



**Universal Periodic Review - Republic of Moldova
Stakeholder report by Lumos**

Submission by Lumos concerning the Republic of Moldova for consideration during the 26th session of the Universal Periodic Review Working Group in the Human Rights Council.

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Introduction

Lumos respectfully submits comments concerning the Republic of Moldova for consideration of the Human Rights Council (HRC) within the Universal Periodic Review working group at its 26th session, October-November 2016. This report outlines concerns about the situation of the institutionalisation of children in Moldova and, in particular, concerns about children's rights protection.¹

1) Normative and institutional framework of the state

a) Positive developments

- i) The adoption of: The Law on the Special Protection of Children at Risk and of Children Separated from their Parents²; The Program on the Development of Inclusive Education in the Republic of Moldova for 2011-2020³; The Law on Social Inclusion of Persons with Disabilities⁴; The Strategy for Social Inclusion of Persons with Disabilities 2010-2013⁵; The 2010 Law on Social Services⁶; and the 2012 Law on the Accreditation of Social Services Providers⁷
- ii) Lumos welcomes action taken to prevent child abuse and exploitation in Moldova during the period 2011-2015, including the ratification of the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (2011); the adoption of toughened sanctions for sex crimes committed against children, child pornography, child trafficking; the amendment of the Code of Criminal Procedures (2012), including special conditions for the hearing of child sex abuse victims; adoption of the law on special protection of children at risk and children separated from their parents (2013); and approval of Decision no. 270 of April 8th, 2014 on an inter-sectoral cooperation mechanism for the identification, evaluation, referral, assistance and monitoring of children-victims and potential victims of violence, neglect, exploitation and trafficking; and Order of October 8th, 2014 on the application of a unique format of referral sheet for suspected cases of abuse, neglect, exploitation, trafficking of children.

b) Areas for improvement

- i) While the adoption of the National Strategy on Child Protection for 2014-2020, through which the Government has expressed its intention to further reduce the number of children in residential care, is a positive development, it is concerning that the Action

¹ Children have the right, as much as possible, to know and be cared for by their birth families and not to be separated from their parents (UN Convention on the Rights of the Child (UN CRC, Art 7 and 9). Parents have the primary responsibility to raise their children and it is the State's obligation to support parents in fulfilling that responsibility (UN CRC, Art 18). Children have the right to protection from harm and abuse (UNCRC Art 19), to an education (UNCRC Art 28) and to adequate healthcare (UNCRC Art 24), all of which they should be able to enjoy while living in their family. Where their family cannot provide the care they need, despite the provision of adequate support by the State, the child has the right to substitute family care (UNCRC Art 20). The Convention and the Guidelines for the Alternative Care of Children (A/RES/64/142) call on States to ensure that families have access to forms of support in the caregiving role. The Guidelines state that, "[e]very child and young person should live in a supportive, protective and caring environment that promotes his/her full potential. Children with inadequate or no parental care are at special risk of being denied such a nurturing environment". The Convention on the Rights of Persons with Disabilities (CRPD) emphasises the rights of children with disabilities to be raised in their families and included in their schools and communities alongside their peers.

² Ministry of Justice, <http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=348972> [accessed 3rd Feb 2015].

³ Ministry of Justice, <http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=339343> [accessed 8th Feb 2015].

⁴ Ministry of Justice: <http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=344149> [accessed 2nd Feb 2015].

⁵ Ministry of Justice, <http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=336276> [accessed 3rd Feb 2015].

⁶ Ministry of Justice, <http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=335808> [accessed 3rd Feb 2015].

⁷ Ministry of Justice, <http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=344610> [accessed 9th Feb 2015].

Plan for its implementation has not yet been approved by the government and implementation has not yet started.

- ii) In 2012, the Moldovan Government approved the Regulation on Redirecting Financial Resources from residential institutions⁸ to new social and education support services in communities. In recent years, a process of decentralisation has taken place, part of the National Strategy on Decentralisation 2012-2015.⁹ Since the adoption of the Regulation, local public authorities do not have sufficient resources to finance existing social services anymore or to create new ones. The mechanism of redirecting financial resources from residential institutions to new community-based social services should therefore be revised.

2) Implementation of accepted recommendations and promotion and protection of human rights on the ground

a) Reform of the residential care system for children

- i) In 2007, the Government of Moldova committed to a five-year plan to reduce the number of children in institutions by 50%. By 2012, the number reduced by 62%.¹⁰ The number of children living in institutions reduced from 11,544 in 2007¹¹ to 2,955 in 2014.¹² Many children, including children with disabilities, have been assessed and have been reunified with their families or have been placed in alternative family services and integrated into their communities.
- ii) The majority of children that currently remain in institutions are children with disabilities.¹³ In 2016 the UN Special Rapporteur on Disabilities in a report on Moldova pointed out that children with disabilities who remain in institution suffer severe human rights abuses. She reported that in some institutions children live under inhumane conditions, locked away from the outside world, sometimes tied up to chairs for extended periods of time and neglected.¹⁴ The children do not receive inclusive education and are not included in activities in the community. She has pointed out that institutionalisation of persons in psychiatric residential institutions remains a big challenge.¹⁵
- iii) Throughout the residential care reform process, the number of under-three-year-old children placed in institutions has not reduced.

⁸ Ministry of Justice, <http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=343471> [accessed 9th Feb 2015].

⁹ Ministry of Justice, <http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=344005> [accessed 12th Feb 2015].

¹⁰ Ministry of Justice, http://www.ipp.md/public/files/Proiecte/Studiu_Cara_Angela.pdf [accessed 3rd Feb 2015].

¹¹ Evans, P. (2013). Evaluation of implementation of the National Strategy and Action Plan for the reform of the residential childcare system in Moldova 2007-2012. http://www.unicef.org/evaluation/files/Moldova_2012_003_Evaluation_of_Child_Care_Reform_ENG.pdf [accessed 23rd Feb 2015].

¹² Unpublished statistical data of the Ministry of Labour, Social Protection and Family, Ministry of Education and Ministry of Health.

¹³ *Strategic Review of the child protection system in the Republic of Moldova. Report*. Available online in Romanian: <http://moldova.wearlumos.org/sites/default/files/Evaluare-strategica-sistem-protectie-copii-moldova.pdf> [accessed 18th Feb 2015].

¹⁴ Special Rapporteur on the rights of persons with disabilities (2016) A/HRC/31/62/Add.2. <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G16/016/89/PDF/G1601689.pdf?OpenElement> [accessed 23rd Feb 2015].

¹⁵ Ibid.

- iv) There is insufficient investment and capacity of human resources in the social sector. The level of social services that currently exist in the country is insufficient to meet the needs of vulnerable children.

b) The right to inclusive education

- i) The number of children with special educational needs (SEN) that are receiving education in inclusive schools has increased exponentially over the last five years. While in the year 2010 only 28.5% of children with SEN attended mainstream schools; in the year 2014 over 83% of children with SEN were included in mainstream education.¹⁶ In the school year 2014-2015 the total number of children with SEN attending mainstream schools in Moldova was 7,660 children.¹⁷
- ii) Lumos welcomes positive progress towards inclusive education for all children in the country, but notes that there are still areas for improvement, to ensure that all children with disabilities can enjoy an inclusive education, in particular children with severe disabilities and sensory disabilities.
- iii) Young children with SEN are not sufficiently included in mainstream kindergartens. The Education Code¹⁸ contains provisions regarding inclusive education at pre-school level, but a normative and regulatory framework regarding inclusion of these children is missing. Inclusive education at pre-school level is only in its piloting stage. Although there is an increase of enrolment of children in pre-school education – in 2015, near 84% of children were attending kindergartens, compared to 77% of children in 2010¹⁹ – the proportion of children with SEN included in kindergartens is still low. Pre-school inclusive education for children with severe and sensory disabilities does not exist.
- iv) Furthermore, there is a lack of models and practices of inclusion of school graduates (children/young people with disabilities) in vocational education.

c) The right to be protected against violence, abuse and neglect

- i) Despite positive legal developments to end violence, abuse and neglect, it remains a troubling issue in Moldovan society. System capacity to identify, refer, assist and monitor in cases of violence, abuse and neglect needs further improvements. There is insufficient inter-sector cooperation between professionals working in social assistance, education, law enforcement and health to prevent, reduce and respond to abuse, neglect and violence against children. Several NGOs are piloting projects to address violence, abuse and neglect. The models developed within these projects need to be extended to national level.

d) Trafficking

- i) In 2014, 854 potential trafficking victims were registered by the MoLSPF.²⁰ The Russian Federation is the most popular destination for cross-border trafficking of minors. Other

¹⁶ The National Bureau of Statistics of the Republic of Moldova. Available online in Romanian: <http://www.statistica.md/newsview.php?l=ro&id=4779&idc=168> [accessed 19th Feb 2015].

¹⁷ Ibid.

¹⁸ Available online in Romanian: <http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=355156> [accessed 19th Feb 2015].

¹⁹ The National Bureau of Statistics of the Republic of Moldova. Available online in Romanian: <http://www.statistica.md/newsview.php?l=ro&id=4779&idc=168> [accessed 16th Feb 2015].

²⁰ National coordination unit of National Reference System of the Ministry of Labour, Social Protection and Family <http://mmps.gov.md/sites/default/files/document/attachments/rsa2014en.pdf> [accessed 27th Feb 2015].

destination countries are Italy, Turkey, Ukraine and United Arab Emirates (UAE). Children were trafficking for sexual exploitation, labour exploitation, and begging. 15 children were identified as victims of internal trafficking, the majority for sexual exploitation, but also for labour exploitation and exploitation in begging.²¹

- ii) UNICEF's Multiple Indicator Cluster Survey (MICS) of 2012²², showed that parents of 21% of all children in Moldova live abroad. For 5% of children both parents were abroad. Recent research²³ shows that the absence of a parent can be detrimental to a child's social and psychological development.²⁴ Children left behind are a vulnerable category unlike any other and should receive a policy-specific approach.

e) Infant mortality

- i) An assessment by the government of the causes of deaths of infants and children under five at home and during the first 24 hours of hospitalisation, which was supported by Lumos in 2010, revealed that 40% of the children who died at home came from incomplete families; 75% of their parents had low educational level; and 63.1% of their families did not have permanent housing.²⁵
- ii) On 22 December 2010, the Government of Moldova adopted Regulation no.1182, 2010 on the prevention and reduction of mortality of infants and children under five at home. Over the last five years, infant mortality and under-five mortality rates reduced.²⁶ However, despite encouraging results, mortality rates of children these ages in Moldova remains high compared to the European average.²⁷
- iii) The high mortality rate is in part due to insufficient inter-sectoral cooperation and a lack of early childhood intervention services aimed at identifying specific needs for children with disabilities and services required. While the number of children in institutions is decreasing, the proportion of children (0-3 years old) remains relatively steady. The new child protection strategy 2014 does include commitments regarding infant deinstitutionalisation.

3) Recommendations for action by the state under review

a) Normative and institutional framework

²¹ Council of Europe. GRETA(2015)4
https://www.coe.int/t/dghl/monitoring/trafficking/Source/Public_R_Q/GRETA_2015_4_RQ_MDA_en.pdf [accessed 18th Feb 2015].

²² UNICEF (2012) Multiple Indicator Cluster Survey 2012 Summary report.
http://www.unicef.org/moldova/Unicef_booklet_ENG.pdf [accessed 19th Feb 2015].

²⁴ *Study on children and elderly left behind in Moldova and Georgia* (2010- 2013)
http://mgsog.merit.unu.edu/research/moldova_georgia.php [accessed 19th Feb 2015].

²⁵ Government of the Republic of Moldova and Lumos Moldova (2011) *Evaluation of causes of infant and under-five mortality at home and within the first 24 hours of admission*.

²⁶ During the implementation period of 2010-2015, the overall Infant mortality rate reduced from 11.8 per 1000 live births (2010) to 9.72 per 1000 live births (2015); Infant mortality in home conditions reduced from 19.5 % of infants (2010) to 14.4% of infants (2015); the mortality rate of children under five: reduced from 13.6 per 1000 children aged 0-5 (2010) to 11.7 per 1000 children aged 0-5 (2015); and the mortality of children under 5 at home reduced from 22% children aged 0 to 5 (2010) to 20.35% children aged 0 to 5 (2015).

²⁷ UNICEF, WHO, World Bank and United Nations (2015). *Levels and trends in Child Mortality. Report 2015*. Available at:
http://www.childmortality.org/files_v20/download/IGME%20report%202015%20child%20mortality%20final.pdf [accessed 15th Feb 2015].

- i) Approve and implement the National Action Plan for implementing the National Strategy on Child Protection for 2014-2020.
- ii) Expand and improve inter-governmental collaboration between the Ministry of Education, Ministry of Labour, Social Protection and Family, Ministry of Health, and Ministry of Finance to achieve deinstitutionalisation.
- iii) Analyse the social services financing model and legal framework to ensure the sustainability of the new services. Ensure the transfer of financial resources from the residential system towards the new social and education support services, based on the principle that "money follows the child".

b) Ending institutionalisation

- i) The MoLSPF has a prominent role in transforming the current system of institutions and social benefits for persons with disabilities, to promote their independence, participation and autonomy.²⁸ However, there is insufficient inter-governmental collaboration to move the deinstitutionalisation process forward sustainably.
- ii) Ensure the protection and promotion of the rights of persons with disabilities in residential institutions by continuing the overall deinstitutionalisation process, in line with article 19 of UN CRPD.
- iii) Take immediate measures to ensure frequent and independent monitoring of disability institutions to end and prevent abuse. Sufficient funds for monitoring should be provided by the government, as well as full access to facilities and documentation at all times for investigative bodies.
- iv) Draft a transition plan with a clear timeline for closing all remaining disability institutions. The plan should lay down responsibilities of both central and local authorities in providing community-based services that meet the needs of all persons with disabilities. Sufficient levels of funding for implementation of the plan should be allocated without delay.
- v) Take immediate action to end the institutionalisation of children aged 0-3 years. An individual assessment of the situation of each child should establish whether the child can be reintegrated into its birth or extended family, or placed into alternative family-based care in their communities.
- vi) Additional social services need to be set up in order to facilitate the successful completion of deinstitutionalisation. These should include family support services, foster care services, small group homes, and specialised services for children with disabilities and their families. There is an urgent need to develop services for care leavers. There is also a lack of services providing assistance and support to children with challenging behaviour.
- vii) Develop and expand opportunities for adolescents and young people leaving residential care, including transition services to support young people to prepare for leaving care, post-care support services, housing, employment and health services.
- viii) The government should set up awareness-raising programmes to inform the public about the harm caused by institutionalisation.

²⁸ Special Rapporteur on the rights of persons with disabilities (2016) A/HRC/31/62/Add.2. <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G16/016/89/PDF/G1601689.pdf?OpenElement> [accessed 11th Feb 2015].

c) Inclusive education

- i) Ensure access to inclusive education for children and young people of all ages - at pre-school level, in primary education, secondary education and tertiary and vocational education for young adults.
- ii) Ensure the implementation of the strategic district plans on inclusive education development for 2015-2020 in each region of the country.
- iii) Develop or adapt, as appropriate, a funding formula per pupil with a specific weighting for children with disabilities, in order to address the lack of adequate funding mechanisms.
- iv) Develop and approve the normative and regulatory framework regarding inclusive education at pre-school level.
- v) Create inclusive education services for children with severe and sensory disabilities.
- vi) Develop support services for children with challenging behaviour that will allow them to integrate into society.
- vii) Promote best practice and success stories of inclusion of children with disabilities in mainstream schools in order to address and reduce the concerns of teaching staff and parents.

d) The right to be protected against violence, abuse and neglect

- i) Ensure effective implementation of child abuse, neglect and trafficking policies, including ensuring redress and victims' reintegration.
- ii) Conduct national research on abuse, neglect and violence against children within residential care in Moldova.
- iii) Set up an awareness-raising programme to inform the public about positive parenting and preventing child abuse, neglect and violence.
- iv) Expand capacity to prevent and reduce abuse, neglect and violence against children with disabilities.

e) Trafficking

- i) Ensure effective implementation of the inter-sectoral cooperation mechanism for the identification, referral, evaluation, assistance and monitoring of child victims and potential victims of violence neglect, exploitation, trafficking, established on the basis of Law No 140 on Special Protection of Children at Risk and Children Separated from their Parents.
- ii) Encourage more effective participation of all agencies involved in the implementation of anti-trafficking measures at the national and local level.
- iii) Conduct national research on child trafficking in Moldova in order to develop efficient policies in the field.
- iv) Develop a system to monitor child trafficking cases identified nationally and abroad.
- v) Strengthen the capacity of key stakeholders working to end trafficking.

f) Infant mortality

- i) Approve and implement the Regulation Framework on the organisation and operation of early intervention services and minimum quality standards for children with disabilities.
- ii) Ensure development and financial sustainability in early intervention services.
- iii) Expand and improve inter-governmental collaboration between Health and Social sectors at all levels in addressing the issue of young children and their families.

- iv)** Ensure access to quality medical and social services, irrespective of social and economic family background.
- v)** Develop family support services for young at-risk children and children with disabilities.
- vi)** Capacity building of human resources involved in preventing and reducing infant mortality and implementation of the inter-sectoral cooperation mechanism aimed at preventing and reducing infant and under-five mortality.