



**International Convention on
the Elimination of All Forms
of Racial Discrimination**

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Seventy-eighth session

Summary record of the 2074th meeting

Held at the Palais Wilson, Geneva, on Wednesday, 2 March 2011, at 10 a.m.

Chairperson: Mr. Kemal

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The meeting was called to order at 10.15 a.m.

Consideration of reports, comments and information submitted by States parties under article 9 of the Convention *(continued)*

Eighth and ninth periodic reports of the Republic of Moldova (continued)
(CERD/C/MDA/8-9; CERD/C/MDA/Q/8-9; HRI/CORE/1/Add.114)

1. *At the invitation of the Chairperson, the delegation of the Republic of Moldova took places at the Committee table.*

2. **Mr. Efrim** (Republic of Moldova) said that Moldovan legislation contained several provisions prohibiting various types of discrimination, but that they were unfortunately established in a variety of instruments, including the Constitution, the Criminal Code and the Labour Code, and that there was no specific law on racial discrimination. To fill that gap, work had started in 2008 on a framework law prohibiting discrimination which would collate all existing provisions. It had taken almost three years, with the participation of all stakeholders, including representatives of NGOs and civil society, many of whose proposals had been incorporated into the final version of the bill. On 18 February 2011, the Government had approved the bill and forwarded it to Parliament where it was currently under review. The prospective framework law should be enacted by May 2011 at the latest and should enter into force by July 2011. The provisions of the bill had been brought into line with the Council of Europe's guidelines on discrimination, including European Union Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin and the Proposal for a Council Directive of 2 July 2008 on implementing the principle of equal treatment between persons irrespective of religion or belief, disability, age or sexual orientation, also of the European Union. The bill also provided for the creation of an independent committee that would be authorized to hear complaints of violations of the future framework law and to open administrative inquiries into such matters. The legislation of the Republic of Moldova would thus soon comply with all regional and international norms on racial discrimination.

3. Since 2007, matters related to discrimination on the ground of membership of a religious group had been covered by the provisions of Act No. 125-XVI on religious denominations and religious communities, and the registration of religious organizations and associations had been the responsibility of the Ministry of Justice. According to the provisions governing the registration of religious denominations, applicants needed to submit a dossier containing certain documents. A decision on the application was issued by the Ministry of Justice within 15 days. If the application was rejected, it could be resubmitted. The conditions to be met for registration were not the same for religious denominations as for their affiliates: the former needing a minimum of 100 members of Moldovan nationality, the latter needing a minimum of 10 and to be recognized as a community of the religious denomination of which they claimed membership.

4. Supplementing the information provided in paragraph 91 of the State party report, he pointed out that the 13 disbarred associations had been formed by foreign Muslim students who, once they had completed their studies, had left the country and ceased to be active within those organizations. Having reported no activity for over two years, they had been dissolved under the relevant laws and by decision of the competent authorities. Eight Muslim NGOs were currently registered in Moldova.

5. With regard to the case mentioned in paragraphs 94–98 of the report, at the beginning of 2010, after its case was dismissed by the European Court of Human Rights, the Muslim association “Spiritual Governance for Muslims in Moldova” had submitted a new registration application. In his capacity as Deputy Minister of Justice, he had personally examined the application, which had once again been rejected because, although

the list of members included in the dossier contained over 100 names, their signatures were either missing or invalid. The association was still to appeal against that decision.

6. In the light of the ruling on the case of *Masaev vs. Republic of Moldova*, in which the European Court of Human Rights had ruled that the Republic of Moldova had violated the right to freedom of thought, conscience and religion, the provisions of the Code of Administrative Offences that the European Court of Human Rights deemed to be incompatible with the European Convention on Human Rights had been amended. Consequently, all persons could now freely practise their religion in the country even if that religion was not registered with the Ministry of Justice.

7. In March 2010, the Committee of Ministers of the Council of Europe had issued a resolution on the Moldovan authorities' follow-up on the 2002 ruling of the European Court of Human Rights, on the case of the *Metropolitan Church of Bessarabie et al. vs. the Republic of Moldova*. In its resolution, the European Court of Human Rights had concluded that the plaintiffs' freedom of religion had been violated inasmuch as their request for registration had been rejected, which denied them the right to practise their religion. In its judgement, the Committee of Ministers had recognized the current Government's efforts to implement all the ruling's provisions, including the measures taken in 2007 to amend and duly complete domestic legislation, which should prevent the recurrence of such violations. Under its 2011–2014 Action Plan, the Government intended to review the Act on religious denominations and religious communities and to abrogate any provisions that were incompatible with European and international human rights norms.

8. As to the measures adopted to ensure that the institution of the Ombudsman and the Human Rights Centre conform to the Paris Principles, a working group had been set up with the support and direct participation of the United Nations country team to draw up a bill to guarantee the Ombudsman's independence. The bill was currently being examined by another working group comprising representatives of the State, international organizations and NGOs, for submission to the Government for approval. The bill contained provisions on the procedures for candidates' nomination and selection and their appointment by Parliament, which would guarantee that the Ombudsman was appointed without any interference from the executive. The 2011–2014 Action Plan also included constitutional amendments to enhance the status and independence of the Ombudsman and the Human Rights Centre by assigning them their own budget, which would be approved by Parliament.

9. In 2010, a draft national action plan on human rights had been drafted with the participation of representatives of civil society. The plan had been approved by the Government and submitted to Parliament for review. Public debates would be organized in the coming months so that NGOs could give their opinions on its contents and that the final version could be drawn up. In 2010, the Republic of Moldova had finally ratified two international instruments that it had signed some time before: the Convention on the Rights of Persons with Disabilities, and the Rome Statue of the International Criminal Court.

10. **Mr. Perevoznic** (Republic of Moldova) said that in the past some people had been victims of human rights violations on account of their ethnic or racial origin, but those had been isolated incidents rather than a systemic problem. He stressed that Articles 9 and 22 of the Moldovan Code of Criminal Procedure established the principle of equality, before the law and in the courts' examination of cases, regardless of race, nationality, language, religion or gender. In civil law, all persons who thought they had been the victim of a rights violation could file suit with the competent administrative court, which would be obliged to compensate victims for any physical or moral damage incurred.

11. At the structural level, the Moldovan authorities, in keeping with the Committee's recommendations, had taken an array of measures to combat discrimination against

foreigners more effectively and to raise awareness of the provisions of the Convention. Training seminars had been organized for judges, the law enforcement officials and border guards on asylum regulations, the modes of protection available in Moldovan territory, the rights of those offered such protection under international treaties and domestic legislation, asylum application procedures and the status of asylum-seekers. Courses in human rights, ethics and professional conduct now formed part of all police training programmes, including programmes for officers working in districts and villages mainly inhabited by Roma.

12. It should also be noted that in September 2010, the Procurator-General had approved the idea of preparing a form for keeping statistics on the ethnic origin of victims of racial discrimination, which would be used systematically throughout the country in 2011. A unit to suppress discrimination on the Internet had also been set up in the Office of the Procurator-General to combat racially motivated cybercrime. Draft amendments to articles 346 and 176 of the Criminal Code were also under review to crack down more severely on speeches or writings that incited racial hatred or discrimination, and organizations that preached racial superiority.

13. On 12 November 2010, the Office of the Procurator-General had brought action against the Director of the Police following a complaint made by a young Roma student charged with robbery, who claimed that she had been the victim of police brutality. The investigation was still under way.

14. To raise awareness of Act No. 54, of 2003, on combating extremist activity (CERD/C/MDA/8-9, para. 88), the Office of the Procurator-General had launched a nationwide campaign against extremism, interpreted as incitement by an association, media group or other organization, or an individual, to hatred or racial, national, religious or social discord.

15. As to police action in places of worship, particularly mosques, the Moldovan police sometimes carried out identity checks of worshippers as preventive measures, but such procedures were always conducted in full respect for worshippers' rights and individual and religious freedoms and without discrimination. Officials from the Bureau for Migration and Asylum of the Ministry of Internal Affairs did not enter places of worship and, as required police checks were never conducted inside them. In 2010, police identity checks had discovered 24 irregulars in the country and 19 of them had been deported by court order.

16. With regard to the incident of 13 December 2009, in which church members, spearheaded by their rector, had destroyed a menorah put up to mark the Jewish festival of Hannukah at the entrance to the "Ștefan cel Mare" public park in Europe Square, an investigation had been opened into the complaint filed by the Jewish Congress about the profanation of an object of worship, the attack on a symbol of the Jewish community, and the insult to its religious beliefs. The police station of Chișinău, which was in charge of the investigation, had informed the Procurator that the acts did not constitute offences under article 346 of the Criminal Code and recommended him not to prosecute. The Procurator had requested an additional inquiry to determine whether it would be possible to classify the acts as vandalism under article 88 of the Code. Upon verification, the Procurator had decided to prosecute the rector, who had been found guilty of insulting the religious feelings of the Jewish community and fined. On the rector's appeal, the court of appeal had ruled that in erecting a religious symbol in a public square, the Jewish Congress had not considered the feelings that such an action could arouse in the Christian community and that its act had been provocative. The trial court's sentence had, accordingly, been overturned.

17. **Ms. Beleacova** (Republic of Moldova), replying to questions on the number of Roma living in the country, contested the figures supplied by associations, putting the

Roma community in the Republic of Moldova at between 150,000 and 250,000. The 2004 census had shown the Roma population that year to have been about 12,270. The 2013 census would collect more accurate statistics on the Roma population.

18. The new Action Plan in Support of the Roma Population was under preparation: two groups of experts comprising representatives of Roma organizations and pertinent public institutions had presented their conclusions at a meeting in December 2010, and a working group had been set up to finalize the plan for fostering the social and cultural development of the Roma minority. There was a Roma elite in the Republic of Moldova who participated in all aspects of the country's social life, and Roma youth organizations were increasingly active in public life. To encourage Roma children's school attendance, programmes had been implemented whereby specialized social workers worked closely both with Roma parents and school authorities. The Government intended to continue such activities because they were producing excellent results.

19. Roma children attended the same schools as other children and there were no special schools for Roma. In 2011, some 40 Roma were attending institutes of higher education in the country. As to the names used to refer to the Roma and the fact that they were most commonly referred to as Gypsies in the Republic of Moldova, a recent survey in one school showed that Roma children called themselves Gypsies, the inference being that it was not pejorative. Different names would be entered in the forthcoming census so that the Roma could choose which they preferred.

20. **Mr. Avtonomov** said that what was vital was how the population chose to identify itself. The delegation should perhaps consult the Roma on the matter. In the census, rather than suggesting such or such a name, it would be better to ask people to identify themselves as they wished so as to avoid any kind of discrimination. He was concerned that some people hid their ethnic background for fear of possible discrimination.

21. He would like to know whether there were disaggregated data on the prison population and whether a disproportionately large percentage of the Roma minority made up that population compared to other groups.

22. He would appreciate details on the registration of religious denominations and, in particular, on whether Islam was registered as a religion or as a community.

23. Given that the Gagauz ethnic group had their own language but that many also spoke Russian, he wished to know about the group's use of the Russian language, and the State's official recognition of its choice to do so.

24. **Ms. Beleacova** (Republic of Moldova) said that an autonomous Gagauz Republic had been created in 1994 within the territory of the Republic of Moldova, with its own assembly elected every four years. The assembly had the right to adopt laws on matters including education and culture, provided they did not contravene the Constitution of the Republic of Moldova. The *Başkan* (Governor) of the Gagauz Republic had been re-elected in 2010 to a second term of office. Candidates for the position of *Başkan* had to be over 35 years of age and speak Gagauz. The official languages of the Autonomous Republic of Gagauzia were Gagauz, Russian and the State language, Moldovan; and there were no problems publishing documents in those three languages. The population of Gagauzia was 150,000, 80 per cent of them Gagauz and 20 per cent other nationalities, mostly Bulgarians. In reply to the question on the subject, the Republic of Moldova had become a party in 2008 to the Commonwealth of Independent States Agreement concerning the rights of persons belonging to national minorities.

25. **Mr. Perevoznic** (Republic of Moldova) said that the State did not have statistics on the number of Roma detainees or on the proportion of different ethnic or nationality groups

in the prison population. However, out of an average 20,000 criminal proceedings filed each year charges had been brought against 32 foreigners in 2009 and 14 in 2010.

26. **Mr. Efrim** (Republic of Moldova) said that, regarding the registration of Muslim religious groups, he had earlier been referring to the registration of eight NGOs and not eight communities. For a religious community to be registered, the religion needed to have been previously registered. The number of Roma detainees was very small, and the Republic of Moldova incarcerated its citizens only for the most serious offences. The delegation would subsequently provide accurate statistics on the matter.

27. **Mr. Kut** asked how the Gagauz group were perceived by the general public and the media, whether they could hold public office outside their autonomous territory and whether they could be integrated in Moldovan society if they so wished.

28. **Ms. Jantuan** (Republic of Moldova) said that the law creating the Gagauz autonomous region had produced the best means of solving that community's problems. Gagauz persons held senior government posts and were active in the country's political life. For instance, the *Başkan* of the Gagauz was a member of the Moldovan Parliament. The Gagauz culture was also well represented, and works by Gagauz writers were translated into Moldovan. The Gagauz people were therefore well integrated in the social and political life of the country and they were not at all discriminated against.

29. **Mr. Thornberry** (Country Rapporteur) asked why religious groups had to be registered with the Ministry of Justice, which did not necessarily seem to be the body best placed to handle the procedure.

30. The delegation had mentioned five cases in which article 178 of the Criminal Code, on equality among citizens, had been invoked; but none of them had involved racially or ethnically motivated acts. Indeed, the delegation had spoken of "social discrimination". He wished to know its precise connotation.

31. As to the menorah incident, no proceedings had been initiated in that case under article 346 of the Criminal Code concerning incitation of hatred, which included attacks on property. He would be grateful for further details on the matter. Article 346 of the Criminal Code referred to public calls for humiliation or discrimination and therefore seemed to have a narrower focus than the Convention, which referred to incitement to discrimination and violence. He would like the delegation to explain the real scope of the article by explaining, for instance, whether holding a racist rally was considered an incitation of racial hatred or whether such an act had to be accompanied by specific types of speech in order to be considered an offence.

32. It was not unusual for official Government statistics to put the numbers of a given population group, in the present case the Roma, far lower than those given by the organizations representing them. Therein precisely lay the problem: such a disparity could signal the reluctance of members of a particular community to acknowledge officially that they belonged to the group in question, which was perturbing.

33. As to the use of the word "*cigan*" to refer to Roma in the Republic of Moldova, he had noted the Moldovan delegation's reply that the term was not pejorative. Nonetheless, the Committee generally encouraged States parties to consult the representatives of the groups in question on their own views regarding the pejorative or discriminatory nature of the terms by which the authorities had chosen to identify them.

34. **Mr. Efrim** (Republic of Moldova) said that, under Moldovan law, it was now the Ministry of Justice that had the authority to grant the status of legal persons to entities requesting it register religious denominations. It was one of the two practices of European legal systems, the other being to entrust that authority to the courts.

35. **Mr. Perevoznic** (Republic of Moldova) said that articles 346 and 186 of the Criminal Code had been invoked by the courts in several cases in which human rights or fundamental freedoms had been violated. The Constitution also provided that refusal to employ someone on the ground of their nationality or race would violate a social right.

36. The draft amendment to article 346 of the Criminal Code aimed to expand its scope to include cybercrime; in other words, use of Internet to incite hatred or national, racial or religious hostility or to impugn citizens' honour or dignity.

37. **Mr. Efrim** (Republic of Moldova) said that the draft amendment to article 346 of the Criminal Code, which had been submitted to Parliament, had been withdrawn by the new Government, which had requested that it should be examined by the Organization for Security and Co-operation in Europe (OSCE). The wording of the new text, which was shortly to be submitted to Parliament for approval, would thus take into account the norms applicable to the fight against cybercrime in Europe.

38. **Mr. Thornberry** summed up the fruitful dialogue that had taken place between the State party and the Committee on the key matters presented in the list of issues including: implementation of a new legal and institutional framework to fight discrimination, including the amendment of certain articles of the Criminal Code to punish the incitement to ethnic and racial hatred on the Internet and prevent racially motivated crimes; training for law enforcement officials and the judiciary in human rights; and raising the population's awareness of human rights issues; registration of religious denominations; direct or indirect, discrimination whether deliberate or not; the need to create a climate in which religious minorities could worship freely, and prevent repetitions of the anti-Semitic incidents that had taken place in Chişinău in December 2009; the survey of the Roma population and their situation with regard to education.

39. The complex problems associated with discrimination, especially discrimination based on ethnic origin, which the State party needed to address, the human rights situation in the country was evolving rapidly. The Committee would be closely following that process of change, and the State party needed to create mechanisms for implementing, monitoring and evaluating its new policies and strategies if it wished to attain its objectives and better implement the provisions of the Convention.

40. **The Chairperson** commended the Republic of Moldova for always having submitted its reports within the established deadlines even though it had only recently achieved its independence.

41. **Ms. Beleacova** (Republic of Moldova) said that being a party to the Convention had raised awareness in the Republic of Moldova of discrimination issues, helped combat prejudice and made people better appreciate the work of NGOs and civil society in that domain. The Moldovan Government was concerned by certain displays of xenophobia and anti-Semitism and was seeking to create the conditions needed for the peaceful coexistence of members of different faiths and for the fundamental rights of all persons to be respected regardless of their racial, ethnic, religious or linguistic backgrounds. The aim was to ensure recognition for the cultural and linguistic diversity of the country's different population groups, and their values and traditions. The Moldovan Government would continue on its present course and would do all in its power to establish a culture of respect for human rights in the Republic of Moldova. It was counting on the Committee's valuable cooperation for achieving that goal.

The meeting rose at 12.50 p.m.