

COMMISSIONER FOR HUMAN RIGHTS OF THE COUNCIL OF EUROPE

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REPORT FOLLOWING HER VISIT
TO THE REPUBLIC OF MOLDOVA
FROM 9 TO 13 MARCH 2020

TABLE OF CONTENTS

SUMMARY	5
INTRODUCTION	8
1 VIOLENCE AGAINST WOMEN AND DOMESTIC VIOLENCE	8
1.1 Ratification of the Istanbul Convention	9
1.2 Prevalence of violence against women and legal framework	9
1.3 Availability of shelters and other support services	10
1.4 Response given by the justice system	10
1.5 Conclusions and recommendations	11
2 CHILDREN’S RIGHTS	11
2.1 Child poverty	12
2.2 Children in institutions	12
2.3 Inclusive education.....	13
2.4 Children in detention.....	13
2.5 Violence against children.....	13
2.6 Immunisation and sanitary conditions at schools	14
2.7 Conclusions and recommendations	14
3 THE HUMAN RIGHTS OF PERSONS WITH DISABILITIES	16
3.1 De-institutionalisation of persons with disabilities	16
3.2 Mental health services	17
3.3 Situation of persons placed in institutional care.....	18
3.4 Legal capacity	18
3.5 Access to employment	18
3.6 Situation of children with disabilities	18
3.7 Conclusions and recommendations	19
4 THE HUMAN RIGHTS OF ROMA	19
4.1 Roma inclusion	20
4.2 Access to education for Roma children	20
4.3 Situation of Roma women	20
4.4 Access to employment	21
4.5 Access to public utilities	21
4.6 Participation in public life.....	21
4.7 Conclusions and recommendations	21
5 HATE SPEECH	22
5.1 Legal and institutional framework.....	22

5.2	The Council for Prevention and Elimination of Discrimination and Ensuring Equality	23
5.3	Conclusions and recommendations	23
6	RIGHT TO HOUSING	24
6.1	Overview of the housing sector	24
6.2	Access to water and sanitation	25
6.3	Conclusions and recommendations	25
7	RIGHT TO HEALTH	26
7.1	Regulatory framework.....	27
7.2	Major impediments to accessing adequate health services	27
7.3	Informal and out-of-pocket payments	27
7.4	Youth Friendly Health Centres	28
7.5	Sexual and reproductive health and rights	28
7.6	People living with HIV/AIDS and breach of confidentiality	28
7.7	Protection of medical personnel.....	28
7.8	Conclusions and recommendations	28
	ANNEX	30
	The Commissioner’s observations concerning human rights issues discussed in Tiraspol	30

SUMMARY

Commissioner Dunja Mijatović and her team visited the Republic of Moldova from 9 to 13 March 2020. During the visit, the Commissioner held discussions with the Moldovan authorities, the People's Advocate (Ombudsman), the President of the Council for Prevention and Elimination of Discrimination and Ensuring Equality, human rights defenders and other representatives of civil society. The present report focuses on the following issues raised during the visit: violence against women and domestic violence; children's rights; the human rights of persons with disabilities and Roma; hate speech; and the rights to housing and health. The Commissioner also travelled to Comrat (Autonomous Territorial Unit of Gagauzia) and Tiraspol (more information on the meetings in Tiraspol is in the Annex to the report).

Violence against women and domestic violence

Since the adoption in 2007 of the Law on Preventing and Combating Family Violence, the authorities have made commendable progress in bringing the legislation on domestic violence and its implementation in line with the applicable international and European standards, including the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention). The Moldovan authorities should ratify the Istanbul Convention without further delay and ensure that the general public has accurate and factual information about the true nature and scope of the problem of violence against women and domestic violence and the measures envisaged in the Istanbul Convention to respond to and prevent these phenomena. Furthermore, the authorities should continue expanding the network of shelters and support services for victims of domestic violence. The Commissioner also draws the authorities' particular attention to the necessity to improve access to justice for women victims of domestic violence and sexual violence, and urges them to reinforce capacity-building for the police, prosecutors and the judiciary to ensure that women's complaints are effectively investigated and that cases of violence against them are dealt with in a gender-sensitive way.

Children's rights

In the last decade, the Republic of Moldova has taken significant steps to align its legal, policy and institutional framework for the protection of children's rights with the international human rights obligations in this field. Important progress has been achieved with regard to de-institutionalisation and inclusive education. The Commissioner encourages the authorities to strengthen their efforts at moving away from the practice of institutionalisation of children, including on the basis of poverty or disability, and to this end, to expand alternative care models in family-type settings and allocate more resources and support to guardians and foster care providers. Improvements are still necessary to ensure access for children with physical or sensory disabilities to mainstream schools.

In addition to stepping up their efforts to combat poverty and guarantee the right of all children to an adequate standard of living, the authorities should also develop, in close consultation with the relevant national and local actors, a holistic national framework for eliminating violence against children and promoting a culture of respect for the rights of the child, which includes changing attitudes towards the use of corporal punishment.

The authorities should continue their efforts to provide training and/or awareness raising about children's rights to professionals who work with and for children, most notably judges, lawyers, law

enforcement officials, and other civil servants. Concrete measures should be taken to ensure that justice is child-friendly and aims at ensuring the child's rehabilitation and reintegration in society, and that quality psychological services are available for children. With regard to immunisation against common childhood diseases, the authorities should invest more in the capacity of healthcare professionals to provide accurate information about the need for immunisation and ensure that safe and high quality vaccines are available. Targeted measures are required to ensure decent sanitary conditions in schools.

The human rights of persons with disabilities

The Commissioner welcomes the start of the de-institutionalisation of persons with intellectual or psychosocial disabilities and stresses the need to further expand and diversify community-based services to support these persons' independent living. Further measures are necessary to improve the accessibility of public spaces, transport and services and to ensure that universal design and reasonable accommodation are adhered to and monitored in all policies and areas of activity. The authorities should also take further action to address stigma and discrimination of persons with disabilities in employment. The Commissioner urges the authorities to undertake more ambitious reforms in the field of mental health, with a view to drastically reducing and progressively eliminating recourse to coercive practices in psychiatry. She stresses the need to ensure accountability for human rights violations committed against persons living in institutions. In the field of legal capacity of persons with intellectual or psychosocial disabilities, the Commissioner welcomes legal changes aimed at introducing assisted decision-making and calls on the authorities to ensure that their implementation is accompanied by awareness-raising measures for all those involved, from providers of support to the legal community, and monitored in close consultation with persons with disabilities and their associations.

The human rights of Roma

The Commissioner welcomes the gradual expansion of the network of Roma community mediators, whose role and means should be strengthened, and the increased Roma political representation at the local level. At the same time, substandard living conditions of Roma families and limited access to education, employment and healthcare, as well as persisting societal prejudices remain major obstacles hampering the successful inclusion of Roma in Moldovan society. The Commissioner calls on the authorities to review and update their Roma inclusion policies on the basis of up-to-date data reflecting the actual situation of Roma communities and to regularly monitor the effectiveness and impact of these policies in close consultation with Roma community representatives and the active engagement of the local authorities. Adequate funding should be made available to support the implementation of these policies.

Hate speech

The Commissioner is concerned about incidents of hate speech, particularly originating from politicians, including at the highest political level, and by religious and community leaders, which intensify during electoral campaigns, and target in particular women and Lesbian, Gay, Bisexual, Transgender and Intersex (LGBTI) persons, but also other groups affected by stigma and prejudices. She recalls first and foremost that public officials should not engage in hate speech, including during electoral campaigns, and that they should also publicly disavow hate speech whenever it occurs. The arsenal of measures to combat hate speech should include both law enforcement channels and other mechanisms such as prevention, self-regulation and counter speech. The relevant legal and

institutional framework should be fine-tuned, and the Commissioner highlights in particular the need for all components of this framework to explicitly provide protection against hate speech on grounds of sexual orientation and gender identity. Given in particular its position as one of the few public agencies to have addressed hate speech, the Council for Prevention and Elimination of Discrimination and Ensuring Equality should be empowered, through the relevant legal or regulatory amendments and allocation of sufficient budgetary resources, to effectively implement its mandate. Finally, the Commissioner calls on the Moldovan authorities to take ownership and responsibility in fighting hate speech and stresses that a visible strategy that translates public commitment would be useful in this respect.

Right to housing

Noting the general shortage of social housing and limited access to water and sanitation, notably in rural areas, the Commissioner recommends that the authorities undertake a comprehensive needs assessment with a view to developing targeted housing interventions on the basis of updated information about individuals living in precarious housing conditions, and gradually allocating financial resources for the construction or renovation of social and affordable housing. New housing projects and policies should be developed in close consultation with those in need of housing and all constructed or renovated housing should, to the maximum extent possible, be accessible to persons with disabilities. Access to available housing options should be ensured on the basis of equal treatment for all disadvantaged and marginalised groups. Concrete measures should be developed to improve the quality of water and to increase investments in upgrading the existing housing stock. Finally, the Commissioner calls on the authorities to accept the non-accepted provisions of the European Social Charter (revised), notably those related to the right to housing, and the 1995 Additional Protocol providing for a system of collective complaints.

Right to health

The health care system has been facing serious challenges related to public funding, access to quality primary care, in particular in rural areas, and the outflow of qualified medical personnel. Substantial out-of-pocket payments and demands for informal payments are important impediments in access to health services, in particular for people with low income, the elderly, women and persons with disabilities. Measures should be taken to tackle and progressively reduce this phenomenon. The Commissioner calls on the authorities to ensure equitable access to human rights based and people-centred healthcare services and respect for patients' self-determination, dignity and privacy. Budgetary allocations to the health care system should gradually increase and special attention should be paid to reducing disparities in access to quality medical care for people living in rural areas and members of vulnerable groups.

The Commissioner also urges the authorities to adopt a Health Code, ensure adequate regulation of medical malpractice and improve access to early diagnostics, treatment and rehabilitation for patients with rare diseases. While welcoming the adoption of the National Programme on Sexual and Reproductive Health and Rights, the Commissioner recommends that the authorities focus in particular on eliminating harmful practices in sexual and reproductive health care contexts. Due consideration should be given to preventing and addressing violence against healthcare professionals and ensuring their safe working conditions, including during public health emergencies.

INTRODUCTION

1. The Commissioner for Human Rights of the Council of Europe, Dunja Mijatović (hereafter: the Commissioner), carried out a visit to the Republic of Moldova from 9 to 13 March 2020. The visit focused on the following issues: violence against women and domestic violence; children's rights; the human rights of persons with disabilities and Roma; hate speech; and the rights to housing and health.
2. During the visit, the Commissioner met with the President of the Republic of Moldova, Igor Dodon; the President of the Parliament, Zinaida Greceanîi; the Prime Minister, Ion Chicu; the Deputy Prime Minister for Reintegration, Alexandru Flenchea;¹ the Minister of Justice, Fadei Nagacevski; the Minister of Foreign Affairs and European Integration, Aureliu Ciocoi;² the Secretary of State at the Ministry of Health, Labour and Social Protection, Nelea Rusu; as well as the Chairwoman of the Parliamentary Committee on Human Rights and Interethnic Relations, Doina Gherman, and other members of the Committee. In addition, the Commissioner held exchanges with the People's Advocate (Ombudsman); the President of the Council for Prevention and Elimination of Discrimination and Ensuring Equality; human rights defenders; and other representatives of civil society.
3. The Commissioner also travelled to Comrat (Autonomous Territorial Unit of Gagauzia) where she had meetings with the Governor, Irina Vlah; the Chairman of the People's Assembly, Vladimir Kissa; and local civil society representatives.
4. During the visit, the Commissioner also travelled to Tiraspol where she had meetings with the region's leadership and civil society representatives. Issues discussed included violence against women and domestic violence; the human rights of persons with disabilities; children's rights, inclusive education and the situation of the Latin-script schools; and social rights (more information in the Annex to the report).
5. The Commissioner would like to thank the Moldovan authorities in Strasbourg and Chisinau for their assistance in organising her visit. She expresses her gratitude to all her interlocutors for sharing with her their knowledge, experiences and insights.³

1 VIOLENCE AGAINST WOMEN AND DOMESTIC VIOLENCE

6. The Commissioner observes that since the adoption in 2007 of the Law on Preventing and Combating Family Violence, the Republic of Moldova has made commendable progress in aligning its legislation with the applicable international human rights standards and strengthening its implementation. The country signed the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention) in 2017. However, at the time of the visit it was still not ratified. The Commissioner was informed that the draft law on the ratification of the Istanbul Convention has been pending in the Parliament. Issues related to the ratification of the Istanbul Convention were in focus during the Commissioner's discussions with her interlocutors in the Parliament and in the government, as well as with the President of the Republic of Moldova.

¹ On 16 March Alexandru Flenchea was succeeded by Cristina Lesnic.

² On 16 March Aureliu Ciocoi was succeeded by Oleg Țulea.

³ This report was finalised on 25 May 2020.

1.1 RATIFICATION OF THE ISTANBUL CONVENTION

7. In her discussions with the authorities, the Commissioner observed a certain reluctance to go forward with ratification, notably due to the existence of different views in society regarding this particular legal instrument. These different views related, inter alia, to the use of the term “gender” in the Convention and perceptions about the possible impact of this on traditional values and the traditional family. The Commissioner is fully aware that in Moldova – like in certain other Council of Europe member states - public debates related to the ratification of the Istanbul Convention have often featured inaccurate information and misrepresentations by opponents of the Convention, most notably with regard to its main principles and aims. Such discussions quite often reveal strong gender bias and stereotypes which frequently downplay the disproportionately high impact of gender-based violence, including domestic violence, on women and mischaracterise the Convention as a threat to family values.
8. The Commissioner would like to remind the government about the importance of confronting such narratives and providing correct information about this landmark instrument of the Council of Europe.⁴ The Istanbul Convention sets comprehensive standards to prevent and combat violence against women and domestic violence, protect victims and punish perpetrators. It establishes that violence against women is a violation of human rights and highlights that the realisation of *de jure* and *de facto* equality between women and men is a key element in the prevention of violence against women. As regards more specifically the questions around the term “gender”, the Commissioner emphasises that the purpose of the term “gender”, as used in the Convention, is not to replace the biological definition of “sex”, nor the terms “women” and “men”, but to make the point that “gender stereotypes and roles” about women and men need to be tackled because they play a part in the perpetuation of violence against women.

1.2 PREVALENCE OF VIOLENCE AGAINST WOMEN AND LEGAL FRAMEWORK

9. The [2019 OSCE-led Survey on Violence Against Women “Well-being and safety of women”](#)⁵ identified the following major shortcomings regarding the response to gender-based and domestic violence: 1) social norms and attitudes contribute to inequality and a high prevalence of physical and psychological violence; 2) violence against women is underreported to the police and other organisations, as there is a lack of trust in the institutions that should provide support and services to victims; 3) specialised services for women survivors of violence are lacking and need to be improved, including for disadvantaged groups of women.
10. The results of the survey clearly indicate that domestic violence is still a widespread phenomenon in Moldovan society. Notably, 40 percent of women stated they have experienced physical and/or sexual violence at the hands of a partner or non-partner since the age of 15. 22 percent reported that they experienced a form of physical violence at the hands of an adult before they were 15 years old, usually slapping and beating, mainly by their parents (see more information in paragraphs 33 and 34 below). The survey also shows that victims rarely report experiences of violence, due to a

⁴ To adequately inform the public debate on the objective, purpose and importance of the Istanbul Convention, the authorities may wish to consult the relevant Council of Europe publications available here: <https://www.coe.int/en/web/istanbul-convention/publications>, in particular “Questions and answers on the Istanbul Convention” available in several languages. See also European Commission for Democracy through Law (Venice Commission), Armenia – [Opinion on the constitutional implications of the ratifications of the Council of Europe Convention on preventing and combating violence against women and domestic violence \(Istanbul Convention\)](#) adopted by the Venice Commission at its 120th Plenary Session (Venice, 11-12 October 2019), No. 961/2019, 14 October 2019.

⁵ OSCE-led Survey on Violence Against Women “Well-being and safety of women”, 2019, available at: <https://www.osce.org/secretariat/413237?download=true>.

number of barriers such as shame, fear, and distrust of the police and healthcare professionals, as well as a lack of support with regard to the provision of housing and financial aid.

11. The Commissioner was also made aware of several incidents of sexist speech, which is an issue of concern not least on account of the breeding ground it provides for further violence against women. These incidents have included speech by high-level politicians, which was particularly prevalent in the 2016 presidential campaign featuring a runoff between a male and a female candidate. In view of the forthcoming presidential elections in November this year, the Commissioner urges the authorities to take measures to ensure the non-recurrence of the scenario, whereby the use of sexist discourse was not only tolerated but became a decisive feature of the political campaign as such.
12. The legislation on domestic violence was amended several times. In 2016 the law was revised to empower the police to issue emergency restraining orders. It also extended criminal liability to other forms of domestic violence, such as psychological and economic violence, and extended the definition of domestic violence to cover violence against intimate partners and in the case of divorced couples living separately.
13. In 2018, the government adopted the National Strategy for Preventing and Combating Violence against Women and Family Violence for 2018-2023 and its Action Plan for 2018-2020 which are based on the four-pillar approach of the Istanbul Convention (prevention, protection, prosecution and integrated policies).

1.3 AVAILABILITY OF SHELTERS AND OTHER SUPPORT SERVICES

14. According to NGOs, 60 percent of social services are covered by civil society organisations. Victims' contributions to covering attorney's fees exceed by four times the state's contributions. Over 30 percent of the essential services which should be made available to victims of domestic violence either do not exist or are reportedly not effective. The main gaps are in the provision of social assistance for victims of domestic violence; economic empowerment and social housing; mental health and long-term psycho-social support; and access to state-funded legal counselling and representation in court.⁶
15. There are seven shelters for victims of domestic violence funded by the state and three shelters run by NGOs, located mainly in urban areas, and with limited capacity. The Commissioner notes that according to the Council of Europe minimum standards for support services, there should be at least one place for accommodation in a shelter per 10,000 residents.⁷

1.4 RESPONSE GIVEN BY THE JUSTICE SYSTEM

16. According to NGOs, in most cases, victims continue to be subjected to discrimination and re-victimisation in their interactions with the justice system. Victims are not provided with the minimum safety conditions in courts, there are frequent delays and postponements of hearings, and in most cases, they do not benefit from the necessary legal assistance in courts and judges do

⁶ [Prevention, Protection and Prosecution of the Gender-Based Violence in EaP countries](#), Report of the findings of Research of Legal Framework on Gender Based Violence and Domestic Violence in the Republic of Moldova, Gender Network of Eastern Partnership Civil Society Forum, Chisinau, 2019.

⁷ Council of Europe, [Combating violence against women: minimum standards for support services](#), p. 38.

not always inform them about their right to state-guaranteed legal aid. There is a general lack of understanding among legal professionals who tend to take a stereotypical approach.⁸

17. In 2017, the police issued 2,161 emergency restraining orders and 3,877 in 2018. The courts issued 878 protection orders in 2017 and 666 in 2018. According to NGOs, in criminal cases of domestic violence and sexual violence against women, only an insignificant number of cases resulted in actual imprisonment. In most cases, defendants were sentenced to community service or imprisonment with conditional suspension of punishment.

1.5 CONCLUSIONS AND RECOMMENDATIONS

18. The Commissioner strongly urges the Moldovan authorities to ratify the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention) without any further delay. She also calls on the authorities to engage more actively in public debate to dispel misconceptions about the Convention.
19. The authorities should take resolute steps to increase the number of shelters and other support services available to victims of violence against women, including sexual and domestic violence, and ensure that these are accessible throughout the whole territory of the country, including in rural areas.
20. The work of NGOs involved in combating violence against women and domestic violence is of crucial importance and should be further encouraged and supported, at all levels, including by making appropriate financial allocations available.
21. The Commissioner encourages the authorities to systematically collect disaggregated data on all forms of gender-based violence against women and ensure that accurate and accessible data is available on the number of cases reported, investigations, prosecutions, convictions and the sanctions imposed on the perpetrators, as well as on the remedies provided to victims.
22. The Commissioner urges the authorities to enhance capacity-building for all officials in the justice system – through training and other relevant instruments – to ensure a gender-sensitive approach to cases concerning violence against women, including sexual and domestic violence.
23. Finally, the Commissioner stresses the need to tackle sexist speech in order to prevent and combat violence against women effectively, and in this connection draws the attention of the Moldovan authorities to the [Council of Europe Committee of Ministers Recommendation CM/Rec\(2019\)1 on preventing and combating sexism](#), which provides detailed guidance on addressing sexism in different fields.

2 CHILDREN'S RIGHTS

24. Since 1993, the Republic of Moldova is party to the UN Convention on the Rights of the Child. It has ratified two Optional Protocols: on the involvement of children in armed conflict (in 2004) and on the sale of children, child prostitution and child pornography (in 2007). It has neither signed, nor ratified the Optional Protocol to the Convention on the Rights of the Child on a communications procedure. In 2012, the country acceded to the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse.

⁸ Report on monitoring of court proceedings in cases of domestic violence, sexual violence and trafficking in human beings, Women's Law Centre, 2018.

25. The Commissioner observes that while Moldova has a well-developed institutional and policy framework for the protection of children’s rights, there is still a considerable gap between the stated policies and their implementation in many areas. The policies and services for children in need of support and those in conflict with the law are still to a large degree reactive, with only limited focus on preventing their separation from their families and addressing the root causes of juvenile delinquency, such as violence, abuse and neglect. Foster care services are still limited and may not be available in all regions.

2.1 CHILD POVERTY

26. Although the Republic of Moldova has made important progress in reducing poverty, many families with children – in particular those residing in the rural areas and those belonging to disadvantaged minority groups – are still deeply affected by it.⁹ Poverty has a significant impact on the enrolment of children in school and their educational performance, especially in a context where formal and informal payments may be expected from their caregivers. The same holds true for access to medical care where informal and out-of-pocket payments are also common and may cause poor families to abstain from seeking medical assistance (more information in paragraphs 102-104 below). Absenteeism is also a serious issue among poor children. It was also observed that poverty is often associated with a higher prevalence of the use of violence in child-rearing and is an important underlying cause of child delinquency.
27. In some cases, poverty becomes the cause of the institutionalisation of children. In others, it has forced one or both parents to emigrate abroad in search of employment, leaving their children behind in the care of relatives, often the grandparents. While such families may be better off economically, the children who are left behind are more prone to suffering from emotional distress, frequently become victims of violence and abuse, and are at greater risk of using negative coping mechanisms.

2.2 CHILDREN IN INSTITUTIONS

28. The Commissioner welcomes the important progress made in the field of de-institutionalisation. The reform of residential care was launched in 2007. According to UNICEF, between 2006 and 2017, the number of children in institutions has decreased nearly seven fold.¹⁰ Furthermore, over the same period, the number of children in family-based care doubled; the number of professional foster care families increased 9 times, and the number of children placed in a protective family environment increased 15 times.¹¹
29. As of 2019, 961 children were in residential institutions. This included 195 children with disabilities, mainly due to the lack of sufficient community-based support services, including day-care centres. While there is no blanket moratorium on institutional admissions, notably for children between 0-3 years of age, the authorities informed the Commissioner that placement in an institution is only considered in exceptional circumstances, when no other alternatives are available. Children remaining in institutions are at high risk of being subjected to a range of serious violations of their human rights, including violence and abuse.

⁹ According to a [2018 report on inequalities in Moldova](#), the number of people categorised as vulnerable - persons with income that provides them with only strict necessities and who are therefore at risk of becoming poor in case they face a crisis (drought, floods, interruption of remittances etc.) – increased from 40 percent in 2001 to 47 percent in 2018.

¹⁰ [Child Protection](#), UNICEF, Republic of Moldova.

¹¹ Opening Doors for Europe’s Children, [2018 Country Factsheet: Moldova](#).

2.3 INCLUSIVE EDUCATION

30. As acknowledged by the UN Special Rapporteur on the rights of persons with disabilities in her 2016 report, commendable progress has been achieved in developing inclusive education. “In a relatively short period of time, the country has established a framework for inclusive education that, with its clear funding structure, coordination and accountability between central and local levels of administration, deserves recognition”.¹²
31. However, while recognising such progress, civil society organisations have pointed out several remaining barriers to ensuring universal access to education for all children, including those with severe disabilities, many of whom still have no options other than home schooling. These barriers include insufficient support provided by teachers and other specialists (psychologists, psycho-pedagogues, speech therapists); attitudes and behavioural patterns among teachers; insufficient allocation of financial resources to develop support services and the accessibility of the infrastructure; lack of continuous training for teachers about how to interact with children with disabilities, particularly those with intellectual disabilities; and lack of assistive technologies.¹³

2.4 CHILDREN IN DETENTION

32. According to the People’s Advocate for Children’s Rights (Ombudsman for Children’s Rights), while the number of children in detention remained relatively constant (30 in 2016; 36 in 2017; 32 in 2018 and 30 in 2019), the same persistent problems remain. Reintegration and rehabilitation services for the resocialisation of children who come into conflict with the law are inadequate. There are challenges in securing detained children’s access to quality education, healthcare and psychological support. The juvenile justice system also suffers from a lack of adequately trained professionals. The Ombudsman has also continuously signalled the precarious situation of children under 3 years of age staying in penitentiary establishments together with their mothers who are serving sentences.¹⁴

2.5 VIOLENCE AGAINST CHILDREN

33. According to a 2016 UNICEF study, while there appears to be a common understanding among most parents in Moldova that violent methods of upbringing are less effective than non-violent disciplining, they continue to use them because of a lack of knowledge and understanding about how to respond to children’s behaviour in a positive, non-violent manner. According to this study, an estimated 76 percent of children aged 2 to 14 years have experienced violent disciplining at home, including both physical punishment and psychological aggression.¹⁵
34. In 2016, the government adopted a Strategy on Developing Parental Abilities and Competencies for 2016-2022. It has also drafted a National Action Plan 2018-2022 for the implementation of this strategy, which was however still pending approval at the time of the Commissioner’s visit. The Strategy and the draft Action Plan include new concepts of positive parenting, which are also important means to change patriarchal social patterns and help to combat persisting gender stereotypes (more information in paragraphs 7 and 8 above).

¹² Report of the Special Rapporteur on the rights of persons with disabilities on her mission to the Republic of Moldova, A/HRC/31/62/Add.2, 2 February 2016, paragraph 33.

¹³ [Shadow Report](#) submitted by Alliance of Organizations for Persons with Disabilities from Republic of Moldova to the UN Committee on the Elimination of Discrimination against Women.

¹⁴ Report on the observance of human rights and freedoms in the Republic of Moldova in 2019, People’s Advocate (Ombudsman), Chisinau, 2020, pages 116.

¹⁵ [Children in the Republic of Moldova: Situational Analysis 2016](#), UNICEF, page 8.

35. Violence in schools is an issue of growing concern. More than 4,515 cases of violence against children, including 22 cases of sexual abuse, were reported in the first half of the 2018-19 academic year. The Commissioner notes that already in September 2017, the UN Committee on the Rights of the Child expressed serious concern that in spite of the adoption of legislation on the protection of children against sexual exploitation and sexual abuse in 2011, the incidence of such abuse and exploitation of children had been on the rise, including within the family, in particular involving girls. There were also reports of inaction by law enforcement officials in investigating cases and even direct involvement of such officials as perpetrators of abuse.¹⁶ Bullying at schools is widespread and appears to be on the rise. According to a [2019 UNICEF study](#), approximately 86,8 percent of the students studying in VI to XII grades have been affected by bullying.¹⁷ More than one third of schoolchildren aged 13-15 have participated at least once in a fight in the last year or have been harassed at least once in the last few months.

2.6 IMMUNISATION AND SANITARY CONDITIONS AT SCHOOLS

36. The Republic of Moldova has experienced a decrease in compulsory immunisation rates, affecting in particular children living in urban areas. Due to a combination of various factors, vaccination is also often delayed.¹⁸ In 2018, the Constitutional Court adopted a decision upholding the constitutionality of the obligatory character of vaccination for children who do not have any medical contraindications.

37. Both the Ombudsman for Children's Rights¹⁹ and civil society organisations²⁰ have drawn attention to the need to ensure decent hygiene conditions in schools. About half of the schools in the Republic of Moldova are reported not to have toilets inside the school building, which are connected to a public sewerage system, or if those exist, they are not in use. Toilets are often located far from the school buildings, in poor conditions, without cabins or separators for privacy, without electricity or heating in winter, without hand washing facilities, poorly maintained and rarely cleaned. They also do not provide minimal protection as they could also be used by outsiders. Hygiene products such as toilet paper and soap are also reportedly largely unavailable in schools.

2.7 CONCLUSIONS AND RECOMMENDATIONS

38. The Commissioner urges the authorities to step up their efforts to combat poverty and guarantee the right of all children to an adequate standard of living, including through ensuring better access to social protection entitlements.

39. The Commissioner encourages the authorities to pursue their efforts aimed at de-institutionalisation of children. In particular, she calls on the authorities to introduce a moratorium on the placement of children under three in institutions, and to focus on increasing the number of foster families providing care for children with disabilities and ensuring the availability of the required community-based services. The Commissioner also calls on the authorities to ensure that

¹⁶ [Concluding observation on the combined fourth and fifth periodic report of the Republic of Moldova](#), Committee on the Rights of the Child, 29 September 2017, § 22.

¹⁷ The influence of bullying on the students was different: some of them were victims of bullying, others became aggressors or witnesses. Some of the students fit into more than one of the groups mentioned above, being sometimes victims, at other times witnesses of situations of bullying, and in some cases, aggressors.

¹⁸ [Children in the Republic of Moldova: Situational Analysis 2016](#), UNICEF, page 37.

¹⁹ Report on the observance of human rights and freedoms in the Republic of Moldova in 2018, People's Advocate (Ombudsman), Chisinau, 2019, pages 109-110.

²⁰ In February 2020, Amnesty International Moldova [organised](#) a flashmob with the message "We demand the right to water and sanitation in schools" and has filed a petition signed by about 4.000 people requesting the Government of the Republic of Moldova to urgently implement the WHO Standards on water, sanitation and hygiene in schools.

children with disabilities have full and effective access to inclusive and quality education on an equal basis with others, in the communities in which they live, in line with the UN Convention on the Rights of Persons with Disabilities (UNCPRD).

40. Children must be treated with dignity and respect at all times, be protected from all forms of violence, and must benefit from effective protection from abuse, neglect, and all forms of exploitation, whether on the part of care providers, peers or third parties, in whatever care setting they may find themselves in. The Commissioner wishes to draw attention to the [Council of Europe Policy Guidelines on Integrated National Strategies for the Protection of Children from Violence](#), which are a useful instrument for developing a holistic national framework for eliminating violence against children and promoting a culture of respect for the rights of the child. Special attention should be paid to preventing and prosecuting cases of sexual abuse of children, as well as the rehabilitation of the victims of such abuse and their reintegration in society. The promotion of positive and non-violent forms of child-rearing should be an integral part of state policy related to children and the family. The authorities are invited to consult the [Council of Europe Recommendation Rec\(2006\)19 on policy to support positive parenting](#) which could serve as a source of inspiration for such policies.
41. All children coming into contact with the law should be treated according to [the Council of Europe Committee of Ministers Guidelines of 2010 on Child Friendly Justice](#). As stressed in these guidelines, a child-friendly justice system should be “accessible, age appropriate, speedy, diligent, adapted to and focused on the needs and rights of the child”. It should duly take into account the evolving capacities of the child. Adequate and systematic training and/or awareness-raising about children’s rights should be provided to professionals who work with and for children, most notably judges, lawyers, law enforcement officials, and other civil servants. It is important to ensure that quality psychological services are made available for children and that the focus is on the child’s rehabilitation and reintegration in society rather than on repression and deprivation of liberty.
42. The Commissioner invites the authorities to strengthen the national immunisation framework by ensuring access to safe and high quality immunisation vaccines, targeted awareness-raising campaigns and improved capacity of healthcare professionals to counter any misinformation and fear. According to the UN Convention on the Rights of the Child, all children have the right to the highest attainable standard of health, and this includes immunisation against common childhood diseases. It is equally important to provide continuous and adequate training to family doctors and other health professionals to enable them to better identify temporary or long-term medical contraindications and to be able to provide the necessary counselling to parents about the importance of immunisation. When it comes to sanitary conditions in schools, the Commissioner urges the authorities to introduce a set of targeted measures to bring them in line with [the World Health Organization \(WHO\) minimum standards on water, sanitation and hygiene for schools](#), as well as to ensure the safety and security of children.
43. The Commissioner encourages the Moldovan authorities to ratify Optional Protocol to the UN Convention on the Rights of the Child on the communications procedure.

3 THE HUMAN RIGHTS OF PERSONS WITH DISABILITIES

44. The Republic of Moldova ratified the UN Convention on the Rights of Persons with Disabilities (UNCRPD) in 2010 and signed the Optional Protocol, which provides for an individual complaints mechanism, in 2018. Following the ratification, the authorities began to progressively change the legal and institutional framework in order to bring it closer to the Convention's standards. Notably, a Law on the social inclusion of persons with disabilities was adopted in 2012. It introduced new concepts such as "reasonable accommodation", "universal design" and "accessibility", as well as vocational education and professional training, integration in the workplace, health and rehabilitation and social protection. In 2016, the Government approved a set of indicators for monitoring the implementation of the UNCRPD.
45. The National Program for Social Inclusion of Persons with Disabilities for 2017-2022 focuses on the following objectives: 1) improved access of persons with disabilities to social protection measures in the community; 2) the right to quality education of children with disabilities, on an equal basis with others; 3) increased access of persons with disabilities to quality medical care and rehabilitation; 4) increased employment rate; 5) participation of people with disabilities in political, public and cultural life; 6) accessibility of infrastructure, transport, information and communication for people with disabilities; 7) support of persons with disabilities in exercising their legal capacity and guaranteeing access to justice; 8) strengthening institutional capacity to implement the UNCRPD; 9) increased awareness of the population about the rights and abilities of people with disabilities.

3.1 DE-INSTITUTIONALISATION OF PERSONS WITH DISABILITIES

46. In September 2018, the government adopted the National Programme for de-institutionalisation of persons with intellectual and psychosocial disabilities. The government has also initiated the de-institutionalisation process and piloted projects for providing personal assistance and protected housing arrangements, albeit so far on a limited scope. The Commissioner was informed that, as a first step, the Ministry of Health, Labour and Social Protection has carried out the assessment of four psychoneurological institutions and two boarding schools for children to identify what kind of community services should be made available to the residents to ensure their reintegration in the community. According to the authorities, only a few children and adults can be reintegrated in their biological families. The authorities have also stressed that, from their perspective, the most pressing issue is the non-availability of protected homes and the lack of adequate funding for the construction of such facilities.²¹ They further informed the Commissioner that there were 12 protected houses and community homes, with a few more under construction or renovation.
47. The Ombudsman for Children's rights has been following the process of de-institutionalisation in the Centres for Temporary Placement of Children in Orhei and Hâncești (the two boarding schools mentioned above) and indicated the following barriers to the reintegration of children in the community and family environment: 1) their families are not sufficiently prepared for the reintegration of the child; 2) the available community-based services are not sufficient to ensure the

²¹ The UN Special Rapporteur on the rights of persons with disabilities who during her 2015 mission to the Republic of Moldova visited an assisted housing facility located in the municipality of Balti, referred in [her report](#) to "...some commendable initiatives for providing personal assistance and protected housing arrangements". At the same time, she expressed concern at the limited scope of such provisions and noted that the overwhelming majority of applications for personal assistance or community support services were rejected, reportedly for lack of public funding (§ 46).

child's reintegration; 3) children have to be home schooled due to the lack of other options: 4) social isolation of families due to social stigma.²²

48. Crucial barriers to the successful de-institutionalisation and inclusion of persons with disabilities in community life continue to include a lack of adequate community services and severe lack of accessibility. Concerning the latter, while construction companies are under a legal obligation to construct buildings with access for persons with disabilities, and transportation companies are required to equip their vehicles to meet the needs of persons with disabilities, such provisions are implemented only to a limited extent. Lack of accessibility has important repercussions on the enjoyment of other rights, including the participation of persons with disabilities in political and public life. For example, according to a 2019 [assessment of the accessibility of polling stations](#), out of 612 stations assessed 432 were inaccessible, 174 were partially accessible and only 6 were fully accessible for wheelchair users.

3.2 MENTAL HEALTH SERVICES

49. Mental health care is still largely institution-based, with care provided within three psychiatric hospitals, and residential institutions (referred to as *internats*), functioning as long-term care facilities for people with mental illness. Pilot projects aimed at the transformation of the mental health system were launched in 2005. Since then, the government has adopted several legislative and policy documents, including three subsequent National Mental Health Programmes (in 2007, 2012 and 2017) and a Strategy on Development of Community-Based Mental Health Services.
50. Since 2012, the reform efforts have been focusing on the following objectives: 1) build the capacity of primary health care workers; 2) develop community-based mental health services; 3) establish inpatient facilities in local hospitals and 4) improve the quality of care in psychiatric hospitals.²³
51. A [recent study](#) of the reforms in the sector implemented between 2007 and 2017 found that mental health care remains largely institutionalised with few alternative care options in the community.²⁴ The majority of interviewees (82.8 percent of the professionals and 92.3 percent of the care recipients) spoke in favour of reforming the mental health care system and expressed the following preferences with regard to priorities for reform: 1) reintegrate service users in society, community and family; 2) de-institutionalise and implement community-based mental health services; 3) improve the accessibility and quality of services, and 4) address health workforce issues. According to another assessment, the ongoing challenges include “mitigating the impact of migration among the mental health workforce; limited investments in the social care sector which compromise basic resource need from being met and impact mental health and service utilisation outcomes, and creating a system more inclusive of service users’ voices and opinions in the ongoing design and delivery of mental health care in the country.”²⁵

²² Ombudsman for Human Rights report for 2019, pages 97-99.

²³ Since 2014, the technical support for the implementation of the reforms in the mental health care system is provided by the MENSANA project.

²⁴ de Vetten-Mc Mahon, M., Shields-Zeeman, L.S., Petrea, I. *et al.* [Assessing the need for a mental health services reform in Moldova: a situation analysis](#). *Int J Ment Health Syst* 13, 45 (2019).

²⁵ [Mental health system reform in Moldova: Description of the program and reflections on its implementation between 2014 and 2019](#), Ionela Petreaa, Laura Shields-Zeemana, Rene Keetb, Raluca Nicac, Karel Kraand, Jana Chihaie, Victoria Condrate, Ghenadie Curocichine, MENSANA Consortium, Health Policy, Volume 124, Issue 1, January 2020, pages 83-88.

3.3 SITUATION OF PERSONS PLACED IN INSTITUTIONAL CARE

52. NGOs monitoring the situation in the country's institutions have reported cases of forced medication without a legally mandated court order; administration of psychotropic drugs without consent; violence; abuse; involuntary confinement; forced labour; and humiliating and degrading treatment. Most residential institutions suffer from a shortage of medical staff, inadequate housing and sanitation facilities, and lack of proper accommodation for persons with mobility impairments. There were also deficiencies in the documentation, investigation, and management of cases involving persons with intellectual and psychosocial disabilities by police, prosecutors, judges, and health service providers.

3.4 LEGAL CAPACITY

53. On 17 November 2016, the Constitutional Court adopted a [decision](#) declaring unconstitutional those provisions of the Civil Code and the Code of Civil Procedure which prevented persons deprived of their legal capacity from acting in court, as well as those which allowed the declaration of procedural acts made by such individuals or those with limited legal capacity "null and void". Following this decision, in 2018 amendments were introduced in the Civil Code, the Code of Civil Procedure and the Law on Mental Health which introduced "measures of protection" and assisted decision-making.

3.5 ACCESS TO EMPLOYMENT

54. The law stipulates that 5 percent of the workforce in companies with 20 or more employees should be persons with disabilities. Persons with disabilities are legally entitled to two months of paid annual leave and a six-hour workday, benefits that make employers less willing to hire them. Although the National Employment Strategy 2017-2021 contains important public policy measures focused on raising the employment rate of persons with disabilities, at present their employment rate is twice lower than that of the population in general.²⁶

3.6 SITUATION OF CHILDREN WITH DISABILITIES

55. Quality prevention and rehabilitation services for children with disabilities, notably those with rare diseases, and those at risk of disabilities are not sufficiently developed and are only available in big cities or urban areas. Medical personnel involved in identification and intervention therapies often use outdated methodologies of detection of development deficiencies.²⁷ Furthermore, the lack of coordination between the health, education and social services sectors often leads to delays, further affecting intervention and continuity of support when children are moving from one residence to another and generally affecting the quality and continuum of health care for children with disabilities and those at risk of disabilities, especially for children living in remote rural settlements.²⁸

²⁶ Monitorizarea Planului național de acțiuni 2018 pentru implementarea Strategiei naționale privind ocuparea forței de muncă pentru anii 2017-2021, Evaluarea acțiunilor ce vizează incluziunea în muncă a persoanelor cu dizabilități, Alianța Organizațiilor pentru Persoanele cu Dizabilități (AOPD) și Centrul pentru Drepturile Persoanelor cu Dizabilități (CDPD).

²⁷ For instance, contemporary diagnostics tests for children with autism as well as the behavioural therapy are provided through the association of parents of children with autism who are employing experts and specialists from outside the country for these purposes.

²⁸ For more information, see [Children in the Republic of Moldova: Situational Analysis 2016](#), UNICEF, pages 43 - 44.

3.7 CONCLUSIONS AND RECOMMENDATIONS

56. The Commissioner welcomes the beginning of the de-institutionalisation process for persons with intellectual and psychosocial disabilities. However, for this reform to be a success, the authorities should further expand and diversify community-based services and assisted living facilities, while remaining vigilant that the latter do not become another form of institutionalisation and segregation, albeit in a smaller setting. The authorities should also take measures to improve the accessibility of public spaces, transport and services and to ensure that universal design and reasonable accommodation are taken into consideration in the development of all sectorial policies. The Commissioner stresses that the isolation of persons with disabilities in institutions or at home because of lack of accessibility and support services undermines their full and effective participation and inclusion in society. The authorities should also take further action to address stigma and discrimination in employment.
57. The Commissioner urges the authorities to undertake more ambitious reforms of the mental health policy, with a view to drastically reducing and progressively eliminating recourse to coercive practices in psychiatry. Involuntary placements of persons with psychosocial disabilities because of their disability are in principle against Article 19 of the UNCRPD. Those responsible for serious human rights violations committed against adults and children living in institutions should be brought to justice, in accordance with the [2011 Guidelines of the Committee of Ministers of the Council of Europe on eradicating impunity for human rights violations](#). Persons living in institutions should have access to adequate legal support to effectively challenge any violation of their human rights.
58. The Commissioner welcomes the legal changes aimed at introducing assisted decision-making and calls on the authorities to ensure that the implementation of these provisions takes place with the close involvement of persons with disabilities and their associations, who should be consulted and informed on a regular basis. It is vital to ensure that persons providing support for decision-making in this initial period are well informed of what their role entails, and that there are robust safeguards to ensure that any support provided truly respects the will and preferences of the person receiving such support. The Commissioner considers that the long-term goal should be to reduce and eventually phase out recourse to guardianship and other forms of substituted decision-making by increasing the use of supported decision-making. It is also important to ensure that legal professionals, including judges, prosecutors and defence lawyers are continuously trained on the application of the relevant legislation in line with the corresponding international standards.
59. The Commissioner encourages the Moldovan authorities to ratify the Optional Protocol to the UNCRPD, which provides for an individual complaints mechanism for alleged violations of the Convention.

4 THE HUMAN RIGHTS OF ROMA

60. According to the 2014 census, the Roma population in Moldova amounts to approximately 13,900 people. However, due to the reported reluctance among Roma to self-identify as such in censuses for fear of stigmatisation and discrimination, the real number is generally estimated to be higher.
61. The Roma communities continue to be among the most marginalised and disadvantaged minority groups in the country. Roma often have lower levels of education, more limited access to health

care, and higher rates of unemployment. While the level of racist violence in the country is reported to be relatively low, anti-Roma prejudices are still quite strong.²⁹

4.1 ROMA INCLUSION

62. The Commissioner observes that in recent years the authorities have made efforts to improve the inclusion of Roma in society through the adoption and implementation of national action plans. The key objective of the Action Plan for 2011-2015 was to introduce “community mediators”, whose main task is to represent their communities’ interests to the local authorities and communicate government policy to Roma communities. At the time of the Commissioner’s visit, there were 34 Roma community mediators and the Commissioner was informed about plans to increase this number to 54. However, according to civil society organisations, local authorities are often reluctant to employ community mediators and provide them with the required support as they are not sufficiently informed about the mediator’s role or aware of the need to effectively implement the national policies on Roma inclusion at the local level. Furthermore, the Roma community mediators often face financial, logistical and other constraints which prevent them from effectively performing their function.
63. The Action Plan for 2016-2020 covers areas such as education, employment, housing, health, social protection, culture, community development and participation in decision-making. However, like the previous Action Plan it has been considerably underfunded and many measures envisaged in it are not implemented.
64. In a general context marked by the lack of available social housing stock, access to housing remains particularly problematic for Roma families, according to NGOs. A standard response they receive from the local authorities is that there are no financial resources available for the construction of social housing for any of the categories of individuals who are entitled to it according to the law (more information below in Part VII).

4.2 ACCESS TO EDUCATION FOR ROMA CHILDREN

65. There has been an improvement in the access to education of Roma children, particularly at primary school level, owing mainly to the work of Roma community mediators and civil society. However, enrolment rates for Roma children still appear to be lower than for non-Roma children at all stages of education. Obstacles in this respect include widespread poverty among Roma who cannot afford to pay formal and informal education-related contributions (see paragraph 26 above), as well as problems related to transportation from remote rural settlements.

4.3 SITUATION OF ROMA WOMEN

66. A 2019 survey of 476 Romani women from 48 localities conducted by the Roma Women Network revealed that Roma women still experience limited access to education, the job market, health care services and information about health and hygiene.³⁰ Only 36.6 percent of Romani women attended some form of state guaranteed education, while 57.8 percent said they did not have an opportunity to continue their studies. About 84.7 percent of respondents were not officially employed.
67. Furthermore, 28 percent of Romani women indicated that they have not visited a doctor in the last one to five years. One in three women reported discrimination by medical personnel. 70 percent of women do not have access to information about health and hygiene. Other factors that impede access to

²⁹ According to a 2018 study (see footnote 31), Roma are among the least accepted groups in society.

³⁰ Manifest Femeile Rome în Republica Moldova 2019.

medical care for Roma women and children include out-of-pocket and informal payments (more information in Part VII), and long distances to the nearest medical facility.

4.4 ACCESS TO EMPLOYMENT

68. The employment rate of the Roma population is about half that of the non-Roma population and they are more likely to be engaged in the informal economy and doing seasonal work. At the same time, there has been a gradual increase in the number of Roma persons registered in employment programmes run by the National Agency for Employment which opens a possibility for participating in vocational and other professional training and better access to health insurance.

4.5 ACCESS TO PUBLIC UTILITIES

69. Approximately 60 percent of Romani families live in rural areas, often in deplorable living conditions, without running water, sanitation facilities and heating. According to a recent [report on inequalities in the Republic of Moldova](#),³¹ even in settlements where communal services are available, Roma households have much lower access to these services compared to non-Roma households living in the same localities.

4.6 PARTICIPATION IN PUBLIC LIFE

70. Two Romani women were elected to the local councils in 2015. It is to be welcomed that in the 2019 general local elections, twelve Roma community representatives were elected as local councillors, including six women.

4.7 CONCLUSIONS AND RECOMMENDATIONS

71. The Commissioner welcomes the development of the network of Roma community mediators and its planned expansion. In line with the [Committee of Ministers Recommendation CM/Rec\(2012\)9 on mediation as an effective tool for promoting respect for the human rights and social inclusion of Roma](#) the Commissioner calls on the Moldovan authorities to further strengthen the role of the mediators and provide them with the necessary technical and other means to enable them to perform their functions effectively. It is equally important to raise awareness about the Roma community mediators among the public in general, including among the Roma population and local authorities. Adequate funding should be allocated to the implementation of national Roma inclusion policies and the local authorities should be regularly informed and actively involved in the design and implementation of the policy priorities at the local and regional levels, in line with the [Resolution 333 \(2011\) adopted by the Council of Europe Congress of Local and Regional Authorities](#). More resolute measures to combat prejudices against Roma are also needed.
72. The Commissioner welcomes the progress achieved so far in improving access to education for Roma children and encourages the authorities to develop support measures aimed at preventing drop-out and absenteeism and ensuring the integration of children in the education system, in line with [the Committee of Ministers Recommendation Rec\(2009\)4 on the education of Roma and Travellers in Europe](#).
73. Substandard living conditions and lack of access to basic utilities, as well as a general lack of social housing to address the housing problem for Roma families constitute major impediments to the inclusion of Roma in society and the realisation of other rights, including the rights to health and

³¹ East Europe Foundation, [Unequal Moldova: Analysis of the most relevant inequalities in the Republic of Moldova](#), 2018, page 23.

work. The Commissioner calls on the authorities to address these issues as a matter of priority, in line with the [Council of Europe Committee of Ministers Recommendation Rec\(2005\)4 on improving the housing conditions of the Roma and Travellers in Europe](#).

74. The Commissioner encourages the authorities to collect accurate and up-to-date information on the situation of Roma, disaggregated by gender and age, particularly in the areas of housing, education, employment and health care, with a view to increasing the effectiveness of policies addressing their situation. She wishes to stress the importance of involving the Roma communities' representatives, including community mediators, in the development, implementation and monitoring of these policies.

5 HATE SPEECH

75. The Commissioner was made aware of several instances of hate speech in the public sphere. She was particularly struck by hate speech originating from politicians, including at the highest political level, and by religious and community leaders, although the media is also at the origin of hate speech or contributes to spreading it. All interlocutors concur in saying that instances of hate speech intensify around election periods. For instance, according to a study carried out over a three-month period (January to April 2019), out of the total number of 319 cases identified, 89 were expressed in the electoral context.³² While many groups are affected, women (as mentioned earlier) and LGBTI persons have been particularly frequent targets of hate or derogatory speech. According to the same study, LGBTI people have been the target of the most aggressive and virulent forms of hate speech, a circumstance that is also consistent with the results of research about perceptions and attitudes towards equality, which suggest that LGBTI persons remain the least accepted group in society.³³

5.1 LEGAL AND INSTITUTIONAL FRAMEWORK

76. Similarly to most other countries, in the Republic of Moldova hate speech can occur with different levels of intensity and in different contexts, and the tools to respond to it should therefore also vary. The Commissioner finds it concerning, however, that even for the most virulent and damaging forms of hate speech, there appears to be hardly any remedy that can be relied upon to effectively ensure a proportionate reaction in practice. The existing relevant criminal law provisions (including art 346 of the Criminal Code) are reported to be rarely used, and hardly ever in a successful manner. Under Moldovan law hate speech can also be punished as a misdemeanour and under civil liability, through the Contravention Code, the Law on Freedom of Expression as well as the Equality Act. The Audiovisual Code prohibits incitement to hatred on a number of grounds, but not sexual orientation and gender identity, and the role of the Audiovisual Co-ordinating Council in monitoring media compliance with the Code has been subject to criticism. The Commissioner understands that draft amendments on "Hate Crimes and Holocaust Denial –Amending Supplementing Certain Acts" were

³² [Hate speech and incitement to discrimination in the public space and media in the Republic of Moldova \(Monitoring period 11.01.2019-11.04.2019\)](#), Report 2019, Summary, Promo-LEX, page 9.

³³ Studiu privind percepțiile și atitudinile față de egalitate în Republica Moldova, Realizat de S.C. MAGENTA CONSULTING S.R.L., Chisinau, 2018. Although there was a decrease in social exclusion of LGBT people from 5.2 in 2015 to 4.4 in 2018, nevertheless the LGBT community remains the least accepted group in the society. They are followed by persons living with HIV/AIDs (a decrease from 4.3 in 2015 to 3.3) and Roma (from 3.1 in 2015 to 2.9 in 2018). Other groups of population which are least accepted in the society include former detainees; Muslims, persons of African origin and persons with psychosocial and intellectual disabilities. A 2019 study commissioned by the Genderdoc-M Information Centre, a local advocacy group, also revealed persisting negative attitudes towards LGBT individuals among the population in general (see Report on the Situation of LGBT People's Rights in the Republic of Moldova, 2019, Genderdoc-M).

approved in the first reading in December 2016 and were still pending before the Parliament at the time of the Commissioner's visit. Several of the Commissioner's interlocutors expressed the opinion that the adoption of these amendments would contribute to better sanctioning of hate speech under criminal law and as a misdemeanour.

77. As for online hate speech, the Commissioner notes that in 2018 ECRI found that it went largely unchecked and unpunished, with the police not following up on incidents, editorial responsibility for online posts not always being sufficiently understood, and illegal content not taken down and removed in a timely manner. The Commissioner has received no information indicating that the situation in this respect has changed.
78. A number of programmes to tackle hate speech have been implemented in the Republic of Moldova, but as a rule they have been carried out by international partners, in co-operation with NGOs. While some public agencies have taken part in these programmes, the initiative and involvement in the field of tackling hate speech among public authorities has so far been very limited.

5.2 THE COUNCIL FOR PREVENTION AND ELIMINATION OF DISCRIMINATION AND ENSURING EQUALITY

79. The adoption in 2012 of the Law on Ensuring Equality and the Law on the Activity of the Council for Prevention and Elimination of Discrimination and Ensuring Equality provided for the establishment in 2013 of the Council for Prevention and Elimination of Discrimination and Ensuring Equality. The Council is an equality body with both a decision-making function and an awareness-raising function. The mandate of the Council relates primarily to the examination of complaints of alleged discrimination, assessment of laws and draft laws from the equality perspective, and awareness-raising and promotion of equal opportunities. However, the Council also took decisions in cases involving homophobic speech by politicians.

5.3 CONCLUSIONS AND RECOMMENDATIONS

80. The Commissioner considers the fight against hate speech as an important priority, on account of both the fact that it often prepares the ground for other manifestations of intolerance, including violent manifestations, and because of the harm caused to the persons concerned and to social cohesion more generally. As explained by ECRI, appropriate responses to hate speech must include both effective law enforcement channels and other mechanisms to counter its harmful effects, such as prevention, self-regulation and counter speech. ECRI [General Policy Recommendation 15 on Combating Hate Speech](#) provides comprehensive guidance about this.
81. The Commissioner recalls first and foremost that public officials should not engage in hate speech. In line with the [Committee of Ministers' Recommendation CM/Rec\(2010\)5 on measures to combat discrimination on grounds of sexual orientation or gender identity](#), they should also publicly disavow hate speech whenever it occurs, and the Commissioner underlines that this includes the speech of religious leaders. In this connection she also reminds the Moldovan authorities that according to the same Recommendation "[p]ublic officials and other state representatives should be encouraged to promote tolerance and respect for the human rights of lesbian, gay, bisexual and transgender persons whenever they engage in a dialogue with key representatives of the civil society, including media and sports organisations, political organisations and religious communities".
82. The Commissioner calls on the Moldovan authorities to ensure that their legal and institutional framework to combat hate speech is fine-tuned and in line with the recommendations of the

monitoring bodies specialised in this field, in particular ECRI, and the relevant case-law of the European Court of Human Rights. In view of the particular impact of hate speech on LGBTI persons in recent times, the Commissioner emphasises that the various components of such a framework should explicitly provide protection against hate speech on grounds of sexual orientation and gender identity. Noting in particular its position as one of the few public agencies to have addressed hate speech, the Council for Prevention and Elimination of Discrimination and Ensuring Equality should be empowered, through the relevant legal or regulatory amendments and allocation of sufficient budgetary resources, to effectively implement its mandate, in line with [ECRI General Policy Recommendation N°2 revised on Equality Bodies to combat racism and intolerance at national level](#).

83. Media outlets and journalists should be encouraged to practice ethical and responsible journalism and provide factual, objective and professional reporting, including in their coverage of LGBTI persons and issues, as well as other stigmatised minorities. The Audiovisual Co-ordinating Council should take decisive actions in all cases of hate speech, including by imposing sanctions whenever appropriate.
84. Finally, the Commissioner calls on the Moldovan authorities to take ownership and responsibility in fighting hate speech. While co-operation with international and local stakeholders who are already active in this area will continue to be essential, a visible strategy that translates public commitment would be a useful and welcome development.

6 RIGHT TO HOUSING

85. The Republic of Moldova ratified the European Social Charter (revised) in 2001, [accepting 63 of the 98](#) paragraphs of the Charter. In connection with the right to housing, it did not accept articles 31§1, 31§2 and 31§3 concerning adequate housing, the reduction of homelessness and affordable housing. It has also not accepted the 1995 Additional Protocol providing for a system of collective complaints. Moldova is also a party to the International Covenant on Economic, Social and Cultural Rights and is bound by its provisions on the right to housing (including water and sanitation).

6.1 OVERVIEW OF THE HOUSING SECTOR

86. According to the [2014 census](#), 949,500 households (i.e. 99.0 percent of the total number) lived in private properties, while only about 7,000 (i.e. 0.7 percent), lived in public (municipal) properties. More than 60 percent of the total housing stock is situated in the rural areas. 3.5 percent of the total number of households -- or 3.2 percent of the population -- were living in rented dwellings. The share of such households in the urban area accounted for 7.1 percent, and for 1.5 percent in the rural areas. However, 2.1 percent of the total number of households were living for free in their relatives' dwellings. The existing housing stock, although relatively new, is in poor condition due to lack of maintenance and capital repairs.³⁴
87. The Commissioner recalls that the right to housing is defined as the right to live somewhere in peace, security and dignity, and includes security of tenure, availability of services, affordability, habitability, accessibility, appropriate location and cultural adequacy.³⁵ The Commissioner observes that persons in a vulnerable situation have limited or no access to social housing in practice, even

³⁴ Country Profiles on Housing and Land Management: Republic of Moldova, Policy recommendations, United Nations Economic Commission for Europe, 2015, Part II, [Chapter 1](#), page 20.

³⁵ UN Committee on Economic, Social and Cultural Rights, General Comment No. 4: [The Right to Adequate Housing](#) (Art. 11 (1) of the Covenant).

when the law in force provides for such an entitlement (see below). As already noted in other parts of this report, lack of access to social housing constitutes a major impediment, for example for the inclusion of impoverished Roma families in society and the realisation of other rights, including the rights to health and work. Lack of accessibility, including in the housing sector, is an important barrier for the inclusion of persons with disabilities in community life. Furthermore, lack of access to social housing was identified as one of the main gaps in the provision of social assistance to victims of domestic violence.

88. In April 2015, a new [Law on housing](#) was adopted with a list of categories of persons who can benefit from social and service housing (persons with disabilities and families with children with disabilities, young families and families with many children).
89. According to a 2017 Government Decision, social housing is assigned to eligible categories as follows: 10 percent for people with severe disabilities; 15 percent to families with children (minors) with severe disabilities; 50 percent to young families who do not have a dwelling; 15 percent to families with triplets, quadruplets and other multiple births; 10 percent to young people deprived of parental care before the age of 18 or until the age they reach full capacity.³⁶
90. In 2011, the Council of Europe Development bank approved a [loan](#) to the Government of Moldova to implement a project aimed at providing sustainable social housing to vulnerable and low-income populations, including young families with children. The project is currently in the [implementation phase](#) and it is envisaged that a total of 2500 people will benefit from the construction of the 700 dwellings.

6.2 ACCESS TO WATER AND SANITATION

91. According to the 2014 census, 74.1 percent of the population had access to a cold water supply, 37.5 percent to a hot water supply, and 55.3 percent to a sewage system. However, there were significant disparities between urban and rural areas. For instance, 69.5 percent of people with access to a hot water supply live in urban areas and only 21.5 in rural areas.
92. According to a [recent report](#), the majority of settlements in Moldova are remote from big cities and cannot be connected to the centralised sewage system. Only 126 out of 1682 localities have sewage systems and only 73 of them have functional sewage treatment plants. Without a sewage treatment plant, waste water reaches the soil and rivers causing serious pollution. This, in turn, has a huge impact on the environment and the general health of the population. According to local non-governmental organisations, poor quality of water is an issue of growing concern.³⁷

6.3 CONCLUSIONS AND RECOMMENDATIONS

93. To ensure the progressive realisation of the right to adequate housing, the Commissioner recommends, as a first step, conducting a comprehensive needs assessment for social housing among people in a vulnerable situation and, based on the data collected, gradually allocating financial resources for the construction or renovation of social and affordable housing.

³⁶ [Third report on the non-accepted provisions of the European Social Charter: Republic of Moldova](#), European Committee of Social Rights, December 2018, page 25.

³⁷ According to the UN Food and Agriculture Organisation, "Sources of pollution of surface water and groundwater are mainly due to households individual sanitation systems, poorly or non-treated municipal wastewater discharges from inadequate solid waste management sites and from power and industrial plants. [...] Poor quality drinking water is estimated to cause up to 22-25 percent of cases of diarrheal diseases, 15-20 percent of cases of viral hepatitis A, and 100 percent of cases of dental fluorosis (Tronza, 2014)." (see [Country Profile – Republic of Moldova](#), 2015).

94. In the allocation of the newly constructed social housing, the authorities should give priority to the needs of disadvantaged and marginalised individuals or groups living in precarious housing conditions while ensuring their equal treatment in access to housing in general. Furthermore, it is imperative to ensure that all newly constructed or renovated housing is, to the maximum extent possible, made accessible to persons with disabilities.
95. The Commissioner calls on the authorities to provide opportunities for a meaningful participation in the design, implementation and monitoring of housing policies of all those in need of housing, in line with the UN [Guidelines for the Implementation of the Right to Adequate Housing](#). As part of its housing strategy, the government should provide incentives to invest in upgrading the existing housing stock and increasing access to water and sanitation facilities, while in parallel taking targeted action to improve the quality of water.
96. The Commissioner calls on the authorities to accept the non-accepted provisions of the European Social Charter (revised), notably those related to the right to housing, and the 1995 Additional Protocol providing for a system of collective complaints.

7 RIGHT TO HEALTH

97. The Republic of Moldova acceded to the Convention for the Protection of Human Rights and Dignity of the Human Being with regard to the Application of Biology and Medicine: Convention on Human Rights and Biomedicine (Oviedo Convention) and its Additional Protocols. It has also accepted the provisions of the Revised European Social Charter related to the protection of health. As noted above, Moldova is also a party to the International Covenant on Economic, Social and Cultural Rights and is bound by its provisions on the right to health.
98. The healthcare system aims at ensuring universal access and certain types of care (primary care, pre-hospital emergency care, TB, AIDS and cancer treatment) are provided free of charge regardless of whether the person concerned is insured or not. Compulsory insurance covers salaried and self-employed workers, on the basis of their contributions, as well as certain other categories of persons who are covered automatically (children, students, women during pregnancy and following childbirth, mothers of four or more children, persons with disabilities, retired persons, persons formally registered as unemployed and social assistance recipients). Uninsured persons can take out voluntary insurance. In 2017, 86.9 percent of the population was covered by compulsory medical insurance.³⁸
99. The Commissioner recalls that the right to health includes numerous entitlements, such as the availability of good quality health care facilities and access to essential medicines, and their realisation requires public funding. She observes that the legislation in force regulating the healthcare sector is relatively well-developed, but the health system has been facing serious challenges related to funding, access to quality primary care, notably in the rural areas, and a lack of medical personnel. Access of persons with disabilities to health services, including sexual and reproductive health services, is in particular limited due to the lack of accessibility and adaptability. Furthermore, as was already noted (see paragraph 55 above), quality prevention and rehabilitation services for children with disabilities, notably those with rare diseases, and those at risk of disabilities are not sufficiently developed and are often only available in urban areas.

³⁸ [Report concerning conclusions 2017 of the European Social Charter \(revised\)](#), European Social Charter, 31 January 2019, page 92.

7.1 REGULATORY FRAMEWORK

100. Relevant policies and programmes in force include the National Health Policy for 2007-2021, the National Strategy for Health System Development for 2014-2020 and about twenty national programmes covering different prevention strategies and certain diseases. There is also a draft Health Code which has been under elaboration for a long period of time and which at the time of the Commissioner's visit was still pending approval. Medical malpractice is at present not regulated by the law.

7.2 MAJOR IMPEDIMENTS TO ACCESSING ADEQUATE HEALTH SERVICES

101. According to a [2018 study](#) of perceptions of human rights in the Republic of Moldova, 62 percent of respondents were of the opinion that a person's economic status affects the right to health care services and 56 percent stated that the compulsory health insurance policy does not allow the holders to have an adequate level of medical services. 48 percent of respondents also believed that the state does not ensure equal access to quality health services.³⁹
102. For a long time, the health care system has been affected by the emigration of the health workforce, which creates severe shortages of medical professionals in the country, in particular in rural areas, and undermines the quality of the available medical services. Another important barrier to accessing healthcare is informal and out-of-pocket payments, as well as a low per capita allocation for healthcare. There are also significant geographical differences in access to healthcare, with rural areas lacking some primary healthcare services.

7.3 INFORMAL AND OUT-OF-POCKET PAYMENTS

103. Nearly three quarters of households report out-of-pocket payments. The share of households reporting out-of-pocket payments has increased over time from 65 percent in 2008 to 72 percent in 2016.⁴⁰ 17 percent of households experienced catastrophic health spending in 2016, up from 14 percent in 2008.⁴¹ Catastrophic spending on health is heavily concentrated among the poorest households: nearly half of all households in the poorest 20 percent experienced financial hardship, compared to only 7 percent in the richest 20 percent. Catastrophic spending is also heavily concentrated among people living in rural areas and pensioners.⁴²
104. Patients report that money, gifts or personal relations are often a precondition to receiving medical treatment in healthcare facilities. Informal payments are more widespread in inpatient care than in outpatient settings and mainly paid to physicians in inpatient care, with people paying more for more complex types of care such as surgery. The practice of informal payments seriously affects access to healthcare, as it discourages patients from seeking medical assistance or from doing so promptly. In many cases, those deprived of medical attention are the ones who need it most. A [2018 report](#) on inequalities in Moldova revealed that about 48 percent of the people in households with people with disabilities did not go to the doctor, even if they needed to. The same applies to low-income households, the elderly and women.

³⁹ Study "Perceptions of Human Rights in the Republic of Moldova", Chisinau, 2018, page 40.

⁴⁰ World Health Organization, [Can people afford to pay for health care?](#) New evidence on financial protection in the Republic of Moldova, page 24.

⁴¹ Ibid, page 37. "Catastrophic health expenditure" is defined as out-of-pocket spending for health care that exceeds a certain proportion of a household's income with the consequence that households suffer the burden of disease.

⁴² Ibid, page 58.

7.4 YOUTH FRIENDLY HEALTH CENTRES

105. Launched as a donor-funded initiative, the centres are currently established in all municipalities and district capitals and provide services to children and young people aged 10-24 years. They are located on the premises of the existing health system infrastructure. It was reported, however, that the centres may not always be within reach for the vulnerable and most at-risk adolescents living in rural areas.

7.5 SEXUAL AND REPRODUCTIVE HEALTH AND RIGHTS

106. In January 2018, [a joint declaration](#) signed by 98 women and 36 non-governmental organisations drew public attention to serious issues of concern in the prenatal and maternal health care system, such as medical malpractice, refusal to provide urgent medical assistance or delayed provision of such assistance, verbal abuse, as well as demands for payments for services which should be provided free of charge.
107. In May 2018, a [National Programme on Sexual and Reproductive Health and Rights](#) for 2018-2022 was launched, with a view to ensuring universal access to sexual and reproductive health services, improving the quality of care and human rights based and patient-centred approaches to sexual and reproductive health. It also gives priority to information and education.

7.6 PEOPLE LIVING WITH HIV/AIDS AND BREACH OF CONFIDENTIALITY

108. As already mentioned in the report,⁴³ people living with HIV/AIDS are reported to be among the least accepted groups in society. Reports suggest that when accessing health care services, they are frequently expected to pay higher than average informal fees. Cases were reported where hospitals would disclose the HIV status of a person without their consent to persons not entitled to have such information.
109. During the visit, the Commissioner was also informed about a case where the identity of an individual who arrived in Chisinau from another country after allegedly being diagnosed with COVID-19 was disclosed to the general public.

7.7 PROTECTION OF MEDICAL PERSONNEL

110. The Commissioner was informed about several instances in which family doctors and other medical personnel were assaulted in connection with actual or perceived misdiagnoses, long waiting times, demands for informal payments and other causes. Since the beginning of the COVID-19 pandemic, there have been reports about doctors being forced to work without adequate protective gear which may have been one of the reasons behind a high number of contaminations among medical personnel.

7.8 CONCLUSIONS AND RECOMMENDATIONS

111. The Commissioner stresses that national policies in the field of healthcare should aim at ensuring equitable and affordable access to human rights based and people-centred healthcare services and respect for users' self-determination, dignity and privacy. While acknowledging financial constraints, the Commissioner also recommends gradually increasing public health spending, with a view to making the health services more affordable and accessible, improving the quality and availability of health services and ensuring adequate remuneration of health professionals.

⁴³ See footnote 31.

Targeted measures should be taken to facilitate access of people from rural areas, as well as disadvantaged groups such as members of Roma communities and persons with disabilities to these services.

112. As out-of-pocket and informal payments constitute an important barrier to accessing healthcare services, the Commissioner calls on the authorities to implement policy measures aimed at tackling the phenomenon of informal payments and reducing medical expenditure for patients, as outlined in the relevant [WHO policy recommendations](#) and [guidance](#).
113. The Commissioner urges the authorities to adopt a Health Code which effectively addresses the current challenges facing the health care system, to ensure that medical malpractice is adequately regulated and develop policies to improve early diagnosis and treatment, as well as rehabilitation of patients with rare diseases. She wishes to recall that all patients are entitled to diagnostic and treatment programs tailored to their individual needs, in which economic criteria should not prevail over the right to care.
114. The Commissioner welcomes the adoption of the National Programme on Sexual and Reproductive Health and Rights and calls on the authorities to focus on eliminating harmful practices in sexual and reproductive health care contexts. In this regard, the authorities are invited to draw guidance from the [Issue Paper on women's sexual and reproductive health and rights in Europe](#).
115. The Commissioner invites the authorities to introduce policies aimed at preventing and addressing violence against healthcare professionals, in compliance with the [Framework guidelines for addressing workplace violence in the health sector](#). In times of pandemic or any other health-related emergency, it is imperative to ensure that doctors and other health care professionals are provided with adequate protective equipment.

THE COMMISSIONER'S OBSERVATIONS CONCERNING HUMAN RIGHTS ISSUES DISCUSSED IN TIRASPOL

On 11 March, the Commissioner travelled to Tiraspol where she had an opportunity to discuss the following human rights issues with the region's leadership and civil society representatives: violence against women and domestic violence; the human rights of persons with disabilities; children's rights, inclusive education and the situation of the Latin-script schools; and social rights. Below are some of the Commissioner's observations following these discussions.

Violence against women and domestic violence

The Commissioner noted the increased recognition of domestic violence and gender-based violence as an issue of concern that needs to be addressed. Local civil society plays an instrumental role in advocacy efforts and in the provision of much-needed assistance and shelter to survivors of domestic violence and deserves recognition for the work they do.

The Commissioner advised the local power-holders to direct their efforts towards the eradication of violence within families and, to this end, to introduce a separate normative framework recognising the distinct character of offences committed in home settings and ensuring adequate sanctioning of the perpetrators. The local community leaders should play an active role in challenging deep-seated stereotypes and prejudices about the role of women in society.

The human rights of persons with disabilities

There was also some improvement in public perceptions and recognition of the rights of persons with disabilities and increased support for their inclusion in community life. Changes in the perception of disability have been achieved due to the relentless efforts of local civil society groups, which also reportedly led to a shift in the way local media cover the situation of persons with disabilities. Thus, several initiatives were launched to increase the accessibility of buildings and public spaces and a number of pilot projects have been carried out to develop community-based support services. Institution-based arrangements however remain prevalent, in particular in relation to persons with psychosocial and intellectual disabilities.

A human rights-based approach to disability requires a full paradigm shift from traditional attitudes towards persons with disabilities, who should be empowered to become active contributing members of our societies. The transition from institutional care to community living, access of children with disabilities to mainstream education and access to employment are part and parcel of the gradual transition that is required to bring about a more inclusive society, where the human rights of persons with disabilities are better protected.

Children's rights, inclusive education and the situation of the Latin-script schools

The Commissioner was informed that a comprehensive strategy on inclusive education has been developed for the period from 2020 to 2030. The Commissioner welcomed this development and recommended paying particular attention to the inclusion of children with disabilities and Roma children in mainstream educational settings. The [Position Paper](#) on inclusive education published by the Commissioner's Office provides information on best practices in this regard. Furthermore, the

Commissioner called upon her interlocutors to ensure an enabling environment for the functioning of the Latin-script schools in the region. She also raised with her interlocutors alternatives to institutional care.

Ensuring an enabling environment for civil society organisations

As already mentioned, the local civil society groups play a vital role in increasing public awareness about human rights standards and issues of concern, advocating in favour of human rights compliant policy changes and providing support services to different vulnerable groups, ranging from survivors of domestic violence and trafficking in human beings to persons with disabilities and homeless people. The environment in which civil society organisations operate has long been quite restrictive, but the introduction in 2018 of new norms concerning “political activity” and “foreign funding” had a profoundly chilling effect on their work.

The Commissioner recalled that human rights standards do not allow differences in treatment of non-governmental organisations solely on the basis of their sources of funding. As for the use of terms such as “political activity”, the Commissioner expressed the view that this definition is inherently broad and vague and would increase the likelihood of its arbitrary interpretation and application.⁴⁴ She therefore stated that such norms should be removed from the framework regulating the activities of non-commercial organisations.

Social rights

The Commissioner was informed about the locally administered programmes aimed at providing access to affordable housing for people with low income, as well as orphans and people with disabilities. There is also a draft strategy under discussion to reform the healthcare system which suffers from a lack of funding, shortage of qualified medical personnel and dilapidated medical infrastructure.

Other issues

The Commissioner called upon her interlocutors to resume full co-operation with the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment and to facilitate the carrying out of its visits to the region without any pre-conditions and in full compliance with its mandate.

⁴⁴ See also [CommDH\(2017\)22](#), Third party intervention by the Council of Europe Commissioner for Human Rights under Article 36, paragraph 3, of the European Convention on Human Rights, Application n° 9988/13, ECODEFENCE and others v. Russia and 48 other applications, Strasbourg, 5 July 2017, §§19 -23.