



29/06/2021

RAP/RCha/MDA/16 (2021)

EUROPEAN SOCIAL CHARTER

Comments prepared by the Coalition for Inclusion and
Non-Discrimination (CIN)
on the 16th National Report on the implementation of the
European Social Charter

submitted by

THE GOVERNMENT OF REPUBLIC OF MOLDOVA

Articles 3, 11, 12, 13, 14, 23 and 30
of the European Social Charter

for the period 01/01/2016 – 31/12/2019

Report registered by the Secretariat

on 29 June 2021

CYCLE 2021



ALTERNATIVE SUBMISSION ON THE IMPLEMENTATION OF THE SOCIAL CHARTER BY THE REPUBLIC OF MOLDOVA

This submission has been prepared by the Coalition for Inclusion and Non-discrimination

Submission concerning the 16th National Report on the implementation of the ratified provisions of Articles 11, 13, 14 and 30 of the European Social Charter, for the period 01/01/2016 - 31/12/2019.

The Coalition for Inclusion and Non-Discrimination (CIN) is an advocacy platform, created as a result of the 14 NGOs effort that advocate for human rights, including of people with disabilities, victims of domestic violence, ethnic minorities, sexual minorities, etc. Among them are: Promo-LEX Association, Legal Resources Centre from Moldova (LRCM), Center "Partnership for Development" (CPD), Informational Center "GENDERDOC-M", Institute for Human Rights (IDOM), Positive Initiative, Ana Furtună, Center for the Rights of Persons with Disabilities (CDPD), Alliance of Organisations for People with Disabilities (AOPD), National Youth Council of Moldova (CNTM), Gender-Center, Union of Disability Organizations of the Republic of Moldova, Disability Rehabilitation Association from Moldova and Keystone Moldova.

The goal of CIN is to contribute to the development and consistent application of a non-discriminatory legal framework in the Republic of Moldova, as well as to promote positive international practices on non-discrimination.

At the same time, CIN contributes to the observance, defense, promotion and better realization of human rights in the country, actively participates in the development, implementation and monitoring of the legal framework and policies aimed to prevent and combat discrimination.

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Alternative Report
on the National Report of the Republic of Moldova on the implementation of the European Social Charter.

Having reviewed the information provided by the Government of the Republic of Moldova in the 16th Report on the implementation of the ratified provisions of Articles 11, 13, 14 and 30 of the European Social Charter, for the period 01/01/2016 - 31/12/2019, this alternative Report, submit by the **The Coalition for Inclusion and Non-Discrimination** contains clarifications and recommendations with regard to some discriminatory practices omitted from having been mentioned by the state.

Regarding the implementation of the provisions of **Article 11 of the European Social Charter** (right to protection of health), we would like to emphasize that during the reference period a number of discriminatory practices in the realization of the right to health protection were noted.

The most disadvantaged social groups, in the realization of this right, remain to be women, young people and women with disabilities. Although the Government of the Republic of Moldova is constantly working to combat the causes of serious diseases, such as cancer, diabetes, etc., we note that in some segments they are incomplete and as a consequence, discriminatory against women. Thus, the pap smear cyst test is free for all women of reproductive age and is performed once every 3 years, regardless of whether the woman has a compulsory health insurance policy (status of insured person in the medical system) or not. If the test is positive, precancerous medical treatment to prevent the development of cancer is already available only to insured women, the others are required to pay for the medical treatment on their own. Only the treatment of uterine cancer is free for every woman, regardless of the status of insured person in the medical system. *Given the reserves accumulated in the medical insurance fund, the Government of the Republic of Moldova could resolve this situation through a normative regulation, adding to the list of insured treatments from the medical insurance budget, the precancerous treatment of the cervix. A medical service that only women need.*

To date, not all modern contraceptives for women are available on the pharmaceutical market in the Republic of Moldova. There is a lack of patches, implants and condoms for women, as well as progesterone-based contraceptives, so necessary for women in the postpartum period. The lack of these modern methods of contraception deprives women of the right to choose the most appropriate method to protect their reproductive health and, as a consequence, places women in a socially disadvantaged position when they have to resort to old-school contraception, and even in rural areas, to abortion as a method of contraception. *The Government of the Republic of Moldova could resolve this situation by regulating the pharmaceutical sector so that importers and producers of pharmaceutical products are obliged to provide women consumers with modern and affordable methods of contraception.*

The access of sexually active young people to contraceptive methods and information on reproductive sexual health is conditioned by their geographical location and the professionalism of the family doctor, both often being major obstacles in achieving the right to health protection for young people, especially girls. Thus, today Youth Friendly Health Centers are the safest and most accessible places for sexually active young people, if they are at a fair geographical distance. Often the lack of internet access in rural areas deprives young people of access to information published on the internet pages of these Centers. Sex education remains an optional subject in the school curriculum and competes with the history of religions, which should be given priority at the level of management of educational institutions. The contraceptives are issued only by the family doctor and only at the personal request or with the minor's legal representative. Same is with access to the emergency contraceptive, needed by a minor victim of rape or sexual abuse. As a consequence, access to emergency contraceptives for minors is conditioned by the consent provided by the legal representative (parent or guardian) but also by the information provided by the doctors of the Forensic Medicine Center. In rural areas, young people avoid going to the family doctor for fear of having their information disclosed to parents and close relatives, usually served by the same doctor. And at the personal request, a minor cannot access contraceptives or benefit from sexual and reproductive health services (for example for the termination of an unwanted pregnancy, including after a rape) without the written consent of the legal representative. In the current conditions of global migration, when more and more minors often grow up with adult relatives rather than with their parents, without the legal guardianship of the minor having been legally granted, obtaining the informed consent of the legal

representative is legally and physically impossible. As a result, the situation places minors at a disadvantage, because they need these services, which explains the increase in the number of adolescent mothers¹. *The Government of the Republic of Moldova could regulate these issues normatively, making it possible for minor girls to designate a trusted adult, other than the parent, in whom they trust and to provide that informed consent necessary both to change the family doctor in another locality and to access the products, the sexual and reproductive health services that allow them to ensure health protection on an equal footing with other social categories that do not encounter such difficulties.*

Women with intellectual, locomotor, sensory, mental disabilities are the most discriminated social group in accessing reproductive health services due to multiple stereotypes in society and in the medical environment about their sexuality and non-respect for the right to family. Furthermore, disability in the Republic of Moldova is seen as a disease. This approach prevents women with locomotor disabilities from accessing gynecological services, which are often located on higher floors, in architecturally unsuitable buildings for wheelchair access. Furthermore, many medical centers in the country lack gynecological chairs adapted to the needs of women with locomotor disabilities (some were procured with the financial support of international and / or private institutions), lack of accessible information for women with intellectual disabilities (easy to read and understood) and sensory (Braille and sign language). The disability of a pregnant woman often continues to be an indication for abortion, which perpetuates existing stereotypes in society about the inability of a woman with a disability to give birth and care for her own child. The most severe examples, from the point of view of human rights, are the cases of separation of newborn children from their mothers, women with intellectual disabilities residents in state institutions, which we report below, in Article 14 (right to benefit social services).

Access to contraceptives and sexual-reproductive services of women with disabilities residing in state institutions is conditioned by the consent of employees of these institutions, psychiatrist, director, nurse, etc., but also by the physical accessibility of these services because the woman needs to go to a medical center which means she institution' consent and transport (or money for transport). Lacking her own financial resources and without the consent of the employees of the residential institution, the disabled woman cannot receive the consultation of a gynecologist of her choice and when she needs, cannot decide on the method of contraception, is not free to decide to start and have a family. Information on sexual and reproductive health for women is not accesible. The institution keeps track of the women's menstrual cycle without informing and educating the women about their health. The situation is even worse in state institutions for minors with disabilities, especially girls, where they reach adulthood and continue to live in isolation from society². *The Government of the Republic of Moldova must insist on the continuous training of medical staff regarding the functional and moral obligation to respect the human dignity of women with disabilities and to allocate sufficient financial resources to cover the needs of medical centers to exclude social and arhitectural barriers in the provision of services to this social group.*

Regarding the implementation of the provisions of **Article 13 of the European Social Charter** (right to social and medical assistance), we would like to emphasize that during the reference period, a number of discriminatory practices in the realization of this right were noted. There is no emergency center or referral system for cases of sexual violence in the Republic of Moldova, where victims could receive medical and social assistance. Services for victims of sexual violence are offered today only by non-governmental organizations specialized in providing assistance to victims of domestic violence from resources accumulated through grants / projects with external funding. Most of these service providers do not specialize in responding to sexual assault cases and do not have special training or access to training. The action plan for 2018-2020 to implement the National Strategy on Combating Violence against Women and Domestic Violence for 2018-2023 includes several actions for the creation of response teams to cases of sexual violence. In particular, provision has been made for the development and adoption of standard operating procedures for sexual violence response teams by 2019. Unfortunately, such procedures do not exist today and no violence response teams or sexual abuse crisis centers have not yet been set up.

There is a working group created to develop standard operating procedures for responding to cases of sexual violence, but no prognosis on when they will be approved and implemented. The situation mainly

¹ see the information published on the UNFPA Moldova portal, accessible here <https://moldova.unfpa.org/en/publications>;

² see the National Reports produced by the Institute for Human Rights of Moldova, accessible here <https://idom.md/reports/> ;

disadvantages girls and women, who according to national statistics are predominantly victims of sexual violence and domestic violence³. *The Government of the Republic of Moldova must prioritize both the creation of response teams to cases of sexual violence and the adoption of standard operating procedures for them to stop discrimination of this social group (girls and women victims of sexual violence) in access to social and health care services necessary for the treatment and rehabilitation, arising from the specifics of these offenses.*

Speaking of medical care during the Covid-19 pandemic, we should mention that the people tested positive for Covid-19 in mild and moderate forms, kept with home treatment by the family doctor, being insured persons (holders of the compulsory medical insurance policy), were obliged to procure their medicines on their own expense, including for post-Covid-19 treatment. The National Medical Insurance Company stated that it will not reimburse these expenses, due to the fact that they were not hospitalized. The treatment, although expensive, was not covered by compulsory health insurance. There were also reports of an acute shortage of medicines needed in pharmacies in the country for home treatment, but also the fact that prices have been artificially increased. The lack of a clinical protocol on the tactics of home treatment of patients in moderate or moderate-severe conditions, the lack of unified recommendations, led to the development of different treatment schemes proposed by family physicians, which contradicted each other, causing mistrust and anxiety among patients. This situation has hit significantly on the poorest social groups and in those in rural areas, where the drug shortage has been felt the most and their price has left many Covid-19 patients without treatment⁴. *The Government of the Republic of Moldova must review internal and normative policies, making it possible to access the medical care of all patients, regardless of their social status.*

With regard to the implementation of the provisions of **Article 14 of the European Social Charter** (the right to social assistance), we would like to emphasize that during the reference period a number of discriminatory practices were noted in the realization of this right.

Thus, according to Law no. 156 of 14.10.1998 regarding the public pension system, the survivor's pension is granted only if the deceased person benefits from an old-age pension or a disability pension or meets the conditions for obtaining a disability pension. Children up to the age of 18, or up to the age of 23 if enrolled in a day education institution would receive 75% of the amount of the pension for each survivor. The surviving spouse will receive 50% of the pension amount only if he / she additionally meets the following conditions: at the time of the maintenance of the supporter or during 5 years after the death, he has reached retirement age or has been severely disabled and has at least 15 years of marriage with the deceased and did not remarry. Applied to the realities of the life of the population of the Republic of Moldova, today this survivor's pension can not benefit children who lost their breadwinner before he reached retirement age and as a consequence the surviving husband, left with two or more children for maintenance but not having 15 years of marriage and no suitable retirement age (which increases from year to year), are left without any help and social protection. This social assistance measure, designed to assist the population in difficult life cases, mainly puts children and women in poverty. The latter conclusion is also confirmed by Law no. 156 of 05.12.2019 regarding the granting of the indemnity in case of the death of one of the spouses. This allowance is accessible only if at the date of death, the deceased spouse received a pension for an established age limit that did not exceed 1.5 times the subsistence minimum for pensioners, according to the National Statistics Office available at the time of claiming the allowance. with 01.01.2020 and the surviving spouse, regardless of age, had at least 15 years of marriage with the deceased. Once according to the official data⁵, women are longer-lived than men in the Republic of Moldova, this measure of social assistance tends to exclude rather than support the social group. The requirement to be married to the deceased for at least 15 years in order to access the survivor's pension, as well as the indemnity in the event of the death of one of the spouses, is arbitrary and

³ See the Report on the Compatibility of the legislation of the Republic of Moldova with the provisions of the Istanbul Convention, launched by the Women's Law Center, accessible here <http://cdf.md/rom/news/centrul-de-drept-al-femeilor-re>;

⁴ See the information published by the Ministry of Health, Labor, Social Protection and Family <http://mmpsf.gov.md/ro/content/detalii-cu-privire-la-tratamentu-la-domiciliu-pacientilor-covid-19>; information published by the press from the statements made by patients <https://newsmaker.md/ro/cum-sunt-tratati-la-domiciliu-bolnavii-de-covid-din-moldova-cat-costa-tratamentu-si-de-ce>, <https://www.moldova.org/cat-costa-sa-te-tratezi-de-covid-19-la-domiciliu/>;

⁵ Data published by National Bureau of Statistics of the republic of Moldova for the years 2014 – 2019, available here <https://statistica.gov.md/newsview.php?l=ro&idc=168&id=6703>;

unjustified. *The Government of the Republic of Moldova should review the conditions for granting social assistance, ensuring equal access for all social groups in need of requesting and obtaining such assistance, avoiding the imposition of unjustified conditions that exclude persons in need of assistance.*

A particular problem is the discrimination of women mothers on the labor market in Moldova in the context in which patriarchal attitudes and stereotypes in society keep on women the main obligation of care and education of children in the family. Gender discrimination is evident from the comparison of the presence of women-mothers and men-fathers, in the performance of family responsibilities, on the labor market. The national regulatory framework has undergone changes in recent years, the stated purpose of which was to ensure parental equality in access to the labor market. Mainly, in 2018, the formula for offering the child raising allowance was modified (currently there are two options available at the choice of parents) and the Education Code was amended, the age of enrollment of children in nurseries was indicated (0-2 years) and in kindergartens (2-6 / 7 years). At the same time, it was decided that the Government will develop and approve the Nursery Services Extension Program by 2020. However, these changes did not achieve their stated purpose. Although there are two options for selecting the period for childcare leave, the total amount of the allowance was in no way influenced by the period chosen. The small number of institutions that offer pre-school education services (of children in nurseries, 0-2 years) in accordance with the standards of health and education of children, makes it difficult to select the option that provides a shorter period of leave. The National Bureau of Statistics provided the following data in 2018: a) one-fifth of children up to 2 years of age benefited from preschool education; b) the degree of inclusion in preschool education (1-2 years) was only 21.9% of the total number of children of this age; c) in 2016-2018 about 80 thousand families could not benefit from these services, for which re-employment has become a real challenge. According to several national studies, access to pre-school education services is conditioned by the limited number of places in nurseries or kindergartens - kindergartens, the conditions of activity of these institutions, the distribution in territorial profile. In Chisinau, for example, the enrollment rate of children up to 3 years in early education, in the reference period, was below the Republic average (8.9%, the national average being 11.6%)⁶. *The Government of the Republic of Moldova can eradicate discrimination against women mothers in access to the labor market by adopting several measures that would allow their return to work after the birth of a child, including: a) development of the national legal framework for opening private early education services, which provides quality services but also procedures for subsidizing private entities that initiated investments in the development of nursery and alternative services; b) the elaboration of standard regulations containing simplified technical and sanitary regulations in connection with the creation of day centers for children aged 0-2 years, with the obligatory observance of all educational, security requirements.*

The most severe examples, from the point of view of human rights, are the cases of separation of newborn children from their mothers, women with disabilities in residential institutions (temporary placement centers for people with disabilities located in Balti municipality, Edinet district, Soroca district and the town of Cocieri). In at least 3 cases known to civil society, women with disabilities have been pregnant in residential institutions, without receiving social assistance services in preparation for pregnancy and maternity, after the birth of their children they were separated from their newborns and returned to the institutions, depriving them of the right to family life with their child and possibly with the children's father. Although the Government of the Republic of Moldova undertook the obligation, during this reference period, to carry out actions to deinstitutionalize persons with disabilities, the situation of these women was not prioritized by either the institution or the relevant Ministry to provide the necessary set of social assistance for the reintegration of women with their children into the society, to keep this family together. The woman's disability is the excuse of the authorities in deciding to separate the mother from the child, depriving the woman of her parental rights and the transmission of the child for adoption. This path for the authorities proved to be the cheapest and easiest. Desinstitutionalization mainly benefits young men with disabilities with a higher degree of autonomy. Even in such cases, the houses purchased to place the deinstitutionalized persons are dependent on the budget of the residential institution and their employees who serve them. Autonomy is not guaranteed either, the dependence on financial and human resources is the same (a mini boarding institution) and this makes it impossible to understand and accept that women with disabilities could not be placed in these homes with their children, opting for their

⁶ see the Study "HOW DO WE CONTRIBUTE TO THE CREATION OF PARENT-FRIENDLY JOBS?" made by the Partnership Center for Development and UN Women, accessible here https://progen.md/wp-content/uploads/2020/12/6760_8075_cpd_servicii_alternative_crese_la_intreprinderi_ajustat.pdf ;

separation⁷. *The Government of the Republic of Moldova must stop the existing discriminatory practices of separating women with disabilities residing in state institutions from their children, when there is the option of deinstitutionalization by providing the necessary social assistance to the new family.*

During the reference period, in several national reports, it was noted the discrimination of public associations carrying out economic activity (non-profit organization) in access to state interest subsidies for bank and non-bank loans contracted to pay salaries and taxes during the COVID-19 pandemic. The Government of the Republic of Moldova adopted Law no. 60 of 23 April 2020 establishing the Interest Subsidy Program and the VAT Reimbursement Program to support employees and employers in the economic effects of the epidemiological situation (COVID-19) in the country. When implementing the normative framework, the non-commercial organizations were confronted with the fact that the Fiscal Inspectorate and the Ministry of Economy excluded them from the list of subjects beneficiaries of the Interest Subsidy Program. This exclusion was based on the legal status of the petitioner - a public association with the right to carry out economic activity (non-commercial organization) and was achieved by refusing to provide the subsidy. The responsible authorities confirm that this exclusion does not result directly from the provisions of Law no. 60/2020 nor from the Regulation on the way of subsidizing the interest on bank and / or non-bank loans contracted between May 1, 2020 - December 31, 2020. The exclusion was based on the fact that in Law no. 60/2020 did not indicate directly that the beneficiaries are also non-commercial organizations, being only written the phrase "... in order to support employees and employers in the conditions of economic effects of the epidemiological situation (COVID-19) in the country ...". The interpretation of this phrase by the authorities resulted in a discriminatory practice against employees and employers of non-profit organizations that contracted bank and / or non-bank loans between May 1, 2020 and December 31, 2020 for the payment of taxes, salaries and other taxes, paying interest from the amounts borrowed⁸. *The Government of the Republic of Moldova must stop the discriminatory practice in executing the measures of subsidizing the contracted interests once these measures come in support of employers and employees from all sectors of the economy, as the Government itself has proposed to do.*

With regard to the implementation of the provisions of **Article 30 of the European Social Charter** (right to protection against poverty and social exclusion), we would like to point out that during the reference period a number of discriminatory practices were observed in the exercise of this right against persons with disabilities, Roma women and girls.

The lack of urban and architectural accommodation remains a major social problem that not only excludes people with disabilities, but also other social groups that temporarily or permanently use a chair or stroller, but humiliate their human dignity and discriminate in the realization of social and economic rights. Execution of measures for reasonable accommodation of old buildings, but also of new ones erected, roads and sidewalks is imposed by several normative acts, in particular by CP C.01.02-2003 "Rules for designing access for people with disabilities in industrial and civil buildings", NCM C.01.06-2007 "Accessibility of buildings and constructions for people with disabilities", Order of the Minister of Regional Development and Construction (today Ministry of Agriculture, Regional Development and Environment) no. 124 of August 28, 2013 regarding the execution of the Government Decision no. 599 of August 13, 2013 and the provisions of Government Decision no. 599 of 13 August 2013 on the approval of the Action Plan on the implementation of measures to ensure the accessibility of persons with disabilities to social infrastructure. However, normative standards are ignored by both architects and builders, as well as by local public authorities who do not plan resources in their local budget for achieving reasonable adaptation measures, at least for public service institutions, and accepting the commissioning of new buildings and non-adapted roads for persons with reduced mobility. The multiple decisions of the Council for the prevention and elimination of discrimination and ensuring equality, but also individual disputes initiated in the courts of the country, do not solve the situation either⁹. *The Government of the Republic of Moldova must ensure the practical and efficient re-establishment of the existing normative framework in order to ensure reasonable urban and architectural accommodation for*

⁷ see the National Reports produced by the Institute for Human Rights of Moldova, accessible here <https://idom.md/reports/> ;

⁸ see the Decision no. 296/20 of 23.03.2021, available here https://egalitate.md/wp-content/uploads/2016/04/Decizie_constatare_296_2020.pdf ;

⁹ see the decisions of the Council for the Prevention and Elimination of Discrimination in the Republic of Moldova, accessible on this subject here <https://egalitate.md/decisions-opinions/> ;

the cessation of endemic discrimination of persons with disabilities. This can also be done by providing additional powers to the Council to prevent and combat discrimination and ensure equality in order to enforce its decisions, as well as to review the existing licensing mechanism for inspectors and architects responsible for carrying out urban construction and reconstruction projects; architecture.

Both in the reference period and today, Roma women and girls are one of the most disadvantaged social groups in the Republic of Moldova. Their vulnerable position towards social exclusion is determined by the interaction of several discriminatory factors such as gender, social class, ethnicity, race, but also existing practices in the community, based on patriarchal traditions, culture and attitudes. All this together determines the status and role of Roma women and girls in the communities to which they belong (including in households and family relationships), but also in society at large. All these factors condition the inequality in the access of the respective group of women to the services available to the public and to the results of the social welfare. It also conditions the reduced participation in decision-making at different levels and the limited contribution to community, family and even personal development. Broadly speaking, Roma women and girls, as a distinct social sub-group within the majority group of women, may be characterized by low education, early marriages, poor health, lack of skills and qualifications for employment. in the field of work and ensuring one's own financial independence, increased risk of poverty, increased risk of being subjected to violence both in the family and in society, as well as other human rights violations.

This situation is in clear contradiction with the Government's policy, which since June 2016, has approved a new Action Plan to support the Roma population for the years 2016-2020, including, among others, measures in the fields of education, employment, housing, health, as well as in other areas such as social protection, culture, community development and participation in decision-making. The discrepancy between reality and the normative framework becomes a business card for the Republic of Moldova, being in many areas in summer vulnerable social groups are targeted¹⁰. *The Government of the Republic of Moldova must pay more attention to positive measures for the effective practical implementation of state policies, especially to allocate sufficient financial resources for the implementation of adopted Action Plans, proposing real terms and conclusion with internal and external partners that support efforts Government to implement the proposed measures.*

Regarding the social exclusion of persons belonging to national minorities, of foreign citizens, such as migrants and refugees, we note that in December 2016, the Strategy for strengthening interethnic relations for 2017-2027 was adopted, aimed at promoting the integration of persons belonging to national minorities. This Strategy includes measures to prevent and eliminate discrimination, xenophobia and ethnic stereotypes through capacity-building programs for civil society and public institutions. Under the National Strategy on Migration and Asylum for 2011-2020, the Government of Moldova approved the Action Plan for 2016-2020 on the possibility for foreign citizens, such as migrants and refugees, to have access to employment without discrimination, housing and basic services. However, cases of racial discrimination and xenophobia in the education system (harassment and hate speech), employment (refusal to hire people of color and Roma), excessive prices for renting housing to foreigners are systematically reported. The social exclusion of these groups isolates them in their own communities, often creating tense or conflicting situations with the natives, including in committing crimes against foreigners, migrants, Roma¹¹.

¹⁰ see the information gathered from the investigations <https://www.investigatii.md/ro/investigatii/drepturile-copilului/fetele-rome-intre-scoala-si-casatoriile-timpuri> and the study conducted by UNICEF Moldova <https://www.unicef.org/moldova/copiii-de-etnie-romã>, but also the statistical data published by the National Bureau of Statistics accessible here https://statistica.gov.md/public/files/Cooperare_internationala/PNUD/10_tablouri_femei_RM/prof_6_rome.pdf ;

¹¹ see the ECRI Report on the Republic of Moldova (fifth monitoring cycle) published on 02.10.2018, available here <https://rm.coe.int/fifth-report-on-the-republic-of-moldova-translation-in-official-langua/16808de7d9>;