

Coalition on Anti-Discrimination
Submission to the 12-th UN Session on Universal Periodic Review
of the Republic of Moldova



1. Introduction

The Coalition on Anti-Discrimination is a voluntary union of 17 civic associations formed because of acute problems in terms of human rights and the phenomenon of discrimination in the Moldovan society, and thus aims to contribute to the development and consistent application of a non-discriminatory legal framework in Moldova, to promote international good practices in compliance with relevant international standards.

The coalition includes the following NGOs: 1. National Youth Council in Moldova, CNTM; 2. Informational Center “GenderDoc-M”; 3. Roma National Center in Moldova, CNR; 4. Resource Center for Human Rights, CReDO; 5. Association of Roma people “Porojan”, 6; Association „Young and Free”; 7. Hyde Park civic initiative group; 8. Center of Partnership for Development, CPD; 9. Human Rights Institute, IDOM; 11. National Center for Durable Development, CNDD; 12. HomoDiversus association – observer member; 13. “The Stoics” association for youth with functional disabilities; 14. “Sprijin si Speranta” Association for support of persons with disabilities. 15. The Association for Charity and Social Assistance “ACASA”; 16. Center for Partnership and Development, CPD; 17. HelpAge Moldova.

2. Summary

The present report focuses on depicting the **phenomenon of discrimination** in the Republic of Moldova, the consequent human rights violations of the following groups: persons living with **HIV**, **Roma** people, **LGBT**, **women**, **elderly** persons, persons with **disabilities**, **ethnic** and **religious minorities**.

3. The Phenomenon of Discrimination in the Republic of Moldova

Despite the legal and political commitments of Moldova to align national legislation with international human rights norms and standards, in particular, the ICCPR, ICESCR, ICRPD the European Convention on the Protection of Human Rights and Fundamental Freedoms, and other international instruments affirming the human rights standards for women, children, refugees, persons with disabilities and national minorities, Moldova still faces major problems such as unemployment, poverty, mass out migration of citizens, corruption, limited freedom of expression and association, discrimination, non-tolerance and exclusion.

Minority groups are consciously prejudiced against certain groups and knowingly discriminate against them; members of Moldovan society are unaware that their behaviour and attitudes are discriminatory. This lack of awareness is one of the first hurdles to be overcome in the efforts made towards achievement of tolerance, equality, and non-discrimination.

According to a recent sociological study,¹ every third respondent considers that, in the recent five years, the discrimination has increased. On perception level, the respondents considered that most frequently discriminated people in the Republic of Moldova are persons with mental and physical disabilities (68% and 66%), followed by poor people (59%), HIV positive persons (56%), elderly (50%), representatives of gay and lesbian community (40%), Roma (48%) and women (32%).

4. Persons living with HIV

The main human rights violations faced by the people living with HIV/AIDS in the Republic of Moldova are related to²:

1 Sociological Study: Perceptions of the Population from the Republic of Moldova on Discrimination, performed by Soros Foundation - Moldova, in 2010. <http://soros.md/files/publications/documents/Studiu%20Sociologic.pdf>

2 Findings of the Litigation Program of the Moldovan Institute for Human Rights, based on consultations provided to 142 persons living with HIV/AIDS and 29 litigated strategic cases during 2010; Report of the Litigation Program (January-

Violation of the right to privacy:

- illegal disclosure by doctors to third parties of the data regarding the patients' HIV status;
- coding or otherwise distinguishing with special signs the medical cards and/or medical referral forms of HIV-positive patients by medical personnel;
- marking with similar distinguishing signs the medical cards of the children whose parents are HIV positive by doctors;
- mandatory inclusion of the code of diseases in the official sick leave forms issued by doctors – to be presented to employer for official records.

Violation of the right to family:

- absolute medical contraindication for persons, including also foreigners, with HIV/AIDS to adopt children³ and also children with HIV/AIDS status are impede to be adopted⁴;
- refusals by the Bureau of Migration and Asylum within the Ministry of Interior to issue immigration certificates to HIV/AIDS positive foreign citizens⁵ already married to Moldovan citizens;
- mandatory medical examination, including testing for HIV/AIDS, for all persons as a precondition for presenting application for marriage.

Discrimination in accessing residential state social institutions with regard to persons in need of special social care:

- refusal by the Social Assistance Office to place a person living with HIV in the residential state social institutions due to the HIV status⁶.

Discrimination and barriers to access employment:

- unjustified practice of mandatory HIV/AIDS medical testing for being employed in a variety of jobs (tattoo specialist, police officer, confectioner, military services).

Recommendations:

- Implement concluding observations and recommendations of the UN monitoring bodies (HRC, CESCR, CRC) and eliminate the existing discrepancies between national and international human rights documents;
- Monitor and evaluate the negative practices of breaching the confidentiality in medical institutions and stop breaches of confidentiality and negligent attitude of the medical staff towards people living with HIV/AIDS in order to ensure that people living with HIV have adequate and equal access to quality health care;
- Eliminate the mandatory indication of the disease codes in all medical sick leave forms in the country;
- Introduce and implement human rights courses for medical students and provide human rights trainings for medical staff on patients' rights, human rights and HIV/AIDS;
- Amend the inter-ministerial regulatory framework and the Decision of the Moldovan Government no. 512 of 25 April 2003 in order to permit the adoption of children with HIV/AIDS, as well as the adoption of children by persons with HIV/AIDS;
- Improve regulatory framework and practice with regard to mandatory HIV/AIDS testing for being employed, providing a renewed and updated list of jobs for which a medical testing is needed, as

March 2010), p.5-9, IDOM, available at <http://aids.md/aids/files/223/idom-report-programme-litigation-january-march-2010-en.pdf>.

³ Decision of the Moldovan Government regarding the approval of the list of medical contraindications for persons who intend to adopt children, No. 512 of 25 April 2003.

⁴ Joint Ordinance of the Moldovan Ministry of Education (no. 113 of 11 April 1994), Ministry of Health (no. 64 of 5 April 1994) and Ministry of Justice (no. 47 of 11 April 1994).

⁵ Article 24 of the Law of the Republic of Moldova on prophylaxis of HIV/AIDS infection, No. 23-XVI, 16 February 2007.

⁶ Instruction regarding the accommodation into social institutions under the jurisdiction of the Ministry of Labor and Social Protection, adopted on 16 February 2000 between the Ministry of Health and the Ministry of Labor and Social Protection.

well as for ensuring that persons living with HIV/AIDS are not unjustifiably limited to the right to equal job opportunity;

- Eliminate barriers to access residential state social institutions with regard to persons in need of special social care.

5. LGBT

According to a recent study on the perceptions of the population from the Republic of Moldova on the phenomenon of discrimination⁷, over 92% of respondents would not want to have as a neighbour or relative a homosexual person.

Referring to the same study and the cases documented⁸, the following violations have been identified:

- while exercising the **right to work**, if the sexual orientation and gender identity was revealed, LGBTs would be summoned to the superior's office for explanations, questions about personal life, eventually reprimanded for an inappropriate moral conduct and asked to leave the job. In other 3 cases reported during 2006-2010 by community members, the employer sought various unjustified reasons not related to the sexual orientation and gender identity to fire the person.
- the **right to healthcare** is constantly infringed due to obsolete medical education of the doctors on matters of sexual orientation and identity⁹. Homosexual persons are often not consulting specialist doctors, because these specialists are asking questions on their sexual life and have inadequate reactions when they discover the orientation of the patient. They would be directed to psychologists and psychiatrists to undergo treatment of "homosexual pathology or deviation", the gynecologists are trying to convince the patient that the homosexual relation is not healthy, questions are asked and humiliating comments are made on the way of life of a homosexual person. The inappropriate diagnosis of the patients leads not only to a negative progression of the patients health situation, but also brings moral damage to the person.
- referring to **transsexual persons**, according to letter (c) of article 66 of the Law on the civil status documents, persons that had a gender reassignment surgery can benefit for a change of documents, yet the definition is not precise regarding the moment when the person is considered to have changed his/her sex. Persons in an advanced stage of hormonal therapy, already having the facial and physical traits of the opposite sex, are faced with the non-corresponding of their real image with their documented status. The **right to self-determination** is infringed in these cases because the documents cannot be changed, since the Civil Status Service is requiring the medical certificate of surgical sex correction (wrongfully motivating the need for a certificate issued outside Moldova, without mentioning the format of such a document).¹⁰ With old documents, it is impossible to get employed and in this case personal abilities and professional experience do not matter anymore, consequently violating the **right to work** for this category of citizens.
- the **freedom of assembly** has been repeatedly infringed by municipal authorities in cases of GenderDoc-M's attempts to make a public march, undertaken yearly since 2002. Even the new law on assemblies from 2008, stating that a gathering of less than 50 persons does not need an authorization, did not work in favor of the LGBT groups. In May 2008, the bus with 47 participants that arrived one block away from the place of assembly was blocked by aggressive counter protesters and no security was provided by the police infringing the positive obligations of the state in securing the exercise of this right. There have been 5 court cases on the violation of the freedom of assembly, in one case the Supreme Court admitted that the freedom of assembly was violated, but no actions to repair the damage or cease the discriminatory interdictions to hold a public march during the next years was undertaken. Two cases are currently at ECHR for examination.

7 "Perceptions of the Population from the Republic of Moldova on the Phenomenon of Discrimination: Sociological Study", performed by Soros Foundation Moldova in 2010.

8 Cases documented during 2006-2011 by GenderDoc-M Information Centre, www.lgbt.md.

⁹ At the State Medical University the homosexual orientation is still taught as a "mental deviation", there are still used manuals edited during USSR.

¹⁰ Case N.C. March-July 2009, documented by the GenderDoc-M Information Centre.

- of the **freedom of association** could not benefit in 2008 the initiative group for non-discrimination, diversity and social inclusion “HomoDiversus” which encountered during registration unmotivated delays of examination of documents, unmotivated requests of additional documents and refusal on grounds that information on member fees, and Council functions in case of closing of the association were missing. The registration was possible only through the decision of the Supreme Court at the end of 2009.
- **disclosure of personal data**, is another severe problem of gay persons. Harassment and blackmail are applied in the gay venues by police who use their mandate to interrogate persons who are perceived as gay, take their personal information and threaten on divulging their sexual orientation to family and employers if they do not bring the requested sum of money. Letters have been repeatedly sent by GenderDoc-M to the Ministry of Interior Affairs on these situations, but there have been undertaken no measures to sanction or dismiss the police officers responsible for these violations and inappropriate conduct at work, thus leading to impunity and indirect encouragement to the police officers. As a result, a tragical case has happened at the end of 2010, when after an interrogation, pressure and threat to divulge the information to relatives made by two police officers a young gay committed suicide.

Recommendations:

- Increase the juridical culture and the level of education of public servants and police officers on matters of adequate conduct towards LGBT with the support of profile non-governmental organizations.
- The Ministry of Interior Affairs to effectively investigate all cases of harassment and blackmail of LGBT by police officers.
- Train medical professionals in diagnosis and specific treatment of LGBT persons by modifying the current curricula for medical students, and offer in partnership with international structures trainings for doctors on matters concerning transsexual persons.
- The Parliament to adopt and implement efficient anti-discrimination legislation including among the protected grounds sexual orientation and gender identity.
- Elaborate and implement adequate education programs for youth on sexuality and tolerance along with profile NGOs and the Ministry of Education.

6. ROMA

Roma in Moldova face widespread and systematic discrimination when accessing employment, education, health, and social services. This is due to their under-representation in decision-making as well as low social conditions, high figures of illiteracy, high unemployment¹¹ and the existence of social stigma and negative prejudices, in particular.

- The **right to access the labor** market is infringed by employers who usually avoid or directly refuse to employ Roma because of the prejudices and stereotypes¹² they have towards them. Roma National Center monitored several cases when Roma have been refused a job due to their ethnicity. According to UNDP report from 2007 18% of Roma are unemployed.¹³
- Roma children face serious challenges in **educational services**: teachers have a negative and discriminatory attitude towards Roma children, this reflecting on the quality of studies, being one of the reasons for school drop-outs among Roma. The whole situation becomes later an obstacle to access the labor market, as a lack of qualified Roma. Also Roma face difficulties in accessing higher education, because according to the *Order no. 630 from July 7, 2010 on approval of the Regulation*

11UNDP report “Roma in the Republic of Moldova”, 2007, p.9, available at http://undp.md/publications/roma%20_report/Roma%20in%20the%20Republic%20of%20Moldova.pdf (accessed on 28 February 2011)

12 SOROS Foundation-Moldova Survey “Perceptions of population of Moldova on the phenomenon of discrimination”, p.53 (accessed on 12 March 2011)

13UNDP report “Roma in Republic of Moldova”, 2007, available at http://undp.md/publications/roma%20_report/Roma%20in%20the%20Republic%20of%20Moldova.pdf

on organizing and conducting the admission to Bachelor degree (first cycle) in higher education institutions from Moldova, there is provided a 15% quota for disadvantaged groups, among which Roma are the last one on the list, thus diminishing their capacity to access superior education. Just 4% of Roma graduated from university.¹⁴

- in the field of **healthcare** doctors or medical assistants refuse to consult Roma patients or work in a Roma community. The Arapu case¹⁴ is a tragic example, when a Roma man from a Roma village died as the ambulance came one hour later after the call was made. Because poverty and unemployment are systemic challenges in Roma communities and the cost of health insurances is too high, Roma lack them and cannot access primary health services. Also due to the unemployment of Roma, they cannot obtain the health insurance for free when they reach the age of retirement.
- as for **housing** issues, responsible authorities do not allocate lands for building houses to Roma, even if they are included in the lists to receive the lands, yet the non-Roma on the list do receive the lands.
- the misconduct of law enforcement bodies is manifested by hostile and discriminatory attitude towards Roma, systematic harassment, **ill treatment and torture**, and **failure to investigate** and prosecute adequately the complaints of Roma, on the ground of their ethnicity.

Recommendations:

- The state should provide budgetary places for Roma distinct from the 15% quota, increasing their capacity to access higher education, this being as an effective affirmative measure.
- The authorities should design methods of facilitating access to health insurances for Roma, that are in a vulnerable position and do not fulfil the requirements to obtain free medical insurance.
- The state should ensure participation of Roma in decision making process by appointing them in decision-making positions and including on the lists of political parties during the electorate, because there are no Roma in decision making positions, thus being underrepresented;
- The Moldovan Government should adopt a new Action Plan for support of Roma 2011-2014, to allocate financial resources for its implementation and develop a clear mechanism for monitoring and evaluation of implantation of the Plan of Actions in improving Roma situation, jointly with the civil society.

7. Women

- **Participation in the political life and decision making processes.**

According to the undertaken commitments under the Millennium Development Goals, Moldova undertook to ensure the representation of women in the government bodies at the minimum level of 25% to 40% by 2015. At this point in Moldova is not being ensured gender equality in neither the local nor national government. Given that women constitute more than 50% of Moldova's population, only about 20% of MPs are women, only 25% of the members of the Permanent Bureau of the Parliament are women, 10% of all the chairmen of the standing parliamentary committees are women and less than 5% of the members of the Cabinet are women. The number of women elected as local and rayon councillors is still low—16.9% of rayon councillors and 28.7% of local councillors are women¹⁵.

There is no effective mechanism to implement the Law on Equal Opportunities for Women and Men (adopted in 2006). This leads to the low representation of women in the government and the lack of access to management and decision-making processes.

In early 2011, the Moldovan Government proposed to introduce a 30% quota for women's participation in the electoral lists of political parties. However, without specifying that this 30% minimum must be evenly distributed on the lists of all parties, this initiative has no effect, because the

14 Roma National Center submission for CERD “Roma situation in republic of Moldova”, available at http://www2.ohchr.org/english/bodies/cerd/docs/ngos/RNC_Moldova78.pdf, p. 4 (accessed on 14 March 2011)

15 Daniela Terzi-Barbarosie , Women’s Invisible Violence and Political Participation in Republic of Moldova, 2009, available at: http://www.alegeriprogen.md/files/1592_Violenta_Invizibila.pdf [accessed 3rd March 2011].

parties continue to place women at the bottom of their lists or appoint them in dependence of their “loyalty” to the party and not by their professional merits.

At the society level every third respondent of a recent sociological study considers that women are not capable and should not be involved in decision making process.¹⁶ Moreover, 50,3% would prefer a man president over 6,4% that would vote for a woman.¹⁷

- **Employment.** In Moldova women are discriminated on the matrimonial status and age basis, as well as because of presumptions regarding the time dedicated to family life. There are cases showing that women are discriminated in the field of employment by receiving lower salaries or even pensions six times lower than men doing the same work¹⁸, during last years women earned approximately 85% of what men earned for equal work¹⁹.

- **Domestic Violence.** A 2008 survey indicated that at least 40 % of women in the country had been victims of a violent act at least once in their life²⁰. Despite this acknowledgement, unless it results in serious injury, domestic violence is not perceived as a problem warranting legal intervention²¹; The implementation of the Law on Preventing and Combating Domestic Violence is insufficient, the public authorities do not recognize violence against women as a systemic problem. According to a report produced by “La Strada” in November 2010, 161 victims of domestic violence faced difficulties when appealed to police, and in 93 cases they were not satisfied by police measures sometimes the punishment being reduced to warnings or a fee which often was paid by the victim.

Recommendations:

- establish a functional mechanism for developing and implementing the provisions of the Law on Equal Opportunities for Women and Men;
- ensure compliance with the obligations of Moldova within the framework of "Millennium Development Goals" to ensure women's representation in public administration at the minimum level of 25-40% by 2015;
- Ministry of Labor, Social Protection and Family must ensure the equal treatment of men and women in the field of employment by implementing properly existent gender policies in the field of employment, including the provisions of Law on Prevention and Combating Discrimination that is to be adopted by the Parliament²²;
- Office of the Prosecutor General to elaborate effective instruments for identification and sanction of cases of gender discrimination in regard to employment.
- Ministry of Labor, Social Protection and Family in cooperation with the Ministry of Internal Affairs must elaborate regulatory instruments for a proper implementation of the Law on Preventing and Combating Domestic Violence, especially regarding the identification and fast remediation of the domestic violence.

16 Sociological Study: Perceptions of the Population from the Republic of Moldova on Discrimination, performed by Soros Foundation - Moldova, in 2010, p. 6.

17 Daniela Terzi-Barbarosie, Women's Invisible Violence and Political Participation in Republic of Moldova, 2009, available at: http://www.alegeriprogen.md/files/1592_Violenta_Invizibila.pdf [accessed 3rd March 2011].

18 Free Europe, Women Discrimination in Pension Calculations, 13th of September 2009, available at <http://www.europalibera.org/content/article/2156796.html> [accessed 3rd March 2011]

The case of Maria Bogonovschi and her husband emphasizes how after the both worked in the same sphere 17 years she received a pension 6 times lower than his.

19 UN Human Rights Council, Report of the Special Rapporteur on Violence against Women, Its Causes and Consequences, Addendum: Communications to and from Governments, 2 June 2010, available at <http://www.unhcr.org/refworld/pdfid/4c1b42c32.pdf> [accessed 1st March 2011].

20 US Bureau of Democracy, Human Rights, and Labor, 2009 Human Rights Report: Moldova, March 11, 2010.

21 Yakin Ertürk, Report of the Special Rapporteur on violence against women, its causes and consequences, 8 may 2009, available at <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G09/131/24/PDF/G0913124.pdf?OpenElement> [accessed 6 March 2011].

22 To ensure the implementation, by the employers, of the Art. 9 Cooperation in ensuring the right to nondiscrimination in employment relations.

8. Elderly

- **Inadequate pensions and the right to social security.**

Moldova has been affected by demographic ageing, generated mainly by a decrease in birth rates and high level of migration of economically active population overseas. The official number of people aged over 60 in Moldova represents approximately 14 per cent of the population²³ and that number is predicted to rise to 35 per cent by 2050²⁴.

The average pension in Moldova in 2010 was 837 MDL (\$69) and the minimum constituted 594 MDL (\$49) while the minimum subsistence level was 1368 MDL (\$114), pensions respectively making 60% or 43% of this minimum. Poverty increases with age: 35.5 per cent of people over 65 years old indicate the absolute poverty rate²⁵ and this rises to 43 per cent amongst those between 70 – 75 years old, who are often living alone in urban areas with a pension²⁶.

Annual indexation fails to increase the pension to a level that allows for an adequate standard of living. The average indexation started in 2003 with average indexation level of 20 per cent per year while in 2010 pensions were indexed by only 4.65 per cent²⁷.

- **The right to social security for migrant workers.**

Moldova is classified as one of the European countries with phenomenally high level of migration that started in late 90's and rapidly accelerated to unprecedented levels. According to the National Bureau of Statistics 2008, 25 per cent of economically active population of Moldova have gone overseas to find employment. The lack of bilateral agreements prevents the portability of social insurance such as the old age pension and health insurance, even if the individual has been a “regular” migrant and has contributed to the system in the country of migration.

- **Medical costs and the right to health**

Poor nutrition and cold weather severely impact on the health of older people. Age discrimination in health care provision is widespread; older people note that ambulance services ask for the patient's age and routinely discriminate against people over 60 refusing to come or come late. Health care is also unaffordable for many poor older people. The primary health care family medicine (PHC) that was introduced in 2005 annually approves a set of medical services in a single health insurance package as part of compulsory health care insurance. However, this compulsory package is very limited and the list of compensated medicines is very basic and insufficient in the case of serious diseases.

Many older people are also unable to treat their illness above the compulsory package due to high costs of healthcare. Others can not afford to pay the informal fees asked of them by the doctors and are therefore unable to motivate the health professionals to provide care. Age discrimination, high costs of medicine, negligence of doctors, informal fees and inadequate income through pensions or remittances are major barriers to older people's enjoyment of their right to health.

Recommendations:

- The Government should increase the value of the existing contributory pension so that it provides an adequate standard of living for older people and those in their care.

- The Government should ensure that the increasing number of people working in the informal sector today, including migrant workers, have access to social security when they reach old age. The Government should consider wider policy options for non-contributory social security schemes and namely the feasibility of a universal non-contributory pension.

23 National Bureau of Statistic of Moldova data “Elderly of the Republic of Moldova” 2009.

24 ENPI 08-14 Black Sea Labour Market Reviews, Moldova Country Report, Working Document, 2009.

25 The absolute poverty rate is based on consumption expenditures as a welfare indicator, comprising expenditures for food consumption, non-food items and payment for services. Poverty line defined by the MDGs as €4.3 per capita per day, adjusted for purchasing power parity (2006–2007),

26 Study on Social Protection and Social Inclusion in Moldova 2009-2010, Institute for Development and Social Initiatives “Viitorul”, Chisinau, Moldova

27 Protection of Pensioners: Priorities and Current Debates”, Social Monitor, IDIS Viitorul Jan-Feb 2010

9. Persons with disabilities.

In Moldova are registered over 170,000 people with disabilities, recognized to be the most vulnerable social group in terms of social exclusion.

- **Insufficient pensions and social protection.** Although the average size of benefits is constantly increasing, it remains still very small and does not cover the minimum necessary to ensure a decent living. Average amount of disability pension, according to figures from the Ministry of Social Protection, Family and Child, in 2008, after indexing, was 545.56 lei (~44\$) putting these persons to the verge of poverty unable to reach the 114\$ minimum subsistence level.

- **Employment** is an almost unattainable for most people with disabilities in Moldova, especially since the current national legislation establishes that they are unable to work. Even if you have some more jobs or higher education diploma, as long as moving with a stroller or have poor eyesight, a person is considered invalid. The legal framework is not aligned to international standards to ensure the rights of persons with disabilities. The Law on social protection of invalids in the Republic of Moldova (1991), provides that every company, institution and organization is required to reserve at least 5% of the total number of places for employment of persons with disabilities. Employers who do not comply with this provision must remit an average annual salary in the unemployment fund for each job uninsured. This provision, however, never worked in Moldova. Although the law provides a mechanism for ensuring the employment of people with disabilities and establishing the responsibilities of various institutions to implement it, so far lacks a coherent social policy of inclusion of these people into the workforce, according to the Social Inclusion Strategy of people with disabilities for the years 2010-2014. Unlike the positive European experience in the Republic of Moldova no employer is motivated by the state to take people with disabilities to work.

- **Methods of determining disability.** A considerable number of complaints received by the ombudsman are referring to the diminution of the degree of invalidity by the Primary Territorial Councils of Medical Assessment of Vitality. It is necessary to revise the current definition of disability and legal concepts related to it, introducing a single definition for persons with disabilities, modifying the methodology for determining the degree of disability, so that these do not exhibit desiderate discriminatory and meet international standards.

- **Limited access** for persons with disabilities in social infrastructure is a result of unsuitable physical environment in terms of architecture. Almost all buildings in Moldova do not have ramps to allow access for persons with disabilities, this is one of the main problems facing this category. Although national legislation requires public authorities to provide physical infrastructure to adapt to the needs of persons with disabilities, currently there are few public institutions adapted to the needs of these people.

Recommendations:

- To provide invalidity pensions in accordance to the special needs of the disabled person.
- To set a clear mechanism of implementation to the Law on Social Protection of the Disabled persons.
- To elaborate a new method of assessment of the degree of disability, which would include the capacity to work and the special needs of a person.
- Amend the Law on Prevention and Combating discrimination with the provision of “reasonable accommodation” according to Article 2 of the Convention on the Rights with Persons with Disabilities (CRPD) ratified by the Republic of Moldova in 2010.
- To conduct informational campaign on combating prejudice towards persons with disabilities in order to stimulate the employers to offer jobs to these persons and contribute to the social inclusion of this category.
- To adapt buildings and public transportation to the needs of the persons with disabilities.

10. Ethnic and religious minorities

Although the Law on persons belonging to national minorities and the juridical status of their organisations, Law nr. 382-XV, from 19-th of July 2001, assures by art. 5 the following: The State obliges itself to contribute to creation of necessary conditions for protection, development and expression of ethnic, cultural and religious identity to persons belonging to national minorities. In practice, situations and direct actions from the state express the opposite will.

- None of the three known **muslim groups** present on the territory of the Republic of Moldova have obtained registration as a religious cult. Two of them gave up on this idea and have registered as NGOs and the Spiritual Gathering of Muslims group continued to submit their documents for registration, rejected in all cases on technical grounds, undergoing intimidations of members and founding members by police officers, mockery and disrespectful attitudes towards the physical aspect of the religious leader. Due to the fact that the registration of the cult is not possible, the State does not provide burial places for this group.

- **Antisemitic** hate speeches and vandalism are not investigated properly and the aggravating circumstances provided by the Criminal Code, art. 77. are not applied in practice by police and judges.

- The **Adventist church** could not benefit of the right to freedom of assembly in the central square of the capital, due to the requests of the Orthodox church not to conduct such a gathering near the Cathedral which is 100m away from the central square. The municipality requested that the organizers of the event hold it in the front yard of the church which is situated at the far end of the city.

- **Falun Gong** has encountered difficulties set by the Ministry of Justice while registering the association on grounds that the association is an extremist one. Also, while organizing a concert with chinese dancers the theatre rented for this event blocked entrance of the dancers to rehearsals and refused rental one day before the concert without prior notice or comments. The decision of refusal was a political one, allegedly due to pressures from Chinese Embassy in the Republic of Moldova.

- Due to an efficient work of the office of UNHCR in Moldova, the persons having a refugee status confront themselves less with the police officers. However, after obtaining citizenship, the persons who have distinguishable aspect from local population (mainly by the skin colour) can be questioned and harassed with questions as "Where did you get these documents? How much did you pay bribe for them?" etc²⁸. Foreigners with distinguishable aspect are exposed to discriminatory attitude while applying for jobs, renting apartments, can be harassed; endure mockery and even aggressive behaviour from intolerant undereducated persons.

Recommendations:

- To conduct thorough investigations by police of the motives of crimes towards minorities and apply criminal code, with aggravating circumstances in cases of discrimination. To report and respectively investigate hate crimes.
- To conduct specific trainings to police officers on matters of adequate conduct towards multicultural and ethnic groups.
- To harmonize the national legislation with the international legislative provisions as so the national minorities fully benefit of religious freedom in its associational dimension as a manifestation of religious beliefs.

11. Anti-Discrimination Legislation

Moldovan legislation includes few provisions, prohibiting discrimination in an explicit manner; however, most of them have severe deficiencies in terms of obtaining enjoyment of the rights.

²⁸ Interview with Paknehad Ahmad Djavid, director of Charity Centre for Refugees on 17-th of January 2011.

Furthermore, the Republic of Moldova has not yet ratified the 12th Protocol to the European Convention on Human Rights of the Council of Europe, which provides a general prohibition of discrimination on the grounds that ratification can not be implemented due to lack in the national legislation of a law prohibiting all forms of discrimination.

According to the National Human Rights Action Plan for 2004-2008, Moldova undertook to adopt a law on non-discrimination until 2007, but the law was not adopted until now. The lack of the Act, *inter alia*, where would be spelled out any non-discrimination on any grounds, including sexual orientation, as well as a mechanism to combat discrimination, can not effectively deal with discrimination.

The civil society, along with OSCE experts have provided to the Ministry of Justice (MoJ) a first draft of the law in 2008. The Government had elaborated a first project of antidiscrimination law (ADL) and approved it in autumn 2009. The MoJ did not include in the draft law all the modifications suggested by the coalition of NGOs. Other modifications have been sent to the MoJ by OSCE and independent experts on non-discrimination, including clear suggestions on the mechanism of implementation and punishment system.

On the 17-th of February 2011, the Government approved a new draft bill and passed it for examination to the Parliament.

The main reason for the lack of progress of the project during 2008-2011 was the criterion of “sexual orientation” included in the draft law among the protected grounds. Initially, in 2008, the representatives of the MoJ stated that there is no discrimination in Moldova, later the officials repeatedly affirmed that the Republic of Moldova is not ready to adopt a law that would accept this category. Even in 2010, the representatives of the Ministry of Labor, Social Protection and Family have tried to exclude sexual orientation from the law basing their request on the “Christian family values of the majority of the population” that should not be ignored while amending this law.

Nevertheless, the 2011 draft law still requires amendments as to fully respond to European standards and provide effective protections and remediation to the victims of discrimination.

Recommendations:

- to adopt a law prohibiting discrimination on the grounds spelled out in the Universal Declaration of Human Rights, including sexual orientation and gender identity;
- to ratify the 12th Protocol to the European Convention on Human Rights, Council of Europe, providing a general prohibition of discrimination;
- to revise and update the national action plan as to implement anti-discrimination policy regarding all discriminated grounds, including sexual orientation and gender identity;
- to develop and implement a national mechanism for combating all forms of discrimination in Moldova and to implement the Law and the Plan of Action for the Elimination of All Forms of Discrimination in the Republic of Moldova, with the participation and close cooperation with civil society;
- to create a favorable climate and promote diversity, tolerance and forbearance in the society by providing continuously adequate information on discrimination and diverse groups present on the territory of the Republic of Moldova.

For further information contact:

Iuliana Marcinschi

Project coordinator “Promotion of Antidiscrimination policies in Republic of Moldova”

Address: Stefan cel Mare str., 126, of. 40, Chisinau, MD 2012, Republic of Moldova.

Telephone / Fax: (+373) 22 23 51 75,

E-mail: julia.marcinschi@gmail.com, nediscriminare@gmail.com .