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Consideration of reports submitted by States parties under articles 16 and 17 of the Covenant

Concluding observations of the Committee on Economic, Social and Cultural Rights

Republic of Moldova

1. The Committee on Economic, Social and Cultural Rights considered the second periodic report of the Republic of Moldova on the implementation of the International Covenant on Economic, Social and Cultural Rights (E/C.12/MDA/2) at its 6th to 8th meetings, held on 4 and 5 May 2011 (E/C.12/2011/SR.6-8), and adopted, at its 29th meeting held on 20 May 2011, the following concluding observations.

A. Introduction

2. The Committee welcomes the submission of the second periodic report of the Republic of Moldova and the written replies to its list of issues (E/C.12/MDA/Q/2/Add.1). The Committee appreciates the frank and constructive dialogue with the delegation of the State party, which included representatives from various ministries. It notes, however, that the State party's report did not sufficiently address the issues referred to in the Committee's previous concluding observations (E/C.12/1/Add.91). (It encourages the State party to fill the gap in its next periodic report onwards and focus especially on specific action undertaken to implement the recommendations included below, and report on the progress made annually.)

B. Positive aspects

3. The Committee notes with appreciation the efforts made by the State party in promoting the implementation of social, economic and cultural rights. The Committee welcomes in particular:

- (a) The adoption of the National Programme for Gender Equality for 2010-2015;
- (b) The inclusion in the Criminal Code of sexual harassment as a crime;

- (c) The adoption of the Strategy and National Action Plan on the reform of the residential system of childcare for years 2007-2012; and
- (d) The adoption of the Law on Preventing and Combating Domestic Violence of 2007.

C. Principal subjects of concern and recommendations

- 4. The Committee recommends that the State Party take special efforts to ensure respect, protection and fulfilment of economic, social and cultural rights under the Covenant in negotiating development assistance projects and programmes.
- 5. The Committee regrets that national courts have not to date made reference to the Covenant in any of their rulings.

The Committee requests the State party to provide in its next periodic report relevant case law, if available. In this respect, the Committee draws the attention of the State party to its general comment No. 9 (1998) on the domestic application of the Covenant. Moreover, the Committee recommends that the State party take measures to raise awareness of the Covenant and of the possibility of invoking its provisions before the courts, among the judiciary and the public at large.

- 6. The Committee is concerned about the absence of disaggregated data on the effective realization of Covenant rights for disadvantaged and marginalized individuals and groups, in particular by Roma, persons with disabilities, persons living with HIV/AIDS and non-citizens.

The Committee recommends that the State party take urgent measures to establish a system for the collection and monitoring of annual data on Covenant rights, disaggregated by disadvantaged and marginalized individuals and groups, including (although not exclusively) Roma, persons with disabilities, persons living with HIV/AIDS and non-citizens. The Committee requests the State party to include such comprehensive annual data, on all of the recommendations contained below, in its next periodic report.

- 7. The Committee is concerned at opinions expressed by certain sectors in the society, including public anti-lesbian, gay, bisexual and transgender (LGBT) statements by high-level politicians, triggered by the submission to parliament in February 2011 of the draft anti-discrimination bill.

The Committee recommends the adoption of the comprehensive anti-discrimination bill, taking into account the Committee's general comment No. 20 on Non-Discrimination in Economic, Social and Cultural Rights.

The Committee also urges the State party to take measures to eliminate discrimination against LGBT people.

It also recommends including provisions in the draft anti-discrimination law on "reasonable accommodation" for persons with disabilities.

- 8. The Committee is concerned that the Roma population continues to face marginalization and social exclusion, especially in the areas of education, housing, health and employment (art. 2, para. 2).

The Committee recommends that the State party strengthen its efforts to address the socio-economic issues facing the Roma population, including through effective implementation, adequate resourcing and effective

monitoring of the Action Plan for the Support of the Roma People from the Republic of Moldova for 2011-2015. The Committee strongly recommends that such efforts be adequately funded and prioritize social inclusion measures, focusing on the areas of education, housing, health, employment, infrastructure, and water and sanitation. The Committee also recommends that the State party create a network of community mediators charged with facilitating interaction between Roma, public authorities, employers, health providers and others. The Committee requests the State party to provide detailed information in its next report on action taken in this regard as well as the impact measured in all areas.

9. The Committee remains concerned about the significant gender disparities in wages, resulting in women earning 76.4 per cent of the average monthly wage of men in 2009. The Committee is also alarmed at the large number of women in low-paid jobs. The Committee also notes with concern the continuing low representation of women in decision-making positions in the public and private sector (art. 3).

The Committee recommends that the State party take concrete and effective steps, also within the National Programme for Gender Equality 2010-2015, to ensure equal treatment for men and women in the labour market, including equal pay for work of equal value in all sectors. The Committee also recommends that the State party introduce temporary special measures to promote the representation of women in decision-making positions. The Committee draws the attention of the State party to its general comment No. 16 (2005) on the equal right of men and women to the enjoyment of all economic, social and cultural rights.

10. The Committee is concerned about the high level of unemployment in the State party, in particular amongst the most disadvantaged and marginalized individuals and groups. The Committee is also concerned about the large proportion of the population which is active in the informal sector (30 per cent in 2010) (art. 6).

The Committee recommends that the State party take concrete steps, including through improving its national employment strategy for 2007-2015, to ensure the right to work, and to significantly reduce the unemployment rate, especially amongst the most disadvantaged groups, with a special focus on Roma, persons with disabilities, persons released from penitentiary and social rehabilitation institutions, and women, in particular those that live in rural areas. The Committee recommends that the State party take urgent and effective measures to ensure efficient vocational training and labour inclusion of persons with disabilities, including through the enforcement of the established quota, as well as the creation of centres for professional training and rehabilitation for persons with disabilities. Furthermore, the Committee recommends that measures be taken to regularize the informal sector and extend the access to social security benefits.

11. The Committee remains concerned that the minimum wage in the State party is not sufficient to provide workers with a decent living for themselves and their families (art. 7).

The Committee urges the State party to increase its efforts to guarantee that the national minimum wage is sufficient to ensure an adequate standard of living for workers and their families. The Committee also reiterates its recommendations that the State party introduce a mechanism to determine and regularly adjust the minimum wage in proportion to the cost of living.

12. The Committee remains concerned that the average contributory pension in the State party is well below the minimum subsistence level, and that non-contributory social

assistance benefits are even lower. The Committee is furthermore concerned that the criteria for poverty assessment for social aid do not adequately represent the poverty levels, resulting in cash benefits that are well below the subsistence minimum (art. 9).

The Committee recommends that pension levels be increased to a level that allows for an adequate standard of living, and, as a first step, reach the minimum subsistence level. The Committee also recommends that social aid benefits be calculated based on an accurate poverty assessment and allow for families to enjoy an adequate standard of living.

13. The Committee is concerned that the State party continues to be a country of origin and transit for trafficking in persons, and that the prosecution rate of offenders is very low, given the extent of the problem. It is also concerned about the lack of recovery, social integration and counselling services for victims of trafficking (art. 10).

The Committee recommends that the State party ensure prosecution for traffickers, with sentences commensurate to the gravity of the crime of trafficking, as well as protection for victims of human trafficking in criminal proceedings, and adequate support for victims through recovery and counselling measures.

14. The Committee remains concerned about the widespread violence against women, including domestic violence, the limited number and capacity of shelters for victims of domestic violence, and the insufficiency of police protection for victims, as well as the protracted procedure for the issuing of court protection orders (art. 10).

The Committee recommends that the State party ensure that the police act promptly and effectively in all cases of domestic violence, and that court protection orders are issued within the legally defined time limit of 24 hours. It recommends that the State party expand the number, coverage and capacity of shelters for victims of domestic violence. The Committee also recommends that the State party conduct extensive awareness-raising activities on domestic violence for police officers, prosecutors, judges, social workers and the general public.

15. The Committee is extremely concerned that, despite the reform of the residential care system for children of 2007, the rate of institutionalization of children remains very high. The Committee is concerned that the reform has made almost no impact on children with disabilities in institutions, who represent over 50 per cent of the total of institutionalized children, and that services to reintegrate these children back into families, schools and communities are lacking (art. 10).

The Committee strongly recommends that the State party ensure the full implementation of the reform of the residential care system for children, focusing especially on the re-integration of children with disabilities. It strongly urges the State party to ensure the prevention of the separation of children from their families, and the re-integration of de-institutionalized children, including those with disabilities, through adequate family substitute and family support services as well as community-based services. The Committee requests the State party to include disaggregated data, by year, on progress made in the reintegration of children, with a special focus on children with disabilities, in its next periodic report.

16. The Committee is concerned about the absence of measures taken to mitigate the effects of migration of parents on children staying behind. The Committee is also concerned that the State party does not ensure adequate measures of social and

psychological assistance for families, as well as an adequate education for children staying behind (art. 10).

The Committee recommends that the State party implement concrete measures to mitigate the effects of migration on children, through social and psychological support, inter alia. It also recommends that the State party ensure that children left in the custody of caregivers receive adequate education.

17. The Committee is concerned about the prevalence of child labour in the State party, in particular in the agricultural and sales sectors as well as the service economy (art. 10).

The Committee recommends that the State party urgently strengthen its measures to combat child labour, including through the strengthening of the enforcement role of the Labour Inspectorate Office and the strengthening of the 2010 National Action Plan to Eliminate Child Labour, including its effective implementation, paying special attention to girls, children in hidden work situations and other groups of vulnerable children.

18. The Committee is concerned that Law 99 (25 May 2010) and Government Decision 512 (25 April 2003) may impose arbitrary restrictions on prospective adoptive parents or children, such as those related to health or disability status (art. 10).

The Committee recommends that any conditions set for prospective adoptive parents conform with the requirements of the Covenant and related international law and that, in particular, no arbitrary health or disability criteria be maintained (such as established or perceived disability). The Committee emphasizes that assessments of the eligibility of prospective adoptive parents must be undertaken on an individual basis, without any form of discrimination.

19. The Committee remains concerned about the high level of poverty, estimated to be as high as nearly 30 per cent, especially for those above 65 years of age, persons living in rural areas, persons with disabilities, and Roma. The Committee is also concerned about reports of food insecurity, especially in rural areas (art. 11).

The Committee recommends that the State party take all the necessary measures, including through its national development strategy 2012-2022, to ensure that poverty alleviation and social assistance programmes are targeted at the most disadvantaged and marginalized individuals and groups, including persons above 65 years of age, persons living in rural areas, persons with disabilities, and Roma. The Committee draws the attention of the State party to its Statement on Poverty and the International Covenant on Economic, Social and Cultural Rights (E/C.12/2001/10).

20. The Committee remains concerned that social housing is not sufficiently provided to the most disadvantaged and marginalized individuals and groups, but rather to young professionals and certain professional categories, such as judges, police and prosecutors.

The Committee encourages the State party to ensure that sufficient resources are allocated for the provision of social housing, especially to the most disadvantaged and vulnerable groups, including Roma. The Committee also reiterates its previous recommendation that the State party undertake a study on the problem of homeless people and report back on its findings in its next periodic report.

21. The Committee is concerned that only half of the population has access to drinking water and sewage systems, with levels in rural areas at only 26.7 per cent, and that the

water quality of local sources is very low and deteriorating, as mentioned in the periodic report (art. 11).

The Committee recommends that the State party urgently adopt the draft Water Law, and take all necessary urgent measures to ensure sufficient, safe, acceptable and physically accessible and affordable water for personal and domestic uses, paying particular attention to the most disadvantaged and marginalized individuals and groups, including Roma. The Committee requests the State party to include disaggregated data, by region, on progress made in this regard in its next periodic report.

22. The Committee is concerned that a significant segment of the population is not insured under the compulsory health insurance scheme, and that nearly a quarter of Roma households do not have a medical insurance policy. The Committee also expresses concern about reports that emergency ambulance services have routinely not responded to calls from Roma living in excluded settlements, as well as from older persons. It furthermore expresses concern about the lack of family doctors, particularly in rural areas, and about reports that the list of reimbursed medicines in the single compulsory health insurance package is too limited (art. 12).

The Committee recommends that the State party take urgent measures to ensure universal access to affordable primary health care, including by increasing the number of family doctors and community health centres, and include all members of society, including Roma, in the compulsory health insurance scheme. The Committee also recommends that the State party take measures to ensure that emergency ambulance services are extended to Roma and older persons, without exception, and establish a special centre for the submission of complaints regarding the provision of such services.

23. The Committee expresses its concern about the practice of disclosure of a patient's HIV status by doctors and nurses to other medical personnel and third parties, especially in rural areas, as well as about the negative consequences for the employment situation of the affected person and the treatment of their children in schools and kindergartens (art. 12).

The Committee recommends that the State party ensure the confidentiality of a patient's HIV status, including through reforming the Law on HIV/AIDS, and reform of the data management system on HIV/AIDS. The Committee also recommends that the State party take steps to eliminate the mandatory indication of disease codes on all medical sick leave forms.

24. The Committee is concerned about the treatment of patients in psychiatric care, including the deprivation of legal capacity by the medical psychiatric board, the absence of basic necessities in some wards, no daily access to a shower or public telephone in most wards, and the reported punitive application of medications when patients object to treatment. The Committee is furthermore concerned about the lack of independent and effective monitoring of patient treatment in psychiatric institutions (art. 12).

The Committee recommends that the State party take measures to provide alternative forms of mental health treatment, in particular outpatient treatment. In cases where confinement in a psychiatric institution is the only alternative, the Committee calls upon the State party to ensure full respect for human rights of patients, including through independent and effective monitoring of patient treatment in psychiatric institutions and effective judicial control of psychiatric confinement. It also recommends that the State party incorporate into the law the abolition of violent and discriminatory practices against children and adults with disabilities in the medical setting, including deprivation of liberty, the use of restraint and the enforced administration of

intrusive and irreversible treatments such as neuroleptic drugs and electroconvulsive therapy (ECT). In addition, the Committee recommends that existing legal provisions allowing for the complete removal or suspension of legal capacity for persons with mental, intellectual or other disabilities be amended in order to avoid abuse. Furthermore, the Committee recommends that provisions for assisted decision-making be developed and implemented without delay.

25. The Committee is concerned that children suffering from epilepsy receive psychiatric treatment, often from a very early age, and that there is an absence of social programmes to support their parents. The Committee is also concerned that children suffering from autism are reportedly not provided with psychological treatment and special supportive programmes (art. 12).

The Committee recommends that the State party ensure that children with epilepsy receive adequate treatment carried out only by neuropaediatric physicians. The Committee further recommends that children with autism are provided with necessary psychological treatment and special supportive programmes. The Committee also recommends that families taking care of children with autism receive adequate psychological and other appropriate support.

26. The Committee remains concerned about the high rate of infant mortality in the State party, particularly as a result of the failure to provide urgent medical assistance, especially in rural areas (art. 12).

The Committee recommends that the State party adopt urgent and effective measures addressing the high rate of infant mortality, in particular in rural areas. The Committee recommends that such measures include improving the availability and accessibility of medical assistance for the entire population, in particular through family doctors in rural villages.

27. The Committee is concerned that a special course on sexual and reproductive health rights (called the Life Skills course) has been withdrawn from the curriculum in public schools, and that at present there is no such course being offered in public schools (art. 12).

The Committee recommends that the implementation of the National Reproductive Health Strategy 2005-2015 include education in the school curriculum on sexual and reproductive rights.

28. The Committee is concerned that enrolment rates in primary and secondary education are decreasing. The Committee is also concerned about the quality of education, and that efforts are lacking to alleviate the negative impact of indirect and informal costs for the access to education, especially within inadequately funded primary schools in rural areas. It is also concerned that children with disabilities often do not attend mainstream schools or classes, even in cases in which the nature of the disability would not preclude regular education. The Committee is furthermore concerned that children without any disability are often placed in auxiliary schools, reportedly accounting for as much as 40 per cent of enrolment. Furthermore, the Committee is concerned that children accompanying their parents and placed in the Migrants Accommodation Centre in Chisinau do not have access to education (arts. 13 and 14).

The Committee recommends that the State party take measures to counter the decreasing enrolment rates in primary and secondary education, and reiterates its previous recommendation urging the State party to reinforce its efforts to

ensure that children are not prevented from attending school because of poverty in the family. Such efforts should also include the alleviation of the negative impact of indirect and informal costs on the access to education, especially within inadequately funded primary schools in rural areas. The Committee furthermore recommends that the State party take urgent measures to ensure the implementation of inclusive education of children with disabilities, such as: (a) obligatory training of all teachers (beyond special education teachers), (b) requiring individual education plans for all students; (c) availability of assistive devices and support in classrooms, and educational materials and curricula; (e) accessibility of physical school environments; (f) teaching of sign language; and (g) the allocation of sufficient financial resources. Finally, the Committee recommends that the State party ensure access to education for children accompanying their parents and placed in the Migrants Accommodation Centre in Chisinau.

29. The Committee is concerned about the limited availability and accessibility of schooling for Roma children living in remote rural settlements, as well as reported anti-Romani discrimination in a number of schools. The Committee is also concerned about the high illiteracy rate among Roma, as well as the low number of Roma with a higher education degree (arts. 13 and 14).

The Committee recommends that the State party ensure the availability and accessibility of schooling for Roma children, including through the provision of financial and material support especially targeted at Roma parents, improvement of the school infrastructure in rural areas, the prevention and combating of discrimination against Roma in schools, as well as the development of the school curriculum in the Roma language.

30. The Committee is concerned that State party legislation does not adequately address the ethnic minorities and groups within its territory, and that these groups lack recognition which would allow them to exercise their rights and express their identity and culture (art. 15).

The Committee recommends that the State party adopt concrete and effective measures of a legislative and other nature, such as public policies to guarantee the recognition of the rights of ethnic minorities to express their own culture and identity. The Committee also urges the State party to adopt specific programmes and plans in the field of culture to contribute to inter-ethnic dialogue, mutual tolerance and social cohesion.

31. The Committee encourages the State party to proceed to sign and ratify the Optional Protocol to the Covenant, as announced by the State party delegation during the interactive dialogue with the Committee.

32. The Committee requests that the State party disseminate the present concluding observations widely among all levels of society, in particular among State officials, the judiciary and civil society organizations, translate and publicize them as far as possible and inform the Committee of the steps taken to implement them in its next periodic report. It also encourages the State party to engage the national human rights institution, non-governmental organizations and other members of civil society in the process of discussion at the national level prior to the submission of its next periodic report.

33. The Committee requests the State party to submit its third periodic report, taking into account the concerns expressed and recommendations made by the Committee in these concluding observations, and prepared in accordance with the

**revised reporting guidelines of the Committee, adopted in 2008 (E/C.12/2008/2), by
30 June 2016.**
