



GENDERDOC-M

REPORT ON THE SITUATION WITH OBSERVANCE OF RIGHTS OF LGBT PEOPLE IN THE REPUBLIC OF MOLDOVA IN 2014

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The year 2014 saw a lot of political and social events in Moldova.

Beginning from 28 April, Moldovan citizens who hold biometrical passports can travel without visas in the European Union besides the United Kingdom.

On 28 June, the Moldovan government approved a draft law on ratification of the Association Agreement between Moldova and European Union and European Atomic Energy Community and their member states, which was signed in Brussels on 27 June.

On 2 July 2014, the Parliament of Moldova ratified the Association Agreement between Moldova and the EU. According to legal procedures, it must be ratified by all EU member states' legislative bodies. On 16 October, the Committee on Foreign Affairs of the European Parliament approved the ratification of the Association Agreement between Moldova and EU with 44 votes in favour, 3 votes against and no abstentions.

In the plenary session of the European Parliament held on 13 November, 535 members of European Parliament voted in favour of ratification, 94 were against, and 44 members abstained.

Following these important developments, the Republic of Moldova has made one more step in the direction of assuming European values and respecting human rights, including the rights of LGBT people.

In June 2014, Igor Dodon, chairman of the Party of Socialists, launched a political video spot aimed at exposing the European Union's "vices" and claiming the organisation of a referendum which would decide upon Moldova's development direction. In the video, among other things, appeared an image of the recent Eurovision Song Contest winner, Conchita Wurst. The image was accompanied by the word "Values?" which meant to send the message that the EU is an immoral union of European states since such a person, i.e. a bearded drag queen, had won that music contest.

On 30 November national parliamentary elections took place. For the first time in the history of Moldova an independent candidate, Oleg Brega, who openly supported LGBT equality including the right to marriage and adoption, participated in the election campaign. Oleg Brega declared for an on-line youth news portal following: "I agree with the state's tendency to deinstitutionalise – to take out from orphanages – all orphans, and I find it amazing and

acceptable for a gay couple to be able to adopt a child, to bring up and educate him or her with parental love”.¹

This candidate gathered more than 14,000 votes (circa 1% of all casted ballots), which is more than any other independent candidate and majority of political parties received. Yet, those votes were insufficient to pass the electoral threshold and gain a seat in the Parliament.

GENDERDOC-M Information Centre took a number of measures and did several activities aimed at preventing hate speech during the national parliamentary election campaign. Those activities had a positive effect. Not a single case of hate speech, incitement to hatred, violence and discrimination against LGBT people was registered by political candidates.

In November, 11,000 visitors of the Testelectoral.md website (Moldovan version of the pan-European on-line voting tool that compares a user's views with those of political parties, VoteMatch.eu) answered the question “Should civil marriage between partners of the same sex be allowed?” The results were as follows: 19% of respondents gave affirmative answer, 72% were against, and 9% of respondents abstained.

In 2014, GENDERDOC-M Information Centre, in collaboration with UNICEF, elaborated a study titled “Perception of adolescence by LGB youth”. For the study, 140 LGB people under 26 were interviewed.

According to the study, 82% of respondents, i.e. 115 subjects, indicated that certain measures aimed at raising awareness about homosexuality in school had not been taken. However, the tonality of discussions about homosexuality bore negative character in 53% of cases, positive character in 25% of cases, and neutral character in 22% of cases.

Between 27 June and 8 July 2014, the Chişinău-based Institute for Public Policy elaborated a sociological survey titled “Discrimination Phenomenon in Moldova: A citizen's Perception”. The survey concept had been previously discussed with the Council on Prevention and Elimination Discrimination and Ensuring Equality, Bucharest-based Institute for Public Policy, National Anti-Discrimination Council from Romania, and a number of NGOs from Moldova. The survey was implemented on the ground by the Center of Sociological Investigations and Marketing Research “CBS AXA”. The maximum margin of survey error is 3%.²

The research was conducted on a sample of 1070 people aged 18 and over and is representative of the country's adult population. The sample does not include eastern districts of Moldova. The survey was conducted in 84 localities.

According to this survey, only 16.9% of respondents would accept an LGBT person to live in Moldova; 13.8% would accept LGBT people in their locality; 10.9% would accept them as neighbours; 7.3% would accept them as a friend; 4% would accept them as a family member.

When asked what groups of people are discriminated against/disadvantaged in Moldova more often, 19.9% said it was LGBT people.

¹ <http://diez.md/2014/11/13/9-idei-care-il-descrui-pe-oleg-brega-dintr-o-alta-lumina/>

² <http://www.ipp.md/libview.php?l=ro&idc=150&id=715&parent=0>

When asked what attitude they had towards LGBT people, 2.2% said that they accepted them, 11.3% demonstrated a neutral attitude, 83% did not accept, and 3.5% did not know how to answer the question.

2.5% of respondents believe that LGBT people must be exterminated;
69.2% believe that LGBT people are dissolute, immoral, perverted;
66.1% believe that LGBT people are sick and must be treated;
39.1% believe that LGBT people are pedophiles;
39.2% believe that LGBT people have HIV/AIDS;
57.4% believe that homosexual relations must be sanctioned;

Those who believed that homosexual relations had to be sanctioned, were then asked what sanctions must be applied and gave following multiple answers: 83.7% opted for prohibition of some rights, 55.5% opted for a fine, and 42.2% chose imprisonment.

92.5% would feel uncomfortable to learn that a family member was LGBT;
92.1% would feel uncomfortable if a person of the same sex made advances;
91.8% would feel uncomfortable to learn that one of their children's teachers was LGBT;
91.4% would feel uncomfortable to learn that one of their child's classmates/friends was LGBT;
90.0% would feel uncomfortable to learn that a friend of theirs was LGBT;
90.1% would feel uncomfortable to learn that their family doctor was LGBT;
89.4% would feel uncomfortable to see two same-sex people holding hands on the street or erotically kissing in public places.

From all respondents only 6.7% know somebody who is homosexual; 6.6% say that there are homosexuals who they know by sight; 2.2% have (or had) homosexual colleagues; 1.5% happened to shop in a store where an LGBT person was sales assistant; 0.8% happen to ask an LGBT person for help; 0.8% have homosexual neighbours who they greet; 0.6% interact with homosexual too; 0.4% have homosexual relatives; 0.2% often seek advice from an LGBT person.

The survey results show that the level of awareness about LGBT people is very low. The attitude towards homosexuality is based on stereotypes and prejudices. The level of homophobia is high. A large number of people are prone to violence against gay people.

BIAS-MOTIVATED SPEECH, INCITEMENT TO HATRED AND DISCRIMINATION

In June 2014, Bălți City Court fined Orthodox Bishop Markel MDL 10,000 (EUR 415) for asserting that “92% of homosexuals are sick of HIV/AIDS”, and for calling on schools, medical and public catering institutions to not employ them.³ GENDERDOC-M brought a case against him. The bishop also had to cover organisation's legal fees (MDL 12,000, EUR 500). Immediately after the court decision, on 24 July 2014, the bishop held a press conference where he refused to apologise for his hate speech; more so, he claimed that “not 92% but 95% of homosexuals have HIV/AIDS”.⁴ GENDERDOC-M denounced bishop's repeated statement to the Prosecutor's Office. The Prosecutor's Office refused to open a criminal investigation, for which GENDERDOC-M is submitting a claim to the European Court of Human Rights.

³ http://www.publika.md/preotii-cer-interzicerea-angajarii-homosexualilor-in-scoli--spitale-si-in-domeniul-alimentatiei-publice_1055681.html

⁴ <http://protv.md/stiri/social/i-a-ponegrit-si-mai-tare-cum-si-a-cerut-scuze-episcopul-marchel---600631.html>

On 10 June 2014, during a televised talk show on the Canal Regional channel on the topic “Can incitement to hatred against LGBT people stopped?” and with participation of GENDERDOC-M Lobby and Advocacy Programme Coordinator Angela Frolov and lawyer Doina Ioana Străisteanu, an Orthodox priest by the last name of Panas stated the following: “I don’t want to sit next to bad and sinful people. I want healthy people to be part of our society. The church doors are always open, but these people are not entitled to the communion. Human rights appeared much later. Homosexuality is a manifestation of animality. You don’t understand the Bible.”⁵ After Angela Frolov had filed a complaint to the police station the priest was fined MDL 1000 (EUR 50) for verbal insults.

Former Minister of State Security, Anatol Plugaru, at a political assembly of the Party of Communists stated the following: “On the edge of the village, at the entrance, we’ll install a sign “Gays are not allowed!” Have you voted for faggots?”⁶ On 15 July 2014, GENDERDOC-M submitted a complaint on hate speech and incitement to discrimination against gay people to the Prosecutor’s Office. On 29 August 2014, organisation received refusal to open a criminal investigation. On 01 October 2014 a claim against prosecutor’s decision to not open criminal investigation was submitted to the investigating judge. On 03 December 2014, the investigating judge obliged Prosecutor’s Office to open criminal investigation against Anatol Plugaru.

In May 2014, PRO TV channel published on its website an article titled “Gay of Moldova keep in secret parade’s location. What they say about Conchita Wurst’s win at Eurovision”.⁷ Comments under the article incited to violence, ill-treatment and harassment of gay people. GENDERDOC-M called on the TV channel’s management to moderate comments and to prevent incitement to hatred through an official letter which remained without response. The organisation initiated a civil lawsuit for incitement to discrimination against LGBT people and lack of comment moderation on the TV channel’s website. The court claim referenced precedent “Delfi SA vs. Estonia” of the European Court of Human Rights.

On 25 October 2012, the Family Salvation Alliance of Moldova hosted a public lecture “The effect of sexual diversity over society’s development” held by the US-based so-called researcher Paul Cameron. A booklet titled “Homosexual Manifesto” was distributed among the audience which contained incitement to sexual abuse and rape and was written from the viewpoint of gay people.

The event took place in the Patria Lukoil Cinema, owned by the chairman of the Social Democratic Party, Victor Şelin, who made an introductory note. He said: “I, as a social-democrats leader, have clandestinely published approximately one hundred thousand green booklets (he showed the “Homosexual Manifesto”)”.

GENDERDOC-M submitted a complaint to the Prosecutor’s Office based on Article 346 of the Criminal Code on “intentional acts aimed at incitement to hatred”. On 04 December 2012, Prosecutor’s Office issued official response informing GENDERDOC-M about the refusal to open a criminal investigation due to lack of corpus delicti. On 22 December 2012, GENDERDOC-M contested the refusal in court. The claim was accepted on 21 March 2013, and the Prosecutor’s Office was obliged to open investigation.

⁵ <http://discriminare.md/un-preot-a-criticat-comunitatea-lgbt-afirmand-ca-homosexualitatea-este-o-magareala/>

⁶ <http://protv.md/stiri/social/anatol-plugaru-actionat-in-judecata-de-catre-homosexuali-numai---594171.html>

⁷ <http://protv.md/stiri/social/gay-ii-din-moldova-tin-in-secret-locul-paradei-ce-spun-despre---549891.html>

In June 2013, GENDERDOC-M submitted information about the measures taken by Prosecutor's Office within this investigation, but no answer was received. In May 2014, GENDERDOC-M received another refusal to open investigation into the respective case. Another appeal against the decision was submitted, and two court hearings took place in August 2014. The prosecutor's decision to not open investigation was annulled again. It was decided to submit a claim to the European Court of Human Rights based on similar arguments as in the case "Vejdeland and others vs. Sweden". Namely, it will be claimed that nobody enjoys freedom of expression when inciting to hatred against LGBT people and that GENDERDOC-M is entitled to an effective remedy against hate speech which, currently, is not ensured nationally. The complaint will claim violation of Article 10 and Article 13 in conjunction with Article 17 of the European Convention on Human Rights.

The website www.egali.md, managed by GENDERDOC-M, regularly receives hateful messages from unknown individuals through the "Submit personal story" option. In 2014, there were two messages received containing threats and insults.

BIAS-MOTIVATED VIOLENCE

ACTIVITY OF THE EXTREMIST GANG "OCCUPY PEDOPHILIA":

A violent gang named "Occupy Pedophilia" (having members who are also involved in the activity of other gangs named "Scutul Social", "Restruct Moldova", and "Stop Ham") hunted gay and bisexual men in Moldova. The ideology behind this gang's activity originates from Russia and was later spread over Ukraine, Belarus, and Kazakhstan. Gang members claim they fight pedophiles whereas they seek victims on dating websites for gay and bisexual men. They create fake profiles, interact with gay and bisexual men, and after that they invite them to go out. At the meeting site, victims are confronted by several young men (and sometimes women) – members of the gang. Then, the members humiliate, assault, sexually harass, and torture gay or bisexual men, all while videotaping this process and uploading it to social networks with pages allowing open access. At least seven videos of this kind were produced in Moldova. Three victims of this gang turned to GENDERDOC-M for legal aid.

At least three criminal investigations were opened after victims' complaints.

GENDERDOC-M submitted a special complaint where it explained all symbols used by Occupy Pedophilia gang members during their acts of violence.

Protection measures for the victims were requested, however they were denied. In one of the videos, gang members forced a victim to say hello and show humiliating gestures to Angela Frolov, Lobby and Advocacy Programme Coordinator at GENDERDOC-M. In the same video, gang members were talking about the possibility of detonating the GENDERDOC-M office.

GENDERDOC-M submitted a police complaint against the gang leader Stanislav Ghibadulin asking him to make public apologies to the organisation and Angela Frolov, to delete that video from all internet pages, as well as to pay all moral damages. Likewise, a denunciation with all gathered information was submitted to the Botanica Police Inspectorate of Chişinău and Prosecutor's Office.

It is crucial to pay attention to the fact that the same gang was extremely active during the LGBT Pride March for Equality held on 17 May 2014. Approximately 15-20 young men

(among them, the gang leader who was easily identifiable and several minors) with their faces covered with medical masks shouted “We will hang and bury you!”, “Death to fags!” and “Occupy Pedophilia, destroy a fag’s life!” We filed a police complaint denouncing those threats and insults. As a result, the gang leader was fined MDL 1000 (EUR 50), however he appealed the applicability of the fine in court.

One week after the annual Pride Festival, Lobby and Advocacy Programme Coordinator Angela Frolov participated at a photo exhibition against discrimination, which was organised by the Human Rights Information Centre (CIDO) and held in the central park of Chişinău. Stanislav Ghibadulin and other Occupy Pedophilia members came to the exhibition and harassed Angela Frolov. The entire scene happened in front of several people. On 17 June 2014, a police complaint against Stanislav Ghibadulin was submitted for hate speech and incitement to violence and discrimination against gay people.

At the end of June, GENDERDOC-M received an official response to Angela Frolov’s complaint from the General Police Inspectorate informing the organisation that a criminal investigation into Occupy Pedophilia’s wrongdoings had been opened already. All evidence sent to the police had been attached to the file.

Two complaints submitted against the gang leader for defamation and incitement to discrimination were rejected by the police. A complaint against him was submitted to the Council on Prevention and Elimination of Discrimination and Ensuring Equality. On 15 December 2014, the Council issued a decision where Stanislav Ghibadulin was found liable for victimisation, incitement to discrimination and harassment on the ground of sexual orientation.⁸ Based on this decision there was a lawsuit initiated against him.

On 20 September 2014, the Occupy Pedophilia activists attacked the GENDERDOC-M office where around 40 LGBT community members and organization staff had gathered to go to a field trip. The eight assailants (some of them visibly minors) were wearing medical masks on their faces and threw eggs over the fence hitting several people, the courtyard floor and walls of the building. One of the assailants shouted homophobic slurs: “No to fags!” The police fined the group leader MDL 1,000 (EUR 50) for hooliganism. No charges for bias-motivated violence were invoked.

Five minutes prior to the attack a group of eight young people, among whom was Stanislav Ghibadulin, were spotted open-faced in close proximity to the office by three GENDERDOC-M employees. The latter immediately warned those in the office about a possible assault by a telephone call, and all beneficiaries managed to enter the organisation premises safely. During the attack GENDERDOC-M director told others to push the alarm button and call the police. The assailants heard these indications and ran away from the site. Police arrived shortly and drew a report.

GENDERDOC-M’s lawyer requested protection measures for the organization and its members, as well as constant police patrol of the street where office is located. She received no response from police to either of the requests. The organisation only informed about the fact that Stanislav Ghibadulin had been fined MDL 1000 (EUR 50) for the attack on the office. Thus, in spite of opening criminal investigation into the homophobic hate crime, police simply fined the leader of the perpetrators. We checked the court database and found that

⁸ <http://egalitate.md/index.php?pag=news&id=836&rid=568&l=ro>

Ghibadulin Stanislav had appealed applicability of the fine for attacking GENDERDOC-M office in court.

On 11 October, eight Occupy Pedophilia gang members, including their leader, showed up at the event dedicated to the International Coming Out Day held in a Chişinău theatre. They intruded the room when the event, a theatre performance, had been underway. Although they did not manifest any violent behaviour, organisers had to suspend the activity. Anti-LGBTI activists had left the venue before the police arrived.

After the press conference held on 25 November 2015 and titled “GENDERDOC-M accuses a gang of extremism acts against gay people” where organisation representatives brought evidence of the gang’s extremist activity and involvement of minors in their unlawful deeds,⁹ the Prosecutor General Office’s published a press release with the following information:¹⁰

“On 26 November 2014, prosecutors from Buiucani Prosecutor’s Office of Chişinău, together with representatives of the Information and Security Service and Buiucani Police Inspectorate, conducted searches at homes of some extremist organisations’ members.

The actions were conducted within a criminal investigation opened in October based on the fact that on the territory of the Republic Moldova there is an active group of people who have established organisations of extremist nature, such as “Scutul Social”, “Restruct Moldova”, “Russkii Legion (Moldova)”, “Noua Lege” and others. During 2014, they created and distributed messages of extremist nature through entertainment websites’ forums and many social networks (www.facebook.com, www.vk.ru) with the scope of inciting hatred, differential attitudes and national, ethnic and racial animosity out of social hatred. Representatives of respective structures may have been also involved in acts of violence of discriminatory nature.

During the searches, masks and hoods, which suspects had worn while committing crimes, knives, bullets, flags, digital information storage devices etc. were found and confiscated

One of the principal leaders of the repective movement has been detained in compliance with the provisions of Article 166 of the Criminal Procedure Code CPP. He is also accused of committing other serious crimes”.

EQUALITY AND NON-DISCRIMINATION

The national equality body, Council on Prevention and Elimination of Discrimination and Ensuring Equality, continued its activity. In 2014 two decisions (Angela Frolov vs. Ghenadie Văluţă, and GENDERDOC-M and Angela Frolov vs. Stanislav Ghibadulin) regarding incitement to discrimination and discrimination on the ground of sexual orientation were released. According to the law, Moldova’s national equality body’s duty is resumed to issue decisions bearing recommendation status solely without having the right to apply penalties on perpetrators.

An Orthodox clergyman, Ghenadie Valuţă, attempted to perform a religious ritual over Angela Frolov, GENDERDOC-M representative, against her will during the live broadcast of a televised talk show because of her alleged homosexuality. She submitted a complaint to the Council on Prevention and Elimination of Discrimination and Ensuring Equality against

⁹ <http://ipn.md/ro/societate/66013>

¹⁰ <http://procuratura.md/md/newslst/1211/1/5976/>

Ghenadie Văluță for incitement to discrimination and violation of the freedom of belief which also includes the lack of any religious convictions.

On 16 June 2014, the Council issued a decision where Ghenadie Văluță was found liable for discrimination on the grounds of sexual orientation and convictions.¹¹ On 29 December 2014, Angela Frolov filed a lawsuit against Ghenadie Văluță.

A 36-year-old transsexual woman has been systematically subjected to harassment at work by her colleagues and management since she began transitioning towards the desired gender. The discriminatory treatment did not cease even after she had received new identity documents confirming her gender identity. She has been refused to be addressed in the chosen gender and name, and her colleagues laugh behind her back every time she passes by them.

The victim does not turn to state authorities for assistance in order not to aggravate the situation. The same person had been previously discriminated against on the grounds of gender identity and expression at a notary's office. She came to the notary to make a proxy on her mother's name. Having had a female appearance she still held documents issued in a male name. Nevertheless, she presented a medical certificate for transsexualism diagnosis and said she had been in the process of obtaining new documents. The notary refused to provide her services because her physical aspect was different from that indicated in the documents. When asked to provide refusal on paper, notary refused to comply. Victim refused to turn to state authorities for assistance.

The same woman was subjected to another act of discrimination when she came to a bank to solicit credit services. After she had obtained new documents confirming her gender identity and chosen name, she returned to the bank where she was a client before where she had documents issued in the male name. In Moldova, the personal state identity number is used almost everywhere where people are required to present IDs. This number never changes even if one has changed their name and gender. For she had been previously in that bank with her old ID, the bank clerk informed her of the fact that the presented personal state identity number belonged to a different person according to their database. The woman was accused of forgery and denied banking service. She had to disclose her transgender status in order to explain the situation. After having disclosed her status, the transsexual woman was humiliated by the bank employee in front of other customers. When the scandal began escalating, the woman attempted suicide right in the bank, and the bank administration called the police who fined her for disturbance of public order. After having paid the fine she returned to the bank and asked administration to reimburse her cost of the fine threatening them with a lawsuit. The bank manager returned her all the money.

FREEDOM OF ASSEMBLY

On 17 May, within the annual LGBT Pride Festival "Rainbow over Dniester", a march titled "It's time to be yourself!" took place in Chișinău. Between 100 and 130 people joined the march held in central Chișinău on the International Day against Homophobia and Transphobia. Police protected participants from counterdemonstrators, several of whom were arrested. The US and Swedish ambassadors attended the event, as did the UN Resident Coordinator, and openly gay Polish MP Robert Biedroń, Rapporteur on the rights of LGBT people in the Parliamentary Assembly of the Council of Europe.

¹¹ <http://egalitate.md/index.php?pag=news&id=836&rid=482&l=ro>

This was the second time when the LGBT march was protected by the police. However, it was the first time when its location and time had not been altered.

Two attempts to hamper the course of the march were made by a passer-by and a Chişinău-based Orthodox Church representative.

Anatol Cibric, priest at the Blessed Mother Matrona Church, wrestled from GENDERDOC-M director's hands a rainbow flag that she was carrying in front of the column. Anatol Cibric was immediately captured and detained by the police. The flag has not been returned to organisation.

A young man by the last name Garnov attempted to cease the course of the march by standing in front of the march banner. Three police officers tried to release the banner from his arms but they failed. March participants had to leave the banner with the perpetrator. Shortly after this he was detained by the police. The banner was not returned to the marchers.

GENDERDOC-M filed complaints on both cases to the Prosecutor's Office in order to start a criminal investigation into theft and hindrance to the use of the right to freedom of assembly.

LEGAL GENDER RECOGNITION

Five transsexual individuals managed to have their gender legally recognised in documents through court judgements. GENDERDOC-M continues offering free legal assistance to individuals in cases of legal gender recognition since Moldova has not introduced a clear, transparent and quick legal mechanism in this regard.

POLICE AND LAW ENFORCEMENT

In 2014, GENDERDOC-M encountered a high level of resistance from the police and Prosecutor's Office in what regarded reporting of and complaining about bias-motivated violence and incidents. Around 10 official complaints about homophobic violence and incidents submitted to the police and Prosecutor's Office by GENDERDOC-M were disregarded and the initiation of administrative and criminal investigations was refused on the grounds of the lack of corpus delicti despite sufficient evidence of the bias behind those acts of violence or incidents. Even when the legality of those refusals was contested and the investigation was reopened, prosecutors completely disregarded bias behind those crimes. Thus, it can be stated that the Moldovan police and law enforcement manifest a high level of homophobia when it comes to the investigation of LGBTI bias-motivated violence and incidents.

ASYLUM

A Nigerian refugee, who fled Nigeria in 2013 and sought asylum in Moldova because he had been subjected to prosecution on the ground of his perceived sexual orientation, was denied the refugee status. The Department of Migration and Asylum of Moldova motivated their refusal by the fact that in the asylum seeker's province of origin in Nigeria, gay and bisexual men are not killed like in other Nigerian provinces with the Sharia laws in place. In 2013 and 2014, the Nigerian asylum seeker has been subject of four court trials in Moldova, one of which regards his deportation. According to Moldova's Law on Asylum, an asylum seeker must not be subjected to discrimination on ground of sexual orientation.