

**Alternative Report submitted by Centrul de Informare in domeniul Drepturilor
Omului (Human Rights Information Center)
to the 56th Session
of the Committee on the Elimination of Discrimination against Women in relation to
the Fourth and Fifth Periodic Report of the Republic of Moldova, CEDAW/C/MDA/4-5**

This submission has been developed during October 2012 - August 2013 by performing monitoring activities of Gender Equality in the Republic of Moldova, covering the following areas:

- 1. Legislative and institutional aspects on Gender Equality**
- 2. Women in Economy**
- 3. Sexual harassment and sexist advertising**
- 4. Feminization of poverty**
- 5. Women in psychiatric institutions**
- 6. Lesbian, bisexual and transgender women**
- 7. The role of religion in limiting the rights of women**

Legislative and institutional aspects on Gender Equality

Progress:

The amendments developed by the Civic Coalition for Free and Fair Elections to the Law on political parties, no. 294/2007¹ provide for affirmative measures to promote gender equality. Thus, the proposed article 28¹ for amendment stipulates that from the public funds allocated for public funding of political parties:

- 10% to be allocated to political parties which promoted women on their candidates lists in parliamentary elections, proportionately to the number of mandates obtained by women candidates;
- 10% to be allocated to political parties which promoted women to the second level local councilors (rayons and Chişinău municipality) and mayors, proportionately to the number of mandates obtained by women candidates in general local elections.

Even if these provisions were enacted, they would be just a small step in the right direction, while their effect would be rather limited due to the small share of incoming

¹ Current version available at <http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=327053> [last accessed on 31.07.2013].

public funds in the total budget of political parties, and very large share of “shadow” funds in the party and electoral funding, mainly controlled by men.

As per the most recent updates, even this modest step is now being withdrawn from the legislative amendment on the proposal of the Ministry of Justice. A more effective measure would be to ensure a “zebra-type” quota of women on the candidates lists of political parties (of at least 40%) that register in electoral campaign, by amending the Electoral Code. An attempt to introduce a quota of 30% for the candidate lists before the local elections in 2011 failed because of the lack of political will among the ruling political forces (predominantly consisting of men).

Both amendments were brought up by the National Participation Council repeatedly in July 2013 in a note², with the suggestion to include into the Government agenda discussed on the 25th of July. The suggestions were refused. Tatiana Potîng (a woman), vice-minister of education mentioned “We don’t need this”.

The developed amendments to the Law on ensuring equal opportunities for women and men contain certain provisions that could potentially advance gender equality especially through:

- strengthening the former gender units within public authorities by means of creating improved institutional structures – gender councils comprised of gender units of the structures with competence to develop, promote and monitor policies in the relevant field; these steering groups would be present in each ministry and would have the role of a gender legislative filter for relevant legal and regulatory acts;
- a firmer approach to the phenomenon of sexist advertising by means of prohibiting publication of any material and information which represents the image of a certain gender in a humiliating manner and/or which contains an open or implied call to promote one gender to the detriment of the other in various fields.

The bill was sent from Government to Parliament on the 19th of February 2012, registered in Parliamentary Commission for Human Rights and Interethnic Relations on the 29th of February and since then is in a prolonged process of examination, without a due justification on the delay.

In a meeting with representatives of the Ministry of Education the following progress in promoting and ensuring gender equality in the educational system was mentioned:

- History classes from the 5th grade onwards cover the following topics: Women in the Middle, Contemporary, Modern, etc. Age; Women in Arts and Literature; and

² Document in Romanian accessible at this link <http://www.cnp.md/ro/sedinte-de-guvern/item/download/1484> [last accessed 31.07.2013].

the Role of Women in History. Teachers have a teaching guide that clearly outlines the gender-based approach.

- There is also an optional course at school on Gender Equality, which is not popular, just like many other optional courses.
- During Technological Education students of both sexes have a choice to study either carpentry (in previous years studied only by boys) or sewing and culinary abilities (previously studied only by girls). During recent years students are divided because of their number in the class (not based on gender), but they are free to choose the direction of studies. In reality the choice is not available in all schools, some of them use the previous division based on gender.

Recommendation:

- Institutionalization of the “zebra-type” quota of women on the candidates lists of political parties (50% to 50%) that register in electoral campaign, by amending the Electoral Code, under the sanction of elimination of the violating political party from the electoral campaign.

Areas with No Progress or Insignificant Progress:

In 2012 the Republic of Moldova went 6 places down in the world gender equality top from position 39 in 2011 to the position 45 in 2012 (out of 135), as stated in the Gender Gap Report 2012. This significant regress denotes lack of progress in the field of gender equality ensuring in the Republic of Moldova. In terms of political empowerment of women, the Republic of Moldova occupies position 85 out of 135 and is situated far from the absolute majority of European Union countries, where it strives to integrate into.

Political representation of women is still under the level of commitments undertaken based on the Millennium Development Goals. According to the corresponding commitments until 2015, the Republic of Moldova has to attain the following objectives:

- 30% women as members of Parliament (at the moment Moldova has 19.8% of women-parliamentarians);
- 25% women in rayon councils (at the moment Moldova has 17.4% of women-rayon councilors);
- 25% women as mayors (at the moment Moldova has around 18.5% women-mayors);
- 40% women in local councils (at the moment Moldova has 28.6% women-local councilors).

At the general local elections in 2011, the share of women-candidates for the positions of mayor was 18.9%, while in 2007 it was 23.5%.

Thus, at all the above-mentioned levels of public authorities, the Republic of Moldova performs 1.35-1.5 times under the undertaken commitments.

The situation is even more serious at the level of rayon chairs (of which women make up only 3%).

There seem to be improvements in the Cabinet of Ministers with increase from 9.52% to 23.8% over the last year. This percentage however is still far from the true gender balance target (50/50).

At the moment, there are no enacted affirmative measures in the Republic of Moldova that would be aimed at promoting gender parity in political representation. An attempt to introduce a quota of 30% for the candidate lists before the local elections in 2011 failed because of the lack of political will among the ruling political forces (predominantly consisting of men).

There is still no body in the Parliament of the Republic of Moldova that would perform analysis of draft laws from gender perspective and that would monitor implementation of the Law on Equality of Chances between women and men.

At the ombudsmen's office (The Center for Human Rights) there is no mechanism or insistence on analyzing draft laws from gender perspective or on monitoring implementation of the Law on Equality of Chances between women and men.

The Moldovan Orthodox Church, as well as other numerous religious denominations present in Moldova continues promoting a patriarchal model of societal relations between women and men, while public authorities do not assume the role of the leader in promoting new models based on the gender equality principle. Moreover, central public authorities seem to be getting more inclined to promote Christina-Orthodox indoctrination of public policies, including in the field of family and reproductive rights, to the detriment of the rights of women (amendments proposed to the legislation on abortions).

There are registered cases of sexual harassment, including at the highest level. Also, there are still reported cases of sexual abuse within the penitentiary system,³ as in previous years⁴. Just like in case of sexual harassment at workplace, aggressors from within the penitentiary system are not hold criminally liable.

³ <http://discriminare.md/reportaje/scandal-sexual-in-penitenciare-intre-adevar-si-minciuna/>

⁴ <http://jurnal.md/ro/news/-puscari-noastra-cuibusor-de-nebunii-scandal-sexual-206520/>

Within the last year there were reported cases of sexist advertisement placement by commercial agents in Chisinau municipality after a mandatory endorsement procedure with the Chisinau City Hall. These images keep promoting traditional gender roles or exploiting images of women as sexual objects, while men as users and beneficiaries of these services. In addition, Chisinau Mayor, Mr. Dorin Chirtoaca, recently made a sexist remark with regard to one of the women staff of the Chisinau Mayoralty. These practices show lack of gender aspect understanding at the Chisinau City Hall, as well as lack of effective mechanisms for prevention and cease of sexist advertisement placement cases.

Women in economy

The discrimination of women in labor field starts with discriminatory or sexist job advertisements. On websites and printed newspapers there are still advertised jobs that require specifically young women, without a reasonable necessity (e.g. saleswoman, VIP hostess at airport, secretary, etc.), or men for gender-neutral jobs (e.g. legal experts, accountants, financial managers). If in sexist job advertisements the employer seeks to make use of feminine aspect in enhancing sales or “respond” to target groups of men (e.g. airport VIP hostess), then men are preferred by employers on permanent jobs to avoid pregnancy period and maternity paid leaves. The case of I.D. against a local company which has dismissed her after announcing the employer of her pregnancy is still in Appeal Court (due to be reexamined in autumn 2013) has resulted so far in admitting the miscalculation for worked days, but failing in admitting that discrimination on the basis of sex has taken place⁵.

The same situation is in regards to women employed by the Ministry of Interior who have military degrees. Women from this category are exempted from tax due to fiscal facilities applied for military personnel. In the same time women workers not paying taxes receive a minimum of maternity leave (approx. 25 USD per month) and not 30% of salary as for women who do not have military degrees. The case of V.C. was taken to court with a positive decision on recalculation of maternity leave, but without the admission of an indirect discrimination⁶.

The amendments to the Law on Police Activity and Statute (nr. 416), in support of Ministry of Interior reform has eliminated the indirect discriminatory provision by

⁵ Case documented by Nondiscrimination Coalition, in 2011.

⁶ Case documented by Nondiscrimination Coalition, in 2011.

establishing a calculation of maternity leave equal to the average salary for the previous 6 months.

Even young single women are discriminated in favor of women married and having children. This is the case of a woman who has graduated Social Assistance faculty, from Criuleni region⁷. She has been discriminated twice in applying for the same position as social assistant.

Despite the efforts of the Moldovan Government to ensure equal participation of women in the labor market, women have higher rates of unemployment compared to men (42.3% versus 45.3%)⁸. From the total number of employed women, 75% are employees, compared to 0.5% who run their own business and 20% who are self-employed, which is explained by paternalistic and discriminatory attitudes towards women⁹. In the same time, women benefiting of a job do not receive the same pay as men, for the same positions. The official statistics affirm there is a pay gap of 12.2% disadvantaging women¹⁰.

The most feminized economic activities are still those with lower salaries:

- Health and Social Assistance (80,7% of employees);
- Education (75,4% of employees);
- Hotels and Restaurants (71,1% of employees);
- Financial Activities (67% of employees);
- Leisure, Culture and Sport (59,4% of employees).

Questions to the State:

- What did the State do to combat gender stereotyping in employment and to prevent and cease sexist job advertising?
- What did the State do to secure effective mechanisms and adequate remedies for victims of discrimination on the labor market?
- What did the State do to diminish poverty feminization? This is in the context that the women are mostly employed in positions from the social sphere (healthcare, education, social assistance; serving positions for leisure and catering).

Recommendations:

The Government should be strongly encouraged to:

- Adopt the amendments to Law on publicity and Law on equality of chances between women and men as to prohibit and exclude discriminatory and sexist job advertisement.

⁷ Case documented by Nondiscrimination Coalition, in 2011.

⁸ The National Bureau of Statistics (2011).

⁹ Data of 2011 from the webpage of the National Bureau of Statistics. Available at <http://www.statistica.md/category.php?l=en&idc=264>.

¹⁰ Official web page of National Bureau of Statistics, accessed at 20.05.2013 <http://www.statistica.md/category.php?l=en&idc=264>

- Ensure effective implementation of the Law on ensuring equality through developing and professionalizing the Council on Prevention and Fighting Discrimination, and train the legal professionals on application of legal provisions.
- Revise the Law on ensuring equality in order to secure effective mechanisms and adequate remedies for victims of discrimination.
- Conduct trainings with judges, prosecutors on effective implementation of the Law on ensuring equality.
- Conduct an analysis on causes of poverty feminization with recommendations and necessary measures of diminishing this phenomenon.

Feminization of poverty

In 2012, in support of the Decentralization Reform UN Women jointly with United Nations Development Programme in Moldova have elaborated the study “Access of women, men and vulnerable groups to services and decision making process at the local level” in pilot localities.

The study found significant disparities between men and women. A cause of low participation of women in decision making is the need to care for children, which was not reported by men. Women are less likely to continue their studies (62%) than men (52%). Women are more vulnerable than men in terms of access to health services, which was confirmed by the percentage of women who buy insurance policies (24%) compared to 20%. Rural women are often forced to pay extra to buy some medical services or drugs more effective (28% compared with 23% in urban areas). Women frequently are not employed (50% compared with 42% for men), which is explained by the need to care for children and manage household chores. Women are often in a situation where they can not provide the necessary financial food (23% compared with 18% for men). Women face frequent problems with housing and adequate living conditions. Families in rural areas where women headed families are rarely connected to the water supply (55% compared with 75% for families run by men).

Lack of interest, lack of participation in decision-making procedures, the lack of proactive approach from the authorities created significant barriers in making decisions. Although women rarely attend meetings of local councils, the number is significantly less than men. Paternalistic approach of society, where women are largely the role of childcare, their participation rate decreases.

Women face difficulties in continuing their studies. Motherhood, lack of support from relatives, lack of financial resources and their perception vis-a-vis the necessary studies are reasons that stopped the education of women.

Women are more vulnerable in financial terms. The women managed households financial situation is more acute than in families managed by men. In case of divorce, birth of a child out of wedlock, or a child with disabilities, women have reported that they are often abandoned and had to support his family without the support of her husband. Women in a higher proportion said they called and they receive social support and currently (19% compared with 16% among men).

Housing and adequate housing is another problem that affects women disproportionately. The survey found that women less than men, have their own buildings. More women than men indicated that living with parents (9% versus 6%) higher figure noted for divorced persons. Urban women more frequently than men, staying in the same house with parents (7% versus 4%). Housing problem among women by men is clear from early in the event of problems or divorce. Thus, most of the time, they come to live with families in which they were born, or are forced to rent a home. Due to the limited financial resources available to rent housing quality often taken minimum compliant. Sometimes this makes the reasons that women tolerate violent behavior from spouses, to avoid problems of housing.

The survey found that women who face a higher degree of vulnerability of access to drinking water. Women are in a lesser prone to connect to the water supply because of a difficult financial situation than men. Families in rural areas where women headed families are rarely connected to the water supply (55% compared with 75% for families run by men). Rural women, a higher percentage indicated that they use for cooking water from wells (40% compared with 35% in urban areas). Discussions in the focus groups revealed that women more than men realize the problems related to poor water quality.

Meanwhile, during a press conference on the 22-nd of July 2013, the Minister of Labor, Social Protection and Family has reported that approx. 9 mln MDL (about 545.000 EUR) of social aid were distributed incorrectly or by fraud during previous years.

Although women are to an extent accepted in society as policy makers, however, the general view is that women should deal mainly with housework and childcare issues. It is worth noting that this view is shared by both men and women. This indicates a decreased level of information in society on human rights, equality between men and women.

It is worth mentioning that vulnerable groups and would like to see greater women in management or a higher level of authority. This is probably due to the desire and hope that this will solve some problems. However, survey data indicate that women would like to assume the role of chief politician or mayor. This, together with relatively lower

degree of acceptance of men in society confirms paternalistic approaches and lack of opportunity and equal opportunities, especially regarding accession to leadership positions.

The same roots of feminization of poverty appear in the 2013 study “Time Occupancy”¹¹ (Use of time) of National Bureau of Statistics. According to it women spend 45 minutes less at their jobs than men, on the other hand women spend one hour and 40 minutes more in house chores and family care more than men. This disparity leads to a smaller generation of income versus an occupancy with house chores, a duty often attributed to women and of course unpaid.

The same study reveals that men use more time for social life and entertainment, sport, outdoor activity, hobbies and computer use, mass media.

The disaggregated data by age, reveals the same tendencies in the age group of 10 years old respondents and older. The young girls allocate by two hours more of personal time than boys to house chores and family care, and less to social life and entertainment, sports, hobbies, computer and mass media. This can allow the interpretation that girls are educated from an early age to dedicate their time more to family care than to personal development.

Questions to the State:

- What did the State do to ensure adequate affirmative measures and support to vulnerable families in particular households lead by women?
- What did the State do to secure effective ways of promotion of women in decision making public positions?
- What did the State do to diminish poverty feminization?

Recommendations:

The Government should be strongly encouraged to:

- Conduct an analysis on causes of poverty feminization with recommendations and necessary measures of diminishing this phenomenon.
- Secure public funds disbursement as social aid, compensations, maternity leaves and other, in particular to vulnerable families, especially those lead by women.
- Promote a strong national campaign for gender inclusion into public sphere and public decision making.

¹¹ A brief summary in Romanian available at <http://www.statistica.md/newsview.php?l=ro&idc=168&id=4055>, the full study available at http://www.statistica.md/public/files/publicatii_electronice/Utilizarea_timpului_RM/Utilizarea_timpului_RM.pdf

Sexual harassment and sexist advertisement

According to the Art.173 of the Moldovan Criminal Code sexual harassment shall be punished by a fine in the amount of 300 to 500 conventional units or by community service for 140 to 240 hours or by imprisonment for up to 3 years. However, in practice the responsible authorities do not undertake adequate measures for investigating, sending to court and sanctioning the perpetrators. The investigation course in a case involving the head of the State Hydrometeorology Service, Ilie Boian, made public in August 2012, illustrates the above mentioned problems. In fact, Mr. Boian resigned after a TV channel broadcast images of him caressing and kissing a woman (employee of the Service). Only after this disclosure the deputy prosecutor of the Centru Prosecutor's Office, Oleg Afanasii, declared that the multiple cases of offence (imputed to Mr. Boian) had taken place between 2010 - February 2012. The criminal proceedings were initiated only in February 2012, while in May there was another case with another victim. The criminal charges with both offences combined in a single record were lodged with the Centru Court.¹² From the statements and disclosures made the following can be stated:

- The law enforcement bodies knew about the first case of sexual harassment committed by Mr. Boian in 2010, however no measures were taken to prevent his criminal activity with regard to other victims;
- The Minister of Environment, Gheorghe Şalaru, did not dismiss Mr. Boian using a disciplinary procedure under the Art. 206 of the Labor Code¹³, but accepted an "honorary resignation".

The criminal file of Ilie Boian was finalized and sent to Court. During the court trial, at the end of 2012, the parties reached a settlement and the case was closed¹⁴. Thus, ultimately no legal sanction was imposed on the high-ranking offender.

Similar cases of sexual harassment at work have been identified by the media¹⁵. Also, there are still reported cases of sexual abuse within the penitentiary system¹⁶, similar to the situation in previous years¹⁷. There is no practice of adequate investigation of harassment cases and sanctioning of the harassers, the majority of victims resign and search for another job, being aware that their protection and remediation is not de facto

¹² http://www.publika.md/detalii-despre-scandalul-sexual-cu-implicarea-lui-ilie-boian--dosarul-pe-numele-sefului-shs--deja-pe-masa-judecatorilor_975601.html

¹³ Art. 206 of the Labor Code "For breach of work discipline, employer shall have the right to apply the following disciplinary sanctions on the employee: a) warning; b) reprimand; c) severe reprimand; d) dismissal(following the reasons stipulated in the art.86 paragraph (1) letter g-r)". English version of the Labor Code available at http://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---ilo_aids/documents/legaldocument/wcms_127944.pdf [last accessed 31.07.2013].

¹⁴ http://www.publika.md/scandalul-sexual-cu-ilie-boian-s-a-terminat-partile-s-au-inteles-iar-dosarul-a-fost-clasat_1203801.html

¹⁵ <http://discriminare.md/istoria-mea/s-a-concediat-din-cauza-ca-era-hartuita-sexual/> [last accessed 31.07.2013].

¹⁶ <http://discriminare.md/reportaje/scandal-sexual-in-penitenciare-intre-adevar-si-minciuna/> [last accessed 31.07.2013].

¹⁷ <http://jurnal.md/ro/news/-puscarea-noastra-cuibusor-de-nebunii-scandal-sexual-206520/> [last accessed 31.07.2013].

guaranteed¹⁸, as results from the above-quoted cases. Just like in case of sexual harassment at work, aggressors from within the penitentiary system are not hold criminally liable. Moreover, nor the Criminal executive Code neither the Statute of the execution of sentence by the sentenced persons does not contain any special provisions on fight against sexual harassment.

Another category of women's rights violation refers to sexist advertising on billboards by commercial agents. Within the last year cases occurring in Chişinău municipality were reported; the billboard authorization is given after a mandatory endorsement procedure with the Chişinău City Hall department of Architecture and Urbanism. These images keep promoting traditional gender roles or exploiting images of women as sexual objects, while men are depicted as users and beneficiaries of these services. These practices show lack of understanding of gender dimensions and gender stereotyping at the Chişinău City Hall, as well as lack of effective mechanisms of prevention and cease of sexist advertising.

Between 2010 and 2013 two companies that promoted their products (furniture and pantyhose) have been sued by a group of women, with the help of the human rights lawyer Doina-Ioana Străisteanu. Both cases reached the Supreme Court in 2013 and have not been decided in favor of the claimants. Because there is no express prohibition of sexist publicity the national judges did not consider that the images of women used in above mentioned advertising is "immoral" according to Art. 11 of the Law on publicity.

Without the necessary amendments on prohibiting sexism to the Law on advertising and the Law on ensuring equal opportunities for women and men, as well as without adequate sanctioning of business and PR companies that still consider that the use of attractive female bodies may sell anything, the constant advertising with nude and/or stereotyped women images in public would keep on being used. Civil society activists report at least one case of sexist advertising every 2 months¹⁹.

Questions to the State:

- What did the State do to ensure adequate investigation of harassment cases and sanctioning of the harassers, as well as to protect victims of harassment?
- What did the State do to combat gender stereotyping and to ensure effective mechanisms of prevention and cease of sexist advertising?
- What are the reasons for the State having a record of sexual exploitation and harassment cases without effective investigation and sanctioning, and what specific measures are being implemented to improve this record?

¹⁸ <http://pentruea.md/article/a-demisionat-din-cauza-ca-era-hartuita-sexual-699.html> [last accessed 31.07.2013].

¹⁹ <http://www.balcanicaucaso.org/eng/Regions-and-countries/Moldova/Sexist-advertisement-in-Chisinau-98495> [last accessed 01.08.2013].

Recommendations:

The Government should be strongly encouraged to:

- Ensure that sexual harassment exploiting dependence of potential victims, such as workplace or family setting, police custody or penitentiary system, shall be penalized as a criminal offence with effective sanctions, with no right of ceasing the procedures on the ground of “mutual settlement”.
- Review the sexual exploitation and harassment cases (including to the workplace and within the penitentiary institutions) and effectively bring to justice the sexual offenders in the reported cases.
- Adopt the amendments to Law on publicity and Law on equality of chances between women and men as to expressly prohibit and exclude discriminatory and sexist advertisement.
- Conduct trainings for judges, prosecutors and police officers on investigation of sexual harassment.

Women in psychiatric institutions

According to the data revealed in an interview with the National Institutional Ombudsman, women in psychiatric institutions suffer from a wide range of abuse and rights infringements²⁰. First, the following infringements have been reported as regard of reproductive rights:

- Forced abortions after which women do not have menstrual cycle and/or do not get pregnant²¹.
- Lack of contraceptives and access to them. Abortions are solely used as contraceptive measures by the gynecologists in charge.
- Use of medication that leads to the dysfunction of the reproductive system.
- Rape of at least 16 women by a doctor in the Bălți psychiatric centre. Two cases with 8 plaintiffs each are currently on trial in court²².

Second, cases of internment of women and men without consent, without court decision, without offering an internment sheet in a language understandable to the patient, without explaining the reasons, estimated treatment period and methods were registered in the first half of 2012. A poor understanding and implementation of the Law on the rights of persons with disabilities by the personnel of the psychiatric institutions from lowest position to the highest level of administration lead to a practical deprivation of liberty and/or infringement of the rights of women and men.

²⁰ Institutional Ombudsman Report. Available at http://dis.md/wp-content/uploads/2012/02/RAPORTUL-FINAL_6luni-apr-sept-20121.pdf.

²¹ Case of S.Z. who faced two abortions in 2005 and 2009, documented by the National Institutional Ombudsman.

²² Cases 1-701/2013 and 1-563/2013, Florea Stanislav Ion accused of breaching the Art.171 (Rape) of the Criminal Code.

Third, women reported that the institutions do not ensure them with hygiene products, due to insufficient funds transferred by National Health Insurance Agency. Thus, starting from soaps and shampoo to sanitary pads, all these basic items have to be purchased by them or traded with medical personnel and other patients. Both women and men reported²³ that showers with hot water are accessible only once a week. Needless to mention it raises the question on adequate sanitary conditions generally, yet in the case of women the necessities during menstrual period require permanent access to showers. Gender specific issues are not incorporated into internal regulations of the institutions denoting a lack of interest, understanding and care for women in psychiatric institutions.

Questions to the State:

- What did the State do to prevent forced abortions in the psychiatric institutions and to punish the perpetrators?
- What did the State do to ensure access of women from psychiatric institutions to personal hygiene services (soaps, shampoo, sanitary pads, hot water, etc.)?

Recommendations:

The Government should be strongly encouraged to:

- Exclude forced abortions as institutional practice in Psychiatric Institutions;
- Conduct specific trainings to personnel of psychiatric institutions, according to their functions, on the Law on persons with disabilities; ensure a correlation between the legal provisions and the Internal Regulation of the institution as well as the Job Description of the employees and other relevant documentation.
- Ensure daily access to hot water showers for women, as well as access to/or products for hygiene.

RIGHTS OF LBT WOMEN

LBT women in Republic of Moldova are constrained to live in their intimacy without expressing their sexual orientation. In a case documented by GenderDoc-M, an NGO that defends the rights of LGBT, a lesbian woman has been harassed by her former husband and sought protection before the courts²⁴. The court found that woman's former husband discriminated her on grounds of sexual orientation by harassing her.

Every year, including in 2012 and 2013, the Gay Pride has been accompanied by religious protests sustained in a tacit way by the authorities. Although the LGBT organization submitted the application informing the Chişinău authorities about the Gay pride in the centre of Chişinău, the right to manifest in the centre of the city was awarded to religious organization that manifested against the gay pride. Harassment of gay persons by

²³ According to the interview with the National Institutional Ombudsman Doina-Ioana Străisteanu on 13.06.2013.

²⁴ <http://www.lgbt.md/rom/story.php?sid=747> [last accessed on 31.07.2013].

Church officials through discriminatory public declaration is not sanctioned by the state authorities, which even did not try to stop the homophobic attitudes of Church representatives related to the gay issue.

On July 12th 2013, the Misdemeanor Code was amended with a new provision prohibiting the dissemination of public information regarding relationships other than those related to the family as seen in the Constitution and the Family Code²⁵. In fact, these provisions are a hidden prohibition of “gay propaganda” as called by the opponents of sexual minorities.

The local authorities of Bălți City, the second biggest city in Republic of Moldova, issued a City Council decision²⁶ prohibiting the “propaganda of homosexual relationships”²⁷. After a trial that took almost 6 months, in July 2013 the Court of Appeal repealed the decision of the district Council, but during these 6 months the decision was in force and was susceptible of execution, and no one was sanctioned for the issuance of an illegal decision.

Although the Government shall ensure equal rights to all persons under its jurisdiction, there are no legal regulations on the procedure of changing the ID document for transgender persons, and they have to claim their rights only before a court. The authority for civil status issues new born certificates only on the basis of a court decision. The Supreme Court of Justice issued a recommendation on the way the courts should examine the cases related to the changes in civil status documents as a result of the person’s sex change²⁸. However, this recommendation does not solve the problems of transsexual and transgender in Moldova. In order to change their ID, transsexuals and transgender must go through a court trial, which is often very long and imply supplementary costs. The average length of a trial is 2 years and the average cost is approx. 1000 Euros if the persons hire an attorney, while the average salary in Republic of Moldova is approx. 233 Euros.

The Ministry of Justice is reticent towards legislative amendments that would ease this procedure for the transsexual persons, the fear of MoJ representatives is that “gay persons would claim a sex change in their IDs and thus obtain a legal way of getting married with their same-sex partners” as one of the officials remarked during closed consultations.

Discrimination of LBT women in Republic of Moldova is generally determined by: 1) the lack of public policies which promote tolerance for LBT persons; and 2) the absence of

²⁵ <http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=348682> [last accessed on 31.07.2013].

²⁶ Decision No. 12/16 issued on 23 February 2012 on “The declaration of Bălți City a supportive zone of the Orthodox Church of Moldova and the non-admission of the aggressive propaganda of the untraditional sexual orientation in the City of Bălți”.

²⁷ <http://www.acum.tv/rubrica/info/comunicate-de-presal/> [last accessed on 31.07.2013].

²⁸ http://jurisprudenta.csj.md/search_rec_csj.php?id=33 [last accessed on 31.07.2013].

explicit and express legal protection against discrimination for LBT women and of judicial mechanisms for LBT women protection.

Lack of public policies promoting tolerance for LGBT and the respect of LGBT rights:

Republic of Moldova does not have any policy documents promoting the rights of LGBT or LBT women in particular. The discrimination of LBT women is a systemic phenomenon²⁹. The state does not contribute to the eradication of discrimination against LBT. Homophobic attitudes are manifested by some of the political leaders and parliamentarians, sustained by similar declarations of Christian Orthodox and Evangelical Churches. The leader of the Communist Party and the leader of the Socialist Party held public homophobic speeches and promoted the abolishment of the Law on ensuring equality because “it promotes homosexuality”³⁰. During the National NGO Forum held in a parallel hall to the one where usual Parliamentary sessions are held one of the communist party members - Eduard Musuc asked in a reprimanding tone on what basis the hall was allowed for “meetings of lesbian organizations”³¹. The members of the communist party often spread hate speech towards LGBT people, without being sanctioned.

Meanwhile, the situation has no improvement perspectives because of the lack of sexual education programmes. The society remains intolerant to LBT persons, many of them are afraid to declare their sexual orientation because of fear of social repulsion.

The Law on ensuring equality³² does not fully protect LGBT and LBT women in particular in all life areas. Sexual orientation has been excluded as a discrimination ground from the Law. LBT women are protected directly only in the area of employment; all other potential discrimination cases are covered by article 1 of the Law if the “ and other similar criteria” will be applied extensively, leaving sexual orientation for the interpretation of judges on each specific case.

The Council on Prevention and Fighting Discrimination as provided for in the Law on ensuring equality does not have a mandate to directly sanction acts of discrimination and to establish the amount of damages for the victims of discrimination. According to the Misdemeanor Code only discrimination acts, based on all possible criteria, in areas of access to several types of services and the right to work shall be sanctioned by the courts. Many other cases of discrimination in other fields than those related to access to services, committed by private persons on different grounds will not be sanctioned.

Questions to the state:

²⁹ Soros Foundation-Moldova, *Study on the perceptions of Moldovan population on the discrimination phenomenon* (2011).

³⁰ <http://www.moldovacrestina.md/news/biserica-buna-vestire-despre-festivalul-LGBT-curcubeul-pestel-nistru-2013.html>.

³¹ Article accessible at http://www.publika.md/video-corman--domnule-voronin--de-ce-e-asa-rau-musuc--de-parca-nu-a-fost-mangaiat-cand-era-copil_1444681_comentarii.html.

³² Law on ensuring equality, no.121/2012, Published on: 29.05.2012, entered in force on 01.01.2013.

- What did the State do to protect the LBT rights in the Republic of Moldova?
- Which are the policy documents approved and implemented by the state in order to improve the respect of LBT rights in the Republic of Moldova?
- What did the State do to promote tolerance towards LBT women in the Republic of Moldova?

Recommendations:

The Government is strongly encouraged to:

- Develop, adopt and promote policy documents for promotion of tolerance and acceptance of LGBT persons in the Republic of Moldova.
- Ensure the compliance of the rights of LBT women to freely express their opinion on their rights and on how a family must look like.
- Repeal the provisions of the Misdemeanor Code limiting the right to opinion and/or expression regarding the family relationships inclusively for LBT women.
- Create norms ensuring the possibility of transgender persons to change their ID documents.
- Amend the Law on ensuring equality to enable the Council on Prevention and Fighting Discrimination to directly sanction acts of discrimination, and to establish the indemnification amount for the victims of discrimination.
- Amend the legal framework in order to ensure equal civil rights for LBT persons living in partnership relations and those that are legally married.

The role of religion in limiting the rights of women

Although the national legal framework provides for a broad protection of freedom of thought, conscience and religion, there are still important challenges ahead to ensure the full enjoyment of this fundamental right for all on the basis of non-discrimination and equality. According to the findings of the Special Rapporteur on freedom of religion or belief, Heiner Bielefeldt, the remaining obstacles mainly derive from the predominant position of the Orthodox Church, which enjoys a privileged status at variance with the constitutional provision of a secular State³³. The Moldovan Orthodox Church exercises an extremely high and visible domination over elaboration and adoption of public policies in the area of religious rights and freedoms, as well as on other important public policies (in the area of equality and non-discrimination, health care, family issues, etc)³⁴. Along with other numerous religious denominations present in Moldova, the Moldovan Orthodox Church continues promoting a patriarchal model of social relations between

³³ A/HRC/19/60/Add.2, *Final Report of the Special Rapporteur on Freedom of religion or belief*, Heiner Bielefeldt, p.61. Available at http://www.un.md/news_room/pr/2012/HR_Report/G1210269.pdf [last accessed on 31.07.2013].

³⁴ Human Rights Information Centre, *Report on the Snapshot Study of the Right to freedom of thought, conscience and religion (Fundamental Religious Freedoms and Rights in the Republic of Moldova)*, p.3. English version available at <http://cido.org.md/attachments/article/79/Report%20EN.pdf> [last accessed on 30.07.2013].

women and men, while public authorities do not assume the role of leader in promoting new models based on the gender equality principle.

According to a snap-shot report on Freedom of Religions and Conscience in the Republic of Moldova elaborated by CIDO (HRIC) in 2012³⁵, the number of women from most of the denominations interviewed tends to be low in business sector, high rank public decision making positions (council members, public institutions, etc) as well as public visible figures in general.

The church promotes gender stereotypes regarding the role of women in the family and in society. In religious communities, members are educated according to the religious doctrine and women are seen as an aid to the men, a mean of reproduction. In schools, during the religious classes children are educated about the role of men and women in a religious manner. There are no alternatives offered to children and they grow up with the stereotyped way of thinking.

The Moldovan Orthodox Church tends to influence the state policies in human rights, rights of LBT, abortion, sexual education, family planning. Recently, the Orthodox Church launched a press release containing an informational note³⁶ regarding the legal situation in Republic of Moldova where the Church condemned the provision of the Law on reproductive health that establishes the state obligation to organize sexual health classes in schools. Again, the Church condemned the adoption of the Law on ensuring equality. In addition, the Church proposed several amendments to the legal framework in order to make it compliant with the "Christian principles". Many of these proposals were considered for the amendment of Misdemeanor Code with provisions sanctioning the "propaganda in the society of other relationships than those related to family ones seen through the provisions of the constitution and the Family code". These amendments were adopted in May 2013 and published in July 2013 when they have entered into force. Taking into consideration that the Family Code provides that the family is composed by a man and a women, it becomes clear that the parliamentarians intended to criminalize the „gay propaganda" and followed in that the Church recommendations. The provisions may have effect not only on gay couples or relationships but, also on families where only one parent is educating his child. In Republic of Moldova there are many women that are educating by themselves their children and even think that this kind of family is a good one. This kind of family also does not comply with the family as seen through the Constitutional or Family code provisions.

Question to the state:

- What measures have been taken by the state in order to insure the empowerment of women in Moldova beyond the Church position on women's rights?

³⁵ Accessible at <http://cido.org.md/attachments/article/79/Report%20EN.pdf>

³⁶ <http://mitropolia.md/a-avut-loc-sinodul-bisericii-ortodoxe-din-moldova/> [last accessed on 31.07.2013].

Recommendations:

The Government should be strongly encouraged to:

- Ensure that the state antidiscrimination policy will not be influenced by Church and Churches doctrines;
- Implement in schools classes on tolerance, antidiscrimination and gender equality;
- Create and implement state programs on insuring the providence of alternative information for those who benefit only of the Church position on gender equality or the role of men and women in society.
- Insure the right of women to freely expose their opinion on the way a family should look like and do not obey the Church or other social actor opinion.