

POSITION PAPER: DEINSTITUTIONALIZATION OF PERSONS WITH DISABILITIES IN THE REPUBLIC OF MOLDOVA



EU SUPPORT FOR DEINSTITUTIONALIZATION OF PERSONS WITH DISABILITIES IN THE REPUBLIC OF MOLDOVA

Recommendations for 2021-2027
November 2020

People with disabilities have the right to live in the community receiving adequate support according to their needs, according to Article 19 of the United Nations Convention on the Rights of Persons with Disabilities. In 2017, the CRPD Committee adopted general comment No. 5 on Article 19 on living independently and being included in the community, which clearly states the obligation of States Parties to adopt a plan for deinstitutionalization. However, more than a decade after the EU and all 27 of its Member States ratified the CRPD, millions of people with disabilities continue to live in institutional settings.

The European Commission demonstrated its political commitment to facilitate the meaningful participation of persons with

disabilities in social, civic and economic life in its proposal for the Neighbourhood, Development and International Cooperation Instrument (NDICI).[1] This proposal is supported by the European Parliament and the Council of the European Union.[2]

The issue of institutionalization of people with disabilities was particularly highlighted in the EU human rights agenda with the 2018 EU Agency for Fundamental Rights report 'From institutions to community living for persons with disabilities: perspectives from the ground'.[3] More recently, the COVID-19 pandemic drew further attention to the inherent harm in housing people in congregate setting as the virus disproportionately affected those living in institutions.[4]

[1] European Parliament Resolution on the proposal for a regulation on the Neighbourhood, Development and International Cooperation Instrument, T8-0298/2019, Amendment 335.

[2] Council Partial mandate for negotiations 10305/19, Annex II

[3] Available online at: <https://fra.europa.eu/en/publication/2018/institutions-community-living-persons-disabilities-perspectives-ground>

[4] See, for example, Fundamental Rights Agency, Coronavirus pandemic in the EU – fundamental rights implications, June 2020, available at: <https://fra.europa.eu/en/themes/covid-19>, p. 27; or Dunja Mijatović, Council of Europe Commissioner on Human Rights, "Lessons to be drawn from the ravages of the COVID-19 pandemic in long-term care facilities, 20 May 2020", available at: <https://www.coe.int/en/web/commissioner/-/lessons-to-be-drawn-from-the-ravages-of-the-covid-19-pandemic-in-long-term-care-facilities>

Testimonies from around the world demonstrate how the emergency measures that were taken by governments to control the spread of COVID-19 have exacerbated existing human rights abuses and failed to prevent further human rights abuses.[5] A recent study showed that those with intellectual and developmental disability are among those at highest risk for COVID-19 infections and mortality, in part due to the nature of congregate settings.[6]

With the ratification of the CRPD by the Republic of Moldova in 2010, the country committed to end the practice of institutional care. Following ratification, the Government quickly approved the Strategy on Social Inclusion (2010–2013), which was focused on aligning the social protection system for persons with disabilities to European and international standards. From there, Moldova has continued to pass significant legislation aimed to protect the rights of persons with disabilities, including standards and regulations for new community-based services and gatekeeping commissions to prevent people from being placed in institutions. The deinstitutionalization process forced the development of new community based social care services, such as personal assistance, mobile teams, and respite services to support persons with disabilities and their families.

In 2017, the Government of the Republic of Moldova presented the first report on implementation of the UNCRPD to the UN Committee on the Rights of Persons with

Disabilities. While the Committee highlighted the positive momentum related to social inclusion of persons with disabilities in Moldova, it also expressed concern over the slow progress of deinstitutionalization of persons with disabilities and development of social care services at the community level. In this regard, the Committee recommended the State ensure application of a moratorium on institutionalization, to clarify the responsibilities and resource allocation for development of social services among the national and local public administrations, and to involve persons with disabilities in planning, implementation, evaluation and monitoring the deinstitutionalization process.[7]

In 2018, the Government of the Republic of Moldova developed and approved the National Program for the Deinstitutionalization of People with Intellectual and Psycho-social Disabilities from Residential Institutions (2018–2026).

The Program aims to deinstitutionalize 50% of persons with intellectual and psycho-social disabilities by 2026, as well as to develop and provide social services at the community level, transforming residential institutions into regional centres with resources for the development and provision of alternative services at the community level. Persons with disabilities and their families, as well as civil society

[5] See also the COVID-19 Disability Rights Monitor Report, 22 October 2020, available at: <https://covid-drm.org/statements/covid-19-disability-rights-monitor-report-highlights-catastrophic-global-failure-to-protect-the-rights-of-persons-with-disabilities>

[6] Risk Factors for COVID-19 Mortality Among Privately Insured Patients. FAIR Health, November 2020 [https://s3.amazonaws.com/media2.fairhealth.org/whitepaper/asset/Risk%20Factors%20for%20COVID-](https://s3.amazonaws.com/media2.fairhealth.org/whitepaper/asset/Risk%20Factors%20for%20COVID-19%20Mortality%20among%20Privately%20Insured%20Patients%20-%20A%20Claims%20Data%20Analysis%20-%20A%20FAIR%20Health%20White%20Paper.pdf)

[19%20Mortality%20among%20Privately%20Insured%20Patients%20-%20A%20Claims%20Data%20Analysis%20-%20A%20FAIR%20Health%20White%20Paper.pdf](https://s3.amazonaws.com/media2.fairhealth.org/whitepaper/asset/Risk%20Factors%20for%20COVID-19%20Mortality%20among%20Privately%20Insured%20Patients%20-%20A%20Claims%20Data%20Analysis%20-%20A%20FAIR%20Health%20White%20Paper.pdf)
[7] Committee on the Rights of Persons with Disabilities. Concluding observations on the initial report of the Republic of Moldova <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2FPPRICAqhKbZyhsqLlrA3kM94%2BFVsC88T4bsBgrNDWExTye4DD1oUP6KswWbpDvTshhtxB2HOQ93jgot%2BmiuPniw%2BqPJ9hXaphR8p54HHd5zGjRgkwmzT7v1KE>

organizations representing persons with disabilities, participated in the advocacy for and development of both above-mentioned national programs.

Despite the fact that the Government seems to be committed to the implementation of both programs, the goals of the deinstitutionalization process and social inclusion of persons with disabilities are in danger of not being met. **In 2008, there were 2500 persons with intellectual and psycho-social disabilities in 6 residential institutions. In 12 years, only 450 persons with disabilities have been deinstitutionalized and there are still around 2000 persons with disabilities in institutions waiting to access their right to live in the community.** There is no moratorium on admission of persons with disabilities to residential institutions, thus the number of persons with disabilities in institutions continues to increase, in part due to the limited availability of alternative services. **The slow level of deinstitutionalization is in part due to limited financial resources for the development of community-based services for persons with intellectual disabilities and mental health needs, as well as to poor distribution of roles and responsibilities among central and local governments regarding the development and provision of social care and support services.**

In order to achieve the goals set out in national legislation and Moldova's obligations

to the CRPD, there have been several steps already identified.[8] Person-directed social care and support services for persons with disabilities should be developed according to a national coordination mechanism that takes into account the service needs of people with disabilities in different territories. Furthermore, services should be developed with strategies ensuring financial sustainability from the start, as well as with clear operating regulations and quality standards and they should all be accredited and monitored regularly to assess the quality of services provided.

The budget for the Minimum Package of Social Services should be proportionate to the needs of the local population, including persons with disabilities. The current financing mechanism creates a situation in which some districts are unable to meet the needs of all people, but in other districts the budget is not spent and funds are transferred back to the national government.

The European Union funding programs continue to be important resources for innovative approaches for social inclusion of persons with disabilities in Moldova. The European Union has supported Moldova through the European Neighbourhood Instrument (ENI) since 2014. The EU is strategically positioned to **support comprehensive deinstitutionalization of persons with disabilities in Moldova** through the NDICI in the 2021-2027 period. We call on the European Commission

[8] Malcoci L., Munteanu P. Incluziunea socială a persoanelor cu dizabilități. Studiu sociologic, Chisinau, 2017, p.

Directorate-General for International Cooperation and Development (DG DEVCO), the European External Action Service and the EU delegation to Moldova to ensure that the NDICI responds to the challenges and opportunities described above.

As organizations working in supporting persons with disabilities in Moldova in accessing their right to live in the community, we recommend the European Union to consider the following steps to assist the Republic of Moldova to better implement its international human rights obligations:

- Inclusion of the UN CRPD priorities in Partnership Priorities, Association Agendas and country reports. Integration of disability rights approaches in strategies of cooperation between the EU and Moldova.
- Using political dialogue for the promotion and implementation of the European Pillar of Social Rights and UNCRPD, particularly the articles related to community living of persons with disabilities, educational and labour inclusion in all non-EU countries that concluded Stabilization and Association Agreements or Association Agreements.
- Using European Neighbourhood Instrument (ENI) funding for 2021-2027 as an opportunity to mainstream more effectively the deinstitutionalization and social inclusion of persons with disabilities in Moldova.
- Integration of disability priorities (deinstitutionalization, community living, inclusive employment and inclusive education) in the objectives of the European Instrument for Democracy and Human Rights, as well as in thematic programs for the Republic of Moldova.
- Involvement of civil society organizations and persons with disabilities in the implementation and monitoring of ENI funding which is managed directly by government institutions to increase the transparency of use of these funds and improve their coordination.

Comprehensive deinstitutionalization and social care reform for people with disabilities is a key human rights issues in the Republic of Moldova and throughout the world. The EU has a key role to play in creating sustainable funding mechanisms and building partnerships through Neighborhood countries to ensure these goals are met.