

The national anti-discrimination mechanism, hate crimes and hate speech in Moldova: challenges and opportunities

POLICY BRIEF

Executive summary

This briefing paper analyses the extent to which Moldova implemented the commitments it took under the EU-Moldova Association Agreement, to ensure full application of regulations against discrimination on all grounds, including the Law on Ensuring Equality, and to strengthen the capacity of the Equality Council.

Opinion surveys show alarming rates of intolerance towards certain groups in Moldova, especially LGBT persons, persons living with HIV, ex-detainees, persons with mental impairments, persons of Muslim and African origin and Roma people. At the same time, discrimination is not yet perceived and identified by the population at large, mostly due to priority given to issues related to economic development. This shows a lack of understanding of discrimination and its negative effects and calls for intensified awareness raising measures and education on equality and non-discrimination, as well as provision of effective remedies for discriminated persons.

The national equality mechanism – the Equality Council - should play the leading role in promoting a more inclusive and diverse society in Moldova. However, it is not sufficiently mandated to effectively prevent and combat discrimination as it cannot apply sanctions when finding discrimination in individual complaints and cannot directly submit a request to the Constitutional Court for a constitutional review of legislative provisions that raise issues of discrimination. Therefore, legal framework shall be amended to empower the Equality Council with sanctioning competences and the right to address the Constitutional Court.

¹ Legal Resources Centre from Moldova (LRCM) is a Chisinau based non-profit non-governmental organization. LRCM is a think tank with extensive expertise in analyzing the activity and reforming the justice sector, reporting on human rights and representation before the European Court of Human Rights (ECtHR), ensuring the equality and nondiscrimination, as well as in promoting reforms for an enabling environment for civil society organizations. More information about LRCM is available at www.crjm.org. Contact persons for the brief: Pavel GRECU at pavel.grecu@crjm.org; Nadejda HRIPTIEVSCHI at nadejda.hriptievschi@crjm.org.

Hate crimes are severely underreported in Moldova and are not adequately investigated. This is due both to a poor legislative basis, as well as inadequate police and prosecution practices. A draft law amending Criminal and Contravention Codes regarding hate crimes/misdemeanours was voted in the first reading on 8 December 2016, but it contains loopholes and thus needs to be improved before adoption.

Hate speech is particularly overlooked in political discourse. For example, the presidential elections of October-December 2016 have demonstrated the use of fear and intolerance of the Moldovan population. The national authorities shall develop a strategy on combatting hate speech, including publicly condemn any use of hate speech in the public discourse.

Introduction

Discrimination of certain vulnerable groups is almost missing in the public perception in Moldova. It is included among the top three priorities only by 3% of the population according to a 2015 opinion survey.² This does not mean that discrimination is a rare phenomenon in Moldova. The low interest in discrimination issues is rather a sign of a low level of awareness/comprehending and identifying this phenomenon. The same survey reveals worrying results regarding the level of intolerance regarding some specific groups. LGBT persons, persons living with HIV, ex-detainees, persons with mental impairments, persons of Muslim and African origin and Roma people are the least accepted in Moldova, as shown in the following table.³

These numbers indicate a dire need for education and awareness raising about equality and non-discrimination, as well as a need for an effective remedy for tackling individual cases of discrimination. Moldova has made significant progress by adopting the Law on Ensuring Equality in 2012 and setting up the Equality Council in 2013. However, it is still far from having fully implemented the commitments undertaken under the EU-Moldova Association Agreement on ensuring full application of regulations against discrimination on all grounds, including strengthening the capacity of the Equality Council. The commitments on anti-discrimination derive also from visa-free action plan which is in the post-visa liberalization monitoring phase. In particular, the Equality Council from the very beginning was set up with a severe impediment regarding the application of sanctions for discrimination. A growing phenomenon of hate speech and intolerance regarding particular groups, supported including by public figures and certain Church representatives is more visible and swift measures are missing from the authorities. The brief highlights and provides recommendations for action regarding three main issues: effectiveness of the Equality Council, legislation and investigation of hate crimes and measures to stop growing hate speech.

² Study on perceptions and attitudes on equality in the Republic of Moldova, 2015, Equality Council, OHCHR and UNDP Moldova, available at http://www.md.undp.org/content/moldova/en/home/library/effective_governance/studiul-privind-percepiile-i-atitudinile-fa-de-egalitate-in-repu.html.

³ Data extracted from the Social Distance Index of the Study on perceptions and attitudes on equality in the Republic of Moldova, 2015, Equality Council, OHCHR and UNDP Moldova. The study also revealed a direct correlation between the level of living, social-economic status of the respondents and the level of perception regarding certain groups of persons, and namely: persons with higher education and those from urban area expressed more positive perceptions regarding the majority of groups of persons, while those from rural area and with secondary or incomplete education proved more negative perceptions.

Group	Percentage distribution by levels of acceptance (% cumulatively, expresses the share of respondents who are willing to accept the persons from group X)					
	Family member	Friend	Neighbour	Work colleague	Citizen	Visitor of Moldova
Roma people	21%	32%	41%	47%	73%	85%
Persons of African origin	19%	33%	42%	45%	63%	86%
Persons of Muslim origin	20%	30%	38%	40%	58%	79%
Persons with mental impairments	11%	23%	32%	33%	66%	76%
Detained persons (ex-detainees)	15%	24%	31%	34%	60%	72%
People living with HIV	4%	13%	20%	22%	46%	60%
LGBT persons	1%	3%	8%	10%	18%	38%

Main issues

Limited mandate of the Equality Council

The Equality Council, established in 2013 (full name Council for Preventing and Eradicating Discrimination and Ensuring Equality), pursuant to the Law on Ensuring Equality, is a collective body, set up with the purpose of preventing discrimination and promoting equality for victims of discrimination. It is composed of five politically unaffiliated members, appointed by the Parliament for a five-year term. Out of five members, three should come from civil society and at least three should hold a law degree. Only the chair is a full time employee, having the position of a high-ranking public officer. The other four members are not employees of the Council and are remunerated only for the sittings of the Council.

The Equality Council has a series of competences, including promotion of equality and non-discrimination in public and private sectors, analysis of legislation and public policies through the principle of equality and non-discrimination and examination of individual complaints. Since its establishment, the Council is increasing its capacity to promote equality and non-discrimination through trainings and awareness raising activities, in particular through effective cooperation with civil society groups. For example, in 2015 it established three partnerships and provided 70 training activities for over 1,700 persons.⁴ The Council is quite active in examining the current and draft legislation. For example, in 2015 it examined 10 current normative acts and 37 draft normative acts.⁵ Yet, the Equality Council lacks a key function: the ability to request a constitutional review of legislation that raises equality and non-discrimination issues.

The Equality Council has become an important avenue for individual complaints regarding discrimination⁶. Victims of discrimination or their legal representatives can submit individual complaints to the Equality Council. The Council can also initiate ex-officio examination of particular cases / situations. There is a rather high number of complaints, which shows victims' interest and trust in the Council. However, due to the limitative scope of the Council's decisions, the credibility of the Equality Council can be lost due to a weak enforcement mechanism of the Council's decisions. For more details see the table below.

Statistical data regarding the activity of the Equality Council ⁷					
	2013	2014	2015	2016	Total number for 2013-2016
Received complaints	44	151	158	152	505
Ex-officio complaints	3	12	2	2	19
Issued decisions ⁸	12	65	132	137	346

As to the merits of the decisions, in 2015 the Equality Council issued 35 decisions where discrimination was found. Most of decisions referred to discrimination in the area of access to goods and services (16) and work-related (10). The violations concerned various protected grounds, the top being sex/gender (8), disability (8), race/ethnicity (4), opinion (4) and language (4).⁹

When examining complaints, the Equality Council can find discrimination, but cannot apply any sanction. It can only issue recommendations¹⁰ and/or issue a misdemeanour protocol finding violations, which has to be further maintained by the court. The court can apply administrative sanctions (fines) if the misdemeanour protocol is maintained. The Equality Council is the only body that can draw misdemeanour protocols

⁴ See for details the Equality Council's general report on preventing and combating discrimination in the Republic of Moldova in 2015, available here: <http://egalitate.md/media/files/Raport%20general%202015.pdf>.

⁵ Data provided by the Equality Council.

⁶ Victims of discrimination can also submit civil complaints in courts. The Equality Council is an alternative venue. Theoretically, victims can submit the same complaint both to the Council and the courts. Due to limited space, this brief does not analyze the court practices on discrimination cases.

⁷ Data provided by the Equality Council.

⁸ Includes all admissible complaints examined on merits.

⁹ Equality Council's general report on preventing and combating discrimination in the Republic of Moldova in 2015.

¹⁰ The recommendations are addressed to the perpetrator, be it a public or private sector actor. Recommendations include requests to the perpetrator to remedy the situation via specific measures addressed to the victim and/or general measures to further prevent similar cases. Recommendations can also include a request that disciplinary proceedings be initiated against the persons with decision-making powers that have committed discriminatory acts in their service. Sometimes the Council makes recommendations to the executive, legislative or judiciary powers to adopt measures within their competences. The Council can also contribute to finding amicable solutions through mediation. The perpetrator or the person/authority that received the Council's recommendations shall inform the Council within 10 days about the actions taken to implement the recommendations.

for discrimination and bring them to courts for applying fines. However, due to collisions between the relevant procedural laws (Law on ensuring equality and Misdemeanour Code) and their divergent interpretation by courts and the Equality Council, the majority of Council's misdemeanour protocols are annulled by courts. For example, between 2013-2016, the Equality Council issued 32 misdemeanour protocols. Out of 32, only two were maintained by courts, but even in those two cases fines were not applied since the time limit for applying the misdemeanour sanctions had expired. In 2016, the Equality Council has not issued any misdemeanour protocols.¹¹ Such a low rate of protocols maintained by the courts discourages the Council and the victims to use this remedy. Hence, although the legislation provides for an administrative remedy for sanctioning discrimination, this is not an effective remedy and is being less and less used, leaving acts of discrimination unsanctioned administratively.

Regarding the Equality Council's recommendations, their implementation relies mostly on the good will of the perpetrator. The Council monitors their implementation and can remind the perpetrator (private or public actor) of the need to implement them, as well as draw misdemeanour protocols (which have to be maintained by courts) in case of failure to implement. Due to the inefficiency of the misdemeanour protocols, the focus so far has been on voluntary implementation of the Council's recommendations. This system seems to be working to some extent, but its sustainability is questionable. For example, in 2015 the Council found discrimination in 35 decisions, out of which only 12 were implemented by the perpetrators¹². According to the Council, the monitoring of implementation of 2015 decisions continued and by the end of 2016, 88,5% of the 2015 decisions were considered implemented. As for 2016, 48% of decisions were implemented by the end of 2016. If the decisions of the Equality Council are expected to have any impact on the perpetrators, they need to include effective, proportionate and dissuasive sanctions and an enforceable mechanism.

In addition to the lack of sanctioning powers, the current legislation provides for multiple venues to appeal the Council's decisions, which limits its effectiveness. Theoretically, a Council's decision can be appealed in two different court procedures: an action against the sanctions proposed by the Council (misdemeanours procedure) and another action against the recommendations of the Council (administrative procedure). This duality might lead to conflicting decisions in the same case. These limitations lead to deficient practices and create a double burden for the applicants to have exhausted different venues for the same decision.

An efficient equality body shall be equipped with effective, proportionate and dissuasive sanctioning powers, as required by the EU and the Council of Europe.¹³ The Moldovan Equality Council does not meet either of these criteria. It is particularly important to have a strong Equality Council in the context of a still poor judicial practice on discrimination, with problematic interpretations in several cases¹⁴. The Equality Council has the necessary expertise and a significantly more accessible procedure than courts, being an important remedy for victims of discrimination.

¹¹ Data provided by the Equality Council.

¹² Equality Council's general report on preventing and combating discrimination in the Republic of Moldova in 2015.

¹³ Art. 15, 2000/43EC, art. 27 2000/78EC and the European Commission Against Racism and Intolerance (ECRI), General Policy Recommendation no. 2.

¹⁴ See for details Legal decisions of the decisions of the Equality Council and the decisions of the domestic courts on discrimination cases of the Republic of Moldova, John Wadham, Dumitru Russu, November 2016, Equality Council, OHCHR and UNDP-Moldova, available at http://www.md.undp.org/content/moldova/en/home/library/effective_governance/legal-analysis-of-the-decisions-of-the-equality-council-and-the-.html.

Hate speech and hate crime insufficiently addressed by national authorities

Hate crime

Hate crimes are not adequately identified and investigated in Moldova. Underreporting, inadequate legislation and poor investigation of the hate bias are among the main reasons. For example, in 2015, Moldova reported zero hate crimes recorded by police and zero hate crimes prosecuted, while civil society reported 1 attack against property (anti-semitism bias motivation) and 9 violent attacks, 4 threats and 3 attacks against property (LGBT persons bias motivation)¹⁵. Since 2013, the European Commission against Racism and Intolerance (ECRI) recommended the Moldovan authorities “to 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”¹⁶. In March 2016, ECRI concluded that this recommendation has been only partially implemented¹⁷. A recent local study confirmed lack of cases registered by police and deficient investigation of crimes’ bias.¹⁸

In September 2014, the Ministry of Justice created an inter-institutional working group, to revise and improve Moldova’s criminal code provisions addressing hate crimes. Only on 1 July 2016 a draft law on amending the relevant legislation (mainly Criminal and Contravention Codes) was registered with the Parliament (draft law no. 301). The draft law no. 301 was adopted in the first reading on 8 December 2016. For the second reading the draft law shall be improved, including by merging it with the draft law no. 277 drafted by the Ministry of Interior (contains partially similar provisions).

The draft law no. 301 increases the list of protected grounds for qualifying as hate/bias crimes¹⁹, maintaining the hate/bias motivation as a general aggravating circumstance and including it as a separate qualifier for a variety of offences. The draft law also enhances the penalties under a variety of offences when committed with a bias/hate motivation. This is a generally welcomed approach, largely corresponding to good practices in this field at the regional and international levels.²⁰ At the same time, the draft law includes several vague provisions, which do not meet the requirements of legal certainty and foreseeability required for criminal law and that could lead to dangerous interpretations in practice. For example, the draft law includes as protected ground for qualifying as a hate/bias crime “belonging or not belonging to a group” (art. 134¹⁴ of the Criminal Code and art. 46² of the Contravention Code). Such a terminology is too vague to be included in the Criminal Code and Contravention Code and may be misused or may lead to continuous overlooking of hate crimes. The draft law also includes vague definitions of crimes, such as “intentional actions, public calls [...] aimed at discrimination or non-peaceful division based on national, territorial, ethnic, racial or religious nature, at humiliation of the national honour and dignity [...] [based on...] belonging to the national majority to a group” (art. 346 of the Criminal Code²¹). Again, such vague definitions are not appropriate for a criminal law. Moreover, criminalizing public actions or calls aimed at “humiliation of the national honour and dignity” or “non-peaceful division” may be interpreted in practice to limit any protests or other manifestations of national minorities. Lastly, the draft law provides for criminal sanctioning for indirect discrimination (art. 346 of the Criminal Code). The draft law shall be adjusted according to European standards before its adoption in the final reading. OSCE/ODIHR has already provided a legal opinion on the draft no. 301, as well as local NGOs.

¹⁵ OSCE/ODIHR Hate Crime monitoring, 2015, available at <http://hatecrime.osce.org/moldova>.

¹⁶ The European Commission against Racism and Intolerance (ECRI) report on the Republic of Moldova, 2013, available at <http://www.coe.int/t/dghl/monitoring/ecri/Country-by-country/Moldova/MDA-CbC-IV-2013-038-ENG.pdf>.

¹⁷ ECRI conclusions available here <http://www.coe.int/t/dghl/monitoring/ecri/Country-by-country/Moldova/MDA-IFU-IV-2016-023-ENG.pdf>.

¹⁸ Criminalistics presentation of hate crimes and handbook for investigating hate crimes, Chisinau 2016, Coalitia Nediscriminare and Ombudsman Office, available at <http://nediscriminare.md/wp-content/uploads/2016/09/IMU-final-modificat-WEB-1.pdf>.

¹⁹ The current Criminal and Contravention Codes include only the following four protected grounds: social, national, racial or religious.

²⁰ See the OSCE/ODIHR Opinion on draft amendment to the Moldovan Criminal and Contravention Codes related to bias-motivated offences, Opinion-Nr.: HCRIM-MOL/281/2016[ALC], of 15 March 2016, available at www.legislationonline.org.

²¹ The full text of the draft art. 346 provides the following: “Intentional actions, public calls, including through mass media, printed and electronic, aimed at incitement of hatred, discrimination or division based on national, territorial, ethnic, racial or religious nature, at humiliation of the national honor and dignity, as well as at limitation, direct or indirect, of rights or at setting advantages, direct or indirect, for persons based on race, color, ethnic, national or social origin, gender, genetic features, language, religion or beliefs, opinions of political or any other nature, belonging to the national majority, belonging to a national minority, belonging to a group, birth or ancestry, disability, health, age, sexual orientation, gender identity, or any other criteria”.

Hate speech

Hate speech is expressly regulated by the Law on freedom of expression of 23 April 2010. The Journalist's Code of Ethics provides for the respect of the principle of tolerance and non-discrimination.²² The Equality Council has issued several decisions on hate speech, including based on statements by ex-politicians.²³ Regarding online media, there are at least two court precedents that established the media portals/institution's responsibility to moderate the online comments. Taking into account these precedents, the majority of media portals/institutions have taken measures for limiting the comments' space by restricting the possibility of anonymous comments and providing for the possibility to comments via social media accounts. These are important steps for reducing the space for hate comments. However, more steps for moderating the comments sections online are needed²⁴.

The most problematic area remains the use of hate speech in political discourse. During the Presidential elections of October-November 2016 (both tours), several civil society organizations condemned the discriminatory, xenophobic and sexist declarations that promoted fear and stereotypes against certain groups, such as women, immigrants, refugees, non-Christians and LGBT²⁵. The OSCE election observation mission also noted the use of sexist language and gender stereotyping as well as homophobic language²⁶. Sexist, homophobic and gender stereotyping language was used by representatives of political parties, some presidential candidates and representatives of the Moldovan Orthodox Church.

One example of hate speech was the distribution of unidentified flyers amidst the presidential campaign featuring a series of false allegations with regard to the hypothetical intent of a presidential candidate in case of being elected to grant massive access to Syrian refugees to Moldova. Another allegation referred to a hypothetical legalizing of same sex marriages and other false information not related to any protected grounds. Although the respective candidate complained to the police and the Central Electoral Commission regarding these falsehoods, no prompt action was taken by these authorities. A journalistic investigation has shown the distribution of flyers by a non-governmental organizations with close links to the presidential candidate of the Socialist Party. Moreover, the same messages regarding refugees and same-sex marriages have been distributed by media outlets linked with the Socialist Party.²⁷ However, no public authority has intervened in condemning the use of false information to incite fear and hate against refugees and LGBT.

A number of representatives of Moldovan Orthodox Church have used xenophobic, sexist and homophobic language on several occasions. For example, on 4 November 2016 a group of priests of the Moldovan Orthodox Church²⁸ called on believers to vote for the male presidential candidate, since he is a "male, married, with children, frequent visitor of the Church" as opposed to the female candidate that is a "woman, not married, without children, and does not go to Church". The Constitutional Court confirmed the "aggressive involvement of representatives of the Moldovan Church [Mitropolia Moldovei] in the presidential elections, who have used an extremist, xenophobic, homophobic and sexist language regarding the complainant [the candidate Maia Sandu], confirmed also by the reports of national and international observers".²⁹ The Constitutional Court has also concluded that no public authority with competencies regarding the electoral process and the activity of religious denominations has intervened to prevent and stop the religious denominations' involvement in the electoral process. Similarly, no authority has intervened to condemn and sanction the use of hate speech by the Moldovan Church.

²² The Journalist's Code of Ethics, available at http://consiliuldepresa.md/fileadmin/fisiere/fisiere/Cod_deontologic_al_jurnalistului_din_Republica_final.pdf

²³ See for details the Compatibility analysis of Moldovan legislation with the European standards on equality and non-discrimination, Legal Resource Centre from Moldova/ Euroregional Centre for Public Initiatives, 2015, pp. 108-110, available at <http://crjm.org/wp-content/uploads/2015/07/LRCM-Compatib-MD-EU-nondiscrim-legisl-2015-07.pdf>.

²⁴ Conclusions of the Monitoring report on hate speech in online media, Independent Center for Journalism, 2015, available at <http://www.media-azi.md/ro/publicatii/raport-de-monitorizare-nr2-%E2%80%99Devaluarea-discursului-instigator-la-ur%C4%83-%C3%AEn-media-online%E2%80%99D>.

²⁵ See, for example, the public appeal of several civil society activists and NGOs on 8 November 2016, available at <http://www.consiliulong.md/wp-content/uploads/2016/11/147862317325615.pdf>.

²⁶ See for details OSCE/ODIHR Election Observation Mission Final Report, Republic of Moldova, Presidential Elections of 30 October and 13 November 2016, available at <http://www.osce.org/odihr/elections/moldova/300016?download=true>; Analysis of the sexist language in the campaign for presidential elections of 2016 (second tour), Case Study, 2016, Loreta HANDRABURA, Center for Independent Journalism, available at <http://www.media-azi.md/ro/publicatii/%E2%80%99Eanaliza-imbajului-sexist-din-campania-electoral%C4%83-pentru-alegerile-preziden%C8%99Biale-2016-%C3%AEn>;

²⁷ See for details the investigation Igor Dodon and his connection to defamatory flyers regarding Maia Sandu, by Victoria Dodon, 7 November 2016, available at <http://anticoruptie.md/ro/investigatii/integritate/igor-dodon-si-conexiunea-cu-pliantele-denigratoare-in-adresa-maiei-sandu>.

²⁸ See the press conference at <https://www.privesc.eu/Arhiva/69920/Conferinta-de-presa-sustinuta-de-un-grup-de-preoti-in-frunte-cu-episcopul-de-Balti-si-Falesti--Marchel--cu-tema--Cuvant-si-argumente-de-sustinere-a-un>.

²⁹ Constitutional Court, Decision on confirming the results of the election and validation of the mandate of the President of the Republic of Moldova, 13 December 2016, para 165.

Conclusions

The Moldovan Equality Council has the important role to carry out functions related to promotion of equality and non-discrimination, but has a limited mandate to effectively carry out the prevention and combating discrimination due to lack of competencies to apply sanctions and a weak enforcement of its decisions. When examining individual cases, the Equality Council can only acknowledge discrimination, provide recommendations and if the discrimination act amounts to misdemeanour, the Council can apply to court to sanction the perpetrator. The procedure is cumbersome and ineffective.

These limitations lead to the failure of the Council to provide an effective remedy to victims of discrimination. The EU acquis in the field of equality and non-discrimination requires the enforcement bodies to have at minimum effective, proportionate and dissuasive sanctioning powers.³⁰ The European Court of Justice stated that a purely symbolic sanction cannot be regarded as being compatible with the correct and effective implementation of EU directives.³¹ At present Moldova is in violation of these basic principles. In addition, with a weak enforcement mechanism and lack of sanctioning powers, the Council may soon lose the trust of victims of discrimination and become an obsolete institution.

Hate crimes are severely underreported and overlooked in Moldova. One of the first steps that are required to improve reporting and investigations of hate crimes in Moldova is the amendment of the Criminal and Contravention Codes to provide an adequate legal basis for qualifying hate crimes. If hate crimes are continuously overlooked, this may lead to a continuous increase in such incidents.

Politicians, religious, community leaders and other persons in public life have a particularly important responsibility in preventing and combating the use of hate speech, due to their capacity to exercise influence over a wide audience. During the presidential election campaign of October-November 2016 representatives of the Moldovan Orthodox Church and political parties used hate speech with no reaction on behalf of public authorities. In 2018, Moldova shall hold parliamentary elections. There is a high risk that hate speech will be used again to manipulate voters and shift public attention from real problems. Therefore it is particularly important that all relevant authorities consult and adopt a strategy of preventing and combating hate speech. ECRI's General Policy Recommendation No. 15 on combatting hate speech³² provides a series of comprehensive recommendations in this regard, which should be consulted and implemented by the Moldovan authorities.

³⁰ Art. 15, 2000/43EC; Art. 27 2000/78EC; European Commission Against Racism and Intolerance (ECRI), General Policy Recommendation no. 2; 1997.

³¹ European Court of Justice, *Accopt v. CNCD* case, para. 64.

³² European Commission against Racism and Intolerance (ECRI), General Policy Recommendation No. 15 on Combatting Hate Speech, adopted on 8 December 2015, available at http://www.coe.int/t/dghl/monitoring/ecri/activities/GPR/EN/Recommendation_N15/REC-15-2016-015-ENG.pdf.

Recommendations

To the national authorities:

⊕ The Parliament shall revise the Laws no. 121 (on ensuring equality) and no. 298 (on activity of the Equality Council) to grant the Equality Council sanctioning powers and establish a single venue for challenging the Council's decisions, as well as to grant legal standing for the Equality Council before the Constitutional Court;

⊕ The Parliament shall review the draft law no. 301 (amendments to the Criminal and Contravention Codes regarding hate crime) to bring it in line with European standards, consult the amended draft law with civil society and public authorities, and adopt the improved draft;

⊕ The Equality Council, in partnership with other national authorities, shall focus on promotion of equality and non-discrimination to tackle the stereotypes regarding the least accepted groups by the Moldovan society according to the most recent public opinion surveys;

⊕ The police and prosecution shall be prioritise training on recording and investigation of hate crimes;

⊕ The Equality Council shall initiate a dialogue among the relevant national authorities, in particular the Ministry of Justice, the Audio-Visual Council, the Press Council, the Central Electoral Commission, the Ministry of Interior (police), prosecution and the judiciary, on hate speech and the responsibilities of national authorities to tackle it;

⊕ The Equality Council and National Institute of Justice, in collaboration with Moldova's development partners, shall organize trainings to the judiciary on hate speech and lawful limitations of freedom of expression.

To the European Union:

⊕ Maintain equality and non-discrimination as a priority in EU-Moldova dialogue;

⊕ Include strengthening of the Equality Council's status and enforcement mechanism of its decisions as a conditionality for any financial support provided to Moldova;

⊕ Solicit the Moldovan partners to effectively counteract hate crime and hate speech by improved legislation and practice.