

Brussels, 30 July 2013

To:
Council of Europe Commissioner for Human Rights
Mr. Nils Muižnieks
F-67075 Strasbourg Cedex, FRANCE

Dear Mr. Muižnieks,

We are writing to call on your immediate response to recent law severely limiting the freedom of expression and assembly rights of lesbian, gay, bisexual, transgender and intersex (LGBTI) people in the Republic of Moldova.

The law amends article 90.1 of the Code of Administrative Offences and was approved by the Moldovan Parliament on May 23, 2013, and entered into force on July 12. Article 90.1, as amended, bans the ***“distribution of public information and/or committing acts aimed at the propagation of prostitution, paedophilia, pornography or of any other relations than those related to marriage or family in accordance with the Constitution and the Family Code”*** [emphasis added]. These actions committed by persons or legal entities are punished by fines from 125 to 500 euros and/or by prohibition of specific activities from three months to up to one year.

The broad wording of this law will enable it to be used to restrict the rights of human rights organizations, civil society groups or anyone else who works on issues such as the rights of LGBTI individuals or sex workers and will discriminate against individuals on grounds of their sexual orientation and gender identity.

Moldovan civil society organisations were not made aware of the law until it was published in the Official Gazette on July 12, 2013. No public consultation took place before its adoption.

This law violates fundamental human rights standards and Moldova’s obligations under international law. As an unjustified and discriminatory restriction on the freedoms of expression and assembly, the new law violates articles 10, 11 and 14 of the European Convention on Human Rights and articles 19, 21 and 26 of the International Covenant on Civil and Political Rights, both of which Moldova is a party to.

In June 2013, the Council of Europe's Venice Commission condemned and called for the rejection of so-called 'anti-propaganda' laws in Russia, Ukraine and Moldova.¹

Previously, the Committee of Ministers of the Council of Europe unanimously adopted a set of recommendations (CM/Rec (2010)5) to member states, including Moldova, on measures to combat discrimination on the grounds of sexual orientation or gender identity. The recommendations invite the member states to ensure that the stipulated principles and measures are applied in national legislation, policies, and practices relevant to the protection of LGBT people. Relevant recommendations are:

1. Examine existing legislative and other measures, keep them under review, and collect and analyze relevant data, in order to monitor and redress any direct or indirect discrimination on grounds of sexual orientation or gender identity;
2. Ensure that legislative and other measures are adopted and effectively implemented to combat discrimination on grounds of sexual orientation or gender identity, to ensure respect for the human rights of lesbian, gay, bisexual and transgender persons and to promote tolerance towards them.

In addition, on 27 June 2013 the Parliamentary Assembly of the Council of Europe adopted Resolution 1948 on tackling discrimination on the grounds of sexual orientation and gender identity. The Assembly expressed "deep concern at the introduction, <...> of legislation or draft legislation on the prohibition of so-called homosexual propaganda, in a number of Council of Europe member States" and stressed "their failure to meet the requirements for restrictions prescribed by Articles 10, 11 and 14 of the Convention". The Assembly made the following recommendations:

- 9.1.1. ensure the full protection of human rights for all those who are subject to their jurisdiction, including the prohibition of discrimination on the grounds of sexual orientation and gender identity;
- 9.1.6. involve LGBT and human rights organisations in consultations on draft laws and policies concerning discrimination;
- 10.3. the competent authorities of the Republic of Moldova to give full execution to the judgment of the European Court of Human Rights in the case of *Genderdoc-M v. Moldova*; to comply with judicial decisions quashing legislation on the prohibition of so-called homosexual propaganda; and to repeal it if they have not yet done so.

The new legislation directly contradicts the Council of Europe recommendations to tackle discrimination on the grounds of sexual orientation and gender identity in Moldova. We see clearly the negative impact of a similar law in Russia that bans the propaganda of "non-

¹ Opinion on the issue of the prohibition of so-called "propaganda of homosexuality" in the light of recent legislation in some member states of the Council of Europe, adopted by the Venice Commission on 14-15 June 2013, [http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2013\)022-e](http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2013)022-e)

traditional sexual relationships among minors”. Such laws send a message condoning homophobia and transphobia which contributes to a climate of hatred and violence. State authorities have regularly banned or broken up peaceful public demonstrations in support of the rights of the LGBTI people.

We call upon you to condemn the adoption of this article and strongly to urge Moldova to repeal this article.

For ILGA Europe: Evelyne Paradis

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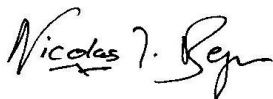
For Human Rights Watch: Boris Dittrich

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For Open Society European Policy Institute: Heather Grabbe

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For Amnesty International: Nicolas Beger

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For ARTICLE 19: Agnès Callamard

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