KONRAD ADENAUER STIFTUNG

CONSILIUL PENTRU PREVENIREA ȘI ELIMINAREA DISCRIMINĂRII ȘI ASIGURAREA EGALITĂȚII
СОВЕТ ПО ПРЕДУПРЕЖДЕНИЮ И ЛИКВИДАЦИИ ДИСКРИМИНАЦИИ И ОБЕСПЕЧЕНИЮ РАВЕНСТВА
COUNCIL FOR PREVENTING AND ELIMINATING DISCRIMINATION AND ENSURING EQUALITY

# SUMMARY OF JURISPRUDENCE

## 2013-2015

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## 2013-2015

**Chisinau**

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Coordinator: **Ian Feldman**

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## Foreword

The Rule of Law Programme South East Europe of Konrad Adenauer Stiftung (KAS) is glad to present this selection of key decisions by the Moldovan Council for Preventing and Eliminating Discrimination and Ensuring Equality.

We have taken the decision to issue this publication in three languages, Romanian, English and Russian. We are convinced that the translation of decisions into Russian language, in addition to the publication of the original decisions in Romanian language, will enable all citizens of the Republic of Moldova to fully understand these decisions. At the same time, the English translation shall enable readers abroad to follow Moldovan cases and discussions. Furthermore, the current publication is meant to contribute to the promotion and protection of human rights, which has always been one of the core missions of KAS.

Over the last twenty years, a gradual progress in the field of human rights protection could be observed. But we cannot take the current level of human rights protection for granted. Due to alarming developments, like the rise of populism and worrisome news about the reemergence of extreme ideologies, the achievements of the last decades are under threat. With that in mind we can only emphasize the importance of projects like the one at hand. The guarantee of human rights highly depends on a broad awareness and sensibility among civil society. Being able to access official decisions regarding anti-discrimination issues is vital in fostering this goal. Sharing knowledge and best practices among regional judiciaries and para-judicial bodies can furthermore increase their resilience towards the threat of judicial deterioration in a country.

Like other countries, Moldova has its very own specificities with discrimination among society. In 2013, the Council for Preventing and Eliminating Discrimination and Ensuring Equality was established and pursued its mandate since then. Even though the general conditions were often difficult for the work of the Council, several important decisions were issued of which we collected a total of 113 decisions for this publication. As this publication shows, in Moldova, discriminatory practices are still widespread and persons and groups are treated unequal on the basis of their ethnicity, gender, sexual orientation, religion, physical or mental disability as well as other grounds. However, in the last years progress in tackling discrimination in the Republic of Moldova was made, certainly also due to the important contribution of the Council's work. Therefore, we consider it as a core institution in the fight against discrimination and for enhancing the protection of human rights in the Republic of Moldova.

Freedom, justice and solidarity are some of the basic principles underlying of our work. KAS is a political foundation affiliated to the Christian Democratic movement in Germany. With more than 80 offices abroad and projects in over 120 countries, we make a contribution to the promotion of democracy, the rule of law and a social market economy. KAS inaugurated the Rule of Law Programme South East Europe in 2005 as one out of currently five regional Rule of Law Programmes worldwide.

The Rule of Law Programme South East Europe concentrates on the following six subject areas, in which there is substantial need for reform and consultation within and among the countries of the region: constitutional law, procedural law, protection of human and minority rights, fight

against corruption, coping with the past by legal means and European legal order. The Rule of Law Programme South East Europe works together with local partners and through this it seeks to ensure that it responds to the most urgent needs and developments both in each country and in the region as a whole. Together with our partners we make a contribution to the creation of an international order that enables every country to develop in freedom and under its own responsibility.

The Rule of Law Programme South East Europe of the Konrad Adenauer Stiftung therefore hopes that this publication will contribute to the overall objective of promoting and protecting human rights in the Republic of Moldova, but also other parts of South East Europe.

**Hartmut Rank**

**Director**

Rule of Law Programme South East Europe

Konrad Adenauer Foundation

In 2018, we marked the 5th anniversary of the entry into force of the Law on Ensuring Equality. At first glance, it may not seem so long, but in these years, we managed, with small steps and a lot of work, to move forward both as an institution and as a society. I think, this anniversary is a very good occasion to bring to the fore the work done by the team of the Council for Preventing and Eliminating Discrimination and Ensuring Equality. For this reason, we have compiled a publication that contains the most relevant decisions of the Council issued in 2013-2015 and I am sure that this title is just a first step.

The area of the prevention of discrimination is still "young" and challenging not only for Moldova, but also for many other countries. A number of serious issues generated by discrimination still do not have standard, unanimously accepted solutions. It is crucial for the development of this area, that the experience of anti-discrimination institutions is widely distributed, thoroughly analyzed and, of course, critically debated.

Through our endeavor to gather and publish the jurisprudence of the Council, we aim to help professionals and interested persons to deeply understand the transformations which this area is experiencing. For them, the presented material could serve both as a practical tool and a reference document. I am sure that this compilation will also help professionals from related fields — civil servants, journalists, politicians, activists — to better understand the direction in which society evolves in terms of respecting the right to equality and non-discrimination.

Discrimination is a social "disease" that has a paradoxical feature. The carrier of the "disease" is often not even aware of his/her own problem. In my practice, I have seen people who perceive themselves as a role model, almost as perfection, and would never imagine that they could provoke suffering caused by discrimination. Some make a petrifying discovery — they have discriminated someone without even realizing it. Such cases, where our intervention decisively contributes to the change of attitudes and behaviors, I enjoy the most.

I do not exclude that our reader may sometimes see him/herself in the cases described here, both in the role of a victim and a perpetrator of discrimination. Some situations, tacitly accepted as a normal, after more thorough analysis prove to be cases of discrimination. I am glad that our society is learning to generate less suffering and in this process of social transformation I see the crucial role of the Council. Our task is not just to react to the reported cases, but also to actively prevent discrimination through education, information and public debates.

I will never forget one of our first cases: a student with disabilities who had daily been going through public humiliation in a vocational school. At the hearings, I was shocked to understand that such behavior of a teacher was not confronted or stopped by colleagues but had long been tolerated and even perceived as a form of "education". Bringing this case to the public, discussing it in a safe and institutional environment has made many witnesses look at this behavior differently, through the eyes of the discriminated person.

I understand, that 113 cases collected in this book represent a small part of what is daily happening in our country and I regretfully note that majority of the cases of discrimination remain unreported. There are different causes for this. Sometimes victims and witnesses are intimidated by the power or violence of the aggressor. In some cases, those who are affected do not understand

that their rights have been seriously violated. There also are cases where victims do not know to whom to turn to in order to prevent or stop discrimination.

Along with its jurisprudence, Council, vigorously promotes tools which are meant to defend rights and are accessible to everyone. It is done through campaigns, media transparency and field trainings, as well as online courses available on the institution's website.

Everyone can make a difference and I hope that reading this compilation of cases will create sufficient motivation to act against discrimination.

Elaboration of this publication has become possible only thanks to the support of the Konrad Adenauer Foundation, to which I express my most sincere gratitude.

**Ian Feldman**

**President** of the Council for Preventing and

Eliminating Discrimination and Ensuring Equality

Council for Preventing and Eliminating Discrimination and Ensuring Equality is an independent public authority, established by the Law No. 121/2012 on ensuring equality.

Mission: Preventing and protecting against discrimination, ensuring equality, promoting equal opportunities and diversity.

Vision: Promote and support creation of an inclusive society where people enjoy equal opportunities and realize their rights and freedoms regardless of sex, gender, race, colour, ethnic origin, language, nationality, disability, sexual orientation, age, religion or belief, opinion, political affiliation or any other similar ground.

Mandate:

- examination of the compatibility of the existing legislation and draft laws with non-discrimination standards;
- monitoring of the implementation of legislation from the perspective of equality and non-discrimination;
- examination of complaints and reinstatement of the victims of discrimination in their rights;
- informing of society and raising awareness in order to eliminate all forms of discrimination.

# CONTENT

# Employment

### Case no. 001/2013, decision of 17/10/2013

The applicant claimed that he had been harassed in the workplace by his managers, due to differences of opinion.

The Council found that, according to Art.1, Art. 2 and Art. 7(2)(f) of Law no. 121/2012 on ensuring equality, the facts put forward constituted harassment at work on grounds of opinion.

The Council underlined that, although employers were entitled to raise objections to the employee's work performance, to check how work duties were carried out, to conduct investigations in the workplace and apply disciplinary sanctions, they were required to ensure the respect of the employees' dignity at work. The Council determined that by failing to offer adequate working conditions (no table and chair in the office, absence of necessary technical equipment), by threatening his co-workers with sanctions if they received him in their office; by refusing to refund his business travel expenses, contrary to the provisions of the laws in force; by not issuing him a work ID indicating the position he held after the institutional reorganization, the employer went beyond the limits of an acceptable conduct by creating the applicant an intimidating, hostile, degrading, humiliating and offensive environment at the workplace. The Council established that the conduct had been triggered by the applicant's opinion, voiced on several occasions, about the legality of the respondents' actions. That was escalated by the applicant's persistence in lodging multiple complaints with the authorities, prompting the initiation of criminal cases and managing to obtain court decisions recognizing the illegality of the respondents' actions.

### Case no. 003/2013, decision of 14/03/2014

The applicants, members of national minority groups, claimed that they had been discriminated against at work, because employees belonging to these ethnic groups had not been included in the team in charge of the annual job cut and approval process. The applicants declared that they had been harassed by the employer because after being reinstated they had been laid off again.

The Council found that, according to Art.1, Art. 2 and Art. 7(2)(f) of Law no. 121/2012 on ensuring equality, the facts put forward did not constitute discrimination and harassment on grounds of ethnicity.

The Council established that the job cut and approval process was carried out on an annual basis and was regulated by law and approved by the Enterprise Management Board. By examining the documents in the case file, the Council could not find that the applicants' ethnicity had been a reason for dismissal. The Council noticed that among the enterprise's employees were members of various ethnic groups, including among recently hired employees. The Council could not establish any causality between the treatment reported by the applicants and the ground put forward.

By analysing the allegations regarding the applicants' harassment, the Council noticed that the layoff procedure, resulting from the job cut, was a serious breach of the labour law, which lead the applicants to challenge the legality of the procedure in court. The Council found that after the applicants had been reinstated, they had been laid off again. The Council noted that although it admitted that this conduct (layoff - reinstatement - layoff) had created an intimidating environment for the applicants, the conduct had been triggered by the errors made in the layoff procedure and not by the applicants' ethnicity. Therefore, the Council could not establish any causality between the treatment reported by the applicants and the ground put forward.

### Case no. 006/2013, decision of 09/12/2013

The applicant claimed that she had been discriminated at work on grounds of gender and age both when laid off and when hired.

The Council found that, according to Art.1, Art. 2 and Art. 7 of Law no. 121/2012 on ensuring equality, the facts put forward did not constitute discrimination in relation to one's right to work in the public administration based on the gender and age grounds.

The Council could not establish that there had been a differential treatment in exercising a right, since all employees in the institution who, at that time, had reached the retirement age had been notified in advance of the termination of their employment. The Council determined that two of them subsequently had their employment period extended but that action had not been determined by the persons' gender but by the submission of a request for re-employment.

### Case no. 008/2013, decision of 17/02/2014

The case concerned the examination of Art. 1(5) of Law no. 140/2001 regarding the State Labour Inspectorate and Art. 372(2) of the Labour Code in terms of non-discrimination standards.

The Council found that, according to Art. 1 and Art. 2 of Law no. 121/2012 on ensuring equality, the facts under examination constituted discrimination on grounds of the special status of accredited person (similar to military ranks) in relation to the right to labour protection and dignity in the workplace.

By analysing the provisions of Art. 1(5) of Law no. 140/2001 on the State Labour Inspectorate and Art. 372(2) of the Code of Labour, the Council established that the employees of law enforcement institutions (Ministry of Defence, Ministry of Internal Affairs, Security and Intelligence Service, State Protection and Guard Service, Department of Prisons of the Ministry of Justice and the National Anticorruption Centre) did not have access to the independent mechanism specialized in labour protection, such as the State Labour Inspectorate which had extensive powers to find, sanction and prevent the breach of employees' rights. The Council was informed that this exclusion was made in order not to disrupt the routine activities of the national security and public order defence system and operative investigation activities. Although it recognized the legality of the purpose put forward, the Council could not establish how the access to the independent mechanism specialized in the labour protection of special status employees precluded the performance of their job duties. The Council underlined that the employee, irrespective of having a special status or not, must be certain of their job and enjoy the rights guaranteed by the Code of Labour like any other person employed on the labour market of the Republic of Moldova, including the access to an external and independent labour inspection mechanism enabling the settlement of disputes with the employer without unjustified legal expenses.

In this case, it is the ground determined by the Council that is significant. Considering that the list of the grounds provided in Art. 1(1) of Law no. 121/2012 on ensuring equality is illustrative and not exhaustive, as results from the wording "any similar criteria", the Council underlined that the special status of accredited person (similar to military ranks) constituted a prohibited ground for discrimination.

### Case no. 41/2013, decision of 24/02/2014

*(see case no. 50/2014, decision of 22/02/2014)*

The case concerned the examination of the terms and criteria of job advertisements on online portals, from the perspective of non-discrimination standards.

The Council noted that, according to Art.1, Art. 2 and Art. 7(2)(a) of Law no. 121/2012 on ensuring equality, posting job advertisements containing terms and criteria which excluded or favoured certain persons constituted a discriminatory act on the part of the employer.

By examining the advertisements, the Council identified the presence of several criteria which unjustifiably excluded certain persons, among which: age, gender, domicile, civil status.
The Council found that, according to Art.7(5) of Law no. 121/2012 on ensuring equality, the differentiation, exclusion, restriction or preference in relation to a certain job should not constitute discrimination if, based on the specific nature of the activity or the circumstances in which this activity was to be carried out, there were certain essential and determining professional requirements, as long as the purpose was legitimate and the requirements proportionate.

The Council provided examples of circumstances in which those requirements could be considered as part of the essential and determining professional requirements of the job. For example, a film producer could reasonably request a black actor to play Martin Luther King Jr.; a mosque could request the personnel performing religious rituals to be Muslim; hiring a female to perform body searches on women.

### Case no. 55/2014, decision of 01/05/2014

The applicant claimed that she had been laid off because of being HIV positive.

The Council found that, according to Art.1, Art. 2 and Art. 7 of the Law on ensuring equality, the facts put forward were not discrimination.

The Council established that the applicant had been laid off because she had not fulfilled her job duties correspondingly and had failed to observe occupational health and safety and caused damage to the company. The Council could not establish causality between the ground put forward and her being laid off. The respondent was not even aware of her being seropositive.

### Case no. 56/2014, decision of 15/05/2014

The applicant claimed her employer discriminated her by not having adjusted her work schedule to her breastfeeding needs.

The Council found that, according to Art.1, Art. 2 of Law no. 121/2012 on ensuring equality, the facts under examination were discrimination on grounds of gender by refusal to reasonably accommodate a maternity-related situation.

The Council established that the applicant had requested her employer a shorter work schedule from 9 am to 5 pm (an hour less), which was essential for the newborn's feeding schedule, who was breastfed between and 8 am and 8.30 am. Despite her request, the employer had established her work schedule from 8 am to 4 pm. During the examination procedure, the employer justified its action by noting that the applicant had tacitly accepted this schedule since she would show up for work according to the shorter work schedule which had been established. The Council dismissed the argument and underlined that the employee's observance of the unilaterally imposed schedule

only pointed to her dutifulness and not to her approval of the imposed schedule. The Council mentioned that the adjustment of the work schedule as had been requested by the applicant did not place a disproportionate burden on the employer. The Council could not identify any ground as to why the working hour between 4 pm and 5 pm was less relevant than the working hour between 8 am and 9 am.

### Case no. 74/2014, decision of 12/06/2014

The applicant claimed she had been discriminated against at the workplace because she had been working and studying a master's at the same time.

The Council found that, according to Art.1, Art. 2 and Art. 7 of Law no. 121/2012 on ensuring equality, the facts under examination were discrimination at work in relation to the internal promotion practices and the practice of approval for professional qualification courses.

After hearing the statements of the parties and examining the evidence on file, the Council noted the absence of procedures regulated by internal standards to provide how employees were promoted and how access to lifelong training was ensured, to guarantee transparent decision-making and equal opportunities for all potential candidates for vacancies competitions. The Council found that the appointment in a vacant position was done after some private discussions with the candidates whom the management considered suitable. The Council noted that this could be confusing and come across as unfair to certain employees, among which the applicant, who felt she had been deprived of her rights as she had not been informed of the candidate selection process. The Council underlined that according to Art. 7(4) of the Law on ensuring equality, the employer is required to post the legal provisions guaranteeing the observance of equal opportunities and equal treatment in the workplace in areas accessible to all employees.

### Case no. 105/2014, decision of 18/06/2014

The applicant claimed that she had been discriminated against on grounds of maternity by her employee in the right to work.

The Council found that, according to Art.1, Art. 2 and Art. 7(1) and (2)(b) of Law no. 121/2012 on ensuring equality, the facts under examination were discrimination on grounds of being a mother at work.

The Council established that the applicant had worked at ISCA [State-Owned Airline] Air Moldova as a stewardess and for 5 years, the employer had annually concluded a fixed-term employment contract with her by always extending the contract for another year at the beginning of the next year. The Council determined that the employer had refused to extend her employment contract when it had found out that the applicant was pregnant. The Council found that contracts with stewards/stewardesses would be concluded for a 5-year term. The Council noted that the nature of the work performed at Air Moldova did not fall under any case provided by Art. 55 of the Labour Code, which would allow the company to conclude fixed-term employment contracts. The Council noted that the breach caused a potential discrimination of the employees and taking into account that the term of the contract for all stewards/stewardesses was of five years, it held the applicability of the ground of maternity.

### Case no. 110/2014, decision of 09/09/2014

The applicant claimed that she had been discriminated against on grounds of disability in access to professional training courses. The applicant informed the Council that the National Employment Agency had denied her enrolment in courses for manicurists and pedicurists on the ground that the document establishing her disability level indicated that her taking a job was not recommended.

The Council found that, according to Art.1, Art. 2 and Art. 7(1) and (2)(c) of Law no. 121/2012 on ensuring equality, the facts under examination were discrimination on grounds of disability in access to professional training courses.

The Council established that disabled people could benefit from professional training courses if they registered as unemployed. To register as unemployed, one has to produce the disability and fitness for work certificate and the report on the individual program for rehabilitation and social inclusion. Therefore, depending on the recommendations included in the report on the individual program for rehabilitation and social inclusion, the person was accepted for enrolment in professional training courses or not. The Council found that Art. 40 of Law no. 60 on the social inclusion of disabled persons provided that disabled persons, who were enrolled in school and had the right age for professional integration, who did not have a job or professional experience, or persons who although employed, were recommended professional reconversion according to their individual program for rehabilitation and social inclusion, should receive professional guidance and training. The Council found that the refusal to register the disabled person as unemployed in order for her to receive professional training courses, because of the mention "working is not recommended", indicated in the disability certificate, was an unjustified limitation of the disabled person's right to receive professional guidance and training.

### Case no. 123/2014, decision of 05/11/2014

The applicant, held in Prison no. 7, claimed she had been discriminated against in exercising her right to work on grounds of language and domicile.

The Council found that, according to Art.1, Art. 2 and Art. 7 of Law no. 121/2012 on ensuring equality, the facts put forward were not discrimination.

By analysing the applicant's allegations according to which she had requested to receive paid community work in production units and that she had been refused, the Council found the opposite. The Council established that the management of Rusca Prison no. 7 had offered the applicant two employment options. The first offer was a seamstress job at Rusca IS [State-Owned Enterprise] but the applicant did not file any request claiming that the job was badly paid and temporary. The second offer was a sewers and sewer tunnel cleaning job, but the applicant refused that one too, saying that it was specialized work and she would not be able to handle it. The Council could not establish that the applicant had received a differential treatment compared to other persons in a comparable situation and found that both persons in Transnistria and Russian speakers were offered a job upon request.

### Case no. 161/2014, decision of 16/12/2014

The applicant claimed that his right to equal treatment at work had been violated on grounds of political views.

The Council found that, according to Art. 1, Art. 2 and Art. 7(3)(b) of Law no. 121/2012 on ensuring equality, the facts under examination were discrimination on grounds of political views at work.

The Council determined that under the existing legislation, the competition to fill vacant government positions is based on the open competition principles of transparency, skills and professional merit, as well as on the principle of equal access to government positions for all citizens. From the parties' arguments during the hearing, the Council noted the respondent's statements which accused the applicant along the lines of "[...] haven't I told you, it's a political position, they won't just forget about it, they won't let you [...]". The Council equally noted the remarks by another respondent who explained that the manager positions of decentralised departments were not political but divided among the ruling coalition parties in each district. The Council noted that the fact showed the existence, in the government, of preferential candidate selection practices, which resulted in favouring persons on grounds of their political views alone in filling a vacant government position. After having made those findings, the Council underlined that the applicant's right to equal career development opportunities had been violated.

### Case no. 168/2014, decision of 30/12/2014

The applicant claimed that she had been harassed in the workplace by employers and co-workers because she had objected to a management decision.

The Council found that, according to Art. 1, Art. 2 and Art. 7(2)(f) of Law no. 121/2012 on ensuring equality, the facts under examination were harassment on grounds of opinions at work.

The Council determined that the applicant, contrary to the management's decision, advocated for the opening of a 1st grade class at the Alexei Stîrcea School of Arts. The fact brought on several checks by competent authorities which found irregularities for which the management was punished. The Council established that the events resulted in a hostile and intimidating environment at work for the applicant with the effect of violating her dignity and respect. The behaviour translated into not communicating with and ignoring the applicant during teachers' meetings (she was not allowed to take the floor and express her point of view), insults and blaming her for the ensuing situation and various irreverent expressions directed at her. The Council determined that the behaviour stemmed from the applicant's opinion as to the need for a new primary school class.

### Case no. 256/2015, decision of 05/08/2015

The applicant, teacher of mathematics, member of a non-governmental organization, claimed that she started to be harassed by the management of the educational establishment after she had organised, as a project manager for the NGO, an outing with students. The discriminatory actions on the part of the educational establishment management translated into a disciplinary sanction being applied and several checks on her activity being conducted. The applicant equally claimed that, following the filing of a complaint with the Council, there was an increase in harassment, and stated that she had been a subject to victimisation.

The Council found that the facts put forward were not harassment at work on grounds of membership in a non-governmental organisation.

The Council established that the causality between the grounds put forward and the reported

actions was missing. The Council observed that it was not her NGO membership which generated the tense situation, but her failure to comply with the procedure to inform the employer in case of absence. With regard to the other actions put forward by the applicant, the Council found that they related to the specificities of the daily business of an educational establishment and could not be qualified as harassment.

The Council found that there was a case for victimisation according to Art. 1, 2 of Law no. 121/2012 on ensuring equality which translated, in particular, into pressure made by the head teacher on the applicant to make her withdraw the complaint.

### Case no. 257/2015, decision of 05/08/2015

The applicant claimed that he had been discriminated against on grounds of his ethnicity, him being Roma, by the Ministry of Education as he had not been offered the interim position until an appointment through competition of a new head teacher was made. The applicant equally claimed that he had been discriminated against also by the fact that he had not received a bonus payment of an equal amount as other head teachers of similar establishments.

The Council found that, according to Art. 1, 2 of Law no. 121/2012 on ensuring equality, the facts put forward were not discrimination.

The Council established the existence of a less favourable treatment of the applicant compared with other head teachers of post-secondary vocational schools. With regards to the causality between the prohibited ground for discrimination, namely his ethnicity and the differential treatment suffered by the applicant, the Council found that it was not proven. The Council accepted the respondent's explanations, supported by appropriate evidence that not offering the interim position was caused by the applicant's poor management practices and under no circumstances by his ethnicity.

With regard to setting the bonus payment in the same amount as other head teachers, the Council underlined that granting payment bonuses constituted a right of the employer and not an obligation. The Council also pointed out that not all differential treatments constituted discrimination by themselves, but only the treatment without an objective and reasonable justification. Therefore, the Council accepted the respondent's explanation that setting the payment bonus was made based on the efficiency on the job and the students' baccalaureate pass rate.

### Case no. 273/2015, decision of 08/09/2015

The case concerned Order no. 22 by the Minister of Labour, Social Protection and Family of 3 March 2014 on approving the Classification of Occupations of the Republic of Moldova (CORM 006-14) and Government Decision no. 264 of 06/10/1993 on approving the List of Industries, Professions and Arduous and Hazardous Jobs Prohibited to Women and the rules on acceptable loads limits for women when manually lifting and carrying weights.

The Council found that the provisions of the above-mentioned legislation were discriminatory. The Council identified that in the Classifications most names of occupations were in the masculine without the female equivalent. Some names of occupations expressed in the feminine applied the stereotype according to which only women should take care of children and cleaning, for instance: "cleaning woman", "baby sitter" [feminine in the original], "governess", "linens and lingerie maker" [feminine in the original]. The names of management positions, for instance: "head", "director",

"chairman", "minister" and so on, were only expressed in the masculine, underpinned by the same gender stereotyping. The Council noted that the expression of the names of occupations was based on customs and stereotypes which restricted women's choices to certain jobs and prevented them from fully using their professional skills and competences. The Council also stated that stereotypes were obstacles to achieving gender equality and caused horizontal and vertical segregation at work.

After examination of the List of Industries, Professions and Arduous and Hazardous Jobs Prohibited to Women, the Council found that women could not be hired in any of the jobs set out therein, despite meeting all the professional requirements specific to the work they would perform, merely for being a woman. The Council considered that protecting only women's reproductive health, the justification brought by the line ministry, constituted a discriminatory approach on grounds of gender as one should not ignore men's reproductive health since the conception of a healthy embryo involved the reproductive health of both sexes.

### Case no. 291/2015, decision of 28/09/ 2015

The applicant complained that she had not been given equal opportunities in recruitment because she suffered from sensory disability (sight impairment). The employer refused the applicant's participation in the interview for the operator vacancy and failed to specify whether she met the professional requirements to fill in the publicly advertised vacancy.

The Council found that, according to Art. 7(2)(b) of Law no. 121/2012 on ensuring equality, the facts set out in the complaint were discrimination at work on grounds of disability.

The Council established that the employer lacked any legal grounds to refuse the applicant's participation in the interview for the operator vacancy. The Council stated that the employer failed to fulfil his full obligations of proof. He did not produce evidence which confirmed the essential and defining requirement for the vacancy. The Council underlined that the respondent was expected to show the direct link between the applicant's prohibited grounds for discrimination (sight impairment) and the nature of office duties to be performed by her as operator.

### Case no. 294/2015, decision of 28/09/2015

The case concerned the posting of job advertisements which contained discriminatory requirements on grounds of age and gender.

The Council found that, according to Art. 1, 2 of Law no. 121/2012 on ensuring equality, the facts under examination were discrimination on grounds of gender and age.

The Council, as it ruled in other cases with the same cause of action (41/2013[1], 50/2014[2]), explained that the announcements were discriminatory where the requirements posted did not take into account the nature of the job to be performed, the conditions in which the activity was performed and lacked a reasonably proportionate link between the means used and the legitimate purpose pursued.

[1] Decision no. 41/2013 of 24/02/2014 available on http://www.egalitate.md/media/files/files/decizia_cauza_041_autosesizarea_anunturi_discriminatorii_4412343.pdf

[2] Decision no. 50/2014 of 24/02/2014 available on http://www.egalitate.md/media/files/files/decizia_cauza_050_gavriloi_rodion_catre_legis-com_srl_5733279.pdf

### Case no. 298/2015, decision of 12/10/2015

The applicant, father of two children aged 5 and 2 years old, claimed that he had been dismissed due to downsizing and was unable to enjoy the guarantee (of not being dismissed) granted under the same circumstances to women with children under the age of 6.

The Council found that, according to Art. 1, 2, Art. 7(1) of Law no. 121/2012 on ensuring equality, the facts put forward constituted discrimination at work on grounds of gender.

The Council underlined that in order to ensure gender equality at work, the safeguards must meet the needs of both sexes, since men and women are in similar situations as far as taking care of children is concerned.

### Case no. 318/2015, decision of 01/12/2015

The applicant stated that she had been a nursery teacher in a private educational establishment. After she communicated her pregnancy to the management and requested the employer the guarantees provided for in such cases, it terminated the employment contract claiming that she had not been officially hired.

The Council found that, according to Art. 7(2)(b)(g) of Law no. 121/2012 on ensuring equality, the facts put forward in the complaint were discrimination at work on grounds of maternity.

The Council underlined that in cases of discrimination on grounds of maternity, there were no set comparator elements and comparable situation, and the discussion should focus on the unfavourable treatment and its effects.

### Case no. 335/2015, decision of 24/11/2015

The applicants, inmates of Prison no. 17, claimed that their right to work, right to social security and right to mandatory health insurance had been violated.

The Council ruled the complaint inadmissible according to paragraph 42 of Law no. 298/2012 on the activity of the Council for Preventing and Eliminating Discrimination and Ensuring Equality.

The Council explained that differential treatment becomes discrimination when it distinguishes between comparable situations. The Council underlined that the situation of persons in custody is not comparable with that of free persons. Therefore, the differential treatment claimed by the applicants did not refer to persons in comparable situations, and another comparator was not presented to the Council, nor could it be identified from facts set out.

# Education

### Case no. 004/2013, decision of 22/11/2013

The applicant, the guardian of a disabled minor, claimed that the minor had been discriminated against in the educational process and harassed on grounds of disability and social origin, as an orphan.

The Council found that, according to Art.1, Art. 2 and Art. 9(1)(a)(b)(d) of Law no. 121/2012 on ensuring equality, the facts under examination were not discrimination on grounds of disability and social origin, as an orphan, in the educational process. In this regard, the Council established that the high school management had hampered her enrolment in that high school by requiring her to visit a neurologist and produce a medical certificate confirming that she was fit to study, as an additional condition for enrolment. The Council equally determined that the high school management had provided her a room in the student residence which did not meet the applicant's special physiological requirements, thus denying her a reasonable accommodation of those conditions. The Council equally found that the high school management had refused to adapt the tests to the applicant's individual needs and did not allow her to repeatedly sit these tests.

The Council found that, according to Art.1, Art. 2 of Law no. 121/2012 on ensuring equality, the facts under examination were harassment on grounds of disability and social origin, as an orphan. In this regard, the Council established that the management had tolerated verbal and physical abuse against the applicant by her colleagues, contrary to the legal requirements to apply methods and ways of preventing acts of discrimination.

The Council equally found that, according to Art.1, Art. 2 of Law no. 121/2012 on ensuring equality, the facts under examination were victimisation. In this regard, the Council determined that the high school management declared at the hearing that because of the complaint lodged with the Council they would not allow her to study there any more.

### Case no. 005/2013, decision of 25/11/2013

The applicant, the mother of a minor diagnosed with diabetes mellitus type 1, claimed that the pre-school establishment had denied the enrolment of her child on the ground that it would not be able to provide the necessary amenities for a diet suitable to the child's condition.

The Council found that, according to Art.1, Art. 2 and Art. 9 (1)(a) of Law no. 121/2012 on ensuring equality, the facts under examination were discrimination against the minor on grounds of disability in access to a pre-school establishment.

The Council explained that pursuant to the caselaw of the European Court of Human Rights (case no. 13444/04 Glor v. Switzerland), diabetes mellitus is recognized as being a disability and constitutes a prohibited ground for discrimination. The Council noted that the inability to provide the necessary amenities for a diet suitable to the child's condition could not constitute an objective and reasonable basis for denying the child's enrolment in the pre-school establishment. The Council underlined that reasonable accommodations must be applied in order to ensure the minor's access to education on equal terms with other persons. Yet, preparing and providing an individual diet did not require disproportionate or unjustified efforts when the goal was to guarantee one's fundamental right of access to education.

### Case no. 83/2014, decision of 28/06/2014

The applicant, the mother of a boy diagnosed with infantile autism, claimed that her son had been discriminated against in access to pre-school education.

The Council found that, according to Art.1, Art. 2 and Art. 9(a) of Law no. 121/2012 on ensuring equality, the facts under examination were discrimination on grounds of disability, indicated by a failure to reasonably accommodate a request.

The Council found that the teaching staff of the pre-school establishment where the child had been enrolled were aware of the Medical and Pedagogical Commission's recommendations on the individual approach and the organization of the educational process aimed at developing the child's relational skills. They did not develop an individualized educational program and instead relied on a general speech development one. The Council found that the teaching staff did not take into account the child's specificities and constantly used words that caused discomfort to the child and triggered crises. The Council found that the teaching staff considered the words "you are a big boy" were harmless and they used them to encourage the child to be independent, to be able to dress and undress himself; they did not think that in his particular situation, those particular words should have been avoided.

The Council noted that irrespective of their disability or personality, all children are guaranteed the respect of their dignity and the right to education. The Council underlined that the individual approach should reflect the child's disability and help them overcome it so that the child had equal opportunities to learn and socialise.

### Case no. 95/2014, decision of 28/05/2014

The applicant claimed that his daughter, who had obtained a medal in a European competition, had not graduated without having to sit a baccalaureate examination, like her colleagues, who obtained medals in Olympiad contests.

The Council found that, according to Art.1and Art. 2 of Law no. 121/2012 on ensuring equality, the facts put forward made it unable to find a presumption of discrimination and declared the complaint inadmissible.

The Council noted that the applicant's daughter was not in a situation comparable to that of her Olympian fellows because they had been through a more rigorous selection process and their merits had been gradually proven and approved.

### Case no.109/2014, decision of 09/08/2014

The applicant claimed that she had been discriminated against for not being allowed to teach an optional religion class compared to other teaching staff members who had been allowed to teach other optional classes in the establishment they worked in. The applicant also claimed that the high school teachers had been biased when assessing her son's knowledge; she claimed that he had been discriminated against by being associated with her in exercising the right to education.

The Council found that, according to Art.1, art. 2, Art. 7 and Art. 9 of Law no. 121/2012 on ensuring equality, the facts put forward were not discrimination.

The Council determined that according to the Class Framework Plan, religion was listed under optional classes which were rated based on the students' requests, for grades 5 to 12 and based on the parents' requests, for grades 1 to 4, which had to be submitted by 31 May of that year. The Council established that the applicant had not observed these rules and had submitted the requests for the next school year in May 2013. From the evidence produced, the Council determined that the requests had been submitted too late, which triggered a refusal to accept the optional religion class. The Council established that other optional courses had been accepted

because the requests for setting up groups had been submitted in time. The Council noted that the differential treatment put forward by the applicant had an objective justification. The Council equally underlined that during the examination no prohibited ground for discrimination could be identified.

By analysing the allegations regarding the discriminatory treatment, the applicant's son had been subjected to, the Council established that the facts put forward were not related to knowledge assessment but to the child's behaviour. The Council found that the teaching staff had carried out those actions based on the students and parents' reports regarding his behaviour. The Council noted that in such circumstances no presumption of discrimination could be found.

### Case no. 122/2014, decision of 09/09/2014

The applicant, a person with motor disabilities, claimed that he had been discriminated against when sitting his baccalaureate examination by being denied the necessary and adequate amenities for his specific needs.

The Council found that, according to Art.1, Art. 2 and Art. 9 of Law no. 121/2012 on ensuring equality, the facts under examination were discrimination by refusal to provide reasonable accommodations.

The Council established that the applicant used a wheelchair and had been taught at home for 12 years. The Council noted the findings in the medical certificate and in the psychological and pedagogical report showing that he suffered from lower limb paralysis with severe motor retardation and required the use of special chairs, tables and cushions to ensure the correct position of the body and head. All those findings showed without doubt that the applicant had to use especially adapted equipment in order to sit the baccalaureate examination, under general conditions. The Council established that although the education managers had been aware of the applicant's needs, they did not ensure the reasonable accommodations he required for sitting the first baccalaureate examinations in a setting which would ensure his physical and emotional comfort. Although in a different situation, the applicant had been invited to sit the baccalaureate examinations under general conditions, in a room on the 2nd floor which was inaccessible to persons with motor disabilities. The Council underlined that in that case, the education managers should have intervened with reasonable accommodations, such as having him sit the examination at home, as was done for the subsequent examinations.

The Council also found that disabled students schooled at home study a lower number of subjects than the ones provided in the general curriculum. The Council admitted that in some cases, the subjects taught at home should be adjusted to the student's needs; the content should be adjusted to suit the student's level of understanding and/or the class duration should be adjusted, but never the number of subjects. The Council noted that homeschooling was itself a reasonable accommodation for students whose disability made it impossible for them to go to the education establishment. Therefore, the Council underlined that homeschooling should be organized in such a way as to guarantee non-discriminatory access to education of the same quality for all students. The Council noted that disability was not a diagnosis but an OBSTACLE to exercising one's right to education.

The Council also analysed the Guide for Organizing and Conducting Baccalaureate Examinations for the School Year 2013-2014 adopted by Order of the Ministry of Education no. 64 of 7 February 2014. The Council found that the regulations concerning the situation of disabled persons contained unfortunate wording which was also subject to interpretation: "in exceptional

circumstances", "incapacitated candidates", "place of incapacitation", which only caused discomfort and highlighted the medical side of the disability. By associating these findings with the applicant's case, the Council used his example and showed that although neither "incapacitated" or "in an exceptional situation" he still required a reasonable accommodation.

The Council noted that the Guide's language should be in line with the concept of social inclusion for disabled persons. The wording should not stigmatise disabled persons and looking at them from the perspective of the medical model should also be avoided. Disability is not "an exceptional circumstance" but an individual feature of the baccalaureate candidate, which remains an obstacle if the environment is not adapted to it. The provisions of the Guide must unambiguously explain to all stakeholders which actions must be carried out for the implementation of reasonable accommodations when disabled persons sit baccalaureate examinations.

### Case no. 145/2014, decision of 07/11/2014

The applicant claimed that he had been discriminated against on grounds of language in access to education by being denied a test in Russian when sitting the entrance examination for the master's degree, with a major in Civil Law taught in Romanian.

The Council found that, according to Art. 1 and Art. 2 of Law no. 121/2012 on ensuring equality, the facts put forward were not discrimination on grounds of language in access to education.

The Council established that the applicant requested on the day of the examination to sit the test in Russian. The examination board was unable to meet the applicant's request as the tests had been drafted in Romanian alone and had been approved and sealed approximately two months before the day of the examination. The Council determined that the applicant had been presented with the proposal of having the test items translated, which the applicant strongly refused. The Council equally established that the applicant was allowed to sit the examination in Russian. The Council found that all Russian-speaking candidates had been given the opportunity to sit the entrance examination for the master's degree in Russian. Under the circumstances, the Council did not establish the existence of a differential treatment towards the Russian-speaking candidates on sitting those examinations.

### Case no. 152/2014, decision of 04/12/2014

The applicant claimed that he had been discriminated against and harassed in the educational process on grounds of his opinions.

The Council found that, according to Art. 1 and Art. 2 of Law no. 121/2012 on ensuring equality, the facts put forward were not discrimination and harassment on grounds of opinions in the educational process.

The Council found the existence of a hostile and litigious relation between the applicant and the respondent due to their divergent views regarding the student's duties and the form tutor's remit. The Council determined that their hostile relationship stemmed from the teacher's persistence to make the student more responsible as he had unexcused and unjustified school absences and refused to turn in required papers. The Council noted that, although the relationship was tense, the teacher's insistence on making the student more responsible did not reach the level of seriousness which would have qualified it as harassment.

### Case no. 164/2014, decision of 15/10/2014

The applicant claimed that her son had been discriminated against and harassed by his form tutor on account of the parents and the child's atheistic beliefs.

The Council found that, according to Art. 1, Art. 2 and Art. 9(b) of Law no. 121/2012 on ensuring equality, the facts under examination were discrimination and harassment on grounds of atheistic beliefs by a teacher against a minor.

The Council determined that the respondent's conduct translated into imposing the Christian Orthodox religion, saying prayers and making the sign of the cross, discussing only the Christian Orthodox faith during spiritual and ethical education classes, condoning the child being teased by his classmates. The Council took note of the fact that the children started to allege that the minor did not do well in school because of his lack of faith in God. The Council noted that all those actions exceeded the boundaries of teachers' generally accepted conduct in educational settings, and created an intimidating and hostile environment for the child which violated his dignity and made him feel isolated and stigmatised. The Council determined that the applicant's son had been neglected during the ceremony at the end of the school year when an outing to a monastery was organised and his name had not been put down the list since he was an atheist. It equally found that the respondent gave certificates to all her students with the exception of the applicant's son.

### Case no. 187/2014, decision of 05/02/2015

The applicant claimed that her underage daughter who attended a pre-school child development centre, had been harassed on grounds of race by another underage girl who humiliated her and called her "ugly gipsy" and said that "gipsies are stupid, filthy, they steal and eat children".

The Council found that, according to Art. 1, 2 of Law no. 121/2012 on ensuring equality, the facts under examination were discrimination on grounds of race.

The Council observed that the institution denied responsibility for the situation reported by the applicant and underlined that it was the teachers' duty to quickly intervene and give special attention to expressions used by children originating from stereotypes and preconceived ideas taken from adults. Under the circumstances, the Council found that the expressions concerned constituted unwanted behaviour which created an intimidating, degrading, humiliating environment for the child whose race became grounds for violation of dignity.

# Access to goods and services available to the public

### Case no. 014/2013, decision of 31/01/2014

The applicant claimed that he had been discriminated against on grounds of disability in exercising the right to social protection.

The Council found that, according to Art.1, Art. 2 and Art. 8(c) of Law no. 121/2012 on ensuring equality, the facts put forward were not discrimination on grounds of disability.

The Council established that the applicant had a precarious financial situation and began to rely on the disability pension and other social security benefits to which he was eligible; that money was not enough to cover public utility services and a decent lifestyle. The Council determined that other socially vulnerable persons too (with and without disabilities), whose income sources were pensions, social support and indemnities, were in the same situation. The Council underlined that poverty eradication also involved developing government policies offering protection and social assistance to any person whose circumstances had worsened; the assistance offered by the government did not help improve the persons' circumstances. The Council noted that determining the level of pensions, social support and indemnities fell outside its jurisdiction, and underlined that it could rule only on whether their granting was discriminatory or not. In the examined situation, the Council could not establish that the applicant had received a differential treatment on grounds of disability in terms of granting social benefits.

### Case no. 17/2013, decision of 20/12/2013

The applicant, an epileptic, claimed that she had been harassed by neighbours on grounds of disability and alleged that the civil servants from the sector administration (Pretura) had refused to provide reasonable accommodations so that her dwelling suited her condition.

The Council found that, according to Art.1 and Art. 2 of Law no. 121/2012 on ensuring equality, the facts put forward constituted harassment on grounds of disability and admitted only the allegations regarding the denial of the reasonable accommodation.

The Council could not establish if the neighbours had indeed a hostile conduct due to her disability, on the contrary, it found that the neighbours had helped her on many occasions. After examining the living conditions on site, the Council determined that to protect her physical integrity during epileptic seizures, she would need her student residence room to be adapted in such a way as to have its own bathroom separate from the communal one. These amenities were qualified as essential for the applicant, given her condition. From the letter of the Housing and Furnishing General Division, the Council determined that such an adaptation did not a require a disproportionate effort.

### Case no. 20/2013, decision of 31/12/2013

The applicants, a mother and her daughter, claimed that they had been discriminated against on grounds of nationality (both of them being citizens of the Russian Federation) in access to local services (heating services).

The Council found that, according to Art.1 and Art. 2 of Law no. 121/2012 on ensuring equality, the facts put forward did not constitute discrimination on grounds of disability, nationality and social origin.

The Council admitted that the heating services had been suspended because of the applicants'

accrued debts; it was not the nationality or the social origin, as was alleged at the hearing, that caused the situation reported by the applicants.

### Case no. 21/2013, decision of 27/12/2013

The applicant, who is HIV positive, claimed that she had been discriminated against by the ISMP [Public Healthcare Institution] Orhei District Hospital because she was denied hospitalisation when she came in with early labour pain.

The Council found that, according to Art.1 and Art. 2 of Law no. 121/2012 on ensuring equality, the facts put forward did not constitute discrimination on grounds of being HIV positive in access to healthcare from IMSP Orhei District Hospital.

The Council established that the applicant was not hospitalized at IMSP Orhei District Hospital because labour had not started. The Council determined that, in practice, all maternities in the Republic refused to hospitalise pregnant women if they were not in labour. The Council established that the applicant had been treated just like any other pregnant woman in a comparable situation.

The Council also determined that the applicant had been told she should deliver the child at the Mother and Child Scientific Research Institute in the municipality of Chisinau, because she was an HIV positive pregnant woman. The Council found that, according to Order of the Minister of Health no. 100 of 01/04/2004 on preventing mother-to-child HIV transmission and organizing specific prevention, HIV positive pregnant women, irrespective of their residence, must request healthcare services only in the municipality of Chisinau and Balti. The Council found that, according to Art. 8(b) and Art. 12(1)(a) of Law no. 121/2012 on ensuring equality, that provision was discriminatory.

### Case no. 28/2013, decision of 21/01/2014

The applicant claimed that she had been discriminated against on grounds of gender and her alleged homosexuality by the Municipal Children's Rights Division because it had prepared for her an unbalanced child arrangement compared to the child's father, who had custody of the child.

The Council found that, according with Art.1, Art. 2, Art. 8(a) of Law no. 121/2012 on ensuring equality, the facts under examination were considered incitement to discrimination on grounds of her alleged homosexuality, by her ex-husband, and the decision of the Municipal Children's Rights Division on the child arrangement was discriminatory on grounds of sexual orientation and gender.

The Council established that her ex-husband contacted the child protection authority and said that the applicant was in a same-sex long-term relationship and requested that the number of contacts be lowered. The Council determined that the child protection authority, when developing the child arrangement, relied on the information provided by her ex-husband. The Council noted that sexual orientation, irrespective of its nature, did not determine or impact one's parenting. It equally pointed out that the applicant's private life, unless it impacted the child's care, could not serve as a ground for removing her from her own child's life. The Council did not receive any evidence supporting that it was in the child's best interest to see his mother just once a week. Under these circumstances, the Council established that the applicant had been treated differently (less favourably) in exercising her parental rights compared to the child's father and this treatment had been brought about by her ex-husband's incitement to discrimination.

The Council underlined, as a matter of principle, that no matter which parent had a separate residence, the mother or the father, he/she must be provided equal opportunities to maintain direct relations with the child.

### Case no. 30/2013, decision of 13/02/2014

The applicants, mothers who nursed their disabled children at home, claimed that they had been discriminated against in exercising the right to social security. They equally alleged that they had been discriminated against on grounds of age and gender when attempting to become a personal nurse for disabled children.

The Council found that, in accordance with Art.1, Art. 2 and Art. 8(c) of Law no. 121/2012 on ensuring equality, the facts under examination were discrimination by association on grounds of disability in exercising the right to social security, direct discrimination on grounds of age and gender when attempting to become a personal nurse for disabled children.

The Council determined that the applicants had decided to nurse their severely disabled children at home and not institutionalise them. Constrained by these parental responsibilities, they were not able to seek employment, which would have allowed them to have the required period of contribution for an old-age pension. The Council established that the Law on public social security pensions, up to 01/01/1999, included the time spent with nursing severely disabled persons in the period of contribution of the family member providing the care. After the pension system reform in 1999, that time was no longer included in the period of contribution. The Council equally noted that in order to receive the minimum pension, a period of contribution of at least 15 years was required, and otherwise, once a person reached the retirement age, they would receive a social allowance. The competent ministry claimed that the reform was based on the principle of equality and contribution. The Council mentioned that equality was ensured not by applying an equal treatment in all cases but by treating persons equally in equal situations and treating persons differently in different situations. The Council noted that the applicant's situation was not similar to that of parents whose severely disabled children had been institutionalised. Their situation was different in that they decided to nurse their children at home and therefore, could not have a period of contribution of at least 15 years. The competent ministry equally noted that it began to address those cases in 2013 with the establishment of the Personal Nursing social service; it enabled parents to obtain the required period of contribution by concluding an individual employment contract with the Social Security General Division. The Council took note of those actions but concluded that the opportunity created did not regulate the situation of parents who had nursed their children from 1989 until 2013. The Council established that in those cases, the government should implement affirmative measures to balance out the situation of persons who nursed their severely disabled children at home, in order for them to receive a pension on equal terms.

In that case, it was the type of discrimination established that was significant. The Council determined that the less favourable treatment which the applicants received was triggered by the fact that they had been associated with their children's disability.

The Council equally examined the employment terms for a personal nurse. The Council found that reaching the standard retirement age constituted a disqualifying criterion for employment as personal nurse. The competent ministry mentioned that the standard retirement age [criterion] had been included to make sure that the personal nurse's health was good enough to perform their duties. The Council mentioned that the person's health is not connected to the retirement

age and underlined that employing the candidates as personal nurses should be based only on the essential professional requirements arising from the nature of the job and the context in which it is performed. The Council equally established that given the difference in the retirement age between men and women, women have limited opportunities to become personal nurses, since they retire 5 years earlier than men.

### Case no. 35/2013, decision of 22/01/2014

Members of the non-governmental organisation GENDERDOC-M Information Centre notified the Council and requested it to find that they had been discriminated against on grounds of sexual orientation in access to web design services.

The Council found that, according to Art.1, Art. 2 and Art. 4(b)(g) and Art. 8(h) of Law no. 121/2012 on ensuring equality, the reported facts were continuing, aggravated discrimination on grounds of religion, sexual orientation and nationality in access to web design services.

By analysing the contents of the respondent's website, the Council found that it excluded potential clients based on sexual orientation, religion and nationality. This finding relied on the advertisement of the service provider stating that it did not work with religious and gay organizations. The respondent equally declared that it would not provide its services to persons belonging to a national minority group either. The Council noted that excluding potential clients based on the argument that the provider was not aware of the specificities of their activity was unjustified and underlined that the respondent could have listed his company's fields of activity.

### Case no. 47/2014, decision of 11/04/2014

The applicant, the guardian of a mentally disabled person, claimed that the treatment his son had received in the department of a hospital did not meet his mental health needs and claimed that his son had been discriminated against in access to healthcare.

The Council found that, according to Art.1, Art. 2 and Art. 8(b) of Law no. 121/2012 on ensuring equality, the facts under examination constituted a failure to reasonably accommodate disabled patients (with mental disabilities) in access to mental healthcare.

The Council established that persons hospitalised for psychiatric treatment were required to stay in the department for at least 21 days up to 30 days (the maximum number of days), even if their condition improved in the meantime. The Council found that mentally disabled patients' lifestyle and treatment were not adjusted, in order for them to be able to take a walk outside and receive the necessary assistance in maintaining good hygiene. The Council underlined that such changes and adjustments were necessary and appropriate in order to remove the obstacles disabled persons encountered when exercising their right to high-quality mental healthcare and human dignity. The Council noted that those adjustments did not require the service provider to make disproportionate efforts as they did not require unjustified financial or logistics expenses, only more diligence.

### Case no. 48/2014, decision of 24/02/2014

The case concerned the production and broadcast of an advertising spot depicting women in a demeaning way.

The Council found that, according to Art.1, Art. 2 and Art. 8(h) of Law no. 121/2012 on ensuring equality, the facts under examination were incitement to discrimination on grounds of gender.

The Council found that including the wording "easy even for blondes" in an advertising spot for driving courses depicted women in a demeaning way. The Council noted that the broadcast of this advertising spot in the mass media contributed to spreading negative stereotypes of women in society, thus amplifying the discrimination phenomenon.

### Case no. 54/2014, decision of 01/05/2014

The applicant claimed that he had been discriminated against because he was a man (a father) when the child authority recommended that his daughter should live with her mother.

The Council found that, according to Art.1, Art. 2 of Law no. 121/2012 on ensuring equality, the facts under examination were discrimination on grounds of gender.

The Council established that the child authority, upon issuing its opinion, relied on the stereotypical distribution of roles between men and women. In this regard, the child authority claimed that mothers were role models for their daughters and fathers were role models for their sons and based on that, they recommended that the daughter should live with her mother, without considering other objective criteria such as the fact that the father had a dwelling and the resources to raise the child, that he was in an environment where there were more opportunities for the child.

### Case no. 57/2014, decision of 15/05/2014

The applicant claimed he had been discriminated by the Customs Service on grounds of wealth and location because he had been required to pay import duty for a camera purchased on the Internet.

The Council found that, according to Art.1 and Art. 2 of the Law on ensuring equality, the facts put forward were not discrimination.

The Council determined that if someone were to cross the state border with certain categories of goods no import duty would apply; on the other hand, if the goods were to be mailed into the country as unaccompanied postal shipments or parcels import duty would apply. Although the Council established that there was a differential treatment, it found that the applicant was not in a situation comparable to that of those who carry the goods across the border. The Council accepted the argument of the Customs Service that an individual directly bringing goods into a country and mailing goods into the country as postal shipment were different legal situations and the law provided different systems for them as they were regulated separately. Therefore, if a person were to bring certain goods into the country it would be assumed that they were of personal use as long as there would be no evidence to the contrary, while for postal shipments this assumption could not be maintained. The Council underlined that discrimination was present when the treatment was different in comparable situations or when the treatment was similar in distinct situations. Deeming that the situations had been different - bringing goods into the country in person and mailing them as postal shipments - the Council noted that the treatment applied should be different too.

The Council examined the treatment to which the applicant was subject and compared it to that applied to persons who sent or shipped parcels by minivans. In this case, the Council noted that

the situations were similar and comparable. The Council took note of the statements made by a parcel shipping company working on the Republic of Moldova-Italy route, that for unaccompanied parcels, brought into the country by road, the shipped goods were cleared without import duty. By examining the evidence submitted in support of this statement, the Customs Service noted that this was a breach of the legal standards. Under the circumstances, the Council underlined that it could not find grounds for discrimination since the treatment in a comparable situation had been different but had been applied in violation of the legal standards. Otherwise, it would mean that Council endorsed the irregularities accepted in certain cases.

The Council also issued a decision on the applicability of the grounds put forward. The Council noted that, while the list of grounds set out in the Law on ensuring equality is illustrative and can be updated by putting forward any similar ground, these grounds must be personal, objective and relevant to the situation. The Council considered that the grounds put forward in the case under examination, "current location" and "wealth", were irrelevant.

### Case no. 60/2014, decision of 17/04/2014

A group of lawyers claimed that lawyers were discriminated against in determining the costs of health insurance policies.

The Council found that, according to Art. 1, Art. 2 and Art. 8(b) of Law no. 121/2012 on ensuring equality, the facts under examination were to be considered discrimination on grounds of professional status and wealth in determining the cost of mandatory health insurance policies for lawyers and in exercising the right to free health insurance on equal terms with other persons in similar situations.

The Council determined that lawyers, notaries and bailiffs fell under the category that was supposed to pay fixed-amount premiums for their mandatory health insurance. Therefore, it established that until 2009 they had had a 50% discount on their mandatory insurance policy cost. As of 2009 lawyers, notaries and bailiffs had been deprived of this facility without any explanation. Therefore, the Council found that an equal treatment was applied as regards the cost of the medical insurance policy.

The Council noted that lawyers were not in a situation similar to that of notaries and bailiffs because the nature of their profession and the income obtained were different (the last two have territorial competence and minimum tariffs/fees approved by law). In this regard, the Council found that notaries are public law institutions authorized to prepare notarial acts on behalf of the Republic of Moldova and notarial acts are acts of public authority. Bailiffs are individuals vested by the government with the power to carry out activities of public interest and when exercising their job duties, bailiffs represent the state power. On the other hand, the lawyer's profession is exercised by persons qualified and authorized to plead and act on behalf of their clients and is liberal, independent and functions autonomously.

The Council established that women lawyers contributed to the healthcare insurance fund by paying the highest priced policy for several years of work, before and after the birth of their children and that the lawyers' licenses would be suspended when the insured risk occurred (maternity, birth and postpartum period), which was unjustified.

The Council established that while caring for their child, up to the age of 3, both unemployed and employed persons received a free insurance policy from the government even if they did not contribute to the social security fund during that period. The Council found that lawyers, even

though they had previously contributed to the mandatory health insurance fund, would not have a free insurance policy for that period.

The Council reminded that the principle of equality required equal treatment for persons in similar situations and different treatment for persons in different situations. The Council underlined that the competent ministry was not able to produce an objective and reasonable justification of the discriminatory treatment applied.

### Case no. 66/2014, decision of 19/ 05/2014

The applicant claimed that they had been discriminated against in access to various social benefits, such as: financial support for addressing the consequences of floods and rain; financial support for the cold period of the year; full allowance for children under care.

The Council found that, according to Art.1 and Art. 2 of the Law on ensuring equality, the facts put forward did not constitute discrimination. By analysing the materials produced and by studying the information received, the Council could not determine that a different treatment had been applied to the applicant compared to other persons' treatment in a similar situation. The Council could not find the existence of a prohibited ground for discrimination.

### Case no. 78/2014, decision of 12/06/2014

The applicants claimed that they had been discriminated against in access to leisure services on grounds of physical appearance and social class, by not being granted access to a night club.

The Council found that, according to Art.1, Art. 2 and Art. 8(f) of Law no. 121/2012 on ensuring equality, the facts put forward were not discrimination.

The Council established that the applicants were temporarily denied access because the club was overcrowded when they showed up. Subsequently, the applicants behaved inappropriately, which caused them to be denied access to the club. The Council found that there was causality between the grounds put forward, "physical appearance" and "social class", and the treatment reported.

### Case no. 85/2014, decision of 30/06/2014

The applicant claimed she had been discriminated against in access to goods and services available to the public, i.e., the right of ownership over a dwelling distributed by the Chisinau Council.

The Council found that, according to Art.1 and Art. 2 of Law no. 121/2012 on ensuring equality, the facts put forward were not discrimination.

After hearing the statements of the parties and examining the evidence to file, the Council found that the Chisinau City Hall had concluded settlements with or offered dwellings to 24 creditors. The Council noted that, while it did not deny that this could mean the applicant had been treated differently, a prohibited ground, based on which somebody was treated differently, was a mandatory element for finding that a situation was discriminatory. The Council was not clearly indicated which of the prohibited grounds mentioned in Art. 1(1) of the Law on ensuring equality, would apply to her situation. The Council noted that, although the applicant claimed that the prohibited ground was her "special status", the ambiguity of this term made the Council unable to recognise it as a prohibited ground, on a par with the other grounds.

### Case no. 87/2014, decision of 04/07/2014

This case concerned discrimination on grounds of gender and disability in relation to the right to respect for private and family life, the right to bodily integrity and access to medical information on the reproductive health of the residents of the mental health institution.

The Council established that, according to Art. 1, Art. 2 and Art. 8(b) of Law no. 121/2012 on ensuring equality, the facts under examination were discrimination on grounds of gender and disability in exercising the right to respect for private and family life, the right to bodily integrity and in access to medical information on reproductive health.

The Council established that the termination of pregnancies without the women's consent, residents of the mental health institution, had been a daily practice. The Council found that there was no clear procedure for preventing pregnancies and the use of contraceptives, the use of intrauterine devices and their expiry date was not documented; there was no register to record women's requests for termination of pregnancies. The Council found that in those circumstances, the medical staff applied the Order of the Ministry of Health no. 647 of 21/09/2010 on voluntary pregnancy termination and explained that they had performed the termination of pregnancies to the hospital's residents because of their moderate and severe conditions which would have prevented them from taking care of a child and being responsible parents. The Council took note of the statement of a manager in a mental health institution that they chose to have a healthy generation [of children]. The Council was notified that a relative or the management of the mental health institution would decide to terminate the pregnancy on behalf of the woman and the latter would be excluded from the decision-making process.

The Council concluded that some doctors were prejudiced against disabled women whom they considered as unfit to be parents only because they had a disability and they could pass it on to their children. They were sceptical about and distrustful of disabled women and when they became pregnant, they insisted on terminating the pregnancy. The approach of denying disabled women their right to decide on their own health was predominant.

The Council noted that treating the residents of the institution only from the perspective of their disability, led to stereotyping disabled women and hampered their social inclusion process. The Council underlined that any woman, irrespective of her disability and personality, had a right to dignity and to healthcare services, including to sexual and reproductive health. The Council mentioned that disabled women's medical care should also include their special needs, including OBGYN treatment, family planning and reproductive health counselling.

### Case no. 97/2014, decision of 28/07/2014

The applicant, a single mother with a 2-year old child, claimed that she had been discriminated against by the local public authority upon the distribution of the land plots for construction of dwellings, dedicated to newly formed families.

The Council found that, according to Art.1, Art. 2 and Art. 8(h) of Law no. 121/2012 on ensuring equality, the facts under examination were discrimination on grounds of civil status in access to goods for the public.

The Council established that the local public authority had denied the applicant the allocation of a land plot for building individual dwellings because the single mother (under 30 and with a 2-year child) was not subject to the concept of "newly formed family". The Council found that Art.11

of the Land Code stipulated the right to allocate land plots only to newly formed families. The Council also examined the Regulation for the Allocation of Individual Construction Plots, approved by the local authority. According to the provisions of this regulation, land plots were allocated to newly formed families (up to 5 years of marriage), in which none of the spouses had previously received a plot for dwellings and had not owned and/or owned a private dwelling. The Council found that those regulations did not set forth restrictions regarding the family members, except for the time elapsed since its creation.

The Council mentioned that, legally speaking, family means the group of persons between whom there are rights and obligations stemming from marriage, kinship (including adoption) and from other relations similar to family relations. Therefore, the concept of family is a legal concept since the law regulates it. The Council underlined that considering the kinship relationship, the applicant, together with the child constituted a family, although it was a single-parent one, and given the mother's and child's age, it was a newly formed family. The Council concluded that the applicant, together with her child, who constituted a single-parent family, received a differential and unjustified treatment compared to the one received by two-parent families, although in both cases the family had been newly formed.

### Case no. 111/2014, decision of 09/08/2014

The applicant claimed that by distributing films and animations in Russian, Patria cinema network had applied a differential and less favourable treatment to Romanian-speaking children than that applied to Russian-speaking children.

The Council found that, according to Art. 1, Art. 2 and Art. 8(f), the facts under examination were discrimination on grounds of language and ethnicity in access to cultural and entertainment services.

The Council established that the films and animations had been distributed in Russian because the distribution of film products had been made based on contracts concluded with companies in Russia and Ukraine, since only those companies had an exclusive right of distribution in the Republic of Moldova. The Council found that there were no objective impediments to a negotiation with the producer, through the distributor, for obtaining a copy of the film products in Romanian. The Council took note that this had been done for two years, except for the fact that the number of film products obtained in Romanian was low. The Council noted that Colaj SRL and Colaj - Cinema SRL had to take all necessary measures to provide consumers in the Republic of Moldova up to 50% film products, including cartoons, in Romanian to prevent and stop discrimination in the future.

Being in disagreement with the majority's decision, Ian Feldman, Member of the Council, presented Dissenting Opinion on the case invoking the following arguments.

Right to access to goods and services available to the public does not include obligation of the provider to offer goods and services which he does not market or does not have, de facto, in stock, exception being the cases when legislation directly requires him to sell a certain range of products and/or services, e.g. sale of pharmaceutical products. In the domain of film distribution such requirement does not exist. Member of the Council believes that obligation to ensure cultural rights rests with the State which can and should resort to incentives-and-rewards measures, e.g. in the form of subsidies or tax exemptions for legal entities involved in film distribution in the Republic of Moldova. These measures would compensate possible losses caused by procurement

of cartoons from another distribution zone and modest demand for cartoons dubbed in Romanian language and at the same time would not affect economic activity (profitability) of the economic agent. In the opinion of the Member of the Council, such peremptory approach, for example, introduction of language quotas, could force provider to bear losses which would lead to gradual bankruptcy of the film distribution industry.

### Case no. 117/2014, decision of 09/08/2014

The applicant claimed that owners of lands with a domicile established outside the village had received a differential and less favourable treatment from the local public authority compared to that applied to owners of land with the domicile established in the village, when property tax rates had been determined.

The Council found that, according to Art.1 and Art. 2 of Law no 121/2012 on ensuring equality, the facts put forward were not discrimination.

The Council found that in Art. 280 (1) of the Tax Code, the lawmaker set forth 3 categories of assets (individual apartments/houses, the plots of fruit-growing collective associations with or without buildings, garages) for which tax rates of at least 0.05% to up to 0.3% could be applied; the local public authorities could establish, at their discretion, the actual rate for each type of immovable assets. The Council established that by a decision of the local public authority, for plots belonging to fruit-growing collective associations with or without buildings, a tax rate of 0.15% of the immovable asset tax base had been established. The Council found that the 0.15% tax rate had been established based on the type of immovable asset and that it applied to owners of dwellings within the fruit-growing collective associations, irrespective of whether the owners were domiciled in the village or not.

### Case no. 140/2014, decision of 27/10/2014

The applicant claimed that he had been discriminated against when he contacted the Alexia Fitness & Wellness Club (OLIMPUS - 85 SRL) with the request to use their gym and be provided with a personal coach. The applicant was rejected on account of Alexia sports club not being a rehabilitation facility and therefore lacked the amenities needed by a disabled person to use the gym.

The Council found that, according to Art. 1, Art. 2 and Art. 8(f) of Law no. 121/2012 on ensuring equality, the facts under examination were discrimination on grounds of disability in access to leisure services and denial of reasonable accommodation.

The Council determined that according to the provisions of Art. 3(a) of the Convention on the Rights of Persons with Disabilities, the respect for their dignity and individual autonomy, including the freedom to make one's own choices, was guaranteed. The Council admitted the fact that the applicant was not able to use most of the gym equipment (as the applicant had motor disabilities and moved with the help of a wheelchair) but underlined that that was not sufficient and objective grounds to deny him the use of the pieces of equipment which matched his physical abilities. The Council mentioned that besides rendering the building and the rooms accessible, it was imperative to also adjust the services provided so as to enable their use by disabled persons.

### Case no. 151/2014, decision of 04/12/2014

The case concerned the discrimination against lawyers on grounds of professional status and wealth in equal access to social security benefits.

The Council found that, according to Art. 1, Art. 2 and Art. 8(c) of Law no. 121/2012 on ensuring equality, the facts under examination were discrimination on grounds of professional status in determining the types of social security benefits that lawyers could claim.

The Council noted that the public social security system was organised and functioned on basic principles, including that of equality, which ensured non-discriminatory treatment to all participants in the public system - contributors and beneficiaries. The Council determined that lawyers paid into the public social security budget the same amounts as employees on the national minimum wage and as a result should be able to claim, on equal terms with the latter, all public social security benefits. The Council took note of the fact that under paragraph 1.5 of Appendix 3 to Law no. 329 of 23 December 2013 on the public social security budget for 2014, lawyers could only claim old age pensions (when they had completed the period of contribution) and a death grant. The Council found that lawyers were treated differently and that they did not have the opportunity to claim all types of public social security benefits although the law set out as its objective the non-discrimination against any categories of social benefits beneficiaries. The Council noted that the lack of a regular employment relationship under the law, the lack of an individual employment or service contract and the complexity of determining lawyers' income/fees based on which temporary disability benefits were calculated, did not justify the exclusion of lawyers from claiming the entire social security package.

### Case no. 155/2014, decision of 11/12/2014

The applicant, a wheelchair user with motor disabilities, claimed that the Prison Division and the management of Prison no. 13 had refused to take measures for reasonable accommodation to meet her specific needs. The applicant equally stated that she had been discriminated against on grounds of social status by being denied the payment of the public social security allowance granted to disabled persons throughout her detention.

The Council found that, according to Art. 1, Art. 2 and Art. 8(c) of Law no. 121/2012 on ensuring equality, the facts under examination were the refusal to make reasonable adjustments to her prison cell and discrimination in granting the public social security allowance.

The Council found that the prison cell where the applicant was held was on the second floor of the building and although support rails in the toilet area and along the corridor of the prison cell had been mounted, access to the cell and out into the walking area remained impossible. The Council established that the applicant did not have any personal care support and/or assistance during detention and that she was left to manage on her own or turn to her cellmates, who were not always willing to provide her with the needed support. The Council determined that the measures taken were not sufficient to remove the obstacles that the applicant had to deal with and recommended that the persons in charge addressed them.

The Council determined that the severe disability allowance is granted for personal care, assistance and monitoring with a view to removing or reducing the barriers which the person has to deal with on account of their disability. The Council established that a severely disabled person outside prison can claim public social security allowance and if that person is in custody, the public social security allowance is suspended since they are in the government's care. The Council underlined that severely disabled persons, whether in custody or not, continue to have the

same needs as they arise from the nature of the disability. The argument according to which the person is in the government's care, in so far as the government does not provide the conditions, the care and the support required by the person's needs, is unjustified. And, as it was established, those in charge with the prison system do not provide additional care, assistance and monitoring that severely disabled people in custody need.

### Case no. 156/2014, decision of 17/10/2014

The applicant, a wheelchair user with motor disabilities, claimed that he had been discriminated against as he had not been allowed into a night club.

The Council found that, according to Art. 1, Art. 2 and Art. 8(f) of Law no. 121/2012 on ensuring equality, the facts under examination were discrimination on grounds of disability in access to leisure services and denial of reasonable accommodation.

The Council established that the applicant had been denied access into the night club. The Council determined that the denial was due to the fact that the place was not adapted for people with motor disabilities. The Council noted that the failure to adapt the building and its rooms for use by persons with motor disabilities was not an objective and reasonable ground to deny them access to services or goods for public use. The Council underlined the service provider's obligation to take accessibility measures in order to provide universal access to services rendered without any unjustified limitations.

### Case no. 157/2014, decision of 09/12/2014

The applicant, a person with motor disabilities, claimed that he had been discriminated against as he had been denied boarding a minibus.

The Council found that, according to Art. 1, Art. 2 and Art. 8(e) of Law no. 121/2012 on ensuring equality, the facts under examination were discrimination on grounds of disability in access to transport services.

The Council established that the minibus driver, seeing that the disabled person was walking more slowly towards the vehicle, was unwilling to wait and drove off without allowing the passenger to board. The Council took note of all the arguments brought by the respondent to substantiate his conduct and explained that they were unfounded in light of current realities. The Council underlined that it was a well-known fact that minibuses on that route stopped on request and not necessarily at a bus stop and that they carried standing passengers. The Council explained that the driver had to wait also in the applicant's case to allow him to board, although it was not a bus stop, even though there were no more seats available. The Council found that the applicant was not treated in a similar way to other passengers on account of his disability.

### Case no. 160/2014, decision of 11/12/2014

The case examined the extent to which accessibility to buildings and constructions was provided to disabled persons.

The Council found that, according to Art. 1, Art. 2 and Art. 8 of Law no. 121/2012 on ensuring equality, the facts under examination were discrimination on grounds of disability by denial of reasonable accommodation in buildings and constructions to disabled persons.

The Council established that most constructions were not accessible to people with motor disabilities, and that the constructions reported by authorities as adapted were only equipped with ramps which more often than not do not meet the legal requirements or are unusable. The Council determined that, although a set of mandatory regulations in that field existed, they were vague and piecemeal, in particular with regard to provisions on holding to account the persons/ authorities that fail to comply with building accessibility regulations.

The Council noted that the authorities' efforts to adopt the most comprehensive building regulations would fail to provide results unless they were complied with in practice by all key stakeholders, from design, execution to bringing the building into operation. The Council established that the people in charge with the said field blamed each other for failure to comply with regulation at every stage, and accessibility remained an issue for the society and a challenge for persons with motor disabilities.

The Council underlined the need for a strict monitoring and control mechanism to be put in place (going as far as withdrawing the construction skills certification scheme cards from construction workers) in order to put a stop to faulty approval practices for project documentation and obtaining building permits despite finding that building regulations had not been observed. It equally recommended that checks on all buildings and their documentation be initiated with a view to identifying the project assessors who allowed the buildings to be erected in violation of building regulations so as to examine the possibility to withdraw their construction skills certification scheme cards.

### Case no. 182/2014, decision of 18/12/2014

The case concerned the availability of alternative in-flight meals served to passengers who, based on their philosophical beliefs do not eat meat and to those who based on their religious beliefs do not eat pork.

The Council found that, according to Art. 1 and Art. 2 of Law no. 121/2012 on ensuring equality, the facts under examination were discrimination on grounds of religion and beliefs in access to goods and services available to the public.

The Council took act of the situation which occurred during an Air Moldova flight (Chisinau - Istanbul) where all passengers had been served a sandwich for lunch, except for vegetarian and Muslim passengers. The Council determined that the company had failed to inform them in advance that they did not have alternative meals. The Council stated that since the meals were included in the price of the ticket and since everyone had paid for it in a similar manner, then treatment should be comparable, meaning that they should receive the same service of the same quality. The Council underlined that it was incumbent on the respondent to provide alternative in-flight meals and avoid violating the dignity of passengers with certain beliefs which defined them.

### Case no. 190/2014, decision of 13/02/2015

The applicant claimed that the management of a restaurant refused to lease him the hall for a wedding because they "Never organise weddings for ROMANI (Roma people)".

The Council found that, according to Art. 1, 2 and 8(g)(h) of Law no. 121/2012 on ensuring equality, the facts under examination were discrimination on grounds of ethnic origin in access to goods and services available to the public.

The audio and video recordings produced by the applicant which had not been contested by the respondent who failed to fulfil his obligation of proof duties, caused the Council to find a differential treatment which took the form of uttering several times a message which clearly made reference to Roma people as an ethnic group.

### Case no. 203/2014, decision of 13/02/2015

The applicant, a wife supported by her husband, complained against being denied the payment of maternity allowance by her husband's employer (prison).

The Council found that, according to Art. 1, 2 and Art. 8(h) of Law no. 121/2012 on ensuring equality, the facts under examination were discrimination on grounds of gender in payment of maternity allowance.

The Council underlined that pregnancy and birth were biological features of the female body and as a result, the prohibited ground for discrimination applicable in that situation was gender. The Council also reiterated that the existence of a comparator did not need to be proven as a man could never claim payment of maternity allowance. The Council did not determine that the lack of provisions in Law no. 1036 of 17 September 1996 on the prison system which would allow for the payments to be made was an objective and reasonable justification for the differential treatment.

### Case no. 206/2014, decision of 17/03/2015

The applicant complained that he had been subject to discriminatory treatment in the exercise of his right to access to justice on grounds of language, by the judges issuing the judgments for restitution and rejecting the summons on the grounds that they were written in Russian.

The Council found that, according to Art. 1, 2 and 8 of Law no. 121/2012 on ensuring equality, the facts under examination were discrimination on grounds of language in access to justice.

The Council found that the rejection of the summons on the grounds that it was written in Russian constituted a less favourable treatment of the person based on a prohibited ground for discrimination - language. The Council reiterated that such treatment was discriminatory towards the applicant, but also possibly towards any other person who used a language of interethnic communication to exercise their right to access to justice and effective remedy. The Council stated that the provisions of Art. 24(2) of the Civil Procedure Code on the right to address the court through an interpreter, to get acquainted with legal documents and file case documents were interpreted and applied narrowly by the respondents, as the right to address the court included both oral and written communication, and court practices were not consistent.

### Case no. 208/2014, decision of 24/03/2015

The applicant claimed that the phrase "at the Olympic events" in the provisions of Art. 34 of Law no. 330 of 25/03/1999 on physical education and sports was discriminatory and excluded the athletes who did not participate in Olympic events from payment of monthly annuities on social and professional grounds.

The Council found that, according to Art. 1, 2 of Law no. 121/2012 on ensuring equality, the facts put forward were not discrimination.

The Council established that former athletes who participated in Olympic events at various

championships and met the criteria set out by the law, were entitled to monthly annuities. The Council also found that the situation of athletes taking part in non-Olympic events and those taking part in Olympic events was not similar, as the latter went through a different procedure of selection and recognition of demonstrated skills. The Council equally held the legal provisions to be an incentive for athletes to engage in a high-performance sport and participate in the Olympic events recognised by the International Olympic Committee. The Council was unable to accept the "social and professional" grounds as prohibited ground for discrimination, and underlined the vague nature of the term.

### Case no. 250/2015, decision of 07/07/2015

The applicant, resident of the Brinzeni Mental Health Institution, claimed that the institution management's failure to provide transportation to the permanent home after completion of the intensive tuberculosis treatment phase as an inpatient and the extension by 63 days of his stay in the Clinical Psychiatry Hospital of the town of Codru was discriminatory.

The Council found that, according to Art. 1, 2 and 8(a)(c) of Law no. 121/2012 on ensuring equality, the facts under examination were discrimination on grounds of health by having him stay with contagious TB patients and denial of reasonable accommodation by lack of an individualised approach in the exercise of the right to health.

The Council considered that the failure to take necessary measures to ensure the residents' return to their permanent homes on account of preventing the spread of tuberculosis among the other institution residents constituted a legitimate purpose, but noted that the chosen solution could not be seen as proportionate to the purpose pursued. The Council underlined that the stay of applicants who were no longer contagious in a hospital with a permanent flow of persons with active TB, jeopardised their health and reduced the efficacy of the previously administered treatment.

The Council equally observed a lack of an individualised approach in the exercise of the right to health of the Brinzeni Mental Health Institution residents. The Council underlined that it fell on the Brinzeni Mental Health Institution to review each case individually and, at the first request of the hospital staff, take over the residents who had completed the intensive treatment phase according to the clinical guidelines. The Council underlined that an individualised approach in the reported case was absolutely necessary to allow residents the exercise of their right to health and did not entail a disproportionate or unjustified burden.

### Case no. 259/2015, decision of 05/08/2015

The applicant, a wheelchair user, claimed that she had been discriminated against on grounds of disability by the sector administration (Pretura) representative of the Ciocana Sector of the City of Chisinau when she requested facilitation with the instalment of an access ramp paid with her own money to the apartment building where she lived.

The Council found that, according to Art. 1, 2 and 8(a) of Law no. 121/2012 on ensuring equality, the facts under examination were discrimination on grounds of disability by denial of reasonable accommodation in the apartment building of residence.

The Council underlined that reasonable accommodation expressly involved the elimination of barriers which did not result in disproportionate or unjustified burden in order to provide a

person with the exercise of her rights on equal terms with others. The Council acknowledged an act of negligence on the part of the Ciocana sector administration (Pretura) in fulfilling the duties incumbent on it. Giving a vague answer and passing the responsibility between authorities constituted a silent denial of reasonable accommodation, given that the applicant was set to incur all the costs related to the works concerned.

### Case no. 263/2015, decision of 11/08/2015

The applicant complained against the difference in the nominal annuity amounts for holders of the Red Star Order state award of the former USSR (Lei 50) and holders of the Stefan cel Mare Order (Lei 500), although Decision no. 533-XII of 13 July 1995 of the Parliament of the Republic of Moldova on the rights of Moldovan nationals awarded state awards by the former Soviet Union equated the state awards.

The Council found that, according to Art. 1, 2 and 8 (a)(c) of Law no. 121/2012 on ensuring equality, the facts under examination were discrimination on grounds of national origin in determining nominal government annuities for special services to the state.

The Council established the existence of the differential treatment the applicant reported. When justifying the difference in treatment, the Ministry of Defence used an advisory opinion by the Legal Committee on appointments and immunities (no. 432 of 24 December 2012), which explained that the state awards of the former USSR were equated with state awards of the Republic of Moldova as to their significance, and not also as to the amount of nominal annuities. The Council could not admit the justification as legitimate and reasonable. The Council pointed out that it could not be regarded as binding since, under Art. 44(2) of Law no. 780 on adopting legal acts of 27/12/2001, legal acts, other than those set out in paragraph 1, were interpreted by the Parliament via legal acts of equal or higher force of law, whereas advisory opinions have the status of recommendation which under Art. 27(3) of Law no. 797 of 02/04/1996 adopting the Parliament's Rules of Procedure could not be used as evidence in court.

The Council accepted the provisions of Art. 1 of the Parliament's Decision no. 533-XII of 13/07/1995 on the rights of Moldovan nationals awarded state awards by the former USSR, according to which Moldovan nationals awarded state awards enjoyed the attached rights provided for Moldovan nationals awarded state awards by the Republic of Moldova. Therefore, the Council found that the military personnel awarded the Red Star Order were in a comparable situation with the military personnel awarded the Stefan cel Mare Order, since the awards had been equated as to their significance. As far as the prohibited ground for discrimination was concerned, the Council established that the differential treatment was based on the applicant's national origin, as on the day of the Red Star Order award he was a USSR national of which the MSSR was a member. The Council did not accept the justification brought by the respondent, and underlined that the awards under comparison had been equated as to their merit and significance.

### Case no. 265/2015, decision of 19/08/2015

The applicant, a person with motor disabilities, claimed that the lack of accessibility to the bailiff's office created barriers in the exercise of his right to get acquainted with the case file documents relating to the enforcement procedure.

The Council found that, according to Art. 1, 2 and Art. 8(a)(h) of Law no. 121/2012 on ensuring

equality, the facts under examination were discrimination on grounds of disability by lack of reasonable accommodation in the building.

After conducting the visit to document the facts which were the subject of the complaint, the Council established that the evidence presented by the respondent did not reflect reality. The Council drew attention that misleading with the intent to influence its decisions fell under the section on offences set out in Art. 712 of the Offences Code.

The Council reiterated that in the case of services available to the public, equal terms should be provided to all users, as to both settings, and information.

### Case no. 272/2015, decision of 04/09/2015

That case concerned the lack of accessibility for persons with motor disabilities to a public food store.

The Council found that, according to Art. 1, 2 and 8 of Law no. 121/2012 on ensuring equality, the facts under examination were discrimination on grounds of disability by denial of reasonable accommodation in the building.

The Council established that neither the company providing food services to the public, nor the General Architecture, Planning and Land Registration Division of the Chisinau Council and the State Building Inspectorate, government authorities in charge of the efficient implementation of legislation on fulfilling the obligation to ensure accessibility for persons with motor disabilities to locations providing social services, did not effectively perform their obligations under the law. The Council found that government authorities grant planning permits for design, building permits and operating authorisations without stringently imposing compliance with the legal provisions relating to accessibility of public infrastructure for persons with motor disabilities.

### Case no. 274/2015, decision of 11/09/2015

The applicant, a disabled person (with mental illness) claimed that the local government authority rejected his request for curatorship in the form of guardianship, and asked him to get his signature on the request certified and present a medical certificate attesting his full capacity to exercise his rights.

The Council found that, according to Art. 1, 2 and 8(a) of Law no. 121/2012 on ensuring equality, the facts under examination were discrimination on grounds of mental disability in recognising legal capacity.

The Council found that the local government authority did not distinguish between legal capacity (which included both capacity to use and exercise rights) and the person's intellectual capacity, and equated possible impairments of applicants for guardianship with a lack of capacity to exercise rights. Furthermore, the Council established that the authority complained against had neither a legal or factual basis to request the certification of the signature on the request for guardianship as the request had been submitted in person and signed at the time of submission before the clerk of the authority complained against, in charge of receiving the mail.

### Case no. 275/2015, decision of 01/09/2015

The applicant claimed that by mounting a gate and a fence around the apartment building, the access of people not living there was restricted, although the adjoining land was public domain.

The Council found that, according to Art. 1, 2 of Law no. 121/2012 on ensuring equality, the facts put forward were not discrimination.

The Council determined that mounting the fence and the gate could constitute differential treatment to both the applicant and other persons by restricting access to the land adjoining the apartment building. The Council also found that the applicant failed to accurately indicate the grounds on which he allegedly was subject to differential treatment. Therefore, in the complaint submitted, as well as its resulting actions, the applicant claimed that better treatment was shown to "one group of citizens" and less favourable treatment to "other inhabitants of the City of Chisinau and the country" on grounds of residence. On that matter, the Council established that the grounds of residence were not applicable to the case as it did not characterise either the applicant, or the group of persons on behalf of whom the applicant was not entitled to act. The Council reiterated that the prohibited ground for discrimination must be present only in the victim's case to easily identify the differential treatment they were subject to.

### Case no. 277/2015, decision of 04/09/2015

The applicant claimed discrimination on grounds of language by the seller, translated into an improper attitude towards Romanian-speaking customers.

The Council found that, according to Art. 1, 2 of Law no. 121/2012 on ensuring equality, the facts put forward were not discrimination.

The Council found that the applicant's allegations as to being treated less favourably by the respondent had not been confirmed. The Council accepted the respondent's explanations, according to which she served both Russian speakers and Romanian speakers, irrespective of the language the buyer chose to use, as she spoke both languages.

### Case no. 278/2015, decision of 08/09/2015

The applicant claimed discrimination on grounds of language in access to information by not being provided with the Russian translation of the contract template.

The Council found that, according to Art. 1, 2 of Law no. 121/2012 on ensuring equality, the facts put forward were not discrimination.

The Council found a lack of differential treatment as all the documents had been provided to the applicant in Russian. The Council held the late provision of the certified translation of the contract by the respondent to the applicant as objectively and reasonably justified as it was caused by the workload and complexity of the text to be translated.

### Case no. 282/2015, decision of 28/09/2015

The applicant claimed that as a result of filing a complaint with the Soroca Police Inspectorate against a product past its sell-by date bought in a Peco petrol station, the management of the latter issued an order to refuse service to the applicant and her family. The applicant considered

that the grounds for the contested order were the opinions expressed and the actions took against the expired products.

The Council found that, according to Art. 1, 2 and 8(h) of Law no. 121/2012 on ensuring equality, the facts under examination were discrimination on grounds of opinion in access to goods and services available to the public.

The Council found that the applicant's firm stand on the expired products determined the respondent to issue an order which unjustifiably restricted the applicant's access to goods and services available to the public. The Council noted that providers of goods and services available to the public have the obligation to provide access to all beneficiaries with no discrimination. The provider of goods and services available to the public is not within its rights to decide at its own discretion, with no objective and reasonable justification which persons are served and which are excluded.

### Case no. 300/2015, decision of 19/10/2015

The applicant filed a complaint with the Council on 20/07/2015 claiming discrimination on grounds of pregnancy, by denial of payment of the death grant by the social security bodies.

The Council ruled the complaint inadmissible according to paragraph 42 of Law no. 298/2012 on the activity of the Council for Preventing and Eliminating Discrimination and Ensuring Equality.

The Council found that the denial of granting the grant took place on 18/05/2013. The Council reminded that pursuant to Art. 13(2) of Law no. 121/2012 on ensuring equality, a complaint could be filed within one year from the date the fact was committed or from the date the person might have acquired knowledge of its commission. Given that the respondent issued the Decision to deny the one-off payment of the grant following the work accident on 18 May 2013 and that the applicant's counsel did not provide information on the continuous nature of the alleged act of discrimination, the Council found that the statute of limitations for the submission of the complaint had expired.

### Case no. 327/2015, decision of 24/12/2015

The applicant claimed that she had been discriminated against on grounds of disability due to lack of physical accessibility to the facility which hosted the summer school in which she was enrolled.

The Council found that, according to Art. 1, 2 and 8 of Law no. 121/2012 on ensuring equality, the facts under examination were discrimination on grounds of disability by lack of reasonable accommodation.

The Council established that the symbolic presence of access ramps which did not meet building regulations, created obstacles to the free movement of persons with motor disabilities and made the exercise of their rights on equal terms with others impossible.

### Case no. 328/2015, decision of 29/12/2015

The applicant claimed that he had been discriminated against on grounds of disability by lack of reasonable accommodation in government institutions.

The Council found that, according to Art. 1, 2 and 8(a) of Law no. 121/2012 on ensuring equality, the facts under examination were discrimination on grounds of disability by lack of reasonable accommodation.

The Council found that access of wheelchair users to the institutions reported was not properly provided. The Council reiterated that the obligation to provide reasonable accommodation was universal and was not to be fulfilled only at request. The purpose of the obligation was to eliminate the obstacles that people were faced with in the exercise of their fundamental rights and liberties.

### Case no. 329/2015, decision of 20/11/2015

The applicants claimed that they had been denied access to a leisure facility on grounds of public display of sexual orientation.

The Council found that, according to Art. 1, 2 and 8(f) of Law no. 121/2012 on ensuring equality, the facts under examination were discrimination on grounds of sexual orientation.

The Council found that the applicants were treated less favourably in the exercise of their rights to take part in leisure activities. the Council could not determine as objective and reasonable the respondent's justification according to which restricting the applicants' access to the facility had occurred at the request of other customers of heterosexual orientation who made up the majority of the facility's customers. Furthermore, the Council stated that the respondent, as a provider of services available to the public, had to ensure access to all beneficiaries, without discrimination.

### Case no. 350/2015, decision of 24/12/2015

The applicant claimed discrimination in access to services available to the public on grounds of wealth, as he had been denied service at the cash register reserved for customers with purchases exceeding Lei 6,000.

The Council ruled the complaint inadmissible according to paragraph 42 of Law no. 298/2012 on the activity of the Council for Preventing and Eliminating Discrimination and Ensuring Equality.

The Council explained that the differential treatment applied to persons in different situations did not constitute discrimination. The application and interpretation of the equal treatment principle should not be extended to mean the prevention of companies from breaking down their main categories of customers based on their purchases and loyalty.

# Others

### Case no. 002/2013, decision of 31/10/2013

*(see case no. 52/2014, decision of 29/04/2014)*

The case concerned a lawyer's discriminatory conduct while providing state-guaranteed legal assistance in civil proceedings, motivated by prejudice against intellectually disabled persons. In the court session, the lawyer of an intellectually disabled person pleaded for her client's hospitalisation at the Psychiatric Hospital arguing that, according to her personal conviction, the treatment of the condition and the improvement of the person's pain were in their interest.

The Council found that, according to Art.1, Art. 2 and Art. 8(h) of Law no. 121/2012 on ensuring equality, the facts under examination were discrimination on grounds of disability in providing state-guaranteed legal assistance.

The Council determined that the Law on the lawyer's profession did not give lawyers the right to act according to their personal convictions, but according to the client's interest. The Council noted that had the client been in a different situation (e.g. imprisoned), the lawyer would not have argued in favour of the prosecutor's accusation just by virtue of her conviction that it was to the defendant's advantage to serve a sentence in prison. Therefore, the Council established that the lawyer's actions, in the case under examination, had been motivated by her prejudice against intellectually disabled persons.

### Case no. 007/2013, decision of 30/11/2013

The case concerned discrimination on grounds of language in access to official information. The Council found that, according to Art.1 and Art. 2 of Law no. 121/2012 on ensuring equality, the facts under examination were discrimination on grounds of language in access to public information.

The Council found that on an information board in the centre of a town where a considerable number of people belong to a national minority, the information had been posted in that minority language only. The Council noted that the failure to post the public interest information in the country's official language too, unjustifiably restricted the rights of persons speaking the country's official language to access the information on equal terms.

### Case 009/2013, decision of 02/12/2013

*(see case no. 45/2014, decision of 23/03/2014)*

The case concerned discrimination on grounds of language in access to justice. The Council found that, according to Art.1 and Art. 2 of Law no. 121/2012 on ensuring equality, the facts under examination were discrimination on grounds of language in access to justice.

The Council found that the courts did not have a consistent practice as regards the admission of a summons prepared in Russian. The Council found that summons prepared in Russian were dismissed without being examined. The Council noted that the fact constituted a less favourable treatment of linguistic minorities. Moreover, the Council underlined that the treatment was not justified since courts had translation and interpreting offices.

### Case no. 12/2013, decision of 30/12/2013

The applicants, members of the Transnistrian Refugee Movement public association, claimed that they had been discriminated against on grounds of opinion in exercising the right to housing.

The Council found that, according to Art.1, Art. 2 and Art. 8(g) of Law no. 121/2012 on ensuring equality, the facts under examination were discrimination on grounds of opinion.

The Council found that the applicants had been treated less favourably in the exercise of their right to housing; the Chisinau City Hall had prevented them from recording in the Land Register their right of ownership over the immovable assets received by virtue of their status as refugees coming from the left bank of the Dniester river. The Council found that such an attitude had been shown only towards the applicants, who were all members of the public association, were socially active by organizing protests, and expressed controversial opinions regarding the actions of the public servants in the Chisinau City Hall.

### Case no. 19/2013, decision of 07/12/2013

The case concerned a villager's public criticism of a local councillor.

The Council found that, according to Art.1 and Art. 2 of Law no. 121/2012 on ensuring equality, the facts under examination constituted incitement to discrimination on grounds of sex and xenophobia.

The Council established that during a general meeting of the village a lady councillor criticised the mayor's activity. As a reaction to this criticism, a villager replied that outsiders had no business managing their village (go and do projects in your village) and that because she was a woman she should do the housekeeping (when they entered the house they stepped into chicken manure), and in order to make sure that it did not happen again her behaviour should be corrected (if you don't want to mess up because of your woman, you must kill her 20 times a day). The Council took note of the perpetrator's arguments, among which, that he was entitled to criticise the activity of the local public authorities and of the elected local councillors. The Council noted that one's criticism of the public authority and its activity was acceptable when it directly referred to how its duties had been and were being performed. The Council underlined that criticising a local elected official, however, did not mean inciting to discrimination against them or the group to which they belong. In the case under examination, the Council determined that the criticism of the local councillor did not concern her activity but spread negative stereotypes: such as that women are supposed to clean the house, not participate in public affairs, and that women deserve to be subject to violence just because they are women. Moreover, the Council also found elements of xenophobia in the suggestion that non-locals should leave and manage their own village.

### Case no. 29/2013, decision of 21/01/2014

The Union of Churches of Evangelical Christians (the Pentecostal cult in the Republic of Moldova) claimed that it had been discriminated against by the local public authority in exercising the right to manifest religion in public.

The Council found that, according to Art.1, Art. 2 of Law no. 121/2012 on ensuring equality, the facts under examination were discrimination on grounds of religion in exercising the right to assemble and to manifest religion.

The Council established that the local public authority prohibited the representatives of the Pentecostal Cult in the town to roll out a program which included charity for needy families and signing Christian songs and chanting prayers on the premises of the Cultural Centre. Moreover, the Council determined that at that time, the Orthodox Church in the community organized a crucifixion procession, organised events in public places and performed a few religious rituals, without any restrictions by the local public authority. The Council underlined that the parishioners' disagreement was not a stringent social necessity which could justify the restriction of the right to manifest religion in public and the right to assembly, on equal terms.

The Council underlined that, as a matter of principle, genuine religious pluralism means avoiding

any unjustified restrictions in exercising the freedom to manifest religion and to organize religious assemblies, even if this is about an unpopular or minority religious cult in the village.

### Case no. 64/2014, decision of 19/05/2014

A representative of the GENDERDOC-M Information Centre reported a situation which occurred during a TV show and requested it to be qualified as discrimination on grounds of sexual orientation and religious beliefs.

The Council found that, according to Art.1 and Art. 2 of Law no. 121/2012 on ensuring equality, the facts under examination constituted incitement to discrimination on grounds of sexual orientation and religious beliefs.

The Council found that in a debate show, a representative of the Christian church splashed the representative of the GENDERDOC-M Information Centre with Holy Water although she had refused to be subjected to this ritual. The Council underlined that the ritual of splashing with Holy Water imposed during and after the show ended came with a speech suggesting that persons of homosexual orientation and those who share other religious beliefs were "devils", i.e., an embodiment of evil, constituted a behaviour which instigated to discrimination. The Council considered the respondent's argument that his devotion to sanctity as a servant of God gave him the right to speak about sin and sanctity. However, the Council underlined that freedom of expression and freedom to manifest religion are not absolute rights. These freedoms can be subject to restrictions when the principle of tolerance and the respect for the equal dignity of all human beings are promoted.

### Case no. 90/2014, decision of 19/04/2014

The case concerned the discrimination against intellectually and mentally disabled persons on grounds of prejudice and stereotype.

The Council found that, according to Art.1 and Art. 2 of Law no. 121/2012 on ensuring equality, the facts under examination were incitement to discrimination through stereotyping and spreading prejudice against disabled persons.

The Council established that in an interview, the Minister of Labour, Social Protection and Family implied that disabled persons could not identify the situations where their rights were infringed. The Council underlined that a person's vulnerability caused by their intellectual disability or mental health issues, called for increased diligence in order to avoid the perpetuation of stereotypes about them in society. The Council noted that the minister influenced the public opinion, as the leader of a ministry whose task was to develop policies on disability, whose purpose was also to debunk current stereotypes and prejudice. Therefore, irrespective of the circumstances of her public remarks, either in a debate or interview, the Minister was supposed to choose her words carefully as to avoid stigmatization and reinforcing prejudice about disabled persons. The Council underlined that prejudice and stereotypes that civil servants use could easily serve as an example, which meant that they had an increasing responsibility when they chose a certain wording.

The Council established that the prosecutor called in to investigate the allegations of the mental health institution residents on the violence to which they had been subjected, had refused to open a criminal prosecution file on grounds that the persons had mental issues. The Council found that the stereotypical perspective on intellectually disabled persons became present even in official documents. The Council underlined that an efficient inquiry into the alleged crimes could not be based on prejudice against the witnesses or the injured parties; otherwise, it was done to deny equal

protection under the law to disabled persons only because they had a disability. An independent, objective investigation with a non-discriminatory attitude towards the parties involved could result in a legal and fair decision. The criminal prosecution bodies must focus on the contents of the deposition made by the relevant person, regardless of their intellectual capacity or health. Depositions must be checked and investigated, regardless of the disability of those who made them.

### Case no. 98/2014, decision of 30/10/2014

The applicant, a victim of domestic violence, claimed that the police officers and the prosecutor had had a discriminatory attitude against her and had not taken the appropriate measures to protect her against systematic violence.

The Council found that, according to Art.1, Art. 2 and Art. 4(a) of Law no. 121/2012 on ensuring equality, the facts under examination were aggravated discrimination on grounds of gender in equal protection under the law.

The Council established that the applicant had notified the law enforcement agencies on multiple occasions to put an end to her husband's violent behaviour but had not been successful. The Council found that the employees of the Ministry of Internal Affairs had not intervened to protect the applicant and had even been witnesses to the husband's abuse. The Council established that because of the stereotypical vision of the Ministry of Internal Affairs employees, they did not carry out the necessary actions to protect the victim of domestic violence, who could not fight back against her ex-husband. The Council noted that by failing to act they created an environment of total tolerance for the aggressor, who, for a long while was physically, economically and psychologically violent to the applicant in their children's presence. The Council underlined that the gender dimension, illustrated by the prejudice against women, victims of domestic violence, was found by the ECHR too, which underlined that the discriminatory attitude of the public authorities cancelled the effectiveness of national protection measures against domestic violence.

The Council mentioned that the police officers and the prosecutor's actions were assessed under the Law on ensuring equality and the Council did not act as a higher court. Therefore, the Council concluded that the applicant did not receive equal and effective protection under the law, because of the failure to act of the police officers and the prosecutor, who based on their stereotypical views, had tolerated and encouraged violence against a woman.

### Case no. 108/2014, decision of 28/07/2014

This case refers to the alleged sexist nature of an image used for selling Cuconada chocolates.

The Council found that, according to Art.1, Art. 2 and Art. 8(h) of Law no. 121/2012 on ensuring equality, the facts under examination were discrimination on grounds of gender.

After analysing the image, the Council noted that it drew attention to the female body by making a connection between a woman's intimate area and spirits. The Council found that the image indecently depicted a woman's body, especially her intimate area, which was used as a way to promote confectionery products, although this image did not help in any way highlight the qualities of the products.

The Council noted that the idea behind this image spreads negative prejudice about female sexuality in society, especially, compared to how men are depicted on Folclor chocolate boxes, where the national folklore is embodied only by men who appear in decent contexts.

### Case no. 118/2014, decision of 16/10/2014

The case concerned an allegation of discrimination through the mass media. The Council conducted an ex officio investigation after the publication on 23/05/2014 on the website www.voxpublica.md of an article entitled The Euro-Sodomite Parade in Chisinau: 9 Highlights by Hristofor Ciubotaru. The article criticised the actions of the Ministry of Internal Affairs for ensuring public order, safety and protection of persons participating in the March of Equality on 17/05/2014 on Grigore Vieru boulevard in the city of Chisinau. The article also referred to the failure of Chisinau City Hall to react to "the intention of extremist minorities to march in the centre of the capital" and the inaction of the Mitropoly of Moldova "on the homosexual aggression in the centre of the capital".

The Council found that, according to Art.1 and Art. 2 of Law no. 121/2012 on ensuring equality, the facts under examination were incitement to discrimination.

The Council noted that the article was hate speech because it had the specific characteristics which distinguished it from the other forms of expression: it targeted a group of persons based on certain characteristics, it stigmatised persons by attributing them a set of features generally seen as extremely undesirable and the targeted group was regarded as being outside the usual limits of social relations. The Council underlined that since the Internet is a fast, cheap and accessible way to spread information which could be accessed at any time, the damage caused to another person, group or society was more considerable and long lasting. That meant that owners/managers of virtual platforms for the exchange of opinions, comments and remarks had an increased responsibility. The Council noted that web page administrators were required to take due diligence measures to ensure that nobody abused the virtual platform and used it as a tool to incite to discrimination by publishing discriminating articles anonymously or using an alias.

### Case no. 125/2014, decision of 28/07/2014

The applicant claimed that she had been victimised by the Police Inspectorate officers of the Botanica sector, following the complaints filed against them to the Council, which led to the perpetuation of discrimination on the grounds of gender in access to equal protection under the law.

The Council found that, according to Art.1, Art. 2 of Law no. 121/2012 on ensuring equality, the facts under examination constituted victimisation and discrimination in access to equal protection under the law.

The Council established that the Police Inspectorate officers of the Botanica sector had been manifestly hostile to the applicant, claiming that she had showed up at the inspectorate almost every day and that they were fed up with her. The Council found that the recommendations made in the decision issued in case 034/2013 had been ignored by the Police Inspectorate of the Botanica sector, although their purpose was to prevent further discrimination. Under these circumstances, the Council established that the Police Inspectorate officers of the Botanica sector, kept displaying a discriminatory conduct, which obstructed the applicant's access to equal protection under the law.

### Case no. 129/2014, decision of 22/09/2014

The applicants, representing The Islamic League of the Republic of Moldova religious cult, claimed that they had been discriminated against on grounds of religion by the Customs Office and Border Police officers at the Chisinau International Airport as they had been the only ones subject to tight security checks out of all the flight passengers.

The Council found that, according to Art. 1 and Art. 2 of Law no. 121/2012 on ensuring equality, the facts put forward were not discrimination.

The Council established that the reason for which the applicants had been subject to security checks was the fact they were carrying across the border more items (books, religious books and others) than existing legislation allowed for personal use. The Council determined that according to the Law on bringing goods into the Republic of Moldova, the applicants had to fill in the customs declarations and later submit their luggage to security checks. The Council took note of the fact that the applicants indicated a smaller number of books and materials on their declaration than they in fact had. Based on the case file documents it was established that the applicants were carrying over 100 books. The Council determined that under applicable laws, that quantity was for commercial use and that a natural person could not bring it in for personal use. The applicants were requested to pay import duty on those goods.

The Council determined that the bottles with "holy water" imported by the applicants had also been seized. The Customs Office explained that as the content of the bottles became suspicious on the scan screen, they had to subject the content of those bottles to further tests in order to ensure public order and crime prevention. The testing confirmed that indeed, the bottles contained water and they were returned to the applicants.

The Council found that the actions by the Customs Office and Border Police officers were well grounded, unbiased and reasonable. The Council determined that any passenger who had been in a similar situation (carrying merchandise and goods in a quantity larger than required for personal use) would have been treated in the same manner (would have been stopped by the Customs Office employees and subjected to tight security checks). The Council noted that in the reviewed case the unfavourable treatment put forward by the applicants was not caused by their religion, but by their failure to comply with the procedures on bringing merchandise and goods into the country.

### Case no. 134/2014, decision of 22/09/2014

The applicant claimed that his daughter had been discriminated against in the educational process on grounds of being a Muslim. He equally claimed that the broadcasting of the documentary entitled "Religious Education through Violence" and of the "Dogaru's Country" show, General Media Grup SRL had incited to discrimination against persons who followed Islam.

The Council found that, according to Art. 1 and Art. 2 of the Law on ensuring equality, the facts put forward were not discrimination.

The Council established that all actions taken by the teaching staff aimed at the applicant's daughter had been driven by their suspicions of the applicant's violence against his daughter at home. The Council found that the teaching staff had fulfilled the duties incumbent on them to protect the children from all forms of abuse, including domestic violence, which was completely unrelated to their religious faith.

As far as the content of the controversial show was concerned, the Council underlined that the journalist's freedom to speak on topics of public interest, such as domestic violence against a minor in that case, was guaranteed under the Constitution of the Republic of Moldova and Art. 10 of the European Convention. The Council found the applicant's allegation that Publika TV had exceeded the boundaries of free speech by inciting to discrimination against the applicant for being a Muslim, ungrounded. The Council noted that the case of domestic violence would have had a bearing even if the applicant was not a Muslim.

### Case no. 139/2014, decision of 06/10/2014

The applicants, Nigerian nationals studying in Moldova, claimed that they had been discriminated

against by the Border Police officers at the Chisinau International Airport by being submitted with no justification to more thorough checks and by later being denied boarding with significant material and non-material damages.

The Council found that, according to Art. 1 and Art. 2 of Law no. 121/2012 on ensuring equality, the facts under examination were incitement to racial discrimination (racial profiling).

The Council established that the reason for stopping the applicants was the suspicion around the authenticity of their ID papers and visa. The Council noted that under those circumstances, the Border Police officers had to initiate additional checks of their ID papers. The Council found that where officers allow the boarding of passengers with invalid documents, they are likely to face penalties. The Council established that stopping the applicants in order to make sure that their papers were in order had a legitimate purpose.

As far as the checking procedure was concerned, the Council established that during the checks the police officers called the applicants' educational establishment to determine whether they were indeed students. The Council stated that had there been any suspicions around the authenticity of the ID papers or visa, they should have been investigated by contacting the issuing authority and not the educational establishment. The Council noted that those actions incited to discrimination against the applicants, and that the phone call would unavoidably have negative implications on the faculty's attitude towards the applicants. The Council underlined that the Border Police of the Republic of Moldova had unjustifiably requested confirmation from the applicants' educational establishment on their status, despite holding their legal permits to stay in the Republic of Moldova. The Council deemed the actions as disparaging and used to track people of certain ethnic groups or races by their appearance and physical traits with a view to subjecting them to tighter checks and restricting their freedom of movement without providing an explanation.

### Case no. 158/2014, decision of 11/12/2014

The applicant claimed that by their actions, the members of the „Оккупай-Педофиляй Молдова"/ „The Social Shield" group had incited the public to discriminate against the LGBT community. The applicant equally claimed that she and the "Genderdoc-M" beneficiaries had been harassed and victimised by the members of the group.

The Council found that, according to Art. 1 and Art. 2 of Law no. 121/2012 on ensuring equality, the facts under examination constituted incitement to discrimination and harassment on grounds of sexual orientation, as well as victimisation.

The Council established that the group of people acted deliberately with an aim to spread homophobia. The Council determined that the assault on the offices of the "Genderdoc-M" non-governmental organization and its beneficiaries by throwing eggs and urine at them, the call to hunt them down, manhandle and videotape them for later release and disclosure to the public, constituted intentional behaviour exhibited with a view to subjecting the LGBT community to stigmatisation and social exclusion.

The Council examined the video evidence presented and found a homosexual person surrounded by several people with a hostile and violent behaviour, cursing, humiliating and throwing urine at them, coercing the person to answer intimate questions. The Council determined that such behaviour created an intimidating, hostile, degrading, humiliating or offensive environment for them with the effect of violating their personal dignity. The Council established that such behaviour had been fuelled by the sexual orientation of the person.

The Council established that after the applicant had filed several reports with the prosecutor's

office and a complaint with the Council, the group members' misbehaviour became worse and even threatened that unless she stopped complaining, there would be someone to calm her down. The Council noted that those actions constituted victimisation.

Given the seriousness of the facts, the Council requested that the State Prosecutor's Office took the proper measures set out in the Criminal Code in relation to the actions found.

### Case no. 159/2014, decision of 13/10/2014

The case concerned the racist remarks made by a politician during a press conference.

The Council found that, according to Art. 1 and Art. 2 of Law no. 121/2012 on ensuring equality, the facts under examination constituted incitement to discrimination in the form of racism.

The Council noted that, although freedom of expression is one of the fundamental human freedoms, it is not absolute. It might and should be restricted when expressing ideas, information or opinions in a manner which shows intolerance, such as racism, homophobia, xenophobia, anti-Semitism and others. The Council established that the message "[....] I promise that filthy, smelly gipsy upstart will end up where he belongs! everybody knows that he is half gipsy, only he is a finished gipsy (конченный in the original) [...]" amounted to hate speech. The Council noted that such rhetoric destroys ethnic, linguistic, national and social diversity, and when the author of such forms of expression is a politician, the reaction of competent authorities should be appropriate. The Council underlined that the charity activities conducted for the Roma community and his regular attitude towards the Roma did not justify the use of the word "gipsy" in his political address. The term had been used pejoratively with a view to humiliating the ethnic origin of his political opponent by showcasing his own ethnic superiority.

### Case no. 176/2014, decision of 30/12/2014

The applicant claimed that he had been discriminated against in access to justice and alleged that due to lack of accessibility to court houses he was unable to assert his violated rights in court.

The Council found that, according to Art. 1, Art. 2 of Law no. 121/2012 on ensuring equality, the facts under examination were discrimination on grounds of disability in access to justice by lack of reasonable accommodation in court houses for persons with motor disabilities.

The Council established that the Court House of the City of Chisinau was fitted with no accessibility device and the Court of Appeal of Chisinau was equipped with a ramp which did not meet existing building regulations and technical standards. The Council noted that according to existing national legislation, the government should provide free access to justice for all. The Council stated that a lack of reasonable accommodation in court houses constituted an obstacle which prevented the full and effective exercise of the right to access to justice by persons with motor disabilities. The Council underlined the need to take appropriate measures in order to provide accessibility to court houses for persons with motor disabilities.

### Case no. 180/2014, decision of 16/12/2014

The case concerned the racist nature of a product name used for marketing it during Halloween.

The Council found that, according to Art. 1 and Art. 2 of Law no. 121/2012 on ensuring equality, the facts under examination constituted incitement to discrimination in the form of racism.

The Council established that on 30 October 2014, the Salva Horeca SRL company (Burger Beef)

launched a new product based on whole grain bread, using as its name the acronym O.N.O.J.E. which coincided with the name of John Onoje, a black Moldovan citizen. The Council determined that the product had been marketed through social media and sparked public debates and posts which violated his dignity. The Council noted that the circumstances and the intention with which the respondents produced, launched and marketed the product were to "have a joke" and humiliated the black Moldovan citizen, named John Onoje. The Council did not accept that the whole grain bread burger and the name O.N.O.J.E. happened to coincide with the name of an existing black person. The Council underlined that the circumstances in which the respondents launched and marketed the product, as well as the posts publicly made about John Onoje left no doubt that their purpose was to humiliate the person on the basis of his skin, showcasing their own ethnic superiority.

### Case no. 197/2014, decision of 19/02/2015

The applicant claimed that she had been subject to victimisation by the Ministry of Education following her deposition before the Council as part of a hearing of a complaint, translated into disciplinary sanctions with the result of being dismissed.

The Council found that, according to Art. 1, 2 of Law no. 121/2012 on ensuring equality, the facts put forward were not victimisation.

The Council found that the disciplinary sanctions had been applied to the applicant prior to the deposition before the Council. The Council was equally unable to establish the causality between the alleged adverse treatment and ensuing consequences. The applicant's dismissal occurred as a result of findings by the National Anticorruption Centre of several violations and deviations by the applicant from the Guide for Organising and Conducting Baccalaureate Examinations.

### Case no. 199/2014, decision of 17/02/2015

The case concerned an alleged act of discrimination on the basis of professional status, arising from the administrative courts' implementation of the provisions in paragraph 43 of the Ruling of the Plenary Session of the SCJ [Supreme Court of Justice] no. 10 of 30/10/2009. The applicant claimed that the public servant was treated less favourably compared with any other person - a matter eligible to be heard by an administrative court - as he had only 30 days to initiate action against administrative documents issued in his regard, against the 60 - 90 days that any other party to a labour dispute had.

The Council found that, according to Art. 1, 2 of Law no. 121/2012 on ensuring equality, the facts put forward were not discrimination.

The Council found that public servants were not in a comparable situation with other persons in employment. The Council noted that public service was by its purpose and nature specific and was subject to special appointment and dismissal procedures and therefore an employee from any other economic sector could not be the comparator for the situation. Therefore, reducing the term for an appeal against some appointment and dismissal documents to 30 days with the exclusion of the preliminary procedure might be dictated by the need to ensure permanent operation of the public service.

### Case no. 200/2014, decision of 10/03/2015

The applicant complained that the Children Rights Division of the Rascani sector rejected the submission of data relating to the wages of his ex-wife and as such discriminated against him on grounds of gender in the exercise of his parental rights.

The Council found that, according to Art. 1, 2 and 15 of Law no. 121/2012 on ensuring equality, the facts put forward were not discrimination.

The Council explained that the resolution of issues regarding access to data, including personal data, did not constitute a grounded cause of action under the scope of the Law on ensuring equality.

### Case no. 201/2014, decision of 10/03/2015

The applicant claimed that the Council of the commune of Drasliceni failed to enact a decision to allow the Pentecostal Church to carry out charity work for some of the families in need and sing Christian songs and prayers, and had been discriminated against on grounds of his religious beliefs.

The Council found that, according to Art. 1, 2 of Law no. 121/2012 on ensuring equality, the facts put forward were not discrimination.

The Council was unable to identify the constituent elements of an act of discrimination. The Council was unable to establish the comparator, meaning, another religious cult to which the organisation of public events in the areas indicated by the applicant was allowed. The Council found a lack of coordination and consistency at the local level, between the key institutions responsible with running the areas selected by the applicant to conduct his meetings.

### Case no. 212/2015, decision of 28/05/2015

The applicants, Romanian speakers from Taraclia, claimed discrimination before the Council on grounds of language and national origin in access to police protection when calling "902", when exercising their rights to file a complaint, as well as during police procedures.

The Council found that, according to Art. 1, 2 of Law no. 121/2012 on ensuring equality, the facts under examination were discrimination on grounds of language and national origin in access to justice.

The Council did not determine as objective and reasonable the respondent's justification that both the mail sent by Taraclia government authorities and the procedural documents in court and to the prosecutor's office were written in Russian as the Taraclia district was inhabited mainly by Bulgarians and 96% of the population spoke either Bulgarian or Russian. The Council mentioned that "in regions where persons belonging to a national ethnic minority make up a significant part of the population, the procedures shall be conducted in Moldovan and, on a case-by-case basis, in the language of the ethnic minority concerned." The Council also ruled that government institution employees, as was the case of the Taraclia Police Inspectorate, must know the official language, according to Art. 9 of Law no. 3465 of 01/09/1989 on the use of languages spoken on the territory of the Moldovan SSR, as they came in permanent contact with the Moldovan population. The Council found that the respondent did not provide the applicant with the right to use the official language when he decided to conduct the procedures in a language of interethnic communication, although they were well aware that the applicant was of Romanian nationality and spoke Romanian.

### Case no. 217/2015, decision of 26/03/2015

The applicant claimed discrimination by the National Patrol Inspectorate officers on grounds of language in access to justice, by having the police report written in the official language that he did not know. The applicant mentioned that he did not have access to an interpreter and the report was not translated and as a result, he was unable to know his legal rights and obligations and was deprived of his right of defence.

The Council found that, according to Art. 1, 2 of Law no. 121/2012 on ensuring equality, the facts under examination were discrimination on grounds of language in access to justice.

The Council established that the applicant had not been provided with an interpreter at the time the report was written. The Council also found that the report forms were prepared in two languages: Romanian and Russian, but the patrol officers did not have a sufficient number of forms in both languages when starting the patrol shift. The National Patrol Inspectorate acknowledged its responsibility.

### Case no. 239/2015, decision of 28/05/2015

The applicant claimed that she had been subject to a humiliating treatment by the Police Inspectorate officers who, driven by prejudices on her race, detained her without objective grounds.

The Council found that, according to Art. 1, 2, 4(a) and 8(h) of Law no. 121/2012 on ensuring equality, the facts under examination were a serious form of racial discrimination.

After examining the described situation, the Council drew attention to the person description which portrayed the suspect in the following terms: "unknown female, 160 - 165 cm high, medium weight, black hair, pitch dark face, wearing a short coat in black, Russian-speaker, possibly pregnant." The Council found that the police officers made their judgments based exclusively on the applicant's skin colour and ignored the other features of the suspect in the person description which could have been easily determined at the place of detention, such as speaking the Russian language. The Council established that the police officers used racial profiling on the applicant.

### Case no. 241/2015, decision of 30/05/2015

The applicant, a legal person headquartered in the town of Cantemir, claimed that his stores, located in the town of Leova, were subject to a less favourable tax treatment compared with the stores of other legal persons headquartered in the town of Leova.

The Council found that, according to Art. 1, 2 and 4 (a)(g) of Law no. 121/2012 on ensuring equality, the facts under examination were discrimination on grounds of the headquarter of a legal person with stores in other municipalities, in local tax setting.

The Council found that the difference in treatment applied to the applicant in setting the amount of local taxes was unjustified. The Council underlined that protecting the business of local enterprises contradicted the principle of fair competition. The Council equally considered that the imposition of a disproportionate tax burden on account of uneven contribution to the local budget, contradicted the principle of fair determination of the tax burden provided in Art. 58(2) of the Constitution of the Republic of Moldova.

### Case no. 254/2015, decision of 13/07/2015

The applicant, a parent living apart from her children, claimed that the Social Assistance and Family Protection Division set a child arrangement for her minor children which put her at a disadvantage in relation to the father.

The Council found that, according to Art. 1, 2 of Law no. 121/2012 on ensuring equality, the facts under examination were discrimination on grounds of the domicile of the parent living apart from the child in the exercise of parental rights.

The Council observed that the prepared arrangement was unbalanced and prioritised the father (with

whom the children were living at the time of drafting), unjustifiably restricting the child's mother in the exercise of her parental rights. The Council established that the major difference between the parents in terms of time of contact with children was caused not by the parent's gender, but by the domicile. The Council noted that the child arrangement put the parent living apart from the children at a disadvantage and recommended that clear and consistent criteria should be applied when preparing the child arrangement.

### Case no. 267/2015, decision of 28/08/2015

The case concerned the message inciting to discrimination on grounds of sexual orientation, expressed via mass media. In particular, it was requested that the following statements be judged "(...) Yesterday took place the parade of persons, minority groups of unorthodox orientation. We know all too well that such a parade has been organised on the streets of the capital city for several years now. Of course, there have been altercations, 6 people were detained ...., what I mean is that in a truly Christian Orthodox state this parade would not have taken place because neither the authorities, not the people would have allowed it (...)".

The Council found that, according to Art. 1, 2 of Law no. 121/2012 on ensuring equality, the facts under examination were incitement to discrimination on grounds of sexual orientation.

The Council established that the above-mentioned message fell under the definition of incitement to discrimination. The Council noted that any social group has the right to freedom of assembly, even if the promoted message is unpopular, as long as it does not violate public order.

The Council pointed out that those responsible for publishing the message were the author, as well as the medium of information by which the message was published. The Council explained that the moderator should be aware of the fact that he was an opinion former and had to show maximum diligence when expressing opinions in the media, and the medium of information had to make sure that no person would abuse the media space and use it as a tool to incite to discrimination by publishing messages which targeted particular groups. The Council also underlined that the exercise of the freedom of expression entails obligations and responsibilities, namely, it is legitimate to infer, when expressing opinions, the obligation of avoiding expressions which would offend or be likely to cause interference with other persons' rights.

### Case no. 280/2015, decision of 13/07/2015

The applicant expressed his discontent with the legal reclassification of the indicted crime after his extradition.

The Council ruled the complaint inadmissible according to paragraph 42 of Law no. 298/2012 on the activity of the Council for Preventing and Eliminating Discrimination and Ensuring Equality.

The Council noted that under the provisions of Law no. 371 on international legal assistance on criminal matters of 01/12/2006, the verification of the applicability of the international treaty provisions and/or the observance of the fundamental guarantees during extradition were under the remit of the State Prosecutor's Office or the Ministry of Justice, as the case might be. Under the circumstances, the Council found that the complaint filed was not under its remit.

### Case no. 284/2015, decision of 21/07/2015

The case concerned the examination of sexist and ageist statements publicly made by the mayor of the capital city during a press conference.

The Council found that, according to Art. 1, 2 and 4 of Law no. 121/2012 on ensuring equality, the facts under examination were incitement to discrimination on grounds of gender and age.

The Council underlined that freedom of expression is one of the fundamental rights, but it is not absolute. It may and shall be restricted when the way in which ideas, information or opinions are expressed take the form of a speech inciting to discrimination. The Council highlighted that in the case of speeches, politicians' responsibility is higher due to their effect and significant impact on people.

The Council found that the respondent, by his statements, showed gender discrimination towards men and women in politics by using preconceived ideas on what was suitable for a man and unsuitable for a woman in politics. The Council underlined that the respondent had denigrated the image of a female politician by calling on the audience to appreciate her on the basis of her gender and age. The Council could neither ignore the fact that in a single sentence, the respondent also showed gender discrimination towards men in politics, denigrating them for accepting a woman as their leader. The Council held that the statements were promoting a patriarchal approach within the society with a tendency to diminish gender equality.

### Case no. 286/2015, decision of 28/09/2015

The case concerned the placement, within the premises of a hospital, of the Unborn Child Memorial which portrayed a woman kneeling in front of a standing child with his right arm stretched out to caress her. The applicants considered that the statue would cause psychological pressure on women who chose to terminate their pregnancy for various reasons. The applicants mentioned that the pressure was continuous harassment of women who proceeded or were about to proceed to termination of pregnancy, with the effect of violating their dignity on grounds of gender.

The Council found that, according to Art. 1, 2 and 3 of Law no. 121/2012 on ensuring equality, the image depicted by the Unborn Child Memorial statue was harassment of women on grounds of gender.

The Council determined that the actions reported fell within the right to publicly express thoughts and opinions. The chosen form to express thoughts and opinions in that case was the construction and placement of the statue in the public domain. It was also mentioned that the freedom of expression is not absolute, and it can and shall be restricted whenever the ways ideas, information or opinions are expressed become offensive and degrading, capable of violating human dignity, women's dignity - in that case. The Council did not doubt the legality of the purpose pursued, namely to reduce the number of abortions, but it found a lack of reasonable proportionality between the means used and the objective considered. The Council mentioned that the termination of pregnancy occurred also for medical reasons, when the life of the mother was in danger or as a consequence of pressure made on her. The Council found that in the cases mentioned the statue did under no circumstances justify the purpose, and that, on the contrary, it could cause serious psychological pressure to women who had gone through the experience unwillingly.

### Case no. 290/2015, decision of 13/07/2015

The applicant claimed that he had become a victim of discrimination on grounds of ethnic origin, language and social status. The applicant indicated that the discriminatory actions translated into the court's refusal to issue a copy of the judgment to reject the request for the court registrar's exclusion, when the request was submitted in the language of interethnic communication (Russian). The applicant specified that the copy of the judgment was handed to him only after he submitted the request in the official language.

The Council ruled the complaint inadmissible according to paragraph 42 of Law no. 298/2012 on the activity of the Council for Preventing and Eliminating Discrimination and Ensuring Equality.

The Council did not establish the impediments to the exercise of the rights indicated in the complaint as long as the applicant's request was answered. The Council also noted the lack of causality between the grounds put forward and the treatment reported and underlined that the applicant's speaking both languages did not create a barrier to the exercise of his procedural rights.

### Case no. 293/2015, decision of 28/09/2015

The applicant claimed incitement to discrimination against people of Roma origin in two articles in the press by stating the offender's ethnic origin in the description of the crime committed.

After examining the evidence in the case, the Council established that in only one of the two cases presented by the applicant there was evidence of incitement to discrimination.

In the case where no discrimination was found, the Council determined that the piece of news was just for information purposes and did not carry any value judgements, and it only contained a statement of the information obtained from the General Police Inspectorate's press release, without including own value judgements or conclusions which would have highlighted the offenders' ethnic origin. The Council established that the ethnic origin of the alleged offenders was mentioned neither in the article heading, nor in the excerpts taken by the journalist who edited the news.

In the case where discrimination was found, the Council noted that the ethnic origin of the alleged offenders had been highlighted in the headings and body of the articles concerned. The Council considered that the information on the offenders' ethnic origin was disproportionate to the purpose pursued, namely to inform the members of the public about the likelihood of falling victim to human trafficking.

### Case no. 307/2015, decision of 09/10/2015

The applicant disagreed with the ruling of the Supreme Court of Justice and claimed discrimination on grounds of objectivity and equal treatment in the exercise of his right to enjoy the tax credits provided by the national laws, as in previous cases, similar to his own, the Supreme Court had issued completely different rulings.

The Council ruled the complaint inadmissible according to paragraph 42 of Law no. 298/2012 on the activity of the Council for Preventing and Eliminating Discrimination and Ensuring Equality.

The Council noted that it could not review court judgments and could not decide on how the law was interpreted and applied by the court. The Council called attention to the provisions in Art. 114 of the Constitution of the Republic of Moldova which stated that justice was delivered in the name of the law only by courts and ruled out the possibility of having its jurisdiction substituted by any other body, person or institution.