

Discriminatory Ill-Treatment of Women in Moldova

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Introduction

One of the most serious human rights problems in the Republic of Moldova at present is the prevalence of a range of abuses which can be characterised as discriminatory ill-treatment.² Instances of discriminatory ill-treatment are often not recognised as such by the Moldovan public authorities. The ill-treatment involved is not seen as resulting from the victims' membership of certain groups, whether they be women, persons with disabilities, LGBT persons, or another vulnerable group. Even when this is recognised, the lack of experience or understanding of such cases results in public prosecutors being unfamiliar with the legislation applicable in such cases, while investigators may not have the skills and knowledge necessary to build the strongest possible cases in support of the victims. Such a failure to understand fully the nature of these types of cases hampers attempts to secure adequate legal redress for the victims involved. More generally, it is no doubt clear that the task of preventing discriminatory ill-treatment in society is all the more difficult so long as the phenomenon itself is unknown to, or misunderstood by, the public authorities.

Being a party to most of the main human rights treaties of the United Nations and the Council of Europe, Moldova still falls behind in its efforts to effectively prevent all forms of ill-treatment within its jurisdiction. In re-

cent reports on the human rights situation in Moldova, UN treaty bodies and Special Rapporteurs have highlighted that gender, race, disability, religion and perceptions based on stereotyping were all causes of ill-treatment.³ This widespread problem is compounded by a lack of relevant expertise within the civil society sector. There are very few non-governmental organisations in Moldova with experience of representing victims of discriminatory ill-treatment, or of lobbying the public authorities on this issue.

This article examines the specific phenomenon of discriminatory ill-treatment against women in Moldova, with reference to research and casework carried out recently by The Promo-LEX Association (Promo-LEX).⁴

1. Obligations under International and Regional law

Moldova has ratified several major international and regional human rights instruments. It is a signatory to eight of the nine core UN human rights treaties,⁵ with the one exception being the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families. Moldova has also yet to ratify the International Convention for the Protection of All Persons from Enforced Disappearance.

The most relevant of Moldova's international obligations under these treaties relating to the discriminatory ill-treatment of women are found in the International Covenant on Civil and Political Rights (ICCPR), the Convention Against Torture and Inhuman and Degrading Treatment and Punishment (CAT) and the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). In addition, Moldova has also adopted significant obligations relating to discriminatory ill-treatment under the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR).

In 1993, Moldova acceded to the ICCPR. Under Article 2 of ICCPR, Moldova is obliged to guarantee all rights under the Covenant "without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status", and under Article 26, Moldova is obliged to "prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status". Gender equality is further protected by Article 3 which obliges States Parties to ensure "the equal rights of men and women to the enjoyment of all civil and political rights". Article 7 of the ICCPR sets out Moldova's obligations regarding the prevention of torture and cruel, inhuman or degrading treatment or punishment. In its General Comment 28, the Human Rights Committee provides guidance for the interpretation and application of Article 3 of the ICCPR.⁶ It provides examples of gender-based discriminatory ill-treatment which include female infanticide, the burning of widows and dowry killings,⁷ domestic and other types of violence against women, including rape, forced abortion or forced sterilisation,

genital mutilation⁸, trafficking and forced prostitution.⁹

Moldova acceded to CEDAW in 1994. Under Article 2 of CEDAW, Moldova has condemned discrimination against women and agreed to "pursue by all means and without delay a policy of eliminating discrimination against women" through undertaking various measures listed in that article. General Recommendation 19 issued by the Committee on the Elimination of Discrimination against Women addresses the issue of Violence against Women.¹⁰ It confirms that "gender-based violence is a form of discrimination that seriously inhibits women's ability to enjoy rights and freedoms on a basis of equality with men",¹¹ and that the full implementation of CEDAW requires States Parties to take positive measures to eliminate all forms of violence against women.¹² General Recommendation 19 explains that gender-based violence "includes acts that inflict physical, mental or sexual harm or suffering, threats of such acts, coercion and other deprivations of liberty".¹³ It also clarifies that the obligation of States Parties to protect individuals from gender-based violence is not restricted to protection from violence perpetrated by or on behalf of the state. States Parties "may also be responsible for private acts if they fail to act with due diligence to prevent violations of rights or to investigate and punish acts of violence, and for providing compensation".¹⁴ General Recommendation 19 also provides examples of gender-based violence, including:

i) Family violence and abuse, forced marriage, dowry deaths, acid attacks, female circumcision;¹⁵

ii) Trafficking and exploitation of the prostitution of women;¹⁶

iii) Sexual harassment in the workplace;¹⁷

iv) Compulsory sterilisation and abortion;¹⁸ and

v) Family violence, including battering, rape, other forms of sexual assault, mental and other forms of violence, which are perpetuated by traditional attitudes.¹⁹

In conclusion to General Recommendation 19, the Committee on the Elimination of Discrimination against Women makes a series of specific recommendations, including:

“(a) States Parties should take appropriate and effective measures to overcome all forms of gender-based violence, whether by public or private act;

(b) States Parties should ensure that laws against family violence and abuse, rape, sexual assault and other gender-based violence give adequate protection to all women, and respect their integrity and dignity. Appropriate protective and support services should be provided for victims. Gender-sensitive training of judicial and law enforcement officers and other public officials is essential for the effective implementation of the Convention;

(c) States Parties should encourage the compilation of statistics and research on the extent, causes and effects of violence, and on the effectiveness of measures to prevent and deal with violence;

(d) Effective measures should be taken to ensure that the media respect and promote respect for women;

(...)

(g) Specific preventive and punitive measures are necessary to overcome trafficking and sexual exploitation;

(h) States Parties in their reports should describe the extent of all these problems and the measures, including penal provisions, preventive and rehabilitation measures that have been taken to protect women engaged in prostitution or subject to trafficking and other forms of sexual exploitation. The effectiveness of these measures should also be described;

(...)

(k) States Parties should establish or support services for victims of family violence, rape, sexual assault and other forms of gender-based violence, including refuges, specially trained health workers, rehabilitation and counselling.”²⁰

In 1995, Moldova acceded to CAT and, in so doing, assumed obligations to protect individuals within its territory from treatment which meets the thresholds of “torture”²¹ or “cruel, inhuman or degrading treatment”.²² As part of the commitment to protect individuals within its territory from such treatment, Moldova has also assumed obligations to impose appropriate penalties against those responsible for carrying out such treatment.²³ In its General Comment 2, the UN Committee against Torture states that:

“Non-discrimination is included within the definition of torture itself in article 1, paragraph 1 of the Convention, which explicitly prohibits specified acts when carried out for ‘*any reason based on discrimination of any kind.....*’. The Committee emphasises that the discriminatory use of mental or physical violence or abuse is an important factor in determining whether an act constitutes torture.”²⁴

In addition to its obligations under the aforementioned international treaties, as a signa-

tory of the ECHR,²⁵ in relation to discriminatory ill-treatment, Moldova is obliged to secure the following rights to individuals within its jurisdiction:

a) Protection from being subjected to torture or to inhuman or degrading treatment or punishment;²⁶ and

b) The right to enjoy all of the rights and freedoms set out in the convention “without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status”.²⁷

2. Current Situation in Moldova

2.1 Domestic Law

Moldova lacks a comprehensive non-discrimination legislation which provides definitions of direct and indirect discrimination, as well as provisions on adequate sanctions, compensation and on shared burden of proof. However, in relation to discrimination against women, the Parliament of Moldova approved the Law No. 5-XVI on Ensuring Equal Opportunities for Men and Women (Law No. 5-XVI) on 9 February 2006.²⁸ Article 1 of Law No. 5-XVI stipulates that the purpose of the law is to ensure equal rights to women and men in political, economic, social, cultural and other spheres of life - rights guaranteed by the Constitution of the Republic of Moldova²⁹ - in order to prevent and eliminate all forms of gender-based discrimination. Law No. 5-XVI has therefore become the legal platform for the development of a national mechanism for the integration of gender perspectives at all levels, and also for the implementation of the National Plan of Action on Gender Promotion in 2006-2009, which was adopted in August 2006.³⁰

Law No. 5-XVI provides definitions relevant to discrimination of women, including the “comprehensive approach to equality between women and men”;³¹ “affirmative action”;³² “gender-based discrimination”;³³ “direct discrimination on grounds of sex”;³⁴ “indirect discrimination on grounds of sex”;³⁵ “equal opportunities”;³⁶ “equality between women and men”;³⁷ “gender”;³⁸ “sexual harassment”;³⁹ “sex”;⁴⁰ and “gender unit”.⁴¹ Article 5 of Law No. 5-XVI prohibits discrimination on grounds of sex. Article 15 places responsibility for ensuring equality between women and men with the following state entities: (i) Parliament; (ii) the Government; (iii) the Governmental Committee for equality between women and men; (iv) the Ministry of Health (specialised body); and (v) the gender units of other central and local administrative authorities. Law No. 5-XVI does not, however, envisage any role for the Moldovan courts in ensuring equality between men and women.

Article 24 of Law No. 5-XVI sets out the liability for gender-based discrimination. Whilst it confirms that persons subject to forms of gender-based discrimination are entitled to compensation, and that those responsible for committing gender-based discrimination are liable according to law, it does not give the courts a role in this process. As such, it is notable that there are no known cases in which any woman has ever been recognised by a court or other authority as having suffered any form of gender-based discrimination in Moldova and, therefore, Law No. 5-XVI has not led to the development of a well-established legal practice in the area of gender-discrimination.

The government of Moldova recently took the decision to harmonise its national legislation so as to better include and promote the principles of gender equality, and to prohibit

any form of gender-based discrimination. In 2010, it created a working ministerial group with the participation of national experts. A draft law to amend various pieces of national legislation is currently under consideration,⁴² although there has been no indication of when this law will be enacted.

2.2 Key Issues

2.2.1. Domestic Violence

In 2007, UNICEF experts stated that every third woman in Moldova has suffered violence within her family at least once. The aggressors are the husbands or ex-husbands in more than 73% of cases, and fathers in 14% of cases. In many cases, women divorce their aggressive husbands. 60% of divorced women have recognised that they have suffered from violence at home, as compared to 28% of married women.⁴³

Domestic violence in Moldova is a complex phenomenon generated by psychological problems and aggravated by educational, economic and social factors. Victims of domestic violence are mainly women. According to the most recent report by the International Centre for Women's Rights Protection and Promotion "La Strada", which is based on data gathered from La Strada's Trust Line for Women, most calls from victims are received from women who have been subjected to domestic violence by their husbands (66%), former husbands (10%), children (6%), parents (3%), parents-in-law (2%), lovers (1%), brothers (1%) and other family members (2%).⁴⁴

From the total number of victims, around 45% are from socially vulnerable strata (for example, both spouses are unemployed or seasonally employed, or do not have a pro-

fession, or are students), whilst 40% of victims are in an average financial position and 15% of the victims are in a very good financial position. This data shows, therefore, that domestic violence is a widespread phenomenon in Moldova and occurs throughout the economic spectrum.

According to the La Strada report referred to above, irrespective of their status, education, place of residence and age, victims of domestic violence have some common characteristics. They frequently come from violent families, have been witnesses or victims of violence in their family of origin, have little to no aspirations or future plans, display low self-esteem, and have manifested a high level of victimisation in their personalities (through being highly dependent upon the aggressor and therefore being unable to proceed with changes).

The conclusions of the analysis show that in Moldova domestic violence has a strong gender character reflected in the popular mentality that domestic violence is not a public issue, but rather a private matter. It is perceived as a natural part of family life and of normal lifestyle. There is even a culture of gender violence, which distorts the perception of future generations about the family – the abusive model is transmitted from family to family and from generation to generation. Common expressions in Moldova, such as: "A woman unbeaten is like a house unswept"; "Woe to the house where the hen sings"; and "People should know who wears the hat in this house", reflect the acceptable norm in many families. Many of the victims of violence, being educated in families where violence was a real phenomenon, are not aware that there is another way of behaviour or other ways to solve conflicts.

2.2.1.1. Relevant Legislation

According to the Note to Law No. 45-XVI on Preventing and Combating Domestic Violence (Law No. 45-XVI)⁴⁵ which came into force on 18 September 2008, “preventing and combating domestic violence are a part of the National Policy for Family Protection and Support, and represent a major public health problem”. Law No. 45-XVI is aimed at strengthening, protecting and supporting the family, to ensure respect for fundamental principles of law in the family, and to ensure equal opportunities between women and men in their human right to a life without violence.

In Article 2 of Law No. 45-XVI, family violence is defined as: “any action or deliberate inaction, except for self-defence or defence of others, manifested verbally or physically, by physical, sexual, psychological, spiritual or economic abuse, or by infliction of material or moral damage, committed by a family member on another family member/members, including against children and against the common or personal property”. Article 3 of Law No. 45-XVI confirms that the protection from domestic violence provided by this legislation applies as follows:

“(1) This law applies to: the aggressor and the victim citizens of the Republic of Moldova and to foreign citizens and stateless persons who live in the Republic of Moldova.

(2) This law applies:

a. In cases of cohabitation – persons in relationship of marriage, divorce, intimate cohabitation, guardianship and tutorship, their direct or collateral relatives, relatives’ spouses, or other persons who are maintained by the such persons;

b. In cases of separate habitation – persons in a relationship of marriage; their children, including adopted children; those born outside the marriage; those under guardianship or tutorship; or other persons who are maintained by such persons.”

Therefore, Law No. 45-XVI offers protection to “family members” in both formal and informal family relationships.

Article 15 of Law No. 45-XVI introduced the Protection Order - the legal instrument by which the court can apply measures which offer protection to the victims of domestic violence. Protection Orders are intended to provide emergency protection to the victim, such as: (i) ordering the aggressor to leave the joint residence; and/or (ii) prohibiting the aggressor from approaching the victim (including a distance-specific restraining order). Prior to Law No. 45-XVI being adopted, the only option available to the victim was to look for refuge which often forced them to leave their home and children.

Since entering into force, however, Law No. 45-XVI has been somewhat redundant, as there is no mechanism for implementing its requirements. This is partly because the Criminal Code of the Republic of Moldova does not include provisions on domestic violence. Domestic violence was interpreted as a private issue, and victims were regarded as “women having family problems”. Such acts of violence were sometimes prosecuted under the general criminal law provisions regarding the infliction of bodily harm or assault, or under administrative law. Depending on the gravity of the harm, however, the aggressor could be punished with only a fee or community service. In many cases, however, spouses would be “reconciled” and the aggressor would escape any punishment at all.

Further, none of the modifications set out in Article 15 of Law No. 45-XVI, which included the establishment of a Protection Order regime, have been integrated into civil procedural norms. Consequently, an examining magistrate could refuse to issue a Protection Order for the victim. In the period since Law No. 45-XVI was enacted, for the first time in Moldovan history, Protection Orders have been issued by courts in order to protect victims of domestic violence. There have been in the region of 60 such orders issued to date, primarily in the region of central Moldova, and this certainly contrasts remarkably with the fact that there are no recorded judgments by the courts under Law No. 5-XVI. The Protection Orders which have been issued, however, are rarely implemented and enforced in practice for reasons including the incompetence and the attitudes of the implementing authorities.

2.2.1.2. Recent Developments

On 3 September 2010, a new Law No. 167 entered into force as an amendment to certain other pieces of legislation (including the Criminal Code, the Code of Criminal Procedure and Law No. 45-XVI).⁴⁶ Law No. 167 aimed to solve the problems of non-implementation of Law No. 45-XVI. Perhaps most significantly, Law No. 167 inserted a new provision in the Criminal Code – Art 201¹ on domestic violence,⁴⁷ according to which domestic violence is established as a criminal offence and described as:

“(…) intentional action or inaction that is manifested physically or verbally, committed by a family member on another family member; causing physical pain, slight bodily injury, distress, material or moral damage. For family violence causing consequences for the victims’ bodily integrity and

health, the aggressor may be subjected to 15 years imprisonment especially if the victim died, attempted suicide or suffered serious bodily harm as a result of the violence.”

A Protection Order for victims of domestic violence can now be issued both in the criminal and civil proceedings. Under the civil procedure set out in Article 15 of Law No. 45-XVI, the court is required to issue a Protection Order within 24 hours of receiving the claim. Under the criminal procedure, the investigating body is obliged to submit a request to the judge to examine the application for a Protection Order within 24 hours. Under both procedures, the court may oblige the aggressor: (i) to leave the house, regardless as to whether it is a common property or not; (ii) to stay away from the victim's whereabouts and maintain a distance that would ensure the victim's security; (iii) to not contact the victim; (iv) to not visit the victim at a workplace or place of residence; and (v) to abstain from keeping and carrying firearms.

Additionally, during criminal proceedings, the court may require the aggressor to undergo a medical examination to determine whether he is dependent on alcohol and/or drugs and, where necessary, to submit to medical treatment, including participation in a detoxification program or a counselling program for offenders. In civil proceedings, the accused may incur costs to cover the repair of any damaged property, the medical treatment and the maintenance of any minor children.

Whilst the laws in Moldova which aim to prevent and combat domestic violence appear to provide sufficient protection mechanisms, their application in practice remains a cause for serious concern. The key issues relating

to the enactment of protection mechanisms are set out below.

2.2.1.3. Key Issues Regarding Domestic Violence

Based on the Promo-LEX caseload, the most problematic issues relating to domestic violence against women in Moldova are:

(1) Failure to enforce the Protection Order: One of the most frequently encountered problems in the domestic violence area is the failure to enforce the Protection Order by the relevant public authorities, who by law are responsible for its implementation in practice. In many cases, the local social worker and the police remain unaware of the existence of the Protection Order, so they do not have the knowledge necessary to enforce the order. In many cases where the police do know about the domestic violence and the Protection Order, they choose to limit their involvement to informing the aggressor about the existence of the order, even when the Protection Order text imposes an obligation on the aggressor to leave the house. The explanation commonly given by the police for failing to enforce such orders is the lack of space or alternative accommodation to which the aggressor could move.

(2) Delayed start of criminal prosecution: Although domestic violence has been a crime under the Criminal Code since 3 September 2010, many petitions submitted to the prosecution on behalf of the victims have yet to be resolved. While many petitions have been filed, the ongoing subjection of the victims to domestic violence continues.

(3) Refusal to issue Protection Orders: There are cases when courts have refused to issue a Protection Order because the aggressor

does not recognise the acts of violence, and also presents witnesses who submit statements in their favour. In these situations, the statements of the victim are often disregarded. Further, despite Law No. 45-XVI referring to a range of violent behaviours, including physical, sexual, psychological, spiritual and economic violence, courts often associate domestic violence only with physical violence. Other forms of violence, such as psychological or economic violence are often deemed to be a normal part of a family routine. Victims therefore face a hostile attitude from the courts, particularly from judges, which often results in the credibility of the reported offence being further disregarded, and therefore the risk which victims face is not minimised.

(4) Delay in issuing Protection Orders: The essence of the Protection Order is to provide immediate protection for victims of domestic violence, and this is the justification for the 24-hour time-limit imposed under both the civil and criminal procedures. In many cases, delays mean that a Protection Order is not granted until, for example, two weeks after the application is made, which is often too late to prevent the victim from being subjected to further violence.

(5) Role of active non-governmental organisations (NGOs): While there are cases in which Protection Orders have been issued, these are often issued primarily as a result of the intervention of several active NGOs, supported and assisted by the United Nations Population Fund (UNFPA), the International Organisation for Migration (IOM) and, among others, the Prosecutor's Office in the Causeni district of Moldova.⁴⁸ Protection orders have only been issued in a limited number of district jurisdictions, namely Causeni, Falesti, Rezina, Anenii Noi, Vulcanesti and Chişinău.

It is a point of concern that the courts issuing Protection Orders for victims of domestic violence are mostly in those jurisdictions where an activist NGO is present.

(6) Reports of UN Special Rapporteurs: In each of their 2009 reports, Manfred Novak (UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment and punishment) and Yakin Ertürk (UN Special Rapporteur on Violence against Women) highlighted that the failure of the law enforcement bodies in Moldova to respond to allegations of domestic violence discriminates against women in their access to an effective remedy and may constitute complicity in such ill-treatment.⁴⁹ In Moldova, crimes of violence against women are not perceived as a problem warranting legal intervention, unless they result in serious injury.

2.2.1.4. Examples

The following examples from the Promo-LEX caseload are provided as illustrations of the findings listed above:

(1) Case X: In this case, Promo-LEX represents a 71-year-old woman, with the aim of stopping domestic violence against her. Over the last year, numerous complaints have been made to the police and the Prosecutor's office, and requests have been made to the Social Assistance Department and the Ministry of Internal Affairs. Two Protection Orders have been obtained. The first was issued on 22 June 2010 for a period of 30 days, and the second was issued on 23 July 2010 for a period of 90 days. Neither of these Protection Orders was enforced. Following the complaints made on behalf of the victim by Promo-LEX, certain police officers were sanctioned and subsequently resigned. However, the officers replacing them have similarly not ensured the enforcement of the Protection Orders.

The aggressor has not been removed from the victim's house and he continues to beat her. A new application for a Protection Order was recently submitted along with a request for the Prosecutor to give an explanation of the measures being taken. The Prosecutor's office insists in its responses that the aggressor suffers from schizophrenia and cannot be brought to account. However, the attempts of the victim's lawyer to ensure that the aggressor be housed in a psychiatric unit – given the danger he continues at present to the victim – have been met with no response. This case, therefore, involves a victim of 71 years of age who continues to be beaten while the authorities are hesitating to take any meaningful action.

(2) Case Y: Promo-LEX was instructed on this case in June 2010. The victim is divorced but she continues to share an apartment with her ex-husband. Her ex-husband has been abusing her for many years. On 22 June 2010, her ex-husband beat her very badly. She managed to escape and went to the police station. The policemen accompanied her home and took the aggressor to the police station, prepared a report on the violation and then released him. He returned home and beat her even more savagely. The cries for help were heard by a neighbour who called the police and the medical services. The following day, the victim wanted to file a complaint with the Police Department, but they refused to register it. Promo-LEX applied for the issuance of a Protection Order which was issued on 30 June 2010 for a period of three months. The aggressor did not abide by the terms of the Protection Order, and the authorities failed to enforce those terms. However, the victim refused to submit a complaint on the non-execution of the Protection Order. She also refused to proceed with a criminal case against the aggressor on charges of domestic violence as stipulated in Article 201¹ of the

Criminal Code. It is possible that the victim's refusal to pursue a criminal case was a result of her fear of the aggressor.

(3) Case Z: The victim in this case divorced her husband in 2003 but continues to share a flat with him. The court divided the flat into quarters; the victim, her two daughters and her ex-husband were each allocated one quarter of the flat. The kitchen, bathroom and corridor remain as common spaces where incidents of violence continue to occur against the victim. Promo-LEX lodged a request with the police to address the court for a Protection Order in which the victim's ex-husband would be forbidden to insult and use force against her. On 22 June 2010, the district court issued a Protection Order. However, the violence continued and the ex-husband ignored the Protection Order. Therefore, on 22 September 2010, a complaint was submitted to the Prosecutor of the district aiming to initiate a criminal investigation on the issue of domestic violence, in accordance with Article 201¹ of the Criminal Code, and the complaint was examined by the police. Promo-LEX also submitted a request to the Social Assistance Department requesting information on the social worker's actions to ensure enforcement of the Protection Order and to prevent further acts of violence. The response received by Promo-LEX on 11 November 2010 confirmed that a case study had been opened, and the situation will be monitored over time.

Following a further violent incident against the victim by her ex-husband and his mistress on 29 November 2010, another complaint was made to the Ministry of Internal Affairs. On 10 December 2010, a Protection Order was urgently requested on the basis that the previous Protection Order had not been executed and the victim continued to suffer violence at the hands of her ex-hus-

band. On 13 December 2010, the victim's lawyer was informed that the request of 10 December 2010 had not been recorded on the court's computer. Since then, further complaints have been made on behalf of the victim and Promo-LEX lawyers continue to work on this case.

2.2.1.5. Conclusions

The cases described above clearly illustrate that despite the enactment of domestic legislation which provides for domestic violence to be addressed both as a criminal offence and in civil proceedings, the victims of such ill-treatment often struggle to obtain a Protection Order and, in the majority of cases, the process takes longer than the 24 hours stipulated by the Criminal Code. In the majority of cases, those Protection Orders which are issued are ignored by the aggressors, while the responsible authorities fail to execute and enforce them.

At a press conference held on 3 November 2010 on the recent legislative changes regarding domestic violence, the Prosecutor-General, Mr Valeriu Zubco, declared that in cases where victims of domestic violence face indifference and lack of professionalism on the part of the police, Prosecutors and social workers, they should complain to the superior authorities such as the Prosecutor-General and the Ministry of Internal Affairs.⁵⁰ At the press conference, the Prosecutor-General also stated that during the past two years, his offices had registered about 300 petitions and requests relating to domestic violence.

Promo-LEX does not consider the approach of the Prosecutor-General to be a constructive one and does not believe that it is likely to help in preventing and combating domestic violence. It is not acceptable to place the

responsibility for supervision of the activities of state authorities squarely upon the shoulders of the victim. It is instead necessary for the Prosecutor-General, the Ministry of Internal Affairs and the Ministry of Labour, Family and Social Protection to train professionals in the field of domestic violence and carry out internal controls to monitor how the legal norms on domestic violence are implemented. Services for the victims of domestic violence must become more proactive, flexible and, if necessary, mobile, and the establishment of specialised services for aggressors must remain a priority.

There is, however, reason to be positive as important steps have been, and continue to be, made in relation to the problem of domestic violence in Moldova as follows:

(1) The Government continues, with the support of UNFPA, to improve the normative framework related to domestic violence. For example, (i) on 22 February 2010, it approved the Regulations for the Shelters for Domestic Violence Victims; and (ii) it has developed the profession-specific guidelines on implementation of domestic violence legislation for social assistants, medical staff and police and the Standards for the Shelters for Domestic Violence Victims. The latter two documents are currently pending governmental approval.

(2) In order to address the lack of services for perpetrators of domestic violence, the first rehabilitation centre for such perpetrators has been established in the Drochia district of Moldova. It is envisaged that this centre will provide psychological, information, medical and social services to perpetrators of domestic violence.

(3) The above efforts are complemented by nationwide awareness-raising events, aimed

at creating a non-tolerant attitude towards domestic violence; advocacy events are being conducted by La Strada.

2.2.2. Sexual Violence

According to the most recent statistics provided by the Ministry of Internal Affairs, during 2010, in Moldova, 504 cases of sex crimes were reported, categorised as follows: (i) 323 cases of rape (a 32.4% increase from 2009); and (ii) 181 cases of sexual violence (a 39.2% increase from 2009).⁵¹ This data does not necessarily show an increase in the number of actual incidents of sex crimes, but it does show an increase in the number of such incidents which were reported. According to the same source, of the total number of 504 cases of sex crimes reported in Moldova during 2010, only 251 (50%) were sent for court examination. 139 of the cases resulted in a cessation of criminal proceedings and 112 remained unresolved or still remain in the process of examination.

2.2.1.1. Relevant Legislation

Crimes of sexual violence are stipulated as criminal offences under the Criminal Code. According to Article 171 of the Criminal Code:

“Rape, i.e. sexual intercourse committed by the physical or mental coercion of the person, or by taking advantage of the victim’s incapacity to defend himself/herself or to express his/her will, shall be punished by imprisonment for 3 to 5 years.”⁵²

Law No. 167 included an amendment to Article 171 of the Criminal Code, according to which rape was recognised as an act that can also take place in the family.⁵³ As a result, marital rape became recognised as a criminal offence in Moldova.

Article 172 of the Criminal Code defines “Violent Actions of a Sexual Character”, the most severe cases of which can be punished by lifetime imprisonment, as follows:

“Homosexuality or satisfying sexual needs in perverted forms committed through the physical or mental coercion of the person or by taking advantage of the person’s incapacity to defend himself/herself or to express his/her will shall be punished by imprisonment for 3 to 5 years.”

Law No. 167 also includes a new provision according to which violent actions of sexual character can also take place in the family.⁵⁴

Law No. 45-XVI defines “sexual violence” as:

“[A]ny violence of a sexual nature or any illegal sexual conduct within the family or other interpersonal relationships, such as marital rape, prohibiting any methods of contraception, sexual harassment; any unwanted and imposed sexual behaviour; forced prostitution; any illegal sexual conduct in relation with a minor family member, including caresses, kisses and other unwanted touching of a sexual nature; other actions with similar effects”.⁵⁵

One of the most problematic issues relating to the problem of sexual violence in Moldova is the way in which the crimes of “rape” and “violent actions of a sexual nature” are investigated. The prosecution focuses on the behaviour of the victim, not the aggressor, and the investigation therefore seems to focus on collecting evidence to undermine and contradict the victim’s story. “The Methodological Guidelines on the Investigation of Sexual Crimes” issued on 15 August 2008 by the Prosecutor-General’s Department of Criminal Investigation included a set of practical recommendations for prosecutors in the prosecution of sexual offences. According to

these guidelines, the prosecution must demonstrate the victim’s physical resistance to the act. The assumption, therefore, is that the victim has consented to the sexual act unless there is evidence of physical resistance. Further, the guidelines include the suggestion that in some cases, such as those incidents where sexual intercourse involves a teenager, some sort of physical force may be necessary given the “shyness” of the teenager. The implication here, therefore, is that even where evidence of physical resistance or undue force is present, this will not in all cases be sufficient to prove the crimes of either “rape” or a “violent action of a sexual nature”.

These guidelines demonstrate the problematic approach to the prosecution of rape and sexual violence in Moldova which is further demonstrated by the example provided below.

2.2.1.2. Example

The case of *I.G. v Moldova* (Application no. 53519/07) was lodged with the European Court of Human Rights (ECtHR) on 6 October 2007.⁵⁶ This case provides a useful example of the problematic way in which cases of sexual violence are dealt with in Moldova.

The applicant (I.G.) was born on 10 December 1989. At the time of the alleged events, she was 14 years old. On the evening of 21 August 2004, I.G. accompanied V.R. to a disco bar. V.R. was 23 years old at the time. The applicant and V.R. had known each other for many years and had met before on different occasions. I.G. recalls consuming approximately 100ml of vodka with V.R. On their way back home, V.R. raped I.G. in his car and allegedly threatened her with death should she tell anyone what had happened. I.G. told her mother that she had been raped by V.R. and her mother subsequently confronted

V.R. at his house and he admitted having had sex with her daughter. I.G.'s mother therefore reported the rape on her daughter's behalf at the police station of Singerei district on 25 August 2004. On 26 August 2004, the Prosecutor's Office of Singerei district opened a criminal investigation of the alleged crime of rape committed "knowingly" on a minor (pursuant to Article 171(2)(b) of the Criminal Code). After three years of examination of the case by the domestic courts, V.R. was cleared of the charges on the basis that the medical examination of I.G. had found no evidence of bruises, injuries, blood or sperm.

I.G. sought psychological help after the conclusion of proceedings in the domestic courts. Given the absence of government-provided specialised services for victims of sexual assault, in the period of July to August 2007, she was seen by a psychiatrist from a local non-governmental organisation "Memoria"⁵⁷ working on issues of sexual violence. An excerpt from I.G.'s medical file, issued on 18 August 2007, confirms that she was suffering from a post-traumatic disorder caused by a combination of: (i) the sexual assault; (ii) the failure of the courts to render an effective conviction; and (iii) the public humiliation to which I.G. was subjected during the domestic proceedings in her case.

In 2007, Promo-LEX lawyers took I.G.'s case to the ECtHR. I.G. claims that her right not to be subjected to inhuman and degrading treatment under Article 3 (Prohibition of torture) and the right to respect for her private life under Article 8 (Right to respect for family and private life) had been violated by the State's failure to observe its positive obligations to effectively investigate and prosecute crimes of sexual violence. In particular, I.G. argues that the domestic courts' failure to assess effectively the issue of consent of a minor fell short of the state's positive obligation to enact criminal law provisions effectively

in punishing the crimes of sexual assault of minors. I.G. also argues that she had no effective domestic remedy at her disposal to seek reparation and redress for the violation of her rights. She submits that there has been a violation of Article 13 (Right to an effective remedy) taken in conjunction with Articles 3 and 8 of the Convention.

I.G. further submits that insistence on corroborative evidence of resistance violated her right to non-discrimination under Article 14 (Prohibition of discrimination) taken together with Article 8 of the ECHR. I.G. argues that the corroboration requirement represents discrimination against women because it is based on erroneous assumptions about the reliability of women's ability to report rape and because it does not reflect the reality of rape as a crime, therefore resulting in ineffective prosecution of genuine cases. The case was communicated to the Government of Moldova in September 2009. Promo-LEX Lawyers submitted a Reply to the Government's Observations in February 2010 and I.G. currently awaits the judgment of the ECtHR.

The case of the I.G. clearly illustrates the above-mentioned problems which feature in investigations of claims of rape in Moldova. Promo-LEX hopes that this case will result in: (i) the progressive development of the Moldovan criminal justice system in investigating rape cases through the abolition of the discriminatory procedure in which corroborative evidence is sought; and (ii) the development of the ECtHR's jurisprudence with regard to the state's positive obligations in protecting women from violence and discrimination.

2.2.3. Sexual Harassment

In its General Recommendation 19, the Committee on the Elimination of Discrimination

against Women refers to sexual harassment in the workplace as a form of gender-specific violence,⁵⁸ stating that such conduct “can be humiliating and may constitute a health and safety problem”.⁵⁹ Harassment becomes a form of discrimination “when unwanted conduct related to any prohibited ground takes place with the purpose or effect of violating the dignity of a person or of creating an intimidating, hostile, degrading, humiliating or offensive environment.”⁶⁰ Given that sexual harassment can violate the dignity of a person, or create a degrading environment for an individual to work in, such discriminatory behaviour may meet the threshold of “cruel, inhuman or degrading treatment”.

While “sexual harassment” is defined under Law No. 5-XVI as a form of gender-based discrimination, and Article 10(3)(d) of the same law requires that employers must “undertake measures to prevent sexual harassment of women and men at their place of work, as well as to prevent persecution for submitting complaints of discrimination to the competent body”, there is no provision for enforcement of such obligations or for victims of sexual harassment to seek redress. There is, therefore, no civil procedure in Moldova whereby victims of sexual harassment can challenge such discriminatory ill-treatment.

Law No. 167, however, introduced “sexual harassment” as a sexual crime under Article 173 of the Criminal Code. “Sexual harassment” is defined as “the manifestation of physical, verbal or nonverbal behaviour that violates the dignity or creates an unpleasant, hostile, degrading and humiliating atmosphere with the purpose of coercing another person to engage in sexual intercourse or other unwanted sexual actions committed by threat, coercion or blackmail”.⁶¹ Sexual harassment can be punishable by: (i) a fine of 300 to 500 conventional units; (ii) unpaid

community work from 140 to 240 hours; or (iii) imprisonment for up to three years.

The inclusion of sexual harassment in the Criminal Code is, however, likely to remain unworkable. This is owing to the fact that the criminal law of Moldova abides by the principle of presumption of innocence; once a person has been recognised as a suspect, the onus lies with the victim to produce evidence sufficient to prove that the crime was committed. The reversal of the burden of proof is only possible in civil law. The particular nature of the acts which amount to sexual harassment makes it difficult for the victim to meet the burden of proof required for the criminal prosecution of such acts. Sexual harassment is often committed in the absence of witnesses and without any written documentation. Therefore, by addressing the problem of sexual harassment through the criminal law, which will often result in a direct conflict between the respective evidence of the victim and the aggressor, it is difficult to secure a conviction and therefore obtain justice for the victim. Further, this can also lead to the re-victimisation of the victim and the withdrawal of the complaint. Once a complaint is withdrawn by the victim, there follows a cessation of the criminal procedure and no redress is provided to the victim.

Four important observations can be made regarding the factors that perpetuate the occurrence of sexual harassment. Firstly, many women do not understand what sexual harassment amounts to in practice. In particular, women have difficulty in understanding that sexual harassment can take place in schools and places of work. Secondly, many women are unaware of the national legislation which seeks to prevent the occurrence of sexual harassment, and more significantly, how such legislation seeks to address and punish such ill-treatment. This is partly explained by the

fact that the new criminal legislation on sexual harassment has only recently come into force and a well-established legal practice in this field has yet to develop. Thirdly, managerial staff in workplaces throughout Moldova is not aware of the problem of sexual harassment and what their responsibilities are in this regard. Employers should be encouraged to take a firm stance against sexual harassment in the workplace, and to develop internal guidelines as to how such ill-treatment should be handled. Finally, cases of sexual harassment would be more appropriately addressed under a civil procedure where the burden of proof could be reversed, and the onus is less upon the victim to “prove” that she has experienced this form of discriminatory ill-treatment.

3. Conclusion

Based on the above analysis of current practices and legislation, along with the examples provided from the Promo-LEX case-load, it is evident that women in Moldova continue to be subjected to discriminatory ill-treatment. Whilst this article focused on three examples of such ill-treatment - domestic violence, sexual violence and sexual harassment - it is also important to acknowledge that these examples do not represent the full range of discriminatory ill-treatment which women face in Moldova. Coercive sterilisation and forced abortions in mental institutions and elsewhere, as well as trafficking of women for sexual exploitation are further practices of discriminatory ill-treatment in Moldova which have not been addressed in this article.

The international treaties to which Moldova is a signatory, alongside recent developments in national legislation, demonstrate that the government is willing, in theory, to accept responsibility for the protection of women

from gender-based discriminatory ill-treatment. However, the case studies included in this article demonstrate that the legal framework is not adequately enforced. The relevant enforcement bodies are either unwilling to comply with the legislative procedures or are unaware of them. It is also notable that in a high number of cases there is an ingrained attitude of indifference towards, and in many cases an acceptance of, discriminatory ill-treatment within those bodies responsible for investigating and ultimately upholding the relevant laws.

In order to address this situation, it is imperative that the relevant state authorities take a stronger managerial approach to dealing with non-execution of Protection Orders and against gender-based and sexual violence. It is also highly important to increase awareness among law enforcement officers of the new legislative provisions on domestic violence, gender equality, non-discrimination and sexual harassment through effective training. The Moldovan government should also adopt a stronger approach to dealing with officials who fail, or refuse, to implement the legislated procedures.

Finally, civil society should take responsibility for: (i) monitoring the activities of the relevant state authorities in implementing the legal framework; and (ii) educating the general public on the changes to the law and how it affects rights. This should include targeting those most at risk and informing them of the paths to legal redress which are available to them. Civil society should also put pressure on the wider international community to be more proactive in offering assistance to Moldova in its implementation of the new legal provisions and also in ensuring that the Moldova government fulfils its obligations under the international treaties to which it is a party.

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² For the purposes of this article, “discriminatory ill-treatment” means any act of torture or cruel, inhuman or degrading treatment or punishment, as defined in the UN Convention against Torture and interpreted by the Committee against Torture, when such an act is related to a particular characteristic of the victim, such as racial or ethnic origin, colour of skin, religion, sex, sexual orientation, disability, etc., which is, or should be, a prohibited ground of discrimination.

³ UN Human Rights Council, *Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Manfred Nowak: Mission to the Republic of Moldova*, A/HRC/10/44/Add.3, 12 February 2009; UN Human Rights Council, *Report of the Special Rapporteur on violence against women, its causes and consequences, Yakin Ertürk: Mission to the Republic of Moldova*, A/HRC/11/6/Add.4, 8 May 2009; UN Committee on the Elimination of Racial Discrimination, *Concluding Observations of the Committee on the Elimination of Racial Discrimination: Moldova*, CERD/C/MDA/CO/716 May 2008; UN Committee on the Elimination of Discrimination against Women, *Concluding comments of the Committee on the Elimination of Discrimination against Women: Republic of Moldova*, 25 August 2006.

⁴ In 2010, The Promo-LEX Association launched a project in partnership with The Equal Rights Trust entitled “Strengthening Legal Protection from and Raising Awareness of Discriminatory Ill-Treatment in the Republic of Moldova, including the Transnistrian region”. Funded under the European Instrument for Democracy and Human Rights, the project aims at helping to prevent ill-treatment resulting from discrimination against various vulnerable groups. The project activities commenced in March 2010 and will be completed in September 2011. They include: (i) taking strategic litigation cases which involve elements of discriminatory ill-treatment; (ii) providing training to human rights lawyers and activists on discriminatory ill-treatment; (iii) translating and disseminating *The Equal Rights Review* in Romanian; (iv) producing a report on discriminatory ill-treatment in Moldova; and (v) undertaking advocacy actions aimed at promoting non-discrimination principles and norms in Moldova.

⁵ The nine core UN human rights treaties are as follows: International Covenant on Civil and Political Rights, G. A. Res. 2200A (XXI) (1966) (ICCPR); International Covenant on Economic, Social and Cultural Rights, G. A. Res. 2200A (XXI) (1966) (ICESCR); Convention on the Elimination of All Forms of Racial Discrimination, G. A. Res. 2106A (XX) (1965) (CERD); Convention on the Elimination of All Forms of Discrimination against Women, G. A. Res. 34/180 (1979) (CEDAW); Convention against Torture and Other Cruel, Inhuman or Degrading Treatment and Punishment, G. A. Res. 39/46 (1984) (CAT); Convention on the Rights of the Child, G.A. Res. 44/25 (1989) (CRC); Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, G.A. Res. 45/158 (1990) (CRMW); Convention on the Rights of Persons with Disabilities, G. A. Res. 61/106 (2006) (CRPD); and the International Convention for the Protection of All Persons from Enforced Disappearance, G.A. Res. 61/177 (2006) (CPPED).

⁶ UN Human Rights Committee, *General Comment 28: Equality of rights between men and women (article 3)*, CCPR/C/21/Rev. 1/Add. 10, 29 March 2000.

⁷ *Ibid.*, Para 10.

⁸ *Ibid.*, Para 11.

⁹ *Ibid.*, Para 12.

¹⁰ UN Committee on the Elimination of Discrimination against Women, *General Recommendation 19: Violence against Women*, 11th Session, 1992.

¹¹ *Ibid.*, Para 1.

¹² *Ibid.*, Para 4.

¹³ *Ibid.*, Para 6.

¹⁴ *Ibid.*, Para 9.

¹⁵ *Ibid.*, Para 11.

¹⁶ *Ibid.*, Para 13.

¹⁷ *Ibid.*, Para 17.

¹⁸ *Ibid.*, Para 22.

¹⁹ *Ibid.*, Para 23.

²⁰ *Ibid.*, Para 24.

²¹ “Torture” is defined in Article 1 of CAT as “any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions”.

²² CAT, Article 16.

²³ CAT, Articles 2 and 4; See also UN Committee against Torture, *Keppa Urra Guridi v Spain*, Communication No. 212/2002, U.N. Doc. CAT/C/34/D/212/2002, 17 May 2005.

²⁴ UN Committee against Torture, *General Comment 2: Implementation of Article 2 by States Parties*, CAT/C/GC/2, 24 January 2008, Para 20.

²⁵ Moldova signed the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) in July 1995 and subsequently ratified it in September 1997.

²⁶ ECHR, Article 3.

²⁷ ECHR, Article 14.

²⁸ Law on ensuring equal opportunities for women and men, No. 5-XVI of 9 February 2006, *The Official Monitor of the Republic of Moldova*, No. 47-50/200 of 24 Mart 2006. An English translation is available at: <http://www.iwraw-ap.org/laws/genderequalitylaws.htm>.

²⁹ Article 2 of The Constitution of The Republic of Moldova, adopted on 29 July 1994. An English translation is available at: <http://confinder.richmond.edu/admin/docs/moldova3.pdf>.

³⁰ Government of The Republic of Moldova, *National Plan of Action on Gender Promotion in 2006-2009*, 25 August 2006, available in Romanian at: http://www.google.md/url?sa=t&source=web&cd=1&ved=0CBAQFjAA&url=http%3A%2F%2Fmopsfc.gov.md%2Ffile%2Fegalitategen%2Fplan_%2520nat_ega_md.doc&rct=j&q=Planului%20na%C5%A3ional%20%E2%80%9EPromovarea%20egalit%C4%83%C5%A3ii%20genurilor%20umane%20%C3%AEn%20societate%20pentru%20perioada%202006-2009%E2%80%9D%2C&ei=LHjTeD5HY6XOuS9jdc&usg=AFQjCNG46_8Ge3vtQEOjIN4gdTSSjWvMA&cad=rja.

³¹ See above, note 30, Article 2: “Comprehensive approach to equality between women and men’ - to integrate the principle of equality between men and women in policies and programs in all areas and at all levels of adoption and implementation of decisions.”

³² *Ibid.*: “Affirmative action’ - special temporary measures to accelerate the achievement of real equality between women and men, intended to eliminate and prevent discrimination or disadvantages resulting from the attitudes, behaviours and structures.”

³³ *Ibid.*: “Gender-based discrimination’ - any difference, exception, restriction or preference aiming or impairing the limitation or nullifying the recognition, the performance and implementation based on equality between women and men of human rights and fundamental freedoms.”

³⁴ *Ibid.*: “Direct discrimination on grounds of sex’ - any action that in similar situations discriminates a person against another person of another sex, including because of pregnancy, motherhood or fatherhood.”

³⁵ *Ibid.*: “Indirect discrimination on grounds of sex’ - any action, rule, criterion or practice identical for women and men, but with an unequal effect or result to one sex, except for affirmative action.”

³⁶ *Ibid.*: “Equal opportunities’ - lack of barriers to participation based on equality between women and men to activities in the political, economic, social, cultural and other spheres of life.”

³⁷ *Ibid.*: “Equality between women and men’ - equal rights, equal opportunities in the exercise of rights, equal participation in all spheres of life and equal treatment of women and men.”

³⁸ *Ibid.*: “Gender’ - the social aspect of relations between women and men, which manifests itself in all spheres of life.”

³⁹ *Ibid.*: “Sexual harassment’ - any form of physical, verbal or nonverbal behaviour of a sexual nature which violates dignity or creates an unpleasant, hostile, degrading, humiliating or offensive environment.”

⁴⁰ *Ibid.*: “Sex’ - all the anatomic and physiological characteristics that distinguish human beings as women and men.”

⁴¹ *Ibid.*: “Gender unit’ - a specialist tasked with duties to promote equality between women and men in the institution in which it operates.”

⁴² A version of the draft law (which is currently untitled) in Romanian is available at: <http://mmpsf.gov.md/file/proiecte/Proiect%20Lege%20final.pdf>.

⁴³ UNICEF Moldova, “Fiecare a treia femeie din Republica Moldova a fost cel puțin o dată victimă a violenței în familie” (author’s translation: “Every third woman in Moldova has been at least once a victim of domestic violence”), undated, available in Romanian at: <http://www.hr.un.md/news/210/>.

⁴⁴ International Centre for Women’s Rights Protection and Promotion “La Strada”, *Trust Line for Women: Analytical Operating Report*, 2010, available at: http://www.lastrada.md/publicatii/ebook/Raport_linia_fierbinte_2010_EN.pdf.

⁴⁵ Law on Preventing and Combating Family Violence, Law Number 45-XVI of 1 March 2007, *The Official Monitor of the Republic of Moldova*, No. 55-56/178, 18 March 2008. This law entered into force on 18 September 2008. An English translation is available at: http://www.coe.int/t/dghl/standardsetting/violence/Moldovan%20law%20on%20family%20violence%20_EN.pdf.

⁴⁶ Parliament of The Republic of Moldova, Law No. 167, available in Romanian at: <http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=335828>.

⁴⁷ The Criminal Code of the Republic of Moldova, No. 985-XV dated 18 April 2002, as amended.

⁴⁸ The current prosecutor of the Causeni district, Ion Oboroceanu, is the former president of a human rights NGO - Centrul de Drept Causeni - and he was involved as a lawyer in obtaining one of the first Protection Orders in Moldova in 2009. Further information about Ion Oboroceanu is available at: <http://www.europalibera.org/content/article/1867714.html>.

⁴⁹ UN Human Rights Council, see above, note 3.

⁵⁰ Press conference given by Valeriu Zubco (Prosecutor-General), “Preventing and combating domestic violence through the work of Prosecutors”, 2 November 2010, available in Romanian at: <http://www.jurnaltv.md/ro/news/ordonanta-de-protectie-179699/#>.

⁵¹ Ministry of Internal Affairs of the Republic of Moldova, *Operational information on the situation regarding delinquency in Moldova during 2010*, available in Romanian at: <http://www.mai.md/content/6945>.

⁵² See above, note 47, Article 171.

⁵³ See above, note 47, Article 171(2)(b).

⁵⁴ See above, note 47, Article 172(2)(b).

⁵⁵ See above, note 45, Article 2.

⁵⁶ *I. G. v Moldova*, Application no. 53519/07, lodged with European Court of Human Rights on 6 October 2007.

⁵⁷ For further information, see website of Rehabilitation Centre for Torture Victims “Memoria”, available at: <http://www.memoria.md/?lang=en>.

⁵⁸ See above, note 10, Para 17.

⁵⁹ See above, note 10, Para 18.

⁶⁰ The Equal Rights Trust, *Declaration on Principles of Equality*, 2008, available at: <http://www.equalrightstrust.org/endorse/index.htm>.

⁶¹ See above, note 47, Article 173.