



PERMANENT MISSION OF THE REPUBLIC OF MOLDOVA  
TO THE UNITED NATIONS OFFICE IN GENEVA

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OHCHR REGISTRY

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Recipients : *FC*  
*MAM (encl)*  
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The Permanent Mission of the Republic of Moldova to the United Nations Office in Geneva presents its compliments to the UNHCHR Secretariat and would like to forward attached the questionnaire (in English and Romanian languages) presented to and completed by the Government of the Republic of Moldova regarding the issue of violence against children. The Mission would kindly appreciate if the above-mentioned questionnaire would be forwarded to Paulo Sergio Pinheiro, Independent Expert appointed by the UN High Commissioner for Human Rights.

The Permanent Mission of the Republic of Moldova to the United Nations Office in Geneva avails itself of this opportunity to renew to the UNHCHR Secretariat the assurance of its highest consideration. *S. e.*



Geneva, September 9, 2005

SECRETARIAT OF THE UNITED NATIONS HIGH  
COMMISSIONER FOR HUMAN RIGHTS

*Geneva*



# United Nations Secretary-General's Study on Violence against Children

## Questionnaire to Governments

### Introduction

### QUESTIONNAIRE

#### I. LEGAL FRAMEWORK

*This part of the questionnaire aims to determine how your country's legal framework addresses violence against children, including prevention of violence, protection of children from violence, redress for victims of violence, penalties for perpetrators and reintegration and rehabilitation of victims.*

##### International human rights instruments

1. Describe any developments with respect to violence against children which have resulted from your country's acceptance of international human rights instruments, including, for example, the Convention on the Rights of the Child and its optional protocols, the Palermo Protocol or regional human rights instruments. Provide information on cases concerning violence against children in which your country's courts or tribunals have referred to international or regional human rights standards.

Republic of Moldova, as a sovereign and independent state, had emerged on the international arena after the collapse of the Union of Socialist Soviet Republics, by adopting on the 23<sup>rd</sup> of June 1990 the Declaration of Sovereignty and on the 27<sup>th</sup> of August 1991 the Declaration of Independence of the Republic of Moldova.

The process of Republic of Moldova statehood strengthening was however severely affected by the secessionist actions of certain forces from the eastern region of the country (Transnistria), where up until today democratic principles are breached, thus setting the premises for fundamental human rights' violations. The Republic of Moldova legislation is not acknowledged and observed on this territory.

Before 1990 all the laws applicable on the territory of Republic of Moldova were USSR laws, being reiterated in the Moldovan SSR. After the statement of sovereignty and independence, the Republic of Moldova has started to develop mechanisms and levers of enforcing its own legal system of human rights' promotion and implementation, which is mainly based on international legal instruments joined by Moldova.

The Republic of Moldova has adhered to the following international acts on child protection:

- **UN Convention on the Rights of the Child**, adopted on the 20<sup>th</sup> of November 1989, ratified by Parliamentary Decision No.408, of 12.12.1990, in force for the Republic of Moldova since 25.02.1993. In a state party to the Convention the protection of the rights of the child is a priority in the fight for human rights'

observance. Moreover, such an act places a great responsibility on the authorities and civil society in honouring their commitments undertaken upon joining this international treaty.

On the 8<sup>th</sup> of February 2002 Republic of Moldova has signed the two optional protocols of the Convention:

- **Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflicts**, adopted on the 25<sup>th</sup> of May 2000, in force for the Republic of Moldova since the 7<sup>th</sup> of May 2004.
- **Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography**, adopted on the 25<sup>th</sup> of May 2000, signed by the Republic of Moldova on 08.02.2002.
- Joining the **UN Convention Against Torture and Other Inhuman or Degrading Punishments or Treatments**, adopted in New-York on the 10<sup>th</sup> of December 1984, determined the RM to undertake legislative, administrative, judicial and other kind of measures to hamper the committal of torture acts, to exert systematic supervision over the regulations on the guard and treatment of persons kept under any form of arrest, detention or imprisonment, on the territory of its jurisdiction. This Convention was ratified by RM on the 31<sup>st</sup> of May 1995 by Parliamentary Decision No.473-XIII and came into effect on the 28<sup>th</sup> of December 1995.
- The **International Labour Organization Convention No.182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour**, ratified by the Law No.849-XV of 14.02.2002, is in force for the Republic of Moldova since 14.06.2002. In compliance with this Convention, the Republic of Moldova Labour Code Nr.154-XV of 28.03.2003 includes provisions on the working hours for children; types of work children are not allowed to perform etc., certain actions even entailing criminal or administrative liability.
- In the field of adoption, Republic of Moldova is party to the **Hague Convention on the Protection of Children and Cooperation in International Adoption Matters** of 29.05.1993, ratified by Parliamentary Decision No.1468-XIII of 29.01.1998, in force for the Republic of Moldova since 01.08.1998. Pursuant to this Convention, changes have been made in domestic regulations on international adoption of children, contained in the Family Code No.1316 of October 26, 2000, as well as in other regulatory acts.
- By Parliamentary Decision No.1468-XIII of 29.01.1998, REPUBLIC OF MOLDOVA has ratified the **Convention on Civil Aspects of International Kidnapping of Children**, concluded in the Hague on 25.10.1980, in force for the Republic of Moldova since 01.07.1998.
- With regards to international trafficking in children, on the 15.12.2000 at Palermo, Italy, Republic of Moldova has signed the **UN Convention Against Transnational Organized Crime** and the Protocols supplementing this Convention, adopted by the UN General Assembly Resolution 55/358 on the 15<sup>th</sup> of November 2000.
  - **UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children**
  - **UN Protocol Against the Smuggling of Migrants by Land, Sea and Air.**

The Republic of Moldova has recently initiated the preparations for the ratification of this Convention and its Protocols. The adhesion of the Republic of Moldova to the international acts in this field, adjusting the domestic regulations to them will allow the implementation of international law and will set the preconditions for the full observance of the Moldovan migrants' and trafficking victims' rights. The rights and privileges granted mutually to the citizens of the states parties to international treaties shall be acknowledged for and observed with regards to the citizens of the Republic of Moldova who are abroad.

Both European and international legislation pursue turning migration into a organized and controlled process, observing in full human rights, while bringing domestic legislation in line with international standards will facilitate meeting by the Republic of Moldova requirements set forth by international standards.

Although some international documents and additional protocols have not been ratified yet, they play a considerable role in developing national regulations in this area.

According to the International Treaties Law of the Republic of Moldova No.595-XIV of 24.09.1999, international treaties do not have binding legal power on the territory of Moldova, unless ratified and come into effect. Nevertheless, upon tabling to the Parliament of a law for ratification, it has to be accompanied by proposals, drafts of legislative amendments aimed at bringing the domestic laws in compliance with the provisions of the international treaty.

Regretfully, very often international acts are ratified, but harmonization of domestic legislation and adoption of necessary mechanisms for its implementation come with great delays.

#### Legal provisions on violence against children

2. Describe how forms of violence against children are addressed in your country's constitution, legislation and subsidiary legislation, and, where appropriate, customary law.

**On the 29<sup>th</sup> of July 1994 Republic of Moldova passed its Constitution.** The Constitution ensures the peaceful transition from a totalitarian ruling system to a democratic one, based on the priority of fundamental human rights and freedoms. The very first article of the Constitution states that the Republic of Moldova is a based on the rule of law, democratic state in which the human dignity, rights and freedoms, the free development of human personality, justice and political pluralism are the highest values and shall be guaranteed.

The constitutional provisions on human rights and freedoms are interpreted and applied in accordance with the Universal Declaration of Human Rights, pacts and other treaties the Republic of Moldova is party to (art.4 entry 1). In case of inconsistencies between pacts and treaties on fundamental human rights to which the Republic of Moldova is a party and its domestic provisions, international regulations shall prevail.

The principle of international treaties' prevalence was reinforced by the Supreme Court of Justice in its Guideline of January 30, 1996 "On the practice of application by the courts of law of some constitutional provisions" which binds the courts "... *in cases when the domestic legislation contradicts an international act, to apply directly the provisions of the international act*". In line with the constitutional prescriptions, a great majority of the Republic of Moldova legislative acts prescribe the supremacy of international law: Civil Code, Civil Procedure Code, Family Code etc.

**The rights and freedoms enshrined in the Constitution of the Republic of Moldova greatly reflect the rights provided in the Universal Convention of Human Rights, European Convention of Human Rights, UN Convention of the Rights of the Child.**

The right to education (art.35), protection of families and orphan children (art.49), protection of mother, children and young (art.50), protection of handicapped persons (art.51) are just few of the fundamental rights established and guaranteed in the Constitution. "... *Exploitation of minors, using them in activities which might be harmful for their health, morality or which jeopardises their life or normal development are prohibited*" - art.50 par.4 of the RM Constitution.

In the Republic of Moldova the adjustment of the legislative framework to the UN Convention on the Rights of the Child was initiated through the drafting of a series of regulatory acts. Currently there are over 20 regulatory acts which refer to specific situations related to the civil, political, social-economic and cultural rights of the child and the Constitution ensures the framework of granting social assistance and special protection.

**Law on the Rights of the Child, No.338-XIII of 15.12.1994.** According to art.1 of the Law "*a person is considered a child since birth and until the age of 18 years*". Departing from these provisions, the Law on the rights of the child determines the legal status of the child, provides the guarantees of the child's physical and spiritual health. Pursuant to this Law, no child can be subjected to torture, cruel, inhuman or degrading punishments or treatments (art.4), the state protects the child from any form of exploitation, discrimination, physical and psychic violence, does not tolerate cruel, rude, contemptuous behaviours, insults and ill-treatments of children, engaging them in criminal activities, inciting or compelling them to practice any illegal sexual activity (art.6), the state protects the child from economic exploitation and from the execution of any work which is dangerous to the child's health or which hinders the child's education, or which is harmful to the child's physical, intellectual, spiritual and social development (art.11).

The main legal document providing the state's obligation to protect the children against any forms of abuse or exploitation of the child is the **Criminal Code of the Republic of Moldova, which came into effect on the 12 of June 2003.** Criminal liability is engaged for different types of physical, psychic or sexual violence against minors that are provided in different articles (specified in point 2 of the Questionnaire). Crimes committed against minors are considered higher social danger crimes. "*Committal of a crime against a person who is under the age of 14 years*" (**art.77 par.1 let.e**), as well as "*instigating minors to commit crimes or their engagement in participating at the committal of a crime*" (**art.77 par.1 let.g**) of the **Criminal Code** are provided as aggravating circumstances influencing the determination of punishment to be applied to the criminal, in that this punishment is aggravated.

It should be mentioned that the Criminal Code uses mainly the term "minor" and very seldom the term "child". Qualifying as an aggravating circumstance only the perpetrations committed towards children under the age of 14 years, making a difference between these children and those aged between 14 and 18 years, represents a violation of the general principle set in art.1 of the UN Convention on the Rights of the Child and in the Law on the Rights of the Child, according to which "a child is every human being bellow the age of 18 years".

Some forms of physical violence and negligence committed against minors, which did not have severe effects on them and which do not entail criminal liability, are punished according to the **Administrative Offences Code** (hereinafter AOC), passed on the 29<sup>th</sup> of March 1985, with its subsequent amendments.

AOC in art.34 qualifies the actions of abuse committed against minors as aggravating circumstances, which influences the punishment to be applied to the administrative offender, similarly to the Criminal Code.

The civil and criminal legislation of the Republic of Moldova only uses the term "minor" and not the term "child".

**Law on Healthcare, No.411-XIII of 28.03.1995.** The parental duty to take care of the child's health, pre-natal and post-natal development, to take care of the child's physical, spiritual and moral education, to cultivate the child's healthy lifestyle, is regulated in art.47 of the Law on Healthcare. "*The child shall enjoy special attention of the state and society and shall benefit of social protection. The state shall protect the rights and interests of the child, including the right of the child to living conditions which are appropriate to the child's physical and spiritual development*" (art.48).

**Law on Education, No.547-XIII of 21.07.1995.** In the view of protecting the health of the preschool children and school children, the Law on Education was passed, according to which in educational institutions of all levels the rights and freedoms of the school children and students shall be respected. Corporal punishments, application in any form of violent physic and psychic methods are banned (art.57). According to art.56 of the Law, the didactic staff shall have the following duties: to observe the rules of ethics, to ensure the good course of the instructive-educational process, to ensure the life security and healthcare of children in the process of education, to avoid involving the school children in street manifestations (meetings, demonstrations, picketing etc.). Considering the provisions of art.60, the parents or legal guardians have to ensure the involvement of the child in one of the binding forms of education or to carry out their education inside the family; to ensure the education of the child in the family and to create adequate conditions to study.

**Labour Code of the Republic of Moldova, No.154-XV of 28.03.2003.** Considering the UN Recommendations and the International Labour Organization's standards, the Labour Code incorporated provisions regulating the labour of the minor: working hours (art.96), daily duration of the working hours (art.100), night labour (art.103), waging (art.152), preventive medical examination (art.253), working threshold (art.254), job restrictions for minors (art.255), additional guarantees on dismissal of employed minors (art.257).

According to the **Family Code**, in force since the 26<sup>th</sup> of April 2001 "every child shall be entitled to live in a family, to know his/her parents, to enjoy their care, to live together with them, save for the cases when these are contrary to the interests of the child" (art.51). The parents are their children's legal representatives in relations with all natural persons and legal entities, including with state authorities – art.61. However "the parents may not exercise their rights contrary to the interests of the child, may not damage the physic and psychic health of the child" – art.62 par.1.

The parents are acknowledged the right of selecting the method of their child's education, although any method chosen by the parents should exclude "... abusive behaviour, insults and ill-treatments of any kind, discrimination, physic and psychic violence, engagement in criminal activities, initiation in the drinking of alcoholic beverages, use of drugs and psychotropic substances, gambling, begging and other illegal acts" – art.62 par.2. The parents shall incur liability for the exercise of parental rights contrary to the interests of the child. The only sanction which may be applied to the parents according to the Labour Code is their deprivation of parental rights – art.67. In cases when both parents or just one of them have committed acts of violence against the child, which had serious effects, their actions shall be qualified as crime or administrative offence.

3. Provide details of any specific legislative provisions on:
- Prevention of all forms of physical, sexual and mental violence, injury or abuse, neglect or negligent treatment, and sexual abuse;

Legislative regulations on the prevention of all kinds of abuses against children are not systematized in the Republic of Moldova in only one regulatory act. Such provisions are included in several laws or acts of general character.

The varied aspects of violence and abuse committed on children are provided not only in the laws which provide the responsibility for the infringement of the child's rights, but also in the laws and regulatory acts which are designed to control the factors which play a role in the creation of the respective phenomenon. Since the stipulations of other legislative regulations do not contain sanctions and can not serve as legislative instruments against offenders, these have purely a preventive importance. Nevertheless, these legislative acts are important in one way or another for the prevention of any forms of child abuse. The role of these acts is the prevention and reduction of the factors contributing to pushing the children to risk situations.

Bellow follows a description of some documents, of the most recent, in the field of prevention of risk situations for children.

- **"Regulation on the Organization of Activity of Juvenile Inspections of the Home Affairs Agencies"**, approved by Order of the Minister of Home Affairs, No.223 of 24.08.1998.

According to this Regulation, the juvenile inspectors shall work with all the police commissariats of the country on a zone basis. Inspectors shall be responsible for and bound to take measure of prophylaxis of criminality and administrative offences among minors, to contribute to the finding of parents and of other persons favouring the committal of offences by juveniles or who commit child abuses, to examine without delay all the signs of crimes or administrative offences committed by minors or against minors etc. In order to achieve these objectives, the juvenile inspectors shall have the duty to analyze systematically the situation in the served zones and to know:

- the number and composition of the population bellow the age of 18 years, living on the served territory;
  - the data about the minors who are predisposed to abandon their families, children coming from socially vulnerable families (where alcoholic beverages, drugs are used, where violence is applied, the lifestyle is antisocial), children predisposed to commit offences, to know the places where offences are more likely to occur. Together with police officers involved in maintaining of public order, together with public local authorities, other institutions in charge and the active members of the social society, the inspectors are obliged to participate in prophylaxis measures taken with respect to them.
- Aiming at the protection of the minors who found themselves on the streets, on the 28<sup>th</sup> of March 2001, the Government has passed a **Governmental Decree on Some Actions for the Reduction of Begging, Vagrancy and "Street Children"**, in which it requested from the Ministry of Education, Ministry of Labour and Social Protection, Ministry of Health and Ministry of Home Affairs to organize activities of re-socialization for vagrant children and of the children left without parental care, by involving the available human and material resources.
  - In order to promote effectively the state policy for improving the child's life quality, the child's rights' and interests' protection, through its Decree No.51 of January 23, 2002, the Governments has adopted a **National Concept on the Protection of the Child and Family**, and through its Decree No.727 of June 16, 2003, has approved the **National Strategy on the Protection of the Child and Family**.

These acts pursue the achievement of the following objectives:

- ensuring the development and implementation of the child and family social protection policy at the national and local scales;
- establishment and development of a national and local system of monitoring and assessment of the child's and family's situation;
- strengthening and development of institutional capacities and human resources involved in child and family protection measures;
- development of the family and community capacity to ensure the children's assistance and to prevent the risk of the child's admission to an institution and getting into difficulty;
- promotion of civil society's participation in the child and family protection;
- awareness raising and shaping of the public opinion on child and family issues.

These two regulatory acts regard all children from the Republic of Moldova, with special emphasis on children in difficulty: disabled children, abandoned, abused, ill-treated, neglected children, street children, children lacking parental care, orphans, children admitted or at risk of being admitted to an institution, children with HIV/AIDS, children in conflict with the law, children victims of abuse and/or trafficking, as well as children from vulnerable families.

The strategy is forecasted for a five years period, based on a National Plan of Actions, which is currently being drafted.

- **National Strategy "Education for All"**. The goals of this strategy are to ensure access to education for all children, especially of the children found in particularly difficult situations: orphans, children lacking parental care, physically or mentally disabled children, street children, children from vulnerable families, refugee children, children in conflict with the law, neglected or abused children etc. The strategy "Education for All" has a plan made of implementation actions for the period of years 2004-2008, the priorities being:
  - early education of children;
  - access to quality elementary education, especially for children in particularly difficult situations, development of essential life skills, including health education, civic education, family life education and vocational training etc.;
  - ensuring the access of all adults to in family education programmes, programmes which will allow them to develop paternal skills and abilities of communication with children, will ensure the children rights' observance;
  - development of an Informal Education Concept as an education of attitudes and mentalities, of conducts in society, school, family; education of children in order to help them get rid of aggressive tendencies and hostile behaviours and sensitizing them on order, peace, balance, fairness;
  - promotion of an effective partnership between community, civil society and informal educational institutions.
  
- **Youth Strategy** – is part of the Strategy for Economic Growth and Poverty Reduction. The goal of the Youth Strategy is the improvement of the living conditions and enhancing the degree of the youth involvement in information, education, health services, social life and active citizenship. The Strategy includes two plans of actions with terms of implementation for the periods of years: 2004-2006 and 2006-2009. Implementation of the Strategy is ensured by the Department of Youth and Sports, with due involvement of the specialized ministries, namely of the Ministries of Education, Culture, Health, Labour and Social Protection. For the period of 2004-2006, the following priorities specific to the youth sector have been set:
  - facilitation of access of the youth to services and information in order to create a favourable environment for their development;
  - increasing the degree of the youth participation in the society life;
  - creation of employment opportunities for the young;
  - strengthening the human and institutional capacity in the youth sector and enhancing the level of knowledge of the young people.

The target group of the Strategy are the young persons aged between 16-30 years.

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| <ul style="list-style-type: none"> <li>• Protection of children from all forms of violence;</li> <li>• Penalties for perpetrators of violence against children;</li> </ul> |
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Primarily, the regulatory acts ensuring the children protection against all forms of violence are those containing penalties for such actions, namely: the Criminal code of the Republic of Moldova; Administrative Offences Code; Family Code.

- **Criminal Code** includes several provisions protecting the child against abuse, physic and psychic violence, and foresees criminal liability for the committal of such perpetrations.

### ***Crimes against Person's Life and Health***

Any violent action through which a child a child is inflicted health damages is considered a crime. The punishment applicable in such cases differs depending on the severity of effects caused to the child's health condition, assessed in the conclusions of the medical-forensic conclusions made by accredited medical-forensic experts.

**Article 145** – Wilful murder committed knowingly against a minor shall be punished with deprivation of liberty of 20 to 25 years or life imprisonment.



**Article 147** – Murder of a newborn shall be punished with deprivation of liberty of 3 to 7 years.

**Article 150** – Inducement of a minor to commit suicide or to attempt suicide by systematic persecution, slander or insult on from the behalf of the guilty shall be punished with deprivation of liberty of 3 to 7 years.

**Articles 151-153** – Wilful damage of a minor's corporal integrity or health shall be punished with deprivation of liberty of 6 to 12 years (in case of severe injuries), of 3 to 7 years (in case of medium injuries) or with a fine in the amount of 200-300 conventional units<sup>1</sup>, or with community work of 180-240 hours (in case of light injuries).

**Article 154** sets the punishment of fine in the amount of 500 to 1000 conventional units or deprivation of liberty of up to one year for deliberate ill-treatment or other acts of violence committed against a minor, provided that such actions have not induced the consequences provided in art.151-153.

### ***Crimes against Freedom, Honour and Dignity of the Person***

**Article 163 – Deliberate Abandonment** – The deliberate abandonment of a person in a life-endangering situation and who lacks the ability to take measures to protect himself due to small age, old age or disease or as a result of general helplessness, in cases where the guilty had the ability to render assistance to the victim being obliged to take care of the victim or the guilty himself placed the victim into a life-endangering situation, shall be punished with deprivation of liberty of 2 to 4 years, depending on the consequences of his actions.

**Article 164** determines a punishment of 7 to 15 years of imprisonment with (or without) imposing of a fine in the amount of 500 to 1000 conventional units for the kidnapping of a minor.

**Article 166** – illegal deprivation of liberty of a minor, provided that such actions is not connected to the minor's kidnapping, shall be punished with deprivation of liberty of 3 to 8 years. In case that the deprivation of liberty involves also infliction of severe damage to the corporal integrity or to the health, or has caused the death of the victim, shall be punished with deprivation of liberty of 5 to 10 years.

**Article 167** – Placing or keeping a person in conditions when another person exerts control over him, or determining a person, through deception, coercion, violence or threatening with use of violence, to enter or to remain in relationship of concubines or marriage, shall be punished with fine in the amount of 200 to 600 conventional units or with deprivation of liberty of 3 to 10 years, in both cases depriving the person of the right to hold certain positions or perform certain activities for a period of up to 5 years.

**Article 168** – Forcing a person to perform a labour against his/her will or forcing to a compulsory labour, keeping a person in servitude for paying a debt, obtaining labour or services through deception, compulsion, violence or threats to use violence, shall be punished with imprisonment for a period of up to 3 years with a fine in the amount of 200 to 500 conventional units.

### ***Crimes against Sexual Life***

**Article 171** – Rape that is sexual intercourse committed by use of physical or psychical compulsion on a minor or by taking advantage of the victim's impossibility to defend or to express the will, shall be punished with deprivation of liberty of 5 to 15 years.

Rape:

<sup>1</sup> One conventional unit is equal to 20 lei national currency of the RM – art.64 par.2 of the Criminal Code. According to the RM market exchange rate in December 2004, 1 Euro = 16 lei.

- a) of a person under the care, protection, education or treatment of the perpetrator;
  - b) of a minor who has not reached the age of 14 years;
  - c) involving deliberate contamination with AIDS;
  - d) that caused severe damage of corporal integrity or health by imprudence;
  - e) that caused death of the victim by imprudence;
  - f) resulted in other severe consequences,
- shall be punished with deprivation of liberty of 20 to 25 years or life imprisonment.

**Article 172** – Sodomy, lesbianism or other actions with a sexual character committed by use of physical or psychological constraint of a minor, or by taking advantage of the victim's impossibility to defend itself or to express the will, shall be punished with deprivation of liberty of 5 to 15 years.

Violent actions of sexual character committed in aggravating circumstances (similar to those provided in art.171) shall be punished with deprivation of liberty of 10 to 25 years or life imprisonment.

**Article 174** – sets a punishment of up to 5 years of imprisonment for “Sexual intercourse, sodomy, lesbianism, as well as other actions with sexual nature with a person about whom was known with certainty that he/she hadn't reached the age of 16 years”.

**Article 175** – Committing pervert actions against a person, about whom it was certainly known that he/she had not reached the age of 16 years, shall be punished with deprivation of liberty of 3 to 7 years.

### ***Crimes against Family and Minors***

**Article 201 – Incest** - Sexual intercourse between direct relatives up to the third degree inclusively, as well as between relatives on a collateral line (siblings, first cousins).

**Article 202** – The bad-faith avoidance of the parents to pay the funds for the support of minor children (children's alimony) established by a court ruling, shall be punished with a fine in the amount of 200 to 300 conventional units, or imprisonment of up to 2 years.

**Article 206** – The recruitment, transportation, transfer, harboring or receipt of a child, giving or receiving of payments or benefits to achieve the consent of a person having control over a child, for the purpose of:

- commercial and non-commercial sexual exploitation, exploitation in prostitution and in the pornographic industry;
- exploitation in forced labor or services;
- exploitation in slavery and slavery-like conditions, including illegal adoption
- using a child in armed conflicts;
- using a child in criminal activity;
- removal of organs or tissues for transplantation;
- abandonment abroad;

shall be punished with imprisonment of 10 to 15 years.

The same actions committed in aggravating circumstances – use of physical or psychic violence, sexual abuse, commercial and non-commercial sexual exploitation, application of torture, inhuman treatments etc. – shall be punished with deprivation of liberty of 15 to 20 years.

In case that two or more children are trafficked, or when the action of trafficking results in severe damage of corporal integrity or mental disorder of the child, or when it leads to the death of the child, the punishment than can be deprivation of liberty of 20 to 25 years or life imprisonment.

The victim of trafficking in children is exempted from criminal liability for the offences committed by him/her as a result of such procedural capacity (victim of crime) and if accepted to cooperate with the prosecution.

**Article 207** – Taking a child out of the country using counterfeit documents or using any other illegal means, as well as their abandonment abroad, absent the purposes provided in article 206 of the present Code, shall be punished with deprivation of liberty of 7 to 12 years.

**Article 208** – The involvement of minors in the committal of crimes and antisocial activities (prostitution, vagrancy, begging), shall be punished with deprivation of liberty of up to 5 years.

The same acts when committed by parents, teachers, or other legal guardians of the child, shall be punished with deprivation of liberty of up to 6 years with (or without) deprivation of the right to hold certain positions or to practice a certain activity for a term of up to 5 years.

The aforementioned actions, when committed in aggravating circumstances – by using physical violence or threat to use such violence, by luring of minors into an organized criminal group or criminal association, shall be punished with deprivation of liberty of 7 to 10 years.

Engagement of minors in the committal of crimes provided in articles 173, 219 and 220, shall be punished with deprivation of liberty of 7 to 10 years.

**Article 209** – Luring of minors into illegal consumption of drugs, medicine or other substances with narcotic effect – shall be punished with a fine in the amount of 200 to 600 conventional units or imprisonment of up to 6 years.

### ***Crimes against Public Health and Social Cohabitation***

**Article 220** – Encouraging or forcing into prostitution or facilitation of practicing prostitution, or making profits out of practicing prostitution by a person, as well as recruiting a person for prostitution, shall be punished with deprivation of liberty of 4 to 7 years.

- Beside criminal liability, the Republic of Moldova Legislation provides for other administrative penalties as well, according to the **Administrative Offences Code (AOC)** for perpetrations committed against the minor and which are not deemed as criminal offences, such as:

**Article 47/1 AOC** – infliction of light corporal injuries, ill-treatment, beatings and other violent actions, which have caused physical sufferings or a short term health problem – entails imposing of a fine in the amount of 10 to 25 minimal wages<sup>2</sup> or administrative arrest for a up to 30 days term arrest.

**Article 47/3 AOC** – insulting, premeditated humiliation of one person's honour and dignity, verbally or in written form – entails imposing of a fine in the amount of 7 to 15 minimal wages or administrative arrest for a up to 15 days term arrest.

**Article 169 AOC** – getting the minor in the state of intoxication by his/her parents or by other persons entails imposing the administrative sanction of fine in the amount of up to 5 minimal wages.

**Article 170 AOC** regulates failure of the parents or legal representatives to fulfil the obligations of maintenance, raising, education and protection of the minor's rights and interests.

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<sup>2</sup> One minimal wages in the RM is equal to 18 lei (approximately 1,1 Euro).

Non-fulfilment by the parents or legal representatives of their obligations, followed by the lack of child's supervision, vagrancy, begging, as well as using by the child of drugs and other psychotropic substances, of alcoholic beverages or committal by them of a socially-dangerous act entails imposing of a fine in the amount of 20 to 40 minimal wages.

**Article 170/2 AOC** refers to the violation of the rights and legitimate interests of the child expressed through abusive behaviour, insults and ill-treatments of any kind, physic and psychic violence. The sanction provided for such actions is fine in the amount of 10 to 25 minimal wages.

**Article 171/2 AOC** stipulates punishments for propagation of prostitution through magazines, broadcasted materials or any other means. These actions lead to the imposing of a fine in the amount of 100 to 150 minimal wages with confiscation of all the materials.

**Article 171/3 AOC** provides penalties for breaching the procedures and terms of submitting the information about minors who have to be placed in a family for adoption or in an institution for orphan children and children lacking paternal care. These penalties apply to official persons for their action of hiding the minor lacking paternal care in order to prevent his/her placement in a family (adoption, guardianship) or institution for orphan children and children lacking paternal care. This article facilitates the prevention of cases in which the minors are deprived of care and control, fact which can determine their engagement in antisocial activities. The penalty for failure to fulfil these duties is fine in the amount of 5 to 10 minimal wages (that is 6 to 11 Euro).

**Article 171/4 AOC** determines the sanctions for illegal production of pornographic material or spreading and exposing of pornographic materials and articles, as well as for illegal trade of printed materials, films, videos, pictures and other articles of pornographic character. It is worth-mentioning that the Moldovan legislation makes no difference between "child" and "adult" pornography. The above indicated actions are punished with imposing of a fine to the citizens in the amount of 10 to 20 minimal wages (approximately 11-22 Euro) and to official persons – up to 50 minimal wages, with confiscation of pornographic materials.

In this context it should be noted that quite often the Administrative Offences Code doubles the provisions of the Criminal Code, fact which leads to law enforcement focusing their efforts on applying administrative sanctions, while criminal punishments should be applied instead. In such cases, the law enforcement has the duty to apply the general principle: application of the milder law, principle which favours the offender and not the child victim. Rather frequently the qualification of child abuse takes the form of administrative and not criminal offence. It also happens because it is far easier to apply administrative sanctions than criminal ones, which require a lengthy procedure.

Thus for instance the perpetrations related to infliction of light corporal injuries may be qualified both as an administrative offence – art.47/1 AOC, as well as a criminal offence – art.153 or art.154 of the Criminal Code.

- Some definitions of various forms of violence are given by the **Regulation of medical-forensic assessment of the severity of corporal injuries**, No.99 of 27.06.2003, approved by the Ministry of Health. According to this Regulation the medical-forensic experts assess the severity of corporal injuries, according to which the perpetration is qualified as an administrative or criminal offence. The Regulation refers to all the cases of damaging the corporal integrity, without making a difference of the victim's age (minor or adult).

According to this Regulation "**infliction of corporal injuries**" shall mean the damage caused to the health by unsettlement of anatomical integrity of the organs and tissues or of their functions due to the action of external factors: mechanic, physic, chemic, biologic, psychological. The assessment of the severity of corporal injury is carried out on the basis of certain criteria established for every degree of severity; **severe, medium or light corporal damage, injury which caused physical pain**. An important factor in the

assessment of the degree is the criterion of health unsettlement depending on the amount of damage and injury's nature, as well as the time necessary to recover, which is measured in days.

- **Severe corporal damages** are qualified only on the basis of the following criteria: presence of the danger for life; certain post-traumatic effects, anatomical loss of a bodily organ or its function; irremediable disfiguration; psychic infirmity. Any damage of the corporal integrity or health which have led to the permanent loss of labour capacity in a considerable amount, not less than 33%, is qualified as severe damage. In case of children, the labour incapacity is assessed similarly with the adults, according to the aforementioned Regulation (entry 66).

According to this Regulation, severe corporal damages are considered: open or closed fractures of the skull, bones, pelvis, thorax; severe cerebral contusions, intracranial bleedings; penetrating damages to the column, of the pharynx, larynx, tracheae, oesophagus, abdomen; fractures-sprains of the pelvis; injury of a big blood vessel: aorta, carotidal arteries; thermal burnouts which caused the injury of more than 15% of the body surface; electrocution, hypothermia and chemical burns; anatomical loss of a body organ or of its function, total or partial loss of sight, hearing, speech; loss of the reproductive capacity etc.

- **Medium corporal damages** are determined on the basis of the following criteria:

- a. lack of the danger to life;
- b. lack of all the consequences provided by this Regulation with regards to severe corporal damages;
- c. lengthy health unsettlement, for the recovery of which, a treatment with a duration of over 3 weeks (more than 21 days) is required;
- d. general incapacity of labour in the amount of more than 10%, but not exceeding 33% (one third).

- **Light corporal damages** are determined on the basis of the following criteria:

- a. short term health unsettlement, which lasts less than 21 days (3 weeks);
- b. insignificant loss of labour capacity in the amount of less than 10%;

- **Corporal injuries which have not damaged the health** are those which have not led to the victim's labour incapacity, but which, due to their nature, have caused certain physical pain.

The respective Regulation attempts to define certain actions which have led to the causing of injuries: beatings, tormenting, torture.

**Beatings** are characterized by multiple and repeated hitting of someone. If after the beatings corporal or health damages are inflicted, their severity is assessed according to the provisions of this Regulation (entry 76).

**Tormenting** represents actions causing sufferings to the victim through deprivation of food, water or heating, or through placing or abandoning of the victim in hazardous life conditions (entry 77).

**Torture** is manifested in actions which inflict perseverant, repeated or lengthy pains (through pinching, lashing, stinging with sharp items, cauterization with thermal or chemical agents etc.).

- According to the **Family Code** (art.60), the parents shall have the right and duty to bring up their children, to take care of their health, of the physical, spiritual and moral development, of their training and preparation for socially useful work.

The protection of children's rights and interests shall be the duty of the parents, who are the legal representatives of their child, without needing a special authorization. The parental rights may not be exercised contrary to the interests of their children. According to art.67 of the Family Code, the parents or one of them may be **deprived of parental rights** if determined that they fail to fulfil their duties of educating, supporting and taking care of their children; groundlessly deny taking the child from the maternity hospital and from other medical or educational institutions, commit abuse of their parental rights, behave cruelly with their children, have an immoral, antisocial behaviour, abuse alcoholic beverages or drugs, have committed crimes against the child or for other reasons.

The deprivation of parental rights is the only punishment regulated by the Family Code for abuses by parents committed on to their children, and it can only be applied through court ruling.

The lawsuit in court for depriving the parents of their parental rights may be filed by one of the parents, by the child's legal guardian, by the guardianship authority or by the prosecutor.

In case that only one parent is deprived of his/her rights, the child is entrusted to the other parent, in case of both parents deprivation of their rights, the child is entrusted to the guardianship authority in order for the last to choose the best way of taking care of that particular child.

The parent who is deprived of his/her parental rights is entitled to seek reinstatement in his/her rights in court (art.70 of the Family Code), provided that his/her behaviour has changed and that this serves the best interests of the child.

**As an exception** the child may be taken from his/her parents absent a court ruling in cases when the stay of the child with his/her parents represents immediate danger to the child's life and health (art.71 of the Family Code). In such cases the guardianship authority has the duty to inform the prosecutor about it within a 24 hours term and within a 7 days term to file a lawsuit in court to decide on the issue of depriving the parent or both parents of their parental rights.

*It is worthwhile mentioning that in the national legislation there are no detailed regulations of the specific rights and duties of the agencies called upon to implement in practice these provisions or of the possible abuses by the employees of these agencies.*

• **Redress, including compensation, for child victims of violence;**

The mechanism for the redress of the children-victims of violence is scarcely regulated in the Moldovan legislation.

According to the Law on Mandatory Medical Insurance the children from 0 to 18 years shall be supported by the state. The children are provided free of charge medical assistance at all levels (primary medical assistance, medical consults, in-hospital treatment). Such free services are also granted to children, which have suffered of various forms of abuse. The Law also refers only to physical recovery – providing of medical assistance to the child who has suffered a trauma as a result of abuse. The rest of the actions of social and psychological assistance are in a small number provided by the community.

The compensations for minors may only be seek on the basis of a civil action of recovering the material of moral damage within a criminal trial (art.219-226 of the Criminal Procedure Code) or an administrative trial (art.39 of the Administrative Offences Code).

• **Reintegration and rehabilitation of child victims of violence.**

Currently, the legislation does not provide reintegration mechanisms designed for children victims of violence, such services being only provided occasionally by the civil society; non-governmental organizations or international organizations.

4. Indicate whether any specific legislative provisions address all forms of violence including physical, sexual and psychological violence, injury or abuse, neglect or negligent treatment and sexual exploitation against children which take place in:
- The family/ home;
  - Schools and pre-school care and education (both formal and non-formal, state and private);
  - Military schools;
  - Institutions including care, residential, health and mental health;
  - The context of law and public order enforcement including in detention facilities or prisons;
  - The neighbourhood, street and the community, including in rural areas;
  - The workplace (informal and formal);
  - Sports and sporting facilities.

In the Republic of Moldova there is no unitary law that would regulate and define all the forms of violence and abuse against the child: including physical, sexual, psychological violence, offence, insult, negligent behaviour or negligence, sexual harassment etc. Violence against children is regulated in various normative acts:

- **In the family / at home** the child is protected according to:
  - the **Family Code** which forbids the parents or their substitutes to use in the education of their children physical and psychological violence expressed in: *"insults and ill-treatments of any kind, discrimination, engaging in criminal actions, initiation in the consumption of alcoholic beverages, the use of drugs and psychotropic substances, gambling, begging"* (art.62). In art.67 of the Family Code, besides psychic and physical violence, any other behaviour which attempts at the child's sexual inviolability is also banned.
  - the **Criminal Code** slightly protects the child in family / at home from the perspective of criminal offences which it incorporates: murder of a newborn (art.147), incest (art.201) and engaging of minors in criminal activity or their luring to commit immoral acts (art.208). Many special criminal offences which have as a victim the minor, do not include as an aggravating circumstance the committal of the crime by a parent towards his/her child (art.151, 154, 164, 166, 171, 172, 174, 175, 206, 207, 208, 209, 210). In case when such crimes were committed by parents or persons substituting them or by other family members, they are subjected to criminal liability according to the general procedure.
  - the **Law on the Rights of the Child** – in art.18 of the Law responsibility of the family towards the child is regulated, without defining all of the forms of violence, using in general the term of "abuse".
- **In schools / kindergartens** the child is protected through to Law of Education, according to which corporal punishments are forbidden, as well as the use of any methods of physical and psychic violence (art.57), while the regulation of such kind of abuse as the sexual abuse is missing. Pursuant to the Republic of Moldova Governmental Decree on the Creation of the Military Institute of Armed Forces "Alexandru cel Bun", No.589 of 14.05.2002, the military schools are subjected to the action of the Law on Education (entry 4, 5 of the Decree). The private educational establishments, the sportive institutions are considered as part of the educational system of the Republic of Moldova and therefore the children enjoy the same protection (art.24, 36 of the Law on Education).
- **Regarding the protection of the employed child** there are no special provisions to define or at least regulate all forms of violence. The **Labour Code**, in force since 01.01.2003 prohibits the forced labour of minors and their involvement in hard conditions work, harmful or dangerous, in underground works, works which could be harmful for the corporal integrity of health of the minor, works which are dangerous

both for the child's health and his/her physical, intellectual and moral development, such as: construction works on high levels from the ground, fishing in deep waters, underground works, works related to the production, storage, transportation or selling of alcoholic beverages, works that involve reactive or hazardous material, works in places of gambling. The Governmental Decree No.562 of 07.09.1993, approved the **Nomenclature of Industries, Professions and Works in Hard and Hazardous Conditions Prohibited to Persons Bellow the Age of 18 Years**, which includes a specific list of works to which minors are not allowed. The control over the observance of these legal provisions is carried out by inspectors of the Labour Inspection. The involvement of minors in such works entails administrative liability of the employers who have hired these minors to perform such works (art.41/3 Administrative Offences Code), who may than be imposed a fine in the amount of up to 20 minimal wages.

- **In the neighbourhood, street and society** the minor is protected by means of declarative provisions of the **Law on the Rights of the Child** which in its art.6 refers to the following forms of violence against a minor: physical and psychic violence, any form of exploitation, discrimination, cruel, rude, contemptuous behaviour, insults and ill-treatments, engagement in criminal activities, instigation or compelling to practice any illegal sexual activity.
- **In the context of the Law on Observance of Public Order Including in Detention Isolators and Prisons** the use of physical and psychic violence against the children is restricted by law. Juvenile convicts or administrative arrestees are detained separately from adults (art.106 **Code of Execution of Criminal Law Sanctions**).

The use of fire guns by police officers against juveniles is prohibited by the **Law on Police** (art.14), except for the cases when they have committed an assault in group, including armed assault, oppose armed resistance or have committed an assault in a group which endangers the life and health of other people, if actions of such kind may not be rejected by other methods and means. The Law sets the limits of using physical force, special means allowed in legal conditions only for crime deterrence, for breaking the resistance opposed in legal conditions, if non-violent means do not ensure the fulfilment of their duties.

The same limits for the use of physical force and special means are regulated in the **Law on Pretrial Arrest, Code of Execution of Criminal Law Sanctions** – prison. The strict observance of the procedure related to the apprehension of citizens suspected of having committed crimes, observance of the laws in detention places, in places where juveniles serve their punishment or other coercive measures determined by the court are supervised by the prosecutor's office (**Law on the Prosecutor's Office**). To carry out these tasks the prosecutors are entitled to visit anytime the above-mentioned institutions, to hear the minors who were apprehended, arrested, convicted or subjected to other coercive measures, to receive from them complaints, petitions regarding their ill-treatments, to request explanations from the administration about these facts, to control the legality of their orders and dispositions. The prosecutor is obliged to take immediate legal actions in cases when it was found that severe violations of the rights of the juveniles have occurred, including the cases in which they have been subjected to ill-treatments with the use of physical violence.

Another competent authority in this field is the ombudsman. The ombudsman is entitled to free access in penitentiaries to meet with arrestees and convicts.

The rights of the arrestees / convicts to file a complaint against the actions of the prison administration is acknowledged by law (**Code of Execution of Criminal Law Sanctions, The Status of Punishment's Serving by the Convict etc.**).

- |                                                                                                                                                                              |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 5. Indicate if corporal punishment of children in any setting, including in the family, is explicitly prohibited in your legal system. Provide details of any legal defences |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|



available to those who administer corporal punishment to children, including in the family.

According to the **Law on the Rights of the Child No.338-XIII of 15.12.1994** no child may be subjected to torture, cruel, inhuman or degrading punishments or treatments (art.4).

In the view of protecting the health of the preschool children and school children, the **Law on Education, No.547-XIII of 21.07.1995** was passed, according to which corporal punishments, application in any form of violent physic and psychic methods are banned (art.57).

The **Family Code** does not expressly ban corporal punishments, but according to the provisions of art.62, 67 the behaviour of the parents shall exclude any form of physical violence.

The **Criminal Code** does not include among its provisions the criminal offence of corporal punishment of a minor. However, it can be inferred as being a part of the crime provided in art.154 – Wilful ill-treatment or other acts of violence committed against a minor.

Provide information on penalties applicable to those who administer corporal punishment to children, including in the family.

The parents who display cruel behaviour towards a child, using physical violence shall be **deprived of parental rights** according to art.67 of the Family Code.

The teaching staff of the educational institutions has the duty to observe in their activity the rules of ethics, to educate in children moral principles of fairness, justice, equity, humanism, generosity, diligence, patriotism and other virtues, being a model for the children in this respect. To ensure life security and health protection of the children in the teaching process. The corporal punishments, any physical or psychic violence shall be banned in all educational institutions (art.57 of the Law on Education). The teaching staff shall periodically be evaluated in order to check their professional competence, the quality of their teaching activity, their methodical-pedagogical and psychological qualifications. The results of the evaluation may serve as grounds for dismissal in cases when it was found that the teacher uses educational methods involving physical or psychic violence – art.56 of the Law on Education.

All the other cases of physical violence in the form of corporal punishment are liable to:

- administrative responsibility, on the bases of art.art.47/1 – *“The infliction of lights corporal injuries, ill-treatment, beatings and other violent actions that have caused physical pains or short term health unsettlement”* – entails the application of sanctions in the form of fine in the amount of 10 to 25 minimal wages or administrative arrest for a period of up to 30 days.
- criminal responsibility on the basis of par.2 of art.154 of the Criminal Code, *“Wilful ill-treatment or other acts of violence committed against a minor”*, perpetration which is punished with a fine in the amount of 500 to 1000 conventional units or with imprisonment of up to one year.

6. Provide information on whether the penal code permits corporal punishment and/or capital punishment as a sentence for crimes committed by under 18 year olds.

Capital punishment was abolished in the Republic of Moldova in 1994, once with the adoption of the RM Constitution.

The category of penal punishments applicable to natural persons for perpetration of crimes is strictly regulated in the Criminal Code. These punishments are: the fine; deprivation of

the right to hold certain positions or to exercise a certain activity; withdrawing of a special title, qualification degree, state distinctions; community work; arrest, deprivation of liberty and life imprisonment (art.62). The law does not provide for other categories of punishments.

The criminal and criminal procedure legislation provides for a special regime regarding the responsibility and prosecution before the court of juveniles. The criminal liability of minors appears at the age of 14 years, if they have committed serious, particularly serious or exceptionally serious crimes (such as murder, wilful severe damage of corporal integrity, rape, robbery, burglary, steeling etc.), and at the age of 16 years, if they have committed minor or less serious crimes.

Upon establishing the punishment to the minors subjected to criminal liability, the degree of danger to the society of the perpetration, the physical condition, the intellectual and moral development, the conditions in which the minor was brought up and in which he/she lived, as well as other circumstances have to be considered. The committal of an offence by the minor is in itself viewed as a mitigating circumstance, which is borne in mind at the establishment of his/her punishment (art.76).

The **Criminal Code** contains a series of provisions which either particularly regulate this field, or indirectly regard the minor's liability. Such regulations refer, for instance, to a limited circle of offences compared to the adults for which the liability of the minor may be engaged, to the finding of recidivism, when the crimes committed during the juvenile age (before 18 years) are not taken into account – art.34, to reducing half of the punishment in case of a perpetration committed by a minor – art.79, considering as a mitigating circumstance the committal of crime by a minor – art.76.

The specific of the punishment system for minors is not only the reduced number of punishments, but also the reduction of the terms of the respective punishments, compared to the same types of punishments applied to adults.

From the eight categories of sanctions provided by **art.62 of the Criminal Code** for natural persons, only five are applicable to minors – fine, deprivation of the right to hold certain positions or to exercise certain functions, community work, arrest and imprisonment. From these five categories, some may only in theory apply to the minors, but have nothing to do with real life implications.

The framework of the sanctions applicable to minors include: fine; community work from 60 to 240 hours, beginning with the age of 16 years; arrest, for a period from 3 to 6 months, beginning with the age of 16 years; imprisonment for a period of 6 months up to 15 years for the persons who are bellow the age of 18 years.

According to **art.70 of the Criminal Code**, upon establishing the punishment to a person who, at the age of crime committal has not yet reached the age of 18 years, the period of imprisonment may not exceed 15 years and the punishment of life imprisonment is not applicable to minors.

The **fine**, not excluded from the juvenile justice system, has a restricted applicability in this area due to the limited possibilities of the persons aged bellow 18 years to be employed in the labour field, to have a satisfactory material situation, to have an independent source of income. Thus, the minors between 16-18 years have very scarce possibilities of paying a fine, and in case of minors between 15-16 years this pecuniary punishment is practically meaningless. Even if the judge rules on the application of a fine to the minor, it might have even less favourable consequences to the minor, in case/she does not manage to serve it. According to par.5, art.64 of the Criminal Code, in case of avoiding in bad faith of the convict from the payment of the fine, determined as a main or complimentary punishment, the court may convert the amount of fine which was not paid into arrest or imprisonment. IN case when the convict is not capable of paying the fine, which can frequently be the case of a minor, the court may substitute the non-paid amount of fine with community work (**par.7 art.64 of the Criminal Code**). Finally, when a fine is imposed to a minor, he/she

risks the sanction of arrest, imprisonment of community work – sanctions which are harsher than the fine. When the judge imposes a fine hoping that it will be paid by the parents of the minor, that the very fact of imposing the fine loses its meaning, because the minor is not held accountable for his/her actions and besides, this would be contrary to the principle of personal character of criminal liability and punishment, according to which everyone shall be held accountable for his/her actions only.

Thus, alongside with deprivation of the right to hold certain positions or to exercise certain activities, the fine has also restricted applicability in case of minors.

**Community work.** The peculiarities of this type of punishment makes it quite superior to other sanctions which might be applied to the minor. Its advantage of promoting the rehabilitation and re-socialization of the minor is obvious especially if compared to custodial sanctions – which have the reverse effect but which, nonetheless are the most frequently used. Community work seems to be the most adequate option, especially in case of crimes committed against the society as a whole, which do not target a particular victim – hooliganism, deterioration or degrading of public assets etc.

Arrest and imprisonment, being custodial sanctions, can find their applicability and effectiveness only in cases when an obvious criminal behaviour is displayed, with a pronounced and stable antisocial inclination, in cases of committing crimes of an increased social danger.

**Arrest.** The punishment of arrest is applicable only to minors aged above 16 years and is limited in its use by the court through the Guideline of the Supreme Court of Justice Plenary of November 12, 1997, which recommends the exclusion from the court practice of the ill-founded application to minors the short-term custodial punishment, when, according to the penal law they may be imposed a non-custodial sanction. Thus, the punishment of arrest is also practically under veto and can not find its applicability in the sanctioning of minors.

**Imprisonment.** Very often neither repeated committal of crimes justifies the application of custodial sanctions, which nevertheless happens quite often in the RM jurisprudence. The repeated committal of a criminal offence practically excludes the possibility of imposing a different punishment than imprisonment (custodial punishment).

Imprisonment remains the only punishment which may be applied to minors without some legal restrictions or objective obstacles related to the peculiarities of the minor's age, which at the same time explains the frequency with which it is used by the courts.

The persons who have not yet reached the age of 18 years serve their imprisonment sanction in prisons for juveniles, taking into account the personality of the convict, his/her criminal record and the degree of damage inflicted by his/her crime.

7. Provide details on whether bullying/hazing and sexual harassment are explicitly addressed by legislation.

The current legislation forbids the insult (hazing) of a minor – the Law on the Rights of the Child (art.6), Family Code (art.62). *"The violation of the child's rights and legitimate interests, expressed through abusive behaviour, insults and ill-treatments of any kind, physical and psychic violence shall entail the imposing of administrative fines in the amount of 10 to 25 minimal wages"* – **Administrative Offences Code (art 170/2)**. These provisions refer to the perpetration which may not be qualified in the range of criminal offences specified in entry 2. The Administrative Offences Code defines the insult (outrage) in art.47/3 as *"outrage – premeditated humiliation, verbally or in written, of the honour and dignity of a person..."*

Intimidation (bullying) and sexual harassment are not explicitly provided in the Republic of Moldova Legislation, neither when it was committed against adults, nor in case of minors.

8. Provide information on the way in which harmful or violent traditional practices, including but not limited to female genital mutilation, child marriage or honour crimes are addressed in your country.

The legislation does not regulate the forms of violence which are related to traditional practices of the use of violence, because such traditional practices are not existent in the Republic of Moldova. Nevertheless if such actions occur here, they will be treated accordingly to the existing rules.

The cases of mutilation will be qualified pursuant to the criminal offences provided in art.151-153 of the Criminal Code – wilful damage of the corporal integrity of health of a minor.

The crimes committed for purposes of revenge (honour crimes) will be considered as deliberate crimes. The penal law does not provide for the circumstances which might lead to the mitigation of the criminal's liability, save for the cases when the crime is committed in the state of affect which is established in a report of psychological expert examination, state which is caused and produced simultaneously as a response to the illegal or immoral violent acts of the victim (**art.156 and 76 of the Criminal Code**).

Early marriage practices are lacking in the Republic of Moldova, with small exceptions in the gipsy communities, situation which is not covered by the legislation.

9. Provide information on the applicability of specific provisions to address all forms of violence against children to non-citizens and stateless children, including asylum seekers and displaced children. If specific provisions do not apply to such children, provide details of protection offered to them.

The Republic of Moldova legislation regulating the protection of children against all forms of violence does not approach separately the issue of violence used against children who are not citizens of the country of stateless persons, including children who are asylum seekers and refugees. The current regulatory acts apply in such cases equally and uniformly both to the citizens of the Republic of Moldova, as well as to aliens and stateless persons. *"The aliens and stateless persons residing on the territory of the Republic of Moldova in their family relations have the same rights and duties as the citizens of the Republic of Moldova"* – **art.154 of the Family Code**.

The cases of abuse or violence applied to these children, if committed on the territory of the Republic of Moldova, is sanctioned according to the general rules provided in the Criminal Code and Administrative Offences Code, as well as other regulatory acts provided in this report.

Thus, according to the **Law on the Legal Status of Aliens** (No.275-XIII of 10.11.1994) and the **Law on the Status of Refugees** (No.1286-XV of 25.07.2002) *"The alien child, who benefits of temporary protection, who claims the status of refugee or is acknowledged as a refugee shall receive, according to the domestic regulatory acts and international treaties in this field, to which the Republic of Moldova is a party, regardless of the fact whether he/she is with the parents, protection and assistance from the behalf of the state, including humanitarian assistance for him/her to enjoy his/her rights"* (art.8 of the **Law on the Status of Refugees**).

The status of refugee grants the beneficiary (including the child) the rights provided by the law (art.23 of the **Law on the Status of Refugees**):

- a) to stay on the territory of the Republic of Moldova and to get appropriate documents to confirm his/her identity and for border crossing.
- b) to choose the place of residence and to move freely under the conditions established by the law applicable to aliens;
- c) to be employed by natural persons or legal entities, to work as a free lancer, to conclude acts of commerce and other legal acts;

- d) to receive wages and to enjoy other material rights, flowing from the exercised activities, as well as social insurance, under the law;
- e) to follow elementary education, under conditions set by the law for Republic of Moldova citizens, as well as other forms of education, under the legal conditions which exist in respect of aliens;
- f) to enjoy equal treatment with the one granted to the Republic of Moldova citizens regarding the right of practice ones one religion and to provide religious education to the children;
- g) to enjoy the minimum free of charge guaranteed medical assistance, under the conditions of the law;
- h) to have free access to courts and to administrative assistance;

At the same time, these persons incur certain obligations as well (art.24 of the **Law on the Status of Refugees**).

The beneficiary of the status of refugee shall be obliged:

- a) to display correct and civilized behaviour, to observe the rules set by the authorities and to react to their requests;
- b) to refrain from generating conflict situations or incidents with the population, to avoid them, to refrain from committing administrative and criminal offences.

10. Provide information on any difference in the definition of violence and the applicable legal framework according to:

- The sex or sexual orientation of the victim and/or of the perpetrator;
- The age of the victim and /or of the perpetrator;
- The relationship between the victim and the perpetrator, including, but not limited to: infanticide, sexual violence in marriage, incest and sexual abuse within the family, and physical chastisement.

The legislative framework of the Republic of Moldova does not define separately violence depending on such criteria as the age, sex of the perpetrator or special ties which might exist between the perpetrator and the victim.

The sex or sexual orientation of the victim and/or of the perpetrator are features of the subject of violence and its victim in a crime.

Thus, according to the penal law provisions the active subject (perpetrator) of the rape crime (art.171 of the Criminal Code) may only be a male and the victim – only a female.

In case of violent sexual crimes – sodomy, lesbianism or satisfaction of sexual instincts in perverse forms, the active subjects of the offence (the perpetrators) and the passive subjects of the offence (the victims) may be males and, respectively, females – art.172 of the Criminal Code.

The juvenile age of the victim is considered an aggravating circumstance and affects the punishment to be established both in cases of crimes (art.177 of the Criminal Code) and administrative offences (art.39 of the AOC). The crimes against minors are qualified separately, for such perpetrations the sanctions being harsher.

The bond between the victim and aggressor is specified in: art.201 of the CC – incest – “Sexual intercourse between direct relatives up to the third degree inclusively, as well as between relatives on a collateral line (siblings, first cousins).”; art.208 of the CC – “The involvement of minors in criminal activity or their instigation to commit crimes, as well as determination of minors to commit immoral acts committed by parents, teachers, or other legal guardians of the child”.

11. Provide information on any recent comprehensive review of the legal framework to address violence against children.

The legislative framework and the situation regarding violence against children have not been recently in the focus of a comprehensive review. Nevertheless, in many reports by the Government and international organizations, directly or indirectly, the violence against children have been revealed and scrutinized. Among these reports are:

- "The Situation of Children and Family in the Republic of Moldova", assessment and analysis conducted by UNICEF Moldova in partnership with the RM Government – year 2000-2001;
- "Inception Report and First Periodic Report of the Republic of Moldova on the Application of the UN Convention on the Rights of the Child", 2002, RM Government;
- "Juvenile Justice in the Republic of Moldova", assessment report for the year 2002-2003, UNICEF, RM Government. This review is a first attempt to assess the situation of the children in conflict with the law in the RM and of the way in which they interact with the law enforcement and the justice system.
- "Trafficking in Children for Labour and Sexual Exploitation in Moldova. Results of a Rapid Assessment Survey", June 2004, carried out by the Institute of Public Policies ([www.ipp.md/publications/](http://www.ipp.md/publications/)).
- "Care and Early Development of Children in the Republic of Moldova", 2004. Report written by the National Working Group for the Development of Policies and Strategies in the Field of Care and Development of the Small Child, created by decision of the National Board for the Protection of the Rights of the Child, with the support of UNICEF Moldova.

12. Provide information on any studies and surveys which have been undertaken to assess the impact of legal measures to address violence against children.

Such studies have not been carried out.

#### Courts tasked with addressing violence against children

13. Identify those parts of the court structure in your country tasked with addressing violence against children. Indicate if your family or juvenile courts have specific responsibility for this issue.

In the Republic of Moldova there are no specialized courts tasked with the exclusive competence of considering cases related to the wellbeing and protection of children. The cases concerning children are dealt by common law courts, in the jurisdiction of which is the trial both of civil cases, as well as administrative and criminal cases.

The judicial system of the Republic of Moldova is made of:

- a) Sector courts, municipal courts (created at the level of administrative-territorial units – 33 regions and 5 sector of the Chisinau municipality);
- b) Courts of Appeal (from Cahul, Chisinau, Balti, Bender);
- c) Supreme Court of Justice.

Specialized courts exist for certain categories of cases (economic courts, military courts etc.).

The issue of creating separate juvenile courts, or at least the appointment of specialized judges in the consideration of such cases is vary much discussed, but no considerable progress was made in this respect.

A recent success from August 2004 was the appointment in the first instance courts, by disposition of the Supreme Court of Justice, of senior judges dealing exclusively with criminal cases to consider juvenile cases. This success was achieved due to the Working Group on Juvenile Justice, established by the National Board on the Protection of the Right of the Child, with the support of UNICEF.

#### Minimum age for sexual activity

14. Provide information on any legislatively defined minimum age required for valid consent to sexual activity. Is this age different for girls and boys? Is this age different in respect of heterosexual and homosexual activities?

The legislation of the Republic of Moldova does not include direct provisions on the age from which a person may consent to begin sexual life.

Considering that the penal law punishes the sexual intercourse, sodomy, lesbianism with a minor below the age of 16 years (in cases when the victim consented and the perpetrator knew for sure what is his/her age) – art.174 of the Criminal Code, it is therefore inferred that the minimum age required by law for valid consent to sexual activity is of 16 years. Since 16 years, the law acknowledges the right to conclude a marriage, under exceptional circumstances.

According to the **Law on the Protection of Reproductive Health and Family Planning** No.185-XV of 24.05.2001 *"The minors are entitled to their reproductive health protection and to sexual education. The sexual education of minors and their preparation for family life is carried out by persons with special training together with the family and educational institutions, according to specially designed programmes and taking into account the age, sex, psychological peculiarities of the minors and their parent's wishes"* (art.8). However, this Law makes no direct reference to the age since which the minor is acknowledged the right to commence sexual activity.

The development of sexual education programmes, reproductive health care and their preparation for family life is carried out by the Ministry of Education in cooperation with the Ministry of Health through the introduction in the school curriculum of such special courses.

15. Provide information on the minimum age of marriage for women and men.

According to **art.14 of the Family Code**, the minimum age of marriage is of 18 years for men and 16 years for women. For grounded reasons, the conclusion of marriage with the reduction of the matrimonial age for men is allowed, but not more that with 2 years. The conclusion of marriage before this age is admissible only with the permission of the local public authorities from the territorial circuit of the petitioner's place of residence and with the approval of parents.

The difference in the age at which girls and boys can get married is in fact a violation of art.1 of the Convention of the Rights of the Child. The determination of the minimum age of marriage for girls at the same level as boys is one of the recommendation proposed to Moldova on the basis of the report which was submitted according to art.44 of the Convention of the High Commissariat for Human Rights at the 04.10.2002.

At the moment however, no amendments to these legal provisions have been made.

#### Sexual exploitation of children

16. Provide information on legislation and other measures to prevent the commercial sexual exploitation of children, including through prostitution and other unlawful sexual activities. Provide details on means to ensure that child victims of such exploitation are not criminalized. Provide information on legislation or other measures to prohibit all forms of sale or trafficking in children, including by their parents.

Poverty, lack of family, school environment and the growing instability of the family lead to the increased number of instances in which children become victims of human trafficking. Moldova remains one of the main countries of origin for trafficking in women and children. According to the Annual Report of the International Organization for Migration, about 1500 victims of trafficking coming from Moldova were identified and enjoyed assistance in the

years 2001-2004. From this number, at the moment of leaving the country 30% of these victims were children below the age of 18 years, 10% being repatriated being still children.

Beside the statistical reports which were made public by the International organization for Migration, no state institution is currently keeping a record of this phenomenon.

Due to the lack of such control, the real figures of the children who have left the Republic of Moldova, legally or illegally (as victims of trafficking in human beings), is not known. The data and information provided by some international organizations and sociological institutions confirm that the Republic of Moldova has a leading place in the number of trafficked children, this being more than 10% of the total number of trafficked victims.

The process of trafficking in children is greatly favoured by the manners of border crossing. In Ukraine and Russia minors cross the borders only with their birth certificate, document in which there is no picture of the minor, there is no evidence of the fact that the minor who presents this document is its real owner. To go from Moldova to Ukraine and Russia one should cross the border in the Transnistrian region, which is less secured. The Moldovan legislation is not observed by the secessionist authorities from Transnistria due to the conflicts which persist in this region of Moldova, which last since 1992. Ukraine and Russia are countries of destination where most of the children from the Republic of Moldova have been involved in trafficking for labour and sexual exploitation. With the same birth certificate several children may be taken out of the country. According to the information presented by the Prosecutor General's Office, trafficking in children towards Ukraine and Russia is carried out mainly by the gypsies, which recruit children from socially vulnerable families for exploitation through begging, prostitution and forced labour. Sometimes, the parents from socially vulnerable families approve taking their children abroad and their use in begging and forced labour, while once the children are taken to the destination they are being exploited sexually as well.

In the **Criminal Code** of the Republic of Moldova, the crime of trafficking in human beings was incriminated in June 2001. Once with the coming into force of the new Criminal Code (13 of June 2003) trafficking in children was regulated separately – in art.206.

Trafficking in children is considered to be a particularly serious criminal offence, for which harsh punishments are provided from 10 to 25 years of imprisonment, depending on the aggravating circumstances of the crime and its consequences (the signs of this crime were evidenced in entry 2 of the Questionnaire).

According to the law, the child victim of trafficking in human beings is exempted from criminal liability for the offences committed by him/her as a result of such procedural capacity (victim of crime) and if accepted to cooperate with the prosecution (art.206 par.4 of the CC).

The condition of releasing the child victim from criminal liability if he/she cooperates with the prosecution is considered to be a violation of the rights of the victim. This legal provision, introduced rather recently in the law (June 2003) is very much debated by the law enforcement specialists, however, no changes have been made to this provision so far.

*"Taking a child out of the country using counterfeit documents or using any other illegal means, as well as their abandonment abroad, absent the purposes provided in the criminal offence of trafficking in children"* is also punished according to art.207 of the Criminal Code with deprivation of liberty of 7 to 12 years.

By the **Law on the Entry and Exit from the Country** No.269-XIII of 09.11.1994, the procedure which is to be observed upon the entry and exit of the children from the country. They have to be accompanied by their parents or by the parents substituting their parents (on the basis of documents certifying such capacity). The children should have passports or their picture has to be in the passport of their parents. In cases when the children leave the country in the company of only one parent or in the company of another person, the approval of the other parent, respectively of both parents is required, approval which shall



be authenticated by a notary. If these legal procedures have not been respected, the person who has taken the child out of the country, even if this person is a parent to the child, risks to incur criminal liability, according to art.207 of the Criminal Code.

According to art.220 par.2 of the Criminal Code, it is criminally punished with imprisonment from 4 to 7 years the offence of pimping, perpetration of the person who "*encouraged or determined a minor to practice prostitution, or has facilitated practicing prostitution, or the person who takes advantages from the practicing of prostitution by another person, as well as the recruitment of a minor to practice prostitution.*"

In general, the practicing of prostitution in the Republic of Moldova is sanctioned administratively with a fine in the amount of 50 to 75 minimal wages or administrative arrest up to 20 days (art.171/1 AOC). The administrative sanctions are applied by the courts according to the rules of procedure provided in the Administrative Offences Code (AOC).

The court nevertheless will not be able to consider and impose sanctions for such perpetrations, in cases when these were committed by minors, because the administrative offences by minors, with some small exceptions, are not examined by the courts, but by commissions for minors. "*The persons aged between 16 and 18 years who have committed administrative offences, measures provided by the Regulation of the Commission for Minors shall be applied*" – art.13 AOC.

The commissions for minors have been created back in the year 1967 and currently they are not existing in all the administrative-territorial units. Where the commissions are in place, they operate on the basis of a **Regulation approved through the Instruction of the Supreme Soviet Presidium of the Moldovan SSR on the 25<sup>th</sup> of March 1967**, the provisions of which are outdated and do not correspond to the new realities. Many of the provisions of this regulatory act contradict the new legal provisions. Despite all these, currently the commissions for minors are the only extrajudicial institutions designed to consider cases involving minors, including the cases of minors engaged in prostitution – administrative offence provided in art.171/1 AOC. According to the provisions of art.18 of this Regulation, the commissions may apply to the minors only educational measures, such as: obligation to ask the victim for forgiveness; warning; reproof; sending the minor to an educational institution, transmitting the child under the supervision of the parents, public educators, staff.

To combat trafficking in human beings phenomenon, the Government of the Republic of Moldova has created in the year 2001, by a Decree No.1219 of 09.11.2001 – the **National Committee for Combating Trafficking in Human Beings**. The members of this Committee are high officials representing different state agencies and law enforcement. The Chairperson of the Committee is the Prime Deputy Prime Minister of the Republic of Moldova. The Government has also approved a Plan of Action in the field, which pursues the following objectives:

- monitoring the magnitude of the problem, the causes and vulnerability of certain social groups, the methods of recruitment of the trafficking victims, the routes of transportation;
- acknowledgement by the society of the danger posed by trafficking in human beings;
- education of persons belonging to high risk groups;
- improvement of the economic and social status of the persons at risk of trafficking;
- ensuring the protection of the trafficking victims, rehabilitation and their social reintegration;
- ensuring the exercise of the right to be repatriated to the country of origin;
- harmonization of the national legislation with the international regulations in the field;
- training of the personnel called to implement the new legislative mechanisms;
- ensuring the flexibility, adjusting the actions and their change depending on the assessed results and available resources;
- ensuring international cooperation and coordination of actions in this field.

From the success achieved by the Government up until this moment, only actions of combating carried out by the police are worth-mentioning, which, only in the year 2004 have instituted criminal proceedings in 188 trafficking cases, from which 39 cases of trafficking in children.

Otherwise, actions of trafficking prevention, of rehabilitation and social reintegration of the victims, of repatriation of the victims are provided exclusively by international organizations and non-governmental organizations. Currently, the Government has not managed to set up yet a viable mechanism of providing such services.

#### Pornography and harmful information

17. Provide information on legislation and other measures to prohibit the production, possession and dissemination of child pornography. In particular, please provide information on any controls on pornography produced and/or disseminated via the internet.

The legislation of the Republic of Moldova regulates few mechanisms to combat and prevent child pornography. Particularly, at this moment, in the Republic of Moldova there are no legislative means of bringing to criminal liability of the persons guilty of pornography spreading through internet, although such cases have already been reported.

The existent regulatory acts are restricted only to the sanctions which may be applied in the next cases:

- **Administrative Offences Code:**

- art.171/4 – “Manufacturing or selling of pornographic items: manufacturing, import, spreading and advertisement of pornographic works, printed publications, pictures or other items of pornographic nature, as well as their selling or storage for the purpose of selling or spreading” entail administrative liability – fine in the amount of 10 to 50 minimal wages.
- art.171/5 – “Manufacturing, import, spreading, exhibition or storage for the purpose of spreading or exhibition of the cinema and video films or of other works disseminating the cult of violence and cruelty” entail administrative liability – fine in the amount of 10 to 50 minimal wages.
- Art.171/6 – “Spreading of editorial and cinematographic productions, theatre plays, video and audio tapes, CDs, radio and TV shows of erotic nature and producing entertainment programmes with elements of strip-tease in public venues; spreading of editorial and cinematographic productions, theatre plays, video and audio tapes, CDs, radio and TV shows, including those broadcasted through cable and via satellite television or through internet, of erotic nature and producing entertainment programmes with elements of strip-tease in public venues, in the absence of the authorization issued by the State Agency for Morals Protection” entail the imposing of fine in the amount of 500 minimal wages. In cases when the perpetrator is an official person, the amount of fine may go up to 1000 minimal wages.

- **Criminal Code** does not incriminate the perpetrations of production, possession or spreading of the pornographic material. In the past, the old Criminal code, abrogated on the 12.06.2003, such perpetrations were incriminated in criminally punished in art.223. Although the current Criminal Code does not provide explicitly criminal liability for the procurement, possession and spreading of child pornography, the involvement of a child in the production of pornographic material, committed in certain circumstances may be qualified criminally according to other categories of offences, such as:

- art.206 – Trafficking in children - “The recruitment, transportation, transfer, harboring or receipt of a child, giving or receiving of payments or benefits to achieve the consent of a person having control over a child, for the purpose of commercial and non-commercial sexual exploitation, exploitation in prostitution and in the pornographic industry shall entail the application of punishment with deprivation of liberty from 10-15

years". For the same actions if accompanied by violence, torture, inhuman treatments, threats or if committed against several children etc. the punishments are harsher – 15 to 25 years of imprisonment.

- art.208 – "*The involvement of minors in criminal activity or their instigation to commit crimes, as well as their determination to commit immoral acts (begging, gambling, dissipation)*", shall be punished with deprivation of liberty of up to 5 years. The same acts when committed by parents, teachers, or other legal guardians of the child, shall be punished with deprivation of liberty of up to 6 years.
- According to the **Law on Police** No.416-XII of 18.12.1990, the police officers, in their activity shall take measures aimed not only at combating the committed crimes, by also actions of preventing the occurrence of crimes, administrative offences, other violations of the public order, including of the violations related to morals. In this respect, in the structure of the Ministry of Home Affairs, in the Department of Public Order, there is a Service for Morals and Juveniles, and in each regional police commissariat there are appointed police inspectors in charge of juvenile cases and inspectors dealing with morals. Fulfilling their duties, these services carry out various controls for the purpose of identifying and detecting the works which contain elements of pornography, sadism, cruelty of propagate the cult of violence. The venues providing internet services are also subjected to such controls.

18. Provide information on any legislation or guidelines to protect children from injurious information and material transmitted through the media, Internet, videos, electronic games, etc.

In purpose of counteracting of tendencies of propagation of pornography, sadism and of the cult of violence, by Governmental Decree No.1400 of 17.12.2001, with the Ministry of Culture, the **State Agency for Morals Protection** was set up.

The Agency is a public specialized body, aimed at ensuring the protection of culture and morals by counteracting the tendencies of propagation of pornography, sadism and of the cult of violence in art, literature and mass media works. The Agency exercises the control over the observance of the legislation and international conventions in this field, signed by the Republic of Moldova in the area of protecting culture and morals; issues authorizations on the basis of preventive expertise to natural persons and legal entities which provide services of dissemination of editorial production, of video and audio tapes of erotic nature, as well as to those which present entertainment shows with elements of strip-tease in public venues, or which own "sex shops".

In its activity, the Agency is entitled:

- to check the observance of the legislation on the protection of culture and morality by all the natural persons and legal entities, the activity of which is related to this;
- to submit to the public administration authorities the conclusions of the expert commissions (expertise reports) on the prohibition, withdrawing and destruction of the pornographic material, as well as of the material which propagate sadism and of the cult of violence;
- to inform on an annual basis the municipal and regional directions of culture (upon their request), and the home affairs – on a systematic basis about the existence of works included in the records of works with elements of pornography or which propagate sadism and of the cult of violence;
- to keep the respective records of works with elements of pornography or which propagate sadism and of the cult of violence, prohibited for dissemination on the territory of the Republic of Moldova, of the works designed for the public with a certain age limit or which are displayed only in special venues, according to the respective types: cinematographic and video production; audio production; science fiction; polygraph production: albums, brochure, posters, leaflets, postcards, newspapers, magazine, calendars, playing cards etc. published in Moldova or abroad;
- to provide assistance to the police in the finding of works containing elements of pornography or which propagate sadism and of the cult of violence;

- to submit to the competent authorities proposals of sanctioning the natural persons and legal entities, according to the current legislation.

The Agency is entitled to issue reviews of works in the field of art and literature, to make proposals to the managers of the respective organizations and to private business operators about the regime of their use, to impose the age limit, the place and time of dissemination and, in cases provided by the law, to issue dispositions through which it may ban the respective works. These dispositions shall be binding for enforcement since the indicated day, being overruled only by court judgment.

In case when the natural person or legal entity (the cinema, video room, the editor's office of the television, radio, audio and video recording studios, the point of distribution of tapes (floppies), commercial organization) violates the established rules for the protection of culture and morals, the Agency may notify the competent authorities for the purpose of bringing to criminal or administrative liability of the guilty persons.

Currently, the Government of the Republic of Moldova has approved the draft law on the protection of morals, in which the following terms are regulated: erotic, pornography, age limits for accessing such materials etc. The draft law has to be discussed and passed by the Parliament.

#### Reporting obligations relating to violence against children

19. Provide information on legislation, regulations or administrative directives requiring reporting of all forms of violence against and abuse of children in all settings to appropriate bodies. If reporting legislation, regulations or administrative directives exist, please indicate whether all citizens are required to report, or whether the obligation falls on certain professional groups only. Provide details of any sanctions for non-reporting.

The official persons from the educational, medical, social assistance institutions, as well as any natural person holding information about a child in difficulty is obliged to inform the guardianship authorities about this child – **art.114 par.1 of the Family Code**. The guardianship authority is, according to the legislation, the authority in charge of protecting the child lacking parental care due to: *"death of the parents, their deprivation of parental rights, declaration of the parents as incapable, lengthy missing of the parents, their avoiding from the education of the child, from the protection of the child's legitimate interests and rights, including in the case of abandonment, as well as in other cases when parental care is lacking"* – **art.112 par.1 of the Family Code**.

The regulatory provide even some terms of transmitting such information: 24 hours for the abandoned or found child; 3 days in all the other cases (**art.114 of the Family Code**). *"Failure to notify the guardianship authority, by an official person or by any other persons, about the existence of a danger to the child's life or health, or about the violation of his/her legitimate interests and rights"* shall entail administrative liability according to art.170/4 AOC – fine in the amount of 5 to 10 minimal wages.

Receiving the information about the child in difficulty, the guardianship authority shall investigate the causes which led to this situation, to check the living conditions of the child and of his/her biological family. Upon conduction of this controls, the guardianship authority, if the case, has to seek the involvement of the police or even prosecutor's office (the case of abandoned children, the children physically or sexually abused.) According to **art.71 par.2 of the Family Code** in cases when the aggressors of the child are his/her parents, or other persons taking care of him/her and if there is an immediate risk to the child's life and health, the guardianship authority may decide in an exceptional manner on taking the child away from the parents, absent a court judgment, but will inform about this fact the prosecutor within 24 hours. According to the legislation regulating the actions of the prosecutors, in this case the prosecutor shall order the police to initiate criminal prosecution, if the actions of the parents constitute a criminal offence. The guardianship authority or even the prosecutor, within 7 days since taking the child from the parents,

according to the law (**art.71 par.3 and art.68 of the Family Code**), have to bring the case before a court and request the deprivation of the parents of their parental rights, while the child shall be placed in a provisional screening centre before the determination of an adequate form of protection.

Considering the provisions of **art.114 par.1 of the Family Code** in cases when the child is in an education, medical, social assistance or any other institution, the official persons from this institution shall have the duty to inform the competent authorities (the guardianship authority, the police) about all the cases of abuse, negligence to which the child was subjected. Such obligations are also provided in the Rules of Activity of these institutions.

If in the medical institutions cases of granting medical care to a child are recorded, on whose body signs of violence were found, the medical staff shall inform immediately the police about this fact in order for the latter to make an enquiry. The actions of the medical staff in such cases are regulated through the **common order of the Ministry Health and Ministry of Home Affairs no.83/92 of 30.03.1998 "On the Measures of Improving the Joint Actions of the Medical Institutions and Home Affairs"**.

In cases when a crime or an administrative offence was committed and the victim is a child, the citizens who found out about this perpetration shall have the duty to report it to the police. This obligation is a civic duty of the citizens.

Nevertheless, the failure to report such cases may entail administrative sanctions or even criminal ones in some circumstances. *"The refuse or avoiding by the witness to testify in the criminal prosecution or before courts may entail criminal liability in the form of fine in the amount of up to 300 conventional units"* – art.313 of the Criminal Code.

The procedure of examining the complaints, notifications regarding any abuse, negligence, violation of rights or any illegal action, including the action of violence against the children shall be carried out by bodies in charge according to several regulatory acts in force:

**Law on Petitioning** No. 190-XII of 19.07.1994. This Law sets the manner of considering the petitions of the citizens, addressed to any state structure, company, other institutions, for the purpose of protecting their legitimate interests and rights. According to art.8 of the Law, any petition/request shall be examined immediately, in a term of up to 15 days. If for the taking of the right decision, an ample control is necessary, the term of the petition's examination may last up to one month.

**Regulation of Guardianship and Tutorship Authorities** No.458 of 11.12.1972. The Regulation was passed in the soviet times, containing provisions which are already outdated. Nevertheless, the Regulation is the only regulatory act which sets at the moment the details on the practical implementation of the functions and duties of the Service of the guardianship authority at all levels. According to the provisions of this Regulation (points 8-10), the inspectors of the guardianship authority, in the ambit of their competences: *"find the children left without parental care and the children to whom the parents do not provide for the adequate education and maintenance"; "control the fulfilment by tutors and guardians, by the adoptive parents of their duties"; "examine the complaints filed against the actions of the child's tutors and guardians"; "files lawsuits in courts on the deprivation of the parents of their parental rights, on the repealing of adoptions", "have the right of taking the children from the parents who were not deprived of their parental rights etc."*

Currently, in the fulfilment of the objectives set forth by the **National Paper**, the draft new Regulation on the activity of the guardianship authorities' bodies, lined up to the current legislation's provisions. This draft Regulation was forwarded for advisory notes' presentation by all the competent bodies.

The **Law on Police** No.206-XV of 29.05.2003 provides the consideration by the police of any petitions or notifications, on the bases of their nature according to the requirements of the Law on Petitioning, Criminal Procedure Code or Administrative Offences Code. The

manner of receipt, registration and consideration of any notifications or petitions is regulated in the regulations, instructions and internal departmental orders:

1. **Regulation of the Police Inspections for Juveniles** approved by order of the MHA of August 24, 1998, No.223. According to this regulation, the juvenile inspectors have the duty to organize on a permanent bases, for prophylactic purposes the control of all the socially vulnerable families, which they are aware of, where the risk of abuse or negligence of the children is persistent or where the children themselves are known for their deviated behaviour. For such purposes, the inspectors are entitled to visit these families by themselves or together with the teachers from the schools, with the family doctors. The juvenile inspectors are entitled to collect information from the local public authorities, from other institutions or neighbours about the situation of the children and of their families. If after such inspections the inspectors "*find that the parents, guardians or other persons negatively influence the child's education, treat them rudely, apply violence or other illegal actions towards the child*" (entry 52 of the Regulation), they shall draw a report to their managers of the police commissariats in order for the proper decision to be taken.
2. **"Instructions on the Procedure of Receiving the Citizens, of Receiving Requests, Petitions, Proposals or Other Applications". MHA Order No.286 of 05.11.1997.** According to these instructions all the departments of the Ministry of Home Affairs ensure the examination of any complaints, notification received verbally or in written form.

The information or notification which indicates directly on the committal of a crime shall be examined according to the provisions of the **Criminal Procedure Code**.

For the purpose of unitary recordkeeping of the reporting of crimes, administrative offences or any other violations, law enforcement, namely the MHA, the Republic of Moldova Prosecutor's Office, the Customs Department, the Intelligence and Security Service, the Centre for Combating Economic Crimes and Corruption through the **common order No.124/319/46/172-O/101** of 26.08.2003 have approved common instruction in this sense:

- 1) **Instruction on the Manner of Receipt, Recording and Consideration of the Notifications and o Other Information Related to Crimes**
- 2) **Instruction on the Unitary Recordkeeping of Crimes, Drawing Up and Presenting Acts of Primary Evidence.**

The police bodies have the task by law to make operational investigation measures and other necessary measures provided by the legislation for the establishment, prevention, deterrence of crimes, for the identification and prosecution of the persons who committed them. The criminal prosecution bodies may be notified about the committal or preparation for the committal of a crime by the natural person or legal entity that was inflicted a damage by any natural person or legal entity who/which found out about the committal of a crime (**art.263 of the Criminal Procedure Code**). According to the law, the police may institute criminal proceedings even in the absence of a denunciation or complaint filed by a concrete person, for this any information or suspicion of the fact that a child is being abused being enough and the police officer who found this out shall draw up a report.

The police shall control even the anonymous complaints or denunciations, if these contain data about the committal of a crime. "*The anonymous complaints and denunciations may not serve as a basis for the initiation of a criminal prosecution, but on the grounds of the control conducted of such*

*complaints and denunciations, the criminal prosecution body may notify ex officio for the purpose of institution of the criminal proceedings" – art.263 of the Criminal Procedure Code.*

#### Complaints procedures

20. Provide information on any complaints procedures relating to all forms of violence against children perpetrated in:

- The family/ home;
- Schools and pre-school care and education (both formal and non-formal, state and private);
- Military schools;
- Institutions, state and private, including care, residential, health and mental health;
- The context of law and public order enforcement including in detention facilities or prisons;
- The neighbourhood, street and the community, including in rural areas;
- The workplace (informal and formal);
- Sports and sporting facilities.

According to the **Law on Petitioning** any person who believes that his/her right was violated has the possibility of filing a written or verbal complaint to any state structure, company, other institutions for the purpose of protecting his/her legitimate interests. Such institutions may be: educational institutions (kindergartens, schools), medical institutions, penitentiary institutions, private or state companies, guardianship authorities, law enforcement (police, prosecutors) etc. Responsible for the consideration of any complaints are the managers of the institution or other persons/commissions appointed by the manager (art.6).

In cases when the complaint was filed in the institution which is not competent to address this issue, the person shall be recommended to address to the competent body, while in case of written complaints, this petition shall be transmitted to the competent authority of body to examine it within 5 days.

It should be mentioned that as a rule, the parents are entitled to file complaints on abuses committed against the children, in the name of the minors below the age of 18, with courts of law, law enforcement (police, prosecutors), other authorities. *"The rights and legitimate interests of the children are protected by their parents. The parents are the legal representatives of their children and they act in their name in all the relationships with the natural persons and legal entities, including before all the public authorities and courts of law, without requiring special authorization."* – **art.61 of the Family Code.**

Not seldom are the cases when the parents or the persons substituting them (legal protectors) are those who infringe these rights of the child and, in this context, we may not refer to the general rule which ensures the person the right to go to the court or other competent bodies.

According to **art.53 par.4 of the Family Code** *"The child may apply independently to the guardianship authorities in order to seek protection of his/her rights and legitimate interests and from the age of 14 years – to go to court in cases when his/her rights and legitimate interests have been violated, including through non-fulfilment or inappropriate fulfilment by the parents of the duties to support, raising and education or in cases of abuse of parental rights"*.

Although the child was acknowledged this right, its practical implementation through viable mechanisms is missing. The law does not provide for free of charge legal assistance of a lawyer, besides, not all the children are aware of these procedures.

In this context, once again we may evidence the declarative character of many norms of the Moldovan legislation. It is much easier to copy a list of rights unanimously

acknowledged as human rights, than to guarantee a coherent mechanism that ensure the practical implementation of these norms.

In a criminal proceeding, the child victim does not have the right to exercise independently his/her rights, these rights beings exercised by his/her legal representatives – art.76 of the Criminal Procedure Code. Despite this, sometimes the criminal prosecution body or the court may acknowledge to the juvenile of the age of 14 years the rights and duties recognized in the criminal procedure to the injured party independently.

If the crime committed against the minor was committed by a parent or by the person legally substituting him/her, or when there are reasonable grounds to believe that the actions of the legal representatives in a trial bring damage to the interests of the minor, the criminal investigation officer, the prosecutor or the court shall remove this person from the case consideration and shall request from the guardianship authority to represent the interests of this child or to appoint another legal representative (**art.77, 480-481 of the Criminal Procedure Code**).

21. Indicate whether children or persons acting on their behalf can access these procedures. Indicate whether legal aid is available to facilitate submission of complaints, and the circumstances in which legal aid will be available.

The police bodies have the duty, according to the **Law on Police** and of the **Instruction No.124/319/46/172-O/101 of 26.08.2003** to receive any complaint or denunciation regarding crimes or other illegal perpetrations, in all the cases, regardless the time and place of their committal, the plenitude of the information supplied by the person who came to the police. The police has the obligation to receive any notification, either written, verbal, on the phone, fax or through mass media and to initiate immediately a control or the criminal investigation if the received information refers obviously to an offence which was committed or which is under preparations. According to entry 7 of the Instruction, the receipt of requests and information shall be carried out by police officers daily during their working hours, and in the on-duty sections the information may be provided 24 hours.

The written complaints or denunciations may be filed personally by the child who has reached the age of 14 years (art.53 par.3 of the Family Code) or by his/her legal representative – art.263 of the Criminal Procedure Code.

Criminal prosecution shall be conducted in a reasonable time, which is set by the prosecutor, depending on the complexity of the case (art.259 of the CPC), that is when the alleged victim is a child, a short term of the case consideration may be applied.

According to art.58-59 of the Criminal Procedure Code, the victim, regardless his/her age is acknowledged the right of being assisted and advised by a counsel on the entire duration of the criminal investigation. This council **however** is invited by the vim or his/her legal representative, having the obligation to pay fee set by the law firm, the respective council is associated with. The right of being assisted by an *ex officio* free of charge council is acknowledged only to the victim of a severe or exceptionally severe crime committed against the person, in case when he/she lack money to afford one – art,58 par.4 of the Criminal Procedure Code. The free of charge assistance of lawyer in these cases is provided by the law as a right of the victim, and not as an obligation. This means that the victim has to explicitly require the criminal prosecution body, the prosecutor or the court of law to ask the law firms from the respective sector to appoint a free of charge lawyer. Taking into account the crimes which are usually committed against minors, the free of charge legal assistance from the behalf of a lawyer is scarcely applied to a child. For instance, the victim is entitled to benefit from free of charge legal assistance in the case when against the child was committed the crime of: trafficking in human beings (art.206 of the Criminal Code); severe damage of the corporal integrity or health (art.151); rape (art.171) etc. Besides this, the fee of an *ex officio* lawyer is to be paid from the state budget, but their payment is very often delayed. For these reasons the lawyers are not interested in getting involved in such trials to provide free of charge legal assistance.



In case when the perpetration committed against the minor does not contain the elements of a criminal offence, but is qualified as an administrative offence, the injured party, victims of this offence, is also acknowledged the right of being assisted by a council of his/her choice (ar.257), but the possibility of having a free of charge council is not provided by the law.

22. Describe steps which have been taken to raise awareness of possibilities to submit complaints about violence against children.

Regretfully, up until this moment, few steps have been taken to raise awareness among children on the procedures of filing complaints about violence, abuses committed against them. Few children know where they have to go when their rights were breached. Moreover, traditionally, abuses committed in the family are usually concealed not only by the children, but also by the adults.

All the steps taken are limited to the school curriculum which includes the course of Civic Education.

Some of the steps in this respect were taken by non-governmental organizations and international organizations.

23. Provide information on any special procedural or evidentiary rules which may apply in proceedings with respect to violence against children.

In the handling of cases related to violence against violence, any elements which were collected by legal means are admitted as evidence, if they are permitted by regulatory acts in force, which serve as a proof of the existence or inexistence of a crime or of an administrative offence committed against a minor, for the identification of the perpetrator, at the finding of the guilt, at the establishment of other important circumstances to the fair resolution of every case.

The handling of cases of violence against children are not treated by laws or by legal proceedings, such cases are identified and proven according to the general rules.

As evidence acknowledged by the law may serve (according to art.93 par.2 of the Criminal Procedure Code and art.238 of the Administrative Offences Code): the statement of the suspect, accused, injured party, witness, experts, expertise reports: medical-forensic, psychiatric, biological, chemical, technical, fingerprints and other traces, any technical-scientific findings etc.; minutes of the crime scene examination, of detection and seizure of *corpus delicti* containing traces of crime, minutes of any criminal prosecution actions and the judicial review, documents, audio and video records, photographs.

In an administrative trial all the evidence are collected by the police inspectors or in a criminal trial – by the criminal prosecution body of the Ministry of Home Affairs, under the supervision and leadership of the prosecutor and are submitted to the court for it to decide on the person's guilt.

The child victim of a criminal offence or of an administrative offence may, during the trial, personally or through his/her legal representatives, lawyers, to present other verbal or written information, items, documents which may be used as evidence.

The minor may make statements as a witness during the criminal prosecution and before the court regarding the perpetration committed against him/her. Upon the child's hearing, a teacher and a psychologist should be obligatorily invited (art.479 and 481 of the Criminal Procedure Code).

All the evidence administered in the trial and their source shall be scrutinized, corroborated with other evidence and assessed objectively by the court (art.101 of the Criminal Procedure Code, art.239 of the Administrative Offences Code), which, considering the severity of the committed perpetration shall impose the punishment provided by the law.

24. Provide information on the usual outcome of complaints of violence against children (e.g. compensation, punishment of perpetrators, perpetrator rehabilitation, family therapy).

In cases when the complaints about abuses against the children have been confirmed by evidence, the sanctions provided under entry 2 – arrest, deprivation of liberty, fine, community work are applied depending on the qualification of the perpetration.

The victims shall be acknowledged by law the right to request the recovery of the material and moral damages inflicted by the perpetrator (art.39 of the Administrative Offences Code, art.219 of the Criminal Procedure Code, art.1418-1423 of the Civil Code)

Thus, in cases of a criminal offence, the victim may institute a civil action in the criminal proceeding personally if the person has reached the age of 14 or through his/her legal representative to claim material and moral damages at any time since the beginning of the criminal process until it's consideration in court. Such an action may also be filed by the prosecutor if he/she believes that the victim does not have the possibility of protecting b him/herself his/her interest (art.221 of the Criminal Procedure Code).

The material damage is determined on the basis of the expenses borne as a result of the health unsettlement – treatment, additional nutrition, external care, special means of transportation etc.

Regardless of the existence and scope of the material damage, the victim is entitled to claim moral damages as well in monetary equivalent for the physical or moral sufferings which he/she went through as a result of the violence which was applied to him/her. The request of material and moral damages payment shall be examined by the court simultaneously with the examination of the criminal case (art.219 of the Criminal Procedure Code).

If the victim has not filed such a request during the criminal or administrative trial, he/she is entitled to claim the payment of these damages later on in a civil action which shall be considered by the court according to the rules of the Civil Procedure Code.

25. Provide information on the usual outcome of legal proceedings in which children and juveniles are found guilty of perpetrating violence (e.g. imprisonment, corporal punishment, community service, perpetrator rehabilitation, family therapy).

As specified above, in entry 6, only five categories of punishments are applicable to minors from the range of punishments regulated in art.62 of the Criminal Code – fine, deprivation of the right to hold certain positions or to exercise certain activities, community work, arrest and imprisonment. From these five categories, some may only in theory apply to the minors, but have nothing to do with real life implications.

In cases when the minor who has committed a violent act, qualified as criminal or administrative offence, has not yet reached the age of criminal liability (16 and 14 years, respectively), or administrative liability (16 years), according to the law, criminal or administrative proceedings may not be initiated against him/her. In such situations the perpetrations committed by these minors shall be referred by the criminal investigation body to the Commission for Juvenile Problems with the local public administration.

The commissions are acknowledges as extrajudicial bodies which activate on a basis of Regulation which was passed back in March 1967. Members of these commissions are counsellors from the local councils, representatives of public bodies, teachers, doctors, social assistance, police etc. The Regulation, although outdated<sup>3</sup>, provides the measures which may be applied to the minors by the commission. These measures may only bear

<sup>3</sup> Juvenile Justice, Assessment Report, 2002-2003, RM Government, UNICEF.

educational character. In severe cases, the commissions may decide going to the court in order to get the delinquent child sent to a special educational facility.

In The Republic of Moldova there is only one special residential institution, situated in the Solonet locality, from Soroca region. The special boarding school for children with deviant behaviour is organized as a centre for social-pedagogical rehabilitation for children and teenagers, for the purpose of their psychological recovery and social reintegration. This school is in the subordination of the Ministry of Education.

## II. INSTITUTIONAL FRAMEWORK AND RESOURCES TO ADDRESS VIOLENCE AGAINST CHILDREN

*The aim of this section is to establish if your country has an institution coordinating multi-sectoral activities concerning violence against children, which include prevention, protection, redress, reintegration and rehabilitation.*

26. Are there any Governmental authorities, structures and mechanisms, including at federal, state/provincial, municipal and local level which are currently responsible for addressing violence against children?

If YES, identify these authorities, structures and mechanisms and describe how coordination is ensured.

In Moldova there are many institutions (activities) which provide social assistance services (although more at the administrative level and the assistance being unqualified) for children from various risk groups.

If the traditional social problems are in general lines legally and institutionally covered, the new problems the child and family are confronted with, generated by transition are not treated satisfactorily.

The capacity of the current institutional system to develop responses to new problems is rather weak. The activities and measures of prevention and recovery are more reduced than the immediate response to crises situations. For instance: the capacity to prevent abuses against children, child abandonment is practically inexistent.

The system has better developed the capacity of responding to abuses or negligence which already occurred, which usually leads besides the imposing of punishments to the perpetrators, also to the institutionalization of the child.

The current system presents in its components a high degree of coverage by legal provisions, rules and administrative procedures, while in other components, where high complexity problems of technical-professional procedures arise, the system is underdeveloped.

From the organizational point of view, the distinct elements of the same social problems fall under the responsibility of various public bodies.

Due to the fact that currently several ministries and central public authorities are dealing with the issue of social protection of the family and child, approaching them distinctly, the system of social services in this field has a fragmented character and the application of the reference legislation is often difficult.

The issue of prevention and combating the phenomenon of violence in the family and against the child is more or less in the focus of the following governmental structures:

- 1) National Board for the Protection of the Rights of the Child – governmental agency called to bring an input in the development and implementation of the policies of promotion of the major interest of the child in the society
- 2) Ministry of Home Affairs (Director of Public Order, Section for Juveniles and Morals, Problems of the Delinquent Juveniles)
- 3) Ministry of Labour and Social Protection (Department of Family Policies and Equal Opportunities)
- 4) Ministry of Education (Direction of Boarding Schools, Service of Child Protection)
- 5) Department of Youth and Sports, other governmental structures.

Each of the involved ministries deal with just a narrow segment of the issue and all of them fail to cover all the issues from this field.

By the Governmental Decree of the Republic of Moldova No.106 of January 30, 1998, the **National Board for the Protection of the Rights of the Child** was instituted.

The Board is a governmental agency called to bring an input in the development and implementation of the policies of promotion of the major interest of the child in the society.

The Board is headed by the Deputy Prime Minister for Social Problems. The members of the Board include representatives of the central and local public administration, public servants, non-governmental organizations, the field of activity of which is the child protection.

The main tasks of the Board are:

- ensuring the full observance of UN Convention of the Rights of the Child;
- development of the governmental policy in the field of child protection at the national level;
- coordination of the activity of cooperation between the central specialized bodies of the local public administration, of the law enforcement in the field of protecting the rights of the child.
- development of strategies, programmes and draft laws and secondary legislation on the updating of the legal framework, its adjustment to the international one, including to the UN Convention of the Rights of the Child;
- spreading at the national level of the priority of child protection and education of the population in the spirit of the children's rights;
- conduction of studies and analysis for national reports on the situation of children and their rights' observance in the Republic of Moldova.

In its activity, the Board works together with ministries, local public administration, international organizations as well as with the civil society.

On the basis of the Decision No.1 of September 14, 1999, of the National Board for the Protection of the Rights of the Child, **Regional Boards for the Protection of the Rights of the Child** were set up. The **Regional Board** is a coordinating body which ensures child protection in the respective localities. The regional boards promote the national policy in the field of child protection in the territory from multi-disciplinary and inter-sector perspectives and are vested with the following powers and competences:

- monitoring the activity of the local public administration activity in the field of protection of the rights of child and family;
- supervision of observance of the legal regulation on the rights of the child in institutions with any type of organization, which provide care and education to the children, prevention of abusive practices against the child;
- monitoring the implementation of the measures of social assistance of the children with special needs (invalids, orphans etc.);
- monitoring and recordkeeping of the situation of the children from the respective region;

Representing the local authority, the regional boards are the real driving force in the improvement of the real situation of the child through the change in the attitude of the society towards the child.

The National Board for the Protection of the Rights of the Child had to strengthen in fact the activities in this field at the national scale. Regretfully, the reality has proved that this measure, although important, is not enough, as due to lack of a unitary policy in this area and of a functional structure capable to develop and implement it, the possibilities of the National Board are limited to the simple coordination of some activities. As a inter-ministerial body may only operate as a system of coordination and mutual compatibility establishment between institutions with structurally different objectives, but not as a body of coordination of an unitary complex activity. The perspectives of different ministries, including the sector interests generates essential obstacles, which hinder the coherent operation of child protection system.

The same problems exist at the local level, where the child protection issue is under the competence of several local structures, each of which treats only a narrow aspect of the problem the child and the family is confronted with. The success of every structure's activity greatly depends on the capacity of coordination of similarly structured actions. Frequently, efforts are invested to establish common goal in the field of child protection in the family. Although a lot of competence accumulated at the level of certain restricted bodies, within governmental institutions any attempt to change the system for a better one seems to be blocked.

**Ministry of Home Affairs** is currently is mostly involved in the combating and even prevention of all the forms of abuse against the child. The Ministry, represented by two subdivisions:

- *Department of Operational Services* the main task of which is the detection, documentation and neutralization of the criminal groups. This Department is divided in several directions, the Direction of Combating Trafficking in Human Beings, directly in charge of the actions of counteracting trafficking cases, including children trafficking.
- *Department of Public Order* which includes in its organizational structure the Direction of Prevention. The last, at its turn, is structured in several sections:
  - *Section of sector inspectors*, which has the task of organizing in all the sectors the presence of sector inspectors, of preventing crime among population, emphasizing and removing the conditions which favour the perpetration of crimes and administrative offences, to organize the use of police forces and means in the maintenance of the public order. Sector inspectors activate in every rural area, the urban localities being divided by sectors, which include a certain area given under the jurisdiction and responsibility of every inspector. The sector inspectors unfold their activity jointly the local public authorities from the localities. According to art.7 of the Law on Police and entry 3 of the Law on Municipal Police, the sector inspectors are subordinated to the MHA and the respective local public authorities. The sector inspectors, working in their area of jurisdiction, according to the internal orders and disposition of the MHA are obliged to keep the record to the conduct prophylactic work with the persons and families in risk situations (families where alcoholic beverage, drugs are abused, where fights often occur, involving violence among the members of the family, including violence against children).
  - *Section of Juveniles and Morals* manages the respective subdivisions from the territorial commissariats in the view of applying educational measures towards the juveniles with criminal behavioural inclinations and coming from families with criminal past. Activates and guides the activity of prevention and deterrence of prostitution, pornography, propagation of sadism and of the cult of violence; organizes the examination of petitions and notifications, of the publications in mass media on the information related to the public morals. In every regional police commissariats there are inspectors appointed to handle juvenile cases who, like the sector inspectors, keep the record and conduct the work of prophylaxis among the children predisposed to commit anti-social acts, children with delinquent behaviours, such as the children who have committed small offences, children who abandon school, vagrant children, beggars, consume alcoholic beverages and drugs.

The Department of Public Order includes in its organizational structure a *Temporary Screening Centre for Minors*. This Centre is a specialized independent service of the Ministry of Home Affairs, designed to take temporary care of the children lacking a family environment or faced with various situations of difficulty.

Children from 3 to 18 years are admitted to the Centre:

- a) abandoned children;
- b) children whose parents have died, are unknown, are placed under interdiction, are declared as disappeared without trace by a court judgement, are deprived of parental rights, and who were not yet appointed a legal guardian; children under exceptional

situations, if the parents or one of them jeopardise the safety, development, the moral integrity of the child by exercising abusively their parental rights or by severe negligence of parental duties' fulfilment;

- c) referred to special schools for children and teenagers with behavioural deficiencies, before the serving of the court judgement;
- d) who have left their family and require assistance and protection of the state;
- e) who have abandoned special schools, other educational institutions for children;
- f) aged below the age of 14 who have committed socially dangerous acts and requiring emergency isolation before the serving of the court judgement;
- g) who have personally showed up requesting assistance;
- h) children who were apprehended for begging on the territory of other states and who have been repatriated by the police;
- i) children, aliens who got lost and who were found begging on the territory of the Republic of Moldova.

The children admitted of entrusted to the Centre benefit of: accommodation, food, clothing, personal hygiene items, educational and sportive, cultural materials and schools supplies.

The cases of special problems (of the children who were placed repeatedly, who practice begging and are permanently on the streets, orphans, without a permanent home) are investigated by a psychologist and the social assistants who develop recommendations and indications, interventions at home, using in depth interviews and filling in of the structural observation docket. Provision of advice to their relatives take place, as well as connections with the competent bodies from the region where the person lives in order to solve the situation of the child in difficulty. Information on case revealing in every instance of child's admission to the Centre are referred to decision makers together with objections and proposals of taking measures that would help the children and their families in overcoming the difficult situations.

To reduce and prevent the phenomenon "street children" the Centre is working together with various governmental factors (Ministry of Education, Ministry of Health, Ministry of Labour and Social Protection, Commissions for Juveniles' Issues, Direction for the Protection of the Rights of Child, Chisinau municipality) and non-governmental organizations (UNICEF, Every Child, Amicii dei Bambini, Save the Children, Social Investment Fund of Moldova).

**Ministry of Education** – inside the respective ministry, the issue of child protection is divided in two directions:

- **Direction of Boarding Schools Type of Institutions** in charge of the care and education of the children in difficulty: children with disabilities, orphans and children coming from socially vulnerable families, placed in the residential system of care and education;
- **Service of Protection of the Rights of the Child** which has in its ambit of competence the promotion and observance of the rights of the child at the level of the educational system, as well as in family and alternative services (family type asylums for children).

**Department of Youth ad Sports** has as main objectives the social-professional insertion of the youth, youth education, combating juvenile delinquency and moral-civic orientation of the young people.

**Guardianship Authority (guardianship and tutorship inspectors).**

According to the Family Code, art.11 – the guardianship authority is in charge for the well being and protection of the child in difficulty, which is structured on various levels as follows:

- Central Authority for Child Protection – the **Government** through its competent ministries (**Ministry of Education, Ministry of Health and Ministry of Labour and Social Protection**)
- Executive bodies of the local public administration authorities from administrative territorial units of the second level – **Executive Regional Committees**
- Local public authorities of the first level – **Mayoralties from villages/communes, cities.**

The exercise of the Guardianship Authority's function at the level of regions is entrusted to Regional Directions of Education, where in fact only one specialist with pedagogical background is appointed to work on the issues of children in difficulty, who is also responsible for the coordination of the activity from all the localities of the respective region.

At the level of mayoralties from villages/communes, Directions of Education are not existent, this function being supplemented by the secretaries of the local councils, who do not have a pedagogical or psychological background and are not trained to deal with the problems of the children in difficulty. In this way, their responsibility is reduced to the mere detection of the children in difficulty from that locality and to inform about the existence of such children to the guardianship authority from the region, in order to take a decision regarding this or that child.

Due to the severe shortage of personnel of the Guardianship Authority, the structure of these authorities is inadequate to face the multitude of responsibilities it has to undertake. Most of these responsibilities fall on the shoulders of only one specialist at the regional level, who has to conduct permanent assessments of the situations of all the children in difficulty from the territorial jurisdiction of that region, to monitor any case of abuse against the child; to take measures in order to remove the children from abusive families, to organize the placement of the child in a temporary or permanent facility, to take all the actions connected with adoption and many other obligations dealing with the protection of the children in difficulty.

In the Chisinau municipality, the situation is different. In 1999 within the mayoralty a special Direction for the Protection of the Rights of the Child was set up, having the status of executive body of the guardianship authority in the municipality. Several specialists are working in the Direction, organized per services: Service of Family Reintegration and Adoption; Service of Family Protection; Legal Service; Service of Protection of the Delinquent Child; Service of Psychosocial Assistance; Social-Educational Community Service; other services. In every section qualified specialists are employed, such as pedagogues, social assistance, psychologists, lawyers etc. Additionally, in every sector from the Chisinau municipality (5 sectors) there is a subdivision in charge of these issues, referring the cases to the direction, if necessary.

**Ministry of Labour and Social Protection** contributes to the settlement of the phenomenon of violence against children through preventive measures – providing social assistance services, social protection to the socially vulnerable categories, employment on the labour market etc. The main organizational structures of the Ministry are: Department of Labour Force Use, alongside with Territorial Employment Offices, Department of Social Assistance, Department of Family Policies and Equal Opportunities.

**National Directors Committee on the Elimination of Child Labour** created as a result of the Memorandum of Understanding between the Republic of Moldova Government and the International Labour Organization. The main tasks of the Committee are:

- formulation of the political orientations for activities aimed to eliminate child labour and to reintegrate the activities of the International Programme for the Elimination of Child Labour (IPECL) in other national effort to combat child labour.
- supporting the fulfilment by the Government and competent agencies of the objectives and goals set by the programmes of the International Office of Labour in the field of child labour.



27. Is there a lead Government authority tasked with responsibility for addressing violence against children?

If YES, provide details.

In Moldova there is no specially appointed authority tasked with responsibility for addressing violence against children. Considering that the cases of abuse are qualified either as administrative offences or crimes, the mostly involved in addressing the issue of violence against children is the Ministry of Home Affairs.

28. Are specific financial and/or human resources allocated by your country to address violence generally?

If YES, indicate the extent of these allocations.

A specially allocated financing line to address violence against the children does not exist. Each of the structures mentioned in entry 26 are state supported institutions, which, besides other social problems have to deal also with the problem of children in risk situations.

29. Does your country allocate specific financial and/or human resources to activities to address violence against children?

If YES, provide details.

In Moldova the issue of violence against children has no separate budget line. This issue is handled in the light of the term "child in difficulty" (child from a vulnerable family, child lacking parental care, institutionalized child etc.)

30. Do international or bilateral donors provide resources to your country for activities to address violence against children?

If YES, indicate the extent of these resources and the way in which they are used.

From the organizations funding projects connected to child exploitation and various forms of child abuse, the following donors are worth mentioning:

- **UNICEF** supports the Project "Mother and Child Friendly Wing of the Rehabilitation Centre for Victims of Trafficking", implemented by the International Organization for Migration. This section was inaugurated in July 2003 and provides specialized services for children victims of trafficking and mothers victims of trafficking with children, including medical, psychological, psychiatric, social and legal support.
- **UNICEF** supports the "Amicul" Centre, managed by the NGO "National Centre for Child Abuse Prevention" and the Municipal Direction for the Protection of the Rights of the Child from Chisinau. The Centre provides long-term assistance services, free of charge for children victims of abuse and sexual exploitation, through multi-disciplinary teams of experts which count doctors, teachers, psychologists, psychiatrists, social workers. The Centre serves at the same time as a referral service for the children – victims of trafficking from the "Friendly Section for the Children of the Centre of Rehabilitation of the Trafficking Victims".
- **UNICEF** supported the creation of a **Maternal Centre**, situated in the Temporary Screening Centre for Children of Small Age from Chisinau, which is a structure of the Ministry of Health. The Centre provides accommodation and medical and psychosocial support services to a limited number of mother and children from a vulnerable environment, including the mothers who have been victims of trafficking, and who present the risk of abandoning their children.
- **UNICEF** has financed the establishment of the **Community Centre for Street Children – Casa Gavroche** (in translation – "The Gavroche House"). The Centre was

inaugurated in October 2003 in Chisinau and is managed by Municipal Direction for the Protection of the Rights of the Child from Chisinau. It provides services for family and social reintegration of the children in difficulty, including children living and working on the streets, abused, neglected and exploited children, as well as those exposed to the risk of being abandoned or trafficked. The Centre has a maximum capacity of 15 children placed under care, but is, at the same time open for community, providing daily space for activities to practice for up to 50 children from the neighbourhood.

- **UNICEF** supports the Project "Life Skills Education for the Prevention of Trafficking and Unemployment" for young people from residential care institutions. Currently, 11 boarding schools are involved in the project: 26 educators were trained as senior trainers in the education of life skills; 190 adult educators have been trained for education of life skills and trafficking prevention; more than 250 students are trained as peer-educators. The adult educators and the peer educators have developed basic knowledge and skills and organize, at their turn, training activities with more than 2100 of children from these schools. The project is implemented by a NGO "Centre of Information and Documentation on the Rights of the Child" (CIDRC) with the support of the Ministry of Education and of the State Department of Youth and Sports.
- **UNICEF** supports the Project "Legal and Psycho-social Assistance for Children in the Justice System", having the goal of providing qualified assistance to the juvenile delinquents who may become the victims of violence by the justice system.
- **International Organization for Migration** – supports the program of repatriation, rehabilitation and reintegration of the victims of trafficking in human beings. In this program, as of 2001 the *Centre of Rehabilitation for Victims of Trafficking in Human Beings* was set up, which grants assistance of rehabilitation, including medical, psychological, psychiatric, social and legal services to the victims.
- **International Labour Organization – ILO/IPEC** – through the programme of prevention of the child labour exploitation supports initiatives of strengthening of the institutional capacities in the field of combating the worst forms of child labour, supports initiatives of employment of the young and adult in risk zones. Also, supports awareness raising at the local/national levels on the phenomenon of trafficking and the worst forms of child labour exploitation, including the harmonization of the national legislation and policies with the standards set by the ILO Conventions No.182 and 138. Within the activities of strengthening the capacities, supports the programme of social assistants' and psychologists' training on the techniques of rehabilitation of the children victims of trafficking and other severe forms of child labour exploitation (curriculum development, training, drafting of a manual). It also supports actions at the local level in 5 regions through provision of psychosocial assistance, referral, schooling etc. It further supports youth centres to prevent trafficking in human beings and other severe forms of child labour exploitation through activities of training "equal to equal", organization of cultural and sportive events etc.

31. Does your country provide any assistance to other countries' efforts to respond to the problem of violence against children?

If YES, provide details.

Republic of Moldova, in principle is a state with limited financial possibilities, due to which Moldova has not provided any assistance in this aspect to other countries.

32. If your country has a national human rights institution, such as a human rights commission or ombudsman, or a child-specific human rights institution, does it have any role or competence in the area of violence against children, including receiving complaints?

If YES, provide details.

In the Republic of Moldova there is no child-specific human rights institution. The establishment of such an institution is also one of the recommendations to Moldova made by the High Commissariat for Human Rights on the 04.10.2002.

Nevertheless, an independent body competent to receive and address individual complaints from any person is the **Centre for Human Rights**.

The Centre has started its activity in April 1998 on the basis of the Law on Ombudsmen No.1349 of 17.10.1997 and on the basis of the Regulation of the Centre for Human Rights, approved by Parliamentary Decision of 05.02.1998. The Centre is an independent state institution, comprising three ombudsmen, appointed by the Parliament, which also have branch offices in Balti, Cahul and Comrat.

The services of the Ombudsman are available to all the citizens of the Republic of Moldova, as well as to aliens and stateless persons, the rights and legitimate interests of who have been breached in the Republic of Moldova. All the services provided by the Ombudsmen are free of charge. The Centre for Human Rights cooperates in its activity with all the state institutions, international and non-governmental organizations, with other organization engaged in activities of human rights' protection. The activity of the Ombudsmen are oriented towards ensuring the guarantees of observing the constitutional rights and freedoms of the person by the central and local public administration, institutions, organizations and companies, regardless their type of property, non-governmental organizations and official persons at all levels. The Ombudsman contributes to the reinstatement in the rights of the citizens, when their rights have been breached, to the improvement of the national legislation through preparation of recommendations on the review and bringing of the law in compliance with the international conventions and treaties ratified by the Republic of Moldova. The ombudsman considers applications of the persons and receives citizen's complaints, whose rites were violated in Moldova. **The Ombudsman is entitled to consider complaints about violence against children**, as well as other complaints related to the violation of the rights of the child.

The big majority of the complaints received by the Centre regarding the violation of the rights of the child deal with problems related to the material situation of children, insufficient social protection of children with physical and psychic disabilities, small amount of benefits provided by the state to the children, parents' avoidance to pay the alimony to support underage children.

Examining the complaints regarding human rights violations, the Ombudsman gets involved as an intermediary, whose role is expressed, first of all in looking for a solution acceptable to all the parties in order to reconcile them, involving, if the case, the competent authorities to reach the wanted solution and assistance.

In case of necessity, the Ombudsman sends a recommendation to the respective body or to the official person concerning the urgent measures to be undertaken to restore the rights and freedoms of the citizens that were breached.

The Ombudsman is entitled with the right to go to the court to seek the protection of the rights of the petitioner, the constitutional rights and freedoms of whom have been violated, the right to file applications with the Constitutional Court of the Republic of Moldova and to come up with proposals of *lege ferenda*.

33. Are there any particular parliamentary structures (for example special committees) to address violence against children?

If YES, provide details.

Special parliamentary commissions to address violence against children do not exist.

However, the Parliament comprises a Commission for Human Rights and National Minorities. In this commission the issue of domestic violence in general was brought into

discussions. The commission has acknowledged the necessity of passing a law on domestic violence and another law on the child in difficulty. Up today, these draft laws although prepared by the Government and tabled to the Parliament, they have not been yet passed.

34. Have there been any recent parliamentary initiatives to address violence against children?

If YES, please give details.

At this stage, several draft laws have been tabled to the Parliament by the Government, related to the protection of the child against all forms of violence.

- Draft law on the child in difficulty (approved by the Governmental Decree No.1732 of 31.12.2002)
- Draft law on the prevention of domestic violence (finalized draft, 2004)
- Draft law on the prevention, combating of trafficking in human beings (approved by the Governmental Decree No.143 of 10.01.2005)
- Draft law on the protection of morals (2003)

Regretfully, none of these drafts have been adopted by the Parliament yet, despite the fact the Government, civil society and international organizations have lobbied these drafts.

### III. ROLE OF CIVIL SOCIETY IN ADDRESSING VIOLENCE AGAINST CHILDREN

*The aim of this section is to elicit information on civil society activities relating to violence against children.*

35. Describe significant civil society initiatives addressing violence against children in your country, including the types of institutions involved (such as academic institutions, professional associations, women's associations, student associations, community-based groups, faith-based groups, child and youth-led groups, trade unions, employer's organizations, national non-governmental organizations, international non-governmental organizations) and the major activities engaged in (including advocacy, awareness raising, research, prevention, rehabilitation and treatment of children harmed by violence, provision of services, provision of resources).

In the Republic of Moldova there are quite a lot of non-governmental organizations, providing a whole range of services for children in risk situation. These organizations usually work together with the governmental organizations, establishing joint partnerships. Such organizations as:

- "Save the Children", which avails of a temporary screening centre and of providing services of rehabilitation and social reintegration of the "street children", of the children left without parental care – "Casa Aschiuta".
- "Casa Gavroche", set up with the Chishinau municipality and UNICEF Moldova support, specialized in working with the "street children", temporary placement of the teenagers in difficulty, including in cases of abuse, which provides services of rehabilitation and re-socialization.
- "Drumul spre Casa" (in translation – "The Way Home")
- International Organization for Migration Shelter, offers services of repatriation, and reintegration of the victims of trafficking in human beings, in which, with the UNICEF support, as of 2003 the Section for underage victims was opened. The shelter provides advice, social, psychological, psychiatric, medical, assistance/services /counselling in job finding for the victims of trafficking etc.
- International Centre for Women Rights' Promotion "La Strada" also provides services of prevention, social rehabilitation of the trafficking victims, being in charge of a hotline and of referral of cases to organizations providing the necessary services to the victims of trafficking.
- "Centre for the Prevention of Trafficking in Women", Project implemented by the Association of the Women of Legal Carrier, the main activities of which reside in providing specialized legal advice and services to the trafficking victims in the criminal or civil cases instituted against perpetrators, as well as other services of prevention and social counselling.
- "Centre for Information and Documentation on Child Rights" provides services of information and training to children and teenagers from the public educational system, teaching staff, children from residential institutions on the phenomenon of abuse, violence, trafficking, as well as on techniques of their identification, prevention and assistance.

Considerable services on combating violence against the child are provided by the **National Centre for the Prevention of Abuse against Children** (NCPAC). NCPAC is a non-governmental organization launched in 1997 in Chisinau, the mission of which is to improve the life quality of the children and adults through reduction of the level of violence among persons.

In the view of preventing the child ill-treatment, since 1997, the NCPAC has initiated the implementation of a complex Program of Prevention of Abuse against Children (PAC), which was designed to inform the children, parents and of the teaching staff on the strategies and methods of violence prevention. Since 1997 up today, about 9008 adults and 3211 children have participated in this program. The seminars were conducted by a number of over 100 volunteers who were trained and prepared as facilitators in the specialized trainings. In

2000, the activity of the PAC programme was extended to the country level, through the creation of teams of volunteers in the south (Cahul), and north (Balti municipality).

In October 2003 NCPAC has launched the Project "Community Development in the Field of Child Abuse Prevention". The goal of the project was to provide advice and technical assistance to NGOs and initiative groups from the RM interested in the implementation and development in their localities of child abuse, negligence and trafficking prevention programmes. On a contest basis, 10 local NGOs were selected, which had the advantage of implementing this programme in their locality.

For the rehabilitation of the children victims of any forms of abuse or negligence, NCPAC, in cooperation with the local public authorities have launched in 2000 the services of psychological and social assistance of the child and family "Amicul". The overall goal of the service "Amicul" is to provide support for the rehabilitation of the children who were subjected to various forms of ill-treatment. In the financial limits of the project, the "Amicul" service managers to cover the central part of the country, namely the cases from the Chisinau municipality and its suburbs, providing assistance in severe cases to children coming from other parts of the country as well. In this service, the children and the families in situations of ill-treatment and trafficking, benefits of a differentiated and individualized approach. The leading principle in the settlement of the detected cases is working in multi-disciplinary teams (social, psychological, re-socialization assistance and specialized services of a neurologist and lawyer). Thus, in the period of "Amicul" service activity, in the course of the years 2000 – August 2003, 476 files of children victims were initiated, from which 160 cases of physical abuse; 102 cases of emotional abuse; 31 cases of sexual abuse; 180 cases of negligence.

The Service of psychosocial assistance of the family and child "Amicul" is a pilot programme, successfully implemented by other organizations in the localities from the RM (commune Gratiesti from Chisinau municipality, city of Cainari from Tighina region).

**MULTI-DISCIPLINARY TRAINING.** The specialized training of the concerned target groups represents another direction in the activity promoted by NCPAC. In this context, a series of seminars and training have been held in the view of on-going training of the specialists, volunteers in the field of child and teenager violence prevention (multi-disciplinary training in the field of prevention of ill-treatment of the child and teenager, 1999, Balti, Chisinau; seminars with police inspectors "Identification and Intervention in Cases of Child Abuse and Negligence", 2000, Chisinau; train-of-trainers for Teenagers Abuse Prevention Programmes, 2001, Vadul-lui-Voda; train-of-trainers for Child Abuse Prevention Programmes, 2001, Chisinau; training of multi-disciplinary teams in the region "Protection of the Neglected and Abused Child", 2001, Cahul; qualification training for the specialists and partners of the Centre: In-Service Training "Psychotherapeutic Models in the Treatment of the Ill-Treated Children", 2001, Chisinau; workshop "Assessment and Intervention in Cases of Child Sexual Abuse", 2001, Chisinau; "Trafficking in Children: Methods of Approach, Psychological Recovery, Social Integration", "School for Parents", 2004, Chisinau).

**SOCIAL INFORMATION AND PROPAGATION.** The Program of Social Information and Propagation, developed by NCPAC is designed to transform the activity of preventing child violence into a common effort of specialists from different fields, representatives of different state bodies, mass-media, of children and adults. In this programme several activities have been carried out, from which:

The campaign "Do the Animals Also Beat their Kids?", unfolded in the period of the year 2003, pursued telling once again to the whole society that a big majority of the children from our country live an unhappy childhood, and to determine it to engage in the protection and promotion of the rights of the ill-treated child.

Local awareness raising campaign "Non-Violence Days", were held in the year 2003 in four regional centres of Moldova, in the view of informing the local community on the problem of the child's ill-treatment.

Summer-schools for children from disadvantaged families and NCPAC volunteers were organized "Prevention of Violence in the Society", 2001; "You are Unique and Important", 2003; which pursued the promotion of a communication and education of tolerance through active participation of the beneficiaries in workshops.

Roundtables: "Partnership in the Settlement of Child Abuse and Negligence", 1999; "Violence in School", 2000; "The Role of the Police Officer in Intervention in Cases of Child Abuse and Negligence", 2000. Participants at the roundtables were: specialists on the problem of youth from the local public authorities, teaching staff from schools, representatives of NGOs and mass-media.

Publications:

- Informative Bulletin "Impact", launched in September 2001, pursues the reflection of the issues of abuse in society, as well as the NCPAC activities. The Bulletin emphasizes the scientific, scientific, educational methods of the approached issue and is designed for the youth, specialists in the field, teachers, parents, other persons concerned.
- Text compilations: "Protection of the abused and neglected child and his/her family", "Psychological and Social Aspects of Prevention and Therapy of the Ill-Treated Child"; "Identification and Intervention in cases of Child Abuse and Negligence";
- Didactic-educational material for adults and children: Brochure for the parents "About Child Abuse"; drawing books for children "Protected, Strong, Free!"; Informative Guide for Teenagers; booklets pro-teenage, against violence; sexual harassment in the victim's eyes etc.

**36. Describe the support provided by your Government for these activities and the efforts made to coordinate civil society and government initiatives.**

The services provided by the community are a form of assistance coming to solve issues at the community level, next to the state. Development of capacities to diagnose social problems in the community leads to the gradual acknowledgement of the social problems and the involvement of the society in their resolution. Passing from the development of universal, centralized social problems to community forms leads to the massive growth of the civil society participation in the social life. This implies new forms of cooperation between local and regional authorities, as well as other factors such as the private sector, NGOs.

Recently, the public institutions pay increased attention to the development of the community type services, oriented towards the settlement of various problems and participate actively at their settlement in joint partnerships with the civil society. The representatives of the state institutions have a more formal role to play in the achievement of the objectives set in these partnerships. The good thing is that they do not hinder these objectives' achievement.

In the National Concept on Child Protection, the National Strategy of Child and Family Protection, in other regulatory acts, the Government promotes the participation of the civil society in the child social protection, while in the Governmental Plans of Actions, the NGOs and International Organizations providing specific services, are acknowledged as main partners in the achievement of the set objectives.

**37. Describe the role played by the media in addressing violence against children.**

In the field of mass media, the Government exercises control over to national dailies and the majority of the rest of the periodical publications express the opinions of certain political parties.

The Public Broadcasting Company "Teleradio-Moldova" has the largest coverage in radio and TV information. The National television organizes sometimes special analytical shows

on child topics: trafficking in children, juvenile delinquency, violence against children, children left without parental care, "street children" etc. But the largest part of the information about child abuse is conducted by the press service of the Ministry of Home Affairs, concerning concrete cases of child abused which occurred in practice.

The cases of child abuse are often reflected in the written press. Namely, the written press quite often deals with the issue of child trafficking, juvenile delinquency, ill-treated child issues. In order to ensure the fair approach in the press of the child problems, special training programmes were organized for the journalists. For instance, in the Fall of 2003, OSCE in cooperation with the Independent Centre of Journalism from Moldova organized a cycle of seminars on the role of mass-media in the prevention of trafficking in persons.

Regretfully, the written press is less and less accessible, especially in the rural areas, where there are no press distribution points. Besides this, the majority of the village population are working on the fields, processing their own plots of land and families are maintained only from what they manage to harvest. Therefore, few are the families that can afford subscribing to written press periodicals. The only source of information for them being the national Television and the National Radio.



#### IV. CHILDREN AS ACTORS IN ADDRESSING VIOLENCE

*This section is designed to extract information on children's activities to address violence.*

38. Provide information on the involvement and consultation of children in designing activities, and in implementation and monitoring of programmes and policies to address violence against them. Provide details, including ages and other details of the children involved.

Unfortunately, at the moment the children are little involved in the implementation and monitoring of programmes and policies of combating violence against them.

The majority of the young are not free to express their point of view and consider that they do not have the possibility to express at home and at school. There is a long way to go before the children will be deemed as equal participants in the decisions taking process, and not just as beneficiaries of such decisions.<sup>4</sup>

The participative actions of the child are encouraged, organized and implemented by NGOs International Organizations. Less such activities are developed by state institutions.

The promotion of active participation of the teenagers and the young in expressing opinions is one of objectives of UNICEF Moldova.

In the framework of the NGO "National Centre of Information and Documentation for Children", financially supported by UNICEF, a network of students volunteers was created to help promote the rights of the child, child abuse prevention and education for development. This network started its activity back in the year 2000, being later on extended to the most of the country regions. Among its activities are also education for development and abuse prevention.

In April 2001 the Project "Small Grants for Children" was launched, which pursued the involvement of children in the process of projects' development and implementation. Several groups of children from all over the country implemented small projects in their own community regarding media, promotion of the rights of the child and education equal to equal. The project overall objective started with the idea of intensifying cooperation among children, local authorities, parents, teachers and local business operators. Among projects implemented by the children are the establishment of a "Bar - Lawyers for Children", printing and dissemination of school newspapers, organization of debates on the rights of the child, promotion of messages conveyed by the Convention on the Rights of the Child through theatre performances, presentation of special local radio and TV programmes on the topic: rights of the child.

As trafficking in human beings is a wide spread phenomenon in the Republic of Moldova, several international Organizations (International Organization for Migration, International Centre "La Strada") and non-governmental organizations (Centre for the Prevention of Violence Against Women) have developed volunteers networks - young students from high school and colleges who convey their messages about the phenomenon of trafficking (who are the traffickers, what are the risks of trafficking, what should you do to avoid becoming a trafficking victim) in schools nationwide, in the children debate clubs, summer schools etc. The children organized various awareness raising campaigns on the issue of trafficking: musical caravans, drawings and essays contests, small performances of this topic.

In the project "Centre for the Prevention of Trafficking in Women" implemented by the NGO "Association of Women of Legal Carrier", the children have to possibility to publish their opinions in the teenager's bulletin.

<sup>4</sup> Situation of Children and Family in the Republic of Moldova, UNICEF 2000-2001.

39. Describe the involvement, if any, of children in designing special procedural or evidentiary rules applying in court proceedings with respect to hearings concerning violence against children. Provide details including ages and other details of the children involved.

The children are very little involved in the development of special procedural and evidentiary rules. In criminal cases, according to the criminal procedure law, the prosecutor is the person to press the charges in court against the defendant. To this end, all the evidence which are to be presented to the court shall be collected according to the procedure established by the Criminal Procedure Code and other laws (described in entry 23). The child may be heard at the trial only in his/her capacity of victim/witness. Through his/her legal representative, council or independently (if the child has reached the age of 14 years) the minor is acknowledged only the right to present verbal and written information, items, documents which may be used as evidence, in case the minor considers that the evidence presented by the prosecutor is insufficient.

The Criminal Procedure Code does not provide an age limit from which the child may testify in court as a witness. *"Only persons who due to their physical or mental disabilities are not able to understand correctly the circumstances which are relevant to the case and to make accurate and honest statement about them may not be called and heard as witnesses."* – **art.90 per.3 of the Criminal Procedure Code**, In cases when there are grounds to believe that the witness is lacking the capacity to understand correctly the circumstances, the criminal prosecution bodies or the court may call for *"an expert to check the capacity of understanding correctly the circumstances to be found in the concrete case."* – **art.90 par.7 of the Criminal Procedure Code**.

At the examination of civil cases concerning the deprivation of the parents of their parental rights, the participation of the child is more important. *"The child is entitled to express his/her opinion in the settlement of the family disputes which affect his/her interests and to be heard in the course of the judicial or administrative debates. The opinion of the child who has reached the age of 10 years shall always be taken into consideration, unless it contradicts his/her interests"*. (art.54 of the Family Code)

The Family Code, the most practical source of law in the resolution of disputes connected to the rights of the child, provides in many of its articles the right of the child to express his/her opinion, including before the court, setting as an age limit – 10 years. Namely, the child who has reached the age of 10 years may express his/her opinion in court at the determination of his/her home when the parents live separately (art.63); change of the name (art.56), approval of adoption (art.124 and 127), at the appointment of the legal guardian/tutor, as well as in cases of deprivation of the parents of their parental rights.

40. Describe the amount and type of resources made available to support children's participation in activities to address violence against children.

No resources are made available for this purpose.

## V. POLICIES AND PROGRAMMES TO ADDRESS VIOLENCE AGAINST CHILDREN

*A comprehensive policy for dealing with violence against children is one that addresses multiple forms of violence against children, that works across the different settings in which violence occurs, and which includes components for prevention, protection, victim medical, psychological, legal and social assistance, victim rehabilitation and reintegration, and perpetrator interventions. Such policy is distinguished from specific programmes that address selected sub-types of violence against children or its effects in specific populations and settings.*

41. Does your Government have a comprehensive policy concerning violence against children?

If YES, provide details and describe any gender-specific provisions included in the policy.

Currently, the Government lacks a well-structured multilateral policy to address violence against children. The issue of violence is approached in the National Concept on the Protection of the Child and Family, as well as in the National Strategy on the Protection of the Child and Family from the perspective of the child in difficulty, which includes the abused and neglected child, calling for special protection from the behalf of the state.

For the purpose of social protection of the minors who got on the streets on the 28<sup>th</sup> of March 2001, the Government passed a Decree on measures to reduce the phenomena of **begging, vagrancy and "street children"**, in which it requested from the Ministry of Education, Ministry of Labour and Social Protection, Ministry of Health and Ministry of Home Affairs to organize activities of re-socialization of the vagrant children and the children left without parental care, and concentrating for that human and material resources available to these ministries. According to this Decree, the local public authorities were to set up in the administrative-territorial centres (houses, asylums) to grant necessary social assistance to vagrant children, to take other measures of supporting and assisting the persons affected by begging and vagrancy. Due to budgetary shortage, only in 7 administrative-territorial units temporary screening centres (houses, asylums) have been set up for the re-socialization of the children in risk situations.

Taking into account the phenomenon of trafficking in human beings, including trafficking in children, which is increasingly growing in the Republic of Moldova, the state undertook urgent measures. Thus, in the year 2001 a special police service was established: Direction of Combating Trafficking in Human Beings, by Governmental Decree No.1219 of 09.11.2001 a National Committee for Combating and Prevention of Trafficking was set up. Within this Committee a working group on combating trafficking in children was created, having at the local level special commissions which bring together experts from various state agencies as well as active members of the civil society. A comprehensive Plan of Actions in the field of counteracting trafficking was approved, the Criminal Code regulating trafficking in children was revised.

Despite all these, the efforts taken by the governmental agencies have not been very successful. Illegal uncontrolled migration of the citizens of the Republic of Moldova out of the country remains a massive phenomenon, many of these persons becoming victims of the trafficking networks. On the other hand, the massive migration have led in the recent years to a greater violation of the rights and interests of the children left at home without parental supervision, to a considerable growth of the children with special needs, children in conflict with the law, abused and ill-treated children.

42. Does your Government deliver, or provide direct support for delivery by other agencies, of specific programmes aimed at preventing and responding to violence against children?

If YES, please provide available summary reports, or URLs, of these programmes, and indicate, using the table below, which settings and types of violence are addressed by these programmes:

The Government although has not initiated independently specific programmes aimed at preventing all forms of violence against children, it is not creating any obstacles for the implementation of various projects launched by international and non-governmental organizations from Moldova. We may only emphasize on the National Centre for Preventing Abuses Against Children and the Project "Amicul" (in translation - "The Friend"), financed by UNICEF Moldova and supported by the Municipal Council of the Chisinau Mayorality, many of the Centre's activities being carried out in partnership with the Direction for the Protection of the Rights of the Child of the Chisinau Mayorality.

	Physical	Sexual	Psychological	Neglect	HTPs	Other
Family/Home						
Schools						
Institutions						
Neighbourhood/ Community						
Workplace						
Law enforcement						
Other						

43. Does your Government monitor the impact of these policies and programmes directed towards violence against children?

If YES, describe the monitoring systems and provide a URL or other reference where the system and outcomes are described in greater details.

The National Board of Child Protection is a central body, competent to monitor the impact of the policies and programmes dealing with combating violence against children, as well as to coordinate the activities of the ministries and departments vested with competences in the field of child and family protection.

44. Does your Government participate in any internationally coordinated activities concerning violence against children?

If YES, please provide details.

In the period of October 25, 2002 to January 31, 2003, the United Nations Women's Fund had held in the Republic of Moldova the international informational campaign "Life without violence". The objectives of this campaign were to prevent and combat domestic violence, to inform the citizens about the economic, psychological effects of violence, to present violence as a severe infringement of the human rights. On the basis of this campaign's programme, the ministry of Labour and Social Protection, the Ministry of Education, the Ministry of Home Affairs undertook several actions to address these issues.

In the period of November 25 to December 10, 2000-2003, UNIFEM in cooperation with the Government organized the international campaign "16 active days of combating violence against women" with the active participation of governmental institutions and non-governmental organizations.

## VI. DATA COLLECTION, ANALYSIS AND RESEARCH

*This section aims to provide an overview of information systems and information about violence against children that may be used to inform, plan and monitor policy, legal and programmatic interventions concerning violence against children.*

45. Over the past five years, has there been any victimization, epidemiological or other population-based surveys of any forms of violence against children in your country?

If YES, provide details or references, or attach.

- According to the Decision of the National Board for Protection of the Rights of the Child, No.2 of April 20, 2000, the National Scientific-Practical Centre of Preventive Medicine, with the UNICEF Moldova support have carried out a "**Study of Multiple Indicators in Clusters (SMIC)**", 2000. The SMIC pursued the achievement of the following main objectives:
  - to provide necessary information for the evaluation of the situation of children and women from the Republic of Moldova at the end of the decade and to set reference for the forthcoming decade;
  - to provide data necessary to monitor the progress made in the achievement of the objectives set at the World Summit of the Interests of the Child;
  - To collect information that would serve as a basis to define national policies in the field of child protection.

The study was carried out on a lot of 10380 households and comprises a whole range of issues related to the situation of children, including those from Transnistria. Namely, this information refers to the health, education and protection of the child.

Information grouped on summary indicators:

Use of sure sources of drinking water	Proportion of the population using a sure sources of drinking water	91.6%
Use of sanitary means	Proportion of the population using sanitary means	98.7%
Children who go to the fifth grade	Proportion of the children who go to the first grade and reach the fifth grade	98.5%
Net rate of going to he elementary school	Proportion of the children of elementary school age that go to the elementary school	98.5%
Literacy rate	Proportion of the persons aged 15+ who are able to read a letter or newspaper	96.2%
Consumption of iodated salt	Proportion of households consuming iodated salt adequately	33.1%
DPT vaccination coverage	Proportion of children vaccinated against diphtheria, pertussis and tetanus before the age of one	86.2%
Poliomyelitis vaccination coverage	Proportion of children vaccinated before the age of one	87.1%
Tuberculosis vaccination coverage	Proportion of children vaccinated before the age of one	93.2%
Viral B Hepatitis	Proportion of children vaccinated before the age of one	83.7%
Measles vaccination coverage	Proportion of children vaccinated before the age of 15 months	78.9%
Mumps (epidemic parotitis) vaccination coverage	Proportion of children vaccinated against mumps before the age of 15 months	61.9%
Going to a specialist in case of Acute Respiratory Infections	Proportion of children under the age of 5 years who have suffered of ARI (Acute Respiratory Infections) in the last two weeks and who went to see a specialist	78.0%
Registration of the children's birth	Proportion of children under the age of 5 years, whose birth were reported as registered	97.9%
Life conditions of children	Proportion of children aged between 0-14 years from households who do not live with any of their biological parents	1.7%

Orphans from the households	Proportion of children aged between 0-14 years who are orphans and live in households	3.7%
Children labour	Proportion of children aged between 5-14 years working in households	37.1%
Knowledge about the need of going to see a medical specialist	Proportion of the protectors of children aged below 5 years who recognize at least two signs of danger at a seek child to go immediately to see a medical specialist	73.0%
Knowledge about HIV/AIDS prevention	Proportion of women who can tell two correct main means of avoiding HIV contamination	46.2%
Knowledge about HIV/AIDS transmission from mother to child	Proportion of women who identify correctly the means of transmitting HIV from mother to child	63.2%
Women who know where to get an HIV test	Proportion of women who know where to get an HIV test	62.1%

- NCAAC "National Centre of Abuse against Children" conducted several studies and surveys during the past years on the issue of child ill-treatment in the Republic of Moldova.

1999-2000  <i>Summary</i>	<p><i>"Assessment Study on the Abuse of Children in the Republic of Moldova"</i></p> <p><i>Objectives of the study:</i></p> <ul style="list-style-type: none"> <li>- assessment of the rate of abuse forms against children;</li> <li>- determination of the psychosomatic symptoms additional to abuse;</li> <li>- determination of the level of association between traumatic experience and symptoms;</li> <li>- assessment of the relationship parents-children.</li> </ul> <p>A lot of 298 schoolchildren was selected. These children were coming from different schools, from 6 regions of Moldova (North, Centre, South)</p> <p>From the age point of view, the subjects entered the categories of pre-teenage and teenage, that is from 9 to 16 years. Most of the schoolchildren came from families where both parents were employed (54.7%), while in 10.4% of the cases both parents were unemployed.</p> <p>The statistical analysis provides us with the following rates of abuse <i>depending on various factors</i>. Thus, from 298 children, 201 (67.4%) have been exposed at least to one form of abuse.</p> <p>Types of abuse revealed:</p> <ul style="list-style-type: none"> <li>physical abuse – 159 of children (53.3%)</li> <li>emotional abuse – 95 of children (31.8%)</li> <li>sexual abuse – 69 of children (23.1%)</li> </ul> <p>The physical abuse is prevailing, followed by combined physical and emotional abuse. From the total number of abused children, 29, that is 14.42% are subjected to total ill-treatment.</p> <p><i>Depending on the sex factor</i>, the data revealed a higher rate of such abuse among girls than among boys. <i>Depending on the age factor</i>, it was found that the prevalence of abuse rate is at the age 13-14 years.</p> <p>Through the Questionnaire "Traumatic Symptoms Grid", the current study revealed the degree of <i>psychosomatic symptoms</i>, such as: anxiety, depression, rage, dissociation, post-traumatic stress, sexual preoccupations. These might be both responses (short term effects) and consequences (long term effects). Among these symptoms, the post-traumatic stress prevailed.</p> <p>General information about <i>family relationships</i> and how these are deemed by the children.</p> <p>This information showed that both abused and not-abused children are to a certain extent usually witnesses of violence. The social environment in which children live presents aggressive and violent patterns, which generates their fearfulness of them.</p>
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<p>2000-2001</p> <p><i>Summary</i></p>	<p>National Study On Early Child Development. <i>Protection, Neglect, Abuse and Violence.</i></p> <p><i>Objectives</i> of the study were:</p> <ul style="list-style-type: none"> <li>- to study the types of parental practices of disciplining their children;</li> <li>- to study the convictions of parents with regards to the use of abusive methods of children discipline.</li> </ul> <p>The results illustrated that 72.4% of the adults, seldom or often, fight in the family.</p> <p>Asked what they do when the child does not obey, the answers provided created the following picture: the top methods applied are constructive methods of discipline (62.9%). On the other hand, it is noted that most of the respondents aggress verbally the child (61.2%), threaten to beat them or to administer other punishments (52.4%), beat them with hands (39.6%).</p> <p>In complete families the children are more frequently beaten by mothers (47.9%) than by fathers (27.8%). In families in which the mother is missing, the rate of physical abuse by the father grows up to 74.3%. In incomplete families where the father is missing, the mother physically abuses the children in 62.3%.</p> <p>The parental attitudes towards abusive discipline of children. Even if in 57.7% of the parents physically abuse their children, only 15.5% consider that what they do is right. 86.2% declared that they bet their children to make them obey. On the other side, 56.4% of the respondents acknowledged that beatings do not solve anything.</p> <p>The respondents were asked a series of questions related to the child care. Usually the child health is ignored by the parents who lack education. 36.3% do not go to see a doctor and 14.8% do not buy medications. Often the child's safety is jeopardized. It was noted a connection between the frequency of leaving the child without supervision and the parents' education, the family's social-economic wellbeing. Thus, the lower the education of the parents and the lower the social-economic wellbeing, the more often the parents leave their child without supervision. The study has shown that leaving the children unsupervised does not happen occasionally. 19.3% of the parents leave their children unsupervised on a daily basis, and 32.7% - on a weekly basis.</p>
<p>2001</p> <p><i>Summary</i></p>	<p>The Study "<i>Necessity of Establishing a Community Services Network for Intervention in Cases of Child Ill-Treatment</i>"</p> <p><i>Objectives:</i></p> <ul style="list-style-type: none"> <li>- level of information of the specialists from the field of child social protection, regarding the comprehension of the complexity of the child ill-treatment phenomenon;</li> <li>- attitude of various specialists from the social sphere towards the need of creation an interdisciplinary network of specialized services for ill-treated children;</li> <li>- role of social assistance in the prevention and intervention in cases of abuse and neglect of children.</li> </ul> <p>The <i>enquired lot</i> comprised specialists from the fields of social assistance, psychology, pedagogy and police, who unfold their activity in the following institutions: Direction for the Protection of the Rights of the Child, offices of psychosocial assistance of the child and family "Amicul", police inspectorate, sector police commissariats from Chisinau municipality; kindergarten no.158; elementary school no.83; Territorial Medical Association of Ciocana sector.</p> <p>The results of the study reveal that the issue of the child ill-treatment is existent, being recognized by the specialists as a severe social problem.</p> <p>Thus, 90% of the respondents assessed that the situation of the child ill-treatment situation is frequent in the country.</p> <p>With regards to <i>awareness raising</i> on the issue of child ill-treatment, it was proven that the majority of the specialists - 48.3% considers it to be unsatisfactory. 45.8% of the respondents indicated on the partial existence of a network providing such services, referring to occasional services granted by various governmental and non-governmental organizations, and 39.1% of the respondents indicate that the country lacks a network of services designed for the abused and neglected child. These results speak about the fact that the big majority of the questioned persons do not know the essence of such a network structure.</p>

With regards to the *necessity of creating a network of services of intervention in cases of abuse and neglect of child*, 95% of the respondents provided an affirmative answer, and only 5% of the questioned persons partly supported the idea. -

The level of information of the questioned subjects regarding the *role of the social assistant* in the resolution of cases of child ill-treatment is poorly known. Thus, 19.1% of the overall number of questioned persons indicates not knowing the specific of social assistant's involvement in this problem and 49.1% - only partly are aware of it.

A total of 68.8% of the specialist are under-informed about the role of the social assistance in the protection of the abused and neglected child. It is worth-mentioning that social assistants themselves (43.3%) acknowledge this lack of information.

Regarding the *necessity of involving the social assistant* in the settlement of the problem of the abused and neglected child, most of the specialists find it to be necessary - 50.8%, and very necessary - 49.1%.

The *key-conclusion* of this research is that the above-mentioned specialists in the field of child protection consider necessary to set up a Community Services Network for Intervention in Cases of Child Ill-Treatment, which would be based on a professional and multi-disciplinary approach.

During its years of activity, **NCAAC** has organized and held several seminars on the topic of ill-treatment prevention designed for children, teenagers, teaching staff and parents. At the end of the seminar the beneficiaries (children, teaching staff and parents) were asked to fill in evaluation forms in order to get a comprehensive picture on the level of information of the beneficiaries, level of awareness of the cases and consequences of ill-treatment and last, but not least, acknowledgement and identification of the cases of abuse.

- The **National Study "Care and Early Development of Children in Moldova"**, conducted in 2004 by the Working Group on Development of Policies and Strategies in the Field of Small Children Care and Development, set up by the Decisions of the National Board for the Protection of the Rights of the Child, with the logistic and financial support of UNICEF Moldova.

The main references of this study were the situation and the problems on: hygiene, immunization and care of seek children, accidents' prevention, granting first aid to the child, communication with the children, access to programmes of early education, child development, neglect, abuse and violence in family.

As a result of the conducted study, it was found that:

- 58.4% of the questioned children of 48 to 84 months of age acknowledged being beaten at home;
- 17.5% - left home alone without adult supervision;
- 2.7% - of the parents do not go to see a doctor when the child is seek;
- 6.3% - of the parents do not buy the necessary medications, even if they can afford them.

#### **Children witnesses of violence:**

- 72.4% of the adults seldom or often fight in the family in the presence of the child. The higher the level of education of the respondents and the better the social-economic wellbeing, the seldom are the fights in the family. The respondents from the rural areas expose the children to their fights more often (79%) than the respondents from the urban areas (65.5%).

#### **Abusive methods of discipline:**

- Emotional/psychological abuse (yelling at the child, prohibition of entertainment, verbal humiliation etc.) - 26.6% (urban environment - 22.5%; rural environment - 29.7%)

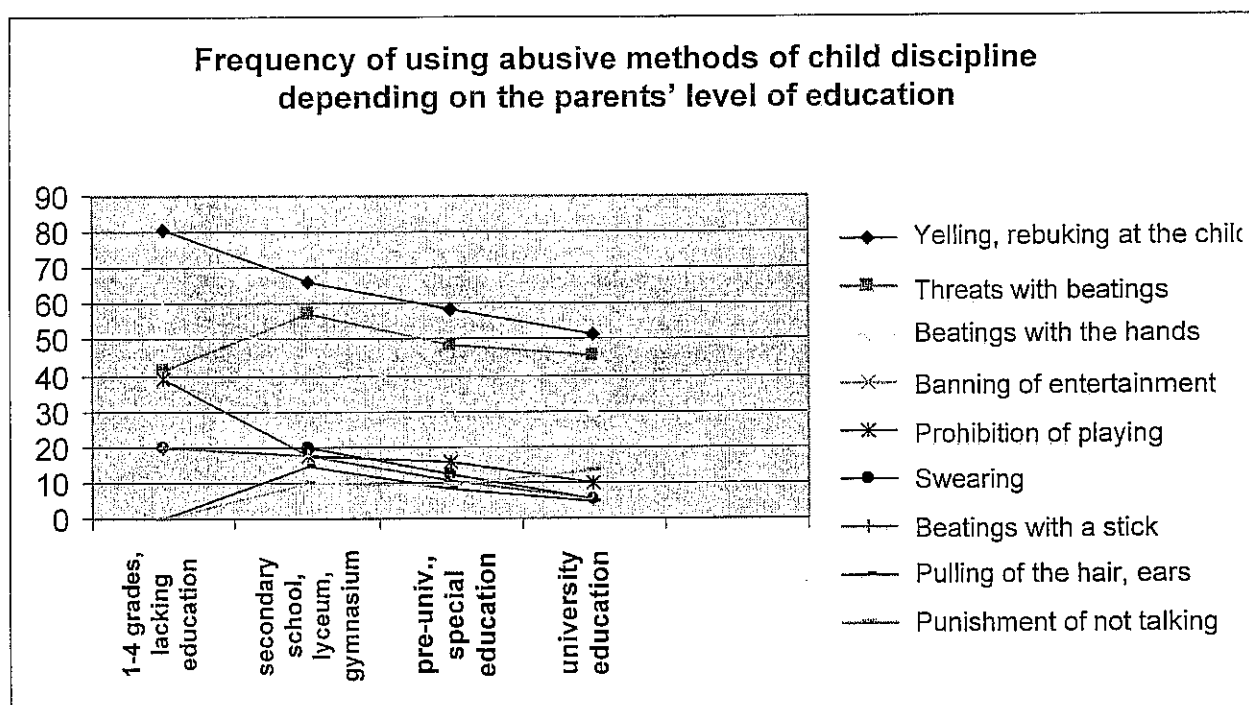


- Physical abuse (beating with the hands or by use different items, kneeling of the child, pulling by the hair, ears, punching etc.) – 10% (urban environment – 8%; rural environment – 11.4%)

**Frequency of physical abuse by the parents in complete or incomplete families:**

- Complete families: children are more frequently beaten by the mother (47.9%) than by fathers (27.8%);
- Incomplete families: families where the mother is missing the rate of the paternal abuse grows up – 74.4%, while in families where the father is missing the rate of the maternal abuse is of 62.3% of the cases.

Thus, in complete families, mothers abuse more frequently the child, while in families with only one parent, the children are more frequently abused by their fathers.



**Parental attitudes towards abusive discipline of children:**

- 15.5% of the interviewed parents consider that it is good to beat the child

**Beating is positively assessed by:**

- 72.2% of the respondents who lack education or who have completed only elementary education
- 42% of the respondents with secondary and gymnasium education
- 10.6% of the respondents with pre-university special education
- 7.2% of the parents with university education

46. Have there been any small-scale or representative interview studies with parents and children on violent victimisation of children?

If so, please give details.

- The **Study "Youth Voices" UNICEF**, May 2001, carried out in 35 countries, including Moldova.

In every country, interviews with 400 children were conducted (aged between 9 to 13 years).

Regarding the presence of aggressive or violent behaviour in the family, 47% responded having been subjected at home to violent or aggressive behaviour:

	Yelling	Lack of yelling	
Beatings	17%	0%	17%
Lack of beatings	29%	53%	
	46%		

Frequency of aggressive or violent behaviour:

- 1% of the interviewed children – very often
- 10% of the interviewed children – rather often
- 39% of the interviewed children – from times to times
- 47% of the interviewed children – seldom

Asked what is the cause of these behaviours:

- 78% answered: various family problems: fights between the parents, other members of the family, when items are being thrown, parents are in a bad mood, someone in the family is making abuse of alcohol;
- 43% answered: bad behaviour – when children behaved badly, when they disobeyed their parents, when they ignore their parents' prohibitions;
- 4% answered: when they do not do their homework for school, when they get bad marks, have poor performance at school.

The level of the children's awareness about:

Information	Are not aware of the real information	Are aware of at least some of this information
Rights of the child	5%	95%
Sexual relations	28%	72%
Computers	16%	84%
HIV/AIDS	31%	69%
Drugs use prevention	32%	68%

- **"Child Labour in Rural Environment"**, June 2004, Report written by the National Centre of Research and Information on Women Issues, supported by the International Organization of Labour.

The report pursued the identification of practices regarding child labour in rural environment and determination of the level of awareness, attitudes and perception of the problem by the adult population and children. The results of the report referred only to the information collected from six rural areas.

The data collected by this report proved that most of the children from the rural areas are involved in various labours, regardless of their age, education and parents' level of wellbeing. The important factors in the probability of the high child involvement in labour:

- poverty, including infantile poverty;
- labour migration of the parents;
- allocation of plots of land to the family's ownership and the need of processing the agricultural lands with one's own efforts in conditions of lack of financial resources and of agricultural equipment;

- persistent mentality about the child labour and education, especially in the rural environment;
- under-financing of the educational system.

In any family the children are involved in various works, which may only be qualified as something natural, if we are to speak in terms of assistance to the parents, development of the labour skills, effective use of the leisure time. The problem however is the types of works a child is engaged in.

The connection between the type of family and intensity of the child's labour is more evidenced. Only 20% of the children coming from families with one child work less than 2 hours per day. In the rest of the families, this indicator varies from 7.35 to 8.83%. Children from families with many children work more than 4 hours a day (61.5%) compared to 36.7% in families with only one child.

The study of the intensity of the child's labour found that a rather high number of the children (33.7%) are involved in labour more than 4 hours a day.

Number of working hours per day	Total	Bellow the age of 13 years		Above the age of 13 years	
		Girls	Boys	Girls	Boys
Less than 2 hours	11.7	1.4	1.4	7.2	1.7
Less than 4 hours	49.0	4.1	2.0	26.4	16.5
More that 4 hours	33.7	2.0	3.4	15.2	13.1
Refused to answer	5.6	0	2.0	2.0	1.6

The results of the study revealed that the big majority of the children from the rural area are engaged in various types of work in the household and outside it, permanently and with high intensity. Almost all the interviewed children (99.31%) responded that they take care of domestic animals, which also implies cleaning the stables, milking of cows, taking the kettle grazing etc.

Even 87% of the children fulfil agricultural works (seeding, weeding, digging, cultivation, irrigation, haymaking and harvesting etc.). At the same time, about a third of the interviewed children have qualified this type of work as difficult for their age.

A big percentage of the interviewed persons (78.6%) have indicated their participation in the housekeeping: cleaning the house, doing the laundry etc.

Cooking, which implies as well bringing the water from the well, washing the dishes is the housekeeping work of 53% of the respondents, being mainly reserved to girls.

The gender differences have been evidenced with respect to the number of activities performed by girls and their age of work commencement. The girls take over a considerable number of household tasks and are required to start working at an earlier age. Girls more often perform activities traditionally considered as "man work" - cutting the woods, domestic animals' care, kettle grazing. Boys are less involved in activities considered as "women work" - cooking, washing the dishes, cleaning the house.

The parents, however, make a clear distinction between activities traditionally attributed to girls and boys. Thus, they consider acceptable for girls; housekeeping works, cleaning the house, taking care of the younger siblings, doing the laundry, laying the table, taking care of the domestic birds/animals, sewing/knitting, and for boys: agricultural works, cleaning of the yard, taking care of the domestic birds/animals, bringing water from the well and cutting of the woods.

Considering the opinions expressed by the parents, the range of activities acceptable for children is far more limited and cleared distinguished by gender than the real

situation, when the children, girls and boys equally are involved on a daily bases in various types of works.

The study conducted in 6 localities from Causeni region has proved that the child labour is broadly used both in the housekeeping works, as well as outside it. Most of the parents rely on their children's assistance in domestic works. This situation is characteristic practically to all the families from the rural environment, regardless of the level of material wellbeing and geographical situation of the village. The character of the child labour, the attitude towards and perception of this phenomenon have clearly resulted from the sociological poll conducted.

- It was established that a big majority of children are working up to 4 hours a day, but approximately a third of the children confirmed being involved in work more than 4 hours a day, some of them having the age below 13 years. During the agricultural seasons and vacations children are working all the day long.
- Most of the children are working in the domestic household, helping the parents process the land they own. Sometimes it may only seem natural, but many of the aspects of child labour, such as lengthy working hours, labour which implies exposure to toxic material or high risk equipment, work which require considerable efforts, work in units of transportation and vehicles may amount to physical and psychological abuse for children.
- One may notice a clear delineation of activities by gender. Housekeeping works being reserved to the girls, and those from the yard - to the boys, but not only to them. Instead, the field works are performed almost equally by girls and boys.
- Intense involvement of children in labour negatively impacts the level and quality of education, due to irregular going to school, especially in the agricultural seasons. In some cases it goes up to school abandonment.
- The negative influence of the intense involvement of children in hard work on their health condition was found.

The results of the conducted enquiry showed that the child labour in the rural environment has exceeded the limits of the simple help to parents and education of labour skills. More often the children are involved in hard works which affects their physical and moral health.

The causes of this phenomenon are, on one hand, poverty, which impacts the rural areas, the traditional attitudes towards child labour, the poor knowledge of the risks and effects on the child's health and future, poor knowledge of the national and international legislation.

47. Over the past five years, has your Government conducted or commissioned any scientific research projects on the problem of violence against children?

If YES, indicate the subject of this research and where the findings of these projects may be consulted in more detail.

Scientific projects on the problem of violence against children have not been implemented in the past and in the present in the Republic of Moldova.

Violence against children is reflected only in the statistical reports of the involved ministries and departments with regards to the recorded cases. Sociological surveys are also implemented by the Department of Statistics and Sociology "Situation of Children in Moldova" ([www.statistica.md](http://www.statistica.md)), 2001.

48. Have studies or surveys been undertaken into the impact of legal measures to address violence against children?

If YES, provide details or references, or attach.

Such studies have not been conducted.

49. Does your Government have a system for formal inquiries into all child deaths in which it is known or suspected that violence may have played any part?

Provide details.

Analysis of the infantile death, monitoring of infantile death, evidencing the main causes of child death are among the duties of the Ministry of Healthcare. According to the statistical figures presented by the Ministry of Health, the level of child death represented in the year 2003 – 14.3% per thousand of alive newborns, compared to 14.7% in 2002 and 16.3% in 2001. Infantile mortality is mainly caused by pneumonia, traumas, intoxications, accidents and congenital diseases of children.

According to an assessment made by the Ministry of Health of the infantile death, it was established that the death rate of the newborns is growing after their leaving of the maternities, 26.8% in the year 2003, 26.0% in the year 2002 and 23.1% in the year 2001. The reasons of this situation being a series of shortcomings in the medical prenatal assistance, namely in the rural areas, the parents are under-informed about the signs of danger for the child's life and about the consequences of late going to the doctor. Another problem is also the intensive care unit services.

According to the information of the Department of Statistics and Sociology of the Republic of Moldova ([www.statistica.md](http://www.statistica.md)) between the years 1990-2002 the child death rate as a result of accidents, intoxications, traumas were on the first place in the infantile death structure, with the age on 1 to 4 years. In 2002, out of 121 children aged between 1 and 4 years who died, 51 children (30 boys and 21 girls) died as a result of accidents, intoxications and trauma ("Children of Moldova" Department of Statistics and Sociology of the Republic of Moldova, 2003, p.18).

In Moldova the big majority of small children death cases may be prevented, because their main causes are traumas, accidents and acute respiratory insufficiencies.<sup>5</sup>

**"Social Monitor 2003", raising the issue of infantile mortality, mentions that the main causes which determines the high rate of child death in the region where the Republic of Moldova is situation are poverty, poor health and nutrition of the mother, infections and insufficiency of medical aid.**<sup>6</sup> The consequences of poverty, reduction of investments in the social sphere of Moldova have weakened the possibility for the families to protect their own children (Study of Multiple Indicators in Clusters (SMIC) – Republic of Moldova 2000, UNICEF Moldova, Government of the Republic of Moldova, National Scientific-Practical Centre of Preventive Medicine) and the high rates of poverty and migration, especially among women, have a strong impact on the children (Office of the High Commissariat for Human Rights. Final observations of the Committee on the Rights of the Child, Republic of Moldova, October 4, 2002).

The adventure of getting to know the world the child lives daily is not only fascinating, but also risky, dangerous at times. That is why, the knowledge of the parents, their attitudes, child supervision and care practices in medical emergency situations are vital. The family doctor and the family planning offices have the duty, through internal regulations of the ministry of Health, to carry out activities of information and education of parents, children of early age with regards to major signs of danger and in case of child sickness. Such an

<sup>5</sup> Situation of children and family in RM, evaluation and assessment, 2000-2001, UNICEF Moldova 2002.

<sup>6</sup> Social Monitor 2003, UNICEF, 2003, Innocenti Research Centre: Florence.

objective being also provided in the Operative Plan of Reducing Infantile Death Rate, approved by the order of the Ministry of Health No.106 of 08.04.2004.

Considering the fact that in Moldova the accidents, traumas and intoxications are on the first place in the death rate structure of children aged between 1 and 5 years, aspects related to the prevention of accidents and ensuring the child's safety in the family have been studied. Every fifth child protector acknowledged having to leave the child at home alone, without supervision. The older the child, the more often is he/she left home alone. The lack of supervision may lead to accidents. 8 accidents out of 10 took place at home and only 2 on the street ("Care and Early Development of the Child in Moldova"). Besides, this study pursued to reveal the behaviour of the parents in cases of accidents, especially in terms of first aid, when the accident has nevertheless occurred. Asked "What do you do in case of wounds?" the parents have provided 5 answers: apply iodine tincture or blakstonia (66%), apply bandages (59.9%), rinse the wound (48.6%), go to the doctor (28.6%), stop the bleeding (28.9%) and only 2% do not know what to do. 8 of 10 parents applied to the doctor's assistance in cases of accidents suffered by the children. At the countryside, the frequency of going to the doctor was recorded with 14% less than at the city (73% compared to 87%).

For the purpose of improving the child health condition, reduction to the minimum of the child death rate, by order of the Ministry of Health No.106 of 08.04.2004 "On the Child Death Rate in the Republic of Moldova", a special commission was set up with the Ministry to investigate the infantile mortality. Members of this commission are the leading specialists of the medical and scientific institutions from the Republic of Moldova, groups of organizational-methodical support were created, in charge of the regions from the country, where most of the child death cases have been reported. Through the same order, the Rules of Activity of this Commission, Operative Plan of Actions and Model Expert Examination Chart for every instance of small children death were approved. According to this order, the medical counsels from every region of the republic have the duty to conduct periodical analysis and annual reports of the infantile death and to inform quarterly the Minister about the situation in this field.

In every case of child death, be it either the case of a smaller child or teenager, a medical expert examination shall always be conducted to investigate on the causes of death (order of the Ministry of Health No.106 of 08.04.2004), and in cases when it is found that the death cause is the outcome of a violent action, the law enforcement shall be informed immediately (common order of the Ministry of Home Affairs and of the Ministry of Health No.83/92 of 30.03.1998).

Upon receipt of any information on the death of a child as a result of violent actions or when there are certain suspicions with regards to the cause of a child's death, the criminal prosecution bodies shall investigate the case according to the procedure provided by the Criminal Procedure Code.

50. Are regular (e.g. annual) reports published describing the statistical profile of the known or suspected violent deaths investigated by the system?

If YES, what proportion of all homicide deaths are under the age 18?

.....%

Every single case of violent death is registered just like any other notification of crimes / administrative offences perpetration according to a unified system established for all law enforcement agencies, regulation by the common order of the Prosecutor's General Office, Ministry of Home Affairs, Intelligence and Security Service, Customs Department, Centre for Combating Economic Crimes and Corruption No.124/319/46/172-O/101 of 26.08.2003 "On the Unitary Recordkeeping of Crimes, of Criminal Cases and Perpetrators" and the approved instructions on the receipt, recording, recordkeeping and examination of information.

The unitary recordkeeping is based on the primary recordkeeping, and the centralized recordkeeping within an informational automated system of investigations, which represents a component part of the Central Data Bank which is subordinated to the Direction of Information and Intelligence of the Ministry of Home Affairs.

The MHA database includes statistical data about overall number of crimes committed, types of crimes, crimes committed against minors, crimes committed by minors, discovered/undiscovered crime rate, crime scene, other information.

Permanent and annual reports on investigations of violent deaths are not made public.

Although such reports are written by MHA at the quarterly and annual reporting inside the system, or at the Government's request, they are not always made public.

Some statistical data are brought to the public knowledge by the MHA in mass media or on the official site of the MHA ([www.maj.md](http://www.maj.md)).

51. If reports on the national profile of known and suspected violent deaths are published by your Government, indicate how the data is broken down for the purpose of reporting (check all that apply):

The Government does not keep a record of the violent death rate on the basis of all the criteria indicated in the table below.

Sex	
Age	
Ethnicity	
Manner of death (homicide, suicide, undetermined)	
External causes of death (firearm, strangulation, etc.)	
Geographical location of incident (address)	
Scene of occurrence (home, school, etc.)	
Time and date of incident	
Victim-perpetrator relationship	
Other:	

The data on the violent deaths (murder cases) which was provided by the MHA for the purposes of this Questionnaire are:

	2000	2001	2002	2003
Number of murder cases	490	474	468	401
Number of murder cases of minors	25	17	26	25

Information on the sex / age, ethnicity, time and date of incident victim-perpetrator relationship are recorded only at the primary recordkeeping level, and the processing of this information in a centralized manner by the aforementioned in paragraph 50 Ministry of Home Affairs Database is not performed.

52. Provide the total number of reported cases of violence against children in 2000, 2001, 2002 and 2003.

According to the information provided by the MHA (Ministry of Home Affairs):

- information on the number of reported cases of sexual violence against children:

Year	2000	2001	2002	2003
Number of criminal offences	120	83	109	124

- information on the number of reported cases of physical violence (corporal injuries) against children:

Year	2000	2001	2002	2003
Number of criminal offences	24	15	19	41

According to the information provided by the National Centre of Child Abuse Prevention and the "Amicul" Project about the cases assisted within the project:

FORMS OF ABUSE	YEARS			
	2000	2001	2002	2003
Physical	35	41	47	37
Emotional	12	27	37	26
Sexual	3	9	8	11
Neglect	42	34	55	49
Overall number of cases	92	109	150	125

53. Provide the total number of convictions and reported cases for the various categories of crimes of violence recorded against children in 2000, 2001, 2002 and 2003.

At the same time, the number of convictions is systematized by the Ministry of Justice and refers only to perpetrators who have committed crimes who were either convicted or acquitted. All the information about the convict is later on forwarded to the Ministry of Home Affairs in order to systematize the criminal records of the convicts.

The Ministry of Justice does not systematize the data on the convictions depending on the victim's characteristics. Thus, it is impossible to present some data on the number of perpetrators who incurred criminal liability for crimes committed against children.



## VII. AWARENESS, ADVOCACY AND TRAINING

*This section is aimed at gathering information on any awareness-raising, advocacy and training activities relating to violence against children which may have been conducted by your Government.*

54. Over the last five years has your Government conducted or commissioned any campaigns for raising awareness of and preventing violence against children?

If YES, please describe any recent campaigns, including the settings and types of violence that were the subjects of the campaigns and the target audience (general public, caregivers, teachers, etc.).

In general, the Government has not organized lately awareness raising campaigns for target groups to prevent violence against children.

Nevertheless, considering that the activities of prevention the abuse and other offences against minors and by the minors is currently the duty of the MHA, at the level of its subdivisions, independently or in cooperation with other ministries and departments, various measures to reduce this phenomenon are undertaken.

Thus for instance, through the MHA orders of 18.02.2002 "On the intensification of the activities of prevention, discovery and combating of rapes" and another similar order no.6/1346 of 21.05.04, periodical rape and other sexual crimes' prevention measures have been planned. As a result of the planned actions carried out during the year 2004, the officers of the Direction of Public Order organized prophylactic measures with persons known by the police for similar perpetrations in the past, with persons known by the police for making scandals in the family, persons making abuse of alcoholic beverages, using drugs and psychotropic substances and mentally sick persons. In cooperation with the commission for social problems with the local public authorities and narcological institutions, the referral of persons making abuse of alcoholic beverages, using drugs and psychotropic substances, as well as other persons who constantly violate the public order or initiate fights and beatings in the family to forced medical treatment was intensified. Various simultaneous raids of the public bathing facilities, saunas, other entertainment facilities where sexual crimes usually occur was organized. Together with the State Agency for Morals Protection there have been conducted 2957 check-ups of various business operators to combat offences in the field of morals, which often generate rape cases. As a result, from some of these business operators 6936 items were collected (video and audio tapes, CDs, newspapers and magazines with pornographic contents or which disseminate the cult of violence and cruelty), all of which being subsequently destroyed. Only in the last 10 months of the year 2003, as a result of these measures, 81 persons were brought to administrative liability for spread of prostitution (art.171/2 AOC), 14 persons – for production and selling of pornographic material (art.171/4 AOC), 15 persons – for production and selling of items spreading the cult of violence or cruelty (art.171/5 AOC), 18 persons – for spreading pornographic material (art.171/6 AOC), 427 persons practicing prostitution were recorded, from them 34 minors.

As a result of these operations, during the year 2004 30 crimes were detected, from which 9 of trafficking in human beings (art.165 of the Criminal Code), 4 of trafficking in children (art.206 of the Criminal Code), 16 of pimping (art.220 of the Criminal Code).

The Ministry of Home Affairs, according to its annually set objectives, has planned other campaign referring to: prevention of juvenile delinquency, reduction of the "street children" phenomenon, observance of the legislation concerning public morals etc.

To achieve the objectives set for the MHA by the Government in its Decree No.566 of 15.05.03 "On the Organization of Special Measures of Prevention and Combating Criminality Among Juveniles", with the financial support provided by the local authorities, in every police commissariat from the country a telephone line was provided, designed as a trust hotline for children to ensure their free access to the services and specialized

assistance of the police. The purpose of these hotlines was to ensure to every minor and adult the possibility of asking advice or requesting assistance in specific cases concerning the minors. The persons who pick up these calls are juvenile cases inspectors. According to the information provided by the MHA, in 2004 1461 calls were received on these hotlines, reporting various cases, from which 1013 minors have requested advice on different situations they are confronted with, 218 calls which referred to the reporting of cases of antisocial conduct (crimes/administrative offences) by the minors. As a result of these calls, criminal prosecution was initiated against juvenile offenders in 4 cases.

Although these telephone line are assessed positively, their results might be much more impressive if the MHA and the local commissariats would take effective measures of informing the target group (children) about the existence of such hotlines by involving mass media, publication of special brochures, information spreading in educational institutions, including the ongoing training of the sector police officers who provide these services. However, funding for the implementation of these measures was not provided.

55. How were the campaign messages and information disseminated (check all that apply)?

According to the information presented by the MHA regarding the activities of prevention, discovery and combating rape cases, juvenile delinquency prophylaxis and of the campaign for reducing the phenomenon "street children" conducted in the period of the year 2004, the police activity was reflected in:

<b>Print media</b>	162 publications
<b>Radio/ Television</b>	154 radio/TV shows
<b>Theatre</b>	-
<b>Schools</b>	-
<b>Others</b>	-

56. Over the last five years, has your Government provided, commissioned or sponsored training programmes in the area of violence against children?

If YES, indicate which of the following areas were addressed by the last such training programmes and which provider groups received training (check all that apply):

The Government has not provided or sponsored special training programmes in the area of violence against children.

It should be nevertheless mentioned that in the period of the last five years, several training programmes have been initiated by international and non-governmental organizations, on topics related to the violence against children. The Government, although has not contributed logistically or financially, did not oppose to their organization, moreover, it has delegated its representatives from the involved state institutions to attend these trainings.

Thus, beginning with the years 2000-2001, UNICEF has held several training seminars, with the participation of international experts, aimed for the law enforcement officers (police, prosecutor's office), the courts (judges), guardianship authorities (juvenile inspectors), prison administration personnel. The topics of these trainings were the rights of the child according to the Convention on the Rights of the Child and the Minimum UN Standards for Juvenile Justice Administration (the Beijing Rules), UN Rules for the Protection of Minors in Custody.

In 2002, the International Organization for Migration has held a training course for police officers and prosecutors on the methods of investigation of trafficking cases, including cases of trafficking in children, according to a special training module designed to the law enforcement officers from the Republic of Moldova.

Also, in the Spring-Autumn 2004, OSCE in partnership with the Supreme Court of Justice, the Prosecutor General's Office and the Judicial Training Centre with the Ministry of Justice has held a cycle of seminars for judges and prosecutors from all over the country on the issue of judicial consideration of cases related to trafficking in human beings, including trafficking in children. In these seminars the special training model developed by the Task Force for Combating Trafficking in Human Beings of the Stability Pact for South Eastern Europe.

	<b>Prevention</b>	<b>Protection</b>	<b>Redress</b>	<b>Rehabilitation</b>	<b>Penalties</b>
<b>Medical Professionals (including paediatricians, nurses, psychiatrists and dentists)</b>					
<b>Public health practitioners</b>					
<b>Social workers and Psychologists</b>					
<b>Teachers and other educators</b>					
<b>Court officials (including judges)</b>					
<b>Police</b>					
<b>Prison officers</b>					
<b>Juvenile offenders personnel Institution personnel Parents/guardians</b>					
<b>Other (please specify)</b>					

Please provide details:

**List of abbreviations:**

RM – Republic of Moldova

UN – United Nations

IOM – International organization for Migration

AOC – Administrative Offences Code

MHA – Ministry of Home Affairs