

Discrimination in the Republic of Moldova

2022

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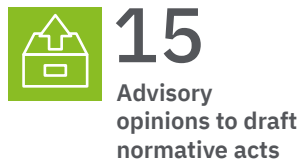
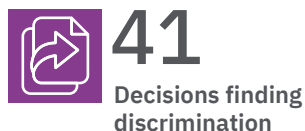
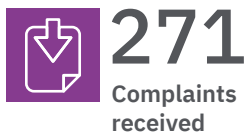


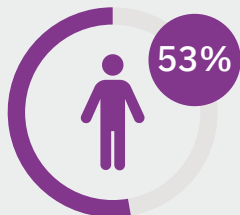
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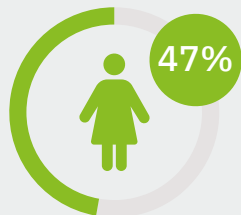
Cover design and layout:
Familia Fierari SRL, Republic of Moldova

ACTIVITY OF THE COUNCIL IN FIGURES



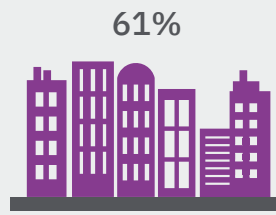


Men

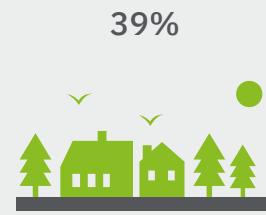


Women

1.

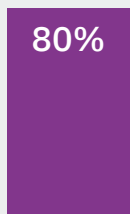


Urban



Rural

2.



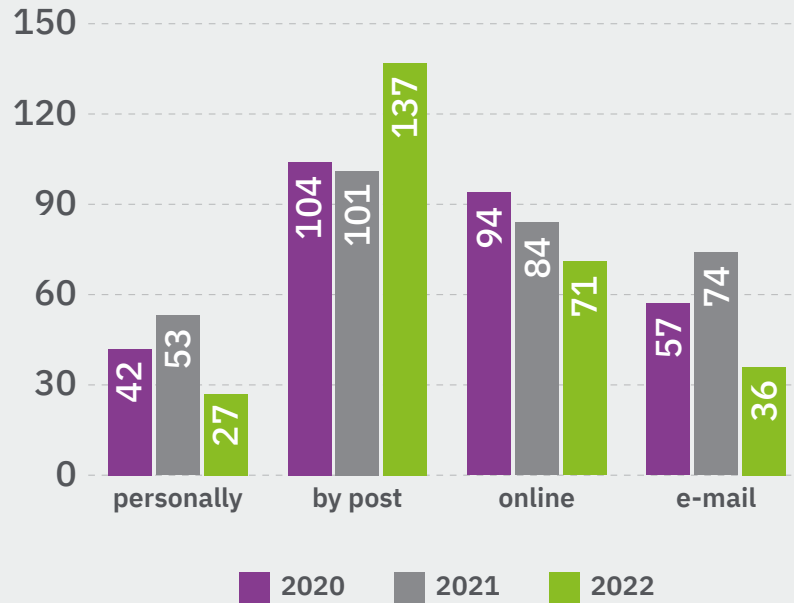
Romanian



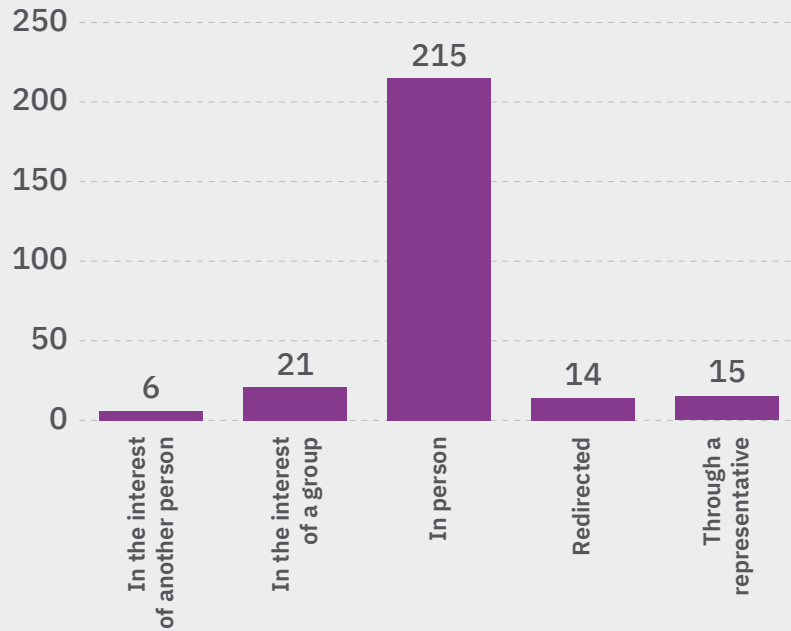
Russian

3.

1. Complaints by petitioner's gender
2. Complaints by petitioner's residence
3. Complaints by language of submission

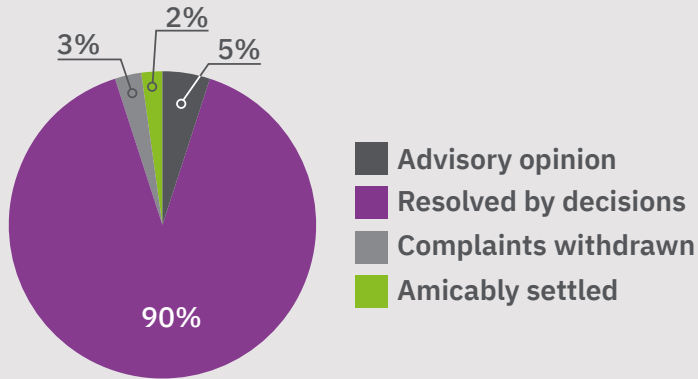


Complaints by way of submission

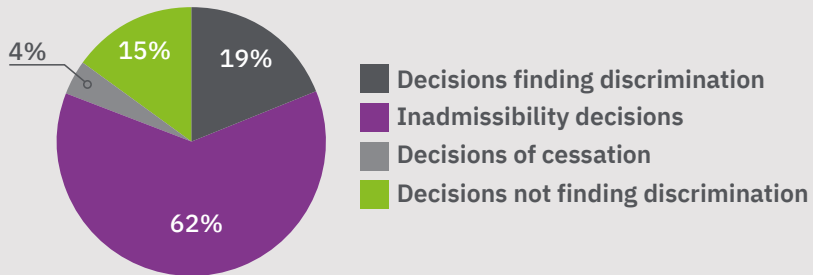


Complaints by the mode of action

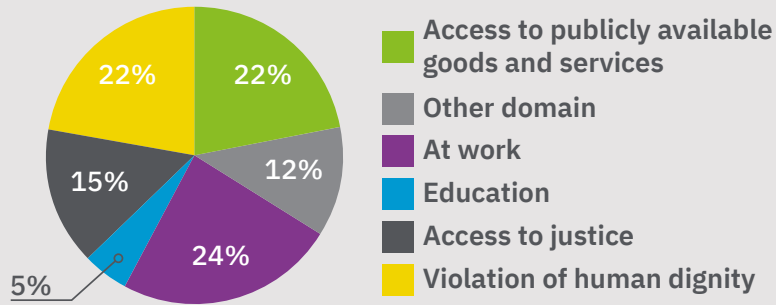
Resolution of complaints, by type



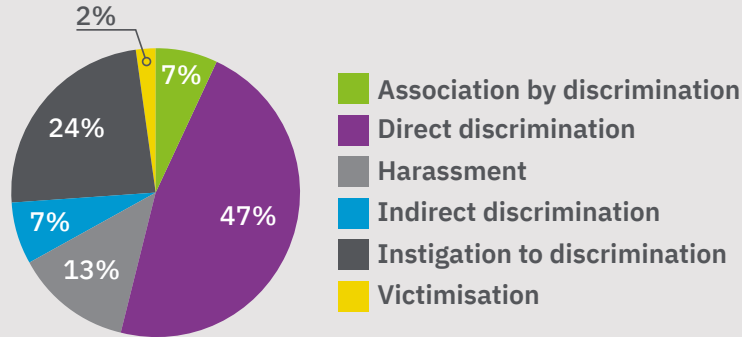
Decisions issued, by type



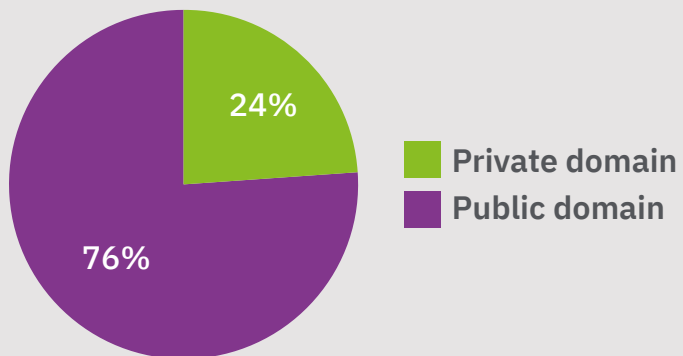
Decisions finding discrimination, by domain



Decisions finding discrimination, by form of discrimination



Decisions, by the field of activity of the person who committed acts of discrimination



Protected ground \ Domain	Access to publicly available goods and services	At work	Education	Access to justice	Violation of human dignity	Other domains	Total
Language	4,55			13,63		4,55	22,73
Sexual orientation	2,27	2,27			11,36	2,27	18,18
Ethnic origin					6,82	2,27	9,09
Disability	4,55	2,27					6,82
Opinion		6,82					6,82
Political affiliation	2,27	2,27					4,55
Beliefs			2,27			2,27	4,55
Pensioner status		4,55					4,55
Professional status	2,27						2,27
Gender identity	2,27						2,27
Sex					2,27		2,27
Insurance status	2,27						2,27
Trade union membership		2,27					2,27
Religion						2,27	2,27
Other ground		9,09					9,09
Total	20,45	29,55	2,27	13,64	20,45	13,64	100,00

Protected criteria from the perspective of Council decisions (% of finding decisions)

PREVENTION OF DISCRIMINATION

In order to prevent discrimination, the Council continued the examination of legislation and draft normative acts, regarding their compliance with non-discrimination standards, submitting proposals in case of detecting discriminatory provisions.

Systemic issues identified:

- discrimination of caregivers of persons with severe disabilities regarding the calculation of the average monthly insured income for determining the pension;
- gaps in the mechanism for applying the principle of “equal pay for equal work or for work of equal value”;
- failure to ensure the reasonable accommodation of the needs of all persons with disabilities who have the status of a participant in the process;
- exclusion of the period of activity as a lawyer from the contributory period necessary to establish the right to early retirement for a long career;
- discrimination against women lawyers in exercising the right to free medical assistance within the mandatory healthcare insurance system;
- differential treatment applied to male persons in the procedure for issuing the certificate regarding the ability to practice social and professional activities with increased responsibility;
- lack of accessibility of services and means of transport for persons with locomotor disabilities;
- limiting the circle of subjects who can benefit from fiscal and customs facilities for the import of means of transport intended for serving people with disabilities;
- non-uniform determination of the remuneration of the work of medical personnel in relation to the workplace.

Study on the social assistance of people with severe disabilities and people who are involved in activities for their care

Main findings:

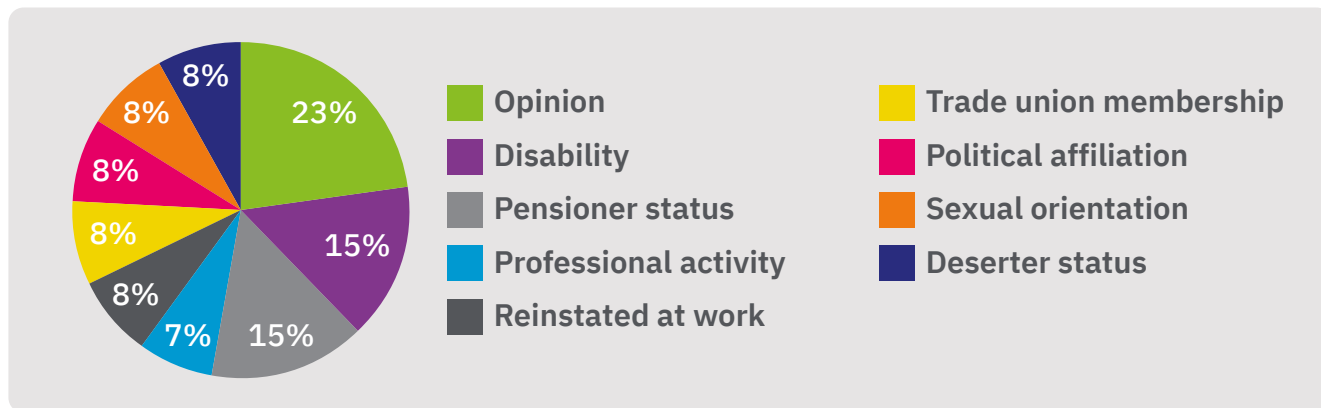
	2019	2020	2021	2022
Local budget, (thousand lei)	154084.8	185389.7	213650.1	272598.5
Population support fund, (thousand lei)	13645.32	65321.03	104376.6	147646.5
State budget, (thousand lei)	776.7	2518.9	6075.6	40656.23
Persons with severe disabilities receiving service	3250	5516	5498	5878
Persons employed as personal assistants	2991	5189	5006	5575

- At the end of 2022, 2713 applications for admission to the “Personal Assistance” service are still not covered. Council estimated that the real needs of the population in the “Personal Assistance” service are covered at the current stage only in proportion of 32% (number of beneficiaries in relation to the total number of eligible people with severe disabilities);
- The decisions regarding the amount of financing means of the “Personal Assistance” service are not correlated with the analysis of the real needs of the beneficiaries in assistance services, and the decisions regarding the number of approved personal assistants are dictated by the limited financial resources;

- The decentralization of social services led to the lack of guarantees regarding their continuity for the beneficiaries;
- The continuation of the practice of hiring personal assistants on a part-time basis, with the establishment of a partial work schedule. The Council established that in 2022, of the total number of personal assistants, 4941 were employed full-time; 665 per 0.75 unit; 266 per 0.5 unit and 5 people per 0.25 unit. The Council noted that the employment of personal assistants per 0.5 unit or 0.25 unit causes a significant reduction in the amount of their remuneration, a fact that negatively affects particularly people who take care of a family member and cannot earn additional income. As a result, the realization by a person, employed as a personal assistant, of a monthly income of Lei 1647, respectively Lei 823.5, will determine a lower amount of the old-age pension compared to people who take care of a person with severe disability without being employed as a personal assistant, or in the case of the latter, when determining the average monthly insured income, the average monthly salary in the country, which is significantly higher, will be taken into account.
- The lack of clear criteria on the basis of which the amount of monetary means to be allocated to each local public authority of the second level from the Population Support Fund is determined. The reported data reveal that there is no relation of direct proportionality between the number of the population, the number of people with severe disabilities in the respective administrative-territorial unit and the amount of money transferred to finance the minimum package of social services by the state;
- Gaps in the regulatory framework in force. The national legislation recognizes the right to benefit from care, accompaniment and supervision allowance only for persons with severe childhood disabilities and persons with severe visual disabilities. Consequently, persons with severe disabilities, other than visual, whose disability occurred after the age of 18 are excluded;
- The insufficiency of the “Respiro” type services, which determines the infringement of the right of personal assistants to rest. Currently, only 7 “Respiro” placement centres are operational in the country.

DISCRIMINATION AT WORK

From the total of the decisions finding discrimination issued in 2022, 24% are related to the employment.



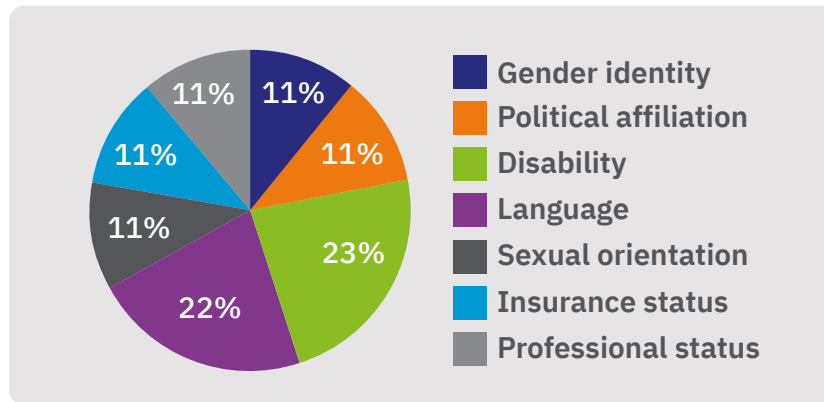
Decisions finding discrimination at the work, by protected ground

The aspects invoked in the complaints examined by the Council highlight the following issues:

- refusal to change the working regime in the pandemic situation;
- arbitrary dismissal of persons holding the status of pensioner due to age limit;
- harassment in labour relations;
- discriminatory granting of the annual prize in a reduced amount;
- non-promotion in public office;
- refusal of employment in the work field.

ACCESS TO PUBLICLY AVAILABLE GOODS AND SERVICES

Of the total decisions finding discrimination issued in 2022, 22% are related to access to publicly available goods and services



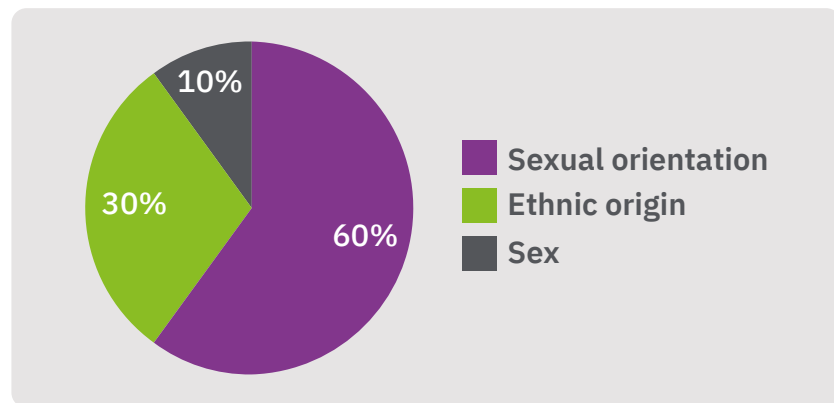
Decisions finding discrimination in access to publicly available goods and services, by protected ground

The aspects invoked in the complaints examined by the Council highlight the following issues:

- unilateral termination of the commercial space rental contract;
- inaccessibility of roads and headquarters of the public authority for the needs of people with disabilities;
- failure to ensure reasonable accommodation of linguistic needs in the interaction with the public authority;
- differentiated establishment of local taxes based on the criterion of political affiliation;
- inaccessibility of specialized outpatient medical services for insured persons;
- refusal to change civil status documents for transgender people.

VIOLATION OF HUMAN DIGNITY

Of the total decisions finding discrimination issued in 2022, 22% are related to violation of human dignity.



Decisions finding discrimination as a form of violation of human dignity, by protected ground

The aspects invoked in the complaints examined by the Council highlight the following issues:

- instigating message towards LGBT+ people;
- highlighting of ethnic origin, in a negative context, in TV shows;
- production and distribution of sexist advertising;
- racist statements.

ACCESS TO JUSTICE

The 15% of the total number of decisions finding discrimination issued during the reporting period are related to access to justice.

As in previous years, the most frequently invoked ground, on the basis of which acts of discrimination occurred in the field of justice, is language.

The aspects invoked in the examined complaints highlight the following issues:

- non-acceptance of the request in the procedure by the courts solely on the grounds that it is drawn up in Russian;
- obligation by the courts to submit the translation in the state language, of the position drawn up in Russian.

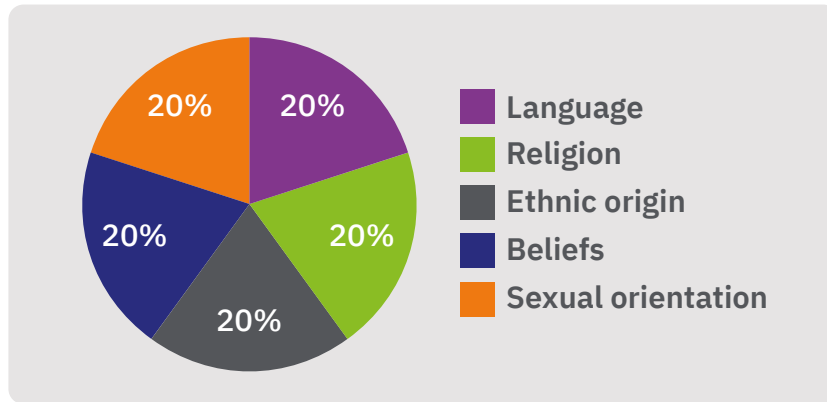
EDUCATION

Of the total finding decisions issued in 2022, 5% are related to the field of education.

The aspects invoked in the complaints examined by the Council highlight the issue of non-compliance with the principle of secularism in educational institutions.

OTHER DOMAINS

In 12% of decisions finding discrimination, discriminatory actions were related to other domains of discrimination.

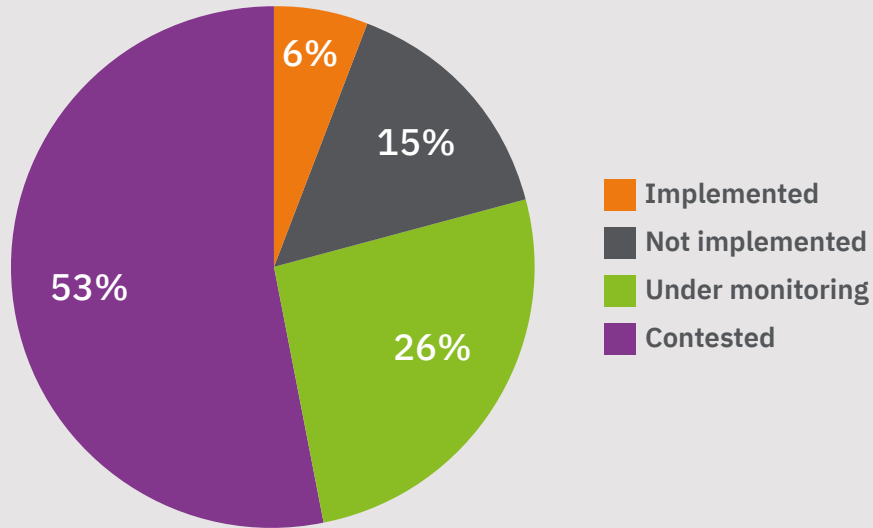


Decisions finding discrimination in other domains, by protected ground

The aspects invoked in the complaints examined by the Council highlight the following issues:

- harassment in the process of fulfilling the military service;
- racial profiling;
- inaccessibility of medical information;
- discrimination in the process of recruitment, incorporation and execution of military service of persons with religious beliefs.

LEVEL OF IMPLEMENTATION OF RECOMMENDATIONS ISSUED BY THE COUNCIL IN 2021



Degree of implementation of the recommendations formulated in decisions issued in 2021

SOCIAL IMPACT OF RECOMMENDATIONS SUBMITTED BY THE COUNCIL IN 2021

With the implementation of some recommendations, issued in 2021, we can review the following achievements:

- the beneficiaries of pensions established under the conditions of the Law no. 1544/1993 on pension insurance of military personnel and persons in the command corps and troops of internal affairs bodies and the General Inspectorate of Carabinieri, who have established their residence abroad will be able to make use of the simplified regime for perfecting the life certificate, by signing it, not only at the diplomatic mission/consular office of the Republic of Moldova on the territory of the state of residence, but also at the local public administration authority or at a notary;
- pensions established between January 1, 2017 and December 31, 2021 for persons who cared for people with severe disabilities without being employed as personal assistants, in the calculation of which the period provided for in Art. 5 para. (2) let. d) from the indicated law was included in the contribution period, they will be re-examined taking as the basis for calculating the pension for the respective period, the average monthly salary in the country, on the date of the initial calculation/re-examination of the pension (and not the minimum salary as previously provided);
- people with intellectual disabilities and people with severe locomotor disabilities, who need additional care, have been recognized the right to be hospitalized with the personal assistant;
- children up to the age of 7, as well as seriously ill children up to the age of 18, who need additional care, will be able to be hospitalized together with the mother, father or guardian, other family members, grandfather or grandmother;
- of the specific increase for special activities for combating terrorism will also benefit civil servants with special status from the Technical-Explosive Division of the “Centre 2” Directorate of the centre for Technical-Forensic and Judicial Expertise and the Detection Dog Division of the K-9 Centre of the General Police Inspectorate of the Ministry of Internal Affairs.

RECOMMENDATIONS FOR IMPROVING THE SITUATION IN THE FIELD OF PREVENTING AND COMBATING DISCRIMINATION AND ENSURING EQUALITY

Parliament of the Republic of Moldova:

- To ratify the Optional Protocol to the UN International Covenant on Economic, Social and Cultural Rights;
- To ratify Protocol no. 12 to the European Convention for the Protection of Human Rights and Fundamental Freedoms;
- To identify legislative solutions for the interpretation of the provisions of Art. 167 para. (1) let. a) Code of Civil Procedure by which it is expressly specified that the Russian language is not a foreign language in the Republic of Moldova.

Government of the Republic of Moldova:

- To start the process of amending/completing Art. 86 para. (1) let. y¹) Labour Code, so that it is made clear that the employer can resort to the application of these provisions if the measure can be objectively and reasonably justified according to the intended purpose;
- To review the normative framework aimed at amending/rectifying the civil status documents in the case of transgender people, so as to offer these categories of people a procedure that is accessible, predictable and compatible with the principles of the rule of law and standards in the field of human rights.
- To amend Government Decision no. 372/2010 for the approval of the Regulation regarding the way of recording and distributing the rehabilitation/recovery tickets granted to pensioners and beneficiaries of

state social allowances, in order to adjust the provisions related to the provision of balneotherapeutic treatment tickets, in an equal manner, to all employees, regardless if they have a degree of disability or are beneficiaries of an old-age pension;

- To propose the completion of Law no. 60/2012 on the social inclusion of people with disabilities, by regulating the obligation of owners of public premises and/or managers, administrators of public transport means, to display a symbol to indicate that, in the respective space, the access of guide dogs is allowed;
- To initiate the harmonization of Law no. 1585/1998 on the compulsory medical assistance to Directive 2013/33/EU establishing standards for the reception of applicants for international protection, namely by completing the list of beneficiaries of medical insurance from the state with asylum seekers from the vulnerable groups listed in Art. 21 of the Directive.

Ministry of Defence and subordinate institutions:

- To conduct practical exercises with the force of the National Army and other structures subordinate to the Ministry of Defence, for the practical application of the Regulation regarding the procedure for prevention, identification, registration, reporting and examination of cases of discrimination, sexual harassment and gender-based violence;
- To introduce into the system of initial and continuous professional training of the military and soldiers, topics related to preventing and combating discrimination and ensuring equality based on sexual orientation and other criteria, including with the involvement of organisations and/or specialists in the field;
- To compel military centres to initiate registration procedures for all documents received from recruits;
- To oblige the military centres to inform the recruits in writing (with the release of informative materials on paper), at least in Romanian and Russian, and under signature, about the possibility of performing (alternative) civil service in the process of military registration and/or incorporation into military service;

- To ensure access (without requesting permission from service military/officers/command) to a sufficient number of mobile phones able to cover the communication needs of all recruits and conscripts in all units of the National Army, and examination/identification of the possibility of use of personal phones (without cameras) for conscripts in all units of the National Army.

Ministry of Health and subordinate institutions:

- To initiate the process of amending the provisions of point 9 subsection 10 of the Regulation regarding the competitive appointment of the heads of public medical and sanitary institutions and of the Standard management contract of the institution approved by GD no. 1016/2016, so as to ensure equal treatment of women and men in the process of occupying the relevant positions;
- To evaluate the manager of PMSI Bălți Municipal Hospital and organise the competition for the position of manager of PMSI Bălți Municipal Hospital;
- To ensure that appointments with specialist physicians are conducted according to the availability of the specialist physicians, in a common list, regardless of insured or uninsured status;
- To implement and monitor the process of concluding bilateral contracts for the provision of medical services among medical and sanitary institutions, in case the latter do not have the necessary capacities to perform certain specialized outpatient medical assistance services;
- To undertake strict measures for the employment of physicians in accordance with the provisions of the personnel regulations.

Ministry of Justice:

- To establish a mechanism for the release from the application of the preventive measure in the form of arrest of seriously ill persons, regardless of the procedural status of the person and the moment of contracting the disease.

- To implement a plan of measures aimed at ensuring the linguistic accessibility of the justice system.

Superior Council of Magistracy:

- To identify administrative solutions to guarantee to persons belonging to national minorities the effective exercise of the right to receive an answer in the language in which the address was formulated (contracting of translation services, employment of personnel from among national minorities, etc.).

Chişinău District Court:

- To stop the actions of discrimination against the Russian-speaking persons, and to admit the procedural documents submitted by them in the Russian language;
- To identify administrative solutions to guarantee to persons belonging to national minorities the effective exercise of the right to receive an answer in the language in which the address was formulated (contracting of translation services, employment of personnel from among national minorities, etc.).

Courts of law:

- To ensure the necessary number of translators units, to guarantee access to justice for national minorities.

National Integrity Authority:

- To apply objective procedures and standards to the promotion of subordinate personnel in public/ administrative positions.

Ministry of Internal Affairs:

- To re-examine the period of validity of the identity document for persons who renounced to the state identification number and the automated record in the State Register of Population.

General Police Inspectorate and subordinate institutions:

- To introduce in the continuous training program of NIPS collaborators, activities regarding combating discrimination at work and in professional activity;
- To plan and organise, for subordinate personnel, training activities on racial profiling and combating prejudices regarding persons of Roma ethnicity.

National Administration of Penitentiaries and subordinate institutions:

- To identify administrative solutions to guarantee to persons belonging to national minorities the effective exercise of the right to receive an answer in the language in which the address was formulated (contracting of translation services, employment of personnel from among national minorities, etc.).

National Social Insurance House:

- When calculating the early retirement pension for a long career, to take into account the entire period of working as a lawyer as contributory contribution period;
- To calculate the contributory contribution period necessary to grant the early retirement pension for a long career, including the periods up to January 1, 2021, for which the lawyers have paid the fee established by the annual law of the state social insurance budget.

Public Services Agency:

- To start the process of completing the normative framework in the part aimed at amending/correcting civil status documents in the case of transgender persons, so as to offer these categories of people a procedure that is accessible, predictable and compatible with the principles of the rule of law and standards in the field of human rights.

State Labour Inspectorate:

- To initiate mass information and consultation actions of employers, regarding the applicability of the provisions of Art. 86 para. (1) let. y¹) from the Labour Code.

Local public authorities:

- To evaluate the degree of physical accessibility, for people with special needs, including the road infrastructure in the localities they manage;
- To treat legal entities operating under similar conditions equally, to ensure an equal tax burden;
- To develop an action plan aimed at accessibility;
- To plan the financial resources for the necessary accessibility measures.

Educational institutions:

- To organise activities regarding the combating of discrimination in the field of education and compliance with the secular principle of state education, for all employees, students and their parents, who have expressed their desire.

Politicians:

- Not to admit statements that are sexist and inciting to discrimination;
- Not to admit emphasis of ethnicity in an inappropriate context;
- To be cautious in public expressions, so as not to label and/or offend the representatives of vulnerable groups in their statements, which could lead to the increase of intolerance in society.

Employers:

- Not to admit acts of intimidation and victimization at work;
- To develop and approve an internal regulation on the non-acceptance of harassment at the workplace;
- Not to admit the termination of the individual employment contract pursuant to Art. 86 para. (1) let. y1) Labour Code arbitrarily, but only in situations where there is an objective and reasonable justification, according to the intended purpose;
- To train the personnel responsible for recruitment, in the field of non-discrimination;
- To stop the intimidation of people in the workplace;
- To grant employees full access to information and procedures regarding their rights and freedoms.

Media:

- To refrain from using discriminatory phrases against people belonging to other ethnicities, in the reporting conducted, as well as in the television shows.