



**CONSILIUL PENTRU PREVENIREA ȘI ELIMINAREA
DISCRIMINĂRII ȘI ASIGURAREA EGALITĂȚII
СОВЕТ ПО ПРЕДУПРЕЖДЕНИЮ И ЛИКВИДАЦИИ
ДИСКРИМИНАЦИИ И ОБЕСПЕЧЕНИЮ РАВЕНСТВА
COUNCIL FOR PREVENTING AND ELIMINATING
DISCRIMINATION AND ENSURING EQUALITY**

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February 15th, 2018
Chisinau

On behalf of the *Council for preventing and eliminating discrimination and ensuring equality*, I request formal membership of Equinet AISBL/INFPA – European Network of Equality Bodies, enjoying the full rights that members of Equinet are entitled to and respecting the obligations that membership brings with it, including adhering to Equinet statutes.

Ian Feldman
President

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Republic of Moldova

PARLIAMENT

LAW No. 121

dated 25.05.2012

on Ensuring Equality

Published: 29.05.2012 in the Official Gazette No. 103 art. 355 Date of entry into force: 01.01.2013

The Parliament adopts the present organic law.

This law creates the necessary framework to implement Directive 2000/43/EC of 29 June 2000 on implementing the principle of equal treatment among persons regardless of their racial or ethnic origin, published in the Official Journal of the European Union (OJ) no. 180 of 19 July 2000 and Council Directive 2000/78/EC of 27 November 2000 on establishing a general framework for equal treatment in respect of employment published in the Official Journal of the European Union (OJ) no. 303 of 2nd December 2000.

Chapter I GENERAL PROVISIONS

Article 1. Aims of the law and field of application

(1) The present law aims to prevent and combat discrimination and to ensure equality of all persons on the entire territory of the Republic of Moldova in areas of politics, economy, social, culture, and other areas of life making no difference in race, colour, nationality, ethnic origin, language, religion or belief, sex, age, disability, opinion, political view, or any other similar criteria.

(2) The provisions of this law shall not extend to and cannot be interpreted as detrimental to/with:

- a) family, which is based on the freely consented marriage between man and woman;
- b) regard to adoption;

c) religious cults and their component parts regarding their religious beliefs. Article 2. General notions

Article 2: In the meaning of the this Law, the below terms have the following significations:

a) discrimination – any distinction, exclusion, restriction or preference in the rights and freedoms of an individual or a group of individuals, as well as the support of the discriminating behaviour based on real or supposed criteria stipulated in the current law;

b) direct discrimination – unfavourable treatment of a person based on any of the prohibited criteria in the situation comparable to another person.

c) indirect discrimination – shall be to put a person, on the grounds referred to a less favourable position in comparison with other persons by means of an apparently neutral provision, criterion or practice, unless the said provision, criterion or practice have objective justification in view of achieving a lawful objective and the means for achieving this objective are appropriate and necessary

d) discrimination by association - any act of discrimination committed against a person who, although is not a part of a group identified on criteria stipulated by the current Law, but he/she is associated with one or more persons belonging to such groups of persons;

e) racial segregation - any action or omission directly or indirectly leading to separation or distinction of persons on the basis of race, colour, national or ethnic origin;

f) harassment – the act of systematic and/or continued unwanted and annoying actions of one party or a group, including threats and demands, with the purpose or effect to breach someone's dignity, based on criteria stipulated by the current Law;

g) instigation to discrimination – any behaviour by which an individual, applies pressure or has a behaviour aiming to discriminate a third person, based on criteria stipulated by the current Law;

h) victimization – any action or inaction followed as a result of having lodged a complaint, submitting a suit in Court in order to ensure the application of the provisions of the present Law or present certain data, including testimony, regarding the complaint or suit initiated by another person;

i) affirmative measures - special temporary actions taken by public authorities in favour of one person, group of persons or a community, ensuring their natural development and effective realisation of equal chances in regard to other persons, group of persons or a community.

j) reasonable accommodation – any modification and necessary and adequate adaptation which do not impose a disproportionate or unjustified task when it is needed, in a particular case, for assuring to each person, in cases established by Law, exercising on equal conditions with others, its fundamental rights and liberties.

Article 3. Subjects in the area of discrimination

The subjects in the area of discrimination are natural or legal persons from the public and private areas.

Article 4. Severe forms of discrimination

Severe forms of discrimination are:

- a) promotion or practice of the discrimination by public authorities;
- b) the support of discrimination through mass media;
- c) placement of discriminatory messages or symbols in public places;
- d) discrimination of persons based on two or more criteria;
- e) discrimination committed by two or more persons;
- f) discrimination committed twice or more times.
- g) discrimination committed against a group of persons;
- h) racial segregation.

Article 5. Actions for the elimination of discrimination

Discrimination can be eliminated by the following actions:

- a) prevention of any discriminatory facts, by setting certain specific measures, including some positive measures, in order to protect persons being in disadvantageous conditions to other individuals. Positive measures shall apply until the establishment of equality and social inclusion of persons or groups of persons who are in a disadvantaged position to others.
- b) mediation by amiable solving of conflicts appeared following the committing of discriminatory facts;
- c) punishment for a discriminatory behaviour.
- d) compensation for the material and non-material harm suffered from the discrimination act.

Article 6. Prohibition of discrimination

Any discriminatory form is prohibited. The promotion of the policy or the performance of actions or inactions violating the right to equality of the persons must be removed by competent public authorities and punished by Law

Chapter II
SPECIAL PROVISIONS

Article 7. Prohibition of discrimination in field of labour

(1) Is prohibited any distinction, exclusion, restriction or preference, based on criteria established by the present law, which have as effect the limitation or damage of the equality at employment or dismissal from the job, in the main activity and in professional formation. Prohibition of discrimination based on sexual orientation will be applied in the field on employment and occupation.

(2) It is considered discriminatory the following actions of the employer:

- a) placing recruitment announcements outlining conditions which imply preferential treatment and criteria excluding or favouring certain personas;

- b) unjustified denial of employment;
- c) unjustified refuse to admit certain persons to professional training courses;
- d) unequal pay for the same type and/or amount of work;
- e) differentiated and unjustified distribution of job tasks, which result in a less favorable status of some persons;
- f) harassment;
- g) any other actions that contradict the present law.

(3) Refusal of employment, admission to professional training courses or promotion of persons is considered unjustified if:

- a) it is requested the presentation of supporting documents in addition to the legally established ones;
- b) it is pretended that the person does not correspond to certain requirements which do not have anything in common with the necessary professional qualifications for performing the required tasks or it is required to correspond with any other illegal conditions which have similar consequences.

(4) The employer is required to publish the information in any accessible form for all employees according to the legal provisions ensuring equal chances and treatment at the workplace.

(5) Any distinction, exclusion, restriction or preference regarding a particular job does not constitute discrimination, in this case when it exist a specific nature of those activities or conditions in which these activities are carried out, it requires certain and determined professional requirements, with the condition that the aim is legitimate and the requirement is proportionate.

(6) In case of professional activities in the religious cults and their component parts does not constitute discrimination, differentiated treatment based on religious and personal beliefs, when the religion or beliefs constitute an essential professional requirement, legitimate and justified.

Article 8. Prohibition of discrimination in accessing goods and services available to public

It is prohibited any form of discrimination, regarding the access of persons to:

- a) services provided by public authorities;
- b) services of medical assistance and other health services;
- c) services of social protection;
- d) banking and financial services;
- e) transportation services;
- f) cultural and leisure services;
- g) selling and renting movable and immovable property;

g) other goods and services available to the public.

Article 9. Prohibition of discrimination in the educational area

(1) Educational institutions shall ensure the protection of the non-discrimination principle:

- a) by providing access to the educational institutions of any type and level;
- b) in the educational process, including at the evaluation of the acquired knowledge;
- c) in the scientific and educational activity;
- d) by elaborating educational materials and curricula (study programs);
- e) by informing and training didactic staff to apply methods and means for the prevention of discrimination and to seize the competent authorities;

(2) Educational institutions cannot establish admission criteria based on certain restrictions, except cases stipulated by the legislation in force.

(3) The refusal of the educational institutions to admit a particular person, whose qualification does not meet the necessary admission level, does not constitute a limitation of the right to education.

(4) The provisions of this Article shall do not limit the right of an educational institution to train the staff belonging to a certain religious cult or to refuse the registration of a person whose religious status does not meet the requirements established for access to that institution.

Chapter III

INSTITUTIONAL FRAME FOR PREVENTING AND COMBATING DISCRIMINATION AND ENSURING EQUALITY

Article 10. Subjects empowered for preventing and combating discrimination and ensuring equality

Subjects empowered for preventing and combating discrimination and ensuring equality are:

- a) The Council for preventing and eliminating discrimination and ensuring equality;
- b) Public authorities;
- c) Courts.

Article 11. The Council for Preventing and Eliminating Discrimination and Ensuring Equality

(1) The Council for Preventing and Eliminating Discrimination and Ensuring Equality (hereinafter "Council") is a collegial body with a status of a public legal entity, created in order to ensure the protection against discrimination and ensuring equality to all the persons who consider themselves victims of discrimination. The Council acts in conditions of impartiality and independence in regard to public authorities.

(2) The Council consists of five members, who have no political affiliation appointed by Parliament for a period of 5 years, which three of them represent civil society. At least the Council's 3 members must have Bachelor's degree in law.

(3) Any person can be appointed as a member of the Council, who has the citizenship of the Republic of Moldova and:

a) holds a university degree;

b) has an impeccable reputation and demonstrates a tolerant behavior towards minority groups;

c) has a recognized activity in field of human rights of at least five years.

(4) For the appointment of candidates to the Council, the Parliament establishes a Special Commission consisted of members of the Commission on Human Rights and Interethnic Relations and the Legal Commission on Appointments and Immunities which shall organize a public contest. The contest shall be organized at least 30 days before the previously designated members' mandate expires.

(5) The information about the organization and holding of the contest, requirements for candidates, the documents that have to be submitted, shall be placed on the Parliament Web site of 30 days before the contest.

(6) The procedure for organizing and conducting the contest is based on the following principles:

a) open and transparent competition, by ensuring the free access of all persons who meet the needed requirements;

b) equal treatment through the submission of a non-discriminatory criteria for the selection, in order to ensure equal opportunities/chances to all persons;

c) diversity by ensuring gender equality and balance of representation of ethnic and minority groups from society.

(7) The Curriculum Vitae of the candidates who intend to participate in the contest shall be placed on the Parliament Web site for public consultations.

(8) The candidates are heard by the established Special Commission, where is prepared a reasoned opinion about each selected candidate, than it is submitted to Parliament's Plenary. Candidates are appointed by a majority vote of the elected members of the Parliament.

(9) The membership in the Council ends when the mandate expires, with the person's demission request or in case of death. Any member of the Council may be revoked, by the body which appointed him, in the circumstances excluding the possibility to execute the mandate or at the Council' request adopted with the vote of the majority of its members, in the case of non-corresponding performance or non-performance of the attributions. The new member of the Council performs the duties of the revoked member until his mandate expires.

(10) The membership in the Council shall be suspended by the appointing body when charges are brought against for committing a crime during the exercise of working activities or for committing a crime on any discriminatory grounds.

(11) The Chairman of the Council is elected by majority votes of all its members. The Chairman of the Council represents a permanent body. Other members of the Council are called in

sessions by the Chairman President. If it is necessary, the Council can be convened at the request at least of two members.

(12) The non-permanent members of the Council receive an allowance amounting to 10 percent of the average salary per economy for a session.

(13) The Council is assisted in its work by an administrative body.

(14) The Regulation on the Council's procedure is approved by the Parliament.

Article 12. Attributions of the Council

The Council has the following attributions:

- a) to examine accordance of the current legislation with the standards of anti-discrimination;
- b) to initiate proposals for the modification of the current legislation in the area of preventing and combating discrimination;
- c) to adopt advisory opinions concerning the compliance of draft legislation with the legislation on preventing and combating discrimination;
- d) to monitor the implementation of the legislation in the area;
- e) to collect data about all dimensions, status and trends of the discrimination phenomena at a national level and to elaborate reports and studies;
- f) to offer to public authorities proposals and recommendations of a general character regarding the prevention and combating discrimination, and the improvement of the behaviour towards subject persons in this law;
- g) to aware society about the elimination of all forms of discrimination, based on democratic values;
- h) to collaborate with international organizations specialized in preventing and combating discrimination;
- i) to examine the complaints of persons who consider themselves to be victims of discrimination;
- j) to submit a request to the relevant authorities with regard to the initiation of a disciplinary process in order to hold responsible the person who has committed discriminatory acts;
- k) to detect contraventions with discriminatory elements according to the provisions of Contravention Code;
- l) to notify the prosecutor's office about cases where the committed discriminatory acts contains elements of crimes;
- m) to contribute to the amicable solution of conflicts arising after the commission of discriminatory acts by reconciling the parties and looking for a mutually acceptable solution;
- n) to perform other attributions set in this law and its regulation on the Council's activity.

(2) At the beginning of each year, until 15 March, the Council shall submit to the Parliament a general report on the situation in preventing and combating discrimination. The report is published on the Web site of the Council.

Article 13. The modality of submitting complaints to the Council

(1) The finding of the existence or otherwise of a discriminatory act is initiated by the Council from its office or upon the request of interested persons, including the syndicate's or nongovernmental organization's request which work within the promotion and protection of human rights field.

(2) The complaint on discrimination is presented to the Council. The complaint must contain a description of the violated right, the moment when this violation has taken place, facts and evidence supporting the complaint, the name and address of the individual submitting this complaint. The complaint can be submitted to the Council in term of one year from the moment when the individual found that it has been committed.

(3) The submission of the complaint to the Council does not mean a preliminary procedure for addressing the issue to the Court.

Article 14. Rejection of a complaint

The Council will reject the complaint if it:

- a) does not contain identification data of the individual who submitted it;
- b) does not contain the necessary information listed in article 13, paragraph (2);
- c) is a repeated complaint which is not supported by new information and evidence.

Article 15. Examination of complaint

(1) The complaint shall be examined within 30 days since its submission, with the possibility of extension of the term, but no longer than 90 days. While the complaint is being examined, the Council is empowered to ask relevant data and information from persons who are supposed to have committed discriminatory acts. The burden of proof that the committed act does not constitute discrimination is attributed to the person who has allegedly committed the discriminatory act.

(2) At the request of the Council, legal entities and individuals shall:

- a) provide copies of requested documents necessary to solve the complaint;
- b) provide information and explanations in verbal and appropriate written forms, in relation to matters which form the subject of complaint.

(3) All the gathered data, information and documents connected to the actions or discriminatory behavior to which is referred the complaint, will be presented to the Council in 10 days. Unjustified default of the requested information by the Council will be sanctioned in accordance with the present Law and will be interpreted by the Council against the person that did not present the requested documents;

(4) After examining the complaint, the Council adopts a motivated decision with the majority of its members' votes. The Council's decision includes recommendations for assuring the rehabilitation of victim's rights and preventing future similar cases.

(5) The Council's decision is notified to the person that has committed the discriminatory act and to the person who wrote the complaint in terms of 5 days. The Council has to inform in 10 days about the undertaken measures.

(6) If the Council disagrees with the taken measures by the person that has committed the discriminatory act, it is entitled to seek a superior body for appropriate actions and/or inform the public.

(7) The Council's decisions shall be published on its Web site, respecting the confidentiality of the personal data.

(8) If during the examination of the complaint it is noticed that commissioned acts constitute the contravention, the Council will submit the case and the reports to the competent body for initial examination;

(9) If the examined facts contain elements of crime, the Council immediately will send the materials to the criminal procedure bodies.

Article 16. Public authorities' competence

In order to prevent discriminatory actions, the public authorities, based on their functional competencies, perform the following attributions:

- a) to review the complains of persons who consider themselves victims of discrimination;
- b) to coordinate the activities in the area of discrimination of decentralized and de-concentrated structures;
- c) to contribute to the education and awareness of the population regarding the prohibition of discrimination in the areas of competence;
- d) to perform other attributions according to the relevant legislation.

Chapter IV LIABILITY FOR THE DISCRIMINATION ACTS

Article 17. Liability for the discrimination acts

Discrimination actions are liable to disciplinary, civil, contravention and criminal liability, according to the legislation in force.

Article 18. The right of the victim to protection

(1) Any individual who is considered a victim of discrimination has the right to initiate a lawsuit in Court and to request:

- a) the establishment of the fact of violation of his rights;
- b) the prohibition of the continuing violation of the rights;
- c) the re-establishment of the situation existed before the violation of his rights;

- d) the recovery of the caused material and moral damage, as well as recovery of Court costs;
- e) the declaration of nullity for the document which has lead to discrimination.

(2) The complaint addressed to the court for protecting the persons considered victims of discrimination can be also submitted by the public associations working for the prevention and combating discrimination as well.

(3) At the victim's request, it is prohibited to disclose the information about his private life and identity. The registration, store and use of the information with a personal character, regarding the discriminated victim, is performed by following special rules of confidentiality, established according to the law.

Article 19. The burden of proof

(1) The individual initiating a lawsuit in the Court must present facts which allow presuming the existence of a discriminatory act.

(2) The defendant is attributed to prove that these facts do not constitute discrimination, except the facts which give rise to criminal liability.

Article 20. Term of prescription

The term of prescription for bringing an act into the Court based on this Law provision is one year from the moment of the committed act or from the moment when the individual could find that it was committed.

Article 21. State Fees

The individual bringing an act into the Court, related to discrimination, is exempted from any fees.

Article 22. Financing

(1) The empowered public authorities with the right of implementation of the current Law are financed yearly from the limit of the state budget and from the budgets of the territorial-administrative units.

(2) Activities on prevention and fighting discrimination may be financed also from other sources and it is not prohibited by the Law.

CHAPTER VIII FINAL PROVISIONS

Article 23.

(1) The current Law comes into force starting with the 1 January 2013.

(2) The Government, in term of 6 months, from the moment of coming into force:

a) will submit to the Parliament proposals to bring the current legislation in conformity with the present law;

b) will adopt the necessary normative documents to implement the present law.

Vice President of the Parliament

Liliana Palihovici

Chisinau, 25 May 2012

Law nr.121



Republic of Moldova

PARLIAMENT

LAW No. 298
dated 21.12.2012

on the activity of the Council for Preventing and Eliminating Discrimination and Ensuring Equality

Published: 05.03.2013 in the Official Gazette No. 48 artNo.: 148 Date of entry into force: 01.01.2013

The Parliament adopts the present ordinary law.

Art. 1. – The following shall be approved:

- a) the Regulation regarding the activity of the Council for Preventing and Eliminating Discrimination and Ensuring Equality, according to the annex;
- b) the celling of the staff in the administrative apparatus of the Council for Preventing and Eliminating Discrimination and Ensuring Equality for 20 units.

Art. 2. – The present law shall enter into force on January 01, 2013.

Art. 3. – Since January 01, 2013, the Government shall:

- a) open finance provision to the Council for Preventing and Eliminating Discrimination and Ensuring Equality;
- b) provide premises to the Council for Preventing and Eliminating Discrimination and Ensuring Equality.

PRESIDENT OF THE PARLIAMENT

Marian LUPU

No. 298. Chisinau, December 21, 2012.

REGULATION
regarding the activity of the Council for Preventing and Eliminating Discrimination and Ensuring
Equality

Chapter I

GENERAL PROVISIONS

1. The Council for Preventing and Eliminating Discrimination and Ensuring Equality (hereinafter referred to as the *Council*) is a collegial body and has the status of legal entity of public domain, which owns stamp and letterhead with the Coat of Arms of the Republic of Moldova. The Headquarters of the Council shall be located in Chisinau municipality.

2. The mission of the Council is to protect against discrimination, to ensure equality and to restore the rights of all discriminated persons.

3. The activity of the Council shall be financed by the state budget. The budget of the Council shall be approved by the Parliament after its examination and positive endorsement by the corresponding parliamentary committee. The Parliament shall submit the Government the approved budget of the Council to be included in the draft state budget for the next year.

4. For the purpose of the present Regulation, the following terms shall mean:

complainant – the person who considers himself/herself to be discriminated and notifies the Council through a complaint about the commission of the discrimination act against him/her;

respondent – the person against whom a complaint has been formulated regarding the commission of a discrimination act and who is alleged to have committed discriminatory acts;

interested person – the person who considers himself/herself discriminated, trade-union or public association active in the area of promoting and protecting human rights, any other person with legitimate interest in combating discrimination and representing a person, a group of persons or a community against whom discriminatory acts have been committed.

Chapter II

ORGANIZATION AND OPERATION OF THE COUNCIL

5. The Council shall be headed by a President, elected in the way established in the art. 11 par. (11) Of the Law No. 121 dated May 25, 2012 on Ensuring Equality. The position of President is a function of State dignity.

6. The President of the Council can be recalled on demand of at least 2 members. The decision to recall the President of the Council shall be adopted by secret voting with the votes of at least 3 members.

7. The President of the Council shall have the following duties:

a) to lead and to organize the activity of the Council;

b) to represent the Council in its relations with other authorities and public institutions, with individuals

or legal entities;

c) to set, after consulting with the members of the Council, the date and the time for organizing the meetings, to chair the meetings of the Council;

d) to appoint the civil servants of the administrative apparatus of the Council, to modify, to adjourned, and to suspend, according to the law, the employment relationship with the respective officials, and recruits on the contract basis the auxiliary staff as well as to modify, to suspend, and to adjourned, and to suspend the employment relationship with the respective staff;

e) to apply, according to the law, disciplinary sanctions and to provide measures for promoting the administrative apparatus civil servants and the contracted staff, in consultation with the members of the Council;

f) to approve the functional responsibilities of the stuff of the administrative apparatus of the Council;

g) to present in the plenary session of the Parliament the general report regarding the situation in the area of preventing and combating discrimination and to ensure the publication of the respective report on the Web page of the Council;

h) to exercise as well other duties set out in this Regulation.

8. While exercising the attributed duties, the President of the Council shall issue administrative acts.

9. The Council shall carry out its activity in ordinary sessions, conveyed at least once per month. If it is needed, extraordinary sessions may be organized. The Council shall be convened in the way established in the art. 11 par. (11) of the Law on Ensuring Equality.

10. The sessions of the Council are public. Closed meetings may be organized only for the purpose of protecting the information representing state secret, commercial secret or any other information, the disclosure of which is prohibited by law. Upon the request of the complainant, respondent or interested person, the President of the Council may order for the complaint to be examined within a secret meeting so as to prevent the disclosure of information referring to private life aspects, which can damage the honor, dignity or professional reputation, or referring to any other circumstances which may affect the interests of the people participating in the session, the public order or morality.

11. The sessions of the Council can be deliberative in case if they are attended by 4 members. In the absence of the President, the meeting shall be chaired by a member appointed by the President or, as it may be needed, by a member chosen by the session.

12. The activity of the Council sessions shall be recorded in the report, containing information regarding the presence of the Council members and other participants in the session, the content of it shall include the held debates, voted problems, results of voting and adopted decisions. The report shall be concluded within a 5-day deadline since the day the session had been organized and shall be signed by the President of the Council and the Secretary.

13. The Secretary of the session shall be appointed by the President from the administrative apparatus of the Council.

14. The Secretariat from the administrative apparatus of the Council shall have the following responsibilities:

a) to keep the record and to maintain the register of complaints lodged to the Council and the ex-officio acts of the Council;

b) to ensure the archiving of the Council's materials;

c) to communicate to the members of the Council, complainant, respondent, and interested person, less than 7 calendar days the date, time, place, and agenda of the Council session to and publish the respective information on the Web page of the Council;

d) to refer the copy of the complaint and the annexed materials to the Council members and to respondent less than 15 calendar days about the date when the respective complaint is reviewed again;

e) to ensure the access to all materials related to the case to the complainant, respondent, and interested person;

f) to send the complainant, respondent, and interested person, within 10 working days since the decision was adopted by the Council;

g) to exercise followed up on guidance provided by the President, or some other responsibilities related to the activity of the Council.

Chapter III

DUTIES, RIGHTS AND OBLIGATIONS OF THE COUNCIL MEMBERS

15. The members of the Council shall exercise the following duties:

a) to examine the lodged complaints;

b) to notify the Council about the existence of a discrimination fact;

c) to contribute to amiable settlement of the conflicts emerged as a result of the discriminatory facts, by counseling the parties and looking for new mutually acceptable solutions;

d) to exercise some other duties set by the Law on Ensuring Equality and the present Regulation.

16. The members of the Council shall have the following rights:

a) to get informed about the materials submitted to the Council for examination;

b) to express verbally or, if it is needed, in writing form their arguments, to provide directions and to present additional materials;

c) to request the complainant, respondent, and interested person to submit opinions, documents and other relevant evidence;

d) to request from individuals or legal entities copies of the necessary acts for settling the complaint, as well as information, verbal explanations and, if it is needed, written explanations related to the facts which represent the subject of the complaint;

e) to invite to the session of the Council any person if the discussed subject is in interest of the respective person or if it refers to the respective person's legitimate rights and interests;

f) to suggest examination of related problems in the competence of the Council;

g) to participate in adopting decisions and other acts of the Council and to come up with a separate opinion, if it is needed.

17. The Council member shall have the following obligations:

a) to exercise the duties in line with the legal provisions and the present Regulation;

b) to participate in the sessions of the Council;

c) to hear the persons who consider themselves victims of discrimination;

d) to participate in developing the Council's acts;

- e) to declare any conflict of interest and to abstain, if it is needed, from examining the complaint;
- f) to keep the confidentiality of data, which he/she got to know while exercising his/her duties and other personal data.

Chapter IV

EXERCISING OF DUTIES BY THE COUNCIL

18. The Council shall exercise the duties attributed to its mandate via the Law on Ensuring Equality and the present Regulation.

19. When exercising the duties for preventing and eliminating discrimination and ensuring equality of all the persons, who consider themselves victims of discrimination. The Council shall adopt decisions, ex-officio acts, consultative endorsements, finding acts, provide orders and notifications, develop studies and reports, present information, and submit requests.

20. The Council shall act impartially and independently from other public authorities, individuals, or legal entities.

Section 1

Improvement of legislation and change of practice on the discrimination area

21. For the purpose of improving the legislation in the area of preventing and combating discrimination, as well as for changing the practice in the respective area, the Council shall:

- a) examine the compliance of the legislation in force with the non-discrimination standards and shall initiate proposals for amending the legislation in force in the area of preventing and combating discrimination;
- b) adopt consultative endorsements for the compliance of draft regulation acts with the legislative acts in the area of preventing and combating discrimination;
- c) monitor the mode of implementation of the legislation in the area of preventing and combating discrimination;
- d) develop policy documents for preventing, combating, and remedying the situations in the area of discrimination and shall monitor the implementation of such documents;
- e) approve regulations regarding the internal procedures for carrying out its duties.

22. Any member of the Council may formulate proposals for amending the legislation and may present opinions regarding the draft legislative acts related to discrimination.

23. The proposals for amending the legislation or the consultative endorsements shall be adopted via consensus by the members of the Council and shall be submitted to the interested bodies in the established way.

24. The member of the Council with his/her own opinion regarding the initiative to amend the legislation shall sign and submit the consultative endorsement in his/her own name.

Section 2

Increasing the level of information of the society regarding the discrimination phenomenon

25. To increase the level of information of the society regarding the discrimination phenomenon, the

Council shall:

- a) contribute to raising society's awareness about elimination of all forms of discrimination in the context of democratic values, including by organizing awareness campaigns regarding discrimination and its consequences in all the areas of legislation enforcement, as well as through participation in the radio and the TV shows, so as to ensure the promotion of zero tolerance to discrimination;
- b) advertise the discrimination cases examined by the Council via the printed press or audiovisual outlets;
- c) provide the information for the society about the subjects responsible for preventing and combating discrimination and ensuring equality, as well as the way of restoring the infringed right by discrimination;
- d) contribute to strengthen the education process of population in the area of non-discrimination and ensuring equality through formal and non-formal educational processes;
- e) collect information about the dimensions, status, and trends of discrimination phenomenon at the national level, and develop thematic and general studies and reports.

26. In performed studies, the Council shall analyze the experience and the practice of other states, the case law of national and international courts, its own practice and the practice of other subjects with duties in the area of preventing and combating discrimination and ensuring equality, and shall present statistical data.

27. The thematic reports have purpose to deal with any discrimination criterion related to all areas of political, economic, social, cultural life.

28. The general report regarding the situation in the area of preventing and combating discrimination shall be submitted to the Parliament annually, by March 15. The report shall contain information about the Council's activity from the previous year.

29. At the latest 3 months since the date the general report is submitted, it is heard in the plenary session of the Parliament. After hearing the report, the Parliament shall adopt a decision.

30. The studies and reports of the Council shall be published on the Web page of the Council.

Section 3

Cooperation with the civil society and other national or international institutions

31. For the purpose of cooperation with the civil society and other national or international institutions, the Council shall:

- a) develop and implement joint projects with trade-unions, public associations from the area of promotion and protection of Human Rights, as well as with other non-commercial organizations interested in preventing and combating discrimination;
- b) collaborate with international bodies with a mandate in preventing and combating discriminations, and other similar institutions from other states;
- c) cooperate with other national or international institutions with a view to promoting exchange of experience and implementation of good practices in the area of non-discrimination and ensuring the provision of equal rights;

- d) organize with the participation of the civil society conferences, seminars, round tables, and other meetings related to preventing discrimination, which are held in the country and abroad;
- e) present to the mass media information about the identified discrimination cases, about the actions of the persons in high-rank positions who have committed discrimination actions.

Section 4

Collaboration with public authorities and sanctioning discrimination actions

32. To ensure the recovery of the rights of the person who considers herself-himself discriminated and sanctioning the discrimination actions, the Council shall:

- a) submit to public authorities general proposals regarding preventing and combating discrimination and changing behavior towards persons who are covered by the Law on Ensuring Equality and the present Regulation;
- b) if he/she does not agree with the measures undertaken by the person who has committed discriminatory action, the Council shall address the hierarchically senior body to undertake the necessary measures;
- c) intervene at the corresponding bodies with proposals to start disciplinary cases against the persons with high-rank positions who have committed discriminatory actions in their activity;
- d) determine the contraventions with discriminatory elements in line with the provisions of the Contravention Code;
- e) inform the criminal investigation bodies when discriminatory actions contain elements of the crime.

33. As a fact-establishing agent, the Council shall submit to the Court for examination report establishing the facts of misdemeanor and the materials of the case.

34. The draft minutes regarding the misdemeanor shall be concluded by the member of the Council to whom the complaint was distributed according to the provisions of the point 47 or by the member of the Council who has submitted the ex-officio act.

35. The minutes regarding the misdemeanor shall be approved with the vote of 3 members of the Council and shall be signed by the members who have participated in its approval.

36. The trial regarding the respective misdemeanor case shall be attended by the member of the Council who has concluded the minutes regarding the misdemeanor or by another member appointed by the President of the Council.

Section 5

Examining the complaints and ex-officio acts

37. The complaint concluded in line with the provisions of art. 13 par. (2) of the Law on Ensuring Equality may be submitted through any legal mode (mail, fax, e-mail) or may be expressed verbally during the hearing. In case of verbal notifications, a memo shall be concluded containing the elements of the complaint.

38. The complaint shall be submitted in the person's own name, in the interest of another person only with his/her agreement, in the interest of a group of persons or of a community. The complaint shall be lodged personally or through a representative.

39. Any member of the Council who gets to know a piece of information, situation, announcement or event containing indications about the existence of some obvious discriminatory facts may submit an ex-officio act to the Council. The ex-officio act shall be motivated, dated and signed by the member of the Council who has submitted it.

40. The complaints addressed to the Council and the ex-officio notifications shall be registered by the secretariat in the order they are received, by applying a registration number and date. The complaints received during the hearing shall be registered in the same order.

41. The information regarding the received complaints and ex-officio acts shall be entered in a special register.

42. The complaints meeting the following criteria shall be not admitted if:

- a) fall under the art. 14 of the Law on Ensuring Equality;
- b) have been submitted after the deadlines;
- c) do not fall under the competence of the Council;
- d) have unjustified object related to the scope of the Law on Ensuring Equality.

43. If the examination of the complaint does not fall under the competence of the Council, the complainant or the interested person shall be informed about his/her right to address to the competent authority, indicating, if it is needed, the respective authority.

44. Before starting the hearings, the complainant or the interested person who has lodged the complaint may request to complete the respective complaint with new data.

45. The complainant or the interested person who has lodged the complaint may give it up before the end of the hearings. The act of giving up the complaint shall be concluded in written form or shall be expressed verbally during the meeting of the Council, and this fact shall be noted in the minutes of the meeting.

46. The registered complaints shall be submitted to the President of the Council on the day of their receipt.

47. The President of the Council shall appoint a rapporteur member for every complaint from among the Council's members, on rotation basis and in alphabetic order; except for the ex-officio act which is supported by the member of the Council who has registered it.

48. The Secretariat shall submit on the same day or the day following the complaint for settlement to the rapporteur member.

49. In case of conflict of interest or because of other reasons which impede the settlement of the complaint by the rapporteur member, the respective member shall inform the Council within 3 days deadline since the receipt complaint, presenting the reasons in written form. In this case, the complaint shall be distributed according to the point 47.

50. In the process of settling the complaint, the rapporteur member shall be assisted by a civil servant from the administrative apparatus of the Council, appointed by the President of the Council.

51. The time-limit for the complaint by the rapporteur member shall be 15 days, which may be

extended to 45 days, in written notification of the President about the circumstances imposing the extension of the respective deadline.

52. The rapporteur member shall compile a report regarding the complaint, which shall be submitted for examination to the other members of the Council at least 5 days before the appointed date of the review meeting of the complaint. The report shall contain the opinion of the rapporteur member regarding the admissibility of the complaint and on its merits.

53. The complaints and the ex-officio acts regarding discrimination facts shall be examined by observing the following principles:

- a) transparency of the procedure;
- b) celerity;
- c) adversarial principle;
- d) reverse of the burden of proof;
- e) ensuring the right to defense;
- f) protection of personal data.

54. The parties (complainant, respondent, and if it is needed, the interested person) shall be invited to attend the meeting for examining the complaint. The date and time of the invitation shall be coordinated with the rapporteur member. The absence of the parties shall not impede the examination of the complaint.

55. During the hearing, the Council shall propose the parties to reconcile or to settle through mediation the conflicts emerged as a result of the discriminatory acts. The refuse of the parties to find a mutually acceptable solution shall be noted in the minutes of the meeting of the Council.

56. The complainant or, as the case may be, the interested person shall present the facts and the eventual evidence to support the complaint and the respondent shall have the task to prove that the respective acts do not represent a discrimination.

57. The respondent shall be invited within the 10-day deadline since the day the complaint was sent, to present the opinion and the evidence which would prove that the invoked fact in the complaint or ex-officio act is not discrimination. The unjustifiable absence of the requested information shall be sanctioned according to the legislation in force and shall be interpreted by the Council in the respondent's disadvantage.

58. During the meeting, the complainant and the respondent have the right to be assisted by a lawyer or a representative.

59. The parties involved in solving the complaint, who do not master the state language, have the right to benefit from the services of an interpreter paid by the Council.

60. By the end of the hearings, the Council may be presented any evidence, including audio, video records or statistical data. If the evidence is in written form, the copies of such evidence shall be annexed. Witnesses, specialists or experts may be invited upon request.

61. The decision represents an act, where the Council settles the complaint and determines the existence or the lack of discriminatory actions. The decision must contain: the date and place of adoption; the name of the body which has adopted it; the name and surname of the members participating in the meeting; the note about the public or closed nature of the meeting; the name, surname and other

identifying data of the complainant, respondent or, if needed, interested person, their explanations and objections; submitted evidence; name, surname of the persons who are representing the complainant or the respondent, their explanations and objections; description of the identified facts; the conclusion of the Council regarding the existence or the lack of discriminatory actions and the arguments used to reason it; recommendations formulated to ensure the rights' recovery of the discrimination victim and to prevent similar actions in future.

62. As a result of the hearings and examination of all the data, information and documents related to the discrimination actions or conduct tackled in the complaint or the ex-officio act, the rapporteur member shall develop the draft decision, which will be submitted to the Council for approval.

63. The Council deliberates in a closed session. The deliberation session may take place on the same day or on a day after established by the Council, but not later than 5 days after the date of the session.

64. The decision shall be adopted with the vote of 3 members of the Council and shall be signed by the members who have participated in adopting the respective decision. In case of parity of votes, the decision shall be deemed as not adopted, and the examination of the case shall be postponed.

65. The decision of the Council may be contested in the court for administrative disputes. The final decision is an official act enforceable for the tackled subjects.

66. The decision of the Council shall be communicated to the parties within 10-day deadline since it has been adopted and shall enter into force from the date of its communication.

Chapter V

ADMINISTRATIVE APPARATUS

67. The Administrative Apparatus of the Council shall be composed of civil servants and contractual staff which undertake auxiliary activities. The staff of the administrative apparatus shall hold service cards.

68. The Council regulates and approves the structure of the administrative apparatus.

69. The recruitment for the public service position in the administrative apparatus of the Council shall be carried out under the conditions set in the Law No. 158-XVI dated July 4, 2008 on Public Office and Status of Civil Servant.

70. The salaries for the civil servants shall be provided under the conditions set in the Law No. 48 dated March 22, 2012 on Payroll System for Civil Servants, and for the contractual staff – under the conditions of the Law No. 355-XVI dated December 23, 2005 on Payroll System in the Budgetary Sector.

71. The staff of the administrative apparatus of the Council must provide the members of the Council with organizational, informational, scientific-analytical and any other assistance necessary for its activity.