

**ALTERNATIVE REPORT SUBMITTED TO THE 112TH SESSION
(08 APRIL – 26 APRIL 2024)
OF THE UN COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION
MARCH 2024**

I. REPORTING ORGANISATION

- 1. The Law Center of Advocates** (Centrul de Drept al Avocaților) (CDA) is a non-governmental organization established in 1997, which aims to promote the respect of human rights, by providing legal support to refugees, stateless persons, foreign nationals, asylum seekers, and undocumented migrants based on effective, fair, and equitable justice. This is done through monitoring, reporting, advocacy, and human rights education.

Contact details:

Oleg Palii, executive director

oleg.palii@cda.md

law-center@cda.md

II. SUMMARY

2. CDA provides the following submission in advance of the 112 Session of the Committee on the Elimination of Racial Discrimination, for consideration of the List of themes in relation to the combined twelfth to fourteenth periodic reports of Moldova. The concerns described below are derived from our ongoing research in Moldova since the last periodic review in 2017.
3. After the 2017 review of The Republic of Moldova, on the implementation of the Convention on the Elimination of Racial Discrimination, The Committee recommended that the State ensure that non-citizens are given access to education, housing, health care, and employment without discrimination. The Committee recommended that the State provides information on the implementation and impact of the National Strategy for Migration and Refugees 2011-2020, and the Action Plan 2016-2020 on the ability of non-citizens such as migrants, refugees, and asylum seekers to have access without discrimination to employment, housing, health care and basic services (paragraph 23).
4. The Committee also sent a List of themes in relation to the combined twelfth to fourteenth periodic reports of The Republic of Moldova aiming to guide and focus the dialogue between the State party's delegation and the Committee during the consideration of the State party's report. It is apparent from that list that the Committee is interested, inter alia, in: (i) statistics on migrants, refugees, asylum-seekers, and stateless persons; (ii) situation of migrants, asylum-seekers, refugees and stateless persons, in particular, updated information on the legislative and policy frameworks on migrants, refugees and asylum-seekers, and on measures to ensure access to education, housing, employment, and health-care services without discrimination to all persons under the State party's jurisdiction.¹ Measures to combat acts of racial discrimination targeting migrants, refugees, asylum-seekers and stateless persons.
5. In General recommendation XI on non-citizens, the Committee on the Elimination of Racial Discrimination has noted that article 1, paragraph 2, has on occasion been interpreted as absolving States parties from any obligation to report on matters relating to legislation on foreigners. The Committee therefore affirms that States parties are under an obligation to report fully upon legislation on foreigners and its implementation. As noted in General recommendation XXX on discrimination against non-citizens, the Committee has recognized that groups other than migrants, refugees, and asylum-seekers are also of concern, including undocumented non-citizens and persons who cannot establish the nationality of the State on whose territory they live, even when such persons have lived all their lives on the same territory.
6. This report emphasizes the general situation regarding the asylum system in Moldova, and the main legislative issues. The report also points out the specific situation of refugees, asylum seekers, and stateless persons.

¹ [CERD/C/MDA/CO/10-11](#), para. 23; and [CERD/C/MDA/12-14](#), paras. 176–197

III. STATISTICS

7. The state report does not contain separate statistical information on asylum and statelessness in Moldova.
8. The National Bureau of Statistics² annually elaborates the "Statistical Yearbook of the Republic of Moldova". This tool includes statistical data from various domains, including the domain 'Population'. The migration statistics are included in the chapter "Migratory movement of population", and are disaggregated according to the following criteria: distribution of refugees, beneficiaries of humanitarian protection and asylum seekers according to countries of origin, by sex and age groups.³ The number and socio-demographic characteristics of immigrants, returnees, refugees, asylum seekers are collected and provided by the General Inspectorate for Migration, and the international migration movement is calculated based on the data of the General Inspectorate of Border Police on crossings of the state border by individuals.
9. The General Inspectorate for Migration develops the Statistical Yearbook "Immigration of foreigners, asylum and statelessness in the Republic of Moldova"⁴, which contains information/data on general aspects regarding the legal framework for migration and asylum management in Moldova; admission, regulation of residence and documentation of foreigners with residence permits in the country; combating illegal stay of foreigners; asylum and statelessness. The statistics shall be disaggregated according to the criteria referred to in paragraph 8.
10. The state does not collect disaggregated statistics on the socio-economic situation of asylum seekers, refugees, undocumented persons, and stateless persons, on their access to education, employment, health care, housing and on their participation in public and political life. The lack of disaggregated data from the perspective of the human rights-based approach does not allow the creation of an empirical basis for assessing the equal enjoyment of the rights enshrined in the Convention, including the identification of needs of vulnerable and underrepresented groups, ensuring equality and non-discrimination, undulating public policy formulation, effectively targeting interventions, monitoring progress, strengthening participation and empowerment.
11. The Public Services Agency (holder of the State Registry of Population), on its official site⁵ offers the number 5388 stateless persons living on the territory of the Republic of Moldova in December 2022. For the same period, the General Inspectorate for Migration (responsible for stateless determination procedure) offers⁶ the number of 1907 stateless persons. Data on the stateless population in Moldova is limited and there are problems with the way official data is collected, including the use of overlapping categories, such as 'persons without citizenship', 'people with former Soviet Union passports', and people with 'undetermined citizenship'. Combined with the fact that there is no data available for the disputed Transnistrian region, this means that the stateless population is likely to be

² <https://statistica.gov.md/en>

³ https://statistica.gov.md/files/files/publicatii_electronice/Anuar_Statistic/2023/2_AS.pdf

⁴

https://igm.gov.md/sites/default/files/sites/default/files/atasamente/comunicate/an_stat_isaa_ed.2023_pagina_web.pdf

⁵ <https://www.asp.gov.md/en/date-deschise/date-statistice/rsp-cet>

⁶ https://igm.gov.md/sites/default/files/sites/default/files/atasamente/comunicate/an_stat_isaa_e2_023_pagina_web.pdf (page 62)

underreported. Data on stateless people entering or leaving immigration detention centers is not published by the General Inspectorate for Migration.

A. Statelessness

- 12.** Throughout 2022, 88 persons applied for recognition of stateless status in Moldova. At the same time, 129 decisions, including decisions on applications from previous years, were issued (of which: 51 decisions ceasing the procedure, 37 decisions rejecting the application, and 41 decisions recognizing stateless status). The rate of recognition of stateless status compared to the number of applications submitted during 2022 was 47%. On 31.12.2022, 247 applicants for stateless status were registered in the procedure for recognizing stateless status. By 31.12.2022, 1907 stateless persons (with valid documents 1056; with expired documents – 851) and 6795 persons with a Soviet-type passport were registered in the State Register of Population⁷.
- 13.** According to the information updated on 31.12.2023, 6706 people holding a Soviet-type passport are registered in the State Register of Population, of which 3999 are residents from the left bank of the Dniester and Bender municipality (territories not controlled by the authorities of the Republic of Moldova).

B. Asylum system

- 14.** On 31.12.2022, 4,071 people were registered in the National Asylum System, of which: 3,651 asylum seekers, 188 people who obtained refugee status, and 232 people beneficiaries of humanitarian protection. Persons included in the asylum system are distributed by i) country of origin, which reveals that most of them were from Ukraine, followed by those from Syria and the Russian Federation; ii) according to gender, men accounted for 85 % and women 15 %; iii) by age group, where most persons (88.4%) are of working age (18-59). During 2022, 11,218 asylum applications were submitted upon first request. Splitting the number of asylum seekers by countries of origin, citizens of Ukraine predominated – 9928 applicants (88.5%), followed by Morocco – 292 applicants (2.6%) and the Russian Federation – 200 applicants (1.8%). According to the statistics, the number of decisions adopted on asylum applications, and the type of protection granted in 2022, the situation is as follows: 62 decisions on granting humanitarian protection, 17 decisions on granting refugee status, 12 decisions on rejecting the asylum application, 7552 decisions on termination of the asylum procedure were issued. By country of origin, the number of persons who received international protection on the territory of Moldova (refugee status and humanitarian protection) in 2021-2022 is distributed as follows:

Country of origin	Year 2021	Year 2022
Total	21	79
<i>Including from:</i>		
Ukraine	0	55
Syria	5	10
Turkey	11	6

⁷ Statistical yearbook "Immigration of foreigners, asylum and statelessness in the Republic of Moldova in 2022", developed by the General Inspectorate for Migration based on primary data of foreigners, https://igm.gov.md/sites/default/files/sites/default/files/atasamente/comunicate/an_stat_isaa_ed.2023_pagina_web.pdf

Afghanistan	0	3
Kyrgyzstan	0	2
Belarus	1	1
Democratic Republic of Congo	0	1
Other countries	4	0

15. By March 11, 2024, 1,287 people were registered in the National Asylum System, of which: 699 asylum seekers under examination (Ukraine – 228), 381 beneficiaries of humanitarian protection (Ukraine – 175), 207 people who obtained refugee status (Ukraine – 1). At the same time, 39,178 displaced persons from Ukraine benefit from temporary protection, of which 11,393 minors.

Note: In 2022, the increase in the value of indicators on immigration of foreigners, asylum and statelessness in the Republic of Moldova, compared to previous years, was conditioned by the outbreak of war in Ukraine on February 24, 2022, which generated massive flows of foreigners to the Republic of Moldova.

Suggested recommendations

- To collect comprehensive statistics and disaggregate them according to legal status of persons: recognized stateless persons, applicant for stateless status, persons with undetermined legal status, etc.
- To collect comprehensive information and statistics on the socio-economic situation of asylum seekers, refugees, undocumented persons, and stateless persons, in particular their access to education, employment, healthcare, and housing, as well as their participation in public life.
- To develop human rights indicators to formulate evidence-based policies, identify the needs of vulnerable and underrepresented groups, and monitor the level of implementation of the Convention.

IV. STATELESS PERSONS, ASYLUM SEEKERS, AND REFUGEES

A. STATELESS PERSONS

16. Moldova is a party to the four core instruments in the field of statelessness and is one of the very few countries that has acceded to the Council Europe Convention on the avoidance of statelessness in relation to State succession. Moldova maintains reservations to several articles (23, 24, 25, 27 and 31) of the Convention relating to the Status of Stateless Persons, but these no longer have substantive effect, as domestic law grants all convention rights to recognized stateless persons.

- 17.** Moldova has had a dedicated statelessness determination procedure (SDP) in law⁸ since 2011, which in many ways is an example of good practice. The procedure is accessible, with no fee or residence requirement, and can be initiated ex officio, in person, orally, or in writing. There is no specific form for the initial application, but it must contain a clear and detailed description of facts and evidence to support the application. There is a mandatory interview, and the examiner completes all the paperwork during the interview. If needed, an interpreter is arranged, free of charge to the applicant. The burden of proof for the determination of statelessness is shared between the applicant and the state. The standard of proof for the SDP is not established in law, but in practice, it is the same as in the asylum procedure. There are protective measures in place for people with disabilities and unaccompanied minors, but not in relation to potential gender discrimination. The application for the SDP must be examined by the competent authority within a period of up to six months. Depending on the complexity of the case, this can be extended by subsequent periods of one month each, but the extension will not exceed six months in total (12 months in total). Cross-referral mechanisms are in place for asylum procedures. The SDP is suspended if an asylum application is made and resumed if refugee (or subsidiary protection) status is refused.
- 18.** The law establishes that free legal aid should be provided for the administrative procedure. In practice, this is provided by NGOs. Interviews are mandatory, and translation and interpretation are offered for free if needed. Access to UNHCR is provided, and UNHCR monitors the SDP and provides regular training.
- 19.** Applicants are protected from expulsion, benefit from basic procedural guarantees, automatic right to appeal, and have access to the right to work. People recognized as stateless are granted permanent residence and rights in line with nationals. Eligibility for naturalization is reduced from the standard 10 years, but stateless people must still wait eight years before being eligible for it.
- 20.** There are no targeted information campaigns for applicants on how to make an application. There is cooperation between authorities, and by law other government agencies that receive a statelessness application must refer the application to the competent authority.
- 21.** The state grants legal status and an indefinite right to stay to those recognized as stateless. The rights attached to stateless status include travel documents, family reunion, right to work, primary, secondary, and higher education in line with nationals, access to social security and healthcare. Most rights granted are on the same basis as nationals. However, stateless people do not have any political rights in Moldova. The right to vote in any election is reserved to Moldovan nationals only.
- 22.** SDP and documentation of individuals is detailed by additional regulations established by government decisions and internal instructions that are not publicly available. In some cases, these regulations do not provide viable solutions for the efficient provision of the SDP or, on the contrary, establish requirements that bureaucratize the SDP and make it impossible to obtain stateless status or to issue the necessary civil status documents. For example, the national regulatory framework does not provide for the obligation to annex

⁸ Law on the regime of foreigners in the Republic of Moldova no. 200/16.07.2010 (Articles 87¹-87⁷)
https://www.legis.md/cautare/getResults?doc_id=141517&lang=ro#

civil status to the application for recognition of stateless status. From the cases examined by CDA, it follows that the lack of civil status documents may serve as grounds for the competent authority for foreigners to refuse to accept the application for examination or to reject the application for recognition of stateless status. Also, the normative framework does not contain regulations on obtaining civil status documents for applicants of stateless status and no regulations providing solutions regarding the subsequent actions of the person whose application was rejected.

- 23.** Although the application for recognition of stateless status must be examined within, and up to, 6 months, there is the possibility of extension, by one month at a time, without exceeding a total of 12 months. In practice, the procedure may take more time. Out of the total number of 34 cases under CDA procedure, about 6 cases last more than one year.

CASE STUDY⁹

The F.D.N case

F.D.N., born in Sierra Leone, applied for recognition of stateless status in **2021**. Although he actively collaborated with the General Inspectorate for Migration, until the moment of writing this report, the competent authority has not taken any decision on this case.

The T.V. case

T.V. was born in Ukraine and since 1987 lives on the territory of the Republic of Moldova. He is a disabled person, bedridden. After the dissolution of the Soviet Union, he did not apply for citizenship of the Republic of Moldova and holds only the certificate confirming the applicant for stateless status, issued on 20.10.2021. This certificate does not offer the possibility to draw up a notarized power of attorney based on which to be represented before the authorities for the issuance of the documents necessary to obtain the citizenship of the Republic of Moldova. The case is in the attention of CDA and the General Inspectorate for Migration, but due to gaps in the normative framework, optimal solutions cannot be found to document the person.

- 24.** During the examination of his/her application, the applicant for stateless status may enjoy the right to work and the right not to be removed from the territory of the country, as well as from several procedural rights: to be informed of his/her rights and obligations in a language he/she understands and to have an interpreter during the examination of his/her application; benefit from a temporary identity document as an applicant for stateless status; appeal against the decision rejecting the application.
- 25.** Unlike asylum seekers who benefit from a wide spectrum of rights¹⁰, stateless applicants are limited in rights, and do not benefit from state-guaranteed legal aid; assistance from

⁹ The cases described are under consideration at the CDA

¹⁰ According to Articles 28, 29 and 30 of the Law on asylum in the Republic of Moldova no. 270/2008, in addition to procedural rights, the asylum seeker has the same rights as the applicant for stateless status: to be on the territory of the country during the procedure (not to be returned) and the right to work. In addition to these two rights, the

UNHCR representatives and non-governmental organizations, primary and emergency health care, and in the case of minors - access to healthcare under the same conditions as minor citizens of the Republic of Moldova; access to compulsory education under the same conditions as citizens of the Republic of Moldova; social assistance measures.

- 26.** Granting less favorable treatment to applicants of stateless status than that accorded to asylum seekers has adverse consequences for applicants of stateless status. Currently the Government is drafting new legislation on foreigners, which must equate the rights of stateless status applicants to those for asylum seekers.
- 27.** There are several gaps in detention law, policy, and practice in Moldova. Although there are some protections against the arbitrary detention of stateless people, including that powers to detain are provided for in law, detention should be a last resort, and a country of removal must be set prior to detaining; in practice, it is unclear how these principles are implemented and no alternatives to immigration detention are established in law or practice. The provision of information to detainees on their rights is not set in law and is provided by UNHCR's NGO partners at the discretion of the Government. Although judicial reviews were removed in 2016, the Supreme Court of Justice published an advisory opinion in December 2018 stating that, in the presence of sufficient conditions, detention duration should not exceed 30 days, which cumulatively should not exceed six months, and 12 months respectively. This aims to ensure the exercise of judicial control on returns and removal procedures in the Republic of Moldova. People released from detention will either be transferred to the Statelessness Unit for documentation, if recognized as stateless, or granted 'tolerated stay' adversely. Detained persons have a right to appeal against each court decision, and information is provided on how to do this in the decision, with free legal aid available.
- 28.** By ratifying the Convention relating to the Status of Stateless Persons of 1954 and the Convention on the Reduction of Statelessness of 1961, the Republic of Moldova assumed the obligation not to generate stateless persons, when it is possible to grant citizenship, and to reduce, by naturalization, the number of stateless persons. Despite this, the Republic of Moldova reports a constant number of stateless persons on its territory, half of whom were born there, and are eligible to be recognized as citizens of the state. A considerable number of stateless persons could have their status reevaluated, which would lead to them being granted citizenship.
- 29.** After amending the Law on citizenship in the Republic of Moldova nr. 1024/2000, which was introduced in June 2023, every child born on the territory of the Republic of Moldova has the right to citizenship of this state. The amendment was necessary to prevent

asylum seeker enjoys the following rights enshrined in the law: to benefit from legal aid at any stage of the asylum procedure; to be informed of the possibility of contacting UNHCR representatives; to be advised and assisted by the representative of a non-governmental organization at any stage of the asylum procedure; to be accommodated in the accommodation center during the procedure; benefit, in the case of persons with special needs, from the adaptation of accommodation conditions and assistance in accommodation centers; to receive primary and emergency medical assistance, according to the legislation in force, and minor asylum seekers - access to medical assistance under the same conditions as minor citizens of the Republic of Moldova.; to have access to compulsory education under the same conditions as citizens of the Republic of Moldova; to benefit, in the case of families with children, as well as unaccompanied minors, from all social assistance measures, granted in accordance with the legislation in force, to children citizens of the Republic of Moldova.

situations of statelessness for children born to parents with expired residence documents/visas or to parents without residence documents, who are in transit.

- 30.** Every child's right to legal identity and nationality is not only essential to the prevention and reduction of statelessness, but is also a core principle of international law. Birth registration must be free and take place immediately after birth without delay. Although Moldovan law provides for free birth registration and stipulates that all children must be registered, efforts to prevent statelessness are hindered by barriers to universal free birth registration. Parents must be documented to register a birth, which means that some parents face barriers to registering births, including members of the Romani community. Positively, from 2018, authorities are now required to recognize civil status acts from the disputed Transnistrian territory, making it easier for parents of Transnistrian origin to register the births of their children in Moldova and for children born to Transnistrian parents to acquire Moldovan nationality, reducing the risk of statelessness in such cases.
- 31.** The State does not provide formal training on statelessness to relevant bodies, but UNHCR conducts training seminars, roundtables, and information sessions several times a year with the cooperation of the General Inspectorate for Migration and other relevant government bodies. Regular training seminars are provided by CDA and UNHCR for judges, judicial assistants, lawyers, and state officers.

Suggested recommendations

- To ensure public access to internal regulations on SDP and on documentation of recognized stateless persons
- To ensure that applications for recognition of stateless status are examined within the deadline set by legislation.
- To, in accordance to the provisions from The Convention of 1961 on the reduction of statelessness, grant citizenship to stateless persons who meet the criteria established by the Law on Citizenship of the Republic of Moldova nr. 1024/2000 (birth, recognition, adoption, recovery, naturalization).
- To Guarantee that state-funded legal aid for stateless status applicants is available in practice.
- To improve protection for stateless persons from arbitrary detention, by establishing alternatives to immigrational detention.
- To enhance training for all State institutions with attributions in the field of statelessness.

B. ASYLUM SEEKERS AND REFUGEES

- 32.** The Moldovan legislation governing asylum is broadly in line with the EU acquis, and the country is party to the relevant international conventions. The General Inspectorate for

Migration (GIM) operating under the Ministry of Internal Affairs decides on applications for international protection. The legal status of asylum seekers and beneficiaries of international protection, temporary protection and political asylum are regulated by the Law on asylum. Unaccompanied minors applying for asylum are subject to child protection measures, including social placement services. Negative decisions on asylum claims may be appealed through administrative litigation without any prior procedure.

- 33.** The competent authorities must ensure access to the territory of the Republic of Moldova to any foreigner at the state border, from the moment of their manifestation of will. No asylum seeker may be expelled or returned from the border or from the territory of the country. Asylum seekers shall not be penalized for illegal entry or stay on the territory of the country, and their treatment should comply with international human rights standards. The competent authorities are obliged to ensure access to the asylum procedure to any foreigner in the territory of the country or at the state border, from the moment of expressing his/her will in writing or verbally, which shows that he/she is seeking protection from the Republic of Moldova.
- 34.** Legislation concerning asylum does not contain sufficient safeguards to ensure and improve effective access to procedures for international protection and to reflect the rationale that access to international protection is a key precondition for ensuring respect for the principle of non-refoulement. In particular, the aforementioned legislation does not contain regulations on: registering asylum applications as soon as possible; the obligation to inform and counsel persons apprehended or at border crossing points, including in transit zones, about the possibility to file an asylum application; the responsibility of first-contact officials to identify the special needs of vulnerable persons and to refer them to national authorities for necessary support, and/or further assessment.
- 35.** The law contains some procedural provisions for certain categories of persons with special needs: unaccompanied minors, victims of torture or violence, and persons with mental or intellectual impairments, but does not define vulnerable persons and does not contain a list of asylum seekers who would need special procedural guarantees in the asylum procedure. The procedural safeguards offered by the national asylum system to persons with special needs are limited and insufficient to meet their needs for effective access to the asylum process.
- 36.** The law covers only certain aspects of the asylum procedure, as applied to asylum seekers with special needs, and the regulations are often fragmented, lacking coherence and clarity of the procedure at all its stages. The lack of provisions on the obligation to identify the special needs of vulnerable persons in procedural matters, affects said persons' effective access to special procedural guarantees, and hinders the effective exercise of their right to asylum and other human rights.
- 37.** There is a lack of formal procedures for identifying persons at risk in the Republic of Moldova, apart from children at risk. In the absence of such procedures, their identification depends largely on how "visible" their needs are. At the same time, the lack of identification procedures hinders the collection of data on the prevalence of people with special needs (and said needs), thus limiting the possibility of personalized interventions. Consequently, refugees with special needs have limited access to specific services, which is attributed to the lack of or incomplete nature of identification

procedures. Systematic and systemic identification of persons at risk and the collection of data on their prevalence and needs remains a key gap, which limits access to targeted services and tailor-made interventions, but also limits the capacity of the state to plan the necessary resources for duly respecting the human rights of those at risk without discrimination.

- 38.** The temporary identity document for asylum seekers is valid for a period of 30 days, with the possibility to extend it further for periods of 30 days until a final decision on the application is made. The time limit for examining the asylum application is up to 6 months, with the possibility of extending this time limit by one month at a time, but not exceeding 3 months (a maximum total of 9 months). The period of validity of temporary identity document for asylum seeker may be subject to criticism from the point of view of effective access to the labor market, healthcare, education, and social assistance. This is due to the fact that in the cases where the document is valid for a period of 30 days, even with the possibility of extending it for further periods, the holders of these documents are in an uncertain situation when they try to benefit from their rights as asylum seekers.
- 39.** Asylum seekers and beneficiaries of temporary protection who are minors have access to healthcare under the same conditions as minors who are citizens of the Republic of Moldova. Asylum seekers, stateless persons, and beneficiaries of temporary protection who are not employed receive limited medical assistance and cannot access medical services through the compulsory health insurance system. The Committee on the Elimination of Racial Discrimination and the Committee on Economic, Social and Cultural Rights have recommended¹¹ the Republic of Moldova to ensure non-discriminatory access to health care services for asylum seekers, refugees, and stateless persons and to ensure that every person in the state is covered by the compulsory health insurance system¹².
- 40.** After Russia's large-scale invasion of Ukraine, the flow of people crossing Moldova's state border has increased considerably, including an increase in the number of refusals to allow certain persons to cross the state border. From open sources, including the daily-updated information on the situation at the border posted on the official website of the Border Police¹³, there is an increase in the number of persons being turned away from the border which could be considered a hidden form of the phenomenon of “pushback”, and which cannot be overlooked in the context of asylum applications at the border. At the same time, there is a tendency to return Russian citizens from the border who leave the state in fear of being conscripted, after the announcement of mass mobilization in the Russian Federation by their government. Several cases, accompanied by the views of human rights defenders, were covered in the national media¹⁴. Return from the border without an “individual protection needs assessment” contradicts the principle of non-refoulement.

¹¹ Committee on Economic, Social and Cultural Rights, Concluding observations on the third periodic report of the Republic of Moldova, E/C.12/MDA/CO/3 (CESCR 2017), <https://uhri.ohchr.org/en/document/b318d7c8-3d8f-4cfd-9a90-3148a1fdfac4>; Committee on the Elimination of Racial Discrimination, Concluding observations on the combined tenth and eleventh periodic reports of the Republic of Moldova, CERD/C/MDA/CO/10-11 (CERD 2017 <https://uhri.ohchr.org/en/document/311357e6-7af2-41e4-96c9-a0771b46152f>;

¹² Committee on Economic, Social and Cultural Rights, Concluding observations on the third periodic report of the Republic of Moldova, E/C.12/MDA/CO/3 (CESCR 2017), <https://uhri.ohchr.org/en/document/b318d7c8-3d8f-4cfd-9a90-3148a1fdfac4>

¹³ <https://www.border.gov.md/>

¹⁴ <https://newsmaker.md/ro/cum-rusii-sunt-intorsi-la-aeroportul-din-chisinau/>

- 41.** The number of asylum applications by Russians has also increased considerably. In 2021, only 6 Russian citizens applied for asylum, whereas in 2022 this number reached 200¹⁵. According to the statistics of the General Inspectorate for Migration, in 2022 not a single asylum seeker who arrived from the Russian Federation was granted refugee status. Genderdoc-M, an NGO specialized on the protection of f LGBTQI+ persons, has brought to public attention several cases of rejection of asylum applications filed by LGBTQI+ people who left the Russian Federation. In February 2023 alone, 5 such cases were registered¹⁶.
- 42.** In the period 24.02.2022 - 10.01.2023, the authorities of the State Border Service of Ukraine took over from the competent authorities of the Republic of Moldova 35 citizens of Ukraine "who entered or stayed on the territory of the Republic of Moldova in violation of the legislation on crossing the state border"¹⁷. The transfer and reception of citizens is carried out between Moldova and Ukraine on the basis of the Agreement between the Cabinet of Ministers of Ukraine and the Government of the Republic of Moldova on readmission of persons. The countries signed the readmission treaty in 2017. Since the beginning of the Russian invasion, Ukraine has banned travel abroad by men of military age (18-60), with a few exceptions (e.g. travel is allowed for men with three or more children). Despite the ban, dozens of Ukrainians liable for military service try to leave the country illegally, including by crossing the Moldovan-Ukrainian border. It is unknown whether any of those returned to Ukraine had applied for asylum in Moldova.
- 43.** The legislation of the Republic of Moldova does permit the immigrational detention of asylum seekers, except in situations where, those threaten national security or public order. Foreigners placed in immigrational detention may submit an asylum application. From the moment of the asylum application, the person obtains the status of asylum seeker and is to be released immediately, without waiting for the expiry of the time limit in detention set by the court.
- 44.** According to the findings of the 2019 report, "Respect for the rights of foreign citizens in state custody", developed by the Office of the Ombudsman of the Republic of Moldova in collaboration with the CDA¹⁸, asylum seekers are not immediately released from public custody, but only at the end of the term of taking into public custody or on the basis of a court decision (contrary to the standard set out by national legislation). This situation has not changed so far. The national legal framework does not contain regulations on alternatives to public custody.

¹⁵ Statistical yearbook "Immigration of foreigners, asylum and statelessness in the Republic of Moldova in 2022" developed by the General Inspectorate for Migration based on primary data of foreigners, https://igm.gov.md/sites/default/files/sites/default/files/atasamente/comunicate/an_stat_isaa_ed.2023_pagina_web.pdf

¹⁶ <https://newsmaker.md/rus/novosti/video-lgbt-bezhentsam-iz-rossii-predlozhili-sluzhit-rodine-pochemu-im-otkazyvayut-v-ubezhische-v-moldove-i-cto-s-etim-netak/?fbclid=IwAR2j4xVZXNOdFCrceaEZU9GfYOKBU6FgBcc409aNYaqza4I9xBPVzf0kctc>

¹⁷ <https://newsmaker.md/ro/de-la-inceputul-razboiului-moldova-a-extradat-35-de-cetateni-ucraineni-cum-ramane-cu-drepturile-omului/>

¹⁸ https://cda.md/wp-content/uploads/2022/06/EN_Studiul_Situatia_strainilor_FINAL.pdf

Suggested recommendations

- To ensure effective access to asylum procedures at all border crossing points to guarantee effective protection against refoulement.
- To ensure that refugee status determination procedures take into consideration, without discrimination on any basis (e.g. citizenship, gender, race, sexual orientation, etc.) persons in need of international protection, and offer sufficient guarantees of respect for the principle of non-refoulement.
- To enhance training for the border police and immigration personnel to ensure full respect for the principle of non-refoulement and the rights of asylum - seekers, refugees, and migrants under the Convention and other international standards.
- To ensure that law enforcement officials act in accordance with the Convention and international standards when forcibly removing foreigners, including by monitoring their activities and investigating, prosecuting and punishing the perpetrators of human rights abuses with appropriate penalties, and to ensure access to effective remedies and reparations for victims.
- To establish an appropriate mechanism for the early identification of the special needs of vulnerable asylum seekers and further to regulate the procedural safeguards for persons with special needs.
- To ensure access to health-care services without discrimination, on an equal basis with Moldovan citizens, for asylum seekers, beneficiaries of international protection, beneficiaries of temporary protection, applicants for statelessness and stateless persons.
- To review the validity period of the temporary asylum seeker identity document with a view to its extension during the settlement of the asylum application.
- To ensure that immigrational detention is applied only as a measure of last resort and for the shortest possible period of time, after an assessment of its legality, necessity, and proportionality on a case-by-case basis, and introduce alternatives to detention in public custody.