

Promo - LEX

Advancing democracy and human rights



**Alternative report on
MOLDOVA'S IMPLEMENTATION
OF THE INTERNATIONAL CONVENTION
ON THE ELIMINATION OF ALL FORMS OF RACIAL DISCRIMINATION**

**Joint submission of the Promo-LEX Assosiation and Anti-Discrimination Centre "Memorial"
for the 92nd session (24 April – 12 May 2017) of the UN CERD**

Promo-LEX Association is a non-governmental organization that aims to advance democracy in the Republic of Moldova, including in the Transnistrian region, by promoting and defending human rights, monitoring the democratic processes, and strengthening civil society through a strategic mix of legal action, advocacy, research and capacity building.

Anti-Discrimination Centre Memorial works on protection of the rights of discriminated minorities and vulnerable groups in Eastern Europe and Central Asia, carrying out monitoring, reporting, advocacy on local and international level, human rights education.

Note:

A part of information submitted in this report is based on the 2015-2016 research conducted by Promo-LEX Association and Equal Rights Trust within the project “*Empowering civil society in Moldova and Transnistria to combat discrimination through documentation, litigation and advocacy*” and was published in the report From Words to Deeds.

CONTENT

BACKGROUND	4
CHAPTER I. PREJUDICE AND INTOLERANCE	5
CHAPTER II. HATE SPEECH	7
Hate speech in political context	7
Hate speech in Media	8
CHAPTER III. HATE CRIMES.	10
Table 1. Allegation of hate crimes reported and examined by the courts in 2010-2016	11
IV. ROMA: DISCRIMINATION IN EDUCATION AND EMPLOYMENT	13
Education	13
Employment	14

BACKGROUND

After the 2011 review of Republic of Moldova on the implementation of the Convention on the Elimination of Racial Discrimination, Committee urged the Government to improve its situation related to prejudice and intolerance towards ethnic minorities, hate speech and hate crimes. In addition, the Committee stressed out the need to increase Moldova's efforts to support ethnic minorities in education and employment.

The Committee recommended that Moldova increase its efforts in the fields of teaching, education, culture and information, to combat prejudices, including among public servants, against ethnic minorities such as Roma.¹

The Committee also recommended Moldova to ensure the proper implementation of the existing anti-discrimination provisions and the effective investigation and persecution of racially motivated offences.²

To fulfil its obligation under the CERD and other international and regional standards, Moldova undertook legal and institutional measures. In 2012, Moldova adopted the Law on Ensuring Equality no. 121 from 25 May³, on ensuring equality. This is seen as a major progress of the Government in protection of vulnerable groups from discrimination. Race, nationality and ethnicity were expressly listed as protected grounds. The Law 121 also establishes a specific form of discrimination related only to race/ethnicity, which is racial segregation. Moreover, the Law 121 establishes "*Instigation to hate*" as a particular form of discrimination with the regard to public discourse and media.

By the Law No.298 of 21 December 2012⁴ was approved the functioning and organization of a equality body — Council for Prevention and Elimination of the Discrimination and Ensuring Equality (CPPEDAE).⁵ This is the second National Human Rights Institution, after the Office of the Ombudsman. CPPEDAE, beside its powers to analyze policies and legal framework, activates as a quasi-judicial body. It investigates and examines discrimination cases.

According to the last (2004) census, in Moldova (without Transnistria) 75.81% of the population self-identified as Moldovan, 8.35% as Ukrainian, 5.95% as Russian, 4.36% as Gagauz, 2.17 % as Romanian, 1.94% as Bulgarian and 1.32% as 'other' (including Roma). An important fact is that these minorities are concentrated in specific regions of the country.⁶ Gagauzians (Turkic-speaking group) are mainly living in the Autonomous Territorial Unit of Gagauzia. Ethnic Bulgarians are living mainly in Taraclia district. In these regions, Moldovans form a minority. More of the Ukrainians are concentrated in northern regions of the country. Russians are living mainly in urban areas being more concentrated in Chisinau and Balti.

The same (2004) census does not provide any data of the Roma population. The unofficial number of Roma in Moldova is 150,000 people. Roma live dispersed around the whole country and can be found in larger numbers in cities such as Chisinau, Otaci, Sorooca, Balti, Edinet, Drochia, Riscani, Orhei, Calarasi, Straseni, Nisporeni, Comrat, Ciadir-Lunga and in Tiraspol situated in the Transnistrian region. The majority of persons regarded as Roma in Moldova do not tend self-identify as Roma, at least for the purposes of official data collection.

This report emphasize the general situation of national and ethnic minorities in Moldova and stresses out the main issues regarding prejudices and intolerance, discriminatory violence and hate speech. The report also points out specific situation of Roma in employment and education fields.

¹ Concluding observations of the Committee on the Elimination of Racial Discrimination, CERD/C/MDA/CO/8-9, 6 April 2011, pct.17

² Ibid. pct. 10 (a)

³ <http://lex.justice.md/md/343361/>

⁴ <http://lex.justice.md/md/346943/>

⁵ <http://egalitate.md/index.php?l=en>

⁶ Moldova's National Minorities. Why are they Euroskeptical?, NIS Center, November 2014, pg 6

Chapter I. PREJUDICE AND INTOLERANCE

Alongside the high level of intolerance, an increasing number of negative stereotypes are shared by citizens in relation to certain national and ethnic groups. The quantity and negativism of the stereotypes correlate naturally with the social distance to the respective groups. Even though the ethnicity and race do not imply the most critical level of intolerance, at least in comparison to other marginalized groups (LGBT, HIV), these groups distinguishes by increased social distance.

Moldova reports⁷ significant success in fighting racial discrimination and ensuring equality for ethnic minorities, such as the adoption of the Law on Ensuring Equality in May 2012 and recent Action Plan for the support of Roma population.⁸ Despite this, Moldova lacks concrete and efficient actions to combat social stigma and intolerance. In its last report on Moldova (2013), European Commission against Racism and Intolerance (ECRI) stressed out the need to increase raising awareness measures and provide continuous training for legal professionals (*lawyers, judges, prosecutors and police*) that deal with discrimination cases and bias-motivated crimes. ECRI also pointed out the need of stronger involvement in political debate, with condemnation of all racist and intolerant remarks.⁹

A recent Study prepared by CPPEDAE and the Office of the United Nations High Commissioner for Human Rights (OHCHR), on the equality perceptions and attitudes¹⁰ emphasizes that Moldova's population is still prone to intolerance with the regard to different ethnic groups. Hence there is an incomparable high level of intolerance for Roma people as compared to other ethnic groups (*SDI*¹¹ – 3.1 points), being associated with such stereotypes as *"thieves, liars, beggars, lazy, dirty"*. The persons of Muslim religion represent another group, with an SDI of 3.3 points and with such associations as *"aggressive, fanatics, terrorists, and extremists"*.

Prejudices and intolerance oscillate depending on political context and geographical areas. In the recent presidential elections, which took place in October – November 2016, racial stereotypes, discrimination and hate speech increased to an unprecedented level. One of the most discussed and controversial events, relate to news that one of the opposition leaders would bring in Moldova 30 000 Syrian refugees if wins.¹² This news escalated the prejudice that *"aggressive Muslims"* will spread all over the country, *"rape women and girls and rob locals"*.

As to the geographical weight of intolerance, in specific areas with high density of Roma population are registered most cases of discrimination. For example in Otaci and Vulcănești were registered the most segregated classes of Roma children.¹³ In regions, such as Râșcani, Drochia, Calarași and Soroca were registered multiple cases of discrimination in access to goods, healthcare services and housing.¹⁴

Racial stereotypes are a constant cause for cases of discrimination, examined by national authorities. In 2014, the CPPEDAE started an ex-officio investigation about the potential racist basis for the naming of a new beef burger. The product made use of black bread and was called the **"O.N.O.J.E"**. Mr. John Onoje is a black Moldovan citizen. The product was promoted through social media, leading to public discussions that the Council felt could have violated Mr. Onoje's human dignity. There are no doubts that the intention was to humiliate the person on the ground of his skin color, showing

⁷ ECRI Report on the Republic of Moldova, Fourth monitoring cycle, 2013, pg.7-8

⁸ Government Decision No.734/2016 for approving of the 2016-2020 Action Plan on the support of Roma population in Moldova

⁹ ECRI Report on the Republic of Moldova, Fourth monitoring cycle, 2013, Chapter I

¹⁰ Study on Equality Perceptions and Attitudes in the Republic of Moldova, 2015

¹¹ SDI- Social distance indicator

¹² <http://emerging-europe.com/voices/voices-intl-relations/old-fashioned-skulduggery-overshadows-the-elections-in-moldova/>

¹³ <http://www.ohchr.org/EN/NewsEvents/Pages/RomaInMoldova.aspx>

¹⁴ <https://www.zdg.md/editia-print/social/romii-din-rascani-bastinasi-fara-resedinta>

thus their own ethnic superiority. The Council recommended that the firm responsible for the new burger apologize publicly to John Onoje.¹⁵ There are no evidences that the defendant enforced the CPPEDAE's decision.

Roma are often subject to discrimination by state agents, including in particular the police. In a case litigated by Promo-LEX Association and considered by the CPEDEE in 2015, the Council concluded that a Roma woman had been subjected to ethnic profiling and subject to discrimination contrary to the Law on Ensuring Equality.¹⁶

CASE STUDY COSMINA NOVACOVICI

In February 2015, while shopping, Ms. Novacovici was apprehended by two persons who identified themselves as police officers. She was informed that she matched the description of a suspect of a crime. The description was "Gypsy woman, height 160–165cm, hair put tightly in a bun and black jacket." The police officers spent 30 minutes questioning Ms. Novacovici inside the shop. Ms. Novacovici felt afraid and humiliated. She agreed to the police officers' demands that she accompany them to the police station to be formally identified and provide her account of where she was at the time of the alleged crime.

In the police station, Ms. Novacovici was subject to further examination. She attested that she was treated with contempt. She was further interrogated by the police officers, who refused to provide her with any further information about why she was being detained.

In March 2015, Ms. Novacovici submitted a complaint to the CPEDEE. In September 2015, the Council found that Ms. Novacovici had suffered racial discrimination under Articles 1, 2, 4(a), in conjunction with Article 8(h) of the Law on Ensuring Equality.

The CPEDEE ruled that the Internal Protection and Anti-Corruption Service of the Ministry of Internal Affairs should conduct an internal investigation on this case and should apply disciplinary sanctions to the police officers reflecting the gravity of their actions, according to Article 12(1) (j) and Article 15(6) of the Law on Ensuring Equality.

The Buiucani Police Inspectorate appealed this decision. However, on 9 December 2015, the Buiucani Court of Law dismissed the application for annulment of the CPEDEE decision.⁶³ On 24 March 2016, the Chisinau Court of Appeal upheld the decision of the Buiucani Court.

In order to tackle social exclusion and discrimination of Roma, it is important to understand the processes by which they are excluded, e.g. inefficient functioning of institutions, behavior, and traditions, and the specific features that reproduce the prevailing social attitudes, bias, stereotypes, values, etc.

Recommendations

- The Government shall develop and conduct systematic raising awareness campaigns to promote diversity and tolerance between all the ethnic groups in Moldova.
 - The Government shall develop and conduct continuous training programs for legal professional and representatives of public authorities on equality and non-discrimination, including application of these provisions to the local budgeting process, development of local policies and representation in local decision-making process.
-

¹⁵ CPEPDAE Decision No.180/14 of 16 December 2014, concerning racism related to the launching of the black bread burger O.N.O.J.E.

¹⁶ Council on the Prevention and Elimination of Discrimination and Ensuring Equality, Decision No. 239/15 of 28 May 2015, p. 10

Chapter II. HATE SPEECH

Freedom of expression is guaranteed in Moldova based on Article 32 of the Constitution, but principles of freedom of expression are frequently misinterpreted and in some of the cases, persons in public space consider this right absolute. Therefore, generally, those who admit an excessive use of stereotypes, prejudices and discrimination, which amount in hate or discriminatory speech, consider that their opinion is covered by freedom of expression. Meanwhile, article 32 (3) of the Constitution stipulates:

“The denigration of the state and the people; incitement to aggression, war or national, racial or religious hatred; calls for discrimination, territorial separatism or public violence as well as other displays that represent a threat to the constitutional regime are prohibited and punishable by law.”¹⁷

The Law on Freedom of Expression¹⁸ protects the right of people and media institutions but clearly stipulates in Article 3 (5) that the guarantees of freedom of expression do not include hate speech and instigation to violence. Article 346 of the Criminal Code criminalize the severe derogations from freedom of expression, which identifies as follows:

“...intentional acts or public incitement including through mass media written or electronic aimed at incensing enmity, racial or religious differentiation or splitting to degrade national honor and dignity as well as directly or indirectly limiting rights or setting direct or indirect advantages for citizens depending on their national, ethnic, racial or religious affiliation”.

The law 121/2012 on ensuring equality prohibits instigating discrimination. It is defined as:

“...any behavior through which a person applies pressure or intentionally behaves in such a manner as to discriminate against a third person based on the criteria stipulated in this law.”

HATE SPEECH IN POLITICAL CONTEXT

Public speech in general and political discourse in particular continues to be one of the ways to impose in political life. The social and geopolitical background of Moldova sets the ground for many written, verbal or non-verbal disputes between political actors. Mainly this disputes refers to two major subjects, the pro-European and pro-Russian vision of political leaders and pro-Romania, or unionist visions of other leaders. These subjects intercalate with other sensible areas, such as religion and belief, especially with the respect to Christian Orthodox Church, and specific issues related to groups such as LGBT, Women and Roma.

CASE STUDY RENATO USATII

Renato Usatii is a political figure, leader of the party “Partidul Nostru”. In the 2014’s parliamentary election campaign, Renato Usatii held a press conference and said: “I promise that this upstart named Filat, this dirty and stinky gypsy [...] will end up where he belongs! «, «[...] everyone knows that Filat is a half gypsy, only Filat is a finished gypsy (original n.r.: конченный) [...]”

The CPPEDAE investigated the case and ruled. National Roma Center, a Roma organization, intervened as third party in process claiming that Mr. Usatii’s public speech, based on stereotypes and prejudices against their community, offends any Roma’s dignity.

The CPPEDAE ruled on 13 October 2014 a Decision and stated that Mr. Usatii instigated to hate on racist ground.

¹⁷ http://lex.justice.md/document_rom.php?id=44B9F30E:7AC17731

¹⁸ <http://lex.justice.md/viewdoc.php?action=view&view=doc&id=335145&lang=1>

In the 2016's presidential campaign, hate speech expanded largely, affecting mainly four groups as follows: LGBT, Women, Ethnic minorities and Unionists. Homophobic and gender hate speech was the most used in the campaign, because one of the main candidates, Maia Sandu, unmarried women, which was associated in different contexts with LGBT group. Even though, hate speech based on racial and ethnic ground had also a strong presence.

The most obvious case of hate speech towards ethnic minorities was the so-called "30 000 Syrian refugees of Maia Sandu". At the end of October 2016, it appeared a news¹⁹, which stated that Maia Sandu has agreed with Angela Merkel to take in Moldova 30.000 refugees after she wins the elections. The news said that Europe is in a huge refugee crisis and European leaders found the solution, to bring refugees in Moldova. This news started a huge wave of hate in society, on social networks and media. It revealed strong prejudices against ethnic and religious minorities and refugees. In fact, it was a fake news, which started as a satire article.²⁰

After the release of the news, all over the country were spread anonymous flyers saying that Maia Sandu would bring 30.000 refugees in Moldova. In some places, the news culminated with the rumor that every family will have to adopt one refugee. In parallel was released a video message from Syrian students saying they support Maia Sandu.²¹ The article was called "Syrian diaspora supports Maia Sandu". Later, students which recorded the video said that they were manipulated by journalists and didn't know that this message will appear in the support of the news with 30.000 Syrian refugees. One of the students said that they were asked by the journalists what they think about Moldova and if they would like Moldova to take refugees.²² Maia Sandu on her behalf denied this information. She claimed that it was a manipulation organized by Socialist Party.²³

It seems that there is no positive dynamic in the last 5-6 years with the regard to hate speech and discrimination in media. Earlier, in 2010, Anatol Plugaru, a political analyst, said in a press conference:

"It seems that Mr. Mihai Ghimpu²⁴ and his political partners are doing exactly like gypsies, better make another child rather than wash the dirty one"

In 2011, Chisinau Centru Court ruled that Mr. Plugaru delivered a racist hate speech and obligated him to bring public apologies to Roma community. Cases which happened in 2010, 2014 and 2016 show that Moldova doesn't have yet an answer to discriminatory speech and incitement to hate.

HATE SPEECH IN MEDIA

According Monitoring report of IJC²⁵, some of the Media services discriminate on the ethnic ground or aloud their visitors to discriminate against ethnic minorities. During the monitoring period for this report, www.publika.md posted 24 articles about people from vulnerable groups: 9 referred to people from ethnic minorities; 6 to sexual minorities; 4 to people with disabilities; 3 to inmates; 1 to HIV positive people and 1 to people from minority religious groups. In total, there were 71 comments on the news articles. The most comments were on the ones about ethnic minorities (30 comments) and sexual minorities (14). In both cases, the comments instigated violence, discrimination and hatred. The article

¹⁹ <https://guralumii.net/2016/10/24/din-culisele-ppe-maia-sandu-a-promis-europenilor-ca-va-accepta-in-moldova-30-mii-de-imigranti-sirieni/>

²⁰ <https://www.zdg.md/stiri/stiri-politice/cum-a-evoluat-minciuna-cu-sirienii-de-la-un-site-de-pamflete-la-cea-mai-urmarita-televiziune-din-tara>

²¹ <http://actualitati.md/md/politica-externa/video-diaspora-siriana-din-moldova-o-sustine-pe-maia-sandu-la-prezidentiale-aici-e>

²² <http://independent.md/video-unul-dintre-studentii-sirieni-care-spus-ca-o-sustine-pe-maia-sandu-vine-cu-clarificari-jurnalistii-au-denaturat-raspunsurile/#.WN0HPIWGPDC>

²³ <http://www.jurnal.md/ro/politic/2016/11/7/investigatie-igor-dodon-si-conexiunea-cu-pliantele-denigratoare-in-adresa-maiei-sandu/>

²⁴ Mihail Ghimpu – Political leader of the Liberal Party

²⁵ Evaluation of Hate Speech in Online Media, Monitoring Report, 2015, pg.8-9

entitled “*The leader of the movement ‘Actiunea 2012’²⁶ was banished from the Republic of Moldova*” posted on 13 May 2015 received 12 comments, 3 of which were deleted by the editorial staff. Some of the remaining 9 contained aggressive and hateful messages like the following:

“*Death to occupants and traitors!*” (*addressing to Russians in Moldova*)

“*EVERY DAY PLAHOTNIUC²⁷ SPITS ON OUR SOULS, ALL OF US: THE RUSSIANS, THE GAGAUZ, THE ROMANIANS. AND IF THIS PERSON DIES HIS OWN DEATH, THEN, WE, THE BASARABIANS, ARE BUTTERHEADS.*”

Www.unimedia.md posted 21 news items about monitored groups: 14 referred to ethnic minorities (Romanians, Russians, Jews); Most of the negative and insulting messages were generated by the items about sexual minorities and people of Russian ethnicity. The portal did not adequately monitor all comments since there were violent messages and obscene words. The item posted on 13 May 2015 “*The leader of platform ‘Actiunea 2012’ was expelled from the country*” received 30 comments. Four of them contained hateful messages about Russians and were written by the same person as follow:

“(…) all kinds of Russian pigs are walking around Moldova and tear apart our society”

“(…) we don’t need a lot of ethnicities; (….) chase away the Russian loving curs to Siberia to the stables of the infamous, alcoholics, drug users, cotton brains, criminals, killers and dirty people”

“These pig curs must be shot”

Other news items about George Simion’s²⁸ expulsion from Moldova also got comments denigrating Russians calling them “*bastard Russians*” or “*stinking Russians*”.

Hate speech is present in the readers’ comments of Moldova’s media services nevertheless journalist language is generally accurate and tolerant. The most serious instances of hate speech are still registered in the news items about LGBT and ethnic minorities.

Recommendation

- Authorities should intensify the efforts to prevent and combat hate speech at all levels.
 - National Audio-Visual Center should elaborate an efficient monitoring mechanism to identify and sanction discrimination in media.
 - Deliver periodical training to journalists with the focus on staff in charge of managing online content to help them identify messages and expressions containing hate speech on their websites.
-

²⁶ Acțiunea 2012 – Social movement for the reunification of Moldova and Romania

²⁷ Vladimir Plahotniuc – Leader of the Democrat Party.

²⁸ George Simion – Leader of the movement “Actiunea 2012”

Chapter III. HATE CRIMES

Moldova's long-going reform of justice sector, correlated with a high level of intolerance towards many marginalized groups lead to the development of vicious and inefficient practices of investigating discriminatory violence, even though the Government struggled in the last years to improve hate crime law.

Moldova has two major provisions in the Criminal Code, related to discriminatory violence. Article 176²⁹, "violation of citizens' equality" establishes:

"Any distinction, exclusion, restriction or preference in rights and freedoms of a person or a group of people, any support for discriminatory behavior in political, economic, social, cultural and other spheres of life on the grounds of race, nationality, ethnicity, language, religion or beliefs, sex, age, disability, opinion, political affiliation, and on any other criterion."

Article 77 of Criminal Code stipulates that the motivation of criminal offences by social, national, racial or religious hatred constitutes an aggravating circumstance. A number of provisions in the Criminal Code expressly contain racial motivation as an aggravating circumstance for the crime.

In 2015, the General Police Inspectorate adopted a methodic recommendation, called "*Issues related to methods and tactics of hate crimes investigation*". It contains the definition of hate crime, effects that these crimes could have on the victim and society, and a set of actions that the police officers could realize in order to investigate efficiently the case.

However, special provisions of the criminal code related to hate crimes, other antidiscrimination provisions and the methodic recommendation adopted by General Police Inspectorate are still not applied uniformly. In some cases, it seems that these provisions are not applied at all. For example, in 2016, Promo-LEX Association litigated the case of C.P. in Soroca district.³⁰

CASE STUDY C.P. — MEDIUM BODILY INJURY, BASED ON ETHNIC PREJUDICES.

C.P. is a young man of Roma ethnicity who was attacked by several people and severely beaten. The incident occurred in Bădiceni, Soroca, in the beginning of June 2016, when, according to C.P.'s statement, he was assaulted and subjected to physical violence because of hostile attitudes toward his ethnicity. According to witnesses and two of the suspects, the main aggressor started the conflict and attacked C.P. because he wanted to revenge on Roma for previous conflicts that his mother had with other Roma. C.P. claimed that attackers were extremely aggressive and beat him for almost an hour, even though he was alone and not resisting. He also claimed that aggressors swore and offended his ethnicity with such affirmation as: "dirty gypsy", "scab", "clean the village off gypsies".

Although C.P. was recognized as the injured party in a criminal case opened under Article 152 (2) of the Criminal Code (intentional infliction of medium bodily injury), investigators ignored the young man's statement that the violence against him was motivated by ethnic prejudice, as well as evidence supporting this statement. The investigations carried out so far, did not reflect in any way the possible motivation by racial/ethnic prejudice.

During the inquiry, C.P. told criminal investigators that he cannot read, and his lawyer asked to be notified about all procedural actions; nevertheless, investigators took a number of important actions in the presence of the injured party without first notifying his lawyer, including confronting suspects and telling two suspects that they were no longer under investigation. The court completely

²⁹ Criminal Code of Republic of Moldova, article 176

³⁰ <https://promolex.md/4001-practica-de-investigare-a-infractiunilor-motivate-de-ura-ramane-a-fi-neuniforma/?lang=en>

rejected the complaints of the injured party's attorney after examining them, finding that C.P. is not Roma because his mother is Moldovan, even though the injured party stated during the hearing that his father is ethnically Roma and that he personally identifies as and considers himself Roma.

The Soroca Court returned a verdict finding one of the attackers guilty according to art. 152 (1), or intentional moderate injury to bodily integrity or health but didn't accept the victim's lawyer arguments that the crime was motivated by hate and prejudices towards Roma. The sentence was unpaid community service and 5000 lei (250 Euro) in moral damages.

Promo-LEX expressed its concerns that criminal investigator do not thoroughly investigate racial and ethnic hatred as a cause and that the attitude of the authorities toward this type of crime is often ignorant.³¹ Moreover, Promo-LEX received information about similar cases, which happened in the monitoring period 2015-2016 and ended with no efficient investigation.

Despite recent authorities' efforts, the official number of registered allegations of hate crimes in the last years is extremely low. There are almost no cases that reached the courts and end with a sentence, only four since 2010.

Table 1. Allegation of hate crimes reported and examined by the courts in 2010-2016³²

Article	Year	Registered by the police							Sent to Court						
		2010	2011	2012	2013	2014	2015	2016	2010	2011	2012	2013	2014	2015	2016
176		5	1	0	0	6	2	0	0	0	0	0	1	0	0
346		0	1	5	4	5	1	0	0	0	0	0	0	0	0
145 (2), l		0	0	2	0	0	0	2	0	0	0	0	0	0	0
151, (2), i		0	0	1	0	0	0	0	0	0	1	0	0	0	0
151, (2), j		0	0	1	0	0	0	0	0	0	0	0	0	0	0
197, (2), b		2	2	1	0	1	3	2	0	1	0	0	0	0	0
222, (2), b		1	1	2	2	0	3	0	0	0	0	1	0	0	0
Total		56							4						

There are other relevant examples, which prove the fact that authorities' response to bias-motivated crimes is inadequate. One of these is the case of Salifou Belemvire, which is now pending at UN Committee for the Elimination of Racial Discrimination.

CASE STUDY SALIFOU BELEMVIRE³

Belemvire Salifou, who is from Burkina Faso and has lived in Moldova since 1985, was the victim of a hate crime. In 2013, he was accosted on a minibus by a young man who made insults to him related to his skin color.

He tried to ignore him, but that made the attacker more aggressive. The aggressor punched Mr. Salifou several time in the head and different parts of the body causing him injuries. Mr. Belemvire sought justice in all courts. The assailant was sentenced to a year and a half in prison for hooliganism.

Mr. Belemvire was unsatisfied with this sentence, and so complained to the Committee on the Elimination of Racial Discrimination. The case is yet to be considered.

³¹ Ibid.

³² Guidelines for investigation of hate crimes, Coalition of Nondiscrimination, Moldova, 2016, pg.51

It is impossible to determine the exact number of complaints registered on allegations of crimes motivated by racial or ethnic prejudices and hate due to the lack of a mechanism for disaggregated data collection by Moldavian authorities.³³ It is however unquestionable that these cases constantly happen.

An efficient mechanism of hate crimes investigation will very likely lead to the raise of trust in investigative authorities and increase of reporting these violations.

Recommendation

- The General Police Inspectorate and General Prosecutor's Office should adopt efficient measures to uniform investigative practices, ensuring that hate crimes against ethnic minorities are properly investigated.
 - The General Police Inspectorate and General Prosecutor's Office should introduce training for all law enforcement agencies to ensure that all hate crimes against ethnic minorities and foreign nationals are properly investigated.
 - The Government should implement the existing laws and policies; Authorities should monitor the efficiency of these measures.
-

³³ Concluding observations of the Committee on the Elimination of Racial Discrimination Republic of Moldova, CERD/C/MDA/CO/8-9, pct.8

IV. ROMA: DISCRIMINATION IN EDUCATION AND EMPLOYMENT

As a result of the persistent stereotypes, Roma are particularly excluded, suffering high levels of disadvantage and discrimination. Roma in Moldova face discrimination and disadvantage in employment, education, healthcare and access to social assistance.³⁴ Roma are consistently under-represented in decision-making at local and national levels and experience high levels of unemployment and illiteracy.

Poverty undermines the realization of the basic social rights of Roma in Moldova. The situation is compounded by lack of proactive measures of public authorities to mitigate the effects of poverty, which lead to social exclusion and intolerance. One elderly Roma person told Promo-LEX researchers:

*I am already old but know what life is about. I have children and grandchildren (...) Roma have nowhere to work, do not have money to sustain themselves, are illiterate (...) I see that my children, the grandchildren are looking for work – but nobody employs them. As soon as employers see a Roma, they tell them that they do not have any vacancy. I do not know why people bypass all Roma.*³⁵

EDUCATION

Low education rate is in a strong connection with Roma social status, poverty and intolerance, which lead to many prejudices and stereotypes. The above mentioned Study on the equality perceptions and attitudes in Moldova emphasizes that a number of 12 negative characteristics were mentioned, the shares of answers varying between 1.2% and 44.5%, with 44.5% of respondents considering that Roma people are thieves, 39.8% - liars, 33.4% - beggars.

Article 35 of the Constitution of Moldova provides for education that shall be ensured equally for everyone. Although there is limited data on levels of education disaggregated by ethnicity, according to the UNDP Report, enrolment rates for Roma children are lower than for non-Roma at all stages of education.³⁶ Primary education covers less than 70 per cent of Roma children and secondary education less than 50 per cent. This is in dramatic contrast with the situation of non-Roma, where enrolment rates for primary and secondary education are much higher. Literacy levels for Roma children are well below the national average and only very low numbers of Roma obtain a higher education degree. The reasons for poor attendance by Roma children include seasonal work, early marriage, poverty, homelessness, change of residence and parents' refusal to permit attendance.

The CESCR has articulated concerns about the limited availability and accessibility of schooling for Roma children living in remote rural settlements.³⁷ Furthermore, Roma women and girls face particular inequalities in education; 45% of Roma women have no formal education compared with 2% of non-Roma women and 33% of Roma men. In addition, only 52% of Roma girls are enrolled in primary education as compared with 84% of non-Roma girls and 55% of Roma boys; this difference widens at the secondary education stage, with only 14% of Roma girls enrolled as compared with 78% of non-Roma girls and 17% of Roma boys.³⁸

³⁴ Roma National Centre, Report on the situation on Roma Rights, 2011

³⁵ Interview with U., 17 August 2015, Danu Village, Glodeni District, held within the project "Empowering civil society in Moldova and Transnistria to combat discrimination through documentation, litigation and advocacy", implemented by the Equal Rights Trust and the Promo-LEX Association

³⁶ Sorin Cace, Vasile Cantarji, Nicolae Sali, Marin Alla, Roma in the Republic of Moldova, pg.22-23

³⁷ Committee on Economic, Social and Cultural Rights, Concluding Observations: Moldova, UN Doc. E/C.12/MDA/CO/2, 12 July 2011, Para 29

³⁸ Report From Words to Deeds, The Equal Rights Trust and Promo-LEX Association, 2016, pg. 48

Poverty plays a key role in limiting Roma access to education. Although primary and secondary education is free of charge and the 2011–2015 Action Plan³⁹ provided for free teaching materials and manuals for Roma children, the practice of informal payments for schooling is widespread. As a result of these indirect costs, large numbers of Roma children are forced to drop out of school before completion of compulsory education.⁴⁰

In addition to the statistical evidence of disparity in access to education, Promo-LEX identified examples of direct discrimination against Roma. One woman told Promo-LEX about the case of her daughter, Loghin Valentina Ivanovna. The woman stated that in 2013, her daughter went to submit the necessary document for kindergarten. The representative of the kindergarten told her that there were no free places, and that she must wait a year; the representative said that in urgent cases, a place could be found, at a cost of €100.⁴¹

In 2015, the UN Special Rapporteur on Extreme Poverty and Human Rights raised concerns that Roma children were being segregated in schools.⁴² Some teachers are opposed to teaching Roma alongside non-Roma children because Roma children are frequently absent, fall behind and require a special curriculum that will provide “*basic proficiency in writing, reading and how to count money*”.

This segregation contributes to the social isolation of Roma children. For example, in Otaci, a town whose school segregates Roma students, only 10 Roma have completed secondary schooling since 1954.⁴³ According to a report produced in 2014 by the Human Rights Information Centre, there were cases of segregation of Roma children between schools (*where Roma and non-Roma children study in different schools*). Also were reported cases of classes segregation (*where Roma and non-Roma children study in different classes*) and in the classroom (*where Roma children stay in the last rows and non-Roma children stay in the first rows of tables*).⁴⁴

The evaluation report on the implementation of the 2011–2015 Action Plan identified that the Ministry of Education and other relevant institutions had taken insufficient measures designed to create an inclusive and efficient educational system, based on the principles of equality, non-discrimination, and respect for diversity.⁴⁵ In 2016, Government adopted a new action plan for support of Roma population. One of the objectives that were set out is to integrate the social inclusion of Roma population in national policies, including in those related to education.⁴⁶

EMPLOYMENT

The majority of working age Roma in Central and South-Eastern Europe as well as in Republic of Moldova do not have a job and many have been out of work for a considerable length of time. Special Rapporteur on extreme poverty and human rights, Ms. Magdalena Sepúlveda Carmona, in her mission to Moldova concluded that Roma people, especially women, are unable to take up a job.⁴⁷

³⁹ Decision approving the 2011-2015 Action Plan for the Support of Roma from the Republic of Moldova (Government Decision No. 494 of 8 August 2011)

⁴⁰ Committee on the Elimination of Racial Discrimination, Tenth and Eleventh Periodic Reports: Republic of Moldova, UN Doc. CERD/C/MDA/10-11, 2 March 2016, Para. 173.

⁴¹ Interview with Loghina Elena, 17 June 2015, Durleși town, Chișinău, held within the project “Empowering civil society in Moldova and Transnistria to combat discrimination through documentation, litigation and advocacy”, implemented by the Equal Rights Trust and the Promo-LEX Association

⁴² Human Rights Council, Report of the Special Rapporteur on Extreme Poverty and Human Rights, Magdalena Sepúlveda Carmona, Addendum, UN Doc. A/HRC/26/28/Add.2, 2014, Para. 57.

⁴³ Promo-LEX Association, Human Rights in Moldova, 2012-2013, 2014, p. 206

⁴⁴ Human Rights Information Center, Preliminary Findings of Study on Discrimination in the School System in Moldova, 2014, p. 3

⁴⁵ Government of the Republic of Moldova, Evaluation Report on the Implementation of the 2011–2015 Action Plan for the Support of Roma People from the Republic of Moldova, 2016, p. 40, available at: http://www.bri.gov.md/files/3849_Studiu-HG-56_18.01.16.pdf.

⁴⁶ Government Decision No.734/2016 for approving of the 2016-2020 Action Plan on the support of Roma population in Moldova, Chapter I, Education

⁴⁷ Human Rights Council, Report of the Special Rapporteur on Extreme Poverty and Human Rights, Magdalena Sepúlveda Carmona, Addendum, UN Doc. A/HRC/26/28/Add.2, 2014, Para. 53

Recent studies indicate that Roma of working age are more likely to be unemployed than non-Roma. Although the 2011–2015 Action Plan sought to increase the employment rate among Roma, the National Employment Agency found that, as of 2015, of 1,100 Roma registered with the employment agencies, only 70 people were employed.⁴⁸ The employment rate for Roma was 21% of the employable population, compared with 46% of the non-Roma population.⁴⁹ In 2013, the ECRI found that difficulties in finding regular employment meant many Roma are forced either to accept jobs without signing a labor contract, to open their own businesses or to seek employment abroad.⁵⁰

Roma are disproportionately likely to be employed as unskilled or informal workers; a study conducted in 2012 found that 60% of Roma employees were working as laborers and only 5% were employed as skilled workers. As a result of the low levels of employment and the basic nature of work for which many Roma are employed, the average monthly income of a Roma family is about 1,000 lei (approximately €45 Euro), 40% less than the average income of 1,597 lei (approximately €70 Euro) of a non-Roma household.⁵¹

The case of Zapescu Grigore – the first case of discrimination on the basis of race or ethnicity in employment to be considered by the Moldovan courts, which is currently awaiting consideration by the Committee on the Elimination of Racial Discrimination – exemplifies the discrimination faced by Roma when seeking employment.

CASE STUDY ZAPESCU GRIGORE

Zapescu Grigore is a young Roma man who, in 2012 applied for a job as a waiter at a chain of pizza restaurants, Andy's Pizza, in response to a job announcement placed on the company's web page. The announcement did not include any requirements related to specific abilities or previous relevant experience. After a phone conversation with the company, he was invited to a job interview.

On 12 November 2012 he attended the interview, where he was asked to complete a form and had a short conversation with the human resources manager. Mr Grigore noted the reserved attitude towards him and considered this was on the basis of his ethnicity. He was told that a decision would be made by the end of the week and that if he were successful that someone would contact him. The restaurant did not contact him, however, he later learned that another young man, an ethnic Moldovan, who was interviewed immediately after him, was offered the job at the interview.

On February 6, 2013, Mr Grigore initiated a lawsuit against the restaurant alleging discrimination in employment on the grounds of ethnicity. The Central Court in Chişinău dismissed his complaint on 27 June 2014 and the Court of Appeal Chişinău dismissed the case on 22 January 2015. Mr Grigore appealed both decisions at the Supreme Court of Justice. On 16 September 2015, the Supreme Court of Justice declared his appeal inadmissible on the grounds that previous Courts had examined the cases and issued their decision in compliance with legal procedure.

On 4 April 2016, the case was submitted to the Committee on the Elimination of Racial Discrimination and was communicated to the Government in October 2016. The lawyer who represented Mr Grigore in the domestic proceedings alleges that the courts failed to reverse the burden of proof as required by the Law on Ensuring Equality, instead requiring Mr Grigore to bring evidence to prove the discrimination he experienced.

Interviews with Roma conducted by Promo-LEX found evidence of direct discrimination for those seeking employment. While the Law on Ensuring Equality has been in force since 2013, these interviewees provided evidence of blatant, overt discrimination by potential employers. For example, Liudmila Raiu, told about her experience seeking employment through the National Employment Agency:

⁴⁸ National Employment Agency, Activity Report for 2015, 2016, p. 16

⁴⁹ United Nations in Moldova, Roma in the Republic of Moldova: In Communities Inhabited Mainly by Roma, 2013, p. 36

⁵⁰ ECRI Report on the Republic of Moldova, Fourth monitoring cycle, 2013, p.127

⁵¹ Interethnic Relations Bureau of Moldova, Population Census, 2004, p.37

Two months ago, I registered with the National Employment Agency, so I could get a job and somehow feed my children. The Agency sent me to one company which did sewing and tailoring, but there was no interview and the boss of the company said as soon as he saw me that they did not take Roma to work there. This happens very often to Roma. We are told to our faces that “We don’t give jobs to Roma”. The companies take others – Moldovans, Russians – but not Roma. This is very hard for us. How should we raise our children? Become burglars? Or what? It feels very bad to be rejected so often – it is offensive.⁵²

The main reason for frequent violations of the Roma rights is the lack of efficient mechanisms and commitment, to implement existing policies and international obligations that Moldova undertook to perform.

Recommendation

- The Government should elaborate and adopt a mechanism for monitoring and evaluation of the implementation of the 2016-2020 Action Plan on the support of Roma population in Moldova
 - The government should allocate adequate funding to national policies and action plans aimed at eliminating all forms of discrimination against ethnic and national minorities ensuring inclusive education and equal opportunities in employment.
 - The Government should eradicate school segregation and increase efforts to integrate Roma children into mainstream schools.
-

⁵² Interview with Liudmila Raiu, 20 August 2015, Hîncești , Hîncești region, held within the project “Empowering civil society in Moldova and Transnistria to combat discrimination through documentation, litigation and advocacy”, implemented by the Equal Rights Trust and the Promo-LEX Association