

**Alternative Report submitted to the 56<sup>th</sup> 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 in May - July 2013 in direct consultation with civil society organizations and human rights activists, and covers the following issues:

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- Help Age International Moldova (<http://www.helpage.org/tags/moldova/>)
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<sup>1</sup> Human Rights Resource Group is an informal coalition of 9 human rights activists from Moldova who act both in their individual capacity and/or represent well-known human rights watchdog groups. The Group’s aim is to monitor, document, and report human rights violations occurring in the country and undertake advocacy efforts for resolving them. The Group was established in 2010 and it is supported by the Soros Foundation–Moldova.

## EXECUTIVE SUMMARY

**Legislative aspects on gender equality** in Moldova are regulated by a series of laws and policy documents which, due to their general nature and lack of adequate enforcement mechanisms, does not represent effective legal solutions. As well, the current legal framework does not provide for any monitoring and evaluation mechanisms over the enforcement of provisions stipulating for integration of gender issues in the local development process. The **participation in political life and decision-making** is still under the level of commitments undertaken by the Republic of Moldova based on the Millennium Development Goals. At the moment there are 19.8% of women among parliamentarians, 17.4% of women among rayon councilors, around 18.5% of women among mayors, and 28.6% of women among 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%.

Although the Government undertook a set of measures to enforce the **National Gender Equality Mechanism**<sup>2</sup>, there are many questions with respect to its efficiency. The main bodies established to monitor, coordinate and implement national policies on gender equality suffer from the lack of mechanisms and insufficient staff able to adequately perform their duties. At central level, the Parliamentary Commission for Human Rights and Interethnic Relations achieved no visible progress in the area of gender equality and women's rights, since a number of draft legal amendments have been either rejected or their examination was postponed for an undetermined period. In addition, there is no entity in the Parliament that would perform analysis of draft laws from the gender perspective.

According to the Art.173 of the Criminal Code **sexual harassment** shall be sanctioned even with imprisonment. However, there is no practice of adequate investigation of harassment cases and sanctioning of the harassers. Cases of sexual harassment at work have been identified during 2011 and 2012 within public institutions<sup>3</sup> and in penitentiary without any criminal sanctions applied to perpetrators. **Sexist advertising** is another widespread phenomenon. The cases occurred within the last years, show lack of understanding of gender stereotyping at the Chişinău City Hall, as well as lack of effective mechanisms of prevention and cease of sexist advertising. Moreover, in the absence of express prohibition of sexist publicity, the national judges frequently do not consider that the images of women used in this kind of advertising are "immoral" according to the Law on publicity.

Despite a comprehensive legal framework on fighting **domestic violence**, it remains a systemic problem in Moldova. Recent available data show that 63.4% of women aged 15 or older had experienced physical, psychological, or sexual violence from an intimate partner over their lifetimes<sup>4</sup>, and only approx. 600 protective orders had been issued since the law was first implemented in 2010<sup>5</sup>. This can be explained by the following systemic shortcomings and failures: 1) inefficient application of the Criminal Code provisions by prosecutors and police; 2) delay in issuing protective orders; 3) ineffective supervision over the enforcement of protection orders by the police and social workers; 4) impunity of police officers who fail to enforce or supervise the enforcement of the protection orders; 5) refusal or delayed initiation of criminal investigation by the prosecutors<sup>6</sup>; 6) lack of alternative accommodation for aggressors and victims of domestic violence. The recent decision issued by the European Court of Human Rights<sup>7</sup> serves a good illustration of systemic problems in protecting victims of domestic violence.

Moldova is primarily a country of origin<sup>8</sup> and that of destination for **victims of human trafficking and exploitation of commercial sex workers**. Statistical data show that 290 victims of THB were registered in 2012 (266 adults and 24 children)<sup>9</sup>. In the absence of bilateral agreements on fighting of trafficking the repatriation of trafficked children is supported only by NGOs and international partners in Moldova. The lack of necessary funds is another long-term impediment for undertaking joint investigation activities with destination countries. The Law on prevention and fight against trafficking in human beings has very general provisions on special rights and privileges to medical assistance for trafficked persons, which are not enforced in practice. Thus, public medical institutions do not offer free medical assistance to trafficked persons without an insurance policy, which in turn is not free by law.

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<sup>2</sup> National Gender Equality Mechanism comprises: Governmental Committee on Gender Equality, Division for Equal Opportunities and Prevention of Violence within the MLSPF, and Gender Focal Points within several line ministries.

<sup>3</sup> Case of Ilie Boian, head of State Hydrometeorology Service, made public in August 2012.

<sup>4</sup> National Bureau of Statistics, UNDP, UN Women and UNFPA, *Violence against Women in the Family in the Republic of Moldova* (2011).

<sup>5</sup> The Advocates for Human Rights, *Implementation of Moldovan Legislation on Domestic Violence: A Human Rights Report* (2012) p. 2.

<sup>6</sup> According to the statistics of the Ministry of Interior, less than 15% of the total number of complaints of criminal domestic violence in the first six months of 2012 resulted in the initiation of criminal procedures.

<sup>7</sup> Case of *Eremia et al. vs. Republic of Moldova*, (application no. 3564/11). Accessed on 30.07.2013 at the following link [http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-119968#"itemid":\["001-119968"\]](http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-119968#"itemid":["001-119968"])

<sup>8</sup> Main countries of destination with regard to trafficking for sexual exploitation are Turkey, Russia, Lebanon, United Arab Emirates, Cyprus.

<sup>9</sup> *National Report on Preventing and Combating Trafficking in Human Beings for 2012*, p.12. Available at [www.antitrafic.gov.md](http://www.antitrafic.gov.md).

At central level, state policies do not promote positive actions for **women in the labor market** as they still have higher rates of unemployment compared to men (42.3% versus 45.3%), while in practice they may face discrimination<sup>10</sup>. Women employed receive 12.2% less than men, for the same work<sup>11</sup>. Historically, women were mostly employed and encouraged to apply for positions from the social sphere, which have the lowest pay in Moldovan economy. Meanwhile the same sectors have preponderantly men as directors, principles, business owners. No disaggregated analysis has been conducted on causes and tendencies of feminization of poverty.

**Reproductive rights of women:** Although the number of abortions in the Republic of Moldova has fallen significantly—from 37,000 in 1997 to 14,000 in 2008, the complications resulting from abortions continue to be a cause of maternal deaths. The situation may worsen in coming years due to the pandemics that are making victims of pregnant women increasingly frequent<sup>12</sup>. The Government has renounced to implement sexual education in schools contrary to the Law on reproductive health<sup>13</sup>. In addition, central public authorities seem to be getting more inclined to promote Christian-Orthodox indoctrination of public policies, including in the field of family and reproductive rights, to the detriment of the rights of women.

From the total number of persons with disabilities in the Republic of Moldova, 49% are **women with disabilities** (87,450 persons), including 8.6% girls up to 18 years old (7,500 persons)<sup>14</sup>. Women with disabilities face widespread and systematic discrimination in education, housing, health services, judiciary and employment. They are exposed to greater risks of social exclusion compared to men and to most women representing vulnerable groups<sup>15</sup>. The families of persons with disabilities, especially the single-mother families, face poverty. The poor condition can make women with disabilities vulnerable to domestic violence where they are economically dependent upon their partner. In some cases, women with disabilities have limited access to reproductive health services and may be less encouraged to access the labor market<sup>16</sup>. In addition, there is no mechanism neither for employment of persons with disabilities nor for monitoring the enforcement of national labor legislation.

**Older women** make up the majority of the older population in Moldova due to higher life expectancy, and suffer multiple vulnerabilities – have lower pensions than men, inadequate social security entitlements<sup>17</sup>, economic instability with high risk of chronic poverty; they display physical frailty due to poor health<sup>18</sup>, high prices for medicine and limited access to fair protection and age-appropriate services. Additionally, domestic violence against older people occurs with little recognition or response determined by the high level of poverty, unstable political situation, and imperfect legal system<sup>19</sup>. Older women have no jobs, particularly in rural areas or there are jobs for which women need training or re-qualification courses. The health needs of many older women and men and in particular access and provision of geriatric medicine are met improperly.

**Women in psychiatric institutions** suffer from the following abuses and rights infringements<sup>20</sup>: 1) forced abortions; 2) lack of access to contraceptives; 3) use of medication that leads to the dysfunction of the reproductive system; 4) rapes<sup>21</sup>; 5) internment without consent, without court decision, without explaining the reasons, estimated treatment period and methods; 6) failure to provide women with hygiene products; 7) failure to ensure adequate sanitary conditions. In addition, 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.

There are still important challenges ahead to ensure the full enjoyment of the **freedom of thought, conscience and religion**. 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 State<sup>22</sup>. It continues promoting a

<sup>10</sup> On web and printed newspapers there are still jobs advertised that require specifically young women, without reasonable justification (e.g. saleswomen, VIP hostess at airport, secretary, etc), or men for gender-neutral jobs (e.g. legal experts, accountants, financial managers).

<sup>11</sup> National Bureau of Statistics, <http://www.statistica.md/category.php?l=en&idc=264> [last accessed 31.07.2013].

<sup>12</sup> In 2009, ¼ of the total number of deceased pregnant women was infected with the pandemic flu. As result, four women died in 2010.

<sup>13</sup> Law on reproductive health, no.138/2012, in force since 01.01.2013. Article 6 stipulates that sexual education in schools is compulsory.

<sup>14</sup> Ministry of Labor, Social Protection and Family, *Implementation of the UN CRPD, Initial State Report*, p. 7.

<sup>15</sup> CReDO and TransForma, Netherlands, *Feasibility study regarding creating the personal assistant service*, Chişinău 2011.

<sup>16</sup> UNDP/UNWomen, Joint Integrated Local Development Programme, *Who is out of local development*, Chişinău 2011, p. 21.

<sup>17</sup> The average pension in Moldova in 2012 was 900 MDL (US\$74) and the minimum - 625 MDL (US\$52), while the minimum subsistence level was 1503 MDL (US\$123), pensions respectively making 59% or 42% of this minimum. National Bureau of Statistics (2012).

<sup>18</sup> HelpAge baseline survey *Towards healthy ageing: new shape of community-based healthcare support*, 2013.

<sup>19</sup> 25% of the calls to a national helpline of "La Strada" addressing gender based violence come from women over 50 years old (2012).

<sup>20</sup> Institutional Ombudsman Report, available at [http://dis.md/wp-content/uploads/2012/02/RAPORTUL-FINAL\\_6iuni-apr-sept-20121.pdf](http://dis.md/wp-content/uploads/2012/02/RAPORTUL-FINAL_6iuni-apr-sept-20121.pdf).

<sup>21</sup> Cases of rape of at least 16 women by a doctor in the Bălţi psychiatric centre have been registered.

<sup>22</sup> A/HRC/19/60/Add.2, Final Report of Special Rapporteur on freedom of religion or belief, Heiner Bielefeldt, p.61. Report available at [http://www.un.md/news\\_room/pr/2012/HR\\_Report/G1210269.pdf](http://www.un.md/news_room/pr/2012/HR_Report/G1210269.pdf) [last accessed on 31.07.2013].

patriarchal model of social relations between women and men, while public authorities do not assume the role of leader in promoting new models based on the gender equality principle. As well, the Church tends to influence the state policies in human rights, rights of LGBT, abortion, sexual education, family planning. In schools, during the religious classes children are educated about the role of men and women in a religious manner.

The discrimination of **LBT women** in Moldova is a systemic phenomenon<sup>23</sup>, and is generally determined by: 1) the lack of public policies which promote tolerance for LBT persons; 2) the absence of explicit and express legal protection against discrimination, and of judicial mechanisms for LBT women's protection; 3) homophobic attitudes manifested by some of the political leaders and parliamentarians. In recent years the Gay Pride has been accompanied by religious protests sustained in a tacit way by the authorities. The local authorities of several localities issued decisions prohibiting the "propaganda of homosexual relationships". The Law on ensuring equality<sup>24</sup> does not fully protect LBT women in all life areas. Sexual orientation has been excluded as a discrimination ground from the Law. The Council on Prevention and Fighting Discrimination is not empowered to directly sanction acts of discrimination and to establish the amount of damages for the victims of discrimination.

### **Recommendations:**

The Government should be strongly encouraged to:

- *Adopt without further delay the bill with amendments to Electoral Code on introducing at least 40% "zebra-type" quota for women in political parties, effective including for the upcoming Parliamentary elections in 2014.*
- *Mainstream gender in the work of the Council for Prevention and Fighting Discrimination through capacity development, resource allocation, prioritizing gender interventions in Council's future strategy.*
- *Ensure that sexual harassment exploiting dependence of potential victims shall be penalized as a criminal offence with effective sanctions, with no right of ceasing the procedures on the ground of "mutual settlement".*
- *Amend the Law on publicity and Law on equality of chances between women and men as to prohibit and exclude discriminatory and sexist advertisement, by creating effective investigation and sanctioning mechanism.*
- *Initiate and promote amendments to the Law on prevention and fight against domestic violence and Criminal Code to criminalize every violation of a protection order.*
- *Create an emergency protection order that can be issued on the spot by the police officer for up to 10 days, which can be confirmed through the procedure of issuance of protection order in front of the courts of law.*
- *Ensure the application of sanctions to the aggressors for not enforcing the provisions of the protection order and/or for breaching the provisions of the protection order as it is provided by the Law.*
- *Ensure the security and welfare of victims of domestic violence by guaranteeing the respect of effective remedies, by improved social, medical and psychological assistances programs addressed to victims.*
- *Strengthen the role of governmental bodies in the process of repatriation of victims of trafficking by allocating sufficient financial resources for: 1) repatriation of victims of trafficking; 2) provision of quality services for victims of trafficking; 3) free medical insurance policy meant for trafficked persons.*
- *Revise the Law on ensuring equality in order to secure effective mechanisms and adequate remedies for victims of discrimination on the labor market. Conducting trainings with judges, prosecutors on effective implementation of the Law on ensuring equality shall be considered as well.*
- *Provide adequate information and access to family planning methods. Create and implement educational programs for sexual education in schools.*
- *Habilitate the courts and the Council for Prevention and Fighting Discrimination to efficiently identify cases of discrimination on grounds of disability and to protect women with disabilities. Ensure that the legal sanctions provided for in the Law on ensuring equality are effective, dissuasive and proportionate.*
- *Create supporting services for mothers, grandmothers of persons with disabilities which are at risk due to their caretaking of a child with disability, by gradually ensuring the personal assistance service.*
- *Increase the level of pensions to reach the minimum subsistence, and ensure affordable and accessible healthcare to all older women particularly from rural areas.*
- *Exclude forced abortions as institutional practice in Psychiatric Institutions, and ensure daily access to hot water showers for women, as well as access to/or products for hygiene.*
- *Amend the Law on ensuring equality to enable the Council for Prevention and Fighting Discrimination to directly sanction acts of discrimination, and to establish indemnification amount for the victims of discrimination.*
- *Repeal the provisions of the Misdemeanor Code limiting the right to opinion and/or expression regarding the family relationships, inclusively for LBT women.*

<sup>23</sup> Soros Foundation-Moldova, *Study on the perceptions of Moldovan population on the discrimination phenomenon* (2011).

<sup>24</sup> Law on ensuring equality, no. 121/2012. English version available at <http://lawsmd.blogspot.com/2012/10/law-on-equal.html>.

## LEGISLATIVE ASPECTS ON GENDER EQUALITY

1. Even though the Government Programme for 2013-2014 contains a chapter on gender policy<sup>25</sup>, political representation of women is still under the level of commitments undertaken by the Republic of Moldova based on the Millennium Development Goals, far from the true gender balance targets. 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 there are 19.8% of women among MPs);
  - 25% women in rayon councils (at the moment there are 17.4% of women among rayon councilors);
  - 25% women as mayors (at the moment there are 18.5% women among mayors);
  - 40% women in local councils (at the moment there are 28.6% women among local councilors).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). In addition, at the general local elections in 2011 there was a downtrend in the share of women-candidates for the position of mayor from 23.5% in 2007 to only 18.9% in 2011 (4.6% less). At the moment, there are no enacted affirmative measures in the Republic of Moldova that would aim at promoting gender parity in political representation.
2. The amendments developed by the Civic Coalition for Free and Fair Elections to the Law on political parties, no. 294/2007<sup>26</sup> provide for affirmative measures to promote gender equality. Thus, the proposed article 28<sup>1</sup> 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; while other 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 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).
3. Both amendments were brought up by the National Participation Council repeatedly in July 2013 in a note<sup>27</sup>, with the suggestion to include into the Government agenda discussed on the 25<sup>th</sup> of July. The suggestions were refused. Tatiana PoŃing (a woman), vice-minister of education mentioned “We don’t need this”.
4. The current Law on local public administration<sup>28</sup> shall be considered a legislative regress in comparison with the previous Law from 1998, because it does not provide local public authorities with competences on ensuring equal opportunities for men and women. Moreover, even if the local public administration is bound by law<sup>29</sup> to integrate gender issues in the local development process, none of them observe the law because of lack of capacity in terms of: skilled public employees, internal procedures relevant to gender equality, disaggregated statistical data on men and women. Even more, without a clear monitoring, evaluation and sanctioning mechanism, in law and in practice, the above mentioned provisions will be considered dead letter.
5. 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,

<sup>25</sup> Activity Program of the Government of Moldova “European Integration: Freedom, Democracy, Welfare” for 2013-2014, Chapter VI, section D “Gender policies”, p.36, available in Romanian at <http://www.gov.md/download.php?file=cHVibGJlL3B1YmxpY2F0aW9ucy82NDEzNDQ1X21kX3Byb2dyYW1fZ3V2ZXJULnBkZg%3D%3D> [last accessed on 31.07.2013].

<sup>26</sup> Current version available at <http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=327053> [last accessed on 31.07.2013].

<sup>27</sup> Document in Romanian accessible at this link <http://www.cnp.ro/sedinte-de-guvern/item/download/1484> [last accessed 31.07.2013].

<sup>28</sup> Law on local public administration, no.436/2006. Available at <http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=321765>.

<sup>29</sup> Art.20(1) of the Law on equality of chances between women and men, no.5/2006, English version available at <http://lawsmd.blogspot.com/search?q=equality> [last accessed on 31.07.2013].

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 19<sup>th</sup> of February 2012, registered in Parliamentary Commission for Human Rights and Interethnic Relations on the 29<sup>th</sup> of February and since then is in a prolonged process of examination, without a due justification on the delay.

6. 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 5<sup>th</sup> grade onwards cover the following topics: Women in the Middle, Contemporary, Modern, etc. Age; Women in Arts and Literature; and 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.

#### 7. **Questions to the State:**

- *What did the State do to promote gender parity in political representation, especially with regard of ensuring a quota of women in political parties?*
- *What did the State do to ensure the integration of gender issues in the local development process, and to establish a sanctioning mechanism for non-observance of legal provisions in the context that local public administration is bound by law (Art. 20(1)) of the Law on equality of chances between women and men) to integrate gender issues in the local development process?*
- *What did the State do to prohibit and exclude discriminatory and sexist advertisement?*

#### 8. **Recommendations:**

The Government should be strongly encouraged to:

- *Perform mandatory gender mainstreaming into curricula and manuals within the entire educational system.*
- *Adopt the amendments to the Law on publicity and Law on equality of chances between women and men as to prohibit and exclude discriminatory and sexist advertisement, by creating effective investigation and sanctioning mechanisms.*
- *Adopt without further delay the bill with amendments to Electoral Code on introducing at least 40% “zebra-type” quota for women in political parties, including for the upcoming Parliamentary elections in 2014.*
- *Conduct regular trainings for local public administrations on matters of gender mainstreaming, disaggregated data collection and importance of these for the local development.*

#### **NATIONAL MECHANISM FOR PROMOTION OF WOMEN**

9. Although the Government undertook a set of measures to enforce the National Gender Equality Mechanism<sup>30</sup> which encourages gender equality and involvement of women in leadership and decision making processes, there are many questions with respect to its efficiency. According to the civil society representatives, currently the mechanism is underdeveloped. A more efficient way has been proposed – namely to have in each ministry a high rank official responsible for legislative monitoring from gender perspective and monitoring of the implementation of the Law on equality of chances between women and men. Currently this function is attributed cumulatively to middle positions in the ministries, insufficiently ensuring the set out task.

10. The Council for Prevention and Fighting Discrimination was established in 2012<sup>31</sup>, however its members were selected and appointed with a 6 months delay – in June 2013. In spite of Council’s mission to ensure equality and to protect all the persons against discrimination, there is no gender mainstreaming in its activity. Only one

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<sup>30</sup> The National Gender Equality Mechanism comprises: Governmental Committee on Gender Equality, the Division for Equal Opportunities and Prevention of Violence within the Ministry of Labor, Social Protection and Family, and Gender Focal Points within several line ministries.

<sup>31</sup> The Law on the activity of the Council for Prevention and Fighting Discrimination and Ensuring Equality, no.298 from 21.12.2012.

member has experience in dealing with cases of women's discrimination. Thus, without necessary capacities on gender equality, the Council may find it difficult to instrument cases of women's discrimination, especially considering the big number of complaints expected to be received as result of such cases.

11. The Governmental Gender Equality Committee, created in 2006 as an advisory and coordinating body, aiming at developing the strategic and organizational framework, the tools and mechanisms to implement the state policy in order to assure equal rights and opportunities for women and men, proved inefficient. Moreover, as an institution responsible to oversee the implementation of the National Gender Equality Programme for 2010–2015<sup>32</sup>, the Committee lacks adequate competencies to address the challenges arising during Programme implementation, these being under the direct responsibility of the line ministries which shall directly report to the Ministry of Labor, Social Protection and Family (MLSPF).
12. The Division for Equal Opportunities and Prevention of Violence within the MLSPF was created with the aim at developing drafts of legislative and normative acts regarding equal opportunities for men and women, monitoring the implementation of legislative provisions, programs and measures developing and approving quality standards for all types of social services addressed to victims of family violence and trafficking in human beings, and a set of other specific competencies<sup>33</sup>. It is constantly approached by a large number of claimants with regard of cases of domestic violence and gender equality. However, its motivation and willingness is hindered by insufficient staff for the large number of claimants it receives, and lack of necessary competencies to ensure the implementation of national legislation and of activities under the National Gender Equality Programme for 2010–2015.
13. Despite having a mandate to oversee the implementation of the national legislation on gender equality and ensure the principle of gender equality, which is integrated into the legislative process, the Parliamentary Commission for Human Rights and Interethnic Relations achieved no visible progress in the area of gender equality and women's rights, since a number of draft legal amendments have been either rejected or their examination was postponed<sup>34</sup>. Moreover, no gender assessments are being carried out and no specific terminology is being prepared by the Commission.
14. The Gender Focal Points from the specialized central public administration, established by means of the Law on ensuring equal opportunities for women and men, aim at monitoring the observance of gender equality legislation within the central public authorities; examining the petitions from individuals and legal entities on cases of gender discrimination; submitting activity reports on gender issues to the specialized institutions. However, these tasks came as an addition to the main competencies that civil servants perform in the ministries on daily basis. Thus, considering the shortage of human resources, these focal points are overloaded with their basic functions and allocate limited time for gender equality issues. Similar condition can be found with the Gender Units established within the local public administration authorities.
15. At central level, there is still no entity in the Parliament that would perform analysis of draft laws from the gender perspective and would monitor implementation of the Law on ensuring equal opportunities for women and men.
16. At the Ombudsmen's office (The Centre for Human Rights) there is no mechanism or institution to analyze draft laws from gender perspective or to monitor the implementation of the Law on ensuring equal opportunities for women and men.
17. **Questions to the State:**
  - *What did the State do to ensure the efficiency of the National Gender Equality Mechanism in order to guarantee gender equality and involvement of women in leadership and decision making processes?*
  - *What did the State do to implement the Law on ensuring equal opportunities for women and men, and of activities under the National Gender Equality Programme for 2010–2015?*

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<sup>32</sup> The National Gender Equality Program for 2010–2015, adopted by the Government Decision no. 933/2009. Available in English at <http://sgdatabse.unwomen.org/uploads/Decision%20No.%20933%20of%202009%20-%20domestic%20violence%20and%20trafficking.pdf>.

<sup>33</sup> Information available at <http://mpsf.gov.md/en/doespv/> [last accessed 31.07.2013].

<sup>34</sup> Developed amendments to the Law on ensuring equal opportunities for women and men was sent from Government to Parliament on the 19<sup>th</sup> of February 2012, registered in Parliamentary Commission for Human Rights and Interethnic Relations on the 29<sup>th</sup> of February and since then no progress has been achieved.

- *What did the State do to ensure that an analysis of draft laws from gender perspective is being carried on within the ministries and State Chancellery?*

#### 18. **Recommendations:**

The Government should be strongly encouraged to:

- *Mainstream gender in the work of the Council for Prevention and Fighting Discrimination through capacity development, resource allocation, prioritizing gender interventions in Council's future strategy.*
- *Mandate the State Chancellery and the Parliamentary Commission on Human Rights with a responsibility to ensure a mandatory gender review of the normative drafts (most notably law drafts and Governmental decision drafts), and to fill the respective positions with highly qualified and unanimously recognized specialists in gender equality and legislative analysis.*
- *Establish a position within the Ministry of Labor, Social Protection and Family that would analyze and issue recommendations from a gender perspective of draft laws.*

#### **SEXUAL HARASSMENT AND SEXIST ADVERTISING**

19. 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.<sup>35</sup> 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 Șalaru, did not dismiss Mr. Boian using a disciplinary procedure under the Art. 206 of the Labor Code<sup>36</sup>, 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 closed<sup>37</sup>. Thus, ultimately no legal sanction was imposed on the high-ranking offender.

20. Similar cases of sexual harassment at work have been identified by the media<sup>38</sup>. Also, there are still reported cases of sexual abuse within the penitentiary system<sup>39</sup>, similar to the situation in previous years<sup>40</sup>. 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 guaranteed<sup>41</sup>, 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.

21. Another category of women's rights violation refers to sexist advertising on billboards by commercial agents. Within the last year cases occurring in Chișinău municipality were reported; the billboard authorization is given after a mandatory endorsement procedure with the Chișinău City Hall department of Architecture and Urbanism. These images keep promoting traditional gender roles or exploiting images of women as sexual

<sup>35</sup> [http://www.publika.md/detalii-despre-scandalul-sexual-cu-implicarea-lui-ilie-boian--dosarul-pe-numele-sefului-shs-deja-pe-masa-judecatorilor\\_975601.html](http://www.publika.md/detalii-despre-scandalul-sexual-cu-implicarea-lui-ilie-boian--dosarul-pe-numele-sefului-shs-deja-pe-masa-judecatorilor_975601.html)

<sup>36</sup> 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](http://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---ilo_aids/documents/legaldocument/wcms_127944.pdf) [last accessed 31.07.2013].

<sup>37</sup> [http://www.publika.md/scandalul-sexual-cu-ilie-boian-s-a-terminat-partile-s-au-inteles-iar-dosarul-a-fost-clasat\\_1203801.html](http://www.publika.md/scandalul-sexual-cu-ilie-boian-s-a-terminat-partile-s-au-inteles-iar-dosarul-a-fost-clasat_1203801.html)

<sup>38</sup> <http://discriminare.md/istoria-mea/s-a-concediat-din-cauza-ca-era-hartuita-sexual/> [last accessed 31.07.2013].

<sup>39</sup> <http://discriminare.md/reportaje/scandal-sexual-in-penitenciare-intre-adevar-si-minciuna/> [last accessed 31.07.2013].

<sup>40</sup> <http://jurnal.md/ro/news/-puscarea-noastra-cuibusor-de-nebunii-scandal-sexual-206520/> [last accessed 31.07.2013].

<sup>41</sup> <http://pentrua.md/article/a-demisionat-din-cauza-ca-era-hartuita-sexual-699.html> [last accessed 31.07.2013].



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.

22. 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.
23. 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 months<sup>42</sup>.
24. **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?*

25. **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”.*
- *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.*

## **VIOLENCE AGAINST WOMEN**

26. On 18 September 2008, the Moldovan Parliament adopted the Law on prevention and fight against domestic violence<sup>43</sup>, which aims at strengthening, protecting and supporting the family, ensuring respect for fundamental principles of law in the family, and ensuring equal opportunities for women and men in their human right to a life without violence. Article 201<sup>1</sup> of the Moldovan Criminal Code defines domestic violence as deliberate verbal or physical action committed by a family member against another family member and provides sanctions, which increase proportionately to the level of bodily injury. Also, a series of decisions and acts aimed to explain the mechanism of implementation of legislation on domestic violence were adopted:
  - Decision of the Plenum of the Supreme Court of Justice No.1 dated 28.05.2012 which provides for recommendations to judges on how to examine applications for protection orders.
  - Order no.155 of the Ministry of Health of the Republic of Moldova from 24.02.2012 providing for the Guidelines of intervention of medical institutions in cases of domestic violence with reference to the actions of medical workers in cases of domestic violence.
  - Order no. 22 from 09.02.2012 issued by the Ministry of Labor Social Protection and Family, which provides for the Instructions on actions to be taken by the sections/divisions of social assistance, law enforcement bodies and medical institutions in cases of domestic violence.
  - Order no.105 from 02.08.2012 issued by the Ministry of Labor Social Protection and Family, approving a set of instructions for local authorities on how to enforce their obligations in relation to preventing and fighting domestic violence by establishing cooperation agreements with local social assistance bodies, educational institutions and health protection institutions.
  - Order No. 275 from 14.08.2012 issued by the Ministry of Interior, approving the Instruction on response of police to prevent and combat cases of domestic violence.

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<sup>42</sup> <http://www.balcanicaucaso.org/eng/Regions-and-countries/Moldova/Sexist-advertisement-in-Chisinau-98495> [last accessed 01.08.2013].

<sup>43</sup> Law on prevention and fight against domestic violence, no.45/2007, Available in English at: <http://lawsmd.blogspot.com/search?q=violence>

27. Despite a comprehensive normative framework, domestic violence remains a systemic problem. A 2011 study found that 63.4% of women in Moldova aged 15 or older had experienced physical, psychological, or sexual violence from an intimate partner over their lifetimes<sup>44</sup>, and only approx. 600 protective orders had been issued since the law was first implemented in 2010<sup>45</sup>. In 2011 there were registered some 370 crimes of domestic violence (based on Article 201<sup>1</sup> of the Criminal Code) and even though in all cases criminal investigation was initiated only 222 protective orders were issued on these cases. In 2012 there were registered 789 criminal cases on domestic violence (based on Article 201<sup>1</sup> of the Criminal Code) and only 408 protective orders were issued. During the first quarter of 2013, 481 crimes of domestic violence (based on Article 201<sup>1</sup> of the Criminal Code) were registered and only 130 protective orders were issued.
28. Despite the fact that Article 201<sup>1</sup> of the Moldovan Criminal Code provides for sanctions for all forms of domestic violence, prosecutors and police have been slow to apply its provisions to cases of low-level injuries and often expect repeated incidences of violence before charging or pursuing a case<sup>46</sup>. According to the same study, judges' attitude and lack of timeliness in issuing protective orders also impede the access to justice for the victims of domestic violence. Even if 80% of women know that domestic violence is a crime, only half of them know about the Law on prevention and fight against domestic violence.
29. On 28<sup>th</sup> of May 2013 the European Court of Human Rights ruled in case *Eremia and others vs. Moldova* and held that, despite their knowledge of the abuse, the authorities had failed to take effective measures against Mrs. Eremia's husband and to protect her from further domestic violence. It also considered that, despite the detrimental psychological effects on her daughters triggered by witnessing their father's violence against their mother in the family home, little or no action had been taken to prevent the recurrence of such behavior. Finally, the Court found that the authorities' attitude had amounted to condoning violence and had been discriminatory towards Eremia as a woman<sup>47</sup>. Thus, the ECtHR found that Art.3 was violated in respect of the first applicant in that the authorities did not provide her effective protection against violent actions of her husband and did not carry out an effective investigation of physical and verbal abuse perpetrated by the husband to the applicant. Also, the ECtHR found a violation of Art.8 with reference to the second and third applicants, in the fact that the authorities failed to effectively investigate the physical and verbal abuses against the first applicant, which were committed in the presence of a second and third applicants. The ECtHR also stated a violation of Art.14 in conjunction with Art.3 in the fact that the authorities failed to implement legislation providing protection in cases of domestic violence, based on prejudices about the role of women in the family. The ECtHR awarded the applicants a compensation of 17,150 Euros for moral damages and legal costs.
30. **Insufficient awareness of the legal provisions:** Insufficient awareness of the forms of domestic violence and obligations of responsible authorities affect the correct identification, qualification and punishment of cases of domestic violence. According to the Report issued by Promo-LEX Association, social workers and police officers are not fully aware of the provisions of the Law on prevention and combating of domestic violence: 44% of the social workers interviewed by Promo-LEX, and every 5<sup>th</sup> police officer is not aware of his duties and obligations under the Law and how to respond to cases of domestic violence<sup>48</sup>. Additionally, the level of understanding of specific forms of domestic violence on behalf of relevant authorities is also problematic: 44% of social workers, 40% of police officers and 75% of judges interviewed by Promo-LEX could not provide an explanation of the term psychological violence, while 56% of social workers and 63% of prosecutors could not provide an explicit definition of what sexual violence means. Further on, 20% of police officers and 38% of prosecutors could not provide a definition of economic violence. Similarly, the judges also do not have a well-defined opinion on economic violence<sup>49</sup>. The only type of violence univocally defined by all actors involved in prevention and combating domestic violence is physical violence.

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<sup>44</sup> National Bureau of Statistics of the Republic of Moldova, in collaboration with the UNDP, UN Women, and the United Nations Population Fund, *Violence against Women in the Family in the Republic of Moldova* (2011).

<sup>45</sup> The Advocates for Human Rights, *Implementation of Moldovan Legislation on Domestic Violence: A Human Rights Report* (2012) p. 2.

<sup>46</sup> *Ibid.*, p. 3.

<sup>47</sup> *Eremia and Others v. the Republic of Moldova* (application no. 3564/11), more information at <http://www.promolex.md/index.php?module=press&cat=0&item=1230&Lang=en> [last accessed on 01.08.2013].

<sup>48</sup> Promo-LEX Association, *Assessment Report on the implementation of provisions of the Law no.45 on the protection order in the Republic of Moldova during 2008-2011*, page 164. English version available at: [http://promolex.md/upload/publications/ro/doc\\_1355814593.pdf](http://promolex.md/upload/publications/ro/doc_1355814593.pdf).

<sup>49</sup> The drafting of the Assessment Report on the implementation of the provisions of the Law no.45 on protection order in the Republic of Moldova during 2008-2011 included 47 in-depth interviews throughout Moldova with relevant authorities: 8 judges, 8 prosecutors, 15 police officers, 16 social workers, conducted by Promo Lex.

31. **Failure to enforce the Protection Orders:** In most cases<sup>50</sup> the local social worker and the police are unaware of the existence of the protection order. There are also cases when the police knows about domestic violence and about the protection order but limit their involvement to informing the aggressor about its existence, even when the protection order imposes an obligation on the aggressor to leave the house. The most frequent explanation is the lack of space or alternative accommodation to which the aggressor could move. So far, in Moldova there are only two day-care centers for family aggressors where they can benefit of rehabilitation services<sup>51</sup>. Thus, these two centers are insufficient since the total population of Moldova is 3,559,497, of which 1,395,351 are men over 16 years old<sup>52</sup>.
32. **Ineffective supervision over the enforcement of Protection Orders:** In many cases, both, police and social workers responsible for the monitoring of enforcement of protection orders fail to do so accordingly (periodic visits, phone calls, etc.) and only react when called by the victims<sup>53</sup>. There are also cases when they neither react to the victims' complaint on the violation by the aggressor of the protection order, thus leaving the victim without any protection. In such cases the victims have to flee their homes and seek shelter. Most frequent justification provided by police is *"they cannot supervise victims and aggressors all day long because they have more important things to do"* or *"call me when you really get beaten"*. However, according to the data provided by the Ministry of Interior, during 2009-2011 there were no cases registered where the police would fail to enforce the Protection Orders and no policemen was sanctioned for failing to enforce or supervise the enforcement of the Protection Orders. This means that there was no particular methodology and practice for sanctioning and that there were no cases of "violation" registered because of failure to monitor the enforcement of protection orders<sup>54</sup>. According to the same source, in 2011 only two cases were registered, where two or more Protection Orders were issued on the same case. No such cases were registered during 2009-2010. However, numerous such cases continue to be reported by NGOs working in this area.<sup>55</sup>
33. **Refusal or delayed initiation of the criminal investigation by the prosecutors:** Although domestic violence has become a crime under the Criminal Code, police prefers to apply administrative sanctions on aggressors based on art. 78 and/or art. 69 of the Misdemeanors Code "Deliberate light bodily injury" that provides milder sanctions for aggressors, rather than criminal sanctions based on the Art 201<sup>1</sup> of the Criminal Code. In some cases, the petitions submitted to the prosecution on behalf of the victims remained unsolved. Less than 15% of the total number of complaints of criminal domestic violence in the first six months of 2012 resulted in the initiation of criminal procedures<sup>56</sup>. Pursuant to the Order no. 275/2012, new instructions of police intervention to prevent and combat domestic violence were adopted. These instructions shall guide the police on interventions in cases of domestic violence, including with the aim to apply administrative sanctions against aggressors.
34. **Refusal to issue Protection Orders:** There are cases when the court has refused to issue a Protection Order on the grounds that the aggressor did not recognize the acts of violence, and also presented witnesses who submitted statements in their favor. In these situations, the statements of the victim are often disregarded. Victims often face a hostile and discriminatory attitude of the court, particularly of judges. It often results in having the credibility of the reported offence further disregarded, and the risk faced by the victims is minimized. In some cases, both, the victim and the aggressor are invited to attend the court session for issuance of the Protection Order. The presence of the aggressor proves to be stressful for the victim. Thus, due to pressure and fear, the latter withdraws her complaint or requests administrative sanctions instead of criminal ones.
35. **Delay in issuing Protection Orders.** In many cases, delays mean that a Protection Order is not granted until, for example, two weeks after the petition is filed, which is often too late to prevent the victim from being subjected to further violence. There are no mechanisms to urgently issue the protection orders contrary to the fact that the Law stipulates that the protection orders should be issued within 24 hours. There is also no mechanism to appeal the delay of enforcement of the protection order. Police sometimes wait to see if the couple will reconcile or if injuries are repeated before submitting an application<sup>57</sup>. Judges often insist on

<sup>50</sup> Promo-LEX caseload and practice.

<sup>51</sup> Centre for aggressors in Chişinău, Centre for aggressors Artemida, Drochia city <http://www.artemida.md/contact.php>

<sup>52</sup> <http://statbank.statistica.md/pxweb/Dialog/view.asp?ma=POP0102&ti=Populatia+stabila%2C+la+inceputul+anului+dupa+Ani%2C+Virste%2C+Medii+si+Sexe&path=../quicktables/RO/02%20POP/POP01/&lang=1> [last accessed on 31.07.2013]

<sup>53</sup> Promo-LEX caseload and practice.

<sup>54</sup> Official data provided by the Ministry of Interior as a response to a Promo-LEX interpellation. Document No 6/3205 of 14 December 2011.

<sup>55</sup> Such cases were registered by Promo-LEX Association, "Refugiul Casa Mărioarei" Association and International Centre for Women Rights Protection and Promotion "La Strada" during 2011.

<sup>56</sup> Statistics from the Ministry of Interior, July 2012.

<sup>57</sup> The Advocates, *supra* note 3, at 14.

evidence besides the statutory requirements of Law on prevention and fight against domestic violence before they issue a protective order, further delaying the process<sup>58</sup>. These delays can be particularly harmful in Moldova because Art. 318<sup>3</sup> of the Civil Procedure Code requires notification of the aggressor when an application for a protective order is submitted to court<sup>59</sup>. This notification may cause an enraged aggressor to commit more violence or may prompt a manipulative aggressor to coerce the victim into withdrawing the application for protection.

36. **Sanctioning the victims of domestic violence:** There were registered cases when the police would sanction not the aggressors but the victims of domestic violence or both of them. In the majority of such cases victims are punished administratively. However, there are cases where criminal cases are initiated against them. In such cases the law-enforcement bodies disregard the evidences of violence against victims and even the fact that the victim was in legitimate self-defense and was the one who called the police requesting protection<sup>60</sup>.
37. **Law on prevention and fight against domestic violence does not require the government to fund shelters for victims of domestic violence.** Moreover, in 2012 the Ministry of Labor, Social Protection and Family began allocating funding to maternal centers but that funding was contingent on maternal centers becoming public institutions. Maternal centers thereby lost their independent status as NGOs<sup>61</sup>. At present, there is no legal mechanism that would enable the state to fund shelters operated solely by NGOs. A recent accreditation framework contains many technical requirements that may constitute barriers for a civil society-sponsored shelter<sup>62</sup>.
38. **Inadequate governmental funding and support of NGO shelters and maternal centre shelters:** United Nations standards recommend that one dedicated shelter should exist for every 10,000 citizens<sup>63</sup>. The population of Moldova is 3,559,497<sup>64</sup>. There are only approx. 106 shelter beds, including maternal centre beds, which are not dedicated for victims of domestic violence - for the entire country<sup>65</sup>. There is only one NGO shelter in Moldova dedicated to the needs of victims of domestic violence, and its capacity has been limited due to lack of financial support<sup>66</sup>. The eight maternal centers in Moldova primarily serve mothers with very young children who have no place to live, regardless of whether they are victims of domestic violence. There is no common standard of assistance for domestic violence victims in the maternal centers; services available for domestic violence victims therefore vary by location. And if NGOs or maternal centre shelters are full, victims of domestic violence are referred to community centers, centers for homeless people, or to other institutions, all of which lack services for and the capacity to counsel victims of domestic violence.
39. **Inadequate legal assistance for the victims of domestic violence:** Law on prevention and fight against domestic violence states that victims may receive legal assistance pursuant to the Law on state-guaranteed legal aid, but that specific Law restricts critical access to legal assistance for victims of domestic violence<sup>67</sup> as it does not apply to victims who are applying for a protective order before having started a civil or criminal case because it requires victims to be a party to a legal case<sup>68</sup>. Moreover, financial eligibility requirements are included for access to legal aid. United Nations standards state that free legal assistance in all legal proceedings should be available to victims of violence to ensure access to justice and avoid secondary victimization<sup>69</sup>. In addition, paralegals in Moldova are not part of the National Referral System, a primary source of assistance for victims of domestic violence<sup>70</sup>. The few NGOs that provide free legal assistance are concentrated in urban areas<sup>71</sup>.

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<sup>58</sup> *Ibid*, *supra* note 3, at 30.

<sup>59</sup> Civil Procedure Code, Article 318<sup>3</sup>.

<sup>60</sup> Such cases were registered by Promo-LEX Association, "Refugiul Casa Marioarei" Association and International Centre for Women Rights Protection and Promotion "La Strada".

<sup>61</sup> The Advocates, *supra* note 3, at 37.

<sup>62</sup> Law on the accreditation of social services, no. 129/2012. The Advocates, *supra* note 3, at 42, n. 336.

<sup>63</sup> UN Women, *Handbook for Legislation on violence against women* (2010), Section 3.6.1.

<sup>64</sup> <http://statbank.statistica.md/pxweb/Dialog/view.asp?ma=POP0102&ti=Populatia+stabila%2C+la+inceputul+anului+dupa+Ani%2C+Virste%2C+Medii+si+Sexe&path=../quicktables/RO/02%20POP/POP01/&lang=1> [last accessed on 31.07.2013].

<sup>65</sup> The Advocates, *supra* note 3, at 41.

<sup>66</sup> *Ibid*, *supra* note 3, at 40.

<sup>67</sup> Law on state-guaranteed legal aid, no.198/2007. English version available at <http://lawsmd.blogspot.com/search?q=legal>.

<sup>68</sup> *Ibid*., Article 19.

<sup>69</sup> UN Women, *supra* note 16, section 3.9.3

<sup>70</sup> The Advocates, *supra* note 3, at 44.

<sup>71</sup> Angelina Zaporozjan-Pirgari, *Report on the response to domestic violence in Moldova* (2011), sec. 2.3; Mihaela Vidaicu, *Domestic Violence Against Women in Moldova*, p.2.

40. **Law on prevention and fight against domestic violence imposes criminal penalties for violations of protective orders only for violations subsequent to a first offense**<sup>72</sup>. Only after an aggressor violates a protective order repeatedly will be held liable under Article 320 of the Criminal Code for non-observance of a court order<sup>73</sup>. The first time an aggressor violates a protective order the police often issues a warning or an administrative sanction in the form of a fine. These “first-time” responses are counterproductive, dangerous, and an insufficient response to a violation of a court order. Finally, a fine punishes the entire family: fear of a financial penalty deters domestic violence victims from seeking help<sup>74</sup>. Victims are exposed to substantial risk of future harm if aggressors are not held criminally accountable for their first violation of a court order.

41. **Questions to the State:**

- *What did the State do to ensure temporary shelter for victims of domestic violence throughout the country in the context of the fact that shelters and maternity centers which provide such services impose the condition/rule of territoriality (the victim must have the residence in the same rayon as the centre)?*
- *What did the State do to ensure the rehabilitation services for victims and aggressors?*
- *What did the State do to ensure the criminal sanction of the aggressors for committing all types of domestic violence?*
- *What did the State do to ensure free access of victims of domestic violence to forensic examination? This is in the context where the victims must pay a fee for such examination in order to obtain a report which is required as evidence in case. So far, the victims can be exempt from the fee only if they have a reference from the Prosecution.*

42. **Recommendations:**

The Government is strongly encouraged to:

- *Initiate and promote amendments to the Law on prevention and fight against domestic violence stipulating for funding of dedicated shelters and crisis centers for victims of domestic violence throughout the country.*
- *Initiate and promote amendments to the Law on prevention and fight against domestic violence and Criminal Code to criminalize every violation of a protection order.*
- *Create an emergency protection order that can be issued on the spot by the police officer for up to 10 days, which can be confirmed through the procedure of issuance of protection order in front of the courts of law.*
- *Provide trainings and increase the quality of trainings on domestic violence (forms of domestic violence, legal provisions and implementation mechanisms) for all actors involved in preventing and combating domestic violence. Trainings should be provided on a rolling basis for newly employed staff and included in continuing professional formation for all relevant actors.*
- *Ensure effective cooperation between the police officers and social workers in respect of the enforcement of protection orders by means of a memorandum of understanding and joint trainings.*
- *Support establishment of programs for aggressors and make them available throughout the country.*
- *Ensure the application of sanctions to the aggressors for not enforcing the provisions of the protection order and/or for breaching the provisions of the protection order as it is provided by the law.*
- *Adjust the legislation in order to exclude the possibility for the police to choose between administrative sanctions and criminal sanctions (Art 69 of the Misdemeanors Code which refers to psychological violence, Art 78 of the Misdemeanors Code which refers to physical violence, and Art 201<sup>1</sup> of the Criminal Code which criminalizes domestic violence) thus, imposing on the investigative bodies to take note of all the complaints against acts of domestic violence, to initiate criminal action against aggressors and to conduct prompt prosecution of cases of domestic violence.*
- *Ensure the security and welfare of victims of domestic violence by guaranteeing the respect of effective remedies, by improved social, medical and psychological assistances programmes addressed to this type of victims.*
- *Establish a mechanism that would ensure the observance of the 24 hours time-limit reserved to issue a protection order and allow appealing and/or sanctioning the breach of this time-limit.*

## **TRAFFICKING AND EXPLOITATION OF COMMERCIAL SEX WORKERS**

43. Trafficking in human beings continues to be a complex problem for the Republic of Moldova. Currently Moldova is primarily a country of origin and, to a certain extent, of transit and that of destination for victims of

<sup>72</sup> Law no.45/2007, Article 17; Misdemeanor Code, Article 318.

<sup>73</sup> The Advocates, *supra* note 3, at 15, n. 133.

<sup>74</sup> La Strada, *Trust Line for Women Activity Report* (2012), p.11.

human trafficking. Despite a growing body of knowledge about this phenomenon, estimation of its scale remains a tremendous challenge because of the very latent and changeable nature of trafficking. According to the statistical data provided by the Ministry of Interior, 290 victims of THB were registered in 2012 (266 adults and 24 children)<sup>75</sup>. But this data mainly reflect the activity of the respective structure, and not directly the dynamics of the phenomenon<sup>76</sup>.

44. The main countries of destination with regard to trafficking for purposes of sexual exploitation are Turkey, Russia, Lebanon, United Arab Emirates and Cyprus. Moldova signed a bilateral intergovernmental agreement on cooperation in fighting trafficking in human beings only with one from the main countries of destination – Turkey. This agreement was signed in 1994 and further supplemented with a protocol in 2006. However, the provisions of these two documents have a general nature, similar to a memorandum of understanding and not a working document establishing a concrete procedure and actions to be undertaken by both governments in cases of trafficking. Therefore, the documents had no expected impact either on providing assistance to the victims of trafficking, neither on developing joint investigation activities of the police. With respect to bilateral agreements with Russia, Lebanon and United Arab Emirates, in practice these countries are not interested at all in concluding such intergovernmental agreements on fighting trafficking. The difficulty in bilateral cooperation with Cyprus is that trafficking cases mainly appear in Northern Cyprus - the territory that is not controlled by the Government of Cyprus. In the absence of bilateral agreements the repatriation of trafficked children from Russia is supported by NGO “Terre des Homes”. Repatriation from Lebanon, United Arab Emirates and “Turkish Republic of Northern Cyprus” is supported by IOM. Until now the Government did not take full responsibility for the repatriation process of trafficked victims.
45. Another long-term impediment to undertake joint investigation activities with destination countries is the low level of English literacy among the employees of the police institutions and lack of necessary funds. Moreover, the high level of human resources fluctuation in the police does not allow for developing long term direct contacts with experts of other countries.
46. Although in recent years no complaints have been filed in with respect to the disclosure of such confidential information, the social workers at local level who coordinate the multidisciplinary teams created within the National Referral System of the Victims of Human Trafficking and the Assistance and Protection Risk Group (NRS) stress the lack of separate rooms, necessary to hold consultations with the victims of trafficking, lack of separate storages to keep the paper documents. There are also concerns regarding the personal data storage.
47. The Law on the prevention and fight against trafficking in human beings no..241-XVI from 20.10.2005 contains very general provisions which guarantee special rights and privileges for trafficked persons related to medical assistance. In practice the mentioned rights are breached. Thus, Art.20 (2) of the mentioned law guarantees the right of the trafficked person to free medical assistance in the medical institutions established by the Ministry of Health. Public medical institutions do not offer free medical assistance to trafficked persons without an insurance policy, which in turn is not free by virtue of legal provisions and the local authorities do not allocate funds to ensure free medical assistance for victims either. Consequently, in practice, trafficked persons obtain medical assistance in hospitals or long-term medical assistance only with the support of IOM that buys the insurance policy for them.
48. **Questions to the State:**
  - *Why do the ministries and other responsible authorities rely on the help of intermediates and did not establish direct collaboration relationships with colleagues from the main destination countries in order to repatriate victims of trafficking and carry on criminal investigation of such cases?*
  - *What will happen when IOM and Terre des Homes will cease their project activities on supporting repatriation of victims of trafficking?*
  - *When will the social workers be provided with separate rooms for consultations to the victims of trafficking and with separate storage/safes to keep paper documents?*
  - *Why there is no free medical insurance policy for trafficked persons regardless of law provisions which guarantee their access to free medical assistance?*

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<sup>75</sup> Permanent Secretariat of the National Committee to Combat Trafficking in Human Beings, *National Report on Preventing and Combating Trafficking in Human Beings for 2012*, p.12, [www.antitrafic.gov.md](http://www.antitrafic.gov.md)

<sup>76</sup> *Ibid*, p.10.

49. **Recommendations:**

The Government is strongly encouraged to:

- *Strengthen the role of governmental bodies in the process of repatriation of victims of trafficking by allocating of sufficient financial resources for repatriation.*
- *Establish direct cooperation contacts between the Moldovan experts on one hand and those in destination countries on the other, and conclude intergovernmental co-operation agreements at ministerial level, containing concrete step-by-step protocols on the repatriation of trafficking victims, provision of assistance and protection, investigation of crimes, etc.*
- *Allocate funds in state budget for free medical insurance policy meant for trafficked persons. Elaborate standard operating procedures to ensure free medical assistance by provision of insurance policy for trafficked persons.*
- *Increase financial allocations from the local budgets for the expenses related to services provided for trafficking victims in order to maintain the achieved quality of services.*
- *Provide all social workers who coordinate the multidisciplinary teams with separate rooms for consultations to trafficking victims and with separate storage/safes to keep paper documents.*

### **GENDER-RESPONSIVE BUDGETING**

50. Despite commitments undertaken by Moldova based on the National Gender Equality Action Plan, gender-responsive budgeting has not been introduced into the budgetary system of Moldova, and there is no political support to this measure, particularly at the level of Ministry of Finance.

51. **Recommendations:**

- *Adopt without delay measures to introduce Gender-Responsive Budgeting into the budgetary system of Moldova, starting with 2014 (as a pilot), and with 2015 (at a full scale).*

### **WOMEN IN EMPLOYMENT**

52. 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%)<sup>77</sup>. 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 women<sup>78</sup>.

53. The discrimination of women in employment starts with discriminatory or sexist job advertisements. On websites and printed newspapers there are still jobs advertised that require specifically young women, without a reasonable justification (e.g. saleswomen, 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 “responds” to target groups comprised of men (e.g. airport VIP hostess), then men are preferred by employers on permanent jobs to avoid pregnancy periods and maternity paid leave contributions.

54. The case of I.D. against a local company, which has dismissed her after announcing the employer of her pregnancy, has been ruled in favor of the employer, with compensation of worked hours for the plaintiff. Currently the case is at the Appeal Court (due to be re-examined in autumn 2013) and it resulted so far in admitting the miscalculation for worked days, but failing to admit that the claimant was dismissed due to gender discrimination<sup>79</sup>.

55. Women employed by the Ministry of Interior who have military ranks are exempted from tax due to fiscal facilities applied for military personnel. At 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 any other woman. The case of V.C. was taken to court which ruled in favor of recalculation of maternity leave<sup>80</sup>. The amendments to the Law on Police Activity and the Status of the Policeman, no.416 from 27.12.2012, promoted to support the Ministry of Interior reform eliminated the provision and established a maternity leave equal to the average salary for previous 6 months.

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<sup>77</sup> The National Bureau of Statistics (2011).

<sup>78</sup> Data of 2011 from the webpage of the National Bureau of Statistics. Available at <http://www.statistica.md/category.php?l=en&idc=264>.

<sup>79</sup> Case documented by the Nondiscrimination Coalition, in 2011.

<sup>80</sup> Case documented by the Nondiscrimination Coalition, in 2011.

56. Women employed do not receive the same pay as men, for the same work. The official statistical data affirms that there is a pay gap of 12.2% at the women's disadvantage<sup>81</sup>. The most feminized economic activities are still those with lower salaries:

- Health and Social Assistance (80.7% of employees are women);
- Education (75.4% of employees are women);
- Hotels and Restaurants (71.1% of employees are women);
- Financial Activities (67% of employees are women);
- Leisure, Culture and Sport (59.4% of employees are women).

57. Historically, women were mostly employed and encouraged to apply for positions from the social sphere, such as healthcare, education, social assistance; in serving positions for leisure and catering. These positions have the lowest pay in Moldovan economy. Meanwhile the same sectors have the directors, principles, business owners predominantly men. State policies do not promote positive actions for women. No disaggregated analysis has been conducted on causes and tendencies of feminization of poverty, which makes it difficult to issue recommendations in redress of this phenomenon.

58. **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).*

59. **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.*
- *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.*

## REPRODUCTIVE RIGHTS OF WOMEN

60. Although the number of abortions in Moldova has fallen significantly—from 37,000 in 1997 to 14,000 in 2008, largely because of the implementation of family planning measures—the complications resulting from abortions continue to represent one of the causes of maternal deaths<sup>82</sup>. The situation may worsen in coming years due to the pandemics that are making victims of pregnant women increasingly frequent<sup>83</sup>.

61. The LBT women are not protected by the state by means of law. The legal framework contains provisions that place LBT women on different footing with heterosexual women. The Law on adoption does not guarantee the right of adoption for single women or for LBT couples; the Civil Code does not recognize lesbian partners as successors of each other in case of death. The Tax Code recognizes the right of the husband and wife to a unique tax discharge. The provision is not available for LBT couples.

62. The attempts to implement sexual education in schools faced many criticisms from the Christian Orthodox Church and the Government has renounced from this attempts under the pressure of the Church, although

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<sup>81</sup> Official web page of the National Bureau of Statistics, <http://www.statistica.md/category.php?l=en&idc=264> [last accessed on 20.05.2013].

<sup>82</sup> In 1997, for every 100 newborns 75.2 abortions were registered. By 2008, this indicator had fallen to 36.2. The share of interrupted pregnancies (age group 15–19 years) is more or less constant over the past 10 years, representing 10% of the total number of abortions.

<sup>83</sup> Based on the data of the Ministry of Health for the year 2009, one-quarter of the total number of deceased pregnant women was infected with the pandemic flu. In the first three weeks of 2010, four women died due to the pandemic flu.



pursuant to the Law on reproductive health, sexual education in schools is compulsory<sup>84</sup>. For example, in 2010 prime-minister Vlad Filat, under the pressure of the Moldovan Orthodox Church ordered the withdrawal from the libraries of the book “Sex explained to the little ones”.

63. Central public authorities seem to be getting more inclined to promote Christian-Orthodox indoctrination of public policies, including in the field of family and reproductive rights, to the detriment of the rights of women. Therefore, in February 2012 a legislative initiative has been launched by a group of liberal-democratic parliamentarians aiming at hardening the legislation on abortion so that married women could not abort without spouse’s written consent, while the girls less than 18 years – without parents’ consent<sup>85</sup>. After strong opposite reaction from the civil society, the draft amendment initiative was stopped without being registered for examination in the specialized Parliamentary Commissions.

64. **Questions to the State:**

- *What did the State do to reduce the number of maternal deaths and of pregnant women deaths, especially in the context of recent pandemics?*
- *What did the State do to implement sexual education in schools as required by the Art.6 of the Law on reproductive health?*

65. **Recommendations:**

The Government should be strongly encouraged to:

- *Provide adequate information and access to family planning methods, including contraceptives, both for women and men in relevant cases.*
- *Create and implement educational programs for sexual education in schools.*

## WOMEN WITH DISABILITIES

66. From the total number of persons with disabilities in the Republic of Moldova, 49% are women with disabilities (87,450 persons), including 8.6% girls up to 18 years old (7.500 persons)<sup>86</sup>. Women with disabilities face additional risks and challenges. The poor condition of women with disabilities can make them vulnerable to domestic violence where they are economically dependent upon their partner or a male member of the family. In some cases, women with disabilities have limited access to reproductive health services and may be less encouraged to access the labor market<sup>87</sup>.

67. According to national legislation<sup>88</sup> the State shall endeavor to ensure that disabled people, including women and girls with disabilities are not subject to multiple discrimination and enjoy all the rights and fundamental freedoms.

68. To date women with disabilities in Moldova face widespread and systematic discrimination in education, housing, health services, judiciary and employment.

69. **Women with disabilities may face multiple discrimination:** In Moldova, women with disabilities face more complex forms of discrimination on many occasions compared to men with disabilities and women without disabilities. Women with disabilities may experience discrimination on grounds of being a woman in one context, on grounds of their condition as women with disabilities in another context, and on grounds of their low income group adherence in a third context. They are exposed to greater risks of social exclusion and poverty, compared to men and to most women representing vulnerable groups<sup>89</sup>. Due to lack of official data and researches regarding multiple discrimination of women with disabilities, the stated information is based on the experience of the civil society organizations which are providing social services for persons with disabilities.

70. **Difficulties in accessing the labor market for women with disabilities:** Moldovan legislation<sup>90</sup> provides for all the conditions for labor inclusion of persons with disabilities. In reality, there is no clear mechanism with

<sup>84</sup> Article 6 of the Law on reproductive health, no.138/2012, published on 29.05.2012, entered in force on 01.01.2013.

<sup>85</sup> <http://www.ttm.md/ro/social/masuri-demografice-deputatii-vor-sa-inaspreasca-legislatia-privind-avorturile/> [last accessed on 31.07.2013].

<sup>86</sup> MLSPF, Implementation of the UN CRPD, Initial State Report, 2013, p.7. Available at [http://particip.gov.md/public/documente/139/ro\\_539\\_Raport-initial-privind-implementarea-Conventiei-ONU-privind-drepturile-persoanelor-cu-dizabilitati.pdf](http://particip.gov.md/public/documente/139/ro_539_Raport-initial-privind-implementarea-Conventiei-ONU-privind-drepturile-persoanelor-cu-dizabilitati.pdf) [last accessed on 01.08.2013].

<sup>87</sup> UNDP/UN Women, Joint Integrated Local Development Programme, “Who is out of local development?”, Chişinău 2011, p. 21.

<sup>88</sup> Art.8 (12) and Art.42 (12) of the Law no.60/2012 on social inclusion of persons with disabilities.

<sup>89</sup> CReDO and TransForma, Netherlands, *Feasibility study regarding creating the personal assistant service*, Chişinău. 2011.

<sup>90</sup> Law on social protection of persons with disabilities, no.821/1991; Labor Code; Government Decision no.862 on the approval of employment measures; Law on labor inclusion and social protection of unemployed persons, no.102/2003.

respect to employment of persons with disabilities and there is no mechanism to monitor the enforcement of the law. In order to ensure the access of persons with disabilities, the Law on state budget for 2012 approved the employment of 43 experts within the Territorial employment agencies responsible for providing employment services and protection for unemployed persons with disabilities<sup>91</sup>. Despite the existence of experts responsible for the labor inclusion of persons with disabilities, there is still lack of expertise in assisting the persons with disabilities in finding a job and the latter still face discrimination in accessing the labor market. The access of women with disabilities to the labor market is lower compared to the access of men with disabilities. This is confirmed by the number of employed women. During January 1<sup>st</sup> – November 20<sup>th</sup> 2012 the Employment Agencies registered 435 unemployed persons with disabilities, including persons with 1<sup>st</sup> and 2<sup>nd</sup> level of disability, out of which 162 were women, which as a result of the medical expertise obtained recommendations for employment from the National Disability and Work Capacity Council.<sup>92</sup>

71. A total number of 95 persons with disabilities were supported in the employment process, which amounts to 21.8% from the total number of persons with disabilities registered at the Territorial Employment Agencies. From the total number of registered persons with disabilities, 36 are women. Also, 25 unemployed persons with disabilities were involved in public works, out of which 8 are women<sup>93</sup>.
72. The analysis of the above mentioned employment data proves the fact that women with disabilities have limited access to the labor market. The situation is due to a series of factors: lack of training, lack of efficient labor market employment support services and non-acceptance from the employer's side.
73. **Caretakers of persons with disabilities:** The families of persons with disabilities face poverty. The condition is even worse in the case of mono-parental families. The surveys show that there are many single-mother families<sup>94</sup>. Having a child with severe disability, mothers have to take care of their child and cannot carry on with their job or get employed. As a result the mothers do not have the option to get any social benefits resulting from employment.
74. **Limited access to personal assistant's service for persons with severe disabilities:** The legal framework ensures all the preconditions to develop the service at national level. However, in 2013 this was ensured only in 9 rayons of the country, for 711 persons, although the total number of persons who require personal assistant's service is 8.900. As a result, in most of the cases the mothers of persons with disabilities take care of their child and this makes them vulnerable and financially dependent upon their spouse, or if they are single mothers, they face a severe state of poverty. The State does not develop policies to address the needs of mothers of children with disabilities.
75. **Questions to the State:**
  - *What are the planned measures regarding the collecting of disaggregated data on the situation of women with disabilities?*
  - *What are the planned measures for developing comprehensive policies and ensuring support and assistance services of labor inclusion?*
76. **Recommendations:**

The Government is strongly encouraged to:

  - *Ensure the equal right of women with disabilities to participate in vocational training and labor inclusion, by pro-active means of developing comprehensive policies and ensuring support and assistance services of labor inclusion.*
  - *Create programs for professional consulting of persons with disabilities and efficient monitoring of the activity of the professional units responsible for job seeking, contract negotiation and monitoring the performance of persons with disabilities.*
  - *Habilitate the Council on Prevention and Fighting Discrimination and the courts to efficiently work in identifying cases of discrimination on grounds of disability, and in protecting women with disabilities.*

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<sup>91</sup> Ministry of Labor, Social Protection and Family, *Report on social protection of persons with disabilities and implementation in 2012 of the Action Plan of the Strategy for Social Inclusion of Persons with Disabilities*, Romanian version available at [http://www.mpsfc.gov.md/file/2013/rapoarte/Raport\\_implement\\_Strategie\\_%20FINAL\\_2012.pdf](http://www.mpsfc.gov.md/file/2013/rapoarte/Raport_implement_Strategie_%20FINAL_2012.pdf) [last accessed 01.08.2013].

<sup>92</sup> Social monitor no. 16, *Inclusion of persons with disabilities on the labor market – realities and perspective*, Chişinău 2012, p.42.

<sup>93</sup> *Ibid.*

<sup>94</sup> CReDO and TransForma, Netherlands, *Feasibility study regarding creating the personal assistant service*, Chişinău. 2011.

*Ensure that the legal sanctions provided for in the Law on ensuring equality, are effective, dissuasive and proportionate.*

- *Organize awareness rising and education campaigns on the rights of women with disabilities.*
- *Ensure supporting services for mothers, grandmothers of persons with disabilities which are at risk due to their caretaking of a child with disability, by gradually ensuring the personal assistance service, according to the needs of beneficiaries.*
- *Organize training and individual counseling programs for women with disabilities to increase their personal autonomy and their chances to fully make use of their social, economic and cultural rights.*

## **OLDER WOMEN**

77. Older women and men experience ageing differently in Moldova. In 2012 life expectancy at birth for women constituted 75.0 years of age compared to men – 67.2 years<sup>95</sup>. Current government data estimates the number of older people aged over 60 at 14.8% and data from the national Academy of Sciences estimates that by 2050 the number of older people over 60 will increase by 35%. Due to higher life expectancy, women make up the majority of the older population. As a result, women suffer multiple vulnerabilities – have lower pensions than men and because they typically live longer when their partner dies, they lose their life partner as well as their husband's pension support. As a result of functionality and condition decline coming with an older age they have inadequate social security (levels of pensions and entitlements) and consequently women suffer from economic instability with high risk of chronic poverty, they display physical frailty due to poor health, high prices for medicine and limited access to fair protection and age-appropriate services.
78. Older women make an enormous contribution to their families and communities. They are playing a vital role in taking care of children left behind by migrating parents<sup>96</sup>. According to HelpAge 2010 research grandparents take over the parenting role in 9 out of 10 cases where both parents have migrated and most often for vulnerable and poor households, pensions remain the primary source of income due to irregular remittances sent from abroad.
79. In Moldova, as in many parts of the world, domestic violence against older people is a serious social taboo and occurs with little recognition or response. Being a country in transition, Moldova saw in recent years an escalating level of violence against women determined by the high level of poverty, unstable political situation, and imperfect legal system. 25% of the calls to a national helpline of “La Strada” addressing gender based violence come from women over 50 years old<sup>97</sup>, yet there is no official data on elder abuse and no adequate mechanisms to address it.
80. **Employment:** the Labor Code of the Republic of Moldova prohibits any discrimination of the employees based on sex, age, and other criteria (Art. 8) and also prohibits the ill-founded refusal to recruit a person (Art. 47). However, Art. 82 (i) of the Labor Code, sets the age limit for persons over 65 years for the heads of state units, municipal units, or units with state majority capital to be employed at managerial positions.
81. In the focus group discussions organized by HelpAge and Gender Centre in 2013 with participation of over 100 older women, members of HelpAge network of volunteers and beneficiaries from 10 communities across Moldova, over 60% of women mentioned age as a barrier to employment and mandatory retirement age as an impediment to continue employment particularly in leading positions. At the same time older women mentioned that many experience problems in finding an employment closer to the retirement age as a result of limited job opportunities, particularly in rural areas.
82. Agriculture remains an important sector in Moldova's economy, and the main type of work for women from rural areas. Due to high level of economic migration<sup>98</sup> the rural population is deprived of economically active young adults and older women and men remain the only working force. However, agricultural work is considered an informal employment and does not contribute to future pensions of older women who therefore are exposed to a greater risk of poverty. The development and support of entrepreneurship programmes,

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<sup>95</sup> Life expectancy at birth in Moldova in 2011 constituted 70.97 years of age, disaggregated by age, life expectancy for men was 67.2 years and women 75.0 years. Women live 8 years longer than men and in old age average longevity for women of 60 years of age is 21.53 years, and men – 14.61 years with a difference of 6.92 years. Ministry of Labor, Social Protection and Family. 2012.

<sup>96</sup> According to data of the National Bureau of Statistics for 2011, 25% of economically active population of Moldova is involved in migration.

<sup>97</sup> Trustline, International Centre for Protection and Promotion of Women's Rights, “La Strada”, 2012.

<sup>98</sup> According to the National Bureau of Statistics in 2010, 25 per cent of the economically active population is involved in labor migration.

especially for women and youth, would improve the poor socio-economic situation, would reduce migration flows, and offer more opportunities of employment for older women.

83. **Social Security:** Pensions in Moldova are the only source of income for the majority of older women and dependents in their care. Under the current contributory pension system, pensions are paid quite reliably, but their level is inadequate and consistently below the subsistence income. The situation is even bleaker for those living on non-contributory social assistance benefits. The average pension in Moldova in 2012 was 900 MDL (US\$74) and the minimum constituted 625 MDL (US\$52) while the minimum subsistence level was 1503 MDL (US\$123), pensions respectively making 59% or 42% of this minimum<sup>99</sup>. Annual indexation fails to increase the pension to a level that allows for an adequate standard of living. The average indexation started in 2003 with average indexation level of 20 per cent per year while in 2010 pensions were indexed by only 4.65 per cent.<sup>100</sup> Further on, according to data of the Ministry of Labor, Social Protection and Family in 2011 pensions were indexed by 7.8% and in 2012 by 9.6% and in 2013 by 6.75% only.
84. A survey of HelpAge conducted in 2009 with the participation of older people from 10 regions of Moldova, demonstrated that 87 per cent of the pension of an older person is spent on consumption<sup>101</sup>. According to the same analysis most pensioners, approximately two thirds, have no supplementary income. Increasing the level of pensions to reach the minimum subsistence level would reduce vulnerability of older women in Moldova.
85. According to the focus group discussions held by HelpAge and the Gender Centre in 2013, every second woman mentioned that she would want to continue working after retirement age if the retirement age was not compulsory. In addition to this, as mentioned above, older women have no jobs, particularly in rural areas or there are jobs for which women need training or re-qualification courses. Putting in place measures to enable older women to access opportunities for continuous education and re-qualification programmes and create specialized training programmes especially related to entrepreneurship and business programmes would provide older women with additional income at an older age.
86. **Older women's access to health services:** The Moldovan healthcare system is under continuous reform. Access to medical assistance for older people is limited as a result of reduced or insufficient staffing of Medical Centers particularly in rural areas. The national regulation for a family doctor requires that he/she should oversee not more than 1,500 patients. The shortage of medical staff has brought to higher doctor-patient ratios in rural areas in particular where one family doctor has a patient list twice/three times the recommended size.
87. According to a HelpAge baseline survey<sup>102</sup> conducted in 2012 in two rural and two urban Moldovan communities to evaluate health and well being of older people, the health condition of older people is very poor as only 39.6% of the respondents mentioned they have good or satisfactory health. Women are more exposed to health problems in old age than men, with 85.7% women stating their health is frail, poor and very poor compared to 75.8% for men. Urban areas have a better access to health infrastructure and medical services, which explains the perception of improved health condition of respondents from urban communities compared to the rural ones, with 36.5% mentioning they have poor and very poor health in towns and 42.2% in villages.
88. According to the same survey older women and men didn't seek medical support or treatment when they needed it for the following reasons: (i) doctor's consultations and medical treatment are too expensive (20.0%), (ii) medical office is too far from the living place (13.8%), (iii) transportation is too expensive (10.8%), (iv) lack or no access to transportation (10%), (v) medical workers have bad attitude towards older patients (5%).
89. The health needs of many older women and men and in particular access and provision of geriatric medicine are met improperly. Access to geriatric doctors is 2.16 per 10,000 elderly<sup>103</sup>. The geriatric services are mostly developing in big cities or rayon level clinics. Older women from rural areas have poor awareness and access to these services.

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<sup>99</sup> National Bureau of Statistics (2012).

<sup>100</sup> IDIS Viitorul, *Protection of Pensioners: "Priorities and Current Debates"*, Social Monitor, Jan-Feb 2010.

<sup>101</sup> HelpAge, *Living Conditions of Older Persons of Moldova 2009*. Research conducted by CBS AXA in the framework of Irish Aid sponsored project "Realizing Older People's Rights in Moldova".

<sup>102</sup> HelpAge, baseline survey *Towards healthy ageing: new shape of community-based healthcare support*, 2013.

<sup>103</sup> UNDP/UN Women, Joint Integrated Local Development Program, *Who is missing from local development?* 2011.

90. Poor health and high prices for medicine is another big problem mentioned by older women in repeated consultations and discussions with HelpAge. The primary health care family medicine (PHC) that was introduced in 2005 annually approves a set of medical services in a single health insurance package as part of compulsory health care insurance. However, this compulsory package is very limited and the list of compensated medicines is very basic and insufficient in the case of chronic diseases affecting older people. Older women do not have enough income to buy medicines for themselves or their dependents, so they neglect their health, putting their lives at risk. Many older women are also unable to treat their illness above the compulsory package due to high healthcare costs. Others cannot afford to pay the informal fees asked from them by the doctors and are therefore unable to motivate the health professionals to provide care. As reported by older women in consultations with HelpAge - age discrimination, high costs for medicine, negligence of doctors, informal fees and inadequate income through pensions are major barriers to older women and men's enjoyment of their right to health. *"My mother was sick" says a young man from Orhei, "but she was not paid any attention in the hospital, totally ignored by the doctors, and her life was taken away. I could not save her because we had to pay extra money. This is the attitude of a big number of doctors – if you are old, you do not need treatment, as you will die anyway"*<sup>104</sup>.

91. **Questions to the State:**

- *What did the State do to ensure the minimum subsistence level allowing for an adequate standard of living of older women?*
- *What did the State do to ensure access to medical assistance for older people, especially considering the shortage of medical staff which leads to higher doctor-patient ratios in rural areas in particular?*

92. **Recommendations:**

The Government should be strongly encouraged to:

- *Increase the level of pensions to reach the minimum subsistence and especially for pensioners in the agricultural sector.*
- *Abolish the mandatory retirement age of 57 so that older women may continue working if they need to.*
- *Create a conducive environment to enable women's entrepreneurship; develop special programmes (micro-finance, credits, grant programmes, etc.) to support women's businesses to offer opportunities to older women to continue their work activities as long as they choose.*
- *Ensure affordable and accessible healthcare to all older women particularly from rural areas where there is a critical shortage of medical staff.*
- *Provide training to health workers in geriatric care and open more geriatric centers for older people in areas of limited access to healthcare services.*
- *Provide affordable and good quality medicines to treat old age related chronic and non-communicable diseases.*

## **WOMEN IN PSYCHIATRIC INSTITUTIONS**

93. 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 infringements<sup>105</sup>. 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 pregnant*<sup>106</sup>.
- *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 court*<sup>107</sup>.

94. 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.

<sup>104</sup> A beneficiary of HelpAge Ms. Evdochia, 74 years old woman (passed away) from Orhei and her son.

<sup>105</sup> Institutional Ombudsman Report. Available at [http://dis.md/wp-content/uploads/2012/02/RAPORTUL-FINAL\\_6luni-apr-sept-20121.pdf](http://dis.md/wp-content/uploads/2012/02/RAPORTUL-FINAL_6luni-apr-sept-20121.pdf).

<sup>106</sup> Case of S.Z. who faced two abortions in 2005 and 2009, documented by the National Institutional Ombudsman.

<sup>107</sup> Cases 1-701/2013 and 1-563/2013, Florea Stanislav Ion accused of breaching the Art. 171 (Rape) of the Criminal Code.

95. 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 reported<sup>108</sup> 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.

96. **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.)?*

97. **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.*

## THE ROLE OF RELIGION IN LIMITING THE RIGHTS OF WOMEN

98. 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 State<sup>109</sup>. 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)<sup>110</sup>. Along with other numerous religious denominations present in Moldova, the Moldovan Orthodox Church continues promoting a patriarchal model of social relations between women and men, while public authorities do not assume the role of leader in promoting new models based on the gender equality principle.

99. 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.

100. 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 note<sup>111</sup> 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

<sup>108</sup> According to the interview with the National Institutional Ombudsman Doina-Ioana Străisteanu on 13.06.2013.

<sup>109</sup> 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](http://www.un.md/news_room/pr/2012/HR_Report/G1210269.pdf) [last accessed on 31.07.2013].

<sup>110</sup> 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].

<sup>111</sup> <http://mitropolia.md/a-avut-loc-sinodul-bisericii-ortodoxe-din-moldova/> [last accessed on 31.07.2013].

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.

101. **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?*

102. **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.*

## RIGHTS OF LBT WOMEN

103. 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 courts<sup>112</sup>. The court found that woman’s former husband discriminated her on grounds of sexual orientation by harassing her.

104. 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 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.

105. On July 12<sup>th</sup> 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 Code<sup>113</sup>. In fact, these provisions are a hidden prohibition of “gay propaganda” as called by the opponents of sexual minorities.

106. The local authorities of Bălţi City, the second biggest city in Republic of Moldova, issued a City Council decision<sup>114</sup> prohibiting the “propaganda of homosexual relationships”<sup>115</sup>. 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.

107. 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 change<sup>116</sup>. However, this recommendation does not solve the problems of transsexual and transgender in Moldova. In

<sup>112</sup> <http://www.lgbt.md/rom/story.php?sid=747> [last accessed on 31.07.2013].

<sup>113</sup> <http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=348682> [last accessed on 31.07.2013].

<sup>114</sup> Decision No. 12/16 issued on 23 February 2012 on “The declaration of Bălţi 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 Bălţi”.

<sup>115</sup> <http://www.acum.tv/rubrica/info/comunicate-de-presal> [last accessed on 31.07.2013].

<sup>116</sup> [http://jurisprudenta.csi.md/search\\_rec\\_csj.php?id=33](http://jurisprudenta.csi.md/search_rec_csj.php?id=33) [last accessed on 31.07.2013].

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.

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

109. **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 phenomenon<sup>117</sup>. 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"<sup>118</sup>.

110. 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.

111. The Law on ensuring equality<sup>119</sup> 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 only in the area of employment; all other potential discrimination cases are not covered by the Law.

112. 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.

113. **Questions to the state:**

- *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?*

114. **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.*

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<sup>117</sup> Soros Foundation-Moldova, *Study on the perceptions of Moldovan population on the discrimination phenomenon* (2011).

<sup>118</sup> <http://www.moldovacrestina.md/news/biserica-buna-vestire-despre-festivalul-LGBT-curcubeul-pestre-nistru-2013.html>.

<sup>119</sup> Law on ensuring equality, no.121/2012, Published on: 29.05.2012, entered in force on 01.01.2013.