

Strengthening the mechanisms for fighting discrimination and hate speech in Moldova

POLICY BRIEF

Executive summary

Equality is protected by the 1994 Constitution. However, a national mechanism for effectively ensuring the right to equality and non-discrimination was created much later, to a large extent due to EU-Moldova relations. Moldova's commitments on anti-discrimination derived initially from the visa-free dialogue, and it is part of the visa liberalization monitoring mechanism. The EU-Moldova Association Agenda for 2017-2019 provides that equality and gender issues are addressed as a crosscutting priority. It includes adoption of legislation on hate crime, the application of laws and regulations against discrimination on all grounds and strengthening the capacity of the Equality Council among short and medium-term priorities.

The national equality mechanism - the Equality Council - should play the leading role in promoting a more inclusive and diverse society in Moldova. Since its creation in 2013, it has demonstrated a proactive approach and independence in fulfilling its mandate. However, its effectiveness is significantly hampered by inadequacies in the existing legislation regarding the status of the Equality Council's decisions and their enforcement mechanism. Individual complaints on discrimination examined by the Equality Council can result in finding of discrimination and recommendations for redress, but the enforcement mechanism for recommendations is weak. When the act of discrimination amounts to a misdemeanour, the Equality Council issues a protocol and the court applies the administrative sanctions if the protocol is maintained. Due to inconsistency in legislation, the courts do not usually maintain the protocols. As a result, the acts of discrimination found as misdemeanours remain unsanctioned, or even not qualified as such by the Equality

¹ www.crjm.org/en/

Council, to avoid its decision being quashed by courts. The Equality Council is constrained in submitting direct requests to the Constitutional Court on discriminatory legislative provisions. Keeping the current status quo can lead to the Equality Council's losing credibility among the victims of discrimination and the larger public. Legal framework should be amended to empower the Equality Council with sanctioning competences and the right to address the Constitutional Court.

Hate crimes are severely underreported in Moldova and are inadequately investigated. This results from both the poor legislative basis and the inadequate police and prosecution measures. A draft law amending Criminal and Contravention Codes regarding hate crimes/misdemeanours was voted in after the first reading on 8 December 2016. It contained a series of loopholes and needed several improvements before adoption. No progress has registered since then.

Hate speech is particularly present in political discourse, especially regarding certain social groups. It increased during the presidential elections of 2016, with no prompt public authority response or counter speech. The 2018 electoral year poses new risks for amplification of hate speech. The public authorities should urgently develop a strategy on combatting hate speech, involving all competent bodies. Public authorities and officials should confront and condemn hate speech via counter-speech that clearly shows its destructive and unacceptable character.

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/studiu-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.

Introduction

A 2015 opinion survey² reveals worrying results regarding the level of intolerance regarding some specific groups. LGBT persons are the least accepted category, followed by the persons living with HIV, ex-detainees, persons with mental impairments, persons of Muslim and African origin and Roma people, as shown Table 1 below:³

Table 1: Study on perception and attitudes on equality in Moldova: levels of acceptance

| 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% |

Source: Social Distance Index of the Study on perceptions and attitudes on equality in the Republic of Moldova, 2015

These numbers indicate a dire need for education and awareness about equality and non-discrimination, as well as for an effective remedy for tackling individual cases of discrimination.

Moldova has made significant progress by adopting the Law on Ensuring Equality in 2012, being the first country among the Eastern Partnership countries. The law provided the means for setting up a national equality mechanism, the Equality Council, set up in 2013. The commitments on anti-discrimination derived initially from the visa-free dialogue, and it is part of the visa liberalization monitoring mechanism.⁴ The EU-Moldova Association Agreement for 2014-2016 included among priorities the full application of regulations against discrimination on all grounds, including capacity strengthening of the Equality Council.⁵ The latter commitments have been partially implemented. The EU-Moldova Association Agenda for 2017-2019 provides that equality and gender issues are addressed as a crosscutting priority. It includes adoption of legislation on hate crime, the application of laws and regulations against discrimination on all grounds and strengthening the capacity of the Equality Council among short and medium-term priorities.⁶

From the very beginning, the Equality Council was set up with a severe impediment regarding the enforcement of its findings in individual cases. A growing phenomenon of hate speech and intolerance regarding particular groups, supported even by public figures and certain Church representatives is more visible and swift measures are missing from the authorities.

Main issues

This 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 prevent and stop hate speech.

1) Effectiveness of the Equality Council endangered by inconsistent legislation.

An efficient equality body should be equipped with effective, proportionate and dissuasive sanctioning powers, as required by the EU and the Council of Europe when states assign decision-making competencies to equality bodies.⁷ The Moldovan Equality Council does not meet any 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 cases⁸.

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 attended sittings of the Council.

⁴ See for details http://europa.eu/rapid/press-release_IP-17-5313_en.htm.

⁵ EU-Moldova Association Agenda, 2014-2016, chapter 2.1 Political dialogue and reform.

⁶ EU-Moldova Association Agenda, 2017-2019, key priorities and chapter 2.2 Political dialogue, Good Governance and Strengthening Institutions, section (iii).

⁷ Art. 15, 2000/43EC, art. 27 2000/78EC and the European Commission Against Racism and Intolerance (ECRI), General Policy Recommendation no. 2.

⁸ See for details Legal 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.

The Equality Council has a series of competences, which can largely be divided in three types: 1) promoting the equality and non-discrimination in public and private sectors, 2) analysing the legislation and public policies through the principle of equality and non-discrimination, and 3) examining the individual complaints. The Equality Council lacks the function of victim support through legal assistance and litigation, as recommended by ECRI's revised General Policy Recommendation no. 2.⁹

Since its establishment, the staff and the members of the Council benefited from significant support from Moldova's development partners and local civil society groups, funded also by development partners. This support included the strengthening of Council's capacity along the implementation of its mandate. The staff and premises of the Council are funded by the state budget, but for promotion and awareness raising the public funds are extremely limited. Throughout the years, the Council developed good expertise and is proactive in examining the current and newly drafted legislation from the perspective of compatibility with equality and non-discrimination norms. Yet, the Equality Council lacks the competence to request a constitutional review of the legislation that raises equality and non-discrimination issues. This competence was included recently in a draft law on revising the Law on the Constitutional Court, which is still pending adoption by the Government and Parliament.

The Equality Council has become an important avenue for individual complaints regarding discrimination,¹⁰ as it can be seen in the table 2 below:

Table 2: Statistical data regarding the activity of the Equality Council

| | 2013 | 2014 | 2015 | 2016 | 2017 | Total number for 2013-2017 |
|--------------------------------|------|------|------|------|------|----------------------------|
| Received complaints | 44 | 151 | 158 | 152 | 151 | 656 |
| Ex-officio complaints | 3 | 12 | 2 | 2 | 9 | 28 |
| Issued decisions ¹¹ | 12 | 65 | 132 | 137 | 149 | 495 |

Source: Equality Council activity reports, available at www.egalitate.md.

The ability to examine individual complaints and issue decisions is the main competence that distinguishes the Equality Council from the Ombudsman office. It is also one of the reasons why the Council was not empowered with the competence of supporting victims through legal assistance and litigation. Currently, a similar competence is assigned to the Ombudsman's office, but is largely underused. The Council was meant as a specialised body to offer a faster and more accessible mechanism for victims of discrimination. The law provides that after examining an individual complaint, the Council shall issue a reasoned decision. The decision shall "include also recommendations to restore the victim's rights and prevent similar acts of discrimination in the future"¹².

When examining complaints, the Equality Council can find discrimination, but cannot apply any sanctions. When the Council finds discrimination, it can only issue recommendations¹³ and/or issue a misdemeanour protocol finding violations. The latter 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 for discrimination and bring them to courts for applying sanctions. 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 the Council's misdemeanour protocols are annulled

⁹ European Commission against Racism and Intolerance (ECRI), General Policy Recommendation No. 2: Equality Bodies to combat racism and intolerance at national level, adopted on 7 December 2017, available at www.coe.int/ecri.

¹⁰ 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.

¹¹ Includes all issues decisions (both with and with no findings of discrimination).

¹² Art. 15 para. (4) of the Law no. 121 on ensuring equality.

¹³ 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.

by courts. For instance, from 2013-2015, 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 sanctions had expired.¹⁴ The low rate of protocols maintained by the courts discourages the Council and the victims to use this remedy. In 2016, the Equality Council has not issued any misdemeanour protocols due to the procedural inconsistencies that led to their annulment by courts. Instead, the Council focused on issuing recommendations (of general and individual manner, to be enforced by the persons/entities found guilty of discrimination) and continued advocating for attributing direct sanctioning powers to the Council.¹⁵ In 2017, the Council issued two misdemeanour protocols, both maintained by the courts. In conclusion, although the legislation provides for an administrative remedy for sanctioning discrimination, this is not used by the Equality Council due to procedural inconsistencies between the Law on Ensuring Equality and the Contravention Code, leaving acts of discrimination unsanctioned administratively.

The enforcement of the Equality Council's recommendations relies mostly on the good will of the perpetrator. For example, in 2017 the Council monitored the implementation of its recommendations issued in 2016. Out of 51 recommendations, only 32 were implemented (63%). The biggest share of them referred to amending laws/regulations or changing the practices and attitudes, 8 of them are under continuing monitoring and 1 was annulled. 10 were not implemented at all and out of them 3 required sanctioning of the perpetrator by the relevant entity.¹⁶ This data confirms similar trends with previous years, where general recommendations, like developing rules or actions plans, are implemented, while stricter recommendations of applying sanctions to concrete perpetrators are not implemented. Similarly, the decisions concerning high-level public officials or politicians are rarely implemented.¹⁷

Should the procedural rules be clarified, the Council would be able to issue general recommendations, as well as either apply directly or through courts the administrative sanctions with a dissuasive effect for future similar violations. Otherwise, Moldovan legislation fails to provide effective, proportionate and dissuasive sanctions against acts of discrimination.

2) Hate crimes underreported due to deficient legislation and practices.

Hate crimes are not adequately identified and investigated in Moldova. Underreporting, inadequate legislation and poor investigation of the hate bias in the crimes are among the main reasons. For example, in 2015, Moldova reported zero hate crimes recorded by police and zero hate crimes prosecuted. On the contrary, the civil society organizations reported 1 attack against property (anti-semitism bias motivation) and 9 violent attacks, 4 threats and 3 attacks against property (LGBT persons bias motivation). In 2016, Moldova indicated 5 hate crimes reported, prosecuted and sentenced, all referring to "extremist crimes" motivated by bias, related to participation in armed conflict, recruitment of others to participate in an armed conflict and/or undermining the constitutional system. Civil society reported 27 incidents in 2016, out of which 10 attacks against property (anti-semitism), 5 threats and 11 violent attacks (sexual orientation or gender identity) and 1 attack against property (bias against Roma and Sinti)¹⁸. 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*

¹⁴ Data provided by the Equality Council.

¹⁵ Equality Council annual report for 2016.

¹⁶ Equality Council annual report for 2017.

¹⁷ For instance, in the 2014 parliamentary election campaign, the leader of a political party, Renato Usatîi, held a press conference where he called the leader of another political party a "dirty and stinky gypsy". The Equality Council found these statements as racist because they were intended to "humiliate the ethnicity of his political opponent, showing his own ethnic superiority", and recommended the politician to issue public apologies (decision no. 159/14 from 13 October 2014). In June 2018, the President of the country declared that "he can neither be the representative nor the president of LGBT persons". The Equality Council found the President's statements amounting to incitement to discrimination and recommended him to issue public apologies and to further refrain from similar statements (decision no. 73/17 of 25 September 2017). None of these recommendations were implemented by the respective politicians.

¹⁸ OSCE/ODIHR Hate Crime monitoring, 2015, available at <http://hatecrime.osce.org/moldova>.

accordance with the principles of confidentiality, informed consent and voluntary self-identification¹⁹. In March 2016, ECRI concluded that this recommendation has been only partially implemented²⁰. A 2016 study confirmed lack of cases registered by police and deficient investigation of crimes' biases.²¹

Previously, 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. A draft law on amending the relevant legislation, mainly Criminal and Contravention Codes, (draft law no. 301) was adopted in the first reading on 8 December 2016. The draft law increased the list of protected grounds for qualifying as hate/bias crimes, maintaining the hate/bias motivation as a general aggravating circumstance and including it as a separate qualifier for a variety of offences. It also enhanced the penalties under a variety of offences when committed with a bias/hate motivation. This is generally a welcomed approach, largely corresponding to good practices in this field at the regional and international levels.²² At the same time, the draft law used vague grounds and definitions of crimes²³, unacceptable for criminal legislation, and provided for criminal sanctions for indirect discrimination. It hence needed several improvements before the second (final) reading. No progress has been registered since then, which is an indicator of the authorities' resistance to effectively fight hate-based crimes.

¹⁹ 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>.

²⁰ ECRI conclusions available here <http://www.coe.int/t/dghl/monitoring/ecri/Country-by-country/Moldova/MDA-IFU-IV-2016-023-ENG.pdf>.

²¹ 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>.

²² 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[AIC], of 15 March 2016, available at www.legislationonline.org.

²³ For instance, "belonging or not belonging to a group" (art. 134¹⁴ of the Criminal Code and art. 462 of the Contravention Code) or "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 Code).

²⁴ Only race, religion, nationality and sex are expressly prohibited (art. 6 of the Audio-Visual Code).

²⁵ Equality Council activity report for 2017.

²⁶ Equality Council decision no. 513/16 of 1 March 2017.

²⁷ Equality Council decision no. 73/17 of 25 September 2017.

²⁸ Equality Council decision no. 103/17 of 31 October 2017.

3) Hate speech ignored by public authorities.

Hate speech is expressly regulated by the Law on Freedom of Expression of 23 April 2010 and is covered by the Law on Ensuring Equality under incitement of discrimination. The Journalist's Code of Ethics provides for the respect of the principle of tolerance and non-discrimination. The Audio-Visual Code also prohibits the broadcasting of programs that incite hatred on some grounds²⁴, including sexist language. Hate speech can be punished under Contravention and Criminal Code as well, but not all grounds are covered and both codes need improvement (see section 2 above). The respective legislation provides some good basis for combating hate speech, but insufficient. There is no coordinated strategy among the relevant public authorities, such as law enforcement bodies, the Audio-Visual Coordinating Council, the Central Electoral Commission, the Equality Council, the Ombudsman, the Press Council, mobilizing them to prevent and combat hate speech in Moldova.

The Equality Council is the only public institution that has tackled hate speech consistently since its creation, both by examining individual complaints and by initiating ex-officio cases based on public statements, declarations, or announcements. For instance, the Council issued 10 decisions in 2017 on incitement of discrimination in public discourse by high-level officials, comments of harassment regarding ethnicity, improper reference to ethnicity in police announcements and offensive journalistic articles.²⁵ However, due to a weak enforcement mechanism of its recommendations and lack of clear competencies to apply sanctions, the Council's recommendations on hate speech remain largely unimplemented, in particular when high profile officials and politicians are involved. For instance, in 2017 the Equality Council issued three decisions regarding the President of the country, Igor DODON. The Council found that the president incited to discrimination based on ethnicity²⁶, sexual orientation²⁷, sex and age²⁸. None of the Council's recommendations were implemented by the President. Moreover, on 26 February 2018, he wrote on his Facebook page that "liberalism, tolerance

and gender equality are false teachings for our people”. Although the president’s office later claimed the respective posting was done by mistake, the president himself has not issued an apology for such statements. Impunity and lack of counter-speech from other public institutions, with effective enforcement mechanisms, as well as other high-level public officials perpetuate the tolerance of such unacceptable hate speech.

During the October-November 2016 presidential elections, sexist, homophobic and gender stereotyping language was used by representatives of political parties, some presidential candidates and representatives of the Moldovan Orthodox Church.²⁹ 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 LGBT³⁰. The OSCE election observation mission also noted the use of sexist language and gender stereotyping as well as homophobic language³¹. 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*”.³² 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. There was no follow up by the public authorities to the above findings, including the Constitutional Court’s decision.

Politicians, religious, community leaders and other persons in public life have a particularly important responsibility of preventing and combating the use of hate speech, due to their capacity to exercise influence over a wide audience. In the fall-winter of 2018 Moldova will hold parliamentary elections. There is a high risk that hate speech will increase if the public authorities do not take measures to seriously tackle hate speech. In this regard, ECRI’s General Policy Recommendation no. 15 on combating hate speech³³ offers a set of recommendations for national authorities in combating hate speech.

Conclusion and recommendations

The Moldovan Equality Council has the important role to carry out functions related to promotion of equality and non-discrimination. However, the effectiveness of the Equality Council is hampered by vague legislation regarding the status of the Council’s decisions. Due to procedural inconsistencies between the Law on ensuring equality and the Contravention Code, administrative sanctions are not applied for acts of discrimination. There are a rather high number of complaints, which shows that the public has interest and trust in the Council. However, due to the limited scope of the Council’s decisions and the weak enforcement mechanism of its recommendations, the credibility of the Equality Council could gradually erode. The Council’s most sensitive and strict recommendations are usually not implemented, in particular by high-level officials and politicians concerning hate speech.

²⁹ 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 (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>). Moreover, the same messages regarding refugees and same-sex marriages have been distributed by media outlets linked with the Socialist Party. However, no public authority has intervened in condemning the use of false information to incite fear and hate against refugees and LGBT. 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 Church 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” (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>).

³⁰ 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>.

³¹ 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-limbajului-sexist-din-campania-electoral%C4%83-pentru-alegerile-preziden%C8%99Biale-2016-%C3%AEn>;

³² 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.

³³ ECRI, General Policy Recommendation no. 15 on combating hate speech, available at https://www.coe.int/t/dghl/monitoring/ecri/activities/GeneralThemes_en.asp.

Hate crimes are severely underreported and overlooked in Moldova. One of the first steps that is 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. Hate speech increases most noticeably during electoral campaigns and no effective and dissuasive sanctions are applied.

Recommendations for Moldovan authorities

- 🔍 **The Parliament should revise the relevant legislation, in particular the Law no. 121 (on ensuring equality), the Law no. 298 (on activity of the Equality Council) and the Contravention Code, to either grant the Equality Council direct sanctioning powers or resolve the procedural inconsistencies that impede the Council drawing effective protocols for acts of discrimination amounting to misdemeanours;**
- 🔍 **The Equality Council should be given legal standing to address the Constitutional Court on legislation that raises issues of compatibility with the principle of equality and non-discrimination;**
- 🔍 **The Parliament should review the draft law no. 301 (amendments to the Criminal and Contravention Codes regarding hate crime) and bring it in line with European standards, while consulting the amended draft law with civil society and public authorities, and adopt the improved draft;**
- 🔍 **The police and prosecution shall be provided with trainings on recording and investigating hate crimes;**
- 🔍 **The Government should develop a comprehensive national strategy to combat hate speech, involving the Ministry of Justice, the Equality Council, the Audio-Visual Council, the Press Council, the Central Electoral Commission, the Ministry of Interior (police), prosecution and the judiciary;**
- 🔍 **The Equality Council and the National Institute of Justice should organize trainings to the judiciary on hate speech and lawful limitations of freedom of expression.**

Recommendation for the European Union

- 🔍 **Maintain equality and non-discrimination as a priority in EU-Moldova dialogue;**
- 🔍 **Urge the Moldovan partners to effectively counteract hate crime and hate speech by improving the relevant legislation and practices;**
- 🔍 **Include strengthening of the Equality Council's status and enforcement mechanism of its decisions as conditionality for further financial assistance to Moldova.**