

**REPORT ON THE NEEDS ASSESSMENT
IN THE FIELD OF SOCIAL RIGHTS WITH A SPECIFIC FOCUS
ON LABOUR RIGHTS AND EMPLOYMENT RIGHTS
OF PERSONS FROM VULNERABLE GROUPS
IN THE REPUBLIC OF MOLDOVA**

prepared by Monika Smusz-Kulesza

based on contributions from national consultants:

Doina Cazacu and Aliona Chisari-Rurak

COUNCIL OF EUROPE PROJECT
„ENHANCING EMPLOYMENT RIGHTS IN THE
REPUBLIC OF MOLDOVA”



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The opinions expressed in this work are the responsibility of the author(s) and do not necessarily reflect the official policy of the Council of Europe.

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INTRODUCTION

After having joined the Council of Europe on 13 July 1995, the Republic of Moldova ratified the European Convention on Human Rights on 24 July 1997. On 8 November 2001, Moldova ratified the Revised European Social Charter (hereinafter- European Social Charter or ESC or Charter) accepting 63 of the 98 Charter's paragraphs. It has not accepted the Additional Protocol to the European Social Charter providing for a system of collective complaints¹. By Law no. 166 of 9 July 2010, the Republic of Moldova ratified the Convention on the Rights of Persons with Disabilities.

Pursuant to Article 4, paragraphs 1 and 2 of the Constitution of the Republic of Moldova², “Constitutional provisions concerning human rights and freedoms shall be understood and implemented in accordance with the Universal Declaration of Human Rights, and with other conventions and treaties to which the Republic of Moldova is party (paragraph 1). Wherever disagreements appear between conventions and treaties signed by the Republic of Moldova and her own national laws, priority shall be given to international regulations (paragraph 2).”

To date the country has benefited from the Council of Europe co-operation programmes under two consecutive **Action Plans for the 2013-2016 and 2017-2020 periods**. Achievements of the plan completed in 2020 include the consolidation of the Institution of the People's Advocate (Ombudsperson), the improvement of conditions for combating discrimination and promoting equality as a result of the strengthened capacity of the Equality Council, and the enhancing of the professional and operational capacity of the electoral administration to conduct elections. The realisation of the Plan 2017-2020 resulted, among others, in re-accreditation of the Ombudsperson's Office with “A” status with the Global Alliance of National Human Rights Institutions; faster and more efficient manner of processing complaints by the Ombudsperson's Office as a result of changes in internal rules; overall compatibility of the application of pre-trial detention with the right to liberty and security in Moldova and compliance of criminal sentencing with international standards assessed; the Equality Council becoming a member of EQUINET (European Network for Equality Bodies) equipped with a Communication Strategy and an Ethics Code; improvements and harmonization of data collection on discrimination, hate speech and hate crimes; and mapping of the systemic issues affecting the child protection system's response to child sexual exploitation and abuse³.

The current Action Plan for the Republic of Moldova 2020-2024 was adopted by the Committee of Ministers of the Council of Europe on 25 November 2020. The Plan represents a continuation of the results achieved with the Action Plan for 2017–2020 and aims to bring the country's legislation, institutions and practice further in line with European standards in the areas of human rights, the rule of law and democracy. One of the priority areas for this

¹ The Additional Protocol to the European Social Charter providing for a system of collective complaints, ETS No. 158, opened for signature on 9 November 1995 and in force since 1 July 1998.

² Constitution of the Republic of Moldova, Official Journal “Monitorul Oficial” No. 78, article 140, available at: https://www.legis.md/cautare/getResults?doc_id=136130&lang=ro

³ Council of Europe Action Plan for the Republic of Moldova 2021-2024, available at: <https://rm.coe.int/coe-action-plan-leaflet-web/1680a2264a>



cooperation is enhancing the respect of social rights in Moldova. The project “Enhancing employment rights in the Republic of Moldova” was launched to assist Moldova to enhance the respect of social rights in line with the European Social Charter and other relevant standards of the Council of Europe⁴.

This report provides an assessment of the priority areas concerning social rights, on which the future cooperation between the Council of Europe and the Republic of Moldova should focus. An initial version of the report was prepared on the basis of desk research as well as a number of meetings organised on 6-8 September 2023, which the Council of Europe Office in Chisinau facilitated. A draft version of the needs assessment report was presented and discussed at a Stakeholder round table organised on 30 October 2023. **The author, Ms Monika Smusz-Kulesza⁵, wants to express her strong gratitude to all the persons involved in the process of preparation and conducting of the needs assessment with particular emphasis on national consultants – Ms Doina Cazacu⁶ and Ms Aliona Chisari-Rurak⁷, whose contributions greatly enriched the content of this report and the Council of Europe project officers – Ms Nelea Bugaevski, Ms Veronica Dobrioglo, Mr Eugen Chihai and Ms Elena Scurtu, whose great involvement enabled the consultants to conduct the research.**

Among the stakeholders involved in the preparatory meetings and at the round table there were the representatives of: The Ministry of Labour and Social Protection, The Ministry of Education and Research, The Parliamentary Committee “Social Protection, Health and Family Committee”, The People’s Advocate Office/Ombudsperson Office, The Equality Council, The State Labour Inspectorate, The National Employment Agency, The Chamber of Commerce and Industry, The Town Hall of Chisinau, international organizations (ILO, UN Women, UNDP, UNICEF and UNHCR), Vocational schools/colleges/centers of Excellence (Vocational School No. 2 in the municipality of Cahul, Centre of Excellence in Light Industry from Chisinau, Professional School from Leova, Professional School from Rîșcani, Professional School from Comrat, College “Mihai Eminescu” from Soroca, Professional School no.11 from Chisinau, Professional School from Orhei), social partners (National Confederation of Employers of the Republic of Moldova and Confederation of Trade Unions from Moldova), NGOs (Association “MOTIVAȚIE” from Moldova, Terre des Hommes, Child Rights Information and Documentation Center (CIDDC) and Center of Partnership for Development (CPD)) and observers in the field of human and labour rights and inclusive children’s right. **The author is grateful to all the participants in these consultations, whose contributions greatly enriched the content of this report.**

⁴ Council of Europe Action Plan for the Republic of Moldova 2021-2024, available at: <https://rm.coe.int/coe-action-plan-leaflet-web/1680a2264a>

⁵ PhD, University of Lodz, Poland, international consultant of the Council of Europe, judge of the Regional Court in Lodz, lecturer of the National School of Judiciary and Public Prosecution in Poland

⁶ Lecturer, Associate professor of the International and European Law Department, Law Faculty, State University from Moldova

⁷ Doctor of Law, University Lecturer, Faculty of Law, State University of Moldova.



In recent years, the Republic of Moldova has made considerable efforts in order to adjust the national legal framework to international standards arising from conventions to which Moldova is a party.

Labour legislation, as well as the related legal framework, underwent important changes related to social rights. Firstly, the changes were generated by the recommendations included in the evaluation reports carried out by the social rights monitoring mechanisms, secondly, the pandemic crisis and the armed conflict in Ukraine made the Republic of Moldova face new realities and challenges.

The Labour Code has undergone essential changes, including enhancing gender equality. The most important ones implemented the principle of equal remuneration for men and women for equal work and work of equal value through ensuring the transparency of salaries. At the same time, in order to ensure the balance between personal and professional life, changes were introduced that offer both parents the opportunity to participate in raising and caring for children (paternal leave⁸, the possibility to work up to 36 weeks of pregnancy⁹, the possibility to work and to receive allowances for raising a minor child, alternative childcare services up to the age of 3¹⁰, etc.).

Against this background, **this needs assessment seeks to identify the key areas of social labour rights, particularly the employment rights of persons from vulnerable groups, where harmonisation is required between the national policies, legislation and practice of the Republic of Moldova and the European Social Charter, the European Committee of Social Rights case law, and other relevant international standards in order to enhance the protection and promotion of employment rights for vulnerable groups.** The category of “persons from vulnerable groups” is not defined by Moldovan law¹¹. The notion of vulnerability is very broad and encompasses various social risks that individuals or families may be subject to. In the context of the Report, the following groups are treated as vulnerable: persons with disabilities; persons of Roma ethnicity; the elderly; women; young persons from disadvantaged families; young persons without parents or from single-parent families.

The assessment takes as its departure point the standards of the Council of Europe in the area of social rights, particularly those that stem from the European Social Charter and addresses those provisions of the Law and areas of practice in the Republic of Moldova which are of concern vis-à-vis Council of Europe standards, represented primarily by European Social Charter and the case-law of the European Committee of Social Rights.

⁸ Article 124¹, Labour Code, available at: https://www.legis.md/cautare/getResults?doc_id=137770&lang=ro

⁹ Article 76¹, Labour Code, available at: https://www.legis.md/cautare/getResults?doc_id=137770&lang=ro

¹⁰ Law No. 367 of 29 December 2022 regarding alternative childcare services,
https://www.legis.md/cautare/getResults?doc_id=135587&lang=ro

¹¹ The provisions of Article 8 of Law No.140 of 14 June 2013 regarding the special protection of children at risk and children separated from their parents, list only the categories of children at risk.

SUBSTANTIVE AREAS OF CONCERN

This report identifies the key issues raised during the needs assessment exercise concerning the implementation of the European Social Charter and other Council of Europe standards in the area of social rights in the Republic of Moldova. For ease of exposition, these issues have been listed in accordance with the approach for reporting purposes under the European Social Charter (as of 2023), which divides up the rights of the Charter into two groups, respectively, Group 1 and Group 2.

The report does not offer to cover the full range of the rights of the European Social Charter. Rather, it highlights the areas in which reform is imminent or most urgent, recalling the standards applicable and the challenges that the Republic of Moldova faces in each of the areas identified.

THE REPUBLIC OF MOLDOVA VIS-À-VIS THE EUROPEAN SOCIAL CHARTER

The Republic of Moldova ratified the Revised European Social Charter accepting 63 of the 98 Charter's paragraphs¹².

Table of accepted and non-accepted provisions of the Republic of Moldova
Grey=Accepted provisions

1.1	1.2	1.3	1.4	2.1	2.2	2.3	2.4	2.5	2.6	2.7	3.1
3.2	3.3	3.4	4.1	4.2	4.3	4.4	4.5	5	6.1	6.2	6.3
6.4	7.1	7.2	7.3	7.4	7.5	7.6	7.7	7.8	7.9	7.10	8.1
8.2	8.3	8.4	8.5	9	10.1	10.2	10.3	10.4	10.5	11.1	11.2
11.3	12.1	12.2	12.3	12.4	13.1	13.2	13.3	13.4	14.1	14.2	15.1
15.2	15.3	16	17.1	17.2	18.1	18.2	18.3	18.4	19.1	19.2	19.3
19.4	19.5	19.6	19.7	19.8	19.9	19.10	19.11	19.12	20	21	22
23	24	25	26.1	26.2	27.1	27.2	27.3	28	29	30	31.1
31.2	31.3										

Between 2000 and 2023, under the reporting procedure from before its changes introduced on 27 September 2022 with the adoption by the Committee of Ministers of operational changes to the European Social Charter system, the Republic of Moldova submitted 18 reports on the implementation of the European Social Charter. Last one – the 18th – was submitted on 6 March 2023 and concerned the accepted provisions relating to thematic group

¹² Law No. 484 of 28 September 2001 for partial ratification of the revised European Social Charter, published on 26 October 2001 in the Official Journal „Monitorul Oficial” No. 130, Article 959,
https://www.legis.md/cautare/getResults?doc_id=62100&lang=ro



4 „Children, families and migrants”. The reference period was 1 January 2018 to 31 December 2021. Conclusions with respect to these provisions will be published in March 2024.

Last report concerning labour rights (17th) was submitted by the Republic of Moldova on 30 December 2021. The reference period was 1 January 1, 2017, to 31 December 2020. In Conclusions 2022, published in March 2023, the ECSR declared 6 conclusions of conformity (Articles 2§3, 2§5, 2§6, 2§7, 6§1 and 29) and 9 conclusions of non-conformity (Articles 2§2, 2§4, 4§3, 4§4, 4§5, 5, 6§3, 6§4 and 28). In respect of the other 5 situations (Articles 2§1, 6§2, 21, 26§1 and 26§2) the Committee deferred its conclusions stating that it needs further information in order to assess the situation.

Last report concerning health, social security, and social protection rights (16th) was submitted by the Republic of Moldova on 11 February 2021. The reference period was 1 January 2016 to 31 December 31, 2019. In Conclusions 2021, published in March 2022, the ECSR declared no conclusions of conformity and 11 conclusions of non-conformity (Articles 3§2, 3§3, 11§1, 11§2, 11§3, 12§1, 12§2, 12§3, 13§1, 13§2 and 13§3). In respect of the other 2 situations (Articles 3§1 and 12§4) the Committee deferred its conclusions stating that it needs further information in order to assess the situation.

By 31 December 2019 the Republic of Moldova was supposed to submit a report concerning the accepted provisions relating to rights connected with employment, training and equal opportunities. The report was not submitted and so the European Committee of Social Rights could not assess the situation in Moldova from the perspective of employment rights in 2020. Last report concerning employment, training and equal opportunities rights (12th) was submitted by the Republic of Moldova on 7 May 2016. The reference period was 1 January 2011 to 31 December 2014. In Conclusions 2016, published in March 2017, the ECSR declared 5 conclusions of conformity (Articles 1§3, 15§1, 18§4, 24 and 26§2) and 9 conclusions of non-conformity (Articles 1§1, 1§2, 1§4, 6§4, 9, 15§2, 18§3, 20 and 28). In respect of the other 2 situations (Articles 5 and 6§2) the Committee deferred its conclusions stating that it needs further information in order to assess the situation.

Last report concerning children, families and migrants' rights (15th) was submitted by the Republic of Moldova on 12 February 2019. The reference period was 1 January 2014 to 31 December 2017. In Conclusions 2019, published in March 2020, the ECSR declared 3 conclusions of conformity (Articles 7§2, 7§4 and 8§3) and 8 conclusions of non-conformity (Articles 7§1, 7§3, 8§1, 8§4, 8§5, 16, 17§2 and 19§8). In respect of the other 8 situations (Articles 7§7, 7§8, 7§9, 7§10, 8§2, 17§1, 19§7 and 27§2) the Committee deferred its conclusions stating that it needs further information in order to assess the situation.

Following the endorsement by the Committee of Ministers at its 132nd Session in Turin on 21 May 2022 of the proposals for improving the efficiency and impact of the European Social Charter¹³, as from 2023, for the purposes of reporting under Article C of the revised Charter, the rights have been divided into two groups, respectively, Group 1 (total of 50 provisions) and Group 2 (total of 48 provisions).

As to non-accepted provisions, the Republic of Moldova has not yet accepted Articles: 3§4, 4§1, 4§2, 7§5, 7§6, 10§§1-5, 13§4, 14§§1 and 2, 15§3, 18§§1 and 2, 19§§1-6, 19§§9-12, 22, 23, 25, 27§§1 and 3, 30, 31§§1-3 (35 provisions).

¹³ CoE, CM(2022)67, available at:

https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=0900001680a6864b

By 2023 the Republic of Moldova has submitted 4 reports on non-accepted provisions. The procedure provided for by Article 22 of the 1961 Charter¹⁴ was applied for the first, second and third time in the context of a meeting between the delegation of the European Committee of Social Rights and representatives of various ministries of the Republic of Moldova in Chisinau, on 21 March 2006, 1 December 2011 and 29 May 2018 respectively.

In order to apply the procedure for the fourth time in 2021, the Moldovan authorities were invited to provide written information on the not yet accepted provisions of the Charter. Having examined the written information received from the Government of the Republic of Moldova on 7 June 2021, the European Committee of Social Rights considered that there are no major obstacles to the acceptance of Articles 3§4, 4§2, 7§6, 10§1, 10§2, 10§3, 10§4, 10§5, 14§1, 14§2, 18§1, 19§1, 19§2, 19§3, 19§4a and b, 19§5, 19§6, 19§9, 22, 27§1 and 27§3. In addition, the Committee considered that the Republic of Moldova could envisage accepting Article 19§10 for reasons of principle. It therefore recommended acceptance of this provision.

The Moldovan authorities declared that they are ready to accept Article 10 of the Charter as regards vocational training for jobseekers, the unemployed and persons in need of additional support in the labour market.

The Committee required further clarification of the situation in law and practice with respect to Articles 7§5, 13§4, 15§3, 18§2 and 19§11 and considered that the current legal situation and practice in the Republic of Moldova should be improved to meet the requirements of Articles 4§1, 19§4c, 19§12, 23, 27, 30, 31§1, 31§2 and 31§3. The Moldovan authorities stated that they can accept Article 30 as regards the employment of persons at risk of social exclusion, while the other requirements of this provision are still subject to consultations between the relevant institutions¹⁵.

GROUP 1

Group 1 includes: the right to work (Article 1), the right to just conditions of work (Article 2), the right to safe and healthy working conditions (Article 3), the right to a fair remuneration (Article 4), the right to organise (Article 5), the right to bargain collectively (Article 6), the right of employed women to protection of maternity (Article 8), the right to vocational guidance (Article 9), the right to vocational training (Article 10), the right to engage in a gainful occupation in the territory of other States Parties (Article 18), the right of migrant workers and their families to protection and assistance (Article 19), the right of men and women to equal opportunities (Article 20), the right to information and consultation (Article 21), the right to take part in the determination and improvement of the working conditions and working environment (Article 22), the right to protection in cases of termination of employment (Article 24), the right to workers to the protection of claims in the event of insolvency of the employer (Article 25), the right of workers' representatives to

¹⁴ With respect to the procedure provided by Article 22 of the 1961 Charter – examination of non-accepted provisions - the Committee of Ministers in December 2002 decided that "states having ratified the revised European Social Charter should report on the non-accepted provisions every five years after the date of ratification" and "invited the European Committee of Social Rights to arrange the practical presentation and examination of reports with the states concerned" (Decision of the Committee of Ministers of 11 December 2002).

¹⁵ ECSR, Fourth report on the non-accepted provisions of the European Social Charter, Republic of Moldova, p. 3-4, available at: <https://rm.coe.int/4th-report-non-accepted-provisions-republic-of-moldova/1680a5eef6>

protection in the undertaking and facilities to be accorded to them (Article 28), and the right to information and consultation in collective redundancy procedures (Article 29).

The Republic of Moldova has accepted all provisions from the above-mentioned group except Articles 3§4, 4§1, 4§2, 10§1, 10§2, 10§3, 10§4, 10§5, 18§1, 18§2, 19§1, 19§2, 19§3, 19§4, 19§5, 19§6, 19§9, 19§10, 19§11, 19§12, 22 and 25.

In last published Conclusions (2022, 2021, 2019 and 2016), the European Committee of Social Rights declared the conclusions of:

- **conformity regarding:**
 - Articles 2§3, 2§5, 2§6, 2§7, 6§1 and 29 in 2022;
 - Articles 1§3, 18§4 and 24 in 2016;
 - Article 8§3 in 2019.
- **non-conformity regarding:**
 - Articles 2§2, 2§4, 4§3, 4§4, 4§5, 5, 6§3, 6§4 and 28 in 2022;
 - Articles 3§2 and 3§3 in 2021;
 - Articles 1§1, 1§2, 1§4, 6§4, 9, 18§3, 20 and 28 in 2016;
 - Articles 8§1, 8§4, 8§5 and 19§8 in 2019.
- **deferral due to lack of sufficient information regarding:**
 - Articles 2§1, 6§2 and 21 in 2022;
 - Article 3§1 in 2021;
 - Articles 5 and 6§2 in 2016;
 - Articles 8§2 and 19§7 in 2019.

After the reference period crucial amendments were introduced to the Labour Code of the Republic of Moldova, including a number of normative acts which were adopted to contribute to the achievement of social rights. The ones that shall be highlighted are: Law No. 105 regarding the promotion of employment and unemployment insurance of 14 June 2018¹⁶; Law No. 110 regarding dual education of 21 April 2022¹⁷; Government Decision No. 193 for the approval of the Regulation on the continuous training of adults of 24 March 2017¹⁸; Government Decision no. 1276 for the approval of procedures regarding access to employment measures of 26 December 2018¹⁹, Law No. 121 of 25 May 2012 regarding ensuring equality²⁰, Law No. 5 of 09 February 2006 regarding ensuring equality of chances between women and men²¹, approval of the Classifier of Occupations from the Republic of Moldova²², Law No. 200 of 16 July 2010 regarding the regime of foreigners in the Republic of Moldova²³.

¹⁶ https://www.legis.md/cautare/getResults?doc_id=135224&lang=ro#

¹⁷ https://www.legis.md/cautare/getResults?doc_id=131324&lang=ro#

¹⁸ https://www.legis.md/cautare/getResults?doc_id=131781&lang=ro#

¹⁹ https://www.legis.md/cautare/getResults?doc_id=137187&lang=ro#

²⁰ https://www.legis.md/cautare/getResults?doc_id=135522&lang=ro#

²¹ https://www.legis.md/cautare/getResults?doc_id=136677&lang=ro#

²² <https://social.gov.md/wp-content/uploads/2022/01/CORM.pdf>

²³ https://www.legis.md/cautare/getResults?doc_id=137669&lang=ro#

As to non-accepted provisions from this group, the European Committee of Social Rights in 2021 considered that:

- there were no legal obstacles to the acceptance of Articles 3§4, 4§2, 10§1, 10§2, 10§3, 10§4, 10§5, 18§1, 19§1, 19§2, 19§3, 19§4a and b, 19§5, 19§6, 19§9 and 22
- required further clarification of the situation in law and practice with respect to Articles 18§2 and 19§11
- considered that the current legal situation and practice in the Republic of Moldova should be improved to meet the requirements of Articles 4§1, 19§4c and 19§12.

In the area of rights from Group 1, as a result of discussions and information provided during the needs assessment meetings **the following areas have been identified as most needing support** to adjust the situation in the Republic of Moldova (both in law and in practice) to international standards of the Council of Europe, especially to the standards of the European Social Charter:

- the right to work in the area of the policy of full employment (Article 1§1), in the area concerning protection against discrimination in employment (Article 1§2) and in the area of vocational guidance, training and rehabilitation (Article 1§4);
- the right to fair remuneration in the area concerning equal pay for equal work (Article 4§3);
- the right to vocational guidance in the area of supporting the effectiveness of its supply (Article 9);
- the right to vocational training in the area of inclusion and access based on individual aptitude (Article 10§1), in the area concerning apprenticeship (Article 10§2), in the area concerning vocational training and retraining of adult workers (Article 10§3), in the area concerning training for long-term unemployed (Article 10§4) and in the area concerning measures to ensure full use of vocational training facilities (Article 10§5);
- the right to equal opportunities and equal treatment in employment and occupation without sex discrimination (Article 20).

ARTICLE 1§1. RIGHT TO WORK. POLICY OF FULL EMPLOYMENT

By accepting Article 1§1 of the Charter, States Parties undertake to pursue a policy of full employment. This means that States Parties must adopt and follow an economic policy which is conducive to creating and preserving jobs and must take adequate measures to assist those who become unemployed in finding and/or qualifying for a job. Article 1§1 is an obligation of conduct rather than of result²⁴, however, the efforts made by States Parties to reach the goal of full employment must be adequate in the light of the economic situation and the

²⁴ ECSR, Conclusions I (1969), Statement of Interpretation on Article 1§1.



level of unemployment²⁵. If a State at any time abandoned the objective of full employment in favour of an economic system providing for a permanent pool of unemployed, it would be infringing the Social Charter²⁶.

In the process of assessment of the conformity with Article 1§1, a wide range of indicators are examined, relating to the national economic situation (e.g. GDP growth, inflation, job growth), to patterns of employment (e.g. the employment rate, proportion of part-time and fixed-term employment) as well as to the structure and level of unemployment paying special attention to the situation of vulnerable groups such as youth, the long-term unemployed, persons belonging to minorities and persons with disabilities²⁷.

In its last report submitted in 2015, the Government of the Republic of Moldova – **providing information which were current as of 2014** - stated that “*The right of job seekers was ensured by Law No. 102-XV of 13 March 2003 on employment and social protection of job seekers. Although this law contained various regulations with reference to active and passive measures intended for people looking for a job, it was replaced in 2018 by Law no. 105 regarding the promotion of employment and unemployment insurance, a fact that I highlighted in the Introduction. Through the law in force, new mechanisms have been established to promote and realize the rights of people looking for a job.*

According to statistical data in 2014 the employment rate was 39.6%, registering almost the same value as in 2013 (+0.3 p.p.). The employment rate for men (42.1%) was higher in comparison with that of women (37.4%). In the distribution of residence means this indicator had the value of 41.8% in urban areas and 38.0% in rural areas. Respectively in 2011 the employment rate was 39.4%, men 42.1% and women 37.1%; 2012-38.4%, the employment rate of men was higher - 40.6% compared to that of women – 36.5% and in 2013 -39.3%, the employment rate for men - 41.8% being higher in comparison with that of women - 37.0%”²⁸.

Given the information, in 2016 the European Committee on Social Rights concluded that the situation in the Republic of Moldova was not in conformity with Article 1§1 of the Charter on the ground that employment policy efforts have not been adequate in combatting unemployment and promoting job creation. Apart from these, the Committee noted that the report failed to provide the requested data on the overall activation rate as well as the information on the evaluation of the applied employment policies²⁹.

Since the last reporting period, the situation on the labour market has improved. In the second quarter of 2023 the unemployment rate (the share of unemployed BIM in the labour force) at the country level recorded the value of 3.8% - higher than the level of the second quarter of 2022 (2.4%) (SDG indicator 8.5.2). The unemployment rate for men was 4.3%, and for women - 3.3%; in urban areas – 5.0% and in rural areas – 2.8%.

²⁵ ECSR, Digest of the case-law of the European Committee on Social Rights, June 2022, page 56 with the sources enumerated therein, available at: <https://rm.coe.int/digest-ecsr-prems-106522-web-en/1680a95dbd> [accessed 1.09.2021].

²⁶ ECSR, Conclusions I (1969), Statement of Interpretation on Article 1§1.

²⁷ ECSR, Digest of the case-law of the European Committee on Social Rights, June 2022, page 56 with the sources enumerated therein, available at: <https://rm.coe.int/digest-ecsr-prems-106522-web-en/1680a95dbd> [accessed 1.09.2021].

²⁸ Available at:

<https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=0900001680654c42>

²⁹ Available at: [Conclusions 2016 - Moldova - Article 1-1 \(coe.int\)](https://rm.coe.int/Conclusions-2016-Moldova-Article-1-1/coe.int)

The unemployment rate among the population aged 20-64 (the share of unemployed BIM aged 20-64 in the labour force aged 20-64) was 3.8%, higher than the level of the previous year (in the quarter II 2022 – 2.4%). Depending on age, the highest unemployment rate was registered among young people aged 15-24 (11.3%).

In 2022, the labour force (active population aged 15 and over) of the Republic of Moldova, which included the employed population plus the unemployed, constituted 890.0 thousand people, increasing by 2.1% compared to 2021. Within the labour force, the share of men (51.7%) was higher compared to that of women (48.3%), and the share of economically active people from rural areas was higher than the share of those from urban areas (54.1% and 45.9%, respectively).³⁰

In the second quarter of 2023, the labour force participation rate of the population aged 15 and over was 45.4%, which is an increase compared to the level of the previous year (the second quarter of 2022 – 42.3%)³¹.

The decrease in informal employment recorded between 2019 and 2020 was due to the change in the definition of employment (employment no longer included people who produce agricultural products for their own consumption) and higher job losses experienced by workers, especially young, in the informal sector compared to those in the formal sector during the crisis generated by COVID-19³².

Young people (15-24) are nearly three times more likely to be unemployed compared to the overall population, with the youth unemployment rate at 9.2% in 2021. Young women are more likely to be unemployed compared to young men (12.3% and 9.9% respectively). The unemployment rate, however, is not a good indicator of the labour market situation in the Republic of Moldova, as this indicator is affected by the extremely low participation rate of the population. Among disabled people the unemployment rate was 4.2%, including 3.2% for men and 5.4% for women, 10.5% in urban areas and 1.3% in rural areas. In order to reduce the number of young unemployed people, Law No. 110 of 21 April 2022 regarding dual education³³ was adopted.

The Law No. 102-XV of 13 March 2003 on employment and social protection of job seekers was repealed by Law no. 105/2018³⁴ on the promotion of employment and unemployment insurance, in which new – more effective - mechanisms have been established to promote and implement the rights of persons searching for work.

During the discussions conducted over the needs assessment meetings with different stakeholders' major issue raised concerned the discrepancy between the demand and supply of the workforce. From the perspective of activating persons from vulnerable groups, including youths - girls and boys/women and men from vulnerable groups and not in employment, education and training (hereinafter - NEET) youth – the issue concerned lack of effective mechanisms and procedures of reaching those persons and encouraging them to get involved in the procedures offered by the National Employment Agency.

³⁰ Data available at: https://statistica.gov.md/ro/forta-de-munca-ocuparea-si-somajul-in-anul-2022-9430_60383.html

³¹ Data available at: https://statistica.gov.md/ro/forta-de-munca-ocuparea-si-somajul-in-trimestrul-ii-2023-9430_60682.html

³² National Programme for employment for 2022-2026, available at: <https://social.gov.md/wp-content/uploads/2023/04/Programul-national-de-ocupare-a-fortei-de-munca-2022-2026.pdf>

³³ https://www.legis.md/cautare/getResults?doc_id=131324&lang=ro

³⁴ https://www.legis.md/cautare/getResults?doc_id=105474&lang=ro

Apart from the above-mentioned issue, the discussions led to the conclusion that the labour market in Moldova faces multiple challenges, including first of all low wages, poor quality of employment, informal employment and labour migration processes.

The findings presented above confirm the need to support the Republic of Moldova in its activities planned to bring the country in line with European standards, especially with the standards of Article 1§1 of the European Social Charter.

ARTICLE 1§2. RIGHT TO WORK. FREELY UNDERTAKEN WORK - NON-DISCRIMINATION

Article 1§2 of the Charter prohibits all forms of discrimination in employment inter alia on grounds of sex, race, ethnic origin, religion, disability, age, sexual orientation and political opinion, including on grounds of conscientious objection or non-objection. Legislation should prohibit both direct and indirect discrimination and provide for the power to set aside, rescind, abrogate or amend any provision contrary to the principle of equal treatment which appears in collective labour agreements, in employment contracts or in firms' own regulations³⁵. Domestic law must also provide appropriate and effective remedies in the event of an allegation of discrimination. Firstly, there must be a right to appeal to a court in case of alleged discrimination; secondly, there must be a protection against dismissal or other retaliatory action by the employer against an employee who has lodged a complaint or taken legal action³⁶; thirdly, domestic law should provide for a shift in the burden of proof in favour of the plaintiff in discrimination cases³⁷; fourthly, remedies available to victims of discrimination must be adequate, proportionate and dissuasive³⁸.

In its last report submitted in 2015, the Government of the Republic of Moldova stated that *“Article 43, paragraph 1 of the Constitution of the Republic of Moldova, as well as Article 6 of the Labour Code, expressly provides for the right of every person to work, freedom of choosing a job and the right to unemployment protection. The realization of the right to work as a source of life is due to the existence of a system of legal norms contained in the normative acts of the different levels that provide for possibilities and mechanisms for exploiting the right mentioned. Consequently, Article 44 of the Constitution and article 7 of the Labour Code prohibit the non-motivated refusal to hire, as well as the establishment, during hiring, of advantages or limitations based on gender, race, ethnicity, religion domicile, political options, or social origin.*

To ensure compliance with the norms of the legislation in force which proclaims the right to work and the free choice of the latter the State has instituted a relevant system of control, carried out by the State Labour Inspectorate (under the Law on the State Labour Inspectorate No. 140-XV of 10 May 2001 and the Regulations for the organization and

³⁵ ECSR, Conclusions XVI-1 (2002), Iceland.

³⁶ ECSR, Conclusions XVI-1 (2002), Iceland; Syndicat de Défense des fonctionnaires v. France Complaint No. 73/2011, decision on the merits 13 September 2012, § 59.

³⁷ ECSR, Conclusions 2002 France; Syndicat de Défense des fonctionnaires v. France Complaint No. 73/2011, decision on the merits 13 September 2012, §59.

³⁸ ECSR, Digest of the case-law of the European Committee on Social Rights, June 2022, page 49 with the sources enumerated therein, available at: <https://rm.coe.int/digest-2018-parts-i-ii-iii-iv-en/1680939f80> [accessed 1.09.2021].

operation of the State Inspectorate of Labour, approved by Government Decision No. 788 of 7 October 2013) and trade unions (operating on the basis of the Law of Trade Unions No. 1129-XIV of 7 July 2000)”³⁹.

Given the information, in 2016 the European Committee on Social Rights concluded that the situation in the Republic of Moldova was not in conformity with Article 1§2 of the Charter on the ground that restrictions to the employment of nationals of other States Parties in the civil service are excessive which constitutes a discrimination on grounds of nationality⁴⁰.

Since the end of the last reporting period, provisions regulating prohibition of discrimination in employment have been changed. Furthermore, in 2023, the Law No. 200 of 16 July 2010 on the regime of foreigners in the Republic of Moldova was amended. Pursuant to Article 43¹, paragraph 8 of this Law, foreigners who are “citizens of the European Union or of other states whose list is approved by the Government, who do not fall into any of the categories from letters a)-r), arriving for a period of up to 90 days”(…) “can work on the territory of the Republic of Moldova on the basis of a visa, the right of residence or the right of temporary residence, as the case may be, without first obtaining the right of temporary residence for work purposes and a temporary residence permit for work purposes (…)”⁴¹. The amendment comes to ensure the European citizens indicated in Article 43¹ of the Law No. 200 of 16 July 2010 with the facility to work in the labour market on the territory of the Republic of Moldova without first obtaining the right of temporary residence for the purpose⁴².

Currently, the most important acts prohibiting discrimination in employment and social sphere in the Republic of Moldova are the Labour Code (hereinafter: LC)⁴³ and the Law on ensuring equality No. 121 of 25 May 2012 (hereinafter: Equality law) Both of them are in many regards progressive. The Equality law contains more detailed regulation, defines and prohibits both direct and indirect discrimination (Article 2), provides for “positive measures” to be taken to protect persons at a particular disadvantage (Article 1(1), Article 5(a)), identifies multiple discrimination as one of the worst forms of discrimination (Article 4). Last amendments to the Law on equality modified the purpose of the Law, extended the catalogue of protected criteria by affiliation or access to an organization of employees or employers, or to any organization whose members exercise a certain profession and completed the notions of “discrimination”, “direct discrimination” and “indirect discrimination” with the notions of “continuous discrimination” and “prolonged discrimination”.

What shall be noticed, certain issues enumerated in the Report on needs assessment in the area of social rights in the Republic of Moldova conducted in 2020 under the Council of Europe project as needing adjustment to European standards, have been addressed, e.g. in

³⁹ Available at:

<https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=0900001680654c42>

⁴⁰ However, the ECSR welcomed the fact that "'skin colour' and 'HIV/AIDS infection' have been added to the list of prohibited grounds of discrimination enumerated in Article 8 of the amended Labour Code" and that "Article 10(2)(f1), (f2) and (f4) imposes obligations on employers to ensure equal opportunity and treatment of all employees without discrimination, to apply the same criteria to assess each employee's work and to ensure equal conditions for men and women relating to work and family obligations" (Conclusions 2016).

⁴¹ Available at: https://www.legis.md/cautare/getResults?doc_id=137669&lang=ro

⁴² Available at: https://gov.md/sites/default/files/document/attachments/subject-04-nu-355-mded-2023_0.pdf

⁴³ Labour Code of the Republic of Moldova No. 154-XV of 28 March 2003 (as amended on 31 March 2023).



Article 1(1) of the Law on equality, an explicit reference to the prohibition of discrimination on the ground of sexual orientation has been added by Law No. 2 of 02 February 23 published in the Official Journal “Monitorul Oficial” No.35-38 of 09 February 2023 (Article 63, in force as of 09 February 2023). Additionally, certain amendments recommended in the report „Assessment of the Law on ensuring equality of the Republic of Moldova in compliance with the Council of Europe anti-discrimination standards”⁴⁴ have also been implemented, e.g., the inclusion of national origin among the protected characteristics. Certain issues remain to be addressed, however.

Regarding the Labour Code, it shall be noted that though the Code has been amended many times, **the wording of Article 8** (which has also been partly adjusted to European standards) remains unchanged in the meaning of lack of sexual orientation being explicitly provided as one of prohibited grounds for differentiation of treatment. Although the catalogue of protected characteristics in Article 8 LC is open and though the wording of Article 1(1) of the Law No. 121 on Ensuring Equality has been amended and sexual orientation has been included among protected characteristics⁴⁵, regarding that discrimination in relation to sexual orientation seem particularly sensitive in the Moldovan context⁴⁶, it would have been preferable to include a reference to sexual orientation in Article 8 of the Labour Code. Pending such an amendment of the legislation however, courts should rely on the current actual wording (which provides a non-limitative list of prohibited grounds of discrimination allowing sexual orientation to be included) of the Law on Equality in order to interpret Article 8 of the Labour Code in accordance with Council of Europe standards.

Regarding the ECSR’s Conclusions 2016 it shall be noticed that **access of foreign nationals to positions in the civil service** has not been extended. Concern shall be also expressed as regards **the situation of Roma population in the Republic of Moldova and their protection against discrimination**. The profile of Roma women in the labour field is especially worrying, taking into account the fact that informal work persists and that only 4% of Roma women have ever attended vocational training courses⁴⁷.

Furthermore, regarding **protection from discrimination in employment for older persons or pensioners**, it shall be noted that when the 2003 Labour Code was amended in 2017⁴⁸, one of the amendments consisted in allowing the dismissal, without any further justification having to be provided, of employees having reached pensionable age (Article 86, paragraph 1, letter y¹). The Council for Equality considers this to constitute discrimination on grounds of age and in order to prevent similar acts in the future, recommends to the Parliament of the Republic of Moldova and the Government of the Republic of Moldova to start the modification/completion process of Article 86, paragraph 1, letter y¹ of the Labour Code, so that it is made clear that the employer can resort to the application of these provisions if the

⁴⁴ Available at: <https://rm.coe.int/assessment-of-the-law-121-on-ensuring-equality-eng/168072f20a>

⁴⁵ Even before this amendment, the Equality Council held that sexual orientation is a protected characteristic within the meaning of Article 1, paragraph 1 of the Law No. 121 on ensuring equality.

⁴⁶ Noted also in Assessment of the Law on ensuring equality of the Republic of Moldova in compliance with the Council of Europe anti-discrimination standards prepared by Ivana Roagna and Nevena Petrusic, Council of Europe consultants on February 2016, page 4, available at:

<https://rm.coe.int/assessment-of-the-law-121-on-ensuring-equality-eng/168072f20a>

⁴⁷ https://statistica.gov.md/files/files/Cooperare_internationala/PNUD/10_tablouri_femei_RM/Infografic_Rome_6.pdf

⁴⁸ Law No. 157 dated 20 July 2017 amending and supplementing the Moldovan Labour Code No. 154-XV of 28 March 2003, Official Journal „Monitorul Oficial” No. 301-315 (6224-6238), 18.8.2017

measure can be objectively justified and reasonable according to the intended purpose⁴⁹. No legislative process in this area has however been started yet.

What shall be noted, there is a non-uniform practice of interpretation of Article 86, paragraph 1, letter y¹ of the Labour Code by Moldovan courts. Individual employment contracts for a definite period are terminated upon reaching retirement age. The Supreme Court of Justice, analysing a litigation, mentioned that the legislator did not aim at obliging the employer to dismiss the employee who has the status of a pensioner due to the age limit, but offered him on the basis of (letter y¹) of Article 86 paragraph 1 of the Labour Code, the right to terminate the individual employment contract concluded for an indefinite period, and also granted the employer, pursuant to Article 55, letter f of the Labour Code, the possibility of hiring people dismissed on the grounds of having the status of pensioner for the age limit for a certain period.⁵⁰ Article 186 of the Labour Code provides for guarantees for release from service. Employers resort to the application of Article 86, paragraph 1, letter y¹ of the Labour Code, even if they intend to reduce staffing levels, avoiding the application of the provisions of Article 186 of the Labour Code, which provides for the guarantees for release from service⁵¹.

Based on the report presented by the Equality Council, for the year 2022, in the field of work, most acts of discrimination took place based on the criteria of opinion (23%), disability (15%) and pensioner status (15%)⁵².

Apart from the above mentioned, the discussions conducted over the needs assessment meetings with different stakeholders have resulted in identifying some other challenges that shall be overcome to improve the situation of persons from vulnerable groups. First and foremost, employees having reached pensionable age are disadvantaged by the rule that requires employees seeking to benefit from compensation following the dismissal in connection with the liquidation of the unit or the termination of the employer's activity as a natural person (Article 86 paragraph 1, letter b)), or with the reduction of the number or staffing levels at the unit, that they register within 14 days with the territorial employment agency, while employees having reached pensionable age cannot register with such an agency and therefore are denied the protection other employees, who are otherwise in a similar situation, enjoy. Pensioners who remain without a job do not enjoy the application of Law No. 105 of 14 June 2018 (Article 20, letter a) regarding employment promotion and unemployment insurance⁵³.

The country invests 0.01% of GDP in employment services and active labour market programs, five times less than the average of South-East European countries and thirty times less than the resources allocated in the European Union. In 2019, only 37.3% of the amount allocated for active measures was spent. Most funds were invested in training programs (85% of total expenditure) and for the worker mobility grant (13.9% of total expenditure)⁵⁴.

⁴⁹ See e.g. decision of 02 October 2020, case No. 156/20, available at: http://egalitate.md/wp-content/uploads/2016/04/Decizie_constatare_156_-2020.pdf

⁵⁰ Case nr. 2ra-699/22, available at: http://jurisprudenta.csj.md/search_col_civil.php?id=68099

⁵¹ Decision of 13 November 2020, case No. 197/20, available at: https://egalitate.md/wp-content/uploads/2016/04/Decizie_constatare_197_-2020_printat.pdf

⁵² Available at: https://egalitate.md/wp-content/uploads/2021/01/raport-2022_final-rev.pdf, p. 5

⁵³ Available at: https://www.legis.md/cautare/getResults?doc_id=105474&lang=ro

⁵⁴ Available at: <https://social.gov.md/wp-content/uploads/2023/04/Programul-national-de-ocupare-a-fortei-de-munca-2022-2026.pdf>

The findings presented above confirm the need to support the Republic of Moldova in its activities planned to bring the country in line with European standards, especially with the standards of Article 1§2 of the European Social Charter.

ARTICLE 1§4. RIGHT TO WORK. VOCATIONAL GUIDANCE, TRAINING AND REHABILITATION

Article 1§4 of the European Social Charter guarantees the right to vocational guidance, continuing vocational training for employed and unemployed persons and specialised guidance and training for persons with disabilities. It is complemented by Articles 9 (right to vocational guidance), 10§3 (right of adult workers to vocational training) and 15§1 (right of persons with disabilities to vocational guidance and training), which contain more specific rights to vocational guidance and training.

As the Republic of Moldova has not accepted Article 10§3, the Committee assesses under Article 1§4 the conformity of the situation relating to the right of adult workers to vocational training.

In its last report submitted in 2016⁵⁵, with regard to training for unemployed persons, the Government of the Republic of Moldova referred to the free training courses organised by the National Employment Agency for jobseekers registered with local agencies (Article 25 of Law No. 102-XV on employment and social protection of jobseekers) and pointed out that the training programmes provided training, retraining and skills improvement for unemployed persons while taking account of individual abilities and labour market requirements. It also described some of the measures taken to encourage people to take part in these training courses. According to the report, the number of unemployed persons completing vocational training courses increased during the reference period from 2 235 in 2011 to 2 884 in 2014. The expenditure incurred also increased from 8 298 400 MDL (€429 262 at the exchange rate of 31/12/2014) in 2011 to 14 225 300 MDL (€735 850) in 2014.

With regard to continuing training of employed persons, the report did not answer the Committee's questions from Conclusions 2012 on the overall participation rate in continuing vocational training, the percentage of companies which offer in-house training or other types of vocational training to their employees and the conditions for access to these training courses.

Given the information, in 2016 the European Committee of Social Rights concluded that the situation in the Republic of Moldova was not in conformity with Article 1§4 of the Charter on the ground that it has not been established that the right to vocational guidance in the education system and the labour market is guaranteed.

Since the end of the last reporting period, Government Decision No. 193 regarding the approval of Regulation on continuing training of adults was approved on 24 March 2017. In accordance with its provisions, the continuing professional training of adults is organized distinctly by training levels and specialties, taking into account the needs of employers, the general competences of adults, the requirements for the functions and the possibilities of their promotion. The continuous professional training of adults is carried out through retraining,

⁵⁵ Available at:

<https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=0900001680654c42>

specialization and improvement programs. In the context of lifelong learning it ensures continuous access to science, information and culture in order to flexibly adapt the individual to the new socio-economic realities and to develop the necessary skills for professional and social activity.

The access to continuing education of adults is guaranteed to everyone on equal basis, without discrimination based on race, nationality, origin, ethnicity, language, religion, sex, political opinion, wealth, social origin, or any other criteria.

The main objective of the general education of adults is to increase the level of general culture and socio-civic activity of the population. The continuing professional training programs for adults are organized in continuing professional training educational institutions and in other types of state or private institutions/organizations that are subject to authorization/accreditation and are prepared for this activity in accordance with the legislation in force. When enrolling for continuing professional training programs, for each beneficiary the disciplines previously studied in secondary, post-secondary or post-secondary non-tertiary higher education or technical vocational institutions are taken into account, as well as the level of qualification in the respective field.

The professional retraining of specialists with secondary, post-secondary or post-secondary non-tertiary technical higher education for the realization of new forms of professional activity is carried out based on the requirements set out in the Nomenclature of specialties for certain professions and functions. The enrolment in professional retraining programs to obtain a new professional qualification related to the job/specialty of the completed initial professional training is carried out on the basis of the study document attesting the initial professional training at the same level of studies. The professional training of adults in order to acquire professional skills/retraining/improvements/specializations is carried out on the basis of professional training programs, developed and approved by the providers of professional training programs for adults in accordance with the provisions of the methodologies approved by the Ministry of Education and Research. Upon completion of adult continuing education programs, graduates take graduation exams, which represent a set of theoretical and/or practical tests specified in the continuing professional training programs and receive certificates, accompanied by an appendix, that confirm the acquisition of specific skills of the professional training program, in compliance with the quality assurance criteria (tests, practical works, graduation exams, support of retraining theses). Holders of educational documents issued in the context of continuing professional training of adults have the right to employment in the field of work according to the skills/qualification assigned through professional training, improvement, specialization, requalification, according to the National Framework of Qualifications.

On 8 February 2023, the Ministry of Education and Research of the Republic of Moldova approved Order No. 93 regarding the methodology for the development of professional training programs for adults and the curriculum in lifelong learning. The methodology establishes the structure, procedure for the development and evaluation of adult vocational training programs and the curriculum in the context of lifelong learning, designed on the basis of the latest scientific achievements, socio-economic needs, through cooperation and partnership with various social actors. The programs are elaborated in various fields of professional training, being adapted accordingly to the types and forms of organization in the context of lifelong learning: professional training of adults, improvement, specialization,



professional retraining, emphasizing the access, relevance, and quality. The programs focus on the development of general and specific professional skills for occupations/trades/qualifications/specialties according to occupational standards and qualification standards developed according to the provisions of the regulatory framework.

According to the Labour Code of the Republic of Moldova, professional training is any training process as a result of which an employee acquires a qualification, attested by a certificate or diploma issued under the law. The employer is obliged to create the necessary conditions and favour the professional and technical training of employees who follow production training, improve or study in educational institutions, without removing them from the activity. The employee has the right to professional training, including obtaining a new profession or specialty. This right can be realized by concluding, in written form, professional training contracts, additional to the individual employment contract.

According to Article 215, paragraph 1 of the Labour Code, the professional qualification contract is a special contract, additional to the individual employment contract, concluded in written form, based on which the employee undertakes to follow a professional training course organized by the employer in order to obtain a professional qualification. Professional training is carried out by an instructor or training foreman appointed by the employer from among qualified employees with professional experience and authorized under the conditions provided by law. It is organized by the employer at his expense. At the conclusion of professional qualification contract the person who will attend the courses obtains the status of an employee.

Law No. 105 of 14 June 2018 on employment promotion and unemployment insurance contains explicit provisions regarding professional training, vocational guidance and professional rehabilitation of the unemployed. Thus, professional training, in the context of Law No. 105 of 14 June 2018, involves the qualification, retraining, improvement, specialization or, as the case may be, certification of the unemployed for the purpose of their subsequent reintegration into the labour market. Those activities are performed by the providers of professional training services, public or private, authorized under the law or by employers. Professional training is carried out through qualification, retraining, improvement and specialization courses, on-the-job training within the unit, professional internships and certification of knowledge and skills acquired in non-formal and informal education contexts.

Unemployed persons are directed to qualification, retraining, improvement, or specialization courses as a result of a career guidance provided by territorial subdivisions of the National Employment Agency. Those who do not have any profession or trade or have a profession or trade that is not in demand on the local labour market are directed to vocational training courses. Vocational training courses are carried out on the basis of the training contract concluded between the National Employment Agency and the unemployed. The unemployed person selects the vocational training service provider from the list of providers authorized and accredited by the National Agency for Quality Assurance in Education and Research and presents the voucher for the vocational training of the unemployed to the chosen provider.

The unemployed enrolled in vocational training courses benefit from a non-taxable monthly scholarship in the amount of 35% of the average monthly salary for the economy for the previous year, which is granted proportionally to the attendance at vocational training courses. They can benefit from a professional training course free of charge once in 24 consecutive months.

ARTICLE 4§3. RIGHT TO A FAIR REMUNERATION. EQUAL PAY FOR EQUAL WORK

Article 4§3 of the European Social Charter guarantees the right to equal pay without discrimination on grounds of sex. The principle of equality should cover all the elements of pay, that is wages or salary plus all other benefits paid directly or indirectly in cash or kind by the employer to the worker by reason of the latter's employment. It must apply between full-time and part-time employees. The equality of payment is examined by the Committee under Article 20 and Article 4§3 of the Charter (both accepted by the Republic of Moldova).

In its last report submitted in 2022⁵⁶, the Government of the Republic of Moldova reported that workers' right to equal pay for men and women for equal work or work of equal value is governed by Article 10, paragraph 2, letter g and Article 128, paragraph 2 of the Labour Code. Article 8 of the Labour Code prohibits direct or indirect discrimination against employees on different grounds including sex. The report did not provide information requested by the Committee on the following subjects: the definitions of equal pay and pay for work of equal value; legal enforcement of the principle of equal remuneration in practice; availability of pay comparisons across companies in the private sector; statistical data on the pay gap.

Given the information, in 2023 the European Committee on Social Rights concluded that the situation in the Republic of Moldova was not in conformity with Article 4§3 of the Charter on the grounds that the enforcement of the law on equal pay is not guaranteed and there are no pay comparisons across companies in the private sector (Conclusions 2022)⁵⁷.

Since the end of the last reporting period, the provisions of the Labour Code have been amended, especially by Law No. 107 of 21 April 2022 published in the Official Journal "Monitorul Oficial" No. 141-150 of 13 May 2022 (Article 254), in effect since 13 May 2022. The amendments are in many regards progressive and complete legal definitions of remuneration, equal work and work of equal value⁵⁸.

Currently, pursuant to Article 1 of the Labour Code: **equal work** is the work performed on the same positions according to the identical requirements imposed to education, professional training and training, competence (skills), efforts, responsibility, the performed activities, nature of objectives and working conditions; **work of equal value** is the work performed on different positions or line items, but recognized equivalent based on the identical requirements imposed to education, professional training and training, competence (skills), efforts, responsibility, the performed activities, nature of objectives and working conditions. **Remuneration** is defined as monetary remuneration that includes the basic salary (tariff salary, salary of the position), as well as all additions, increments, awards and other incentive and compensation payments granted to the employee by the employer based on the individual employment contract for the work performer.

⁵⁶ Available at: <https://rm.coe.int/rap-rcha-md-17-2022/1680a59bbd>

⁵⁷ Available at: <https://rm.coe.int/conclusions-2022-republic-of-moldova-e-2780-5886-9255-v-1/1680aa9873>

⁵⁸ Law no. 107 of 21 April 2022 for the modification of some normative acts available at: https://www.legis.md/cautare/getResults?doc_id=131234&lang=ro

Regarding the enforcement of the Law No. 121 on equality, concern shall be expressed regarding **the persistence of the gender pay gap**, notwithstanding the principle of equal pay for work of equal value in national legislation. The gender pay gap has been a significant issue in Moldova for many years.

As per the calculations of the Center of Partnership for Development according to the National Bureau of Statistics of the Republic of Moldova, in 2022, women in the country earned 13.6 % less than men. What is more, women received lower wages than men in most economic activities. In 2022, the largest differences were recorded in: IT - 42.8% and financial and insurance field - 40.9% less⁵⁹. The indicators were similar for 2021⁶⁰. According to data published by the National Bureau of Statistics of the Republic of Moldova in 2021, the monthly gross average earnings in MDL was 8.353,1 for women and 9.672,6 for men⁶¹, which means women earned 13,64 % less than men.

The reasons for the gender pay gap in Moldova are complex and multifaceted⁶². First contributing factor is the persistence of traditional gender roles, which often lead to women being concentrated in lower-paying industries and positions⁶³. Additionally, women are more likely to work part-time⁶⁴ or take breaks from their careers to care for children or elderly family members⁶⁵, which can negatively impact their earning potential.

During the discussions conducted over the needs assessment meetings with different stakeholders an important problem that was raised concerned the inefficient system of childcare provided by state institutions, preventing especially many women from returning to work after the period of maternity leave.

Regarding statistical data on gender pay gap, it shall be noted that the national legal framework regulating the need to produce gender-sensitive indicators includes the Law on ensuring equal opportunities between women and men approved in 2006 (Article 22), the Law on ensuring equality of 2012, as well as a number of strategies whose action plans mention the importance of collecting and disaggregating data by sex in all spheres of socio-economic life. The importance of sex-disaggregated data has also been confirmed in the context of the Global Agenda for Sustainable Development until 2030, both for monitoring progress in achieving gender equality and empowering women and girls, and for assessing changes in areas such as poverty, health, climate change, infrastructure, food security, employment, etc.

As it was noted by UN Women, as of December 2020, only 42.6% of indicators needed to monitor the SDGs from a gender perspective were available, with gaps in key areas, in

⁵⁹ Available at: https://progen.md/wp-content/uploads/2023/02/CPD_Equal-Pay_2023_FINAL.pdf

⁶⁰ Available at: <https://genderpulse.md/ro/abilitare-economica/castigul-si-ecartul-salarial>

⁶¹ Available at: https://statistica.gov.md/en/statistic_indicator_details/28

⁶² See also: UN Moldova, Interview: “Shifting the needle on the gender pay gap is about collective action from government, employers, employees and society in general”, 20 February 2023, available at: <https://moldova.un.org/en/221016-interview-%E2%80%9CShifting-needle-gender-pay-gap-about-collective-action-government-employers>

⁶³ See data published by GenderPulse, available at: <https://genderpulse.md/ro/abilitare-economica/castigul-si-ecartul-salarial>

⁶⁴ According to data published by GenderPulse, the share of men employed with part-time work (4.1 %) is lower by 2.3 p.p. than in the case of women in this group (6.4 %), available at: <https://genderpulse.md/ro/abilitare-economica/ocuparea-fortei-de-munca/rata-de-ocupare>

⁶⁵ According to data published by GenderPulse, the employment rate of men with children under 6 years old (67.0 %) is higher by 29.7 p.p. than the proportion of women with children under the same age (37.3 %), available at: <https://genderpulse.md/ro/abilitare-economica/ocuparea-fortei-de-munca/rata-de-ocupare>



particular: key labour market indicators, such as the gender pay gap and information and communications technology skills. In addition, many areas – such as gender and poverty, physical and sexual harassment, women’s access to assets (including land), and gender and the environment – lack comparable methodologies for regular monitoring. Closing these gender data gaps is essential for achieving gender-related SDG commitments in the Republic of Moldova⁶⁶.

During the needs assessment meetings, the following challenges have been identified: The State Labour Inspectorate (including territorial inspectorates) does not have a centralized database for the collection of data disaggregated by gender, age, type of reports/violations of labour legislation examined. No statistical data can be presented regarding employee reports of discrimination based on gender.

Regarding the application of the legislation on equal remuneration, for the budget sector, Law No. 270 of 23 November 2018 on the unitary salary system in the budget sector is applicable, the principle of non-discrimination, fairness and consistency is provided, in the sense of ensuring equal treatment and equal remuneration for work of equal value (Article 3)⁶⁷.

Pursuant to Article 128, paragraphs 2¹-2² of the Labour Code, the employer is obliged to ensure equal pay between male and female employees for equal work or work of equal value. In assessing whether employees are performing work of equal value, the employer shall take into account the employee's work aspects, including: the degree of liability; level of qualification and experience; the effort and nature of the tasks involved; working conditions.

Regarding the availability of salary comparisons in the private sector, the new provisions of the Labour Code apply (Article 128). Pursuant to Article 128, paragraphs 2³-2⁴, employers of medium-sized and large enterprises are obliged to inform periodically, but not less than once a year (at the latest in the first semester of the year following the reporting year), their employees and/or their representatives about the gender difference in pay per category of employees and functions. The employer must make available to employees, in an easily accessible manner, information on the criteria used for the system of evaluation and classification of functions for determining pay levels, applied in the establishment.

ARTICLE 9. RIGHT TO VOCATIONAL GUIDANCE

Article 9 of the European Social Charter implies to set up and operate services that assist all persons in solving their problems relating to occupational choice and opportunity, with due regard to the individual’s characteristics. Such vocational guidance must be provided within the school system and the labour market, addressing in particular school-leavers and jobseekers. It must be provided free of charge; by qualified and sufficient staff; to a significant number of persons and by aiming and reaching as many people as possible. Equal treatment with regard to vocational guidance must be afforded to non-nationals of other States Parties lawfully resident or regularly working on the territory, which implies that no length of residence shall

⁶⁶ Available at: <https://data.unwomen.org/country/republic-of-moldova>

⁶⁷ Available at: https://www.legis.md/cautare/getResults?doc_id=138901&lang=ro

be required from students or trainees residing before starting training, except where these entered the territory with the sole purpose of attending training⁶⁸.

In its last report submitted in 2016, the Government of the Republic of Moldova indicated that *“information in respect of vocational guidance is disseminated by the National Employment Agency and its local branches via various means, such as radio and television programmes, the print media, leaflets and brochures published each year, not forgetting the agency’s Internet portals, www.anofm.md and www.angajat.md, and the social networks.*

The report reiterated the information provided in the previous one, namely that vocational guidance within the education system is governed by Government Decision No. 450 of 29 April 2004 concerning the “Regulation of professional guidance and psychological support of the population in the field of careers”, based on other legal instruments such as: Law No. 547 of 21 July 1995 on education, Law No. 102-XV of 13 March 2003 on employment and social protection of jobseekers, and the Decision of Parliament No. 253-XV of 19 June 2003, approving the fundamental standards on professional guidance, training and instruction of human resources. The organisation and supervision of vocational guidance within the education system is carried out by the Ministry of Economy, the Ministry of Education, the Ministry of Labour, Social Protection and the Family, and the National Employment Agency, in cooperation with other ministries, departments and local government agencies and enterprises, taking into consideration also the opinion of the social partners and NGOs”⁶⁹.

Given the information, in 2016 the European Committee on Social Rights concluded that the situation in the Republic of Moldova was not in conformity with Article 9 of the Charter on the ground that it has not been established that the right to vocational guidance within the education system and labour market is guaranteed⁷⁰.

Since the end of the last reporting period, the Law no. 547/1995 has been repealed by the Education Code of the Republic of Moldova and the Law no. 102/2003 has been repealed by Law no. 105/2018 on the promotion of employment and unemployment insurance.

In both general and professional technical education institutions, discussions about professions take place in leadership and civic education classes. In general education institutions, students' professional orientation takes place in each of these 2 subjects, with 10 hours allocated to each. In the special education institutions, the education framework provides for 8 hours of technological education where career guidance and management hours are carried out. At the same time, a psychologist works in the institution, who, according to the job description, has as attribution and responsibility within the school for the professional orientation and career guidance of the students.

Guidance and career orientation of young people with disabilities takes place within educational institutions (within lessons) such as guidance centers situated within educational

⁶⁸ ECSR, Digest of the case-law of the European Committee on Social Rights, June 2022, page 106 with the sources enumerated therein, available at: <https://rm.coe.int/digest-ecsr-prems-106522-web-en/1680a95dbd>.

⁶⁹ Twelfth report on the implementation of the European Social Charter submitted by the Government of the Republic of Moldova on 7 May 2016, page 19, available at: <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=0900001680654c42>

⁷⁰ Available at: [Conclusions 2016 - Moldova - article 9 \(coe.int\)](https://rm.coe.int/Conclusions%202016%20-%20Moldova%20-%20article%209/1680a95dbd)

institutions, the National Agency for Employment and its territorial subdivisions, through civil society organizations and through family involvement in professional guidance.

Persons with disabilities of working age who wish to integrate or reintegrate into the workforce have access to orientation, training and professional rehabilitation, regardless of the type and degree of disability. Vocational guidance and training services are offered by territorial bodies for employment according to the individual rehabilitation and social inclusion program. Vocational training is offered to persons with disabilities who are unemployed and are without professional experience, but also to those who, although employed, are recommended to undergo professional retraining in accordance with the individual rehabilitation and social inclusion program.

In order to solve problems regarding career development of persons with disabilities in the lifelong learning process, it becomes necessary to identify the optimal psychological conditions for development. Psychological assistance in the design and professional orientation of persons with disabilities requires deep knowledge of the persons' attitude towards this process, its reasons, personal resources and psychological barriers related to permanent learning. The National Employment Agency provides psychological assistance in the professional orientation of all persons, including those with disabilities, according to individual programs of rehabilitation and social inclusion.

On 8 September 2017, Government Decision No. 723 was adopted regarding the approval of the National Program for Social Inclusion of Persons with Disabilities for the years 2017-2022. One of the objectives of the Program was to increase the employment rate of persons with disabilities in the field of work by ensuring the measures of orientation and professional training based on individual needs.

On 11 December 2020, the Ministry of Education and Research of the Republic of Moldova launched the project "Development of qualified counselling and professional guidance services for students within psycho-pedagogical assistance structures." The aim of the project is the development of qualified counselling and professional guidance services for students, including those with special needs, within the Republican Center for Psycho-pedagogical Assistance and the 35 Psycho-pedagogical Assistance Services (SAP).

As far as the labour market, two types of vocational training are offered: vocational training for employees and vocational training for unemployed persons. The first is regulated by the Labour Code while the second is regulated by Law no. 105 of 14 June 2018 regarding employment promotion and unemployment insurance.

During the needs assessment meetings, the following challenges have been identified: lack of an efficient program for professional orientation at gymnasium and lyceum level, only several VET institutions organize visits to schools to present their educational offer. Some VET institutions, however, introduced the procedure of conducting survey among pupils right before graduation to assess their need and readiness for vocational training.

ARTICLE 10 § 1 RIGHT TO VOCATIONAL TRAINING. INCLUSION AND ACCESS BASED ON INDIVIDUAL APTITUDE

Article 10§1 of the European Social Charter obliges States to provide or promote the technical and vocational training of all persons, including persons with disabilities, in consultation with employers' and workers' organisations, and to grant facilities for access to higher technical and university education, solely on the basis of individual aptitude. States Parties must build bridges between secondary vocational education and university and non-university higher education and introduce mechanisms for the recognition of knowledge and experience acquired in order to achieve a qualification or to gain access to general, technical and university higher education. Facilities shall be granted to ease access to technical or university higher education, solely on the basis of individual aptitude. This can be achieved by avoiding registration fees or other educational costs creating financial obstacles for some candidates⁷¹.

The main indicators of compliance with Article 10§1 include the existence of the education and training system, its total capacity (in particular, the ratio between training places and candidates), the total spending on education and training as a percentage of the GDP; the completion rate of young people enrolled in vocational training courses and of students enrolled in higher education; the employment rate of people who hold a higher-education qualification and the waiting-time for these people to get a first qualified job⁷².

In its last report on non-accepted provisions of the European Social Charter (2021), no information was provided by the Moldovan authorities on the measures taken to ensure access to higher technical and university education. However, in their submission, the Moldovan authorities noted in general that the provisions of Article 10 concerning vocational training for jobseekers, unemployed persons, and persons requiring additional support on the labour market can be accepted for ratification⁷³.

In the 1st, 2nd, and 3rd reports on non-accepted provisions of the European Social Charter (2006, 2012 and 2018) Moldovan authorities stated that vocational training is regulated in Title VIII of the Labour Code. Article 212 of the Labour Code defines the terms "training", „vocational training", "continued vocational training" and "technical training". Pursuant to Article 213, paragraphs 1 and 2 of the Labour Code, the employer is required to create the necessary conditions and promote vocational training and technology training of his employees. In each company, the employer with the employee representative, establishes and approves an annual professional training plan. Under Article 214, the employee has the right to benefit from professional training and this right is mentioned in a written contract concluded between the employee and his employer. However, these provisions of the Labour Code are limited to the training of salaried employees and do not relate to university teaching and non-university higher education as well as professional training for non-university nationals.

⁷¹ Digest of the case-law of the European Committee on Social Rights, June 2022, page 107-108 with the sources enumerated therein, available at: <https://rm.coe.int/digest-ecsr-prems-106522-web-en/1680a95dbd>

⁷² Digest of the case-law of the European Committee on Social Rights, June 2022, page 107-108 with the sources enumerated therein, available at: <https://rm.coe.int/digest-ecsr-prems-106522-web-en/1680a95dbd>

⁷³ Available at: <https://rm.coe.int/4th-report-non-accepted-provisions-republic-of-moldova/1680a5eef6>

Given the information, in its second assessment (2012), the Committee considered that Article 10§1 could be accepted by the Republic of Moldova⁷⁴. Having received no new information in 2018 and 2021, it understood that the situation remained unchanged and therefore reiterated its opinion that there are no major obstacles to the acceptance by the Republic of Moldova of Article 10§1 of the Charter.

Since 2012 the regulatory framework for vocational training in the Republic of Moldova has not deteriorated and from the legal perspective it shall be noted that the right has been guaranteed.

The key legislation relevant for education, including vocational training, is the Education Code (in force as of 2014), which describes the main principles of service delivery in education and is further supported by other regulatory provisions⁷⁵.

There are three main types of VET providers, representing 90 educational institutions (in 2022/2023), decreasing by one institution compared to the previous academic year: 13 centers of excellence (including 1 private institution), 36 colleges (including 6 private institutions) and 41 vocational schools (1 institution less than the previous academic year). At the beginning of the academic year 2022/23, the number of students in technical vocational education was 46.0 thousand people (67 fewer students compared to the previous school year), including 12.8 thousand people - in centers of excellence, 20.0 thousand people - in colleges and 13.2 thousand people - in vocational schools⁷⁶. The educational and training activity in technical vocational education is provided by 3.8 thousand teachers. Dual training is also organised in both schools and companies. The Centres of Excellence are regulated by the provision of the Framework Regulations on the Organisation and Functioning of the Centre of Excellence of 2015. According to this provision, Centres of Excellence are expected to integrate both initial and continuous VET programmes and become centres of innovation as well as points of reference for didactic, curricular and methodological development and assurance⁷⁷.

VET programmes are provided at both secondary and post-secondary level (ISCED 3 and ISCED 4/5 level, respectively). Professional schools provide programmes at the secondary VET level. The duration of studies varies from 1 to 3 years depending on the particular specialisation. Post-secondary programmes are provided primarily by colleges and centres of excellence. Such programmes last for 4-5 years (or 2-3 years after the completion of secondary education).

⁷⁴ Available at:

<https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=090000168048316a>

⁷⁵ Such as Law 244/2017 on sector skills committees; Government Decision No 193/2017 on the approval of the Regulation on the continuous training of adults; Government Decision No 1199/2018 on the National Register of Qualifications; Government Decision No 1016/2017 on the approval of the National Qualifications Framework (NQF) of the Republic of Moldova; Government Decision No 201/2018 on the organisation and functioning of the National Agency for Quality Assurance in Education and Research; Government Decision No 70/2018 on the approval of the Regulation on the organisation of VET programmes for dual VET; the Framework Regulation on the validation of non-formal and informal education, approved by Ministry of Education, Culture and Research Order No 65/2019; and the Methodology for the development of qualifications, approved by Ministry of Education, Culture and Research Order No 217/2018.

⁷⁶ Data provided by the National Bureau of Statistics, available at: https://statistica.gov.md/ro/activitatea-institutii-de-invataman-profesional-tehnic-in-anul-de-studii-202-9454_60163.html

⁷⁷ See more: European Training Foundation, Quality Assurance in Vocational Training and Education in Republic of Moldova, 2021, page 8, available at: https://www.etf.europa.eu/sites/default/files/2021-12/qa_2021_eap_moldova_fiche_en_ro.pdf

Theoretical studies are combined with practical internships carried out both within the institutions and outside them. In 2014, with the support of donor organizations, dual education was introduced, which combines 70% of practical training in the company with 30% theoretical training.

One of the most important challenges for VET system is the decreasing number of students. In the academic year 2010-2011 it was 53.5 thousand and in 2020-2021 the number decreased to 44.8 thousand. However, in the last academic year the tendency was uprising, concerning the number of VET students. Thus, in the academic year 2022/23, 45.9 thousand students were enrolled in technical vocational education, including 14.3 thousand in secondary VET and 31.6 thousand in post-secondary VET⁷⁸. The number has increased comparing to academic year 2020/21, when 44.8 thousand students were included in VET system: 15.1 thousand in secondary VET and 29.7 thousand – post secondary VET⁷⁹. Comparing to 2016/17, the number of students in 2020/2021 decreased in secondary VET by 3.9 thousand and in 2021/2022 by 2.8 thousand.

Boys are more oriented towards secondary technical vocational education, and girls towards post-secondary technical vocational education. In the academic year 2022/23, more boys went to secondary technical vocational education (73.4% of total students at this level, in 2020/2021 it was 72,8%) and more girls – to post-secondary education (54.1%, in 2020/2021 it was 54,2%). The number of graduates in 2022/2023 in secondary VET was 5.5 thousand people, by about 2.5% less compared to the previous year⁸⁰. Around 6.3 thousand people graduated from post-secondary VET, increasing by about 1.4% compared to 2021.

What shall be noted, there are trades and specialties at the VET level that impose strict admission conditions, depending on the physical and cognitive abilities of the candidates for admission. Such conditions, being *de facto* restrictions, where justified and needed, although constituting limitations of individual's rights cannot be seen as discriminatory and so must be accepted.

The students from vulnerable groups in VET system.

Looking at the situation of Moldova in the light of Organisation for Economic Co-operation and Development and other countries in the region, it shall be noted that the Republic of Moldova has more pupils/students from disadvantaged backgrounds and fewer students from favoured backgrounds. The VET system is social oriented⁸¹. The Ministry of Education and Research annually offers 15 % of the total number of places (for each specialty/profession in VET institutions) provided in the state budget financing of enrolment plan, for the following categories of candidates: Roma children, children with severe, accentuated, and medium disability; children without parental care and support; children who have parents with severe

⁷⁸ Data available at: https://statistica.gov.md/ro/tinerii-in-republica-moldova-in-anul-2022-9578_60648.html

⁷⁹ Data available at: <https://statistica.gov.md/newsview.php?l=ro&id=7072&idc=168>

⁸⁰ Data available at: https://statistica.gov.md/ro/tinerii-in-republica-moldova-in-anul-2022-9578_60648.html

⁸¹ Data available at:

https://gpseducation.oecd.org/IndicatorExplorer?query=47&indicators=C004*C209*C210*C208*A352*A021*A485*A486*A022*A023*A508*A509*A245*A246*A510*A511*A514*A515*A512*A513*A243*A244*A489*A490*A492*A496*C255*C256*A203*A209*A279*A280*A206*A281*C142*C207*A282*A284*A286*A287*C211*C212*C213*C214*A347*A348*A207*A349*A350*C223*C224*C225*C226*C257*C258*N081*N082*N086*N098*N099*R098*S080*S081*F023

disabilities; children from families with four and more children⁸². According to Decision No. 132 of 4 March 2020 for the approval of the Regulation on the method of establishing and paying allowances for some categories of children and young people, the beneficiaries of allowances are the following: children with the status of a child temporarily left without parental protection or a child left without parental protection; young persons until reaching the age of 18, holding the status of a child temporarily left without parental protection or a child left without parental protection, domiciled in the territory of the Republic of Moldova, who are studying at education levels 3-7, starting with secondary professional technical education, including in the fields of the military, security and public order, as well as integrated higher studies and having residency in higher medical and pharmaceutical education; children with the status of a child temporarily left without parental protection or the status of a child left without parental protection who are placed in a boarding school. A single allowance upon graduation from the educational institution is 10 000 MDL⁸³.

Although VET system seems to be for many reasons attractive for youth from vulnerable groups, annually around 1.000 places allocated by state are not covered by VET institutions. It means that the VET system has the capacity to integrate annually at least 1.000 students more, including students from vulnerable groups, especially NEET group.

In order to implement the inclusive education in VET system, in 2018 Order No. 1430 was approved by the Ministry of Education and Research⁸⁴. Furthermore, methodological recommendations regarding inclusive education in VET were developed. Besides, with the support of Austria's Agency for Education and Internationalisation (OeAD), the project “I-VET inclusive education in Moldova” was implemented.

During the needs assessment discussions the following difficulties have been identified: challenges with assuring effectiveness of promotion of technical and vocational training to persons from vulnerable groups, challenges with attracting such persons into the VET system (no promotion provided by state institutions at national or regional level, VET institutions are left with this issue alone, however many of them lack knowledge and skills in this area, though there are some which cope with this issue quite well); lack of cooperation among VET institutions in promotion and attracting new students into VET system; lack of exchange of experience and good practises among VET institutions; lack of clear, good practise to determine the profiles of VET trainings for the future, weak adjustment of the professions in VET's offer to the labour market demands (resulting in mismatch of supply and demand); lack of national network to track the professional paths of graduates from VETs institution, some VET institutions monitor the employment path of their graduate on their own (eg. College of Soroca have its internal regulation to follow up and guide graduates); lack of record keeping; challenges with mainstreaming Roma minority into the whole education system, including primary and secondary education, resulting in poor opportunities of Roma adolescents to get involved in VET institutions' offers; lack of awareness of persons from vulnerable groups about their rights, educational opportunities adjusted to special needs and support that can be provided in the area of vocational training; challenges with attracting enterprises (especially big, modern,

⁸² The Ministry of Education and Research Order No.459 of 20 May .2020, available at:https://mec.gov.md/sites/default/files/ordinul_459_cu_anexe_0.pdf

⁸³ https://www.legis.md/cautare/getResults?doc_id=120793&lang=ro

⁸⁴ Ministry of Education, Culture and Research (MECR) Order No. 1430 of 25 September 2018 amended by MECR Order no. 1486 of 13 November 2019 (Annex 1) Methodological milestones regarding inclusive education in the technical vocational education, available at: https://mec.gov.md/sites/default/files/reperere_pentru_site.pdf

international ones which might be more likely to provide places for persons from vulnerable groups) to get involved in dual education system and provide training and later working opportunities to young persons, including young persons from vulnerable categories; challenges with attracting young graduates of dual education to become employed within the enterprise they were gaining practise (as lots of young people make use of better opportunities offered abroad, which makes companies loose interest in getting involved with dual education in the future); lack of gender oriented statistics regarding enrolment in dual education; lack of network/platform of exchange of experiences and good practises, especially concerning good practises of accommodating and supporting the students from vulnerable groups between enterprises involved in dual education.

ARTICLE 10§2. RIGHT TO VOCATIONAL TRAINING. APPRENTICESHIP

Article 10§2 of the European Social Charter guarantees young people the right to access to apprenticeship and other training arrangements. Apprenticeship can mean training based on a contract of employment⁸⁵ between the employer and the apprentice and leading to vocational education, whereas other training arrangements may consist of school-based vocational training. They both must combine theoretical and practical training and close ties must be maintained between training establishments and the working world. Apprenticeship is assessed on the basis of the following elements: length of the apprenticeship and division of time between practical and theoretical learning; selection of apprentices; selection and training of trainers; termination of the apprenticeship contract⁸⁶. Equal treatment with respect to access to apprenticeship and other training arrangements must be guaranteed to non-nationals.

In its last report on non-accepted provisions of the European Social Charter, the Government of the Republic of Moldova indicated that the employer has the right to conclude an apprenticeship contract with a person who is searching for a job and does not have a professional qualification (Article 216 of the Labour Code). The apprenticeship contract concluded in writing is a civil law contract and is regulated by the Civil Code and other normative acts. No additional information was provided.

Given the information, in its first assessment (2006), the Committee considered that the legislation on the apprenticeship contract was sufficient for the purposes of Article 10§2 and concluded that this provision could be accepted by the Republic of Moldova. Having received no new information, in 2021, it understood that the situation remained unchanged and therefore reiterated its opinion that there are no major obstacles to the acceptance by the Republic of Moldova of Article 10§2 of the Charter⁸⁷.

⁸⁵ ECSR, Conclusions XIX-1 (2008), Slovak Republic; Conclusions XIV-2 (1998), Statement of Interpretation on Article 10§2; Conclusions 2003, Sweden.

⁸⁶ ECSR, Conclusions XVI-2 (2003), Malta.

⁸⁷ Available at: <https://rm.coe.int/4th-report-non-accepted-provisions-republic-of-moldova/1680a5eef6>

Since 2006 the regulatory framework for apprenticeship in the Republic of Moldova has not deteriorated and from the legal perspective it shall be noted that the right has been guaranteed.

According to Article 216, paragraph 1 of the Labour Code, in order to be employed as an apprentice, the natural person must meet two conditions – firstly one must be looking for a job and secondly one mustn't have professional qualification. Taking the above into consideration, it shall be noted that the minimum age at which natural person can enter into an apprenticeship contract is not clear, as it can be understood both as the age at which one acquires the capacity to work or as the age when one acquires full legal capacity. To address this issue, an amendment to Article 216 of the Labour Code shall be advised. Until the suggested change in the law however, due to the fact that under this contract the apprentice performs work in exchange for which he receives the due remuneration, the minimum age for concluding such a contract shall be the age of acquisition of the employment capacity.

Furthermore, Article 216 of the Labour Code does not establish the maximum age up to which an apprenticeship contract can be concluded. Until the amendment of the Labour Code by Law No. 205 for the amendment and completion of the Labour Code of the Republic of Moldova of 20 November 2015, Article 216, paragraph 1 of the Labour Code had the following content "the employer has the right to conclude an apprenticeship contract with a person up to the age of 30 who is looking for a job and who does not have a professional qualification". Considering the express establishment in the previous legal regulation of the maximum age up to which a person could be employed as an apprentice, it follows that the legislator regulated the apprenticeship contract as a legal instrument necessary for the professional training of young people. We believe that the amendment made by the legislator to the text "with a person aged up to 30 years" by the words "with a person" was aimed at increasing the circle of individuals who are able to conclude such a contract, and so at the reanimation and popularization of this legal institution.

An apprenticeship contract shall be concluded in writing. The written form of the contract is demanded under the Labour Code, however, what shall be noted, is that the form is reserved under *ad probationem* and not *ad validatem* condition, which is not beneficial for trainees.

The duration of apprenticeship or continuous vocational training shall not exceed, during the week, the duration of working time established by this Code for the age and profession concerned when performing the corresponding work. The time taken by the apprentice to participate in theoretical activities related to vocational training shall be included in the working time. The term of the apprenticeship contract, shall begin to run on the date indicated in the contract, being extended by the period of sick leave and in other cases provided for by the contract (Article 218, paragraph 5 of the Labour Code).

The apprenticeship contract is an individual work contract, of a particular type, because it gives the apprentice the rights and obligations provided for by labour legislation. Thus, in accordance with Article 219, paragraph 1 of the Labour Code, with regard to apprentices and employees who have concluded a continuing professional training contract, labour legislation is applied, including legislation on occupational safety and health. Moreover, the clauses of apprenticeship contracts and continuing professional training contracts, the provisions of collective agreements and collective labour contracts that contravene the legislation in force are considered null and unenforceable.



The apprenticeship contract, like the individual employment contract, is a strictly personal contract, compared to civil employment contracts which are only in principle *intuitu personae* contracts. The personal nature of the apprenticeship contract has a double meaning: on the one hand, from the apprentice's point of view, one concluded the apprenticeship contract with a certain employer that he considered suitable to provide him with professional training; on the other hand, from the point of view of the employer, one concluded the apprenticeship contract at the workplace with a person who possessed a minimum of skills.

What prevails in the apprenticeship contract is the professional training, not the performance of the work itself, the latter being only the way to ensure the qualification of the person in question. The entire regulation of the workplace apprenticeship contract, taking into account the previously mentioned arguments, denotes by its essence that the workplace apprenticeship contract is an individual employment contract of a particular type.

Law on dual education No. 110 of 21 April 2022 provides the objectives of dual education, which are: ensuring a qualified workforce according to the requirements of the activity sectors and the labour market, contributing to strengthening the competitiveness and development of the economy of the Republic of Moldova, ensuring employment opportunities after graduation, ensuring the conditions for lifelong learning, promoting an education oriented towards values, creativity, fundamental knowledge, skills and abilities of direct utility in the profession and in society, ensuring the conditions for the acquisition and development of professional skills, ensuring the conditions for the free development of human individuality for social inclusion, employment on the labour market and the development of the entrepreneurial spirit.

The vocational training program through dual education is organized on the basis of the cooperation agreement in dual education, concluded between the technical vocational education institution and the unit or between the technical vocational education institution and/or the vocational training centers and the unit, which establishes the conditions of collaboration, the rights and obligations of the parties.

Dual education provides an alternative form of professional training, organized on the basis of the cooperation agreement in dual education and according to the contract of professional training in dual education concluded with the unit, which provides as a basic responsibility the practical training of students. A basic principle of dual education is that of non-discrimination, ensuring equal conditions of access to dual education, regardless of race, colour, nationality, ethnic origin, language, religion or beliefs, sex, age, disability, opinion, political affiliation, wealth, social origin or any other similar criterion. Respectively, people from vulnerable groups have access to dual education based on Law no. 110/2022.

During the needs assessment discussions the following difficulties have been identified: lack of awareness of employers about the possibility to use apprenticeship contracts (beyond the system of dual education) and lack of promotion of this form of gaining experience and skills; lack of supervision of such working relations by the State Labour Inspectorate (as apprenticeships are civil contracts and the supervision is provided by the educational institution and the Chamber of Commerce) and as a result more possible abuses of apprentice's rights. However, what shall be stressed, the representatives of social partners (especially employers) highlighted many advantages of apprenticeship in relation to vocational education from the perspective of employers and their possible eagerness to conclude such contracts.



ARTICLE 10§3. RIGHT TO VOCATIONAL TRAINING. VOCATIONAL TRAINING AND RETRAINING OF ADULT WORKERS

Article 10§3 of the European Social Charter concerns measures designed to make access to vocational training effective in practice. These concern the obligation to provide or promote (a) adequate and readily available training facilities for adult workers; (b) special facilities to the re-training of adult workers needed as a result of technological development or new trends in employment. Both employed and unemployed persons, including young unemployed people and self-employed persons, are covered by the provision. As regards employed persons, States Parties are obliged to provide facilities for training and retraining of adult workers, so as to fight against the deskilling of still active workers at risk of becoming unemployed as a consequence of technological and/or economic development. As regards unemployed people, the availability of vocational training is measured by the activation rate, i.e. the ratio between the annual average number of previously unemployed participants in active measures divided by the number of registered unemployed persons and participants in such measures. In addition, the existence of legislation on individual leave for training, its characteristics, and the sharing of the burden of the cost of vocational training among public bodies, unemployment insurance systems, enterprises, and households, are to be taken into account⁸⁸.

In its last report on non-accepted provisions of the European Social Charter⁸⁹, the Government of the Republic of Moldova indicated that the employer has the right to conclude a continuous vocational training contract with any employee of the entity. Such a contract concluded in writing is a supplementary act to the individual employment contract and is governed by labour legislation and other normative acts, containing the norms of labour law. No additional information was provided. However, in their submission, the Moldovan authorities note that in general, the provisions of Article 10 of the European Social Charter concerning vocational training for jobseekers, unemployed persons, and persons requiring additional support on the labour market can be accepted for ratification.

In the first report on non-accepted provisions of the European Social Charter (2006) Moldovan authorities stated that under Article 215 of the Labour Code, “The continuing professional training contract is a special contract, additional to the individual employment contract, concluded in writing, on the basis of which the employee undertakes organized vocational training by the employer, in order to acquire a professional qualification”⁹⁰. However, the legislation in force does not give any indication of the types of continuing vocational education and training offered on the market work, training schemes intended for certain categories of people - women, for example - the number of people who follow a training

⁸⁸ Digest of the case-law of the European Committee on Social Rights, June 2022, page 109 with the sources enumerated therein, available at: <https://rm.coe.int/digest-ecsr-prems-106522-web-en/1680a95dbd>.

⁸⁹ Fourth Report on the Non-Accepted Provisions of the European Social Charter, Republic of Moldova, available at: [https://rm.coe.int/4th-report-non-accepted-provisions-republic-of-moldova/1680a5eef6\(last](https://rm.coe.int/4th-report-non-accepted-provisions-republic-of-moldova/1680a5eef6(last) accessed on 19.10.2023)

⁹⁰ Report of the meeting with the representatives of the Government of the Republic of Moldova on the non-accepted provisions of the revised European Social Charter, Republic of Moldova, , Chisinau, 21 March 2006, available at: <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=090000168048bb64>

and their distribution by gender, as well as the total amount of expenditure related. Furthermore, the legislation makes no provision for training for the unemployed.

Given the information, in its first assessment (2006), the Committee considered that Article 10§3 could be accepted by the Republic of Moldova. Having received no new information in 2021, it understood that the situation has remained unchanged and therefore reiterated its opinion that there are no major obstacles to the acceptance by the Republic of Moldova of Article 10§3 of the Charter.

Since 2006 the regulatory framework for vocational training in the Republic of Moldova has improved. Vocational training can be achieved also through dual education.

Based on the estimations developed by the Ministry of Education and Research the share of VET graduates employed in 2021 was approximatively 50 %. The VET institutions indicated even more than 50 %. In Dual VET the share was 60%. Based on the estimations of the VET institutions at least 30 % of VET graduates leave the country.

Regarding the degree of employers' satisfaction with VET graduates there is no relevant data on this issue, which shall be noted as a missed opportunity. During the discussions led throughout the needs assessment mission conducted on 6 – 8 September 2023, the representatives of employers stressed that the number of qualified workforce is insufficient and both the candidates for employees and employees lack soft skills such as communication skills; job interviews skills; professional ethics; knowledge of foreign languages; entrepreneurial skills; the ability to cooperate for the development of projects adaptability in various social contexts, computer skills.

Concerning the official data on the employment of the VET graduates, the National Agency for Quality Assurance in Education and Research evaluates the VET institutions on the linkage with the labour market. Data on the path of graduates exists at the level of institutions. The National Agency for Quality Assurance in Education and Research, in the external evaluation process for the respective standard, examines the way of completing the data, the periodicity, as well as the employment rate. However, the problem is in the relevance of these data. In practice, there is no information about what happens to those students.

Regarding the internships, within VET institutions the Deputy Director is responsible for the internships of the students. Internships are well regulated by the Ministry of Education and Research, assurance but sometimes students do express their regret that during the internship in companies they are not very engaged, although there is a link with the VET institutions. This process should be monitored more thoroughly, and the VET institutions should consolidate their relationship with the companies.

ARTICLE 10§4. RIGHT TO VOCATIONAL TRAINING. LONG TERM UNEMPLOYED PERSONS

Article 10§4 of the European Social Charter obliges States Parties to fight long-term unemployment through retraining and reintegration measures. A person who has been without work for 12 months or more is long-term unemployed⁹¹. The main indicators of compliance with this provision are the types of training and retraining, measures available on the labour

⁹¹ ECSR, Conclusions 2003, Italy.

market, the number of persons in this type of training, the special attention given to young long-term unemployed, and the impact of the measures on reducing long-term unemployment.

Equal treatment with respect to access to training and retraining for long-term unemployed persons must be guaranteed to non-nationals.

In last report on non-accepted provisions of the European Social Charter, no information was provided by the Government of the Republic of Moldova on the retraining and reintegration measures taken to fight long-term unemployment.

However, given the provided information, in its second assessment (2012), the Committee considered that Article 10§4 could be accepted by the Republic of Moldova. Having received no new information, in 2021 it understood that the situation remained unchanged and therefore reiterated its opinion that there are no major obstacles to the acceptance by the Republic of Moldova of Article 10§4 of the Charter⁹².

Since 2012 the regulatory framework for apprenticeship in the Republic of Moldova has not deteriorated and from the legal perspective it shall be noted that the right has been guaranteed. Detailed information on the issue have been provided in the chapter concerning Article 10§1.

ARTICLE 10§5. RIGHT TO VOCATIONAL TRAINING. MEASURES TO ENSURE FULL USE OF VOCATIONAL TRAINING FACILITIES

Article 10§5 of the European Social Charter provides for complementary measures which are fundamental to make access to vocational training effective in practice, such as: reducing or abolishing any fees or charges; granting financial assistance in appropriate cases; including in the normal working hours' time spent on supplementary training taken by the worker, at the request of his employer, during employment; ensuring, through adequate supervision, in consultation with the employers' and workers' organisations, the efficiency of apprenticeship and other training arrangements for young workers, and the adequate protection of young workers generally. Equality of treatment shall be provided to nationals of other Parties lawfully resident or regularly working on the territory of the Party concerned. Financial assistance should at least be available for those in need and shall be adequate.

In its last report on non-accepted provisions of the European Social Charter, the Government of the Republic of Moldova indicated that access to vocational training for jobseekers, unemployed persons, persons who need additional support in the labour market, including young people, is made in accordance with the provisions of Law No. 105 of 14 June 2018 on the promotion of employment and unemployment insurance, which aims to prevent and reduce unemployment and its social effects, to ensure a high level of employment and adaptation of the workforce to the requirements of the labour market.

The law provides for several forms of vocational training for the unemployed through qualification, retraining, in-depth training and specialisation courses; on-the-job training for the unemployed without qualifications; vocational training for the unemployed without work

⁹² Available at: <https://rm.coe.int/4th-report-non-accepted-provisions-republic-of-moldova/1680a5eef6>

experience, especially young people; and certification of knowledge and skills acquired in non-formal and informal educational settings. These measures aim to increase the employment chances of the unemployed and are also a solution to improve the gaps between supply and demand in the labour market.

During the period when the unemployed are attending vocational requalification training courses, their expenses are covered as follows: training, accommodation (in the proportion of 20% of the national average monthly wage of the previous year, for each month's rent) and transport, when the unemployed have to travel to another locality to participate in the training. Unemployed people who attend training courses also benefit from a scholarship.

Given the information, the Committee reiterated its opinion from previous Conclusions, that there are no major obstacles for the Republic of Moldova to accept Article 10§5 of the Charter. It welcomed the readiness of the Moldovan authorities to accept the provisions related to vocational training and called on the Republic of Moldova to accept this provision and Article 10 of the Charter without delay⁹³.

Since 2021 the regulatory framework for measures to ensure full use of vocational training facilities in the Republic of Moldova has not deteriorated and from the legal perspective it shall be noted that the right has been guaranteed. Detailed information on the issue have been provided in the chapter concerning Article 10 § 1.

ARTICLE 20. RIGHT TO EQUAL OPPORTUNITIES AND EQUAL TREATMENT IN EMPLOYMENT AND OCCUPATION WITHOUT SEX DISCRIMINATION

Article 20 of the European Social Charter guarantees the right to equality at all stages of working life – access to employment, remuneration and other working conditions, vocational training, guidance and promotion and prohibits dismissal and other forms of detriment on grounds of sex. Article 20 is the *lex specialis* in relation to Article 1§2 of the Charter, which prohibits all discrimination at work⁹⁴. The principle of equal treatment of women and men is understood to mean the absence of any discrimination on the grounds of sex. Equal treatment precludes any discrimination, whether direct or indirect⁹⁵.

Acceptance of Article 20 entails the following obligations for States Parties:

- the obligation to promulgate this right in legislation⁹⁶;
- the obligation to take legal measures designed to ensure the effectiveness of this right⁹⁷. In this regard, such measures must provide for the nullity of clauses in collective agreements and individual contracts which are contrary to the principle; as well as for adequate appeal procedures where the right has been violated and for the effective protection of workers against any retaliatory

⁹³ Ibid.

⁹⁴ ECSR, Conclusions 2002 Statement of Interpretation on Article 20.

⁹⁵ ECSR, Conclusions XIII-5, Sweden, Article 1 of the Additional Protocol.

⁹⁶ ECSR, Conclusions XIII-3 (1995), Statement of Interpretation on Article 1 of the Additional Protocol.

⁹⁷ ECSR, Conclusions XIII-3 (1995), Statement of Interpretation on Article 1 of the Additional Protocol.

measures (dismissal or other measures) taken as a result of their demand to benefit from the right⁹⁸.

- the obligation to define an active policy and to take practical measures to implement it⁹⁹.

For States Parties which have accepted both Article 1§2 and Article 20, the Committee examines under the latter the general framework for guaranteeing equality between women and men (equal rights, specific protection measures, situation of women in employment and training schemes, measures to promote equal opportunities)¹⁰⁰. As a result, it does not deal specifically with discrimination based on sex under Article 1§2 with regard to those States Parties¹⁰¹.

In its last report submitted in 2016, the Government of the Republic of Moldova indicated that under Article 18 of Law No. 121 of 25 May 2012 on ensuring equality, all persons who consider themselves victims of gender discrimination have the right to initiate legal proceedings and request:

- the recognition of a violation of their rights;
- the prohibition of the continuing violation of their rights;
- the restoration of the situation preceding the violation of their rights;
- compensation for any pecuniary or non-pecuniary damage incurred and recovery of legal expenses;
- a statement that the act which led to the discrimination against them is void.

The report added that if the judicial body finds that the principle of non-discrimination has been violated, various types of penalty may be imposed on employers, depending on the type of offence committed. With regard to a shift in the burden of proof, the report states that, under Article 19 of Law No. 121, the persons who initiate legal proceedings must present the facts through which it can be established that a discrimination took place. The burden of proof that there has not been a discrimination lies with the defendant, save for facts which incur criminal liability.

Given the information, in 2016 the European Committee on Social Rights concluded that the situation in the Republic of Moldova was not in conformity with Article 20 of the Charter on the ground that not all professions were open to women, which constituted discrimination based on sex¹⁰². At the material time¹⁰³, Article 248 of the Labour Code of Moldova, prohibited the employment of women in arduous and underground work except for work in health and social services that „does not require physical effort”. The list of employment positions considered to be arduous and from which women were excluded was to be drawn up by the Government in consultation with employers' organisations and trade unions. The said regulations led the Committee to the conclusion of non-conformity.

⁹⁸ ECSR, Conclusions XIII-3 (1995), Statement of Interpretation on Article 1 of the Additional Protocol.

⁹⁹ ECSR, Conclusions XIII-3 (1995), Statement of Interpretation on Article 1 of the Additional Protocol.

¹⁰⁰ ECSR, Conclusions 2002, Statement of Interpretation on Articles 1§2 and 20.

¹⁰¹ ECSR, Conclusions 2002, Statement of Interpretation on Article 20.

¹⁰² Available at: [Conclusions 2016 - Moldova - article 20 \(coe.int\)](https://conclusions.coe.int/conclusions/2016/Moldova/article-20)

¹⁰³ Labour Code of the Republic of Moldova (Law No. 154-XV of 28 March 2003), Official Journal „Monitorul Oficial” No. 159-162, article 648.

Since the end of the last reporting period, amendments made to the Labour Code in 2017 (in force since 18 August 2017)¹⁰⁴ partially addressed this concern. The version of Article 248 of the Labour Code as amended in 2017 and as is currently in force reads: „It is forbidden to use the labour of pregnant women, women who have recently given birth and those who are breastfeeding in underground works in mines, as well as in any other activities that pose risks to their safety or health or that may have repercussions on pregnancy or breastfeeding, according to the minimum requirements approved by the Government”.

What is more, Law No. 121 of 25 May 2012 on ensuring equality was amended. A separate article was dedicated to the field of work - *Prohibition of discrimination in the field of work and in the exercise of a profession*. Pursuant to Article 7, paragraph 1 of Law No. 121, any distinction, exclusion, restriction or preference on the basis of protected criteria which has the effect of limiting or undermining equality in the choice of employment, profession, termination, suspension, modification or termination of employment, direct activity and vocational training shall be prohibited. The prohibition of discrimination on grounds of sexual orientation will apply in the field of employment and occupation. Any distinction, exclusion, restriction or preference on the basis of protected criteria the aim or effect of which is to limit or undermine equality in membership of, or membership of, an organisation of employees or employers, or in any organisation whose members exercise a particular profession, including equality of access to the benefits derived from that organisation and to the accession to or pursuit of a profession, shall be prohibited (Article 7 §1(1)).

Actions committed on the basis of protected criteria, such as: placement of job advertisements indicating conditions and criteria that exclude or favour certain persons; laying down conditions and criteria which exclude or favour certain persons from joining or acceding to a professional organisation or from acceding to or pursuing a profession; unfounded refusal, based on protected criteria, real or presumed, of employment, promotion or resignation of the person; groundless refusal to admit persons to professional qualification courses; unequal pay for equal work or work of equal value; differentiated distribution, based on protected criteria, real or assumed, of work tasks, which results from granting a less favourable status to certain persons; harassment or any other action, are contrary to the legal provisions (Article 7, paragraph 2 of Law No. 121 of 25 May 2012).

The employer is obliged to ensure the information on protection against discrimination and sexual harassment, including solutions suggested in case of discrimination and on the liability of the employer, to all employees at the workplace by displaying in visible places the respective provisions of the unit's internal regulations.

If a person believes that the employer hired, promoted, or granted another person facilities based on gender or committed other discriminatory actions, one is entitled to request a written presentation of the motivation for the decision. The employer is obliged to respond to such request within 30 days from the date of its submission. Otherwise, the person is entitled to initiate an action according to the law.

¹⁰⁴ Law No. 157 of 20 July 2017 amending and supplementing the Moldovan Labour Code No. 154-XV of 28 March 2003, Official Journal „Monitorul Oficial” No. 301-315 (6224-6238), 18.8.2017.



What else shall be noted is that **Article 248 of the Labour Code** still prohibits certain categories of women from working in mining and other industries that pose a risk to their safety or health. This issue was a matter of concern for the UN Committee on the Elimination of Discrimination against Women leading it to recommend repealing this provision and removing „restrictions on the employment of certain categories of women in the listed professions, shift to conducting individual assessments and improve the working conditions in all industries”¹⁰⁵. The same concern was also expressed by Council of Europe international expert Olivier De Schutter in „Report on Needs Assessment in the area of Social Rights in the Republic of Moldova” conducted under the Council of Europe Project “Framing cooperation for social rights development in the Republic of Moldova”¹⁰⁶ in 2020.

Although the list of prohibited professions established in 1993 by governmental decree No. 624 was repealed in October 2020¹⁰⁷, this would not seem to ensure full compliance with the requirement of equal treatment, since the current formulation of Article 248 of the Labour Code still prohibits the employment of women in „activities that pose a risk to their safety or health or that may have an impact on the pregnancy or breastfeeding” and lays grounds for a new government decision establishing a new list of professions outlawed to women.

Another concern which shall be raised from the perspective of equality of rights on the basis of sex, derives from **Article 251 of the Labour Code**. The latter includes certain safeguards for instance in cases of collective dismissals or of insolvency of the employer benefiting women with children up to the age of 4 while not providing the same guarantees to men with children up to the same age. Although the motivation behind the said provision is to safeguard the best interests of the child, it shall be stressed that such safeguards benefitting women exclusively reinforce stereotypes about gender roles and contravene the principle of equality¹⁰⁸.

Currently, most detailed regulation of the principle of equality and protection against discrimination on the basis of sex is provided by Law No. 5 of 09 February 2006 regarding ensuring equal opportunities between women and men and by Law No. 121 of 25 May 2012 regarding ensuring equality. Provisions of those two acts have not been amended simultaneously, and as a result of more amendments, Law No 121 is in many regards more progressive. In consequence, what shall be recommended is **improving Law No. 5**.

What shall be noted at the beginning is that in Law No. 5, Article 10 was amended to require firstly the inclusion in individual labour contracts, collective labour contracts and collective agreements the procedures necessary to ensure equality between women and men, and additionally the provisions related to the prevention and combating of sexual harassment at work.

¹⁰⁵ UN Women, Concluding Observations adopted in March 2020, CEDAW/C/MDA/CO/6, 10 March 2020, paragraph 32, b), and paragraph 33, b).

¹⁰⁶ Available at: <https://rm.coe.int/moldova-needs-assessment-31-12-2020-final/1680a18a35> p. 9.

¹⁰⁷ Repealed by Government Decision No. 722 of 30 September 2020 amending some Government decisions and repealing a Government decision, published on 02 October 2020 in the Official Journal „Monitorul Oficial” No. 247-257, Article 857; in force since 02 October 2020; available at: https://www.legis.md/cautare/getResults?doc_id=123356&lang=ro

¹⁰⁸ The concern was also raised by the Council of Europe international expert Olivier De Schutter in „Report on Needs Assessment in the area of Social Rights in the Republic of Moldova” conducted under the Council of Europe Project “Framing cooperation for social rights development in the Republic of Moldova” in 2020.

However, amendments suggested by the CEDAW committee on the basis of article 1 of the International Convention on the Elimination of All Forms of Discrimination against Women, concerning **the inclusion of a comprehensive definition of discrimination against women** that covers, in addition to direct and indirect discrimination, discrimination in the public and private spheres and intersecting forms of discrimination¹⁰⁹, should still be reminded and re-recommended¹¹⁰.

Regarding **the enforcement of the Law No 121 and the Law No 5**, concern shall be expressed regarding **the persistence of the gender inequalities** in employment existing in practice, notwithstanding the principle of equality guaranteed in national legislation. According to data published by the National Bureau of Statistics of the Republic of Moldova, population employment rate (in %) in 2022 was 36,8 for women and 44,7 for men¹¹¹, though slight progress might be noted from 2021, when the rate was 35,4 for women and 44,7 for men¹¹². Additionally, **vertical and horizontal occupational segregation** seem a pending issue in Moldova. Concerning the vertical one; e.g. in the sector of financial and insurance activities in 2021, the share of women employed was by 31.3 p.p. higher than that of men, however, women's monthly salary was 41.4% less than the salary of men; in the sector of professional, scientific and technical activities, the share of women employees was by 8.8 higher than men's while women's monthly salary was 11,5% lower than men's. Regarding the horizontal occupational segregation, sectors of construction (87,9%), agriculture, forestry and fisheries (73,7%) and transport and storage (71,7%) stay dominated by male employees while sectors of health and social work (79,9%), education (77,1%) and financial and insurance activities (65,7 %) stay dominated by female ones¹¹³.

In 2020, the Equality Council identified and raised the following issues in the examined complaints:

- undermining equal treatment in the application of employee guarantees and rights;
- professional discrediting, psycho-emotional intimidation and undermining of equal treatment of employees who have an active civic position and a well-defined opinion;
- the refusal to reasonably accommodate the work schedule of employees with family responsibilities in the context of pandemic crisis;
- undermining equal treatment in the application of employee guarantees and rights;
- posting job ads with conditions that favour certain people;
- obstruction of the right of the prevented to be employed in remunerated activities¹¹⁴.

What shall be stressed, in recent years, important progress has been made towards achieving gender equality in Moldova. Women have gradually but steadily increased their representation in leadership and decision-making processes, including women from

¹⁰⁹ CEDAW/C/MDA/CO/6, 10 March 2020, para. 11.

¹¹⁰ Recommended also by the Council of Europe expert Olivier De Schutter in „Report on Needs Assessment in the area of Social Rights in the Republic of Moldova” conducted under the Council of Europe Project “Framing cooperation for social rights development in the Republic of Moldova” in 2020.

¹¹¹ Data available at: https://statistica.gov.md/en/statistic_indicator_details/28

¹¹² Data available at: <https://genderpulse.md/ro/abilitare-economica/ocuparea-fortei-de-munca/rata-de-ocupare>

¹¹³ Data available at: <https://genderpulse.md/ro/abilitare-economica/castigul-si-ecartul-salarial>

¹¹⁴ Available at: <https://egalitate.md/wp-content/uploads/2016/04/final-infografic-COE-discriminare-RO-1.pdf>

underrepresented groups. Moldova has ratified the Council of Europe Convention on preventing and combating violence against women and domestic violence, and various laws and policies are being amended to eliminate the main barriers that prevent women from participating in the labour market¹¹⁵.

Despite this progress, gender inequalities persist and gender stereotypes still prevail in society. Women remain underrepresented in the labour market due to the persistence of patriarchal attitudes and deep-rooted stereotypes. Women from underrepresented groups (e.g., Roma women, women with disabilities and rural women) have even lower employment rates due to multiple forms of discrimination¹¹⁶.

On 1 January 2022 the share of women in higher-level public management positions is 60%, public management positions - 70%, executive public positions - 76%. Public positions with special status are mainly occupied by men - 80%. Women are less represented in positions of public dignity (31%). From the data presented by the public authorities, it follows that the share of women in positions of public dignity differs greatly across the levels of administration. Thus, there is a gender imbalance in Level II Local Public Administration – where there are 18% women and 82% men, down 0.8% compared to 2020¹¹⁷.

The gender representation in the Parliament has been quite fluctuating, and the number of female deputies decreased from 41 in 2021 to 36 in 2022, reaching in 2023 a number of 39 deputies, who currently hold this position¹¹⁸.

In 2021, the Classifier of occupations from the Republic of Moldova was modified, respecting the gender dimension¹¹⁹, **however the Government Decision No. 425 of 3 July 2015 has not been modified, in the sense of assigning professions by gender**¹²⁰.

The legislation was also amended, imposing on employers the obligations: to ensure equal conditions for women and men combining work and family obligations; to introduce into the internal regulations of the unit the prohibition of discrimination under any criteria and prohibition of sexual harassment¹²¹.

During the discussions conducted over the needs assessment meetings with different stakeholders the following issues have been raised: decrease of women's involvement in the labour market last year resulting from complex facts such as - pandemic rise, lack of child care facilities available, performing most of domestic work, high level of men migration, long-term disconnection from labour market (due to childcare leaves, one after another), skills mismatch not addressed by VET institutions; high gender pay gap (which has

¹¹⁵ UN Women Moldova, 17 May 2023, <https://moldova.unwomen.org/en/stories/comunicat-de-presa/2023/05/suedia-si-un-women-au-semnat-un-acord-de-finatare-pentru-a-sustine-promovarea-egalitatii-de-gen-in-republica-moldova>

¹¹⁶ UN Women Moldova, 17 May 2023, <https://moldova.unwomen.org/en/stories/comunicat-de-presa/2023/05/suedia-si-un-women-au-semnat-un-acord-de-finatare-pentru-a-sustine-promovarea-egalitatii-de-gen-in-republica-moldova>

¹¹⁷ The public administration reform strategy in the Republic of Moldova for the years 2023-2030, available at: <https://cancelaria.gov.md/sites/default/files/document/attachments/92-cs.pdf>

¹¹⁸ Gender equality index (1st semester 2023), available at: https://progen.md/wp-content/uploads/2023/03/CPD_IEG-2023.pdf

¹¹⁹ Order of the Minister of Labour and Social Protection No. 11 of 12 November 2021, available at: <https://social.gov.md/wp-content/uploads/2022/01/CORM.pdf>

¹²⁰ Available at : https://www.legis.md/cautare/getResults?doc_id=131475&lang=ro#

¹²¹ Labour Code (Article 10, paragraph f⁵)

risen from 14,8 in 2021 to 15,2 in 2022); decrease of sex discrimination cases reported to the Equality Council, which may refer to decreasing eagerness to submit such cases; discriminatory announcements for workplaces, including sex or age declared in the announcement, still occurring despite many such cases heard and dealt with by the Equality Council (which have been published on the webpage and are available); insufficient awareness raising campaigns promoting the equality of sexes; lack of knowledge about anti-discrimination law (both international and national standards) and understanding of the idea of discrimination among a significant percentage of labour inspectors resulting in lack of control of this area.

GROUP 2

Group 2 includes: the right of children and young persons to protection (Article 7), the right to protection of health (Article 11), the right to social security (Article 12), the right to social and medical assistance (Article 13), the right to benefit from social welfare services (Article 14), the right of persons with disabilities to independence, social integration and participation in the life of the community (Article 15), the right of the family to social, legal and economic protection (Article 16), the right of children and young persons to social, legal and economic protection (Article 17), the right of elderly persons to social protection (Article 23), the right to dignity at work (Article 26), the right of workers with family responsibilities to equal opportunity and treatment (Article 27), the right to protection against poverty and social exclusion (Article 30), the right to housing (Article 31).

The Republic of Moldova has accepted all provisions from the above-mentioned group except Articles 7§5, 7§6, 13§4, 14§1, 14§2, 15§3, 23, 27§1, 27§3, 30, 31§1, 31§2 and 31§3.

In last published Conclusions (2022, 2021, 2019 and 2016), the European Committee of Social Rights declared the conclusions of:

- **conformity regarding:**
 - Articles 15§1 and 26§2 in 2016;
 - Articles 7§2 and 7§4 in 2019.
- **non-conformity regarding:**
 - Articles 11§1, 11§2, 11§3, 12§1, 12§2, 12§3, 13§1, 13§2 and 13§3 in 2021;
 - Article 15§2 in 2016;
 - Articles 7§1, 7§3, 16 and 17§2 in 2019.
- **deferral due to lack of sufficient information regarding:**
 - Articles 26§1 and 26§2 in 2022;
 - Article 12§4 in 2021;
 - Articles 7§7, 7§8, 7§9, 7§10, 17§1 and 27§2 in 2019.

After the reference period crucial amendments were introduced to Law No. 123/2010 on social services and to Law No. 411/1995 on health protection. Pursuant to those

amendments, since 1 January 2024, basic social services will be provided as a set of social services established by the Government¹²².

As to non-accepted provisions from this group, the European Committee of Social Rights in 2018 and in 2021 considered that there were no legal obstacles to the acceptance of Articles 7§6, 14§1, 14§2, 27§1 and 27§3.

In the area of rights from Group 2, as a result of discussions and information provided during the needs assessment meetings **the following areas have been identified as most needing support** to adjust the situation in the Republic of Moldova (both in law and in practice) to international standards of the Council of Europe, especially to the standards of the European Social Charter:

- the right of persons with disabilities to independence, social integration and participation in the life of the community in the area of vocational training for persons with disabilities (Article 15§1) and employment of persons with disabilities (Article 15§2);
- the right to dignity at work in the area concerning sexual harassment (Article 26§1) and moral harassment (Article 26§2).

ARTICLE 15§1. RIGHT OF PERSONS WITH DISABILITIES TO INDEPENDENCE, SOCIAL INTEGRATION AND PARTICIPATION IN THE LIFE OF THE COMMUNITY. GUIDANCE, EDUCATION AND VOCATIONAL TRAINING

Article 15§1 of the European Social Charter implies to take the necessary measures to provide persons with disabilities with guidance, education and vocational training in the framework of general schemes wherever possible or, where this is not possible, through specialised bodies, public or private. The notion of education encompasses primary education, general and vocational secondary education as well as other forms of vocational training. As regards the education of disabled children and adolescents, priority should be given to mainstream schools, whereby provision of the human assistance needed for the school career is required¹²³.

In the process of assessment of the conformity with Article 15§1, a wide range of indicators are examined, including the definition of disability, the existence and the scope of anti-discrimination legislation, the mainstreaming of persons with disabilities in the education and training fields and mainstreaming of persons with disabilities in vocational training.

In its last report submitted in 2015, with regard to mainstreaming of persons with disabilities in vocational training, the Government of the Republic of Moldova explained that vocational training for young persons and adults with disabilities is provided by vocational

¹²² Law No. 256 of 17 August 2023, available at:

https://www.legis.md/cautare/getResults?doc_id=138928&lang=ro

¹²³ ECSR, Digest of the case-law of the European Committee on Social Rights, June 2022, page 134-138 with the sources enumerated therein, available at: <https://rm.coe.int/digest-ecsr-prems-106522-web-en/1680a95dbd>

training establishments and specialised institutions in the lower secondary and higher education sectors.

Given the information, in 2016 the European Committee on Social Rights concluded that the situation in the Republic of Moldova was in conformity with Article 15§1 of the Charter¹²⁴. However, from the perspective of mainstreaming of persons with disabilities in vocational training the Committee noted that according to the report, the vocational training system is not fully adapted to the needs of all potential users with disabilities. Vocational training institutions include a limited number of persons with disabilities, and the activities offered are geared towards individual support rather than occupational integration. According to the 2016 report of the Special rapporteur on the rights of persons with disabilities (A/HRC/31/62/Add.1)¹²⁵, there is a fixed quota of 15% for persons with disabilities in vocational training establishments and universities. According to the report, in 2012-2013, 158 pupils with physical or sensory disabilities were registered in secondary vocational training establishments and in 2014, 94 students with disabilities were enrolled in higher education establishments. Some 1 604 de-institutionalised children attended 291 mainstream educational establishments in 2012 and 3 500 children in 400 establishments in 2013-2014¹²⁶.

Since the end of the last reporting period, persons from vulnerable groups have benefitted from professional guidance and career guidance services with the aim of identifying the most suitable profession for each of them. Professional guidance takes place in educational institutions, in specialized enterprises, in social insertion enterprises and at protected workplaces, according to an individual rehabilitation and social inclusion program. Vocational guidance for people with disabilities is carried out in different forms, including day education, evening education, part-time education, distance education, individual learning, learning in groups, in special classes and according to individual education plans, including training at residence or within non-formal education programs.

Persons with disabilities of working age who wish to integrate or reintegrate into the workforce have access to orientation, training and professional rehabilitation, regardless of the type and degree of disability. The services are offered by territorial bodies for employment. In order to ensure proper assessment of the percentage of work capacity and the proper orientation, training and professional rehabilitation of persons with disabilities, the responsible public authorities are obliged to take the following specific measures: to realize and/or diversify the programs regarding the orientation, training and professional rehabilitation of persons with disabilities; to correlate the orientation, training and professional rehabilitation of persons with disabilities with the requirements of the labour market; to create conditions for the access of persons with disabilities to the assessment of their work capacity percentage, as well as to their orientation, training and professional rehabilitation in any job, depending on their personal abilities.

In order to solve the problems of design and career development of persons with disabilities in the lifelong learning process, it becomes necessary to identify the optimal psychological conditions for their achievement. Psychological assistance in the design and

¹²⁴ Available at: [Conclusions 2016 - Moldova - article 15-1 \(coe.int\)](https://conclusions.coe.int/conclusions/2016/Moldova/article-15-1)

¹²⁵ Available at: https://digitallibrary.un.org/record/831670/files/A_HRC_31_62_Add-2-EN.pdf?ln=en

¹²⁶ ECSR, Conclusions 2016. Republic of Moldova, p. 22.

professional orientation of persons with disabilities requires deep knowledge of those persons' attitude towards the process, the reasons, personal resources and psychological barriers related to permanent learning. The National Employment Agency of the Republic of Moldova provides psychological assistance in professional orientation for all persons, including those with disabilities, according to individual programs.

On September 8, 2017, Government Decision No. 723 regarding the approval of the National Program for social inclusion of persons with disabilities for the years 2017-2022 was adopted. One of the objectives of the Program was to increase the employment rate of persons with disabilities in the field of work by providing vocational guidance and training measures based on individual needs.

Most recently, the Ministry of Labour and Social Protection has started to work on a new National Program for the social inclusion of persons with disabilities for 2024-2027¹²⁷.

According to data and studies in this field, there are still barriers to the social inclusion of people with disabilities: limited access to health services, social services, education, career guidance, and employment; the reduced accessibility of public spaces, the infrastructure poorly adapted to the needs of people with disabilities, the lack of complex and disaggregated statistical data at the national level, partial access to public information sources, stigma and discrimination against people with disabilities, etc.

The analyses also reveal that people with disabilities face a more pronounced risk of poverty, especially those in rural areas, and their needs are more complex and involve collaboration between specialists from several fields. That is why the new policy document aims to address the issues of people with disabilities from a multidisciplinary perspective. Its main areas of intervention will focus on accessibility, health, social assistance, education, labour market, empowerment, and participation of people with disabilities.

The program is to ensure the continuity of the policies promoted in recent years in the Republic of Moldova in the field of social inclusion of people with disabilities and will aim to improve the access of people with disabilities to benefits and social services; to facilitate the empowerment and rehabilitation of people with disabilities; to increase their participation in social, political, public and cultural life; to ensure accessibility to infrastructure, transport, information and communications for people with disabilities; to ensure support in exercising legal capacity and guaranteeing access to justice; to promote information and awareness of the population regarding the rights of persons with disabilities and the exploitation of their potential.

The discussions conducted over the needs assessment meetings with different stakeholders confirmed that mainstreaming of persons with disabilities in vocational training and dual education is insufficient and poses huge challenge.

Only a small percentage of vocational training institutions are adapted to the needs of persons with disabilities, almost none is prepared to train persons with mental and psycho-social disabilities. VET institutions lack both physical adjustments (most buildings are inaccessible to persons with reduced mobility, including persons on wheelchairs and using crutches) and psychological support. Most often, VET institutions are located in cities, while many persons with disabilities live in rural areas and their mobility is very low. Many persons with disabilities

¹²⁷ [Ministerul Muncii și Protecției Sociale \(gov.md\)](http://gov.md)

do not want or do not have the possibility to qualify for work offered locally if the training is offered far away. What is more, the offer of vocational trainings is not well adjusted to the labour market demands, which influences most the vulnerable categories of candidates since they are least likely to be offered a workplace. VET institutions do not cooperate and do not exchange information and practises concerning students with disabilities. Most of them is not able to promote their educational offer and familiarise persons with disabilities with all the options it provides (eg. the profile of professions, the possibility to stay in the dormitory, to be provided with transport, meals, allowances etc.)

It is important to mention that there are also VET institutions, which against all these obstacles, succeed with education of persons with disabilities. The example can be VET school No 11 in Chisinau - this year out of 64 students in the school, 47 are persons with disabilities, apart from that 3 are temporarily without parental care. Children with severe disabilities are also accepted and are among the school's students. The school prepares promoting campaigns for institutions and persons with disabilities. However, what shall also be noted, though the school provides education for so many students with disabilities, its premises are not fully adapted to the needs of persons with reduced mobility and the school shall be provided support in this area.

At the same time, it is worth noting that through the support program for the implementation of the vocational/technical education reform in the Republic of Moldova, 10 centers of excellence have been renovated and are accessible to students with special educational needs.¹²⁸

As to dual education, being accepted for practical part is a huge challenge for persons with disabilities. After admission, at the skill test level such students do not succeed in being selected, as companies, having opportunity to choose a student, are usually more likely to provide practise for fully abled persons. According to the data provided by the Chamber of Commerce and Industry, not a single student with disability completed successfully dual education. There was only one company that selected students with disabilities and offered them practical training within dual education system, however, even in this case students with disability did not succeed and did not complete dual education.

The level of awareness of rights and educational opportunities and support that can be provided in this area among persons with disabilities and their family members is rather low. Only two cases concerning violations of the right to education of children with mental disability were reported to the Equality Council.

ARTICLE 15§2. RIGHT OF PERSONS WITH DISABILITIES TO INDEPENDENCE, SOCIAL INTEGRATION AND PARTICIPATION IN THE LIFE OF THE COMMUNITY. EMPLOYMENT OF PERSONS WITH DISABILITIES

Article 15§2 of the European Social Charter requires States Parties to promote an equal and effective access to employment on the open labour market for persons with

¹²⁸ Financing Agreement No. 8 from 15.05.2014, available at:
<http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=356440>

disabilities¹²⁹. It applies to persons with physical and/or intellectual disabilities¹³⁰. This obligation is not reduced in times of health crisis¹³¹. This requires States to take the reasonable accommodation measures required to ensure that persons with disabilities are protected from the risks caused by the virus associated with the workplace context (including travel to and from work)¹³². States Parties need to systematically provide updated figures concerning the total number of persons with disabilities, including those in age of working; those employed (on the open market and in sheltered employment); those benefiting from employment promotion measures; those seeking employment; those that are unemployed as well as the general transfer rate of people with disabilities from sheltered to open market employment¹³³.

In its last report submitted in 2015, the Government of the Republic of Moldova reported that, in 2014 persons with disabilities constituted 5.2% (183.953) of the total population, while 1.8% (13.446) children had a disability. The law No. 121 of 25 Mai 2012 introduces the notion of reasonable accommodation to ensure that persons with disabilities are entitled to exercise all their human rights and fundamental freedoms on the basis of equality with other citizens. The state is responsible for preventing and treating disability, providing rehabilitation, securing reasonable accommodations for persons with disabilities and promoting measures to ensure that such accommodations apply to the social infrastructure, particularly in the employment sector.

Given the information, in 2016 the European Committee on Social Rights concluded that the situation in the Republic of Moldova was not in conformity with Article 15§2 of the Charter on the ground that it has not been established that persons with disabilities are guaranteed effective equal access to employment¹³⁴.

Since the end of the last reporting period, legal amendments have been introduced to improve the situation, however still, persons with disabilities face some inequalities in access to employment. In accordance with Art. 34 of the Law No. 60 of 30 March 2012¹³⁵ on the social inclusion of persons with disabilities, employers with at least 20 employees and more, regardless of the form of legal organization, create and reserve posts for persons with disabilities in a percentage of at least 5 percent of the total number of employees. At the same time, employers ensure the records of the requests of persons with disabilities who applied for employment in a separate register, which shall contain documents regarding the hiring or refusal decisions, the reasons for the refusal, appeals, etc. Employers must inform the territorial employment agency about: jobs created and/or reserved for the employment of persons with disabilities, within 5 days from the date they were created/reserved and about occupation by persons with disabilities of jobs that have been created/reserved, within 3 days from the date

¹²⁹ ECSR, Conclusions XX-1 (2012), Czech Republic.

¹³⁰ ECSR, Conclusions I (1969), Statement of Interpretation on article 15§2.

¹³¹ ECSR, Statement on Covid-19 and social rights adopted on 24 March 2021.

¹³² ECSR, Statement on Covid-19 and social rights adopted on 24 March 2021.

¹³³ ECSR, Conclusions XX-1 (2012), Czech Republic; Conclusions 2012, Cyprus.

¹³⁴ Available at: [Conclusions 2016 - Moldova - article 15-2 \(coe.int\)](https://conclusions.coe.int/conclusions/2016/Moldova/article-15-2)

¹³⁵ Available at: [LP60/2012 \(legis.md\)](https://legis.md/LP60/2012)

they were occupied. Employers who violate these provisions are sanctioned in accordance with the Criminal Code.

The National Employment Agency, together with the responsible central and local public authorities and with the participation of public associations of persons with disabilities, trade unions and employers, annually develops programs for the employment of persons with disabilities.

During the discussions conducted over the needs assessment meetings with different stakeholders the major problem that was raised concerned lack of equal and effective access to employment on the open labour market for persons with disabilities. As established during the meetings, the problem is complex and multifaceted. It starts with lack of physical access to workplaces for persons with disabilities including inability to get out of the candidate's house or flat due to lack of ramps and elevators in the buildings; inability to commute to work due to lack or insufficient quantity of means of transport adapted to the needs of persons with disabilities; lack or insufficient quantity of workplaces adjusted to the needs of persons with disabilities; low mobility of persons with disabilities, especially from rural areas; lack of awareness among the employers as to the support that is offered by the State to provide reasonable accommodation in the enterprise; low qualifications due to insufficient access to education, especially vocational training; mismatch of qualifications of persons with disabilities with labour market's demand; lack of awareness of persons with disabilities as to the support they can get from state agencies; ineffective incentives for persons with disabilities performing work within informal economy to conclude an employment contract; low interest of employers in introducing distant work caused partly by lack of knowledge concerning regulations and practises in this area; insufficient number of social enterprises.

Mentioned problems concern persons with all disabilities, though the situation of persons with mental disabilities seems to be the biggest challenge, rarely addressed by state policies. The National Employment Agency provides different active employment measures and services, including dedicated to persons with disabilities, however none of them is addressed exclusively to persons with mental health problems.

The level of awareness of rights and employment opportunities and support that can be provided in this area among persons with disabilities and their family members is rather low, especially among persons living in the rural area. However, discrimination of persons with disabilities in the labour market persists. Most cases recently reported to the Equality Council have concerned violations of the right to equality in employment of persons with disabilities.

CONCLUSIONS AND KEY RECOMMENDATIONS

The substantive areas of concern identified above deserve immediate attention from the authorities of the Republic of Moldova and they are all areas in which cooperation with the Council of Europe would be justified to strengthen the capacity and ensure legislative reforms which shall contribute to the full implementation of social rights under the European Social Charter and other standards of the Council of Europe in the field of social rights. The characters of the priorities differ, in some areas the priority is to improve the implementation of existing

legislation, in others legislative reform and/or substantial budgetary commitments are required. Therefore, below, the recommendations will be divided according to the areas they concern.

INTERNATIONAL COMMITMENTS:

In the area of international commitments:

1. in the context of the reforms (both legislative as well as at the policy level) that the authorities have been implementing to strengthen the protection of social rights (especially labour and employment rights), the Republic of Moldova shall be encouraged **to accept the Collective Complaints Protocol** as a tool not only to enhance the protection of social rights, but also to promote social dialogue and empower civil society institutions;
2. in the context of the assessments conducted by the European Committee of Social Rights and the reforms (both legislative and at the policy level) that the authorities have been implementing to strengthen the protection of social rights (especially labour and employment rights), the Republic of Moldova shall be encouraged to **resume the discussion concerning the acceptance of further provisions of the European Social Charter as a tool to enhance the protection of social rights** (especially Article 10§§1,2,3,4,5 but also Articles 3§4, 4§2, 7§6, 14§1, 14§2, 18§1, 19§1, 19§2, 19§3, 19§4a and b, 19§5, 19§6, 19§9, 22, 27§1 and 27§3);
3. in the context of the assessments conducted by the European Committee of Social Rights, the Republic of Moldova shall be encouraged to **make further efforts to improve the quality of its reporting on the Charter's provisions** in order to enable the Committee to fully assess the situation and as a result provide comprehensive conclusions to help policy makers take better-informed legislative and policy steps.

LEGISLATIVE REFORMS:

Legislative reform seems required in the following areas:

a). **in the Labour Code of the Republic of Moldova** (Code No. 154 of 28 March 2003):

- ✓ to include a reference to sexual orientation in Article 8 of the Labour Code;
- ✓ to amend Article 251 and introduce the same safeguards for instance in cases of collective dismissals or of insolvency of the employer, which benefit women with children up to the age of 4 to benefit both women and men with children up to the same age;
- ✓ to amend Article 248 to include provisions related to the transfer of certain categories of women (pregnant women, women who have recently given birth and those who are breastfeeding) from certain categories of work (underground works in mines and any other activities that pose risks to their safety or health and that may have repercussions on pregnancy or breastfeeding), to another job with the guarantee of the right to return to the previous job at the end of the maternity/breastfeeding period;

- ✓ to amend Article 86, paragraph 1, letter y¹ so that it is made clear that the employer can resort to the application of these provisions if the measure can be objectively justified and reasonable according to the intended purpose;
- ✓ to amend Article 216, paragraph 1 of the Labour Code and clearly define the minimum age at which a natural person can enter into an apprenticeship contract;
- ✓ to amend Article 216, paragraph 2 of the Labour Code and reserve the written form of an apprenticeship contract under *ad validatem* conditio instead of *ad solemnitatem*.

b). **in Government Decision No. 425 of 3 July 3, 2015** – to respect the gender dimension in the sense of assigning professions by gender;

c). **in the Law on ensuring equality (No. 121 of 25 May 2012)** - to amend Article 13 and expand the catalogue of persons/institutions entitled to lodge a complaint with the Equality Council and provide such a competence to the State Labour Inspectorate, at least in the form of the right or even obligation to notify the Equality Council in case of established or suspected cases of discrimination at work.

EXECUTIVE ACTION:

Executive action shall be performed:

- a) in order to fully implement all the amended provisions of the Law No. 121 of 25 May 2012 on ensuring equality and the Labour Code, special attention shall be paid to proper implementation of Article 8 of the Labour Code - pending an amendment suggested in point a) above, courts and the Equality Council shall rely on the current wording (which provides a non-limitative list of prohibited grounds of discrimination allowing sexual orientation to be included) and on the actual wording of the Law on ensuring equality in order to interpret Article 8 of the Labour Code in accordance with European standards and include sexual orientation as one of prohibited grounds for differentiation of treatment;
- b) to further combat vertical and horizontal occupational segregation and the gender pay gap, including by developing pay comparisons across companies in the private sector;
- c) to promote the professional development of women entrepreneurs living in municipalities and their economic empowerment by training and equipping with project management skills;
- d) to increase the minimum wage for the economy (resulting from the economic indicators - GDP, inflation rate, minimum consumption basket) in order to increase the attractiveness of employment, a fact that can reduce the number of informal employees.

BUDGETARY COMMITMENTS:

Increased budgetary commitments should be made in order:

- a) to increase the access to vocational education and training institutes both for youths and adults, including persons with disabilities and persons with other special needs,



especially from the regions and rural areas – in order to achieve this goal it is advisable to expand territorial scope of functioning of the existing institutions e.g. by providing people from regions, in which there are no such institutions, with programs supporting their possibilities to access the existing, far-away institutions (providing financing, transport, dormitories);

- b) to optimise the system of vocational education and training institutions, especially by concentrating and consolidating the human and material resources and by improving the content resources, especially from the perspective of ensuring the quality of the services provided;
- c) to conduct comprehensive labour market research in order to adjust the vocational education and training programmes to the needs of labour market and so eliminate the discrepancy between the demand and supply of the workforce;
- d) to provide promotion of VET education and dual education and popularise it among schoolchildren. To address this might be advisable to adjust the secondary education curriculum to introduce career guidance activities involving such promotion and where orientation activities are provided to ensure their consistency and effectiveness;
- e) to provide awareness raising actions aimed at general population and separately at youths, including girls and boys/women and men from vulnerable groups and NEET youth, showing opportunities that VET institutions and dual education may provide;
- f) to develop and introduce a mechanism of/tool for measuring of the degree of employers' satisfaction with VET graduates in order to collect relevant data on this issue, analyse them and use them to enhance the effectiveness of vocational education;
- g) to enhance the capacity of the **State Labour Inspectorate** to perform its duties in both areas: in the area of health and safety and in monitoring the implementation of employment and labour rights. In this area the activities shall include:
 - ✓ timely completing the staffing of the **State Labour Inspectorate**, including its territorial offices, ensuring the number of inspectors relevant to perform their tasks efficiently;
 - ✓ introducing strict procedures in cases of detected violations, including the possibility to provide sanctions without interference of courts in more cases and including the follow-up procedures to monitor the situation of enterprises in which violations happened;
 - ✓ providing high-level trainings for labour inspectors, including trainings on European standards eg. European Labour Human Rights and European Non-discrimination Law;
 - ✓ organising International exchange and study visits for labour inspectors to European countries to provide them opportunities to gain experience, learn good practices and exchange knowledge abroad;
 - ✓ providing awareness raising actions for employers on both the employment and labour rights and duties (including leaflets and materials that can be easily distributed but also trainings eg. online);
 - ✓ providing awareness raising actions for employees and candidates on employees (including leaflets and materials that can be easily distributed) to know and understand basic employment rights;



- h) to enhance the capacity of **the National Employment Agency** (hereinafter - NEA) to perform its duties. In this area the activities shall include:
- ✓ providing high-level trainings for NEA's employees, including trainings on European standards eg. European Labour Human Rights and European Gender Perspective and Non-discrimination Law;
 - ✓ providing good practices and trainings on the possibilities to better identify and attract girls and boys/women and men from vulnerable groups and NEET youth with NEA's offer;
- i) to enhance the capacity of **VET institutions** to perform their duties and tackle the most important challenge which is the decreasing number of students. In this area the activities shall include:
- ✓ supporting cooperation and exchange of information, good practises and experience, especially concerning identifying, attracting and accommodating girls and boys/women and men with disabilities and from other vulnerable groups, among VET institutions in the country;
 - ✓ conducting comprehensive VET institutions' needs and possibilities assessment in order to assess and adjust their functioning to the needs of persons from vulnerable groups;
 - ✓ assistance to VET institutions to become more inclusive and gender sensitive by:
 - providing trainings for VET institutions' employees, including trainings on European standards eg. European Non-discrimination Law;
 - developing guidelines regarding the implementation of the new changes in Law No. 121 of 25 May 2012 on ensuring equality, especially regarding: discrimination by association, continuous discrimination, prolonged discrimination;
 - initiating a dialogue with the Ministry of Labour and Social Protection, the State Labour Inspectorate, the National Confederation of Trade Unions, the National Confederation of Employers, the National Bureau of Statistics in order to develop guidelines regarding the implementation of the amendments to the Labour Code regarding work of equal value;
 - carrying out training, together with the National Confederation of Trade Unions, the National Confederation of Employers regarding non-discrimination at work, the inclusion of the non-discrimination clause in the collective labour agreements, also in the internal regulations of the units.
- j) to enhance **the National Institute of Justice and the Bar Association** to perform its duties. In this area the activities shall include:
- ✓ support in developing and introducing continuous trainings for judges, prosecutors and legal professionals on the uniform interpretation/application of the national legal framework, especially the Labour Code;
 - ✓ support in developing and introducing continuous trainings for judges, prosecutors and legal professionals on the European Social Charter, the case-law of the European Committee of Social Rights and international and European standards in the area of social rights.