² The case of Elena Voronina decided on the 2nd of June 2015 by the Court of Appeals of Chisinau. For more details on the case see the United Nations Human Rights Office of the High Commissioner, Mental Disability Advocacy Centre et. al. (2015). *The Human Rights of People 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*, pp. 10-11 and p. 50, available at http://www.mdac.org/sites/mdac.info/files/moldova_report_2015_english.pdf.
- ²³ OHCHR Study – The System of Guardianship in Practice in the Republic of Moldova: Human Rights and Vulnerability of Persons Declared Incapacitated, 2013.
- ²⁴ Prevention and Combating Torture in Residential and Neuropsychiatric Institutions. Report prepared with the support from UNDP Moldova, p.31, available at http://www.md.undp.org/content/moldova/ro/home/library/democratic_governance/prevenirea-_i-combaterea-torturii-in-institutiile-rezideniale-i-n/.
- ²⁵ Decision No.27 of November 13, 2014, of the Constitutional Court on the control of the constitutionality of Article 21 (5) letter e) of Ombudsman Law No. 52 of April 3, 2014 (non-examination of the complaints filed by incapacitated persons).

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- ²⁶ Human Rights Council. (2011). Report of the Working Group on the Universal Periodic Review: Republic of Moldova. A/HRC/19/18, available at http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session19/A-HRC-19-18_en.pdf.
- ²⁷ For more details, see the United Nations Human Rights Office of the High Commissioner, Mental Disability Advocacy Centre et. al. (2015). *The Human Rights of People 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*, pp. 64-76, available at http://www.mdac.org/sites/mdac.info/files/moldova_report_2015_english.pdf.
- ²⁸ The data of the National Bureau of Statistics of the Republic of Moldova on the situation of persons with disabilities in the Republic of Moldova for 2012. The data is available at <http://www.statistica.md/newsview.php?l=ro&id=4253&idc=168>.
- ²⁹ Middle-term report of Special Rapporteur of the Human Rights Council for torture and other cruel, inhuman or degrading treatment or punishment A/66/268 of August 5, 2011, pp. 67-68, 78.
- ³⁰ Report of Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment Manfred Nowak, A/63/175 (pp.55 – 56) and CPT standards, pp.58-64.
- ³¹ For more details, see MDRI-S and Open Society Foundations. (2014). *Human Rights oversight in institutional settings*, pp.10-12, available at <http://www.mdri-s.org/wp-content/uploads/2013/10/human-rights-oversight-in-institutional-settings.pdf>.
- ³² UN Committee on the Rights of Persons with Disabilities – General Comment No.1 of May 19, 2014, (pp.44-46) - <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G14/031/20/PDF/G1403120.pdf?OpenElement>.
- ³³ Alternative Report For The Un Committee On The Rights Of Persons With Disabilities, CAJPD, 2015, available at: <http://advocacy.md/sites/newadvocacy/files/Alternative%20Report%20CRPD%20-Moldova.pdf>
- ³⁴ Annual social report of the Ministry of Labor, Social Protection and Family, available at: <http://www.mmprf.gov.md/sites/default/files/document/attachments/rsa2014ro.pdf>
- ³⁵ A/HRC/31/62/Add.2, para.46
- ³⁶ Report on the observance of patients' rights in the psychiatric hospitals of the Republic of Moldova for the period of October 2012 through July 2013 / institutional ombudsman of psychiatric hospitals and Legal Assistance Center for Persons with Disabilities, the observance of the rights of persons declared incapacitated, placed in psycho-neurological residential institutions of the Republic of Moldova, 2015: <http://soros.md/files/publications/documents/Drept%20la%20capacitate%20juridica%202015.pdf>, the United Nations Human Rights Office of the High Commissioner, Mental Disability Advocacy Centre et. al. (2015). *The Human Rights of People 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*, pp. 68-77, available at http://www.mdac.org/sites/mdac.info/files/moldova_report_2015_english.pdf.
- ³⁷ For details see Moldovan Institute for Human Rights. (2013). *Report on monitoring visits to the psychoneurological institutions in the Republic of Moldova*, p. 78, available, in Romanian, at [http://www.monitor.md/attachments/article/199/raport_idom_vizite_la_institutii_psihoneurologice_din_rm\[smallpdf.com\].pdf](http://www.monitor.md/attachments/article/199/raport_idom_vizite_la_institutii_psihoneurologice_din_rm[smallpdf.com].pdf)
- ³⁸ For details see Moldovan Institute for Human Rights. (2013). *Report on monitoring visits to the psychoneurological institutions in the Republic of Moldova.*, available, in Romanian, at [http://www.monitor.md/attachments/article/199/raport_idom_vizite_la_institutii_psihoneurologice_din_rm\[smallpdf.com\].pdf](http://www.monitor.md/attachments/article/199/raport_idom_vizite_la_institutii_psihoneurologice_din_rm[smallpdf.com].pdf)
- ³⁹ Report on the observance of patients' rights in the psychiatric hospitals of the Republic of Moldova for the period of October 2012 through July 2013 / institutional ombudsman of psychiatric hospitals, point 1.1
- ⁴⁰ Mental Health Law No. 1402 of December 16, 1997, Article 37.
- ⁴¹ Ibidem.
- ⁴² Officially "advocate for patients in psychiatric units."
- ⁴³ Regulations on the organization and functioning of the National Healthcare Management Center, approved by Order No.100 of February 12, 2014, Ministry of Health.
- ⁴⁴ Ibidem.
- ⁴⁵ Analysis of the System of Mental Health Services of the Republic of Moldova, SOMATO, available at http://www.somato.md/index2.php?option=com_docman&task=doc_view&gid=65&Itemid=52.
- ⁴⁶ A/HRC/31/62/Add.2, para.17
- ⁴⁷ Regulation on the organization and functioning of the Independent service for protection of the rights of patients held in psychiatric facilities, no.1185 approved by Order of the Ministry of Health from 29 October 2014.
- ⁴⁸ Article 490 of the Criminal Procedure Code of the Republic of Moldova
- ⁴⁹ Mental Health Law No. 1402 of December 16, 1997, Article 28.
- ⁵⁰ Mental Health Law No. 1402 of December 16, 1997, Article 28.
- ⁵¹ Psycho-neurological internats are residential facilities for up to 500 people, designed for persons with psycho-social disabilities and persons with intellectual disabilities and are directly administered by the Ministry of Labor, Social Protection and Family.
- ⁵² Republic of Moldova, Mental Health Law No. 1402 of December 16, 1997, Article 40 (1).