

ANNEXE : POINT DE VUE DU GOUVERNEMENT

L'annexe qui suit ne fait pas partie de l'analyse et des propositions de l'ECRI concernant la situation en République de Moldova.

Conformément à sa procédure de monitoring par pays, l'ECRI a ouvert un dialogue confidentiel avec les autorités de la République de Moldova sur une première version du rapport. Un certain nombre des remarques des autorités ont été prises en compte et ont été intégrées à la version finale du rapport (qui ne tient compte que de développements jusqu'au 23 mars 2018, date de l'examen de la première version).

Les autorités ont demandé à ce que le point de vue suivant soit reproduit en annexe du rapport de l'ECRI.

The Government of the Republic of Moldova
Comments on the Vth Report on the Republic of Moldova
of the European Commission against Racism and Intolerance (ECRI)

The Government of the Republic of Moldova welcomes the continued dialogue with ECRI and has carefully considered the contents of the ECRI's Fifth Report on the Republic of Moldova. The Fifth Report of ECRI will be subject to further examination by the competent Moldovan authorities in view of identifying and adopting relevant measures to address, as appropriate. Substantive observations and recommendations will also be evaluated according to the existing social practice and the results will be analyzed in dialogue with the competent institutions at national level.

The present document encloses the general position of the Moldovan Government related to the findings of the ECRI Fifth Report and, for purposes of enhanced clarity, the document follows the structure of the Report.

Legislation against racism and racial discrimination

Taking into account that each state is free to decide whether to accede or not to any international legal instrument as a matter of sovereign choice, in this particular case it shall be noted that the draft law on the ratification of the Protocol No. 12 to the ECHR has been approved by Government Decision No. 360 of 12.06.2015 and subsequently submitted to Parliament for the final adoption. Since the draft of the legislative act was not included in the agenda of the Parliament during 2 years after its registration, according to article 47 of the Regulation of the Parliament (adopted by Law No. 797 of 02.04.1996), the initiative become null. Currently, the Ministry of Justice has renewed the promoting procedure of the draft law on the ratification of the Protocol No.12 to the ECHR in order to get the respective issue to the agenda of the legislature.

The Constitution and the relevant laws of the Republic of Moldova guarantee full protection against discrimination of any person under its jurisdiction, in compliance with the relevant international standards. The discrimination criteria provided for by Art. 1 para. (1) of the Law No.121 of 25.05.2012 on Ensuring Equality has an indicative and not a limitative character. Thus, *any other similar criteria*, as specified by the Law No. 121, leaves the space for any other criteria that is not directly regulated by law, but is protected under the human rights guarantees in the same manner. Unlimited are treated as well as the areas of applicability of the law (e.g. "in the spheres of political, economic, social, cultural and *other spheres of life*"). Accordingly, it was not considered relevant widening the list of possible discrimination criteria regulated by the Law No. 121 on Ensuring Equality.

However, a new draft law is being promoted by the Ministry of Justice in order to modify the existing legal framework and extend the non-discrimination criteria such as: national origin and social status, gender identity, health, any opinions other than politics, wealth, birth. The draft law provides for the amendment of the Criminal Code (the term "citizen" in Article 176 will be substituted with the word "persons", which will ensure the extension of categories of persons protected against discriminatory actions, not being limited to the protection of citizens); the Contravention Code (the competence of the Equality Council to ascertain and examine the contravention specified in Article 71² [..] preventing the Council from acting, influencing its decisions, deliberately ignoring and failing to comply with Council recommendations, and compromise under any other form of the Council's activity); the Law on Ensuring Equality (the scope of the law will be widened in order not to admit discrimination in the field of education and in the exercise of a profession).

According to the same legislative initiative, amendments are proposed to the Law on Ensuring Equality in order to ensure a proper implementation of the duties of the Equality Council and functional procedural aspects. The Council's Rules of Procedure on Preventing and Eliminating Discrimination and Enhancing Equality are proposed to be amended by improving the provisions related to the functionality of the Council, the implementation of the duties of the

President of the Council, the complaints procedure, establishing the possibility of conducting the Council's meetings via technical means as well as establishing the possibility for Council members to carry out on-the-spot investigations, etc. The possibility of the Council to lodge complaints to the Constitutional Court is one of the changes included in the draft law. The draft law on amending and completing some normative acts has been approved by Government Decision No. 635 of 5 July 2018 and registered in the Parliament on 6 July 2018 under No. 235.

The regulatory framework applied at national level by civil status operators in cases when the person has suffered changes of gender identity (transgender) consists of the Law No. 100 of 26 April 2001 on civil status acts; Regulation on the procedure of registration of civil acts¹. According to the legal requirements, the competent subdivision of Public Services Agency operates the change, correction or completion of civil acts if there are no disputes between the interested persons upon the official document presented on his/her gender change. Currently the national law has no other special legal norms which would regulate the administrative way to settle the changes of vital records resulted due to gender identity disorder. The competence to evaluate and offer the necessary (consultative, medical etc.) assistance is attributed to the Commission for identification of gender identity disorder, established by Order of the Ministry of Health No. 1268 (currently Ministry of Health, Labour and Social Protection). In order to overcome the existent legal gap, a draft law is currently being promoted to amend and complete some legislative acts (Family Code approved by Law No. 1316-XIV of 26 October 2000, Law No. 100 of 26 April 2001 on civil status acts and other related legal instruments. It is proposed for the courts to have the task in issuing the record which confirms the change of person's gender, this will serve as legal ground to change the heading "gender" in the birth certificate.

Hate speech

According to the provisions of the Law No. 216 of 29.05.2003 on the Fully Automated Information System to record offenses, criminal cases and those who have committed crimes [...] central bank data management, registration and centralized evidence of criminal information, as well as the issuance of generalized statistical reports on the state of crime in the country are carried out by the Ministry of Internal Affairs, which is the owner of the central bank.

In order to combat the hate speech phenomenon, according to the actions envisaged by the revised National Action Plan for the Implementation of the Moldova - EU Association Agreement (PNAAA) for 2017-2019², new actions were included with the aim to develop and strengthen the dialogue and cooperation in combating racism and xenophobia in the audiovisual and media sectors. Thus, cooperation with the Ombudsman, the Central Electoral Commission (CEC), the Equality Council and other institutions whose mandate, *inter alia*, is to eradicate the hate speech phenomenon is strengthened via various measures (participation of experts at the events organized on a regular basis, regional seminars with the broadcasters, round tables).

Recognizing the social importance of the audiovisual sector and the ever-changing media market, the process of re-evaluating the methodology used to monitor the audiovisual programs broadcasted has been initiated at the national level, with the financial and logistical support through the Joint European Union - Council of Europe project *Promoting Media Freedom and Pluralism in the Republic of Moldova*. Thus, in order to link the given segment to the needs and difficulties the audiovisual field is facing, especially referring to ways of identifying and combating propaganda, fake news and hate speech that are everpresent on the audiovisual market, CCA developed a new monitoring methodology which contain elements for identifying and combating the aforementioned challenges. *The National Concept of Media Development in the Republic of Moldova 2025* has been approved by the

¹ Approved by Order of the Department of Information Technology Mo. 4 of 21 January 2004.

² Government Decision No. 1472 of 30 December 2016.

Parliament on 16 June 2018. The Concept will serve as a strategic document for the Annual Action Plan of the CCA.

As for the aspect related to the electoral campaigns, at the beginning of electoral campaigns, Central Electoral Commission, according to Article 22 paragraph (1) (f) of the Electoral Code, proposes to electoral competitors (parties, other social-political organizations, electoral blocs, independent candidates) and media institutions to sign the Code of Conduct on deployment and reflection of the electoral campaign which provides the moral obligation to organize fair electoral campaigns, respecting the dignity of the participants in the electoral campaign.

Also, the Electoral Code expressly sets out in article 71 the category of subjects whose actions / inactions are challenged according to the electoral procedure, these being electoral bodies and electoral contestants. Therefore, as an example, the involvement of religious cults in the electoral campaign, inclusive by using a discriminatory language, will be evaluated by specialized bodies for this purpose, including authorities with competences in the legal field.

Undoubtedly, combating discrimination is an obligation of the state authorities; at the same time combating it successfully depends also on active behavior of the interested subjects.

The issue of addressing use of sexist hate speech and the perpetuation of gender stereotypes was considered at the national level when adopting the Strategy for Equality between women and men in the Republic of Moldova for the years 2017-2021, approved by the Government Decision No. 259 of 28 April 2017. The document includes general objective 3 *Combating stereotypes in society and promoting nonviolent communication* with 2 specific objectives:

- Specific objective 3.1: *Promoting gender balance in the media and advertising;*
- Specific objective 3.2: *Raising public awareness of the perception of gender stereotypes and nonviolent communication.*

Taken the fact that one of the main factors contributing to the perpetuation of violence against women and domestic violence is the patriarchal stereotypes and attitudes, the National Strategy for Preventing and Combating Violence against Women and Domestic Violence, approved by the Government Decision No. 281 of 3 April 2018 also proposed to remedy the problem given by a series of actions aimed at achieving the General Objective 1. *Elimination of stereotypes and prejudices regarding the phenomenon of violence against women and domestic violence by informing, raising awareness and encouraging the reporting of cases of violence.*

Integration policies

Financing community mediators from local budgets has led to a considerable decrease of their number, the local authorities arguing this decrease by lack of financial means. Given the essential contribution of the community mediator to the integration of Roma into society, in order to ensure the continuity of the community mediator service, in September 2017 the Ministry of Finance was requested to examine the possibility of financing community mediators from the state central budget. As a result, for the year 2018 financial means in the amount of 2239,6 thousand MDL were allocated for the salaries of 48 community mediators from 44 localities densely populated by Roma.

By August 2018 27 Roma community mediators were employed and fulfilled their activity. Furthermore, there is an ongoing effort to work with local authorities to encourage them to continue employment of Roma community mediators and to foster the implementation of 2016-2020 Roma Action Plan as a whole.

Also, by Government Decision No. 425 of 15 May 2018 the Regulation on the organization of the community mediator's activity³ is being promoted in order to amend and complete the

³ Government Decision No. 557 of 17.07.2013 for the approval of the framework Regulation on the organization of the community mediator's activity.

acting Government Decision No. 557 of 17.07.2013 for the approval of the framework Regulation on the organization of the community mediator's activity, which proposes that the expenses for the salaries of the community mediators is to be made by transfers with destination from the state budget to local level I budgets, the central budget of the autonomous territorial unit with special legal status and the municipal budgets of Bălți and Chişinău. Following the approval of the Decision, the continuity of financing from the state budget of the community mediators will be ensured, so contributing to the social integration of the Roma.

According to the current legal framework, Roma people benefit of all services on the labor market as well as of the active employment measures offered by National Agency for Employment (NAE). Although the number of Roma addressed to NAE remains low, the Roma are trained in active services and measures when they are addressing to NAE. Thus, the number of Roma unemployed registered at NAE is growing. During the year 2017, 1599 Roma people were registered as unemployed (3.8% of the total number of registered unemployed) compared to 1453 unemployed in 2016. The number of Roma employed in 2017 amounted to 152 persons, the employment rate being 9.5%. At the same time, since the beginning of 2018, 971 Roma people have been registered for job search, out of which 57 persons have been placed in the labor market.

It is worth mentioning that the inclusion of Roma in the labor market is quite difficult considering the level of education they have and the lack of working experience. Due to the fact that the level of education is minimal, held by the Roma registered with the NAE with the status of unemployed, it is difficult to enroll them in professional training programmes. Thus, during 2017, 15 Roma unemployed graduated from the vocational training courses.

When integrating Roma people into the labor market, the NAE faces several problems, including: the minimum level of education, the lack of qualifications; lack of working experience; lack of knowledge of the presentation techniques at the interview; lack of motivation to look for a job (preferences related to self-employment); reluctance by the part of employers to accept a Roma person as an employee; the discrepancy between demand and supply on the labor market, including in the urban / urban aspect; high migration of Roma people; lack of identity documents etc.

Managing the integration domain of refugees and immigrants in the Republic of Moldova is one of the biggest challenges for our society as it involves setting certain standards, concrete responsibilities and assuming commitments to immigrants themselves. In order to facilitate the access of refugees and foreigners to information on integration activities and assurance of quality services provided by the Government, as well as for taking over best practices on integration (Romania, Portugal, France, Austria etc.) by Government Decision No.553 of 12 July 2017 were established three Regional Integration Centers (South, Center and North). The Integration Centers accomplish the state efforts to create optimal conditions for newly arrived foreigners in the country and their permanent settlement on the territory. Integration Centers work on the principal of one-stop shop. The Centers also allow a better dissemination of integration activities, improvement of cooperation with local authorities, conducting information campaigns, creation of new services directed to the specific needs and requirements of foreigners. Integration Center approach as one-stop shop to facilitate the integration process of foreigners is innovative and feasible, without discrimination on any ground. The Integration Center becomes a support for strengthening relations between the Government and local authorities on the one hand and civil society on the other.

In order to implement the provisions of the Law No. 274 of 27 December 2011 on the integration of foreigners in the Republic of Moldova, by Government Decision No. 71 of 23 January 2018 the Action Plan on the integration of foreigners for 2018 has been approved.

