

For Diversity



Against Discrimination

**Resource Center for Human Rights
National Roma Center**
in partnership with
Centre of Interethnic Research of the Republic of Moldova,

ON BEHALF OF THE

**COALITION FOR PROMOTION OF NONDISCRIMINATION POLICIES
IN MOLDOVA**

**OPINION OF THE NONDISCRIMINATION COALITION ON THE PROGRESS
OF THE IMPLEMENTATION OF THE UN CONVENTION ON THE
ELIMINATION OF ALL FORMS OF RACIAL DISCRIMINATION (UN CERD)**

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1. Introduction

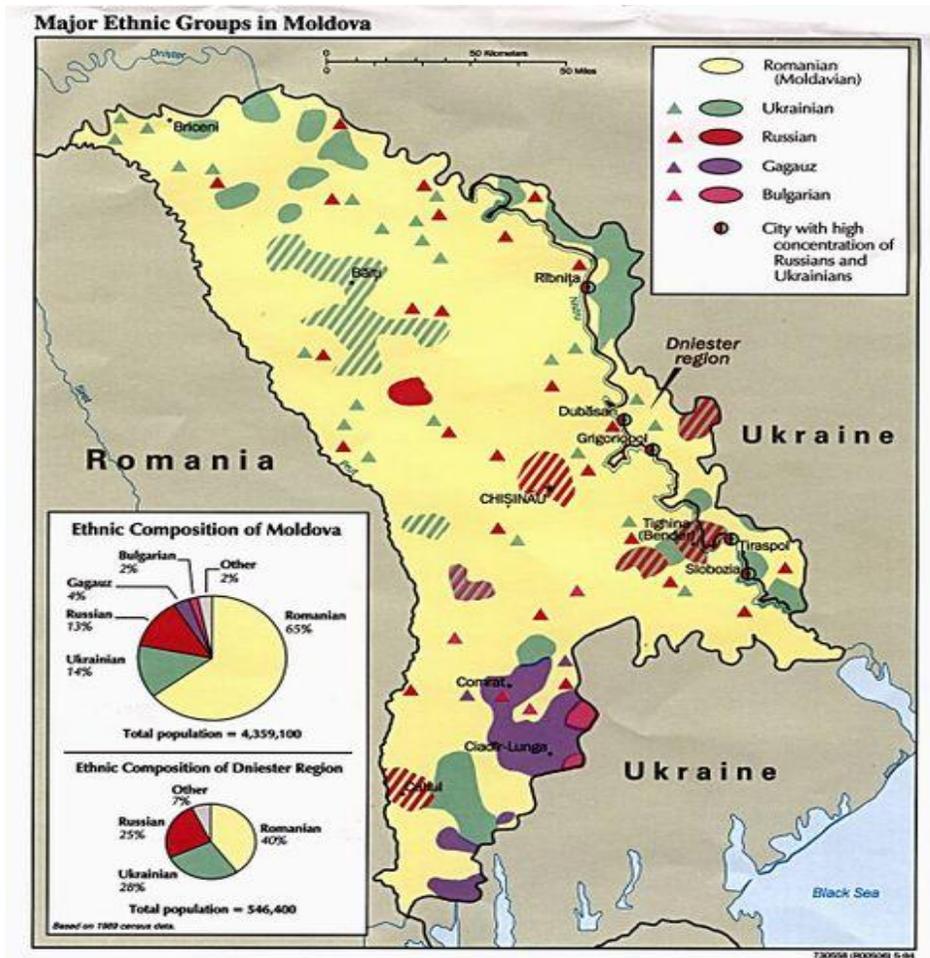
The Republic of Moldova is a state with population in 1989 composed of 4 500 000 people¹ of with ethnic composition is: Moldovans/Romanians (64, 5%), Ukrainians (13, 8%), Russians (13%), Gagauz (3, 5%), Bulgarians (2%), Roma (0, 3%), Jews (1, 5%), and other minorities. A similar breakdown for left bank where the population is about 700 000 is: Moldovans/Romanians (41%), Ukrainians (28%), Russians (23%) and others (10%)². The last reference data is that of the [2004 Moldovan Census](#) and the [2004 Census in Transnistria](#):

#	Ethnicity	Mold. census	% Mold	Transnistrian census (unofficial data)	% Tran	Total	%
1.	Moldovans*	2,564,849	75.8%	177,156	31.9%	2,742,005	69.6%
2.	Ukrainians	282,406	8.3%	159,940	28.8%	442,346	11.2%
3.	Russians	201,218	5.9%	168,270	30.3%	369,488	9.4%
4.	Gagauzians	147,500	4.4%	11,107	2.0%	158,607	4.0%
5.	Romanians	73,276	2.2%	NA	NA	73,276	1.9%
6.	Bulgarians	65,662	1.9%	11,107	2.0%	76,769	1.9%
7.	Others	48,421	1.4%	27,767	5.0%	76,188	1.9%
8.	TOTAL	3,383,332	100%	555,347	100%	3,938,679	100%

¹ Current assessment give the figures that in reality around 1 000 000 people left Moldova (including Transnistrian region and other regions proportionally) seeking better life elsewhere, including, Romanian, Ukraine, Russia, Turkey but also Western countries.

² Transnistrian region is divided into 5 small districts: **North**: Ribnita (30%-Moldovans, 47%-Ukrainians, 13%-Russians), Camenca (40%-Moldovans, 32%-Ukrainians, 28%-Russians), **Center**: Dubasari (86%-Moldovans, 12%-Ukrainians), Grigoriopol (66%-Moldovans, 10%-Germans, 14%-Ukrainians), **South**: Slobozia (47%-Moldovans), data available from the Department of Statistics of the Republic of Moldova based on census 1989.

Note: Transnistrian authorities published only the percentage of ethnic groups; the number of people was calculated from those percentages. The number or percentage of Romanians in Transnistria was not published; it is included in "others".



2. List of Issues of the country rapporteur

LIST OF ISSUES OF THE COUNTRY RAPPORTEUR IN CONNECTION WITH THE CONSIDERATION OF THE FIFTH TO SEVENTH PERIODIC REPORTS OF THE REPUBLIC OF MOLDOVA

General information

1. As requested in paragraph 10 of the Committee's previous concluding observations (CERD/C/60/CO/9), please provide more detailed information on the ethnic composition of the population, in particular on internally displaced persons, refugees, and the Roma population. Furthermore, please indicate the regions where the different ethnic minorities settle within the State party.

Please see Introduction.

Article 1

2. Please indicate whether the State party intends to extend the application of the principle of equality and non-discrimination in Article 16 (2) of the Constitutions to non-citizens. (State party report, para. 34)

Article 2

3. Please describe any civil and administrative law provisions prohibiting racial discrimination and provide information on their implementation and effectiveness.

Please see details in chapter 3 of the report.

There no special Law on elimination of discrimination in the Republic of Moldova, including racial discrimination. Provisions concerning discrimination are dispersed in different legislative acts (more than 20). However, the Moldovan legislation does not provide such provisions as direct and indirect discrimination, institutional mechanisms for elimination of discrimination, collection of data concerning discrimination etc. According to the Republic of Moldova – European Union Action Plan (chapter 2.1, paragraph (4), the republic had to elaborate and implement the legislation on elimination of discrimination. This obligation was not respected by the Republic of Moldova. Republic of Moldova has not ratified Protocol No. 12 to the European

Convention for the Protection of Human Rights and Fundamental Freedoms. Reasoning from the lack of respective legal provisions concerning discrimination, including racial one, combating of this phenomena is not effective.

4. Please provide detailed information on the activities, mandate and funding of institutions and associations working to preserve and promote the culture and traditions of national minorities (see paragraph 14 of the Committee's previous concluding observations).

I. In the period 1991 – 2001 many mechanisms for participation of national minorities in public life and promoting of their special needs had been created in the Republic of Moldova. In the period 2001 – 2008 about all of this mechanisms have been liquidated, including:

- *commission for interethnic relations by the President of the Republic of Moldova;*
- *commission for the functioning of languages by the Government of the Republic of Moldova;*
- *parliamentary Commission for human rights and national minorities;*
- *Division for education of minorities in the structure of the Ministry of Education and Youth of the Republic of Moldova;*
- *vice-ministry of education, representative of national minorities, who was the curator of national minority education;*
- *2 representatives of national minorities in the Supervisory board of the national broadcasting Company "Teleradio-Moldova".*

II. There is only 1 specialized institution in the field of national minority protection an elimination of racial discrimination – the Bureau of Interethnic Relations by the Government of the Republic of Moldova.

However, in the period 2004 – 2008 the importance and effectiveness of this governmental body have substantially decreased. Especially, in the structure of the Bureau there is the Division for national minorities, interethnic relations and function of languages – the main and unique body that deal with national minorities rights' protection and combating of racial discrimination. Now this Division practically is failed. Only 3 specialists are acting in this division. All of them are of pension age. There no young specialist in this division, succession of its activity. During the year (2007-2008), there is no the chief of this division. Moreover all specialists of the Direction are involving in organization of different cultural activities (concerts, matinees) and do not realize the basic functions of the Bureau of Interethnic Relations.

No activity concerning monitoring of racial discrimination, study of respective facts, promotion of legislation concerning combating of discrimination is realized by the Bureau of Interethnic Relations.

III. *By the Bureau of Interethnic Relations the consultative body of national minorities is acting – Coordination council of ethno-cultural organizations. The destination of the Council is representation of minorities' interests, participation in elaboration of the state politics in the field of interethnic relations.*

In the period 2004 – 2008 the importance and effectiveness of this civil body have substantially decreased. There no legislative mechanisms of the Council's decisions promotion. Only decisions that are accepted by the director of the Bureau of Interethnic Relations are taking into consideration. All meetings of the Coordination council are prepared by the Bureau, all decisions are taking by the voting by show. Hence, the Coordination council of ethno-cultural organizations is not de facto representative of the national minorities, this body is serving only as a cover of national minorities interests.

IV. *One of the Bureau of Interethnic Relations responsibilities is supporting of ethno-cultural organisations of national minorities.*

According to the Law concerning the rights of the persons, belonging to national minorities and the juridical status of their organizations from 19 June 2001 (article 20), the organizations of the persons, belonging to national minorities benefit by the state support on the implementation of the cultural, educational, illuminist, charity. Some of the programs of special interest can be supported financially by the state. The organ, responsible for the selection of the programs and their financing and for auditing is the Bureau of Interethnic Relations. The laws on the state budget foreseen special funds of the Bureau of Interethnic Relations for supporting of social and cultural activities, including ones organised by the ethno-cultural organisations. In 2004 208.500 MDL were assigned, in 2005 – 118.700 MDL, 2006 – 128.400 MDL, 2007 – 140.000 MDL. The level of utilization of these funds is about 100%.

In practice there no special regulations concerning selection and financing of the programs initiated by the ethnocultural organizations of national minorities. These programs are not supported by the Bureau of Interethnic Relations. The problem of spending of the funds foreseen in the budget laws for supporting of social and cultural activities is decided individual by the director of the Bureau of Interethnic Relations, without organisation of respective competition. Nobody has the access to the data concerning distribution of the mentioned-above funds and can influence allocation of thus financial resources.

Reasoning from preceding ones can conclude that no state authority which direct competence is combating and elimination of racial discrimination on the territory of the Republic of Moldova does not exist in fact.

5. As requested in paragraph 18 of the Committee's previous concluding observations, please provide information on the results of the measures adopted so far under the "Main Guidelines on the Support of the Gypsy/Roma in the Republic of Moldova for 2001-2010" and on the current status of the draft "Decision of the Government on Approving the Action Plan on the Support of the Gypsies in the Republic of Moldova for 2005-2010" (State party report, paras. 71-76).

The representatives of the Roma non-governmental organisations did not participate in elaboration of the Plan of Actions on Support of Gipsy / Roma from the Republic of Moldova for 2007-2010, approved by the Government on 21 December 2006.

Therefore the Plan of Actions does not foreseen a number of activities which have to be undertaken for support of Roma and combating of racial discrimination. In accordance to the Plan of actions, ministries and departments have to elaborate annually plans for implementation of the Governmental decision. The only which did not elaborated its internal plan for 2007 is the Bureau of Interethnic Relations. The Roma and other NGO have not the possibility to carry out effective monitoring of the implementation of the Plan of Actions on Support of Roma, because the Bureau of Interethnic Relations keeps back the information about the ministries and department's plan of actions for 2007 and 2008 and the information about realisation of the Plan in 2007.

The state admits the fact that dissimilar look serve an argument to treat (p.49 of Governmental actual report) Roma/Gypsies differently by the local authorities as this in fact serve a cause of racial discrimination. This position appears to misinterpret or fail to take into account Article 1(4) of the Convention, which provides for differences to be made between impermissible racial discrimination and permissible special measures "[...] taken for the sole purpose of securing adequate advancement of certain racial or ethnic groups or individuals requiring such protection as may be necessary in order to ensure such groups or individuals equal enjoyment or exercise of human rights or fundamental freedoms [...]".

5. To date Government has totally failed in bringing up the issue of Roma on the Governmental agenda. Considering Governmental efforts in adopting special measures to improve Roma situation has shown its interest to nullify the needs of Roma people by allocating for implementation of this policies zero financial support on behalf of State budget.

First of all the respective Plan of Action lack a clear mechanism of its implementation as well a specific method to evaluate or monitor the implementation of the Action Plan, nor clear on a timeframe and responsibilities given to relevant public authorities undersigned to implement the Plan of Action.

Despite the fact that Roma NGOs has proposed a Plan of Actions (2003) – the respective state public authority has replied in a manner – that reserves its rights to selects those

“33 points” without to make them public until the adoption of the Action Plan on 21st December 2006 by the Government.

- a) *Under the New Action Plan our Center has advocated the Government to consider adherence to Roma Decade of Inclusion 2005-2015 (www.romadecade.org). The Steering Committee of Roma Decade for several times has invited Moldovan Government to its meetings (in May 2005 by Romanian Government, in August-September 2006 by Bulgarian Government, in October 2007 by Hungarian Government) thus showing a completely indifference of attending, even when in some situation financial means were provided by the organizers. Under the arguments of public officials that the member fee is very high (twenty thousands Euro) the World Bank proposed to the Government a special loan, however the benefits of the Decade for improving the Roma situation a fifty times higher.*
- b) *RNC is not aware of any single activity where the state has brought to light any measures from the New Action Plan adopted in December 2006 till today February 2008.*

Finally, in its Report, the Government has provided a wealth of information on measures taken to secure the cultural rights of minorities.³ Based on the information provided in the Government Report, it is apparent that Government measures to secure the cultural rights of Roma to date pale by comparison with other minorities. For example, in the description of the Government:

- *There is half an hour per month of broadcasting "in the Gypsy language" on a state radio station;*
- *There are a number of Romani "ethnic-cultural organizations" officially registered with the Ministry of Justice; and*
- *The Government's Department for National Relations and Languages has "[taken] part in a number of meetings, round tables and other activities dedicated to the history of the Ukrainians, Jews, Germans, Gypsies, etc."*

By contrast, other minorities have secured schools in the native language, including 394 schools in which Russian is a language of instruction, and other schools in which Bulgarian, English or Ukrainian are one or more of the languages of instruction. Moreover, it is not clear to what extent the right to the use of the Romani language is secured at all in Moldova, and if so, in what contexts.

³ The Constitution of the Republic of Moldova recognizes, at Article 16, “[...] citizens of another ethnic origin[...]”. Moldova has ratified the Council of Europe’s Framework Convention on National Minorities on November 20, 1996. The Government contends that “in the course of nine years of independence (since August 2, 1991) there has been created a legal and international basis for the protection of ethnic minorities in the Republic of Moldova” (see Government Report, paragraph 2). The Government has, however, not clearly stated the content of this "legal and international basis".

Article 4

6. Please provide updated data on incidents of racial discrimination in the State party, as requested in the Committee's previous concluding observations, disaggregated by national and/or ethnic origin of perpetrators and victims.

Because of lack of anti-discrimination legislation, the monitoring and combating of acts of discrimination in very problematic in the Republic of Moldova. The authorities do not have concrete data on racial discrimination. They prefer to not elaborate respective mechanisms and to report that racial discrimination does not exist in the Republic of Moldova.

7. Please indicate reasons for the lack of investigations and convictions under article 346 of the Criminal Code and other criminal law provisions punishing incitement to racial hatred and similar acts of racial discrimination (State party report, at para. 85). Please also provide examples of implementation of articles 4 and 6 of the Convention, as well as information on incidents of racial discrimination in the State party and on the penalties and sanctions imposed on perpetrators of acts of racial discrimination (see paragraph 11 of the Committee's previous concluding observations).

*According to the legislation of the Republic of Moldova for crimes of discrimination character depending on weight, consequences and other circumstances the responsibility is stipulated according to the **articles 135, 176, 346 of Criminal Code of the Republic of Moldova.***

As stated above, the investigations of the discrimination acts are not practically undertaken by the criminal investigation authorities. The lack of anti-discrimination legislation and mechanisms for detection of discriminatory acts does impossible respective investigations.

Article 5

8. Please comment on information according to which high legal fees and the lack of interpretation services for members of linguistic minorities or foreign nationals prevent them from exercising their right to equal access to the courts.
9. What measures is the State party taking to combat police violence against persons belonging to minority groups, in particular the Roma, and to change the behaviour of police and law enforcement officials who "treat citizens belonging to national minorities, for instance the Roma/Gypsies, or people of African and Asian descent, differently because they look dissimilar to the rest of the population" (State party report, para. 49)? Has the State party introduced mandatory human

rights training for law enforcement officials, as recommended in paragraph 17 of the Committee's previous recommendations?

10. Please provide information on the nature of the measures recommended by the Bureau of Inter-Ethnic Affairs to prevent arbitrary detention, identity checks and home searches of Roma and persons of African or Asian origin, as well as on the conclusions of its study of this problem. (State party report, para. 77)
11. What legal safeguards are in place to ensure that rejected asylum seekers, including Chechens, are not subjected to ill-treatment and persecution upon return to their country of origin? Is their situation upon return monitored?
12. Please indicate whether the State party intends to further ease the requirement in the Law on Political Parties and Socio-Political Organizations that, in order for a party to be registered, it must have 5,000 active members residing in at least half of the 32 administrative districts (with no less than 150 members in each of these districts), so as to allow the registration of regional parties of national minorities (State party report, para. 186).

The requirement of the Law on political parties and socio-political organizations is not amended. Representatives of international organizations, in particular the Venice Commission, as well as the experts from the Republic of Moldova have discussed the issue concerning the provisions of the Law on political parties and other socio-political organizations relating to the fact that the political party or the organization is registered if it includes at least 5,000 active members residing in at least half of the second level administrative territorial units, but no less than 150 in each of the administrative-territorial units mentioned above. It limits the possibility of the persons belonging to national minorities, who live commonly in a certain region, to make up a party.

Especially it is very problematic to create parties of Gagauz, Bulgarians, Roma.

13. What measures are being taken to promote the representation of Roma in Parliament and other elected bodies and in the public service, in accordance with the Law on the rights of people belonging to national minorities (State party report, paras. 146-148)? Does the State party envisage introducing statutory electoral or public service quota to ensure an "approximately proportional representation" of Roma and other ethnic minorities?

There are no special legal mechanisms of the ensuring of national minorities representation in the Parliament and local councils. National minorities became the members of the Parliament or local councils only if they are included in the electoral lists of parties that participate to elections.

These persons do not represent interests of respective ethnic group, but the interests of respective party. For example: from 2001, the problem of the European Charter for Regional or Minority Languages is discussed very active in the Republic of Moldova. National minorities support the ratification of this document. There are more than 20 persons belonging to national minorities in the Parliament of the Republic of Moldova. No one of them has undertaken concrete measures for the promotion of the idea of ratification of the Charter, because the stat does not wish this. As a consequence, till now (2008) the European Charter for Regional or Minority Languages is not ratified.

No Roma is represented in the Parliament of the Republic of Moldova.

14. Please specify the requirements for the registration of religious communities and indicate the precise grounds on which Tatar Muslim communities have been denied registration. Please provide information on the outcome of the court case referred to in paragraph 170 of the State party report.

On 11 May 2007, the Parliament has adopted the Law on religious cults and religious societies. The law provides new procedure of registration of religious cults, which the Ministry of Justice effects. According to article 19 for registration of religious cults it is necessary to present the following documents:

- application for registration;
- statute, authorized by founders;
- proceedings of the constituent assembly;
- list of founders with signatures not less than 100 citizens of the Republic of Moldova;
- main principles of belief.

Until now, the Islamic cult is not registered in the Republic of Moldova. It seems that the authorities do not permit registration of the Muslim confession.

15. What measures are being taken to improve the quality and number of television and radio programmes in minority languages other than Russian or covering issues of interest to the numerically smaller minorities, such as the Armenians, Belarusians, Azerbaijanis, Tatars, Poles and Lithuanians?

The “Teleradio-Moldova” Company through the specialized edition of broadcasting in languages of national minorities releases the programs in Ukrainian, Gagauz, Bulgarian, Yiddish, Romany, Polish languages and the programs for small numeric national minorities. The main problem is that national minorities have not their representatives in the Supervisory board and have not real mechanisms for influence linguistic and cultural politic of the “Teleradio-Moldova” Company.

16. Please provide disaggregated statistical data on the extent of unemployment among the Roma and other ethnic minorities in the State party. What measures are being taken, including under district employment programmes, to qualify Roma for the labour market and how effective are these measures? (State party report, para. 192)

The account of unemployed persons by ethnic criteria is not realised in the Republic of Moldova.

The Plan of Action on Support of Gipsy / Roma from the Republic of Moldova for 2007-2010 foresees realization of the following actions:

- *ensuring of specialists training by professions and traditional trades of Roma in professional educational institutions, monitoring of employment of graduates Roma;*
- *informing and consultation of Roma on questions about vacancies on the labour market, assistance to their professional training and retraining;*
- *revival and development of traditional Roma trades, creation of ethno-craft zones in places compact populated by Roma;*
- *assistance to development of private business among Roma.*

The Roma and other NGO have not the possibility to carry out effective monitoring of the implementation of the Plan of Actions on Support of Roma, because the Bureau of Interethnic Relations keeps back the information about the ministries and department's plan of actions for 2007 and 2008 and the information about realisation of the Plan in 2007.

17. Please provide information on language training opportunities for refugees and on any progress achieved in reducing the delays in issuing identity papers and personal index numbers for tax purposes to refugees, with a view to facilitating their employment, access to social security and their integration into society (State party report, paras. 42-43, 191).
18. Please provide information on resources allocated and measures taken to improve the housing conditions of, and provide social housing to, Roma.
19. Please provide updated statistical data on the enrolment, attendance and dropout rates among minority, migrant and refugee children at all levels of schooling, disaggregated by age, gender, national or ethnic origin, mother tongue and rural/urban population. What special measures are being taken to promote primary, secondary and tertiary education of these groups, including the Roma, and how effective are they? (State party report, paras. 208-210)

20. What measures are being taken to ensure adequate opportunities for Gagauz, Roma, Ukrainian, Bulgarian and other minority children to receive instruction in, or of, their native language and culture? What is being done to ensure the quality of teaching in Moldovan in schools in which Russian or another minority language is the main language used?

For more details please see chapter 5.2

I. *There are 3 models of national minorities languages studying in the Republic of Moldova:*

- *schools and lyceums with Russian language of training in which representatives of national minorities are traditionally studied;*
- *schools and lyceums with Russian language of training where Ukrainian, Gagauz and Bulgarian languages are studied as school subject and also the subject “The history, culture and traditions of peoples: Russian, Ukrainian, Gagauz, Bulgarian” is taught;*
- *experimental schools and lyceums in which the process of training in native language – Ukrainian or Bulgarian – is realised.*

The main problems concerning studying of native languages of national minorities are:

- *only pupils who study in schools with Russian languages of training have the possibility to study the Ukrainian, Gagauz and Bulgarian languages. The pupils belonging to national minorities (Ukrainians, Gagauz, Bulgarians) who prefer studying in Romanian language have not the possibility to study their native language;*
- *there are no programs for studying or Romany languages as subject;*
- *the total number of schools where the Ukrainian language is studying is insufficient. There are 55 schools in which the Ukrainian language is studying, but the number of settlements where Ukrainians makes majority of population is more than 100. In the half of this settlements the language of instruction is only Russian and the subject “The history, culture and traditions of Russian people” is taught. This fact influence very negative ethnic identity of Ukrainians from Moldova;*
- *the studying in native languages of national minorities (Ukrainian, Gagauz, Bulgarian etc.) does not implanted in Moldova. Only in 2 schools children have the possibility to study in Ukrainian language, only in 1 – in Bulgarian. In this regard, the authorities have to develop the system of multilingual education – respective in native, Romanian, Russian and foreign language. This model does not exist in Moldova.*

II. *No efficient measures for good studying of the state language (Moldovan / Romanian) are undertaken in the Republic of Moldova. Young people from the settlements compact populated by national minorities after leaving schools do not speak the state language on the high level.*

According to the data of 2004 census only 30% of national minorities know fluent the Moldovan / Romanian language (40% - Ukrainians, 35% - Russians, 12% - Gagauz, 35% - Bulgarians).

The state language is not studying during all degrees in the institutions of higher education. Graduating from the universities, young people belonging to national minorities do not know the state languages and have not equal opportunities in the labour market.

21. Please provide information on the number of Moldovan/Romanian language schools in Transnistria, registered with the Moldovan Ministry of Education, that are allowed to use the Latin script. Has any progress been achieved in negotiating durable solutions that allow native Moldovan speakers in Transnistria to preserve their linguistic and cultural identities?

Article 6

22. Please provide information on the measures taken to ensure the effective investigation of complaints about police violence against Roma. In particular, what has been done to investigate and punish those responsible for the armed police raid on the Roma community in Yedintsy on 18 July 2005 during which 30 Romani, including children, were arrested and allegedly beaten? What measures have been taken to compensate those Roma who were reportedly detained *incommunicado* for several weeks and released without a charge?
23. Please provide information on the number and nature of complaints about racial discrimination and discrimination against minorities filed with the Center for Human Rights – Ombudsman Office in Moldova and with the parliamentary advocates, the investigation and outcome of such cases, and the remedies provided to victims. (State party report, para. 231) What measures have been taken to raise public awareness about these and other mechanisms available to ensure protection from racial and ethnic discrimination?

The Centre for Human Rights of Moldova has only about 5 cases of discrimination by ethnic principle. No one of them was investigated by the criminal authorities in accordance with 176 and 346 of Criminal Code of the Republic of Moldova.

Article 7

24. Please provide more detailed information on school education and information campaigns on the cultures of national minorities, as well as on the role of the State and mass media in eliminating negative societal attitudes and stereotypes against

members of minority groups, in particular the Roma, and against foreign nationals of different ethnic origin.

3. Absence of the comprehensive legislation regarding nondiscrimination

More and detailed information from this section is contained in the Annex.

Key aspects:

- no definition of direct and indirect discrimination in any general or specific legislation,
- victims of discrimination have to prove their standing and the fact of discrimination,
- absence of the provisions regarding the affirmative measures to address past and current disadvantaged groups and situations,
- criminal legislation is not comprehensive.

Civil legislation is not developed in to the aspect of the indirect discrimination, aspects related to the representation, access to justice in relation to the discrimination cases, proactive actions on behalf of the state, collection of the statistical data to develop the public policies and most importantly the lack of the implementation of the anti-discriminatory provisions. There is no a specific piece of legislation covering comprehensively the discrimination aspects.

Criminal legislation is not developed in to the aspect of the indirect discrimination, aspects related to the representation, access to justice in relation to the discrimination cases, proactive actions on behalf of the state, collection of the statistical data to develop the public policies and most importantly the lack of the implementation of the anti-discriminatory provisions.

2.1 Conclusions

Civil legislation

1. Civil legislation and administrative one have basic anti-discrimination provisions, provide the equality before law, legal capacity, the impossibility of absence or of limitation of legal capacity, a free access to justice, a possibility to choose the language of legal procedure, access to public authorities and public places, the protection of rights before public authorities of all levels, etc. for all persons.
2. Neither civil nor administrative legislation defines the notions of “direct” and “indirect” discrimination, these notions are only mentioned in both legislations.
3. Civil legislation and administrative legislation contain the complete list of prohibited grounds, except “colour”, sexual orientation.
4. Both civil and administrative legislation do not provide specifically the offences or hostile treatments based on the belonging of a person or of a group of persons to one of prohibited grounds.

5. Legislation covers with general provisions anti-discriminating norms in domains: employment (Art.17 of the Labour Code), work remuneration (Art.85 of the Labour Code), education (Art. 4-8 of the Law on Education), living space (Art.10 of the Code on Housing), health protection (Art.17 of the Law on Health Protection), access to propriety (Art.18 of the Civil Code), access to benefits and public places (Art.16 of the Constitution), etc.
6. The legislation with regard to discrimination is applied equally to both public bodies and private persons.
7. Neither civil nor administrative legislation defines or prohibits such actions as: persecution, punishment, segregation, damage on racist grounds, as well as discrimination based on association or contracts with a person belonging to one of prohibited grounds, urging another person to discriminate, a declared intention to discriminate, helping another to discriminate.
8. The legislation does not require that public authorities put some specific conditions to respect and to promote non-discriminating policy to persons for which these authorities provide contracts, loans, grants, and other benefits.
9. Some specific procedures contributing to facilitation of examination of discrimination cases do not exist.
10. Both legal and natural persons, personally or through their representatives, are liable to lodge complaints relating discrimination.
11. In addition to other measures, legislation provides the restoration of a person's rights (Art.10 of the Civil Code).
12. Some non-financial forms of compensation, such as the information of public of the decision adopted by a court in a discrimination case, do not exist. They exist only in cases of honour and dignity infringement.
13. The legislation provides a free legal aid for the alleged victims of discrimination, as well as for the victims of other illicit actions.
14. The legislation does not provide that principles are responsible for the discriminating acts of their employees. Each person bears a personal responsibility for a discriminating act.
15. Some plans relating the creation of a new legislation dealing with racial discrimination issues do not exist.
16. The level of implementation in practice of the legislation on discrimination can not be defined, giving the imperfect content from this point of view of statistical blanks.

Criminal Legislation

1. Criminal legislation prohibits direct or indirect racial discrimination (Art.346 CC), but does not define them and not indicate qualifying criteria for each of these forms of discrimination. They are not defined in other articles of Criminal Code either as well.
2. Criminal legislation foresees all reasons of discrimination and each of them taken apart constitute the commitment of an offence.

3. The legislation of the Republic of Moldova provide for struggle against racial discrimination in all spheres of social life, especially in such important domains as:
 - a. employment;
 - b. education;
 - c. getting a living space;
 - d. health protection;
 - e. access to public services and public places.
4. In all these domains only citizens are taken into account.
5. The legislation promote equality and prohibit discrimination as to the access to exercising functions in public bodies of all levels but only regarding the citizens of the Republic of Moldova.
6. Access to public bodies of all levels and to public places is provided for all persons.
7. Legislation in force does not foresee any faster procedures for the settlement of cases of a racist or xenophobic nature.
8. Both natural and legal persons have the right to lodge complaints regarding discrimination.
9. In case when a legal person lodges a complaint regarding discrimination to protect a concrete victim's rights, it is not necessary to have a victim's consent.
10. Criminal legislation does not foresees such measures as "public works" in addition to fines and deprivation of freedom.
11. Concrete plans in the area of the development of legislation with regard to discrimination do not exist.
12. The level of putting into practice of legislation provisions can not be determined since such statistics does not exist. Existing provisions exercise their instructive and preventive functions with a view to struggle against all forms of racial discrimination.

Offences of a racist or xenophobic nature

1. Criminal legislation defines some offences of a racist or xenophobic nature, but these offences are not brought together into a specific category, and are reduced to:
 - a. offences against peace, against mankind security, war offences;
 - b. offences against political rights, labour rights and other constitutional rights of citizens;
 - c. offences against public authorities and state security.
2. The reasons of a racist or xenophobic nature are only qualified as aggravating circumstances;
3. Criminal legislation qualifies as offences the following actions:
 - a. violent offences of a racist or xenophobic nature;
 - b. oral threats and insults of the same racist nature in public in different forms;
 - c. other actions of this nature.

4. Criminal legislation does not bring together the offences of a racist or xenophobic nature into a specific category of offences.
5. The structure of taking records does not foresee the record of offences of a racist or xenophobic nature.
6. If offences of a racist or xenophobic nature were separated apart in Criminal Code as a specific category of offences this would lead to the modification of judicial recording structure with a view to record this category of offences.
7. Criminal legislation foresees only “public appeals” (Art.346 C.C.) as expressions of a racist or xenophobic nature;
8. The same article (346 C.C.) foresees that humiliation of honour and dignity on the grounds of race and national belonging is an offence;
9. Criminal legislation does not specify as some specific offences the expression of negationism and revisionism.
10. Criminal legislation does not specify as offences such actions as production, storage, and exportation with the purpose of dissemination of materials of racist or xenophobic nature.
11. Such actions are qualified as administrative offences (Art.171/5 CAO). The level of implementation can not be determined, as it is not foreseen in the structure of making records to register the offences of a racist or xenophobic nature.

Racist Organisations

1. Criminal legislation do not declare illegal and prohibited organisations which propagate and promote racial discrimination.
2. The prohibition of establishment and registration of such organisations is foreseen in the Law on Public Organisations (art.4). But these organisations can be organised illegally, criminal legislation does not prohibit them directly. Criminal legislation does not define and do not declare as an offence such actions as:
3. Participation as a member, participation in public meetings, implementation of some assignments, encouraging and directing some activities which provoke or promote racial or xenophobic discrimination.
4. Criminal legislation does not declares as an offence neither organisation nor support of racial organisations, except the Law on Public Organisations.Criminal legislation declares as offences the following actions:
 - a) public appeals through mass media, in written and electronic form.
5. Criminal legislation does not declares as offences such actions as:
 - d) production, storage and exportation with the purpose of dissemination of materials of racist or xenophobic nature;
 - e) interpretation in public of songs the content of which has a racist or xenophobic nature;
 - f) propaganda of racism by the use of racist organisations’ symbols.
6. The organisation and government of a paramilitary formation not foreseen in the legislation of the Republic of Moldova as well as participation in such formations is defined separately as an offence.

7. Criminal legislation in addition to deprivation of freedom and fines foresees such punishment as deprivation of the right to hold some positions or to exercise a certain activity for a period from 2 to 5 years (Art.176, Art.180 Criminal Code).

2.2 Recommendations

Civil legislation

- a) There is a need for single comprehensive piece of anti-discriminatory legislation covering and systemizing civil, administrative and criminal areas, covering a number of aspects: definitions of the “direct”, “indirect” discrimination, access to justice and legal aid, action in the public interest, positive obligations of proactive actions, burden of proof responsibility, outlawing the racist behaviour and expressions, institutional responsibilities, etc.
- b) The legal instruments of combating and eliminating all forms of discrimination, which presently remain separated in each law brunch, should be formulated and harmonised in such a way as to attain as efficiently as possible the object of these instruments, providing they exercise their influence on social relations through their specific measures, but in co-ordination with instruments of other national law branches.
- c) Legal norms aimed to combat racism and to eliminate all forms of discrimination should contain clear definitions of prohibited acts, provide sufficient criteria of their delimitation, and contain efficient sanctions specific for each law branch. It is necessary to define in the legislation of the Republic of Moldova such notions as “racism”, “direct discrimination”, “indirect discrimination”, “ the creation of direct or indirect advantages”, etc. in criminal law, civil law, and administrative one.
- d) The international acts on the protection of human rights and on the elimination of all forms of discrimination, the jurisprudence of the European Court as well as the General Policy Recommendations of ECRI should be taken into consideration when giving these definitions.
- e) Such ground as “colour” should be introduced into the lists of prohibited grounds of civil legislation and administrative legislation of the Republic of Moldova.
- f) Such actions as “offences or hostile treatment based on one of the prohibited grounds” should be declared prohibited in civil legislation and administrative legislation.
- g) Such actions as:
 - persecution, punishment, segregation, damage on racist grounds;
 - discrimination based on association or contracts with a person belonging to one of prohibited grounds;
 - urging another person to discriminate;
 - a declared intention to discriminate;
 - helping another to discriminate.
- h) The regulations of all legal persons, both commercial legal persons and non-commercial ones should provide norms in accordance to which these persons through

their activity would contribute to the promotion of the equality of rights of all persons and to the elimination of all forms of discrimination.

- i) Both civil and administrative legislation should provide some procedures, which would contribute to a faster settlement of discrimination cases on the racist grounds and to a quicker implementation of preventive measures.
- j) Both civil and administrative legislation should provide, in addition to other measures, the information of public about each court decision on the cases with discriminating character.
- k) Legislation should specifically stipulate that a free legal aid is provided to all victims of each discriminating action.
- l) Central and local public authorities should intensify their collaboration with non-governmental organisations with a view to propagate anti-discriminating legislation, the principle of all persons' rights equality, the setting up a peaceful, harmonised, and multicultural society.
- m) To increase the number of normative materials regarding human rights protection and all forms of discrimination elimination in law syllabuses at all levels of state and private educational system.
- n) To introduce special syllabuses for the study of normative internal and international acts in the system of training and re-training of police officers and penitentiary workers.
- o) To modify registers at police offices with a view to introduce in them a special heading for the record of racist or discriminating acts.

To reorganise statistical blanks of the judicial practice, providing in them headings for the record of sentences and decisions taken in cases of racist or discriminating acts.

Criminal legislation

1. The notions of “direct discrimination” and “indirect discrimination” should be defined in criminal legislation (Art.346 CC) with the indication of criteria for these notions delimitation taking into consideration paragraph 1 (a, b, c) of the Recommendations for General Policy on national legislation with regard to the struggle against racism and racial discrimination adopted at the 29th meeting in Strasbourg on 10-13 December 2002.
2. In Art.17 of the Labour Code such notions as “direct limitation”, “indirect limitation”, “setting up some direct advantages”, and “some indirect advantages” relative to employment should be defined.
3. The legislation should use the notion “citizens” when it is spoken about the establishment of equality regarding the access to public functions and in general when it is spoken of political rights. As to the right to education, to living space, to health protection, to employment, to access to public places, and other human rights the legislation setting out equality and prohibiting all forms of discrimination should use the notion “persons”.
4. Criminal legislation in addition to fines and deprivation of freedom should foresee also the sentence to public works for certain periods of time, whether in the place

- where the offender is living or through his/her displacement to other localities (on the expense of these works beneficiary).
5. The legislation should foresee a faster procedure for the settlement of cases of racial nature and for taking efficient measures in order to eliminate all forms of racial discrimination.
 6. To modify the blanks for making records of offences as was suggested above.

Offences of a racist or xenophobic nature

1. To separate offences of a racist or xenophobic nature in a specific category of offences in Criminal Code.
2. To modify the stricture of taking records in the judicial practise with a view to indicate apart the category of offences of a racist or xenophobic nature directed to human rights infringement.
3. It should be provided for an apart heading in the registers for offence records at police and prosecutor's offices where to record the offences of a racist or xenophobic nature.
4. On defining the offences of a racist or xenophobic nature, it is necessary to take into consideration their definition in the international acts and in the European Court's practice as well as the recommendation for general policy Nr.7 on the national legislation regarding the struggle against racism and racial discrimination adopted at the 29th meeting of 10-13 December 2002.
5. Such expressions of racist nature as negationism and revisionism should be specified in Criminal Code as offences.
6. Such actions as production, storage, importation, and exportation with the purpose of dissemination of materials of racist or xenophobic nature should be defined and qualified in Criminal Code as offences.
7. Registers for offence records should be completed with the heading "Offences of a racist or xenophobic nature".

Racist Organisations

1. Through the Criminal Code provisions to prohibit the establishment of and to declare illegal organisation which propagates and promotes racial discrimination;
2. It should be defined and declared as offences such actions as:
 - a. Participation as a member;
 - b. Participation at public meetings;
 - c. Implementation of some assignments;
 - d. Encouragement and directing of activities of the organisations which propagate or promote racial or xenophobic discrimination;
3. It should be declared as offences the organisation and support of racist organisations;
4. It should be declared as offences such actions as:
 - a. production, storage, and exportation with the purpose of dissemination of materials of racist or xenophobic nature;

- b. interpretation in public of songs the content of which has a racist or xenophobic nature;
 - c. propaganda of racism by the use of racist organisations' symbols;
- 5. It should be foreseen as sanctions the compulsory dissolution of racist organisations and confiscation of their property;
- 6. The registers for offences record at police offices should be modified so as to foresee in them the heading where to register apart the offences of a racist or xenophobic nature.

4. Insufficient institutional capacity of the government to properly address systematic cases of the discrimination

Key aspects:

- Weak support for the civil society initiatives on behalf of the government.
- Center for Human Rights (Ombudsman office)⁴ has the mandate to address and advocate for human rights, it spreads thin around a number of issues and with staff of 21 persons have not generated any discrimination thematic report or examined CERD type cases of the discrimination,
- Bureau on Interethnic Relations has the mandate to promote and implement policies regarding the minorities, it has no power to address cases, take measures on systematic patterns and is almost absent from the discrimination aspects,

A coalition of several human rights concerned organizations⁵ in cooperation with OSCE mission in Moldova have drafted a law on the prevention and combating of the discrimination⁶, one of Moldova EU-Moldova Action Plan obligations.

The Coalition addressed the prime-minister office in order to support implementation of the nondiscrimination legislation⁷ in autumn 2007. Prime-minister disposed the creation of the working group to be composed of governmental (7 persons) and nongovernmental representatives (4 persons). The group was supposed to be coordinated by the vice-minister of Justice with the mandate to study the situation regarding discriminatory situation and propose measures and legislation to effectively combat discrimination in Moldova.

The working group has finalized its work, with the majority (minority being ngo representatives) concluding that the current legislation is reasonably adequate. The minority ngo representatives proposed the draft law to the working group.

No active institutional support has been provided from Bureau of Interethnic Relations, Center for Human Rights to effectively promote the draft law with the Ministry of Justice. The Coalition has provided a comprehensive background and support materials in explaining the need for the draft law and has met with all key ministries, including the one of the Ministry of Finance, where reasonable support has been found. Yet, under the current circumstances, the Ministry of Justice postponed its decision to promote the draft law on discrimination until autumn 2008.

⁴ www.ombudsman.md

⁵ www.nediscriminare.md

⁶ <http://www.nediscriminare.md/index.php?mod=static&id=31>,
<http://www.credo.md/pagini/stiri.php?limba=eng&id=330>

⁷ <http://www.nediscriminare.md/index.php?mod=static&id=27>

The delay for the adoption of the comprehensive legislation on nondiscrimination is likely to result in Moldova noncompliance with the [EU-Moldova Action Plan obligation 2.1 \(4\) para 4 to adopt and implement antidiscrimination legislation](#).

5. Substantive concerns

5.1 Patterns of Roma discrimination

The official report provides description of the various actions undertaken by public and private actors that is only insignificantly improves the situation of Roma. On the basis of the report it is difficult to judge the extent to which the situation of Roma can be improved. The actions of the public authorities as described in the official report primarily rely on the

The following information is based on the comprehensive research provided in the reports of the Center of Moldovan Human Rights NGOs (CReDO)⁸ and Roma National Center⁹.

- Material situation

Roma communities' material situation is extremely poor in comparative and absolute standards. The study has taken the comparative approach to the non Roma communities of the administratively related communes and comparatively to Ungheni or Chisinau judet settlements as well as to the generally accepted living standards. All of these comparisons could hardly be compared. Schinoasa, Ursari, Parcani, Huzun and Stejareni communities are still among the worst cases of the extremely inferior level of material conditions. Vulcanesti and Bursuc are somewhat better compared to the previous.

Paved or hard covered roads to or within the community were inexistent, unless a regional road would pass through the community thus the access was precluded in the time of heavy rains or snows, especially in autumn, spring and winter. Researching the public allocations for roads has revealed the pattern for the systematic negligence for Roma communities. Central government allocations or international funding agencies programs (Social Investment Fund, etc) have not been sensitive towards the Roma communities, while non-Roma villages of the same commune have received allocations for the renovations and building upon the decision of the local and regional decision-making bodies. In practice, the team has not found any of the external funding and allocations into Roma villages. The most characteristic were the example of Schinoasa, Vulcanesti, Parcani, Huzun and Stejareni communities that are situated couple of km off the main road so the people of community had to carry ill people in hands up to the main road should they need an urgent medical intervention. There was not even hundred meters of hard-paved road in Roma villages.

Houses and housing conditions were extremely poor as well. One could not even think of the houses of Roma as places where people could live. With few exceptions (parts of Vulcanesti community and Bursuc community) the houses were scarce and in extremely

⁸ www.CReDO.md, http://www.credo.md/pagini/consultanta_37.php?limba=eng

⁹ www.roma.md

week, apparently likely to fall apart. Generally houses of three rooms are common wide, still people live in only one room during cold times and men stay outside during summer over the night. The houses had only natural land ground. For heating, left over of wood or animal residues are used. For instance, in Schinoasa village one man was sentenced to 6 months for cutting one dry tree to keep the worm of his house with three children. People basically use just basic alimentation product cornflower, potatoes and some vegetables grown up during the summer. Humanitarian aid, when reached the villages, is a very important source for survival. Meat or fish is practically absent from diet. Children wear nothing during the worm times or just clothes donated through humanitarian aid during cold times. Second hand and humanitarian aid clothes are the prime source for them. In majority of cases, as is the case of Schinoasa, Ursari, Parcani no shops of any kind (food, clothes, medicine, etc) exist.

Health care is limited to a medical point in all those places (Schinoasa exception) that would be open several hours a day and operating upon the requests. Pharmaceutical points have been considered to be removed by public authorities as considered cost-ineffective; no allocations are given to the public health care from central or local budgets. Information comes only through people coming and going out of community. Nobody subscribes to papers or listen to radio, etc for lacking money to pay. No telephone connection exists in majority of communities, as is the example of Ursari village and Schinoasa community.

No running water or wells and access to drinking water are a general features for the communities. For instance, in Schinoasa community with population of about 500 persons there were only 4 wells of which only two used for drinking purposes, but even there, the water was already visibly bad. In another example, in Ursari village, people complained of two wells drinking water as if left over the night, some condensate would be clearly visible. In majority of cases no electricity had been available for different reasons of lack of resources to pay or electricity system destroyed. For instance in Schinoasa village, the community was disconnected totally more five years and in another instance in Ursari village, as it situated on the main road, only some of the people would have the electricity close to the next Moldovan village and around the school.

- Access to income generation activities

After the establishment of Moldovan independence, Roma were systematically denied access to the assets of collective farms during the privatisation process. Land is the major asset and survival resource in the primarily rural economy of Moldova. Roma communities have traditionally been identified as “settlements without future” (asezaminte fara perspectiva), a term which set them outside the system of local governance and set outside the target of public expenditure and allocation of public finances for decades. By treating Roma villages and settlements as temporary, makeshift “settlements” of transient people (even if they were actually permanent communities that had existed for many years), non-Roma political leaders could avoid directing resources toward the political and administrative organization of Roma communities, effectively

ignoring their existence. Thus the Roma “settlements” traditionally lacked local mayoralities, which would allow them to tap into the funding system, which flowed from the central government. These policies substantially economically and socially disadvantaged the people of Roma communities in Soviet times, and this pattern of deprivation continued after the Moldovan independence. As a result rural Roma were not in a position to claim their share of the country’s resources when the privatization process began. As a guideline for the privatization of Moldovan land, the government created the “Land Code”, Law No. 228-XII, which declared that land would only be granted to individuals who had worked on a *kolkhoz*, or collective farm, during Soviet times. Though many Roma were excluded because they had never worked on the collective farms (whether or not they were given the opportunity to do so is unclear), even those few Roma individuals who *had* worked on collective farms were not allocated the shares of land to which they should have been entitled.

Historical data shows that freedom from slavery in the second part of 18 century (possession of church-many researched communities are found near churches/monasteries-, regional governors, landlords, etc) has turned for Roma rural communities into income and asset generation dependence on the same masters and evolved into other institutional forms bringing them wealth. Prior to Soviet times (before 40’s) they had been made working in the condition of servitude at forest and agricultural works on daily basis with no land or any other means to generate income and living in areas withy hard road access. In Soviet time, their situation has not changed; they continued to live in the same places with hard road access with just some land necessary to put up a small house and hard work in collective farms. Many even at that time practiced going to Ukraine for agricultural works. After the independence, they have been denied access to privatization to assets of collective farms as well.

As the land is the major asset generation and survival source in the rural communities. The rate of participation in the land privatization process, for example, in Schinoasa, a Roma community, is on average 40-50 times less than in nearby non-Roma communities, with the result that nearby fertile land was shifted largely to non-Roma communities. Local authorities qualified only 5% of persons living in Schinoasa for privatization, contrasted with 95% in a neighboring non-Roma community. In Parcani and Ursari the rate of participation in privatization is somewhat higher but in none of the communities reaching 15%, while in non-Roma components of communes it has been never less than 60%. These figures speak for themselves, and they indicate a pervasive pattern of discrimination against Roma individuals and communities. Even if the government simply carried over the discriminatory policies of the past through the structure of its eligibility rules, it has certainly failed to “undertake to guarantee that the rights enunciated in the [ICESCR] will be exercised without discrimination of any kind...”. Since the privatization process has now been completed, the new era in Moldova will unfortunately carry forward the deprivation and disenfranchisement that Roma people have long suffered, unless action is taken to correct the disproportionate and unfair distribution of land among the people of Moldova. Similar patters

No job employments opportunities exist in Roma communities either in public or private sectors or in nearby villages as Roma are considered apt to only season works or day-to-day engagements. Comparing with other localities of Moldova inhabited by this national minority, the community from Vulcanesti presents a progress in what regards Roma material situation. Nevertheless, the inhabitants of Vulcanesti community have very little land in their possession. This situation brings a lot of negative consequences upon Roma, making them to search incomes through other methods.

As a result of the described practices, Roma community adults would have two primarily sources of income: earning outside of country on agricultural works (Ukraine) for 3-5 months a year and work on daily basis on agricultural works at private individuals. In first instance Roma would be frequently robbed at the border by Ukrainian customs or mafia networks linked with Ukrainian customs (as the project team was given plenty of documented examples) and their season earnings would not averagely exceed 600-700 EURO. In the second case the daily payment would not exceed 0.8-0.9 EURO per day including food.

A look into the regional concentration of other resources (forest, lakes, water basins, wine factories, etc) has shown a pattern that all major mentioned resources have stayed in the property of centrally/regionally administered authorities with their income not played in the local budgets of the researched villages. For instance, all the forest resources were concentrated in the hands of State Forest Associations, (in all cases this region was rich with forest and actually situated surrounded by forest regions) which income would be subject of local taxes. Large lakes and water basins were the same with regional management.

The visits have also revealed another practices when in some Roma communities, particularly Ursari, Schinoasa, Parcani the attempts of local population to establish small business have been prevented by operating mafia groups so that small shops of different types were destroyed and local Roma were forced to leave their spending in non-Roma settlements. Police has never reacted promptly to curtail these illegal actions.

5.2 Patterns of Discrimination of Bulgarians and Ukrainians

Conclusions

- *nondiscriminatory access to media*

Presence of the Ukrainian language in Moldova's mass media, i.e. periodicals, radio and a television is insignificant as compared with the share of the Ukrainian population in the national structure of the country. This makes it possible to speak clearly of the actual discrimination of the Ukrainian national minority in this sphere.

The influence of all forms of mass media on modern people in general and on the people as representatives of this or that nationality is so great that it is just impossible to overestimate it. In the situation of Diaspora, besides their normal functions mass media in the native language also play a consolidating role giving a person a feeling of being a part of the whole community, to share its interests, to receive a kind of cultural and psychological "food", to express oneself, etc. There are two ways to be served by mass media, i.e. receiving local press, listening to local radio or watching local TV in the native language, or receiving such information from the kinstate. As show the data of the poll, Ukrainians in the northern and central part of the Moldova practically do not read any newspapers in the native language (there are only 0.76% of those reading press). The main source of information for them is TV. 79.2% of them watch programs in the native language. Such high indicator is due to the villages located near the boarder with the Ukraine and having an opportunity to receive TV programs from their mother country. 57% of respondents listen to the Ukrainian language radio programs including 35.7% of those listening daily, 13.2% - once a week and 8.1% - once a month.

There is only one conclusion. Due to the actual lack of local and republican periodicals in the native language as well as any press coming from the Ukraine, Ukrainians in Moldova have very few opportunities to receive information about the life of the Ukrainian community both in the Republic, and outside it. As to radio and TV, the high indicators related to those using them are covered exclusively by the Ukraine.

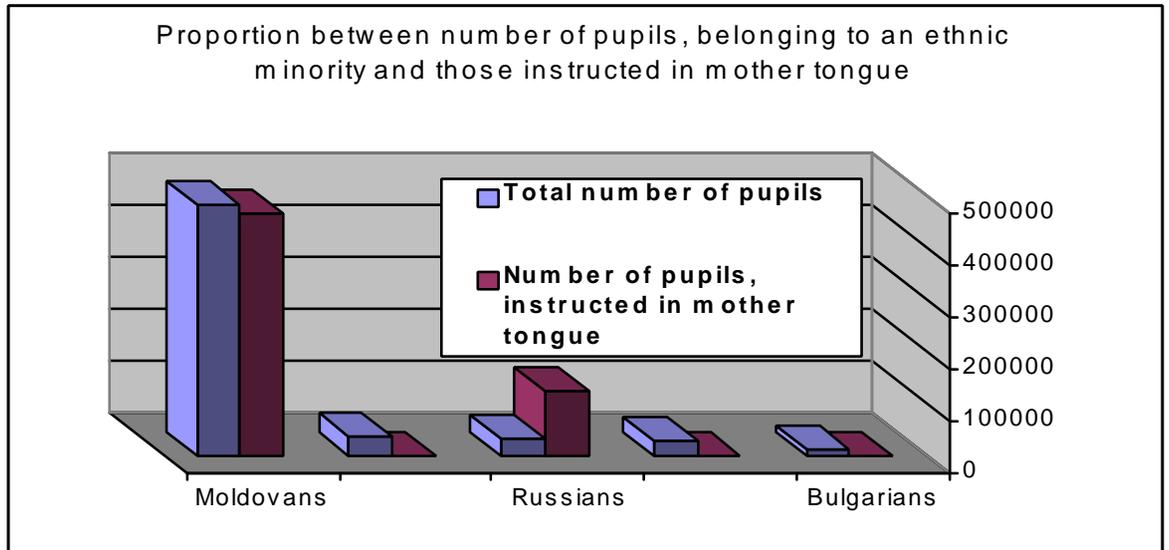
A number of special governmental agreements had been concluded with regard to the use of the minority language in relation to press and media freedoms. Bilateral agreements refer mainly to creation of conditions for receipt of programs in minority languages in the regions of minorities, support circulation of written press.

Based on sociological surveys in 2003-4, Ukrainians in the northern and central part of the RM practically do not read any newspapers in the native language (there are only 0.76% of those reading press). The main source of information for them is TV. 79.2% of them watch programs in the native language. Such high indicator is due to the villages located near the boarder with the Ukraine and having an opportunity to receive TV programs from their mother country. 57% of respondents listen to the Ukrainian language radio programs including 35.7% of those listening daily, 13.2% - once a week and 8.1% - once a month.

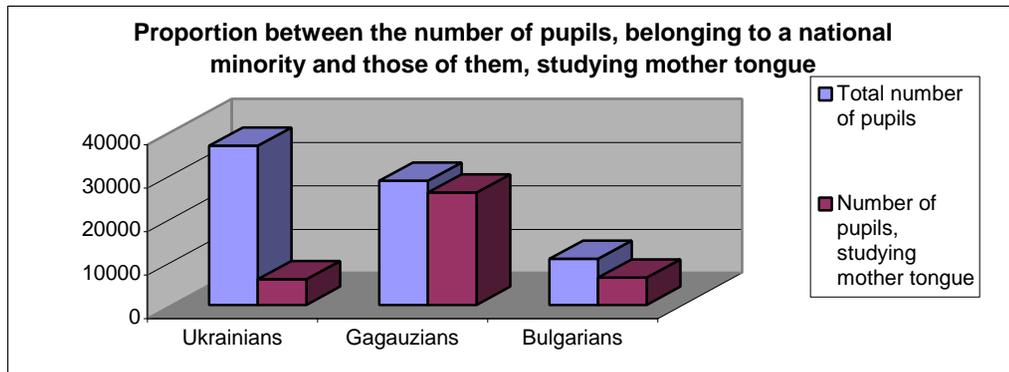
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- *Access to education in mother tongue for Ukrainians and Bulgarians*

Proportion between number of Pupils belonging to ethnic Minority educated in Mother Tongue



Source: Ministry of Education report “Education for all - 2000”



Source: Ministry of Education report “Education for all - 2000”

Recommendations

The part of the report should be read together with the recommendations produced in separate chapters that systemize the findings on the use of Bulgarian and Ukrainian languages in public sphere. Additionally, it is considered that a set of special measures should be adopted.

- *Use of Bulgarian and Ukrainian in public sphere*

1. Law on functioning of languages, Law on national minorities should provide that if there is at least 8% of population belong to a national minority of the community of level one or two:
 - a. local public administration should provide the right to address in verbal in the minority language;
 - b. put out public announcements in a minority language;
 2. Law on functioning of languages, Law on national minorities should provide that if there is at least 20% of population belong to a national minority of the community of level one or two:
 - a. Local administration to provide the right to address verbally and in written form in a minority language;
 - b. Put out public announcements in a minority language;
 - c. Provide all information, if preferred, in a minority language;
 3. Law on audiovisual, Law on press to provide that local/regional public administration in the localities where minority compact population is at least 8% to:
 - a. Allocate resources to the existing public media or private media, where relevant, to provide a necessary realization of the minority linguistic rights;
 - b. Create tax incentives for minority language media
 4. Law on local public administration, law on public servants to provide that in localities where at least 8% of the population are representatives of a minority
 - a. Public servants entering in contact with public to possess at least passively the language of a national minority
 5. Law on local public administration, law on public servants to provide that in localities where at least 20% of the population are representatives of a minority
 - a. Public servants entering in contact with public to possess passively and actively the language of a national minority to the extent it is needed for the satisfaction of the needs of the persons addressing in a minority language of the community
- *Participation in public decision-making*
1. Law on local public administration to devolve to regional authorities at level two, where there is minority population of at least 8%
 - a. Substantial competence of the humanities educational curricular, within the national educational curricular;
 - b. Substantial competence of the cultural activities of the commune
 2. Law on local public administration, Electoral Code in the localities where there is a compact minority population of at least 8%

- a. A reserved sit in local public council at level one or two for representative of a national minority, elected directly none of the representatives have been elected in the public council
3. Law on local public administration and Law on administrative and territorial division regarding the administrative composition or its change will not be adopted affecting the localities with a minority population of at least 8% without the consultation with minority population.
4. Provisions of the Law on Education, Law on Culture and other legal acts cannot be modified or adopted should the respective provisions having the effect on the rights of national minorities without the consultation with the local public authorities where these minorities reside.

With regard to minority education rights:

- Implementation of the minority rights obligations in respect to Bulgarians, Ukrainians, Gagauz minorities on educational rights through the effective establishment and support for the development of mother tongue education should constitute the another priority for the Moldovan government;
- Provide education at all levels, particularly pre-school, primary school, middle and high school in mother tongue as along with state language and other languages;
- Decentralize the regulation of education processes to local and regional authorities;

With regard to Roma rural communities in Moldova:

It is considered extremely important that local and central authorities through positive measures include the following measures that will improve the situation of the people living in rural communities of Roma:

- Take measures that will provide Roma representative counselor in local administration and political bodies and local decision-making bodies;
- Eliminate discriminatory practices with regard to allocation of public finances on education and culture for rural communities of Roma;
- Assure minimal human conditions of existence including but certainly not limiting to, running and drinking water, electricity, telephone communication, access means to the community, medical care;
- Assure access to schooling system and create minimal conditions;
- Undertake measures for compensation of past injustices regarding the privation of majority of rural Roma communities of access to asset generation (access to land privatization);
- Guarantee access to education in Romani language in those communities where the need exists;

With regard to the forcible assimilation and ethnic cleansing of more than 100 000 Moldovan children and about 300 000 Moldovans in the region taking place in Transnistria region of Moldova:

- oblige the de facto Transnistrian leadership to refrain from forbidding and punishing by law the use in private and public schools the use of Moldovan language in Latin script;
- oblige the de facto Transnistrian leadership to refrain from prosecution of children parents supporting the establishment of private and public education in Moldovan language in Latin script;
- oblige the de facto Transnistrian authorities to refrain from direct public support for aggressive anti-Moldovan propaganda, chauvinism in public media;

5.3 Religious discrimination of Muslims

- Prosecution of Muslim Believers

Police and recently created Department of Migration have been particularly harsh on the Muslim believers exercising pressure, harassment and even recouring to the physical intimidation of the Muslim believers in Moldova. Some cases illustrate their attitude¹⁰:

- Leader of local Muslim organization detained on charges of terrorism threatening with expulsion from Moldova. Talgat Masaev, Moldovan citizen, leader of the Spiritual Council of Muslims of Moldova, religion repeatedly denied registration by the Government of Moldova had been detained on 27 July 2002 (Saturday), 14.00. Talgat

¹⁰ Talgat Masaev had been complaining that on many occasions police brutally intervene in the religious services in the middle of the practices; undertake searches of private places where the services are held. The Council had been seeking registration since 1999 and the court hearings had been already taken place for couple of years. The State Religious Service (central authority reporting directly to the Government of Moldova) had refused repeatedly to register the Spiritual Council of Muslims. On September 18, 2000, Gh. Armasu the head of the State Religious Service refused registration of the Spiritual Council of Muslims on the grounds that "97% of population of Moldova is Christians", "foreign citizens and persons without citizenship temporary residing in Moldova are guaranteed religious freedom without granting their association a juridical person". After Muslims Council leadership was reorganized to include only citizens of Moldova, the State Religious Service refused registration on the grounds that "majority of persons belonging to the council are foreign citizens" that allows according to art. 22(1) the Government of Moldova to deny the registration. On 12 February 2001 Court of Appeal ruled only on one of three claims stating that the Government of Moldova to "respond to the petition lodged by the Spiritual Council of Muslims". The ruling stated no terms for response or the essence of the ruling. The Spiritual Council of Muslims claimed that the Government gives the response in essence to the petition on registration within time limits provided, "recognize" the statute of the Spiritual Council of Muslims and repair the moral prejudices resulted from the refusal. The Spiritual Council of Muslims lodged an appeal with the Supreme Court of Justice on 30 May 2001 decided to send the case for re-examination in the to Court of appeal. The Supreme Court of Justice did not explain the reasons for re-examination nor did it dwell on the other requests. On 08 October 2001, Court of Appeal in a repeated examination of the case dismissed the case and did not examine stating that the decision of the Government of Moldova (a political body) cannot be contested in the court of law. The Council appealed again the decision to Supreme Court of Justice that later denied the appeal. The Council lodged complains with the European Court of Human Rights. Consequently, the Council lodged new requests for the registration and on both case received denies on the grounds that the law on religions is being amended.

Masaev had been detained by two police officers presenting themselves Criminal Police Section of the Minister of Interior who came with car license-plate CJE885 (blue) in his home residence in Razeni, Ialoveni. One of the police officers presented himself Banzari had threatened Masaev that if he refuses he would be taken in by force and that he is investigated under the allegations of illegal keep of armament in the mosque of the Spiritual Council of Muslims. Officer mentioned links of the Council with the persons originating from Chechnya. Masaev had been detained for interrogation for 3 hours also on 26 of July 2002 in the offices of Criminal Police of Chisinau being threatened and subjected to psychological harassment to give up supporting the "Calauza" association and eventually the registration of "Spiritual Council of Muslims".

Police have beaten two members and seized operations of "Calauza" - association founded by a group of Muslim followers in Moldova. On 25 July 2002 police officer Veaceslav Banzari of Criminal Police of Ministry of Interior requested Talgat Masaev to come to Ministry office on 26 July (Friday) at 16.00 for a conversation with the chief of section. Masaev showed in at the requested time where he also saw the director of recreation passionate "Florica" where "Calauza" association held in June 2001 a summer camp on studying of Koran.

Masaev had been deprived of his identification documents and had been formally given many questions with regard of functioning of non-governmental association "Calauza". He is not the member of the organization but an active member of the group. He had been forced into saying who was the president of association (Rustam Ahsamov) and other details about the activity of the organization. Masaev had been forced to confess under threat. On 27 July, 2002 Saturday Ahsamov called in Masaev saying he had been invited by the police and later taken in from his house against his will and without the any legal order to do so. Same day at 12.30 Veaceslav Banzari, the criminal police officer called Masaev that he comes urgently to the Ministry at 15.00. Masaev refused saying he had to stay with his children and take of his ill wife and can make it only next day. Same day at 14.00, V. Banzari and another policeman arrived at Masaev's house in Razeni asking him to follow them at the Ministry. On the way to Chisinau two policemen kept asking "who is responsible for organizing and functioning of Calauza". Masaev had been threatened and forced to say who the other members of the organization are, the onother two member of "Calauza" organization had been detained shortly. Masaev had been brought to the Ministry, main building, searched. When asked weather he was detained or what were the accusations he had been given no answer only the threat if asking too many questions. Masaev and the others had been forced to write the explanations of what he and the other had been doing on particular days. The other two detained were beaten severely. The other two members were beaten as our sources indicate. The three detained were interrogated on the activities of the organization, their links with Muslim terrorist networks (Bin Laden mentioned as well). The organization documents were seized.

The three members were filmed. The three were released after around 19.00 the same day. No explanations were given only that the detention is provided by the art. 43 of Penal procedure Code and Law on Police. (Art. 43 of the mentioned law states only the role of the defense lawyer from the time of accusation or the moment of interrogation).

Talgat Masaev had been released from 5 hours arbitrary detention by Criminal police in relation to the links to "Calauza" charity association of Muslim followers and "Spiritual Council of Muslims" - Muslim religion organization.

- Ban to Religious Practices for Foreigners and unregistered religions

On 29 November 2002, around 17.00 police inspectors of Botanica district Commissariat together with collaborators of the Department of Migration have intruded into the place where Muslim believers held religious rituals. The place has been for a long period of time known as a one of few places where the Muslim believers can gather for the religious rituals (during Ramadan holidays). The place has been rented from the private owner of the shop. The police stopped the rituals and requested to undertake a check of their identities, detaining all persons who do not hold Moldovan citizenship for violation of visa requirements and practicing « illegally » unrecognized religion. The police brought charges on the bases of article 200 (6) of the Code of Administrative Sanctions banning the participation of foreigners in religious activities without the express consent from the authorities¹¹. On the basis of these provisions around 10 persons were imposed administrative fines. Cases are also known of persons being expelled from the country. Botanica district court and later Chisinau Tribunal¹² dismissed the complaints by the Moldovan Helsinki Committee lawyers' complaints of violation of freedom of religion, privacy, security and liberty rights and other.

- Religious association of Spiritual Council of Muslims

Spiritual Council of Muslims case. The State Religious Service (central authority reporting directly to the Government of Moldova) had refused repeatedly to register the Spiritual Council of Muslims. On September 18, 2000, Gh. Armasu the head of the State Religious Service refused registration of the Spiritual Council of Muslims on the grounds that "97% of populations of Moldova are Christians", "foreign citizens and persons without citizenship temporary residing in Moldova are guaranteed religious freedom without granting their association a juridical person". After Muslims Council leadership was reorganized to include only citizens of Moldova, the State Religious Service refused registration on the grounds that "majority of persons belonging to the council are foreign citizens" that allows according to art. 22(1)¹³ the Government of Moldova to refuse registration. On 12 February 2001 Court of Appeal¹⁴ ruled only on one of three claims stating that the Government of Moldova to "respond to the petition lodged by the Spiritual Council of Muslims". The ruling stated no terms for response or the essence of the ruling. The Spiritual Council of Muslims claimed that the Government gives the response in essence to the petition on registration within time limits provided, "recognize"¹⁵ the statute of the Spiritual Council of Muslims and repair the moral

¹¹ Article 200 (6) reads "Engagement of a foreign citizen in the religious activities, as well as practicing of some religious activities by foreign citizens without the permission of the authorities, - is penalized with a fine of up to 10 minimal salaries and the expulsion of those foreign citizens from the country.

¹² See decision of the Chisinau Tribunal of 12 December 2002

¹³ Art. 22 (1) says "The heads of the religious creeds of national and subordinated level elected according to the statute as well as the entire personnel of religious services should be the citizens of Moldova...."

¹⁴ See case Spiritual Council of Muslims v. Ministry of Justice (1), Court of appeal, judge Nelea Budai.

¹⁵ As required by the Moldovan law on Religions

prejudices resulted from the refusal. The Spiritual Council of Muslims lodged an appeal with the Supreme Court of Justice on 30 May 2001 decided to send the case for re-examination in the to Court of appeal. The Supreme Court of Justice did not explain the reasons for re-examination nor did it dwell on the other requests¹⁶. On 08 October 2001 Court of Appeal in a repeated examination of the case dismissed the case and did not examine stating that the decision of the Government of Moldova (a political body) cannot be contested in the court of law¹⁷. The Council appealed again the decision to Supreme Court of Justice. Several sessions were scheduled however for different reasons suspended. In the course of 2001 the Supreme Court of Justice ruled in favor of the Government, case is pending the European Court of Human Rights.

- Inability to honor Muslim funeral ceremony

The Tatar community of Moldova and the Muslim community of Moldova are unable to honor their religious funeral obligations given the fact that the Cisinaiu Municipal authorities and the Municipal Cemetery authority refuse allocation of the separate part for the use of Muslims. The leader of the Tatar community, A.Babaev has addressed on several occasions to these two authorities and had received declines given the reasons of the lack of the financial means to made available separate parts of the cemetery.

5.4 Moldovan schools in Transnistria region

50 000 Moldovan children of 350 000 Moldovan population of Transdnistria region of Moldova are denied education in mother tongue. Separatist regime in Transdnistrian region of Moldova outlawed the use of Moldovan language in Latin script in public and private sphere, including the education. It expressly punishes and enforces penal and administrative sanctions persons (parents, teachers, etc) for not disobey¹⁸. Parents, whom children are studying in Romania or in Moldova in a Moldovan school, are dismissed from their positions. Over 10 years of existence of the regime more than 100 000 children have been denied access to education in mother tongue Moldovan language in Latin script (currently around 50 000), 70% of Moldovan parents are forced to have their children study in Russian language.

Out of 94 Moldovan schools from Transnistria, where about 55 000 students are studying, only in 7 schools the studies are with Latin alphabet and according the study

¹⁶ See case *Spiritual Council of Muslims v. Government of Moldova* (1), Supreme Court of Justice, 30 May, 2001, judges Dumitru Visternicean, Nicolae Clima, Vera Macinskaia

¹⁷ See case *Spiritual Council of Muslims v. Government of Moldova* (2), presiding judge Tudor Lazar, Court of Appeal, 08 October 2001.

¹⁸ Decision of the Supreme Soviet of DMR states: 'Having examined and discussed the motion of V.N. Iakovlev, in respect of the fact that in some Moldovan schools the education is conducted in Romanian (using Latin graphic) on the basis of educational programs of the Republic of Moldova and Romania, it is decided: 1. Oblige the Government, law enforcement authorities and controlling organs take measures to prosecute the violations of the laws of DMR 'On Education' and 'On functioning of official languages in DMR' and hold the guilty accountable. 2. Oblige the deputies of the Supreme Soviet of DMR and deputies of local soviets to strengthen the propaganda on enforcing the laws of DMR 'On Education, 'On functioning of languages in DMR'.

program of the Republic of Moldova. (They are situated in Ribnita city, Roghi village, the school from Dubasari city has been evacuated and is presently situated in Cocieri village; Corjova village, alternative school from Grigoriopol, school nr. 20 from Tiraspol, school nr. 19 from Tighina. On June 30, 1998 the Tiraspol city soviet adopted the decision on suspension of the staff of school nr. 20 starting with July 10, 1998). The existing 7 private schools that teach in Moldovan on Latin script are considered illegal, teachers are threatened with physical retaliation, children travel 10 kilometres to schools, the rest of Moldovan children study according to outdated indoctrinated educational programs and books of 70s in Cyrillic alphabet.^{19, 20}

There is abundance of relevant cases, here are some of them:

- According to “an order of the ministry of study” on March 17 1999 a professor of Moldovan language, Lidia Pocitarencu, Bender Pedagogical College, has been dismissed for “serious violation of the legislation on linguistics in m.n.r.” for promoting the Latin alphabet in the study institutions. The dismissal has been preceded by numerous threats on the phone and on November 1998 Mrs. Pocitarencu has been aggressed in the building where she lived, robbed and beaten.
- The Decision of Tiraspol “City Soviet” from 25. 09. 97 refused the Moldovan school NR. 20 to grant additional rooms. There are 2004 students studying in Moldovan school NR. 19 from Bender. 752 students are holding their classes in the building of the household which do not even correspond to elementary sanitary rules. At present about 250 children from Bender are forced to study in Hagimus village (traveling to the territory controlled by the constitutional authorities).
- In Grigoriopol city on the territory of Transnistria, the authorities used the militia and the Cossacks to stop the regular activity of the Moldovan school nr. 1. On September 28, 1996 militia and Cossacks have conquered the headquarters and on October 2, 1996 and professors Mihai Hircaioala, Eleonora Jmacov and Nelea Bistрова have been arrested and transported to Tiraspol. After being held for a few hours at the “ministry of interior”, they have been transferred to the “ministry of security”. Only on October 7, 1996 in the evening as a result of the interventions of the President of the Republic of Moldova and the OSCE Mission the professors have been released.
- In Bender town, where on the basis of the instruction issued by the “ministry of education” of Tiraspol on 17 March 1999, Mrs. L. P., teacher of the Moldovan language, was dismissed from her position at the Pedagogical College “for the grave violation of the linguistic legislation of the DMSSR-Transnistria”. Her dismissal had been preceded by many threats on the phone; moreover, on November 1998 Mrs. L. P. was aggressively attacked at the entrance of her dwelling, she was robbed and beaten. It is obvious that one entry in her Labor

¹⁹ Alternative report to the ICESCR, 172 pages in English (alternative ICESCR) by Moldovan Helsinki Committee for Human Rights, www.humanrights.md and 31st Session of the Committee on Economic, Social and Cultural Rights, Geneva 10-28 November 2003, 29th meeting, 10 November 2003 NGO Submissions.

²⁰ “Unworthy partner: the school issues as an example of human rights abuses in Transdnistria”, Oldrich Andrysek and Mihai Grecu, Helsinki Monitor 2003, Vol. 14, No. 2, pp. 101-116.

Card limits her chances to be employed in the areas controlled by the unconstitutional separatist regime.

- There are many cases when citizens whose children are studying in the Moldovan/Romanian language became targets of attacks. The Mayorality of Chisinau is examining a request of Mrs. T. N., inhabitant of Bender town. Given the fact that her elder daughter is studying in Romania and the other child is attending the Moldovan school of the town, Mrs. T. N. has been dismissed from her position and her family became the target of permanent pressures. Now Mrs. N. is seeking protection in order to move from Bender town.
- V. O. a director of the only Moldovan school in the town of Slobozia (about 25 000 inhabitants) supported the wish of parents to teach Moldovan/Romanian in Latin script as well as was organizing evening school for adults who wanted to learn Latin script. In early autumn (September 1996) he was fired and forced to leave (as were forced many others public servants through harassment, physical threats etc) the region as he could not find a job there to Chisinau. The school was closed on the grounds that the heating system was not in order, all books were arrested over the night and deposited elsewhere. Children were spread for three weeks in two other non Moldovan schools to study in the evening hours. Parents were on strike for this period of time. Local authorities appointed a new director - a strong supporter of separatists and "inadmissibly of Latin script".

At the request of parents from Transnistria region, the Ministry of Education of the Republic of Moldova had issued the order no. 309 of 6 September 1996 "On financing the PRIVATE Moldovan schools of Grigoriopol no. 1, Butor, Malaesti, Delacau, Crasnogorca of the Grigoriopol district, Slobozia no. 1 and Dubasari no. 3". This meant commitment to finance private educational establishments, given the ban by Transnistrian authorities for the public Moldovan schools in Latin script. The practice of intimidating teachers persists. Schools are working in inappropriate buildings. In the school no. 20 of Tiraspol 889 pupils are studying in 9 classrooms in 3 shifts (while 33 more classrooms are necessary). In the secondary Moldovan school no. 19 of Bender there are studying 2,004 pupils in 3 buildings. 27 grades comprising 752 pupils go to their class hours in the building of the forestry management, which is far from complying with the elementary sanitary-hygienic norms. At present around 250 children from Bender are compelled to go to study in Hagimus village.

In July 2004 the tensions over PRIVATE Moldovan schools arose again with the Transnistrian authorities' determination to close them all and transfer the children to other schools. Parents, children and teachers have been under permanent pressure and threat of prosecution since then, OSCE authorities, in an effort to mitigate the situation has been bared to enter the region^{21, 22}. Transnistrian authorities have even banned the delivery of food to orphanage subordinated to Moldovan authorities.²³ OSCE High Commissioner on national Minorities and OSCE chairman²⁴ classified Transnistrian

²¹ http://www.osce.org/news/show_news.php?id=4289

²² http://www.osce.org/news/show_news.php?id=4262

²³ http://www.osce.org/news/show_news.php?id=4262

²⁴ http://www.osce.org/news/show_news.php?id=4281

authorities' actions as linguistic cleansing.²⁵ The United States Ambassador Minikes to the OSCE Permanent Council in Vienna stated extreme concern by the forcible closure of a minority language school in Tiraspol in Moldova's break-away region of Transnistria.²⁶

The *Lucian Blaga* lyceum in Tiraspol, was seized by Transdniestrian militia on 15 July 2004, *Evricea* lyceum in Ribnita, Transdniestrian militia stormed on 29 July, both still have no access to the new building constructed this year through finances from Chisinau. Both schools remain closed as a result. Concerns remain about the other four Moldovan schools which were able to start the school year in time. The lyceum *Alexandru cel Bun* in Benderi is still cut off from the electricity network and remains without heating. Registration of the school is still disputed, as Transdniestrian authorities refuse to implement the terms of the agreement mediated between both sides in 2003 by the OSCE. The boarding school for orphans in Benderi, after a long period of blockade, is functioning and has managed to connect water and electricity supplies without assistance from the local authorities. The question concerning the status of this school, however, remains unresolved. The middle school in Corjevo was temporarily registered on 1 September by Transdniestrian authorities, but the regional education authorities have not accepted the statutes of the school, although they had been worked out in strict accordance with the 2003 agreement.

²⁵ http://www.osce.org/news/show_news.php?id=4238

²⁶ <http://usinfo.state.gov/dhr/Archive/2004/Jul/26-667338>.

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7. Annex: Review of legislative framework

7.1. International Legal Instruments

Convention	Signed	Ratified	Evolutions and subjects of discussions
The international Convention on the Elimination of All Forms of Racial Discrimination (ICERD)		Moldova adhered on the basis of the Parliament decision Nr.707-XII of 10.09.91, in force for Moldova from 25.02.1993	The Republic of Moldova has not made any declaration on the basis of article 14 of the Convention.
Protocol Nr.12 to the Convention for the Protection of Human Rights and Fundamental Freedoms (STE 177)	04.11.00		Is not ratified yet.
The Framework Convention for the Protection of National Minorities (STE 157)	13.07.95	Ratified through the Parliament decision Nr.1001-XIII of 22.10.96, in force for Moldova from 01.02.98	
European Charter for Regional or Minority Languages (STE 148)	11.07.02		Is not ratified yet.
The European Convention on the Legal Status of Migrating Workers (STE 093)	11.07.02		Is not ratified yet.
European Convention on Citizenship (STE 166)	03.11.98	Ratified through the Parliament decision Nr. 621-XIV of 14.10.99, in force for Moldova from 01.03.00	The following declarations and reservations were formulated: 1. Concerning article 6 paragraph 4 letter g) the Republic of Moldova declares that she will be able to apply this letter's provisions only after the approval of the internal legal framework regarding the refugee status in the Republic of Moldova, but not later than one year from the date of entering in force of the Convention for the Republic of Moldova. 2. Concerning article 7 paragraph 1 letter g) the Republic of Moldova preserves her right to acknowledge the right to preserve his/her citizenship for a child – a citizen of the republic of Moldova, which has been adopted by foreign parents and obtained a new citizenship as the result of this adoption. 3. Concerning article 22 letter a), the Republic of Moldova preserves her right to acknowledge that a person, who is a permanent resident in the Republic of Moldova and is exempted from a compulsory military service by another State-party, is not considered free of military service obligations with regard to the Republic of

			<p>Moldova.</p> <p>4. Concerning article 22 letter b), the Republic of Moldova declares that the age at which the reference to this letter is made is of 27 years.</p> <p>At the same time it is important to mention that through the Law Nr.1469-XV of 21.11.02 article 17 of the Constitution of the Republic of Moldova, which set some very rigid conditions with regard to a double citizenship, has been modified. Presently an organic law, which would set a legal framework in this domain should be adopted. The existing law regarding citizenship practically takes over the regulations of the Convention.</p>
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7.2. Constitutional Law

1) Existing Provisions	Responses
<p>Does the Constitutional or Basic Law enshrine the principle of equality of all persons before the law?</p>	<p>The Constitution of the Republic of Moldova Adopted on 29th July 1994</p> <p>Article 16. Equality of Rights (1). It is the foremost duty of the State to respect and protect the human person. (2). All citizens of the Republic of Moldova are equal before the law and the public authorities, without any discrimination as to race, nationality, ethnic origin, language, religion, sex, political choice, personal property or social origin.</p> <p>Article 24. The right to Life and Physical and Mental Integrity (1). The state guarantees everybody the right to life, and to physical and mental integrity.</p> <p>Article 23. The Right to Know One’s Rights and Duties. (1). Everyone has the right to an acknowledged legal status. (2). The State ensures the right of everybody to know his/her rights and duties. For this purpose the State shall publish all its laws and regulations and make them accessible to everybody.</p> <p>Article 20. Free Access to Justice. (1). Every citizen has the right to obtain effective protection of the competent courts of law against actions infringing his/her legitimate rights, freedoms and interests. (2). No law may restrict the access to justice.</p> <p>Article 4. Human Rights and Freedoms (1). Constitutional provisions for human rights and freedoms shall be interpreted and applied in accordance with the Universal Declaration of Human Rights, and with other pacts and treaties to which the Republic of Moldova is a party. (2). Provided disagreements appear between pacts and treaties to which the Republic of Moldova is a party and her own national laws, priority shall be given to international regulations.</p>

<p>Does this principle include within its scope all persons, citizens as well as non-citizens?</p>	<p>Article 16. Equality of Rights (2). All citizens of the Republic of Moldova are equal before the law and the public authorities, without any discrimination as to race, nationality, ethnic origin, language, religion, sex, political choice, personal property or social origin.</p> <p>Article 19. Rights and Duties of Aliens and Stateless Persons. (1). <u>Except in cases when is differently stated by law</u>, aliens and stateless persons shall enjoy the same rights and shall have the same duties as the citizens of the Republic of Moldova.</p> <p><u>Exceptions are stated through concrete laws.</u> For example according to Art. 7 (2) of the Law Nr. 275-XIII of 10 November 1994 (The Official Monitor of the Republic of Moldova Nr. 20 of 29 December 1994) “On the legal status of aliens and stateless persons in the Republic of Moldova”: “Aliens and stateless persons can not be appointed for jobs or to be drawn into activities for which according to the legislation currently in force the citizenship of the Republic of Moldova is required”. According to Art.19 and 20 of this law aliens and stateless persons do not enjoy the right to elect and to be elected for legislative, executive and other elective bodies and to participate in the universal suffrage, they can not be members of parties and other social and public organisations, they also can not serve their time.</p> <p>But in accordance with Art.29 of this law aliens and stateless persons can not be expelled to a country related to which there is evidence that they will be persecuted for the reasons of race, nationality, religion, political opinion or will be subject to an inhuman or degrading treatment, torture or capital punishment.</p> <p>According to Art.1 (2) of the Law Nr.833-XIII of 16.05.1996 on the Election of the President of the Republic of Moldova (Official Monitor of the Republic of Moldova Nr.45 (139) of 4 July 1996) “Only a citizen of the Republic of Moldova who reached the age of 35 by the day of election inclusive and had lived or is living on her territory for not less than ten years, who has a good knowledge of the State language and is proposed as a candidate for the President of the Republic of Moldova in conformity with the present law can be elected as a President”.</p>
<p>Does the Constitution or Basic Law enshrine the commitment of the State to equal treatment of all persons?</p>	<p>Article 16. Equality of Rights (1). It is the foremost duty of the State to respect and protect the human person. (2). All citizens of the Republic of Moldova are equal before the law and the public authorities, without any discrimination as to race, nationality, ethnic origin, language, religion, sex, political choice, personal property or social origin.</p> <p>Article 19. Rights and Duties of Aliens and Stateless Persons. (1). Except in cases when is differently stated by law, aliens and stateless persons shall enjoy the same rights and shall have the same duties as the citizens of the Republic of Moldova.</p> <p>Article 4. Human Rights and Freedoms (1). Constitutional provisions for human rights and freedoms shall be interpreted and applied in accordance with the Universal Declaration of Human Rights, and with other pacts and treaties to which the Republic of Moldova is a party. (2). Provided disagreements appear between pacts and treaties to which the Republic of Moldova is a party and her own national laws, priority shall be given to international regulations.</p> <p><u>The response is positive, this is ensured indirectly through Art.4 (1) and 19(1).</u></p> <p><u>Moldovan Law lacks specific provisions referring to the prohibition of the indirect discrimination (equal treatment in practice)</u></p>

<p>Does the Constitution or Basic Law enshrine the protection of the right of individuals to be free from discrimination on the basis of grounds such as “race”, colour, language, religion, nationality and national or ethnic origin?</p>	<p>Article 16. Equality of Rights (2). All citizens of the Republic of Moldova are equal before the law and the public authorities, without any discrimination as to race, nationality, ethnic origin, language, religion, sex, political choice, personal property or social origin. Article 19. Rights and Duties of Aliens and Stateless Persons. (1). Except in cases when is differently stated by law, aliens and stateless persons shall enjoy the same rights and shall have the same duties as the citizens of the Republic of Moldova.</p>
<p>Is the list of prohibited grounds non-exhaustive?</p>	<p><u>Actually it is exhaustive with the exception of skin colour.</u> <u>Moldovan Law has the limited grounds for the prohibition of discrimination, it should be formulated in a such manner to provide the interpretation of other grounds as well.</u></p>
<p>2) Conclusions and Recommendations. <u>I. Conclusions</u> a) From the content of the indicated articles it can be concluded that the constitutional norms contain basic elements of the antidiscrimination principles. b) The law declares the rights but also assures favourable conditions for each person to know his/her rights (Art.23 (2)), guarantees everyone the right to life and physical and mental integrity (Art.24 (1)). The dignity of a person, his/her rights and freedoms, free development of a human personality, justice and political pluralism represent supreme values and shall be guaranteed (Art.1 (3)), and through Art.20 each person is guaranteed free access to justice against actions infringing on his/her legitimate rights, freedoms and interests. c) The principle of equal treatment of all persons is reflected in the constitutional norms, but not directly. The equality of citizens is ensured directly in Art.16 (1) and (2) and the equality of all other persons is ensured in the same Art. 16, Art.19 (1) and Art.4 (1) and (2) with the exception foreseen in Art.41(6) which stipulates that “the activity of parties consisting of foreign nationals is forbidden”. Some exceptions for aliens and stateless persons are foreseen in Articles 7(2), 19, 20 and 29 of the Law “On legal status of aliens and stateless persons” as well as in other normative acts. d) Prohibition of the indirect discrimination is not explicit in the basic law. e) The grounds of non-discrimination are closely formulated. <u>II Recommendations</u> a) It should be introduced the criterion of “colour” in Art.16 (2). b) It is suggested to add in the end of paragraph 1, Art.19 of the Constitution the following sentence “But the exceptions foreseen in concrete laws do not represent a discrimination”. c) More explicit provisions for the prohibition of the indirect discrimination is recommendable.</p>	

7.3. Criminal Law

1) *Offences of a racist or xenophobic nature:*

<p>1.a) Existing provisions</p>	<p style="text-align: center;">CRIMINAL CODE OF THE REPUBLIC OF MOLDOVA GENERAL PART Chapter I Criminal Code and the Principles of Its Application. Article 4. The Principle of Humanism (1) In all legal regulations the priority is given to the protection of individuals, their rights and freedoms. (2) Criminal law does not have the purpose to cause physical pain or to harm a person’s dignity. Nobody can be subjected to a torture or to a cruel, inhuman or degrading treatment or punishment. Article 5. The Principle of Democracy. (1) Persons which committed offences are equal before the law and a penal responsibility is inflicted upon them irrespective of sex, race, colour, language, religion, political or other opinion, national or social origin, belonging to a national minority, personal property, birth or any other situation.</p>
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- (2) The protection of rights and interests of a person can not be fulfilled through the infringement of rights and interests of other person or of a group of persons.

SPECIAL PART

Chapter I

Offences against the peace and mankind security, war offences.

Article 135. Genocide

The commitment of one of the actions listed below for the purpose of a full or partial extermination of a national, ethnic, racial or religious group is punishable by imprisonment for a period from 16 to 25 years or by imprisonment for life:

- a) the murder of such groups' members;
- b) serious physical injuries or mental damage to such groups' members;
- c) taking measures for reducing the birthright in the bosom of such groups;
- d) traffic in children from the respective groups;
- e) deliberate submission of the groups to living conditions leading to their full or partial extermination.

Chapter V

Offences against political rights, against the right to employment and other constitutional rights of the citizens.

Article 176. Violation of Citizens' Equality of Rights.

The violation of rights and freedoms guaranteed by the Constitution for the reasons of sex, race, colour, language, religion, political or other opinions, social or national origin, belonging to a national minority, property, birth or any other reason:

- a) committed by a person holding an important position;
- b) resulting in considerable damages,-
is punishable by a fine in the amount from 300 to 600 conventional monetary units or by imprisonment for a period of up to three years, in both cases with (or without) depriving of occupying some positions or of exercising a certain activity for a period of 2-5 years.

Article 180. Deliberate Infringement of the Law on Access to Information.

Deliberate violation of the legal right to access to information by a person holding an important position, violation which results in considerable damage to protected by law rights and interests of the person who solicited information relating to population health protection, to public security, to environment protection,
is punishable by imprisonment for a period of up to 3 years or by depriving of the right to occupy certain positions or to exercise a certain activity for a period of up to 5 years.

Chapter XVII

Offences against public authorities and State security.

Article 346. Deliberate Actions Aimed to Stirring up National, Racial or Religious Hatred.

Deliberate actions in written and electronic form through mass media included, aimed to stirring up national, racial or religious hatred, to national honour and dignity humiliation, to direct or indirect limitation of rights or to creation of direct and indirect advantages for citizens depending on their national, racial or religious belonging is punishable by a fine in the amount of up to 250 conventional monetary unites or by imprisonment for a period of up to 3 years.

Moldovan law is weak in this respect and does not include individual cases and cases not related to media, etc. The emphasis on the hatred.

<p>If yes, what acts are so defined? (acts of physical violence, threats, verbal abuse, damage to property, etc.)</p>	<p>a) Acts of physical violence Article 135 Genocide. (see the content of the article above) c) Threats and verbal abuse Article 346. Deliberate Actions Aimed to Stirring up National, Racial or Religious Hatred. c) Other actions Article 176. Violation of Citizens' Equality of Rights. Article 180. Deliberate Infringement of the Law on Access to Information. Responsibility foreseen in articles 180 and 346 is beard in case of deliberate actions whereas responsibility foreseen in articles 135 and 176 is beard irrespective of were the actions deliberate or not. <u>Moldovan legislation is limitative and defines only verbal abuse in media and unequal treatment (later should be elsewhere).</u></p>
<p>Does criminal legislation specifically provide for the racist or xenophobic motives of the offender to be taken into account as an aggravating factor by the courts?</p>	<p>Yes, these circumstances are foreseen in the following articles: Article 77. Aggravating Circumstances (1) when establishing a punishment aggravating circumstances are considered: ...d) commitment of an offence for the reasons of social, national, racial or religious hostility or hatred. Article 145. Premeditated Murder (1) A murder committed: ...j) for the reasons of social, national, racial or religious hostility or hatred. Article 151. Serious Premeditated Physical Injuries and Damage to Health (1) Serious premeditated physical injuries and damage to health that is dangerous for life or led to the loss of sight, of hearing, of speech or to the loss of any other organ or to the ceasing of its functioning, that provoked a mental decease or other damage to health followed by the loss of at least one third of working capacity or that led to the break of pregnancy or to the irremediable damage to face, is punishable by imprisonment for a period from 6 to 12 years. (2) The same action committed : ...i) for the reasons of social, national, racial or religious hostility or hatred is punishable by imprisonment for a period from 6 to 12 years. Article 152. Premeditated Physical Injuries and Damage to Health of Medium Heaviness (1) Premeditated physical injuries and damage to health of medium heaviness that is not dangerous for life and not provoked consequences foreseen in Article 151 but resulted in either a long-standing irregularity of health or in the loss of at least one third of working capacity, is punishable by arrest for a period of up to 6 months or by imprisonment for a period of up to 4 years. (3) The same action committed : ...j) for the reasons of social, national, racial or religious hostility or hatred is punishable by imprisonment for a period from 3 to 7 years. <u>Yes</u></p>
<p>Are there any plans to develop new legislation in this area? If yes, at what stage are developments and what issues</p>	<p>Yes, the draft Code of criminal procedure is being elaborated. It is planed that it will be adopted by the Parliament till 1 January 2003. The most important issues under discussion are: the role, place and functions of a public prosecutor in a penal trial.</p>

are under discussion?	<u>The Draft Penal Code does not foresee the significant improvement in this respect.</u>
Other relevant information.	Do not dispose.
1. b) Implementation of existing provisions	<u>The level of putting into practice can not be determined as no cases are known and no statistics collected.</u>
Data concerning the implementation of existing provisions (i.e. number of complaints and of charges, investigations carried out, cases that have come before the courts, outcomes of cases, the type of penalty handed down)	The structure of judicial statistics does not foresee the record of offences of discriminating nature. Upon verifying the records of police offices no cases of offences committed for racist or xenophobic motives were found out. The system of recording at police offices as well as the system of judicial statistics should be reorganised, the offences committed for reasons of racist or xenophobic nature or for any other reasons related to human rights infringement should be registered apart.

2) Racist organisations

1. a) Existing provisions	
Does criminal legislation declare illegal and prohibit organisations, and also organised and all other propaganda activities which promote and incite racial discrimination?	No, but according to Art.4 of the law of the Republic of Moldova “On Public Associations” Nr.837 of 17.05.1996 (Official Monitor of the Republic of Moldova N.6/54 of 23.01.1997): it is not admitted the establishment of public associations the scope of which is to carry on activities aimed at the violent change of the constitutional form of government, at the undermining of constitutional regime integrity, at the undermining of territorial integrity of the Republic of Moldova, at the propaganda of war, violence and cruelty, at stirring up social, racial, national or religious hatred, or at any other actions that are prohibited in accordance with the legislation. The stipulation in a public association’s rules of the clauses on the protection of principles of social equity can not be considered as the stirring of social hatred. The establishment of paramilitary public associations and of armed formations is prohibited. The establishment and the activity of public organisations, which infringe on the legitimate rights and interests of citizens as well as on public health and moral, are prohibited.
Is participation in such organisations or activities an offence? (this could cover activities such as membership, taking part in public meetings, performing acts, encouraging or leading actions, etc.)	No, but for a preventive purpose it would be good to foresee this point in the Criminal Code. This would contribute to a systematic control of such phenomena.
Is establishing or re-establishing a racist organisation an offence?	No, according to Art.4 of the Law on Public Associations Nr. 837 of 17.05.1996, these organisations can not be established, registered and can not carry out official activities. But this remains only a statement. This does not put any obstacles to illegal establishment and activity of such organisations. If these actions were declared offences in the Criminal Code, it would exclude the establishment or re-establishment of racist organisations both legally and illegally, foreseeing in the last case some penal sanctions.
Is supporting a racist organisation an offence?	<u>Not provided anywhere in the Moldovan law.</u>
Are political parties covered by provisions concerning racist organisations? If so, are restrictive conditions stipulated in order to address concerns about abusive use of these provisions in the political sphere?	<i>In Criminal Code no, but this is stipulated in the Law on Parties and Other Social Political Organisations Nr.718 of 17.09.1991 (Official Monitor of the Republic of Moldova Nr.11-12 of 30.12.1991).</i>

	<p><i>Article 4. The Activities of Parties and Other Social Political Organisations.</i></p> <p>It is prohibited the establishment and the activity of paramilitary parties and social political organisations as well as of parties and social political organisations that carry out activities against political pluralism and against principles of a state governed by the rule of law, and the purpose of which is to overturn or to change in a violent way or by other anti-constitutional methods the state system, to undermine the sovereignty and the territorial integrity of the Republic of Moldova. It is also prohibited the establishment and the activity of parties and social political organisations, which propagate war, authoritative and totalitarian methods of governing, stir up disagreement and social, national and religious hatred, infringe on the human rights, carry out other activities, which come in contradiction with the constitutional order of the Republic of Moldova and are incompatible with the generally recognised norms of international law.</p> <p><u>Moldovan law does not cover the situation of the political leaders who hold or act in the political capacity with the statements of this kind.</u></p>
As far as propaganda activities, does the offence cover the following acts: Dissemination, production, storage, importation and exportation for the purpose of dissemination?	<p>Yes, Article 346 of the Criminal Code. It is mentioned only “public appeals through mass media in written and electronic form”.</p> <p><u>Moldovan law does not cover the situation of “the production, storage and exportation with the purpose of dissemination”.</u></p>
Do offences concerning racist propaganda cover a range of media for dissemination, such as the internet and music?	<p>Yes, Article 346 of the Criminal Code, but it is not specified apart about music. Music (text and melody) could be qualified as a public appeal if it is interpreted in public.</p>
Do offences concerning racist propaganda include the use of the symbols of racist organisations?	<p>No.</p> <p><u>This should be included in the legislation for a preventive purpose.</u></p>
Are racist organisations that are armed, paramilitary or use violence separately defined? Are illegal acts connected with such organisations subject to higher penalties?	<p>Article 282 of the Criminal Code. The Organisation of a Paramilitary Illegal Formation or Participation in It.</p> <p>(1) The organisation or ruling a paramilitary formation not foreseen by the legislation of the Republic of Moldova, as well as participation in such formation is punishable by imprisonment for a period from 5 to 10 years.</p> <p>(2) The person who voluntary retired from a paramilitary illegal formation and handed over his/her arms is liberated from penal responsibility if only this person has not committed other offences.</p> <p>Article 4(2) of the Law on Public Associations (see above).</p>
Does legislation in this area provide for any special penalties in addition to imprisonment and fines (such as temporary prohibition from holding public office, the dissolution of the organisation, the confiscation of property)?	<p>Yes, Articles 176, 180 of Criminal Code (see above).</p>
Do any plans exist to develop new legislation in this area? If yes, at what stage are developments and what issues are under discussion?	<p>No.</p>
Other relevant information.	<p>We do not dispose.</p>

1. b) Implementation of existing provisions	<u>The level of putting into practice can not be determined as there is statistical or other type of information collected, which should be done.</u>
Data concerning the implementation of existing provisions (i.e. number of complaints and of charges, investigations carried out, cases that have come before the courts, outcomes of cases, the type of penalty handed down).	The structure of legal statistics does not foresee such data recording. <u>The on statistics should be elaborated to provide the collection for this type of information.</u>
Difficulties in implementation (including problems arising at level of police, prosecution and judiciary).	<u>No cases are known, law enforcement bodies generally lack the skills and critical awareness for carrying out this task.</u>

3) Offences involving expression of a racist or xenophobic nature

1. a) Existing provisions	
Does criminal legislation prohibit expression inciting to hatred, discrimination or violence against racial, ethnic, national or religious groups or against their members on the grounds that they belong to such a group?	Yes, “public appeals” (Art.346 CC).
Does criminal legislation provide for an offence of racial insult or defamation?	Yes, Article 346 CC “...the humiliation of national dignity...”
Do provisions in this area cover the expression of ideas of a generally racist, xenophobic or anti-Semitic nature, including ideas based on racial superiority or hatred?	Article 346 CC only “...public appeals...” <u>Moldovan legislation is not that specific in this respect.</u>
Are any other crimes of expression specified (such as negationism and revisionism)?	No, relative to “negationism and revisionism” is not foreseen.
What media of expression are covered by such provisions? Are oral, written, audio-visual expressions included/ Are other forms of expression, such as the electronic media included?	<u>Oral, written and audio-visual expressions are covered expressed only by media.</u>
What acts are covered by such provisions? Are dissemination, production, storage, importation and exportation for the purposes of dissemination covered?	Article 346 CC “Premeditated actions regarding public appeals”. The rest are not qualified as criminal offences. These actions, according to the Code on Administrative Offences are qualified as administrative offences. For instance, in accordance with Art. 171(5): production, importation, dissemination, demonstration to anybody of videofilms or of other propaganda materials, which propagate violence and cruelty, - is punishable by a fine in the amount from 10 to 20 minimal established salaries (for persons holding some important positions the fine is 50 minimal established salaries) with the confiscation of propaganda materials and means for their production and demonstration.
Where is the boundary between public and private expression placed? Does legislation capture areas such as expression made at meetings, discussion groups on the internet, music?	Only “public appeals”(Art. 346, CC). Other forms of expression are not foreseen. Moldovan legislation is confused attributing “public” to the manner and the way of expressing rather than public or private capacity. “Public” means when the message is addressed to at least several people with the intention to deliver a public message. <u>The division between public and private is not being clear.</u>
Do any plans exist to develop new legislation in this area?	<u>No. The Moldovan relevant institutions: Department of Interethnic</u>

If yes, at what stage are developments and what issues are under discussion?	<u>Relations, Ombudsman institution or the Parliamentary Commissions on legal issues or human rights do not currently involved in the process of elaborating or proposing this.</u>
Other relevant information.	We do not dispose.
1. b) Implementation of existing provisions	The level of putting into practice of the Criminal Code provisions can not be determined, but existing provisions have only educational and preventive functions.
Data concerning the implementation of existing provisions (i.e. number of complaints and of charges, investigations carried out, cases that have come before the courts, outcomes of cases, the type of penalty handed down).	The structure of legal statistics does not foresee such data recording, no statistics collected as mentioned above.
Difficulties in implementation (including problems arising at level of police, prosecution and judiciary).	Difficulties in implementation do not exist but the workers of this system should be better instructed as to the protection of human rights.

4) Discrimination

1) a) Existing provisions	
Does criminal legislation prohibit intentional direct and indirect racial discrimination?	Yes, Art.346, CC.
How are direct and indirect racial discrimination defined for purposes of criminal legislation?	In Art.346 is stipulated only direct discrimination of rights and setting out direct advantages on the grounds of national, racial or religious belonging. But actually these notions are not defined and the criteria for their delimitation are not given. <u>Indirect discrimination legal framework is not present in the Moldovan laws.</u>
What grounds are enumerated in the list of prohibited grounds of discrimination (race, colour, language, religion, nationality, national or ethnic origin, etc.)?	All grounds that are enumerated in the question.
Is it clearly stipulated that the prohibition of discrimination does not prevent the maintenance or adoption of special measures designed to promote the full equality of persons designated by the prohibited grounds?	<u>No, Moldovan legislation does not provide the framework for the elaboration, implementation of the special measures concept. That represents one of the major difficulty and drawback of the public policies.</u>
What fields are covered by such legislation (employment, education, housing, health, access to and provision of goods, facilities and services, access to public services and public places, etc.)?	LABOUR CODE Adopted at 25.05.1973 with amendments and completions as of 25.08.2002 Chapter I General Provisions Article 17. Guarantees for Employment A groundless refuse to employ a person is prohibited. No direct or indirect limitation of rights or setting out some direct or indirect advantages on the grounds of sex, race, nationality, language, social origin, economic conditions, residence, religion, convictions, belonging to social associations, as well as on the other grounds which do not refer to working capacity is admitted. Article 85. Remuneration

... On stating the remuneration for work no discrimination on the grounds of sex, age, race, nationality, economic conditions, religion or convictions is admitted.

Law on Education Nr.547-XIII of 21 July 1995 (Official Monitor of the Republic of Moldova 1995, Nr.62-63, Art. 692)

Chapter I

General Provisions

Article 4. Principles of Education

(2) The State educational policy is based on the principles of humanitarisation, accessibility, creativity and diversity. Education is democratic and humane, open and flexible, forming and is grounded on the national and universal culture values.

(3) Discrimination on the ideological, racial or national grounds is not admitted in the educational process. Pupils and students may attend different courses, which address moral and religious education problems.

Article 6. The Right to Education

(1) The right to education is guaranteed by the State irrespective of nationality, sex, race, age, social position, economic conditions, religion, and belonging to a party, and criminal records.

(3) The State assures equal access to state institutions of elementary, secondary, vocational and high education depending on a person's aptitudes and capacities.

Article 8. Teaching Language

(1) In accordance with the Constitution and Articles 18, 19 and 20 of the Law on Functioning of Languages on the Territory of the Republic of Moldova the State assures the right to choose the language of instruction on all educational levels.

(2) The right of citizens to education in their mother tongue is assured through the setting out of required number of educational classes or groups as well as of necessary conditions for their functioning.

CODE ON HOUSING

Article 10. Right to Living Space

The citizens of the Republic of Moldova enjoy the right to get in a stated order an apartment in the houses of state or of public funds or in houses built by a co-operative society.

These apartments are placed at the disposition of the citizens of the Republic of Moldova without any time limits.

In accordance with the legislation the citizens of the Republic of Moldova enjoy the right to have a house or a part of a house in their private property.

A person can be evacuated from his/her dwelling only during the time and in a manner stated by law.

It is not admitted to use dwellings contrary to their destination or to enjoy the right to use a dwelling through the violation of rights of other citizens, of state or public organisations.

The Law on Health Protection Nr.411-XIII of 28.03.1995 (Official Monitor of the Republic of Moldova Nr.34/373 of 22.06.1995).

Article 17. The Right to Health Assurance.

The residents of the Republic of Moldova enjoy the right to health assurance regardless nationality, race, sex, social belonging or religion.

This right is ensured through national genetic fund keeping, through creation of working and living conditions, through providing a qualified medical

	<p>assistance as well as through legal protection of the right to medical assistance and the right to get a compensation for a damage to health. The Law on Culture Nr.413-XIV of 27.05.1999 (Official Monitor of the Republic of Moldova Nr.83-86/401 of 05.08.1999).</p> <p>Article 11. The Right to Cultural Activity. (1) The right to cultural activity is an indefeasible right of everyone irrespective of national belonging, social origin, language, sex, political or religious convictions, residence, economic conditions, occupation and other circumstances. (2) State or other non-governmental bodies can not limit human rights in the cultural domain. (3) Both a professional in a domain of culture and non-professional are equal regarding the right of author and related rights, the right to intellectual property, the right to free demonstration of his/her work's results, the right to the state assistance.</p> <p>Article 13. Right to Cultural Identity. Anyone has the right to the state protection of his/her cultural identity.</p> <p>CONSTITUTION OF THE REPUBLIC OF MOLDOVA</p> <p>Article 39. The Right to Administration. The citizens of the Republic of Moldova have the right to participate in the administration of public affairs, either directly or through their representatives. Law guarantees the access to a public position to all citizens of the Republic of Moldova.</p> <p>ELECTORAL CODE of the Republic of Moldova Article 3. The Right to Elect and be Elected. All citizens of the Republic of Moldova can elect and be elected without any distinction on the grounds of race, nationality, ethnic origin, language, religion, sex, opinion, political belonging, economic conditions or social origin. The Law on Public Service Nr.443-XIII of 4.05.1995 (Official Monitor of the Republic of Moldova Nr.61/681 of 02.11.1995). Article 13. The Right to Employment in Public Service. (1). The right to employment in public service is enjoyed by the citizens of the Republic of Moldova irrespective of race, nationality, sex, confession, who are permanent residents of the Republic, have respective knowledge, are able from the medical point of view to do a respective job, and the restrictions of Art.11 are not applied to them. (2) A person who takes a public job must know the Moldavian language within the limits foreseen in the legislation on the functioning of languages on the territory of the Republic of Moldova.</p>
<p>Does legislation in this area apply to all public bodies as well as to private persons? Are all functions of all public authorities covered by legislation? if not, which functions are excluded?</p>	<p><u>Theoretically the law is applicable to both public and private bodies. However, one can only theoretically guess how and whether that can be enforced in practice, as this does not exist.</u></p>
<p>Are any acts of discrimination specifically defined (such as victimisation/retribution, segregation)?</p>	<p>No.</p>
<p>Does legislation provide for the possibility</p>	<p>No.</p>

<p>of any fast-track interim procedures available for alleged victims in situations where the immediate consequences of the alleged discriminatory act are particularly serious?</p>	
<p>What actors are legally entitled to bring complaints of discrimination? Are associations, organisations, trade unions or other legal entities with a legitimate interest in ensuring compliance with non-discrimination legislation entitled to bring complaints?</p>	<p><u>Both natural persons and legal persons who are the claimed victims can bring the complaints of the discrimination. Below is the extensive body of law illustrates that. However, the groups and public interest associations cannot bring the claims on behalf and in the interest of the specific causes, cases, situations where the acts of the discrimination is at stake, including in the case of the disadvantaged groups, persons. Moldovan law makes that impossible and thus precluding the more effective implementation of the discrimination principles in practice, therefore the Moldovan law should be modified.</u></p> <p>CRIMINAL CODE of the Republic of Moldova</p> <p>Article 8. The Implementation of Justice on the Basis of Citizens Equality Before the Law and Trial.</p> <p>CODE OF CRIMINAL PROCEDURE of the Republic of Moldova</p> <p>Article 90. Grounds and Reasons for Starting a Criminal Trial. Grounds and reasons for starting a criminal trial are as follows: Declarations and letters emanated from citizens; Complaints made by trade unions and other public organisations.</p> <p>Article 238. The Rights of the Trade Union Committees of Enterprises, Institutions, and Organisations. Trade union committees of enterprises, institutions, and organisations are entitled to bring complaints on the request of workers or by their own initiative in order to protect the workers' rights.</p>
<p>Do complaints brought by such legal entities need to be based on the treatment of a specific victim?</p>	<p>Yes and restrictively.</p>
<p>When complaints are based on the treatment of a specific victim, is it necessary for such legal entities to obtain the victim's consent?</p>	<p><u>Yes and very much tightly enforced that restricts the effective implementation of the antidiscrimination and by putting the claimed victim in a vulnerable situation before the government or the perpetrator.</u></p>
<p>Does legislation provide that cases of discrimination can be prosecuted <i>ex officio</i>?</p>	<p><u>No, which is considered a real problem.</u></p>
<p>Is free legal aid available to alleged victims of discrimination in financial need?</p>	<p><u>No, free legal aid is not available for this type of cases as in generally in cases of the civil procedure of any kind. The below provisions clearly describe that.</u></p> <p>LABOUR CODE of the Republic of Moldova</p> <p>Article 222. The exemption from paying legal charges of the wage earners, which address courts for the settlement of labour lawsuits. The wage earners, which address courts for the settlement of labour lawsuits are exempted from paying legal charges which are going to be the state income (state tax and expenses related to a case trial).</p>

	<p>The Law on State Tax Nr.1225-XII of 8 December 1992 with amendments and completions made by December 1999 (Official Monitor of the Republic of Moldova Nr.133-134).</p> <p>Article 4. Facilities Regarding State Tax.</p> <p>(1) The state tax in judicial instances is not paid by:</p> <p>...(4) Claimants - in cases on the payment of damages caused by cripple or other damage to health, or by the death of the person who maintained the family;</p> <p>...(7) parliamentary advocates – for the applications with regard to the protection of petitioners’ interests;</p> <p>...(9) disabled persons’ societies, institutions, as well as instruction and production associations for such persons – in all cases;...</p> <p>State tax is not laid on individual complaints with regard to legal decisions. Judicial instance and prosecutor have the right in some cases to liberate a citizen fully or partially from paying the state tax, as to legal persons - to space out payments or to postpone the state tax payment.</p> <p>The Law “On the Bar” Nr.1250 of 19 July 2002 (Official Monitor of the Republic of Moldova Nr.26-27 of 12.09.2002).</p> <p>Article 54. Lawyers Remuneration.</p> <p>...(3) The State guarantees counsels for the defence appointed by the judge full remuneration for their legal assistance on the request of investigation bodies and of judicial institutions;</p> <p>(4) Remuneration for legal assistance provided by a counsel for the defence appointed by the judge on the request of investigation bodies and of judicial instances is paid by the Ministry of Justice from the state budget. In this case, the amount and the way of remuneration are stated by the Ministry of Justice on a mutual agreement with the Ministry of Finance and with the Bar Council.</p>
<p>What remedies are available in cases of racial discrimination? In addition to fines and imprisonment, are sanctions such as community service available?</p>	<p><u>No specific remedies described are available.</u></p>
<p>Do any plans exist to develop new legislation in this area? If yes, at what stage are developments and what issues are under discussion?</p>	<p>We could not get information on this matter (see comments above).</p>
<p>Other relevant information.</p>	<p>We do not dispose.</p>
<p>1. b) Implementation of existing provisions</p>	<p>The level of putting into practice can not be determined.</p>
<p>Data concerning the implementation of existing provisions (i.e. number of complaints and of charges, investigations carried out, cases that have come before the courts, outcomes of cases, the type of penalty handed down)</p>	<p>As the legal statistics does not foresee the record of offences on the discrimination grounds we do not have such information.</p>
<p>2) Conclusions and Recommendations</p> <p><u>Criminal legislation is not developed in to the aspect of the indirect discrimination, aspects related to the representation, access to justice in relation to the discrimination cases, proactive actions on behalf of the state, collection of the statistical data to develop the public policies and most importantly the lack of the implementation of the anti-discriminatory provisions.</u></p> <p>1) <u>Offences of a racist or xenophobic nature:</u> <u>Conclusions</u> Criminal legislation defines some offences of a racist or xenophobic nature, but these offences are not brought together into a</p>	

specific category, and are reduced to:

offences against peace, against mankind security, war offences;
offences against political rights, labour rights and other constitutional rights of citizens;
offences against public authorities and state security.

The reasons of a racist or xenophobic nature are qualified as aggravating circumstances;

Criminal legislation qualifies as offences the following actions:

violent offences of a racist or xenophobic nature;
oral threats and insults of the same racist nature in public in different forms;
other actions of this nature.

Criminal legislation does not bring together the offences of a racist or xenophobic nature into a specific category of offences.

The structure of taking records does not foresee the record of offences of a racist or xenophobic nature.

If offences of a racist or xenophobic nature were separated apart in Criminal Code as a specific category of offences this would lead to the modification of judicial recording structure with a view to record this category of offences.

II. Recommendations

- To separate offences of a racist or xenophobic nature in a specific category of offences in Criminal Code.
- To modify the structure of taking records in the judicial practise with a view to indicate apart the category of offences of a racist or xenophobic nature directed to human rights infringement.
- It should be provided for an apart heading in the registers for offence records at police and prosecutor's offices where to record the offences of a racist or xenophobic nature.
- On defining the offences of a racist or xenophobic nature, it is necessary to take into consideration their definition in the international acts and in the European Court's practice as well as the recommendation for general policy Nr.7 on the national legislation regarding the struggle against racism and racial discrimination adopted at the 29th meeting of 10-13 December 2002.

Racist Organisations

I-Conclusions

Criminal legislation do not declare illegal and prohibited organisations which propagate and promote racial discrimination.

The prohibition of establishment and registration of such organisations is foreseen in the Law on Public Organisations (art.4). But these organisations can be organised illegally, criminal legislation does not prohibit them directly.

Criminal legislation does not define and do not declare as an offence such actions as:

Participation as a member, participation in public meetings, implementation of some assignments, encouraging and directing some activities which provoke or promote racial or xenophobic discrimination.

Criminal legislation does not declares as an offence neither organisation nor support of racial organisations, except the Law on Public Organisations.

d) Criminal legislation declares as offences the following actions:

- public appeals through mass media, in written and electronic form.

Criminal legislation does not declares as offences such actions as:

production, storage and exportation with the purpose of dissemination of materials of racist or xenophobic nature;
interpretation in public of songs the content of which has a racist or xenophobic nature;
propaganda of racism by the use of racist organisations' symbols.

The organisation and government of a paramilitary formation not foreseen in the legislation of the Republic of Moldova as well as participation in such formations is defined separately as an offence.

Criminal legislation in addition to deprivation of freedom and fines foresees such punishment as deprivation of the right to hold some positions or to exercise a certain activity for a period from 2 to 5 years (Art.176, Art.180 Criminal Code).

II- Recommendations

Through the Criminal Code provisions to prohibit the establishment of and to declare illegal organisation which propagate and promote racial discrimination;

It should be defined and declared as offences such actions as:

Participation as a member;

Participation at public meetings;

Implementation of some assignments;

Encouragement and directing of activities of the organisations which propagate or promote racial or xenophobic discrimination;

It should be declared as offences the organisation and support of racist organisations;

It should be declared as offences such actions as:

production, storage, and exportation with the purpose of dissemination of materials of racist or xenophobic nature;
interpretation in public of songs the content of which has a racist or xenophobic nature;
propaganda of racism by the use of racist organisations' symbols;

It should be foreseen as sanctions the compulsory dissolution of racist organisations and confiscation of their property;

f) The registers for offences record at police offices should be modified so as to foresee in them the heading where to register apart the offences of a racist or xenophobic nature.

Offences involving expression of racist or xenophobic nature

I-Conclusions

Criminal legislation foresees only "public appeals" (Art.346 C.C.) as expressions of a racist or xenophobic nature;

The same article (346 C.C.) foresees that humiliation of honour and dignity on the grounds of race and national belonging is an offence;

Criminal legislation does not specify as some specific offences the expression of negationism and revisionism.

Criminal legislation does not specify as offences such actions as production, storage, and exportation with the purpose of dissemination of materials of racist or xenophobic nature.

Such actions are qualified as administrative offences (Art.171/5 CAO).

e) The level of implementation can not be determined, as it is not foreseen in the structure of making records to register the offences of a racist or xenophobic nature.

II-Recommendations

Such expressions of racist nature as negationism and revisionism should be specified in Criminal Code as offences.

Such actions as production, storage, importation, and exportation with the purpose of dissemination of materials of racist or xenophobic nature should be defined and qualified in Criminal Code as offences.

Registers for offence records should be completed with the heading "Offences of a racist or xenophobic nature".

On definition of offences relative to expressions paragraphs 18-23 of the Recommendations for General Policy Nr.7 should be taken into consideration.

Discrimination

Conclusions:

Criminal legislation prohibits direct or indirect racial discrimination (Art.346 CC), but does not define them and not indicate qualifying criteria for each of these forms of discrimination. They are not defined in other articles of Criminal Code either as well.

Criminal legislation foresees all reasons of discrimination and each of them taken apart constitute the commitment of an offence.

The legislation of the Republic of Moldova provide for struggle against racial discrimination in all spheres of social life, especially in such important domains as:

employment;

education;

getting a living space;

health protection;

access to public services and public places.

In all these domains only citizens are taken into account.

The legislation promote equality and prohibit discrimination as to the access to exercising functions in public bodies of all levels but only regarding the citizens of the Republic of Moldova.

Access to public bodies of all levels and to public places is provided for all persons.

Legislation in force does not foresee any faster procedures for the settlement of cases of a racist or xenophobic nature.

Both natural and legal persons have the right to lodge complaints regarding discrimination.

In case when a legal person lodges a complaint regarding discrimination to protect a concrete victim's rights, it is not necessary to have a victim's consent.

Criminal legislation do not foresees such measures as "public works" in addition to fines and deprivation of freedom.

Concrete plans in the area of the development of legislation with regard to discrimination do not exist.

The level of putting into practice of legislation provisions can not be determined since such statistics does not exist. Existing provisions exercise their instructive and preventive functions with a view to struggle against all forms of racial discrimination.

II-Recommendations

The notions of “direct discrimination” and “indirect discrimination” should be defined in criminal legislation (Art.346 CC) with the indication of criteria for these notions delimitation taking into consideration paragraph 1 (a, b, c) of the Recommendations for General Policy on national legislation with regard to the struggle against racism and racial discrimination adopted at the 29th meeting in Strasbourg on 10-13 December 2002.

In Art.17 of the Labour Code such notions as “direct limitation”, “indirect limitation”, “setting up some direct advantages”, and “some indirect advantages” relative to employment should be defined.

The legislation should use the notion “citizens” when it is spoken about the establishment of equality regarding the access to public functions and in general when it is spoken of political rights. As to the right to education, to living space, to health protection, to employment, to access to public places, and other human rights the legislation setting out equality and prohibiting all forms of discrimination should use the notion “persons”.

Criminal legislation in addition to fines and deprivation of freedom should foresee also the sentence to public works for certain periods of time, whether in the place where the offender is living or through his/her displacement to other localities (on the expense of these works beneficiary).

The legislation should foresee a faster procedure for the settlement of cases of racial nature and for taking efficient measures in order to eliminate all forms of racial discrimination.

To modify the blanks for making records of offences as was suggested above.

7.4. Civil and Administrative law

1. Discrimination

<p>1). A) Existing provisions</p> <p>Are civil and administrative law provisions aimed at combating racial discrimination set out in a single “act” or scattered throughout civil and administrative law?</p>	<p><u>Civil and administrative legislation are qualified apart in the Civil Code and the Code on Administrative Offences respectively.</u></p> <p><u>No single piece of explicit and comprehensive legislation exist to combat racial discrimination in civil and administrative matters. That represents one of the major opportunity for further development.</u></p> <p>CIVIL CODE of the Republic of Moldova BOOK ONE</p> <p>General Provisions Title1 Common provisions Chapter 1 Civil Law</p> <p>Article 1. Civil Law Bases. Civil law is based on the following principles: recognition of the equality of all participants in stated by this law relationships, propriety inviolability, contractual liberty, inadmissibility to interfere with private affairs, civil rights free realisation necessity, the guaranty to reinstate a person in his/her rights and to legally protect this rights.</p> <p>(1) Both natural and legal persons are free to establish on a contractual basis their rights and obligations, any other contractual terms, provided they do not contradict the law.</p> <p>(2) Civil rights can be limited by the constitutional law only on the grounds provided in the Constitution of the Republic of Moldova.</p> <p>Article 17. A Natural Person Notion. A natural person is a person regarded individually as a bearer of civil rights and obligations.</p> <p>Article 18. The Capacity to Have Civil Rights and Obligations.</p> <p>(1) All natural persons are capable to have equal civil rights and obligations.</p> <p>(2) The capacity of a natural person to have civil rights and obligations appears from the moment of his/her birth and ceases with a person’s death.</p> <p>(3) The right of succession of a natural person appears at conception, if he/she is born alive.</p> <p>Article 19. The Capacity to Exercise Civil Rights and Obligations. The capacity of exercising is the ability of a person to obtain and to exercise civil rights as well as to assume and to exercise civil obligations.</p> <p>Article 20. Full Capacity of Natural Persons.</p> <p>(1) A person has a full capacity to exercise his/her rights and obligations when he/she reaches the age of majority.</p> <p>Article 23. Inadmissibility to Limit and to Deprive a Person of His/Her Capacity to Have Civil Rights and Obligations and to Exercise Them.</p> <p>(1) Civil capacity is equally acknowledged for all persons irrespective of race, nationality, ethnic origin, language, religion, sex, opinion, political belonging, economic conditions, social status, level of culture and other similar criteria.</p> <p>(2) A natural person can not be deprived of the capacity to have civil rights and</p>
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obligations.

- (3) Nobody can be limited in the capacity to have or to exercise his/her rights and obligations except in cases foreseen by law.
- (4) Full or partial renunciation of a natural person to the capacity to have or to exercise his/her rights and obligations, other legal acts directed to the limitation of a person in his/her capacity to have or to exercise civil rights and obligations are null.

CODE OF CIVIL PROCEDURE of the Republic of Moldova

Title 1

General provisions

Chapter 1

Fundamental provisions

Article 2. The Tasks of Civil Procedure.

Civil procedure tasks are to protect in courts and to implement the rights and freedoms of citizens and of their associations, the interests of enterprises, institutions and organisations as well as to protect the state and the constitutional systems of the Republic of Moldova.

Article 4. Free Access to Justice.

Every natural and legal person has the right to effective protection of competent judicial instances against acts, which violate these persons' rights, freedoms and interests.

Article 5. Starting a Civil Lawsuit by a Court.

A court starts a trial of a civil lawsuit:

1. at the request of a parliamentary advocate regarding the protection of the interests of a petitioner whose constitutional rights and freedoms were violated;
2. at the request of a natural or legal person, who addresses judicial instances for one of his legitimate rights or interests protection;
3. at the request of state administration bodies, trade unions, enterprises, institutions, state organisations, military units, cooperative organisations and their associations, of other public organisations or of citizens in cases when they, according to the law can address a judicial instance for their personal rights and interests protection;
4. when taking actions against somebody, applications for a suit starting are presented, in cases resulting from legal administrative reports – complaints, and in cases of a special procedure – petitions.

Article 6. The Fulfilment of Justice on the Principle of Citizens Equality Before the Law.

In civil suits justice is fulfilled only by judicial instances on the principle of all citizens equality before the law without any distinctions for the reasons of race, nationality, ethnic origin, language, religion, sex, opinion, political belonging, economic conditions, or social status, as well as other circumstances.

Article 8. The Independence of Judges and Their Submission Only to the Law.

Fulfilling a justice judges are independent and obey only the law. Judges arbitrate the conflicts on the basis of law and in conditions which exclude any pressure on them.

Meetings, demonstrations, and other actions taking place at a distance of less than 25 metres from the place of justice implementation are qualified as interference with judges' activities if they have the purpose to make a pressure on judges.

In cases of interference with judges' or judicial instances' activities with the purpose to influence the implementation of justice, judges or judicial instances act in a way provided by the law.

Article 9. The Language of Procedure and the Right to a Translator.

A legal procedure takes place in the Moldavian language. Persons who do not know or

do not speak the Moldavian language have the right to take notice of all documents and to speak in court with the help of a translator.
Legal procedure may be also carried out in a language acceptable for the majority of persons taking part in the process.
In cases when a legal procedure is carried out in other language, the documents related to legal procedure must be in a compulsory way drawn up in the Moldavian language too.

**The Law of the Republic of Moldova on the Administrative Solicitor's Office
Nr.793-XIV of 10.02.2000
(Official Monitor of the Republic of Moldova Nr.57-58/375 of 18.05.2000)**

Chapter 1

General provisions

Article 1. The Task of the Administrative Solicitor's Office.

Administrative solicitor's office is a legal setting up, which has the purpose to reduce public authorities' abuses and excesses of powers, to protect a person's rights, to direct the activities of public authorities, to assure law order.

Any person who believes that one of his/her lawful rights has been violated by a public authority through an administrative act or through non-settlement in a legal term of a request, can address to a competent administrative solicitor's office in order to obtain the act cancellation, the recognition of the infringed right, and the compensation of the caused damage.

Chapter II

**The object and the subject of the activity
of the administrative solicitor's office**

Article 3. The object of the activity of the administrative solicitor's office.

(1) The object of the activity of the administrative solicitor's office is administrative acts with a normative and individual character through which a lawful right of a person was infringed and issued by:

- a) public authorities and authorities similar to these ones in the sense of the present law;
- b) subdivisions of public authorities;
- c) officials of specified in pp. a) and b) structures.

(2) The object of the activity of the administrative solicitor's office can be also the non-settlement in a legal term of a request related to a lawful right.

Article 5. Individuals with the right to address the administrative solicitor's office.

Individuals who have the right to address the administrative solicitor's office are the following:

- a) all persons, officials, military men, persons with military status included, whose lawful rights have been infringed by a public authority, through an administrative act or through non-settlement in a legal term of a request – in the terms of Art. 14 of this law;
- b) a prefect, who attacks the acts issued by the local public authorities, those of Gagauz autonomous territorial unit and of Chisinau municipality included –in the Law on Local Public Administration terms.
- c) a parliamentary advocate, who attacks administrative acts on the complaint of a person whose rights were infringed - in the Law on Parliamentary Advocates terms;
- d) common law instances and specialised ones in cases when the matter of the exception of illegality arises –in the terms of Art. 13 of the present law.

Article 13. Illegality exception

- (1) The legality of an unilateral administrative act can be examined at any time within the framework of a common lawsuit trial, through exception, from an office or at the interested part's request.
- (2) The conclusion through which the matter of illegality exception is brought up before an administrative solicitor's office is drawn up in the Code of Civil Procedure terms.
- (3) When the court states that in fact the lawsuit settlement depends on the administrative act, it refers a matter to a competent administrative solicitor's office and adjourns the case.
- (4) The administrative solicitor's office examines illegality exception within ten days term and then takes a corresponding decision.
- (5) The decision of the administrative solicitor's office can be attacked within five days term.
- (6) The appeal against the decision delivered on illegality exception is tried within ten days term.
- (7) After illegality exception examination, the administrative solicitor's office returns the case with its decision to the instance, which had posed the issue of illegality exception.

In cases when the administrative solicitor's office states the illegality of the administrative act, the instance, which posed the matter of illegality exception settles the case without taking into consideration this administrative act.

Chapter IV

A lawsuit examination procedure in an administrative solicitor's office

Article 14. Preceding Application.

A person who believes that one of his/her lawful rights was infringed through an administrative act shall request its full or partial cancellation through an preceding application within six months term from the date of taking notice of the act,

- (1) In case the issuing body has a hierarchical superior body, the preceding application can be addressed both, to the issuing body or to the hierarchical superior body on the petitioner's choice.
- (2) Six months term specified in par. (1) does not extend on administrative acts with normative character.

CODE ON ADMINISTRATIVE OFFENCES of the Republic of Moldova

TITLE 1 CHAPTER 1

General Provisions

Article 1. The Tasks of the Code on Administrative Offences.

The main task of the Code on Administrative Offences is to protect personality, lawful rights and interests of natural and legal persons, their propriety, state and public systems, as well as to detect, to prevent, and to liquidate administrative offences and their consequences, to contribute to citizens education in the spirit of law obedience.

In order to fulfil this task the Code on Administrative Offences states what is an administrative offence, determines the sanctions and the way of their application, as well as defines the bodies (persons holding important positions) which have the right to examine the cases on administrative offences.

Article 7. The Assurance of the Legality of Measures Taken in the Cases of Administrative Offences.

A person can be subjected to some measures regarding an administrative offence only on the basis and in a manner stated by the law.

The procedure in the cases regarding administrative offences is implemented on the

basis of keeping strongly to the legislation.

Bodies and persons holding important positions shall apply administrative measures only within the limits of their competence and in ensuring compliance with the law.

The observance of the legislation's requirements with regard to the application of administrative measures is ensured through a systematic control by superior bodies and by senior officials, through the supervision of the Office of Public Prosecutor, through the right to lodge complaints, as well as through other modalities stated by law.

GENERAL PART

CHAPTER 2

ADMINISTRATIVE OFFENCE AND ADMINISTRATIVE RESPONSIBILITY

Article 9. Administrative Offence Notion.

An illicit fact (action or non-action) infringing on personality, on lawful rights and interests of natural and legal persons, on propriety, on state system and public order is considered an administrative offence. Other illicit facts for which legislation foresees an administrative responsibility are also considered administrative offences.

If offences foreseen in the present Code do not imply penal responsibility according to the legislation currently in force, then administrative responsibility is applied.

Article 12. The Age at Which a Person Can Be Held Responsible for an Administrative Offence.

Persons who have reached the age of sixteen by the moment of an administrative offence commitment can be held responsible for this offence.

Article 16. The Responsibility of Aliens and Stateless Persons.

Aliens and stateless persons on the territory of the Republic of Moldova can be held responsible for administrative offences in accordance with the general provisions.

The matter regarding responsibility for administrative offences, committed on the territory of the Republic of Moldova by citizens, which according to the international laws and treaties enjoy immunity with regard to the administrative jurisdiction of the Republic of Moldova, is settled through diplomatic channels.

CHAPTER 4

APPLICATION OF ADMINISTRATIVE SANCTION

Article 32. General Rules of the Application of Sanctions for Administrative Offences.

Sanctions for administrative offences are applied within the limits stated by the normative act, which foresees responsibility for the committed offence in a thorough compliance with the present Code and other acts relating to administrative offences.

CHAPTER 13

ADMINISTRATIVE OFFENCES WHICH INFRINGE ON PUBLIC ORDER

Article 171⁵ The Production and Dissemination of Materials Which Propagate Violence and Cruelty.

Production, importation, dissemination, demonstration or storage with the purpose of dissemination or demonstration of either videofilms or other works which propagate violence and cruelty –

involve the application of a fine in the amount from 10 to 20 minimal salaries, and for persons holding some important positions –till 50 minimal salaries with the confiscation of all materials and means of their production and demonstration.

Article 174² Premeditated Infringement of the State Symbols Use.

Premeditated infringement of the use of the state symbols (State Seal, flag, national anthem) of the Republic of Moldova or of other States –involve the application of a fine in the amount till 10 minimal salaries.

Actions foreseen in paragraph 1 of the present article committed by a group of persons on a previous agreement, as well as by persons holding important positions and responsible for the observance of state symbols use, -

involve application of a fine in the amount till 20 minimal salaries or administrative arrest for a period till 30 days.

Article 200. Legislation on Cults Violation.

Restriction as to participate or no in the exercise of a religious cult, to contribute or no to the expenses of a cult –involve the application of a fine in the amount of till 10 minimal salaries.

Confessional intolerance manifested through acts which hinder a free exercise of a cult recognised by the State,-

involve application of a fine in the amount from 5 to 15 minimal salaries.

Exercising of some practices and rituals which offend against the legislation currently in force by a registered or unregistered cult,-

involve the application of a fine in the amount from 10 to 20 minimal salaries. The disclosure of the secret of confession by a cult servant,-

involve the application of a fine from 10 to 25 minimal salaries.

The organisation of political parties on a confessional criterion, - involve the application of a fine from 15 to 25 minimal salaries.

The involvement of foreign citizens into religious activities, as well as the exercise by foreign nationals of some activities and rituals without public authorities' consent, -

involve the application of a fine in the amount till 10 minimal salaries and expulsion of these foreign nationals from the country.

The same actions committed by a person under an administrative sanction for one of the offences foreseen in paragraphs 1, 2, 3, 4, 5 or 6 of the present article, -

involve the application of a fine in the amount till 25 minimal salaries or of an administrative arrest for a period till 30 days.

Article 200³ The Infringement of Languages' Rights Equality.

The actions directed to the propagation of hatred, to disregard of any nationality's language, to the creation of obstacles for the functioning of the state language and of other languages on the territory of the Republic of Moldova, as well as the infringement upon citizens' rights on the reasons of language,-

involve the application of a fine in the amount till 5 minimal salaries.

Article 200⁴ Violation of the Law on the Functioning of Languages on the Territory of the Republic of Moldova.

Violation of the Law on the Functioning of Languages on the Territory of the Republic of Moldova by the leaders of governmental bodies and of state administration bodies, as well as by the leaders of enterprises, institutions, and organisations situated on the territory of the Republic of Moldova,-

Involve the application of a fine in the amount till 10 minimal salaries.

TITLE IV

THE PROCEDURE IN CASES REGARDING ADMINISTRATIVE OFFENCES

CHAPTER 17

FUNDAMENTAL PROVISIONS

Article 232. The Tasks of the Procedure in Cases Regarding Administrative Offences.

The tasks of the procedure in cases regarding administrative offences are the

	<p>following: a timely, full and objective clearing up each case circumstances, its settlement in a thorough compliance with law, the assurance of taken decision implementation, as well as verification of all reasons and conditions, which contributed to the commitment of administrative offences, administrative offences prevention, education of citizens in the spirits of law obedience and legislation strengthening.</p> <p>Article 235. The Examination of Cases on Administrative Offences on the Basis of all Citizens Equality Principle. The examination of cases on administrative offences is implemented on the basis of the principle of all citizens' equality before the law and the body, which examines the case regardless their origin, social status, economic conditions, race and nationality, religion, occupation, residence, and other circumstances.</p> <p>Article 236. Public Examination of Cases on Administrative Offences. Cases regarding administrative offences are examined in a public way. With the purpose of education and prevention of administrative offences, these cases can be examined within a working staff, at educational institution or at place of living of the offender.</p>
<p>Does civil and administrative legislation aimed at combating racial discrimination cover both direct and indirect discrimination? Is a definition provided of both direct and indirect discrimination? Details Does the definition of direct discrimination cover 'potential' unfavourable treatment based on the prohibited grounds?</p>	<p><u>Neither direct nor indirect discrimination is defined or delimited. Civil and administrative legislation only declares the principle of all persons equality, invoking the prohibited grounds, but it does not define the notions of direct and indirect discrimination, does not delimit these notions and does not indicate the full diversity of actions which could be committed with a discriminating effect.</u></p>
<p>What grounds are enumerated in the list of prohibited grounds of discrimination (race, colour, language, religion, nationality, national or ethnic origin, etc.)?</p>	<p>All grounds, except colour, are enumerated.</p>
<p>Is this a non-exhaustive list of grounds? If yes, how is this made clear in the definition?</p>	<p>The list of grounds is complete, with the exception of 'colour'. This fact results from articles 1, 17, 18, 19, 20, and 23 of the Civil Code, articles 4, 6, 235 of the Code of Civil Procedure (the content of these articles is given above).</p>
<p>Are there any restrictive words in the definition requiring that discriminatory actions be based 'solely' or 'exclusively' on the prohibited grounds?</p>	<p>No.</p>
<p>Do the offences of direct and indirect discrimination cover situations of adverse treatment based on erroneous assumptions as to the person's belonging to a group listed in the prohibited grounds?</p>	<p><u>First of all, neither direct nor indirect discrimination is defined or delimited in civil or administrative legislation. Secondly, the categories of actions, which come within these norms are not foreseen.</u></p>

<p>Is it clearly stipulated that the prohibition of discrimination does not prevent the maintenance or adoption of special measures designed to promote the full equality of persons designated by the prohibited grounds?</p>	<p><u>Such provisions do not exist in the respective legislation.</u></p>
<p>What fields are covered by anti-discrimination legislation (employment, education, housing, health, access to and provision of goods, facilities and services, access to public services and public places, etc.)?</p>	<p>Yes, anti-discrimination legislation covers all the domains indicated in the question (see the chapters ‘Constitutional Law’ and ‘Criminal Law’).</p>
<p>Does legislation in this area apply to all public bodies as well as to private persons?</p>	<p>Yes.</p>
<p>Are all functions of all public authorities covered by legislation (including areas of particular sensitivity such as immigration, policing and judicial proceedings)? If not, which functions are excluded?</p>	<p>Yes, all functions are covered by legislation.</p>
<p>Does legislation apply to all natural and legal persons?</p>	<p>Yes.</p>
<p>Are certain acts specifically defined? (particularly: victimisation/retribution; segregation; harassment; discrimination based on association or contacts with a person or persons identified by a prohibited ground; instructing another to discriminate; announced intention to discriminate; aiding another to discriminate).</p>	<p><u>No, these specific situations are not being preset in the Moldovan legislation.</u></p>

<p>Are any public authorities placed under a statutory duty to promote equality and eliminate discrimination in carrying out their functions?</p>	<p><u>Theoretically Ombudsman institute is the body to consider civil cases and situations, however, in practice it has no capacity and seemingly no intention to play any role in the matter.</u></p> <p><u>Department of Interethnic Relations has only the mandate for the regulatory and consultative status. In the matters of antidiscrimination its role has been very much limited.</u></p> <p><u>Prosecutor office, the main law enforcement office for the criminal and administrative offences has similarly played little if any role in the matter.</u></p> <p>The Ministry of Justice, judicial instances, civil servants in accordance with the provisions of the Law on Public Service Nr. 443-XIII of 04.05.1995 (Official Monitor of the Republic of Moldova Nr. 61/681 of 02.11.1995).</p> <p>Article 4. Fundamental Principles of Public Service Activity. Public service bases its activity on the following principles: ...b) to respect laws and other legal acts, to respect the state discipline, to bear personal responsibility for exercising public service duties; c) to respect the lawful rights and interests of natural and legal persons, of local public administration authorities.</p> <p>Article 5. The Main Tasks of Public Service. The main tasks of public service are as follows: ...c) to protect lawful rights and interests of natural and legal persons, of local public administration authorities, to assure these rights exercise.</p> <p>Article 10. The rights and duties of a civil servant. ...(2) civil servant is obliged: a) To respect citizens' rights and freedoms;</p>
<p>Are public authorities placed under a specific duty to ensure that those parties to whom they award contracts, loans, grants or other benefits respect and promote a policy of non-discrimination?</p>	<p>The positive answer results from the answer on the previous question.</p>
<p>If so, is it stipulated that the breach of this condition by the other party provides grounds for cancellation of the contract, loan, grant or other benefit?</p>	<p><u>No.</u></p> <p style="text-align: center;">CIVIL CODE of the Republic of Moldova</p> <p>Article 220. The Nullity of Legal Act Which is Contrary to Law, to Public Order and to Good Morals and Manners. (1) Legal acts or provisions, which are contrary to imperative norms, are null provided the law does not stipulate otherwise. (2) Legal acts or provisions, which are contrary to public order or to good morals and manners are null.</p>
<p>Are any other institutions (such as private businesses) placed under a statutory duty to take measures to promote equality and eliminate discrimination? If yes, is this duty accompanied by a supervision and enforcement mechanism?</p>	<p>No.</p>

<p>Is it provided that laws, regulations and administrative provisions at the national and local levels are to be reviewed on an ongoing basis, and those contrary to the principles of non-discrimination amended or nullified?</p>	<p>It is not provided. All modifications and completions of normative acts are made in a generally stated order. Article 7 of the Constitution stipulates: “Laws and legal acts, which are contrary to the Constitution do not have legal power”.</p>
<p>Is it provided that discriminatory provisions which are included in individual or collective contracts or agreements, internal rules of undertaking, rules governing profit-making associations, and rules governing the independent professions and workers’ and employers’ organisations, are to be declared null or void?</p>	<p>It is not provided directly but any deviation from the equality principles is prohibited by law.</p>
<p>Does legislation provide for the possibility of any fast-track interim procedures available for alleged victims in those situations where the immediate consequences of the alleged discriminatory act are particularly serious?</p>	<p>Legislation does not provide such procedures.</p>
<p>What actors are legally entitled to bring complaints of discrimination? Are associations, organisations, trade unions or other legal entities with a legitimate interest in ensuring compliance with non-discrimination legislation entitled to bring complaints alleging racial discrimination?</p>	<p><u>Both natural and legal persons personally claiming the status of victim. No role of acting in the public interest-see comments above.</u></p>
<p>Do complaints brought by such legal entities need to be based on the treatment of a specific victim? When complaints are based on the treatment of a specific victim, is it necessary for such legal entities to obtain the victim’s consent?</p>	<p>Yes. Yes.</p>
<p>Is free legal aid available to alleged victims of discrimination in financial need?</p>	<p><u>No. See comments above. Below is the information on the non-governmental bodies acting in the interest of public.</u></p> <p>1. Parliamentary advocates protect the infringed rights of the citizens and their legal actions are not taxed by the State. 2. There is a so called “Legal Clinic” within the Faculty of Law, “Legal experts association for human rights protection” activates. The Law on State Tax Nr. 1225-XII of 8 December 1992 with amendments and completions made by December 1999 (Official Monitor of the Republic of Moldova Nr. 26-27 of 12.09.2002).</p>

<p>Does legislation provide for a shared burden of proof in discrimination cases?</p>	<p><u>Legislation provides for a shared burden of proof of a committed act by each offender, who took part in a discriminatory act perpetrated in group, in order to individualise the measure of his/her liability. In legal civil procedure, the person or her representative has to bear the majority of burden of proof.</u></p>
<p>What remedies are available in cases of racial discrimination? Are measures other than compensation, such as the restitution of rights that have been lost made available? Is there a possibility for non-monetary forms of reparation, such as the public disclosure of the decision finding discrimination?</p>	<p>Yes, according to Article 10 of the Civil Code the protection of civil right is carried out through:</p> <p>d) the reestablishment of the situation anterior to the right infringement and the elimination of actions through which the right is violated or the peril of its violation appears,...</p> <p>According to Article 16 of the Civil Code, par. (2): “Every person has the right to demand the denial of the information infringing on his/her honour, dignity or professional reputation if the person, which spread the information can not prove its veracity”.</p> <p>Paragraph 4 of the same Article 16 stipulates: “If the information infringing a person’s honour, dignity or professional reputation is spread through mass media, then the court obliges the person, who spread this information to public a denial in the same rubric, at the same page, in the same TV program within maximum 15 days from the date when the court decision have come into force”.</p> <p>Paragraph (5) provides: ”In case when a document issued by an organisation contains information that infringes on a person’s honour, dignity, and professional reputation the court obliges the organisation to substitute the document”.</p> <p>Paragraph (6) provides: “ In cases other than those foreseen in par. (4) and (5) the modality of denial of the information, which infringes on a person’s honour, dignity, and professional reputation is stated by a judicial instance”.</p> <p>Paragraph (7) stipulates: “A person whose lawful rights and interests have been infringed through a mass media source’s publications has the right to public his/her retort in the respective mass media source on this source account.</p> <p>Paragraph (8): “Any person in whose respect the information infringing on his/her honour, dignity, and professional reputation was spread has the right to demand, additionally to the denial, a compensation for a material and moral damage”.</p> <p>Paragraph (9) stipulates: “If the identification of the person who spread the information infringing a person’s honour, dignity, and professional reputation is not possible, then the latter has the right to address to a court with a request to declare the spread information not corresponding to facts.</p>
<p>Does legislation provide for the possibility for a programme of positive measures (including special measures) to be imposed on an offending party? Where yes, is provision made for the involvement of a specialised body in the development and supervision of such a programme?</p>	<p><u>No specialised or professional courses are available on the subject, these are not the part even of the standard professional education of the law enforcements or public servants.</u></p>
<p>Does legislation provide that employers and principals may be held vicariously liable for the acts of their employees or agents in cases of racial discrimination? Where yes, is it necessary for employers and principals to have known of these acts in order to be held liable?</p>	<p><u>This is not provided in the legislation.</u></p>

Do any plans exist to develop new legislation in this area? If yes, at what stage are developments and what issues are under discussion?	<u>Plans and the public policy for that is not available and are not known.</u>
Other relevant information.	We could not obtain it, probably it does not exist.
1. b) Implementation of existing provisions.	The level of implementation can not be determined since the statistics does not separate acts of racial discrimination.
Data concerning the application of existing provisions: number of cases brought and their outcomes?	
What are the principal obstacles to the effective implementation of existing provisions?	There is not public policy to tackle that aspect. There are no any direct obstacles, but the system of statistical record should be modified. The public authorities are quite week on the matter.

1) Conclusions and Recommendations

I- Conclusions

Civil legislation is not developed in to the aspect of the indirect discrimination, aspects related to the representation, access to justice in relation to the discrimination cases, proactive actions on behalf of the state, collection of the statistical data to develop the public policies and most importantly the lack of the implementation of the anti-discriminatory provisions. There is no a specific and sitinguished piece of legislation covering comprehensively the discrimination aspects.

a) Civil legislation and administrative legislation are codified apart in the following documents:

- Civil Code (CC);
- Code of Civil Procedure (CCP);
- Code on Administrative Offences (CAO);
- The Law on the Administrative Solicitor's Office Nr. 793-XIV of 10.02.2000.

b) Civil legislation and administrative one are anti-discriminating and provide the equality before law, legal capacity, the impossibility of absence or of limitation of legal capacity, a free access to justice, a possibility to choose the language of legal procedure, access to public authorities and public places, the protection of rights before public authorities of all levels, etc. for all persons.

c) Neither civil nor administrative legislation defines the notions of "direct" and "indirect" discrimination, these notions are only mentioned in both legislations.

d) Civil legislation and administrative legislation contain the complete list of prohibited grounds, except "colour".

e) Both civil and administrative legislation do not provide specifically the offences or hostile treatments based on the belonging of a person or of a group of persons to one of prohibited grounds.

f) Both legislations cover with their anti-discriminating norms all domains, particularly: employment (Art.17 of the Labour Code), work remuneration (Art.85 of the Labour Code), education (Art. 4-8 of the Law on Education), living space (Art.10 of the Code on Housing), health protection (Art.17 of the Law on Health Protection), access to propriety (Art.18 of the Civil Code), access to benefits and public places (Art.16 of the Constitution), etc.

g) The legislation with regard to discrimination is applied equally to both public bodies and private persons.

h) Neither civil nor administrative legislation defines or prohibits such actions as: persecution, punishment, segregation, damage on racist grounds, as well as discrimination based on association or contracts with a person belonging to one of prohibited grounds, urging another person to discriminate, a declared intention to discriminate, helping another to discriminate.

i) According to the legislation currently in force, the Ministry of Justice, courts of all levels, magistracy, police, as well as public authorities of all levels are the bodies, which under their statutory obligations can promote equality and eliminate discrimination.

j) The legislation currently in force does not require that public authorities put some specific conditions to respect and to promote non-discriminating policy to persons for which these authorities provide contracts, loans, grants, and other benefits.

On implementing such activities public authorities (as well as private persons) must respect Art. 220 of the Civil Code,

which stipulates the nullity of a legal act that is contrary to law, to public order, and to good morals and manners.

k) Some special provisions relating to a permanent modifications and completions of legislation with a view to annul discriminating norms do not exist, but:

-this principle results from the content of a whole legal system (Art. 4, 7, 16, 19 of the Constitution the content of which is given in the chapter "Constitutional Law" and from the content of provisions set forth in other chapters of this materials);

-it is fulfilled through the development of civil society, through the adhesion of the Republic of Moldova to the international acts relating to racism and all other forms of discrimination combating, as well as through the co-operation of our country with international bodies.

l) Some specific procedures contributing to a faster examination of discrimination cases do not exist.

m) Both legal and natural persons, personally or through their representatives, are liable to lodge complaints relating discrimination.

n) In addition to other measures, legislation provides the restoration of a person's rights (Art.10 of the Civil Code).

o) Some non-financial forms of compensation, such as the information of public of the decision adopted by a court in a discrimination case, do not exist. They exist only in cases of honour and dignity infringement.

p) The legislation provides a free legal aid for the alleged victims of discrimination, as well as for the victims of other illicit actions.

q) The legislation does not provide that principles are responsible for the discriminating acts of their employees. Each person bears a personal responsibility for a discriminating act.

r) Some plans relating the creation of a new legislation dealing with racial discrimination issues do not exist.

s) The level of implementation in practice of the legislation on discrimination can not be defined, giving the imperfect content from this point of view of statistical blanks.

II-Recommendations.

p) There is a need for single comprehensive piece of anti-discriminatory legislation covering and systemizing civil, administrative and criminal areas, covering a number of aspects: definitions of the "direct", "indirect" discrimination, access to justice and legal aid, action in the public interest, positive obligations of proactive actions, burden of proof responsibility, outlawing the racist behaviour and expressions, institutional responsibilities, etc.

q) Taking into consideration the Recommendation on General policy Nr.7 of ECRI, a law which would define and delimit on a national level all acts of racial discrimination using the methods and criteria of each law brunch, and would stipulate the measures in order to combat and eradicate all forms of discrimination should be elaborated and adopted.

The legal instruments of combating and eliminating all forms of discrimination, which presently remain separated in each law brunch, should be formulated and harmonised in such a way as to attain as efficiently as possible the object of these instruments, providing they exercise their influence on social relations through their specific measures, but in co-ordination with instruments of other national law brunches.

r) Legal norms aimed to combat racism and to eliminate all forms of discrimination should contain clear definitions of prohibited acts, provide sufficient criteria of their delimitation, and contain efficient sanctions specific for each law brunch. It is necessary to define in the legislation of the Republic of Moldova such notions as "racism", "direct discrimination", "indirect discrimination", "the creation of direct or indirect advantages", etc. in criminal law, civil law, and administrative one.

The international acts on the protection of human rights and on the elimination of all forms of discrimination, the jurisprudence of the European Court as well as the General Policy Recommendations of ECRI should be taken into consideration when giving these definitions.

s) Such ground as "colour" should be introduced into the lists of prohibited grounds of civil legislation and administrative legislation of the Republic of Moldova.

t) Such actions as "offences or hostile treatment based on one of the prohibited grounds" should be declared prohibited in civil legislation and administrative legislation.

u) Such actions as:

- persecution, punishment, segregation, damage on racist grounds;
- discrimination based on association or contracts with a person belonging to one of prohibited grounds;
- urging another person to discriminate;
- a declared intention to discriminate;
- helping another to discriminate.

v) The regulations of all legal persons, both commercial legal persons and non-commercial ones should provide norms in accordance to which these persons through their activity would contribute to the promotion of the equality of rights of all persons and to the elimination of all forms of discrimination.

w) Both civil and administrative legislation should provide some procedures, which would contribute to a faster settlement

of discrimination cases on the racist grounds and to a quicker implementation of preventive measures.

- x) Both civil and administrative legislation should provide, in addition to other measures, the information of public about each court decision on the cases with discriminating character.
- y) Legislation should specifically stipulate that a free legal aid is provided to all victims of each discriminating action.
- z) Central and local public authorities should intensify their collaboration with non-governmental organisations with a view to propagate antidiscriminating legislation, the principle of all persons' rights equality, the setting up a peaceful, harmonised, and multicultural society.
- aa) To increase the number of normative materials regarding human rights protection and all forms of discrimination elimination in law syllabuses at all levels of state and private educational system.
- bb) To introduce special syllabuses for the study of normative internal and international acts in the system of training and re-training of police officers and penitentiary workers.
- cc) To modify registers at police offices with a view to introduce in them a special heading for the record of racist or discriminating acts.
- dd) To reorganise statistical blanks of the judicial practice, providing in them headings for the record of sentences and decisions taken in cases of racist or discriminating acts.