



Access to Justice for Socially Vulnerable and Marginalized Groups in ATU Gagauzia





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This document presents the summary of key points from the report on 'Access to Justice for Socially Vulnerable and Marginalized Groups in ATU Gagauzia', prepared by the public association Legal Clinic of Comrat under the project 'Protection of the Rights of Socially Vulnerable and Marginalized Groups in ATU Gagauzia'. Legal Clinic of Comrat is a beneficiary organisation of the project 'Strengthening Efficiency and Access to Justice in Moldova', implemented by UNDP Moldova in partnership with the Institute for Criminal Reform (ICR), with the financial support of Sweden. The views expressed in this report are those of the authors and do not necessarily reflect the positions of UNDP, ICR, and Sweden.

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FOREWORD

The report 'Access to Justice for Vulnerable and Marginalized Groups in ATU Gagauzia' was prepared based on classical methodologies, consultations and analysis of the main findings, as well as interviews with vulnerable and marginalized groups from ATU Gagauzia, which, due to their status, know best the problems faced by this population group.

Interviews were conducted with members of vulnerable and marginalized groups, who were selected according to several criteria to ensure that all categories were covered: people living in poverty, people with disabilities (physical, mental), elderly, victims of domestic violence, minors, residents of rural areas, etc.

Also, interviews were conducted with professionals from the legal community and related fields from ATU Gagauzia (lawyers, judges dealing with cases involving vulnerable groups, prosecutors, social workers, professionals from the child protection system, mediators, professionals in education, representatives of the penitentiary system and probation bodies, local government representatives, civil society representatives dealing with vulnerable and marginalized people), who work directly with these people and are well aware of the obstacles they face in accessing justice.

During the study, the most frequent violations of the rights of socially vulnerable groups living in ATU Gagauzia were identified.

The analysis of the identified violations, as well as conclusions and recommendations presented in the Report are based on the information collected up to the end of 2021.

The report contains an analysis of information in such areas as:

- Barriers in access to justice;
- Problems with the execution of court decisions;
- Communication of documents and the language of enforcement;
- Violation of the rights of vulnerable individuals to protection;
- Discrimination on the basis of language;
- Problems in realization of the right to inheritance;
- Specific aspects related to the establishment of property rights in Gagauzia;
- Lease relationships;
- Realization of socio-economic rights;
- Right to health care;
- Realization of child's rights.

The full text of the Report is available at www.legalclinic.md.



1. BARRIERS IN ACCESS TO JUSTICE

1.1.

Access infrastructure (infrastructural accessibility)

Creating an accessible living environment for people with disabilities is an integral part of the state social policy, which is supported by national legislation in the field of accessibility. Notably, according to Article 17 of Law No. 60 of 30.03.2012 of the Republic of Moldova on Social Inclusion of People with Disabilities, 'In order to ensure independent living for people with disabilities, central and local public authorities, NGOs, business entities, regardless of their legal form of organisation, based on their functional authority, assess the situation in this field and take specific measures to facilitate access for people with disabilities, on an equal basis with others, to the physical environment, transportation, information and means of communication, including information technology and electronic communications, as well as other utilities and services accessible or provided to the public, both in urban and rural areas, in accordance with the regulations in force'.¹

As of 2017, 155.646 people live in ATU Gagauzia², of which 13.231 are people with disabilities (including 760 children 0-18 years old), which is 8.5% of the autonomy's population, including:



1341 people

with severe
disability



9670 people

with significant
disability



1560 people

with moderate
disability



760 children

including children
(0-18 years old)

Yet, to date, many socially significant facilities in ATU Gagauzia are not accessible for people with disabilities due to lack of ramps and handrails.

Social infrastructure accessibility problem is of great relevance because the number of people who experience mobility and spatial orientation difficulties is much higher than recorded by official statistics. Infrastructural accessibility is also necessary for other low-mobility groups, such as: elderly people, children, parents with children in strollers or in their arms, pregnant women and people with temporary disabilities. Thus, the number of people affected by the lack of infrastructural accessibility is three times higher than the number of people with disabilities. Virtually all of these groups may be socially vulnerable on other grounds as well.

Currently, in the municipality of Comrat, there are many elderly people over 60 years old, large families, people with disabilities, among whom are children with severe disabilities. Sometimes these individuals need services provided by agencies and directorates, other relevant authorities in the access to justice field.

There about 20 public buildings in Comrat municipality, including Mayoralty, Municipal Enterprise "Su-Canal" ('Су-Канал'), multifunctional centers, libraries, a polyclinic, etc.

There are also buildings that provide commercial services to residents, such as bank branches, notary offices, etc. Also, there are buildings of institutions under the authority of the Executive Committee of ATU Gagauzia or of the Moldova's central government (court, prosecutor's office, Comrat police inspectorate, cadastral office, state enterprise REGISTRU, etc). Most of the buildings are not adapted or are adapted only partially in accordance with the accessibility standards and norms. In order to make use of services they need, people with disabilities and elderly, as well as parents of young children, have to constantly seek help from others, or authorize relatives or friends to represent them, risking with loss of quality representation.

To date, courts, which were provided with necessary assistance to create accessibility conditions, fare the best. As a rule, physical access is provided to all judicial offices in ATU Gagauzia, at least to the ground floor.³

¹ Article 17 of Law No 60 of 30.03.2012 on Social Inclusion of People with Disabilities.

² <http://www.gagauzia.md/pageview.php?l=ru&idc=363&nod=1&>

³ <https://cdpd.md/raport-priving-evaluarea-repetata-a-accesibilitatii-cladirilor-instantelor-judecatoresti-din-republica-moldova/>.



Vulcanesti Court



Comrat Court of Appeal



Yet, the situation with access to police inspectorates is worse. Vulcanesti Police Inspectorate has two entrances, one of which is equipped with a ramp.

Other police inspectorates are virtually inaccessible. The same refers to other public buildings.

Equally inaccessible is the road infrastructure, which consists of 132.1 km of motor roads, only 260 km of sidewalks, about 46 crosswalks and access roads to buildings/service facilities of public importance. Most sidewalks and crosswalks are defective, and pedestrians are often forced to walk on the driveway, risking being hit by passing cars. They also lack tactile and visual indicators (tactile tracks and contrast markings) required for the visually impaired. Buildings are only partially accessible in most cases, and majority of buildings have no parking spaces at all. Even if they do exist, there are no designated spaces marked with necessary indicators.

Public transportation is also inaccessible to people with disabilities – not a single vehicle (minibus, bus, cab) has special aids/devices for boarding/unboarding and transportation of people with disabilities, especially for wheelchair users. Thus, people with disabilities do not have access to local and intercity transportation services.



Mobility is vital for these people. To get to their destination, people with disabilities have to pay for private transportation, which is expensive, and in addition they have to seek help from relatives and friends.

Through this basic assessment, it becomes obvious that in ATU Gagauzia low-mobility groups of population every day face problems in terms of access to medical and social services, access to purchasing of basic food products and medicines, access to public transportation services, thus being deprived of the possibility to enjoy an independent life, and also facing enormous difficulties in obtaining state-guaranteed legal aid.

The situation is particularly grave for people with disabilities and the elderly. Because of the lack of access to the most basic services, these groups – especially those with severe disabilities – have little chance of living an active life.

Access to justice is hampered by the inability to use roads infrastructure and public transport to get to the court, police station, lawyer, notary, etc.

This situation is exacerbated by the fact that no building/public service facility has accessible restrooms, including no accessible public toilets in public areas. Thus, people with disabilities, the elderly are often unable to use public services for this reason as well. Alternatively, to be able to enter a public or commercial service facility, they have to use a variety of special equipment, which is quite expensive.

A simple calculation shows that the cost of a trip to the city for one person with a mobility disability or for an elderly person is very high. Let's break down the costs using the example of a service person who uses a wheelchair and needs to meet with a lawyer to appeal his/her disability assessment. For this, the service member will have to take the following steps:

- make arrangements and pay a relative/acquaintance to accompany the service person and help him/her with crossing streets and climbing stairs – the services of such a helper will cost at least MDL 50;
- take a cab several times because the existing infrastructure of roads and public transport will preclude the service person from getting to the needed destination – at least 2 trips that will cost him/her at least another MDL 100;
- since no public/private facilities have equipped toilets for persons in wheelchairs, the service person needs to use at least one adult diaper, which costs a minimum of MDL 15.

Thus, one such trip would cost at least MDL 165 per person, and it may not be enough to resolve the problem.

As a result, due to the lack of accessibility conditions, it was practically found that the right of access to justice for people with disabilities established by the UN Convention on the Rights of Persons with Disabilities and Law No 60 of 31.03.2012 on Social Inclusion of Persons with Disabilities is violated, which leads to the subsequent violation of the following rights:

- right to human dignity.
- right to recognition everywhere as a person before the law;

- right to legal capacity;
- right to state-guaranteed legal aid;
- freedom of choice and control or decision about one's life, services and the type of support one receives;
- right to participate in political and public life;
- right to property, management of income and other personal property;
- right to free access, on an equal basis with others, to the physical environment, transportation, information and means of communication, including information technology and electronic communications, as well as other utilities and services accessible or provided to the public, both in urban and rural areas, in accordance with the regulations in force;
- access to information (Braille system, audible version, gestures language, etc.);
- right to family and independent living in the community;
- unrestricted access of persons with disabilities to transportation and travel, to road infrastructure.

1.2. Fairness of procedures

Delaying cases in courts is a pressing problem that leads to violation of access to justice. This problem compounded by the pandemic, which has shown that the judicial system is even more vulnerable to crisis situations, highlighting the failure of mechanisms to ensure the right to information and effective remedy. Failure of courts to comply with adjudication deadlines, including due to inefficient court management, creates the preconditions for finding Moldova in violation of human rights by the European Court of Human Rights. Therefore, the government has to ensure reliable conditions for a fair and reasonable process.⁴

In accordance with the provisions of Law No. 76 of 01.07.2016 on the Reorganization of Courts, the courts of Ceadir-Lunga and Vulcanesti were merged with the Comrat District Court, forming the Comrat District Court. Since 1 January 2017, all judges have been transferred to the newly created Comrat Court.

This optimization reform of the judiciary has had a very adverse effect on the access to justice of socially vulnerable groups. Thus, a claim of a resident from the Comrat district may be assigned to a judge of the Vulcanesti court, which leads to great difficulties for plaintiffs/defendants. It is impossible to reach courts on time by public transport, and getting there by taxi or by private car is too expensive. Moreover, quite often the court hearings are postponed, rescheduled for other dates, and no timely warnings are given.

Access to justice involves certain costs, which can become an unbearable burden for people from socially vulnerable groups. Therefore, an analysis of legal costs may lead to some conclusions.

At the moment, there is no consolidated database on the legal costs of the parties. As a rule, participants in civil proceedings resort to the help of paid lawyers. There is no uniform standard or practice of setting the cost of lawyer's services, and this is not even possible, given different level of professionalism and experience of lawyers. In addition, according to unconfirmed complaints from litigants, the unofficial fees are many times higher than the fees specified in the documents. Litigants most often agree to such conditions, choosing to trust the lawyer.

These financial factors lead to worsening of access to justice for people from socially vulnerable groups.

To some extent, interdisciplinary cooperation between different authorities could remedy the situation and lead to better information of public about access to justice. An example of interdisciplinary cooperation between different authorities of ATU Gagauzia is the collaboration between the courts and the territorial office of state guaranteed legal aid, which provides legal assistance and representation of vulnerable people.

1.3. Problems with the execution of court decisions

By categorizing submitted complaints, we can single out the following main violations of their rights in the enforcement proceedings:

- **negligent**, or, in some cases, **abusive attitude** of bailiffs to the parties of enforcement proceedings;

⁴ Report on the observance of human rights and freedoms in the Republic of Moldova in 2020.

- **insufficient familiarity** of the parties to enforcement proceedings with their rights and obligations;
- **dishonest use** by one of the parties to the enforcement proceedings of their rights to the detriment of the legitimate interests of the other party;
- objectively existing **socio-economic circumstances**, the consequences of which are beyond the competence of bailiffs.

Of particular importance is the protection of the rights of the child in enforcement proceedings. According to Article 3 of the UN Convention on the Rights of the Child, the best interests of the child should be the primary consideration in all actions concerning children. Relevant situations may concern realization of the right to inheritance by children, especially of those who are at risk and/or deprived of parental care (including temporarily). These children are threatened by inconsistencies in the law, as well as are affected by the lack of a clear mechanism for the process of inheritance for this vulnerable category of children and possibly receiving their inheritance in the conditions of enforcement proceedings.

Notaries and guardianship authorities are the ones who undertake to exercise maximum vigilance and diligence in this regard, as there is a risk of leaving children homeless. Likewise, all these considerations should be taken into account by bailiffs when carrying out enforcement actions that may directly or indirectly affect the rights of children.

In case of debts execution procedures in Moldova there is a practice of seizing all wages, pensions, social security benefits, disability benefits, etc. in the debtor's bank accounts. This practice has a negative impact, in violation of the provisions of Article 110(1)(n) of the Enforcement Code. As a result of such practices, individuals are left with no means for buying food, let alone make a trip to the bailiff's office to appeal against the illegal actions.

Another problem is deprivation of children of livelihood means due to limited access to benefits to which they are entitled to (e.g. monthly allowance or survivor's pension), if the bank accounts of their parents/guardians are seized during the debt execution procedure.

On the other side, more and more often bailiffs choose not to enforce the act of execution if the debtor has no property or income, or if their property is insufficient to meet the requirements⁵. As a result, the rights of the claimant are not properly secured. Debtors, in turn, often exploit this loophole in the law by owning property without formalizing their rights to it. Thus, alimony debtors use not to register the rights to property received by them as an inheritance/gift, as this property may be seized by a bailiff towards the debt on alimony obligations.

1.4. Communication of documents and the language of enforcement

Even if the regulatory framework provides for several ways of serving enforcement documents, both parties to enforcement proceedings and bailiffs believe that the existing means of communication are ineffective.

The parties to enforcement proceedings, in particular the debtors, state that often they are not duly notified about the initiation of enforcement proceedings, are not warned about the possibility of voluntary payment of debts, are not notified about the enforcement documents (about the initiation, postponement, suspension or termination of enforcement proceedings), that when leaving abroad they are not aware that enforcement proceedings are initiated against them, or that they find out in the bank about the seizure of their accounts, etc.

Notification issues lead to missed deadlines and artificial accumulation of debt through penalties.

Poor notification occurs because the parties failed to fulfil their obligation to notify the bailiff of residence change, departure abroad, unwillingness to receive notices at the post office. At the same time, posting information (subpoenas, announcements about the loss of documents) in the Official Monitor of the Republic of Moldova is very expensive, costing at least MDL 350.

In addition, it is necessary to point to another problem – property hiding, when debtors formally do not own any property, but de facto do (with the property being formally written in someone else's name).

⁵ Article 86(1)(b) of the Enforcement Code of the Republic of Moldova

In this case, the bailiff is forced to return back the act of execution on the basis of Article 86(1)(b) of the Enforcement Code of the Republic of Moldova, since the debtor has no property or income, or his property is insufficient to satisfy the claims. In reality, the debtor, for example, does not want to accept an inheritance in the form of real estate, as he knows about the commenced enforcement proceedings for the recovery of alimony and is afraid to lose this property towards payment of the debt.

Bailiffs often make mistakes in applying Article 89 of the Enforcement Code in order to seize property of the debtor, which cannot be seized. In relation to this, bailiffs sometimes ignore the latest legislative changes in the Enforcement Code of the Republic of Moldova, in particular on housing disputes and on prohibition of eviction from the dwelling during the period from October 15 to April 15.

A serious problem for the residents of the region is the state language only use in communications with the public. Thus, the Office of the People's Advocate in Comrat received several verbal complaints from individuals against one of the bailiffs of Comrat municipality, who categorically refused to explain the rulings in an understandable language, speaking only in Romanian, thus creating barriers to access to justice, especially for socially vulnerable groups. After the intervention of the head of the Territorial Chamber of Bailiffs, the situation began to improve.

1.5. Violation of the rights of vulnerable individuals to protection

An aspect that is relevant in determining the degree of realization of access to justice is the effective provision legal counselling. In certain procedural situations, the participation of a counsel (lawyer) is mandatory: in case of domestic violence, in case of an application to establish, change or cancel a measure of judicial protection in relation to a person where the issue of hospitalization in a psychiatric hospital is being decided, as well as in other circumstances provided for by Article 77 of the Civil Procedure Code and Article 69 of the Criminal Procedure Code of the Republic of Moldova⁶.

In a situation where a participant in proceedings needs legal assistance, but does not have sufficient funds to pay for this service, s/he may use qualified legal assistance in accordance with the Law on State Guaranteed Legal Aid No. 198 of 26.07.2007. The authority that manages the beneficiary's relations with the mechanisms made available to him/her for the provision of protection is the National Council for State Guaranteed Legal Aid, set up under the said law.

However, the free assistance provided for by the current legislation is not always free in practice. The procedure for obtaining it by the low-income individuals is quite complicated. Some individuals unable to meet all the paperwork requirements simply give up and hire privately lawyers and jurists. The reasons for the discrepancy between the needs of the population and the possibilities of the existing legal aid system can be explained by the following factors:

- complexity of the mechanisms for financing and obtaining such assistance (it is required to produce various documents confirming low-income status)⁷;
- insufficient number of lawyers in the region who can provide qualified assistance;
- remoteness of territorial legal aid offices from the villages where the poor population is concentrated;
- insufficient knowledge of the state language by lawyers in the region, etc.

In addition, it is necessary to mention such a problem as the uncertainty in the formation of lawyer's fees for legal services. While there are standards for state-guaranteed legal aid set forth by the National Council for State-Guaranteed Legal Aid in the Decision No 22 of 19.12.2008 'On Approval of the Regulation on the amount and procedure for paying for the services of lawyers providing qualified legal assistance guaranteed by the state', in the case of determining the cost of legal services under a contract there are many uncertainties. At the same time, many litigants report to the Ministry of Justice of the Republic of Moldova and the Union of Lawyers of the Republic of Moldova that the real cost paid by them is much higher than the amount specified in the contract with the lawyer. For example, one of the litigants, a retired person with disabilities, having a pension of MDL 1700, said that she had to take a loan of MDL 25,000 to pay for the services of a lawyer.

⁶ Civil Procedure Code of the Republic of Moldova* No. 225-XV of 30.05.2003 // Republished: Monitorul Oficial of the Republic of Moldova No. 285-294/436 of 03.08.2018 and Criminal Procedure Code of the Republic of Moldova* No. 122-XV of 14.03.2003 // Republished: Monitorul Oficial of the Republic of Moldova No. 248-251/699 of 05.11.2013.

⁷ Decision of the Government of the Republic of Moldova on the approval of the Regulation on the methodology for calculating income in order to obtain qualified legal assistance guaranteed by the state N 1016 of 01.09.2008 // Monitorul Oficial N 167-168/1018 of 05.09.2008.

There were also complaints from some region's residents about payment to the so-called free-of-charge lawyer. Some lawyers, appointed at the request of an individual by the territorial legal aid office, charge an additional fee for their services.

Another problem complicating access to justice is the poor knowledge of the state language.

Currently, there are no official data published about the level of knowledge of the state language by lawyers practicing in Gagauzia. Most of the lawyers working in the region do not speak Moldova's state language. Accordingly, lawyers who do not speak the state language refuse to conduct cases outside Gagauzia. If it is necessary to study documents in the state language, as well as to prepare procedural documents in it, many lawyers refuse such clients from vulnerable categories and advise either to translate the documents into Russian (which is very expensive), or to hire a lawyer practicing outside the region who knows the state language (which, in turn, involves additional expenses for the lawyer's travel costs).

The graduates of the Faculty of Law of the Comrat State University find themselves in a similar situation, not being able to get jobs as lawyers, prosecutors, judges in Gagauzia, because they cannot pass the qualification exams in the state language and obtain a license. As a result, judicial vacancies are poorly filled, a large number of judicial disputes are accumulated, and the processing of cases is delayed. The number of lawyers providing qualified legal assistance, including those outside Gagauzia, is also insufficient, especially if the case involves analyzing documents in the state language.

1.6. Discrimination on the basis of language

In Gagauzia, the Moldovan/Romanian language, along with Gagauz and Russian, is recognized as the official language of the autonomy. That said, according to a 2016 survey by the Institute of Public Policy, 48.4% of respondents from Gagauzia named Russian and almost 45% named Gagauz language as their language of communication. Only 2.6% use Moldovan/Romanian at home⁸.

One of the most sensitive and key problems for Gagauzia is discrimination on the basis of language in the judiciary, especially in courts, which often refuse to accept submissions and complaints in Russian. There are cases when the courts do not accept documents and complaints in Russian are more and more. They are usually returned back to the petitioner requesting 'to remedy the deficiencies', that is, translate them into the state language of Moldova.

Judges, as a rule, refer to Article 24 of the Civil Procedure Code of the Republic of Moldova 'Language of court proceedings and the right to an interpreter'. It states that civil proceedings are conducted in the Moldovan language. Persons seeking consideration of their case are entitled to the services of an interpreter. The court may decide that the trial be conducted in a language that is acceptable to the majority of the participants. Similar provisions are contained in Article 118 of the Constitution, as well as in the legislation on the functioning of languages. Thus, the law does not stipulate expressly and unambiguously that the documentation has to be prepared in one language or another. On the one hand, the proceedings are, by default, to be conducted in the state language, which implies that documents must be prepared accordingly. On the other hand, those who do not speak the state language sufficiently well are entitled to use their native language and the services of an interpreter.

Judicial authorities disregard the legal requirement to translate documents and proceedings into the language spoken by process participant(s), and make people translate documents on their own and at their own expense.

When filing a claim in Russian at the pre-trial stage, the courts regard this as a "deficiency" and give a limited time to translate the document into the state language. If a party fails to do so, the court refuses to accept the claim. This not only deprives the person of access to justice, but also violates Article 13(2) of the Constitution of the Republic of Moldova, the Law on the functioning of languages, the Law on Protection of National Minorities, the provisions of the Civil Procedure Code and Criminal Procedure Code, the Council of Europe Framework Convention for the Protection of National Minorities, UN and OSCE standards on protection of national, ethnic and linguistic minorities.

People face language-related problems not only in the courts, but also in the course of issuance of protocols for administrative offenses, which are performed in the state language. This document contains references to normative acts on providing an interpreter, and if there is no such possibility, the inspector has the right

⁸ <https://www.gagauzinfo.md/index.php?newsid=42459>.

to fill out the protocol in Russian. However, these provisions are usually not respected, and the protocol is prepared in the state language, without any explanation of the nature of the offence and its severity. The protocol is subsequently appealed against, leading to an overburdening of the judicial system and additional financial costs.

Individuals who do not know the state language, cannot properly understand the meaning of various documents, including contracts for the supply of various services, decisions of public authorities, law enforcement and judicial authorities. Almost 50% of citizens of the Republic of Moldova say that they encounter discrimination on the basis of language⁹. In Gagauzia, residents encounter language discrimination even more frequently¹⁰. The Council for the Prevention and Elimination of Discrimination and Ensuring Equality noted in its 2020 report that the justice system is inaccessible to people who speak the Moldova's language of inter-ethnic communication (Russian)¹¹. Citizens are forced to pay extra for the services of translators, and to look for lawyers who speak the state language.

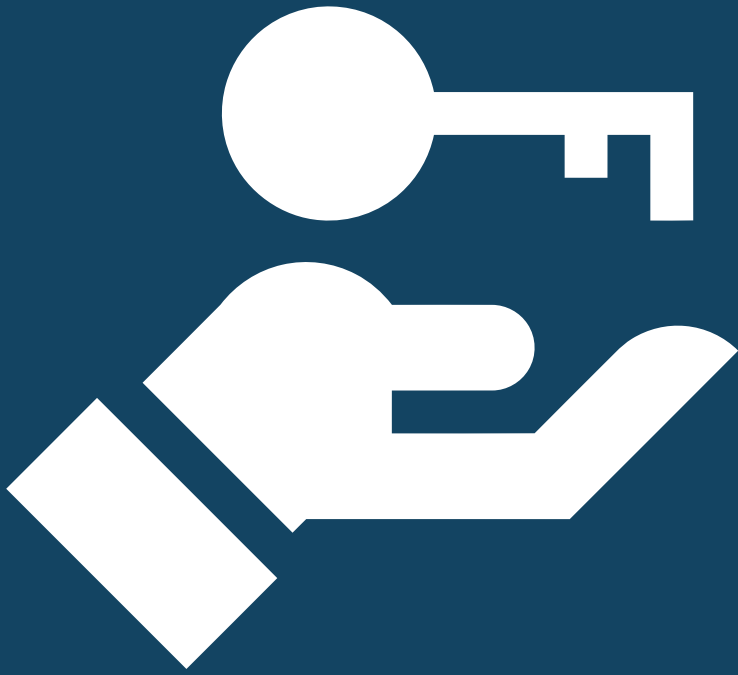
Another problem of importance is the use of state language only by state officials in communication with residents of Gagauzia, without providing translation into other languages of communication in Gagauzia (Russian and Gagauz). In addition, access to legal information is difficult in Gagauzia, as most official websites of Moldovan central public authorities do not contain up-to-date information in Russian (and absolutely no information in Gagauz language).

Although language rights are recognized and protected by law, they are not always observed and enforced. This is a serious problem for numerically small linguistic minorities and can lead to serious miscarriages of justice.

9 Discrimination in the Republic of Moldova 2020, Report of the Council for the Prevention and Elimination of Discrimination and Ensuring Equality <http://egalitate.md/wp-content/uploads/2016/04/final-infografic-COE-discriminare-RU-2.pdf>.

10 Ibidem

11 <http://egalitate.md/wp-content/uploads/2016/04/final-infografic-COE-discriminare-RU-2.pdf>.



2. SPECIFIC ASPECTS RELATED TO THE ESTABLISHMENT OF PROPERTY RIGHTS IN GAGAUZIA

According to article 11 of the Land Code of the Republic of Moldova, local public authorities may provide free of charge land to qualified residents and issue documents certifying their ownership rights. In the Republic of Moldova, the cadastral valuation of land and its transfer to private ownership took place in the late 1990s and early 2000s. However, in several settlements in Gagauzia the program of cadastral valuation and issuance of title documents to owners has not been completed (for example, in the villages of Kotovskoe and Dezginja, Comrat district). Individuals cannot exercise their right to dispose of land and of other real estate under their ownership. Consequently, there are risks of restriction of property rights due to the state's failures. The land consolidation program in Gaidari village of Ciadir-Lunga district has not been completed, and for this reason the villagers are currently unable to carry out land transactions.

Another urgent problem regarding property rights and freedom of entrepreneurial activity in Gagauzia concerns the only preserved collective farm 'Pobeda' in the village of Kopchak, Ceadir-Lunga district. This successful collective farm is not included in any agricultural subsidy programs as other farms, nor can it receive financial support for the consolidation of agricultural lands (so called "[land] quotas"). The reason for this is the fact that the law does not provide support for this form of economic management, and supposedly it is necessary to re-register the collective farm either as a joint stock company (JSC), or even as a limited liability company (LLC). At the same time, the collective farm is successfully implementing social programs to support individuals at risk, including the elderly.

A rather specific problem is the exercise of servitude (easement) rights. For example, there is a gas pipe running through many of the properties, and gas cabinets have been installed in some places. This circumstance makes it much more difficult to use one's land. Suppliers of gas and electricity periodically carry out preventive maintenance works on their equipment, damaging vegetation in private gardens, and disturbing the nearby residents in case of emergency works. All work on the relocation of these installations, according to current legislation, must be paid for by the owner of the land, but the sums required for the equipment relocation project, the execution of works, are unaffordable for most people.

2.1. Lease relationships

At present, according to the provisions of the Civil Code of the Republic of Moldova on the lease of land and other agricultural property, the territorial cadastral offices and mayoralities have only the obligation to register concluded contracts, but not to verify their legality. Many mayoralities do not have a full-time lawyer who could check the legality of contracts and, at a minimum, warn the landowner of possible problems in the future.

In most mayoralities, insufficient attention is paid to the recording of contracts and their registration, and the registration logs do not contain complete information. As a rule, the registers contain information about the parties to the agreement and the terms of the agreement, but lack information about the size and tenure of the leased land plot and the procedure for using it. For failure to register the lease agreement in due time, the lessee shall be liable as provided for by applicable law. However, not a single regulatory act provides for the terms of such liability, which ultimately leads to frequent violations, of which both mayoralities and individual landlords are aware. The latter have to live with it in order to get at least some rent for the use of their land. However, if the contract is not registered, the landowner must pay the property tax, and often such landowners are unaware of this and think that this tax was paid by the de facto lessee. As a result, this leads to tax debts, accrual of penalties, fines, etc.

It should also be noted that contracts are concluded for a certain period of time with effect in the future, but due to inflation and rising prices, no changes are made to the contracts regarding the amount of payment for the leased land. Consequently, if the contract is concluded for a period of 15-20 years, the payment remains at the original rate. In addition, by specifying the rent payment as a percentage of the harvested crop, the lessee does not include the conditions of yield verification, which leads to yield record frauds and the appearance of records in the form of fixed amounts or as a percentage of the harvest. The problem could be solved by the creation of associations of land quota holders, who have the ability to influence the process of rent payment. The rent payment period, often differentiated, starts in August and ends on 31 December of the year in question. It has been found that often the lessee is under no obligation to reimburse the lessor for late payment. Land owners often have to go to court to recover payment for the leased land, but more often they are completely unprotected against the abuse of lessees, as they do not have the means to work the land independently.

2.2. Problems in realization of the right to inheritance

Problems that arise in the process of registration of inheritance rights have existed for a long time, but they have become even more serious since 1 March 2019, with the entry into force of the amendments to the Civil Code of the Republic of Moldova. These amendments radically changed the procedure for accepting an inheritance, causing confusion among people.

The main problem before the heirs of testators who died before 1 March 2019, is the omission of the deadline for acceptance of the inheritance. For various reasons, in the past the term of 6 months provided for by the Civil Code of the Republic of Moldova for acceptance of inheritance was often not observed. Subsequently, heirs encounter difficulties in re-registering property. The reasons for missing the deadline is, firstly, unfamiliarity with legal procedures, and secondly, the high cost of inheritance registration services provided by the competent authorities – the notary and the cadastral office. Often the second reason is the decisive one.

Also, there is this mindset among people that since their families continue to live in the houses and to use the land after the death of the testators, they automatically become their property. Another misconception is that only the eldest (youngest) son is entitled to inherit, while the rest of the children are not heirs. Because of these misconceptions the inheritances often remain unaccepted for decades.

The bureaucracy of local government employees, de-concentrated services, and notaries needs to be pointed out as a problem. Potential successors are not provided with accessible information about the rules of acceptance of inheritance, the necessary steps and documents that need to be provided. Taking into account that these are the socially vulnerable groups who are usually least informed, these groups end up being refused to register their inheritance at all.

The high cost of notarial and cadastral procedures for re-registering inherited property is a serious problem for people from vulnerable groups. In order for a heir to accept the inheritance, they have to certify their birth certificate, identity card, marriage certificate (in case the heir is a woman who got married and changed her last name), pay a notary for making requests to the Public Services Agency to check the marital status of the testator, pay for a certificate at the last place of residence of the testator, pay for notary services, etc. According to the most modest calculations, at least MDL 1500-2000 are necessary to this end, which is an unaffordable sum for the majority of socially vulnerable people.

The situation is also aggravated in cases where there are legal inaccuracies in the documents confirming the testator's ownership or identity documents. For instance, a great number of people during visits to human rights institutions and organizations reported difficulties in dealing with errors in documents. Because of a discrepancy of one letter in the name, patronymic, or surname of the testator or heir, individuals had to face legal delays, the need to re-do birth certificates, identity cards, etc. Moreover, in some cases, the archives which they need to consult are located in other cities or even countries, and access to them is difficult or sometimes impossible (e.g., Turkmenistan, Ukraine, Russia, etc.).



3. REALIZATION OF SOCIO-ECONOMIC RIGHTS

In the context of realization of socio-economic rights, it should be noted that regional authorities have launched a number of social programs to support socially vulnerable groups of the population. Thus, in ATU Gagauzia additional benefits are paid for the birth of a child, for the cold period of the year, and material assistance to the poor for the purchase of food and for medical treatment is provided.

This said, a number of appeals to human rights organizations and institutions of Gagauzia concerns violations of socio-economic rights. Significant efforts have been made to overcome formally invoked reasons for the state's failure to fulfil its obligations to the population, especially to the socially vulnerable groups. One of the reasons for not providing to the necessary extent an accessible environment for people with disabilities is the lack of an appropriate mechanism for holding officials and organizations accountable for their failure to meet the accessibility requirements.

The Republic of Moldova authorities do not pay due attention to providing material support and services to individuals in old age, in case of illness, with partial or full disability, in case of loss of a breadwinner, and to families with many children. The most common issue raised by the applicants is related to payment of various benefits and pensions, and in many cases a simple explanation from a legal point of view by a competent authority would be enough to solve the applicant's problem.

Law No 133-XVI of 13.06.2008 on Social Assistance regulates the legal framework to guarantee equal opportunities for disadvantaged families by providing social assistance at a state-guaranteed level.

According to article 8 of the Law on Social Assistance, when establishing the total family income, income from paid work, income from all types of entrepreneurial activities, insurance payments and social assistance payments, income from the use of agricultural land and plots and other types of income, including property income, are taken into account.

When assessing the well-being of a family for the purpose of assigning social benefits, the composition of the family, the movable and immovable property owned by the family and a set of indicators of the family's welfare are taken into account. The possession of movable and immovable property, as well as certain family characteristics, expressed in points are considered as indicators of well-being. If the score is above the established level, the family is not eligible for social benefits.

There have been repeatedly recorded cases when social workers refuse, on various grounds, to accept the application and forward it to the Health and Social Protection Department of ATU Gagauzia for consideration, thus depriving applicants of the right to appeal the refusal for social benefits.

There is a certain lack of interaction in the work of social workers, mayors and the Health and Social Protection Department of ATU Gagauzia. Thus, there is no direct communication regarding the data on people who were assigned or denied social benefits. Social workers do not have complete information regarding the assigned benefits. Not all mayors assist social workers in their work, justifying this by the subordination of the social workers to the Department of Health and Social Protection, and not the mayor's office.



4. RIGHT TO HEALTH CARE

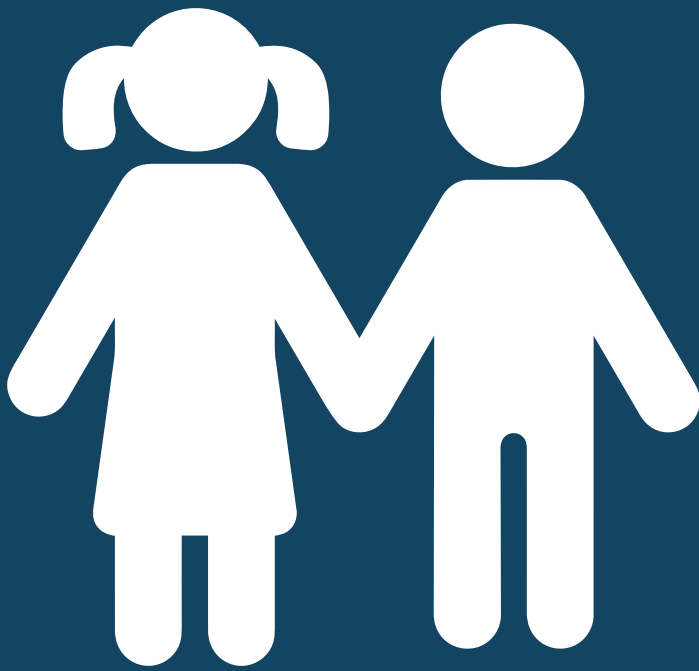
Despite changes in the health care system and implementation of various reforms aimed at improving this sector, beneficiaries of health services continue to complain about human rights violations in the field of health care, in particular: non-observance of professional ethics by doctors; failures to provide beneficiaries with correct information; complicated doctor-patient communication process; lack of privacy in health care delivery; limited access to specialized treatment; generally poor quality of health services; limited access to expensive treatment, etc.

In 2019, a new surgical bloc and an office of the Department of Emergency Medical Care were built and put into operation in Comrat. However, despite the improvement of the material base, the quality of medical services has not improved.

In ATU Gagauzia there is an acute shortage of medical specialists, such as cardiologist, ophthalmologist, gastroenterologist, allergologist, pulmonologist, etc. Some professionals, however, practice in private clinics, where one visit costs at least MDL 200. Most patients cannot afford to pay for these services, which leaves them without medical care at all.

At present, there is a big shortage of medications in hospitals, forcing patients to buy their own medicines. Our monitoring showed that hospitals in ATU Gagauzia, like all other hospitals, are not fully and sufficiently provided with medicines because of interruptions in supply by pharmaceutical companies, as well as because of late or delayed tenders for the procurement of medicines by the Agency of Medicines. In addition, hospitals' unpaid credits for medications to pharmaceutical firms have an impact too.

The Covid-19 crisis also highlighted poor material and financial equipment of hospitals. Poor food service for hospitalized patients, old medical equipment and lack of some basic equipment (e.g. tripods) affect the quality of medical care.



5. REALIZATION OF CHILDREN'S RIGHTS

To date, the situation with regard to the protection of children's rights remains alarming. There is no social center for children temporarily left without care in the region. Police workers continue to identify abandoned children and children-beggars and send them to distant placement centers, thereby severing children's remaining family ties with their relatives and home region.

In addition, it should be noted that inclusive education continues to develop. The Office of the Ombudsman, for example, has repeatedly documented complaints that inclusive education has closed access to vocational education for children who will not be able to attend vocational schools for health reasons in the future. In the past, there have been vocational training programs for them and, upon graduation, graduates would acquire, among other things, a profession by which subsistence may be assured.

Also, there are violations of social and property rights of minors under the existing legal restrictions associated with the lack of full legal capacity and incorrect law enforcement practices of the local public administration, which performs the functions of the guardianship authorities.

The local public authorities of Comrat municipality are constantly and systematically misapplying the legislation on guardianship and custody in relation to minors and other groups of protected persons. This is manifested in the fact that the local Municipal Council, which has no authority and no competence in the area, substitutes another authority (mayor), which, by virtue of the law, is the local guardianship authority. At the same time, not only did the mayor absolve himself of his duties and mission, but he also actively promotes the implementation and enforcement of such erroneous guardianship policies.

As a consequence of the established practice of misapplication of the law, minors and other categories of protected persons are misled about the decisions made in relation to them, with significant legal consequences. For instance, in the case of contracts on the alienation of immovable property, inheritance rights, and property disposal transactions, the actions and acts performed on the basis of decisions of an incompetent authority (in addition to not being a guardianship authority) are potentially void, and they entail their invalidity or inapplicability.

An additional negative aspect of incompetent local guardianship policies is the length of time it takes to review and decide on guardianship issues. These cases usually require prompt response and resolution, and the meetings of the council, which substitutes the mayor in establishing guardianship measures, are not held regularly and frequently (in practice no more often than once a month) and are convened as such at the discretion of the councillors.



6. RECOMMENDATIONS, SOLUTIONS AND OPPORTUNITIES FOR THE PUBLIC AUTHORITIES

- Develop a system for recording the place of residence of the parties to identify a court closer to their place of residence.
- Provide for full accessibility of all public buildings in the region for people with reduced mobility and sensorial disabilities.
- Ensure timely notification of participants in a trial about the postponement of the trial.
- Ensure transparency of direct and indirect litigation costs.
- Take measures to inform the residents of the Republic of Moldova about the possibilities of obtaining state guaranteed legal aid.
- Make it possible to provide services to people from socially vulnerable groups according to the one-stop-shop principle.
- Ensure coordinated engagement of professionals from different public bodies in resolving the problem situations of socially vulnerable people.
- Introduce the possibility of videoconference-participation for people from socially vulnerable groups who are unable to participate in court hearings in person.
- Provide for the possibility of filing and recording legal recourses and attached documents in electronic form.
- Provide the official websites of public authorities in the region with an improved interface and accessibility for people with visual and hearing impairments.
- Take steps to inform the community about the role of law enforcement agencies.
- Provide the possibility for consideration of recourses in the applicant's minority languages, as per the international and European minority rights standards.
- Take measures to strengthen the capacity of the judiciary and law enforcement agencies to respond to acts of corruption and provide effective protection to victims of corruption, their lawyers, anti-corruption activists and integrity whistle-blowers.
- Create videos to promote equality and help change community stereotypes about the needs, attitudes, and inclusion of people from vulnerable groups.
- Hire at least one certified sign language interpreter available for each court, prosecutor's office, and police station.
- Develop an information pack for different groups of vulnerable and marginalised people (e.g. women victims of violence, children in institutions, young people in prison, people with hearing difficulties, the visually impaired, people with low income, pensioners, people with disabilities) on their rights, where they can turn to if their rights are violated.
- Organize information campaigns for employers about subsidies for hiring people with disabilities.
- Inform residents about paralegal services by creating a page on the council's/mayorality's website and/or on social media pages, or by posting information on the boards of public institutions.
- Introduce courses on standards and ethics of communicating with people with disabilities for all officials who may come into contact with them or those who serve the general population.
- Central public administration authorities (Ministry of Justice, Ministry of Health, Labour and Social Protection, Ministry of Internal Affairs), the Supreme Court of Justice/Supreme Council of Magistracy, General Prosecutor's Office to publish in their annual activity reports information on access to justice for people with disabilities.
- Law faculties, the Police Academy and the National Institute of Justice to provide students with standardised and mandatory modules on working with people with disabilities.

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