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the European Social Charter

submitted by

THE GOVERNMENT OF THE REPUBLIC OF MOLDOVA

Article 7, 8, 16, 17, 19 and 27

for the period 01/01/2014 - 31/12/2017

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15th REPORT

of the Government of the Republic of Moldova

on the application of the provisions of the European Social Charter (Revised)

for the period from 01 January 2014 to 31 December 2017

(Articles 7 (§1-4, 7-10), 8, 16, 17, 19 (§ 7 and 8) and 27 (§ 2))

2018

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PRELIMINARY OBSERVATIONS

The 15th report is based on the previous reports of the Government of the Republic of Moldova on the implementation of the accepted articles and paragraphs laid down in the European Social Charter (Revised). Thematic group 4. Rights of children, family and migrants.

ARTICLE 7. The right of children and young people to protection

PARAGRAPH 1. Minimum age of admission to employment is 15 years

The Constitution of the Republic of Moldova expressly forbids the exploitation of minors, their involvement in activities which might be injurious to their health, moral conduct, or which might endanger their life or proper development (Article 50, paragraph 4).

The Labour Code of the Republic of Moldova (Labour Code, Law No 154/2003) establishes that the minimum general age of admission to employment is 16 years. At the same time, the individual can conclude an individual employment agreement at the age of 15, with the written consent of his/her parents or legal representatives, if, as a result, it will not endanger his/her health, development, education and vocational training. The employment of persons under the age of 15 years is forbidden (Article 46).

The duration of working time for employees between the age of 15 and 16 is 24 hours per week and for those between 16 and 18 years is 35 hours per week (Labour Code, Law No 154/2003, Article 96).

The Labour Code establishes that children between the age of 15 and 18 may be employed only after having undergone a preventive medical examination. Until they reach the age of 18, they are subsequently subject to mandatory annual medical examinations. The cost of medical examinations is borne by the employer (Labour Code, Law No 154/2003, Article 253). Persons under the age of 18 years are prohibited from engaging in work with hard, harmful or dangerous working conditions, underground jobs, as well as works that may be harmful for health or moral integrity of minors. Minors are not allowed to lift and manually carry the weights that exceed the maximum standards established for them (Article 255).

The Nomenclature of hard works and works with harmful and/or dangerous working conditions in which the use the labour of persons under the age of 18 years is prohibited and the limits of manual lifting and carrying of weights for people under the age of 18 years have been approved and implemented (Government Resolution No 541/2014). The Collective Agreement on the Elimination of the Worst Forms of Child Labour (No 8 of July 12, 2007, amended by No 14 of November 22, 2013), signed by all social partners: the Government, the National Confederation of Employers and the National Confederation of Trade Unions. It states that employers should avoid employing children for the jobs listed in the Nomenclature, keep records of working children and ensure that all working children are under medical supervision. It is prohibited to attract students to agricultural works during the educational process (Order of the Ministry of Education No 393/2014).

As a result of inspections, the labour inspectors registered the following violations in relation to the activity of persons under 18 years of age:

1. The individual labour agreement concluded with a minor is not signed by the employee and is not registered in the unit's register (Labour Code, Article 56, paragraph 3).

2. The employer does not provide for the medical examination when hiring a minor employee (Labour Code, Article 57, paragraph 1, letter (e)).

3. The order on hiring of a minor employee was not brought to his/her attention against signature (Labour Code, Article 65, paragraph 2).

4. The orders on termination of the individual employment agreement with a minor employee were not brought to their attention against signature (Labour Code, Article 81, paragraph 3).

5. The employer did not pay the amount of the outstanding funds due to the dismissal of the employee (Labour Code, Article 119, paragraph 1 and Article 143, paragraph 2).

6. The head does not provide a minor employee under the age of 18 with paid additional annual leave of at least 4 calendar days (Labour Code, Article 121, paragraph 1).

7. For a minor employee, the employer determines the working time of 8 hours per day in his/her individual employment agreement (Labour Code, Article 96, paragraph 2).

8. The employer attracted a minor employee to hard work as a porter (Labour Code, Article 255, paragraph 1).

9. The internal rules of the unit were not brought to a minor employee's attention against signature (Labour Code, Article 199, paragraph 3).

10. The unit does not comply with the minimum guaranteed wages in the real sector (Labour Code, Article 134, paragraph 1).

11. For a minor, the labour standards were not established in proportion to the reduced working time (Labour Code, Article 254, paragraph 1).

12. Additional work was allowed (Labour Code, Article 105, paragraph 1).

13. Remuneration is made without taking into account reduced working hours (Labour Code, Article 152, paragraph 1 and 2).

14. The employer accepted undeclared work (Labour Code, Article 7¹).

In the context of the application of labour, occupational health and safety legislation, labour inspectors issued prescriptions for the withdrawal of persons under the age of 18 years from work carried out in breach of the law.

In the Republic of Moldova, the complaint mechanism is established by the Law No 190/1994 on petitioning, which determines the procedure for the consideration of complaints of citizens of the Republic of Moldova addressed to state bodies, enterprises,

institutions and organizations in order to ensure the protection of their rights and legitimate interests. The law also extends to the consideration of petitions submitted by legally created organizations on behalf of the groups they represent. Similarly, foreign citizens and stateless persons whose rights and legitimate interests have been injured on the territory of the Republic of Moldova are covered by the law (Article 2).

The way of examining applications for violations of human rights and freedoms is regulated by the Law No 52 of April 3, 2014 on the People's Advocate (Ombudsman).

Petitions addressed to the State Labour Inspectorate are registered and processed, and applicants are notified in the manner prescribed by law.

A mutual mechanism for the transmission of information on compliance with labour law provisions is ensured through territorial labour inspectorates. They cooperate with local government authorities, within which social services and multidisciplinary groups work, provide methodological and advisory support for the implementation of applicable labour law provisions in relation to employees and employers.

During the years 2014-2017, activities for awareness-raising, informing and consulting the public on the most effective methods of applying the Labour Code (Labour Code, Law No 54/2003) and the Law on Health and Safety at Work (Law No 186/2008) have been carried out. In order to increase awareness, inform and advise the legal and natural persons on the correct and efficient application of the legislation, as well as to ensure the transparency of the inspection activity, the State Labour Inspectorate published 58 articles in the local press, participated in 23 TV and 21 radio programmes broadcast by local media.

Labour inspectors, in collaboration with local government authorities, implemented 29 information and awareness-raising measures for entrepreneurs, which included the best practices for the development of decent work and the disadvantages associated with the payment of wages "in envelopes" and illegal employment. In the context of promoting the provisions of legislation in the field of labour relations, health and safety at work, the State Labour Inspectorate officials participated in the events organized by the decision-makers in the territory and the territorial subdivisions of the trade unions.

For 1808 young people from 66 pre-university education institutions from urban and rural localities training seminars on subjects related to labour law provisions were organized by labour inspectors. The participants of such seminars were informed in detail about the proper application of labour legislation, health and safety at work. In addition, within the framework of job fairs, labour inspectors provided interested young people information and advice regarding the proper application of labour legislation.

ARTICLE 8. The right of employed women to protection of maternity

PARAGRAPH 1. Pregnant employees entitlement

According to Article 16 of Law No 289/2004 on temporary disability and other social insurance benefits, the insured persons, spouses dependent on those who are working, and the unemployed registered in medical institutions of the Republic of Moldova, who are entitled to maternity leave including prenatal and post-natal periods, receive maternity benefits (Table 1). Insured women and the unemployed are entitled to maternity benefits regardless of the length of insurance period.

Table 1. Number of Maternity Allowance Beneficiaries, for 2014-2017

	2014	2015	2016	2017
Number of maternity allowance beneficiaries	18 009	19 272	20 301	20 051

Source: National Fund of Social Insurance of the Republic of Moldova, <http://www.cnas.md/>

Maternity allowance is provided fully on the 30th week of pregnancy for 126 calendar days, and in the event of perinatal complications or multiple birth, maternity leave is 140 calendar days. For pregnancies with three or more fetuses, the maternity allowance is increased by a period of 42 calendar days for prenatal leave and by 14 calendar days for post-natal leave.

The insured person who is on childcare leave until the child reaches the age of 3 years, in all the institutions in which he/she carries out the activity is entitled to a monthly child-raising allowance from the date of granting the parental leave and until the child's third birthday. If the date of granting childcare leave differs from one unit to another, the allowance is established from the date of the last leave was granted (Law No 289/2004, Article 18, paragraph 1).

Starting from April 1, 2014, a monthly child allowance is available upon request, optionally: one of the parents, grandparents, other relatives who are directly involved in child care, so the guardian, if they are insured and meet the conditions of the insurance period achievement (Law No 332/2013 on amendments and additions to the Law No 289/2004) (Table 2).

Table 2. The number of monthly child-raising allowances up to the age of 3 years, including beneficiaries, for 2014-2017

	2014	2015	2016	2017
The number of monthly child-raising allowances up to the age of 3 years, from which:	39 545	41 790	44 278	45 342
- mothers	38 102	39 344	40 587	40 633
- fathers	1 164	2 147	3 355	4 346
- other persons	279	299	336	363

Source: National Fund of Social Insurance of the Republic of Moldova, <http://www.cnas.md/>

The monthly amount of the child-raising allowance is 30% of the average monthly insured income achieved during the last 12 calendar months (*until April 1, 2014, the basis for calculating the monthly childcare allowance was referring to the last 6 months*) preceding the month of insured risk, income of which individual social insurance contributions have been calculated, but not less than the fixed amount established for each child.

In the contribution period for entitlement to benefits includes contribution periods from the very beginning of his/her labour activity till the day of the insurance risk appearance. At the same time, in the contribution period are included the period of compulsory or short-term military service, the period of taking care of the child under the age of 3 years by one of the parents or guardian, in the case of both parents dying, the period during which the insured person received the benefits, the period of receiving unemployment benefits or employment allowance.

PARAGRAPH 2. Prohibition of dismissal of pregnant women

The legislation of the Republic of Moldova clearly establishes the conditions for the prohibition of the dismissal of pregnant women. It is prohibited to dismiss pregnant women, women who have children under the age of 4 years and those who are on childcare leave (maternity leave, partially paid leave of taking care of the child under the age of 3 years, unpaid leave for the care of child under the age of 4 years, and leave for employees who have adopted newborns or established guardianship), except in the case of dismissal as a result of the elimination of the unit or as a disciplinary sanction (Labour Code, Law No 154/2003, Article 251).

PARAGRAPH 3. Sufficient breaks for nursing mothers

Allocating sufficient time for infant feeding is guaranteed by the authorities of the Republic of Moldova. Thus, in accordance with the provisions of the Labour Code, one of the parents (guardian) who has children under the age of 3 years is provided with additional breaks for feeding the child in addition to his/her lunch break. Additional breaks will be held at least once every 3 hours, and each such break should be not less than 30 minutes. For one of the parents (guardian) who has 2 or more children under the age of 3 years, the duration of the break cannot be less than one hour. Childcare breaks are included in the working time and are paid on the basis of the average wage. If the employer provides a special room for feeding children in the enterprise, then it must comply with hygienic requirements in accordance with the applicable sanitary regulations (Labour Code, Law No 154/2003, Article 108).

PARAGRAPH 4. Night work of recently given birth and pregnant women

The legislation of the Republic of Moldova prohibits night shift jobs to pregnant women or to those who recently gave birth. The Labour Code expressly states that pregnant women, those who recently gave birth and breastfeeding women may not be employed on night work (Labour Code, Law No 154/2003, Article 103, paragraph 5).

PARAGRAPH 5. Work of a dangerous nature

According to the minimum requirements approved by the Government, it is also prohibited to use labour of pregnant women, of ones who have recently given birth or breastfeeding in underground work in mines, as well as in any other work, the performance of which poses a risk to their safety or health or may lead to adverse consequences for pregnancy or breastfeeding (Labour Code, Law No 154/2003, Article 248).

In order to apply these provisions, the Government of the Republic of Moldova approved the Minimum health and safety requirements for pregnant women, ones who have recently given birth and breastfeeding (Government Resolution No 1408/2016), which replaces Section I Article 1 and 2, Section II Article 4-6 and applications No 1 and 2 of the European Parliament and of the Council Directive 92/85/CEE of October 19, 1992 on the introduction of measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding.

The application of the provisions of national regulations on the protection of pregnant women who are on maternity or childcare leave is also reflected in the number of complaints sent to the State Labour Inspectorate (Table 3).

Table 3. Number of complaints submitted by pregnant women, by women who are on maternity leave or on childcare leave, for 2014-2017

Indicator	2014	2015	2016	2017
Number of complaints submitted by pregnant women, by women who are on maternity leave or on childcare leave	32	22	14	7

Source: State Labour Inspectorate, <https://ism.gov.md/en>

ARTICLE 16. Family right to social, legal and economic protection

In order to make the social benefits system more efficient and direct them to the people in vulnerable economic conditions, the Law on social assistance No 133/2008, which aims to ensure a minimum guaranteed monthly income (MGMI), to the disadvantaged families also, by granting social assistance, determined according to the assessment of the average monthly family income and the need for social assistance.

Starting with 2017, MGMI, annually on April 1, is indexed according to the annual growth of the consumer price index for the previous year, as established by the Government (Law No 304/2016).

The monthly amount of social assistance is established as the difference between the guaranteed minimum monthly income of the family and the total income of the family (Law No 133/2008, Article 6, paragraph 1).

The social assistance for the cold period of the year (ACPY) is a fixed, monthly cash payment, paid to the disadvantaged family for the following months: January-March and November-December, according to the legislation in force. The revision of the ACPY level is carried out within the limit of the financial means provided in the state budget (Law No 133/2008, Article 15¹). In order to grant the ACPY rights, when calculating the guaranteed minimum monthly income of the family, it is multiplied by 1,6.

Compared with other programs of economic protection, social assistance and aid for the cold period of the year are granted to the family, because when determining the size of social assistance and aid for the cold period, it is taken into the consideration the size of the family, its internal structure and its income.

The amount of the financial means allocated for social assistance in 2016 is about 579 million MDL and in 2017 it was 566 million MDL. The average monthly amount of the benefit in the period 2014-2017 varied between 652 MDL and 827 MDL per family, and the average size of the family benefiting from social assistance constituted 2.3 people (Table 4).

Table 4. Number of families receiving social assistance and allocated resources, for 2014-2017

Year	Number of the families	The average benefit, MDL	The amount of allocated resources, Millions, MDL	MGMI, MDL
2014	58821	652	227	until October 31 – 680 MDL; from November 1 - 720 MDL.
2015	85776	720	416	until March 31 – 720 MDL; from April 1 - 765 MDL; from November 1 - 900 MDL.
2016	90000 (207000 people)	804	579	900
2017	90757 (208741 people)	827	566	until March 31 - 900 MDL; from April 1 - 961 MDL.

Source: Ministry of Health, Labor and Social Protection, <https://msmps.gov.md/>

The number of beneficiary families of at least one ACPY payment for 2014-2017 has increased from about 140,000 to over 200,000 families. The amount of ACPY in this period increased from 250 MDL/month to 315 MDL/month (Government Resolution No 838/2015), and the average size of the beneficiary family of this benefit was 1.7 people (Table 5).

Tabelul 5. Number of families benefiting from ACPY and allocated resources, for 2014-2017

Year	Number of the families	The average benefit, MDL	The amount of allocated resources, Millions, MDL	MGMI, MDL
2014	140268	250	108,6	until October 31 – 1088 MDL; from November 1 – 1152 MDL.
2015	182263	January - March -250 MDL; from November 1 – 315 MDL	166	until March 31 - 1152 MDL; from April 1 - 1224 MDL; from November 1 – 1440 MDL.
2016	194500	315	254	1440 MDL
2017	200876	315	258	1538 MDL

Source: Ministry of Health, Labor and Social Protection, <https://msmps.gov.md/>

From April 1, 2018 the MGMI level used for the calculation of the right to social assistance is 1025 MDL (Government Resolution No 238/2018).

At the calculation of the total income, there are not taken into consideration the following incomes (Government Resolution No 1167/2008):

- state financial support, which is granted to the beneficiaries of pensions or social allowances, in the amount which does not exceed 1500 MDL;
- 200 MDL from the quantum of the declared salary for each employee of the beneficiary/applicant family;
- 200 MDL from the childcare allowance for each child, the allowance is paid for;
- for the families that are formed out of only ineligible for work (children, people with disabilities, people who are 75 years old (for ACPY 62 years), income from agricultural activity is excluded;

The unemployed people registered at the Territorial Employment Agencies are part of the families receiving social assistance, at the request of the mayor of the locality, carry out activities of community interest (Law No 297/2017). In case the unemployed person refuses to carry out activities of Community interest, his/ her family will not receive any social aid. Exceptions are families for which the fixed amount of the social aid is up to 30% of the MMGI value or if the unemployed person is temporarily incapacitated

according to the certificate issued by the family doctor or, as the case may be, the conclusion of the public health care institution Advisory Board. The performance schedule of community interest activities are proportional to the amount of social benefit that the family benefits, but they do not exceed 40 hours/ month.

For the social protection of the families with children, from the state budget to the social insurances budgets are transferred financial means annually (Table 6).

Table 6. The quantum of financial resources transferred from the state budget to the state social insurance budget for the social protection of families with children, millions MDL, for 2014-2017

Type of social benefit	Executed			
	2014	2015	2016	2017
Single childbirth allowance	140,7	139,8	140,0	197,9
Child raising allowance up to the age of 2 years	191,3	189,7	211,7	232,9
Monthly support allowance for twin children up to 3 years of age				1,3
TOTAL	332,0	329,5	351,7	432,1

Source: Ministry of Finance, <http://mf.gov.md/en>

For the payment of the monthly allowance to adopted children and those under guardianship/ tutoring from the state budget to the local budgets, financial means are allocated annually (Table 7).

Table 7. The quantum of financial resources transferred from the state budget to the local budgets for adopted children and those under guardianship/tutoring, millions of MDL, for 2014-2017

Social benefits	Executed			
	2014	2015	2016	2017
Allowance for adopted children and guardians / tutors	7,5	40,2	40,9	38,9
TOTAL	7,5	40,2	40,9	38,9

Source: Ministry of Finance, <http://mf.gov.md/en>

Support for the children left without parental care from vocational and professional schools, the specialized secondary education and higher education institutions from the state budget are allocated about 26 million MDL (Table 8).

Table 8. The quantum of financial resources from the state budget for the support of the children left without parental care, millions MDL, for 2014-2017

Social benefits	Executed			
	2014	2015	2016	2017
Support for children left without parental care in vocational and professional schools, specialized secondary and higher education	27,1	25,8	25,7	26,4

institutions				
TOTAL	27,1	25,8	25,7	26,4

Source: Ministry of Finance, <http://mf.gov.md/en>

In 2013, with the help of the Council of Europe Development Bank (CEB) and local public authorities of 2nd level, it was launched “*The project for housing construction for socially vulnerable people, Phase II*”, that aims to build until 2018 approximately 700 houses for about 2500 vulnerable persons in several localities of the country.

Social housing is provided by local public administration authorities for socially vulnerable categories, which have the need to improve the living conditions, based on selection criteria (housing, income, etc.).

Thus, in the years 2014-2015 the objectives and distribution of housing in the districts were completed: Calarasi - block of flats with 40 social apartments; Briceni – block of flats with 40 apartments, out of which 25 are social apartments; Singerei – block of flats with 35 social apartments; Hincesti – 56 apartments in 15 locations in the district.

In 2015 there were launched constructions at 2 important objectives, in Nisporeni town – a residential complex, in which 93 apartments are social, and the final reception of the object was on May 31, 2018; and in the city of Ialoveni - a residential complex, where 31 apartments are social, the final reception is at the end of 2018 year.

In 2016 the objective that was launched in Leova was finalized – a block of flats with 72 apartments.

In 2016 the objective that was launched in Soroca was finalized – a block of flats with 72 apartments.

In the same 2016 year, the objective from Leova was launched – 92 social apartments, and the final reception took place on May 28, 2018.

In 2017, the works for the construction of the objective from Rezina, block of flats with 72 apartments, and for the Falesti town – an apartment building with 40 apartments was also built.

In 2018, the building project was launched in Glodeni town – a block of flats with 30 apartments.

Likewise, according to the implementation plan of the Project for the 2018 year, approved by the Council of Europe Development Bank, the project for the Cantemir, Cimislia and Cahul towns is following to be executed, where will be built 90 social housings approximately. The respective prejects are estimated to be finished by the end of 2019.

Also, provide to people suffering of the consequences of the Chernobyl disaster and the members of their families, since 2004 the construction of a new apartment building with 80 dwellings located on 97, Alba Iulia Street, Chisinau municipality has been launched, which will be given into service in 2019 (Table 9).

Table 9. The quantum of financial resources allocated from the state budget for the construction of dwellings for socially vulnerable persons and the participants in the liquidation of the consequences of the Chernobyl disaster, millions of MDL, for 2014-2017

Capital investments project	Executed			
	2014	2015	2016	2017
Project „Building of the social dwellings II”	58,0	47,9	74,5	67,2
Construction of a new apartment building with 80 dwellings located on 97, Alba Iulia Street, Chisinau municipality.	9,0	1,3	5,0	11,0
TOTAL	67,0	49,2	79,5	78,2

Source: Ministry of Finance, <http://mf.gov.md/en>

Regarding the legal framework that regulates the housing sector, within the period of 2014-2017 there were approved the following normative acts:

- Law No 75/2015 regarding housing;
- Government Resolution No 447/2017 for the approval of the Regulation on the bookkeeping, the assigning methods and usage of the social dwellings;
- Normative document NCM C. 01.08:2016 „Dwelling blocks”

ARTICLE 17. The right of children and adolescents to social, legal and economic protection

PARAGRAPH 1. - Assistance, education and training

For the period of 2014-2017, the Government of the Republic of Moldova has operated a series of amendments and additions of the normative acts regarding the rights and obligations of the parents. Amendments have been introduced to the sanction provided at the Article 64 paragraph 1 and 2 of the Administrative Offense Code (Law No 218/2008), applied in case of failure to accomplish assistance, education and training obligations in child’s favor (Law No 2018/2016, came into force on March 16, 2017).

According to the Article 62 paragraph 2 of the Family Code, Law No 1316/2000, “Parents will not use any abusive behavior, insults, maltreatment, discrimination or violence, be it psychological or physical, factual involvment in criminal activities, teaching the abuse of alcoholic drinks, substances, gambling, beggars or other illegal educators in the educational process of their child.”

In the Penal Code (Law No 985/2002) was introduced Article 201² (*Innapropriate exercise of parental obligations*), which punishes with a fine starting with 300 to 500 conventional units or community service from 100 to 120 hours (Law No 83/2017) if the actions manifested through willful evasion of parents from the exercise of the parental obligations, if it has led to the placement of the child in residential institutions or social placement services.

In the Penal Code (Law No 985/2017), the definition of Violence in Family, Article 201¹, is exposed in a new edition (Law No 196/2016).

Article 201¹. Violence in family

(1) intended action or inaction committed by one family member towards another member of the family, manifested by:

a) maltreatment, other violent actions, that resulted to minor injury to body integrity or health;

b) isolation, intimidation with the purpose to impose a personal will or control over the victim;

c) deprivation of economic means, including deprivation of primary means of primary existence, neglect, if they resulted with minor injury to body integrity or health,

shall be punished with unpaid community service from 150 to 180 hours or by imprisonment for up to 3 years.

(2) Actions provided by paragraph 1:

a) committed on two or more members of the family;

b) committed in connection with the request or application of the protection measures;

c) that have caused average injury to the body integrity or health,

shall be punished by unpaid community service from 180 to 240 hours or by imprisonment from 1 to 6 years.

(3) Actions provided in paragraph 1 and 2 that:

a) have caused serious injury to the body integrity or health;

b) have determined suicide or suicide attempt,

shall be punished by imprisonment from 6 to 12 years.

(4) The actions provided in the paragraph 1 or 2 that have caused serious injury to the body integrity or health that resulted in decease of the victim,

shall be punished by imprisonment from 12 to 15 years.

Protection of the children against maltreatment and abuse is ensured, by the Guidelines on the intersectoral cooperation mechanism for the identification, evaluation, referring, assisting and monitoring of the child victims and potential victims of violence, neglect, exploitation and trafficking (Government Resolution No 270/2014).

The implementation of this intersectoral mechanism clearly regulates and specifies the responsibilities of the authorities/institutions that are responsible for the child's protection, reinforces the capacities of the professionals from this area, defines and systemizes the procedures from the education, health, and police¹. The number of the reported cases indicate the functionality of the mechanism (Table 10).

Table 10. Number of notifications/self-complaints registered according to the Intersectoral Guidelines, for 2015-2017

NO.	INDICATORS	2015	2016	2017
Number of notifications/self-complaints registered according to the Government Resolution No 270/2014		3091	3438	4216
<i>Registered notifications/ self-complaints regarding:</i>				
1.	Children subjected to violence, out of which:			
1.1	physical violence	428	721	568
1.2	sexual violence	72	98	36
1.3	psychological violence	468	466	519
2.	Neglected children	2408	2760	2650
3.	Exploited children	95	29	5
4.	Children victims of trafficking	1	7	1

Source: Ministry of Health, Labor and Social Protection, <https://msmps.gov.md/>

The analysis of the Guidelines implementation results regarding the intersectoral cooperation for the identification, evaluation, referring, assistance and the monitoring of the children victims, or potential victims of the violence, neglecting, exploitation and trafficking, shows that in the majority of the cases the notifications directed towards the local tutoring authorities, target only children victims, this meaning that the reactive segment of the child protection system is covered, as well as the segment of re-victimisation prevention, but not the segment of the primary prevention.

The Republic of Moldova is fully engaged in the aligning process of the normative provisions to the European standards and values, as well as the UN Guidelines for the Alternative care of the Child. Thus, a series of documents and minimal quality standards were reviewed for the organization and functionality of the social services addressed to children in risky situations and children separated from parents². The concept of the review was based on the focus of the service around the child and its organization around the child (Table 11).

Table 11. The activity of the Commission for the children in difficulty, for 2008-2017

Indicator	2008	2012	2016	2017
Number of examined cases	829	2789	3044	4918

¹ Committee on the Rights of the Child, Consideration of reports submitted by States parties under article 44 of the Convention, Fourth and fifth periodic reports of States parties due in 2015, Republic of Moldova, <http://undocs.org/en/CRC/C/MDA/4-5>.

² Ibidem

Number of reintegrated children with the biological family/ extended	364	330	918	218
Number of notifications regarding the protection form of the family type (guardianship/ tutoring, APP, CCTF)	149	181	500	1066
The number of notifications issued regarding the financial aid within the Social service for families with children support	-	-	967	1287

Source: Ministry of Health, Labor and Social Protection, <https://msmps.gov.md/>, based on the data provided by territorial structures of social assistance

The basic structure of the minimal quality standards for the social services of assistance/ protection of the child contains the following main chapters:

- Children -friendly services;
- Priority interest of the child;
- Development of the child;
- Protection of the child;
- Service management.

Every cluster contains a series of minimal quality standards with the following structure:

- The objective of the standards;
- The expected result;
- Implementation indicators.

Any social service of assistance/ protection of the child has more than 30 minimal quality standards. For example, Professional parenting service has the following quality standards:

- Service accesibility;
- Information and awareness;
- Individualized approach;
- Multidisciplinary approach;
- Participation of the beneficiary;
- Information confidentiality;
- Child identity;
- Non-discrimination;
- Respect of dignity and the right to privacy;
- Maintaining, developing relationships with family members and other people close to the child;
- Health;

- Hygiene;
- Exterior aspect. Personal things. Pocket money;
- Nutrition and food preparation;
- Education;
- Free time and activities;
- Protection against violence, neglecting and exploitation;
- Safe living conditions;
- Filling and examining the complaints;
- Evaluation of the applicant for the position of professional parenting assistant;
- Approval of the professional parenting assistant;
- Rights and obligations specific to the professional parenting assistant;
- Re-approving the professional parenting assistant;
- Personal file of the professional parenting assistant;
- Evaluation of the assistance and development necessities of the child;
- Individual plan of child assistance;
- The suitability of the professional parenting assistant with the child;
- Placement of the child;
- The monitoring of the child and the revision of the individual plan of child assistance;
- The preparation of the child for the end of the placement period and the going out of service;
- File of the child placed in the service;
- The supervision of the staff;
- Evaluation of the staff performance;
- Evaluation and planning of the Service's activity;

Through the Strategy for the child protection 2014-2020 (Government Resolution No 43/2014) and the Action Plan for the years 2016-2020 regarding the implementation of the Strategy for the child protection for the years 2014-2020, that contains 124 actions (Government Resolution No 835/2016), an extensive reformation process in the field of the child protection was started, which has as a purpose the development and the streamline of the system of the families with children in risk situations and the children in difficult situations.

General objectives of the above mentioned policy documents are established according to the actual situation of the families and children in risky situations.

General objective no. 1. Ensuring the necessary conditions for the child's growth and education in family environment

1) Specific objective 1-1. Prevention of the child separation from the family.

2) Specific objective 1-2. Gradual stopping of the institutionalization of the children within the age limit of 0 – 3 years old.

3) Specific objective 1-3. Constant reduction of the number of the children that are in residential care.

4) Specific objective 1-4. Reduction of the negative effects of the parents' migration over the children that remained in the country.

General objective no. 2. Prevention and disproof of the violence, neglect and children exploitation, promotion of non-violent practices in the raising and educating children.

1) Specific objective 2-1. Prevention and disproof of the violence, neglect and children exploitation.

2) Specific objective 2-2. Disproof of violence, neglect and children exploitation.

General objective no. 3. Reconciliation of family life with the professional activity for the ensurance of a harmonious raising and development of the children.

1) Specific objective 3-1. The revising of the social concept of the maternity and paternity, as well as the role of both of the parents in raising and educating the children.

2) Specific objective 3-2. Promotion of support services for the working parents.

In order to prevent and/or overcome the risk situations to ensure the raising and education of the child in a family environment, the social support service for the families with children is functional (Government Resolution No 889/2013). The service ensures the support for the development of family capacities in the raising and development of the child, consolidation of the protection factors from the interior of the family and its connection to the relevant sources from community.

Family support service is provided in 2 forms: primary family support and secondary family support.

The primary family support includes support activities oriented towards the prevention and disposal of the factors that can lead to risky situations and the family strengthening through skills training regarding the care and education of the child, building on social and emotional competencies of the child, creation of social network of the family. This is realized through different programs, that can include: informational and awareness activities, parents' school, support groups for parents and children, community activities with children for the support of emotional, social development, as well as their social inclusion.

Within the secondary family support, families with children can benefit of a financial aid, at whose establishment all the necessities of the family, children number from the family, living conditions, seasonal factors, the gravity of the problem, etc. are taken into consideration, as well as the income of the family from salaries, social

payments and other sources of income that are declared under the responsibility of the family. The beneficiary family of social aid has the right to access financial aid. The beneficiaries of the secondary family support are the families with children in risk situations and/or families whose children are in the reinstatement process. In 2017, 29000 children have benefited the primary family support, and of secondary family support approximately 3300 children out of which approximately 1400 children have benefited of financial aid.

In 2017, the Government approved a series of amendments and additions of the legal framework regarding the organization and functionality of this service, including the increase with 30% (from 3000 MDL to 4000 MDL) of the quantum of the financial aid granted for the second family support beneficiaries. At the same time, the inclusion and the financing within the support service for the families with children of the specific working schedules with specific groups of parents and children was regulated (Government Resolution No 1131/2017).

In 2018, the Regulations framework regarding the organization and functionality of the social service Day Care Center for the care of the children of 4 months – 3 years old (the so-called social nursery) (Government Resolution No 730/2018) was approved and put into implementation. Day Care centers are established by the local public authorities with the purpose to prevent the separation of the child from the family, marginalization, social exclusion and the institutionalization of the child, and for the facilitation of the process of (re)instatement with the family and educational and social inclusion of the child.

The target group is formed out of children from socially vulnerable families, especially families with low incomes, in which the option to give up work for the daily care of the newborn child means the loss of incomes that are necessary for the elementary subsistence. The services of the day care are centred on single mothers, families with many children, or the families where people with severe disabilities are taken care of, including children.

For the raising and the education of the children whose parents (or the only parent) are/is gone abroad for work, the Government is expected to review and improve the provisions of the legislation on the legal representation of children, legal responsibility for children, including the establishment of the custody placement as a simplified legal form, simplified by legal responsibility over these children.

According to the statistic data, at the moment there are more than 30000 children whose parents (or the only parent) are/is gone abroad for work, out of which the guardianship is established for only 10900 children (Table 12).

Table 12. Number of children with the only/both parents gone abroad for work, for 2014 – 2017

No.	Indicators	Year 2014	Year 2015	Year 2016	Year 2017
1.	Total	44007	38921	36114	30320
	Gender:				
2.	female	21969	19611	18450	15745
3.	male	22038	19310	17664	14575
	Age, years:				
4.	0-2	2806	2630	2928	1182
5.	3-6	9666	8777	8562	6368
6.	7-15	25932	21949	20155	17354
7.	16-17	5603	5565	4469	5416

Source: Ministry of Health, Labor and Social Protection, <https://msmps.gov.md/>, base on the data provided by territorial structures of social assistance

In case of national/international adoption of the child, according to the provisions of the “*Law No 99/ 2010 regarding the legal adoption regime*”

- Article 26, paragraph 1: „territorial authority requests the consent of the child, taking into consideration his/her age and the maturity degree, as well as his/ her opinions, desires and feelings in the process of the adoption”;
- Article 26, paragraph 2: „in the suitability process of the adopting person/s, the child who is 10 years old, at the request of the territorial authorities of his residence, mandatory expresses his/ her consent in written form”;
- Article 26, paragraph 3: „the child must benefit of counseling from the territorial authorities regarding the consequences of the adoption, future adopters, as well as corresponding information regarding all the adoption aspects”;
- Article 26, paragraph 5: „at the examination of the causes in the Court, the child has the right to pronounce himself regarding the adoption, to confirm or to withdraw the consent regarding the adoption”;
- Article 43, paragraph 1: „at adoption, the child is assured the right to keep his name and surname”;
- Article 46, paragraph 2: „the adopting parent will inform the child that he is adopted, as soon as child’s age and maturity will allow it”;
- Article 46, paragraph 4: „the identity of the biological parents can be revealed before the child will obtain full exercise capacity only because of medical reasons and with the authorization of the Court, at the request of any of the adopting parents of the adopted child, of territorial authorities or at the request of a medical institution”;

- Article 46, paragraph 5: „after gaining full exercise capacity, the adopted child can request the local Court or the Chisinau Court of Appeal, in case the child is not a resident of the Republic of Moldova, to authorize the access to the information regarding the identity of the biological parents, that are in the possession of the central authorities or Civil Status Bodies”;
- Article 46, paragraph 6: “the court shall cite the territorial authority (District/Municipal Directorate for Social Assistance and Family Protection / Municipal Directorate for the Protection of Children’s Rights Chisinau) at the domicile of the adopted child, as the case may be, the central authority, as well as any other person whose professional knowledge can be and accepts the application if the evidence shows that access to the information requested is not detrimental to the psychological integrity and emotional balance of the applicant and whether the person concerned has received counseling from the competent authorities in the field of adoption”.

According to the minimal quality standards of the alternative placement for the children, the service provider has to make sure that the identity of the child was kept and to contribute to child’s formation, including through communication with parents, in case it does not come in contradiction with the superior interest of the child (Government Resolution No 1019/2008).

In order to ensure children and teenagers’ protection against the neglect, violence and sexual exploitation and abuse in accordance with the provisions of the Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (October 25, 2007) and the Convention on the Rights of the Child (November 20, 1989), the Article 175¹ of the Penal Code was modified, Law No 985/2002 (Law No 121/2016). Thus the protection level against potential offenders, through completion of the objective side of the criminal offence “*Enticement of the minor for sexual purposes*”, is regulated, with alternatives that will offer the law enforcement bodies the possibility to incriminate a wider series of actions, such as: persuasion, manipulation, blackmail, the promise to offer advantages and, in the same time, to increase the minor’s protection against the actions of the delinquent.

In 2016, there were operated modifications in *Article 93* “Release of minor’s punishment” and *Article 104* “Appliance of constraining methods of educational character” in the Penal Code (Law No 123 of March 04, 2016). The new provisions have established a series of direct responsibilities of the minors in conflict with the criminal law. Thus, the minor’s obligation to take the course of mandatory general studies and minor’s obligation to participate at a probational program that includes behavior correction programs and social integration is regulated. The correction programs of the behavior consist in the modification of the behavior, visions and capacities that have lead

to the crime committing, and the programs of social integration – in the regaining of the skills that will solve the persistent problems in the daily social life.

In the Parliamentary Assembly meeting of the Republic of Moldova, on November 30, the law on measurements and services addressed to children with deviant behavior was approved. The Law was drafted in response to one of the stringent necessities in the reality context of the Republic of Moldova: the lack of legal provisions to regulate the status of the child under the criminal/contraventional age in the Republic of Moldova. The lack of a normative framework for situations of children under the age of criminal liability committing criminal deeds as regulated by the criminal/contraventional law, had as an impact the lack of careful observations from the authorities and profile institutions side, with no corresponding work with the children according to special programs or their specific needs.

Concerning the presence of the minors in penitentiary institutions we inform that, at the moment in the penitentiary system, there are 7510 detained people, out of which 81 are minors (79 males and 2 females). The detained minors are ensured, from the state budget means with food ratio 3 times a day, at the pre-established by the day regime hours, and respecting the quality of the established food (Order of the Ministry of Justice No 512/2007 on the approval of the Regulations regarding the detainees in the penitentiary food, and the annex No 4 regarding the approval of the daily minimal norms of feeding of the detainees, (Government Resolution No 609/2006). In case the convicted minors suffer of an acute disease, they are offered an additional food ratio.

According to the provisions of the Article 252 of the Execution Procedure Code (Law No 443/2004), the convicted minor can benefit of: in common regime – a short – term weekly meeting and a long-term meeting once in two months; in re-socialization regime – one short-term meeting once in a week, with the right to go out outside the penitentiary, accompanied by his legal representative, and one long-term meeting, once in two months, with the right to live with his family in a separate dwelling on the territory of the penitentiary or in its neighborhood.

Currently, children born by mothers in the custody of the penitentiary system are ensured with diapers and all primary necessities for children's care. Mothers, as well as children are ensured with personal hygiene products (including diapers), pharmaceutical and parapharmaceutical products.

According to the national legislation, minor people can be sentenced with imprisonment from 16 years old. For the crimes expressly provided by Article 21 paragraph 2 of the Penal Code – from the age of 14. According to the Article 197 paragraph 2 of the Execution Procedure Code (Law No 443/2004), the minors are executing their imprisonment sentence in penitentiaries for minors. When there is no possibility for the minor to execute the imprisonment sentence in a penitentiary for

minors, they are detained in penitentiaries for adults, but in separate sectors, ensuring that it respects the same conditions as in minors' penitentiary. Upon reaching the age of majority, minors are transferred to non-specialized penitentiaries (for adults) to execute the remaining of the imprisonment sentence.

At the establishment of the imprisonment sentence for the persons that committed the criminal offence, and did not reach the age of 18 years, the term of the imprisonment is established out of the maximum of the sentence as provided by the penal law for the committed criminal offence, reduced to half (Article 70 paragraph 3 of the Penal Code, Law No 985/2002). In the context in which at paragraph 2 of the same article is provided that the general maximum of the imprisonment sentence is of 20 years, we conclude that in no case an imprisonment higher than 10 years can be imposed on the minor.

According to the provisions of Article 93 and Article 104 of the Penal Code (Law No 985/2002) the minors can be exonerated of the execution of criminal punishment (including the punishment with imprisonment) with the application of an educational coercive measure:

- the warning;
- custody of the minor for the supervision of the parents, people who replace them or the specialized state bodies;
- obligation of the minor to repair the caused damage, at the application of this measure the material state of the minor should be taken into consideration;
- obligation of the minor to take a course of psychological rehabilitation;
- obligation of the minor to attend the mandatory education course;
- obligation of the minor to participate in a probational program.

In contraventional area, the contraventional arrest can not be applied against the minor (Administrative Offense Code, Law No 218/2008, Article 38, paragraph 6).

Within the penitentiary institutions, the social education of the minors, that represent an important area in the meeting of the educational needs, as well as for the re-integration in the society and the decrease of the risks of the convicted minors, is emphasized.

The applied social therapy programs contribute to the formation of the working skills, development of social and life skills, for the period of the punishment execution in the penitentiary, development of the creative abilities of the minors, and not the least the occupancy of detainee's free time.

Physical education and the sport contribute to a positive redirectioning of the energy, development of the intelligence and team spirit. Within penitentiary institutions for minors are created conditions for the sports activities for table tennis, volleyball, soccer, chess, checkers are unfolding, as well as a gym. At the mentioned activities, the convicted minors are trained according to a schedule that is drafted together with the

employees of the penitentiaries. The minor prisoners are involved in the following occupational educational activities outside the cells: Educational program “Mini - football”, Educational program “volley-ball”, Educational program “Chess and Checkers”, Educational program “Ping - pong”, Educational program “Weight lifting”, “Vocational orientation program”, library attending, church attending, classes attending. At the same time the convicted minors are involved in artistic and art creation activities that take place on special occasions: “New year and Christmas Holidays”, “Martisor”, “International Women’s day”, “Easter celebrations”, “Family day”, “Meeting with parents and close relatives”, “The last school day”, “International Children’s day”, “Independence day”, “Mother language day”, “The first day of school”, “Evantai Cultural”.

In the context of the strengthening the capacities of the penitentiary employees, trainings are carried out inside the Training Center of the National Administration of Penitentiaries, within the EU Project “*Granted support for the implementation, probation and rehabilitation systems in Moldova*” (EUTAP4), destined to the employees of surveillance and regime, guard and escort, where different subjects that refer to the research of the personality of the minor offenders are touched as a research area, as well as the effective management procedures of the operational incidents with the involvement of the minor detainees. Such trainings are developed with the employees of the educational activities services and social assistance within the subdivisions subordinated to the National Administration of Penitentiaries. At the completion of the vacancies within the National Administration of the Penitentiaries, especially of the staff in charge of the diurnal service and the one directly involved in the education of minor detainees, candidates with higher education and professional education in the field are preferred. For formation of qualified personnel, employees are initially to follow trainings within the Training Center of the National Administration of the Penitentiary. In June 2017, with the support of West University of Timisoara, training courses on “Communication and conflict management” were organized for workers of the regime service, surveillance and guards.

PARAGRAPH 2. Primary and secondary education free of charge for children and teenagers

In 2014, the Parliament of the Republic of Moldova has adopted the Educational Code of the Republic of Moldova (Law No 152/2014), that establishes the legal framework regarding the drafting, functionality and the development of the educational system of the Republic of Moldova, indicating that citizens of the Republic of Moldova have equal rights to the study access and to initial professional training as well as on a constant basis afterwards, through the national educational system (Article 9).

The Educational Code establishes the structure of the educational system of the Republic of Moldova, which is organized in levels and cycles according to the Education International Classification – 2011 (Article 12):

- a) level 0 – early education:
 - ante-pre-school education ;
 - preschool education;
- b) level 1 – primary education;
- c) level 2 – secondary education, cycle I: gymnasium education ;
- d) level 3 – secondary education, cycle II: lyceum education; – secondary technical vocational education;
- e) level 4 – post-secondary technical vocational education ;
- f) level 5 – post-secondary technical vocational non-tertiary education ;
- g) level 6 – Higher Education, Cycle I: Higher Education ;
- h) level 7 – Higher Education Cycle II: Master's Higher Education ;
- i) level 8 – Higher Education, Cycle III: PhD .

The mandatory education starts in the preparatory group of the preschool education and ends with the lyceum studies or secondary or post-secondary technical education (Table 13). Obligation to attend mandatory education ends at the age of 18 years. However, given the fact that the constitutional provisions exclude high school and vocational education within the mandatory education category, it is necessary to indicate the age of 16, which corresponds to the period up to admission in level 3, secondary education, cycle II (Article 13) .

Table 13. Number of mandatory education institutions by type and number of children, for school years 2014/15 - 2017/18

	2014/15	2015/16	2016/17	2017/18
Early education institutions	1453	1461	1469	1458
urban	329	329	332	330
rural	1124	1132	1137	1128
Children	147733	149936	150177	149216
urban	68965	70345	70691	70326
rural	78768	79591	79486	78890
Primary and secondary education institutions	1347	1323	1291	1243
<i>General education institutions with daily frequency</i>	<i>1345</i>	<i>1321</i>	<i>1289</i>	<i>1241</i>
Primary schools	105	118	122	102
Gymnasiums	794	794	788	775
High schools	424	382	364	350

Special education institutions	22	17	15	14
<i>High school high schools with reduced frequency</i>	2	2	2	2
Pupils, total (thousands)	340977	334509	333729	335621
<i>urban</i>	154242	155922	159512	164511
<i>rural</i>	185694	177508	173179	169932
Including in:				
<i>General education institutions with daily frequency</i>	339936	333430	332691	334443
Primary schools	10747	11031	11555	10881
Gymnasiums	124954	127582	130777	132056
High schools	202563	193660	189373	190705
Special education institutions	1538	1033	860	749
Classes next to professional schools	134	124	126	52
<i>High school high schools with reduced frequency</i>	1041	1079	1038	1178

Source: Ministry of Education, Culture and Research, <https://mecc.gov.md/en>

In order to strengthen the regulatory and policy framework within the period of 2014-2017, the following normative acts were approved:

(i) for early education:

- The Intersectorial Strategy on the Development of Parental Skills and Competencies for the 2016-2022 years (Government Resolution No 1106/2016), which is a strategic vision of the intersectoral cooperation of the administrative authorities in providing the necessary assistance to the family and the development of parenting skills and competences in raising and educating the child ;

- Methodological landmarks on the organization of the educational process in pre-school education (Provision of the Minister of Education No 282/2016);

- Typical regulation of organization and functioning of the early education institution (Order of the Minister of Education No 297/2016);

- The minimum standards for endowment of the Early Education Institution (Order of the Minister of Education, Culture and Research No 253/2017), which is a system of rules regarding the minimum endowment level, to which the institution of early education must correspond and which is a component part of normative documents set ;

(ii) for primary education:

- Regulations on the transport of students (Government Resolution No 903/2014);

- Regulation on the organization and functioning of classes and groups with a prolonged program in primary education (Order of the Minister of Education No 1096 of December 30, 2016);

- Methodology for enrollment of children in the first grade and the enrollment schedule in the academic year 2017-2018 (Order of the Minister of Education No149 of March 21, 2017);

- Methodology of external monitoring of the process of implementation of the key evaluation through descriptors in primary education (Order of the Minister of Education No 265/2017).

- Methodology “Criteria Evaluation by Descriptors” Class II and Methodological Guidebook (Order of the Minister of Education No 265/2017);

- Methodology on the evaluation of the criteria by descriptors, class III (Order of the Minister of Education, Culture and Research No 70/2017);

(iii) for gymnasium education:

- Government Resolution No 321/2017, “Regarding the organization of children's and adolescents’ health and recreation in the summer season 2017”;

- Reference Framework of the National Curriculum in General Education (Order of the Minister of Education No 432/2017);

- Framework Model Templates for secondary and high school education and proposed for testing in 21 high school institutions, 13 gymnasium institutions and 4 educational institutions with instruction in the languages of national minorities (Order of the Minister of Education No 674/2017).

In order to prevent and reduce school dropout, the implementation of the Instruction and Action Plan on preventing and combating school abandonment and absenteeism in general education (Order of the Minister of Education No 559/2015) is monitored. Data collection procedures have been established, explaining the collecting method through the circulation sent by the Minister of Education. A database is being created and maintained, which is renewed 3 times a year (at the end of October, at the end of the first semester and on 31 May each school year). Compared to the 2015-2016 study year, May 31, 2017, there was a decrease in the number of non-school children (from 124 children in the 2015-2016 study year to 86 children in the study year 2016-2017). The school dropout information notes were analyzed at the end of the study year 2016-2017. The number of children drop out of school increased by 86 children (from 220 children, at the end of 2015-2016, to 306 children at the end of 2016-2017) (Table 14).

Table 14. Gross enrollment rate of pupils in mandatory education, %

Educational levels	2014-2015	2015-2016	2016-2017	2017-2018
<i>Level I – primary education</i>	92,4	91,8	91,3	90,6
<i>Level II, cycle I – gymnasium</i>	86,8	86,7	86,6	86,6

In 2014-2017, resources were allocated to provide school transport and improve the infrastructure access. The Ministry of Education, Culture and Research monitors the application of the Regulation on the transport of students, the respective information reports being presented at the meetings with the heads of the local specialized bodies in the field of education.

The data of the local specialized bodies in the field of education concerning the transport of pupils during the study years 2015-2016, 2016-2017, indicates the following:

1) from the beginning of the 2016-2017 study year, 18088 students were transported to and from school, or 6% of the total number of pupils (14782 pupils were transported in the 2015-2016); with 310 school buses and 118 leased units;

2) in 2017-2018 study year, 20892 pupils from 820 localities were transported to the the existing 280 constituency institutions in the education system, using 356 school buses from the Local Public Authorities and 77 leased units.

3) in order to improve the condition of the roads to the district institutions, in 2017, the Ministry of Transport and Road Infrastructure took measures for the execution of the current repair and maintenance works in the amount of 13179 thousand MDL.

ARTICLE 19. The right of migrant workers and their families to protection and assistance

PARAGRAPH 7. Equal treatment in justice

In order to protect the right to a fair trial, as laid down in Article 6 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, including the need to ensure free and equal access to legal assistance through the organization and delivery of state-guaranteed legal assistance by reducing economic and financial impediments of the access to justice, was approved and applied by the Law No 198/2007 on State guaranteed legal aid. It provides legal assistance to citizens of the Republic of Moldova, foreign citizens and stateless persons. Thus, immigrants can benefit from state guaranteed legal aid (Law No 198/2007, Articles 19-21). Foreign citizens and stateless persons who need legal assistance in contravention, civil and administrative litigation but do not have sufficient means to pay for these services, the causes being complex from a legal or procedural point of view, benefit from legal aid guaranteed by the state (Law No 198/2007, Article 19, letter e)). State-guaranteed legal aid means the services of lawyers on behalf of the means intended to provide such services to persons with insufficient financial means to afford private legal aid (e.g. with a lower level of income than that provided by law) or to persons entitled to such assistance according to the legislation.

Types of state-guaranteed legal aid with regard to State guaranteed legal aid (Law No 198/2007) are as follows:

- Primary legal assistance - which consists of providing information on the legal system of the Republic of Moldova, on the normative acts in force, the rights and obligations of the legal subjects, on the realization method and valorisation of the rights through judicial and extrajudicial channels; providing legal advice; assistance with the drafting of legal acts; the provision of other forms of assistance which do not qualify as qualified legal aid;

- Qualified legal assistance - consists of providing legal services for consultation, representation and/ or defense in the criminal investigation bodies, in the courts for criminal, contraventional, civil or administrative litigation, representation in front of the public administration authorities.

The list of persons entitled to qualified legal aid was completed with the category of child victims of crime (Law No 196/2013).

If minors are involved in criminal proceedings as suspects, accused or victims of the offense, the right to state guaranteed legal aid is not conditional on the level of parent or minor's income, the presence of lawyer in such trials being a mandatory condition.

Statistics of the National Council for Statutory Legal Guarantee Assistance indicate that the most requested type of state-guaranteed legal aid for children in conflict with the law is qualified legal aid, which is granted through:

- Defending and representing the interests of the child in the event of detention in criminal or contravention proceedings;

- Defending and representing the interests of the condemned child;

- Defending and representing the interests of the child in a criminal trial as a suspect, accused, defendant, injured person;

The defense and representation of the interests of child victims of crime and victims of domestic violence (Article 7, letter e¹) were introduced in 2016 (Law No 196/2016).

PARAGRAPH 8. Non-Expulsion Guarantees

Law No 200/2010 on the regime of foreigners in the Republic of Moldova regulates the entry, finding and leaving of foreigners on/from the territory of the Republic of Moldova, granting and extending the right of residence, repatriation, documentation, stipulation of coercive measures in case of non-observance of the residence regime and measures specific records of immigration, in accordance with the obligations assumed by the Republic of Moldova under the international treaties to which it is a party.

Thus, if the foreigners who have obtained the right of residence on the territory of the Republic of Moldova but do not meet the conditions stipulated by the Law, the competent authority for foreigners of the MIA can cancel, by reasoned decision, the right

of residence in the Republic of Moldova (Law No 200/2010, Article 48) or revoke, by reasoned decision, the right of temporary residence in the Republic of Moldova (Law No 200/2010, Article 49).

At the same time, the competent authority for foreigners has the return measure from the territory of the Republic of Moldova and applies the prohibition to enter the Republic of Moldova for a determined period of time for foreigners that are illegally entering the territory of the Republic of Moldova whose stay in this territory has become illegal, whose right of residence has been canceled or revoked, who have been refused an extension of the right of permanent residence whose right of permanent residence has ceased and whose application for the recognition of statelessness has been rejected, that procedure has been terminated or whose status stateless person was annulled as well as against former asylum seekers (Law 200/2010, Article 50).

In 2017, the return rate was applied to 507 foreigners, originating from 43 states, with 188 persons (27.05%) less compared to 2016 (Table 15).

Table 15. Number of foreigners for whom the return measure was applied and their country of origin, for 2017-2016

Country of origin	2017	2016
Ukraine	120	207
Romania	88	69
Turkey	59	83
Russian Federation	56	102
Israel	55	50
Azerbaijan	30	18
Italy	13	21
Armenia	7	15
Georgia	7	6
Tajikistan	6	4
Other states	66	120
Total	507	695

Source: Ministry of Internal Affairs, <https://www.mai.gov.md/>

Violations of residence rules (55%) and placement are the most frequent causes of return decisions (Table 16).

Table 16. Number of foreigners after the application of the return measures, for 2017-2016

Cause	2017	2016
Violation of seating rules	278	433
Illegal work	169	189
Revocation / cancellation of the right of residence	53	67
Rejected in the asylum procedure	0	2

Refusal to extend the right of residence	7	4
Total	507	695

Source: Ministry of Internal Affairs, <https://www.mai.gov.md/>

The ban³ on entering the territory of the Republic of Moldova in 2017 was applied to 347 foreigners, with 61 more cases compared to 2016 (286 persons). In 2017, the measure was applied to 164 foreigners for illegally work activity practicing (2016-151 persons), 73 foreigners for non-observance of the rules of residence (2016-109 persons), 84 persons for non-observance of the purpose for which the right of residence was granted (2016 - 0 persons), 20 persons for illegal entry into the country (2016 - 24 persons), 2 for misinformation of false personal information for the purpose of obtaining the residence permit (2016 - 2 persons).

Regarding the duration of the prohibition applied in 2017 in one case the prohibition of entry into the country was applied for a period of 10 years, in 35 cases for a period of 5 years, in 160 cases for a period of 3 years, 8 cases for 2 years and 98 cases for 1 year.

In order to ensure the right of foreigners to a fair justice, through the Law of the Parliament No 244/2016 was amended Article 53 paragraph 2 of Law No 200/2010, which states: “The decision on mandatory exit from the country for a foreigner shall be drawn up in duplicate in the State language and in an international language, and shall contain the grounds of facts and law as well as information on appeals possibilities”.

At the request of the foreigner, the competent authority for foreigners shall communicate the main elements of the decision in a language that the foreigner understands or is reasonably supposed to understand.

In paragraph 3 of the same article is stipulated: If the foreigner is present, a copy of the country exit decision shall be handed to him for signature on the copy remaining with the competent authority for foreigners. If the foreigner is not present, communication is made:

a) by post, with acknowledgment of receipt, to the address declared by the stranger as his place of living;

b) by displaying it at the headquarters of the competent authority for foreigners, if the address of the foreigner is unknown. (Law No 200/2010, Article 53, paragraph 4).

In this context, we mention that through Law No 244/2016 Article 54. The contesting of the country exit decision was modified and currently the following provisions are made:

Article 54. Appeal against the decision

³ The entry ban is the decision of the competent authority for foreigners prohibiting the entry, stay and living on the territory of the Republic of Moldova for a certain period or, as the case may be, the Border Police's decision regarding the foreigner who crosses the state border of the Republic of Moldova after the date his stay has become illegal without being subject to a return from the country.

(1) The decision may be appealed at the court within whose jurisdiction the territorial subdivision of the competent authority for foreigners who issued the decision is within 5 working days of the date of communication. The court is required to resolve the request within 30 calendar days of receipt. The decision of the first instance is enforceable, but it can be appealed in the appeal court.

(2) Exercise of the remedy provided in paragraph 1 has a suspending effect on the execution of the decision on exit, unless such decision has been issued at the request of the foreigner.

(3) The appeal of the decision made by the foreigner in custody takes place at the court in whose jurisdiction the Temporary Placement Center of the foreigners is located and does not suspend the measure of custody.

In 2017, the number of undesirable foreigners increased by 43%, 93 decisions were made compared to the 65 decisions in 2016 (Table 17).

Table 17. Foreigners declared undesirable and their country of origin, for 2016-2017

Country of origin	2017	2016	Difference
Spain	18	0	18
The Russian Federation	15	12	9
Morocco	15	0	15
Turkey	7	5	2
Israel	6	21	-15
Kyrgyzstan	5	0	5
Tajikistan	3	0	3
Lebanon	3	0	3
Ukraine	3	0	3
Belarus	2	0	2
Other states	16	27	-11
Total	93	65	28

Source: Ministry of Internal Affairs, <https://www.mai.gov.md/>

Most of the foreigners who were declared undesirable posed a threat to public order and national security, according to the suggestions made by the competent authorities: the Moldovan Intelligence and Security Service and the General Police Inspectorate.

The decision regarding the declaration of the foreigner as an undesirable person shall be notified to him/her by the competent authority for foreigners, according to Article 57 of Law No 200/2010:

Art. 57. Appeal against the decision to declare the foreigner an undesirable person:

(1) Within 5 working days of the date of communication, the decision on the declaration of the undesirable foreigner may be appealed by him/her in the court.

(2) Exercising the appeal as provided in paragraph 1 has no suspensive effect on the execution of the decision on the declaration of the foreigner an undesirable person. In duly

justified cases and in order to prevent imminent damages, the applicant may request the court to order the suspension of the execution of the decision until the action has been resolved. The court will urgently examine the request for suspension, the judgment pronounced in this case being enforceable by law.

(3) The case regarding the contesting the decision of declaring the foreigner an undesirable person is examined within a period of 30 calendar days from the date of receipt. The decision of the first instance is final and enforceable, but may be appealed in the appeal court.

Article 57 paragraph 3 of the Law No 200/2010 was introduced by the Law of the Parliament No 244 of November 03, 2016.

The competent authority for foreigners shall issue individual decisions on the revocation or cancellation of the right of residence, the decisions to exit the country and the declaration of undesirable persons and depending on the seriousness of the offenses committed by the foreigner and the additional established circumstances.

The decisions issued to the foreigner do not affect the members of his family present on the territory of the Republic of Moldova. The cancellation of a family member's residence permit does not affect the right of residence for other family members. They shall also enjoy the right of residence granted individually and the residence permit issued to each member of the family.

No return decisions are issued for breach of customs rules or for reasons of public health. When granting the right to stay/documenting the foreigners with a residence permit, the presentation of the medical certificate is not provided for by the legislation and only medical insurance is presented.

Restrictive measures on grounds of public health could be applied if the foreigner suffers from diseases that threaten public health and refuses to follow the treatment prescribed by the medical authorities (Law 200/2010, Article 60 and 60¹). HIV-positive people do not constitute a category of foreigners who could be expelled for this reason and enjoy all the rights granted under general conditions.

All restrictive administrative acts issued by the Migration and Asylum Bureau may be challenged by the foreigner in the court. The standard forms of restrictive administrative acts contain information about the term and the manner in which they are appealed, the state language is spoken and also in an international language understood by the foreigner, or are interpreted by the interpreter at the time of becoming acquainted.

The reasons for the return/ expulsion of a foreigner are clearly delineated in national law and apply after an analysis of all the case circumstances. The court may order custody, which is a measure of restricting freedom of movement, may be made towards the foreigner who did not execute the return decision or who could not be returned within the time limit as provided by the legislation, or who tried to illegally cross the state

border, which entered the country during the previous interdiction period, whose identity could not be established, which was declared undesirable, against whom the expulsion was ordered, or if there is a risk of his/her expulsion (Law No 200/2010, Article 64).

ARTICLE 27. The right of workers with family responsibilities to equal opportunities and treatment

PARAGRAPH 2 Parental leave for child care

The policies of the Government of the Republic of Moldova to promote equality between women and men in labor relations and childcare have resulted in encouraging men to participate actively in fulfilling parental responsibilities, so that both parents are in the workplace and also to fulfill parent responsibilities.

By increasing the number of men opting for parental leave up to the age of 3 is an important public policy objective, both for promoting gender equality in the labor market and family responsibilities, and for the benefit of children for their good development (Table 18).

Table 18. Number of male beneficiaries of monthly child-raising allowance until the age of 3 years

No.	Year	Number of men receiving benefit	% of men in total beneficiaries
1.	as at 01.01.2013	270 of dadds	0,8
2.	as at 01.01.2014	528 of dadds	1,4
3.	as at 01.01.2015	1164 of dadds	2,9
4.	as at 01.01.2016	2147 of dadds	5,1
5.	as at 01.01.2017	3355 of dadds	7,6
6.	as at 01.01.2018	4346 of dadds	9,6

Source: National House of Social Insurance of the Republic of Moldova, <http://www.cnas.md/>

In 2016, the Labour Code (Law No 154/2003) introduced the regulation (Law No 71/2016) on Paternity Leave (Article 1241), which stipulates that paternity leave is granted in order to ensure the effective participation of the father (paragraph 1), the father of the newborn child shall be entitled to a paternal leave of 14 calendar days (paragraph 2). Paternal leave is granted on the basis of a written request within the first 56 days of the child's birth. A copy of the child's birth certificate (paragraph 3) is attached to the application.

Similarly, in 2016, the Regulation on the conditions for determining, the method of calculation and payment of the paternal indemnity, which stipulates the right of the insured father in the public social insurance system, employed on the basis of the individual labor contract or in the service on the basis of the administrative act, paternal allowance for the care of the newborn child for a period of 14 calendar days.

(Government Decision No 1245/2016). The paternal allowance is granted to the father of the child (insured employee) under the following conditions:

1) confirms a total length of contribution of up to 3 years or at least 9 months during the last 24 months prior to the date of childbirth;

2) applied for paternity leave within the first 56 days of the date of the child's birth and is on paternity leave from the basic work unit;

3) requires the paternity allowance to be determined within 30 days of the date of paternity leave;

4) has earned income at the basic workplace in the last 3 months preceding the child's birthday.

The basis for calculating the paternity allowance is 100% of the average monthly insured income earned at the basic workplace during the last 3 months preceding the child's birth month, income from which the social security contributions were calculated and paid. The average monthly income is determined by dividing the insured income earned at the basic work unit to the number of months it was made in the last 3 calendar months preceding the child's birth month. The paternal allowance is calculated and paid for calendar days.

The number of fathers who benefited from paternal allowance in 2016 was 60 fathers, while in 2017 it was 2559 fathers.