

# **ECRI REPORT ON THE REPUBLIC OF MOLDOVA**

**(fourth monitoring cycle)**

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## FOREWORD

The European Commission against Racism and Intolerance (ECRI) was established by the Council of Europe. It is an independent human rights monitoring body specialised in questions relating to racism and intolerance. It is composed of independent and impartial members, who are appointed on the basis of their moral authority and recognised expertise in dealing with racism, xenophobia, antisemitism and intolerance.

In the framework of its statutory activities, ECRI conducts country-by-country monitoring work, which analyses the situation in each of the member States regarding racism and intolerance and draws up suggestions and proposals for dealing with the problems identified.

ECRI's country-by-country monitoring deals with all member States of the Council of Europe on an equal footing. The work is taking place in 5 year cycles, covering 9/10 countries per year. The reports of the first round were completed at the end of 1998, those of the second round at the end of 2002, and those of the third round at the end of the year 2007. Work on the fourth round reports started in January 2008.

The working methods for the preparation of the reports involve documentary analyses, a contact visit in the country concerned, and then a confidential dialogue with the national authorities.

ECRI's reports are not the result of inquiries or testimonial evidences. They are analyses based on a great deal of information gathered from a wide variety of sources. Documentary studies are based on an important number of national and international written sources. The in situ visit allows for meeting directly the concerned circles (governmental and non-governmental) with a view to gathering detailed information. The process of confidential dialogue with the national authorities allows the latter to provide, if they consider it necessary, comments on the draft report, with a view to correcting any possible factual errors which the report might contain. At the end of the dialogue, the national authorities may request, if they so wish, that their viewpoints be appended to the final report of ECRI.

The fourth round country-by-country reports focus on implementation and evaluation. They examine the extent to which ECRI's main recommendations from previous reports have been followed and include an evaluation of policies adopted and measures taken. These reports also contain an analysis of new developments in the country in question.

Priority implementation is requested for a number of specific recommendations chosen from those made in the new report of the fourth round. No later than two years following the publication of this report, ECRI will implement a process of interim follow-up concerning these specific recommendations.

**The following report was drawn up by ECRI under its own and full responsibility. It covers the situation up to 21 March 2013 and any development subsequent to this date is not covered in the following analysis nor taken into account in the conclusions and proposal made by ECRI.**



## SUMMARY

**Since ECRI's third report on the Republic of Moldova (hereafter Moldova) was published on 19 December 2008, progress has been made in a number of fields covered by the report.**

In adopting several action plans, the Moldovan authorities have demonstrated their willingness to undertake major reforms which would make it possible to combat racism<sup>1</sup> and racial discrimination<sup>2</sup> more effectively. These plans concern inter alia the honouring of Moldova's commitments to the Council of Europe and the European Union, human rights, Roma and the reform of the justice system.

Moldova ratified the Convention on Cybercrime on 12 May 2009 and has undertaken work with a view to ratifying the European Charter for Regional or Minority Languages.

According to a recent survey, 78 % of Moldovans consider that discrimination is an important issue and 2/3 think that racism should be punished.

After an extremely controversial debate, the Law guaranteeing equality was adopted on 25 May 2012. It provides for the establishment on 1 January 2013 of a specialised body to combat racism and racial discrimination: the Council to Prevent and Combat Discrimination and Ensure Equality.

Article 3 (5) of Law No. 64 of 23 April 2010 on freedom of expression henceforth stipulates that freedom of expression does not cover remarks inciting hatred or violence.

The Moldovan authorities have included a reform of the Ombudsman institution in their Justice Sector Reform Strategy 2011-2015.

The Bureau for Interethnic Relations and an interministerial working group have begun implementation of the Action Plan to support the Roma ethnic group in the Republic of Moldova 2011-2015. Following an initial allocation of funds, 15 Roma community mediators are to be recruited in 2013.

The Moldovan authorities have registered the great majority of the minority religious groups which have applied for registration, including a Muslim community.

**ECRI welcomes these positive developments in Moldova. However, despite the progress achieved, however, some points continue to give rise to concern.**

Moldova has postponed ratification of Protocol No. 12 to the European Convention on Human Rights.

There are still a considerable number of people belonging to ethnic minorities who have not been registered with a municipality. Many of them have not obtained Moldovan nationality or identity documents proving their nationality although they would satisfy the statutory conditions for acquiring Moldovan nationality or being recognised as Moldovan citizens.

The police are reluctant to register complaints of racism and racial discrimination. In several cases of violence with a clearly racist motive, the police failed to open an

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<sup>1</sup> According to General Policy Recommendation No. 7, racism means the belief that a ground such as "race", colour, language, religion, nationality or national or ethnic origin justifies contempt for a person or a group of persons or the notion of superiority of a person or a group of persons.

<sup>2</sup> According to General Policy Recommendation No. 7, racial discrimination is any differential treatment based on a ground such as "race", colour, language, religion, nationality or national or ethnic origin, which has no objective and reasonable justification.

investigation or conducted an investigation based solely on general legal provisions or even the Code of Administrative Offences.

The Parliamentary Advocates have still not used their power to apply to a court to protect the interests of alleged victims of discrimination. They are unpopular among ethnic and religious minorities. Victims of discrimination tend to turn to a lawyer rather than to the Parliamentary Advocates.

The new Action Plan to support Roma for the period 2011-2015 once again makes almost no provision for specific funding. The 101 measures of the plan have to be funded from existing budgets. Despite the case-law of the ECtHR on this matter, Roma children are subject to segregation in schools through the establishment of classes sometimes consisting entirely of Roma children.

There are still a significant number of cases of police misconduct.

Little progress has been made in monitoring racism and racial discrimination. There are no coherent statistical data that could be used to evaluate the scale of the racism and racial discrimination suffered by ethnic and religious minorities in Moldova.

**In this report, ECRI requests that the Moldovan authorities take further measures in a number of areas; in this context, it makes a series of recommendations, including the following.**

In order to create a comprehensive legislative framework for combating racism and racial discrimination, Moldova should ratify Protocol No. 12 to the European Convention on Human Rights as soon as possible.\* It should also ensure rapid alignment of the Criminal Code provisions designed to combat racism and racial discrimination with all ECRI's recommendations relating to criminal law contained in §§ 18-23 of its General Policy Recommendation (GPR) No. 7.

A national campaign should be conducted to identify and register persons without any nationality or without identity documents and the authorities should help such persons to acquire Moldovan nationality or obtain identity documents.

Departments specialising in the investigation of offences against victims belonging to ethnic and religious minorities should be set up within the police and the prosecuting authorities. These departments should appoint officers to act as points of contact for these minorities and receive complaints from them concerning racism and racial discrimination.

The Parliamentary Advocates should provide more effective support for victims of racism and racial discrimination, in particular by using their power to bring "strategic actions" before the courts.

To develop a profile and reputation as an independent defender of the rights of victims of racism and racial intolerance, the new Council to Prevent and Combat Discrimination and Ensure Equality should focus on a number of "strategic judicial actions" and ensure that they receive appropriate media coverage.

The Moldovan authorities should inform groups covered by ECRI's mandate who are victims of racism and racial discrimination about the legislation and institutions put in place to combat racism (police, prosecuting authorities, Parliamentary Advocates, Council to Prevent and Combat Discrimination and Ensure Equality) and encourage them to turn to those bodies. The latter should establish regular contact with these groups, deal seriously with all allegations of racism and racial discrimination and carry

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\* This recommendation will be subject to a process of interim follow-up by ECRI no later than two years after the publication of this report.



out effective investigations with a view to providing appropriate redress and punishment.\*

Any discriminatory attitudes and corruption found in the public health services should be punished. The authorities should help ethnic and religious minorities to improve their housing conditions, taking inspiration from the best practices compiled by the Ad Hoc Committee of Experts on Roma Issues.

Greater financial and human resources should be made available for implementation of the actions included in the Action Plan to support Roma, particularly in the housing and employment fields. The Moldovan authorities should put an end to all educational segregation of Roma children and ensure that cases of discrimination against Roma in the field of education are prosecuted and punished (§ 4 of GPR No. 13).

With regard to freedom of religion, the discriminatory provisions contained in Article 19 (1) d of the Law of Freedom of Conscience, Thought and Religion and in Article 54 (4) of the Code of Administrative Offence should be repealed. The authorities should initiate and lead an inter-faith dialogue with a view to promoting tolerance between and towards the different religious groups in Moldova.

The authorities should also take measures to improve the image of Roma by highlighting positive examples of success achieved by Roma, for example in the professional and cultural fields.

A system for recording and following up racist incidents reported to the police should be set up. The authorities should compile systematic data on vulnerable groups in accordance with the principles of confidentiality, informed consent and voluntary self-identification (GPR No. 1 and No. 11 § 12).\*

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\* The recommendations in this paragraph will be subject to a process of interim follow-up by ECRI no later than two years after the publication of this report.



## FINDINGS AND RECOMMENDATIONS

### I. Existence and application of legal provisions

#### International legal instruments

1. In its third report, ECRI once again recommended that the Republic of Moldova (hereafter Moldova) ratify the following international legal instruments: Protocol No. 12 to the European Convention on Human Rights (ECHR), the European Charter for Regional or Minority Languages and the Convention on the Participation of Foreigners in Public Life at Local Level. ECRI also recommended that Moldova ratify the Convention on Cybercrime and its Additional Protocol concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems, and the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families.
2. ECRI welcomes Moldova's ratification of the Convention on Cybercrime on 12 May 2009. This convention entered into force in respect of Moldova on 1 September 2009. The authorities informed ECRI that the Additional Protocol to the Convention on Cybercrime will also be ratified once national legislation has been brought into line with European standards.
3. ECRI is pleased to note that the government intends to ratify Protocol No. 12 to the ECHR in 2015 at the latest.<sup>1</sup> In view of the extremely controversial public debates in connection with the adoption of the Law on Equal Opportunities in May 2012, the authorities want to conduct a campaign to raise public awareness of the need to combat racism<sup>2</sup> before the protocol is ratified. The government intends to involve the new Council to Prevent and Combat Discrimination and Ensure Equality (the Council) in this campaign.
4. In view of the good results of a recent survey showing that over 2/3 of those questioned think that discrimination should be punished<sup>3</sup>, ECRI encourages the members of the government to express public support for ratification of Protocol No. 12 as from now. ECRI wishes to point out that Protocol No. 12 is one of the most important international instruments for combating racism and racial discrimination<sup>4</sup> and that its ratification would make it possible to combat this phenomenon more effectively at national level.
5. ECRI reiterates its recommendation that Moldova ratify Protocol No. 12 to the European Convention on Human Rights as soon as possible.
6. As regards the European Charter for Regional or Minority Languages, ECRI is pleased to learn that the Moldovan authorities, in close co-operation with Council of Europe experts, drew up an instrument of ratification in 2012

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<sup>1</sup> Ratification was initially planned for 2012, see draft of the Action Plan on honouring of the commitments of the Republic of Moldova to the Council of Europe, objective No. 18, <http://www.parlament.md/ProcesulLegislativ/Proiectedeactelegislative/tabid/61/LegislativId/1224/Default.aspx>.

<sup>2</sup> According to General Policy Recommendation No. 7, racism means the belief that a ground such as "race", colour, language, religion, nationality or national or ethnic origin justifies contempt for a person or a group of persons or the notion of superiority of a person or a group of persons.

<sup>3</sup> Respondents are in favour of fines (28%), criminal sanctions (16%), compensations (13%), community labour (12%) and even imprisonment (4%), Soros Foundation-Moldova, Perceptions of the Population of the Republic of Moldova on Discrimination: Sociological Study, January 2011, p. 9.

<sup>4</sup> According to General Policy Recommendation No. 7, racial discrimination is any differential treatment based on a ground such as "race", colour, language, religion, nationality or national or ethnic origin, which has no objective and reasonable justification.

providing for the Charter to be applied to eight minority languages.<sup>5</sup> Recently, however, the Moldovan authorities have expressed concern at the overly constraining nature of certain provisions in Part III of the Charter.<sup>6</sup> As the Charter's modular structure offers Parties considerable room for manoeuvre, ECRI encourages the Moldovan authorities to review their ratification plans where Part III of the Charter is concerned and, if necessary, to contact the experts again in order to select a set of measures that would be feasible for Moldova.

7. ECRI recommends that the Moldovan authorities complete the process of ratifying the European Charter for Regional or Minority Languages as soon as possible.
8. ECRI welcomes that on 31 January 2013 the Minister of the Interior transmitted to the other authorities for internal co-ordination two bills for the ratification of the Additional Protocol to the Convention on Cybercrime. The ratification of this Protocol is especially important because use of the Internet to disseminate racist, xenophobic and anti-Semitic material is increasing constantly.<sup>7</sup> As regards the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families and the Convention on the Participation of Foreigners in Public Life at Local Level, ratification of these instruments will make it easier for migrants to become integrated in Moldova.
9. ECRI recommends that Moldova ratify the Additional Protocol to the Convention on Cybercrime concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems, the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families and the Convention on the Participation of Foreigners in Public Life at Local Level.

## **Constitutional and other basic provisions**

### *- Law on Citizenship*

10. In its third report, ECRI strongly recommended that the Moldovan authorities examine allegations of misinterpretation and incorrect implementation by officials of the Law on Citizenship and take all necessary measures to ensure that the Law is duly implemented. Since the report was published, the Moldovan Law on Citizenship, No. 1024 of 2 June 2000, has been amended several times.
11. Under Article 17 (1) of the Law, Moldovan nationality may be granted to any adult who has been legally and habitually resident<sup>8</sup> in the country during the last 10 years. The residence requirement is three years in the case of persons married to a Moldovan citizen and persons living with a parent or child. In the case of stateless persons, eight years of legal and habitual residence are required (Article 17 (1) c of the Law). The acquisition of Moldovan nationality is also conditional on knowledge of, and respect for, the Constitution, an adequate command of the official language of the country<sup>9</sup>, adequate means of subsistence and, in principle, the relinquishment of any other nationality (Articles 17 (1) d-g, (2) and 18 of the Law).

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<sup>5</sup> See also objective No. 1, action No. 4, of the National Human Rights Action Plan 2011-2014.

<sup>6</sup> Action Plan on honouring of the commitments of the Republic of Moldova to the Council of Europe, objective No. 1.

<sup>7</sup> See also ECRI General Policy Recommendation (GPR) No. 6.

<sup>8</sup> See also footnote 13 below.

<sup>9</sup> See in this connection Article 13 (1) of the Constitution.

12. Article 12 (2) of the Law stipulates that recognition as a citizen of Moldova may be requested by persons who were residing legally in the country on 23 June 1990 and continue to do so.<sup>10</sup>
13. The Ministry of Information Technology and Communication (MITC) is responsible for registering naturalisation requests. After examining the file and seeking opinions from other authorities, the Ministry must submit requests for naturalisation, together with a reasoned conclusion, to the President of the Republic (Article 28 (1) of the Law). It is possible to appeal under Articles 41 and 42 of the Law.<sup>11</sup>
14. The authorities informed ECRI that the MITC has produced an internal document to explain the application of the rules on obtaining Moldovan nationality. Information on the requirements for acquiring Moldovan nationality and obtaining identity documents is provided to the general public via a webpage and by the Ministry's subordinate authorities. Despite these efforts, between 2009 and 2012 only 2 582 people obtained Moldovan nationality by declaration and 104 by naturalisation.
15. ECRI has been informed that there are still a considerable number of people in Moldova who meet the stated requirements but who have, however, not obtained Moldovan nationality or identity documents proving their nationality. Roma form the largest group of such people.
16. The authorities were unable to give precise figures for the number of people in this situation<sup>12</sup>, particularly among the Roma, although the Action Plan for 2011-2015 to support the Roma ethnic group in the Republic of Moldova includes a quantitative and qualitative survey, to be conducted in the third quarter of 2012, on the situation of Roma with regard to identity documents. ECRI nevertheless welcomes the fact that the authorities have set themselves the target of increasing the number of Roma with identity documents by 5% in each of the five years covered by the Action Plan, which suggests that at least 25% of Roma do not possess identity documents. The issuing of identity documents, including the new biometric passports, was recently made free for Roma for six months.<sup>13</sup>
17. ECRI recommends that the Moldovan authorities conduct a national campaign to identify and register persons without any nationality or without identity documents and help them to acquire Moldovan nationality and obtain identity documents.
18. ECRI was also informed that one of the major obstacles facing applicants for Moldovan nationality is to prove that they have been legally and habitually resident in Moldova for the statutory period.<sup>14</sup> For example, some immigrants encounter problems when they want to register with their municipality because

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<sup>10</sup> See Law No. 222-XV of 1 July 2004.

<sup>11</sup> The President's decision can be appealed before the Supreme Court within a 6 month period; the other decisions may be appealed before the courts of first instance.

<sup>12</sup> In the last census in 2004, 5 374 people declared themselves stateless and 390 did not state their nationality.

<sup>13</sup> Action Plan to support the Roma ethnic group in the Republic of Moldova 2011-2015, objective No. 18, action No. 88; Government decision No. 497 of 6 July 2012.

<sup>14</sup> This idea seems to be inspired by the "propiska" system, which denotes the requirement for everyone to have a residence permit. It has been used since the time of the Tsars up to the present day in some countries of the former USSR to monitor internal migration flows.

of their landlord's refusal to provide them with a rental agreement proving their residence.<sup>15</sup>

19. Roma, for their part, have difficulty in proving that they have been legally resident in Moldova since 23 June 1990. An illustration of this is the fact that a considerable number of Roma are not registered with their municipality. For example, the ECRI delegation met a Roma woman who was born in her aunt's caravan and who did not know how to prove her residence in Moldova after the death of the aunt, although the latter could have been heard as a witness.
20. Unless people are registered with a municipality, access to education, health-care and other public services may also be problematical, or indeed impossible.
21. ECRI recommends that the Moldovan authorities relax the formalities for registration with a municipality, and in particular that they make it easier to prove residence when registering.
22. ECRI has been informed that the departments responsible have a fairly technical and bureaucratic approach when it comes to registration, the issuing of identity documents and the acquisition of nationality. Corruption remains a major drawback in this field.
23. ECRI recommends that the Moldovan authorities take immediate action to identify and eliminate unnecessary bureaucracy and corruption with regard to registration of residents, the issuing of identity documents and the acquisition of nationality.
24. Following the ECtHR judgment in the case of *Tanase v. Moldova*<sup>16</sup>, Article 25 of the Law on Citizenship was amended. It now provides that persons with dual nationality have the same rights and obligations as other citizens of Moldova. Access to dual nationality remains difficult, however, given the principle of compulsory relinquishment of any other nationality when acquiring Moldovan nationality. Articles 17 (1) g and 24 (2) of the Law provide for exceptions, notably where loss or relinquishment of nationality is not possible or cannot reasonably be required, or where dual nationality is in the country's interests.

## **Criminal law**

25. In its third report, ECRI recommended that the Moldovan authorities ensure effective investigation of racially motivated offences.
26. Article 77 of the Criminal Code provides that a racist motivation constitutes an aggravating circumstance. Article 176 penalises violation of the citizens' equality and Article 346 incitement to hatred.<sup>17</sup> Article 135 and new Article 135<sup>1</sup> of the Criminal Code penalise genocide and crimes against humanity. Several articles of the Criminal Code provide for an aggravated sentence if the offence or the crime was motivated by national, racial or religious hatred.<sup>18</sup> However, the Criminal Code does not penalise the denial of crimes of genocide, crimes against humanity and war crimes and the production and storage of written,

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<sup>15</sup> Regarding the forms of proof accepted for registration purposes, see Decision No. 376 of 6 June 1995 on additional measures for implementation of the national passport system, §§ 19 et seq.

<sup>16</sup> *Tanase v. Moldova* [GC], No. 7/08, 27 April 2010.

<sup>17</sup> See §§ 20-22 of ECRI's third report on Moldova and Committee on the Elimination of Racial Discrimination (CERD), Concluding observations, Republic of Moldova, 6 April 2011, CERD/C/MDA/CO/8-9, § 10.

<sup>18</sup> See Articles 145 (intentional homicide), 151 (serious bodily injury), 152 (moderate bodily injury), 197 (intentional damage to or destruction of property), 222 (desecration of tombs) of the Criminal Code; the grounds of colour, language and national or ethnic origin are missing, however.

pictorial or other material with the aim of committing racially motivated offences (§ 18 e, f of ECRI's General Policy Recommendation (GPR) No. 7).

27. ECRI has been informed that some of these criminal-law provisions on combating racism and racial discrimination were difficult to implement. For example, Article 176 of the Criminal Code required the acts to be committed by a person holding a position of responsibility<sup>19</sup> and to have resulted in considerable prejudice (cf. § 18 h of GPR No. 7). Article 346, for its part, required that public incitement to hatred be committed via widely disseminated printed or electronic mass media. Furthermore it included the grounds of nationality, race and religion, but not those of colour, language and national or ethnic origin (§ 18 a of GPR No. 7).
28. The authorities informed ECRI that the prosecuting authorities have only dealt with some thirty cases of racism and racial discrimination since the last ECRI report was published. According to the Principal State Prosecutor's Office, there have been no convictions for racial discrimination under Articles 176 and 346 of the Criminal Code. If a criminal prosecution is brought, it is based on Article 287 (hooliganism) of the Criminal Code<sup>20</sup> or the Code of Administrative Offences.
29. ECRI has been informed, for example, that Anatol Plugaru, former director of intelligence services and a former Member of Parliament, was not tried under criminal law, but under civil law. He had publicly offended the Roma by stating in February 2010 that the members of this ethnic minority "would rather have another baby than wash the one they already have". Following a complaint by the lawyer representing a Roma association, this former Member of Parliament was ordered to pay compensation and to make a public apology.
30. To remedy this ineffectiveness of criminal law, a bill designed to supplement the provisions of the Criminal Code on combating racism was presented to Parliament. This draft legislation was withdrawn, however, following an OSCE expert opinion dated 7 June 2010.<sup>21</sup> On 26 December 2012, Parliament adopted Law No. 306 amending Articles 176 and 346 of the Criminal Code.
31. ECRI takes note that the text adopted differs from the one submitted to the OSCE for an opinion. The new version of Article 176 still requires that the violation of the equality of citizens' rights should be committed by a person holding a position of responsibility or should have resulted in considerable prejudice<sup>22</sup>. Paragraph 2 makes it a punishable offence to encourage or support the violation of equality. The ground of colour has been deleted. That of national origin is still absent. The sole alteration to Article 346 consists in the insertion of ethnic affiliation as an additional motive for discrimination. ECRI considers that the new Article 346 is aligned in principle with § 18 a) of its GPR No. 7 since it punishes public incitement to hatred or discrimination; however, the grounds of colour, language and national or ethnic origin are missing. Incitement to

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<sup>19</sup> Article 123 (1) of the Criminal Code provides as follows: An official is a person who in an enterprise, institution, state, or local public administration organization or a subdivision thereof is granted, either permanently or temporarily, by law appointment, election, or assignment certain rights and obligations related to exercising the functions of a public authority or to administrative management or to economic/organizational actions.

<sup>20</sup> Article 287 (1) of the Criminal Code provides as follows: Hooliganism meaning deliberate actions grossly violating public order involving violence or threats of violence or resistance to authorities' representatives or to other persons who suppress such actions as well as actions that by their content are distinguished by an excessive cynicism or impudence shall be punished by a fine in the amount of 200 to 700 conventional units or by community service for 180 to 240 hours or by imprisonment for up to 3 years.

<sup>21</sup> OSCE/ODIHR opinion on draft amendments to the Moldovan criminal code related to hate crimes.

<sup>22</sup> The new text provides inter alia that infringement of rights and freedoms is also punishable if the offence is committed by displaying discriminatory messages or symbols in public places.

violence, threats, public insult and public defamation with the motives set out in GPR No. 7 are not defined as an offence, however (§ 18 a-c of GPR No. 7). The restrictions described in § 27 have not been deleted.

32. ECRI recommends that the Moldovan authorities align the provisions of the Criminal Code designed to combat racism and racial discrimination to all its recommendations relating to criminal law contained in §§ 18-23 of General Policy Recommendation No. 7.

### **Civil and administrative law**

33. In its third report, ECRI recommended that the Moldovan authorities adopt comprehensive legislation prohibiting racial discrimination in a precise and exhaustive manner to ensure that all areas of life are covered.
34. ECRI welcomes the adoption, after an extremely controversial debate, of the Law of 25 May 2012 guaranteeing equality.<sup>23</sup> The purpose of the law is to prevent and combat discrimination in Moldova in the political, economic, social, cultural and other spheres of life. It covers the grounds of “race”, colour, nationality, ethnic origin, language, religion or belief, sex, age, disability, opinion, political affiliation and “any other similar criterion” (Article 1 (1) of the Law). In the administrative law field, the legislation is designed to strengthen the principle of equality guaranteed by Article 16 of the Constitution.<sup>24</sup>
35. The law applies to all natural and legal persons in the public and private spheres (Article 3). It prohibits all forms of discrimination. The responsible public authorities must eliminate or punish the promotion of policies and any action or failure to act which violate the equality of individuals’ rights (Article 6). The prohibition applies inter alia to any form of discrimination in access to services provided by the public authorities, health-care services, social protection services and other goods and services available to the public (Article 8).
36. ECRI notes that the provisions of the law enable to cover the recommendations made in its GPR No. 7 relating to civil and administrative law. When interpreting the law it will be of great importance that the responsible authorities take inspiration from the various elements of this GPR.

### **Application of national anti-racism legislation**

37. In its third report, ECRI recommended that the Moldovan authorities implement a training programme for all those involved in the criminal justice system.
38. The authorities informed ECRI of a continuing lack of training for those responsible for crime prevention in the field of racism and racial discrimination, despite the efforts made in this area. The police, the prosecuting authorities and the courts apparently still find it easier to deal with ordinary offences, such as assault, than with incidents of racism and racial discrimination.
39. The authorities therefore intend to focus much greater attention on the training of those responsible for prosecuting discrimination offences. In this connection, a handbook was distributed in 2009 to all public authorities responsible for law enforcement, which includes measures for the elimination of all forms of

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<sup>23</sup> As concerns the public debate held prior to the adoption of the law, see § 112.

<sup>24</sup> See the information note attached to the draft legislation, <http://www.parlament.md/ProcesullLegislativ/Proiectedeactelegislative/tabid/61/LegislativId/1203/Default.aspx>, p. 14.



discrimination.<sup>25</sup> The authorities are in the process of developing training modules for the police on the Law guaranteeing equality. The evaluation tests set as part of the various police training programmes contain sections on the protection of human rights.

40. The National Human Rights Action Plan 2011-2014 includes an objective No. 67 comprising the implementation in 2011 of a training programme for judges, prosecutors and police officers to raise their awareness of the importance of discrimination, racism and intolerance cases. A budget of 300 000 leu (about 20 000 euros) was earmarked for its implementation. The National Institute of Justice has organised a series of courses which commenced at the end of 2012 and have benefited some 350 judges and prosecutors. The Legal Centre for lawyers conducted a series of courses during the first four months of 2013 for 200 lawyers.

41. ECRI recommends that the Moldovan authorities implement the entire training programme provided for under the National Human Rights Action Plan 2011-2014 for judges, prosecutors and police officers to train them in effective action against racism and racial discrimination, and that they regularly repeat such training programmes.

42. The lack of awareness and training is illustrated by the fact that, in several cases of violence with a clearly racist motive, the police failed to open an investigation or conducted an investigation based solely on general legal provisions or even the Code of Administrative Offences. ECRI was also informed that the police are reluctant to register complaints of discrimination. The fact that the Ministry of the Interior is unable to give figures or even estimates for the number of Roma who have been victims of discrimination<sup>26</sup> is one element among others pointing to the lack of systematic registration of discrimination offences.

43. ECRI draws the attention of the authorities to § 12 of its GPR No. 11 and the explanatory memorandum thereto on combating racism and racial discrimination in policing. To obtain as accurate an overview as possible of the situation regarding the frequency of manifestations of racism and ensure a sustained response by the criminal justice system to such manifestations, it is particularly important that the police, the prosecuting authorities and the courts develop a reliable system for recording and following up all racist incidents.<sup>27</sup>

44. ECRI recommends that the Moldovan authorities put an end to the attitude of reluctance to register allegations of racism and racial discrimination and, in particular, that they order the police by ministerial decree to register all complaints of racism and racial discrimination and conduct in-depth investigations into racist offences.

45. To remedy the “under-reporting” due to the reluctant attitude of the police and prosecuting authorities<sup>28</sup>, ECRI encourages the authorities to concentrate responsibility for investigating offences against victims belonging to an ethnic or religious minority in the hands of specialised departments within the police and the prosecuting authorities. Such departments could be tested in the capital and

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<sup>25</sup> CERD, Reports submitted by the States Parties under Article 9 of the Convention, CERD/C/MDA/8-9, § 120.

<sup>26</sup> Ad Hoc Committee of Experts on Roma Issues (CAHROM), thematic report on the role of central, local and regional authorities in implementing national Roma inclusion policies, 11 May 2012, p. 15.

<sup>27</sup> See also §§ 166 et seq.

<sup>28</sup> See also CERD, Concluding observations, Republic of Moldova, 6 April 2011, CERD/C/MDA/CO/8-9, § 10.

then set up in the regions with large ethnic or religious minorities. At the same time, steps should be taken to ensure that other departments pass on all allegations of racism or racial discrimination to the specialised departments.

46. This should make it possible to concentrate the necessary training on a limited number of civil servants. Furthermore, this concentration will give the specialised departments the opportunity to gain further experience of combating racism and racial discrimination and ensure that statistical data are properly recorded. These departments will also be predestined to implement the measures described in §§ 5-10 and 15-20 of GPR No. 11 in order to build trust in the police among ethnic and religious minorities<sup>29</sup> and encourage victims and witnesses of racist incidents to report them to the police.
47. ECRI recommends that the Moldovan authorities appoint within the police and the prosecuting authorities agents specialising in the investigation of offences and crimes against victims belonging to ethnic minorities and minority religious groups.
48. ECRI has been informed of the setting up, following ratification of the Convention on Cybercrime, of a new cybercrime investigation centre (see Article 35 of the Convention).
49. ECRI recommends that the authorities train and instruct the staff of the police centre for investigation of Internet in detecting racist propaganda on the Internet, compiling statistics and assuring the application of the legislation on the elimination of racism and racial discrimination to such content.

### **Anti-Discrimination Bodies**

- *The Parliamentary Advocates (Ombudsman)*
50. In its third report, ECRI encouraged the authorities once again to reinforce the independence of the Ombudsman<sup>30</sup>, provide this institution with adequate resources and ensure that its decisions are implemented.
  51. The authorities informed ECRI that only a very small number of the 1 600 cases referred to the Parliamentary Advocates concern racial discrimination. The 2011 annual report mentions 4 referrals and 5 other cases in which the relevant Parliamentary Advocate acted on his own initiative.<sup>31</sup> According to the report, the local authorities took the necessary measures to end the discrimination. The Parliamentary Advocate responsible considers that his role is unclear and that he was supposed to deal only with “technical” matters, not with political issues. Because of the extremely limited budget available to him, his staff were not even able to go on site to deal with allegations of discrimination.
  52. ECRI has been informed that the institution’s effectiveness is harmed by the fact that each of the four Parliamentary Advocates is close to a political party and that they tend to defend that party’s interests, whereas Article 8 (2) of Law No. 1349 of 17 October 1997 provides that the Parliamentary Advocates do not have the right to engage in political activity or belong to a political party or to any other socio-political organisation. The Parliamentary Advocates have never

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<sup>29</sup> According to a survey conducted by the Soros Foundation-Moldova, 2/3 of respondents did not have confidence in the police, *Perceptions of the Population of the Republic of Moldova on Discrimination: Sociological Study*, January 2011, p.5.

<sup>30</sup> For a description of the functions of this institution, see §§ 37 et seq. of the third ECRI report.

<sup>31</sup> Moldovan Human Rights Centre, *Report on human rights observance in the Republic of Moldova in 2011*, pp. 117 et seq.

used their power to apply to a court<sup>32</sup> in order to protect the interests of alleged victims of discrimination.<sup>33</sup> The Parliamentary Advocates are unpopular among ethnic and religious minorities. Victims of discrimination tend to turn to a lawyer rather than to the Parliamentary Advocates. Ethnic and religious minorities are also poorly informed about the powers of the Parliamentary Advocates. Some victims think that the Parliamentary Advocates are not defending their rights, but those of the members of parliament.

53. ECRI finds that the Parliamentary Advocates still do not take sufficiently effective action against racism and racial discrimination (see GPR No. 2 and § 24 of GPR No. 7). They notably should establish closer contacts with civil society, in particular with NGOs, conduct effective investigations, provide genuine assistance to victims, including legal assistance, and promote greater public awareness of discrimination issues.<sup>34</sup>
54. This also means stronger involvement in political debate, with condemnation of all racist and intolerant remarks. The Parliamentary Advocates should, in particular, publicly oppose any racist or discriminatory discourse used by senior state officials and political leaders, municipal councillors and radical members of religious communities (Principle 3 b, c, h, i, k of GPR No. 2, Explanatory memorandum to GPR No. 7, § 53).<sup>35</sup>
55. ECRI recommends that the Parliamentary Advocates provide more effective support for victims of racism and racial discrimination, particularly by using their power to bring strategic actions before the courts.
56. ECRI recommends that the Moldovan authorities increase the budget of the Parliamentary Advocates to give them the necessary human and financial resources to conduct rapid and effective investigations in the field of racism and racial discrimination.
57. Given the present situation, ECRI is pleased to note that the Moldovan authorities have included a reform of the Ombudsman institution in their Justice Sector Reform Strategy 2011-2015.
58. The authorities informed ECRI of the existence of draft legislation concerning this reform, which provides, among other things, for the appointment of a single Ombudsman by a 2/3 majority in Parliament for a 6-year term of office. The draft legislation confirms the Ombudsman's independence, autonomy and immunity as well as the prohibition on the Ombudsman engaging in political activity and being a member of a political party.<sup>36</sup> The parliamentary committee for human rights will be required to organise a transparent competition procedure for selecting candidates.
59. The draft legislation also includes provisions relating to the appointment of three deputies to assist the Ombudsman and an administrative director (Articles 11 and 26 of Law No. 1349 of 17 October 1997 (revised)) responsible for appointing and dismissing the institution's employees (including employees of

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<sup>32</sup> Articles 2 and 28 of Law No. 1349-XIII of 17 October 1997.

<sup>33</sup> CERD/C/MDA/CO/8-9, § 12; the 2011 annual report cited in footnote 31 does not contain any record of such action either.

<sup>34</sup> In this connection, see the press releases referred to on page 118, note 28, of the Parliamentary Advocates' 2011 Report on observance of human rights in the Republic of Moldova.

<sup>35</sup> This applies, for example, to the decision by the municipality of Codru to name a street after Ion Antonescu.

<sup>36</sup> Hence the draft new Article 59 of the Constitution.

the regional offices). The institution's separate budget will require approval by Parliament.

60. ECRI recommends that the Moldovan authorities take inspiration from its General Politic Recommendation No. 2 and §§ 50-55 of the Explanatory memorandum to its General Politic Recommendation No. 7 in order to improve the draft legislation designed to strengthen the Ombudsman institution, and adopt it as soon as possible.

- *Council to Prevent and Combat Discrimination and Ensure Equality*

61. Articles 10 et seq. of the Law of 25 May 2012 guaranteeing equality provide for the establishment of a Council to Prevent and Combat Discrimination and Ensure Equality (the Council). Three of the Council's five members must be from civil society. The Council's aim is to ensure the equality and protection from discrimination of all those who consider themselves to be victims of discrimination.

62. It reviews the conformity of existing legislation with the rules prohibiting discrimination and proposes legislative amendments. It collects data on discrimination at national level. It proposes measures to the public authorities for preventing and combating discrimination and for improving their behaviour towards the persons covered by the law. It also contributes to raising awareness in society with a view to eliminating all forms of discrimination (Article 12 of the Law).

63. In addition, the Council receives complaints lodged by persons who consider themselves victims of discrimination. Complaints may also be submitted by trade unions and non-governmental organisations working to promote or protect human rights. Lastly, the Council may carry out investigations on its own initiative (Article 13).

64. ECRI welcomes the establishment of this specialised body to combat discrimination. However, it believes it will be necessary for the Council to develop from the outset a profile and reputation as an independent defender of the rights of victims of racism and racial discrimination. It will need to be ensured that this new institution does not suffer the same fate as the Parliamentary Advocates. In particular, it would be desirable for the Council to be composed of persons with legal education and with experience and a good knowledge of the fight against discrimination.

65. The Council should also select as soon as possible a small number of strategic cases of racism and racial discrimination in order to carry out in-depth investigations, take and publish leading decisions, suggest dissuasive penalties for perpetrators and assist victims with a view to redressing the harm done. With appropriate media exposure, these "strategic judicial actions" will serve to establish the new institution's credibility and raise public awareness of discriminatory behaviour. The Council might also consider the desirability of co-operation with the relevant Parliamentary Advocate in order to make use of the right to apply to the courts, which at present is restricted to the Parliamentary Advocates.

66. ECRI recommends that the Moldovan authorities appoint as members of the Council to Prevent and Combat Discrimination and Ensure Equality persons with great experience in this field.

67. ECRI recommends that the Council to Prevent and Combat Discrimination and Ensure Equality should focus on a number of "strategic judicial actions" and encourage appropriate media coverage thereof.

68. While the Law guaranteeing equality was being discussed, major manifestations of intolerance were seen within a section of the population and were supported by certain opinion leaders. ECRI considers that one of the Council's top priorities will be to mount a campaign to raise public awareness of the fundamental right of equality and the importance of combating racism and racial discrimination. The Council should publicly condemn all discriminatory remarks in public discourse and promote ratification of Protocol No. 12 to the European Convention on Human Rights.

69. ECRI recommends that the Council to Prevent and Combat Discrimination and Ensure Equality should conduct a campaign to raise awareness of the fundamental right of equality and the importance of combating racism and racial discrimination.

- *Interaction with vulnerable groups*

70. To sum up, ECRI notes considerable distrust towards the authorities on the part of ethnic and religious minorities and extensive "under-reporting" of cases of racism and racial discrimination.

71. ECRI recommends that the Moldovan authorities inform groups covered by its mandate who are victims of racism and racial discrimination about the legislation and institutions put in place to combat racism (police, prosecuting authorities, Parliamentary Advocates, Council to Prevent and Combat Discrimination and Ensure Equality) and encourage them to contact those bodies. The latter should establish regular contact with these groups, deal seriously with all allegations of racism and racial discrimination and carry out effective investigations with a view to providing appropriate redress and punishment.

## **II. Discrimination in various fields**

### **Education**

72. In its third report, ECRI recommended that the Moldovan authorities improve education in the official language for children of national minorities and ensure that there is adequate scope in minority schools for teaching minority languages and cultures. ECRI further recommended adopting an approach in which these measures concerning the schooling of children of national minorities, particularly measures to promote the teaching of the official language, are taken in consultation with the minorities concerned and with due regard for their interests.

73. ECRI welcomes the positive results of the pilot project in 19 Russian-speaking schools under which subjects such as music and geography for example, are taught in the official language. This approach will increase the motivation of ethnic minorities to learn the official language and improve the results of that teaching. As learning of the official language is essential for ethnic minorities to have access to all areas of society<sup>37</sup>, ECRI encourages the authorities to extend this practice quickly to other schools teaching in one of the minority languages.

74. At the same time, ECRI has been informed that the teaching of the official language to children from ethnic minorities is still hampered by the presence of teachers with little or inadequate training and that teachers' pay is insufficient in this field.

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<sup>37</sup> See for example §§ 123 et seq.

75. ECRI recommends that the authorities continue their efforts to improve the teaching of the official language for ethnic minorities, in particular by extending teaching in the official language to subjects such as music and geography.
76. On the recommendation of the World Bank, the Moldovan authorities are in the process of closing and merging schools which are too small, especially in rural areas, in order to cut excessive costs. ECRI has been informed that ethnic minorities perceive this as indirect discrimination against them because this re-organisation would lead to the closure of too many schools teaching in their languages compared with schools teaching in the official language.
77. ECRI considers that when a merger of schools proves inevitable, the authorities should involve ethnic minorities in the decision-making and make the necessary effort to compensate for such closures.
78. In its third report, ECRI urged the Moldovan authorities to maintain and strengthen their efforts to ensure that Roma children continue on to higher levels of education.
79. ECRI has been informed that considerable efforts have been made by the national and local authorities and by Roma communities to increase the number of Roma children attending school. However, there are still a large number of Roma children who do not attend pre-school and school education: according to a recent survey, the proportion of Roma children enrolled in pre-school education (age 3-6) is only 21 % (as compared with 79 % in the population as a whole) and the gross enrolment rate of children aged 6–15 in compulsory education is only 54 % (as compared with 90 % in the population as a whole).<sup>38</sup> Other children drop out of school during the year or content themselves with a basic school education. Some 76 % of Roma have only three or four years of school education. In Soroca, despite the large Roma population and the efforts made, there is now only one Roma child enrolled in the 9th grade.<sup>39</sup>
80. This is a particularly serious problem because it has lasting effects on the life prospects of the Roma population with its large number of children. ECRI is aware that there are many reasons for this absenteeism and early school leaving.<sup>40</sup> It considers, however, that the authorities should do their utmost to convince Roma parents and children of the absolute necessity of an advanced school education in order to be able to take full advantage of life's opportunities. This includes the hiring of community mediators<sup>41</sup> and close involvement of Roma parents in the activities of schools.
81. If Roma children are to be well prepared for school, everything must be done to ensure that they already attend kindergarten and that effective teaching of their future language of education, in particular the official language, is provided there. Furthermore, ECRI encourages the authorities to continue and expand the recruitment of Roma in kindergartens and schools as teachers or ancillary staff, such as kitchen and cleaning staff. This will make kindergartens and

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<sup>38</sup> UNDP-WB-European Commission regional Roma survey 2011 on Moldova.

<sup>39</sup> According to the UNDP-WB-European Commission regional Roma survey 2011 on Moldova, only 16 % of Roma aged 16-19 are receiving a higher secondary education (as compared with 78% in the population as a whole).

<sup>40</sup> See CAHROM, Thematic report on school drop-out/absenteeism of Roma children, CAHROM (2012)6, pp. 24 et seq.

<sup>41</sup> See below §§ 139 et seq.

schools more welcoming for Roma children and parents (see § 4 of GPR No. 13).<sup>42</sup>

82. ECRI also recommends taking positive measures in the employment field to help the still small number of young Roma who have successfully completed school, vocational training or university studies, in particular by facilitating their recruitment in the public sector (§ 5 c and d of General Politic Recommendation No. 13).<sup>43</sup>
83. ECRI considers that the authorities should continue and step up their efforts to enrol all Roma children in school from kindergarten age and motivate them to receive a much fuller education than was previously the case.
84. ECRI has been informed by the authorities about the practice of segregation of Roma children in schools through the establishment of classes sometimes consisting entirely of Roma children. ECRI was also informed that some teachers and school principals are categorically opposed to the idea of Roma children being taught in the same classes as other pupils. They claim that Roma children lag behind, are poorly organised, are frequently absent and unsettle the other children. They say that what Roma children need is a special “easier” curriculum to give them “basic proficiency in writing, reading and how to count money”.
85. ECRI draws the attention of the authorities to the judgments of the European Court of Human Rights (ECtHR) which, in similar circumstances, has found a violation of Article 14 ECHR on discrimination taken together with Article 2 of Protocol No. 1. According to the Court, such a difference of treatment between Roma children and non-Roma children has no objective and reasonable justification and there is no reasonable relationship of proportionality between the means employed and the aim pursued.<sup>44</sup> If necessary, the authorities will need to employ disciplinary measures to put an end to such practices and unacceptable remarks of this kind.
86. Regarding possible measures for avoiding educational segregation, ECRI refers to the recent study by the Ad Hoc Committee of Experts on Roma Issues (CAHROM) on inclusive education for Roma children.<sup>45</sup>
87. ECRI recommends that the Moldovan authorities put an end to all educational segregation of Roma children and ensure that cases of discrimination towards Roma are prosecuted and punished (§ 4 of General Politic Recommendation No. 13).

## Employment

88. ECRI has been informed that, because of the low unemployment rate (around 4 %), it is relatively easy for immigrants and members of ethnic minorities to find jobs in Moldova.

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<sup>42</sup> For further details see CAHROM, Thematic report on school drop-out/absenteeism of Roma children, CAHROM (2012)6, pp. 24 et seq.

<sup>43</sup> They could also serve as models of success, helping to convince Roma children and parents of the positive effects of a better education. See also CAHROM, Thematic report on school drop-out/absenteeism of Roma children, CAHROM (2012)6, pp. 24 et seq.

<sup>44</sup> D.H. and Others v. Czech Republic, No. 57325/00, 13 November 2007, §§ 207 et seq.; Sampanis and Others v. Greece, No. 32526/05, 5 June 2008, §§ 84 et seq; Orsus and Others v. Croatia [GC], No. 15766/03, 16 March 2010, §§ 156 et seq.; Horváth and Kiss v. Hungary, No. 11146/11, 29 January 2013, §§ 101 et seq.

<sup>45</sup> CAHROM, Thematic report on inclusive education for Roma children as opposed to special schools, CAHROM (2012)18, pp. 66 et seq.

89. The situation is quite different where the Roma are concerned. The first obstacle they encounter is their low level of education. Changes on the labour market have led to the disappearance of certain occupations traditionally practiced by Roma. Some Roma women cannot go out to work because they have to look after their children when they are not admitted to kindergarten.<sup>46</sup>
90. In addition, Roma come up against considerable prejudice. A recent survey showed that only 46 % of the 1 200 respondents would agree to have a Rom as a work colleague.<sup>47</sup> A young Rom who had completed a university course was refused a post in a ministry when he mentioned his Roma origins, but was able to find a job when he omitted to mention his origins in his application.
91. For their part, government departments say they have difficulty in finding qualified Roma to work as mediators or teachers.
92. ECRI encourages the authorities to achieve objective No. 15 of their Action Plan to support the Roma ethnic group in the Republic of Moldova 2011-2015 (hereafter "Action Plan for Roma"), which involves increasing the number of Roma, particularly Roma women, employed in public administration (§ 5 c, d of GPR No. 13).<sup>48</sup>
93. Under objectives nos. 8 and 9, the Action Plan also provides for increasing the employment rate among Roma. Actions nos. 28-39 of the Plan are designed to achieve those objectives. They include increasing the number of Roma registered with employment agencies, establishing co-operation between the National Employment Agency and Roma civil society, providing vocational training courses and traineeships in the public sector for young Roma, promoting seasonal employment among the Roma and supporting business start-up and development.
94. ECRI recommends that the authorities allocate the necessary financial and human resources for implementation of actions nos. 28-39 of the Action Plan for Roma.

## Housing

95. Not only Roma but also immigrants have difficulty finding decent housing. ECRI has been informed that there are a considerable number of shanty-towns inhabited by Roma in rural areas of Moldova.
96. While conscious of the difficult economic situation in Moldova, ECRI encourages the authorities to ensure speedy implementation of objective No. 19 of their Action Plan for Roma, aimed at improving their housing conditions. ECRI invites the authorities to follow best practices, for example by combining local, regional, national and European funds in order to grant micro-loans to Roma wishing to undertake housing construction or renovation work themselves. The local authorities will not necessarily have to contribute financially, but they could help them by making plots of land available, providing building materials free of charge, helping them to obtain planning permission and documents proving ownership, or by undertaking construction projects as part of their general social welfare programmes.<sup>49</sup> At the same time, this activity could have a positive economic impact.

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<sup>46</sup> See § 81.

<sup>47</sup> Soros Foundation-Moldova, Perceptions of the Population of the Republic of Moldova on Discrimination: Sociological Study, January 2011, pp. 7, 11, 25 and 44.

<sup>48</sup> See § 142.

<sup>49</sup> CAHROM, Thematic report on social housing for Roma, CAHROM (2012)8, pp. 30 et seq.



97. ECRI was also informed of a case of discrimination against a Roma community by an Internet provider who connected all the houses in a municipality to the Internet except for those belonging to Roma. An official responsible for combating racism supported this attitude, saying “it is well known that the Roma don’t pay their bills”.<sup>50</sup>
98. ECRI recommends that the Moldovan authorities help ethnic and religious minorities to improve their housing conditions by following the best practices compiled by the CAHROM.

## Health

99. In a recent survey, 31 % of respondents said they had been victims of a violation of their right to health in the previous three years. A considerable number of these people avoid going to public health centres because they are afraid of suffering discrimination.<sup>51</sup> ECRI has been informed that members of the different ethnic and religious minorities face obstacles in their dealings with the staff of public hospitals and health centres, especially when they do not speak the official language. They are also exposed to the corruption which still goes on in these institutions and have to pay bribes in order to have access to the rights secured to them by law.
100. ECRI welcomes the fact that the Ministry of Health has set itself the goal of reducing the gap between Roma and non-Roma in terms of life expectancy (a component of the human development index). In this connection, the Ministry is conducting a survey of the health and needs of Roma and has set up mobile teams to visit Roma communities in order to meet their health-care needs.
101. ECRI recommends that the authorities punish all discriminatory attitudes and the ongoing corruption in public health services.

## Access to services

102. Law No. 123 of 18 June 2010 established an integrated social services system available to persons belonging to ethnic and religious minorities.<sup>52</sup> The law applies inter alia to foreign nationals, refugees and stateless persons (Article 5 a of the Law on Social Services) and gives them the right to claim welfare benefits (Article 14 (1) of the Law).

## III. Climate of opinion, public discourse and opinion leaders

103. In its third report, ECRI recommended that the Moldovan authorities raise public and media awareness of the problem of racism and intolerance in Moldova. It also recommended that political parties take a firm stand against any forms of racism, racial discrimination and xenophobia.
104. ECRI welcomes Article 3 (5) of Law No. 64 of 23 April 2010 on freedom of expression, which stipulates that freedom of expression does not cover remarks inciting hatred or violence. ECRI also welcomes the fact that, according to a

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<sup>50</sup> On the subject of the obligation to provide access to utilities, see the decisions of the European Committee of Social Rights, *European Roma Rights Centre v. Portugal*, No. 61/2010, 30 June 2011, § 31 et seq; *European Roma and Travellers Forum v. France*, No. 64/2011, 24 January 2012, § 128 et seq.

<sup>51</sup> See Soros Foundation-Moldova, *Perceptions of the Population of the Republic of Moldova on Discrimination: Sociological Study*, January 2011, p. 8.

<sup>52</sup> See Committee on the Elimination of Racial Discrimination (CERD), *Concluding observations, Republic of Moldova*, 6 April 2011, CERD/C/MDA/CO/8-9, §§ 4c) and 4d).

recent survey, 78 % of Moldovans consider that discrimination is an important issue and 2/3 think that racism should be punished.<sup>53</sup>

105. It was brought to ECRI's attention that the media have learnt to be more neutral. In 2012, the Co-ordination Council for Broadcasting received two complaints for violation of the Moldovan Code of Journalism, which requires journalists to refrain from all discrimination, inter alia on grounds of sex, ethnic origin, religion and sexual orientation.<sup>54</sup> Both complaints were settled amicably.
106. However, intolerant and racist attitudes towards Muslims, black people and Roma are very widespread in the population. ECRI was alerted to the existence of hate speech and intolerant attitudes, for example in connection with the registration of a Muslim community<sup>55</sup> and in the discussions preceding the adoption of the Law guaranteeing equality. ECRI deplores the fact that certain officials and leading politicians are the source of such remarks.
107. When John Onoje, a black activist, stood in the presidential elections, the former President of Moldova and Communist Party leader, Vladimir Voronin, stated publicly that he was "a black man who had come down from a tree". An NGO which lodged a complaint with the prosecuting authorities received an evasive answer, although even the current version of Article 176 of the Criminal Code appears to penalise such remarks.
108. ECRI heard that, during the debate on the adoption of the Law on equal opportunities, other politicians in very senior positions had stated, with an eye to their re-election, that they did not support the law and were only going to vote in favour because the European Union wanted them to. This attitude seems all the more incongruous in that the survey referred to above showed that the great majority of the population were in favour of punishing discrimination.
109. Anti-Roma remarks made by other politicians were broadcast on television without any editorial commentary and without any attempt by the broadcasters to distance themselves or set the remarks in context.<sup>56</sup>
110. ECRI reiterates that politicians and officials must serve as models by upholding and reinforcing the fundamental right of equality safeguarded by the Convention on Human Rights and Article 16 of the Moldovan Constitution.
111. ECRI considers that the Moldovan authorities, and in particular the highest representatives of the state, should publicly promote tolerance towards all ethnic and religious minorities and publicly condemn all discriminatory comments.
112. In connection with the climate of opinion, a special mention should be made of the important role played by the Orthodox Church of Moldova<sup>57</sup> in society. ECRI has been informed that it had made use of its considerable political influence in the debate on the Law on Equal Opportunities. The not always tolerant attitude

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<sup>53</sup> See § 4; Soros Foundation-Moldova, Perceptions of the Population of the Republic of Moldova on Discrimination: Sociological Study, January 2011, p. 9.

<sup>54</sup> One of these complaints concerned a reference to the ethnic origins of a person suspected of committing a crime. For the situation up to 2009, see Advisory Committee of the Framework Convention for the Protection of National Minorities, 3rd opinion on Moldova, adopted on 26 June 2009, ACFC/OP/III(2009)003, § 85.

<sup>55</sup> See below § 117.

<sup>56</sup> Appendix 2 to the letter of 21 December 2011 from the CoE Commissioner for Human Rights to the President of Moldova, CommDH(2012)3.

<sup>57</sup> It is subordinate to the Patriarchate of Moscow and all Russia. There is also the Orthodox Church of Bessarabia which was established by the Patriarchate of all Romania.

of some of its members is illustrated by the incident which occurred in Chisinau on 13 December 2009 when some one hundred Christians led by Orthodox priest Anatol Cibric dismantled a menorah and replaced it with a cross during Hanukkah.<sup>58</sup>

113. ECRI recommends that the Moldovan authorities initiate and lead an inter-faith dialogue with a view to promoting tolerance between and towards the different religious groups in Moldova.

#### IV. Racist violence

114. Happily, there is a relatively low level of racist violence in Moldova. However, violent attacks occur regularly, the main targets being black people, members of minority religious groups and sacred Jewish objects. Other acts of intimidation against religious minorities should also be mentioned.

115. ECRI has been informed that, after four people had committed a racially motivated assault on a Nigerian citizen in September 2011, only one of the perpetrators was convicted and punished with a fine of 200 leu for minor hooliganism under the Code of Administrative Offences. An assault on a young Frenchman in 2012 which left him with a broken arm was dealt with as a minor offence despite there being clear evidence of a racist motive. Although police were present when the menorah was dismantled in Chisinau on 13 December 2009<sup>59</sup>, they did not intervene. Anatol Cibric merely received a fine under Article 54 of the Code of Administrative Offences.<sup>60</sup>

116. Jewish cemeteries are the target of frequent attacks. The Jehovah's Witnesses recorded 23 attacks in 2009 and 22 in 2012. Many of these incidents were not investigated by the police.

117. When a Muslim community was registered at the Ministry of Justice, some of its members received anonymous threats. Some were summoned by their municipality to provide an explanation. The prosecuting authorities did not act on the complaint lodged by the community. The seriousness of these threats is illustrated by the fact that even the Minister for Justice of the time who was responsible for registering the community found himself personally threatened by a small group of demonstrators who gathered outside his private residence.<sup>61</sup>

118. ECRI is concerned about the totally inadequate response from the police and the justice system to these incidents and other attacks which not only affect the direct victims but also produce a sense of danger and anxiety among the entire group to which the victims belong.

119. ECRI recommends that the police and the justice system ensure that criminal law is effectively applied in response to all cases of racially motivated violence against persons belonging to an ethnic or religious minority.

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<sup>58</sup> See also § 115. For more incidents and details, see United Nations, Human Rights Council, Report of the Special Rapporteur on freedom of religion and belief, Addendum, Mission to the Republic of Moldova, A/HRC/19/60/Add.2, §§ 35 et seq.

<sup>59</sup> See § 112.

<sup>60</sup> Promo-LEX, Report, Human Rights in Moldova, 2009-2010 Retrospective, p. 449.

<sup>61</sup> United Nations, Human Rights Council, Report of the Special Rapporteur on freedom of religion and belief, Addendum, Mission to the Republic of Moldova, A/HRC/19/60/Add.2, § 40.

## V. Vulnerable/target groups

### Ethnic minorities

120. In its third report, ECRI recommended that the authorities (i) provide more opportunities to learn the official language for those who want to, (ii) preserve minority cultures and languages and (iii) ratify the European Charter for Regional or Minority Languages. Some of these topics have been addressed above.<sup>62</sup> Furthermore, ECRI considers that most of the issues arising in this field are dealt with comprehensively by two other Council of Europe specialised monitoring mechanisms, namely those established under the Framework Convention for the Protection of National Minorities and the European Charter for Regional or Minority Languages. ECRI will therefore focus on allegations of ethnic discrimination, in other words complaints to the effect that some people have fewer rights because of their ethnic origin or the language they speak.
121. ECRI has been informed that the situation of ethnic minorities is still good on the whole in Moldova. The representatives of their associations appreciate the work of the Bureau for Interethnic Relations (BRI), which is responsible for implementing the government's policy on interethnic relations and co-operating with civil society in that field.
122. ECRI is nevertheless concerned about the under-representation of ethnic minorities, particularly the Roma, in the public sector. This applies not only to Parliament and other elected bodies, but also to public administration, although Article 24 of Law No. 382 of 28 August 2001 gives ethnic minorities the right to proportional representation on executive bodies and in the judicial system.
123. The authorities explained to ECRI that anyone holding Moldovan nationality can be appointed to a post in the civil service. However, a command of the official language of the country and the official languages for interethnic communication spoken in the territory is one of the preconditions for obtaining a post (Article 27 (1) b of Law No. 158-XVI of 4 July 2008).
124. The authorities informed ECRI that, with OSCE financial support, they were in the process of carrying out a project for the linguistic integration of ethnic minorities. ECRI encourages the authorities to broaden their action in this field with other effective measures, such as preferential recruitment of persons belonging to ethnic minorities, to achieve proportional representation of ethnic minorities on public bodies.<sup>63</sup>
125. To achieve proportional representation of ethnic minorities on executive bodies and in the judicial system as provided for in Article 24 of Law No. 382 of 28 August 2001, ECRI recommends that the Moldovan authorities implement recruitment of candidates from under-represented minorities in public services and continue to offer them linguistic support measures to enable them to achieve the required level of proficiency in the official language.<sup>64</sup>

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<sup>62</sup> See §§ 6, 73 et seq.

<sup>63</sup> See also § 142.

<sup>64</sup> See objective No. 4 of the Action Plan on honouring of the commitments of the Republic of Moldova to the Council of Europe and the Moldovan government's Programme of Activities on "European integration: freedom, democracy and well-being" 2009-2013, p. 34, on activities to promote the integration of ethnic minorities.

- *Roma*

126. In its third report, ECRI recommended that the Moldovan authorities duly implement the Action Plan to support Roma (2007-2010), combat racial discrimination against Roma and take measures to assist members of Roma communities in obtaining employment.
127. ECRI has been informed that Moldovan Roma are still particularly subject to racism and racial discrimination. In a recent survey, less than half of those questioned said they would accept a Rom as a neighbour, friend or work colleague. This huge social rift is mainly due to prejudice: 2/3 of respondents think that most Roma are liars and ready to cheat other people, that most Roma children are beggars and pickpockets and that most Roma women are fortune-tellers who can put a curse on you if you don't give them money. Roma are victims of discrimination notably in the workplace, in the education system and in the health services.<sup>65</sup>
128. ECRI was told that, according to a recent survey, 62 % of Roma had stated that a family member had gone to bed hungry two or three times in the last month (as compared with 9 % of the total population). 30 % of Roma in Moldova live in very dilapidated housing. The dozens of shanty-towns inhabited by Roma in rural areas are typified by a state of extreme under-development where infrastructure is concerned and suffer of their remoteness from the seat of the responsible authorities. In 2007, 31 % of Roma were unable to read or write; only 6 % held a higher educational qualification (as compared with 39 % of non-Roma). Many Roma are forced to work in the parallel economy, to start their own businesses or to emigrate to find work because they suffer discrimination on the labour market in Moldova.<sup>66</sup>
129. ECRI had already stressed in its third report that there were shortcomings in the 2007-2010 Action Plan to support Roma. For example, the plan did not deal with the fight against racism and racial discrimination, and no funds were allocated to it. Despite the recommendation made in § 67 of the third report, the new Action Plan for Roma for the period 2011-2015<sup>67</sup> once again provides for hardly any specific funding. The 101 measures of the plan have to be funded from existing budgets. Following, inter alia, the intervention of the Council of Europe's Commissioner for Human Rights, the government stated its intention of providing for the funds needed to implement the plan under the Medium-term Expenditure Framework.
130. The Action Plan for Roma was amended at the beginning of 2012. 462 000 leu – roughly equivalent to 30 000 euros – were made available to recruit an initial group of 15 mediators in 2013 tasked with facilitating access for Roma communities to the different public services.<sup>68</sup> ECRI welcomes the announcement by the authorities of a second stage providing for 33 more mediators funded by further budgetary allocations of about one million Leu (approximately 60 000 euros). They consider it reasonable to employ one mediator per 150 Roma. ECRI also notes that the BRI, which is responsible for implementing the plan, convened an interministerial working group and held three working meetings in 2012. It has given priority to three sectors of the plan:

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<sup>65</sup> UNDP-WB-European Commission regional Roma survey 2011 on Moldova.

<sup>66</sup> For more information see UNDP-WB-European Commission regional Roma survey 2011 on Moldova.

<sup>67</sup> Action Plan to support the Roma ethnic group in the Republic of Moldova 2011-2015, Government Decision No. 494 of 8 July 2011.

<sup>68</sup> Community mediators working in some 25 municipalities have been financed by the United Nations Development Programme (UNDEP). The OSCE also helps to fund the measures prescribed by the action plan.

education, health and mediators. The BRI has taken steps to convince the regional and local authorities to draw up their own action plans. A map of Roma communities is being compiled. Mobile medical teams deliver health care to Roma families and there are also mobile registration units to give them easier access to identity documents. The issuing of identity documents was made free for Roma for a period of plusieurs months.<sup>69</sup>

131. ECRI considers that these efforts are not enough to ensure that the plan is effectively implemented, in the three priority sectors at least.
132. A first consideration is the lack of reliable and regular statistical information permitting an evaluation of the policies conducted. There is already a surprising degree of uncertainty regarding the number of Roma living in Moldova. During ECRI's visit to the country, the authorities put the figure at between 12.000 (last census in 2004) and 150.000 (BRI), and civil society advances a figure of over 200.000 Roma. It will not be possible to evaluate funding needs and the implementation status of the Action Plan until the map of Roma communities is completed. In particular, it is important that the map results in a consensus between government departments and Roma representatives regarding the actual number of Roma in Moldova.
133. Data concerning the indicators contained in the Action Plan should also be collected and published in order to gauge the effectiveness of measures taken in the three priority sectors at least, such as the number of visits made by the mobile teams and their results, the number of identity documents issued and the amount and types of medical care provided.
134. Although the Action Plan provides for the publication of annual reports evaluating its implementation, no report had been published at the time of ECRI's contact visit in November 2012. ECRI welcomes that the authorities published the report for 2012 in response to that visit.
135. ECRI recommends that the Moldovan authorities rapidly complete the map of Roma communities and involve Roma representatives in this process. It also recommends that they compile and publish the indicator data needed to evaluate the implementation of the Action Plan.
136. ECRI furthermore recommends that the government should strengthen the implementation of the Action Plan for Roma. The Bureau for Interethnic Relations and the interministerial working group should widen the scope of their action and tackle in particular objective No. 19 of the plan, which involves improving housing conditions for Roma. The Ministries responsible for finance and infrastructure should therefore join the interministerial working group.
137. Greater financial and human resources should be made available to implement the actions included in the plan, particularly in the housing and employment fields.
138. ECRI recommends that the Moldovan authorities tackle successively all sectors of the Action Plan for Roma and increase the financial and human resources available for its implementation.
139. One valuable asset in the implementation of the Action Plan will be the community mediators, who are due to start work in 2013. ECRI considers that many of the problems facing Roma are due to the fact that they are unfamiliar with the steps that need to be taken to improve their situation and with the

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<sup>69</sup> See CAHROM, thematic report on the role of central, local and regional authorities in implementing national Roma inclusion policies, CAHROM (2012)7, pp. 11 et seq.

proper procedure for submitting their requests to government departments. At the same time, public services are unfamiliar with the lifestyle, expectations and habits of the Roma. One of the community mediators' priorities should therefore be to promote mutual understanding. They should also help to explain to Roma the importance of a good school education and vocational training.

140. Public services should give mediators all possible assistance to ensure their success from the outset in securing access for Roma to the services they require. Early successes in the work of the mediators will also be necessary to give credibility to this new institution, both among Roma and among public officers. Professional success on their part might also serve as a model motivating other Roma to aspire to greater social success.<sup>70</sup>
141. ECRI recommends that the Moldovan authorities give the mediators all possible assistance once they take office to ensure that they are successful from the outset in securing access for Roma to the services they require. The relevant departments should in particular help to ensure a successful outcome for applications lodged with the mediators' assistance. This will enable the mediators to quickly achieve credibility and serve as a model for Roma.
142. To facilitate implementation of the Action Plan and enable Roma to provide models of professional success, a high priority will also need to be given to objectives Nos. 15 and 16 of the Action Plan. These involve increasing the number of Roma employed in public services, and particularly in the police. It will be useful to achieve this objective on a priority basis within the central, regional and local services involved in implementing the Action Plan.
143. ECRI recommends that the Moldovan authorities quickly recruit civil servants of Roma origin to departments playing a key role in implementation of the Action Plan for Roma.<sup>71</sup>
144. ECRI recommends that the authorities take measures to improve the image of Roma by highlighting positive examples of success achieved by Roma, for example in the professional and cultural fields.

### Religious minorities

145. In its third report, ECRI made a number of recommendations concerning (i) the exercise of freedom of religion and the registration of minority religious groups, (ii) the obstacles faced by Muslim communities wishing to practise their religion, (iii) the training of law enforcement officials in legislation concerning religious denominations, (iv) how to effectively combat manifestations of religious intolerance and (v) the restitution of confiscated religious property.
146. ECRI has been informed that the situation of some minority religious groups has improved considerably since the last report was published. ECRI accordingly welcomes the fact that the Moldovan authorities have registered the great majority of the minority religious groups which have applied for registration.<sup>72</sup> In 2011, despite strong pressure from the public at large, the first

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<sup>70</sup> In this context, ECRI welcomes the mounting by the BRI of the exhibition "Well-known Roma personalities in the Republic of Moldova, and the fact that it was visited by the Prime Minister.

<sup>71</sup> See also § 125 above.

<sup>72</sup> The ECtHR has repeatedly found against Moldova for refusing to register religious communities: *Biserica adevarat ortodoxa din Moldova and Others v. Moldova*, No. 952/03, 27 February 2007; *Fusu arcadie and Others v. Moldova*, No. 22218/06, 17 July 2012.

Muslim community was registered.<sup>73</sup> The authorities informed ECRI that the last time an application for registration was refused was in 2010.

147. Following the judgment by the ECtHR in the *Masaev v. Moldova* case<sup>74</sup>, the Code of Administrative Offences was amended and the authorities no longer impose administrative fines on members of non-registered minority religious groups when they practise their religion.
148. However, some minority religious groups still encounter problems in registering their religious community. The formalities involved are fairly cumbersome. The registration of the Islamic League was challenged in the courts. In response to public pressure, the Prime Minister had promised to reconsider its registration. The appeal against registration was finally dismissed at second instance.
149. Article 19 (1) d of Law No. 125 of 11 May 2007 on freedom of conscience, thought and religion requires the signatures of 100 Moldovan citizens for the registration of a religious community. This provision is clearly discriminatory against foreigners.
150. Article 54 (4) of the Code of Administrative Offences also contains a seemingly discriminatory rule in providing that only foreign citizens may be fined for practising their religion in public places without having informed the municipal authorities.
151. ECRI recommends that the Moldovan authorities repeal the discriminatory provisions contained in Article 19 (1) d of the Law on freedom of conscience, thought and religion and Article 54 (4) of the Code of Administrative Offences.
152. In this connection, it was reported to ECRI that, in December 2012 the municipal authorities of Chisinau withheld permission for the Jewish community of Moldova to set up the menorah at the Chekhov Theatre, the site of the former synagogue.
153. In 2012, identity checks were carried out on a group of Muslims during their prayers. Some media outlets reportedly convey the message that Islam is an extremist religion.
154. In the present climate, Muslim communities have not yet dared to take steps to build a place of worship. The Jehovah's Witnesses also encounter problems in this area. The restitution of property confiscated from several religious communities is another outstanding issue.<sup>75</sup>
155. ECRI recommends that the Moldovan authorities remove the remaining obstacles to the free exercise of religion by minority religious groups, particularly as regards their registration, the building of places of worship and the restitution of confiscated property.

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<sup>73</sup> United Nations, Human Rights Council, Report of the Special Rapporteur on freedom of religion or belief, Addendum, Mission to the Republic of Moldova, A/HRC/19/60/Add.2, § 55.

<sup>74</sup> *Masaev v. Moldova*, No. 6303/05, 12 May 2009; the Court found a violation of Article 9 ECHR because the authorities had fined the Muslim applicant for practising his religion, which was not recognised by the state, with a group of other Muslims on private premises, namely a house rented by a non-governmental organisation.

<sup>75</sup> United Nations, Human Rights Council, Report of the Special Rapporteur on freedom of religion or belief, Addendum, Mission to the Republic of Moldova, A/HRC/19/60/Add.2, § 63.



## VI. Conduct of law-enforcement officials

156. In its third report, ECRI recommended (i) taking further steps to put an end to all forms of racially motivated misconduct on the part of the police and establishing a body independent of the police and prosecuting authorities to investigate alleged cases of racial discrimination, (ii) prohibiting racial profiling by the police and (iii) allocating the necessary resources to law enforcement officers to enable them to operate with full respect for human rights, which presupposes improving their training in human rights and raising their awareness of racism and racial discrimination issues.
157. Despite the efforts made by the authorities to train police officers<sup>76</sup>, ECRI was alerted to the fact that there are still a large number of cases of police misconduct. 2/3 of those questioned in the survey mentioned above said they did not trust the police. 34 % said they avoided contact with the police because they were afraid of suffering discrimination. 11 % said they had personally been the victims of discrimination by the police in the past three years.<sup>77</sup>
158. The small black community continues to be the target of considerable discrimination by the police. As a result of racial profiling, black people are subjected to identity checks more often than the rest of the population. They are also exposed to harassment and to inappropriate remarks by the police. For example, a member of this population group was asked how he had managed to buy his Moldovan identity papers. Various instances of police misconduct towards minority religious groups have been mentioned above. Roma are also faced with abuses of this kind.<sup>78</sup>
159. Given the situation, ECRI is unable to conclude that training has had the expected result.
160. ECRI recommends that the authorities step up their efforts to train law enforcement officers in respect for human rights and punish all racist behaviour and racial discrimination.
161. ECRI has been informed by the authorities that the Interior Ministry's department of investigation and internal security has exclusive responsibility for assessing the conduct of officials coming under its jurisdiction and investigating all allegations of discrimination.
162. The department of the Ministry of the Interior responsible for investigating allegations of discrimination by police officers lacks the independence which such a body should enjoy (§ 10 of GPR No. 11). The ethnic and religious minorities whose members are regularly victims of police misconduct do not seem to be informed about the existence of the department of the Ministry of the Interior responsible for investigations. This department has apparently not yet investigated cases of misconduct on its own initiative.
163. ECRI recommends that the Moldovan authorities make independent the department responsible for investigating police misconduct, order it to undertake on its own initiative in-depth investigations into any suspected cases of misconduct so as to ensure appropriate punishment and inform vulnerable groups of the existence of this investigation department.

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<sup>76</sup> See §§ 38 et seq.

<sup>77</sup> Soros Foundation-Moldova, Perceptions of the Population of the Republic of Moldova on Discrimination: Sociological Study, January 2011, pp. 5, 8, 9, 16, 18, 54-55, 58 and 60.

<sup>78</sup> See inter alia National Centre for Roma, Report on the situation of Roma rights, January 2011, pp. 5-6.

164. ECRI welcomes the fact that the authorities have brought some representatives of the Roma community into the police as auxiliaries and that the police are participating in the interministerial commission for implementation of the Action Plan for Roma. Given the mistrust shown towards the police by victims of racism and racial discrimination, ECRI encourages the authorities to step up contacts with ethnic and religious minorities and appoint officers to act as points of contact for ethnic and religious minorities, and especially to receive complaints. In this connection, ECRI draws their attention in particular to §§ 15-20 of its GPR No. 11.
165. ECRI recommends that law enforcement agencies establish regular dialogue and permanent co-operation with the representatives of minority groups and appoint officers to act as points of contact for ethnic and religious minorities wishing to lodge complaints of racism and racial discrimination.

## VII. Monitoring of racism and racial discrimination

166. In its third report, ECRI recommended that the Moldovan authorities set up a full and coherent system of data collection so as to evaluate the situation regarding the different ethnic and religious minorities and determine the extent of manifestations of racism and racial discrimination.
167. ECRI regrets to note that little progress has been made in this area. For example, ECRI is struck by the continuing uncertainty as to the actual number of Roma in the country.<sup>79</sup> Neither the police<sup>80</sup>, nor the prosecuting authorities, nor the Parliamentary Advocates were able to provide ECRI with statistics for racism and racial discrimination broken down by “race”, colour, language, religion, nationality or national or ethnic origin.
168. In ECRI’s opinion, these data relating to criminal prosecution of racism and racial discrimination should be supplemented with data relating to the performance of members of each ethnic and religious minority, particularly the Roma, in a number of key fields such as education, the employment market, health and housing (GPR No. 1). These statistical tools are the basis for any successful combat against racism and racial discrimination. They are also essential for implementing positive measures to ensure equality for all. They should include data on the nature and number of offences committed against members of the different ethnic and religious minorities and on the number of offences committed for reasons of “race”, colour, language, religion, nationality and national or ethnic origin.<sup>81</sup>
169. ECRI welcomes the fact that the authorities have provided for modernisation of the data collection system in the Action Plan to implement the Justice Sector Reform Strategy<sup>82</sup> and for the possibility of recording unemployed persons’ ethnic origins.

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<sup>79</sup> See the recommendation on this subject in §135.

<sup>80</sup> See §§ 15 et seq.

<sup>81</sup> This system should also comply with European standards relating to the protection of data and privacy, in particular the European Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data. The Moldovan authorities should in particular ensure that this process complies in all cases fully with the principles of confidentiality, informed consent and voluntary self-identification as belonging to a specific group.

<sup>82</sup> See N° 2.4 of the Action Plan.

170. ECRI recommends that the Moldovan authorities put in place a system for recording and following up racist incidents reported to the police and systematically collect data on vulnerable groups in accordance with the principles of confidentiality, informed consent and voluntary self-identification (General Police Recommendations No. 1 and No. 11 § 12).
171. ECRI also recommends that the various authorities responsible for collecting such data take steps to make their staff aware of the importance of keeping such records.

### **VIII. Education and awareness-raising**

172. In its third report, ECRI recommended that the Moldovan authorities (i) implement measures aimed at ensuring that human rights education is an integral part of the school curriculum, (ii) review their decision to transform the “Civic Education” and the “Law and Us” courses into optional subjects (iii) remove from textbooks any racist material or material that encourages stereotypes, intolerance or prejudice against any minority group, and (iv) regularly review school textbooks.
173. ECRI is pleased to have been informed by the authorities that human rights education is compulsory and will not become optional in Moldova. Furthermore, the authorities have included a section on “Human Rights Education and Information” in the National Human Rights Action Plan.
174. After some highly contentious discussions, the committee responsible for reviewing history textbooks concluded that these books contained errors which should be rectified within the next two years, but that teachers could continue to use them while taking care to ensure that controversial issues relating to minorities were not addressed in a discriminatory manner. The Ministry of Education is in the process of preparing a new edition of the history textbooks for upper secondary education. This is part of a wider review of history teaching.
175. ECRI was told that the events of the Shoah on the territory of Moldova had not received sufficient public recognition. Before the Second World War, the Jewish community represented 7 to 8 % of the territory’s population. It now numbers a few thousand. This is due in particular to the deportation and persecution of Jews by the regime of Ion Antonescu in collaboration with Nazi Germany.<sup>83</sup> Moldovans know very little about this episode in their history. This lack of awareness is illustrated by the attempt by the municipal council of Codru in 2010 to pay tribute to Ion Antonescu by naming a street after him.
176. ECRI’s attention was drawn to the fact that the curriculum for state schools only includes an optional subject on “Education for tolerance – lessons of the holocaust”.

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<sup>83</sup> United Nations, Human Rights Council, Report of the Special Rapporteur on freedom of religion or belief, Addendum, Mission to the Republic of Moldova, A/HRC/19/60/Add.2, § 39.

177. ECRI recommends that the Moldovan authorities continue their efforts to remove all racist content and content encouraging intolerance from history teaching and include compulsory teaching about the Shoah in the school curriculum.

**IX. Zone currently not under the effective control of the Moldovan authorities**

178. As the Transnistria region<sup>84</sup> is not under the effective control of the Moldovan authorities to whom this report is addressed, ECRI will not examine the situation in that region.

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<sup>84</sup> In the eastern (Transnistrian) region of Moldova (known as "Transnistria"), following the declaration of Moldovan independence of 23 June 1990, the self-proclaimed "Republic of Transnistria" came into being on 2 September 1990.

## INTERIM FOLLOW-UP RECOMMENDATIONS

The three specific recommendations for which ECRI requests priority implementation from the Moldovan authorities are the following:

- ECRI reiterates its recommendation that Moldova ratify Protocol No. 12 to the European Convention on Human Rights as soon as possible.
- ECRI recommends that the Moldovan authorities put in place a system for recording and following up racist incidents reported to the police and systematically collect data on vulnerable groups in accordance with the principles of confidentiality, informed consent and voluntary self-identification (General Politic Recommendations No. 1 and No. 11 § 12).
- ECRI recommends that the Moldovan authorities inform groups covered by its mandate who are victims of racism and racial discrimination about the legislation and institutions put in place to combat racism (police, prosecuting authorities, Parliamentary Advocates, Council to Prevent and Combat Discrimination and Ensure Equality) and encourage them to contact those bodies. The latter should establish regular contact with these groups, deal seriously with all allegations of racism and racial discrimination and carry out effective investigations with a view to providing appropriate redress and punishment.

A process of interim follow-up for these three recommendations will be conducted by ECRI no later than two years following the publication of this report.



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## **APPENDIX: GOVERNMENT'S VIEWPOINT**

**The following appendix does not form part of ECRI's analysis and proposals concerning the situation in the Republic of Moldova**

ECRI, in accordance with its country-by-country procedure, engaged in confidential dialogue with the authorities of the Republic of Moldova on a first draft of the report. A number of the authorities' comments were taken on board and integrated into the report's final version (which, in line with ECRI's standard practice, could only take into account developments up until 21 March 2013, date of the examination of the first draft).

The authorities also requested that the following viewpoint be reproduced as an appendix to the report.



## Les commentaires supplémentaires du Gouvernement de République de Moldova sur le projet de Rapport de la Commission européenne contre le racisme et l'intolérance (ECRI)

La République de Moldova exprime sa gratitude à la Commission européenne contre le racisme et l'intolérance (ECRI) pour l'effort accompli et pour les observations du rapport sur le niveau de lutte contre le racisme, la xénophobie, l'antisémitisme et l'intolérance, également sur l'implémentation des recommandations précédentes de l'ECRI dans le cadre du 3-ème cycle de monitoring sur la situation dans notre pays. Cette visite a coïncidé avec d'importantes réformes qui ont été lancées dans le domaine des droits de l'homme, en particulier l'anti-discrimination et l'assurance de l'égalité. Dans le même temps, cette mission représente un exercice démocratique pour une société ouverte et en constante transformation, où tous les acteurs peuvent exprimer librement leurs opinions, et peuvent également contribuer à l'avancement dans la mise en œuvre des normes relatives aux droits humains.

La République de Moldova est reconnaissante pour l'évaluation et les recommandations de l'ECRI, en vue d'un développement avantageux dans la promotion des réformes démocratiques et des droits de l'homme. Le rapport est le résultat du dialogue efficace et coopération productive entre l'ECRI, les autorités moldaves et la société civile.

La République de Moldova est intéressé à poursuivre la coopération fructueuse avec l'ECRI et est prêt à informer régulièrement sur les développements pertinents et les mesures prises pour lutter contre le racisme, la xénophobie, l'antisémitisme et l'intolérance, en particulier sur la mise en œuvre des recommandations de l'ECRI.

La République de Moldova constate avec beaucoup de satisfaction qu'un certain nombre des remarques, faites par le gouvernement, dans le cadre du dialogue confidentiel sur une première version du rapport ont été prises en compte et ont été intégrées à la version finale du rapport, souhaiterait que les suivantes commentaires supplémentaires soient reproduits dans l'annexe du rapport.

### ➤ Paragraphe 39-41

En ce qui concerne « la formation pour les juges, procureurs et agents de police dans le but de leur faire prendre conscience de l'importance des affaires de discrimination, de racisme et d'intolérance », l'Institut National de la Justice en coopération avec le Bureau du Haut Commissaire aux droits de l'homme a organisé une série de formations selon les dispositions du *Plan national d'action dans le domaine des droits de l'homme 2011-2014*.

En Novembre 2012, l'INJ a organisé et dirigé des formations régionales à Chisinau, Cahul, Balti, Căușeni sur « l'interprétation et l'application de la loi sur la garantie de l'égalité ». En conséquence, 255 juges et 42 procureurs ont été formés.

En Décembre 2012, l'INJ en collaboration avec le HCDH a organisé un cours de formation pilote pour 30 juges et procureurs. Pour le plan de travail 2013, 6 séminaires de formation sont envisagés. Trois cours de formation ont été mises en place jusqu'à présent. En plus, de nouvelles formations ont été organisées avec un programme élaboré sur 20-21 Février 2013 et 12-13 Mars 2013. Au total, environ 90 juges et procureurs ont jusqu'à présent été formés au cours de ces sessions.

Donc, selon l'INJ les objectifs liés à 2013, les sujets de lutte contre la discrimination ont été introduits dans les programmes de formation officiels. Les formations ont un accent particulier sur l'information et les connaissances suivantes pour être partagé avec les participants:

- Des domaines spécifiques dans l'application de la législation anti-discriminatoire européenne;
- Expérience pratique des procédures de probation;
- L'importance et l'essence du principe de non-discrimination, exploité dans le Protocole nr.12 de la CEDH (clause générale anti-discrimination);
- Identification de la jurisprudence pertinente de la CEDH, en particulier dans les affaires contre la République de Moldova, afin d'éviter des affaires répétitives éventuels;
- L'examen des cas nationaux qui appliquent les principes de la jurisprudence de la CEDH dans des affaires concernant la discrimination fondée sur la race, la nationalité, l'origine ethnique, la langue, la religion ou les convictions, l'origine nationale, le sexe ou tout autre critère similaire;
- L'interprétation et l'application des dispositions légales de la loi sur la garantie de l'égalité;
- Les critères de discrimination, le mécanisme de protection contre la discrimination et les modalités en éliminant les cas discriminatoires.

En 2013, le Centre de droit des avocats, en partenariat avec l'Association du Barreau a organisé une série de sessions de formation pour environ 200 avocats (y compris des régions) sur l'assistance juridique accordé aux victimes de discrimination, les dispositions nationales et internationales relatives à la non-discrimination, bien que la jurisprudence de la Cour européenne des droits de l'homme dans le domaine. L'initiative s'inscrit dans le cadre du projet «connaissance consolidé des avocats concernant les cas de discrimination», financé par la Fondation Soros / Egalité des programmes et la participation civique. La dernière étape du projet a coïncidé avec la Conférence nationale «Le rôle des avocats dans la résolution des cas de discrimination expérience-européenne dans le domaine" (19 Avril 2013).

Dans le cadre du partenariat des Nations Unies relative aux droits des personnes handicapées, l'équipe de pays des Nations Unies (y compris le PNUD, le HCDH, de l'UNICEF et de l'OMS) tiendra 36 séances de formation dans divers localités de l'administration publique locale, l'appareil judiciaire et la société civile sur les principes fondamentaux et le droit de la Convention des Nations Unies relative aux droits des personnes handicapées, y compris les aspects pertinents de la loi anti-discrimination. L'action se déroule pendant la période Avril 2013-Juin 2014.

#### ➤ **Paragraphe 52**

Les avocats parlementaires n'ont pas saisi les tribunaux pour protéger une personne concrète, présumée a été discriminée a cause qu'ils n'ont pas été demandés. Visant les plaintes déposées, on n'a pas été établi le motif pour s'adresser au tribunal, celles-ci ont été réglées par une manière extrajudiciaire.

#### ➤ **Paragraphes 79,84**

Le récente étude sur l'éducation inclusive des enfants Roms agit seulement avec les pourcentages, mais ne donne pas une image complète du nombre d'enfants Roms dans l'enseignement préscolaire, primaire et secondaire.

En ce qui concerne l'exemple relatif au lycée "Mihai Eminescu", de la ville Otaci, le district Ocnița, il faut être mentionné qu'il n'y a pas de ségrégation des enfants Roms, parce que cette problème est crée artificiellement. Récemment, au lycée "Mihai Eminescu" il y a 495 d'étudiants, dont 211 sont Roms et seulement 42 fait leurs études à l'école secondaire, la répartition des classes est représentée ainsi:

Classe	La totalité d'étudiants	Les étudiants Roms	Les étudiants d'autres groupes ethniques
I-A	30	13	17
I-B	30	30	
II -A	20 (Le programme step-by-step)	6	14
II-B	24	24	
II-C	22	22	
III-A	28	11	17
III-B	32	22	10
IV-A	31	20	11
IV-B	30	21	9

Le Ministère de l'Education a demandé des explications visant les critères utilisés pour la répartition des étudiants dans la I-A classe, et a exprimé son désaccord que dans la I-B classe, un seul enfant Rom était inscrit. En même temps, il est inapproprié de revoir la complétion des classes au milieu du semestre.

Donc, la ville Otaci est un lieu de résidence compact des Roms (il y a d'autres localités habitées compact des Ukrainiens, Bulgares et des Gagaouzes), étant d'environ 70% de la population totale. Les parents Roms souhaitent inscrire leurs enfants aux écoles avec l'enseignement en russe, malgré qu'il a des alternatives - des lycées et des collèges en langue officielle. La but est sociale - la perspective d'aller travailler en Russie. Les élèves Roms participent activement à la vie de l'institution d'enseignement, en gagnant des prix aux olympiades de district, et aux concours républicains, etc.

### **Roms**

Il faut noter que BRI soutient les initiatives de toutes les associations de Roms, ainsi, en ce qui concerne les manifestation dédiées à la Journée internationale des Roms de cette année, le BRI a lancé une exposition intitulée "Les personnalités notoires Roms en République de Moldova" avec la participation de Vladimir Filat, Premier ministre de la République de Moldova, des représentants du corps diplomatique et de la société civile des Roms.

Afin d'officialiser la fonction de médiateur communautaire, qui contribuera directement à l'inclusion sociale des Roms, a été approuvée la Loi n°. 69 de 5 avril 2013 pour la complétion de l'article 14 (2) de la Loi No.436-XVI du 28 décembre 2006 relative aux administrations publiques locales. Ce projet de loi prévoit la complétion des compétences du Conseil local en vue de décider la mettre en place de la fonction de médiateur communautaire dans les localités habitent en prépondérance des Roms.

En qualité de médiateur communautaire sera employé un Rom de la localité, qui connaît mieux les traditions de cette ethnie pour être en mesure de communiquer efficacement avec eux. Le médiateur communautaire aura le rôle d'intermédiaire entre les Roms et les autorités, ou les institutions compétentes de celle localité, afin d'assurer l'accès de la population visée aux services sociaux (éducation, soins de santé, assistance sociale, emploi, recherche, logement, etc.).

Actuellement, le médiateur communautaire travaille dans environ 25 localités et est financé par le PNUD. Cependant, en vue d'identifier les domaines compacts ou mixtes habités par les Roms et de déterminer le nombre de médiateurs communautaires, Ministère du Travail, de la Protection Sociale et de la Famille, a demandé au PNUD d'effectue une cartographie des localités densément habités par

des Roms. Selon les recommandations faites après cet exercice par le PNUD, compte tenu du nombre de Roms des localités densément habités, les meilleures pratiques et les leçons apprises à la suite des projets pilotes d'ONG Roms; les domaines d'intervention et de compétence du Médiateur Communautaire est considéré comme raisonnable et faisable au normatif suivant : un médiateur communautaire au moins de 150 Roms.

À la première étape, pour 2013, est établi d'embaucher 15 Médiateurs Communautaires, et sont prévues des allocations budgétaires de 462,6 mille lei, et a la suivante étape ont été soumis au Ministère des Finances pour l'embauche supplémentaire encore de 33 médiateurs communautaires, où seront nécessaires des dons budgétaires environ d'un million.

Récemment, on a été finalisé le projet de Décision du Gouvernement "concernant le Règlement-cadre sur la manière d'employer et d'organiser l'activité du médiateur communautaire dans les communautés compactes et / ou mixtes habitées par les Roms."





