2. PATTERNS OF DISCRIMINATION AND INEQUALITY

This part of the report discusses the principal patterns of discrimination and inequality in the Republic of Moldova (Moldova). It seeks to identify the typical manifestations of discrimination and inequality as they are experienced by people in Moldova. It is based on original direct testimony collected from a wide range of individuals, together with analysis of research undertaken by authoritative sources in the last decade. We have sought to corroborate all facts and provide accurate attribution of all statements.

This part of the report does not seek to provide an exhaustive picture of all the observed patterns of discrimination. Rather, it aims to provide an insight into what appear to be the most important issues pertaining to the most significant discrimination grounds in the country. In respect of each ground, the report discusses the ways in which people experience discrimination and inequality in a range of areas of life, including as a result of discriminatory laws, the action of state actors carrying out public functions, exposure to discriminatory violence, and discrimination and inequality in areas such as employment, education and access to goods and services.

The research for this report found substantial evidence of discrimination and disadvantage arising on a range of different grounds. Thus, this part of the report discusses discrimination and inequality arising on the basis of: (i) race and ethnicity, with a particular focus on discrimination experienced by Roma; (ii) sexual orientation and gender identity; (iii) health status; (iv) gender; (v) disability; (vi) religion; (vii) age; and (vii) language.

2.1 Discrimination on the Basis of Nationality, Race and Ethnicity

The Republic of Moldova is required to prohibit discrimination against persons on the basis of their race, colour and national origin in the enjoyment of all civil, political, economic, social and cultural rights guaranteed under the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR) by virtue, respectively, of Article 2(1) of the ICCPR and Article 2(2) of the ICESCR. In addition, Moldova is also required by Article 26 of the ICCPR to ensure that “the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground”, including on
the basis of race, colour and national origin. The UN Committee on Economic, Social, and Cultural Rights (CESCR) has also stated that Article 2(2) of the ICESCR extends to a prohibition of discrimination on the basis of ethnic origin.\(^1\) In addition, as a state party to the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), Moldova is required to prohibit all forms of discrimination on the basis of race, colour, descent, national, and ethnic origin. Further, the European Convention on Human Rights (ECHR) requires Moldova to prohibit discrimination based on race, colour and national origin in respect to all Convention rights, by virtue of Article 14.

According to the most recent census, the ethnic composition of Moldova is as follows: Moldovans (75.8%), Ukrainians (8.4%), Russians (5.9%), Gagauz (4.4%), Romanians (2.2%), and Bulgarians (1.9%), while the remaining ethnic groups each constitute less than 1% of the population.\(^2\) The situation of Moldova’s different minority ethnic groups varies significantly ranging from those (such as the Roma) who suffer significant discrimination and disadvantage to those (such as the Russians) who are essentially integrated into the population and reportedly suffer little, if any, discrimination or disadvantage. According to a \textit{Study on Equality Perceptions and Attitudes in the Republic of Moldova}, over half of respondents stated that they would accept minority groups such as ethnic Russians and Romanians as a member of their extended family,\(^3\) thus indicating a relatively high level of social acceptance. A majority of respondents had a positive view of ethnic Russians living in Moldova.\(^4\)

During the Soviet period, questions of ethnicity raised complex issues. The identification of an ethnic group was a construction exercise by academics serving political expediency. As explained by Anatoly Khazanov:

\begin{itemize}
  \item [4] \textit{Ibid.}, p. 43.
\end{itemize}
In the Soviet Union not only the status of ethnic minority but also sometimes even the official recognition of the very existence of one were matters of arbitrary decision by the state. The all-union and republic powers abolished and created nationalities. The number of nationalities figuring in the Soviet population census and therefore receiving official recognition was constantly decreasing. There were 194 nationalities in 1929, 109 in 1939, 106 in 1970, and 101 in 1979. However, for the 1989 census, the Institute of Ethnography of the Academy of Sciences of the USSR proposed a list of 128 existing nationalities.\(^5\)

As this statement indicates, the determination of what was considered a “nationality” in Soviet Moldova was a political one, rather than an assessment based on self-identification. During this period, a person’s “nationality” was not a free choice but was determined by the “nationality” of their parents. If both parents had the same “nationality”, their children would be designated as having this “nationality”; if the parents were of different “nationalities”, the child would choose, at age 16, between the two.\(^6\) Once determined, a person’s “nationality” would be recorded on their internal passport and was usually fixed for life. The internal passport was a compulsory document introduced in 1934 for all Soviet citizens. The “nationality” recorded in one’s internal passport was considered one of the “three aspects of the structure and functioning of the neo-Stalinist state” in ethnic relations, whereby “internal passports [were] used by the regime in order to maintain almost impassable boundaries between nationalities”.\(^7\) A person’s “nationality” was also reflected in official state records regarding birth, education and employment.\(^8\)

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Initially, this system of ethnic registration was used to promote the rights and career advancement of members of certain national minorities, and, indeed, during the 1930s individuals were encouraged to declare non-Russian identities. However, starting in the 1930s and 1940s, the position of the Soviet authorities changed: whole “nationalities” began to be viewed with suspicion. With a system of strict national/ethnic registration already in place, it was relatively straightforward for the state to subject entire groups, for example Germans and Jews, to repression.

According to the current legislation of the Republic of Moldova, passports and identity cards include information about citizenship, but there is no obligation to declare ethnicity. As such, in modern Moldova, ethnicity is determined by self-identification.

**Legal and Policy Framework**

As discussed in detail in Part 3 of this report, in 2012 Moldova enacted the Law on Ensuring Equality which prohibits discrimination on the grounds of *inter alia* race, colour, ethnic origin and language.

Article 6(1) of the Contravention Code provides that persons who have committed offenses (contraventions) are equal before the law and public authorities and are subject to liability irrespective of *inter alia* race. At the same time, the Contravention Code does not establish contraventions committed on the basis of bias associated with race or other characteristics as aggravating circumstances. Article 77 of the Criminal Code provides that the commission of a crime due to social, national, racial, or religious hatred shall be considered an aggravating circumstance. The European Commis-
sion against Racism and Intolerance (ECRI) has expressed its concern that grounds of colour, language and national or ethnic origin are omitted from Article 77.\(^\text{17}\) Several other provisions of the Code provide for an aggravated sentence if the relevant offence was motivated by national, racial or religious hatred.\(^\text{18}\) Article 346 of the Criminal Code prohibits incitement to racial hatred.

Furthermore, Article 176 of the Code prohibits any violation or restriction of an individual’s rights on the basis of inter alia race, nationality and ethnicity, where the relevant violation was either committed by a person holding a position of responsibility, or resulted in considerable prejudice.\(^\text{19}\) Neither Article 176 nor Article 346 includes the grounds of colour or national origin.

Since 2007, there have been no convictions for racial discrimination brought under Articles 176 and 346 of the Criminal Code.\(^\text{20}\) Racially motivated criminal incidents are not investigated as hate crimes but rather tend to be prosecuted under the hooliganism provisions of the Criminal Code (Article 287) or under the Code of Administrative Offences.\(^\text{21}\) This appears to be because police are “reluctant to register complaints of discrimination.”\(^\text{22}\)

In addition, as the state has noted in its reporting to CESCR, Moldova has attempted “to harmonise interethnic relations and eliminate all forms of discrimination based on race, colour, national or ethnic origin”\(^\text{23}\) through the adoption and implementation of targeted policy measures.


\(^{18}\) See Criminal Code of the Republic of Moldova (Code No. 985 of 18 April 2002), Articles 145 (intentional homicide), 151 (serious bodily injury), 152 (moderate bodily injury), 197 (intentional damage to or destruction of property), and 222 (desecration of tombs).

\(^{19}\) See section 3.2.3 below for discussion of the criminalisation of acts of discrimination under Article 176 of the Criminal Code.

\(^{20}\) See above, note 17, Para. 28.

\(^{21}\) Ibid.

\(^{22}\) Ibid., Para. 42.

2.1.1 The Roma

The Roma are an ethnic group found mostly in Europe, who have lived in the territory making up modern-day Moldova since the 15th century. There is a lack of official and contemporary data on the number of Roma living in Moldova. The 2004 census indicated there were 12,271 Roma in the state, but data collected by the Bureau of Interethnic Relations in 2012 suggests that the figure is closer to 20,000, while Roma leaders claim that the figure could be as high as 250,000. Thus, there is an enormous disparity between official records and the self-assessment of the Roma community. Although Roma are dispersed across the entire country, populations are concentrated in the cities of Chișinău, Otaci, Soroca, Bălți, Edinet, Drochia, Riscani, Orhei, Calarasi, Straseni, Nisporeni, Comrat, Ceadir-Lunga and Tiraspol.

The Committee on the Elimination of Racial Discrimination has articulated concerns about the lack of precise and reliable data on the actual ethnic make-up of the population in Moldova, in particular with regard to the Roma minority. There is also a notable absence of disaggregated data on the effective realisation of rights under ICESCR for marginalised groups such as the Roma. One major cause of the absence of official statistics is that data collection methodol-

24 Academy of Science of the Republic of Moldova. Roma/Gypsies In Moldova: Social Ethno, Multicultural, Traditional Historical Community (1414-2014), 2014, p. 42, available at: https://www.academia.edu/11168487/romii_%c5%a2iganii_din_republica_moldova_comunitate_etnosocial%c4%82_multicultural%c4%82_istorico-tradi%c8%9aional_%c4%82_1414-2014_.

25 See above, note 2.


ogy either does not allow for self-identification as Roma, with Roma instead being allocated to the “other” category\textsuperscript{31} or being forced to identify as “Tsigan” ("Gypsy").\textsuperscript{32} The absence of such data is concerning as it is not possible to develop and implement policies to ensure the equal participation of Roma without accurate data on the number and situation of the population.

**Social Attitudes towards Roma**

Historically, Roma have been subject to prejudice, stigma and associated high levels of discrimination. Thousands of Roma were victims of the Holocaust\textsuperscript{33} and during World War II there were mass expulsions of Roma from Romania to Transnistria and parts of modern-day Ukraine.\textsuperscript{34} Following World War II, “extensive efforts were made to assimilate the Romani minority throughout the former Soviet Union”.\textsuperscript{35} Nevertheless, there was systematic underdevelopment of Roma-dominated areas and public opinion about Roma remained largely negative, with stereotypes about “the Wild Gypsy” remaining prevalent.\textsuperscript{36} Following the collapse of the Soviet Union, the privatisation of land resulted in further disadvantage to Roma living in rural areas, as they frequently lived in informal settlements without ownership rights.\textsuperscript{37} The government has stated that more than half (56\%) of Roma households located in rural areas did not receive agricultural land during the privatisation of collective farms.\textsuperscript{38}

\begin{itemize}
\item \textsuperscript{31} See above, note 29.
\item \textsuperscript{32} *Ibid*. This report uses the term “Roma” throughout, except where citing others. The word Tsigani (gypsy) is often used pejoratively. Whilst some Roma may refer to themselves as such, the term “Roma” is a self-ascribed term, adopted “by the majority of groups generally ascribed as Tsigani”. See Bunescu, I., *Roma in Europe: The Politics of Collective Identity Formation*, Routledge, 2016, p. 18.
\item \textsuperscript{34} See above, note 27, p. 18.
\item \textsuperscript{35} *Ibid*.
\item \textsuperscript{36} *Ibid*.
\end{itemize}
Today, negative social attitudes and stereotypes about Roma persist;\(^39\) in a 2014 study, nearly two thirds of respondents applied stereotypes including “gypsy”, “black”, “swarthy”, “thieves”, and “liars” to Roma.\(^40\) In society at large, to be called “Roma” or “Gypsy” is a term of abuse. For example, in 2014, the Consiliul Pentru Prevenirea și Eliminarea Discriminării și Asigurarea Egalității (CPEDEE, Council on the Prevention and Elimination of Discrimination and Ensuring Equality) considered whether comments by politician Renato Usatîi that politician Vlad Filat was a “dirty and stinky Gypsy” and a “finished Gypsy” amounted to discrimination. Mr Usatîi argued that the right to freedom of expression should protect speech even if it “insults, shocks or bothers”.\(^41\) The CPEDEE found that freedom of expression may be restricted where the expression constitutes “racism, homophobia, xenophobia, anti-Semitism (…) impeding (…) ethnic, linguistic, national and social pluralism.”\(^42\) In this case the CPEDEE concluded that Mr Usatîi’s statements were intended to “humiliate the ethnicity of his political opponent showing his own ethnic superiority.”\(^43\)

In part as a result of these persistent stereotypes, Roma are particularly excluded in Moldova, suffering high levels of disadvantage and discrimination.\(^44\) According to civil society organisations, Roma in Moldova face discrimination and disadvantage in employment, education, healthcare and access to social

\(^39\) See above, note 29, Para 17.


\(^42\) Ibid., Para. 6.2.

\(^43\) Ibid., Para. 6.3.

Roma are consistently under-represented in decision-making at local and national levels and experience high levels of unemployment and illiteracy. As one elderly Roma person told Equal Rights Trust 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.*

**Legal and Policy Framework**

Roma persons benefit from the general protections against discrimination, hate crime and hate speech on the basis of race and ethnicity provided in the Law on Ensuring Equality, the Contravention Code, and the Criminal Code. In addition, the Moldovan authorities have adopted a number of specific policy measures targeted at improving the position of Roma in the country. Unfortunately, these measures have been largely ineffective as a result of poor implementation, inadequate resourcing and the lack of an evaluation mechanism.

The government created an *Action Plan in Support of the Roma Population in Moldova for 2007–2010*, which aimed to improve the situation of the Roma in employment, health, culture and education. However, as a result of a lack of resources, this Action Plan was not effectively implemented.

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47 Equal Rights Trust interview with U, 17 August 2015, Danu Village, Glodeni District.

48 See Roma National Centre, above, note 45.

49 See above, note 29, Para. 15.
Similarly, the Action Plan in Support of the Roma Population in Moldova 2011–2015 (“the 2011–2015 Action Plan”) has largely failed to achieve its goals as a result of inadequate resources and ineffective implementation.\(^\text{50}\) For example, the government set out plans to introduce socio-community mediators across the country whose role would be to facilitate access to public services for Roma, but, due to lack of resources, by 2013 only 15 mediators had been appointed under this scheme.\(^\text{51}\) Despite targeting the employment of 48 mediators in 44 communities with the highest Roma density, at the conclusion of the Action Plan only 12 mediators were employed. A 2013 government decision stated that the community mediators were to be paid from local public administration budgets,\(^\text{52}\) yet by 2015 some community mediators were still not remunerated by local public administration.\(^\text{53}\) As a result of decentralisation reforms, local authorities took responsibility for hiring Roma mediators; following these reforms the numbers of hired Roma mediators decreased from 21 to 12.\(^\text{54}\) In 2016, an evaluation of the 2011–2015 Action Plan was produced, which concluded that very few activities had been carried out by state institutions directly responsible for the successful implementation of the Action Plan.\(^\text{55}\) The evaluation also noted the serious and persistent problems in coordination between the central and local administration in implementing the Action Plan.\(^\text{56}\) The evaluation makes recommendations on seven areas of intervention closely linked to improving the situation of the Roma population for the years 2016–2020,\(^\text{57}\)

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\(^\text{53}\) See above, note 50.


\(^\text{57}\) Specifically, promotion of the community mediator service; education; work and economic well-being; health and social security; culture and mass media; public administration, order and documentation; and housing.
in order to provide the basis for initiating a new five year Action Plan in support of the Roma population.

The 2016–2020 Action Plan in support of the Roma population in Moldova was approved by the government on 20 April 2016. However as with the previous iterations, insufficient resources have been allocated for its effective implementation.

**Treatment by Law Enforcement Agencies**

The Ministry of Internal Affairs was tasked with monitoring cases of discrimination and abuse of Roma by police officers under the *2011–2015 Action Plan*. However, in 2012, the Ministry was not able to provide the Council of Europe’s Ad-Hoc Committee of Experts on Roma issues with any figures on the incidence of discrimination against Roma by police. Research conducted for this report indicates that Roma are often subject to discrimination by state agents, including in particular the police.

In a case considered by the CPEDEE in 2015, and discussed in detail in the case study overleaf, the Council concluded that a Roma woman had been subjected to ethnic profiling and subject to discrimination contrary to the Law on Ensuring Equality.

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59 See above, note 38, Para. 1.1.

60 See above, note 26, p. 15.


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. On 24 March 2016, the Chișinău Court of Appeal upheld the decision of the Buiucani Court of Law.

Roma persons interviewed for this report gave examples of apparent ethnic discrimination by police officers when dealing with complaints. In one par-

63 See above, note 61.
particularly shocking case, narrated below, Botezatu Pavel stated that police had fined him after he lodged a complaint of racially-motivated physical violence against him by a neighbour.64

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**Case Study: Botezatu Pavel**

For a long period, I have been in conflict with my neighbour, who constantly insults me, accusing me of stealing his chickens. There were cases where he and his father entered my yard with a gun late at night, and threatened me. There was a case when he entered my yard and, while I had my child in my arms, (...) he punched me in my face. I told him that I would go to police. He replied that he has money, that he does not fear police and that he will beat me even worse.

I think that he discriminates against me because I am Roma. He insulted me many times, with words like “smelly gypsy” and many other ugly words that I am too embarrassed to say. He is a rich man who recently came from abroad who thinks he can do whatever he wants.

On 28 March 2014, I went shopping in the local market with my mother. He saw me, approached me and started to insult me in front of everyone, and then he punched me in the face. I could not resist and went to the police to make a complaint. The policeman received my complaint and told me to go home, because he will take action. Two weeks later, I received a document stating that I had to pay a fine of 400 lei [€18 Euro]. I took the document and went to the policeman. He told me that I am guilty, that I insulted my neighbour. He even told me to pay the fine because the situation will get worse and this is because of my ethnicity.

T., another interviewee who preferred to be interviewed on condition of anonymity, testified about the police failing to deal with his complaints about a neighbour. He stated:

*I tried many times to make complaints to the police about the fact that my neighbour’s dog ate my chick-

64 Equal Rights Trust interview with Botezatu Pavel, 24 April 2015, Cărpineni village, Hîncești region.
ens. But the policeman never wants to receive my complaints, because he says that I am the one who is guilty. Every time there is a problem in the village, he suspects me. He first comes to my house, and investigates to see whether I did it. I constantly live in fear.\textsuperscript{65}

Roma focus group participants in Hancesti town described experiences of harassment and ethnic discrimination by the police when trying to sell goods at the local market. In particular, they stated that police officers fine only Roma because they do not have necessary documents for selling goods, despite the fact that people of Moldovan ethnicity without these same documents are not fined.\textsuperscript{66} Harcomit Oxana told Equal Rights Trust researchers that:

\begin{quote}
I went out one day to the market to sell my paint for Easter eggs. I saw a policeman coming so I hid, in case he saw me and forced me to leave the market. When he left, I returned and prepared to sell the paint. Suddenly he came back. He started to insult me and asked me to leave. I made a remark regarding his role to protect the country and its citizens, not insulting people with such dirty words.\textsuperscript{67}
\end{quote}

Another interviewee, Luminita Matvei, stated that the police had subjected her to extortion attempts:

\begin{quote}
A police officer told us that if we will not pay him daily percentage of our sales he will not allow us to sell in the local market. And if we do not agree with him, he will make photos of us while selling and will send home fines as he did earlier.\textsuperscript{68}
\end{quote}

P., an interviewee who asked not to provide his name, explained the impact which police harassment and discrimination at the market place has on his family:

\begin{flushleft}
\textsuperscript{65} Equal Rights Trust interview with T., 24 July 2015, Dușmani village, Glodeni region. \\
\textsuperscript{66} Equal Rights Trust focus group with 20 Roma, 10 April 2015, Hîncești, Hîncești region. \\
\textsuperscript{67} Equal Rights Trust interview with Harcomit Oxana, 10 April 2015, Hîncești, Hîncești region. \\
\textsuperscript{68} Equal Rights Trust interview with Luminita Matvei, 10 April 2015, Hîncești, Hîncești region.
\end{flushleft}
Currently I am retired, and I find it very difficult to sustain myself and my family. Like all Roma who are unemployed and do not have what any source of income, me and my wife sell second hand clothes at the local marketplace. I want to complain about the police, because despite the fact that I paid for a place in the local market where I could sell goods, the police (...) tell us that other people who also sell goods fear that we, Roma, will steal from them. Sometimes, without any evidence, the police takes our goods and allow us to trade only near the toilets (...) They humiliate us a lot (...) The police discriminate against us on ethnic criteria, because of stereotypes about Roma being thieves and so on.\(^69\)

**Identification Documents**

According to the ECRI, there are considerable numbers of Roma who meet the requirements for either Moldovan nationality or identity documents but have not yet obtained them.\(^70\) Under the 2011–2015 Action Plan, the government undertook to conduct a survey monitoring the prevalence of Roma without identity documents,\(^71\) but the report on the implementation of the Action Plan does not mention any such data.

In addition to being a problem in itself, the absence of identification and other legal registration documents can cause significant problems in accessing other services for Roma. In a 2014 study, which included a survey of social workers involved in providing assistance to victims of domestic violence, 29% of respondents indicated that lack of identification documents was a problem when dealing with Roma victims of violence. In the official evaluation of the 2011–2015 Action Plan, 15.2% Roma representatives stated that the biggest problem when dealing with the local authorities is lack of documentation.

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\(^69\) Equal Rights Trust interview with P, 19 September 2015, Orhei, Orhei region.

\(^70\) See above, note 17, Para 15.

From Words to Deeds: Patterns of Discrimination and Inequality

**Education**

Although there is limited data on levels of education disaggregated by ethnicity, statistics indicate that Roma children have lower levels of education than non-Roma children. In total, 43% of Roma children between the ages of seven and 15 do not attend school, compared to only 6% of non-Roma children.\(^{72}\)

Literacy levels for Roma children are well below the national average\(^{73}\) and only very low numbers of Roma go on to obtain a higher education degree.\(^{74}\)

The reasons for poor attendance by Roma children include seasonal work,\(^{75}\) early marriage,\(^{76}\) poverty, homelessness, change of residence and parents’ refusal to permit attendance.\(^{77}\)

The CESCR has articulated concerns about the limited availability and accessibility of schooling for Roma children living in remote rural settlements.\(^{78}\)

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.\(^{79}\) 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.\(^{80}\)

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 Plan provided for free teaching materials and manuals for Roma children, the practice of informal payments for schooling is widespread.\(^{81}\)

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\(^{72}\) See above, note 27, p. 30.

\(^{73}\) See above, note 38, Para 1.1.

\(^{74}\) See above, note 30, Para 29.

\(^{75}\) See above, note 26, p. 16.

\(^{76}\) See above, note 27, p. 3.


\(^{78}\) See above, note 74.

\(^{79}\) See above, note 27, p. 30.

\(^{80}\) Ibid.

\(^{81}\) Ibid., p. 31.
these indirect costs, large numbers of Roma children are forced to drop out of school before completion of compulsory education.\textsuperscript{82}

In addition to the statistical evidence of disparity in access to education, research for this report identified examples of direct discrimination against Roma. One woman told the Trust 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 registrar told her that there were no free places in the kindergarten, and that she must wait a year; the registrar stated that in urgent cases, a place could be found, at a cost of €100. Ms Ivanovna’s mother testified:

\textit{My daughter paid €100 for her 4-year-old daughter, but for her 3-year-old daughter, she had no money. Since then, two years have passed, but my daughter could not enroll her second daughter in the kindergarten. The registrar keeps telling her to come only when my daughter will have money. I think that they did not enroll the child because my daughter is Roma, and they think that Roma have money and will pay the necessary informal fee. I don’t think that they insist on these informal payments with Moldovan families, because all Moldovans who went to the registrar have their children enrolled in kindergartens. I know that there are free places, because my granddaughter attends kindergarten and we know.}\textsuperscript{83}

In 2015, the UN Special Rapporteur on Extreme Poverty and Human Rights raised concerns that Roma children were being segregated in schools, even in areas with a predominantly Roma population.\textsuperscript{84} 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”.\textsuperscript{85}

\begin{thebibliography}{9}
\bibitem{82} Ibid.
\bibitem{83} Equal Rights Trust interview with Loghina Elena, 17 June 2015, Durlești town, Chișinău.
\bibitem{85} See above, note 17, Para. 84.
\end{thebibliography}
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.

According to a report produced in 2014 by the Human Rights Information Centre, covering the period September-December 2013, there were cases of segregation of Roma children between schools (where Roma and non-Roma children study in different schools), classes (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). This latter problem was corroborated by Equal Rights Trust interviews with Roma community members, one of whom stated:

"Roma children in school stay in the last benches. For many years, my child stays in the last bench and he is still in the fourth. The teacher gives him a paper and a pencil and does not even look at him. If the teachers would pay more attention to him, my kid would be as smart as Moldovans, but he is not because there is no one who teaches him (...) I asked the teacher to put my child in the first bank with the Moldovan children, but the teacher said that the other children do not want to sit near my child."

Another Roma interviewee, who chose to remain anonymous, narrated a story with some strong similarities, indicating how widespread these problems may be:

"I am Roma. I want to explain a discriminatory situation that I experienced with my children. I have two children, and between them is a one-year age gap. They study at school Gr. Vieru in Orhei. Starting with the first grade until

86 See above, note 37, p. 67.
89 Equal Rights Trust interview, 24 July 2015, Danu village, Glodeni region.
today, when they are in the fifth grade, my children sit in the last benches. There are other Roma children in the class who also sit on the last benches. My children told me that the teacher does not pay any attention to them. Any trouble that happens in the class, the teacher blames my children. I had a discussion with the teacher and told her to change her attitude towards Roma children, to mix them in different rows and benches, so that Roma children could learn from non-Roma. Unfortunately, the situation remained the same. The teacher explained that the parents of non-Roma do not want their children to sit with Roma children on the same benches. Also, my children often tell me that they feel humiliated and do not want to attend the school, because the teacher does not motivate and encourage them. Early in the Spring 2015, a phone was stolen between children. The teacher did not call police but blamed my children. I suppose it is because of prejudices and stereotypes about Roma. Later that phone was found, but the teacher did not even apologize for offending my children.90

In 2015, the UN Special Rapporteur on Extreme Poverty has called on the Government of Moldova to take rapid steps to increase the effective inclusion of Roma children in education.91 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.92

**Employment**

Notwithstanding the lack of disaggregated data on employment levels among Roma,93 a 2015 study concluded that Roma are widely discriminated against

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90 Equal Rights Trust, Interview with T, 19 September 15, Orhei, Orhei region.
91 See above, note 84, Para 57.
92 See above, note 50, p. 42.
93 In its statistical report for 2014, the National Agency for Employment (NAE) did not publish the number of Roma registered as unemployed and being employed in the labour market. See Legal Resources Centre, above, note 41, p. 99.
in the labour market. 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. A civil society study from 2011 found that the employment rate for Roma was 21% of the employable population, compared with 46% of the non-Roma population. In 2013, the ECRI found that difficulties in finding regular employment meant many Roma are forced either to accept jobs without signing a labour contract, to open their own businesses or to seek employment abroad.

Although Moldova has made efforts to increase employment rates among Roma, data produced by the state indicates that these have been limited in their impact. In its recent report to the Committee on the Elimination of Racial Discrimination, Moldova stated that of 638 Roma registered at employment agencies in 2013, only 6% were employed, while in 2014 only 528 Roma were registered as unemployed at the territorial employment agency.

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 labourers 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.

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 Chișinău dismissed his complaint on 27 June 2014 and the Court of Appeal Chișinău 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.

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On 4 April 2016, the case was submitted to the Committee on the Elimination of Racial Discrimination. 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 for this report found evidence of direct discrimination for those seeking employment. While the Law on Ensuring Equality has been in force for a number of years, these interviewees provided evidence of blatant, overt discrimination by potential employers. For example, Liudmila Raiu, told Equal Rights Trust researchers about her experience seeking employment through the National Employment Agency:

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.

Similarly, Eduard, a 24-year-old Roma man, told Equal Rights Trust researchers about his experience of direct discrimination:

My whole family is Roma. We have a very respectable family. My mother and father work at a construction site in Moscow, and I remained in Moldova with my grandmother, helping her around the house, because she is elderly (...) I do not have a profession because I only completed the ninth grade. So I thought that it is necessary to find an unqualified job. Through acquaintances, I found out that Mopoika bar in the village need waiters. I went
to see them. The manager saw me and told that I cannot be a waiter because I would scare all the customers. He offered me a job as a porter. Of course, I agreed, because it was important for me to find a job. Then, the manager promised to talk with the owner and asked me to come on the second day. When I came on the second day, the manager told that the owner does not want to employ me, because I am Roma, and all Roma steal. I was very offended and sad then, but could not do anything. He turned and walked away. I think it will be very difficult to find work because I am Roma. People treat us like second hand, as thieves and brawlers. However, not all are the same.105

Another interviewee, Victoria, told the Trust’s researchers about her experience of being refused employment by a company that processed walnuts, because of her Roma ethnicity:

> When we went there, they said they cannot hire us. My husband was supposed to work as a freight handler and I was supposed to pick the walnut kernels out. The head of the company turned me down and told me and my husband to our faces that he was not going to hire us because we were Roma. I asked them whether Roma aren’t humans as well. And they said that they won’t hire us. They did hire Moldovans, though. Then I returned to the unemployment office. They told me to look for a job elsewhere. I asked where else can I look for one? I told them there was no other place I could go to. And that was it.106

In August 2015, Z., from Danu in the Glodeni region, recounted an incident in which an employer hired one of three persons – a Moldovan – telling the two Roma persons that he would not employ them:

> For a long period of time I have been registered at the employment agency. They often call me and tell that some

106 Equal Rights Trust interview with Victoria, 20 August 2015, Hîncești, Hîncești region.
employers need workers in our village. The Agency told us that we must go to the employers and ask for work. I took two more boys – one Gypsy and one Moldovan – and went to an employer to ask for work. He chose only one person, the Moldovan one. He told us that he does not employ Roma because he has no time to guard us from stealing from him.\textsuperscript{107}

16. Multiple Discrimination Faced by Roma Women in Employment

Roma women are subject to multiple discrimination on the basis of their ethnic origin and gender. As a result of lower levels of education, lack of job opportunities, the limited availability of childcare and gender stereotypes from within the Roma community, Roma women have lower levels of employment than both Roma men and non-Roma women;\textsuperscript{108} only 15% of Roma women aged over 15 are employed, in comparison with 34% of non-Roma women and 25% of Roma men.\textsuperscript{109} Women in rural areas face particular difficulty in finding employment due to the extreme shortage of job opportunities.\textsuperscript{110}

\textit{Housing}

Roma are disproportionately affected by poor quality housing and accommodation. By the government’s own admission, over 80% of Roma households do not benefit from basic housing conditions, such as safe drinking water, access to a toilet and sanitation.\textsuperscript{111} A study by various UN agencies found that 30% of Roma in Moldova live in housing in a high state of disrepair or other forms of poor housing, as against 7% for the general population.\textsuperscript{112} As concerns the availability of basic amenities, the same study found that: 10% of Roma have no electricity (as against 2% for the general population); 42% have no kitchen (as against 17% generally); 88% are not connected to direct

\textsuperscript{107} Equal Rights Trust interview with Z., 17 August 2015, Danu village, Glodeni region.
\textsuperscript{108} See above, note 27, p. 37.
\textsuperscript{109} Ibid., p. 36.
\textsuperscript{110} See above, note 27, p. 37.
\textsuperscript{111} See above, note 38.
\textsuperscript{112} See above, note 27, p. 19.
water provision (against 76% generally), 81% are not connected to sewerage (against 60% generally); 81% have no bath in the house (as against 51% generally); and 89% have no toilet at home (against 71% generally).  

The evaluation report on the implementation of 2011–2015 Action Plan revealed that access to social housing remained an acute problem for the Roma population, who insisted that they did not secure housing despite the adoption of Government Decision No. 56 in 2012, which amended the Action Plan in this respect. The evaluation found, for example, that when a new housing block was built in Hinceşti, no Roma benefited from housing. It also criticised the lack of adequate procedures for Roma to access social housing.

Testimony collected for this report corroborates these findings regarding the lack of access to suitable housing for Roma persons. I., interviewed by Equal Rights Trust researchers in July 2015, stated:

*My child is very sick. He burned in house. Now he lays only in bed. I have nowhere to live. I asked someone to let me live somewhere temporary, as it is warm outside. However, what will I do? Where will I go? I do not know. I went many times to the mayor’s office and asked him to let me live in a social apartment. He said he has three left, but he cannot let me live in those social houses because I am a Gypsy. However, he let other people live in those apartments. He permitted to everyone, but not to Gypsies. I found out that those who have received these apartments told the mayor not to let Gypsies live there because we are thieves.*

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113 Ibid.
114 See above, note 50, p. 39.
116 See above, note 50, p. 39.
117 Ibid.
Another interviewee testified:

I live in Orhei with my family, in my parents’ house. My three brothers and their families also live in the same house. Recently I heard that some neighbours received land for construction of house. I submitted a claim requesting land seven years ago, but with no success. Despite the fact that my neighbours submitted their request much later, they were granted with land. So, in May 2015, I went to the City Hall of Orhei to claim my right, because I know that according to paragraph nine of the Action Plan on Support of Roma Population for 2011–2015, Roma have a right to housing. The representatives at City Hall replied in a brute manner that there is no more free land and said that all Roma are just begging for assistance, that we do not work and thus earn money to construct our own houses. I know for sure, that no Roma has obtained any housing or land for construction, because no one pays attention to us as people.\textsuperscript{119}

\section*{Healthcare}

Roma do not enjoy equal access to healthcare, with lack of financial resources, lack of health insurance, and inaccessibility all contributing factors. Nearly a quarter of Roma households are not insured under the compulsory health insurance scheme.\textsuperscript{120} In total, over 58\% of Roma are not insured as compared with 24\% of non-Roma.\textsuperscript{121} The high levels of unemployment and low monthly income of Roma means they are often unable to afford the increasing costs of health insurance.\textsuperscript{122} According to a 2014 study by various UN agencies, 65\% of adult (16+) Roma with health issues hesitated to consult a doctor over the previous year (compared to 44\% of adult non-Roma); of this group, 81\% stated that they did not consult the doctor because they could not afford it, and

\begin{footnotesize}
\begin{enumerate}
\item Equal Rights Trust interview with Putinica Andrei, 19 September 2015, Orhei, Orhei region.
\item See above, note 30, Para. 22.
\item See above, note 96.
\item See above, note 27, p. 12.
\end{enumerate}
\end{footnotesize}
another 5% because they did not have medical insurance. The CESCR has articulated concerns about the lack of access to healthcare for Roma in rural areas and about reports that emergency ambulance services “have routinely not responded to calls from Roma living in excluded settlements.” One expert interviewed for a report produced by the United Nations Development Programme (UNDP) summarised the barriers to health access as follows:

Most Roma are reluctant to go to a medical institution. When asked why, they explain that they do not have a health insurance policy (...) they do not trust the medical system (...) the doctor doctors will ask for money, even if services fall within the insurance program. [They say] doctors always ask from them money (...) we do not know our rights and they are using it and ask for money, and we have to give them (...) [There is also] the attitude of medical personnel vis-a-vis the Roma – Roma most often complain on doctors attitude towards them.

There is some evidence that these barriers to health access may result in poorer health outcomes for Roma than non-Roma. A 2013 study conducted by the United Nations asked respondents to assess their own health status. Over 82% of Roma respondents aged 50 years and older rated their health as bad or very bad; 41% of those aged 30–49 years and 22% of those aged 15–29 stated the same. The study found significant differences in the self-assessment of health status between Roma and non-Roma in all age cohorts. In the 25–29 age group, the proportion of non-Roma individuals who evaluated their health status negatively was approximately a third of the figure for Roma (8%). Approximately twice as many Roma (41%) as non-Roma (21%) stated that their health was bad or very bad, and there was a significant difference even in the upper age bracket (82% of Roma over the age of 50 stated that their health was bad or very bad, compared to 58% of non-Roma).
Interviews conducted for this report found evidence of direct discrimination inhibiting access to healthcare for Roma persons. A community mediator from Hîncești recounted a case involving two Roma women:

One evening I was called by two Roma women saying that the doctors from the emergency centre refuse to come and provide healthcare assistance to them. [They] told them to call whenever they want, but they will not come to Roma.¹²⁸

Vera, a 25-year-old Roma woman, told Equal Rights Trust researches about the treatment she received when trying to access healthcare in 2015:

In winter 2015, I caught a bad cold and felt very bad. I registered by phone for a doctor appointment at 9.00. I do not remember the exact date, but somewhere in the middle of February 2015. I went to the clinic and at 9:00am, I was in front of the doctor’s door, expecting him to call me into his office. After 20 minutes a nurse came out and called my name, [but on] seeing me, she told me to wait and went back. A few minutes later, she came back and called another man standing in the queue. I said nothing, but after they called a couple more people (...) I decided to ask what was going on.

When the man came out, I entered without being called and asked why they do not call me in the office they rudely began to push me out of the room and told to wait, that they will call me in the end. [They said I had to wait] because we Gypsies smell bad, and they would need to refresh the room the whole day and that other patients feel very bad because of our smells. I was terribly offended and humiliated. I decided to go to the head doctor and complain. The head doctor certainly reassured me, saying that the doctor probably was tired, and somehow I did not understand the situation. He took me

¹²⁸ Equal Rights Trust interview with Bogdan Elena, 10 April 2015, Hîncești, Hîncești region.
to another doctor, who was free. When asked what will happen to that doctor, the head doctor replied that she could not do anything. This is because there are few doctors, but she promised to speak with him.\textsuperscript{129}

Another interviewee spoke about their difficulties in getting appropriate medical assistance for their mother:

\textit{My mother is very sick. Every time I call an ambulance I get refused. I am forced to take my mother to the home of a Moldovan and call an ambulance because they do not want to come to me because I’m a Roma. No one respects us, the doctors tell us on the phone that they are tired of us! Even if I call a taxi and take my mother to the hospital, they do not treat her properly and her situation worsens. I have the impression that doctors prescribe her drugs randomly without remorse! If you give them a bribe, they maybe they will look at you occasionally. My mother was diagnosed with lung cancer. To verify the diagnosis, we went to Chișinău. The doctors from Chișinău made another diagnosis telling us that the one given in Hancesti was incorrect \textellipsis{} From that moment, my mother decided not to go anymore to hospital.}\textsuperscript{130}

\textit{Multiple Discrimination faced by Roma Women in Healthcare}

Roma women face many obstacles in obtaining health insurance and accessing health care, meaning they do not make use of the available services. The “lack of jobs, the lack of identity cards and birth certificates prevents Romani women from obtaining health insurance”\textsuperscript{131} meaning that many Roma women cannot afford to access healthcare. Roma women have also complained about the long waiting times when they do seek medical attention\textsuperscript{132} and reported

\begin{flushleft}
\textsuperscript{129} Equal Rights Trust interview with Vera, 23 June 2015. Bugeac village, Comrat.
\textsuperscript{130} Equal Rights Trust interview with Leonid, 10 April 2015, Hîncești, Hîncești region.
\textsuperscript{131} See above, note 27, p. 46.
\textsuperscript{132} Ibid.
\end{flushleft}
discrimination from local authorities in accessing social assistance.\textsuperscript{133} The limited access to healthcare and social assistance drives continuing social exclusion of Roma women.\textsuperscript{134}

**Access to Social Assistance**

In a focus group with Roma conducted for this report, participants stated that they are disproportionately affected by poverty and a lack of social assistance provided by the state.\textsuperscript{135} Many participants stated they do not receive any social assistance and that they believed that their ethnicity was the reason for this. A participant said whenever he contacted the local City Hall for social assistance or other help, he never received anything; he stated that he was told that the City Hall does not have financial resources, despite providing such assistance to non-Roma.\textsuperscript{136} In another case, a woman stated:

*Not long ago, I decided to go to ask for social assistance, because I do not have anything to feed my children. I have eight children and am seven months pregnant. Do you know what she told me? She told me to not make so many children, if I cannot feed them. Am I guilty that I have so many children? Everyone has as many children as he or she wants. Why does she count my children and make such comments? She said she has a salary of 2,000 lei [€90.4 Euro] and that she works but I stay home and receive 4,000 lei [€180.9 Euro]. Am I guilty because of this?*\textsuperscript{137}

**Political Life**

The Committee on the Elimination of Racial Discrimination, the ECRI and the UN Special Rapporteur on Extreme Poverty and Human Rights have all raised concerns about the low levels of participation in political life by ethnic mi-
norities, in particular Roma. The Social Political Movement of Roma is the only political party focused on Roma issues, however, as they only received 0.14% of the votes in the 2010 parliamentary elections they failed to secure any seats. The party did not participate in the 2014 or 2015 elections. However, in 2015, for the first time in Moldova, two Roma women were elected to be local councillors in Chetrosu village (Drochia district) and Riscani town.

The Special Rapporteur considered that the exclusion of Roma from political life is a result of the systematic social stigmatisation and exclusion of Roma and also concluded that “[c]ritical challenges that impede Roma enjoyment of the rights to housing, education and work will persist unless they are given opportunities to participate in political life on equal terms”. The absence of Roma from public and political life also contributed to the social “invisibility” of the Roma, which adversely impacted the ability to secure public funding to improve their situation.

**Access to Goods and Services**

Research for this report identified many cases in which Roma were discriminated against when accessing goods and services. For example, Ion Bucur, a Roma man from Drochia whose case is discussed in detail in the case study below, recounted the discrimination he had faced when booking a venue for a family event over the telephone. In December 2014, Mr Bucur filed a complaint with the CPEDEE, which ruled that he had been discriminated against on the grounds of his ethnicity, in violation of Article 8 of the Law on Ensuring Equality.

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138 See above, note 29, Para. 16(b); note 17, Para. 122; note 87, Para. 55.
139 See above, note 54.
141 See above, note 84, Para. 55.
142 See above, note 54.
Case Study: Ion Bucur

Ion Bucur is an ethnic Roma citizen of Moldova, from Drochia. In October 2014, he met with the management of a venue in town to discuss organising a family event. According to Mr Bucur, there were no problems during the discussions with the management of the restaurant by phone, but when he attended a meeting as agreed, the venue manager’s attitude changed radically.

Mr Bucur was advised to go to another, allegedly more prestigious restaurant, and was told that prices for events involving Roma are double those for other events. Although he agreed to pay double for the restaurant’s services, he was then asked to pay an additional fee of 2,000 euros, as, according to the restaurant’s management, Roma are heavy smokers and could damage the venue’s expensive carpets. Mr Bucur agreed to all conditions, but, after many discussions, the restaurant’s owner said he had changed his mind and would not allow the event.

In December 2014, assisted by Promo-LEX lawyers, Mr Bucur registered a complaint with the Council for the Prevention and Elimination of Discrimination and Ensuring Equality (CPEDEE), alleging discrimination in accessing publicly available services on grounds of ethnic origin. The petitioner claimed that he was treated less favourably without objective and reasonable justification. On 13 February, the CPEDEE established that Ion Bucur was discriminated against on the basis of his ethnicity, contrary to Articles 1 and 2 of the Law on Ensuring Equality, read together with Articles 8(g) and 8(h).

Two other cases, from Bălți, indicate that Mr Bucur’s experience was not an isolated incident:

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Case Study: Discrimination in Accessing Public Services

In early 2016, cases were brought against two bistros in the city of Bălți which had allegedly refused to serve Roma and whose staff had openly discriminated against Roma. The cases were referred to Promo-LEX lawyers for legal assistance. Aliona Curaru, community mediator and representative of the Roma community in Bălți submitted complaints on the illegal actions of “Fontan” and “Vernisaj” bistros, to the Bălți Police Inspectorate and the Bălți Prosecutor. Subsequently, the Bălți Police Inspectorate remitted the case to CPEDEE.

Following discussions, the parties agreed to settle the cases. A mediation agreement was concluded under which the managers of I.C. “I. P. Petrov” and LLC “Steaua de Centru” apologised for the incidents that took place. According to the agreement, the restaurants undertook to comply with the provisions of the Law on Ensuring Equality and to train their staff on equality and non-discrimination. Also, the owners committed to eliminate any discrimination in the hiring process and to facilitate the employment of Roma.

Transnistrian Region

There is very little publically available information about the situation of the Roma in Transnistria as the number of Roma in the region is unknown. The 2004 census indicates that there are 507 Roma in Transnistria, however, other sources place estimates between 5,000 and 6,000.146 Roma in Transnistria are particularly vulnerable as they are stigmatised, frequently live in poverty and are subject to discrimination in employment and housing.147 There are also reports of physical abuse of Roma detained by the police, and cases when Roma have been expelled in groups from the territory.148


148 See above, note 146.
Conclusion

While a lack of disaggregated data makes it difficult to establish with precision the relative position of Roma in Moldova, testimony collected for this report clearly indicates that Roma experience direct discrimination, which is frequently overt and blatant, arising from prejudices and stereotypes which are openly discussed. As a result of the persistent negative attitudes towards Roma, they experience discrimination in all areas of life regulated by law, and experience significant substantive inequalities as a result. The development of the Action Plans on Roma Support is to be encouraged, but, as the discussion above indicates, lack of financial resources – and an apparent lack of political will to take strong action – these plans have not been effectively implemented.

2.1.2 Discrimination against Other Ethnic and Racial Groups

As discussed in some detail above, there is a lack of official data on the incidence of discrimination experienced by ethnic and racial minorities in Moldova. Nevertheless, research conducted for this report, and evidence gathered by UN bodies indicate that discrimination against ethnic and racial minorities other than the Roma is prevalent in Moldova.149

Racist terms are used in politics and there is evidence that racial prejudice remains relatively widespread amongst the general population. On 18 February 2012, the former President of Moldova, and leader of the Community party, made the following remarks about pro-government supporters at a rally: “[t]hey brought a Negro here, who’s just climbed down from the trees, and now he’s doing politics for them”.150 There is also evidence that ethnic minorities suffer from a degree of social isolation as a result of prejudice amongst the general public: a 2015 study revealed that only 19% of survey respondents would accept a person of African origin as a member and only 33% as a friend.151


151 See above, note 3, p. 19.
A number of recent cases considered by the CPEDEE illustrate some of the problems with racist language and incitement in Moldova. In 2014, the CP-PEDAE started a case on its own initiative, to investigate 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, and it appeared that the burger’s name had been chosen to reflect his. The product was promoted through social media, leading to public discussions that the Council felt could have violated Mr. Onoje’s human dignity. The Council recommended that the firm responsible for the new burger apologise publicly to John Onoje.\(^\text{152}\) Also in 2014, the CPPEDAE found incitement to racial discrimination committed by the Moldovan Border Police against two citizens of Nigeria.\(^\text{153}\) This case is discussed below.

Case Study: G.B.O. and A.A.A

Two Nigerian students at the Academy of Economic Studies of Moldova (AESP), both with residence permits, claimed that on 17 March 2014 they went to the Chişinău International Airport to leave for Poland on a study program. At the immigration desk, representatives of the Border Police appeared suspicious of the legality of their Schengen visas issued by the Polish Embassy in Moldova, and so checked their documents again and again. Subsequently, both individuals were issued boarding passes, their luggage was registered and they were approved to go through the screening passage.

However, while no irregularities were detected during this inspection, the students were then taken by immigration officers to an interrogation room where their visas and residence permits were again checked repeatedly. This process continued for approximately three hours and eventually they were refused permission to board. In registering their


complaint with the CPPEDAE, the two students claimed: “we were denied the right to fly simply because we are Nigerians and we are of another race; this is injustice, intolerance and racism at the highest level”.

**Discriminatory Violence**

Although levels of racially motivated violence are relatively low in Moldova, there are reports of violent attacks against ethnic minorities.\(^\text{154}\) The case of Salifou Belemvire, narrated below, is one example of such incidents.\(^\text{155}\)

**Case Study: Salifou Belemvire**

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 times 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.

There are grounds for concern that the authorities’ response to such attacks is inadequate. For example, of the four people involved in a racially motivated assault on a Nigerian citizen in September 2011, only one was convicted, and this person was only convicted on a minor charge of hooliganism under the Code of Administrative Offences and required to pay a

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\(^{154}\) See above, note 17, Para 114.

fine of 200 lei (approximately €9 Euro). The ECRI has recommended that “the police and the justice system ensure that criminal law is effectively applied in response to all cases of racially motivated violence against persons belonging to an ethnic minority”.

**Employment, Education and Housing**

Research for this report indicated that, despite legal protections and rights, refugees and asylum seekers suffer from discrimination on the basis of their race. Moldovan law provides that refugees and asylum seekers have rights to education, healthcare and social assistance.

Refugees and asylum seekers of African or Asian origin face discrimination in employment, arising from prejudice associated with their race. For example, Salifo, a man who works at Charity Centre for Refugees told Equal Rights Trust researchers that:

*Some try to find a job, but some employers when they see Africans, they associate them with the Ebola virus and immediately refuse them a job. I am telling the truth. [African] refugees do not enjoy any protection (...) They come here to the Charity Center for Refugees and complain about this situation and expected us to assist them. Whenever they call an employer, the phone calls are suddenly stopped, with references to the Ebola virus.*

R., a person interviewed for this report who preferred to remain anonymous, stated:

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156 See above, note 17, Para 115.
157 Ibid., Para 119.
158 Law on Asylum in the Republic of Moldova (Law No. 270 of 18 December 2008), Articles 28, 29, 30, 33, and 35.
160 Equal Rights Trust interview with Salifo, 16 September 2015, Chișinău.
I have lived in Moldova for more than two years. Each time I wanted to find a job, when people hear that I am from West Africa they call me “Ebola” (...). I live with other refugees from African countries who say that they also encountered similar situations.\textsuperscript{161}

African refugees and asylum seekers also face discrimination in accessing housing. For example Salifo of the Charity Centre for Refugees testified that:

\textit{When refugees need to rent space for housing, and here I am mean people of African origin, sometimes landlords say they do no want to offer these services because he is African. It is strange that landlords provide such services to some people and not to others. It is quite offensive to be refused such services because of origin or skin colour.}\textsuperscript{162}

Refugees participating in a focus group conducted as part of the research for this report indicated that Moldovans frequently refuse to rent housing to them, because of their race, ethnicity or religion.\textsuperscript{163} One respondent, Mahgoub Magdi, stated:

\textit{Every time we – people with darker skin colour (...) – want to rent an apartment or house in any area, the owner asks from the start where we are from. After you tell him your story, he changes his mind and refuses to provide housing for rent. When asked about his refusal, the owner answers that he does not want to deal with such people, in order to avoid problems. This happens all the time, and as a result it’s hard to find housing.}\textsuperscript{164}

\textsuperscript{161} Equal Rights Trust interview with R, 16 September 2015, Chişinău.

\textsuperscript{162} See above, note 159. See also Ghilascu, N., Moldovan Companies Appeal More Often to Racist Actions, 2015, available at: https://www.youtube.com/watch?v=417FDHjlfoo.

\textsuperscript{163} Equal Rights Trust, focus group conducted with 15 refugees, 16 September 2015, Chişinău.

\textsuperscript{164} Equal Rights Trust interview with Mahgoub Magdi, 22 September 2015, Chişinău.
Conclusion

Beyond the Roma, who are subject to severe stigma and associated discrimination, racial minorities in Moldova are subject to prejudice and associated discrimination. Our research indicates that visible racial minorities – those with darker skin colour than the average Moldovan – are vulnerable to incitement, discriminatory violence and discrimination in the areas of employment and access to housing. Compounding the discrimination suffered by racial minorities is the absence of any effective remedy for victims of discrimination and the negative reception from the authorities in response to claims of discrimination.

2.2 Discrimination on the Basis of Sexual Orientation and Gender Identity

Under Article 2(1) of the ICCPR, Moldova is required to “ensure to all individuals (...) the rights recognised in 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”. The same obligation to ensure enjoyment of Covenant rights without discrimination arises under Article 2(2) of the ICESCR. In addition, under Article 26 of the ICCPR, Moldova is required to ensure that “the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground”.

The CESCR has stated that both sexual orientation and gender identity are forms of “other status” within the meaning of Article 2(2). The Human Rights Committee (HRC) in its jurisprudence has held that the prohibition of discrimination under Articles 2(1) and 26 extends to discrimination on the grounds of sexual orientation. While the HRC has not explicitly stated that gender identity is a form of other status within the meaning of Articles 2(1) and 26, the well-established principles of universality and indivisibility mean that the CESCR’s interpretation of Article 2(2) ICESCR should apply equally to Article 2(1) ICCPR. Similar rulings have been made by the European Court of Human Rights, which has consistently affirmed that the general prohibition

165 See above, note 1, Para 32.
on discrimination contained in Article 14 of the Convention includes discrimination on the grounds of sexual orientation.\textsuperscript{167}

\textbf{Cultural Attitudes and the Position of LGBT Persons in Society}

Despite Moldova’s obligations under the ICCPR, ICESCR, EHRC and other human rights instruments, discrimination against lesbian, gay, bisexual and transgender (LGBT) persons persists. As a consequence of high levels of social prejudice, stigma and associated discrimination, the total number of LGBT persons in Moldova is unknown. Many individuals are unwilling to report cases of discrimination, either because they do not believe that the issue will be addressed,\textsuperscript{168} or for fear of disclosing their identities. As one man interviewed by the Equal Rights Trust testified:

\textit{My ex-wife refused to let me meet my son. She told me that if I insisted, she would tell all our relatives and acquaintances about my sexual orientation. I became depressed and contemplated suicide. I could not see my child. After some time my son contacted me. We meet sometimes without being noticed, but I’m constantly afraid.}\textsuperscript{169}

Social attitudes towards sexual and gender minorities are overwhelmingly negative and LGBT persons face prejudice in many areas of life. Just 1.7\% of respondents to a 2014 survey by the Institute for Public Policy (IPP) indicated that they would be willing to accept an LGBT person as a neighbour, friend, co-worker or family member, 0.3\% less than 2010.\textsuperscript{170} A large proportion of respondents (69\%) held negative opinions of LGBT persons, describing them as “immoral” and “perverse”.\textsuperscript{171} A survey questioning pub-

\begin{itemize}
\item \textsuperscript{167} S. L. v Austria, European Court of Human Rights, Application No. 45330/99, 9 January 2003, Para. 37.
\item \textsuperscript{169} Equal Rights Trust interview with V., 17 July 2015, Bălți.
\item \textsuperscript{170} See above, note 40, p. 30.
\end{itemize}
lic attitudes toward minority groups in Moldova found that LGBT persons experience discrimination in employment (18%), at the workplace (17%), and in educational and medical institutions (12% and 8% respectively). During interviews conducted by the Equal Rights Trust in 2015 many individuals gave personal testimony supporting this conclusion. One transgender woman, from Chișinău told interviewers that she often felt “humiliated and discriminated by colleagues and administration” in her place of work. A lesbian woman described being told by a doctor that her stomach pain was caused by her sexuality:

He asked me if I was pregnant. I said I cannot be pregnant because I have relations with a woman, not a man. He then told me: Of course, with such a way of life that you have it and it’s normal to have pain. To be healthy, women should have relations with a man.

A survey conducted in 2015, found that LGBT persons were the most rejected social group in Moldovan society. Over half of those surveyed indicated that they would exclude LGBT persons from the country. During group discussions in this survey, participants expressed extreme anti-LGBT sentiments. One member of the group discussed the adoption of the Law on Ensuring Equality, criticising the EU for making the legal prohibition of discrimination on the basis of sexual orientation a condition for EU membership. Others cited religion and family values in their dismissal of same-sex sexual relations:

These are persons who do not want to reproduce themselves. Well, men with men, and women with women. Where for them to take children from, from the orphanage? They would take a boy or a girl from the orphanage, and the child see that the father kisses the father.

172 Ibid., p. 30.
173 Equal Rights Trust interview with C., 12 June 2015, Chișinău.
174 Equal Rights Trust interview with L., 13 July 2015, Tighina.
175 See above, note 3, p. 18.
176 Ibid.
177 Ibid., p. 31.
Prejudice towards the LGBT community has been exacerbated by the words and actions of prominent figures in Moldovan society. In September 2015, Bishop Marchel of the Moldovan Orthodox Church was acquitted of hate speech by the Supreme Court of Justice.\textsuperscript{179} The Bishop had suggested that 92% of LGBT individuals have HIV, calling for their exclusion from educational and medical institutions.\textsuperscript{180} In 2014, a pastor appearing alongside LGBT rights activists on a televised talk show was quoted as saying “Homosexuality is a manifestation of animality (...) you don’t understand the Bible”.\textsuperscript{181} Likewise, politicians have criticised the LGBT community. As one individual interviewed for this report noted:

\begin{quote}
I work at GENDERDOC-M as a press officer. One of my basic functions is to monitor the media for recordings and material written about LGBT people or the organisation. On 24 May 2015 I saw a party political broadcast of the Socialist Party. The advert, produced in Romanian and Russian, showed the President of the Socialist Party of Moldova, Mr. Igor Dodon, accusing the government of “destroying our values and traditional Christian morality”. In the background were videos of the Equality March organised by GENDERDOC-M on 17 May in central Chişinău.\textsuperscript{182}
\end{quote}

Tensions concerning the rights of sexual and gender minorities in Moldova were at their highest during the passage of the 2012 Law on Ensuring Equality. In October 2007, a working group was established to create a Draft Law

\begin{itemize}
\item \textsuperscript{178} \textit{Ibid.}, p. 31.
\item \textsuperscript{179} Supreme Court of Justice, Decision No. 2ra-1448/15 of 16 September 2015, available at: http://jurisprudenta.csj.md/search_col_civil.php?id=22002.
\item \textsuperscript{182} Equal Rights Trust interview with Eugen, 29 May 2015, Chişinău.
\end{itemize}
on Preventing and Combating Discrimination, which was completed in June 2008. Under Article 1 of the Draft Law sexual orientation was included as a protected characteristic; notably, gender identity was not included in the list of characteristics.

In 2011, as debate around it increased, the Draft Law was attacked by politicians who criticised the inclusion of sexual orientation as a protected ground. Vladimir Voronin, former President of Moldova, argued that the inclusion of sexual orientation in the Law would violate traditional family values and religious beliefs. Likewise, Mihai Ghimpu, a former interim President of the Republic, expressed resentment toward the law:

> It’s better to love a woman than a man, but I voted for decriminalisation of homosexuality because it was one of the conditions to join the Council of Europe. I saw how the eyes of several MPs were shining when it happened. I thought, “Lord! How can I vote for this? (...) Homosexuality is a deviation, nature is nature, but we don’t have to put them in the frontline. We don’t take patients from psychiatric institutions to bring them on our main square (...) I will not vote for this law.

In April 2011, co-rapporteurs of the Council of Europe Monitoring Committee published an information note on Moldova that deplored the use of homophobic language in discussions surrounding the Draft. Similarly, the CESCR criticised “opinions expressed by certain sectors in the society,


184 Ibid., p. 8.


186 Ibid., p. 12.

including public anti-lesbian, gay, bisexual and transgender (LGBT) statements by high-level politicians”, following the submission of the Draft Law to Parliament. The CESCR urged Moldova to “take measures to eliminate discrimination against LGBT people”, including the adoption of a “comprehensive anti-discrimination bill”. On 30 March, the government withdrew the Draft Law from parliamentary consideration to allow for additional public consultations.

The Law on Ensuring Equality was eventually adopted on 25 May 2012, with both sexual orientation and gender identity omitted from the list of protected characteristics under Article 1. The change to exclude sexual orientation from Article 1 was made despite Moldova’s acceptance of several recommendations to prevent discrimination and improve protection of LGBT persons during its participation in the Universal Periodic Review in 2011.

**Legal and Policy Framework**

As noted above, state parties to the ICCPR and ICESCR are obligated to ensure non-discrimination on the grounds of sexual orientation and gender identity. This requirement goes further than the removal of laws that criminalise or otherwise discriminate against LGBT persons: states must adopt measures to ensure that persons are protected from discrimination in the exercise of their rights. Alongside the repeal of discriminatory laws and prevention of discrimination in the enjoyment of other human rights, states should enact “comprehensive anti-discrimination legislation that includes sexual orient-

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188 See above, note 30, Para 7.
189 *Ibid*.
190 See above, note 187.
191 See above, note 17, p. 7.
192 See above, note 1, Article 1.
tation and gender identity among protected grounds', in order to ensure LGBT persons equality of access in all areas of life regulated by law, including healthcare, education, employment, housing and social security.

As discussed in Part 3 of this report, Moldova has a poor legal framework protecting LGBT persons from discrimination. Neither sexual orientation nor gender identity is included as a protected characteristic under Article 16 of the Constitution, which provides a right to non-discrimination:

All citizens of the Republic of Moldova are equal before the law and the public authorities, without any discrimination as to race, nationality, ethnic origin, language, religion, sex, political choice, personal property or social origin.\footnote{Constitution of the Republic of Moldova, 29 July 1994, Article 16.}

This closed list of grounds necessarily excludes certain groups – including, but not limited to, LGBT persons – from protection, contrary to the requirements of international law and the recommendations of UN Treaty bodies.\footnote{See above, note 30, Para 7.}

The Constitutional guarantee of non-discrimination is supplemented by the 2012 Law on Ensuring Equality. Article 2 of the Law defines “discrimination”, extending protection to those grounds listed under Article 1(1); namely, “race, colour, nationality, ethnic origin, language, religion or belief, sex, age, disability, political affiliation or any other similar criteria.”\footnote{See above, note 14, Article 1(1).} As discussed above, references to sexual orientation were removed from Article 1(1) of the Draft Law following extensive debate and criticism from groups within Moldova,\footnote{Equal Rights Trust, Submission of the Equal Rights Trust on the Draft Law on Equal Opportunities, 2012, available at: http://www.equalrightstrust.org/ertdocumentbank/120517%20Letter%20to%20PM%20Filat%20on%20Law%20on%20Equal%20Opportunities.pdf.} while gender identity was never mooted as a protected characteristic.

However, unlike the list of protected characteristics contained in Article 16 of the Constitution, the list in Article 1(1) of the Law on Ensuring Equality is left open-ended, by virtue of the words “or any other similar criteria”; as such, it is possible for the Moldovan courts to conclude that grounds which are not explicitly stated in the Law are protected. The Council on the Prevention and Elimination of Discrimination and Ensuring Equality has held that sexual orientation is a protected characteristic within the meaning of Article 1(1).\textsuperscript{200}

Article 7 of the Law on Ensuring Equality explicitly recognises the right to non-discrimination on the basis of sexual orientation in the field of employment.\textsuperscript{201} To this end, the Law is technically consistent with Council Directive 2000/78/EC,\textsuperscript{202} and thus with the requirements of Article 30 of the EU-Moldova Association Agreement.\textsuperscript{203} However, this does not go far enough to meet Moldova’s obligations under international law. International law recognises the universality and indivisibility of human rights and no Treaty Body has acknowledged the existence of a hierarchy of grounds in respect of the level of afforded protection.\textsuperscript{204} On the contrary, under the ICCPR, states are required to ensure the enjoyment of Convention rights “without distinction of any kind”. The Declaration of Principles on Equality states that “[l]egislation must provide for equal protection from discrimination regardless of the ground or combination of grounds concerned.”\textsuperscript{205}

Under Article 77(d) of the Criminal Code, social, national, racial, or religious hatred is to be considered an aggravating factor in the commission of a crime. Neither gender identity nor sexual orientation is included within the scope of this provision. Under Principle 7 of the Declaration of Principles on Equality, any violence committed on the basis of a personal characteristic constitutes a violation of the right to equality. This position has recently drawn support


\textsuperscript{201} There is, however, no explicit reference to gender identity.


\textsuperscript{203} European Union – Moldova Association Agreement, 2014, Article 30.

\textsuperscript{204} See above, note 199.

from the Human Rights Committee, which has recommended the application of aggravated circumstances provisions to “violence motivated by the victim’s sexual orientation or gender identity.”

**Specific Laws Affecting Trans Rights**

Article 66(2) of the Law on Civil Status Documents provides that:

> The State Registry Office satisfies the request of modification, correction or completion of a civil status document if there is no litigation between the parties concerned in cases when [...] (c) [an] applicant submits an official document confirming his or her sex change.

This is the only provision in Moldovan law directly concerning the right to legal gender recognition. A Gender Dysphoria Commission has been established under the Ministry of Health which is responsible for issuing “medical certificates confirming a transsexualism diagnosis” and making recommendations for civil status documents to be amended in line with an individual’s recognised gender identity. In 2012, two transgender women won a case in the Chișinău Court of Appeal after the State Registry Office refused to make the necessary changes to their birth certificates, despite an official certificate being issued by the Commission. The Ministry of Justice reportedly placed pressure on the Court, leading to a revision of the ruling on technical grounds. This decision was criticised by the Working Group on the Issue of Discrimination against Women in Law and Practice which, in 2013, noted their concerns:

> Transgender women (...) are unable to amend identity documents following hormonal therapy or sexual cor-

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207 Law on Civil Status Documents (Law No. 100 of 26 April 2001), Article 66(2)(c).


210 Due to its confidentiality the case is not available online.

On 1 November 2012, the Supreme Court of Justice adopted Recommendation No.16 on the procedure of examining requests concerning civil status documents after gender reassignment. According to that recommendation, homosexual and transgender persons are protected under Article 8 of the European Convention on Human Rights. Consequently, the “right to change one’s sex and name is a component of the right to respect for private life.” Although this is a positive development, civil society organisations report that the Moldovan authorities:

[Continued to fail to understand the human-rights implications of transgender issues and lack the political will to implement a transparent, accessible and quick legal gender-recognition mechanism.]

The recommendation of the Supreme Court of Justice is non-binding. Many trans-persons in Moldova therefore face difficulties securing legal gender recognition.

**Discriminatory Legal Provisions**

Several provisions in Moldovan legislation discriminate against LGBT persons. Article 48 of the Constitution states that “the family is founded on the freely consented marriage of man and women”, while Article 1(2) of the Law on Ensuring Equality provides that nothing within the Act is to affect the position that “family that is based on free marriage between man and woman”. A
similar provision can be found under Article 2 of the Family Code.\textsuperscript{216} Further, under Article 15(h) of the Family Code, same-sex marriage is expressly prohibited. Although recognition of same-sex marriage is not strictly required under the ICCPR,\textsuperscript{217} the CESCR has urged states to provide legal recognition of same-sex civil unions.\textsuperscript{218} Moreover, in \textit{Oliari and Others}, the European Court of Human Rights emphasised that “same-sex couples are in need of legal recognition and protection of their relationship”.\textsuperscript{219} This recognition is not provided in Moldovan law.

The prohibition of same-sex marriage has negative consequences in a number of other areas of life. According to Moldovan legislation, partners in same-sex relationships can inherit each other’s property only based on their will (testamentary succession), because legal succession applies only to married couples (husband and wife).\textsuperscript{220} Moreover, joint-property provisions only apply to married couples.\textsuperscript{221} Under the Law on Adoption, an adopter is a person or family (interpreted, in line with the Family Code as a man and a woman) which has applied for permission to adopt and has been registered by the competent authorities.\textsuperscript{222} This means that same-sex partners cannot adopt a child, as they cannot legally create a family.

The prohibition of same-sex marriage and lack of legislation recognising same-sex civil partnerships can also have serious consequences for non-citizens. Under Article 38 of the Law on Foreigners, “the right to temporary residence may be granted to foreigners married to citizens of the Republic of Moldova residing in the Republic of Moldova”. As same-sex couples cannot legally marry, non-Moldovan partners of Moldovan nationals cannot apply for a spousal residency permit. Similarly, as the Law on Citizenship does not provide for the naturalisa-

\begin{itemize}
  \item \textsuperscript{216} Family Code of the Republic of Moldova, (Code No. 1316 of 26 October 2000), Article 2.
  \item \textsuperscript{219} \textit{Oliari and Others v Italy}, European Court of Human Rights, Application Nos. 18766/11 and 36030/11, 21 July 2015, Para 165.
  \item \textsuperscript{220} Civil Code of the Republic of Moldova (Code No. 1007 of 6 June 2002), Article 1500.
  \item \textsuperscript{221} See above, note 216, Articles 19 and 20.
  \item \textsuperscript{222} Law on Adoption (Law No. 99 of 28 May 2010), Article 2.
\end{itemize}
tion of same-sex partners of Moldovan nationals, gay couples are forced to seek alternative arrangements. As one interviewee explained:

I’m gay. And I have had a boyfriend for almost three years. He lives in another country. We thought that the only option for us was that he comes to Moldova, so we can live together. We have been saving money for almost three years. But the problem is that he is from the Philippines. If he were from somewhere closer to Europe, for example, I think it would be easier. But, unfortunately, it is not. The only Philippine Embassy is located in Romania. We both work and try to save money. If he was a girl, we could get married, and he would have stayed with me, and I do not know what to do. The only way for us is to go to another more tolerant country where we can live together, although it involves some complexity and time. At the moment, we have to spend a lot of money visiting each other to spend little time together.²²⁴

Article 172 of Criminal Code states that:

[H]omosexuality 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 him or herself or to express his/her will shall be punished by imprisonment for 3 to 5 years.²²⁵

The Government noted during its 2010 Universal Periodic Review that homosexuality among consenting adults is no longer criminalised.²²⁶ However, the rationale for differentiating rape (Article 171) and “homosexual rape” (Arti-

²²³ Law on Citizenship of the Republic of Moldova (Law No. 1024 of 2 June 2000), Article 17(1)(c), which states that citizenship may be granted upon request to a foreigner having his legal domicile on the territory of the Republic of Moldova who has been married to a citizen of the Republic of Moldova for at least three years.

²²⁴ Equal Rights Trust interview with L, 31 March 2015, Chişinău.

²²⁵ See Criminal Code, above, note 18, Article 172.

²²⁶ See above, note 193, Para. 15.
Discrimination on the Basis of Sexual Orientation and Gender Identity

cle 172) in the Criminal Code remains unclear. Concerns have been expressed that this differentiation exacerbates bias against homosexuality, particularly by law enforcement agencies and in the judicial system.\textsuperscript{227}

In recent years, several regional ordinances (such as the one passed in Drochia in 2012, which is cited in the case study below)\textsuperscript{228} and a national law prohibiting so-called “homosexual propaganda” have been adopted in Moldova.\textsuperscript{229} While these ordinances have subsequently been repealed or struck down,\textsuperscript{230} their enactment is a cause for concern.

\textbf{Case Study: Regional Ordinance on “Propaganda of Non-Tradition Sexual Orientations”, Adopted in Drochia, 2012}

\textit{(Extract, unofficial translation)}

Under Decision No. 2/14 of March 27, 2012, the City Council of Drochia, proclaimed “the city of Drochia as a territory of support for the Orthodox Church of Moldova and non-admission of the propaganda of non-traditional sexual orientations.”

\textit{In accordance with the European Charter of Local Self-Government, (…) the City Council of Drochia decides:}

1. To declare the city of Drochia as a territory of special support for the Orthodox Church of Moldova in the life, history and culture of the community residents.

\begin{itemize}
  \item \textsuperscript{227} See above, note 212, Para. 17.
  \item \textsuperscript{228} Drochia City Council Decision declaring the City Drochia’s Support for the Orthodox Church of Moldova and Prohibiting Propaganda of Non-Traditional Sexual Orientations (Council Decision No. 2/14 of 27 March 2012), available at: http://www.primariadrochia.md/files/5373_biserica_ortodox%C4%83.doc.
\end{itemize}
2. To acknowledge a special importance and primary role of the Orthodox Church of Moldova in the life, history and culture of the residents of Drochia city.

3. To interdict in Drochia city, the propaganda of non-traditional sexual orientations in any forms imposed by any organisation.

4. To call on other public authorities and non-government organisations to support this initiative.

On 23 May 2013, the Moldovan Parliament adopted Law No. 117, amending the Contravention Code to prohibit the distribution of public information promoting prostitution, paedophilia, pornography or relationships not specified in the Family Code.231 Article 90 of the Law, which penalised the “propagation of any relations other than those related to marriage and family in accordance with the Constitution and the Family Code”,232 was severely criticised by NGOs and international bodies who argued that the law would limit the work of LGBT groups and damage freedom of expression.233 On 11 October 2013, the amendment was repealed; a decision praised by LGBT organisations.234

**Discriminatory Limitation of the Rights to Freedom of Expression and Assembly**

In 2012, the European Court of Human Rights heard the case of *GENDERDOC-M v Moldova*.235 The case concerned an application made to Chişinău Municipal Council for permission to hold a peaceful demonstration to encourage the adoption of anti-discrimination laws protecting LGBT people. The application was denied. Finding that “the reason for the ban imposed

231 Law Amending the Contravention Code (Law No. 117 of 23 May 2013).
232 Ibid.
235 *GENDERDOC-M v Moldova*, European Court of Human Rights, Application No. 9106/06, 12 June 2012.
on the event proposed by the applicant was the authorities’ disapproval of demonstrations which they considered to promote homosexuality,” the Court held that there had been a violation of Article 14 in conjunction with Article 11 of the Convention.236

Since the Court’s ruling, the right to freedom of assembly in Moldova has been better observed. In 2013, 2014 and 2015 an annual Pride Festival was successfully organised. In 2013, a march consisting of between 100 and 130 participants took place in Chişinău on the International Day against Homophobia, Biphobia and Transphobia. Moldovan civil society responded positively to the actions of the police during the event, reporting that several counter-demonstrators were arrested and that LGBT activists were protected.237 This was the first time that the location of the LGBT march did not have to be altered.238 In response to the 2015 Pride Parade, a representative of GENDERDOC-M has reported that the State fulfilled its obligations:

[If] we're are talking about the Pride Festival, we must mention what is most important to us in this case. First, the fact that the march took place. The march took place not only because of our will and courage, but also because the state, through its enforcement bodies, fulfilled its obligations towards LGBT citizens, by providing conditions for realisation of their right to freedom of assembly, ie the march for equality. And this, as we know, is more important than any views of any mass-media and their reporters. Everything was well organised and very safe.239

Despite these positive developments, counter-demonstrators still appeared at the march, throwing eggs at participants and shouting homophobic abuse.240

236 Ibid., Paras 54–55.
238 Ibid.
240 Ibid.
In July 2015, a separate protest was held in Bălți. Although police informed advocates that they would provide protection, several requests were made to modify arrangements, including that participants should not carry a rainbow flag, and that the march be held 200 metres away from the planned location. Both of these requests were rejected, and the march went ahead as planned. Additionally, a GENDERDOC-M staff member told Equal Rights Trust that several mini-vans which had been booked to carry participants were cancelled. When the head of the mini-bus company was contacted, GENDERDOC-M was told that police and anti-corruption staff had threatened the bus company, warning the owner that “he would have big problems” unless the coaches were cancelled.

**Discrimination by State Agents**

Sexual and gender minorities in Moldova are often subjected to abuse at the hands of state actors, while abuses of the rights of LGBT persons by private actors go unpunished by law enforcement agencies.

Civil society organisations have noted that allegations of hate speech and hate crimes are not taken seriously by the Prosecutor’s Office. On the contrary, homophobic and transphobic discourse is common. Where hate crimes are reported, complaints are often rejected for a lack of evidence, or investigated as ordinary offences under the Criminal Code.

Additionally, although homosexuality is legal in Moldova, many LGBT individuals are dissuaded from reporting crimes. In one instance, documented by the LGBT organisation GENDERDOC-M, a gay man who had been beaten and robbed was advised against bringing his attackers to justice:

*When a gay man named R. was hunted, beaten and robbed because of his sexual orientation by four unknown men in October, he filed a formal complaint to the Buiucani Po-

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243 See above, note 168, pp. 10–11.

244 Ibid., p. 11.
lice Commissariat of Chişinău (...) R. was subjected to secondary victimisation by the police officers who attempted to convince him not to file a complaint against assailants by telling him that the entire investigation would cause him emotional and other distress.\textsuperscript{245}

Amnesty International has reported that LGBT persons in Moldova face difficulties gaining access to justice, with police officers appearing to be primarily concerned with a victim’s sexuality rather than any crime committed against them.\textsuperscript{246} In the same report, Amnesty found that gay men may be subject to “blackmail and extortion by corrupt police at known gay meeting points,” who exploit fears of exposure.\textsuperscript{247} In September 2015, a gay man from Tiraspol who arranged to meet with a stranger through a dating website was met by an undercover policeman.\textsuperscript{248} Having been taken to the police station, the man was instructed to provide police with a list of his gay contacts as “all gays are paedophiles and should be monitored”. The man was threatened and told that his arrest would be broadcast on the TV crime show “Territoriya 102”. According to a GENDERDOC-M employee, interviewed by Equal Rights Trust researchers, the man is too afraid to seek legal assistance.\textsuperscript{249}

Judicial attitudes toward LGBT persons in Moldova have also been criticised by civil society. In 2015, 13 reported cases of bias-motivated crimes were dismissed by courts, despite the apparent existence of sufficient evidence to warrant prosecution.\textsuperscript{250} Even where cases have come to trial, the victim's sexual orientation is not viewed as an aggravating factor.\textsuperscript{251} Further allegations have been made concerning political interference with the judicial process. In late 2015, a judge who prohibited a 2013 Pride march was dismissed from his post. He issued the following statement:

\begin{flushright}
245 \textit{Ibid.}, p. 12.
246 See above, note 150, p. 15.
247 \textit{Ibid.}
248 See above, note 241, Para. 2.1.
249 Equal Rights Trust, interview with E., 30 September 2015, Tiraspol.
251 See above, note 168, p. 3.
\end{flushright}
The Chairman [of Chișinău Centru Court] invited me to his office and told me in a threatening tone but in informal language that the GENDERDOC-M Information Centre cannot be allowed to hold their march where they wanted to (...) He drew my attention to the fact that the case was under the supervision of the State Information and Security Service and the leadership of Supreme Court of Justice. During this discussion, as well as during other talks, with the Chairman, he would make clear references to certain catastrophic consequences for my career if I didn't execute his orders.252

Moreover, the judiciary has at times appeared unwilling to prevent homophobic slurs within the courtroom. During a trial in 2013, a GENDERDOC-M staff member was subjected to derogatory remarks in front of the presiding judge by members of the public attending the hearing.253 The comments were recorded in the official minutes and a complaint was made to the court, and subsequently the Prosecutor’s Office.254 At time of writing, no information was available on whether the complaint had been considered.

**Discriminatory Violence**

The Moldovan LGBT community face violence and other forms of hate crime at the hands of members of the public. In 2013, LGBT group GENDERDOC-M documented 17 cases of bias-motivated crimes on the grounds of sexual orientation, with the majority committed against bisexual and gay men.255 In total, six assaults were recorded, four of which involved men being lured to a private location through gay dating websites where they were subsequently attacked.256 GENDERDOC-M also recorded public instances of violence. In 2013, two openly gay males were questioned about their sexual orientation before being punched in the face.257 While the assault was taking place, one of the attackers left in a taxi before coming back with two more men, who joined in the attack. The police only arrived 45 minutes after being called. Two cases of “ex-

252 See above, note 241, Para. 1.2.
253 See above, note 168.
254 Ibid.
255 Ibid., p. 3.
256 Ibid., p. 6.
257 Ibid., p. 7.
treme physical violence" were documented. In the first case, a gay man had his jaw broken, after meeting his attacker through a dating website. In the second, a 32-year-old man was assaulted for wearing “gay swimwear”. In January 2015, a man was punched in the ribs after being called a sodomite on a bus in Chișinău. The man refused to go to the police, believing that his attacker would not be found. Several individuals interviewed by the Equal Rights Trust in 2015 reported being subject to violence. One man was assaulted while traveling home from university. Another, attacked by the group Occupy Paedophilia recalled: “they beat me, filmed me and uploaded the video to social networks indicating my sexual orientation”; despite the group leader being arrested, the video is still available on the internet. In July 2015, a transgender woman was attending a birthday party with her husband. A man approached her along with several of his friends. After being repeatedly insulted, the woman asked to be left alone. She was subsequently beaten. When her husband intervened he was called a “pederast” and also beaten.

Education

Both the Convention on the Rights of the Child and the Covenant on Economic, Social and Cultural Rights provide for the right to education, to be ensured without discrimination, including on the grounds of sexual orientation or gender identity.

In a 2015 study, 52% of respondents considered LGBT persons to be one of the groups most exposed to discrimination, and research for this report

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258 Ibid., p. 6.
259 See above, note 241, Para. 3.5.
261 Equal Rights Trust interview with S., 26 March 2015, Chișinău.
262 Equal Rights Trust interview with X., 27 August, Anenii Noi town, Anenii Noi rayon.
265 Committee on the Rights of the Child, General Comment No. 15: On the Right of the Child to the Enjoyment of the Highest Attainable Standard of Health, UN Doc. CRC/C/GC/15, 2013, Para 8; see above, note 1, Para 32.
indicates that this is particularly true in relation to education. Testimony collected by Equal Rights Trust researchers illustrates how social stigma associated with sexuality and gender can lead directly to exclusion from the educational system:

*When we go somewhere together, I frequently see scornful glances from men directed to my son. As a consequence, he practically does not leave the house at all, does not go to shops or other places where you have to interact with others – because his voice does not match his appearance. My son looks like a girl but his voice is masculine.*

*For the same reason, school attendance has been poor in the last three years. My son left school in the eleventh grade. At school his classmates commented on his appearance. Teachers did not know how to react and did not understand what it was about. He could not concentrate on lessons, could not freely manifest himself because he was being talked about by his classmates (...) he was inhibited (...) Eventually, because of his absences he was expelled. This happened despite the fact that we presented a certificate from a psychologist describing this issue without giving a diagnosis. We discussed alternative methods of study, for example at home, but I was discouraged, being informed that the procedure is complicated and that the school does not have enough resources to provide training at home.*

Prizmac Xenia, a young mother with a transgender child explained to our researchers the difficulties which the child faced in accessing education:

*My child is trans-woman. She is 15 years old, has long hair and wears makeup regularly. She is very feminine. For this she is constantly harassed in school (...) Nobody wants to be friends with her or even interact. To avoid discrimination, she cannot be herself at school. She wears boy clothes*

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*267 Equal Rights Trust, interview with X., 20 April 2015, Chişinău.*
and controls her behaviour. She cannot be how she feels and wants to drop out of school. Her biological father talks about morality and how a real man must act.\textsuperscript{268}

An interview given to a newspaper in November 2015 by the lesbian mother of a school-age child provides another indication of the role which homophobic prejudice can play in limiting educational access for children:

\textit{We have many gay families in Moldova, but usually they hide their relationship. They prefer that their parents and their neighbors do not know anything about their relationship. They do it primarily because they fear their children will be stigmatised. We, for example, we had to change school because Alexander’s teacher found out about my relationship with a woman and, initially, tried to teach him how to talk to his mother so that she returns to his father. After seeing that it does not work, the teacher simply put him on the last bench and began to ignore him, although he was a very good student. We had to leave. It was harassment by the teacher. In the other school we did everything we could so that nobody could find out about my relationship. If in the first school I was an active member of the parents board, in the other school I tried to come only when it was urgently needed, so that my child could not suffer or have problems.}\textsuperscript{269}

\textbf{Access to Goods and Services}

As a consequence of discriminatory laws and practices, many LGBT individuals in Moldova face difficulties accessing goods and services, with examples of discrimination noted in the reports of both NGOs and the press. In response to a 2015 survey, only 37.2\% of respondents indicated that they thought LGBT persons should have equal access to goods and services.\textsuperscript{270}

\begin{multicols}{2}
\textsuperscript{268} Equal Rights Trust, interview with Prizmac Xenia, 1 May 2015, Chișinău.


\textsuperscript{270} See above, note 3, p. 33.
\end{multicols}
In 2012, a gay man was interviewed by the Centre for Information on Human Rights after being thrown out of a nightclub for kissing his boyfriend. Security approached the couple and told them to leave and never return to the club. More recently, a man (A.G) and his gay friend were banned from a nightclub. The owner of the club informed the pair that because of their presence, he was losing business and they would no longer be allowed on the premises. A formal complaint was lodged with the police, who referred the case to the CPEDEE. Following a public hearing, in November 2015, the Council concluded that A.G. had been discriminated against on the basis of sexual orientation in accessing public goods and services.

In 2014, the UN Special Rapporteur on Extreme Poverty and Human Rights noted that transgender persons in Moldova face discrimination and stigmatisation, impeding their ability to access goods and services and lift themselves out of poverty. GEDERDOC-M provided the example of a 36 year old transsexual woman, who was refused access to the notary office and access to credit services. Despite obtaining official documents which showed her name and gender identity, the bank initially refused her service:

> In Moldova, the personal state identity number is used almost everywhere where people are required to present IDs. This number never changes even if one has changed their name and gender (...) The bank clerk informed her of the fact that the presented personal state identity number belonged to a different person according to their database. The woman was accused of forgery and denied banking services. She had to disclose her transgender status in order to explain the situation.

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273 See above, note 84, Para 24.

274 See above, note 237.

The report notes that after disclosing her transgender status, the woman was “humiliated by the bank employee in front of other customers”.

**Conclusion**

LGBT persons in Moldova experience high levels of discrimination and stigma. A combination of weak law enforcement in response to crimes against them, an inadequate legislative framework providing protection from discrimination and the discriminatory statements of public and religious officials contribute to the vilification and denigration of sexual and gender minorities within the country. Recent surveys indicate extremely low levels of societal acceptance of gender and sexual minorities. As a consequence, legislation has been adopted prohibiting “gay-propaganda”. However, Moldova has made some progress in relation to LGBT rights in recent years. The repeal of “gay-propaganda” laws and regional ordinances and relaxation of requirements concerning Pride Marches are positive developments which must be encouraged. However, LGBT persons in Moldova still face significant discrimination in many areas of life.

**2.3 Discrimination on the Basis of Health Status**

Health status is a well-recognised ground of discrimination in international law. The CESCR has recognised that Moldova and other states party to the ICESCR are required to guarantee all of the economic, social and cultural rights in the Covenant without discrimination on the basis of health status, including HIV status. In addition, the UN Commission on Human Rights has stated that the term “or other status” in non-discrimination provisions in international human rights texts can be interpreted to cover health status, including HIV/AIDS and that therefore “discrimination on the basis of AIDS or HIV status, actual or presumed, is prohibited by existing international human rights standards”. As such, Moldova is required to guarantee all of the civil and political rights in the ICCPR without discrimination on the basis of health status, by virtue of Article 2(1) (which uses the term “other status”).

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276 Ibid.

277 See above, note 1, Para 33.

larly, under Article 26 of the ICCPR, Moldova is required to ensure that “the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination” on grounds including on health status. Further, the ECHR requires Moldova to prohibit discrimination based on health status in respect to all Convention rights, by virtue of Article 14, as interpreted by the European Court of Human Rights.279

2.3.1 Discrimination on the Basis of HIV Status

HIV is a significant public health problem in Moldova. As of 1 January 2014, 8,557 cumulative cases of HIV infection had been registered in the country.280 By the end of 2013, HIV prevalence (the number of people living with HIV) was 173.43 cases per hundred thousand.281 There was a substantial regional disparity, with the rate on the right bank being 129.89 per hundred thousand, while in the eastern territories it was 463.25 per hundred thousand.282 During 2013, the incidence of HIV across the country (i.e. new cases) was 17.99 cases per hundred thousand people.283 The incidence in the “right bank” territories was 13.68 per hundred thousand, while it was 46.91 per hundred thousand in the eastern territories.284 Incidence and prevalence rates of HIV infection are particularly high in the eastern territories, representing some of the highest levels in Europe.285

Prejudice and stigma directed towards people living with HIV (PLWHIV) are common. Research conducted in 2014 revealed worrying levels of prejudice and stereotyping.286 More than half of those sampled believed that children

279 See, for example, I.B. v Greece, European Court of Human Rights, Application No. 552/10, 3 October 2013.


281 Ibid.

282 Ibid.

283 Ibid.

284 Ibid.

285 Ibid.

286 See above, note 40, p. 29.
with HIV should be taught in separate classes, while 38% believed that PL-WHIV should not use public transport.\textsuperscript{287} Stereotypes associated with HIV were also common, with 40% of respondents believing that those with HIV posed a risk of infection, and many associating PLWHIV with drug use, prostitution, “perversion” and “sin”.\textsuperscript{288} The same study found that the “integrated indicator of acceptance” of PLWHIV dropped from 5% in 2010, to only 1.7% in 2014,\textsuperscript{289} representing a worrying decline in public acceptance of PLWHIV.

A more recent study reveals similar attitudes towards PLWHIV: 31.5% of respondents considered PWLHIV as an infection risk, and 20.8% of respondents considered PLWHIV as having a “disordered sexual life”.\textsuperscript{290} The most prevalent reaction was that of fear, with some respondents indicating that they would avoid PLWHIV,\textsuperscript{291} and 31.3% of respondents considering that PLWHIV should be isolated to prevent the spread of infection.\textsuperscript{292}

\textbf{Legal and Policy Framework}

In recent years, there have been a number of positive legal changes aiming to combat the discrimination suffered by PLWHIV. One of the most important changes is the amendment of the Law on Prevention of HIV/AIDS Infection in April 2012,\textsuperscript{293} which creates a number of protections for persons living with HIV/AIDS (PLWHIVA). Article 22 of the Law prohibits any discrimination based on HIV status at all stages of employment, while further provisions prohibit discrimination based on HIV status in education,\textsuperscript{294} healthcare,\textsuperscript{295} and other services.\textsuperscript{296} In addition, the amendments provided for new privacy and

\begin{itemize}
  \item[\textsuperscript{287}] \textit{Ibid.}
  \item[\textsuperscript{288}] \textit{Ibid.}
  \item[\textsuperscript{289}] \textit{Ibid.}, p. 28.
  \item[\textsuperscript{290}] See above, note 3, p. 34.
  \item[\textsuperscript{291}] \textit{Ibid.}, p. 37.
  \item[\textsuperscript{292}] \textit{Ibid.}, p. 35.
  \item[\textsuperscript{293}] Law on Prevention of HIV/AIDS Infection (Law No. 23-XVI of 16 February 2007).
  \item[\textsuperscript{294}] \textit{Ibid.}, Article 23.
  \item[\textsuperscript{295}] \textit{Ibid.}, Article 25.
  \item[\textsuperscript{296}] \textit{Ibid.}, Article 26.
\end{itemize}
confidentiality 297 safeguards and removed travel and immigration barriers for PLWHIVA. 298 Mandatory HIV testing is also prohibited in a range of contexts, including employment, travel and access to healthcare and education. 299 The Law also addresses the particular vulnerability of women to discrimination based on HIV status: for example, in local programmes on the prevention of HIV there are activities which aim to strengthen the leadership and participation of women living with HIV. 300

**Discriminatory Legal and Policy Provisions**

Despite the introduction of legal protections from discrimination in the Law on Prevention of HIV/AIDS Infection, a number of discriminatory or potentially discriminatory legal and policy provisions remain in force.

Article 30 of the Law on Asylum in the Republic of Moldova provides that “[a]sylum-seekers are provided with the right to a free medical examination (including anonymous examination) with a view to early detection of HIV and AIDS”. 301 The effect of this testing, however, leaves asylum seekers vulnerable to discrimination based on HIV status, as the Government Decision on approving the Regulation of the Accommodation Centre 302 provides that the accommodation of asylum seekers in the Centre will be refused if, *inter alia*, they are suffering from TB in its active form 303 or other contagious infectious diseases. 304 Although no definition of “contagious infectious disease” is given in the Decision, there are reasonable grounds for concern that these provisions may lead to cases of discrimination. Representatives of the Bureau for Migration confirmed that mandatory HIV testing of asylum seekers is common. 305 If asylum seekers are then found to be HIV positive

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297 Ibid., Article 14.
298 Ibid., Article 24.
299 Ibid., Article 15.
300 Ibid., Article 6(7).
301 See above, note 158, Article 30(2).
302 Decision approving the Regulation of the Accommodation Centre (Government Decision No. 1023 of 28 December 2012).
303 Ibid., Para 11/1.
304 Ibid., Para 11/2.
they are often refused accommodation or expelled from the Accommodation Centre.\footnote{306 \textit{Ibid}.}

\textbf{Treatment by Law Enforcement Agencies}

The Equal Rights Trust interviewed Stas, a prisoner living with HIV, who indicated that the widespread stigma, prejudice and fear associated with HIV influenced the treatment of PLWHIV in penal institutions:

\begin{quote}
\textit{Prison staff and detainees are afraid of PLWHIV. As a result, prison authorities segregate PLWHIV and place them in separate cells to avoid contact between persons who do not have HIV and those with HIV. Sometimes we do not receive our antiretroviral treatment for between one and two weeks because prison staff often neglect to do this. This interruption of our treatment is dangerous because it can lead to a decline in our health and resistance to the antiretroviral treatment. As a result of such resistance, we will then need other medication.}\footnote{307 \textit{Equal Rights Trust interview with Stast, 14 May 2015, Bălți city.}}
\end{quote}

Research conducted for this report also revealed instances of discrimination by penitentiary administration/staff. PLWHIV complained to Promo-LEX Association lawyers about poor detention conditions and a failure to provide special medical treatment to PLWHIV who are active drug users.\footnote{308 \textit{Equal Rights Trust focus group, 10 December 2015, Chișinău.}}

\textbf{Employment}

Research conducted by the Soros Foundation in 2012 shows that PLWHIV have limited access to employment and are particularly vulnerable to discrimination in employment.\footnote{309 Malcoci, L., \textit{The Socio-Economic Situation of HIV Infected Persons}, 2012, p. 93, available at: http://soros.md/files/publications/documents/Raport_Soros_2012_statut\%20HIV.pdf.} Of the PLWHIV surveyed, only one third were employed full or part-time.\footnote{310 \textit{Ibid}.} Many of those who were currently unem-
ployed stated that they had been dismissed from their jobs because of their HIV status.\footnote{311} The Law on Prevention of HIV/AIDS Infection prohibits discrimination based on HIV status in making employment decisions,\footnote{312} and prohibits employers and potential employers from demanding medical tests or confirming HIV testing.\footnote{313} However, the Equal Rights Trust found that employers continue to demand medical certificates, including details of HIV status, and then dismiss those found to have HIV or AIDS. One interviewee told the Trust’s researchers that:

\begin{quote}
I found a job in a bakery. Once every six months all the employees are required to undergo medical examination, which includes testing for HIV/AIDS. As I am PLWHIV I provided my employer with a certificate confirming that I am healthy. The doctor was very surprised that the employers ask for such certificates, because the law prohibits any such requirement. When I went to the doctor in early 2015 to obtain my certificate I was seen by the nurse who I later learned was my colleague’s wife. I later discovered that she had told her husband that I was HIV positive and that I had provided a false certificate to my employer. The other employees, including the director, then found out about my HIV status and on the same day I was forced to resign.\footnote{314}
\end{quote}

This finding reflects a similar finding from a 2012 report, which found that employers demanded medical records, test or certificates from prospective and current employees.\footnote{315}

There is also evidence of employment discrimination against PLWHIV in the military. In 2012, it was reported that a young man was not able to complete

\footnotesize{\begin{itemize}
\item \footnote{311} Ibid.
\item \footnote{312} See above, note 293, Article 22.
\item \footnote{313} Ibid., Article 15.
\item \footnote{314} Equal Rights Trust interview with И., 22 September 2015, Taraclia town.
\item \footnote{315} See above, note 309.
\end{itemize}}
his military service when his HIV status became known. The Medical Commission of the Military Centre ruled that he was incapable of performing his military service and excluded him from military records. His military ID was amended to indicate a code that could easily disclose his HIV status.\textsuperscript{316}

As a result of their low levels of employment, the vast majority of PLWHIV live in poverty and their income level barely covers the costs of subsistence.\textsuperscript{317} Focus groups conducted for this report identified a number of consequences arising from the relative poverty of PLWHIV, including for example that many are unable to afford the costs of formal identification.\textsuperscript{318}

\textit{Education}

PLWHIV can also experience considerable discrimination in education. Research conducted in 2012 found that when the HIV status of children is made public, educational institutions commonly refuse to accept children with HIV into kindergartens and schools.\textsuperscript{319} According to a more recent study, 48.9\% of respondents consider that children with HIV should study in separate classes or groups from the rest of children/students.\textsuperscript{320}

Further, children with a HIV positive parent will often be stigmatised and become subject to discrimination by association if teachers or parents discover their parent’s status, as demonstrated by the case of Elena.\textsuperscript{321} Elena’s son had a personal conflict with a classmate. The second boy’s parents discovered that Elena and her husband are rights activists for PLWHIV, and then proceeded to inform all the other parents that Elena, her husband and son were HIV positive. As a result, Elena’s son was isolated by his classmates and became depressed. Elena wrote and complained to the school director, but eventually

\textsuperscript{317} See above, note 309, p. 111.
\textsuperscript{318} Equal Rights Trust, focus group, 9 July 2015, Chișinău.
\textsuperscript{319} See above, note 309, p. 87.
\textsuperscript{320} See above, note 3, p. 36.
\textsuperscript{321} Equal Rights Trust Interview with Elena, 21 July 2015, Chișinău.
transferred her son to another school. However, the information about Elena and her family rapidly spread to the new school.

Another example can be found in the case of L. In 2014, L.’s health condition deteriorated and she was diagnosed as HIV positive. Her doctors leaked the news of her health status; the other parents learned of L.’s diagnosis and informed the director of the kindergarten that if L. did not transfer her child they would collect signatures for a petition requiring L.’s child to transfer. As a result, the director telephoned L. and asked her to transfer her child to another kindergarten.322

**Healthcare**

Despite legal protections against discrimination based on HIV status in accessing healthcare, reports of HIV-positive patients being refused medical treatment and facing other discrimination in accessing healthcare is common.

According to a recent study on perceptions of equality and non-discrimination, about 50% of the respondents considered that PLWHIV should attend separate doctors, so as to avoid contact with other persons.323 An alternative study, conducted in 2012, found that more than 40% of persons with HIV avoid going to the doctor because they are afraid of discrimination,324 while another survey of 403 PLWHIV in Moldova conducted in 2010–2011, found that 44% of people infected with HIV felt discriminated against by medical institutions.325 In the same study, 13.6% of respondents stated that they had no access to medical services, including dental services, because of their HIV status.326

Discrimination in health institutions is often manifested in doctors’ attempts to avoid diagnosing or treating PLWHIV, especially where procedures involve

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322 Equal Rights Trust Interview with L., 18 May 2015, Basarabeasca town.
323 See above, note 3, p. 36.
324 See above, note 309, p. 72.
326 Ibid., p. 8.
direct contact with a patient’s blood. Researchers for the Soros foundation found cases in which doctors refused to perform surgery on PLWHIV after they revealed their health status to medical staff. Additionally, doctors may take additional precautions if treating a patient they believe to be HIV positive. Finally, researchers found that doctors may breach patient confidentiality regarding a person’s HIV status.

Focus groups conducted for this report revealed considerable discrimination against PLWHIV by doctors. Participants indicated that on discovering that an individual is HIV positive, doctors might refuse medical assistance or refer PLWHIV to other specialists. PLWHIV also stated that they have been advised by doctors that they should not have children as the child is likely to be infected and therefore unable to attend kindergarten, while other doctors suggest that PLWHIV have short life expectancies and are therefore likely to die young, leaving their children uncared for. There were also reports of health workers taking unnecessary precautions during the childbirth of PLWHIV, for example by wearing two coats and two pairs of gloves.

Research for this report also found evidence that medical staff treat HIV positive patients aggressively or abusively. One person interviewed by Equal Rights Trust researchers stated:

At the end of 2014, I spoke to the surgeon in our city centre clinic and informed him I was HIV positive. He then became aggressive and asked me why this was not listed on my medical card. I tried to explain the situation, because I know that including this information on my medical card is not mandatory. The doctor and the nurse shouted at me, saying that they were at risk of infection and that I should have warned them of my status. I tried to explain that they were required to treat me as they treated other patients. I said I would complain to the di-

327 See above, note 40, p. 33.
328 Ibid.
329 Ibid.
330 Equal Rights Trust focus group, 9 July 2015, Chișinău; Equal Rights Trust focus group, 14 May 2015, Bălți, city; Equal Rights Trust focus group, 18 May 2015, Basarabeasca town.
reector of the clinic because the doctor had written my health status on my medical card without my consent. After this, the doctor ripped up my documentation.\footnote{Equal Rights Trust Interview with O., 16 May 2015, Bălți city.}

Women living with HIV face discrimination during pregnancy and maternity. Pregnant women informed researchers from the Soros Foundation that they were advised to terminate their pregnancies, even at the final trimester, being told that the child might be born with disabilities or that they would be rejected by society.\footnote{Ibid.} Some respondents, particularly rural women, complied with the recommendations of doctors and terminated their pregnancies.\footnote{Bujarov, S., “O gravidă HIV-pozitivă a depus o plângere împotriva Spitalului de la Orhei, pe motiv că aceștia au trimis-o cu microbuzul la Chișinău ca să nască”, Sănătate Info, 12 May 2013, available at: http://e-sanatate.md/News/1691/o-gravida-hiv-pozitiva-a-depus-o-plangere-impotriva-spitalului-de-la-orhei-pe-motiv-ca-acrestia-au-trimis-o-cu-microbuzul-la-chisinau-ca-sa-nasca; Council on the Prevention and Elimination of Discrimination and Ensuring Equality, Decision No. 021/2013 of 27 December 2013, available at: http://egalitate.md/media/files/files/decizie_2conf_din_27_12_2013_in_cauza_021_2013_t_r_3861503.pdf.}


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In 2013, a pregnant woman took a complaint to the CPEDEE against Orhei District Hospital and the Ministry of Health after doctors refused to treat her because of her HIV status. She was experiencing prenatal pain, but doctors refused to hospitalise her as she was not yet in labour and did not meet the conditions required to admit a person with HIV. She was forced to take public transport to the Mother and Child Institute in Chişinău where she gave birth the next day.
On December 27, 2013, CPEDEE issued its decision, finding that the woman’s treatment did not amount to discrimination based on HIV status. However, the CPEDEE did find that Order No. 100 of the Ministry of Health, which states that women living with HIV may only give birth in two specialised medical facilities, located in Chișinău and Bălți, unreasonably restricts the rights of pregnant women living with HIV. The CPEDEE recommended the repeal of Order No. 100, however, there is no data available on whether this recommendation was complied with.

Another woman, I., told us her story.336 When she had contractions she came to the hospital. Once the doctors realised she was HIV positive they placed her in a separate room which she was told not to leave. She was informed that she should not shower because it posed a risk to others and that she should not communicate with others. Women living with HIV who participated in our focus groups said they often felt isolated and ignored during childbirth, as they were placed in rooms alone, with some stating that they were placed in very cold rooms with their newborn babies and felt forced to warm their babies with plastic bottles filled with hot water.337

As a result of these and other difficulties in accessing suitable reproductive healthcare, PLWHIV may abandon the idea of having a family. In a survey conducted by the League of People Living with HIV in Moldova, 35% of respondents indicated that they would not have children, while 13.6% refuse to marry.338

Unauthorised Disclosure of HIV Status

An additional problem facing PLWHIV is the failure of medical professionals to keep patients’ health status confidential339 despite the legal prohibi-

337 Equal Rights Trust focus group, 9 July 2015, Chișinău; Equal Rights Trust focus group, 14 May 2015, Bălți city; Equal Rights Trust focus group, 18 May 2015, Basarabeasca town.
338 See above, note 325.
339 Ibid., p. 46.
tion on unauthorised disclosure.\textsuperscript{340} This is particularly true in rural areas and for women.\textsuperscript{341} A 2012 study have revealed that between 50\% and 60\% of respondents had their health status disclosed without their consent.\textsuperscript{342} As a result of their fear of disclosure or discrimination when accessing health services, many PLWHIV do not visit doctors and do not register themselves at doctors.\textsuperscript{343} The CESCR has noted this problem and urged Moldova to ensure the confidentiality of a patient’s HIV status.\textsuperscript{344}

The problem of unauthorised disclosure of health status is particularly acute in rural areas, where family doctors have a tendency to inform other residents of a village. Focus group respondents told Equal Rights Trust researchers that the results of such disclosure are devastating for PLWHIV, who are isolated, ignored and shunned, leaving some to eventually leave the village.\textsuperscript{345} T.’s story is illustrative. In 2014, T.’s relatives learned that she was living with HIV, as her cousin who worked in a local health clinic informed them at a family event. T.’s family became aggressive and told T. to leave, as they thought she posed a risk of infection. T. went to Italy for 6 months, but on her return, stated that she felt as though she was an outcast in her village.\textsuperscript{346} Stefan, another person interviewed by Equal Rights Trust researchers for this report, had a similar experience: after he was diagnosed with HIV, his wife saw his medical card and informed all his friends and neighbours. As a result, he felt that the whole village turned on him. Stefan told the Trust’s researchers that he was unsure how long he could bear to remain in the village.\textsuperscript{347}

There is a significant risk that fear of disclosure and consequential prejudice and discrimination leads people to avoid HIV testing, which in turn risks preventing PLWHIV from accessing antiretroviral treatment.

\textsuperscript{340} See above, note 293, Article 14.
\textsuperscript{341} See above, note 309, p. 105.
\textsuperscript{342} See above, note 325, p. 46; \textit{Ibid.}, p. 72.
\textsuperscript{343} Equal Rights Trust focus group, 9 July 2015, Chişinău.
\textsuperscript{344} See above, note 30, Para 23.
\textsuperscript{345} Equal Rights Trust focus group, 9 July 2015, Chişinău.
\textsuperscript{346} Equal Rights Trust interview with T, 18 May 2015, location anonymised.
\textsuperscript{347} Equal Rights Trust interview with Stefan, 23 July 2015, Călăraşi town, Călăraşi rayon.
Conclusion

Although the Moldovan Constitution does not expressly prohibit discrimination on the basis of health status, the Law on Prevention of HIV/AIDS Infection introduces a number of protections for PLWHIV. However, PLWHIV continue to experience stigmatisation and discrimination in all areas of life. Of particular concern are the widespread reports of the failure of medical professionals to keep patients’ health status confidential and the poor treatment afforded such people. Women and children living with HIV are particularly vulnerable to discrimination in both healthcare and education, with many interviewees describing poor treatment by both schools and doctors.

2.3.2 Discrimination Against Persons with Tuberculosis

Tuberculosis (TB) has been a significant public health problem in Moldova since 1990. In 2015, the UN Special Rapporteur on Extreme Poverty and Human Rights noted the “very troubling levels” of TB in Moldova.\textsuperscript{348} Moldova is one of 18 countries in Europe classified by the World Health Organization as still having a high burden of TB and one of the 27 countries in the world which has multi-drug resistant TB.\textsuperscript{349} The prevalence of HIV-TB co-infection in Moldova is growing\textsuperscript{350} and co-infection is considered to be accountable for roughly 50% of all AIDS related deaths in Moldova.\textsuperscript{351}

While there is limited statistical data available on the prevalence of discrimination against persons with TB, the limited information which is available,\textsuperscript{352} together with testimony collected for this report indicates that discrimination

\textsuperscript{348} See above, note 84, Para 8.
\textsuperscript{351} Ibid.
and stigmatization against people with TB remains a significant problem both in the medical field, and in the wider community. In a 2012 survey, 59% of respondents stated a belief that people would change their attitude towards a person on learning that they have been diagnosed with TB.\(^{353}\) Of greater concern was the finding that 23% of respondents considered it shameful to have TB, expressing concern that having the disease could cause them to lose their job or be considered as a drunk or homeless person.\(^{354}\) Further, the UNDP has expressed concern that persons with HIV-TB co-infection “face persistent stigmatization and discrimination, poverty and have specific needs.”\(^{355}\)

**Discriminatory Legal Provisions**

The Regulation on Coercive Temporary Hospitalisation in Anti-Tuberculosis Specialised Healthcare Institutions of Persons with Contagious Tuberculosis Who Refuse Treatment provides for the forcible detention and stationary treatment of TB sufferers if they are deemed to have “avoided treatment”.\(^{356}\) Both the Committee Against Torture and the Human Rights Committee have articulated concerns about the scope of such a provision and called on Moldova to ensure that the implementation of any forcible treatment be in line with Moldova’s international human rights law obligations.\(^{357}\)

In its General Comment No. 14 CESCR noted that:

> **The right to health contains both freedoms and entitlements. The freedoms include the right to control one’s health and body... and the right to be free from interference, such as the right to be free from torture, noncon-

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sensual medical treatment and experimentation... obligations to respect [the right to health] include a State’s obligation to refrain (...) from applying coercive medical treatments, unless on an exceptional basis for the treatment of mental illness or the prevention and control of communicable diseases. Such exceptional cases should be subject to specific and restrictive conditions, respecting best practices and applicable international standards, including the Principles for the Protection of Persons with Mental Illness and the Improvement of Mental Health Care.”  

Under the Regulation persons may be subject to forcible detention and treatment for avoiding treatment, however, there is no clear definition of what behaviour constitutes “avoiding treatment”. The imposition of forcible medical treatment should be an option of last resort, and the use of broad, vague conditions is concerning. Furthermore, to the extent that the Regulation imposes a blanket requirement that persons with TB who avoid be subject to forcible treatment, this does not adequately balance an individual’s rights against the need for treatment. Each decision to detain and treat a TB sufferer under this Regulation must involve a careful balancing of an individual’s right both to the highest attainable standard of health under Article 12 of ICESCR and the right to non-discrimination and equality against the public health concerns weighing in favour of such treatment. The Regulation also fails to set out a method of reviewing or challenging the decision to apply forcible treatment. This leaves an already vulnerable group without any formal protection against the abuse of the power under this Regulation.

In 2014, the CPEDEE considered the provisions of the Regulation, and found that the text of the Regulation did not guarantee TB sufferers subject to coercive hospitalisation the rights set out in the Constitution, in violation of international and national non-discrimination standards.  


Discriminatory Treatment in Penal Institutions

Following a 2009 visit to Moldova, the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment raised concern about a number of cases of torture or other forms of ill-treatment of prisoners with TB. One man, in Rezina Penitentiary Institution, died of TB and diabetes because he was not given sufficient medicine and was not allowed to leave prison to go to hospital.\textsuperscript{360} Furthermore, several detainees in the TB unit in the same prison stated that they were served rotten fish and beaten by the guards, simply because of their health status.\textsuperscript{361} Finally, Inga Tcaci, a prisoner at SIZO Prison stated that she had been infected with TB while at the prison, before becoming pregnant and having a child with another inmate. Ms Tcaci stated that she was not allowed to see the child and that was kept in solitary confinement. She later lodged a complaint but was beaten by police when in detention in the investigation department.\textsuperscript{362}

Although no similar cases of ill-treatment have been revealed in recent years, reports produced by the Ombudsman highlight other consistent failings in the treatment of prisoners with TB in Moldovan penitentiaries. Sanitary, technical and medical equipment are often outdated,\textsuperscript{363} while hygiene conditions are poor,\textsuperscript{364} negatively impacting upon detainees with TB. In some cases, prisoners suffering from tuberculosis and other infectious diseases have been held with the general prison population.\textsuperscript{365} In part, this is due to the late diagnosis of TB in prisons.\textsuperscript{366}

\begin{flushleft}
\textsuperscript{360} Human Rights Council, \textit{Report of the Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment}, Manfred Nowak, Addendum, UN Doc. A/HRC/10/44/Add.3, 2009, Para 57.
\textsuperscript{361} \textit{Ibid.}
\textsuperscript{362} \textit{Ibid.} Para. 8.
\textsuperscript{364} \textit{Ibid.}
\textsuperscript{365} \textit{Ibid.}, p. 100.
\textsuperscript{366} Equal Rights Trust focus group, 10 December 2015, Chișinău.
\end{flushleft}
**Employment**

The Equal Rights Trust and Promo-LEX collected testimony from persons with TB which indicated that discrimination in employment is a significant problem. For example Nicholae stated that he started to look for a job in a village other than the one in which he lives, because in his village everyone knows about his TB status and he was repeatedly refused employment. He stated that while no one had told him the reason for these refusals, potential employers were not able to provide other reasons, and he feels that he knows it is because of his TB status. Boris informed our researchers that he cannot get a job even as a security guard because he has previously been ill with TB. Our research indicates that these are not isolated cases.

**Education**

In 2013, Moldova recognised that the prevalence of TB – and in particular multi-drug resistant TB – “has led to a decline in enrolment rates in general mandatory education”.

Research conducted for this report also found examples of discrimination against children whose relatives have TB. In one case, school administrators moved a child’s desk to the back of the classroom, three metres away from other children. The child was asked to keep her mouth closed during school time and to avoid talking during class, unless asked by the teacher, so that “she would not spread the disease”. The girl was bullied by other children and eventually left the school.

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368 Equal Rights Trust Interview with Boris, 14 August 2015, Chişinău.


370 Equal Rights Trust focus group, 10 December 2015, Chişinău.
Access to Public Services

Research for this report indicated that discrimination on the basis of TB status when accessing goods and services is a significant problem. For example, Alexei informed the Trust’s researchers that his local grocery store told him not to come to the store, because other people in the village had started to refuse to buy products from the store, because of his TB status.\(^{371}\)

Conclusion

There are serious concerns about discrimination against persons with TB in Moldova on the basis of their health status. Persons living with TB are subject to considerable stigmatisation, with a diagnosis of TB frequently being considered as “shameful”. There is considerable evidence of ill-treatment of persons with TB. The vulnerability of persons living with TB is exacerbated by the Regulation on Coercive Temporary Hospitalisation which does not provide for clear means to review and challenge any treatment administered under this regulation.

2.4 Discrimination on the Basis of Gender

Moldova is required to eliminate and prohibit all forms of discrimination against women through its obligations under the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), which it ratified in 1994. Moldova also has specific obligations under Article 3 of the ICCPR and Article 3 of the ICESCR to ensure the equal rights of both men and women to the enjoyment of all of the rights set forth in the Covenants. Further, under Article 26 of the ICCPR, Moldova is required to ensure that the law “shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as (...) sex”. Finally, the ECHR requires Moldova to prohibit discrimination based on sex in respect to all Convention rights, by virtue of Article 14.

Although gender inequality can affect both men and women, it is overwhelmingly women who experience gender discrimination in Moldova, and consequently, this chapter focuses on discrimination against women. Just over

\(^{371}\) Equal Rights Trust interview with Alexei, 14 August 2015, anonymous locality, Ialoveni rayon.
half of Moldova’s population of 3.56 million people – almost 1.84 million, or 51.9% – are women.372

**Position of Women in Society**

In 2015, the UNDP Gender Inequality Index ranked Moldova 107th out of 187 countries, with a gender equality rating of 0.248.373 In the World Economic Forum’s 2015 Global Gender Gap Report, which measures the gender gap in economic participation, political life, education and healthcare, Moldova was ranked 26 out of 145 countries with a score of 0.742.374

Although the reasons for gender discrimination in any society are diverse, patriarchal attitudes and deep-rooted stereotypes regarding the roles and responsibilities of women and men in Moldovan society contribute to discrimination and impinge upon the rights of women.375 In its 2013 review of Moldova, the Committee on the Elimination of Discrimination against Women (CEDAW) noted that stereotypes are one of the “root causes” of women’s disadvantaged position in different areas of life, as well as a leading cause of violence against women.376 Further, the Committee cited stereotyping of older women and women with disabilities, sexism in advertising, and the promotion of traditional gender roles through religious institutions as problems which adversely affect the implementation of state policies on gender equality and contribute to discriminatory attitudes towards women in Moldova.377

**Legal and Policy Framework**

Several laws prohibit discrimination and promote equality on the basis of gender in Moldova. Under Article 16(2) of the Constitution, “all citizens of the


375 See above, note 51, Para 17.

376 Ibid.

377 Ibid.
Republic of Moldova shall be equal before the law and public authorities, regardless of (...) sex. Similar provisions are found in the Labour Code, Family Code, the Law on Equality of Opportunities between Women and Men, the Law on Ensuring Equality, the Law on Preventing and Combating Domestic Violence, and the Law on Healthcare. These laws are examined in more detail in Part 3 of this report.

However, while Moldova has enacted a range of laws prohibiting discrimination on the basis of gender, including most recently the Law on Ensuring Equality in 2012, in 2013, CEDAW highlighted several problems with the Moldovan legislative framework:

(a) The slow progress of the State party’s legal reform aimed at harmonizing its national legislation with the Convention, in addition to the delay in, and lack of a clear time frame for, the adoption of a number of important draft laws;

(b) The insufficient implementation of laws aimed at the elimination of discrimination against women;

(c) The limited budget allocated to the Anti-Discrimination Council; [and]

(d) The lack of awareness by the judiciary of women’s rights and relevant national legislation and the lack of systematic training on the Convention and national legislation that promotes gender equality.

In 2009, a National Programme on Ensuring Gender Equality (2010–2015) was adopted. The Programme is implemented by the Ministry of Labour, Social Protection and Family (MLSPF), the central authority responsible for

378 See above, note 196, Article 16.
379 See above, note 51, Para. 9.

Nevertheless, the system of policies is not perfect, and implementation is a cause for concern. In 2015, an evaluation of the implementation of the National Programme on Ensuring Gender Equality was conducted. The study found that insufficient resourcing of the MLSPF limited its capacity to ensure gender equality and combat domestic violence.\footnote{Ministry of Labour, Social Protection and Family of the Republic of Moldova, \textit{Evaluation Report on the Degree of Implementation of the National Gender Equality Programme for 2010–2015}, 2015, p. 13 available at: http://www.mmpsf.gov.md/sites/default/files/document/attachments/raport_evaluare_pnaeg_2010-2015.pdf.} In 2013, the Committee on the Elimination of Discrimination against Women expressed concern over the Moldovan policy framework, criticising the “limited cooperation between existing gender equality bodies and relevant ministries (...) frequent staff turnover (...) [and] insufficient gender mainstreaming within ministries at all levels”.\footnote{See above, note 51, Para. 13.} The Committee also noted the exclusion of disadvantaged women from the formulation of policies and programmes and the “limited decision-making power” of national mechanisms.\footnote{\textit{Ibid.}}
Similar criticisms have been voiced by Moldovan NGOs,\textsuperscript{387} which have expressed concern over the infrequent activity of the Governmental Commission for Equality between Women and Men and the lack of full time personnel responsible for ensuring gender equality in other ministerial departments.\textsuperscript{388}

\textit{Discriminatory Legal Provisions}

Article 2(f) of CEDAW requires Moldova “to take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women”. However, despite its international legal obligations, Moldovan legislation does not currently conform to the requirements of the CEDAW.

In 2015, the CPEDEE noted the existence of stereotypes and gender-discriminatory language in Moldovan policy documents and legislation.\textsuperscript{389} These stereotypes are particularly evident in Government Decision No. 264 of 1993, which prohibits women from undertaking certain forms of dangerous work, including, for example, processing metals, roles in the construction materials industry and in certain types of construction and ship repair.\textsuperscript{390} Irrespective of their intent, prohibitions such as this have been criticised by the Committee

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\textsuperscript{388} This report argues that Moldovan institutions face a number of challenges in ensuring gender equality, the biggest of which include: (1) that public institutions have limited responsibility to achieve gender equality (2) lack of understanding of the differential effect of policy choices on men and women; (3) poor monitoring and evaluation of the effective implementation of gender equality initiatives. See Gender Equality Platform and Others, \textit{Joint Submission to the Universal Periodic Review for the Republic of Moldova}, 2016, Para 5.1, available at: http://cdf.md/files/resources/98/UPR-submission-gender-equality-platform-Moldova.pdf.

\textsuperscript{389} For example, the Classification of Occupations applies uses the female gender for certain jobs such as “maid”, “babysitter”, “governess” and “seamstress” (although a male equivalent title is provided). Certain management level professions are not offered in the female equivalent, namely “chief”, “director”, “chairman”, “minister” etc. See, Ministry of Labour, Social Protection and Family, Order approving the Classification of Occupations in Moldova (Order No. 22 of 3 March 2014), available at http://lex.justice.md/viewdoc.php?action=view&view=doc&id=353018&lang=1; Council on the Prevention and Elimination of Discrimination and Ensuring Equality, \textit{Activity Report}, 2015, p. 12, available at: http://www.egalitate.md/media/files/Raport%20general%202015.pdf.

on the Elimination of Discrimination against Women for “restricting women’s economic opportunities”, as “neither legitimate nor effective as a measure for promoting women’s reproductive health”\textsuperscript{391} and creating “obstacles to women’s participation in the labour market”.\textsuperscript{392}

In addition, there are other laws that include discriminatory provisions on the grounds of gender. For example, Articles 41, 44(2) and 56(1) of the Law on State Social Insurance Pensions establish different retirement ages for men and women.\textsuperscript{393} The current retirement age for men is 62 years, whilst women retire at 57.\textsuperscript{394}

A number of provisions of the Labour Code\textsuperscript{395} differentiate between men and women in ways which are discriminatory. For example, Article 251, which rightly prohibits the dismissal of pregnant women, also prohibits dismissal of women with children under six years old. Article 124(1), of the Labour Code grants female employees, female apprentices and dependent female spouses the right to 70 days pre-natal and 56 days post-natal maternity leave. There is no right to post-natal paternity leave under this provision. This is not consistent with international best practice in this area, which is moving towards the recognition of equal parental leave rights for men and women, with the exception of the immediate pre- and post-natal periods. It is worth noting that the Law on Amendments and Addenda to Certain Legislative Instruments approved by Parliament on 14 April 2016 and awaiting promulgation by the President at time of writing, would amend the Labour Code to provide for a right of paid paternity leave of 14 days within the first 56 days from the birth of a child.\textsuperscript{396}

Article 173(1) of the Code on Enforcement, which deals, \emph{inter alia}, with the treatment of prisoners, provides for the postponement of penalties applied

\begin{itemize}
\item \textsuperscript{393} Law on State Social Insurance Pensions, (Law No. 156 of 14 October 1998).
\item \textsuperscript{394} \textit{Ibid}.
\item \textsuperscript{395} Labour Code of the Republic of Moldova (Code No. 154 of 28 March 2003).
\end{itemize}
to pregnant women and to women with children aged up to 8 years.\textsuperscript{397} Granting favourable treatment to pregnant women who have been convicted of crimes may be justified in light of their particular health needs. However, affording special rights to women prisoners with children (as opposed to convicted fathers), constitutes unjustified differential treatment, contrary to the requirements of international law.

Discriminatory laws have also been identified by United Nations Special Procedures. In 2008, Moldova amended its Family Code, increasing the minimum age of marriage from 16 to 18 years for girls, in consonance with the recommendations of the Committee on the Elimination of Discrimination against Women.\textsuperscript{398} However, where “well-founded reasons” exist, the marriage of children under the age of 18 may still be permitted. The Working Group on discrimination against women in law and in practice has criticised the language of this provision as creating space for the exercise of discretion, “which in turn could be influenced by discriminatory practices”.\textsuperscript{399}

While the list of discriminatory provisions identified above is not exhaustive, they elucidate the prevailing stereotypes of women that pervade Moldovan society, and in particular the paternalistic, patriarchal notions that help to legitimise discrimination against women in other spheres of life.

\textbf{Gender-Based Violence}

While the CEDAW does not explicitly refer to gender-based violence, the Committee on the Elimination of Discrimination against Women has interpreted Article 1 of the Convention as including a prohibition on gender-based violence, which it has defined as “a form of discrimination that seriously inhibits women's ability to enjoy rights and freedoms on a basis of equality with men”.\textsuperscript{400}

\begin{itemize}
\item \textsuperscript{397} Code on Enforcement, (Code No. 443, of 24 December 2004).
\item \textsuperscript{399} See above, note 212, Para. 15.
\end{itemize}
Domestic and sexual violence is a serious problem in Moldova.\textsuperscript{401} In a survey conducted by the National Bureau of Statistics in 2011, 63.4\% of the 1,116 of women and girl respondents had experienced psychological, physical, or sexual violence at least once since the age of 15.\textsuperscript{402} Approximately 40\% of respondents had suffered physical violence committed by their current or most recent husband or partner at least once, and 9\% of respondents indicated that they had experienced physical violence in the previous 12 months.\textsuperscript{403} However, as a consequence of both societal and familial pressure, few victims report these crimes.\textsuperscript{404}

Tolerance of domestic violence and sexual violence is alarmingly high. In a more recent survey conducted by the Women’s Law Centre, 50\% of men surveyed stated that there was physical violence in their families.\textsuperscript{405} In total 27.7\% of men and 17.5\% of women agreed with the view that “a woman should tolerate violence in order to preserve the family”.\textsuperscript{406} Moreover, over 41\% of men believed that there were circumstances in which a woman should be beaten.\textsuperscript{407} In the same study, 7\% of female respondents stated that they would not resist a partner using force when they did not want to have sex,\textsuperscript{408} while 18\% of men admitted to having used force to have sex with their current girlfriend or wife.\textsuperscript{409} One in five men reported having sex with a female without her consent, and almost one in four men reported having sex with a female unable to give consent due to alcohol.\textsuperscript{410} Despite this, only 8.4\% of women had reported

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\textsuperscript{403} \textit{Ibid.}, p. 33.

\textsuperscript{404} \textit{Ibid.}, p. 33.

\textsuperscript{405} Women’s Law Centre, \textit{Men and Gender Equality}, 2015, p. 114, available at: http://cdf.md/files/resources/89/Studiul_B%C4%83rb%20%C8%9Bii%20%C8%99i%20Egalitatea%20de%20gen%20%C3%AEn%20Republica%20Moldova.pdf.

\textsuperscript{406} \textit{Ibid.}, p. 63.

\textsuperscript{407} \textit{Ibid.}, p. 115.

\textsuperscript{408} \textit{Ibid.}, p. 14.

\textsuperscript{409} \textit{Ibid.}, p. 96.

\textsuperscript{410} \textit{Ibid.}, p. 96.
partner or family abuse to police. According to the survey, the main causes of domestic violence include alcohol, jealousy, unemployment, infidelity, a lack of education, and the inability to resolve conflicts peacefully.

Legislative Framework on Gender-based Violence

In 2007, Moldova Enacted the Law on Preventing and Combating Domestic Violence, which establishes a legal, organisational and institutional framework for preventing and combating domestic violence, and a mechanism for identifying and responding to cases of violence. The Act is supplemented by Article 201[^1](1) of the Criminal Code, which provides that

*Domestic violence, namely intentional action or inaction, manifested physically or verbally, committed by a family member against another family member, which caused physical suffering, resulting in light bodily injuries or damage to health, physical suffering or material or moral damage, is punishable by unpaid community work from 150 to 180 hours or by imprisonment for up to 2 years.*

Despite these legislative measures, inadequate and uneven implementation of the law, particularly concerning the criminal liability of perpetrators and the execution of protection orders, has left victims of domestic violence exposed. Between 2013 and 2014, the European Court of Human Rights issued judgment in several cases concerning allegations of domestic violence; in each case finding that Moldova had breached Article 3 of the European Convention, either on its own or in conjunction with Article 14, by failing to effectively prevent domestic violence. Concerns relating to the government’s response

[^1]: Law on Preventing and Combating Domestic Violence (Law No. 45 of 1 March 2007).
to domestic violence have also been raised by United Nations treaty bodies. In 2013, the Committee on Elimination of Discrimination Against Women criticised “the inconsistent application of laws aimed at combating domestic violence”;
“the failure to take note of lower-level injuries” and “the fact that it takes repeated instances of domestic violence to trigger an investigation”.415

Promo-LEX has conducted studies on domestic violence in Moldova in 2014 and 2015, each of which clearly demonstrates deficiencies in the current framework for the protection and prevention of domestic violence.416 These are discussed below:

**Psychological Violence:** Five forms of domestic violence are recognised in Moldovan law – physical, sexual, spiritual, economic, and psychological violence.417 Despite this, psychological violence is not regulated under the Law on Judicial Expertise418 and there is no provision for psychologists to be accredited as judicial experts.419 In order to prove that a victim has been subject to psychological violence, therefore, *a priori* evidence must be presented, which is very difficult to acquire. Psychiatric institutions issue *de facto* psychiatric and psychological examination reports which emphasise the psychiatric rather than psychological aspects of the trauma suffered by victims of violence. In practice, psychologists who provide services to domestic violence victims may issue psychological reports, but these can only provide indirect

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415 See above, Note 51, Para. 19. Additionally, the Committee criticised “the ineffectiveness of protection orders against alleged aggressors”; and “the low rate of reporting cases of sexual violence, including rape, and ineffective investigation and prosecution in reported cases.” See *Ibid.*


417 See above, note 413, Article 2.


evidence of psychological violence. Consequently, national law offers insufficient protection for victims.\textsuperscript{420}

\textit{Restraining Orders:} Under the Contravention Code, a first violation of a restraining order results in a fine,\textsuperscript{421} while a second results in criminal liability.\textsuperscript{422} Bailiffs are responsible for determining whether violation of a restraining order has occurred and initiating administrative proceedings,\textsuperscript{423} whilst the police and social services ensure execution and oversight of the order. However, in practice, where a restraining order has been breached, the bailiff often refuses to initiate such proceedings when requested by the police, because the procedure fails to stipulate execution of the restraining order. A further problem with sanctioning aggressors for breach of restraining orders is that criminal sanctions cannot be applied to an individual in breach of an order until final judgment on the administrative sentencing for such breach has been entered. As there is no time limit for the conclusion of administrative proceedings, there can be considerable delay before an individual faces criminal sanction.

\textit{Inconsistent implementation:} In 2015, Promo-LEX analysed the implementation of domestic violence sanctions under the Criminal Code and Code of Administrative Offences, reviewing a total of 501 judgments and sentencing decisions of national courts between August 2014 and July 2015. One of the major findings of this study was the inconsistent application of the relevant provisions. Although Article 201(1) of the Criminal Code was applied correctly in some cases,\textsuperscript{424} in others, criminal proceedings were dropped in favour of administrative sanctions.\textsuperscript{425} According to information provided to Promo-LEX by the General Prosecutor’s Office, in 2014 700 administrative offences and 2374 criminal prosecutions were initiated in domestic violence cases.\textsuperscript{426}

\begin{flushleft}
\begin{enumerate}
\item See above, note 15, Article 318.
\item See Criminal Code, above, note 18, Article 320.
\item See above, note 15, Article 421.
\item Perpetrators were charged with a criminal offence.
\item See above, note 420, p. 6.
\item Official Letter to Promo-LEX from the General Prosecutor’s Office No 25-2d/15-298 of 19 May 2015.
\end{enumerate}
\end{flushleft}
Although this number has decreased from previous years, the high number of administrative proceedings is alarming and demonstrates poor practice in sanctioning domestic violence perpetrators. Despite this, authorities have failed to implement any measures that would facilitate the documentation of cases, in order to standardise judicial practice. In correspondence with Promo-LEX in August 2014 and September 2015, the Supreme Court of Justice confirmed the need to standardise practice in this area and indicated that this would be addressed in the Draft Explicative Decision on the examination of the criminal cases of domestic violence in courts of law. On 11 May 2016, the Draft Decision was posted on the Supreme Court of Justice web page, and is now pending decision.

Domestic Violence Shelters: There are 16 shelters for victims of domestic violence in Moldova which provide rehabilitation services, only two of which (located in the Chișinău Municipality) provide shelter to victims regardless of their residence. In some districts there are no shelters, meaning victims cannot receive emergency help; in these districts, individuals must travel to Chișinău at their own expense. For the majority of victims, shelters will only accept those domiciled within the same territory as the domestic violence centre. Where spare beds are available, and with the approval of the Family Protection Department (FPD), exceptions can be made, but the number of free beds is very small and the application process is complex. The consequences of this inadequate and inconsistent system of provisions are self-evident: if victims cannot find a place, they may be required to go back to the same house as their abuser.

Research carried out by Promo-LEX has

427 Ibid.
428 This is despite repeated calls by NGOs. For example, Promo-LEX made three such submissions to the Supreme Court of Justice in 2013, 2014 and 2015.
431 See above, note 420, p. 7.
432 See above, note 212, Para. 32.
433 See above, note 420, p. 7.
identified the lack of a clear procedure for the provision of funds to shelters by local authorities as a further problem. In the absence of such a procedure, practice varies from district to district: in some cases, written applications must be submitted describing in detail all predicted expenditures for the funding period, while for others, local public authorities provide funds without the need for any application.

Legal Representation: A further significant problem is that when victims of domestic violence seek protection, they do not benefit from qualified legal aid, as they do not fulfil the necessary criteria established under law. As a result, victims can only seek the assistance of specialised non-government organisations or a private lawyer. In most cases, female domestic violence sufferers are in an extremely vulnerable situation, making the identification of an NGO or lawyer (often located in Chişinău or other district capitals) difficult. Where women are unable to get legal representation, they may not be aware of relevant procedures, particularly as there is often insufficient information made available to victims or potential victims on relevant laws and policies. As a result, in many cases, victims do not request protective measures or do so as a measure of last resort. This gap particularly affects vulnerable groups such as the Roma, persons with disabilities, and the elderly, who are already subject to discrimination and are more likely to live in poverty.

Domestic Violence in the Transnistrian Region

Victims of domestic violence in the Transnistrian region lack protection. In a 2011 HIV Vulnerability Survey, almost one quarter of the women interviewed (22.3%) had been subject to physical violence. 35.7% of women had been victims of physical violence at least once in their lives, while 20.5% said they had been victims of physical violence “once or twice”, 5.9% “3 to 5 times”, and 8.7% had been subject to violence five times or more. In half of the cases of violence, the aggressor was either their husband or live-in partner, in 8.7% of cases it was a boyfriend, in 25.8% it was their father or brother, and in 9%

434 Law on State-Guaranteed Legal Aid (Law No. 198 of 26 July 2007), Article 19.
435 See above, note 84, Para. 9.
of the cases it was another man. Absent any local law prohibiting gender-based or domestic violence, a lack of de facto control over the region ensures that administrative and criminal sanctions cannot be enforced. The majority of victims, lacking effective avenues of redress, do not seek assistance from local authorities, fearing humiliation during the investigative process and court hearings. Although domestic violence centres located near Causeni or Drochia, and those in the Chișițășău Municipality, may be able to offer assistance and support, this is an expensive process and requires frequent travel, which may prevent victims from seeking help.

**Sexual Harassment**

Under Article 173 of the Criminal Code, “sexual harassment” is defined as:

> [T]he manifestation of physical, verbal or nonverbal behaviour that violates the dignity or creates an unpleasant, hostile, degrading, humiliating, discriminatory or insulting atmosphere with the purpose of coercing another person to engage in sexual intercourse or other unwanted sexual actions committed by threat, coercion or blackmail.

Sexual harassment may be punished by a fine, unpaid community work from 140 to 240 hours, or imprisonment for up to three years. Under the Law on Ensuring Equal Opportunities between Women and Men, sexual harassment is defined as “any form of physical, verbal or non-verbal sexual conduct that violates the person’s dignity or creates an unpleasant, hostile, degrading, humiliating or offensive environment”.

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438 See above, note 422, Article 173.


440 See above note 381, Article 2.
that employers “undertake measures to prevent sexual harassment of women and men at their place of work, as well as prevent persecution for submitting complaints of discrimination to the competent body”.\footnote{Ibid., Article 10(3)(d).}

However, the prohibition of sexual harassment in two different laws, with different evidentiary standards, can lead to problems in practices:

\textit{[T]he inclusion of sexual harassment in the Criminal Code proves to be unworkable. The 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.}

Several interviews were conducted during the research for this report, revealing sexual harassment in education. For example, T.N. told us:

*There was a teacher at the university who treated girls differently compared to boys. One day he asked for an answer from a girl that would please his eyes and chose me to answer. That day I was wearing a skirt. I wanted to answer from my seat, but he said: “No! In that skirt you must answer in front of the class.” This bothered me and I felt humiliated, but I could do nothing in this situation. It was more embarrassing for me since he did that in front of all my classmates. He treated me as if I were a girl without morals.*  

Similarly M.I. stated:

*A teacher from the State University of Moldova, law faculty, during an exam session, graded students on their appearance. He often said that girls should only wear skirts for exams. There was a case when my classmate, who was wearing a skirt, was answering a question in front of the class and the teacher commented: “See? When girls come to me to answer, they come in skirts.” I think this is not normal and ethical. His attitude humiliates many female students.*

D.N. painted a similar picture:

*I often felt that the teacher was staring at me trying to cling to every word or move I make. He tried to humiliate me. For example one day I was cleaning the ink from my pencil and he stopped the lesson and said: “Attention, look how D.N. cleans her pen” and then began to laugh. He often made unpleasant remarks to me, despite being a teacher.*

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443 Equal Rights Trust interview with T.N. 21 April 2015, Chișinău.
444 Equal Rights Trust interview with M.I. 18 April 2015, Chișinău.
445 Equal Rights Trust interview with D.N. 22 April 2015, Chișinău.
From Words to Deeds: Patterns of Discrimination and Inequality

**Employment**

Article 11 of CEDAW requires Moldova to take “appropriate measures to eliminate discrimination against women in the field of employment”, including in respect of employment opportunities, free choice of profession, the right to promotion, benefits, and training, and the right to equal remuneration. On paper, Moldova has relatively strong legislative protections against discrimination on the basis of gender in employment. Article 7 of the Law on Ensuring Equality prohibits any distinction, exclusion, restriction or preference, based on grounds including gender, which limit or undermine equality of opportunity or treatment in employment or dismissal, at work or during professional training.\(^{446}\)

The Labour Code of the Republic of Moldova, imposes various obligations on employers intended to ensure equality and non-discrimination in employment, which include:

- Ensuring that everyone has equal opportunities and treatment in employment and professional guidance, training and promotion without any kind of discrimination;\(^{447}\)
- Ensuring equal payment for equal work.\(^{448}\)
- Prohibiting discrimination on any ground in internal regulations and policies;\(^{449}\)
- Taking measures to prevent sexual harassment;\(^{450}\) and
- Applying the same criteria for performance review, punishment and dismissal.\(^{451}\)

In addition, the Law on Ensuring Equal Opportunities between Women and Men obliges employers to ensure equal opportunities and treatment in employment, including in respect of professional development, career promotion,

\(^{446}\) See above, note 14.
\(^{447}\) See above, note 395, Article 10(2)(f).
\(^{448}\) *Ibid.*, Article 10(2)(g).
\(^{449}\) *Ibid.*, Article 10(2)(f).\(^3\)
\(^{450}\) *Ibid.*, Article 10(2)(f).\(^3\)
\(^{451}\) *Ibid.*, Article 10(2)(f).\(^3\).
evaluation, punishment and dismissal, negotiation and payment of salary.\textsuperscript{452} The law also prohibits job advertisements that directly or indirectly discriminate on the basis of gender.\textsuperscript{453}

Yet despite its international obligations and the range of domestic provisions in effect, gender discrimination remains prevalent in the workplace, and women experience inequality in many areas of employment.

\textit{Access to Employment and Discrimination in Hiring Practices}

Women have higher rates of unemployment than men: 40.6% of women are unemployed, compared to 36.5% of men.\textsuperscript{454} The United Nations Working Group on the issue of discrimination against women in law and practice, following their visit to Moldova in 2012, concluded that discriminatory practices prevent women from participating equally in the labour market.\textsuperscript{455} Research has shown that men have higher chances of securing jobs,\textsuperscript{456} resulting in women becoming trapped in a cycle of unemployment. One factor may be the gender of those making hiring decisions. National Bureau of Statistics data found that the gender ratio among those responsible for making employment decisions (heads of organisations and managers) is one woman to every three men (26.9% women and 73.1% men), regardless of type of enterprise.\textsuperscript{457}

One of the most significant barriers for women in accessing employment is widespread discrimination against pregnant women and women with children, as well as the stereotype attached to younger women who are perceived by em-

\textsuperscript{452} See above, note 440, Article 10(3).
\textsuperscript{453} See above, note 14, Article 7(2)(a); \textit{Ibid.}, Article 5(3), Article 6(2) and (4) and Article 11(1)(a); and Law on Employment and Social Protection of People Looking for Work (Law No. 102 of 13 March 2003), Article 13(2).
\textsuperscript{455} See above, note 212, Para 64.
ployers as likely to become pregnant and subsequently give rise to maternity obligations. Research presented by NGOs at the last Universal Periodic Review of Moldova indicates that in 2014, 38.9% of women with children at preschool age (aged between 3 and 7) were in employment, compared to 58.9% of women who did not have children of that age.\footnote{458 See above, note 388, Para 3.1.} In 2011, 56.5% of women with preschool age children were in employment,\footnote{459 \textit{Ibid}.} meaning that there has been a significant decline in the employment rate in a short period. It is notable that maternity pay obligations changed in 2014, with the extension of the period for which maternity pay is calculated from six to twelve months, thus increasing costs for employers.

The CPEDEE has made findings of discrimination in several cases in which women have been asked at job interviews whether they are married, pregnant, or have plans to marry or have children, and others in which women have been dismissed after becoming pregnant.\footnote{460 See above, note 359, p. 20; and Council on the Prevention and Elimination of Discrimination and Ensuring Equality, above, note 389, p. 14.} Similarly, women interviewed for this report narrated their experiences of discrimination in employment as a result of their actual or anticipated pregnancy.

For the purpose of this report, Equal Rights Trust researchers conducted a focus group with 17 women, on the issue of discrimination in employment.\footnote{461 Equal Rights Trust focus group with 17 women aged 30–60, 12 June 2015, Lăpuşna village, Hîncești region.} Participants stated that employers do not want to hire pregnant women or those who have small children. They stated that some employers avoid signing employment contracts with women or impose contracts that include only employee obligations, but no rights, with the result that women are deprived of rights such as childcare allowance and maternity allowance. In addition, we interviewed N., who was interviewed for a job on the basis of a personal recommendation. She was asked whether she was married and planned to have children in the near future and was told that she could not be given a job because she was pregnant.\footnote{462 Equal Rights Trust interview with N., 20 June 2015, Chișinău.}

Gender stereotypes tend to limit women’s access to certain jobs and prevent them from exercising freedom of choice in employment. For example, as
noted above, the Classification of Occupations in Moldova prevents women from taking certain roles. In addition, the CPEDEE’s 2014 activity report, notes that, in addition to the common practice of not hiring, or dismissing women who become pregnant, one of the most common examples of gender discrimination in employment is the publication of discriminatory job advertisements. For example some employers expressly stated a requirement for women to act as salespersons or to conduct surveys in shopping centres. The CPEDEE examined several cases referring to such advertisements posted online, finding that job advertisements with requirements or criteria that exclude or favour a certain gender are discriminatory and that gender cannot be a genuine occupational requirement. Participants of the aforementioned Equal Rights Trust focus group gave examples of cases when the requirements of job advertisements would include criteria based on gender, age and appearance.

The Committee on the Elimination of Discrimination against Women has articulated concern about the persistent stereotyping of women with disabilities and the exclusion of Roma women and women with disabilities from the formal labour market. Women with disabilities face specific challenges and additional disadvantages, when compared both to other women and other persons with disabilities, meaning that they are less encouraged to join the labour market. Roma women represent one of the most vulnerable groups in Moldova: they have lower levels of education, much higher rates

463 See, Ministry of Labour, Social Protection and Family Order No. 22, above, note 389.
464 See above, note 359.
466 Ibid.
467 See above, note 461.
468 See above, note 51, Para. 17.
469 Ibid., Para. 27.
of unemployment and significantly lower levels of income than the rest of the population.\textsuperscript{471} According to a United Nations Report on the situation of Roma in Moldova, only 15\% of Roma women older than 15 years are employed compared to 34\% of non-Roma women and 25\% of Roma men.\textsuperscript{472} This is largely attributable to the limited employment opportunities available for Roma women, the lower levels of education among Roma communities, and the lack of professional qualifications and residential segregation.\textsuperscript{473}

\textit{Unequal Pay and Labour Market Segregation}

Article 7(a)(i) of the ICESCR requires Moldova to ensure:

\textit{Fair wages and equal remuneration for work of equal value without distinction of any kind, in particular women being guaranteed conditions of work not inferior to those enjoyed by men, with equal pay for equal work.}

Article 10(3)(c) of the Law on Ensuring Equal Opportunities between Women and Men provides that in order to ensure equality between women and men, employers shall ensure equal pay for work of equal value.\textsuperscript{474} In addition, Article 7(2)(d) of the Law on Ensuring Equality prohibits unequal pay for the same type of work or workload.\textsuperscript{475}

Despite the existence of these provisions, Moldova has a significant gender pay gap. In 2014, two national non-governmental organisations stated that the average salary for men was 12.4\% higher than that of women.\textsuperscript{476} The UN Working Group on the issue of discrimination against women in law and in

\textsuperscript{471} See above, note 27, p. 10.
\textsuperscript{472} See above, note 96, p. 41.
\textsuperscript{473} See above, note 27, p. 37.
\textsuperscript{474} See above, note 440.
\textsuperscript{475} See above, note 14.
practice reported in 2013 that women earned 72% of men's wages. While sources vary as to the extent of the gender pay gap, it is clear that it is persistent, as evidence suggests the pay gap has remained a constant problem at least over the last five years. In addition to the pay gap, there is a gender based pension gap between men and women, which increased from 10.12% in 2011 to 17.17% in 2014.

The persistence of the gender pay gap is explained in part by the widespread phenomenon of gender segregation, both within individual workplaces and across the labour market as a whole. Historically, women have mostly been employed in the “social sphere”, in industries such as healthcare, education, and social assistance. These positions have the lowest pay in the Moldovan economy. This trend is still pronounced, with women disproportionately represented in the lowest paid sectors: Health and Social Assistance (81.3% of employees are women), Education (81.5%), and Hotels and Restaurants (73.7%).

Women are particularly underrepresented in law enforcement, security and military professions, particularly at the highest levels. The percentage of women in managerial and executive positions in all divisions of the Ministry of the Interior in 2015 was just 6%, a fall from 9% in 2011. Women make up 23% of soldiers of the National Army and just 14.3% of all students at the Military Academy “Alexandru cel Bun”, but constitute 70% of all civilian employees of the National Army. Despite activities and actions taken by the state to increase the employment of women in law enforcement and military service by informing the public and offering career guidance, the problems remain. Current issues include: insufficient measures to implement the plans to ensure equality between women and men in sectoral policies; insufficient

477 See above, note 212, Para 64.
478 See above, note 476, p. 3.
479 Ibid.
481 Ibid., Para 56.
482 See Para 384.
483 Ibid.
staff gender training in agencies responsible for security, public order and military service; the lack of international training and access to such training to increase women’s eligibility and capacity to apply to civilian and military peacekeeping missions.\textsuperscript{484}

One measure of the segregation in the workforce, the segregation index (where “0” equals total inequality and “100” equals total equality), shows that the uneven distribution of women and men in some areas of the economy remained unchanged between 2009 and 2015, at the rate of 58.\textsuperscript{485} When assessing gender inequality in leadership positions across all economic sectors, inequality decreased slightly as the segregation index increased from 53 to 55.\textsuperscript{486}

Even within sectors, women are on average paid less than men. In highly skilled sectors where pay is relatively high, the gender pay gap is much more significant than the average: in finance, the pay gap is 32%, in information technology it is 37%, and in management consulting it is 30%.\textsuperscript{487} This is perhaps explained by the fact that men are disproportionately found in management and ownership roles across sectors, including in industries where women make up the majority of the workforce.\textsuperscript{488} Men hold 66% of roles with management functions in individual non-agriculture enterprises and 83% in state enterprises.\textsuperscript{489}

While the government has put in place policies to reduce the gender pay gap, they have been largely unsuccessful. Both the National Employment Strategy (2007-2015) and the National Programme for Ensuring Gender Equality (2010-2015) aimed to reduce the pay gap, but a group of non-government organisation found that they had failed to make changes, for two key reasons. Firstly, there was a lack of clear and consistent action from authorities as a result of a lack of political will; secondly, the policies failed to address the underlying direct and indirect discrimination causing the pay gap.\textsuperscript{490}

\textsuperscript{484} Ibid.
\textsuperscript{486} Ibid., p. 10.
\textsuperscript{487} See above, note 388.
\textsuperscript{488} See above, note 480, Para. 57.
\textsuperscript{489} See above, note 456, p. 33.
\textsuperscript{490} See above, note 388, Para. 3.2.
**Education**

While access to education for women and girls in Moldova is generally good, there are significant concerns in respect of equality of participation. Unofficial gender segregation between subject areas has been criticised by non-governmental organisations: boys and girls tend to focus in particular subject areas, largely as a result of stereotypes about “male” and “female” career paths.\(^\text{491}\) In 2013, the Committee on the Elimination of Discrimination against Women noted its concerns over the “persistence of patriarchal attitudes and deep-rooted stereotypes regarding the roles and responsibilities of women and men in the family and in society” which it said are a “root cause” of the educational and employment choices made by Moldovan women:\(^\text{492}\)

> While noting the high level of education of women and girls in the State party, the Committee remains concerned about the persistent segregation of women and girls in traditionally female-dominated fields of study at the post-secondary level and their underrepresentation in engineering, technological and other fields of education, negatively affecting their chances of integration into higher-paying sectors of the labour market.\(^\text{493}\)

> In its 2014 index, the Centre of Partnership for Development scored gender equality in Moldovan education at 55 on a scale where 0 represents complete inequality, and 100 perfect equality; this represented only one-percentage point improvement from 2009.\(^\text{494}\) The Centre made several recommendations for the improvement of gender equality in education, including by extending nursery services, encouraging reading among boys

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492 See above, note 51, Para. 17.

493 Ibid., Para. 25.

(who tend to be outperformed by female students), and the integration of new technologies in rural areas.\textsuperscript{495}

The Committee on the Elimination of Discrimination against Women has expressed its particular concerns about the “limited access to mainstream and inclusive education by Roma girls and girls with disabilities, which results in low enrolment rates and high dropout rates at the primary school level”, as well as negative attitudes demonstrated by teachers and school administrators.\textsuperscript{496} Roma girls are more likely to drop out of school to undertake work around the home or because they are married during childhood.\textsuperscript{497}

**Health**

There is also evidence that women face problems in accessing healthcare, particularly reproductive healthcare. The Committee on the Elimination of Discrimination against Women has noted with concern “the low use, availability, affordability and accessibility of modern forms of contraception, in particular in the Transnistrian region and rural areas”.\textsuperscript{498} There has been limited progress in informing and educating the population on reproductive health due to a lack of resources.\textsuperscript{499} There have been no recent information or education campaigns on this issue.\textsuperscript{500} The Committee on the Elimination of Discrimination against Women also noted its particular concern about reports of practices of coercive sterilisation, affecting in particular women with disabilities, women in rural areas and Roma women.\textsuperscript{501}

More broadly, the Committee on Elimination of Discrimination Against Women has expressed its concern at the limited access to affordable health care

\textsuperscript{495} See above, note 491, p. 2.
\textsuperscript{496} Ibid.
\textsuperscript{497} See above, note 96, p. 16.
\textsuperscript{498} See above, note 51, Para 31.
\textsuperscript{500} Ibid., p. 62.
\textsuperscript{501} Ibid.
for older women, a concern which was corroborated through research for this report. One participant in an Equal Rights Trust focus group stated that a doctor had used derogatory language towards her, because of her age and gender, stating: “How old are you? Do you look at your date of birth on your ID from time to time? Don’t you see your age? Do you want to be a maid?” In a 2013 survey, 85.8% of older women stated their health was “frail, poor [or] very poor” as compared with 75.7% of men.

Our research has also revealed negative attitudes towards women from rural areas. In a focus group, participants noted that doctors often fail to make the necessary medical investigations or have a discriminatory attitude towards rural women, because they are poor. An Evaluation Report on the implementation of the National Programme on Ensuring Gender Equality for 2010-2015 also noted that women living in rural areas suffer from limited access to healthcare. The same report also noted the failure to provide adequate medical and social assistance to women with complex medical and social needs from a multi-dimensional perspective.

**Political Life**

Women are underrepresented in political life and decision-making in Moldova, with both the UN Special Rapporteur on Extreme Poverty and Human Rights and the Committee on the Elimination of Discrimination against Women noting the low levels of female participation in public life:

*The representation of women in Parliament and in Government positions at national and local levels is still low. The disadvantaged groups of women, includ-

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502 See above, note 51, Para 31.
503 Ibid.
505 Focus group with 17 women, aged 30-60, 12 June 2015, Lăpușna village, Hîncești rayon.
506 See above, note 384, p. 53.
507 Ibid., p. 11.
508 See above, note 84, Para. 24.
ing Roma women and women with disabilities, are, in practice, almost completely excluded from political and public life.\(^\text{509}\)

The level of women’s participation in parliament is below the EU average (approximately 24\%).\(^\text{510}\) In 2014, slightly over a fifth (21.78\%, 22 of 101 positions) of parliamentarians were women.\(^\text{511}\) As of April 2016, only five women had positions in the Cabinet.\(^\text{512}\) In 2005, just 25\% of candidates in parliamentary elections were women, rising to just 30.5\% in 2014.\(^\text{513}\) In addition, civil society organisations have expressed concerns about the placement of women on candidate lists:

*Women are placed at the end of the candidate’s lists which prevents them from accessing (...) Parliament even though they have been active members of the parties. Only 5.9\% of women are placed in the first 10 positions on the lists in comparison with 11\% of men. This clearly diminishes the chances of women to get elected and to increase their number in the Parliament.*\(^\text{514}\)

While the representation of women in local decision making bodies has increased in recent years,\(^\text{515}\) party leaders have also been accused of nominating women for “uncompetitive” positions in local and regional elections.\(^\text{516}\)

\[^{509}\text{See above, note 51, Para. 23.}\]
\[^{511}\text{See above, note 388, Para. 1.1.}\]
\[^{513}\text{See above, note 388, Para. 1.1.}\]
\[^{514}\text{Ibid., p. 3.}\]
\[^{515}\text{See above, note 369, p. 41.}\]
In the 2015 local elections 34.9% of candidates were women.\textsuperscript{517} Only 22.5% of mayoral candidates were female, suggesting that fewer women are nominated by parties to run for more senior positions.\textsuperscript{518}

Research by civil society organisations indicates that gender stereotypes inhibit women’s participation in public life. The traditional view of women as having a primarily private, family-focused role in social life “restricts their involvement in politics”.\textsuperscript{519} In a recent survey conducted by the Women’s Law Centre, some male respondents expressed the view that “incapable women” should not hold positions of power; whilst others suggested that positions of authority should only go to “skilled persons”.\textsuperscript{520} Only 53.7% of male respondents indicated that they would support a quota system providing for a higher representation of women in Parliament and just 55.3% would agree to a similar quota for management positions.\textsuperscript{521} Additionally party financing may play a role: as women are less able to contribute toward party election campaigns, they can be disadvantaged in securing party support for their election.\textsuperscript{522}

Despite this, there are some positive indications. In the 2015 local elections, two female Roma candidates won election for the first time,\textsuperscript{523} a particularly positive development in light of the finding by the Committee on the Elimination of Discrimination against Women, which found in 2013 that Roma women are “almost completely excluded from political and public life”.\textsuperscript{524} In April 2016, Parliament passed a law requiring that at least 40% of candidates on electoral lists be women, and providing sanctions for parties which do not


\textsuperscript{518} Ibid.

\textsuperscript{519} Ibid., p. 8.

\textsuperscript{520} See above, note 405, p. 13.

\textsuperscript{521} Ibid., p. 13.

\textsuperscript{522} See above, note 485, p. 9.


\textsuperscript{524} See above, note 51, Para. 23.
comply.\textsuperscript{525} However, there is no provision regulating the order of candidate placement on electoral lists.\textsuperscript{526} At the time of writing, the draft amendments are awaiting Presidential assent.

**Sexism in Advertising and the Media**

Stereotypes of women are encouraged through sexist advertisements and media imagery. In 2013, the Committee on the Elimination of Discrimination against Women urged Moldova to amend its legislation in order to prohibit the practice of using sexist imagery in the media.\textsuperscript{527}

In 2010 and 2013, women sued two companies over sexist advertising. Both cases reached the Supreme Court in 2013, which found against the claimants. At the time of the case, there was no express prohibition on the use of sexist imagery in advertisements, and the court found that the images used could not be considered “immoral” for the purposes of Article 11 of the Law on Advertising.\textsuperscript{528} In 2014, a separate case concerning the use of sexist images in the marketing of chocolates was considered by the CPEDEE.\textsuperscript{529} According to the Council, Moldovan legislation, specifically the Law on Ensuring Equal Opportunities for Women and Men, prohibits the use of materials that impugn the dignity of women.\textsuperscript{530} On 15 January 2016, the Supreme Court of Justice confirmed the decision of the CPEDEE, concluding that the images used were sexist and breached the principle of non-discrimination on the grounds of sex.\textsuperscript{531}

On 14 April 2016, a bill to amend the Law on Advertising and the Law on Ensuring Equal Opportunities between Women and Men was passed in the Moldovan

\begin{flushleft}
\textsuperscript{525} The same quota also applies to male candidates. See above, note 396.  \\
\textsuperscript{526} Ibid., Article 41(2).  \\
\textsuperscript{527} See above, note 51, Paras. 17–18.  \\
\textsuperscript{528} Law on Advertising (Law No. 1227 of 27 June 1997).  \\
\textsuperscript{530} See above, note 359, p. 23.  \\
\end{flushleft}
Parliament. The proposed amendment, Article 11\textsuperscript{1}, introduces an explicit ban on sexist advertising\textsuperscript{532} and includes a definition of “sexist advertising”.\textsuperscript{533}

**Conclusion**

In recent years, Moldova has developed an extensive legal and regulatory framework providing for gender equality in employment, education, healthcare and other areas. Yet historic inequalities, persistent gender stereotypes, and problems with implementation and enforcement of laws and policies means that women experience discrimination and disadvantage in many areas of life. This is most evident in respect of gender-based violence, where poor enforcement of laws is compounded by high levels of social tolerance of violence against women, particularly violence in the home. Women do not participate in employment on an equal basis with men: women are more likely to be unemployed, and if employed are likely to work in less senior roles, with lower levels of pay. Gender segregation in the workplace is also reflected in education, where there is a tendency to treat certain subjects as “male” and others as “female”. Gender stereotypes are also reflected in political life, where women are underrepresented at all levels of government.

### 2.5 Discrimination on the Basis of Disability

Moldova is required to prohibit all forms of discrimination against persons on the basis of disability, by virtue of its obligations under the Convention on the Rights of Persons with Disabilities (CRPD), which it ratified in 2010. The CESCR has stated that discrimination on the basis of disability in the enjoyment of the rights guaranteed by the ICESCR is prohibited by virtue of the term “other status” in the non-discrimination provision, Article 2(2).\textsuperscript{534} Further, the ECHR requires Moldova to prohibit discrimination based on disability in respect of all Convention rights, by virtue of Article 14.

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\textsuperscript{532} Defined as “a form of gender-based discrimination expressed in behaviour and attitude toward, or conditions for a gender or sex as inferior, less competent, or less valuable than the other gender or sex, that makes use of prejudices or stereotypes in the misrepresentation of images of women or men, or the social aspect of relations between women and men, or masculinity or femininity”. See above, note 528, Article 11.

\textsuperscript{533} See above, note 396.

\textsuperscript{534} See above, note 1, Para 28.
Due to lack of agreement over the definition of disability, there remains some uncertainty over total number of persons with disabilities in Moldova.\textsuperscript{535} According to the National Bureau of Statistics, almost 185,000 people (approximately 5.2\% of the total population) have some form of disability, of which 13,000 are children (aged 0–17).\textsuperscript{536} Of the total, almost one in seven persons with a disability is categorised as severely disabled.\textsuperscript{537} In the period from 2010 to 2014, the total number of persons categorised as having a disability increased by 2.7\%, whilst the number of children recognised as having a disability decreased by 11.3\%.\textsuperscript{538} However, as the UN Special Rapporteur on the Rights of Persons with Disabilities has noted, as the certification of a person as having a disability is dependent on medical testing, the total number of persons with disabilities is “probably much higher”.\textsuperscript{539} The World Health Organization (WHO) estimates that approximately 15.6\% of people aged 15 or above live with some form of disability, of whom 2–4\% experience significant difficulties in functioning.\textsuperscript{540} This would suggest an actual population of around 533,700 persons with disabilities in Moldova – almost three times as many as estimated by the National Bureau of Statistics.

\textit{Cultural Attitudes and the Position of Persons with Disabilities}

In her 2016 report, the United Nations Special Rapporteur on the Rights of Persons with Disabilities noted that the “pervasive influence of (...) stigma and the prejudiced perception of persons with disabilities”\textsuperscript{541} heavily influenced the development of law and policy in Moldova. For instance, the Special Rapporteur found that the legal and social framework in Moldova


\textsuperscript{537} \textit{Ibid.}

\textsuperscript{538} \textit{Ibid.}

\textsuperscript{539} See above, note 535, Para. 8.


\textsuperscript{541} See above, note 535, Para. 19.
is strongly biased towards institutionalisation of persons with disabilities, with a lack of community-based services available.\textsuperscript{542} The Special Rapporteur also found that Moldova’s approach to the rights of persons with disabilities is characterised by “a geographically and culturally specific interpretation of the medical model of disability, sometimes referred to as the ‘defectology’ approach” which results in widespread perceptions of persons with disabilities as “abnormal”.\textsuperscript{543} This approach, in conjunction with a general lack of awareness of disability, can result in significant stigma and discrimination.\textsuperscript{544}

In a 2015 study of attitudes towards disability in Moldova, a large share of respondents considered that persons with disabilities face discrimination in employment, in education, in political life and in their interactions with the state.\textsuperscript{545} The study also revealed deeply concerning evidence of stigma around disability in Moldova: 53% of respondents considered persons with mental disabilities to be dangerous and felt that they should be isolated, with 70% stating that these people should be placed in state institutions.\textsuperscript{546} A majority of respondents held negative stereotypes in relation to persons with intellectual disabilities, characterising them as “dangerous, underdeveloped, poor; hapless persons who incite pity [and] sorrow”.\textsuperscript{547} A majority also held negative views of persons with physical disabilities, with over two thirds of respondents associating them with “sin, suffering, [and] poverty”.\textsuperscript{548}

Of particular concern are the profoundly negative perceptions of persons with mental and intellectual disabilities. In a further study, two thirds of respondents associated this group of persons with “persons mentally or psychologically ill”, and one third considered them to be “invalids”; 17.2% of respondents considered persons with mental and intellectual disabilities to be

\begin{verbatim}
\textsuperscript{542} Ibid., Para. 13.
\textsuperscript{543} Ibid., Para. 18.
\textsuperscript{544} Ibid.
\textsuperscript{545} See above, note 40, p. 26.
\textsuperscript{546} Ibid., p. 27.
\textsuperscript{547} Ibid.
\textsuperscript{548} Ibid., p. 27.
\end{verbatim}
“dangerous”, while 7.2% believed that they “should be isolated.”\textsuperscript{549} This study found that, while persons with physical disabilities were perceived more positively than persons with mental or intellectual disabilities, 60% of respondents considered them to be “invalid[s].”\textsuperscript{550} Approximately 25% of respondents agreed that persons with physical disabilities “cannot take care of themselves [and] cannot work.”\textsuperscript{551}

Children with disabilities are particularly vulnerable to these negative attitudes towards disability. A particular issue is the failure to integrate children with disabilities into society, particularly in education where they are not provided with the support needed to access integrated education.\textsuperscript{552} The UN Special Rapporteur on the Rights of Persons with Disabilities noted social stigma and lack of such support “are reportedly often behind the decision of parents to have their child interned in an institution, given that other options are not available to them.”\textsuperscript{553}

Participants in an Equal Rights Trust focus group conducted with people with multiple sclerosis in August 2015 spoke of the social stigma they suffer, and the consequential discrimination that they experience.\textsuperscript{554} Focus group participants told our researchers that there is no tolerance or compassion towards persons with disabilities in society and that many people with disabilities want to leave Moldova because they feel marginalised and isolated from society. Participants were afraid of being abandoned by their family. Participants stated that people with multiple sclerosis experience prejudice both in general society and within the family. They stated that people with multiple sclerosis strive to hide their diagnosis due to fear that, if it becomes known, they will be isolated from society, dismissed from work, or refused employment. One participant said that people with disabilities often have depression because they feel isolated and misunderstood. She told researchers that from time to time she considers it would be better to live

\begin{itemize}
\item \textsuperscript{549} See above, note 3, p. 23.
\item \textsuperscript{550} Ibid., p. 26.
\item \textsuperscript{551} Ibid., p. 26.
\item \textsuperscript{552} Ibid., p. 71.
\item \textsuperscript{553} See above, note 535, Para. 20.
\item \textsuperscript{554} Equal Rights Trust focus group with 10 people with multiple sclerosis, 4 August 2015, Chișinău.
\end{itemize}
in a centre for persons with disabilities because only they could understand and support her.

**Legal and Policy Framework**

Having ratified the CRPD in 2012, Moldova enacted the Law on Social Inclusion of Persons with Disabilities, with the express aim of transposing the Convention’s provisions into national law. As such, the main piece of legislation governing the rights of persons with disabilities in Moldova reflects the “social model” of disabilities that underpins the Convention. Nevertheless, other laws, state policies, and practice have yet to be brought into line with this approach, with the result that Moldova has been criticised for applying a medical model, whereby persons with disabilities are defined by their “defects” when compared to “normal” or “healthy” members of society, leading to “exclusion and segregation”.

The UN Special Rapporteur on the Rights of Persons with Disabilities has urged the State to adopt a human rights approach to disability, eliminating the medical model in “public policy, legal instruments and social protection services” and implementing a “comprehensive combination of policy, legal and service reforms”, as required by the CRPD.

A number of legal provisions in Moldova regulate the rights of persons with disabilities. Nevertheless, it is noteworthy that in Article 16 (2) of the Constitution, which provides for equality before the law, disability is omitted from the list of protected characteristics. It states:

> All citizens of the Republic of Moldova shall be equal before the law and public authorities, regardless of the race, nationality, ethnic origin, language, religion, sex, opinion, political affiliation, property or social origin.

Elsewhere in the Constitution, persons with disabilities are provided with certain additional benefits and protections, albeit in language which indicates

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556 See above, note 535, Para. 60.

557 See above, note 196, Article 16.
that persons with disabilities are objects of charity, rather than independent rights holders. Article 51 of the Constitution provides that:

(1) Handicapped persons shall enjoy special protection from the whole of society. The State shall ensure normal conditions for medical treatment and rehabilitation, education, training and social integration of disabled persons.

Moreover, Article 51(2) states that “[n]o one can be subject to forced medical treatment unless for the cases foreseen by law”, thus contravening the CRPD, which expressly prohibits all forms of forced medical treatment.\textsuperscript{558} The UN Special Rapporteur on the Rights of Persons with Disabilities has recommended this Article be amended to bring it into full compliance with the Moldova’s international human rights obligations, including those set out in the CRPD.\textsuperscript{559}

Article 47 of the Constitution provides that:

(1) The State shall be bound to take actions aimed at ensuring to every person and to his/her family a decent standard of living, health protection and welfare including food, clothing, shelter, medical care, and the necessary social services.

(2) All citizens shall have the right to be socially secured in case of: unemployment, disease, invalidity, widowhood, old age or other cases of loss of the subsistence means, due to certain circumstances beyond their control.\textsuperscript{560}

While a constitutional provision guaranteeing social protection for persons with disabilities is to be welcomed, it is cause for concern that both this Article and Article 51 use inappropriate language such as “invalids” and

\textsuperscript{558} See above, note 535, Para. 11.
\textsuperscript{559} Ibid.
\textsuperscript{560} See above, note 196, Article 47.
“handicapped”. The use of language such as this has been criticised by UN Treaty bodies.\footnote{561}

Beyond the Constitution, legislation provides stronger protection for the rights of persons with disabilities. The Law on Ensuring Equality lists disability as a protected ground of discrimination in Article 1(1), a provision that has been used by both the CPEDEE\footnote{562} and national courts.\footnote{563} In addition, following the ratification of the CRPD in 2012, the Moldovan Parliament adopted the Law on Social Inclusion of Persons with Disabilities.\footnote{564} The Law is aimed at transposing the provisions and guarantees of the Convention into the national legal framework; regulating the rights of persons with disabilities “in order to ensure their social inclusion and participation in all spheres of life without discrimination”.\footnote{565} The Law provides for reasonable accommodation, which it defined as:

\begin{quote}
[N]ecessary and appropriate changes and adjustments, which do not impose a disproportionate or undue burden, aimed to ensure persons with disabilities the enjoyment or exercise, on equal terms with others, of all human rights and fundamental freedoms.\footnote{566}
\end{quote}

The Law provides that reasonable accommodation shall be made when developing infrastructure to be used by persons with disabilities,\footnote{567} and when mak-
ing arrangements to meet the needs of persons with disabilities in housing, in education and professional training and at work.\textsuperscript{568}

Under Article 54 of the Law, a National Council on the Rights of Persons with Disabilities is established.\textsuperscript{569} The Council is tasked with promoting and monitoring the implementation of state policy in the field of disability and the enforcement of the CRPD.\textsuperscript{570} However, at present, the efficacy of the Council has been undermined by the lack of powers to apply sanctions and the lack of resources to support its mandate.\textsuperscript{571} Moreover, the UN Special Rapporteur on the Rights of Persons with Disabilities has noted that many of the Council’s decisions have been “challenged and overturned in court”, whilst interaction with disability organisations has been lacking.\textsuperscript{572} The Special Rapporteur has urged the State to strengthen the Council and establish an independent monitoring mechanism, in accordance with Article 33 of the CRPD.\textsuperscript{573}

Through Government Decision No. 65 on the Determination of Disability and Working Capacity, disabilities are categorised into three groups: slight, moderate and severe; to be determined by the National Council on Disability and Work Capacity Determination or its territorial subdivisions.\textsuperscript{574} Under Annex 3 of the Decision, detailed instructions are provided on how a determination of the degree of disability is to be made.\textsuperscript{575} The disability certification system has been severely criticised by the Special Rapporteur, who has described the process as “arbitrary”, “ineffective” and “discriminatory”; failing to ensure the societal involvement of persons with disabilities and in contravention of “the principles of independence, choice and control that are central to a human rights-based approach”.\textsuperscript{576}

\textsuperscript{568} Ibid., Articles 22, 27 and 33.
\textsuperscript{569} Ibid., Article 54.
\textsuperscript{570} Ibid., Article 54.
\textsuperscript{571} See above, note 535, Paras 15–16.
\textsuperscript{572} Ibid.
\textsuperscript{573} Ibid.
\textsuperscript{575} Ibid., Annex 3.
\textsuperscript{576} See above, note 535, Para. 25.
**Accessibility**

Accessibility is a key principle of the CRPD.\(^{577}\) Under Article 9 of the Convention, states parties are required to ensure access on “an equal basis with others” to the physical environment, transportation, information and communications, and to other facilities and services open or provided to the public, in both urban and rural areas.

Despite Moldova’s international obligations, including those under Article 9 of the CRPD, the inaccessibility of public spaces and infrastructure is a major problem in Moldova.\(^{578}\) The issue has been highlighted by the Ombudsman, who noted in 2015 that persons with certain physical disabilities, as well as those with impaired hearing and vision faced serious difficulties in accessing public institutions, housing, and public transport, with the result these people are “isolated in their homes and depend on others in order to move.”\(^{579}\)

**Accessibility of General Infrastructure**

The creation of accessible conditions is required by several pieces of national legislation, including the Law on Authorising the Execution of Construction Works,\(^{580}\) the Law on the Quality of Construction,\(^{581}\) and the Law on the Social Inclusion of Persons with Disabilities.\(^{582}\) Additionally, in 2014, the Ministry of Regional Development and Construction amended construction regulations to require the adaptation of social infrastructure to the needs of persons with disabilities.\(^{583}\) Article 19 of the Law on the Social Inclusion of Persons with Disabilities provides that:

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\(^{580}\) Law on Authorising the Execution of Construction Works, (Law No. 163 of 9 July 2010), Article 1.

\(^{581}\) Law on the Quality of Construction, (Law No. 721 of 2 February 1996), Article 9.

\(^{582}\) See above, note 564, Articles 19 and 26.

\(^{583}\) See Construction Regulations Regarding the General Security Requirements of Constructions for their Use and Accessibility for Persons with Disabilities (NCM C.01.06-2014); and the Practical Code of Constructions on the Design of Constructions Considering Accessibility for Persons with Disabilities (CP C.01.02-2014).
Social institutions must be designed in a way that makes them accessible to people with disabilities: equipped with roadways and installed in compliance with the legislation in force regarding respective field.

Article 26 of the same Law provides that: “[o]fficials, enterprises, institutions and organisations, irrespective of ownership, which do not meet the provisions of this law in terms of removing barriers (...) are liable under the Contravention Code”.

Supplementing these legislative provisions, in 2013, the Government of Moldova adopted an Action Plan on the Implementation of Measures to Ensure Accessibility for People with Disabilities to Social Infrastructure. The Action plan calls for the adoption of various measures designed to improve accessibility for persons with disabilities; including:

- Organising inspections in accordance with provisions of the Law on State Control over Business Activity (2012), in order to ensure observance of accessibility requirements for persons with disabilities;
- Developing and adopting an Action Plan on adapting buildings to the needs of the persons with disabilities;
- The revision and approval of normative acts in order to ensure access of persons with disabilities to social infrastructure;
- The development of a curriculum for architecture faculties on accessibility compliant construction design and reasonable accommodation for people with disabilities; and
- Capacity building to ensure compliance with technical requirements of regulations on accessibility for persons with disabilities.

Despite these legislative and policy provisions, the inaccessibility of public buildings and social institutions continues to create barriers for persons with disabilities.

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disabilities. In 2014, the NGO Association “MOTIVAȚIE” produced a monitoring report on the rights of persons with disabilities in Moldova, which found, among other things, that very few institutions were fully adapted to the needs of persons with disabilities.\(^\text{586}\) A similar conclusion was reached by the Ministry of Regional Development and Construction, which conducted an assessment of the accessibility of public institutions and buildings in 2014. According to this assessment, 3,440 out of 5,137 public institutions (70\%) did not have access ramps and, of those that did, many did not meet established accessibility standards.\(^\text{587}\) The issue has also been highlighted by the CPEDEE, which stated in its Activity Report for 2014, that “60\% of the premises of the monitored public administration authorities are not adapted for the needs of persons with disabilities”,\(^\text{588}\) and found that 60\% of court buildings lacked access ramps.\(^\text{589}\) In 2015, the CPEDEE requested that its own offices be made more accessible to persons with disabilities.\(^\text{590}\)

As a result of poor monitoring and sanctioning mechanisms, few Moldovan institutions are adapted to the accessibility requirements of persons with disabilities,\(^\text{591}\) and the adoption of new laws, regulations and action plans has not had a marked impact on this situation. In 2015, the Office of the Ombudsman produced an assessment of the implementation of the Action Plan on Measures to Ensure Accessibility for People with Disabilities to Social Infrastructure, which showed no significant change in levels of accessibility.\(^\text{592}\) Similarly, in 2015 the UN Special Rapporteur on the Rights of Persons with Disabilities criticised the lack of accessibility for persons with disabilities in Moldova, noting that the “lack of accessibility provisions (...) poses a significant cross-cutting challenge that has an impact on every facet of the lives

\(^{586}\) See above, note 378, p. 34.

\(^{587}\) See above, note 378, p. 34.


\(^{589}\) See above, note 359, p. 7.

\(^{590}\) Ibid.


\(^{592}\) Ibid., p. 22.
of [persons with disabilities].” The Special Rapporteur recorded that few changes had occurred since 2013.  

While the research for this report was being conducted, Promo-LEX provided assistance in several cases relating to inaccessible infrastructure and the denial of reasonable accommodations to persons with disabilities. For example, in 2014, Promo-LEX provided assistance to Cornel Baran, a young man who required the use of a wheelchair.

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**Case Study: Cornel Baran**

Because of birth trauma, Mr Baran was unable to walk and, since 2002, was home schooled by teachers under an Educational Program developed by the Ministry of Education. He was denied the right to sit his Baccalaureate exams at home, despite the fact that the Baccalaureate Regulations provided for home examination in certain circumstances. Mr Baran had undertaken all previous examinations, including the preliminary Baccalaureate tests, at home.

One day before the Baccalaureate exams, Mr Baran was informed that he would have to report to the Baccalaureate Centre. He was assured that he would receive all necessary assistance from representatives of the Ministry of Education. However, on the day of exams, nobody from the Ministry was in attendance, and he had no alternative but to seek the help of other students to enter the Baccalaureate Centre, as it was inaccessible. In June 2014, Mr Baran lodged a complaint against the Ministry of Education and the Chișinău Department of Education, Youth and Sports to the CPEDEE. On 9 September 2014, the CPEDEE ruled that Mr Baran had been denied reasonable accommodation. The Council also issued several recommendations to the Ministry of Education.

Participants in an Equal Rights Trust focus group with persons with disabilities stated that public authorities had failed to accommodate them on many occasions.

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593 See above, note 579, p. 42.
594 See above, note 535, Para 29.
595 Ibid., Para 31.
occasions. They noted that employees of local authorities, medical institutions, and public transport providers had failed to make accommodations, and emphasised the lack of access ramps and support bars in education institutions (including kindergartens and schools), as being a particularly significant barrier for persons with physical disabilities.\(^{596}\)

Poor accessibility is also a serious issue in Moldovan penitentiaries. Out of 7,600 detainees, an estimated 207 have some form of disability.\(^{597}\) In 2015, the Ombudsman visited several prisons, concluding that current levels of accessibility are insufficient and need to be improved.\(^{598}\) Tatiana Machina, a woman who uses a wheelchair, was detained for four years between 2011 and 2015 in an unsuitable facility;\(^{599}\) she received assistance from Promo-Lex, and her case was taken to the CPEDEE\(^{600}\) and then the European Court of Human Rights.\(^{601}\)

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**Case Study: Tatiana Machina**

Between February 2011 and September 2015, Ms Machina was detained in Penitentiary No. 13, Chișinău. Her cell was not adapted for persons with motor disabilities and, consequently Ms Machina could not perform basic activities, such as personal hygiene and eating, without the assistance of another person. In February 2012, because the bathroom was not adapted for persons with disabilities, Ms Machina fell and injured herself.

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597 Equal Rights Trust focus group with 12 persons with disabilities, 11 July 2015, Cahul town, Cahul rayon.


599 Ibid., p. 11.


In September 2014, Tatiana submitted a complaint to the CPEDEE concerning the failure of the Department of Penitentiary Institutions and the administration of Penitentiary No. 13 to make reasonable accommodation for her. She also alleged indirect discrimination by the local office of the National Social Insurance House for their refusal to pay her disability allowance, on the grounds that she was already in the state’s care (detention). On 11 December 2014, the CPEDEE established that Tatiana Machina had been discriminated against, finding for her in response to both aspects of her complaint. In 2014, the case was also submitted to the European Court of Human Rights. The Court communicated the case to the Government of the Republic of Moldova in 2015.

Accessibility of Transportation

Under Article 20(1) of the Law on the Social Inclusion of Persons with Disabilities, public and private entities are required to:

- adapt the means of public transport in circulation;
- re-equip vehicles according to the needs of people with motor disabilities;
- adapt stations for the means of public transportation, including tactile paving marking the spaces to the front door access to transport;
- install appropriate billboards in public transport in compliance with the needs of people with hearing and visual impairments;
- print large and contrasting colour indicators for routes and signs in urban public transport;
- adapt pedestrian crossings and intersections to meet the needs of people with visual and hearing impairments; and
- mount audible and visual signalling systems at intersections with heavy traffic.\(^602\)

Under Article 20(2), taxi firms are obliged to maintain “at least one adapted car to transport people with disabilities who use a wheelchair”.\(^603\) Refusal

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\(^602\) See above, note 564, Article 20(1).

\(^603\) Ibid., Article 20(2).
to provide transport to a person with disabilities including those who use a wheelchair or other walking apparatus constitutes discrimination. In addition, wheelchairs and walking apparatus must be carried free of charge.\textsuperscript{604} Similar conditions are imposed on rail and air transport providers.\textsuperscript{605}

Nevertheless, despite legislative protection, persons with disabilities face difficulties in accessing transportation, impacting upon their personal autonomy and ability to enjoy all aspects of social life on an equal basis with others. During research undertaken for this report, Promo-LEX conducted several interviews that illustrate the problems faced by persons with disabilities in respect of transport. Iuliana, from \textit{Hînceşti} town, told researchers:

\begin{quote}
I am a person with a motor disability and I use a wheelchair. The biggest problem I, and other people like me, encounter in my daily life is related to inaccessible infrastructure. I recall a case when the bus driver from the route Chişinău-Hînceşti refused to take me on the bus because I was not accompanied. He was very brutal and mean to me.\textsuperscript{606}
\end{quote}

Another interviewee, Marina, narrated her experience watching a man in a wheelchair struggling to board an adjusted trolleybus:

\begin{quote}
After 25 minutes, the trolleybus he was waiting for had arrived. The people standing at the bus station stepped aside allowing the man in a wheelchair to pass freely onto the trolleybus. The man approached the trolleybus; the driver saw him and opened the middle door, specially adjusted for wheelchairs. However, the man could not enter the trolleybus because of the huge gap between the trolleybus step and the curb. The man made several attempts but failed. The driver got out and tried to help, he was very nice and polite. However, regardless of all efforts, the man in a wheelchair could not enter the trol-
\end{quote}

\textsuperscript{604} \textit{Ibid.}, 2012, Article 20(2).
\textsuperscript{605} \textit{Ibid.}, Articles 20(3) and (4).
\textsuperscript{606} Equal Rights Trust interview with Iuliana, 14 July 2015, \textit{Hînceşti} town, \textit{Hînceşti} region.
The most accessible means of transport in Moldova are trolleybuses. However, these are available only in major cities such as Chișinău, Bălți, Tiraspol, and Bender. In rural areas there are only buses and minibuses, which are inaccessible for persons using a wheelchair. Thus, many are forced to use taxi services, resulting in high transport costs, as one person interviewed for a 2014 report stated:

Transport costs are very high. Only new trolleybuses in Chișinău are accessible (...) so people have to take a taxi (...) It is impossible to enter into a minibus. I tried once and I failed. The door is too narrow and the driver was annoyed because I was delaying him. It is easier to enter a bus but only if someone helps because the stairs are very high and it takes 2-3 strong men to lift you up.

On 28 October 2015, the Government adopted amendments to Article 49 of the Law on the Social Inclusion of Persons with Disabilities, aiming to merge two pre-existing transport compensation benefits into one core benefit. However, this change did not increase the amount of benefits awarded, which are currently insufficient to meet the real transport costs of persons with disabilities.

Beyond basic issues of accessibility, non-governmental organisations and media organisations have highlighted the problem of overcharging persons with disabilities for transport. Although this practice is prohibited under the Law on the Social Inclusion of Persons with Disabilities, in 2015 the Association for Independent Press published an article discussing attempts to procure a

607 Equal Rights Trust interview with Marina, 5 October 2015, Chișinău.
610 See above, note 564, Article 20(2).
wheelchair accessible taxi. Having been rejected by one company, which did not have adapted cars, a second company attempted to charge double the ordinary fare, in direct violation of the law.\textsuperscript{611} This issue has also been discussed by NGOs during meetings with the Ombudsman’s Office.\textsuperscript{612} Mariana, interviewed for this report, narrated her experience of being overcharged by taxi companies:

\begin{quote}
I am a wheelchair user. When I order a taxi, I do not inform them that I am in wheelchair, because asking for a wagon costs 10–15 lei [€0.45–€0.68 Euro] more than asking for a non-wagon car. There are cars where my wheelchair can get into the car, but there are times when it does not. In such cases I have to ask for a wagon car, which costs more. There were situations when I called an ordinary taxi, got into the car, and the driver asked 10–15 lei [€0.45–€0.68 Euro] more. When I asked why I should pay more, the driver replied that it is because I am in wheelchair and it is in the trunk. There were cases when I was asked to pay 20 lei [€0.9 Euro] more. Why, I asked? Because it is a wagon, the driver replied. And I start to explain that the wheelchair is my legs and I do not want to pay because of this. The taxi operators say that this is normal and that I have to pay more.\textsuperscript{613}
\end{quote}

Our research also found other examples of discrimination against persons with disabilities when accessing public transport. In 2014, a young man from Chișinău, Maxim Miftahov complained to the CPEDEE, alleging discrimination in access to public transport services after the driver of a minibus would not let him on board due to a lack of space. The CPEDEE ruled that Mr. Miftahov had been directly discriminated against on the grounds of disability.\textsuperscript{614}


\textsuperscript{613} Equal Rights Trust interview with Mariana, 24 March 2015, Chișinău.

Following the decision of the CPEDEE, the case was taken to court; in 2015, a court awarded Mr Miftahov 10,000 lei (approximately €449 Euro). Our researchers interviewed N., who stated:

I have a motor disability. In 2015, I was traveling by minibus from Chișinăuto my village. I asked the driver to stop near the road where it will be easier for me to get down. The driver replied: “in this village all are “disabled”? I went to the owner of the route and complained about this situation and the driver was rebuked.

Accessibility of information

Persons with total or partial hearing or sight loss face considerable difficulties accessing information. The issue of access to information has been recognised by civil society, the Ombudsman and UN Special Procedures. In its 2015 Activity Report, the Office of the Ombudsman criticised the lack of translation services in the State, finding that “the required volume of translation into sign language on television is not ensured [and] public information is not translated into Braille”. Similarly, the Special Rapporteur on the Rights of Persons with Disabilities has noted that:

Deaf persons (...) face significant barriers to their inclusion (...) [S]ign language has not been adequately developed in the country, a fact that hampers the access of deaf children to bilingual education in sign language. Hardly any public services or information are provided in sign language. These barriers force deaf persons to live in complete isolation from the rest of society.

617 See above, note 579, p. 42.
618 See above, note 535, Para 39.
Data compiled by the Association of the Deaf suggests that there are around 5,000 persons with “hearing impairments” in the country.\textsuperscript{619} There are only nine sign language interpreters in the country, which equates to one interpreter for every 555 persons.\textsuperscript{620} There are no educational centres providing training to sign language interpreters.\textsuperscript{621}

Several laws and regulations include provisions providing for accessible information for persons with hearing difficulties. For example, Article 13(4) of the Moldovan Broadcasting Code states:

\begin{quote}
Access for people with hearing impairments to television broadcasts and news of major importance is guaranteed by interpretation in sign language, at the expense of broadcaster, for at least 20 minutes of the daily output of the programme service.\textsuperscript{622}
\end{quote}

Civil society organisations have noted that not all broadcasters abide by this regulation and, moreover, that 20 minutes of programming is insufficient to secure effective access to information.\textsuperscript{623}

In 2012, the government adopted a regulation on the Official Websites of Public Authorities on the Internet.\textsuperscript{624} According to this regulation, official websites must be adapted in compliance with the Web Accessibility Initiative guidelines to provide access for persons with disabilities.\textsuperscript{625} However, non-governmental organisations report that laws have not been harmonised in this area.\textsuperscript{626}

\begin{itemize}
\item \textsuperscript{619} See above, note 579, p. 43.
\item \textsuperscript{622} Broadcasting Code of the Republic of Moldova (Code No. 260 of 27 July 2006), Article 13(4).
\item \textsuperscript{623} See above, note 621, pp. 10–11.
\item \textsuperscript{625} \textit{Ibid.}, Article 51.
\item \textsuperscript{626} See above, note 621 p. 27.
\end{itemize}
In 2014, a new regulation was adopted on the Provision of Communication Services through the use of Sign Language with the Help of an Interpreter.\textsuperscript{627} Under this regulation, communication services using a sign language interpreter are to be provided free of charge to persons with hearing impairments who are registered with the social assistance and family protection departments or the Association of the Deaf, and those who require support of an interpreter to ensure communication.\textsuperscript{628} Although welcoming this addition, the Office of the Ombudsman has stated that improvements will need to be made in order to fully realise the rights of persons with hearing impairments.\textsuperscript{629} The Ombudsman has further recommended that the relevant authorities work with persons with hearing difficulties to develop materials and staff training in sign language.\textsuperscript{630}

**Employment**

Article 27 of the CRPD requires Moldova to “recognize the right of persons with disabilities to work, on an equal basis with others”, including “the opportunity to gain a living by work freely chosen or accepted in a labour market” and the right to a “work environment that is open, inclusive and accessible to persons with disabilities”.\textsuperscript{631}

Several laws regulate access to employment for persons with disabilities. Under Article 8 of the Labour Code, discrimination in employment is prohibited, on grounds which include disability. The Code also contains a number of specific disability-related provisions concerning the conclusion of contracts (Articles 31(2)(e), 61(f)); the length of the working day (Articles 96(4), 97(1), 100(4)); and leave entitlement (Articles 120(2), 121(4)).\textsuperscript{632}

\begin{flushright}
\textsuperscript{627} Decision approving the Adoption of the Regulation on the Provision of Communication Services through the Use of Sign Language with the Help of an Interpreter (Government Decision No. 333 of 14 May 2014), available at: http://lex.justice.md/viewdoc.php?action=view&view=doc&id=353016&lang=1.
\textsuperscript{628} See above, note 627, Article 3.
\textsuperscript{629} See above, note 579, p. 43.
\textsuperscript{630} Ibid., p. 43.
\textsuperscript{631} See above, note 577, Article 27.
\textsuperscript{632} See above, note 395, Article 8.
\end{flushright}
Chapter V of the Law on the Social inclusion of Persons with Disabilities concerns the employment of persons with disabilities. The Law sets out the rights of persons with disabilities to work and to reasonable accommodation in the workplace; it also sets out employers’ obligations, including in respect of working hours and holidays, professional development and rehabilitation. Article 34(4) of the Law provides that employers with 20 or more employees are required to employ persons with disabilities at a rate of at least 5% of the total number of employees. A separate register is to be maintained of applications from persons with disabilities, including reasons for hiring or refusing to hire. However, no independent mechanism exists to ensure the implementation of this quota.

The National Employment Office is responsible for the promotion of policies in the field of employment, including for persons with disabilities. In 2011, the Law on Employment and Social Protection of People Looking for Work was amended, in order to extend services provided by the National Employment Office to more persons with disabilities and a number of new posts were added to the Office to help achieve this. However, non-governmental organisations have reported that the work of these individuals tends to be limited to providing advice and information on job vacancies. In 2015, National Employment Office registered an increased number of unemployed persons with disabilities (878 up from 598 in 2014) and stated that it had helped 300 of them to get a job.

Whilst Moldovan legislation has increasingly recognised the rights of persons with disabilities in employment, unemployment remains a problem.

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633 See above, note 564, Articles 33–40.
634 Ibid., Articles 33–40, Article 34(4).
635 See above, note 621, p. 32.
637 Ibid., Law on Employment and Social Protection of Persons Looking for Work, Articles 2(a) and 5(d).
638 See above, note 621, p. 33.
for persons with disabilities. Data obtained from the National Bureau of Statistics demonstrates that less than 1% of the Moldovan workforce was made up of persons with disabilities in 2014 and only 46.1% of those persons recognised as having a disability were employed, with the severity of disability directly correlating to employment opportunities. Of those persons categorised as having a slight disability, 62% were employed; of those categorised as having a moderate disability, less than half (48.2%) had found employment; while just 14.6% of those classified as having severe disabilities were employed.

In a recent study on the perceptions of Moldovan society towards different groups, respondents expressed the view that persons with disabilities are frequently discriminated against in both employment (59%) and the workplace (43%). These findings are corroborated in the testimony of individuals working with persons with disabilities in Moldova. One woman with mental disabilities was reportedly denied employment as a manicurist because the owner feared she would attack the clients with scissors. Another was reportedly refused an interview due to the supposed additional cost of ensuring compliance with the legal regulations surrounding persons with disabilities.

Recognising that persons with disabilities are especially vulnerable to unemployment in times of economic uncertainly, the UN Special Rapporteur on the Rights of Persons with Disabilities has urged Moldova to continue working towards the mainstreaming of disability in public services.

Interviews conducted for this report confirmed that discrimination against persons with disabilities is common in employment. Alina told Equal Rights Trust researchers of her experience of discrimination in employment:

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640 See above, note 536.
641 Ibid.
645 See above, note 535, Para. 22.
During my work, I had to go on a sick leave. Because treatment lasted several weeks and the administration found out about my diagnosis, they asked me to leave the job because they thought I could fall on the floor at any time, losing my consciousness. Even after I told them about multiple sclerosis they did not give up. I was asked to quit the job. The most interesting thing is that this organisation is an organisation working in the field of human rights. They wanted to fire me because of my disease. I asked them not to do so, because it would cause problems for me when I try to find another job in the future – I’d be labelled as if I have a stamp on my face (...) What do you think, if I go somewhere to get employed and the work records state “dismissed due to illness” will they employ me? I worked five years in this organisation and I wanted to avoid a scandal, so I left.⁶⁴⁶

Our researchers also spoke to T.J., a woman with a child with a disability, from Ciobalaccia village, Cantemir region who told us about her experiences of discrimination by association when she tried to find work.⁶⁴⁷ T.J., is a teacher by profession who had worked for several years but had stopped due to problems with her eyesight. She underwent treatment and later approached the local kindergarten, which had advertised vacancies. She stated that she was rejected and humiliated by the director of the institution, who argued she would not be available to work full time hours because she had a child with disabilities. T.J stated that she had complained to the Directorate of Education in Cantemir region, but had not received an answer.

**Education**

Article 24(1) of the CRPD guarantees “the right of persons with disabilities to education (...) without discrimination and on the basis of equal opportunity”.⁶⁴⁸ The right to education is guaranteed under Article 35 of the Moldovan

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⁶⁴⁶ Equal Rights Trust Interview with Alina, 04 August 2015, Chișinău.
⁶⁴⁷ Equal Rights Trust Interview with T.J., 12 July 2015, Ciobalaccia village, Cantemir rayon.
⁶⁴⁸ See above, note 577, Article 24(1).
Constitution,⁶⁴⁹ whilst Article 9 of the Law on Ensuring Equality prohibits discrimination in education, including on the grounds of disability.⁶⁵⁰

Chapter IV of the Law on the Social Inclusion of Persons with Disabilities regulates the education, training and professional development of persons with disabilities.⁶⁵¹ In addition, on 23 November 2014, a new Education Code entered into force.⁶⁵² The Code includes several provisions on special education needs⁶⁵³ and provides that parents have the right to choose the educational institution they want their children to attend.⁶⁵⁴ Additionally, following ratification of the CRPD, the Government of Moldova approved a Programme on Inclusive Education (2011-2020)⁶⁵⁵ with the objective of creating conditions for the inclusion of children who have previously been excluded from the public education system, as well as those in need of special education.⁶⁵⁶ At the same time, during the first cycle of the Universal Periodic Review, Moldova agreed to fully implement recommendations on ensuring the rights of children with disabilities in education.⁶⁵⁷

There are an estimated 13,400 children with disabilities in Moldova.⁶⁵⁸ According to the UN Special Rapporteur on the Rights of Persons with Disabilities, Moldova has “initiated a process of deinstitutionalisation”.⁶⁵⁹ As part of this process, between 2015 and 2016, five auxiliary boarding schools (special schools for children with disabilities) were closed, leading to 220 children being placed in social services, or “reintegrated with their

⁶⁴⁹ See above, note 196, Article 35.
⁶⁵⁰ See above, note 14, Article 9.
⁶⁵¹ See above, note 564, Articles 27–32.
⁶⁵³ Ibid., Articles 9(6), 16(6), 25(2), 32–35, and 40(5).
⁶⁵⁴ Ibid., Articles 136(1) and 138(1)(a).
⁶⁵⁶ See above, note 193, Para 60.
⁶⁵⁷ Ibid., Recommendations 73.19, 73.23, and 73.59.
⁶⁵⁸ See above, note 536.
⁶⁵⁹ See above, note 535, Para. 46.
extended families.” However, over 1,300 children remain in these boarding schools. In addition to the significant concern about the *de facto* institutionalisation of these children, these institutions often lack the required materials and expertise necessary to afford children with disabilities effective access to education.

Data provided by the Ministry of Education indicates that there were 8,564 children with special educational needs integrated into general educational institutions between 2015 and 2016, and 1,829 students with other disabilities. However, non-governmental organisations have identified challenges with integrating children with disabilities into mainstream schools. The Legal Assistance Centre for Persons with Disabilities has recorded that many mainstream schools are unwilling to take children with disabilities. Lack of skills, resources, and materials as well as issues related to accessibility all hinder access to mainstream education. Additionally, the Centre has noted that the coexistence of the general and special education systems reduces effectiveness and increases costs, leading to the exclusion of children with disabilities.

The inability of schools to cater to the needs of students with disabilities has been widely covered in the media. In December 2014, the Centre for Information on Human Rights interviewed the mother of a child with disabilities who stated that her son is home schooled, but only receives two hours of teacher training per week. Similarly, several cases of discrimination have been lodged with the CPEDEE. In November 2013, the Council heard the case

660 See above, note 621, pp. 28–29.
662 For instance, the Legal Assistance Centre for Persons with Disabilities has reported that in one institution for the blind in Bălți only one teacher knows how to read Braille. See *Ibid.*
664 See above, note 621 pp. 28–29.
of Valentina Ursu who alleged discrimination and harassment on account of her disability. Having graduated from secondary school, Ms Ursu applied to a Vocational School in Chișinău. Despite acceptance at the school, Ms Ursu was bullied and later expelled following a number of unexplained absences. Whilst the CPEDEE found in favour of Ms Ursu,\textsuperscript{668} the decision was later overturned in court.\textsuperscript{669} In a second case, two kindergartens from Chișinău refused to enrol a four year-old child with diabetes because of her special needs, as she required a special menu and attention from teachers and medical staff. The CPEDEE found that the child had been subject to discrimination on account of her disability.\textsuperscript{670}

Access to higher education is also limited for persons with disabilities. According to the Legal Assistance Centre for Persons with Disabilities, just 249 persons with disabilities are currently enrolled in universities and only 404 in colleges.\textsuperscript{671} In part, this may be due to exclusion at earlier stages of educational development, but other barriers also prevent access. Our researchers spoke to a university student S., who used a wheelchair and who told us the difficulties he faced while at university:

_In 2014, I graduated with a Masters in psychology at State University of Moldova. None of the buildings were accessible. Every time I went to the university was a challenge for me. The Dean of the faculty was the most responsive and organised classes on the ground floor, though some classes were held on other floors which required me to ask for help climbing the stairs every time, which was not exactly easy. The biggest problem was_


\textsuperscript{671} See above, note 621, pp. 28–29.
the lack of an accessible bathroom for people in wheelchairs. One building – building number five – had only one lift, which did not work.672

Healthcare

Article 25 of the CRPD guarantees the right of persons with disabilities “to the enjoyment of the highest attainable standard of health without discrimination”. This requires states parties to “provide persons with disabilities with the same range, quality and standard of free or affordable health care and programmes as provided to other persons”.673

Under Article 36 of the Moldovan Constitution the right to health protection and a minimum standard of health insurance provided by the State free of charge is guaranteed.674 This provision is supplemented by both the Law on Healthcare675 and the Law on Patient’s Rights676 which both contain additional healthcare guarantees. Article 2 of the Law on Healthcare lists a set of principles which include a guarantee that persons with disabilities can access health services according to their needs. Chapter VI of the Law on the Social Inclusion of Persons with Disabilities contains several Articles on healthcare including rights to healthcare; to medical and social rehabilitation; to early intervention; to individual rehabilitation programs; and to social inclusion.677 Under the Law on Mandatory Medical Health Insurance, free medical insurance is issued to all persons with disabilities678 and in the case of persons with severe disabilities, to their carers.679 Additionally, under Article 8(b) of the Law on Ensuring Equality, discrimination in access to medical and health services is prohibited.680 In addition to the legislative framework, the Govern-

672 Equal Rights Trust Interview with S. on 25 May 2015, Chişinău.
673 See above, note 577, Article 25.
674 See above, note 196, Article 36.
676 Law on Patient’s Rights and Obligations (Law No. 263 of 27 October 2005).
677 See above, note 564, Articles 41–45.
679 Ibid.
680 See above, note 14, Article 8(b).
ment of Moldova has adopted a National Program on Mental Health (2012–2016)\textsuperscript{681} and a National Health Policy.\textsuperscript{682}

However, in practice persons with disabilities face difficulties accessing health care in Moldova. A study by Association “Motivatie” in 2013 found that persons with disabilities encounter prejudice from healthcare professionals and that lack of reasonable accommodation further impedes access to healthcare.\textsuperscript{683} One participant in this study noted that a lack of sign language interpreters meant that he faced severe difficulties when communicating with doctors.\textsuperscript{684} Another participant with mobility difficulties explained that he was unable to go to the hospital or to see his doctor unless he used an ambulance, and stated that he often had to source the ambulance himself, as authorities were unwilling to help.\textsuperscript{685} Others interviewed for the same report gave examples of different forms of discrimination. In 26 cases participants did not feel that they were empowered to make “autonomous decisions regarding health”.\textsuperscript{686} Poor accessibility of health services, including access to specialised medical care, medicine and rehabilitation services, has also been documented by other non-governmental organisations.\textsuperscript{687}

Equal Rights Trust focus groups also found evidence of discrimination in healthcare. Participants at a focus group in Cahul town stated that medical staff discriminated against people with disabilities.\textsuperscript{688} At a focus group in Chișinău, participants indicated that persons with multiple sclerosis suffer discrimination most frequently in medical institutions.\textsuperscript{689}

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\textsuperscript{681} Decision approving the Adoption of the National Program Regarding the Mental Health for Years 2012–2016 (Government Decision No. 1025 of 28 December 2012), available at: http://lex.justice.md/viewdoc.php?action=view&view=doc&id=346311&lang=1.

\textsuperscript{682} Decision approving the Adoption of the National Health Policy (Government Decision No. 886 of 6 August 2007), available at: http://lex.justice.md/md/324940.


\textsuperscript{684} \textit{Ibid.}

\textsuperscript{685} \textit{Ibid.}, p. 80–81.

\textsuperscript{686} \textit{Ibid.}, p. 78.

\textsuperscript{687} See above, note 621, p. 31.

\textsuperscript{688} See above, note 596.

\textsuperscript{689} See above, note 554.
A separate issue identified in the research for this report concerns the lack of early-intervention services. Article 44 of the Law on the Social Inclusion of Persons with Disabilities states that early-intervention services should be provided.\textsuperscript{690} However, since the passage of this law, no regulatory framework has yet been established.\textsuperscript{691} This has a serious detrimental impact on children with developmental delays and children with autism, who cannot access the care they need at the early stages of development.\textsuperscript{692}

**Multiple Discrimination faced by Women with Disabilities**

Women with disabilities face particular problems in accessing healthcare. Whilst measures have been adopted to ensure access to appropriate healthcare for women in childbirth, prenatal healthcare is not accessible for persons with disabilities. For example, while some hospitals have access ramps, the majority of medical institutions do not have adapted consultation and delivery rooms, examination chairs or delivery tables.\textsuperscript{693}

The number of women with disabilities giving birth is low. In 2013, only two gave birth at the Mother and Child Centre, one of Moldova’s leading institutions for gynaecology and paediatrics.\textsuperscript{694} The low incidence of birth among women with disabilities has been attributed to poor accessibility in hospitals, which discourages potential mothers.\textsuperscript{695} There is also evidence that some women with disabilities have been actively discouraged by medical staff from having children due to their disability.\textsuperscript{696} Mariana told Equal Rights Trust researchers about her experience:

\begin{itemize}
\item \textsuperscript{690} See above, note 564, Article 44.
\item \textsuperscript{691} See above, note 621, p. 31.
\item \textsuperscript{692} See above, note 621, p. 37.
\item \textsuperscript{695} Ibid.
\end{itemize}
I went to a gynaecologist. The doctor received me and for half an hour she talked about contraception, what is contraception, why it is important. The doctor talked about contraception because when I entered her office I said I wanted her to check me and let me know what are the risks of becoming a mother (...) She told me about contraception, about how hard it is to be a mother; she asked why would I want to be mother and said that there are so many methods of contraception that are really good and she can recommend them to me. [She also said] in case you get pregnant, I will not register you – I do not want such statistics. I was discouraged and left. After one year, I went to another doctor who examined me and told me everything was fine.\footnote{Equal Rights Trust Interview with Mariana, 24 March 2015, Chişinău.}

Another woman told our researchers how she had been confronted by the prejudice of healthcare workers during her pregnancy, when she discovered there was a chance her child would have a disability:

I did a genetic exam that showed that the risk of me having a child with disabilities is very small, about 0.5%. The doctor explained that the genetic risk would be high (50%) only if a partner had the same genetic mutation as me. When I went to the next routine appointment, a woman doctor saw the medical card, containing the information about my genetic analysis. She asked me why I did a genetic analysis. When I explained she said, “Do you know that you cannot have children? If you have kids, they will have disabilities”. She misinformation me. She spoke relying on stereotypes rather than medical knowledge.\footnote{Equal Rights Trust Interview with L., 21 May 2015, Chişinău.}
**Access to Social Assistance**

Article 9 of the ICESCR recognises the right of everyone to social security. Under Article 28 of the CRPD, state parties:

> [R]ecognise the right of persons with disabilities to an adequate standard of living for themselves and their families, including adequate food, clothing and housing, and to the continuous improvement of living conditions, and shall take appropriate steps to safeguard and promote the realisation of this right without discrimination on the basis of disability.\(^\text{699}\)

Chapter VII of the Law on the Social Inclusion of Persons with Disabilities guarantees the provision of social assistance to persons with disabilities.\(^\text{700}\) However, the Ombudsman has criticised the state for providing social assistance that is insufficient to meet living costs.\(^\text{701}\) The UN Special Rapporteur on the Rights of Persons with Disabilities has noted that persons with disabilities are overrepresented among those who experience economic hardship.\(^\text{702}\)

There are also reports of persons with disabilities suffering discrimination in seeking to access social services. For example, a 2014 report found that some persons with disabilities were required to pay for social and health services they are entitled to by law, or were refused access to social support to which they are entitled.\(^\text{703}\) There are also examples of those with caring responsibilities for persons with disabilities being denied pension payments to which they are entitled, as in the case of N.C., narrated below.\(^\text{704}\)

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699 See above, note 577, Article 28.

700 See above, note 634.

701 See above, note 629, p. 44; see above, note 578, p. 14.

702 See above, note 535, Para. 22.

703 See above, note 578.

Case Study: N.C.

N.C was employed during 1973 until 1992 when her daughter was born. At the age of three, her daughter was certified as having severe disability. N.C. was the primary carer for her daughter until her daughter’s death 20 years later. When N.C retired, her pension did not account for the years when she had worked as primary carer for her daughter. She brought the case to the CPEDEE which ruled that parents who care for children with severe disabilities and are therefore unable to work suffer discrimination by association in relation to the calculation of their pension. Following this decision, N.C. challenged the pension calculation procedure in Court where she lost the case before all instances. N.C. is now appealing her case to Committee on the Elimination of Discrimination against Women.

Access to Goods and Services

Article 9 of the CRPD requires states parties to ensure the identification and elimination of “obstacles and barriers to accessibility” which includes ensuring that “private entities that offer facilities and services which are open or provided to the public take into account all aspects of accessibility for persons with disabilities”.

Under Article 8 of the Law on Ensuring Equality, any form of discrimination on the basis of disability in the provision of goods and services is prohibited.

Despite this, research for this report has identified several cases where effective access to goods and services has been denied to persons with disabilities. For example, Z, interviewed by Equal Rights Trust researchers, stated:

I had a situation last year, on the 9th of May 2014. Me and my friend, both people in wheelchairs, were coming from a party and wanted to go to eat something in a bistro. The security guard saw us, and said that we cannot enter, without providing any reason. Then my friend

705 See above, note 577, Article 9.
706 See above, note 14, Article 8.
took the phone and started filming everything and when someone from the administration saw that we are recording this situation, they allowed us to enter. In another case I wanted to go to a disco and I was not allowed to enter the disco because, they said, is not safe for me.\textsuperscript{707}

In 2014, the CPEDEE considered the case of Alexandru Cebotari, a student at the Institute of Physical Culture and Sports in Chişinău who uses a wheelchair.\textsuperscript{708}

### Case Study: Alexandru Cebotari

In February 2014, Mr Cebotari went to a club in the Botanica sector of Chişinău and was banned from entering by the club’s security staff, who explained that persons with disabilities are prohibited from entering the club. Club staff also noted that his image and condition could “sadden” other club visitors. Despite calling the police for help, they did not intervene.

After the case was reported in the media, Mr Cebotari was contacted by his local police officer, who asked for more details about the incident. He was also informed that a case had been opened under the Contraventions Code because of the publicity the incident received. In September 2014, Mr Cebotari registered an official complaint at the CPEDEE, alleging discrimination in access to public services, and a failure to make reasonable accommodations. On 17 October 2014, the CPEDEE ruled in his favour.

In 2015, Adrian Oleg Vlad, a man with a visual impairment, was stopped from entering a shop by a security guard and threatened after being informed that blind persons were not permitted to enter without a companion; having com-

\textsuperscript{707} Equal Rights Trust Interview with Andrei. Z., 3 September 2015, Chişinău.

plained to the store’s manager, Adrian was offered an apology and assured that the incident would not occur again.709

In another case, a man was not permitted to enroll in a driving school because the medical board would not grant him a medical certificate, which he received only after submitting an official complaint.710 Oxana P., interviewed by Equal Rights Trust researchers, recounted the discrimination she faced when trying to obtain a driving license:

There are problems because our legal framework does not stipulate the conditions under which a person such as myself, with locomotor disability could obtain a driver’s license (...) I was able to buy a car, but first of all I had to obtain a driver license. I called about 10 schools, I told them about my situation and they told me that they do not have their cars adapted. I proposed that I can study only the theory with them, while for practice I will use my car. They did not want that, because they want people to pay both theory and practice so that they could earn more money. Another problem is that schools are not accessible (...) Finally, I was accepted into a school just because I was recommended by someone. Then I studied theory for three months. I passed the exam on theory, I bought a car, I adapted it and I contacted an instructor and I paid for the practice course. The big problem came when we went to take the practical examination, I went with my car, which has an automatic gearbox, adapted. They said I’m not allowed to take the exam with the automatic gearbox (...) They told me to bring a car with a manual gearbox. I could not find such a car, so I sent them a


letter asking them to explain how I should take the examination. Eventually they said to come with my car and take the exam.\textsuperscript{711}

Similar cases have also been identified in relation to rental services.\textsuperscript{712} In one instance, a man was not permitted to rent a car because the owners believed he would damage it.\textsuperscript{713}

\textit{Political Life}

Article 29 of the CRPD provides that persons with disabilities have the right to participate in political and public life on an equal basis with others, and states parties are required to ensure the accessibility of all voting procedures, facilities and materials; and to promote an environment in which persons with disabilities can effectively and fully participate in the conduct of public affairs. Article 7 of the Law on Social Inclusion of Persons with Disabilities provides for the participation of people with disabilities in political and public life on an equal basis with others. The Article also guarantees persons with disabilities the right to vote and to be elected; to access to adequate voting procedures and materials, including alternative voting procedures; to vote by secret ballot; and to effectively hold office.

Despite these legal guarantees, there are still many obstacles to the equal participation of persons with disabilities in public and political life in Moldova. According to a recent study, the main obstacles for participation of persons with disabilities in political and public life include: inaccessible infrastructure and transportation; legal limitations and restrictions such as denial of voting rights for persons declared incapacitated; prejudices; direct discrimination by those involved in the process; lack of accessible information about opportunities to become involved in public and political life; and

\begin{enumerate}
\item Equal Rights Trust Interview with Oxana P., 4 July 2015, Chişinău.
\end{enumerate}
failure by the authorities to engage with persons with disabilities and create conditions for participation.\textsuperscript{714}

Nevertheless, the government has made efforts to increase the accessibility of the electoral process for persons with disabilities. In Parliamentary elections held on 30 November 2014, the Central Election Commission (CEC) took a number of measures, which included:

- Improving access to polling stations: a number of polling stations were moved to ground level and in 30 polling stations, access ramps were installed;\textsuperscript{715}
- Equipping polling stations with a separate booth for people with disabilities;\textsuperscript{716}
- Using a template envelope for voters with visual impairments which had been designed in partnership with civil society organisations and persons with disabilities;\textsuperscript{717}
- Adapting the official website of the CEC for visually impaired people;\textsuperscript{718}
- Employing sign language interpreter who, through the media, informed people with hearing impairment about the electoral process.\textsuperscript{719}

However, there are still numerous barriers to full and equal participation of persons with disabilities in the electoral system. During the 2014 parliamentary elections, 63\% of polling stations monitored by the Organisation for Security and Cooperation in Europe (OSCE) Office for Democratic Institutions


\textsuperscript{717} \textit{Ibid.}, p. 3.


\textsuperscript{719} \textit{Ibid.}
and Human Rights (OIDHR) Election Observation Mission were considered inaccessible to voters with disabilities.\textsuperscript{720} At the 2015 local elections, “[m]ost polling stations visited were noted as lacking adequate access for voters with disabilities”.\textsuperscript{721} During these local elections, a group of civil society organisations conducted a national study, which found that 47\% of polling stations were inaccessible, 42\% were partially accessible and only 11\% were fully accessible to people with disabilities.\textsuperscript{722}

The government has also made efforts to make elections accessible to people with visual impairments. While ballots were not available in Braille for the 2014 Parliamentary Elections, the CEC started a pilot project to provide ballots in Braille for subsequent elections.\textsuperscript{723} During the 2015 local elections on 14 and 28 June, the Central Election Commission tested this project and provided ballots in Braille at all polling stations for persons with visual disabilities.\textsuperscript{724} However, the media and election candidates generally do not use accessible forms of communication with voters with disabilities (for example, publications in Braille, sign language, phonetic system or plain language texts that are easily understandable), depriving them of information on electoral processes.\textsuperscript{725}

**Transnistrian Region**

As of 1 December 2015, there were 19,768 persons with disabilities registered by “social assistance bodies” in the Transnistrian region.\textsuperscript{726} Many of the

\textsuperscript{720} See above, note 715, p. 14.


\textsuperscript{722} See above, note 621, p. 35.


\textsuperscript{725} See above, note 718, p. 109.

human rights concerns relating to persons with disabilities in the Transnistrian region are similar to those identified elsewhere in the country. However, Transnistria’s isolation from both international and regional law and justice mechanisms has limited reform efforts in the territory.  

Transnistrian legislation provides for protection of the rights of persons with disabilities in the areas of education, health care, and employment, but there is no specific law on equality and non-discrimination. Given the lack of data and prior research, establishing the extent of discrimination against persons with disabilities in Transnistria is difficult. However, Equal Rights Trust researchers spoke to many persons with disabilities in Transnistria, and were able to gain an understanding of some of the problems they face. An interview with one woman, Tamara, indicated that issues related to inaccessible infrastructure in the region are similar to those found in the rest of the Moldova:

> We have traffic lights with an audible signal only near our house, but life is not happening only near the house. If you want to go somewhere far away, for example, to a hospital or shopping, it is difficult and even dangerous, because there are no special adaptations for the blind (...) I do not have special devices that would help me. They are expensive, and not available in Transnistria.

Another woman, Diana, spoke of her experience as a person with a hearing impairment:

> People with hearing impairments face serious problems with housing, employment and education. In Transnistria there is no educational institution with a sign language interpreter. Therefore, almost all people with a hearing impairment have no education, and are without a good profession. Therefore, they have a lot of problems

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727 See above, note 272, p. 15.
728 See above, note 724.
729 Ibid.
730 Equal Rights Trust interview with Tamara, 14 May 2015, Tiraspol.
with employment, because they are not qualified. When children finish school, nothing happens. There is no work. The pension is very small. You need three years of work experience to have your pension bigger. But where to get this experience, if there is no work? Hearing impaired people do not watch the news because there is no sign language interpreter. They do not understand what is happening in the country. They therefore do not have an opinion. In elections, people with hearing impairments either do not vote or they vote how neighbors or relatives tell them to. It’s hard to go anywhere without a sign language interpreter. There is only one interpreter in Tiraspol – there need to be more.\(^\text{731}\)

**Employment**

A number of people interviewed for this report recounted the problems that they faced in accessing employment, as a result of discrimination or failure to make reasonable accommodation. Participants at a focus group in Tiraspol stated that when persons with hearing impairments are seeking a job, they are generally rejected, because employers prefer “healthy” workers.\(^\text{732}\) In another focus group, with persons with visual impairments, only one of the eleven participants was in employment.\(^\text{733}\) Participants stated that they are denied registration at the Employment Center and estimated that only 10% of all visually impaired people are employed in Transnistrian region. Andrei, interviewed by Equal Rights Trust researchers, recounted his personal experience:

*The biggest problem is that there is no work. I understand that people without disabilities also have problems in finding a job, but still they have more possibilities and it is easier for them to find a job. Deaf people are rarely employed. I am a builder, but I cannot find* 

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731 Equal Rights Trust Interview with Diana, 3 June 2015, Tiraspol city, Transnistrian region.

732 Equal Rights Trust Focus group with 12 people with hearing disabilities, 6 June 2015, Tiraspol city, Transnistrian region.

733 Equal Rights Trust focus group with 11 people with visual impairments, 14 May 2015, Tiraspol city, Transnistrian region.
a job. Two deaf persons were employed as janitors. But now they were told to leave the work because it is too dangerous for them to clean the road.734

Education

Local regulations provide that children with disabilities may join the mainstream education system or, based on the degree of disability can be enrolled in “correctional educational facilities” or special schools. According to the Special Rapporteur, children considered unsuited for special education are placed in rehabilitation centres, which have a medical or rehabilitation focus rather than an educational one; there are few community-based services for children with disabilities, especially for those with sensory, intellectual or psychosocial disabilities.735 However, reports indicate that in practice, children with disabilities rarely attend school and lack access to specialised resources.736 Interviewed by a civil society organization, Cristina from Râbniţa, stated that:

It started with kindergarten. No kindergarten wanted to enroll my son. Then when we addressed to a school for children with special needs, I was told that because my son does not have cerebral palsy, they cannot enroll him. If he had, he would have been accepted. Otherwise, they cannot.737

Participants in a focus group in Transnistria told our researchers that hearing impaired people tend to have less education than other citizens.738 One interviewee, Alina, stated that:

734 Equal Rights Trust Interview with Andrei, 6 June 2015, Tiraspol city, Transnistrian region.
735 See above, note 535, Paras. 57–58.
736 See above, note 724.
738 Equal Rights Trust focus group with 12 people with hearing disabilities, 6 June 2015, Tiraspol city, Transnistrian region.
Almost all deaf people graduate only 8 classes, maximum 10 classes, because there are no opportunities to study and it requires a lot of effort. There are children who want to go to college, but there is no interpreter. Deaf can learn, and are eager to learn, but for this we need some special conditions and a sign language interpreter.\textsuperscript{739}

In his report of February 2013, the United Nations Senior Expert on Human Rights in Transnistria addressed 13 recommendations to the de facto authorities of the region, including one calling for the adoption of provisions to enable children with disabilities to attend mainstream schools.\textsuperscript{740}

**Healthcare**

Participants with hearing impairments at an Equal Rights Trust focus group in Tiraspol stated that in order to address a doctor they need sign language interpreter, and there is only one sign language interpreter in Tiraspol, so they tend to avoid going to doctors as much as possible.\textsuperscript{741}

**Political Life**

Participants at a focus group for persons with hearing impairments told Equal Rights Trust researchers that due to their disability they are less informed than others, and are excluded from gaining an understanding of the political situation, because there are no news programs with a sign language translator.\textsuperscript{742} As a result, people with hearing impairments are unable to participate fully in elections. Participants also stated that communication and interaction with government officials is difficult, because the majority of those with hearing impairments only have education equivalent to 9th grade and face difficulties in writing an application. They noted their major difficulties in communication with representatives of institutions, local and central government, stating that they need a sign-language interpreter, but there is only one sign-language interpreter in Tiraspol and he is a beginner on voluntary basis.

\textsuperscript{739} Equal Rights Trust interview with Alina, 6 June 2015, Tiraspol city, Transnistrian region.

\textsuperscript{740} See above, note 146, pp.44–48.

\textsuperscript{741} See above, note 732.

\textsuperscript{742} Ibid.
2.5.1 Discrimination against Persons with Mental Disabilities

According to a recent study, people with mental disabilities are among the most discriminated against social groups in Moldova. A 2015 survey found that significant numbers of people considered people with mental disabilities them to be “invalids (…) distressful (…) persons with mental retardation (…) [or] dangerous” who should be “isolated” (7.2%) or “excluded or disregarded” (6%).

Legal Capacity

Article 12 of the CRPD provides for the right to equal recognition before the law for all adult women and men with disabilities, and confirms that legal capacity is a universal right for all people. The Committee on the Rights of Persons with Disabilities has stated that rules on mental capacity should never be used to deny a person the right to recognition before the law. Article 12(3) of the CRPD, recognizes the right of persons with disabilities to access support in order to exercise their legal capacity, which means that people with disabilities must be able to receive support to make decisions about their lives, in a way that respects their will and preferences.

In Moldova, issues related to the legal capacity of persons with mental disabilities are regulated by the Law on Mental Health, the Law on Patients’ Rights and Obligations, and the Civil Code. The Civil Code provides that “[c]apacity to possess civil rights and duties (legal civil capacity of individuals) shall be recognized equally in respect to all individuals” and that “[i]ndividuals shall not be liable to discharge of legal capacity”. However, the Civil Code also provides for the possibility of deprivation and limitation of legal capacity. When a court establishes the need to deprive a person of legal capacity in

743 See above, note 3, p. 23.
745 Ibid., Para. 14.
746 See above, note 220, Article 18(1).
747 Ibid., Article 23(2).
748 Ibid., Article 24(1).
749 Ibid., Article 25(1).
line with these provisions, a guardian is appointed. According to Article 24 of
the Civil Code, the guardian is empowered to execute all legal acts in the name
and on behalf of the incapacitated person.

Serious questions arise over whether the guardianship system as provided
in the Civil Code is compatible with Moldova’s obligations under Article 12
of the CRPD. An examination of the operation of the system in practice indi-
cates that there are a number of aspects of the system that contravene the
CRPD’s provisions.

In Moldova, approximately 4,000 persons with disabilities were deprived of
legal capacity and subject to guardianship orders as of February 2015.750 E.T.,
a woman diagnosed with paranoid schizophrenia, has received legal assis-
tance from the Equal Rights Trust and Promo-LEX in order to challenge her
treatment by her ex-husband. Her case illustrates the kinds of abuses that can
occur through the guardianship process.

Case Study: E.T.

On the basis of a complaint from her then husband, in 2001 a court de-
prived E.T. of her legal capacity. After the court decision, the husband di-
vorced E.T. and took possession of the couple’s apartment, car, money, and
property. E.T.’s court appointed guardian is a relative who is hostile to-
wards her. Since 2006, E.T. has been held in Cocieri Psychiatric Institution.
Since that time, she has been trying to secure her release and recover her
legal capacity. She is a licensed doctor with 16 years of experience; she
is lucid, takes care of herself and often helps doctors in the Cocieri Psy-
chiatric Institution with advice regarding the treatment of other patients,
medicines and other. Her guardian, ex-husband, and the Cocieri Psychi-
tric Institution have never tried to help her to recover her legal capacity.

There are only two institutions in the country, the Chișinău Psychiatric Hos-
pital and the Bălți Psychiatric Hospital, which are authorised to form psychi-

in Moldova (English), 2015, p. 6, available at: http://www.osce.org/odihr/elections/
moldova/144196.
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... psychiatric evaluation commissions, specialised bodies of psychiatrists with the power to conduct assessments of an individual’s legal capacity at the request of a court. To date, there are no standardised tools or approved methodologies for assessing a person’s mental capacity and reports filed with the court provide mostly information on the medical diagnosis of the person.

The Civil Code provides that if the facts justifying the limitation of legal capacity change, the courts shall recognise the legal competence of the person or cancel the limitation of the legal competence. However, those without legal capacity do not have legal standing in the Moldovan courts, meaning that only a person’s guardian or the public prosecutor can bring civil cases on their behalf. Thus, one of the most problematic elements of the guardianship system in practice is that persons deprived of legal capacity cannot file requests or challenge court decisions that established their incapacity. As a result, most of those declared incapacitated will never be able to restore their legal capacity. Indeed, it was only in June 2015 that the first person in Moldovan history had their capacity restored by a court, when the Chişinău Court of Appeal ordered that Ms Elena Voronina’s capacity be restored. The case was appealed by Ms Voronina’s daughter, who was alleged to have abused the guardianship rules and taken advantage of her mother, but the Supreme Court of Justice upheld the decision of the Chişinău Court of Appeal. However, Promo-LEX experts are doubtful of the extent to which the case sets a genuine precedent, given that the positive judgment was the result of extensive pressure by non-governmental organisations.

751 See above, note 418.
753 See above, note 727, p. 48.
754 See above, note 746, Articles 24(3) and 25(2).
755 See above, note 535, Para. 54.
756 Civil Procedure Code of the Republic of Moldova (Code No. 225 of 30 May 2003), Article 308.
757 See above, note 727, p. 50.
On 13 November 2014, based on a petition from the Ombudsman, the Constitutional Court issued a decision by which it found unconstitutional the legal provisions that prohibit persons declared incapacitated from filing requests and petitions to the Ombudsman. While this decision allows persons declared incapacitated to submit petitions to the Ombudsman as a mean of legal protection of their rights, it does not apply to national courts. Following this, in 2015, there were a number of legislative initiatives directed towards changing this situation. On 7 May 2015, Parliament passed Law No. 87 on the amendment and completion of some legislative acts, which guaranteed to persons deprived of legal capacity the right to vote and to challenge court decisions that deprived them of legal capacity. The President of the Republic of Moldova, however, refused to promulgate this law, meaning that it has not come into effect.

A further problem with the guardianship system is that – as in the case of Ms Voronina – guardians do not necessarily act in the best interest of the persons declared incapacitated. Persons deprived of their legal capacity are unable to take control of their own financial affairs and handle their property, resulting in serious vulnerability to abuse. One person under guardianship interviewed for a UN report stated “[I feel] like a beggar (...) I am forced to starve and freeze because all my money goes into the guardian’s hands and she spends it on everything except my necessities.” Another direct effect of depriving a person of their legal capacity is the disregard for that person’s consent in all spheres of life, including when placing them in various psychiatric institutions.

Other problems also arise as a result of the denial of legal capacity. For example, the Electoral Code restricts the voting rights of persons declared incapacitated by a final court decision. The OSCE has noted that “the

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759 Constitutional Court, Decision No. 27 of 13 November 2014.
761 See above, note 727, p. 52.
762 See above, note 535, Para. 48.
practice of courts ruling guardianships for older persons and persons with disabilities automatically deprives them of their right to vote, in violation of international standards”.

Institutionalisation

Article 19 of the CRPD states that all people with disabilities, including people with mental disabilities, have the right to live independently while Article 14 states that disability should in no case be the basis for deprivation of liberty.

In Moldova, there is a direct relationship between the deprivation of legal capacity and long-term institutionalisation in healthcare or residential care facilities; most persons declared incapacitated are placed in psychiatric institutions. A 2015 study indicated that approximately 2,500 children and adults with mental disabilities were resident in six specialized institutions. In addition, there are three psychiatric hospitals administered by the Ministry of Health. It is estimated that annually, residential care facilities for persons with disabilities take in 1,700 people with mental (intellectual or psycho-social) disabilities and the average duration of the stay in these institutions is 9.7 years in psycho-neurological residential institutions and 7.6 years in psychiatric institutions. Persons held in these institutions are denied legal capacity.

In addition to the concerns raised by the fact of institutionalisation itself, there is evidence of shocking discriminatory violence and abuse towards people with mental disabilities held in such psychiatric institutions. In 2015, the

764 See above, note 716, p. 6.


766 See above, note 727, pp. 18 and 66.


UN Special Rapporteur on the Rights of Persons with Disabilities noted with serious concern the treatment of persons with disabilities living in psycho-neurological residential institutions (“internats”) and psychiatric hospitals, referring to “shocking reports of ill-treatment, violence, including sexual and gender-based violence, perpetrated by staff members, neglect, restraint, forced medication and seclusion”.

In September 2015, the ill treatment of children with severe mental disabilities in Orhei Psycho-neurological “internat” caused a public outcry following publication of images showing the abuse. The images featured such things as children with bruises and mutilated genitals bound to wheelchairs and worms in the food. The Ministry of Labor, Social Protection and Family visited the institution; the Director was subsequently dismissed and a criminal case was initiated.

Women with mental disabilities are particularly vulnerable to abuse in psychiatric institutions. In one institution, the Bălți neuropsychiatric institution for adults with disabilities, the UN Special Rapporteur on the Rights of Persons with Disabilities cited numerous allegations of “shocking practices such as rape, forced contraceptive measures, forced abortion and deprivation of reproductive rights”. Reports of particularly shocking abuse arose in 2013, when 18 women with disabilities resident at the Bălți facility alleged they had been sexually abused and subject to coercive measures including forced abortion by senior staff members. Investigation into this abuse has been beset by delays, and as of June 2016 there were no “first-instance decision[s] in (…) criminal proceedings” regarding rape or forced abortion. In May 2016, the

769 See above, note 535, Para. 48.
773 See above, note 535, Para. 50.
774 See above, note 727, p. 61.
775 Ibid., p.61.
Bălți court adjourned consideration of the complaints until August 2016 for reasons that were not explained.\textsuperscript{776}

In 2007, allegations of sexual, physical and mental abuse were made against staff members at the Cocieri neuropsychiatric residential institution.\textsuperscript{777} As in other cases, the official response to these reports has been ponderous, and the UN Special Rapporteur on the Rights of Persons with Disabilities noted in 2015 that “Dubasari police and prosecutors declined to open criminal proceedings, apparently on grounds that women in neuro-psychiatric residential institutions provide inherently unreliable testimony”.\textsuperscript{778}

Despite the widespread reports of abuse of people with mental disabilities in residential institutions, official action to address these abuses has been slow and ineffective. Although instances of violence in psychiatric institutions have been reported for many years,\textsuperscript{779} as of May 2016, there have been no court decisions finding this violence to be torture or inhuman or degrading treatment. Moreover, while several inquiries into allegations of rape and abuse of office in psycho-neurological residential institutions have been active since 2013,\textsuperscript{780} to date no conclusions have been published.

Problems of access to justice compound the difficulties in challenging these abuses, as victims do not have access to an effective mechanism for reporting abuses and filing complaints. While there are a number of options to challenge abuse – the prosecutor’s office, the ombudsman and the ombuds-


\textsuperscript{778} See above, note 727, p. 61.


man for psychiatry – none has proved effective. The prosecutor’s office has the authority to investigate cases of torture and inhuman and degrading treatment and other forms of abuse. However there is a general failure to appreciate the context of psychiatric institutions and the particular vulnerability of persons with mental disabilities. According to figures for 2013 released by the Prosecutor General’s Office, of 719 complaints of torture and ill-treatment, only three were recorded as having taken place in psychiatric institutions.\footnote{Prosecutor General’s Office, \textit{The Phenomenon of Torture in Figures: 2013, 2014}, available at: http://www.procuratura.md/md/com/1211/1/5671.} There were six and seven complaints of abuse in psychiatric institutions in 2014 and 2015, respectively.\footnote{Prosecutor General’s Office, \textit{The Phenomenon of Torture in Figures: 2014, 2015}, available at: http://www.procuratura.md/md/com/1211/1/6052/; and Prosecutor General’s Office, \textit{The Phenomenon of Torture in Figures: 2015, 2016}, available at: http://www.procuratura.md/md/newslist/1211/1/6532.} Research conducted for this report suggests that the problem of abuse is much more widespread than these figures indicate.

In addition to criminal prosecutions, a complaints procedure for rights violations of persons placed in psychiatric institutions, examined by the Ombudsman, was established by national mental health legislation.\footnote{Law on Mental Health, (Law No. 1402 of 16 December 1997), Article 37.} The complaints procedure is deeply flawed, however. Complaints must be filed with the administration of the relevant healthcare facility, which then sends complaints to the Ombudsman’s office,\footnote{Ibid.} thus creating scope for the administration to abuse the process. In addition, the mechanism is not clear and transparent, particularly as there are no procedures for registering, tracking and managing complaints, and the procedure does not guarantee the confidentiality of correspondence. Finally, the procedure is limited in scope, as complaints can only be filed in relation to failures in the provision of healthcare services,\footnote{Ibid.} leaving a substantial range of abuses, as discussed above, outside its scope.
Complaints can also be made to a specialist Ombudsman for Psychiatry, who is mandated to monitor psychiatric hospitals and institutions by Article 37 of the Law on Mental Health. The Ombudsman for Psychiatry has considerable powers, including a right to freely access any institution and room, as well as to access and review documents including personal files, records, and registers. However, while in law the Ombudsman for Psychiatry has extensive monitoring, consultancy and control powers, in practice, the infrastructure is not in place to enable the Ombudsman to work effectively. The Ombudsman can only initiate discussions with the administration of healthcare facilities and document violations. Any conclusions and recommendations made are not binding and the Ombudsman cannot intervene directly, as they must comply with the general procedure of reporting such cases to competent authorities. Moreover, the mandate holder is working alone, which severely limits their capacity.

Beyond allegations of physical, mental and sexual abuse, research for this report found other examples of mistreatment of persons in psycho-neurological residential institutions, as the following interview, conducted by Equal Rights Trust researchers with A. indicates.

*I have lived for 18 years in Badiceni psycho-neurological internat [residential institution]. They force us to do work on the territory of the institution: to sweep, to maintain the ground, to paint, to do repairs. They tell us “If you do not work you will not eat and will have to sleep outside or in the toilet.” Sometimes they take us to their homes to work. They give very little money. For working from 8am until 9pm, they pay us only 30 lei [€1.5 Euro] per day. When we ask for more, the nurse says: “You want more? At the institution they give you medicine and feed you for free”. I buy many drugs. I go to the pharmacy to*

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786 Ministry of Health Order on Services to Protect the Rights of Patients in Psychiatric Institutions (Ombudsman for Psychiatry) (Order No. 1185 of 29 October 2014), available at: http://www.cnms.md/ro/departamente/serviciul-pentru-ap%C4%83rarea-drepturilor-pacien%C5%A3ilor-%C3%AEn-sta%C5%A3ionare-de-psihiatrie.

787 Ibid.

788 Ibid.
buy them with my own money. The medicines that they give me in the institution are out of date, with expiry dates from 2002 or 2003. Once, they made me clean the garbage from a sewer and I refused. They beat me very hard with a stick. Many people died from beatings and injections and negligence of the medical staff. We live 25 people in the same room but there are many rooms that are reserved for visitors from the ministry. We bathe only once a week. The room stinks. We do not have a dining room or canteen, so we eat in the room.  

In May 2015, researchers for this report visited the Bălți psycho-neurological residential institution to interview residents. The complaints heard from residents included humiliating treatment by staff, including the Director; the prohibition on leaving the institution; and searches when entering or leaving the institution. Residents with physical disabilities stated that the facility was not adapted to their needs, making it difficult to move independently. Residents also expressed concern about the lack of access to legal assistance.

Equal Rights Trust interviewed two female residents of the Bălți facility, who spoke about their treatment by the institution’s staff. S.T. stated that she was pregnant but that the food she was given did not meet her nutritional needs; she also said that the administration of the institution was exerting pressure on her to give up the child for adoption. She stated that all of her documents are held by the administration, which had also confiscated her mobile phone so she could not complain to human rights organisations. Another patient, O.C., who had married another patient, a man with a physical disability, in a religious ceremony, complained that medical staff were preventing her from becoming pregnant. She stated that she had been subjected to numerous gynaecological exams and that medical staff force her to use contraception

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789 Equal Rights Trust interview with A, 7 June 2015, Bădiceni, Soroca rayon.
790 Equal Rights Trust field visit and interviews with 15 participants, 28 May 2015, Bălți psycho-neurological internat, Bălți city.
against her will. She said she was obliged to use a contraceptive coil (which was implanted by medical staff), which she eventually removed herself.

The Equal Rights Trust also held a focus group with persons with disabilities from the psycho-neurological residential institution in Cocieri. A large number of participants complained that the institution fed them very badly. Older residents in receipt of a pension stated that the majority of their pension was taken by the institution to pay for their maintenance, including food, but even then they did not receive adequate food.

Transnistrian Region

As in the rest of Moldova, guardianship and the removal of legal capacity from persons with disabilities is an issue of concern in the Transnistrian region. The UN Special Rapporteur on Extreme Poverty and Human Rights in 2013 urged the Transnistrian de facto authorities to begin de-institutionalisation of adults with disabilities and urged regional authorities to remove guardianship provisions from the Transnistrian legal framework.

Conclusion

People with disabilities face significant stigma, ranging from outright fear and association with “sin” to a paternalist view that perceives persons with disabilities as objects of charity. This has consequences both in terms of direct discrimination and failure to accommodate the needs of persons with disabilities. Accessibility is a major obstacle preventing the participation of persons with disabilities in all areas of social life. Problems of access, compounded by prejudice and direct discrimination, limit the participation of persons with disabilities in employment and education. The situation of people with mental impairments represents one of the biggest concerns: legislation permitting the deprivation of legal capacity and the appointment of a legal guardian is both problematic in itself and a major factor in increasing the risk of abuse or mistreatment. Institutionalisation of persons with mental disabilities is a

793 Equal Rights Trust field visit and interviews with 11 people with locomotor disabilities, 13 June 2015, Cocieri psycho-neurological "internat", village Cocieri, Dubasari rayon.
794 See above, note 146, pp. 44–48.
795 See above, note 84, Para. 60.
major concern, and there is disturbing evidence of abuse and other forms of mistreatment against those held in institutions.

2.6 Discrimination on the Basis of Religion or Belief

As a party to the ICCPR, Moldova is required to guarantee freedom of thought, conscience and religion, by virtue of Article 18. Beyond the obligation to ensure universal enjoyment of the right to religious freedom, Moldova is required to ensure the enjoyment of all rights guaranteed under the ICCPR and the ICESCR without discrimination on the basis of religion by virtue, respectively, of Article 2(1) of the ICCPR and Article 2(2) of the ICESCR. In addition, Moldova is required by Article 26 of the ICCPR to ensure that its law prohibits discrimination on grounds including religion. Further, the ECHR requires Moldova to prohibit discrimination based on religion in respect to all Convention rights, by virtue of Article 14.

The proportion of Moldovans who consider themselves religious is high, especially when compared to many other countries in Europe. According to a 2012 Gallup poll, 83% of respondents considered themselves to be religious, while just 5% stated that they were atheist. In a 2011 Gallup survey 96% of those surveyed indicated an affiliation to one of two Orthodox Christian groups: 86% to the Moldovan Orthodox Church (MOC) and 13% to the Bessarabian Orthodox Church (BOC).

As a 2011 survey indicates, Orthodox Christianity is the predominant religion in Moldova. According to a poll conducted by the Human Rights Information Centre in 2012, active membership in non-Orthodox religious groups is estimated at just 150,000 people. According to the poll, the largest non-Orthodox religious groups, with between 15,000 and 30,000 adherents each,


797 Ibid, p. 11.


are Catholics, Pentecostalists, Seventh Day Adventists, Jehovah Witnesses, Evangelists and Baptists, and Jews. Smaller religious groups include Lutherans, Presbyterians, members of the Unification Church, other Christians, and Krishna Consciousness followers.

**Political and Social Context**

The current relationship between the Moldovan state and Orthodox religion has its roots in the country’s complex past. According to a report by the Foreign Policy Centre, the relationship is informed both by the position of Orthodoxy in the culture of the state before and during the Soviet regime, and by the position of the Russian Orthodox Church as the defender of “traditional values” and unofficial partner to the Russian Government in promoting its official external policies. During the Soviet period, the official state ideology of Moldova was atheism; those who defied official prohibitions on religious observance were excluded and marginalised. The sole path to building a career was through the Communist party, and public association with any religion would limit career opportunities. The result was that religious observance became concentrated in older generations, as younger people shunned religion. This practice persisted for more than two generations, with the result that a large proportion of people in the USSR (at least in the European part) came to genuinely identify as atheists.

As indicated above, the results of social surveys and population censuses indicate that atheism in Moldova has rapidly dissipated following the end of Soviet restrictions on religious observance. Indeed, by the time of the 2004 census, more than 96% of census respondents identified as religious, with the majority of these identifying as Orthodox Christian, while trust in the

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800 Ibid., p. 4.
801 See above, note 798.
803 Ibid.
804 Ibid.
Church was higher than for any other public institution. As of May 2016, official data related to religion on the latest census, conducted in 2014, has not been made public.

**Legal and Policy Framework**

Moldova has no state religion and the Constitution states that freedom of conscience is guaranteed and must be exercised in a spirit of tolerance and mutual respect. Article 31 of the Constitution provides that:

*The freedom of religious worship is guaranteed and religious bodies are free to organise themselves according to their own statutes under the rule of law.*

*In their mutual relationships religious bodies are forbidden to use, express or incite to hatred or enmity.*

*Religious groups are autonomous vis-a-vis the State and shall enjoy the latter’s support, including that aimed at providing religious assistance in the army, in hospitals, prisons, homes for the elderly and orphanages.*

Law No. 125 of 2007 on Freedom of Conscience, Thought, and Religion, which implements these constitutional provisions, reiterates that every individual has the right to freedom of religion and that the rights the Law provides must be exercised in the spirit of tolerance and mutual respect. The law guarantees the right to belong to a religion, to change religion or belief, and to practice religion or belief independently or as a group, in public or in private. According to the law, religious freedom can be restricted only if necessary to ensure public order and security, to protect public health and morality, or to

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808 See above, note 196, Article 31.

protect a person’s rights and freedoms. The law also prohibits discrimination based on religious affiliation.

**Discriminatory Legal Provisions**

One of the most significant concerns related to discrimination on the basis of religion or belief in Moldova is the privileged status of the Moldovan Orthodox Church (MOC). While Article 31 of the Constitution defines Moldova as a secular state where religious and state institutions are autonomous, in practice the MOC enjoys “privileged treatment in many fields” This is reflected in the legal framework. Article 15 of the Law on Freedom of Conscience, Thought and Religion states that:

> [T]he state acknowledges the special and primordial role of the Christian Orthodox religion and, consequently, of the Moldovan Orthodox Church, in the lives, history and culture of the people of Republic of Moldova.

While the recognition of the historical and cultural role of Christian Orthodox religion is not necessarily, in itself, problematic, in 2012, the UN Special Rapporteur on Freedom of Religion or Belief noted that formal recognition of Orthodoxy as having a special role “can easily be seen as justifying privileged treatment of one religious tradition at the expense of the principles of equality and non-discrimination”. The Special Rapporteur found that this privileged position is not a simple legal formality: it has tangible results, as the MOC is privileged in various ways, including in the restitution of property confiscated during the Soviet era, and the presence of priests in public schools. Civil society organisations have advocated for the repeal of Article 15, but their efforts have so far been unsuccessful.

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810 Ibid., Article 4(2).
811 Ibid., Article 15(1).
813 Ibid., Para. 28.
814 Ibid., Para. 29.
815 See above, note 802, p. 60.
The MOC is also given a privileged role in the infrastructure of the state, particularly in the provision of state services, where it is permitted access while other religious bodies are not. In 2013, a cooperation agreement was concluded between the Ministry of Justice and the MOC, which grants the MOC access to detention facilitates to offer religious services, without the prior permission of the prison administration.\textsuperscript{816} An agreement between the Ministry of Defence and the MOC gives special privileges in relation to the army, including a right to preach to National Army units, and to distribute religious literature to libraries within the army.\textsuperscript{817} In 2013, a further cooperation agreement between the Ministry of Labour, Social Protection, and Family and the MOC came into effect,\textsuperscript{818} which allows the MOC to develop a network of Christian social assistance services, including day care centres and temporary shelters on church property.\textsuperscript{819}

In addition to the disadvantage experienced by minority religious groups as a result of the privileged position of the MOC, these groups may be disadvantaged by legal provisions related to legal registration, which place smaller groups at an inherent disadvantage. The Law on Freedom of Conscience, Thought and Religion (Law No. 125 of 11 May 2007) provides for a registration process under which a religious group must present the Ministry of Justice with a declaration including its exact name, fundamental principles and beliefs, organisational structure, funding sources, and the rights and obligations arising from membership.\textsuperscript{820} The Law also requires a group to show it has at least 100 founding members and that it has access to premises where it can conduct its religious activities.\textsuperscript{821} The Ministry of Justice is required by law to register a religious group within 30 days if the registration request is made according to law, though this period can be extended in certain circumstances. Registration

\textsuperscript{816} Moldovan Orthodox Church, \textit{Cooperation Agreement between the Ministry of Justice (MOJ) and the MOC}, 2013, available at: http://mitropolia.md/acord-de-cooperare-intre-mitropolia-moldovei-si-ministerul-justitiei-al-republicii-moldova.

\textsuperscript{817} See above, note 798, p. 7.


\textsuperscript{819} See above, note 798, p. 7.

\textsuperscript{820} See above, note 809, Article 18.

\textsuperscript{821} \textit{Ibid.}, Article 19(1).
gives rise to various benefits for religious bodies, including the right to conduct religious services, to publish religious texts, to undertake religious education, to employ staff, to own property and to benefit from tax incentives.\footnote{822} At the request of the Ministry of Justice, a court can suspend the registered status of a religious group if it “carries out activities that harm the constitution or laws”\footnote{823} or “affects state security, public order, [or] the life and security of the people”.\footnote{824} The Law also provides for the suspension or revocation of a religious group’s registration in case of violation of international agreements or for political activity.\footnote{825} The ECRI in a 2013 report called for Article 19(1)(d) – which requires the signatures of 100 Moldovan citizens for the registration of a religious community – to be repealed, because it discriminates against non-citizens.\footnote{826} The Commission also recommended that the government initiate and lead an inter-faith dialogue with a view to promoting tolerance between and towards the different religious groups in Moldova.\footnote{827}

In recent years, the number of registered religious entities has been on the rise and the registration process has been simplified.\footnote{828} As of April 2016, the state registry of Non-Profit Organisations recorded 1,258 organisations which were categorised as “religious denominations and component parts”.\footnote{829} Nevertheless, some religious groups still find it difficult to register. For example, the Spiritual Gathering of Muslims of Moldova felt that it had no option but to register as a non-governmental organisation after repeated unsuccessful attempts to register as a religious group.\footnote{830} The group’s previous applications were denied because, according to the Ministry of Justice, it had not submitted the correct documentation. The group is reported to have stated that it would make no further attempts to register, as it did not believe that registration was likely.\footnote{831}

\footnote{822}{\textit{Ibid.}, Article 43.}
\footnote{823}{\textit{Ibid.}, Article 24(2)(a).}
\footnote{824}{\textit{Ibid.}, Article 24(2)(b).}
\footnote{825}{\textit{Ibid.}, Article 24(2)(a).}
\footnote{826}{See above, note 17, Para. 149.}
\footnote{827}{\textit{Ibid.}}
\footnote{828}{See above, note 802, p. 61.}
\footnote{829}{State Register of Non-Profit Organisations, 2016, available at: http://rson.justice.md/organizations?hash=5daa1c4ac9f6e99b977f1f8ecfbbac738929f5f6db.}
\footnote{830}{See above, note 798, p. 8.}
\footnote{831}{\textit{Ibid.}}
An additional challenge relates to the activity of religious denominations and bodies in Transnistria: the Moldovan authorities cannot ensure the rule of law in the region, and the self-proclaimed administration restricts the exercise of the right to freedom of conscience and religion.\textsuperscript{832} A separate procedure has been introduced under which the administration conducts a parallel registration of denominations and bodies, without regard to their registration by the responsible body in Moldova. As the \textit{de facto} authorities in Transnistria are strongly attached to one religious denomination – the MOC, which is subordinated to the Russian Orthodox Church – denominations that are not approved by the Russian Orthodox Church are persecuted or subject to unequal treatment compared to the church followed by the majority.\textsuperscript{833}

A number of other legal provisions in Moldova limit the religious freedom of individuals, and may lead to discrimination on the basis of religion or belief. Article 54(4) of the Code of Administrative Offences makes it an administrative offence for foreign citizens to perform “religious activities (...) in public places without notifying in advance the mayor’s office of that locality”. Until 2014, the law required that persons being photographed for identity cards could not have their faces covered, and this resulted in cases in which Muslim women were not permitted to wear the hijab while being photographed.\textsuperscript{834} However, under new legislation, a person can have their head covered while being photographed if their religious belief requires it.\textsuperscript{835}

\textit{Discrimination by State Agents}

In addition to maintaining a number of discriminatory laws, certain patterns of activity by national and local authorities provide cause for concern. In particular, concerns arise regarding the refusal of the state to recognise certain minority denominations, failure to restitute seized property, and the obstruction of efforts to purchase land or commence construction of places

\textsuperscript{832} See above, note 718, p. 61.

\textsuperscript{833} Ibid., p. 62.


\textsuperscript{835} Decision approving the Regulation on Issuing Documents of Identity and Evidence of Inhabitants of the Republic of Moldova (Government Decision No. 125 of 18 February 2013), available at: http://lex.justice.md/md/346754.
of worship by minority groups. These cases raise concerns both about discrimination on the basis of religion or belief, and about denial or limitation of freedom of religion itself.

In 2001, the European Court of Human Rights found that Moldova had violated Article 9 of the European Convention on Human Rights by persistently failing to register the Metropolitan Church of Bessarabia.  

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**Case Study:**

*Metropolitan Church of Bessarabia and Others v Moldova*

In 1992, the Metropolitan Church of Bessarabia was established; almost one million Moldovan nationals were affiliated to the church, which had been recognised in several states around Europe. On 8 October 1992, the Church made the first of many applications for official recognition, but the state refused recognition, on the basis that it was unwilling to intervene in what it saw as a schism within the Metropolitan Church of Moldova. The Metropolitan Church of Bessarabia brought a complaint against the state, alleging denial of religious freedom.

In 1997, the Supreme Court of Justice ruled against the applicants, finding that there had been no breach of the right to manifest religious belief, stating that the dispute in question was an administrative one, within a single church, and that hence the State was under no obligation to intervene.

The European Court of Human Rights was asked to consider whether the refusal to recognise the Metropolitan Church of Bessarabia constituted an interference with the applicants’ right to freedom of religion under Article 9 of the Convention. The Court ruled against Moldova, stating that “the refusal to recognise the applicant Church has such consequences for the

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applicants’ freedom of religion that it cannot be regarded as proportionate to the legitimate aim pursued or, accordingly, as necessary in a democratic society”. In 2002 the Metropolitan Church of Bessarabia was registered by the Government of the Republic of Moldova.

According to the Law on Freedom of Conscience, Thought and Religion, only those with “religious” beliefs can constitute a denomination and practice religious activities. Between 2009 and 2011, two Falun Gong organisations were registered as Public Associations, reflecting the fact that Falun Gong is not a religion but a system of spiritual beliefs. In 2013, the Association for the Protection of the Disabled and Veterans “Echitate” filed a request to place the Falun emblem – which uses swastikas based on traditional Chinese religious usage – into the register of materials of an extremist character which is held by the Ministry of Justice pursuant to the Law on Counteracting Extremist Activity (Law No. 54 of 2003). Despite an earlier ruling to the contrary, a court in January 2014 held that the Falun symbol was considered “extremist”. The same court in April 2014 adopted a decision to remove the two associations from the State Register of Public Associations on the grounds that they promoted extremist activities and used a symbol similar to the Nazi swastika. The Falun Gong groups appealed these rulings, but were ultimately unsuccessful, as the Supreme Court upheld the decisions of the lower courts. However, on 23 November 2015, the Constitutional Court declared unconstitutional Article 21(b) of the Law on Counteracting Extremist Activity, accor-

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840 See above, note 798, p. 7.

ding to which the Falun emblem was placed into the register of materials with extremist character.\textsuperscript{842} According to the Civil Procedure Code,\textsuperscript{843} this decision enables representatives of these Falun Gong organisations, to lodge an application for review of the judgment of the Supreme Court. As of April 2016, there are no court records indicating that the Falun Gong organisations have lodged such an application, though media reports indicate that an appeal has been lodged with the European Court of Human Rights.\textsuperscript{844}

In a decision of 21 January 2014, the CPEDEE found that the Chioselia council had discriminated against the Pentecostal Church and that it had violated the petitioner’s right to freedom of expression and the right to freedom of assembly by denying the Pentecostal Church permission to manifest its religion in public, for example by readings, hymns or other manifestations of religion.\textsuperscript{845}

One significant problem for minority religious groups is the reluctance of local authorities to allocate land for the construction of places of worship\textsuperscript{846} in the public tender process. A related problem is the refusal of local authorities to issue construction authorisations. On two occasions, in June and July 2014, in Mereni village, the mayor denied the Jehovah’s Witness community authorisation to use its completed Kingdom Hall.\textsuperscript{847} The Jehovah’s Witness community reported that the mayor refused authorisation because he did not want to upset the local Orthodox priest or local residents.\textsuperscript{848} The local Orthodox priest allegedly threatened to demolish the Kingdom Hall and called on local villagers to oppose the spread of the Jehovah’s Witness faith and to obstruct meetings of the Jehovah’s

\textsuperscript{842} Constitutional Court, Decision No. 28 of 23 November 2015, available at: http://www.constcourt.md/download.php?file=cHVibGljL2NjZG9jL2hvdGFyaXJpL3JvLWgyODIzMTEyMDE1cm83ZGY3Mi5wZGY%3D.

\textsuperscript{843} See above, note 756, Article 449(e).


\textsuperscript{846} See above, note 798.

\textsuperscript{847} Ibid.

\textsuperscript{848} Ibid.
Witness community; as a result all religious services in Kingdom Hall ceased.849 In October 2014, a different Jehovah’s Witnesses community brought a claim in the Anenii Noi City Court seeking the mayor’s signature on the construction authorisation permit.850 On 14 September 2015, the Court decided in favour of the Jehovah’s Witnesses, forcing the mayor to sign the relevant authorisation.851

A further concern for minority religious groups is the failure of national and local authorities to restore ownership of land and building seized by the state during the Soviet era. A 2015 study found that none of the buildings which were under the jurisdiction of the Romanian or Catholic Churches, or other religious groups such as Lutherans, before the Soviet era had been restored to those religious groups.852

In 2002, the government adopted a controversial, non-transparent decision to transfer 650 religious buildings, considered architectural monuments, to the administration of the MOC.853

In meetings with the UN Special Rapporteur on Freedom of Religion or Belief, in May 2014, representatives of several religious denominations raised concerns regarding restitution of real estate and liquid assets.854 The Metropolitan Church of Bessarabia noted that the restitution of archives and property had been discussed with the authorities, but without an outcome. The Lutheran Church and the Roman Catholic Diocese of Chișinău, whose property was nationalised in 1940 by the Soviet administration and never returned, also raised the issue.855

849 Ibid.
850 Ibid.
852 See above, note 802, p. 60.
854 See above, note 718, p. 64.
In addition to these problems of registration and religious property affecting whole religious communities, there is also evidence that individuals from religious minorities face discrimination by state agents. Leaders of the Islamic League, the only recognised Muslim religious organisation in Moldova, have reported profiling and discrimination against Muslims at border crossings when entering and leaving the country. According to the League, Muslims traveling to Saudi Arabia for the Umrah pilgrimage were stopped by the authorities at the airport, with those known to be Muslims subjected to additional scrutiny: authorities took photocopies of documents and religious literature, hand-checked luggage, and scrutinised video equipment.\textsuperscript{856} A case was brought before the CPEDEE in 2014, but the Council found that there was no discrimination on the basis of religion, finding that the actions of the border and customs officials were justified as objective and reasonable.\textsuperscript{857} In reaching this conclusion, the Council took into account the evidence provided by the officials that, for example, the publications checked exceeded the limit on the number of books an individual is permitted to transport without filling a declaration.

\textit{Discriminatory Violence}

A 2012 report by the Human Rights Information Centre found frequent cases of religious discrimination, including physical violence and aggression, threats, and damage to property, affecting Jehovah’s Witnesses, Muslims, Pentecostals, and members of minority Christian groups.\textsuperscript{858}

During his visit to Moldova in 2012, the UN Special Rapporteur on Freedom of Religion or Belief found that Orthodox priests can exercise a \textit{de facto} veto over public gatherings of religious minorities in their localities, and concluded that even burials by religious minority groups in rural areas can be met with resistance from certain Orthodox groups who want the local cemetery (which is usually owned by the municipality) to remain free of graves from members


\textsuperscript{857} \textit{Ibid.}

\textsuperscript{858} See above, note 799, pp. 16–17.
of other religions.\textsuperscript{859} His report presents examples including the case of a Jewish Hanukkah menorah being removed and demolished by a group of people, instigated and led by an Orthodox priest.\textsuperscript{860} None of these cases were prosecuted and the MOC failed to offer official apologies.\textsuperscript{861} The Special Rapporteur could not find any examples of the MOC clearly condemning acts of violence or hostility perpetrated in the name of Orthodox Christianity.\textsuperscript{862} The Special Rapporteur also expressed concern about the efficiency of the judiciary and other formal mechanisms of adjudication provided by the state.\textsuperscript{863}

During 2014, Promo-LEX reported several cases of religious intolerance, manifested in discriminatory violence.\textsuperscript{864} According to the US State Department’s International Religious Freedom Report for 2014, Jehovah’s Witnesses reported “approximately 30 cases of verbal harassment, threats of physical violence, and physical abuse in rural areas”, while the Baptist Church also reported cases of “intimidation and harassment”.\textsuperscript{865} However, the report found evidence of “reduced discrimination against Muslims”.\textsuperscript{866}

Research for this report identified cases of individuals being subjected to violence or other forms of abuse because of their religion. One parent, interviewed for this report, stated:

\begin{quote}
Children of one of my neighbours snatched my child’s cross from his neck (...) told him not to wear the cross because the cross is devil. At school they shamed my child, pointing at him in front of other children, and laughed because he wears cross. This happens because my neighbour converted to another religion and I think
\end{quote}

\begin{itemize}
\item \textsuperscript{859} See above, note 812, Para. 36.
\item \textsuperscript{861} See above, note 812, Para. 38.
\item \textsuperscript{862} Ibid., Para. 37.
\item \textsuperscript{863} Ibid.
\item \textsuperscript{864} See above, note 718, p. 61.
\item \textsuperscript{865} See above, note 798.
\item \textsuperscript{866} Ibid.
\end{itemize}
that they say bad things about my religion, and their child are doing exactly what they hear from their parents (...) I threatened to go to police, and I saw that after one month the situation calmed down.867

Education

Many educational institutions in Moldova display religious symbols or objects, or have religious monuments on their grounds, and there is evidence of schools including religious practices in the curriculum. In 2013, it was found 30% of schools had religious artefacts such as icons and crosses on display on their premises.868 Equally, many schools have churches or religious monuments on their land.869

There is also evidence of the organisation of religious ceremonies or practices in schools without the consent of parents or guardians.870 The failure to discuss the content of classes in advance and obtain consent from parents or guardians for classes on religion is a cause for concern. Interviewees cited in a report by the Human Rights Information Centre in 2013 expressed concern with the inclusion of religious elements in the academic curriculum:

I am not satisfied. Children learn prayers. The priest invites children to the church, and those who do not want to go are marginalised, as they refer only to Orthodoxy. The priest comes once a week.871

In some settlements, religious classes in schools are taught by Orthodox priests or their wives, who present educational material only from the perspective of Christianity:

“We had the history of religion for one year (with a specialist – he talked to us about all of the religions, about

867 Equal Rights Trust interview with A., 6 April 2015, Village Fundurii Vechi, rayon Glodeni.
868 See above, note 88, p. 9.
870 See above, note 88, p. 9.
871 Ibid.
morality in general), then Religion became an optional course (with a priest – only about Christianity). Then it disappeared because it was boring, as the priest would impose his viewpoint.”

Students interviewed by Equal Rights Trust researchers for this report reported cases in which teachers were replaced by priests, who taught “History of religion”, discussing the role of the Orthodox Christian religion in Moldova and speaking of a Christian lifestyle as a moral one.

Transnistrian Region

Discrimination on the basis of religion and belief is particularly severe in the Transnistrian region. Article 3 of the Law on Freedom of Conscience and Religious Organisations, which applies only in Transnistria, guarantees the right to freedom of religion, which is subject to restriction “if necessary to protect the constitutional order, morality, health, citizens’ rights and interests, or state defence and security”. In practice, however, the authorities restrict religious freedom in a number of ways, in particular through imposing a system of registration which minority communities find difficult to navigate.

Registration is necessary in Transnistria for religious groups to conduct religious rites and ceremonies, as well as to exercise rights in respect of publishing and printing of materials, constructing places of worship and owning property. Minority religious groups have experienced difficulties in registering. For example, Jehovah’s Witnesses in the Transnistrian region have been struggling for official registration for more than twenty years.

For other communities, problems arose as the result of 2007 amendments to the rules regulating the establishment of religious communities. According

872 Ibid., p. 10.
873 Equal Rights Trust focus group with pupils during a visit to Lyceum “Andrei Straistă” Anenii Noi, 24 April 2015, Chișinău.
875 Ibid., Article 19.
876 See above, note 146, p. 43.
to the new rules, the *de facto* Ministry of Justice assumed responsibility for registration issues, and was empowered to conduct a religious assessment of religious communities, which can further delay the registration process.\textsuperscript{877} The new rules also established a probation period of 10 years from the date of registration, during which religious groups are barred from various forms of public communication, including the distribution of religious documents or appearances in the media.\textsuperscript{878} The purported objective of the probation period was to allow time to ensure that the group in question is “loyal to society” and “to prevent extremism”.\textsuperscript{879} As a result of these rules, the Lutheran community, which was registered in 2004, was prohibited from communicating with the public until 2014.\textsuperscript{880}

The Baptist community in Tiraspol was registered but was asked to seek re-registration after the 2007 amendments. In order to register the community, the authorities requested a copy of the minutes of a meeting held in 1966 at which the community was founded. The document could not be located, the community believing it to be archived in Chişinău.\textsuperscript{881}

Two Jehovah’s Witnesses communities, one in Tiraspol and one in Răbniţa, which had been registered since 1991, also faced problems when they were required to re-register following the 2007 amendments. For a period of five years, the authorities in Tiraspol created obstacles to the registration of these communities. Without registration, the groups were vulnerable to the loss of their assets, the organisation can be liquidated at any time, and their meetings were at risk of being shut down. Although the courts allowed the community to challenge such decisions, the *de facto* Supreme Court prevented legal resolution of the problem. Victor Dornicenco, vice-president of the Jehovah’s Witnesses in Transnistria, spoke to journalists, stating:

*I presented several experts from the Russian Federation. Ministry of Justice wants to ensure that the community in Tiraspol once belonged to Russia, but we believe*

\textsuperscript{877} See above, note 812, Para. 19.
\textsuperscript{878} Ibid.
\textsuperscript{879} Ibid.
\textsuperscript{880} See above, note 146, p. 43.
\textsuperscript{881} Ibid., p. 39.
it is an unlawful decision. Re-registration procedure is one unnecessary and has created many impediments to conduct religious meetings. We are close to being liquidated. Transnistrian law provisions are good, but their application raises several questions. In the last five years we have been refused to register other new branches. We are considered as dangerous to society.\textsuperscript{882}

As this statement indicates, Jehovah’s Witnesses are particularly vulnerable to discrimination at the hands of the Transnistrian authorities. Jehovah’s Witnesses have reported they have received threats from the Transnistrian Prosecutor’s Office to the effect that the community’s registration would be repealed and it would be forced to cease its activities.\textsuperscript{883} The community has also reported seizure of its religious literature and materials by the de facto authorities.\textsuperscript{884} The authorities have refused to accredit the leaders of the Tiraspol and Rybnita Jehovah’s Witnesses, thus preventing the registration of these groups, and have refused to register new charters for Jehovah’s Witnesses in Tiraspol, Rybnita, Grigoriopol, and Tighina.\textsuperscript{885}

Military service is mandatory in Transnistria,\textsuperscript{886} posing a problem for conscientious objectors, particularly Jehovah’s Witnesses. In recent years, 30 Jehovah’s Witnesses have been prosecuted for refusing to undertake military service, with some being imprisoned, while others were fined.\textsuperscript{887} A Law on alternative civilian service was adopted in Transnistria in 2014,\textsuperscript{888} though there is still no mechanism for enforcement.\textsuperscript{889}


\textsuperscript{883} See above, note 798.

\textsuperscript{884} See above, note 799, p. 38.

\textsuperscript{885} See above, note 798.


\textsuperscript{887} See above, note 146, p. 43.

\textsuperscript{888} Law on Alternative Civilian Service, 2014 (Transnistria), available at: http://pravopmr.ru/View.aspx?id=niqClDvNfh9Zu%2bLz%2bfsE5A%3d%3d&q=%D1%81%D0%BB%D1%83%D0%B6%D0%B1%D0%B5.

Restitution of property seized during the Soviet era is particularly difficult for minority religious groups in Transnistria. Of all religious denominations registered in the region, only the Orthodox Church of Tiraspol Diocese managed to reclaim places of worship seized during the Soviet period. The Lutheran Church has claimed the restitution of the property seized by the Soviet regime, namely the Lutheran churches in Camenca town and Hlinaia and Colosovo villages (which were transformed into night clubs). One of its former worship places in Carmanovo village was transferred to the Orthodox Church. A primary building of the Lutheran community in Camenca is currently being used as offices by the security services. The community has been endeavouring to recover the building, as yet without success.

Other minority religious groups have also reported examples of discrimination by the Transnistrian authorities. Muslim groups have stated their belief that they have been subject to surveillance by the security services. According to Promo-Lex and other human rights NGOs monitoring religious freedom in Transnistria, religious groups were reluctant to report problems with the authorities.

**Conclusion**

While the national legal system guarantees freedom of religion and prohibits discrimination on the basis of religion, research for this report found many examples of disadvantage faced by minority religious communities. National law grants the Moldovan Orthodox Church privileged status, a status reinforced by a number of discriminatory laws and policies that grant rights to the Church not enjoyed by others. Minority religious groups face challenges in securing legal registration which is necessary to exercise certain rights, though in recent years, an apparently been simplified process has led to an increase in the number of registered religious entities. Minority groups also face discrimination in attempts to secure allocation of land and construction permits to build places of worship, and to secure restitution of church property. Both the Moldovan Orthodox Church and the government have failed to effectively prevent intolerance, hate speech, and violence by adherents of the Church.

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890 See above, note 87, p. 192.
891 Ibid.
892 See above, note 146, p. 42.
893 See above, note 718, p. 65.
In Transnistria, minority religious communities – including in particular Jehovah’s Witnesses – face even more severe challenges than in the rest of Moldova, though the nature of these challenges is similar, with registration of religious groups proving to be a common problem.

### 2.7 Discrimination on the Basis of Age

As of early 2015, there were 576,600 persons aged 60 years and older living in Moldova, constituting 16% of the total population.\(^\text{894}\) A recent study on perceptions of discrimination found that 47% of respondents considered elderly people to be one of the social groups most exposed to discrimination in Moldova.\(^\text{895}\) The survey also revealed contradictory views of elderly people: while over 80% of respondents felt that older people were “very wise”, and agreed that the State should ensure they have a decent standard of living by providing health services and social assistance, 69% felt that older persons “cannot cope with complex requirements”, 54% felt they had an “old mentality” and 29% believed they were a burden on society.\(^\text{896}\)

Research conducted for this report has found that older persons in Moldova face discrimination in employment and are at high risk of poverty.

#### Legal and Policy Framework

Discrimination on the basis of age is prohibited by the Law on Ensuring Equality, which provides protection from discrimination across a wide range of areas of life.\(^\text{897}\) In addition, Article 8 of the Labour Code prohibits discrimination at the workplace on the grounds of age.\(^\text{898}\)

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896 Ibid., pp. 26–29.

897 See above, note 14, Article 1(1).

898 See above, note 395.
**Discriminatory Legal Provisions**

According to the Law on State Social Insurance Pensions (Law No. 156 of 1998), the retirement age in Moldova is set at 57 for women and 62 for men.\(^{899}\) The inclusion of the retirement age as a basis for termination or as a criterion to determine eligibility for different types of employment means that there are a number of laws and regulations that directly discriminate on the basis of age. For example, the Law on the Public Function and Status of Civil Servants\(^ {900}\) and the Labour Code,\(^ {901}\) respectively, allow civil servants and teachers who reach the retirement age to be dismissed.

Of even greater concern, there is evidence of the Moldovan courts accepting the state’s reasoning that reaching retirement age is a legitimate basis for terminating a person’s employment. On 22 March 2011 the Constitutional Court found that Article 62 (1)(d) of the Law on Public Function and Status of Civil Servants, which provides that employment may be terminated “when the public official reaches the age required for obtaining the age pension”, did not violate the constitutional right to non-discrimination on the basis of age.\(^ {902}\) The Court explained that the goal of the Law is to ensure a stable, professional, impartial, transparent and efficient public service in the interest of society and asserted that this necessitated a high standard of professionalism for those holding public office. The Court did not provide arguments as to why age is considered an essential professional requirement for civil servants. In its judgment, the Court stated that age is not expressly stipulated as a protected ground in Article 16 of the Constitution. The Court also noted that similar age restrictions could be applied in relation to other professions, including positions such as prosecutor or public notary.\(^ {903}\) Such reasoning gives significant cause for concern, given the discriminatory impact of policies that

\(^{899}\) See above, note 393, Article 41.

\(^{900}\) Law on the Public Function and Status of Civil Servants, (Law No. 158 of 4 July 2008), Article 62(1)(d).

\(^{901}\) See above, note 395, Article 301(1)(c).


determine employability solely on the basis of an age-related status. Indeed, Moldovan human rights experts have argued that the provisions of the Labour Code should be amended.\textsuperscript{904}

In 2013, the Constitutional Court went even further, extending the concept of age as an essential professional requirement in a judgment on the constitutionality of Article 301(1)(c) of the Labour Code, which allows for the termination of teachers’ labour contracts when they reach pension age.\textsuperscript{905} The Court noted that setting requirements or limitations for certain types of employment could not be considered a violation of the constitutional right to work\textsuperscript{906} or a case of unjustified discrimination. The Court found that such limitations can have a mandatory character, as, for example, in the teaching profession, which imposes certain physical and mental requirements which may not be met by older people, or in cases where such measures are applied to optimise the labour force in certain areas of activity.\textsuperscript{907} These two cases illustrate a deeply concerning lack of understanding of the dangers of stereotyping and the resulting discrimination at the highest levels of the Moldovan judicial system.

In 2013, the CPEDEE initiated a review of legislation aiming to identify laws that discriminate on grounds of age and draft a series of amendment proposals. The Council noted that Government Decision No. 314 of 23 May 2012 regarding the approval framework of “Personal Assistance” Social Service is discriminatory on grounds of age.\textsuperscript{908} The Regulation was established to allow persons with disabilities the opportunity to pay for a personal assistant, in order to promote independent living, prevent institutionalisation and promote equality of access to education and employment. Under the Regulation, personal assistants could be any person – including a family member – who fulfilled a number of basic conditions, one of which was not having reached the retirement age. As many persons with disabilities already received assistance from family members – parents in particular – the effect of the Regulation was that some parents were eligible to receive financial support, while others

\begin{itemize}
  \item \textsuperscript{904} \textit{Ibid}.
  \item \textsuperscript{905} Constitutional Court, Decision No. 5 of 25 April 2013, Para. 58, available at: http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=347904.
  \item \textsuperscript{906} See above, note 196, Article 43.
  \item \textsuperscript{907} See above, note 903, p. 61.
  \item \textsuperscript{908} See above, note 335, pp.12–13.
\end{itemize}
were not. In 2015, Government Decision No. 374 of 16 June 2015 repealed
the discriminatory provision concerning the age limit for personal assistants.

In 2015, the CPEDEE noted that the Regulation on the Organization of Higher
Education Doctoral Cycle III, approved by Government Decision No. 1007 of
2014,\footnote{Decision approving the Regulation of the Organisation of Higher Education (Government
Decision No.1007 of 10 December 2014), available at: http://lex.justice.md/md/356044.} includes a discriminatory provision which limits the ability of per-
sons over the age of 65 from becoming PhD supervisors on the same basis
as others. The Regulation provides that persons over the age of 65 can only
accept PhD students only in joint supervision with another supervisor. The
CPEDEE noted that the provision is discriminatory and that it is not an objec-
tively justified means of achieving a legitimate aim.\footnote{See, Council on the Prevention and Elimination of Discrimination and Ensuring Equality, above, note 389, p. 15.}

**Employment**

In 2014, the number of older persons (aged 60 and over) who were economi-
cally active was 92,200, constituting just 16.4\% of the persons in that age
group; persons over 60 constituted just 7.6\% of the total labour market.\footnote{See above, note 894.}

Discrimination against older people in employment is common. In its annual
report for 2015, the CPEDEE noted a significant trend of employment dis-
crimination, including on grounds of age.\footnote{Ibid, p.10.} The report indicated that 7.9\%
of all cases in which the Council made a finding of discrimination involved
discrimination based on age, with more than two thirds of these cases con-
cerning employment discrimination.\footnote{Ibid, p.10.} In 2015, CPEDEE issued 3 decisions
finding discrimination on grounds of age.

Research by the Soros Foundation in 2011 found that older persons are fre-
quently forced to leave their job when they reach the retirement age, even
that older persons face significant stigma in the workplace, where they are considered obsolete, and their views and opinions are disregarded.\textsuperscript{915}

A 2012 study found that over 13,000 people lost their jobs as a result of company restructures.\textsuperscript{916} Older persons accounted for a disproportionate number of these job losses, as they were considered to be less productive.\textsuperscript{917} In the same year, almost 16,000 people registered as unemployed at the National Employment Office were aged between 50 and 65, but few of them succeeded in finding a job. The study found that 4,000 of older persons seeking employment had been registered for years, and only 2,800 had been able to find a job in 2012.\textsuperscript{918} National Employment Office data for 2015 reveals that the situation has not improved, with 16,607 people aged between 50 and 65 registered as unemployed for 6 months or more.\textsuperscript{919}

A number of legislative measures intended to promote the employment of older persons have been implemented in recent years. For example, Article 55 (f) of the Labour Code allows pensioners to be employed on fixed term contracts for a two-year period, which can be extended by agreement, in order to incentivise the employment of older persons, in practice the difficulties persist. In 2014, the Labour Code was amended to provide that persons who have five or less years until retirement have preferential right to maintain their job in case of staff redundancies.\textsuperscript{920}

However, interviews conducted for this report, and for other publications indicate that significant problems remain. The case of Z., set out below, illustrates the prejudice against older people, and the resulting difficulties which they face in maintaining or securing new employment.\textsuperscript{921}

\textsuperscript{915} Ibid.
\textsuperscript{917} Ibid.
\textsuperscript{918} Ibid.
\textsuperscript{919} See above, note 95, p. 6.
\textsuperscript{920} See above, note 395, Article 183(2)(l).
\textsuperscript{921} Equal Rights Trust interview with Z. 1 May 2015.
Case Study: Z.

Between 1989 and 2012, Mrs Z. was employed at S.A. “Moldtelecom”. In January 2012, when she was in her early 50s, Mrs Z.’s manager informed her that her position was being eliminated and that she would be dismissed as the number of staff was being reduced. While this was the official reason she was given, Mrs. Z, later learned that her position was given to a younger person.

From January 2012 to January 2013, Mrs Z. was registered at the National Employment Office, during which time she received unemployment allowance. In this time, despite her experience, she was offered only one job, as a salesperson. From January 2013 to 2015, Mrs Z. continued to be registered with the National Employment Office, but is now ineligible for unemployment allowance, which is payable for a maximum of 12 months.

Employees from the National Employment Office repeatedly told Mrs Z. that it would be virtually impossible for her to find a job, considering her age. In addition, during that period, Mrs Z tried to get a job on her own as well. She applied for a position at the S.A. “Apa-Canal” Chișinău as a dispatcher but was refused on the grounds of age.

In another case, the CPEDEE found that a school had discriminated against an experienced teacher, in dismissing her in favour of a recent graduate:922

Case Study: G.T.

In 2015, the CPEDEE ruled on the case of G.T., a teacher who alleged discrimination on the grounds of age in employment. The school authorities had refused to allocate her to civic education classes and the principal of the secondary school refused to extend G.T.’s employment contract, citing her poor performance and refusal to follow instructions.

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The Council found that the principal discriminated against G.T. on the grounds of age. The principal chose not to extend G.T.'s contract, despite her experience and professional qualifications. It found that the principal preferred a younger teacher without experience and qualifications because she was a young graduate. CPEDEE also noted that G.T., despite having reached retirement age, had continued to work in the school for seven years, and that her ability and teaching skills were never challenged.

The courts have a mixed record in responding to age discrimination in employment. In 2013, in the first case concerning age discrimination, the Edineț District Court ruled that termination of a labour contract when the employee reached the pension age did not constitute discrimination on the basis of age, as the Labour Code permitted such terminations.

Nevertheless there have been some valuable recognitions of discrimination on the basis of age, notably from the CPEDEE. In 2014, the Council found that certain job announcements can constitute age discrimination. In the case in question, an employer was found to have discriminated on the basis of age by advertising jobs that included age as a selection criterion. However, cases similar to this continue to occur, making it very difficult in practice for elderly to find a job. In many cases, while job announcements no longer include age limitations, the practice of not selecting older people for employment prevails. One interviewee told us:

*Every time a during a job interview or on the phone when the potential employer contacts you, the first question is: “What is your age?” Sometimes I lie that I am 5 years younger, hoping to at least be invited for a job interview,*


924 Ghilascu, N., "The First Case of Discrimination Based on Age was Lost in Court", Discriminare Media, 4 April 2013, available at: http://discriminare.md/primul-caz-de-discriminare-in-baza-de-varsta-a-fost-pierdut-in-instanta-de-judecata.

but even that does not help. At one point, I decided to call an announcement for a nanny/babysitter and they also asked about my age. I told them I am pension age and the person who placed the ad, said: “no, no, we need a younger person.” When I was looking for a job my age was an obstacle at both public and private companies. So I stopped looking for a job. All failures experienced considerably affected my desire to continue looking for a job. This whole experience was a real humiliation.926

Poverty

In part as a result of the problems they face in accessing employment, but also because of an inadequate state pension, older persons are highly vulnerable to poverty. In 2014, the poverty rate for those aged 60 and over was 12.8%, 1.4 percentage points higher than the national average.927 The highest poverty rate among the elderly is recorded in rural areas, where approximately 17% of older people are classed as living in poverty, compared to 7% in urban areas.928

In 2011, the CESCR noted with concern that the “average contributory pension in the State party is well below the minimum subsistence level, and that non-contributory social assistance benefits are even lower” and recommended that pensions be increased to a level that would provide for an adequate standard of living.929 The government is due to report on its progress in implementing these recommendations on 30 June 2016. However, the pension remains below the subsistence level. As of 1 July 2015, the subsistence minimum for pensioners was defined as 1,444.6 lei (€65 Euro) per month,930 which represented 83.8% of the average for the total population. The average

926 Equal Rights Trust interview with Mrs Valentina, 24 April 2015, Anenii Noi town, Anenii Noi region.
927 See above, note 894.
928 Ibid.
929 See above, note 30.
monthly pension, as of 1 July 2015, was 1,170.8 lei (€53 Euro), only 81.1% of the defined minimum subsistence level.

**Healthcare**

There is limited publically available information on discrimination against older people outside the area of employment. Nevertheless, a focus group with the elderly, conducted for this report revealed discrimination in healthcare:

*Elderly face discrimination and discriminatory attitudes in access to health care and in other areas of life all the time: it’s either an ambulance is not coming, or ignores them; or the doctors treat them with indifference. It is difficult to get out of the house. The infrastructure is not accessible for elders with limited mobility (high stairs, lack of handrails, lifts, etc.). There are cases where doctors refuse or avoid prescribing subsidised drugs. For example, at the request of an old lady to give her a prescription for subsidised eye drops, the doctor said that with this money he would rather feed four children with formula.*

**Transnistrian Region**

In the Transnistrian region, the problems for older persons are similar to those in the rest of Moldova. Accessing employment is extremely difficult for older persons and disproportionate numbers of older persons live in poverty. Interviews with S. and T., presented below, give an insight into the problems faced by older persons:

*Seniors are now below the poverty line, in despair. My pension is small and was recently cut by 30%. Pensioners struggle to survive. Recently, the store “Veteran”*

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931 Ibid.
932 Equal Rights Trust focus group, 24 June 2015, Vasieni village, Ialoveni rayon.
opened for the poor. It is better to open a canteen for the poor so they could eat.  

The biggest problem now is to get a job. No one employs people over 40 or 45 and the pensioners are also dismissed. I cannot get a job even as a housekeeper or cleaner: I am 52 years old and I do not know where to go. Employers ask about my age right away: “How old are you?” And they say: “No vacancy”.  

Another interviewee, M., told our researchers that impoverished pensioners are asked to pay for healthcare and medicines which are supposed to be free:  

Healthcare (...) It’s like a joke (...) Medicine – one needs to pay for everything: money! money! I recently was due to be examined, and I had to pay for everything, for each medical exam and test and that was in a public clinic where it should be free of charge.  

Conclusion  

Discrimination against older persons in Moldova is legitimised by the presence of discriminatory laws and policies, particularly in employment. The failure of the courts to recognise that laws which make retirement age a basis for dismissal from employment are discriminatory, and the state’s continued introduction of regulations which restrict access to work for persons over the retirement age contribute to the difficulties which older persons face in accessing employment. These difficulties, together with an inadequate state pension, place older persons at disproportionate risk of poverty. While there is limited published data on the position of older persons in Transnistria, interviews conducted for this report indicate that many of the same problems exist in that region.
2.8 Discrimination on the Basis of Language

Language is one of the characteristics explicitly listed in Article 2 of both the ICCPR and the ICESCR, and as such Moldova is required to ensure the enjoyment of all civil, political, economic, social and cultural rights provided in these Covenants without discrimination on this basis. Further, as with other characteristics discussed elsewhere in this Part, Moldova is required, by virtue of Article 26 of the ICCPR, to prohibit discrimination on the basis of language in areas of life subject to legal regulation. In addition, Moldova is required by Article 27 of the ICCPR to ensure that persons belonging to linguistic minorities are not denied the right, “in community with the other members of their group, (...) to use their own language”.

The ECHR requires Moldova to prohibit discrimination based on language in respect to all Convention rights, by virtue of Article 14. Moldova also has obligations under the Council of Europe Framework Convention for the Protection of National Minorities (FCNM), Article 5(1) of which requires Moldova to:

\[P\]romote the conditions necessary for persons belonging to national minorities to maintain and develop their culture, and to preserve the essential elements of their identity, namely their religion, language, traditions and cultural heritage (emphasis added).

The FCNM contains further obligations in respect of ensuring freedom to hold opinions and to receive and impart information and ideas in minority languages (Article 9), the right to use freely and without interference a minority language, in private and in public, orally and in writing (Article 10), and to receive education in minority languages (Article 14).

According to Article 13 of the Constitution, the official language of Moldova is Moldovan. However, in 2013, the Constitutional Court of Moldova ruled that the Declaration of Independence, which declares the official language to be Romanian, takes precedence over the Constitution and that therefore the state language should be referred to as Romanian.\(^936\) Moldovan and

Romanian are essentially the same language, with the difference between them likened to that between British and American English. A number of other languages are spoken as primary languages in Moldova: among the population that do not identify as speaking Moldovan or Romanian, the primary languages are Russian (16%), Ukrainian (3.8%), Gagauz (3.1%), and Bulgarian (1.1%). Article 13 of the Constitution provides that the State is required to protect the right to “the preservation, development and use” of both Russian and other languages spoken within the country.

According to a study conducted in 2015, 14% of respondents felt that they had been discriminated against on the basis of language. In total, between October 2013 and April 2016, 12.62% of the cases in which the CPEDEE found discrimination involved findings of discrimination on the basis of language. During this period, the Council received cases of discrimination based on language in accessing justice and public information.

**Social Attitudes towards Language**

Language is a politicised issue in Moldova, and perceptions of the Russian-speaking minority in particular are strongly influenced by the association of the Russian language with a person’s perceived political position. According to a 2005 study, less than 10% of non-Russian speakers stated that they had negative feelings towards Russian speakers. However, while over half of respondents in this survey (52.1%) considered that Russian speakers living in Moldova care about the country, over one third (34.2%) stated that they

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937 Ibid.
938 See above, note 40, p. 33.
939 Information provided by the Council on the Prevention and Elimination of Discrimination and Ensuring Equality, as of 30 April 2016.
942 See above, note 3, p. 46.
are not patriotic. Just under half of all respondents (44.7%) agreed with the statement that Russian speakers do not feel the need to study Romanian as they can be well understood in Russian, but almost the same proportion (41.6%) stated that Russians simply did not want to study Romanian. Almost a third of respondents (35.9%) stated that Russian speakers consider themselves to be superior to Romanian speakers.\footnote{Ibid.} In the same survey, a considerable proportion of the group – 48.1% – expressed the belief that Russian speakers wished to see the country dissolved as an independent state and join Russia.\footnote{Ibid.}

**Legal and Policy Framework**

There are several laws that regulate the use of Romanian, Russian, and other languages on the territory of the Republic of Moldova. As noted above, Article 13 of the Constitution provides that:

1. The State language in the Republic of Moldova is Moldovan\footnote{According to Article 13 of the Constitution, the official language of Moldova is Moldovan. However, as noted above, in 2013, the Constitutional Court of Moldova ruled that the Declaration of Independence, which names the official language as Romanian, takes precedence over the Constitution and that therefore the state language should be referred to as Romanian. See above, note 936. Hereafter, in this chapter, the Moldovan language will be called Romanian (including in the case of older Laws and provisions which still use the name Moldovan language).} language, and its script is based on the Latin alphabet.

2. The State shall acknowledge and protect the right to the preservation, development and use of the Russian language and other languages spoken within the territory of the State.

Article 1 of Law No. 3465 of 1989 on the functioning of spoken languages on the territory of Moldovan Soviet Socialist Republic states that, as a state language, the Romanian language is used in all spheres of political, economic, social and cultural spheres and ensures interethnic communication in Moldova. Article 3\footnote{Ibid.} of the Law provides that the Russian lan-
guage ensures bilingualism in Moldova. Article 11\(^{947}\) states that state bodies, government and public associations should both issue documents in writing and receive and examine documents submitted by citizens using the Romanian or Russian languages and the Gagauz language, in the case of Gagauz populated areas. In addition, Article 12 of Law No. 382 of 2001 on the rights of persons belonging to national minorities and the legal statute of their organisations, provides that persons belonging to national minorities have the right to address public institutions verbally and in writing, in either the Romanian or Russian language, and to obtain a reply in the corresponding language.

**Access to Justice**

Article 24 of the Code of Civil Procedure, provides that civil cases are to be conducted in Romanian, but that individuals who want to initiate a case and who do not speak Romanian language are entitled to review the case file materials and to speak at trial through an interpreter. The Article also provides that, by the decision of the Court, the process can be conducted in a language acceptable to the majority of trial participants, although if this is the case, the court must issue its decision in Romanian as well as the language of the proceedings.

Despite the provisions of Article 24, there are particular problems for non-Romanian speakers in accessing justice. For example, in 2014, I.V. complained about language discrimination in access to justice, based on the fact that resolutions issued by a court not to act on a request for summons were not written in Russian. The CPEDEE established that I.V. had encountered obstacles in exercising his procedural rights only because he is a speaker of Russian, a language that is recognised in national law as a language of inter-ethnic communication.\(^{948}\)

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\(^{947}\) Ibid.

After examining and ruling on several complaints during 2013,\textsuperscript{949} 2014,\textsuperscript{950} and 2015,\textsuperscript{951} the CPEDEE concluded that the right of access to justice of linguistic minorities is violated by the courts.\textsuperscript{952} It found cases in which courts had rejected complaints submitted in Russian, referring to the provisions of Article 24(2) of the Code; the Council established that this practice constitutes discrimination on the basis of language.\textsuperscript{953} In its decisions on such cases, the Council has stated that Article 24(2) provides a right to communicate with the Court through an interpreter should not be applied restrictively, as the right to address a court envisages both verbal and written communication and thus the responsibility to translate complaints rests with the court.\textsuperscript{954} Therefore, the CPEDEE ruled that complaints submitted in Russian should be considered by the Courts and not rejected as complaints submitted in a foreign language.

Experts from the Legal Resource Centre of Moldova consider that these problems may arise from the fact that the legal provisions regulating the language of court complaints is confusing and internally inconsistent.\textsuperscript{955} Thus, for example, the legislation does not clearly state whether the courts are obliged to accept complaints submitted in the Russian language, does not provide a clear basis for the rejection or return of court complaints submitted in a language other than Romanian, and does not provide a clear obligation for interpreters to translate court complaints from Russian into the state language.\textsuperscript{956}

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\textsuperscript{949} During 2013, the Council issued three decisions on complaints where petitioners alleged their access to justice had been limited on language grounds. See above, note 334, p. 19.
\textsuperscript{950} During 2014, the Council issued six decisions on complaints where petitioners alleged their access to justice had been limited on language grounds. See above, note 359, p. 19.
\textsuperscript{952} See above, note 335, p. 24.
\textsuperscript{953} See above, note 359, p. 19.
\textsuperscript{954} See above, note 940.
\textsuperscript{955} See above, note 903, pp. 151–152 and 156.
\textsuperscript{956} \textit{Ibid.}
\end{flushright}
The ECRI has recommended the ratification and implementation of the European Charter for Regional and Minority Languages.\footnote{957}{See above note 17, Para. 7.} Ratifying the Charter and adopting one or more options thereunder could provide national authorities with a means to clarify the issue of the use of regional or minority languages in different social spheres, including in the field of justice.\footnote{958}{See above, note 903, p. 156.}

**Provision of Public Information**

In 2013, the CPEDEE ruled on a case which revealed discrimination on the basis of language in access to public information.\footnote{959}{See above, note 941.} The applicant had complained about discrimination against the Romanian speaking population of Bălți city in access to public information and social protection services, on the basis that that City Hall Bălți and Bălți Municipal Fund for Social Support of the Population only displayed relevant information in the Russian language.\footnote{960}{Ibid.}

**Participation in Public Office and the Civil Service**

The Law on Public Function and the Status of Civil Servants (Law No. 158 of 4 July 2008) provides that anyone wishing to take a position in the Moldovan civil service must have command of both Romanian (as the official state language) and Russian (as the language of interethnic communication).\footnote{961}{See above, note 900, Article 27(1) (b).} However, representatives of ethnic minorities and civil society organisations working with these groups have repeatedly raised concerns about the poor quality of teaching of the Romanian language in educational institutions, stating that this limits the ability of linguistic minorities to participate in the civil service and political life.\footnote{962}{Antem, „More than 160 Young People Learn Romanian for Free“, 24 December 2015, available at: http://www.antem.org/peste-160-de-tineri-alolingvi-au-invatat-gratuit-limba-romana/.} In this context, for example, in 2015, the Governor of Gagauzia, Irina Vlach, urged Chișinău to support the organisation of courses in the state language so that young people from Gagauzia can also work in parliament and government.\footnote{963}{Surdu, I., “Irina Vlah Admits, in Russian, that Gagauz do not Know Romanian Language”, Adevarul, 1 April 2015, available at: http://adevarul.ro/moldova/actualitate/irina-vlah-recunoaste-limba-rusa-gagauzii-nu-cunosc-limba-romana-1_551c0b8d448e03c0fd1ecae8/index.html.}
In its 2015 report on Moldova, the ECRI recommended that:

*To achieve proportional representation of ethnic minorities on executive bodies and in the judicial system (...) ECRI recommends that the Moldovan authorities implement recruitment of candidates from under-represented minorities in public services and continue to offer them linguistic support measures to enable them to achieve the required level of proficiency in the official language.*

To address this problem, in 2015 the government adopted the National Programme for Improving the Quality of Learning of the Romanian Language in General Education Institutions with Instruction in Minority Languages 2016-2020. The Ministry of Education is responsible for enforcing the Programme, the purpose of which is to ensure conditions for improving communication skills in the Romanian language for students at education institutions where the language of instruction is one of the minority languages. The Programme envisages, *inter alia*, that the Ministry will ensure educational and methodical learning of the Romanian language in early education institutions; increase the effectiveness of the assessment of Romanian communication skills amongst students who speak other languages; improve the educational process with appropriate textbooks and curriculum support; modernise the training of teachers; and implement a shift to instruction of some school subjects in Romanian.

**Access to Goods and Services**

Discrimination on the basis of language can also impact upon equality of access to goods and services, with both Romanian and Russian speakers experiencing problems when seeking goods or services from those who speak

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964 See above, note 17, Para.125.
966 Ibid.
967 Ibid.
the other language as their primary language. In 2015, Equal Rights Trust researchers undertook several interviews with Romanian and Russian speakers who complained about prejudice and resulting discrimination when they sought to purchase goods or services. For example, S. stated:

Two years ago, I had to prepare a work paper in high school on the subject of language and literature about national values, so I went to the National Library looking for information. I was directed to the room where I could find relevant information to my subject. There I met a librarian, an old woman who was sitting at the computer, browsing on a social network. I told her I needed some information and asked where I can find it. I asked in Romanian but the librarian answered in Russian. She did not even turn her head towards me and did not want to help me. She told me just to look on the shelves. I looked for a few minutes but could not find any relevant book. The librarian did not even try to help me. She continued to answer me in Russian. I was outraged because of her attitude. This is a public institution, especially a library and the librarian answered only in Russian and not in the state language. I drafted a complaint and left it in the “box of recommendations and complaints”, but I am not sure they will consider it. I think the librarian behaves like this, because I did not speak in Russian to her. Maybe she told me some relevant information in Russian, but I could not understand her. I repeated in Romanian, but again she answered in Russian. As for the Romanian language, very often, salespeople answer only in Russian language, especially in small food shops.\footnote{Equal Rights Interview with S, 22 April 2015, Chișinău.}

Another person, X., recounted their experience of discrimination in accessing health services:

My doctor was on vacation, so after I had undergone some tests, I was referred to another doctor. The doctor
did not react in any way when I sat beside his table. The first thing he told me was to talk to him in Romanian. I told him I did not know the Romanian language. He replied with an angry tone of voice that he did not know Russian. He said that I had lived all my life in Moldova and asked why I do not speak the Romanian language. While saying all of this, he handed me my medical card and refused to speak with me. After that, I talked to a nurse who recommended that I speak to a different doctor who will listen to me, and indeed that doctor listened and spoke to me in Russian.\(^{969}\)

**Transnistrian Region**

As noted in section 1.3 above, in the Transnistrian region the official languages are Russian, Ukrainian, and Moldovan based on the Cyrillic alphabet.\(^{970}\) The use of the Latin alphabet is forbidden and reading or writing in the Latin alphabet is punishable by a fine of approximately 70 Euro.\(^{971}\) There is no publicly available data on the enforcement of this provision.

In 2015, there were eight Moldovan language schools that taught the Romanian language in the Latin script, teaching an estimated 1000 students.\(^{972}\) A civil society study found that teachers, students and parents of students at these schools are subject to intimidation and threats.\(^{973}\) For example, on 29 May 2015 at 9:15 p.m., a television channel broadcasting in Transnistria broadcast an hour-long film disseminating hatred towards those who attend schools teaching Romanian in the Latin script.\(^{974}\) Head teachers at the schools

\(^{969}\) Equal Rights Trust interview with X, 22 June 2015, Bălți city.

\(^{970}\) See *Catan and Others v Moldova and Russia*, European Court of Human Rights, Application Nos. 43370/04, 8252/05 and 18454/06, 19 October 2012, Paras. 43–44.


\(^{973}\) Ibid.

alleged that the footage was broadcast during prime time as part of an on-going denigration and intimidation campaign.975

Conclusion

Language is a political issue in Moldova and the use of either Romanian or Russian as a primary language carries strong associations with a particular political opinion. Research for this report found that laws that provide guarantees for speakers of Russian and other minority languages in access to justice are not effective. It is also clear that inadequate education in Romanian – the official state language – for persons who speak other languages as a primary language presents a barrier to participation in the civil service and in public life more broadly. As with other patterns of discrimination reviewed in this report, information on the situation in the Transnistrian region is incomplete, but the information which is available indicates that language is an even more politicised issue in the region than in the rest of Moldova, with harassment and intimidation of those who continue to use Romanian in the Latin script a cause for serious concern.

2.9 Conclusion

Research for this report has found evidence of discrimination on the basis of race and ethnicity, sexual orientation and gender identity, health status, gender, disability, religion or belief, age and language.

One common factor which unites many of these patterns of discrimination is the role of prejudice, stereotype and stigma. Roma, lesbian, gay, bisexual and transgender (LGBT) persons, persons living with HIV and tuberculosis and persons with mental disabilities are subject to severe social stigma, which in some cases legitimises abuse and ill-treatment by the authorities, and in others leads to inaction in responding to hate speech and hate crime. Women and persons with physical disabilities interviewed for this report spoke of their experiences of overt, direct discrimination resulting from a reliance on stereotypes about their abilities. Perceptions about the political affiliations of people who practice minority religions, or speak minority languages, underpin some of the discrimination experienced by these groups.

975 See above, note 972.
In respect of discrimination on the basis of **nationality, race and ethnicity** this report has found that **Roma** are the single ethnic group most exposed to discrimination in Moldova. Negative stereotypes about Roma persist and underpin discrimination in many areas of life. Roma face discrimination by law enforcement agents and other state agents and experience discrimination – often overtly – by private actors in employment, education, housing, healthcare and access to goods and services. Although the development of Action Plans in Support of the Roma is to be welcomed, their effectiveness has been inhibited by lack of financial resources and an apparent lack of political will to drive forward positive change. Other **racial minorities** in Moldova, particularly those of African descent, are subject to prejudice which is translated into discriminatory violence. There is also evidence of discrimination in access to employment and housing.

The report found that clear patterns of discrimination on the grounds of **sexual orientation and gender identity**. LGBT persons are stigmatised and recent surveys reveal widespread prejudice against gender and sexual minorities. These prejudices are openly propagated by both public and religious officials. Although there have been some positive developments, such as the repeal of “gay-propaganda” laws and the relaxation of requirements concerning Pride Marches, discriminatory legal provisions, particularly in the area of family law, remain in force. More broadly, the lack of explicit protection from discrimination on the basis of sexual orientation and gender identity in the Law on Ensuring Equality leaves LGBT persons in Moldova vulnerable to discrimination. Interviews conducted for this report found evidence of discrimination in education and in access to goods and services,

Persons living with HIV/AIDS experience stigmatisation and discrimination in all areas of life on the grounds of their **health status**. Although the Law on Prevention of HIV/AIDS Infection has strengthened the legal status of persons living with HIV/AIDS, there are widespread reports of the failure by medical professionals to keep patients’ health status confidential. Our research found that for people whose status is public, discrimination in education, employment and health services can be a consequence. There are also grounds for concern about the stigmatisation of persons living with tuberculosis, with a diagnosis being considered “shameful”. Of particular concern are the powers under the Regulation on Coercive Temporary Hospitalisation to forcibly detain and treat tuberculosis sufferers if they are deemed to have “avoided treatment”.

Patriarchal social norms and widely accepted stereotypes about the roles and capabilities of men and women mean that women in Moldova continue to experience discrimination and disadvantage in many areas of life. There is high social tolerance of gender-based violence against women, coupled with a weak response from law enforcement to allegations of such violence. Despite the existence of a robust legal framework providing for gender equality in employment, education, healthcare and other areas of life, the persistence of gender stereotypes mean that gender inequality persist in all areas of life, particularly employment and political life.

Persons living with disabilities experience considerable prejudice and stigma, with mental disability in particular being the subject of profound stigma. Despite Moldova’s ratification of the Convention on the Rights of Persons with Disabilities, and the existence of a strong legal framework, accessibility to infrastructure, transportation and information continues to pose an obstacle to the full participation of persons with disabilities in many areas of life. Much work is needed to adapt the environment and accommodate the needs of persons with disabilities. Beyond issues of access and reasonable accommodation, our research identified cases of direct discrimination in access to employment, education and healthcare. The situation of persons with mental disabilities is a major concern as the current legal framework permits both the deprivation of legal capacity and institutionalisation, contrary to Moldova’s international obligations. Shocking reports of abuse and mistreatment in institutions only heightens these concerns.

Although freedom of religion is guaranteed under the national legal system, research for this report revealed numerous examples of disadvantage and discrimination faced by minority religious communities, some of which could impinge upon the exercise of religious freedom. The national legal framework has mainstreamed the Moldovan Orthodox Church to the exclusion of smaller religious groups; minority religious communities face difficulties in securing legal registration, land and construction permits to build places of worship and restitution of church property. Discrimination against minority religious communities, in particular the Jehovah’s Witnesses is also evident in Transnistria where difficulties securing registration are also a problem.

Research for this report has revealed discrimination on the grounds of age, in particular against older persons in Moldova in the area of employment.
Discriminatory laws serve to restrict the access of older persons to employment and fail to effectively protect them from dismissal on the grounds of age. These laws, combined with an inadequate state pension, place older persons at a disproportionate risk of poverty.

Finally, this report finds concerning evidence of discrimination on the basis of language against those who speak Russian and other minority languages. Language is a politicised issue in Moldova, and recent public opinion surveys find significant numbers of people with negative perceptions of those who speak Russian as a primary language. Russian speakers face difficulties in accessing public services, in particular the courts, where the unclear legislative framework means they are often denied effective access to justice. As in other areas reviewed for this report, concrete evidence of practice in Transnistria was limited, but those reports which do exist present a worrying picture of prejudice and stigma against those who use the Romanian language.