


	The National Human Rights Commission including the (Committee for the Prevention of Torture - (NHRC-CPT	NHRC-CPTUPR37_LBN
	Report by Lebanon's National Human Rights Commission including the Committee for the Prevention of Torture - (NHRC-CPT) to 3rd Review of Lebanon under the Universal Periodic Review (UPR) of the UN Human Rights Council, 37th session, November 2020	Distr: Public Language: English Date: 04 June 2020

### *Brief*

In fulfillment of its mandate as Lebanon's National Human Rights Institution, the National Human Rights Commission including the Committee for the Prevention of Torture - (NHRC-CPT), submits this contribution to the UPR procedure regarding Lebanon.

This report cannot provide a comprehensive picture of the human rights situation in Lebanon. Instead, it focuses on areas that the Commission considers to be of particular importance. The report largely builds on recommendations from the second review cycle. Furthermore, new human rights-related challenges have been included. In addition to the main submission, the contribution comprises a briefing note outlining the role of



Lebanon's National Human Rights Institute (NHRI) and the National Prevention Mechanism (NPM) (Annex 1), as well as a summary of recommendations by the National Human Rights Commission including the committee for the Prevention of Torture - (NHRC-CPT) in relation to the content of the report (Annex 2).

#### Initiatives in Connection with the UPR of Lebanon

During the preparations for the UPR of Lebanon 2020, NHRC-CPT has conducted a national hearing in cooperation with OHCHR and UNDP.

## Priority Areas

1. In this stakeholder report to the UPR of Lebanon, NHRC-CPT has selected six priority areas of particular relevance to the promotion of human rights in Lebanon.

The thematic issues covered in this report are:

- I. Empowering Lebanon's NHRI and NPM
- II. Accountability of the implementation of anti-torture law and other ill-treatment, and the suggested amendments
- III. Ratification of CRPD and CPPED and the status of the standing invitation to the special procedures
- IV. The situation of refugees and migrant domestic workers
- V. Protests of 2019-2020 and the status of human rights
- VI. The financial crisis and the longstanding socioeconomic grievances

### a. Empowering of Lebanon's NHRI and NPM

2. During the second UPR review, Lebanon accepted nineteen recommendations to speed up the establishment of the National Independent Commission for Human Rights which includes the establishment of a permanent national committee to prevent torture, in accordance with the Optional Protocol to the Convention against Torture.<sup>1</sup>

In accordance with Law No. 62 of October 27, 2016, the National Human Rights Commission, which includes the Committee for the Prevention of Torture, was established and its Presidential Decree No. 3267 was promulgated on June 19, 2018. It includes 10 members. Five members of the commission were appointed to act as members of the Committee for the Prevention of Torture by the presidential Decree No. 5147 dated July 5, 2019.

3. In accordance with the provisions of Article 5 of Law No. 62/2016, the members of the NHRC-CPT on July 16, 2019, and on August 14, 2019, were sworn in by the President.

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<sup>1</sup> See Recommendation following the Second Review of Lebanon in 2015, UN Doc. A/HRC/31/5, para. 132.42 - 132.43 - 132.44 - 132.45 - 132.46 - 132.47 - 132.48 - 132.49 - 132.50 - 132.51 - 132.52 - 132.53 - 132.54 - 132.55 - 132.56 - 132.57 - 132.58 - 132.59 - 132.60

4. In accordance with the provisions of Article 6 of Law No. 62/2016, and pursuant to the provisions of Chapter Three of Law No. 62/2016, especially Articles 15 to Article 20 implicitly, the NHRC-CPT elected on November 12, 2019, the President and members of the NHRC board, and roles of the commissioners.

5. In accordance with the provisions of Article 7 of Law No. 62/2016, the NHRC-CPT submitted on 15 October 2019 to the Lebanese government the established internal bylaws and fiscal system that include detailed rules and norms that regulate NHRC-CPT mechanism of work. Unfortunately, the draft decree is still pending to be approved by the Council of Ministers.

6. In accordance with the provisions of Article 28 of Law No. 62/2016, NHRC-CPT prepared its own draft annual budget and submitted it to the Minister of Finance on 16 September 2019, in accordance with the principles stipulated in the Public Accounting Law. Unfortunately, the ministry of finance and at a later stage the Cabinet neglected this document and submitted to the parliament the Law of Public Budget for the fiscal year 2020 without allocating financial resources for the effective and independent work of NHRC-CPT and without creating functional classification related to the promotion and protection of human rights and the prevention of torture. The NHRC-CPT considered this act as deceiving, despite notably scrupulous advocacy by too many actors, including the Delegation of the European Union to Lebanon and the United Nations, before authorities who expressed commitment to fund the NHRC-CPT's operations in 2020.

7. In accordance with the provisions of article 30 of the 2020 budget law that was published in the Official Gazette on 5 March 2020, the Lebanese Parliament adopted the amendment to Article 28 of Law No. 62/2016. This amendment stipulated that a specialized chapter to be created for the Commission under the Prime Minister Office section of the General Budget.

The amendment reiterated though that the Commission is an independent entity on the financial and administrative level, while the original Law provisions that the budget of NHRC-CPT is dedicated in a Special Section.

Even though the NHRC-CPT has not yet requested GANRI's accreditation, NHRC-CPT considers the amendment to Article 28 contravenes the international standards governing the NHRIs. GANHRI General Observation 1.10 on Adequate funding states:

"Government funding should be allocated to a separate budget line item applicable only to the NHRI. Such funding should be regularly released and in a manner that does not impact adversely on its functions, day-to-day management, and retention of staff".

8. Despite the efforts and actions done since the ratification of Law No. 62/2016, the Lebanese government didn't prove that it is committed to taking serious and effective actions without delay to allow NHRC-CPT to start operating with adequate personnel and financial resources for its effective and independent work.

The appointed NHRC-CPT members are conducting activities including receiving complaints, monitoring and visiting prisons on a voluntary basis, while they are still engaged in other jobs to secure their livelihood. In accordance with the provisions of article 4 of Law No. 62/2016, NHRC-CPT members shall be dedicated full-time to their duties and are not allowed to engage in any other work during their tenure. In accordance with the provisions of Article 30 of Law No. 62/2016, the President, Vice-president and members of The NHRC-CPT shall receive a monthly lump-sum compensation determined by a decree issued by the Council of Ministers upon the proposal of the Minister of Justice. Unfortunately, the draft decree dated 17 March 2017 is still pending to be approved by the Council of Ministers.

#### b. Accountability of the implementation of anti-torture law and other ill-treatment, and the suggested amendments

9. Despite the third anniversary of the passage of an anti-torture law No. 65/2017, Lebanese judicial authorities failed to investigate serious torture allegations made by Hassan al-Dika prior to his death in custody in 2019. The prosecutor's failure to investigate Hassan al-Dika's allegations underscores serious failings in how Lebanon's judiciary is handling torture complaints. The procedures in the anti-torture law are intended to safeguard the evidence and provide accountability for the crime of torture. Yet three years on, we have 18 cases in which authorities failed to follow the law.

10. The ISF's Central Criminal Investigations Department, Lebanese Army military Intelligence Directorate, and other state security agencies are still conducting investigations related to torture, although the anti-torture law prohibits security agencies

from carrying out torture investigations. An investigation by security agencies into actions committed by its own officers is neither independent nor impartial.

11. Lebanese judicial authorities should also move all torture cases to the regular criminal courts. The Military Prosecution summoned the case of 17 victims of torture due to the protests that started on 17 October 2019, in violation of Lebanese law, which states that torture cases against security officials should be heard in civilian, not military, courts. Protesters' claims of torture demand a thorough and fair investigation in the competent civilian courts. If their claims are true, the perpetrators should be held accountable and victims must be provided with adequate redress for their suffering.

12. In order to fulfill its functions, the NHRC-CPT may have access to all information from relevant authorities concerning the content and progress of complaints, allegations or prosecutions of torture, and other cruel, inhuman, or degrading treatment or punishment before disciplinary or administrative authorities. On 20 January 2020 NHRC-CPT requested information from the State Prosecutor's Office and the Director-General of ISF regarding the results of the investigation in the recently leaked video that shows ISF officers mistreating detained protesters while they reach El Helou Barrack. The mistreatment captured on video is only the tip of the iceberg since local and international organizations have been documenting torture and abuse of detainees in Lebanon for years. NHRC-CPT didn't receive any reply yet.

13. Law No. 65/2017 does not meet the requirements of Article 7 of the International Covenant on Civil and Political Rights (ICCPR). In January 2020, the Human Rights Committee and the Justice and Administration Committee of the Parliament considered amending Law No. 65/2017. NHRC-CPT noted that the Law introduces the definition of torture in a limited way. Given that torture may as well occur outside the frame of definition, it is necessary to remove the relevant limitation. Further, NHRC-CPT recommends that Article 2 (Special Provisions on Illegal Orders) of Law No. 65/2017 is amended to explicitly exclude exceptional circumstances, a state of war or a threat of war, internal political instability or any other public emergency, as a justification of torture. In addition, attention has to be paid to excluding exceptional circumstances such as a threat of terrorist acts or violent crime, as well as armed conflict, international or non-international. Accordingly, Law No. 65/2017 should be amended to criminalize

Inhuman or degrading treatment or punishment (CIDT) as well. It is important to note that torture and CIDT are both absolutely prohibited under Article 7 of the ICCPR, and should be amended to explicitly state that the crime of torture should not be subjected to statute of limitations and to provide sanctions for cruel, inhuman or degrading treatment or punishment.

### c. Ratification of CRPD and CPPED and the status of the standing invitation to the special procedures

14. During the second UPR review, Lebanon accepted recommendations to ratify the International Convention for the Protection of All Persons from Enforced Disappearance (CPPED), and to establish a legal framework and a national commission of inquiry on missing persons. Moreover, Lebanon accepted to ratify the Convention on the Rights of Persons with Disabilities (CRPD) and its Optional Protocol. Similar recommendations were accepted during the First UPR Review of Lebanon in 2010<sup>2</sup>.

15. Fourteen years have passed since the CRPD and CPPED conventions were signed. Successive Lebanese governments have not announced their intention to withdraw their signatures, but failure to ratify the two conventions and the additional protocol of CRPD by the Lebanese Parliament makes the signature a mere incomplete diplomatic measure. Officials invoke a constitutional problem that prevents the ratification of the two conventions, as they were submitted to Parliament at a time when the Lebanese government was considered, by several political groups, violating “The National Pact” that provided an official framework to accommodate the confessional differences in Lebanon. The political crisis of 2007 ended with the signing of what is known as the Doha Agreement, but this political settlement did not include the ratification of human rights conventions which were submitted by the government to the parliament in 2007. Back then, the Speaker of the House refused to consider those as received due to the political divergence among the government and cabinet back then and therefore was not referred to the parliamentary committees for discussion and approval.

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<sup>2</sup> See Recommendation following the Second Review of Lebanon in 2015, UN Doc. A/HRC/31/5, para. 132.15 - 132.16 - 132.17 - 132.18 - 132.19 - 132.20

16. Law 220 on the Rights of Disabled Persons (Law 220/2000), was adopted several years before the adoption of the CRPD but the law does not include all rights secured by the convention. While Law 220/2000 makes important commitments to the rights of persons with disabilities, many of these commitments have not been fulfilled, because persons with disabilities and human rights organisations do not have adequate access to information about their rights and services and they are not part of the decision making.

17. On November 13, 2018, the Lebanese Parliament passed the Law 105 (Law on Missing and Forcibly Disappeared Persons). Advocacy for the implementation of this law will test the political will of those in power. The discussions that took place in parliament during debate of this law, as well as the comments and reservations expressed by some MPs, are a reliable measure of political will and its lack thereof. Concerns related to the empowerment of the National Commission for the Missing and Forcibly Disappeared in Lebanon established by virtue of Law 105/2018 are similar to the concerns related to NHRC-CPT. The government is not giving any signal that it will take actions to allocate adequate personnel and financial resources for its effective and independent work.

18. The delay in the ratification of CRPD convention and its optional protocol, and the CPPED convention by the Lebanese parliament is a political obstacle that should be solved. It is not acceptable after all these years that Lebanon's scope of international obligations is still missing these two important international human rights treaties.

19. While Lebanon accepted a standing invitation to the special procedures since 17 March 2011, it is noted that eight special rapporteurs and working groups are still waiting for years to visit the country. While the delay in some visits is logistical and technical, obstacles related to the political and diplomatic clearance of special procedures country visits should end.

#### d. The situation of refugees and migrant domestic workers

20. NHRC-CPT commends Lebanon for hosting over 1.5 million refugees from Syria. While recognizing the tremendous challenges posed by this mass influx, including its impact on the infrastructure in Lebanon, public services and economy, NHRC-CPT is concerned about discriminatory laws and regulations relating to refugees from Syria. Lebanon is



obliged not to return individuals to a situation where they would be at risk of persecution or serious human rights abuses<sup>3</sup>.

21. NHRC-CPT is concerned that discriminatory laws and regulations relating to property, education and work continue to affect the Palestinian refugees who are registered in Lebanon.

22. NHRC-CPT is concerned about the situation of refugees from other nationalities. We call on the UNHCR to reopen tens of African refugees case files previously closed, a faster and more robust resettlement status for case files that have been pending for years is required, in addition to providing services of protection, and a general respect and dignity towards refugees and asylum seekers from African countries.

23. Migrant domestic workers are excluded from the scope of application of the Labour Law, which fails to provide such workers with protection against labour exploitation and physical, sexual and psychological abuse in their workplace. The ongoing economic crisis in Lebanon has exacerbated the situation for migrant workers. Many have reported that the value of their salaries has decreased by around a third because of the currency crash. The Lebanese government must urgently reform the kafala system, which is causing fundamental injustices, and take steps towards improving migrant workers' lives.

#### e. Protests of 2019-2020 and the status of human rights

24. Lebanon has seen mass anti-government demonstrations since October 17, 2019, when the government announced a set of new taxes. The countrywide protests evolved into expressions of anger against the entire political establishment, whom protesters blame for the country's dire economic crisis. State security forces at times used excessive force against demonstrators and failed to protect them from violent counter-protesters. A wave of prosecutions against activists and journalists critical of government policies and corruption is threatening free speech and opinion in Lebanon.

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<sup>3</sup> This is known as the principle of *non-refoulement*. The principle of *non-refoulement* also prohibits the rejection of asylum-seekers at the border. As such Lebanon must permit entry to people seeking asylum to assess whether they need to be protected as refugees. Cases of refugees being forcibly returned to Syria have been reported.

25. Lebanon is a party to the International Covenant on Economic, Social and Cultural Rights (ICESCR), which requires it to take steps to achieve the right of everyone to the enjoyment of the highest attainable standard of economic, social and cultural rights. A state's failure to take all necessary measures to safeguard persons within their jurisdiction from infringements of the human right by third parties, and the failure to regulate the activities of individuals, groups, or corporations so as to prevent them from violating the human right of others, also constitutes a violation.

#### f. The economic crisis and the longstanding socioeconomic grievances

26. The economic growth which occurred between 2008 and 2009 did not positively reflect on all Lebanese equally and did not reach all society segments or all Lebanese regions. Therefore, they were unable to neither fight poverty and reduce the social and economic disparities between the Lebanese, nor reconfigure the middle class which represents the stability pillar of Lebanon. The economic crisis and an irresponsible fiscal policy threatens people's access to health care and food, and has driven many families into poverty. Vulnerable groups, including women, children, refugees and migrant workers, have been particularly hit hard by the economic crisis. The IMF said that it will analyze countries' financial governance to get an idea of how rampant corruption is, and the economic impact. While the nature of the IMF's assistance to Lebanon is not yet clear, the IMF should ensure that its recommendations do not have an adverse impact on access to basic rights. The Funds needs to move beyond its obsession with the 'targeting' of social protection benefits to the poorest of the poor. If the IMF will deal with Lebanon's crisis it should take social protection seriously, rather than making a tokenistic commitment to minimal safety nets.

27. NHRC-CPT considers that the decision by the Lebanese Government to postpone the payment of its foreign debt is in line with human rights standards. We urge Lebanese authorities to put human rights at the centre of any future financial negotiations.

The Lebanese central bank should stop taking measures to protect the Lebanese banks' interests rather than citizens' well-being. The ongoing financial engineering, that initially was meant to be a temporary measure to prevent hyperinflation, violates the economical rights of Lebanese citizens and led to the so called "Capital Control" where private banks

have set their own policies restricting depositors' access to funds in their current dollar accounts and the transfer of money abroad.

## Background Note

The National Human Rights Commission including the committee for the Prevention of Torture - (NHRC-CPT) is a legally mandated and independent National Human Rights Institution (NHRI) functioning in full compliance with the Paris Principles. According to the Law No 62 dated 27/10/2016 (Official Gazette No 52 dated 3/11/2016), the NHRC-CPT discharges its mandate in all questions relating to the protection and promotion of human rights in Lebanon. In particular, the NHRC is vested with the following duties:

- Monitor the extent of Lebanon's compliance with Human Rights and International Humanitarian Law and draft and publish special or periodic reports thereon.
- Contribute independently to drafting reports that shall be submitted by the Lebanese State .
- Offer feedback and consultation upon the request of competent authorities or on its own initiative in regard to respecting and observing human rights standards.
- Receive claims and complaints of human rights violations and contribute to handling these claims through negotiations and mediation or through prosecution
- Contribute to the promotion of a culture of human rights and push for the implementation and development of educational programs on human rights.

The Committee for the Prevention (CPT) of Torture works within the NHRC on protecting the rights of persons who are detained and deprived of their liberties in accordance with Lebanon's obligations under the OPCAT. As defined by the OPCAT, CPT carries out the function of a national preventive mechanism aimed at protecting the rights of persons who are detained and deprived of their liberties. The CPT enjoys the independent legal capacity to act in matters related to torture and its prevention.

Both NHRC and CPT each in its own field, draft a unified report which includes their annual programme, achievements and challenges. NHRC shall submit the unified report to the office of the President, the office of Head of Parliament, the office of the Prime Minister and the office of Head of the Supreme Council of Justice. The report shall be published in the Official Gazette and may be discussed by the Parliament.

The NHRC shall follow up and assess the status of human rights and international humanitarian law in Lebanon, draft and publish, as appropriate, special or periodic reports accordingly.

NHRC-CPT established four standing committees :

The International Humanitarian Law commission that works on ensuring the respect of all relevant International Humanitarian Law conventions, protocols and customary rules to which Lebanon is a party of, whether by ratification or accession.

The Committee for grievance on child abuse and on children, victims of child rights violations which is the national complaint mechanisms for violations of children's rights. The Committee works on the basis of the best interest of the child. It thus takes into account children's rights and their points of view, while taking into consideration the age and maturity of each child interviewed.

The Committee for the protection of disabled people's rights which is considered the national mechanism for the protection of persons with disabilities.

The Committee to combat human trafficking. This Committee is works on combating trafficking in persons and into ensuring the protection of victims and witnesses. The Committee performs tasks including receiving notifications of trafficking in persons and transmitting these notifications to the competent judicial authorities.

Annex 2 to the written contribution by Lebanon's National Human Rights Commission including the committee for the Prevention of Torture - (NHRC-CPT)

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Recommendations of the National Human Rights Commission including the Committee for the Prevention of Torture - (NHRC-CPT) on the occasion of the Third Review of Lebanon under the Universal Periodic Review (UPR) of the UN Human Rights Council 2020

*(The numbering of the recommendations follows the section numbers used in the report. Reference is made in the footnotes to recommendations made by States during the second UPR cycle that relate to the recommendations made below by the Commission.)*

On the occasion of the third review of Lebanon under the UPR, the NHRC-CPT makes the

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following recommendations<sup>4</sup>:

I. Empowering Lebanon's NHRI and NPM

1. Allocating sufficient financial resources to the NHRC-CPT in the public annual budget (in a specified separate budget line), and create functional classification in the public budget related to the promotion and protection of human rights and the prevention of torture.
2. Ratify and publish all executive decrees of the Law 62/2016, to fully implement articles 7 and 30.
3. Amend article 28 of the 62/2016, to fully respect the principles relating to the Status of National Institutions (The Paris Principles) adopted by General Assembly resolution 48/134 of 20 December 1993, and in reference to general observation 1.10 of the Global Alliance of National Human Rights Institutions (GANHRI) on adequate funding for NHRI's.

II. Accountability of the implementation of anti-torture law and other ill-treatment, and the suggested amendments

4. Respect and fully implement the anti-torture law No. 65/2017, and to investigate the allegations of torture by a civil judge, not by security agencies in addition to investigating the claims of torture through a fair investigation in competent civilian courts instead of military courts.
5. Amend Law No. 65/2017 to criminalize Inhuman or degrading treatment and/or punishment (CIDT), and to explicitly state that the crime of torture should not be subjected to statute of limitations and to provide sanctions for cruel, inhuman or degrading treatment or punishment.

III. Ratification of CRPD and CPPED and the status of the standing invitation to the special procedures

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<sup>4</sup> In the selection of recommendations for the UPR, NHRC-CPT has prioritised recommendations that are specific and time-bound and thus suitable for the UPR process.

6. Ratify the Convention on the Rights of Persons with Disabilities and its Optional Protocol<sup>5</sup>.
7. Ratify the International Convention for the Protection of All Persons from Enforced Disappearance<sup>6</sup>.
8. Speed up the establishment of National Commission for the Missing and Forcibly Disappeared in Lebanon which includes the establishment of the committee responsible for exhumation and identification of remains

#### IV. The situation of refugees and migrant domestic workers

9. Ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families<sup>7</sup>.
10. Develop a specific legal framework defining and protecting rights and freedoms of refugees<sup>8</sup>.
11. Consider amending legislation, which limit Palestinian refugees from owning property, education and work, with emphasis on the right to return as one of the basic rights to the Palestinian refugees<sup>9</sup>.

#### V. Protests of 2019-2020 and the status human rights

12. Prevent any violation of fundamental rights recognised in treaties to which Lebanon is party; and develop a legal framework defining and protecting the free speech and opinion in Lebanon<sup>10</sup>.
13. Ratify the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights<sup>11</sup>.

#### VI. The financial crisis and the longstanding socioeconomic grievances

<sup>5</sup> Recommendations No. 17, 18, 19, 20: (Sierra Leone); (Honduras); (Portugal); (Turkey);(Thailand); (Republic of Korea); (China); (Italy); (Mexico)

<sup>6</sup> Recommendations No. 15, 16: (Uruguay) (Argentina) (Sierra Leone);

<sup>7</sup> Recommendation No. 13: (Senegal) (Honduras) (Madagascar) (Sierra Leone);

<sup>8</sup> Recommendation No. 39: (Norway)

<sup>9</sup> Recommendation No. 167: (State of Palestine)

<sup>10</sup> Recommendation No. 38: (United Kingdom of Great Britain and Northern Ireland)

<sup>11</sup> Recommendation No. 5: (Portugal)

- 14.Ensure that the IMF and World Bank recommendations do not have an adverse impact on access to basic rights.
- 15.Set human rights at the center of any financial negotiations and to ensure the banning of any policies restricting depositors' access to funds.

Annex: Recognition of international norm-setting

- 16.Ratify and implement ILO Convention No. 87 on Freedom of Association and Protection of the Right to Organise to ensure the right of all workers to freely organize.
- 17.Ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights, which aims to abolish the death penalty.
- 18.Update the National Human Rights Plan to make it a national binding accord with an action plan for implementation<sup>12</sup>.
- 19.Sign and ratify the Rome Statute of the International Criminal Court, and Accede to and fully align national legislation with the Rome Statute<sup>13</sup>.
- 20.Adopt a National Action Plan on preventing and combating trafficking in human beings and pursue measures aimed at preventing trafficking and providing appropriate protection to victims<sup>14</sup>.

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<sup>12</sup> Recommendation No. 62, 63, 64: (Indonesia); (United Arab Emirates); (Malaysia)

<sup>13</sup> Recommendation No. 21, 22: (France); (Switzerland); (Paraguay); (Austria); (Costa Rica); (Cyprus); (Latvia); (Poland); (Estonia);

<sup>14</sup> Recommendation No. 147: (Republic of Moldova)