

## **Table of Contents**

- ***Government leadership needed to foster a public culture of diversity – UN Special Rapporteur on freedom of religion***
  - ***Country visit of the Special Rapporteur on freedom of religion or belief to the Republic of Moldova (1-8 September 2011)***
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## **Government leadership needed to foster a public culture of diversity – UN Special Rapporteur on freedom of religion**

UNHCHR (09.09.2011) / HRWF (22.09.2011) - <http://www.hrwf.net> - From 1 to 8 September 2011, Mr. Heiner Bielefeldt, the United Nations Special Rapporteur on freedom of religion or belief, undertook a country visit to the Republic of Moldova, including its Transnistrian region. The purpose of this visit was to identify good practices, as well as existing or emerging obstacles to the full enjoyment of freedom of religion or belief.

Discussing the preliminary conclusions of the mission, Special Rapporteur Bielefeldt stated: "Noteworthy progress has been made generally in the field of human rights in Moldova, including in the area of freedom of religion or belief. Recalling the harsh repression and persecution during the Soviet era, members of religious communities with whom I spoke appreciated that today they can generally practice their religion or belief freely and without fear of undue Government interference."

"However, I was particularly struck by obstacles deriving mainly from the overly predominant position of the Orthodox Church, which enjoys a privileged status at variance with the Constitutional guarantee of a secular state. Moreover, important sectors of society see Orthodox Christianity, in particular the Orthodox Church of Moldova, as constituting the backbone of national identity. Some groups go as far as to explicitly demand, often in an aggressive fashion, to put followers of other denominations – such as Protestants, Jews and especially Muslims – in a marginalized position. Although these extremist groups seem to account only for a small minority, they apparently are not met with much criticism from within the Church, thus leading to the perception that they somehow speak on behalf of the country's Orthodox believers in general, as well as with the tacit approval of the Church authorities."

"With a view to further improve the conditions for a non-discriminatory enjoyment of freedom of religion or belief, what seems to be needed, above all, is a public culture of appreciating diversity. I would like to encourage the Government to take leadership in this regard, for instance, by issuing a robust anti-discrimination law, by facilitating interreligious communication, by investing in civic education and by speaking out clearly against incitement to religious hatred."

"With regard to religious instruction, I appreciate its voluntary nature as specified in the law and clarified by the Government. Strong and effective mechanisms must be developed to protect children who opt out of religious education from any form of negative pressure, be it from school authorities, church officials, other children, or any other party."

"I have experienced many expressions of good will and positive examples of professional commitment which give good reason to see the prospects of human rights in this country in an optimistic light."

Special Rapporteur Bielefeldt's mission will result in a report to the United Nations Human Rights Council, to be presented in March 2012, including recommendations for strengthening the effective exercise of freedom of religion or belief in the Republic of Moldova.

The full text of the Special Rapporteur's press statement with a summary of his preliminary observations on the situation of freedom of religion or belief in the Republic of Moldova is available online at:

<http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=11354&LangID=E>

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## **Country visit of the Special Rapporteur on freedom of religion or belief to the Republic of Moldova (1-8 September 2011)**

UN Office of the High Commissioner for Human Rights (09.09.2011) / HRWF (22.09.2011) - <http://www.hrwf.net> - "From 1 to 8 September 2011, I have undertaken a country visit to the Republic of Moldova, including its Transnistrian region, in my capacity as United Nations Special Rapporteur on freedom of religion or belief. The purpose of this visit was to identify both good practices as well as existing or emerging obstacles to the full enjoyment of freedom of religion or belief. First of all, I would like to express my gratitude to the Government of the Republic of Moldova for having invited me, as part of a standing invitation to all Special Procedures of the United Nations Human Rights Council. I am also very grateful for the excellent professional support provided by the UN Country Team in Moldova, in particular its human rights adviser, throughout the visit.

During my visit, I met with high ranking representatives of the national Government, members of Parliament, representatives of the Judiciary, the Parliamentary Advocates (ombuds institution), local authorities, representatives of various religious communities, journalists and civil society organizations specialized on human rights. The discussions took place not only in Chişinău, but also in different cities such as Balti, Orhei and Tiraspol. I appreciate the generally open atmosphere and the opportunity of having lively exchanges. Listening to the information, expertise and experience provided by the various interlocutors was an enormous learning experience and I am grateful for their precious input.

### **General impressions**

Interlocutors from different backgrounds agreed that the situation of freedom of religion or belief has improved in recent years. While remembering the harsh repression and persecution during the Soviet era, members of religious communities appreciated that today they can generally practice their religion or belief freely and without fear of undue Government interference.

However, there are still important challenges ahead to ensure the full enjoyment of human rights for all on the basis of non-discrimination and equality. I trust that this task can be tackled successfully given the many encouraging manifestations of human rights commitment by the Government and civil society.

The Government has expressed its readiness to honour its national and international human rights obligations. This also relates to issues concerning freedom of religion or belief. In this regard, I was invited to participate in a roundtable on the revision of the 2007 Law on Religious Denomination and their Component Parts, organized by the Ministry of Justice and the United Nations in Moldova on 6 September 2011, to which religious communities and civil society organizations had been invited. I am grateful for the opportunity to attend this consultation by which the Government has set a positive example of transparency and dialogue with civil society.

I have also been impressed by the commitment, knowledge and professionalism of civil society organizations working in this country on human rights and anti-discrimination issues.

At the same time, the various discussions also revealed a number of challenges existing in the Republic of Moldova. Members of religious minorities repeatedly reported manifestations of disrespect and even some incidents of intimidation or vandalism allegedly perpetrated by some followers of the overly predominant Orthodox Church. This affects in particular Jews, Muslims and members of Evangelical groups. Although a few cases of conflict have reportedly been successfully settled, I have also noticed some scepticism concerning the efficiency of the judiciary and other formal remedies provided by the State.

The following list of specific issues with regard to freedom of religion or belief in the Republic of Moldova is non-exhaustive. I would like to emphasize that the findings presented in this preliminary report will be further elaborated before submitting the country report to the United Nations Human Rights Council in March 2012.

## **Specific issues**

### **1. Legal framework**

In general terms, the national legal framework of Moldova provides for a broad protection of freedom of religion or belief. The 1994 Constitution guarantees freedom of religion or belief (article 31) as well as other human rights, such as equality before the law. In the same article the Republic of Moldova lays down its self-understanding as a secular state. Respect for human rights is further corroborated by Moldova's ratification of international and regional human rights instruments. In situations of conflict or in cases of inconsistency between national and international provisions of human rights, the Constitution explicitly gives priority to international law.

The 2007 Law on Religious Denominations and their Component Parts reiterates the commitment to freedom of religion or belief which is spelled out with a wider scope than in the Constitution. In this context it is clarified that freedom of religion or belief includes, inter alia, the right to change one's religion or belief and to profess and manifest one's religious convictions in private and in public, alone and in community with others as well

as the right not to profess a religion or a belief. The 2007 Law again gives priority to international human rights norms in any cases of conflict or inconsistency.

However, as a study recently conducted by the Ministry of Justice has pointed out, this legal framework can be further improved. I therefore welcome the ongoing reform process to revise the 2007 Law on Religious Denominations and their Component Parts as well as the willingness of the Government to adopt a general anti-discrimination law.

## **2. Privileged status of the Orthodox Church**

According to the Constitution, the Republic of Moldova is a secular State guaranteeing freedom of religion or belief for everyone. At the same time, however, the 2007 Law on Religious Denominations and their Component Parts explicitly acknowledges "the special importance and leading role of the Orthodox Christian religion and, respectively, of the Moldovan Orthodox Church in the life, history and culture of the Republic of Moldova" (article 15.5). To be sure, the importance of Orthodox Christianity in the past and present of the country is a well-established historical fact which in principle no one would deny. From the perspective of human rights, however, the problem is that the formal appreciation of Orthodoxy in a legal document can easily be seen as justifying a privileged treatment of one religious tradition at the expense of the principles of equality and non-discrimination.

There is clear evidence that this actually happens to a large extent. From the various Orthodox denominations existing in the country, the Orthodox Church of Moldova, subordinate to the Moscow Patriarchate, obviously enjoys a privileged treatment in many fields, including the restitution of property confiscated during the Soviet era, chaplains serving in the military, presence of priests in public schools or involvement in the management of municipal cemeteries. The Moldovan Metropolitan also enjoys diplomatic status.

Moreover, there seems to be a tendency in certain parts of society to simply equate national identity with the Orthodox tradition. Again, while I do not see a problem in appreciating the significance of Orthodox Christianity as a major factor of the history and culture of the country, the invocation of Orthodoxy in the interest of collective identity politics may have serious consequences for the non-discriminatory implementation of freedom of religion or belief for everyone. It can furthermore hinder the development of a public culture of respecting diversity. In this context, I would like to emphasize that diversity is also a fact of Moldova, both past and present.

In discussions with civil society organizations, I heard allegations that even for purposes of national statistics individuals who do not explicitly identify themselves as followers of a different religious denomination or as atheists, would de facto be counted as members of the Moldovan Orthodox Church. Moreover, the Orthodox Church of Moldova apparently wields an enormous political influence. Members of Parliament expressed the view that it would require a high degree of courage for politicians to publicly resist political demands coming from the Orthodox Church, for instance concerning the current project of anti-discrimination legislation which has met with a lot of opposition, much of it based on misinformation about the purposes of the law.

When debating with members of political movements who see themselves as supporters of Orthodoxy, I heard worrying statements that human rights and anti-discrimination provisions would be completely alien to Orthodox Christianity and thus would allegedly amount to the imposition of foreign norms, with destructive consequences for the country's national-religious identity. A high ranking Orthodox priest from the Orthodox Church of Moldova used strong words by even comparing the Government's willingness to adapt to international human rights norms with an act of "political prostitution". I hope sincerely that the vast majority of followers of the Orthodox Churches in Moldova will not

subscribe to such extremist positions which would actually imply a devastating antagonism between the Orthodox tradition and international human rights.

The overly predominant place and attitude of the Orthodox Church is also very present in the Transnistrian region of the Republic of Moldova, with negative consequences on the enjoyment of freedom of religion or belief by religious minorities.

### **3. Manifestations of intolerance**

The relationship between the followers of different religions and beliefs, including those who identify themselves as non-believers, generally seems to be peaceful in the country. The Republic of Moldova is not currently torn by violent religious conflicts. However, when observing the interaction between members of different religious groups, I got the impression that a culture of interreligious communication still needs to be developed. Furthermore, I received reports about manifestations of disrespect targeting minorities and even some incidents of intimidation or vandalism, especially in rural areas. This is also the case in the Transnistrian region of the Republic of Moldova.

Whereas members of religious minorities do not face problems when practicing their religions within the confines of their houses of worship or in other private settings, they may encounter difficulties when trying to hold religious ceremonies, such as processions or gatherings, in the public sphere. I heard credible allegations that in rural areas the authorities typically do not give permission to such public activities without first consulting with the local Orthodox priest who in turn will most likely veto the presence of a competing denomination on public places. From the perspective of human rights, such practice is unacceptable, as freedom of religion or belief clearly includes the possibility to profess and manifest one's convictions both in private and in public.

Reportedly even the burial of deceased members of religious minorities occasionally is met with resistance on the part of some Orthodox groups who want the graveyard owned by the municipality to remain free from the presence of dead bodies of other denominations, such as Baptists or Pentacostalists. In addition, I received information about acts of vandalism against Protestant houses of worship which have been damaged, for instance, by breaking windows or tearing down walls in the phase of construction. I could not find indication of any examples of the Orthodox Church clearly condemning such acts of violence or hostility.

The best documented case of vandalism against a religious minority was the removal and the demolition of the Jewish Hanukka Menorah displayed in a public place in Chişinău, in December 2009. A mob of around 100 people led by an Orthodox priest removed the Menorah and subsequently dismembered it. Whereas political authorities as well as the media expressed outrage at this aggressive act, no condemnation, let alone an apology to the Jewish community, was publicly voiced by the Orthodox Church of Moldova. Also the Menorah was not pulled back in a central public place, but rather in an area in Chişinău associated with the Jewish community. This was a missed opportunity to emphasize that the central public place belongs to everyone on a non-discriminatory basis. The main perpetrator was eventually sentenced to paying a small fine.

Non-discrimination in the use of public space in Chişinău also appears problematic for other groups, including in the recent period with regard to Adventists or Lesbian, Gay, Bisexual, Transgender and Intersexual (LGBTI) groups, whose public presence is apparently objected to by some extremists within the Orthodox Church.

In addition, Muslims seem to be exposed to heavy stereotypes and prejudices from certain sectors of society. A high ranking cleric from the Moldovan Orthodox Church in our discussion simply equated Islam with terrorism. Furthermore he expressed feelings of being threatened by the mere presence of Muslims in the country, even though the

Islamic communities in Moldova are very small. During the roundtable organized by the Ministry of Justice on 6 September some Orthodox participants expressed fear of Islam which they associated with waging a "holy war" against Christians. It was only earlier this year that one of the Muslim communities eventually succeeded in receiving registration status as a religious denomination under the 2007 Law. The Metropolitan of the Orthodox Church of Moldova reportedly criticized this decision, while putting ongoing pressure on the Government to deregister the group again. Several other Muslims organizations continue to lack registration as religious communities.

The laws of the Republic of Moldova contain a number of provisions – both in the Criminal Code and in the Code of Administrative Contraventions – which prohibit incitement to hatred against members of religious groups. I could not find out to what degree and in which manner these laws are implemented in practice.

#### **4. Registration of religious denominations**

Although the 2007 Law on Religious Denominations and their Component Parts sets out the criteria for registering religious denominations, there still seems to be some uncertainty around the registration procedure. Members of religious minorities, most of whom have finally managed to achieve registration status, repeatedly complained about the procedure being cumbersome, time consuming and bureaucratic. Reportedly, they often did not understand the reasons for the refusal of their applications. Non-registered religious communities lack legal personality status which means that they cannot take collective legal action. It was clarified by the Ministry of Justice that they can nonetheless practice their religion freely, and that activities of such groups are not deemed illegal. In the Transnistrian region of the Republic of Moldova new law issued in 2009 obliges all religious communities to re-register in order to retain or obtain legal status. During a ten-year period after registration, which a high ranking representative of the so-called Transnistrian authorities called a "probation period", religious communities have to live with some restrictions, for instance concerning the dissemination of literature and public manifestations of their convictions in TV, radio or other media. I am very troubled by these restrictions which prevent any public communication of religious communities and thereby infringe the freedom to manifest their religion or belief. It seems not to be entirely clear what the legal and de facto situation of non-registered religious groups is in this region.

#### **5. School education**

School education is of paramount significance in any attempts to eradicate existing stereotypes and prejudices and promote an atmosphere of appreciation of diversity, including in areas of religion or belief. Civic education, which constitutes a mandatory part of the national curriculum in Moldova, can play an important role in this regard. I have been told that civic education programmes include information about religious and belief diversity as well as human rights in general.

Moldova's public school system is secular and does not provide for mandatory religious instruction. However, based on a Government decision of August 2010, religious instruction has been included in the curriculum on a voluntary basis. According to information provided by the Ministry of Education, all registered religious denominations had been invited to participate in consultations about the new curricula. Those responding to the invitation finally established two groups each of which elaborated their separate curriculum: one group composed of the various Orthodox denominations and also joined by the Roman Catholic Church, the other group formed by a coalition of Protestant denominations.

Although the optional nature of religious instruction has been emphasized by the Ministry of Education and appears to be clear on the level of legal regulation, doubts remain as to



its effective implementation in practice. I have heard allegations about Orthodox priests or principals using their authority in schools to urge pupils to bring signatures from their parents for enrolment in religious instruction. Given the highly sensitive nature of this issue it seems important that the Government reach out proactively to the population to clarify the optional status of religious instruction. Providing effective protection for non-attending children against possible pressure from school authorities, church officials, other children, or any other party should be a priority.

## **6. Conscientious objection to military service**

According to information provided by the Ministry of Defence, anyone refusing to serve in the military has the option to perform an alternative service. Apparently this option is not connected with any inquiry as to the reasons for not wanting to join the military.

The situation in the Transnistrian region of the Republic of Moldova is essentially different in that an alternative service does not exist. According to the so-called Transnistrian authorities, a compromise offered to conscientious objectors is to serve in the army without direct involvement in the use of weapons. Those still opposing military service as a matter of their deep conviction have no other option than to leave the Transnistrian region of the Republic of Moldova which obviously runs counter their freedom of thought, conscience and religion.

## **Preliminary conclusions**

The Moldovan society has been, and continues to be, in a process of rapid transformation. Implementation of human rights standards ranks high on the Government's agenda, and significant progress has been made. This includes freedom of religion or belief, a human right by and large respected in the Republic of Moldova. Members of different orientations, including small minorities, in general can practice their religion or belief freely without undue interference from the State.

Remaining obstacles mainly derive from the overly predominant position of the Orthodox Church which enjoys a privileged status at variance with the constitutional provision of a secular state. Moreover, important sectors of society see Orthodox Christianity, in particular the Orthodox Church of Moldova, as constituting the backbone of national identity. Extremist groups go as far as to explicitly demand, often in an aggressive manner, to put followers of other denominations – such as Protestants, Jews and especially Muslims – in a marginalized position. Although these extremist groups seem to account only for a small minority, they apparently are not met with much criticism from within the Church, thus leading to the perception that they somehow speak on behalf of the country's Orthodox believers in general, as well as with the tacit approval of the Church authorities.

With a view to further improving the conditions for a non-discriminatory enjoyment of freedom of religion or belief by everyone, what seems to be needed, above all, is a public culture of appreciating diversity. I would like to encourage the Government to take leadership in this regard, for instance, by issuing a robust anti-discrimination law, by facilitating interreligious communication, by investing in civic education and by speaking out clearly against incitement to religious hatred. There are positive obligations under international human rights law to promote diversity.

The ongoing process, initiated by the Ministry of Justice, of revising the 2007 Law on Religious Denomination and their Component Parts offers a unique opportunity in this respect. The consultation process as such already provides an occasion for interreligious communication which, according to my impression, still needs to be developed in this country. I very much appreciate that civil society organizations specialized on human

rights and anti-discrimination issues have also been invited to contribute their views and experiences.

As to the substance of the future new law, I would like to reiterate that registration procedures for religious or belief communities should be quick, transparent and non-discriminatory and should not impose an undue burden on groups who wish to achieve registration status. It is important to make clear in the law that freedom of religion or belief, following from its nature as a universal human right, covers a broad range of religions and beliefs. Indeed, it includes theistic, non-theistic and atheistic convictions as well as the possibility also not to profess a religion or belief. In order to clarify that missionary activities fall within the protection of freedom of religion or belief, vague formulations about prohibited proselytism should be deleted or amended, as already envisaged in a study prepared by the Ministry of Justice. I would also reiterate the principle that no religious community should exercise a "veto" or otherwise influence the decision to register or not to register another religious or belief group. All registration decisions must be based on formal elements of law and in full conformity with international law. Consequently, any formal or informal approaches that allow only one registered community of a particular faith should be removed.

For freedom of religion or belief, and other human rights, to take roots within society, school education plays a paramount role. The school curriculum should also include information about various religions – their history, content, requirements and structures – with the purpose of dispelling stereotypes and prejudices which still seem to exist to a large degree in society. Many interlocutors expressed their support for such an educational project. The subject could be taught, for instance, as part of civic education, but possibly also within the framework of voluntary religious instruction. In this context, I would like to reiterate that the optional status of religious instruction in any case must be ensured, not only de jure but also de facto.

Let me finish by once again extending my gratitude to all those who made this visit possible and have helped me to understand the challenges and prospects of freedom of religion or belief in the Republic of Moldova. I have come across many signs of good will and positive examples of professional commitment which give good reason to see the prospects for human rights in this country in an optimistic light."

Mr. Heiner Bielefeldt is Professor of Human Rights and Human Rights Politics at the University of Erlangen-Nürnberg in Germany. He was appointed by the Human Rights Council to the mandate of Special Rapporteur on freedom of religion or belief, effective since 1 August 2010. The mandate was created in 1986 by the then Commission on Human Rights, and was renewed most recently in 2010 by the Human Rights Council for a three-year period. An e-Digest on Freedom of Religion or Belief which summarizes 25 years of thought by four UN Special Rapporteurs is available online at

<http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=10832&LangID=E>