

REPORT

of the
Council for Preventing and Eliminating
Discrimination and Ensuring Equality
for the
Universal Periodic Review
of the
Republic of Moldova,
40th Session

180, Stefan cel Mare Blvd., office 405

Chisinau, MD-2004

Republic of Moldova

www.egalitate.md

info@egalitate.md

+ 373 22 21 28 17

The Council for Preventing and Eliminating Discrimination and Ensuring Equality (Equality Council) is an autonomous para-judicial public authority, which began its activity on July 31, 2013 on the basis of Law no. 121 on Ensuring Equality of 25.05.2012. The mandate of the Council generally consists in the evaluation of legislation from the perspective of standards of non-discrimination, the examination of the complaints about alleged act of discrimination and establishment of offences with discrimination elements, the monitoring of way of implementation of law in the field, raising of awareness and consciousness of society in view of rooting out of all forms of discrimination¹.

I. Extending the protection of human rights through international instruments

(UPR 121.8 - 121.13; 122.1; 122.2; 122.7; 122.9)

1. Although through the National Human Rights Action Plan for 2018-2022² the Republic of Moldova has assumed by 2019 the signing and ratification of the International Convention for the Protection of All Persons from Enforced Disappearance, the Optional Protocol on Economic, Social and Cultural Rights, ratification of the Protocol no. 12 to the Convention for the Protection of Human Rights and Fundamental Freedoms and the ratification by 2020 of the Optional Protocol to the UN Convention on the Rights of the Child regarding the communication procedure, **these have not been achieved**.
2. On March 3, 2020, the draft law for the ratification of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence was registered in the Parliament of the Republic of Moldova but **it was not adopted**.
3. The National Human Rights Action Plan for 2018-2022 provides as actions for the year 2021 the signing and ratification of the UN Convention on the Protection of the Rights of All Migrant Workers and Members of their Families and the Optional Protocol to the UN Convention on the Rights of Persons with Disabilities, but until July 1, 2021, **no actions was taken to sign and ratify them**, although they were provided for in the Plan.
4. **Signing and ratification of the human rights protection instruments assumed through the National Human Rights Action Plan for 2018-2022.**

II. Anti-discrimination law and ensuring the independence of the Equality Council

(UPR 121.17; 121.38; 121.71; CESCR 9; 19; CEDAW 11; CERD 15)

5. The Ministry of Justice's initiatives to amend anti-discrimination law have failed. The first draft amendments, being approved by the Government and submitted to Parliament, after the 2019 parliamentary elections, was returned to the Ministry of Justice to resume the legislative procedure. The second draft amendments prepared by the Ministry of Justice in 2020, being an improved version, which extended the list of protected grounds and gave to the Council the power of investigating the acts of discrimination and sanctioning the failure to implement the recommendations, was rejected by a subdivision of the Government.

¹ Additional information is available on the Council's web page: www.egalitate.md

² https://www.legis.md/cautare/getResults?doc_id=110031&lang=ro

6. The full independence of the Council is jeopardized by the institutional financial dependence on the Ministry of Finance. The Council has no adequate number of staff, as the remuneration of the staff is less than of other civil servants from independent public authorities and ministries. In 2018, during the amendment process of the Law on activity of the Council, the Council requested the Ministry of Justice to introduce in the draft law the proposal to increase the number of staff, because compared to 2016, the number of complaints lodged increased by 60%³, and in 2020, this number even doubled. This request submitted by the Council was rejected by the Ministry of Finance, the Council to this day does not have certainty if the request to increase the number of staff will be approved or not.
7. **To improve existing legal framework on equality.**
8. **To improve institutional framework by ensuring the appropriate and independent financing of the Council.**
9. **To increase the number of staff and salaries of the staff up to the level appropriate for the human rights protection institution.**
10. **To grant Council with the appropriate investigation and sanctioning powers.**

III. Hate speech and hate crimes

(UPR 121.45; 121.62; 121.64; 122.20 -122.22; CERD 13 (a), (b))

11. Although amendments were drafted in 2016 to incriminate the acts motivated by hate and prejudice, they were not adopted. The need for the adoption of the draft law is determined by the fact that in the last two years, the number of hate speech cases has increased, this type of speech manifesting itself mainly in political context (52% of the total number of cases)⁴.
12. **Adopt the legal framework to ensure protection against all illegal actions motivated by hate and prejudice.**

IV. Sex-based and gender-based discrimination

(UPR 121.46 – 121.59)

13. Despite the measures taken by the state authorities⁵ to reduce gender inequalities, the issue of sex / gender discrimination persists in all spheres of life, with the number of cases identified by the Council increasing from 17.1% in 2017 to 20.2% in 2020. Harassment and instigation to discrimination are the forms of discrimination that predominate when discrimination against women is found.

³ http://egalitate.md/wp-content/uploads/2016/04/Brosura_en.pdf

⁴ https://promolex.md/wp-content/uploads/2021/01/Sumar_Raport-DIU_ENG.pdf

⁵ Repeal of the Government Decision no. 624/1993 on the approval of the Nomenclature of industries, professions and works with heavy and harmful working conditions, prescribed to women and the Norms of maximum demand, allowed for women when lifting and transporting weights manually. This act forbade women from holding certain positions.

14. The most pressing issues affecting women are: gender pay gap⁶; sexist advertising⁷; the refusal to employ people with family obligations⁸, the increase of the harassment at work; inefficient mechanism for sanctioning sexual harassment; the existence of provisions that compromise the conciliation of professional life with family responsibilities⁹; refusal to return to work due to maternity¹⁰, lack of health insurance of the uninsured woman during the care of the child until the age of 2 years¹¹; maintaining the names of some professions only in the masculine form.
15. **Promoting policies that support reconciliation of work and family responsibilities;**
16. **Modification of the normative framework that would impose the obligation to pre-evaluate advertising materials from the perspective of sexist elements, including the sanctioning of all such advertising materials;**
17. **Modification of the normative framework so that the person caring for a child up to the age of 2 is introduced in the category of persons insured by the state;**
18. **Transposing the name of the professions to both masculine and feminine form in the context of approving the Classifier of Occupations in the Republic of Moldova, in order to contribute to the eradication of gender stereotypes at work;**
19. **Ratification of ILO Convention no. 190 on the elimination of violence and harassment in the world of work, adopted on June 21, 2019 and the establishment of an effective mechanism to prevent harassment at work.**

⁶ In 2020, the gender pay gap reached 14.1%, compared to 12% in 2014. These salary differentiations throughout life contribute to an even greater difference in the stage of receiving the old-age pension. In 2020, this difference reached a value of 20.7%, https://progen.md/wp-content/uploads/2021/02/CPD_Inegalitate-salariale-2020.pdf.

⁷ (statistical data) + the problem of legislative vacuum regarding the obligation of early pre-evaluation from the point of view of avoiding sexism in advertising and probation with sanctioning only from the perspective of achieving economic interest

⁸ http://egalitate.md/wp-content/uploads/2016/04/Decizie_constatare_216_2018.pdf.

⁹ The Council found that the provisions governing the mechanism for calculating the maternity allowance for the child conceived during the previous childcare leave if certain sporadic activities are carried out during this period do not encourage procreation. In the reported situation, the allowance is calculated from the amount obtained from sporadic activities, and if it is lower than the calculation basis from which the previous allowance was established, it appears that for one child the allowance is higher and for the next it is lower.

¹⁰ http://egalitate.md/wp-content/uploads/2016/04/Decizie_constatare_95_2018.pdf

¹¹ The Council found that the vulnerability of the woman caring for a child up to 2 years of age is comparable to the situation of the person caring for a child with severe disabilities, and the national provisions, namely Art. 4 para. (4) of Law no. 1585/1998, treats these two categories of persons differently, the first not benefiting from health insurance from the state. It is worth mentioning that the vast majority of people caring for a child are women.

V. Discrimination against people with disabilities

(UPR 121.153 - 121.162)

20. Disability remains one of the top three protected grounds in the jurisprudence of the Council¹². The lack of access ramps in public buildings, in educational institutions, including the inaccessibility of public toilets, the existence of physical and attitudinal barriers are the problems faced by people with disabilities – these non-compliances affect the realization of the fundamental rights of persons with disabilities (to education, to free movement, to vote, to justice, etc.).
21. In the field of education, the problems that hinder the inclusion of children with disabilities are related to the non-compliance of methodologies on measures to reasonably accommodate the needs of pupils with disabilities¹³; insufficiency of teachers who know sign language; stigmatization of children with disabilities and lack of their involvement in extracurricular activities; obstructing access to higher education for people with hearing impairment¹⁴.
22. People with severe disabilities are disadvantaged compared to those with accentuated or moderate disabilities when calculating the income for social assistance. Because the severe disability pension is higher as a percentage than the accentuated and moderate one, this amount is considered a higher income - a disadvantage for the person with severe disability, because it decreases the score necessary for the granting of social assistance.
23. The law on the public pension system no. 156/1998 does not provide the right to re-examine the disability pension, as it is granted in the case of the old-age pension.
24. The situation of employment of people with disabilities through specialized enterprises is also worrying. The inefficiency of this mechanism is observed by reporting the value of state support to specialized enterprises to the number of people with disabilities employed by them, which shows that public money spent per person exceeds 3 to 7 times the average size of the annual salary of a person with disabilities paid within the given enterprises.¹⁵
25. As part of the non-discriminatory access of persons with disabilities to goods and services available to the public, the Council highlights their impossibility to benefit from free land lots for the construction of an individual dwelling and to have unhindered access to public

¹² In 2020, discrimination on the basis of disability was found in 20,24% of cases.

¹³ The regulation regarding the national baccalaureate exam, approved by the order of the Ministry of Education, Culture and Research no. 47/2018 - does not provide the possibility to increase the time for the foreign language test and for students with hearing impairment, being provided only for students with severe motor, neuromotor or visual impairments; does not provide for students with diabetes the possibility of having specific medical devices for insulin administration and insulin monitoring, a pen-insulin syringe, a blood glucose meter set or a continuous glucose monitoring system, and / or pump with continuous insulin infusion system, mobile phone - to transmit the data read from the glucose sensors, etc.

¹⁴ Foreign language discipline, in special education institutions for students with hearing impairments, is not taught until the end of the secondary school cycle. In the Framework Plan for primary, secondary and high school education, the year of studies 2020-2021, the teaching of the foreign language in special education institutions for students with hearing disabilities remains to be provided only in grades II-V.

¹⁵ General report on the situation in the field of preventing and combating discrimination in the Republic of Moldova for 2020, page 23, available at http://egalitate.md/wp-content/uploads/2016/04/CPEDAE_Raport_2020_revfin-1.pdf

space accompanied by guide dogs¹⁶.

26. **Developing and implementing a new strategy for the inclusion of people with disabilities and allocating sufficient financial resources to ensure the accessibility of infrastructure and information; establishing a mechanism to compensate people who have suffered due to lack of accessibility.**
27. **Hiring teachers who know sign language in all general education institutions where pupils from special schools for deaf children have been enrolled and taking action to promote sign language in the educational process.**
28. **Revision of the Regulations regarding the middle school graduation exam and the one regarding the national high school graduation exam, as well as the Instruction on the specific examination procedures for students with Special Education Needs, in order to ensure that all graduates have conditions created, which are appropriate to their health and particular needs during the school assessment.**
29. **Introduction of the foreign language as a discipline, in special education institutions for pupils with hearing impairments, to be taught until the end of the gymnasium cycle.**
30. **Amendment of Law no. 133/2008 on social assistance, so as to provide a formula for calculating the minimum guaranteed monthly income per family, depending on the level of disability and work capacity of the applicant's family members.**
31. **Amendment of Law no. 156/1998 on the public pension system, Art. 33 para. (1) letter c) so as to give the right to persons with disabilities to request the re-examination of the disability pension if they continue to work after they started to get pension.**
32. **Identification of a person-oriented mechanism to subsidize the creation and maintenance of jobs for people with disabilities, being applicable to all enterprises regardless of ownership.**
33. **Modification of Art. 20 of the Law on social inclusion of people with disabilities no. 60/2012, by introducing the obligation of the owners of public premises and / or managers, administrators of public transport, to display a symbol to indicate that guide dogs are allowed.**
34. **Modification of the national legislation so as to allow the free allocation to persons with disabilities of a land lot for the construction of an individual dwelling, in order to implement Art. 22 para. (6) of Law no. 60/2012 on social inclusion of people with disabilities.**

¹⁶ The Council's casuistry pointed out that although, at legislative level (Art. 20 para. (5) and Art. 22 para. (6) Law no. 60/2012), persons with disabilities are guaranteed these support measures, in practice they do not apply due to dissensions of interpretation by reference to other provisions.

VI. Discrimination against the elderly

(SR Machel Frost 85 p)

35. With the introduction, in October 2017, of provision y¹) to Art. 86 para. (1) of the Labour Code, employers were given the right to dismiss persons who have established their old-age pension, the beneficiaries of these types of pensions have become the target of arbitrary dismissals. Indirectly, this practice has a negative impact on women who have a lower retirement age, which leads to a smaller size of pension.
36. The elderly with health insurance provided by the state, have difficulties in accessing specialized outpatient and high-performance medical services due to poor organization and an insufficient volume of healthcare planned.
37. Other problems that hinder the access to medical and social services of the elderly are: the insufficient human resources for the provision of quality medical and social care; the location of health centers mainly in urban area; the need to bear the full cost of services and medicines, which are not always covered by the health insurance policy; informal payments, etc.
38. **Reviewing policies so as to encourage the older people to stay employed.**
39. **Modification of Art. 86 para. (1) letter y¹) of the Labour Code, so as to make it clear that the employer may resort to the application of these provisions only if it can be objectively and reasonably justified.**
40. **Ensuring that the whole range of medical services is covered by the health insurance policy for the elderly and it fully corresponds to the needs of this category.**

VII. Discrimination based on beliefs or religion

(UPR 121.130; CERD 17)

41. The problems of discrimination found by the Council regarding the manifestation of religion or beliefs concerned: the impossibility of validating the health insurance policy¹⁷; impossibility to submit declarations of assets and personal interests¹⁸; the use of indoctrinated educational materials with an emphasis in favor of a religion¹⁹; construction

¹⁷ The electronic system that allows the validation / suspension of the health insurance policy is designed by entering the personal numeric code (consisting of 13 digits). The Council's casuistry highlighted that for people who have given up the assignment of such a numeric code for reasons related to religious beliefs, no alternative is available to validate the health insurance policy.

¹⁸ In the Republic of Moldova there are a number of people who are required by law annually to submit a declaration of assets and interests. Failure to comply with this obligation may result in the sanction or even dismissal of the person. The system for declaring assets and interests is exclusively electronic, which works only in possession of an electronic key. The electronic key is issued only to persons who have a personal numeric code. Respectively, people who have given up on it, for religious reasons, risk being sanctioned and fired for lack of an alternative procedure for either reporting or assigning the electronic key based on another act. The issue was the subject of the referral by the People's Advocate to the Constitutional Court in 2019, which was declared inadmissible, stating that the Constitution does not guarantee a right to waive the identification number and, therefore, the referral does not meet the conditions of admissibility.

¹⁹ The textbook used for teaching religion in the discipline "Moral and spiritual education" contained an over-indoctrinated material from the perspective of a single religion, emphasizing its superiority.

of religious buildings on the territory of a kindergarten²⁰; the discomfort created by installing a crucifix in a public institution²¹.

42. **Amendment of the Law on the declaration of assets and personal interests no. 133/2016 so as to contain regulations for the subjects who have to submit the declaration but does not want to obtain/ have the personal numeric code (IDNP) because of their religious believes.**
43. **Ensuring the integration of the principles of diversity, equality and non-discrimination in the educational process and in elaboration of teaching materials.**
44. **Ensuring the secular character of education by not admitting the construction and placement of places of worship on the premises or on the territory of educational institutions, and not admitting the conduct of religious ceremonies on the premises or on the territory of educational institutions.**
45. **Ensuring the neutrality of the public service and the principle of secularism, by prohibiting, at the legislative level, the installation of religious symbols and the conduct of religious ceremonies within or on the territory of public institutions.**

VIII. Discrimination on the grounds of ethnic origin

(UPR 121.169-170; CERD 17)

46. The problems of discrimination on the grounds of ethnic origin found by the Council are: highlighting ethnicity in negative contexts; racial profiling, discourses instigating to discrimination²².
47. **Prohibition of racial profiling by law.**
48. **Ensuring the training of police officers regarding the non-admission of abusive behaviors with racist connotations patrolling or investigation.**

IX. Discrimination on the grounds of language

(UPR 121.15; 121.167)

49. Russian-speakers are not to use Russian before the courts. Although Russian language has an official status in two autonomous region, is mentioned in the Constitution and in the Law on the rights of persons belonging to national minorities and the legal status of their organizations no. 382/2001, some courts reject applications submitted in Russian without examination on the grounds that they are written in a “foreign language” and are not translated into the state language.
50. Law on the rights of persons belonging to national minorities and the legal status of their organizations no. 382/2001 at Art.12 paragraph (1) gives to the national minorities the right to address to the public authorities in Romanian or Russian and to receive an

²⁰ The Council found that a place of worship was built on the territory of an educational institution, children being involved in officiating rituals, contrary to the principle of ensuring secular education.

²¹ The Council reacted to the complaint of a person who reported the inadmissibility of tolerating the use of public institutions to promote and impose the religious beliefs of their leader, by installing religious symbols and organizing religious ceremonies.

²² which ethnicity is most affected

answer in the language in which they addressed. However, public authorities do not always fulfill their obligation thus creating impediments for national and linguistic minorities.

51. **Adoption of amendments interpreting the provisions of Art. 167 para. (1) letter a) of the Code of Civil Procedure, which would clearly specify that Russian is not a foreign language in the Republic of Moldova.**
52. **Guarantee to the persons belonging to national and linguistic minorities the effective exercise of the right to receive a reply in the language in which they addressed to public authorities.**