



Submission by the United Nations High Commissioner for Refugees
for the Office of the High Commissioner for Human Rights' Compilation Report
- Universal Periodic Review:

MOLDOVA

I. Background and current conditions

Moldova acceded to the 1951 Convention relating to the Status of Refugees and its 1967 Protocol (hereinafter jointly referred to as the 1951 Convention) in 2001, with both instruments entering into force in 2002.

Moldova has not acceded to the 1954 Convention relating to the Status of Stateless Persons or the 1961 Convention on the Reduction of Statelessness. However, Moldova is a State Party to the 1997 European Convention on Nationality and the 2006 Council of Europe Convention on the avoidance of statelessness in relation to State succession.

Moldovan law in the area of refugee protection is largely in line with international standards. The first Law on the Status of Refugees was adopted in 2002 and entered into force in 2003. In 2005, a complementary form of protection, called 'humanitarian protection' was introduced in the national legislation. A new Law on Asylum in the Republic of Moldova was adopted in December 2008 and entered into force in March 2009. The law was elaborated with the participation of UNHCR and civil society stakeholders and is considered a progressive step in the development of the national asylum system.

The Refugee Directorate, part of the Bureau for Migration and Asylum within the Ministry of Interior, is the dedicated refugee authority responsible for registering asylum-seekers and conducting refugee status determination (RSD). The Refugee Directorate implements measures to protect and assist recognized refugees and beneficiaries of humanitarian protection, and administers the open Temporary Accommodation Center for Asylum-seekers (TAC). The TAC, which accommodates asylum-seekers and vulnerable refugees and beneficiaries of humanitarian protection on a temporary basis, was

renovated with EU and UNHCR funds and is now fully furnished with a capacity of 200 persons.

Generally, refugees and asylum-seekers in Moldova are not detained and are granted access to the territory and RSD procedure. Thus far, all asylum-seekers who have requested asylum at the border have been transferred to the Refugee Directorate and admitted into the RSD procedure. Additionally, all persons held in the closed Migrant Accommodation Center (MAC), a holding center for illegal aliens opened in June 2009, and who applied for asylum at the center, have been released from detention following respective court decisions.

The security environment for refugees and asylum-seekers in Moldova is favourable. Racism and xenophobia are not widespread in Moldova, although sporadic incidents of violence against foreigners have been reported.

The Constitution of the Republic of Moldova provides that foreigners and stateless persons have the same rights and obligations (with certain exceptions) as citizens of Moldova. Under the Moldovan naturalization law, refugees who have resided legally and habitually on the territory of Moldova for at least eight years are entitled to Moldovan citizenship, whereas other foreigners must have completed 10 years of residence. However, persons married to Moldovan citizens may apply for citizenship after three years of residence and minors who have at least five years of residence prior to the age of 18 are entitled to Moldovan citizenship. In order to acquire Moldovan citizenship, applicants also need to demonstrate knowledge of the Constitution and the language.

The Moldovan legislation designates a state authority responsible for stateless persons, and contains specific provisions aimed at preventing cases of statelessness and for documentation of stateless persons.

II. Achievements and positive developments

- In September 2009, a Memorandum of Understanding outlining key roles and responsibilities in the protection monitoring mechanism was signed between UNHCR, the Bureau for Migration and Asylum, the Border Guard Service and UNHCR's legal implementing partner, the Law Center of Advocates. Also, a joint Government – UNHCR – NGO protection monitoring team has been set up to conduct protection monitoring missions and on-the-job trainings for the Border Guard Service field staff who may receive asylum applications, which will then need to be transferred to the Bureau for Migration and Asylum.
- Refugees, beneficiaries of humanitarian protection and asylum-seekers have unimpeded access to the courts to defend their rights and challenge the government's RSD decisions. In most cases, asylum-seekers appealing a decision in the first instance are provided with free legal representation by UNHCR's implementing partner.

- Refugees, beneficiaries of humanitarian protection, and asylum-seekers receive appropriate identification documents. All refugees are issued identity cards that are valid for five years. Beneficiaries of humanitarian protection receive documents valid for one year, while asylum-seekers receive temporary IDs, valid only for one month.
- Refugees and asylum-seekers enjoy free access to primary and secondary education. UNHCR has also reached an agreement with the Free University of Moldova to provide higher education to refugees at the tuition rate for locals, rather than at the much higher rate generally paid by foreigners.
- The new Law on the Regime of Foreigners in the Republic of Moldova, which entered into force in December 2010, gives the Bureau for Migration and Asylum responsibility for stateless persons and provides for their documentation with internal identity and travel documents.
- UNHCR welcomes the steps taken by the Government of Moldova towards accession of the 1961 Convention on the Reduction of Statelessness and the 1954 Convention relating to the Status of Stateless Persons.

III. Challenges and constraints

Despite being largely in line with international standards, the Moldovan asylum legislation requires further amendments to its *non-refoulement* and exclusion provisions, which currently permit *refoulement* or exclusion of persons on broader grounds than the 1951 Convention allows.

Additionally, the varying quality of RSD interviews and assessments limits the effective functioning of the Refugee Directorate of the Bureau for Migration and Asylum. While some assessments are thorough and reasoned, others lack structural logic or an evaluation of credibility, and may be inexplicably brief for complex cases.

Since Moldova's accession to the 1951 Convention in 2001, the Government has failed to progress in the provision of Convention Travel Documents to refugees and beneficiaries of humanitarian protection. The Government has provided assurances, however, that the issue would be solved in conjunction with EU Visa Liberalization efforts.

In Moldova, the difficult economic situation makes it almost impossible to guarantee many social and economic rights. Unemployment and low wages, the lack of separate local integration legislation and social housing, and the deficient social security and medical care systems mean that many refugees, beneficiaries of humanitarian protection and asylum-seekers are totally or partially dependent on UNHCR's assistance.

Despite efforts to address the problem of statelessness, Moldova is not a party to the international statelessness conventions and has no legislation or procedure for the determination of statelessness. Moreover, because Moldova has no statelessness identification mechanism, the exact number of stateless persons in the country remains

unclear. While the Moldovan Government provided UNHCR with data that found 2031 registered stateless persons in the country as of the end of 2010, the 2004 census found 5374 persons who declared themselves as stateless, and 390 that did not indicate their citizenship.

UNHCR recommends that the Government of Moldova accede to the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness. Stateless persons who satisfy the refugee definition contained in article 1A(2) of the 1951 Convention are afforded the necessary international protection associated with that status. However, the international refugee protection regime does not specifically address the entitlement to rights of non-refugee stateless persons in need of international protection. Accession to the Statelessness Conventions would establish a framework to prevent and reduce statelessness, in order to avoid the detrimental effects that this can have on individuals and society, and ensure minimum standards of treatment of stateless persons, providing such persons with stability and security, and ensuring that certain basic rights and needs are met.

IV. Key recommendations

- UNHCR recommends that the Government of Moldova ensure that persons seeking asylum at the border and in detention may access the RSD procedure and the Moldovan territory, in line with international standards.
- UNHCR encourages the Government of Moldova to improve the quality of RSD interviews and assessments by the Refugee Directorate of the Bureau for Migration and Asylum at the first instance, and by the judiciary on appeal.
- UNHCR recommends that the Government of Moldova bring the national asylum legislation in line with international law and standards by reconciling Articles 11, 18, and 20 in the 2008 Law on Asylum with the 1951 Convention provisions on *non-refoulement* and exclusion from refugee status.
- UNHCR recommends that the Government of Moldova adopt a separate local integration law and thereby assume greater responsibility for the local integration of refugees and beneficiaries of humanitarian protection, particularly in the areas of housing, medical care, employment, and language training.
- UNHCR encourages the Government of Moldova to provide Convention Travel Documents to refugees and beneficiaries of humanitarian protection, in fulfillment of its obligation under article 28 of the 1951 Convention.
- UNHCR recommends that the Government of Moldova lower the residency requirement for citizenship for refugees, beneficiaries of humanitarian protection and stateless persons from the current requirement of eight years of legal and habitual residence to 5 or fewer years.

- UNHCR recommends that the Government of Moldova accede to the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness. UNHCR also encourages the Government to establish a statelessness determination procedure and conduct countrywide identification and registration of stateless persons aimed at establishing the exact number of stateless persons in the country.

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