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## Third report on Moldova

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For further information about the work of the European Commission against Racism and Intolerance (ECRI) and about the other activities of the Council of Europe in this field, please contact:

Secretariat of ECRI  
Directorate General of Human Rights and Legal Affairs  
Council of Europe  
F - 67075 STRASBOURG Cedex  
Tel.: +33 (0) 3 88 41 29 64  
Fax: +33 (0) 3 88 41 39 87  
E-mail: [combat.racism@coe.int](mailto:combat.racism@coe.int)

Visit our web site: [www.coe.int/ecri](http://www.coe.int/ecri)

## TABLE OF CONTENTS

<b>FOREWORD .....</b>	<b>5</b>
<b>EXECUTIVE SUMMARY .....</b>	<b>6</b>
<b>I. FOLLOW-UP TO ECRI'S SECOND REPORT ON MOLDOVA .....</b>	<b>7</b>
INTERNATIONAL LEGAL INSTRUMENTS .....	7
CONSTITUTIONAL PROVISIONS AND OTHER BASIC PROVISIONS .....	8
- <i>Law on Citizenship</i> .....	8
CRIMINAL LAW PROVISIONS .....	10
CIVIL AND ADMINISTRATIVE LAW PROVISIONS .....	12
ADMINISTRATION OF JUSTICE .....	13
SPECIALISED BODIES AND OTHER INSTITUTIONS .....	13
- <i>The Parliamentary Advocates (Ombudsman)</i> .....	13
- <i>Bureau for Interethnic Relations</i> .....	15
EDUCATION AND AWARENESS-RAISING .....	15
RECEPTION AND STATUS OF NON-CITIZENS .....	16
- <i>Refugees and asylum seekers</i> .....	16
- <i>Immigrants</i> .....	17
VULNERABLE GROUPS .....	18
- <i>Roma communities</i> .....	18
- <i>Religious minority groups</i> .....	20
- <i>National minorities</i> .....	23
CLIMATE OF OPINION .....	24
CONDUCT OF LAW ENFORCEMENT OFFICIALS .....	25
MONITORING THE SITUATION .....	26
AREA CURRENTLY NOT UNDER THE EFFECTIVE CONTROL OF THE MOLDOVAN AUTHORITIES .....	27
<b>II. SPECIFIC ISSUES .....</b>	<b>27</b>
DIFFICULTIES IN IMPLEMENTING THE LEGISLATION TO COMBAT RACISM AND RACIAL DISCRIMINATION .....	27
COMBATING RACISM AND INTOLERANCE IN AND THROUGH SCHOOL EDUCATION IN MOLDOVA .....	29
- <i>Access to education of Roma children</i> .....	29
- <i>Access to education of children belonging to national minorities</i> .....	30
- <i>Combating intolerance and promoting diversity in school education</i> .....	31
<b>BIBLIOGRAPHY .....</b>	<b>34</b>



## **Foreword**

The European Commission against Racism and Intolerance (ECRI) was established by the Council of Europe. It is an independent human rights monitoring body specialised in questions relating to racism and intolerance. It is composed of independent and impartial members, who are appointed on the basis of their moral authority and recognised expertise in dealing with racism, xenophobia, antisemitism and intolerance.

One of the pillars of ECRI's work programme is its country-by-country approach, whereby it analyses the situation as regards racism and intolerance in each of the member States of the Council of Europe and makes suggestions and proposals as to how to tackle the problems identified.

The country-by-country approach deals with all member States of the Council of Europe on an equal footing. The work is taking place in 4/5 year cycles, covering 9/10 countries per year. The reports of the first round were completed at the end of 1998 and those of the second round at the end of the year 2002. Work on the third round reports started in January 2003.

The third round reports focus on "implementation". They examine if ECRI's main recommendations from previous reports have been followed and implemented, and if so, with what degree of success and effectiveness. The third round reports deal also with "specific issues", chosen according to the different situations in the various countries, and examined in more depth in each report.

The working methods for the preparation of the reports involve documentary analyses, a contact visit in the country concerned, and then a confidential dialogue with the national authorities.

ECRI's reports are not the result of inquiries or testimonial evidences. They are analyses based on a great deal of information gathered from a wide variety of sources. Documentary studies are based on an important number of national and international written sources. The in situ visit allows for meeting directly the concerned circles (governmental and non-governmental) with a view to gathering detailed information. The process of confidential dialogue with the national authorities allows the latter to propose, if they consider it necessary, amendments to the draft report, with a view to correcting any possible factual errors which the report might contain. At the end of the dialogue, the national authorities may request, if they so wish, that their viewpoints be appended to the final report of ECRI.

**The following report was drawn up by ECRI under its own and full responsibility. It covers the situation as of 14 December 2007 and any development subsequent to this date is not covered in the following analysis nor taken into account in the conclusions and proposal made by ECRI.**

### ***Executive summary***

Since the publication of ECRI's second report on Moldova on 15 April 2003, progress has been made in a number of the fields highlighted in that report. New legislation was introduced in 2003, outlawing extremist activity in fields related to racism and intolerance. The new Labour Code adopted in 2003 contains anti-discrimination provisions. At the policy level, a National Human Rights Action Plan for 2004-2008 and a National Action Plan for 2007-2010 to support Roma have been adopted, providing a framework for more concrete action in future. On several occasions, high-level officials have publicly condemned manifestations of antisemitism.

However, a number of recommendations made in ECRI's second report have not been implemented, or have only been partially implemented. There is a problem of inadequate implementation of the existing law in many fields which are of importance to combating racism and racial discrimination. At the same time, no comprehensive body of civil and administrative anti-discrimination legislation has been adopted. There is also a general lack of awareness of the danger of racism and the need to combat it among those involved in the criminal law system but also among the general public. Some media, politicians and members of the general public make intolerant remarks concerning several minority groups including Roma, Jews, religious minority groups and immigrants. There have been allegations of racial discrimination against Roma and immigrants by some police officers or some private parties. Roma children still face disproportionate difficulties in access to education at all levels. Minority religious groups, and in particular Muslim communities, continue to experience difficulties in exercising their freedom of religion. There have been allegations of unjustified obstacles in registering their denomination and of harassment, including by officials. Concerns also remain as to the adequacy of measures so far taken, particularly in the educational field, to ensure that members of national minorities benefit from an adequate protection of their cultural rights and a sufficient command of the state language to be able to participate fully in society. The school curricula do not cover enough issues such as human rights, combating intolerance and promoting diversity.

In this report, ECRI recommends that the Moldovan authorities take further action in a number of areas. In the field of criminal law, ECRI recommends ensuring that criminal law provisions designed to combat racism are effectively implemented, including through providing training in this field to the relevant officials. It recommends adopting a comprehensive body of civil and administrative anti-discrimination legislation. It also recommends alerting officials, the media and the general public, including school-aged children, to the need to combat racism and intolerance. It recommends that specific measures be taken to improve the situation of Roma, in particular combating racism and racial discrimination targeting Roma and improving access to education of Roma children. It also recommends removing obstacles faced by members of religious minority groups in practising their religions. Measures should be taken to ensure that national minorities have the opportunity to learn the state language, particularly at school.

## I. FOLLOW-UP TO ECRI'S SECOND REPORT ON MOLDOVA

### International legal instruments

1. In its second report on Moldova, ECRI recommended that Moldova ratify the following international legal instruments: Protocol No. 12 to the European Convention on Human Rights (ECHR), the European Charter for Regional or Minority Languages, the Convention on the Participation of Foreigners in Public Life at Local Level and the European Convention on the Legal Status of Migrant Workers.
2. The Moldovan authorities have explained that they are currently considering the possibility of ratifying Protocol No. 12 to the ECHR, which provides for a general prohibition of discrimination and which was signed on 4 November 2000. The authorities are examining the compatibility of national laws with the Protocol and the financial implication that its ratification would have for the State.
3. ECRI is pleased to note that Moldova ratified the European Convention on the Legal Status of Migrant Workers on 20 June 2006. This instrument entered into force in Moldova on 1 October 2006. The Moldovan authorities have explained that they are currently considering the possibility of ratifying the European Charter for Regional or Minority Languages, which was signed on 11 July 2002<sup>1</sup>. As regards the Convention on the Participation of Foreigners in Public Life at Local Level, the Moldovan authorities have stated that they are currently considering the possibility of signing and ratifying this instrument.
4. Moldova has not yet signed the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, which has entered into force since ECRI's second report. The Moldovan authorities have reported that there are no immediate plans to sign or ratify this instrument.
5. ECRI notes that Moldova signed the Convention on Cybercrime on 23 November 2001 and its Additional Protocol concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems on 25 April 2003. The authorities are currently considering the possibility of ratifying these instruments.

### **Recommendations:**

6. ECRI reiterates its recommendation that Moldova ratify the following international instruments as soon as possible: Protocol No. 12 to the European Convention on Human Rights, the European Charter for Regional or Minority Languages, and the Convention on the Participation of Foreigners in Public Life at Local Level.
7. ECRI recommends that Moldova ratify the Convention on Cybercrime and its Additional Protocol concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems, and the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families.
8. In its second report on Moldova, ECRI recommended that Moldova make the declaration provided for under Article 14 of the International Convention on the Elimination of All Forms of Racial Discrimination (CERD), which allows the Committee on the Elimination of Racial Discrimination to receive communications

<sup>1</sup> See also below: Vulnerable groups, - National minorities.

from individuals. The Moldovan authorities have indicated that there are no immediate plans to make the declaration under Article 14 of the CERD.

**Recommendations:**

9. ECRI reiterates its recommendation that Moldova make the declaration provided for in Article 14 of the International Convention on the Elimination of All Forms of Racial Discrimination, which allows the Committee on the Elimination of Racial Discrimination to receive communications from individuals.

**Constitutional provisions and other basic provisions**

**- Law on Citizenship**

10. In its second report, ECRI recommended that the Moldovan authorities ensure that decisions concerning the acquisition and loss of citizenship were subject to judicial review and not arbitrary.
11. ECRI notes with concern reports of misinterpretation or incorrect implementation of the Law on Citizenship by the officials responsible for its implementation. Thus, individuals who apply for citizenship may encounter unnecessary bureaucracy and sometimes arbitrary decisions. Some applicants for naturalisation have allegedly been asked to fulfil conditions which are not required by this Law. For instance, the Law provides that the requirement to lose or renounce one's previous citizenship in order to obtain Moldovan citizenship does not apply when such loss or renouncement is impossible or when it cannot reasonably be requested. It seems that, despite this provision, some applicants have been asked to prove that they had lost their citizenship of another country even though they were in possession of documents proving their statelessness. The Law also clearly stipulates that decisions refusing to grant Moldovan citizenship should always be "well reasoned", but some applicants have indicated that they have not received an indication of the grounds for the rejection of their application. Finally, even though the Law states that a certificate of renunciation of previous citizenship may be presented only after obtaining a provisional decision in favour of granting Moldovan citizenship, it seems that in practice, applicants may become stateless if they renounce their citizenship and do not obtain Moldovan citizenship in the end, as the final decision remains at the discretion of the Moldovan authorities.
12. In principle, the applicants who encounter this type of difficulties are not left without a remedy: the Law on Citizenship provides that presidential decrees concerning the acquisition and loss of citizenship are subject to appeal before the Supreme Court within six months. Misinterpretations, incorrect implementation or other wrongful actions by officials in this field are also subject to appeal before the courts. Apparently, the courts have already remedied cases of misinterpretation of the law, but it is also true that in many cases, applicants are discouraged from turning to the courts for reasons related to the general situation of administration of justice and which are covered in another section of this report<sup>2</sup>.

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<sup>2</sup> See Section II: Specific Issues, Difficulties in implementing the legislation to combat racism and racial discrimination.



**Recommendations:**

13. ECRI strongly recommends that the Moldovan authorities examine allegations of misinterpretations and incorrect implementation by officials of the Law on Citizenship and take all necessary measures to ensure that the Law is duly implemented in all cases without any arbitrariness.
14. In its second report, ECRI recommended that the Moldovan authorities adopt the law allowing for multiple citizenship as soon as possible.
15. ECRI is pleased to note that amendments were made in 2002 to Article 18 of the Constitution, which governs citizenship, and that the 2000 Law on Citizenship was revised in 2003 so as to extend the possibilities for Moldovan citizens of having multiple citizenship. According to Article 24-3 of the Law on Citizenship, it is now possible for a Moldovan citizen to obtain another citizenship without losing his or her Moldovan citizenship and without any particular requirement. However, the same is not true for citizens of another State who would like to obtain Moldovan citizenship. For them, the principle remains that they must first lose or renounce their previous citizenship. There are some exceptions to this principle, for instance a person can obtain multiple citizenship by marriage, birth, adoption, under an international agreement, or when it is impossible to lose or renounce the citizenship of another State. However, ECRI considers that in order to facilitate the integration of immigrants into Moldovan society, it would be preferable that the principle of multiple citizenship be applicable in the same way to all, whether or not they are already Moldovan citizens<sup>3</sup>.
16. ECRI notes with interest that Article 25 of the Law on Citizenship, in full accordance with Article 17 of the European Convention on Nationality, which has been ratified by Moldova<sup>4</sup>, provides that Moldovan citizens who are also citizens of another State and who have their lawful and habitual residence in Moldova enjoy the same rights and duties as other Moldovan citizens. In this respect, ECRI would like to express its concern about a draft law on the modification and completion of certain legislative acts adopted in its first reading by Parliament on 11 October 2007. According to this draft law, only persons having exclusively Moldovan citizenship are entitled to work in senior positions in the government and in several public services. From the information it has received, ECRI understands that if this draft law enters into force as it stands, Moldovan citizens with multiple citizenship would be seriously disadvantaged compared with other Moldovan citizens in access to public functions. It thus appears that, if the law enters into force as such, this could lead to discrimination, i.e. unjustified differential treatment on the grounds of citizenship. ECRI understands that a wide-ranging debate is occurring within Moldova at the time of writing this report as far as this draft law is concerned and that many sources both at the national and international level have stressed the need to revise the text thoroughly before

<sup>3</sup> See also below, Reception and status of non-citizens, - Immigrants.

<sup>4</sup> Article 17 of the 1997 European Convention on Nationality Rights and duties related to multiple nationality: 1. Nationals of a State Party in possession of another nationality shall have, in the territory of that State Party in which they reside, the same rights and duties as other nationals of that State Party. 2. The provisions of this chapter do not affect: a) the rules of international law concerning diplomatic or consular protection by a State Party in favour of one of its nationals who simultaneously possesses another nationality; b) the application of the rules of private international law of each State Party in cases of multiple nationality." Moldova has made no declaration, reservation or other communication concerning this provision.

its final adoption in order to ensure its compatibility with national and international standards.

#### **Recommendations:**

17. ECRI recommends that the Moldovan authorities reconsider their position which in principle offers the possibility of possessing multiple citizenship only to Moldovan citizens who acquire another citizenship and not to citizens of other countries who would like to acquire Moldovan citizenship. The Moldovan authorities should ensure that in principle all persons, whether or not they are already Moldovan citizens, benefit from the principle of multiple citizenship.
18. ECRI strongly recommends that the Moldovan authorities revise the draft law of 11 October 2007 on the modification and completion of certain legislative acts in order to ensure that it neither infringes the principle of non-discrimination on the grounds of citizenship nor undermines all benefits of the recent changes made to the law on citizenship and allowing for multiple citizenship.

#### **Criminal law provisions**

19. In its second report, ECRI encouraged the Moldovan authorities to monitor more closely the implementation of criminal law provisions to combat racism and racial discrimination in order to ensure that racist cases are investigated and that, where necessary, those responsible are punished.
20. The new Criminal Code, enacted on 18 April 2002, came into force on 1 January 2003. According to Article 77-1 d), the commission of a crime out of social, national, racial or religious enmity or hatred is to be considered as an aggravating circumstance in determining the punishment for the crime. Article 135 of the Code prohibits genocide, with a prison sentence of between 16 and 25 years or life imprisonment.
21. Under Article 176, an infringement of the rights and liberties set forth by the Constitution and other laws, on the basis of gender, race, colour, language, religion, political opinions or any other opinions, ethnic or social origin, affiliation to a national minority, property, birth or any other situation shall be punished with a fine of 300 to 600 conventional units<sup>5</sup> or imprisonment for up to 3 years, in both cases with (or without) forfeiture of the right to hold certain positions or exercise a certain activity for a term of 2 to 5 years.
22. Under Article 346, deliberate actions or incitement to commit actions aimed at directly or indirectly limiting the rights of citizens or the granting of privileges to citizens on the grounds of their national, racial or religious identity are punishable by law. The same provision also prohibits deliberate actions and public incitement, including in the printed or electronic media, that may cause religious, national or racial hatred or discord or that may denigrate national honour or dignity. Infringements of Article 346 are punishable by a fine of up to 250 conventional units, by community service, or by imprisonment for a term of up to 3 years. The authorities have informed ECRI that the Parliament is currently examining a Bill aimed at complementing Articles 176 and 346 of the Criminal Code in order to increase the number of situations where the principle of non-discrimination could be violated.

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<sup>5</sup> In 2006, a "conventional unit" represented approximately 20 lei (about EUR 1.25).

- 23. A law punishing the activities of extremist groups was enacted on 21 February 2003. In particular, this law prohibits actions directed at incitement to racial, national, or religious discord or diminishing national dignity; the dissemination of propaganda of elitism, superiority or inferiority of persons on the basis of, *inter alia*, their religion, race or nationality, or public appeals to such actions, and the dissemination of propaganda or public demonstration of Nazi or similar attributes and symbols<sup>6</sup>. No case-law under the Extremist Activity Law has been reported.
- 24. The Moldovan authorities have indicated that three criminal cases were initiated in 2004 on the basis of Article 176 of the Criminal Code, all of which concerned allegations of violations by the self-proclaimed authorities in Transnistria of children's rights to have access to education in their mother tongue following the closure of schools teaching the state language in the Latin script. However, in part because Moldovan law enforcement agencies cannot *de facto* prosecute in territory that is not under their effective control, none of these cases has led to any decision by a court<sup>7</sup>.
- 25. Three criminal investigations have also been launched under Article 346, in 2003, 2004 and 2006 respectively; however, the Moldovan authorities have reported that, partly due to difficulties in identifying the perpetrators in each case, none of the investigations in these cases have yet been completed.
- 26. ECRI has received reports of the circulation of material and literature inciting to hatred and in particular to antisemitism, and reports concerning the desecration of Jewish cemeteries. These are also dealt with in another part of this report<sup>8</sup>. While criminal investigations have been launched into such incidents, none of them has led to criminal charges being brought on the basis of the specific provisions referred to above.
- 27. ECRI notes that the criminal provisions in force in Moldova which prohibit a broad range of racist activities are not duly applied. It is concerned that a general lack of awareness of the importance of racist offences as an issue may result in a failure to treat racist offences as such. It considers that specific training for all those involved in the criminal justice system – police, prosecution and judiciary – is needed to raise officials' awareness of issues of racism, discrimination and intolerance and to ensure that the relevant cases are treated appropriately. Lack of confidence in the judicial system has been widely suggested as the reason why people in Moldova often refrain from having recourse to it: they consider that it is pointless to do so, or that applying to a court might even be counterproductive. In this domain, ECRI notes with concern the reports of non-governmental organisations and intergovernmental organisations referring to serious problems in the functioning and independence of the judicial system in general<sup>9</sup>.

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<sup>6</sup> The following groups can be prosecuted under Article 6 of Law No. 54-XV on Extremist Activity: social or religious associations, mass media agencies or other organisations or physical persons. Extremist activities are punishable by a written injunction to cease the activity coupled with the elimination of the violations within one month. If the violations have not ceased within that time-frame, the court may issue an order for the dissolution of the organisation or of one year's suspension of its activity.

<sup>7</sup> See also below, Area currently not under the effective control of the Moldovan authorities.

<sup>8</sup> See below, Vulnerable groups, - Religious minority groups.

<sup>9</sup> See also below, Section II: Specific Issues, Difficulties in implementing the legislation to combat racism and racial discrimination.

**Recommendations:**

28. ECRI recommends that the Moldovan authorities implement a training programme for all those involved in the criminal justice system – police, prosecution and judiciary – in order to raise these officials' awareness of issues of racism, discrimination and intolerance.
29. In addition, ECRI strongly recommends that the Moldovan authorities ensure that racially motivated offences are effectively investigated and that, where necessary, those responsible are punished.

**Civil and administrative law provisions**

30. In its second report, ECRI recommended that the Moldovan authorities consider the possibility of adopting a comprehensive body of civil and administrative legislation designed to combat discrimination in all spheres of life, including provision for appropriate compensation and sanctions.
31. ECRI notes with interest that the new Labour Code, adopted on 28 March 2003, contains anti-discrimination provisions. Article 5 of the Labour Code sets forth the principle of equal rights and opportunities and the principle of non-discrimination as two of the basic principles applying to labour relations. Article 8 prohibits any direct or indirect form of discrimination on the grounds among others of race, national origin, and religion. Other laws, including some adopted recently, contain a provision prohibiting racial discrimination. For instance, Article 4 of the Law on the Status of Refugees stipulates that any person seeking asylum shall be treated without any discrimination based among others on race, national or ethnic origin, language and religion<sup>10</sup>. There are a number of other equality or anti-discrimination provisions scattered in several laws, such as the Constitution (Articles 16 and 19), the law on education, the law on the rights of national minorities, the law on the legal status of foreigners and stateless persons, etc.
32. As far as ECRI knows, the only case where a complaint of racial discrimination went before a court was in 2007 and the court rejected the claim<sup>11</sup>. With this unsuccessful exception, ECRI understands that until now Article 8 of the Labour Code has not been applied by the courts in the area of racial discrimination. Apparently, the situation is the same as concerns anti-discrimination clauses contained in all other laws. However, several sources report allegations of racial discrimination on the part of some private parties, particularly discrimination against Roma and immigrants from African and Asian countries<sup>12</sup>. It seems that these cases are not always brought to justice by the persons concerned mainly because they consider that it is pointless to do so, or that applying to a court might even be counterproductive<sup>13</sup>.

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<sup>10</sup> See also below, Reception and status of non-citizens, - Refugees and asylum seekers.

<sup>11</sup> See also below, Reception and status of non-citizens, - Immigrants.

<sup>12</sup> For more information about discrimination against members of the Roma communities, see below: Roma communities, and about discrimination against immigrants, see below: Reception and status of non-citizens - Immigrants.

<sup>13</sup> See also below, Section II: Specific Issues, Difficulties in implementing the legislation to combat racism and racial discrimination.

33. To date, no comprehensive body of civil and administrative legislation to combat racial discrimination has been adopted in Moldova. However, ECRI notes with interest that a coalition of NGOs, supported by the OSCE Mission to Moldova, established a strategy for the promotion of non-discrimination policies in Moldova. One of the main objectives of this strategy is to promote the adoption of comprehensive anti-discrimination legislation in Moldova which would cover a large number of grounds including race, colour, language, religion and ethnic origin. The legislation proposed would prohibit direct and indirect discrimination in many fields of life including employment, education, social services, and access to goods and services. ECRI understands that the coalition of NGOs has met with the Moldovan authorities to discuss the possibility of adopting such a law. The authorities are currently examining the NGOs' draft law on preventing and combating discrimination in Moldova. ECRI has also been informed by several public agencies such as the Bureau for Interethnic Relations that they are generally in favour of adopting comprehensive anti-discrimination legislation.

#### **Recommendations:**

34. ECRI recommends that the Moldovan authorities ensure the proper implementation of the existing civil and administrative law provisions prohibiting racial discrimination. It recommends that they inform the general public of the existence of such provisions and that they take steps to encourage victims to lodge complaints concerning acts of racial discrimination.
35. ECRI also recommends that the Moldovan authorities complement the existing provisions by adopting comprehensive legislation prohibiting racial discrimination in a precise and exhaustive manner to ensure that all areas of life such as education, access to housing, public services and public places and contractual relations between individuals are covered. On this point, ECRI invites the Moldovan authorities to work in close co-operation with civil society particularly in the context of the NGOs' strategy for the promotion of non-discrimination policies in Moldova. ECRI also draws the authorities' attention to the parts of its General Policy Recommendation No. 7 on national legislation to combat racism and racial discrimination dealing with civil and administrative law<sup>14</sup>.

### **Administration of justice**

36. See below, Section II- Specific Issues, Difficulties in implementing the legislation to combat racism and racial discrimination.

### **Specialised bodies and other institutions**

#### **- The Parliamentary Advocates (Ombudsman)**

37. In its second report, ECRI recommended that the Moldovan authorities enshrine the status of the Ombudsman institution (more often referred to in Moldova as the Parliamentary Advocates) in the Constitution in order to reinforce its independence. ECRI also called on the Moldovan authorities to ensure that the Parliamentary Advocates' decisions were implemented, and invited the Moldovan authorities to give the Parliamentary Advocates all the means and resources they need to carry out their various tasks. ECRI also welcomed the Parliamentary Advocates' determination to do their utmost to prevent or remedy racial

<sup>14</sup> See Paragraphs 4-17 of the General Policy Recommendation and Paragraphs 34-36 and 40-65 of its Explanatory Memorandum.

discrimination or racist or intolerant behaviour by the public authorities if ever they should become aware of it taking place.

38. The three Parliamentary Advocates, established by the Law of 17 October 1997, are equally responsible for guaranteeing the respect of constitutional human rights and freedoms by local and national administrative bodies, institutions, organisations and public enterprises, as well as public associations and officials at all levels. They run a Centre for Human Rights which is responsible, among other things, for publishing an annual report on the activities of the Advocates. There are three local offices of the Ombudsman, in Baltsi, Cahul and Comrat, where individuals can seek advice. The Ombudsman has also been running a free hotline giving legal assistance to those who call since 2004.
39. To some extent, the Parliamentary Advocates' competencies include monitoring of the situation concerning racism and racial discrimination issues, for instance through ensuring the respect of Article 16 of the Constitution which guarantees the principle of non-discrimination. However, the Parliamentary Advocates seldom receive complaints of racial discrimination. There are some exceptions, for instance when a Roma NGO sought assistance from the Parliamentary Advocates to solve a case of racial discrimination in access to bars and restaurants<sup>15</sup>. In situations like this one, where the complainants do not wish to go before the courts, the Ombudsman can serve as a mediator and remind the premises' owners of the prohibition on discrimination on the grounds of ethnic origin.
40. ECRI notes that until now no changes have been made to the status of the Moldovan Ombudsman in order to reinforce the institution's independence. However, the Parliamentary Advocates have informed ECRI that they are currently proposing amendments to their status, which would increase their independence. Among several proposals, they suggest that the existence of this institution be guaranteed in the Constitution. They also ask that it no longer be possible for the Parliament to remove a Parliamentary Advocate from his or her position before the end of his or her term by a two-thirds majority vote of no-confidence, as is currently the case. ECRI hopes that these proposals, which correspond to its own recommendation to reinforce the Parliamentary Advocates' independence, will be followed by the Parliament.
41. In their 2006 annual report, the Parliamentary Advocates mention several recurring financial and organisational problems which prevent them from fully exercising their role as defenders of constitutional rights in Moldova. A major difficulty with which the Parliamentary Advocates are confronted is the lack of reaction to or follow-up of their notifications, recommendations and proposals by the relevant authorities.
42. In its second report, ECRI recommended that an independent specialised body be established in Moldova to combat racism and racial discrimination at national level. To date no such body has been established. ECRI believes that there is a need in Moldova to consider creating a specialised body to combat racism and racial discrimination at national level, whether within the existing Ombudsman institution or through the creation of a separate institution.

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<sup>15</sup> See below, Roma communities.

**Recommendations:**

43. ECRI reiterates its recommendation that the Moldovan authorities enshrine the status of the Ombudsman institution in the Constitution in order to reinforce its independence. They should also take measures to guarantee that the Ombudsman's decisions are implemented, and give this institution all the means and resources it needs to carry out its various tasks, including combating racism and racial discrimination.
44. ECRI strongly encourages the Moldovan authorities either to clarify and strengthen the responsibility and ensure the competence of the Ombudsman in the field of combating racism and racial discrimination or to set up in the near future an independent specialised body to combat racism and racial discrimination. To this end, the Moldovan authorities should draw inspiration from ECRI's General Policy Recommendation No. 2 on specialised bodies to combat racism, xenophobia, antisemitism and intolerance at national level and General Policy Recommendation No. 7 on national legislation to combat racism and racial discrimination. ECRI particularly emphasises the need to ensure that the body specialising in combating racism and racial discrimination is entirely independent.

**- Bureau for Interethnic Relations**

45. The Bureau for Interethnic Relations reports directly to the government and is responsible for implementing governmental policy on interethnic relations and co-operating with civil society in this area. The Bureau works closely with sixty-five socio-cultural organisations representing different ethnic groups, particularly within the context of a Co-ordination Council, which comprises representatives of these bodies and enjoys consultative status. As it already did in its previous report, ECRI welcomes the existence of the Bureau for Interethnic Relations and stresses the need for this institution to reinforce and develop its activities as far as national minorities, interethnic and languages issues are concerned. Some of the activities of the Bureau are referred to in other parts of this report<sup>16</sup> but ECRI notes that in general the Bureau lacks sufficient resources to accomplish fully its important mission.

**Recommendations:**

46. ECRI reiterates its recommendation that the Moldovan authorities provide the Bureau for Interethnic Relations with the necessary status and with the resources it needs to perform its various tasks.

**Education and awareness-raising**

47. See below, Climate of opinion and Section II (Specific Issues), Combating racism and intolerance in and through school education in Moldova - Combating intolerance and promoting diversity in school education.

<sup>16</sup> See in particular, National minorities.

## Reception and status of non-citizens

### - *Refugees and asylum seekers*

48. In its second report, ECRI recommended the adoption of the Law on the Status of Refugees, which was then being drafted, and hoped that this Law would help to solve any social and economic difficulties that asylum seekers and refugees could meet. It also called for awareness-raising measures among the general public and the main public authorities in contact with refugees and asylum seekers.
49. There are very few asylum seekers and refugees in Moldova. The authorities have indicated that as of October 2007, there were 68 asylum seekers and 88 refugees. 59 persons held temporary protection status and 27 persons had been granted humanitarian protection. Most asylum seekers are from Armenia, Russia, Jordan, Turkey and Sudan. ECRI is pleased to note that the Law on the Status of Refugees was adopted on 25 July 2002 and entered into force on 1 January 2003. Since then, the Law has been amended. For instance in 2005, a new form of protection, humanitarian protection, was added to the kinds of protection which can be granted to non-citizens by the State and a temporary right to work was granted to asylum seekers who do not have other forms of income. Generally speaking, the law meets international standards, although the United Nations High Commissioner for Refugees (UNHCR) has indicated that there are still some improvements to be made, for instance in order to clarify the provisions governing temporary protection status and the rights that are attached to it. ECRI understands that the law is being revised in order to bring it into line with European Union standards.
50. ECRI notes with interest that awareness-raising measures are among the core activities of the UNHCR in Moldova in partnership with the relevant national authorities. In particular, ECRI notes the existence of training seminars for Moldovan teachers based on a pedagogical kit called "knowing refugee rights for the education of tolerance", the aim of which is to increase tolerance towards refugees<sup>17</sup>.
51. The main difficulties as far as asylum seekers and refugees are concerned are more linked to the inadequate implementation of the law than to their status. There are still cases of misinterpretation of the law and there remains room for subjectivity and even, in extreme cases, arbitrariness by some officials. The absence of implementing orders has also been quoted as a recurrent problem which for instance makes it difficult for refugees to obtain an identification card/number, a document automatically required if they wish to work. Bureaucracy is yet another problem. For instance, asylum seekers and those under temporary protection are obliged to re-register before the authorities every month, which seems to be a cumbersome procedure without real justification.

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<sup>17</sup> Concerning school education, see also below, Section II: Specific Issues, - Combating racism and intolerance in and through school education in Moldova: - Combating intolerance and promoting diversity in school education.



**Recommendations:**

52. ECRI recommends that the Moldovan authorities examine the conclusions and recommendations of the UNHCR Office in Moldova and of human rights NGOs working in the field of asylum as concerns the need to change legislation and practice pertaining to asylum seekers, refugees, and persons with temporary or humanitarian protection status in order to improve their general situation.
53. ECRI recommends that the Moldovan authorities pursue and strengthen their efforts to provide all officials and other staff who come into contact with asylum seekers and refugees with training in human rights and the need to fight against racism and racial discrimination. ECRI also recommends that the Moldovan authorities strengthen awareness-raising among the general public of the situation of refugees and asylum seekers.

**- Immigrants**

54. The number of immigrants in Moldova remains low. In 2006, 13 000 immigrants were registered in the country and 1 481 non-citizens without legal status were arrested. For the time being Moldova is far more a country of emigration than of immigration as it is estimated that around 20% of the whole Moldovan population lives abroad, living either legally or illegally in neighbouring countries, in Russia and in Western Europe. The immigrants living in Moldova are mainly from other CIS countries but a small number also come from Africa and Asia, including permanent residents who have been living for many years in Moldova, have married Moldovan citizens and have Moldovan children.
55. Representatives of immigrants have explained that there remain many obstacles to full integration into Moldovan society, even for those who arrived more than ten years ago. A first obstacle is the cumbersome and costly procedure relating to permanent residence permits. The acquisition of citizenship through naturalisation is also problematic, particularly for those who are stateless<sup>18</sup>. Another problem is the general attitude of some members of the majority population towards immigrants from Africa and Asia. While it seems that racist physical violence occurs rarely in Moldova, cases of racist verbal violence through insults in the street and public places are reported to occur on a daily basis, affecting not only adults but also children, for instance in schools. Representatives of immigrants insist on the difficulties experienced in finding a job, even when a person is very qualified, due not only to the generally stretched labour market but also to the fact that employers are reluctant to employ non-citizens, particularly if they come from non-CIS countries. However, with one unsuccessful exception<sup>19</sup>, persons who have suffered from discrimination in access to employment have been reluctant to bring these cases before justice. ECRI is worried to note allegations from different sources according to which non-citizens and particularly those who come from Africa or Asia are victims of racial profiling by police officers, particularly in the form of abusive and repetitive identity checks sometimes accompanied by attempts to extort bribes. Reportedly, some police officers who are in contact with Africans and Asians insult and even mistreat them. However, it seems that the general behaviour of police officers

<sup>18</sup> See above, Constitutional provisions and other basic provisions, - Law on Citizenship.

<sup>19</sup> See above, Civil and administrative law provisions.

towards immigrants has slightly improved over recent years<sup>20</sup>. In general, NGOs have stressed the need for a national integration policy for immigrants in Moldova.

### ***Recommendations:***

56. ECRI recommends that the Moldovan authorities adopt a general integration policy for all immigrants. Integration measures could include measures aimed at simplifying the procedure for citizenship and residence permit applications, providing language teaching, training and other measures to facilitate integration into the employment market, and providing relevant training for officials coming into contact with immigrants in their work.
57. ECRI recommends that the Moldovan authorities strengthen their efforts to take measures within society in general to raise awareness of the contribution made by immigrants to Moldovan culture and society and of the need to combat intolerant attitudes against them.
58. ECRI urges the Moldovan authorities to monitor the situation concerning possible cases of racial discrimination on the part of employers and members of the majority population as well as on the part of police officers against immigrants from African and Asian countries and, if need be, to take all appropriate measures to remedy such cases by granting compensation to victims and punishing the persons responsible for such discrimination.

### **Vulnerable groups**

#### **- *Roma communities***

59. In its second report, ECRI invited the Moldovan authorities to identify and eliminate all discrimination against Roma, by enforcing the relevant constitutional, criminal and civil and administrative law provisions aimed at combating discrimination. It also recommended that the Moldovan authorities ensure the adequate implementation of Decree No. 131, adopted in February 2001, which aimed to “create the conditions necessary for the socio-cultural development of Roma”. ECRI underlined the importance of involving Roma, especially when various measures concerning them are designed and implemented.
60. ECRI is concerned that the situation of Roma in Moldova has not improved overall since the publication of its previous report. According to the 2004 census, there are around 12 200 Roma in Moldova, although according to some estimates, there could be more than 20 000 Roma in the country. The majority of Roma have to contend with numerous difficulties, resulting in the marginalisation of Roma communities in Moldova. ECRI deplores the fact that a large number of Roma still live in extremely difficult conditions.
61. There are allegations that some Roma are prevented, because of their ethnic origin, from accessing employment and public places. The question of access to education for Roma children is dealt with below<sup>21</sup>. The media are said to play a role in the negative climate against Roma among the general population. Some press articles tend to perpetuate racist prejudices and stereotypes against Roma, although there are also some other press reports which try to draw the attention of the public to the problems of the Roma in a positive manner. There are also

<sup>20</sup> See also below, Conduct of law enforcement officials.

<sup>21</sup> See below, Section II: Specific Issues, Combating racism and intolerance in and through school education in Moldova: - Access to education of Roma children.

allegations that the police discriminate against Roma, particularly in on the spot identity checks<sup>22</sup>. ECRI notes with interest that Roma NGOs are increasingly trying to draw the authorities' attention to the general problem of discrimination and racism against Roma. For instance, acting on reports from a number of Roma, an NGO recently organised tests to prove that in some cafés and restaurants, Roma were refused entry on the sole grounds of their ethnic origin. On the basis of testimonies and recorded material, Roma NGOs have until now only resorted to non-judicial remedies on behalf of victims, for instance through the mediation of the Ombudsman<sup>23</sup>. The NGOs have explained that they prefer for the moment to avoid resorting to judicial remedies, partly because of the lack of clear civil and administrative provisions in this field<sup>24</sup> and also due to the weaknesses of the current judicial system<sup>25</sup>.

62. However, ECRI is pleased to note that some initiatives have been taken to monitor the situation of Roma in several fields of life and to set up a network of socio-sanitary mediators to help Roma in access to healthcare. Such initiatives have been taken by Roma NGOs, which stressed that they would need more political and financial support from the State to be able to really help in solving the problems encountered by the Roma population.
63. ECRI welcomes the Decision of the Moldovan Government adopting the Action Plan to support Gypsies/Roma of the Republic of Moldova for the period 2007-2010 (Decision No. 1453 of 21 December 2006). This Decision replaces Decree No. 131, adopted in February 2001, which aimed to "create the conditions necessary for the socio-cultural development of Roma". The present Action Plan contains measures aimed at improving the situation of Roma in the fields of employment, health protection, culture and education. However, ECRI notes that the Action Plan does not foresee specific measures to combat racism and racial discrimination against Roma even though they appear to play a role in the difficulties met by Roma, in particular in the field of access to employment or to education.
64. The Action Plan provides that funds will be allocated for its implementation depending on the financial means of the State. ECRI has been informed that in 2007 no funds were allocated by the State and that it is not sure yet whether funds will be allocated to the Plan in 2008. It is difficult to see how such an Action Plan can produce concrete results if the State does not provide the bodies that are responsible for its implementation with adequate financial means. It is to be hoped that for the remaining years the situation will improve.

#### **Recommendations:**

65. ECRI strongly encourages the Moldovan authorities to continue to take all necessary measures to assist members of Roma communities in obtaining employment. It is imperative that such a policy to facilitate employment for Roma be accompanied by measures to prohibit any discriminatory conduct by employers who refuse to take on Roma on the grounds of their ethnic origin.
66. ECRI strongly recommends that the Moldovan authorities take steps to combat racial discrimination against Roma with regard to access to public places and

<sup>22</sup> See also below, the recommendations made under Conduct of law enforcement officials.

<sup>23</sup> See above, Specialised bodies and other institutions, - the Parliamentary Advocates (Ombudsman).

<sup>24</sup> See above, Civil and administrative law provisions.

<sup>25</sup> Section II: Specific Issues, Difficulties in implementing the legislation to combat racism and racial discrimination.

access to goods and services, ensuring in particular that any discriminatory act in these areas is duly remedied.

67. ECRI strongly recommends that the Moldovan authorities duly implement the Action Plan to support Gypsies/Roma of the Republic of Moldova (2007-2010). The authorities should provide all necessary human and financial resources to this end.

#### - **Religious minority groups**

68. As already noted in ECRI's second report, Orthodox Christians constitute more than 90% of the Moldovan population. The rest includes other Christians, Jews, Muslims and members of other religions. A new Law on Religious Denominations entered into force on 18 August 2007 and replaced the former 1992 Law on Denominations. Article 15 of the new Law provides that religious faiths are separate from the State and equal before the law and should not be discriminated against. According to the same Article, the State recognises the particular importance and the primordial role played by the Orthodox Christian faith and the Moldovan Orthodox Church in Moldovan life, history and culture. The new law regulates the procedure of registration of religious denominations and of individual parishes belonging to these religions.
69. The registration of several minority religious groups remains an acute problem in Moldova. In its previous report, ECRI noted that following a judgment of the European Court of Human Rights, the Metropolitan Church of Bessarabia was finally registered as a church at the national level in 2002. However, it still experiences difficulties in registering individual parishes at local level, even though the overall situation has gradually improved over the years. Other groups have finally been registered, after some time, such as the Church of Jesus-Christ of Latter-day Saints (Mormons) in 2006. However, there are religious groups that are still awaiting registration. On 27 February 2007, the European Court of Human Rights decided that the refusal to register the True Orthodox Church in Moldova violated Article 9 of the European Convention on Human Rights which guarantees freedom of religion<sup>26</sup>. For the time being no Muslim religious group has been registered even though two different associations have already applied to the State authorities on several occasions<sup>27</sup>. ECRI notes that according to Muslim representatives there are around 30 000 Muslims in Moldova, while they account only for 1 667 in the 2004 census.
70. Many sources have described the procedure of registration which was applicable until the entry into force of the new Law on Religious Denominations as unnecessarily bureaucratic and even as arbitrary. It is to be hoped that the new Law, which entered into force recently, will facilitate the registration procedure and provide a strong basis for resolving the remaining issues in this field. ECRI notes that the requirements for registration have been somewhat simplified in the new law. The responsibility for registering a faith will be transferred from the State Service for Religious Affairs, which will disappear, to the Ministry of Justice. Nevertheless, ECRI expresses its concern at the fact that only denominations

<sup>26</sup> Case of Biserica Adevărat Ortodoxă din Moldova v. Moldova, application no. 952/03.

<sup>27</sup> In 2002, the *Carmuirea Spirituala Musulmanilor din Republica Moldova*, applied before the European Court of Human Rights but the application was declared inadmissible on the grounds that the applicant failed to produce a document required by law when applying for registration to national authorities. The European Court considered this requirement as not disproportionate under Article 9 of the ECHR. ECHR, Decision 14 June 2006, *Carmuirea Spirituala Musulmanilor din Republica Moldova* against Moldova, Application No. 12282/02. Since then a new application was made before the authorities apparently with the relevant document but with no success so far.

with a list of founding members containing at least 100 Moldovan citizens are allowed to register (Article 19-d of the Law), a requirement which is difficult to fulfil for small religious groups.

#### **Recommendations:**

71. ECRI recommends that the Moldovan authorities ensure that members of religious minority groups can fully exercise their freedom of religion in accordance with Article 9 the European Convention on Human Rights as interpreted by the European Court of Human Rights. To this end, the authorities should take steps to improve the mechanism of registration so as to avoid unnecessary bureaucracy and arbitrariness.
72. The Moldovan authorities have recalled that according to the law, the lack of registration does not prevent members of a religious group from collectively practising their religion. The only consequence is that they cannot benefit from the status of a legal entity and the specific rights attached to it. However, ECRI has received allegations according to which the police and other authorities sometimes interfere in religious activities of religious groups on the grounds that they are not registered, even though registration should not be a precondition for running these activities. For instance, members of Muslim communities have been unduly prosecuted by law enforcement officials under Article 200 of the Code of Administrative Offences, which prohibits religious intolerance, for practising their faith in private premises, a right which does not depend on registration. It is true that in some cases, the courts ordered the end of the procedure, stating that it was not legally founded. The Parliamentary Advocates (Ombudsman) are currently following up this situation and they have asked the law enforcement authorities to take measures to avoid further misinterpretations of this provision. The Muslim representatives also complain that partly due to the lack of registration, their demands to have a real mosque in Chisinau where they can pray or the possibility of organising burials according to Muslim rituals have not been satisfied for the moment despite their repeated requests.
73. There are allegations according to which persons belonging to some faiths other than the majority religion are sometimes subject to harassment on the part of members of the majority population or members of the majority church, particularly in rural areas. Even more worrying are the allegations from many sources according to which Muslims, and to a lesser extent other minority religious groups, are subject to harassment on the part of the authorities and particularly the police. For instance, cases of abusive identity checks during Friday prayers in Chisinau have been reported. The pressure on the part of the law enforcement officials on Muslim groups is said to have increased with no real justification since the 11 September 2001 terrorist attacks in the United States<sup>28</sup>.

#### **Recommendations:**

74. ECRI recommends that the Moldovan authorities find solutions as soon as possible in full consultation with the interested groups to all the obstacles encountered by members of the Muslim communities who wish to practise their religion. In this connection, ECRI draws the attention of the Moldovan authorities to its General Policy Recommendation No. 5 on combating intolerance and discrimination against Muslims, which provides detailed guidance on the measures which should be taken in this field.

<sup>28</sup> See also below, Conduct of law enforcement officials.

75. ECRI recommends that law enforcement officials be trained in the application of the existing and recently adopted legislation concerning religious denominations in order to avoid in the future any misinterpretation that could infringe freedom of religion.
76. ECRI strongly recommends that the Moldovan authorities pursue and reinforce their efforts to effectively combat manifestations of religious intolerance by members of the majority population or harassment by the police and other authorities against members of some religious groups. They should ensure that those responsible for such acts are duly prosecuted and punished in accordance with Moldovan law.

77. As far as the Jewish communities are concerned, representatives of these communities and other sources report cases of desecration of Jewish cemeteries and tombstones, even though they consider that it is difficult to establish whether they should be qualified as mere vandalism or as antisemitic acts. The authorities have indicated that they have enquired into such cases but could not find any antisemitic motivation behind these acts. Cases of antisemitic material published on internet, in press articles or in literature, sometimes taking the form of Holocaust denial, have also been reported to ECRI even if they seem rather rare. However, the prosecution authorities have indicated to ECRI that so far, they have received no complaint in this respect<sup>29</sup>.

78. Another problem raised particularly by representatives of the Jewish communities but which also concerns other minority religious groups is the issue of restitution of religious properties confiscated by previous regimes. There seems to be no legislation regulating the restitution of religious properties, a fact which hinders the current discussions with the authorities on this question. The Moldovan authorities have informed ECRI that following the declaration of independence, State properties were privatised in accordance with legal provisions. As a consequence, they consider that a restitution *in integrum* would be practically impossible.

79. On a positive note, ECRI is pleased to learn that the President of the Republic has participated in several events commemorating the victims of Holocaust in Moldova and has condemned antisemitism at such occasions. Some Holocaust commemoration monuments have been erected in Chisinau and in other parts of the country. However, Jewish representatives have explained that it appears that commemoration monuments as well as some religious monuments may be threatened by construction permits which risk being granted in the vicinity of such monuments without real consideration to their presence and symbolic value.

#### **Recommendations:**

80. ECRI recommends that the Moldovan authorities pursue their efforts in finding arrangements for the restitution of religious properties confiscated prior to the declaration of Moldovan independence, for instance through the adoption of a legislation regulating this issue.
81. ECRI strongly recommends that the Moldovan authorities monitor all instances of antisemitism and strengthen their efforts to punish the perpetrators of antisemitic offences. In this connection, ECRI draws the attention of the Moldovan authorities to its General Policy Recommendation No. 9 on the fight against antisemitism,

<sup>29</sup> On the implementation of criminal law provisions prohibiting antisemitism, see above, Criminal law provisions.

which provides detailed guidance on the measures that should be taken to prevent and sanction antisemitic acts.

- **National minorities**

82. According to the 2004 census, national minorities account for around 24% of the population of Moldova. Among a large number of minorities, the Ukrainian minority represents around 8.3% of the total population, Russians 5.9%, the Gagauz 4.4%, Romanians 2.2% and Bulgarians 1.9%. There are also several other smaller groups. The Law of 2001 on the Rights of Persons Belonging to National Minorities and on the Legal Status of their Organisation was complemented by the National State Policy Concept in 2003.
83. Each national minority has its own interests and needs in Moldova. For example, the Roma community is, generally, in a much more difficult situation than other minorities<sup>30</sup>. ECRI notes, however, that there are some areas of concern common to all national minorities. Representatives of several national minorities have stressed that they wish to obtain more support from the Moldovan authorities in a number of fields. They particularly mentioned the need for assistance in protecting their cultural and linguistic and sometimes religious heritage<sup>31</sup>. In this field, ECRI notes that the presence of minority languages and cultures in printed and other media remains insufficient. For instance, on public TV, some programmes are devoted to minorities' issues and broadcast in minority languages but these programmes are irregular and few in number. Since ECRI's last report, the time allocated to such programmes has increased and decreased several times and the time-slot of broadcasting has changed repeatedly. As regards the use of languages in contacts with public authorities, the legislation on national minorities provides that in regions where the latter constitute a significant part of the population, they should be able to communicate with the public authorities in their own languages. In the Gagauz-Yeri autonomous region, the law provides that there are three languages which can be used in contact with the public authorities: Gagauz, Russian and Moldovan. The law also provides for a proportionate representation of national minorities within public bodies. However, in practice there are still many obstacles to a full implementation of these principles. The Bureau for Interethnic Relations organises in partnership with NGOs cultural events throughout the country and in particular a yearly ethno-cultural festival in Chisinau. However, the lack of adequate financial support from the State remains a significant obstacle to a full development of minorities' cultures.
84. Another issue of concern to ECRI is the lack of command of Moldovan, the state language, among members of national minorities. In its second report, adopted in 2002, ECRI underlined the tensions existing at the time of the adoption of the report concerning the role and use of languages in Moldova and particularly the balance to be found between Moldovan as the state language and Russian which still played the role of the language of interethnic communication. ECRI stressed then that the language issue was used as a substitute for democratic debate over political and economic matters. At the time of drafting the present report, the political tensions surrounding the language issues still exist even if they may be less apparent. ECRI regrets that, despite the few measures which have been taken by the authorities so far and despite other initiatives supported by intergovernmental organisations, the number of persons belonging to national minorities having a better command of Moldovan does not seem to have

<sup>30</sup> See above, Vulnerable groups – Roma communities.

<sup>31</sup> Concerning the Jewish communities, see also above, Vulnerable groups – Religious minority groups.

increased<sup>32</sup>. Given the large number of linguistic minorities in Moldova, ECRI believes that particular attention needs to be paid to the language issue, which is a key aspect of successful integration into Moldovan society. The State should ensure that all Moldovan citizens have the opportunity to learn Moldovan so as to be able to integrate into society and have genuine equality of opportunities; at the same time, it should avoid any assimilation which would deprive national minorities of the possibility or capability of using their own language.

#### **Recommendations:**

85. ECRI strongly encourages the Moldovan authorities to provide more opportunities to learn Moldovan for those who want to. Measures for that purpose could include affordable evening classes or vocational language courses.
86. ECRI recommends that the authorities take care to preserve and encourage minority cultures and languages. In this connection ECRI reiterates its recommendation that the Moldovan authorities ratify as speedily as possible the European Charter for Regional or Minority Languages<sup>33</sup>.

#### **Climate of opinion**

87. ECRI has received disturbing information according to which some media, some politicians and some members of the general public make intolerant remarks concerning several minority groups including immigrants, Roma, Jews and anyone not of Moldovan origin, or of ethnically mixed origin, or not professing the Orthodox Christian faith, the dominant religion in Moldova. Extremist Russians or extremist pro-Russia Moldovans on the one hand, and extremist pro-Romania Moldovans on the other hand sometimes managed to taint general debates over political, language and historical issues with intolerant speech geared towards each other but also towards some ethnic or religious groups such as the Roma or Jewish communities. Some politicians and some media take advantage of the growing sense of nationalism in Moldova, which inevitably targets minority groups. ECRI notes that the current ultra-nationalist and radical religious discourses and activities mainly target people on the basis of their sexual orientation, but also that xenophobia and intolerance towards small religious groups and some ethnic groups is a component – even though less visible for the moment – of these extremist trends. ECRI expresses its concern at the negative consequences that a discourse stigmatising visible minorities and other minority groups for political or other gain has on the perception of these minority groups by the majority population. Such expressions can only foster a climate of general intolerance and xenophobia in the country. In this connection, ECRI draws attention to reports that the Moldovan Orthodox Church, the religion practiced by over 90% of the Moldovan population, has not always played the role it should have in promoting tolerance among its followers.

<sup>32</sup> See also below, Section II: Specific Issues, Combating racism and intolerance in and through school education in Moldova: - Access to education of children belonging to national minorities.

<sup>33</sup> See also above, International legal instruments.



88. ECRI notes that problems of racism and racial discrimination are not generally considered to be the main concerns for members of Moldovan society and that there is a corresponding lack of awareness of these issues. It is true that Moldovan society is often described as being tolerant but some issues covered in this report indicate that there is a problem of general awareness of what constitutes a racist or otherwise intolerant statement or act. Racism is often perceived in Moldova as a notion covering only the most blatant abuses of human rights such as state-sanctioned segregation, apartheid or Nazism. However, racism and racial discrimination are continually evolving. They can also take on other forms, such as the targeting of groups on the grounds not only of race<sup>34</sup> but also of skin colour, language, religion, nationality and national or ethnic origin, or a combination of these grounds, and can occur in more subtle, but nonetheless harmful, forms experienced in everyday life. For instance, in other parts of this report, mention is made of other forms of racism that need to be duly countered, such as the daily occurrence of racist verbal abuse encountered by immigrants from African and Asian countries<sup>35</sup> or police harassment against Muslims<sup>36</sup>. There is an urgent need for the Moldovan authorities and society in general to become aware of the various dimensions of racism and related intolerance and of racial, ethnic or religious discrimination in daily life in Moldova.

#### **Recommendations:**

89. ECRI encourages the Moldovan authorities to impress upon the media, without encroaching on their editorial independence, the need to ensure that reporting does not contribute to creating an atmosphere of hostility and rejection towards members of visible minority groups, including Roma and other ethnic groups, religious minority groups and non-citizens.
90. ECRI stresses that politicians must resist the temptation to approach issues relating to minority groups living in the country in a negative fashion. Political parties should also take a firm stand against any forms of racism, racial discrimination and xenophobia. ECRI recommends that an annual debate be initiated in Parliament on the subject of racism and intolerance faced by members of minority groups in Moldova.
91. ECRI recommends that the Moldovan authorities take measures aimed at raising the general public's awareness of the problem of racism and intolerance in Moldova. The need to combat racial discrimination should also be emphasised in this context, as well as the need to accept and promote cultural diversity. Such a campaign could be part of a more general national action plan against racism, racial discrimination, xenophobia and related intolerance.

#### **Conduct of law enforcement officials**

92. In its second report, ECRI recommended that the Moldovan authorities consider the establishment of an independent body which would investigate all allegations of human rights violations by the police.

<sup>34</sup> Since all human beings belong to the same species, ECRI rejects theories based on the existence of different "races". However, in this report, ECRI uses this term in order to ensure that those persons who are generally and erroneously perceived as belonging to "another race" are not excluded from the protection provided for by the legislation.

<sup>35</sup> See above, Vulnerable groups – Immigrants.

<sup>36</sup> See above, Vulnerable groups – Religious minority groups.

93. ECRI is concerned that illegal behaviour, such as arbitrary arrests, excessive use of force, ill-treatment and even torture, on the part of some law enforcement officials continues to be widely reported. In addition, corruption within law enforcement agencies is said to be prevalent. In particular, ECRI notes with deep concern allegations according to which the use of discriminatory practices by the police towards some minority groups such as the Roma, the Muslims and immigrants from African and Asian countries remains frequent, even if a slight improvement is to be noted as far as the situation of immigrants is concerned<sup>37</sup>. The practice most reported is the disproportionate number of identity checks that members of these groups have to undergo in the streets but ECRI has also received information about complaints of racist insults and other forms of racially motivated misconduct on the part of police officers.
94. ECRI notes that the Moldovan authorities have taken a number of steps to combat illegal behaviour on the part of law enforcement officials. For instance, a Code of Ethics for the Police was adopted in 2006. ECRI notes that despite allegations of cases of racially motivated misconduct on the part of the police, no formal complaint on this ground was brought before the Police Security Department, the Prosecutor or the Ombudsman. However, according to NGOs, when a person has the courage to bring a complaint against a police officer for human rights violations in general, investigations still too seldom lead to punishment, which does nothing to remove the impression that law enforcement officials enjoy a degree of impunity.

#### ***Recommendations:***

95. ECRI strongly recommends that the Moldovan authorities take further steps to put an end to all forms of racially motivated misconduct on the part of the police. It is important for the Moldovan authorities to make clear to society that such conduct by law enforcement officials will not be tolerated and will be punished. ECRI again recommends that the Moldovan authorities establish a body, independent of the police and prosecution authorities, entrusted with the investigation of alleged cases of racial discrimination and racially motivated misconduct by the police. ECRI also recommends that the authorities ensure as necessary that the perpetrators of these acts are adequately punished.
96. In particular, ECRI urges the Moldovan authorities to take steps to prohibit racial profiling by the police. ECRI draws the authorities' attention to its General Policy Recommendation No. 11 on combating racism and racial discrimination in policing, which provides guidelines in this field.
97. ECRI strongly encourages the Moldovan authorities to allocate all the necessary resources to law enforcement officers to enable them to operate under appropriate conditions, with full respect for the human rights and dignity of the persons they arrest or who come into contact with them. This presupposes improving training in human rights and raising awareness of racism and racial discrimination issues. Further emphasis should also be placed on training in cultural diversity.

#### **Monitoring the situation**

98. ECRI is worried about the lack of adequately detailed information about the situation of the various minority groups in Moldova. Some steps have been taken to improve matters in this area. However, the lack of financial means seriously

<sup>37</sup> See above: Reception and status of non-citizens, - Immigrants; Vulnerable groups: - Roma communities; - Religious minority groups

hampers progress in the field of scientific research, statistics, polls and other forms of monitoring. In ECRI's view, collection of data broken down by ethnic origin would make it easier to identify areas of life in which there is direct or indirect racial discrimination and to find the best means of combating those forms of discrimination.

#### **Recommendations:**

99. ECRI strongly encourages the Moldovan authorities to look into means of setting up a full and coherent system of data collection so as to evaluate the situation regarding the different minority groups in Moldova and determine the extent of manifestations of racism and racial discrimination. ECRI recommends that the Moldovan authorities collect relevant information broken down according to categories such as ethnic origin, language, religion and nationality in different areas of policy and to ensure that this is done in all cases with due respect for the principles of confidentiality, informed consent and the voluntary self-identification of persons as belonging to a particular group. This system should also take into consideration the gender dimension, particularly from the point of view of possible double or multiple discrimination.

#### **Area currently not under the effective control of the Moldovan authorities**

100. With regard to the eastern (Transnistrian) region of Moldova (known as "Transnistria"), following the declaration of Moldovan independence of 23 June 1990, the self-proclaimed "Republic of Transnistria" came into being on 2 September 1990. Since the region of Transnistria is not under the effective control of the Moldovan authorities, to whom this report is addressed, ECRI will not examine the situation in Transnistria. However, in line with its mission, ECRI would like to reiterate its concern over reports of human rights violations in Transnistria, particularly discrimination relating to education<sup>38</sup> and freedom of religion.

## **II. SPECIFIC ISSUES**

### **Difficulties in implementing the legislation to combat racism and racial discrimination**

101. In several sections of this report, ECRI describes the existing legislation which constitutes in principle a favourable framework for combating racism and racial discrimination in Moldova. However, the main problem identified by ECRI in Moldova relates to the inadequate implementation of the law in many fields which are of importance to combating racism and racial discrimination. The explanation sometimes given to ECRI is that the law is not applied because there is hardly any intolerance in the country. However, this explanation does not correspond to the description made in other parts of this report of alleged problems of racism and racial discrimination encountered by several minority groups. It is therefore urgent to solve certain general problems affecting the rule of law and the protection of human rights in Moldova in order to tackle at the same time those that are more directly linked to racism and racial discrimination.
102. Representatives of minority groups have explained that they often cannot exercise their rights due to the low level of quality of public services in general and particularly of the administration of justice. The functioning of public services is far from satisfactory, partly due to the low salaries of civil servants, the fast

<sup>38</sup> See also above, Criminal law provisions.

rotation of staff and the lack of state financial means. Arbitrariness in decisions, corruption and bribes are also said to be common in many services. Despite increasing efforts from the government to combat such practices, they are still widely recognised as prevalent in Moldovan society. This situation disadvantages those who do not have the necessary connections or means to have access to public services, amongst whom a comparatively larger proportion are members of minority groups. Concerning allegations of intolerant acts or racial discrimination on the part of the general public, when asked why victims do not turn to the police or the prosecutor to complain, the answer given by human rights NGOs is that they are discouraged from doing so and in some extreme cases are even afraid of encountering problems of the same kind with these institutions. In general, the Moldovan authorities appear aware of these problems and of the need to make profound reforms of the system. Many measures have been already taken in recent years to this end. In particular, ECRI notes that there are a number of training courses for officials organised by NGOs or international organisations and which aim at improving the situation in the field of human rights. Measures to combat corruption have also been taken in recent years by the authorities, including the adoption of an Action Plan for the implementation of the National Strategy for Fight against Corruption (2007-2009).

103. In addition to problems with the independence of the judicial system, non-governmental organisations and intergovernmental organisations have reported serious problems in the functioning and fairness of the judicial system in general. For instance, the right to interpretation and to the translation of documents in cases of judicial proceedings is crucial for national minorities and immigrants who wish to obtain a remedy for a violation of their human rights. However, even though the law provides for the right to interpretation and translation of documents for those who need it, it is not applied in practice or the quality of translation and interpretation is often so low that it jeopardises the fairness of the whole procedure. ECRI notes with interest that the Moldovan authorities have taken some measures to reinforce the quality and the independence of the judicial system, for instance by creating in 2006 a National Institute of Justice in charge of initial training of judges and prosecutors, and by adopting in 2007 a law on free legal aid for those who do not have the financial means to pay for legal representation. Such measures are welcome but they need to be complemented by other initiatives. It is also urgent to solve the thorny issue of non-enforcement of court decisions.
104. The Moldovan authorities have informed ECRI that they are closely monitoring the implementation of the laws that have been adopted. The Parliamentary Committee for Human Rights and National Minorities has set up a working group whose task is to monitor the implementation of legislation in the field of human rights.

#### **Recommendations:**

105. ECRI urges the Moldovan authorities to ensure that the provisions against racism and intolerance are fully implemented and accompanied by a sufficient and steady supply of human and financial resources. It is important to ensure that all sections of the administration – at national, regional and local level – responsible for the different areas covered are fully committed to implementing the relevant laws. To this end, it is essential to inform all officials and to provide them with training in these laws.
106. Aware that changing attitudes is a much slower process than changing the law, ECRI encourages the Moldovan authorities to reiterate publicly, as often as

necessary, the importance of implementing human rights laws and more particularly anti-racist and anti-discrimination provisions. ECRI further emphasises the need to evaluate the actual results obtained in the field of better implementation on a regular basis, and to involve closely members of the minority groups in the evaluation, fine-tuning and implementation of these laws.

### **Combating racism and intolerance in and through school education in Moldova**

107. In the present section, ECRI would like to draw the Moldovan authorities' attention to several issues concerning school education in Moldova and which are of concern to ECRI<sup>39</sup>. As a preliminary remark, ECRI notes that the sector of Moldovan public education is facing very serious difficulties mainly linked to the socio-economic crisis that the country has been confronted with since it acceded to independence in 1990. This means that some of the problems covered in the present section affect to a greater or lesser degree all pupils and students in Moldova and not only those belonging to minority groups. The main general problems are shortage of teachers and teaching material, the poor conditions in which schools operate and corruption. Overall, the public education system in Moldova is facing a crisis situation the seriousness of which is acknowledged by the national authorities.
108. The Moldovan authorities have already set up several plans of action which aim to solve all the shortcomings mentioned above and others. For instance, they have adopted a National Action Plan called "Education for All" (2004-2008), and an entire section of the National Human Rights Action Plan (2004-2008) mentioned below is devoted to the right to education. Against this background and taking into account the efforts that the Moldovan authorities plan to make in the near future as far as public education is concerned, ECRI believes that it is necessary to draw their attention to some issues which are of relevance to combating intolerance and discrimination in the field of education and which should not be left outside the indispensable overall plan of action to improve the situation throughout the country<sup>40</sup>. These issues are the problem of access to education of Roma children on the one hand, and of children of other national minorities on the other hand. ECRI also stresses the need to reinforce the role of education in combating intolerance and promoting diversity in Moldova.

#### **- Access to education of Roma children**

109. ECRI is deeply concerned to learn that the situation of Roma children living in Moldova in the field of education has not improved over the recent years<sup>41</sup>. The extremely poor living conditions of some Roma families make it difficult for them to send their children to school and to pay for the necessary school material, clothes, food and means of transportation. Roma NGOs have also raised the problem of racist stereotypes and prejudice sometimes existing among teachers or non-Roma parents, and which discourage Roma children from attending mainstream schools. Roma representatives have reported that there is a problem of *de facto* school segregation: there are schools located in Roma villages that are mainly – or even exclusively – attended by Roma children. According to

<sup>39</sup> Concerning access to education in the Transnistrian region, see above, Situation of Transnistria: - Area currently not under the effective control of the Moldovan authorities.

<sup>40</sup> For this whole section, see ECRI General Policy Recommendation No. 10 on combating racism and racial discrimination in and through school education.

<sup>41</sup> ECRI deals with the general situation of Roma communities in another part of this report. See above, Roma communities. Concerning the teaching of Romani language and culture, see below, Access to education of children belonging to national minorities.

Roma representatives, in such schools, the resources are even fewer, the material conditions even harsher and the lack of qualified teachers even more problematic than elsewhere in the country. For all these reasons, the school attendance of Roma children is generally low and there are very few pupils who finish secondary school and even less who start higher education. Obviously, this has a negative impact on their future, particularly as far as access to employment is concerned.

110. ECRI notes with interest that Roma NGOs, with the financial support of international organisations and in partnership with the Ministry of Education and Youth, the Bureau for Interethnic Relations and others, are trying to launch pilot projects aimed at improving the school attendance and performance of Roma children. Such projects include an awareness-raising campaign on Roma education both to reduce prejudices among non-Roma and inform Roma parents about the education system, so as to eliminate the gap between non-Roma and Roma in access to education. Nation-wide research will also be conducted on the situation of Roma in education. The authorities have also indicated that since May 2006, they have established a system of preferential scholarships granted to children belonging to disadvantaged groups which can benefit Roma children, and that some of them are studying thanks to this financial support. However, the exact number of Roma children really benefiting from such a measure is not known to ECRI and it has been described by civil society organisations as extremely low and far from meeting the real needs in this field. The low number and the symbolic nature<sup>42</sup> of the measures taken so far by the authorities are clearly insufficient to solve the strong disadvantages faced by Roma in the education sector.

#### **Recommendations:**

111. ECRI urges the Moldovan authorities to maintain and strengthen their efforts to ensure that Roma children have equal opportunities in access to education and particularly to continue on to higher levels of education. Measures in this field should be taken urgently, on a short, medium and long-term basis, in full consultation with representatives of the Roma communities, and should be accompanied by adequate human and financial resources. In this respect, ECRI draws attention to its General Policy Recommendation No. 10 on combating racism and racial discrimination in and through school education which provides guidelines in this field.

#### **- Access to education of children belonging to national minorities**

112. In its second report, ECRI recommended that the Moldovan authorities do their utmost to ensure that teaching of the Moldovan language is substantially improved in order that children whose mother tongue is not the state language attain sufficient command of Moldovan by the end of their schooling. At the same time, ECRI recommended that the authorities find a solution in their educational approach that reconciles the desire to promote teaching of the state language with the need to protect minority languages.
113. The present situation remains unsatisfactory as far as teaching the state language for children belonging to national minorities is concerned. There is a lack of suitable textbooks for learning Moldovan as a second language, there are too few teachers, and the teachers are poorly trained. As a result pupils at

<sup>42</sup> See for instance above, the section on *Roma communities* where it is indicated that no funds were allocated in the State budget to implement the Action Plan for the support of Gypsy/Roma of the Republic of Moldova (2007-2010).

schools where instruction is partly given through the medium of another language do not attain sufficient command of Moldovan by the end of their schooling, which undermines equality of access to public-sector and private-sector employment. ECRI is concerned at information indicating that the authorities seem to give less importance than before to the need for all Moldovan citizens to learn the state language. The situation is therefore far from improving in this field, which is regrettable as the state language is an important tool for the integration of the whole society.

114. The situation of children belonging to national minorities as regards learning their mother tongue and culture is also deemed unsatisfactory by representatives of these minorities. The majority of public schools teach in Moldovan. There are also minority schools teaching for the most part in Russian or, for a few schools, in another minority language spoken in the country. The authorities have taken measures to introduce in minority schools as from 2002 a subject called “the people’s history, culture and traditions”<sup>43</sup>. This gives an opportunity to Bulgarians, Gagauz, Russians and Ukrainians to learn about their respective cultures, histories and languages. For other national minorities, the authorities have put in place a system of Sunday schools, which means that the pupils concerned can receive equivalent courses but only in the context of extracurricular activities. ECRI notes that for the time being no such courses exist for Roma pupils but also that the authorities are currently considering creating them. In general, representatives of national minorities have indicated that there is a lack of scientific research and methodological material in this field, particularly for languages other than Russian. The Institute for Interethnic Studies created within the National Academy of Sciences is not in a position to run such activities as it does not receive adequate financial support from the State to this aim.

#### ***Recommendations:***

115. ECRI strongly recommends that the Moldovan authorities maintain their efforts to improve education in Moldovan for children of national minorities in order to guarantee that when they leave school they will have equal opportunities in access to higher education and employment. In this respect, ECRI draws attention to its General Policy Recommendation No. 10 on combating racism and racial discrimination in and through school education which provides guidelines in this field. At the same time ECRI strongly recommends that the Moldovan authorities ensure that there is adequate scope in minority schools for teaching minority languages and cultures.
116. More generally, ECRI recommends adopting an approach in which all measures concerning the schooling of children of national minorities, particularly measures to promote the teaching of Moldovan, are taken in consultation with the minorities concerned and with due regard for their interests.

#### ***- Combating intolerance and promoting diversity in school education***

117. In its second report, ECRI recommended that the Moldovan authorities improve education in the human rights field, particularly with regard to the problems of racism and intolerance, for children at all levels of education.
118. In that report ECRI already mentioned two courses, Civic Education and the Law and Us, which constitute the main subjects for teaching human rights and democratic values, including the principle of non-discrimination and the need to

<sup>43</sup> Concerning teaching history and culture of national minorities in mainstream schools, see below, Combating intolerance and promoting diversity in school.

combat racism and intolerance. ECRI regrets to learn that these two courses, taught from the fifth to the nine grades (i.e. in junior high schools) and which used to be compulsory, became optional from the school year 2006/2007. The Ministry of Education and Youth took this decision in order to lighten the curriculum, which was apparently too weighty, despite criticisms expressed by representatives of the civil society and by some school teachers for instance through a petition signed by 4 000 persons. The Parliamentary Advocates have also publicly asked the authorities to review their position, but with no success so far. Indeed, the general feeling among human rights specialists is that awareness and information among the population in general and children in particular are low as far as individual rights including human rights are concerned. This decision also seems to run counter to the commendable objectives of the National Human Rights Action Plan (2004-2008) to increase the opportunities for school children to learn about human rights. For instance, the Plan provides for the development of a human rights curriculum in schools and universities and for initial and in-service training of teachers at all levels in the field of human rights.

119. The authorities have stressed that many pupils opt for the two courses mentioned above, a fact that should compensate for their optional character in the authorities' view. They have also called attention to the existence of several extracurricular activities such as activities organised in the framework of international days for human rights, which give an opportunity to pupils at all levels to become familiar with issues of human rights and combating racism and racial discrimination. However, in practice, the overall situation seems to have deteriorated rather than improved in the field of teaching human rights over the recent years.

#### **Recommendations:**

120. ECRI strongly recommends that the Moldovan authorities duly implement the National Human Rights Action Plan, which includes measures aimed at ensuring that human rights education is an integral part of the school curriculum. Human rights education and particularly the principle of non-discrimination and the need to combat racism and intolerance should be taught at all levels and across all disciplines. To this end, teachers should be adequately trained in these issues. ECRI draws attention to its General Policy Recommendation No. 10 on combating racism and racial discrimination in and through school education which provides guidelines in this field.
121. In this context, ECRI recommends that the Moldovan authorities review, in consultation with human rights specialists and NGOs, their decision to transform the Civic Education and the Law and Us courses into optional subjects.
122. In its second report, ECRI expressed the hope that the reform of school history books under discussion at the time would provide an opportunity to counter all negative stereotypes concerning minority groups and enhance the appreciation of cultural diversity by all pupils in Moldova.
123. Since the publication of ECRI's second report, the Moldovan authorities have begun to prepare new history textbooks. The aim was to introduce an integrated approach to history to replace the History of Romanians and Universal History courses. However, the reform of history teaching has become a politically sensitive issue, due notably to its close links with issues of national identity. The new textbooks have raised criticisms from many historians and politicians, and protests and demonstrations took place when these textbooks were introduced in all Moldovan schools in September 2006. The new textbooks were accused of



being politically biased and of denying the true historic identity of the Moldovans and particularly the role of the Romanian identity in this respect, and even to contain anti-Romanian sentiments.

124. On 14-16 July 2006, the Council of Europe organised a seminar in co-operation with the Moldovan Ministry of Education on the use of multi-perspectives in teaching history. The seminar was a follow-up to two (unpublished) critical analyses of the new history textbooks that had been drawn up at the request of the Ministry of Education. In response to the strong protests, the authorities have set up a special committee within the Academy of Science of Moldova tasked with checking whether the objections raised are well founded and whether there is a need to revise the textbooks. At the time of adopting this report, this committee was still preparing its conclusions and recommendations.
125. Another problem linked to the content of history courses is the general lack of reference to the history and culture of national minorities, even though the authorities have sought to improve the situation through the new history textbooks or in other subjects such as literature. Representatives of national minorities have stressed that it is important that all pupils in Moldovan mainstream schools – and not only children belonging to these minorities and who study in minority schools<sup>44</sup> – are made aware of the history and culture of the different national minorities living in the country such as for instance the Ukrainians, the Bulgarians, the Gagauz, the Roma and the Jews. This is also true as far as religious minority groups and ethnic minorities which have arrived in the country more recently are concerned. In this respect, ECRI notes with interest that some pilot projects have been launched by members of the Jewish communities in partnership with the Moldovan authorities in order to teach about the Holocaust but also more generally about interethnic mutual respect. ECRI believes that such initiatives could be extended to the whole school system.

### **Recommendations:**

126. In line with its General Policy Recommendation No. 10 on combating racism and racial discrimination in and through school education, ECRI recommends that the Moldovan authorities take all appropriate measures to remove from textbooks – and in particular history textbooks – any racist material or material that encourages stereotypes, intolerance or prejudice against any minority group.
127. ECRI also recommends that the Moldovan authorities regularly monitor, and if necessary revise, school textbooks to ensure that they reflect more adequately the diversity and plurality of society, and include, to this end, minority groups' contribution to society.

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<sup>44</sup> Concerning this point, see above, - Access to education of children belonging to national minorities.

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