



# LEGISLATIVE ANALYSIS RELATED TO SOGI AND HIV IN MOLDOVA



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**100%LIFE**

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## ABBREVIATIONS

**EECA** Eastern Europe and Central Asia

**EU** European Union

**LGBT** Lesbian, gay, bisexual and trans people

**PLHIV** People living with HIV

**SOGI** Sexual orientation and gender identity

**ILO** The International Labour Organisation

**UPR** Universal Periodic Review

**HC** Hate crimes

**MSM** Men who have sex with men

**NGO** Non-governmental organization

The purpose of this comparative analysis is to identify legal barriers that affect the quality of life of lesbian, gay, bisexual and trans people (LGBT) and people living with HIV (PLHIV). The Eurasian Coalition on Health, Rights, Gender and Sexual Diversity (ECOM) developed a methodology and survey that was completed by local partners in the Republic of Moldova. The following were used to analyze legal practices: state statistics, judicial practice, reports from activists, statistics from partner organizations, and publicly available data.

The legislation and law enforcement practice were examined in relation to their compliance with international standards on human rights and freedoms, as well as in terms of the actual ability to obtain protection of the rights guaranteed by national and international law.

This analysis provides information on changes in legislation and law enforcement practice that have been implemented in the Republic of Moldova since ECOM's previous 2022 analysis. Based on the data obtained, a list of recommendations was compiled for the state, representatives of international organizations, and the civil sector. This information can be useful when planning advocacy processes to promote the rights of LGBT people and PLHIV, as well as for removing barriers that limit their access to protection of their rights and freedoms.



## AT THE NATIONAL LEVEL, INTERNATIONAL HUMAN RIGHTS STANDARDS HAVE BEEN TRANSLATED INTO THE FOLLOWING LAWS

LEGISLATION	YES	NO
<b>PROTECTION AGAINST DISCRIMINATION</b>		
A provision on the prohibition of discrimination in the Constitution	✓	
A separate anti-discrimination law based on sexual orientation and gender identity (2023 amendments) (Law on ensuring equality)	✓	
A provision on hate crimes in the Criminal Code	✓	
Protection of people from hate crimes based on SOGI	✓	
A law on the prohibition of domestic violence	✓	
Protection of people from domestic violence based on SOGI		✗
<b>THE RIGHT TO HEALTH</b>		
A separate law on the rights of people living with HIV	✓	
A provision on the prohibition of discrimination (unequal treatment) in the field of healthcare in relation to PLHIV	✓	
A provision on the prohibition of discrimination in education on the basis of HIV+	✓	
Prohibited immigration or entry into the country for PLHIV		✗
Criminal liability for intentional transmission of HIV	✓	
Criminal liability for unintentional transmission of HIV		✗
Prohibited blood donation for MSM		✗
Special screening procedures for MSM donors (questions about orientation)	✓	
<b>THE RIGHT TO HEALTH FOR TRANS PEOPLE</b>		
A legally defined procedure for legal gender recognition	✓	
Mandatory psychological and psychiatric examination		✗
Mandatory surgical procedures (sterilization) for legal gender recognition		✗
Adopted medical protocol for trans people according to ICD-11		✗
Permission to use international medical protocols for doctors working with trans people	✓	
Legally fixed list of contraindications for legal gender recognition	✓	
Ban on changing legal gender because of marital status	✓	

LEGISLATION	YES	NO
<b>THE RIGHT TO PRIVATE AND FAMILY LIFE</b>		
Recognition of same-sex/same-gender partnerships		✗
Recognition of same-sex/same-gender marriage		✗
Criminalization of homosexual relationships		✗
Heterosexual marriage for trans people after the transition	✓	
Adoption of children by same-sex/same-gender couples		✗
Adoption of children by a single queer person	✓	
Adoption of children by trans people after a legal transition	✓	
Adoption of children by PLHIV	✓	
The same age of consent for homosexual and heterosexual relationships	✓	
<b>THE RIGHT TO FREEDOM OF SPEECH AND PEACEFUL ASSEMBLY</b>		
Legislation governing the conduct of peaceful assemblies	✓	
Required permission from local authorities		✗
Cases of prohibited LGBT assembly by local authorities		✗
Penalties for holding a peaceful assembly that is not agreed with the authorities		✗
Legislation on prohibition of «LGBT propaganda»		✗
Attempts to ban «LGBT propaganda»	✓	
Petition to the government to ban «homosexuality propaganda»	✓	
Petition to the government to save traditional family values		✗
<b>FREEDOM OF ASSOCIATION AND NGO FUNDING</b>		
Legislative barriers for registering NGOs that offer HIV prophylaxis services for PLHIV, MSM and gay men		✗
Legal barriers and limitations on NGO activities that offer HIV prophylaxis services for PLHIV, MSM and gay men		✗
Prohibition of funding from government for NGOs that support LGBT rights		✗
Barriers to offering compensation for PLHIV, MSM and gay men in case of quarantine or job loss		✗
Receiving donor support from international organizations and foundations	✓	
Working mechanisms for the distribution of public funds for NGOs working in the social sphere, excluding health care, for example, in the field of education, culture, sports, youth, social protection	✓	
Working mechanisms for the distribution of public funds for NGOs working in the field of healthcare	✓	



## INTRODUCTION

The modern Republic of Moldova (hereinafter — Moldova) is an independent, constitutional, and democratic state. Through the Declaration of Independence, the founding act of the Republic of Moldova as a state, the Republic of Moldova expressed its desire to establish political, economic, cultural, and other relations of common interest with European countries and with all the states of the world. It was ready to establish diplomatic relations with them according to the norms of international law and the existing practices in this field. The Declaration of Independence includes elements that were considered essential in defining the constitutional identity of the new state and its population: aspirations for freedom, independence, and national unity; linguistic identity; democratization; the rule of law; a market economy; history; norms of morality and international law; European orientation; and the assurance of social, economic, cultural rights, and political freedoms for all citizens of the Republic of Moldova, including persons belonging to national, ethnic, linguistic, and religious groups.

In 2023 and 2024, there were no significant changes in the human rights situation in the Republic of Moldova. Although the government took some steps to address human rights abuses, progress was slow. However, in 2022<sup>1</sup> Moldova made a sharp jump from 35th to 24th place due to several laws adopted by Parliament, such as amendments to the Criminal Code on hate crimes and hate speech with the criteria of sexual orientation and gender identity, and the inclusion of these criteria in the law on ensuring equality.

For LGBT individuals and people living with HIV (PLHIV), the situation remained particularly challenging. The «Prejudices and Marginalization in Moldova» study<sup>2</sup>, published by the Equality Council in January 2023, highlighted a significant lack of acceptance and tolerance among Moldovan citizens towards these groups. The social distance index for LGBT individuals was 5.7, indicating severe social rejection. 79% of the population would not accept LGBT neighbors, and 60% would not accept them as colleagues. The study also noted an increase in the marginalization of LGBT individuals, PLHIV, and formerly incarcerated people, exacerbated by recent crises such as the pandemic, economic downturn, and regional security issues.

The «Study on Human Rights and Acceptance of Diversity» by the Friedrich Naumann Foundation<sup>3</sup>, conducted in February, assessed attitudes towards LGBT people among 845 respondents in Chişinău. The findings showed that 13% of respondents supported LGBT individuals, 49% were neutral, and 38% opposed. 75% believed discrimination against LGBT individuals was widespread, and 65% had a negative opinion of LGBT support marches. At the beginning of 2023, the Evaluation Report of the National Human Rights Action Plan for 2018–2022<sup>4</sup> was published, noting that despite numerous international recommendations, actions regarding the rights of LGBT individuals were not included in the plan.

This omission underscores the need for future human rights policies to address these gaps and ensure the protection and inclusion of LGBT individuals and PLHIV. In the breakaway region of Transnistria, the human rights situation for LGBT individuals and PLHIV is dire. Reports indicated torture, inhuman treatment, harsh prison conditions, arbitrary arrests, and lack of judicial independence.

<sup>1</sup> [Moldova — Rainbow Map](#)

<sup>2</sup> Report for 2022 available: [PREJUDECĂȚI ȘI MARGINALIZARE ÎN MOLDOVA ANULUI 2022](#)

<sup>3</sup> [Studiu privind drepturile omului și acceptarea diversității](#)

<sup>4</sup> [Raport de Evaluare Planul național de acțiuni în domeniul drepturilor omului pentru anii 2018-2022 Chişinău](#)

There were also severe restrictions on freedom of expression, media, and internet freedom, as well as substantial interference with the freedom of assembly and association. The region's weak civil society, limited specialized services, and lack of a comprehensive human rights framework further exacerbated the challenges faced by vulnerable groups<sup>5</sup>.

Overall, the human rights situation in Moldova remains precarious, especially for LGBT individuals<sup>6</sup> and PLHIV, who continue to face significant social, legal, and institutional barriers. Ensuring the protection and rights of these vulnerable groups requires urgent and sustained efforts from both the government and civil society.

The Republic of Moldova has signed and ratified the required international instruments in the field of human rights and is a **party to the following international instruments**:

- ✓ International Covenants on Civil and Political Rights and on Economic, Social and Cultural Rights;
- ✓ Optional Protocol to the International Covenant on Civil and Political Rights;
- ✓ UN Convention on the Rights of the Child;
- ✓ Convention on the Elimination of All Forms of Racial Discrimination;
- ✓ UN Convention Against Torture;
- ✓ Convention on the Elimination of All Forms of Discrimination Against Women;
- ✓ UN Convention on the Rights of Persons with Disabilities;
- ✓ European Convention for the Protection of Human Rights and Fundamental Freedoms.

Moldovan citizens may file individual complaints using **the following UN instruments**:

- 📄 Article 22 – Individual complaints procedure under the Convention Against Torture;
- 📄 Optional Protocol to the International Covenant on Civil and Political Rights;
- 📄 Optional Protocol to the Convention on the Elimination of All Forms of Discrimination Against Women;
- 📄 Optional Protocol to the Convention on the Rights of the Child (22 September 2023);
- 📄 Optional Protocol to the Convention on the Rights of Persons with Disabilities (15 November 2022).

Moldova has ratified the main international human rights instruments, including the Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention), the European Charter for Regional or Minority Languages, the European Convention on the Exercise of Children's Rights, and the European Convention on Human Rights (although it has not ratified the Additional Protocol N 12). The country has ratified the UN Convention on the Rights of the Child and two of the Optional Protocols but not the third (on a communications procedure), nor the Optional Protocol to the UN Convention on the Rights of Persons with Disabilities. Moldova has ratified all fundamental and governance Conventions of the International Labour Organisation (ILO), 29 out of 176 technical ILO Conventions.

<sup>5</sup> [2023 Country Reports on Human Rights Practices: Moldova](#)

<sup>6</sup> REPORT ON THE SITUATION OF LGBT RIGHTS IN THE REPUBLIC OF MOLDOVA YEAR 2023 <https://gdm.md/wp-content/uploads/2024/01/Report-GENDERDOC-M-2023-English.pdf>



The country has also harmonized its legislation with the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (Lanzarote Convention) and responded to the first and second monitoring rounds: Law amending some normative acts (ensuring victims' rights in case of crimes concerning sexual life and domestic violence)<sup>7</sup>.

Moldova is a party to the Council of Europe Convention for the Protection of Individuals with Regard to Automatic Processing of Personal Data. In February 2023, Moldova signed the Protocol amending this Convention, but it has not ratified it yet. In November 2022, Moldova signed the Second Additional Protocol to the Convention on Cybercrime on enhanced cooperation and disclosure of electronic evidence. The provisions of this Convention are particularly important for trans people who have changed their documents and would like this information to be protected, as well as in situations related to some medical procedures they undergo during transition.



## **PARTICULAR PROBLEMATIC ASPECTS OF LEGISLATION AND LAW ENFORCEMENT PRACTICE**

Moldova has enacted several laws to protect its citizens against discrimination, including a provision on the prohibition of discrimination in the Constitution. The Moldovan Constitution includes a general prohibition against discrimination. This protection was extended in October 2022 to explicitly include SOGI in all areas of life, not just the workplace.

The Law on Ensuring Equality in the Republic of Moldova, enacted in 2012, in 2022 also included the protection for the criteria of «sexual orientation» and «gender identity».

According to the study «Discrimination in the Republic of Moldova, 2022»<sup>8</sup> conducted by the Council for Equality, 18.18% of discrimination cases were based on sexual orientation, while 2.27% of cases were based on gender identity. The main causes of these complaints were the infringement of dignity (11.36%) and lack of access to publicly available goods and services (4.54%). Of the total decisions issued in 2022, 24% of cases happened in the workplaces (8% of these were based on sexual orientation). Of the total decisions issued in 2022, in 22% of cases, people could not access publicly available goods and services (22% of these were based on sexual orientation and gender identity). Of the total number of decisions issued in 2022, in 22% of cases, people reported infringement of dignity (60% of these were based on sexual orientation). 12% of the cases were related to other domains (20% of these were based on sexual orientation).

In 2022, Moldova added sexual orientation and gender identity (SOGI) as grounds for hate crimes in its Criminal Code. Despite this progress, enforcement remains inconsistent, and many hate crimes go unreported due to fear of further victimization and mistrust in the legal system. Effective implementation of these laws is challenging, as police officers, prosecutors, and judges require significant training to properly identify and prove hate motives and distinguish between hate crimes and other offenses. Currently, substantial effort from civil society and international partners is needed to improve the enforcement of these laws.

<sup>7</sup> [Proiectul de lege pentru modificarea unor acte normative \(asigurarea drepturilor victimelor în cazul infracțiunilor privind viața sexuală și violența în familie\)](#)

<sup>8</sup> [Discrimination in the Republic of Moldova](#)

The Council for Equality has recommended that the Moldovan government revise the legal framework for modifying civil status documents for transgender individuals to ensure an accessible and predictable process aligned with the principles of the rule of law and human rights standards. Additionally, topics related to preventing and combating discrimination and ensuring equality based on sexual orientation and other criteria should be incorporated into the initial and ongoing professional training of military personnel and soldiers, with the involvement of relevant organizations and specialists. These steps aim to enhance the legal recognition and protection of transgender individuals, ensuring their rights are upheld in accordance with international human rights standards.



## LEGISLATIVE BARRIERS FOR LGBT PEOPLE AND/OR PLHIV

Moldova has yet to recognize same-sex partnerships legally, and there are significant limitations on the rights of LGBT individuals in terms of family life: no legal recognition for same-sex partnerships, and existing legislation does not recognize same-sex marriages performed abroad.

Same-sex couples and individuals living with HIV face significant barriers to adoption. Recent legislative discussions have focused on restricting these rights further with strong opposition from conservative factions. According to Article 288<sup>9</sup>, the documents that must be attached to the application for national adoption consent include the medical certificate on the health status of the adopter, and HIV status can influence the decision. According to the law, adopters can be a married couple or a single person; however, an unmarried (gay) couple cannot adopt a child. Only one partner in such a couple can be an adopter.

The lack of a partnership law for same-sex couples in the Republic of Moldova, which would ensure equal rights with heterosexual couples, creates barriers and discrimination issues. Same-sex couples with different citizenship — where one is a citizen of the Republic of Moldova and the other holds foreign citizenship — cannot enjoy the same rights to be recognized as spouses that heterosexual couples in Moldova can. Foreign spouses are not allowed to get a spousal residence permit.

Following the ECHR decisions regarding same-sex couples, six LGBT couples in Moldova filed applications for marriage registration at the Public Services Agency and, after receiving a refusal, sued the Agency, referring to the obligation placed on the states of the Council of Europe by these decisions.

There is a restriction on access to blood donation for LGBT people, to assisted reproductive technologies for lesbian and bisexual women, and no access to surrogacy services for gay men.

The country has established criminal liability for intentional HIV infection, while there is no separate liability for unintentional infection. The law decriminalizing intentional HIV transmission was passed in the first reading at the end of 2023, but has not yet passed the second reading and come into force. There is no openly available data on the number of cases of punishment under the article «Intentional infection with HIV». The state maintains regular statistics on newly diagnosed and previously registered cases of HIV infection, while separately identifying risk groups, including MSM.

<sup>9</sup> Civil Code of Moldova [https://www.legis.md/cautare/getResults?doc\\_id=143671&lang=ru](https://www.legis.md/cautare/getResults?doc_id=143671&lang=ru)



## LEGAL BARRIERS FOR TRANS PEOPLE

Until January 2023, the Gender Identity Disorders Commission of the IMSP Clinical Psychiatric Hospital issued F64 diagnostic certificates after a 6–24 month evaluation. This commission was disbanded in January 2023, leaving the trans community without a defined procedure. Considering the updated ICD-11 guidelines, LGBT activists focused on promoting depathologization and demanding a transparent legal framework, without medical documentation. Moldovan legislation mentions the possibility of amending civil status records, provided that «the applicant has submitted an official document regarding change of gender».

In March 2023, GENDERDOC-M organized a round table with representatives of Parliament, the Ministry of Justice, the Ministry of Health, the Ministry of Labor and Social Protection, representatives of the Ombudsman's Office, the Public Services Agency (ASP), and the Equality Council. With the experts' support, the GENDERDOC-M Information Center presented current challenges and potential solutions. GENDERDOC-M asked the government to consider the successful strategies of European countries, such as the self-determination model used in Malta, Spain, and recently in Germany, or the French approach, which facilitates document changes without imposing medical procedures.

By October 2023, the government's response leaned towards adopting the French model as a basis for new protocols. Although this is a potential solution, this model proposes quite a bureaucratic procedure in which trans people would need to make an effort. The French regulation requires that individuals seeking to change their gender marker participate in a court hearing and present at least two witnesses and additional confirmatory documents. Considering the capacity constraints of the Moldovan judicial system, a mechanism must ensure a court decision within 3–6 months (180 days are the maximum in French law). Moreover, given the prevalence of transphobia, there must be clear and unequivocal guidelines to eliminate ambiguity and barriers. If trans persons can provide witness testimonies, the court should not have the discretion to refuse their request.



## FREEDOM OF SPEECH AND FREEDOM OF PEACEFUL ASSEMBLY

In the Republic of Moldova, the law on freedom of assembly<sup>10</sup> has been in effect since 2008. The law guarantees the right of any person to exercise the freedom of assembly as provided by the Constitution of the Republic of Moldova and international acts to which Moldova is a party. Since 2013, LGBT marches have been organized in Moldova. The right to peaceful assembly is often restricted in practice. Police protection for LGBT events is necessary due to the threat of violence from counter-protesters. The Moldova Pride march in June 2023, for instance, was heavily guarded by police but faced significant opposition from conservative groups. On June 18, the Moldova Pride 2023 march took place. The march followed the planned route with about 500 participants and police protection. In 2024, there was much less police presence, and the atmosphere of the march was much more relaxed<sup>11</sup>. Three deputies of the PAS party in Parliament participated in the march. Before the march started, a group of 4 men approached the gathering place, holding crosses and icons. The police blocked their passage, and they left shortly after. During the march, there were no incidents. However, this year, too, several counter-demonstrations took place.

<sup>10</sup> Law On peaceful assemblies [https://www.legis.md/cautare/getResults?doc\\_id=110166&lang=ru](https://www.legis.md/cautare/getResults?doc_id=110166&lang=ru)

<sup>11</sup> Atitudinea societății privind comunitatea LGBT se schimbă spre bine

[https://gdm.md/ro/2023/06/19/atitudinea-societatii-privind-comunitatea-lgbt-se-schimba-spre-bine/?fbclid=IwAR1C9wUOMWsBx52zqz-SjP0hTc8KZOjSYR\\_Rfqi7UYZtZov3lQEqlJPvF](https://gdm.md/ro/2023/06/19/atitudinea-societatii-privind-comunitatea-lgbt-se-schimba-spre-bine/?fbclid=IwAR1C9wUOMWsBx52zqz-SjP0hTc8KZOjSYR_Rfqi7UYZtZov3lQEqlJPvF)



## WORK OF NON-GOVERNMENTAL ORGANIZATIONS

In the Republic of Moldova, the procedure for establishing an NGO is one of the simplest<sup>12</sup>. There are no restrictions on registering LGBT organizations or organizations for people living with HIV. LGBT organizations can register and operate legally, although they face societal opposition and occasional bureaucratic hurdles.

In 2023, the Platform of Queer Organizations and Individuals in the Republic of Moldova extended its collaboration. The Platform includes four formal organizations: the GENDERDOC-M Information Center, the media platform Bang Bang, Queer Voices, Laolaltă, two initiative groups, and several activists. On December 16–17, the Platform developed a joint collaboration strategy for 2024. The vision, mission, and values of the Platform were also written.

NGOs working on SOGI and HIV issues can access funding from various sources, though ***the following challenges remain:***

- !** NGOs can receive funding from national and local budgets as well as international organizations for HIV prevention. However, bureaucratic obstacles and political pressures sometimes limit access to these funds. As far as LGBT rights organizations are concerned, there is no proposal for state funding. In other words, local organizations mainly receive support from international donors.
- !** There are established mechanisms for distributing public funds to NGOs, but these are often underutilized by LGBT organizations due to administrative barriers and a lack of political will.

<sup>12</sup> Law On associations [https://www.legis.md/cautare/getResults?doc\\_id=122717&lang=ru#](https://www.legis.md/cautare/getResults?doc_id=122717&lang=ru#)



## RECOMMENDATIONS

- ★ Enact legislation that recognizes and legally protects the relationships of LGBT couples, ensuring equal rights and protections under the law.
- ★ Implement accessible, non-discriminatory procedures for trans people to change their gender marker legally, removing mandatory surgical requirements and psychiatric evaluations.
- ★ Conduct regular training on non-discriminatory service provision, including SOGI, for police, government officials, healthcare providers, and school teachers to ensure respectful and equitable treatment.
- ★ Introduce progressive sexual and reproductive education programs in schools nationwide based on human rights and human dignity — to reduce stigma and promote acceptance, while also ensuring the protection of LGBT students.
- ★ Ensure adequate police protection for LGBT events and enforce penalties for hate crimes to create a safer environment for LGBT individuals.
- ★ Simplify the process for NGOs to access public funds and provide technical assistance to help LGBT organizations navigate funding mechanisms.

 **ECOM**

