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On death penalties in the Transnistrian Region

Promo-Lex Newsletter Nr 102/IV - The Republic of Moldova ratified the European Convention for the Protection of Human Rights and Fundamental Freedoms, including Protocols 6 and 13 concerning the abolition of death penalty. In 2013, Moldova signed the Joint Declaration on the abolition of the death penalty in Europe and around the world, adopted by the foreign ministers of 42 member states of the Council of Europe. Moldova has adjusted its national legislation and the death penalty is abolished. Despite this, provisions related to the death penalty exist on the territory "uncontrolled" by the constitutional authorities.

Excerpts from local punitive rules:

Article 43 (h) of the *local Criminal Code* provides death penalty as one of the forms of criminal liability.

Article 58 of the *local Criminal Code* states that:

1. Death penalty as an exceptional punishment can be established only for particularly serious crimes threatening the life.
2. Death penalty shall not be applied to women, persons below the age of 18 at the moment of the crime and men who have reached 65 years at the time of sentencing.
3. Death penalty can be replaced by pardon with life imprisonment or imprisonment up to 25 years.

Death penalty shall not be applied for attempting and preparing the crime (Article 64).

Death penalty may be applied for:

1. Murder of a person protected by the law (*victim, witness and other persons enjoying protection during the criminal prosecution*) (Article 104(3));
2. Attempt on the life of a public official (Article 273);
3. Armed rebellion (Article 275);
4. Attempt on the life of a judge, prosecutor, investigator, bailiff or their family members, inclusively those benefiting from protection under criminal investigation (Article 291);
5. Attempt on the life of the law enforcement officer, military personnel or their relatives (Article 314);
6. Use of prohibited means and methods of war (Article 352);

7. Genocide (Article 353);

Methods of execution:

Capital sentence is applied by institutions responsible for the punishment enforcement. Before the enforcement of the sentence, the death row inmate has the right to religious rites, including with the participation of the clergy. *They are detained in closed prison in solitary confinement in separate cells. The final Court "judgment", the decision of the "President of MRT" on the rejection of application for "pardon" or the decision of the "President of MRT" not to "pardon" the convict who refused to file an application for "pardon" are reasons for death penalty. Capital punishment is carried out by shooting and is not public. The body of an executed person is not given for burial and the place of burial is not communicated. The head of the prison where the execution took place shall inform the relatives about the execution of the sentence.*

Monitoring of human rights in Transnistria: PROMO-LEX human rights defenders under threat and pressure

Human Rights Without Frontiers Int'l urges the Government of Moldova to protect PROMO-LEX human rights defenders and the EU authorities to monitor their situation

By Willy Fautre, Human Rights Without Frontiers

HRWF (15.06.2015)

Recent Timeline

1. On 5th December 2014, the human rights defender of Promo-LEX Association - Mr. Alexandru Zubco, was forbidden to enter the Transnistrian region of the Republic of Moldova, under the threat of being apprehended, because he promotes human rights and defends victims of abuses allowed by the separatist administration of Tiraspol. At the lawyer's request, the Intelligence and Security Service of the Republic of Moldova answered that he is targeted by the 'KGB' because of his activity in the Promo-LEX Association.
2. On 17th April 2015, a calumnious statement was posted on the site <http://www.kgb-pmr.com/news/370>, by which Promo-LEX Association and its members were threatened directly by an illegal structure called KGB of the "MRT", invoking that its activity of promotion and protection of human rights in the Transnistrian region undermines security in the region. Moreover, the so-called KGB of 'MRT' claims that criminal prosecutions were initiated against the organisation and its members.
3. On 22nd April 2015, the Human Rights Observer, a joint program of the International Federation for Human Rights (FIDH) and the World Organisation Against Torture (OMCT), published an open letter urging all international stakeholders, and particularly all the parties that participate in the regulation of the Transnistrian conflict in '5+2' negotiation format, to focus, as far as their relationship with the de facto 'Moldovan Republic of Transnistria (MRT)' administration are concerned, on human rights protection in the Transnistrian region, in particular on finding solutions against persecution and harassment of NGOs.
4. On 27th April 2015, Civil Society Organisations from Moldova condemned the so-called criminal prosecution against Promo-LEX Association. The signatory organisations

expressed their solidarity, support and concern for the security and integrity of the persons who work in the Non-Government Organisations from Transnistrian region, in particular Promo-LEX Association.

5. On 28th April 2015, more than 30 civil society organisations from the Republic of Moldova condemned the initiation of the so-called 'criminal prosecution' by the self-proclaimed Security Committee (KGB) of the Transnistrian region against Promo-LEX Association and its human rights defenders.

6. On 7th May 2015, a new statement containing calumnious information was posted on <http://kgb-pmr.com/news/373> on behalf of an individual, Mihai Lapitchii, who proclaimed himself the head of the so-called 'KGB.' In this second statement, the calumnious information focused directly on the Director of the Association - Mr. Ion Manole.

7. On 13th May 2015, the Steering Committee of the Eastern Partnership Civil Society Forum released a statement on the issue (See http://eap-csf.eu/assets/files/Statement_20150513_Promo_Lex_Transnistria.pdf) and on 14th May 2015 Front Line Defenders did the same (See <http://promolex.md/index.php?module=press&cat=0&item=1758>).

8. On 14th May 2015, after a request concerning the explanation of the so-called 'criminal prosecution' initiated by the self-proclaimed Security Committee (KGB) of Transnistria, an ambiguous reply was received which confirmed the criminal prosecution of Promo-LEX human rights defenders, but refused to give a further explanation.

9. In May 2015, 'Promo-LEX' notified the national authorities of Moldova - Moldovan Prosecutor General's Office, Information and Security Service of Moldova, the Moldovan Deputy Prime Minister and Head of the Office for Reintegration of RM - and urged them to honour their international commitments regarding the promotion of human rights in the Transnistrian region by actively supporting non-governmental organisations that carry out activities under human rights promotion programs and by taking quick measures to ensure the personal security and inviolability of Promo-LEX Association's human rights defenders.

10. On 27th May 2015, Association "Promo-LEX" sent a request for urgent action to the Special Rapporteur on the situation of Human Rights Defenders, Mr. Michel Forst requesting him to urge the government of the Republic of Moldova to take prompt measures in order to ensure the personal security of Promo-LEX Association members and employees. Also, in May 2015 PROMO-LEX sent a similar appeal to the Norwegian Embassy to Moldova, the Embassy of the United States in Moldova, the Embassy and the Minister of Foreign Affairs of Romania, and the Head of the EU Delegation in Moldova Mr. Pirkka Tapiola.

Long-standing harassment of human rights defenders

The harassment of the human rights defenders in the Transnistrian region began long before this year's events. On 18th June 2014 as a result of the arrest, detention and ill-treatment of Mr. **Andrey Rezanov**, the UN Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the right to Freedom of Opinion and Expression, the Special Rapporteur on the rights to Freedom of Peaceful Assembly and of Association, and the Special Rapporteur on the situation of Human Rights Defenders, addressed to the Government of Moldova and the de-facto authorities in the Transnistrian region of the Republic of Moldova through the UN Resident Coordinator in Moldova. In their joint letter they asked what measures have been taken to ensure that human rights defenders, including civil society and activists, can operate in a safe and

enabling environment, and can carry out their legitimate activities without fear of harassment, stigmatisation or criminalisation. The answer of the Mission of Moldova to the UN Office in Geneva can be found at

[https://spdb.ohchr.org/hrdb/28th/Moldova_18.08.14_\(1.2014\).pdf](https://spdb.ohchr.org/hrdb/28th/Moldova_18.08.14_(1.2014).pdf)

Mr. Rezanov is the chair of Fair Justice, a NGO based in Tiraspol and working in the Transnistrian region of the Republic of Moldova to defend the rights of detainees and prisoners. He has reported on prison conditions and engaged in advocacy towards the international community (<http://www.moldova.org/sos-human-rights-activist-in-transnistria-risks-being-sent-to-jail/>). The Promo-LEX Association attorneys addressed in 2012 a complaint to ECHR on Andrei Rezanov's case. In February 2013, the case was communicated to the Governments of Moldova and Russia and was sent on behalf of the Mr. Rezanov. See some details of his application no. [33694/12](http://hudoc.echr.coe.int/sites/eng/Pages/search.aspx#{) at [http://hudoc.echr.coe.int/sites/eng/Pages/search.aspx#{"fulltext":\["\(\\"Andrei Rezanov\\"\)"\],"itemid":\["001-116860"\]}](http://hudoc.echr.coe.int/sites/eng/Pages/search.aspx#{)

Concerns on the situation of human rights defenders from the Transnistrian region

Joint Open Letter

Iurie Leancă

Prime Minister of Republic of Moldova

Dmitri Medvedev

Prime Minister of the Russian Federation

Pavlo Klimkin

Minister of Foreign Affairs of Ukraine

William H. Moser

Ambassador of United States of
America in Republic of Moldova

Michael Scanlan

Head of the OSCE Mission to Moldova

Victor Moraru

Ambassador of the Permanent Mission of the
Republic of Moldova to the United Nations

Excellencies,

The Promo-LEX Association, Front Line Defenders, Civil Rights Defenders, and the Observatory for the Protection of Human Rights Defenders, a joint programme of the International Federation for Human Rights (FIDH) and the World Organisation Against Torture (OMCT), are writing to you regarding the harassment targeting human rights defenders from the Transnistrian region in the Republic of Moldova.

Brief Description of the Situation

The pressure cast by the administration in Tiraspol on human rights defenders from the Transnistrian region intensified in 2013–2014. Numerous representatives of the civil society are intimidated and subjected to libel on a daily basis for their work to promote and defend human rights in the Transnistrian region of the Republic of Moldova (Transnistria).

Human rights defender **Stepan Popovschi** was persecuted by the Tiraspol administration for his attempts to defend the property rights of thousands of residents of the region, and to hold public meetings. In March 2013, the activist's home was searched, and a "criminal" file was opened against him. More details on the case are available at <http://www.frontlinedefenders.org/node/21958>.

Defense attorney **Vladimir Maimust** has been harassed for his professional activities. In September 2013, he an attempt was made to take his life, when an explosive device was placed in his personal car. See details at <http://tiras.ru/kriminalnoe-chtivo/38471-v-pridnestrove-pytalis-vzorvat-nezavisimogo-advokata.html>.

Journalists and human rights defenders **Nicolae Buceatchi** and **Luiza Dorosenco** were accused of "subversive activities in Transnistria and inciting hatred towards the current authorities." These accusations were formulated in several videos published on YouTube in May 2014. Their complaints to the local investigatory bodies were ignored and were not followed through with. More details on these cases may be found at <http://www.civilrightsdefenders.org/news/civil-rights-defenders-urges-the-government-of-transnistria-to-protect-human-rights-in-an-open-letter>. See videos <https://www.youtube.com/watch?v=Tm7Dfw6CBkI&feature=youtu.be> and at <https://www.youtube.com/watch?v=QEUVmtk0QUU>.

The work of human rights defenders is viewed in the Transnistrian region as subversive, and as an attempt to undermine the security of the local regime and de facto administration. This is why the field of human rights is not widely represented at the local level, and there are no efficient mechanisms or institutions to monitor the situation of human rights. Nevertheless, in the last year, the local administration took action to exercise control over human rights defenders and nongovernmental organizations from the region. See details [here](#).

In the last 12 years, Promo-LEX^[1] has been working in the field of human rights protection and promotion in Moldova, including the Transnistrian region, and encountered numerous obstacles and difficulties in its work.

On 5 December 2014, human rights defender **Alexandru Zubco** was banned access to the Transnistrian region. He was detained at the checkpoint in Bender and his car searched. After approximately 30 minutes, representatives of local security services (KGB) informed him that he was banned from the region, as his presence in Transnistria was "not welcome."

In June 2014, Alexandru Zubco sued the Transnistrian security service in a court in Tiraspol for a ban imposed on his personal car in April 2014. The court rejected the application several times, invoking formal reasons. The application was finally admitted in October. In his application, the plaintiff requested that the ban be lifted. "***I did not hope for a fair justice in the region, so I submitted the application namely to see how the mechanism of defending human rights works in Tiraspol. The hearing was***

^[1] Promo-LEX Association is a civil society organization with special **consultative status** with the UN (ECOSOC), whose purpose is to advance democracy in the Republic of Moldova through promoting and defending human rights and monitoring democratic processes. Promo-LEX was created in 2002 and through its advocacy activities ensures legal protection of citizens' rights, including in the Transnistrian region. Over twelve years of its activity, over 70 strategic reasons got to the ECtHR, on 21 of them, the Court ruled positive judgments.

set for 5 December, so I was on my way to Tiraspol to go to court," said Alexandru Zubco.

Moldovan constitutional authorities informed Alexandru Zubco that the **illegal "kgb" structures have been monitoring him in connection with his work with Promo-LEX**. Alexandru Zubco has been with Promo-LEX since 2007 and is an active promoter of human rights, well known at the national and international level.

Relevant national and international standards

In 1992, the Republic of Moldova and the Russian Federation signed an agreement that guarantees freedom of movement of goods, services and persons **July, 21 1992**. We find however that the guarantees provided in the respective document are not observed, and the de facto administration of the Transnistrian region tends to limit access to the region of various persons, including human rights defenders.

While the access of activists and human rights defenders to Transnistria is limited, a great number of residents of the region that face various social, economic or family-related issues and do not have access to assistance, including legal assistance; therefore, the administration's abuses continue. National and international human rights organizations have repeatedly called attention to the severe human rights situation in Transnistria^[2]. The critical situation of human rights in the Transnistrian region was described in a 2012 report submitted by UN Senior Expert Thomas Hammarberg^[3]. The situation has not been monitored since the report's publication, and no positive changes have been recorded. The most important issue remains the impunity or lack of responsibility on the part of the local administration for their actions and severe human rights violations.

On 9 December 1998, in its Resolution A/RES/53/144, the UN General Assembly adopted a Declaration on Human Rights Defenders. The Declaration sets functional and formal guarantees for activists, journalists, volunteers, who conduct activities to promote and guarantee human rights. The states where the human rights defenders operate must ensure and guarantee of these rights. .

In its Resolution adopted on 17 June 2010, the European Parliament established *EU policies in favor of human rights defenders* (P7_TA (2010) 0226), which emphasize that human rights defenders in third countries should be better protected through more effective EU human rights dialogues, and stresses the need to systematically raise the issue of the situation of human rights defenders in all political talks on human rights and in trade negotiations with third countries. It also reiterates the fact that the promotion, protection and security of human rights defenders should be considered as a priority issue in the EU's relations tierce countries, which should be integrated at all levels and in all aspects and instruments of EU foreign policy to increase coherence, effectiveness and credibility of EU support to human rights defenders.

Since the recent acts of intimidation of human rights defenders in Transnistria by the de facto local administration raise deep concerns, as their rights to freedom of movement and freedom of expression are constantly violated, prompt interventions by EU Member States and the Kingdom of Norway, which shares the same democratic principles in favor of human rights defenders risking repressions in the Transnistrian region, are urgently needed.

In these circumstances, WE REQUEST:

^[2] http://promolex.md/upload/publications/ro/doc_1416394522.pdf

^[3] <http://www.un.md/publicdocget/41/>

1. That Moldovan authorities be called on to observe their obligation to use effective measures to protect human rights defenders who are or may be at risk in the Transnistrian region;
2. That all threats against human rights defenders who are at risk of persecution in the Transnistrian region be publicly condemned;
3. That the authorities of the Russian Federation be actively involved and use their influence over the administration in Tiraspol to stop the pressure on human rights defenders in the Transnistrian region;
4. Also, on the eve of the Universal Periodic Review of the Republic of Moldova by the UN Council for Human Rights that will take place in 2016, that the Republic of Moldova be advised to extend the application of its laws and practices that enforce the provisions of the UN Declaration on human rights defenders to the Transnistrian region;
5. Reinforced diplomatic efforts in regional and international bodies to ensure that human rights are observed in the Transnistrian region of Moldova;
6. That humanitarian and financial support offered to the Transnistrian region be conditional on meeting and observing human rights standards.

We sincerely hope that you will take these elements into account.

Yours sincerely,

Civil Rights Defenders

Front Line Defenders

International Federation for Human Rights (FIDH) in the framework of the Observatory for the Protection of Human Rights Defenders

Promo-LEX Association

World Organisation Against Torture (OMCT) in the framework of the Observatory for the Protection of Human Rights Defenders

OSCE hosts meeting between Moldovan and Transdniestrian leaders

OSCE (20.06.2012) - Moldovan Prime Minister Vladimir Filat and Transdniestrian leader Yevgeny Shevchuk met today on the margins of an OSCE conference in the German town of Rottach-Egern.

The meeting took place at the start of a three-day conference on confidence-building measures organized by the OSCE Mission to Moldova with the support of the German Government, which is bringing together leaders of the joint working groups between the sides and experts to discuss confidence-building measures in the security, social and economic fields.

Ambassador Erwan Fouéré, the Special Representative of the OSCE Chairperson-in-Office for the Transdniestrian settlement process, said: "I am delighted by the discussion that took place today in a very positive atmosphere. We still have much work to do, but with

each positive encounter we are building the trust needed to achieve a lasting settlement.”

The Head of the OSCE Mission to Moldova, Jennifer Brush, said: “Today’s joint communiqué between Moldovan Prime Minister Filat and Transdniestrian leader Shevchuk demonstrates the improved climate for contact and co-operation across the Dniestr/Nistru river to the benefit of the people living on both banks. I am looking forward to further progress at the upcoming round of the 5+2 talks in July in Vienna.”

The official 5+2 negotiations on the Transdniestrian settlement, which includes representatives of the sides, mediators and observers in the negotiation process - Moldova, Transdniestria, the OSCE, the Russian Federation, Ukraine, the US and the EU - were restarted in November last year, following a break of almost six years.

The mechanism of exercising one's rights in Transnistria

Access to justice

Promo-LEX Association (24.04.2012) - In the Republic of Moldova, justice is administered in the name of the law and by courts of law only. In particular, justice is administered by the Supreme Court of Justice, the Courts of Appeals and district courts. Setting up extraordinary courts is forbidden. The organization of courts, their functions and the judicial procedure are established by organic law.

The Prosecution Service represents the general interests of society and defends the legal order as well as the rights and freedoms of citizens, conducts criminal prosecution and represents the prosecution in courts as established by law. In exercising their functions, prosecutors abide only by law.

Under constitutional provisions, the Republic of Moldova is a sovereign, independent, unitary and indivisible state, governed by the rule of law, in which the dignity of people, their rights and freedoms, the open development of human personality, justice and political pluralism represent supreme values, which are guaranteed. National sovereignty resides with the people of the Republic of Moldova, who exercise it directly and through its representative bodies in the ways provided for in the Constitution. No private individual, group of people, social grouping, political party or public organization may exercise state power on their own behalf. Usurpation of state power constitutes the gravest crime against the people. The territory of the Republic of Moldova is inalienable, and the country's frontiers are established by organic law under unanimously recognized principles and norms of international law.

The constitutional provisions on human rights and freedoms are to be understood and implemented in accordance with the Universal Declaration of Human Rights, and with other conventions and treaties signed by the Republic of Moldova. The citizens of the Republic of Moldova enjoy the rights and freedoms enshrined in the Constitution and in other laws and have the obligations prescribed by them. All the citizens of the Republic of Moldova are equal before the law and the public authorities, without any discrimination as to race, nationality, ethnic origin, language, religion, sex, political choice, wealth or social origin. The citizens of the Republic of Moldova enjoy the protection of their State both at home and abroad.

Everyone has the right to an effective remedy from competent national tribunals against acts violating his/her legitimate rights, freedoms and interests. No law may restrict access to justice. Individual freedom and personal security are inviolable. Searching,

detaining in custody or arresting a person is permitted only in cases and following the procedure established by law. Everyone has the right to respond independently by appropriate legitimate means to a violation of his/her rights and freedoms. Throughout the trial the parties have the right to be assisted by a lawyer, either chosen or appointed. Interference with the defense is punished by authority of law.

All these provisions, rights and guarantees remain merely formal in the Republic of Moldova, not so much because of the frozen conflict, but rather because of the neglect and incompetence of the legitimate authorities in looking for solutions to offer a legal and effective instrument and a minimum set of rights and guarantees to the inhabitants of the Transnistrian region.

The so-called courts of law and law enforcement bodies in the Transnistrian region of Moldova are illegal and cannot administer justice because they don't bear any responsibility. These essentially private institutions are not part of the judicial or law enforcement system of the Republic of Moldova. On the contrary, they were formed and are operating illegally, promoting the interests and administering justice in the name of an alien and illegitimate regime. At the same time, for about twenty years now, their decisions produce de facto effects on the residents of the region.

Most people employed in these illegal bodies are citizens of the Republic Moldova, who arrogated on Moldova's territory functions of policemen, prosecutors, judges, etc. Thus, there is a unique situation where citizens of Moldova, on the territory of Moldova, arrest (abduct), detain (hold captive) and sentence persons, including citizens of Moldova, in the name of an illegitimate authority. The acceptance of this situation and the indifference of the constitutional authorities is a serious problem for the State of Moldova and for the fundamental human rights and freedoms.

It is presumed that every court must be independent. To evaluate the degree of a court's independence one needs to analyze such aspects as the method of appointing judges, the duration of their terms in office, and the existence of guarantees against pressures from outside. However, an illegitimate regime that came to power through military violence and with external support, and relies for existence on dictatorial ways and methods, is incapable of ensuring "judicial" independence.

The problem should be also analyzed from the perspective of Article 5 of the European Convention on Human Rights. First and foremost, an answer should be provided to the questions whether the so-called arrest and detention of persons in the Transnistrian region can be legitimate and whether the tribunals there can be considered "competent".

According to the European Court, the word tribunal refers in the first place to a body established by law satisfying a number of conditions which include independence, particularly vis-a-vis the executive, impartiality, the duration of its members' terms of office and guarantees of a fair judicial procedure. These circumstances, in particular the notion of "established by law", are not applicable to the situation in the region, mainly because these "tribunals" are not part of the legitimate judicial system and are not established under the authority of law.

However, only the decisions of these illegitimate courts can produce legal effects on the left side of the Nistru. In civil, family, labor or many other relations people there have no other choice but to take action in these courts. This is because the decisions of these courts alone are enforceable in this area. At the same time, these decisions can be appealed in Moldova's higher courts.

In most cases people in the region have to go to court twice, in particular in divorce-related cases. For instance, people obtain a divorce in the region's courts, whose decisions are obviously not recognized by the Moldovan constitutional authorities. So those who were proclaimed divorced in the region and want to express this fact in their

Moldovan identification documents as well, need to obtain a divorce, for a second time, in a Moldovan court. Obviously, this implies significant costs, frustration and discontent, especially when children are involved, or property is disputed, or the divorced persons remarried and started new families.

Speaking on the same subject, reporting the abuses of the separatist authorities to the legitimate law enforcement bodies is utterly inefficient. The common practice for many years now has been to suspend investigation shortly before initiating it. This is apparently seen by the law enforcement bodies as a perfectly legal measure and by the politicians as a compromise solution. However, in our opinion, this cannot be accepted as a legal, effective and adequate solution. Due to this apparent compromise things have worsened even more. After all, the law enforcement bodies are required by law to examine cases or complaints from victims or relatives, and adopt decisions in conformity with the national legislation, while respecting all procedural rights and guarantees.

The Police

Moldova's Law on the Police determines the place, the role and the principles of activity of the police in the system of central and local authorities; establishes the main duties, functions, rights, responsibilities of the police and the method of supervising their activity. The police are an armed public body, in the jurisdiction of the Ministry of Interior Affairs, that is invested with the duty to defend, in strict observance of the law, the life, health and freedoms of citizens, interests of society and the state, from criminal and other illegitimate acts.

The police may not intrude on citizens' right and freedoms unless when it is required for the exercise of their functions. No limitation of the rights and freedoms of citizens is allowed except for reasons and in ways established by law. The citizens have the right to receive explanations from police officers if any limitation of their rights and freedoms occurs.

As a public law enforcement body, the police of Moldova are divided into state police and municipal police. State police exercise their functions across the territory of Moldova, whereas municipal police within the range of the respective administrative unit.

There are no constitutional Police Commissariats for the Transnistrian region, except for the municipality of Bender and the district of Dubasari.

The Bender Municipal Police Commissariat is located in the town of Bender. The Commissariat's complex of buildings also accommodates a subdivision of the region's militsiya and a platoon of the Russian Command. The Commissariat building does not display any signs or identification information about the police, nor does it fly a Moldovan national flag, as required by law. The only flag displayed there is the Russian national flag.

There is a remand center located in the yard of the Police Commissariat, where the militsiya and the police each hold 4 cells. As a rule, the militsiya's cells are overcrowded.

To enter the Police Commissariat, every person must first register with a militsiya guard, then with a Russian peace-keeping guard, and only then with a policeman on duty. This is why potential victims are concerned about their personal security. Cases were reported when persons who turned to the police for help were subsequently summoned and persecuted by the militsiya.

Police officers are not allowed to move around Bender municipality in uniforms or driving marked police cars. They also are limited in conducting investigation, are unable to

interrogate witnesses or arrest any person in the municipality except with the consent of the militsiya chief and the commander.

Moreover, the residents of the municipality are advised not to cooperate with the police and to immediately report to the militsiya any move of the police.

The Dubasari Police Commissariat is located in the village of Ustia, Dubasari district, (a village under control of the Moldovan constitutional authorities). On the eastern side of the Nistru, the police control just a few villages and are banned from other settlements of Dubasari district which are controlled by the illegitimate regime.

Prosecution Service

According to the law, the Prosecution Service is an autonomous institution as part of the judicial authority, which, within the limits of its powers and functions, defends the general interests of society, legal order, the rights and freedoms of citizens, conducts criminal prosecution and represent the prosecution as provided by law. In criminal cases the prosecutor represents the prosecution on behalf of the state.

The Prosecution Service system includes:

- a) The Prosecutor General's Office;
- b) territorial prosecution offices;
- c) specialized prosecution offices.

Territorial prosecution offices for the Transnistrian region have not been established, except for the municipality of Bender and the district of Dubasari. The absence of these agencies renders the entire activity of the Moldovan law enforcement system inefficient.

Courts

Courts administer justice for the purpose of defending fundamental rights and freedoms of citizens and of their associations, of companies, institutions and organizations. Courts are formed based on the principle of appointment of judges.

Everyone has the right to an effective remedy from competent courts of law against acts violation his/her rights, freedoms and interests. All the citizens of the Republic of Moldova are equal before the law and courts, without any discrimination as to race, nationality, ethnic origin, language, religion, sex, belief, political choice, wealth or social origin, as well as other circumstances.

Under the Law on Judicial Organization 514-XIII of 6 July 1995, territorial courts of law were established for the municipalities of Tighina (Bender) and Tiraspol, and for the districts of Ribnita, Dubasari, Grigoriopol and Slobozia. Camenca district was placed under the jurisdiction of the Ribnita District Court.

The Bender Court of Appeals, a second-level tribunal, is located in the town of Causeni and has jurisdiction over all the district courts for the Transnistrian region (Bender, Tiraspol, Slobozia, Grigoriopol, Dubasari and Ribnita).

The creation of district courts for Transnistria does not ensure non-discriminating access for all citizens of the region to justice. Moreover, according to official information published in 2007[1], no court was formed in Camenca, while the district courts of Ribnita, Grigoriopol, Slobozia and Tiraspol do not meet legal criteria. To begin with, they do not have a building of their own and are not properly staffed, currently operating in the venues of other territorial courts (Rezina, Chisinau and Stefan Voda, respectively). The Tiraspol Court does not have any venue and therefore it does not physically exist). Further, the number of courts is smaller than provided by law. For instance, the Bender Court of Appeals operates with 3 instead of 10 required judges, the Bender Court with 4 instead of 6, the Slobozia Court with 1 instead of 5, the Grigoriopol Court with 1 instead

of 4, the Ribnita Court with 1 instead of 9, the Dubasari Court with 3 instead of 4, and the Tiraspol court does not have any appointed judge out of the 17 provided by law. The total deficit of magistrates in the Transnistrian region amounts to 42.

Distances one must travel to reach a territorial court may differ, but to a great extent this is not a problem, as the situation is not different from that of persons residing elsewhere across the country. However, there are obstacles to free movement (numerous checkpoints, verification and registration of persons at those checkpoints). In conclusion, we believe that filling the 42 judges' vacant posts for the Transnistrian region, creating territorial prosecution offices and police commissariats (for Camenca, Ribnita, Grigoriopol, Slobozia and Tiraspol), along with providing courts, prosecution offices and police commissariats with the necessary staff, equipment and supplies would be the first steps towards creating a viable mechanism for defending human rights and ensuring a minimum set of guarantees for the persons living in the Transnistrian region. Today, there is an unacceptable situation with respect to the national legislation and the positive obligations of the Moldovan government. Law enforcement itself needs protection and assistance from the local and central authorities. On the one hand, it is a well-known fact that the Moldovan police are intimidated by the separatist and illegal militsiya in Dubasari or Tighina; on the other hand, however, there are clear signs that the two bodies cooperate closely. Under the excuse of fighting crime, the Moldovan law enforcement bodies occasionally surrender persons into the custody of the illegitimate bodies of the region. Moreover, cases were registered where Moldovan law enforcement officers took part alongside Transnistrian regional officers in arrests of persons or searches of homes.

CASE STUDY

Vitalie Eriomenco

Mr. Vitalie Eriomenco is a citizen of Moldova and a businessman in the Transnistrian region of Moldova. He was arrested on 29 March 2011 by Tiraspol militsiya officers on charges of "theft of money".

During 10 hours of interrogation after his arrest, Eriomenco was ill-treated and threatened by militsiya officers. He was denied medical assistance. He could not inform his family about the arrest and could not see a lawyer. Throughout the day of 29 March 2011 he didn't receive any food or water and cellmates were forced to share their food portions with Vitalie. The food he received later on was of poor quality and impossible to eat. Mr Eriomenco lost five kilograms in twenty eight days of detention.

As evidenced by documents, Mr. Eriomenco has been suffering from hypertension, heart and respiratory dysfunctions, duodenal ulcer, prostatitis and inguinal hernia. Because of the poor detention conditions, his health deteriorated even more. In particular his ulcer was exacerbated by inadequate food. Despite suffering sharp pain, he was initially denied medical assistance. It was only after he repeatedly submitted applications in writing that he was allowed a one-time medical examination. Moreover, he had to rely on his family for the necessary medications.

Pavel Belozeorov

Mr. Pavel Belozeorov is a citizen of Moldova domiciled in Dubasari town. He was arrested on 11 August 2011 by militsiya officers on charges of breaking public order. He was ill-treated by eight militsiya officers before being placed into the cellar of the Dubasari remand facility in a very bad condition.

As evidenced by documents, Mr. Belozeorov has been suffering from a jaw cancer. He requested medical assistance after his jaw got swollen, causing him terrible gum and

dental pains, discharges and fever. The prison doctors denied him care on grounds that there wasn't any specialized health professional or specific equipment. Instead, doctors advised his family to urgently transfer him to the Cancer Institute in Chisinau where he could undergo chemotherapy. Doctors also suggested that without adequate treatment Belozorov could die in 2 or 3 months.

So far his family's attempts to release him from detention have failed. Yet the Dubasari court ordered his arrest for an undetermined period of time, without considering his rapidly deteriorating health and the risk of dying in detention.

Since 27 October 2011, Pavel Belozorov has been detained in a separate cell alone, in Prison no.1 in Hlinaia, Grigoriopol district. His relatives don't know anything about his current condition.

Vasile Fricatel

Mr. Vasile Fricatel is a citizen of Moldova domiciled in the village of Telita, Anenii Noi district. He was arrested on 9 September 2011 by the Moldovan police and handed over to the Transnistrian militsiya. The police officers beat him, tied him with a rope and covered his head with a sack before ferrying him across the Nistru River. There he was forced into a militsiya car and driven into an unknown direction.

To this day, the relatives don't know anything about his situation, as the Moldovan law enforcement bodies proved incapable of identifying and prosecuting those responsible.

According to a local lawyer, Mr. Fricatel has been ill-treated to admit to a cattle theft that allegedly occurred in the Transnistrian region.

Mihail Rotari

Mr. Mihail Rotari is a citizen of Moldova and the Russian Federation domiciled in Tiraspol. He was arrested by intelligence officers (MGB) on 23 March 2010 on charges of "high treason and spying" for Moldova.

On 10 June 2011, the Tiraspol Supreme Court sentenced him to 18 years' imprisonment together with confiscation of property. The decision is irreversible. The trial was held behind closed doors which raises serious questions about its fairness.

As evidenced by medical documents, Mr. Rotari has been suffering from thyroid cancer and diabetes mellitus. He doesn't receive any specific medical care and is forced to rely on his family for the necessary medicines.

Arbitrary arrests, abductions and detainment

Promo-LEX Association (14.03.2012) / HRWF (14.03.2012) – www.hrwf.net - Freedom and security of person, according to the Moldovan Constitution, are inalienable. Further, they involve guarantees for those who are held in custody while serving a sentence or being under prosecution. To guarantee the fundamental right to freedom and security of person, it is necessary to consider that, in such a matter, the failure to abide by the requirements concerning the verification of the legality and reasonableness of a preventive arrest amounts to a violation of procedural rules that ensure the just resolution of the case.

In the Transnistrian region of Moldova, the seriousness of the problem is in that deprivation of freedom is done by illegitimate organizations which assumed the duties of

law enforcement and judicial bodies. As a matter of fact, there isn't any real and effective possibility to influence the decision making of the separatist administration and its illegitimate agencies. At the same time, these decisions produce effects in the eastern part of Moldova, with persons being sentenced, tortured and detained in inhuman and degrading conditions. There isn't any national mechanism to rehabilitate the victims of the Tiraspol regime. Further, the victims' relatives who report the violations committed by the separatist bodies to the Moldovan authorities are often intimidated, threatened and harassed. The legitimate authorities have failed to undertake even the most elementary efforts to respect the legal procedures for prosecuting and punishing those who violate the law and the human rights by assuming simultaneously the roles of investigators, prosecutors and judges. Thus, the legitimate authorities are not capable of and haven't been observed to engage in efforts to ensure real protection to the victims or witnesses of these reported cases.

In most cases, the victims were forced to leave the region for an undetermined period of time, while the separatist bodies put them on their wanted list. Even so, the victims do not feel safe, because representatives of the Tiraspol regime are allowed the freedom of movement both across the rest of the national territory and outside of the Republic of Moldova.

Vested with self-assigned powers to arrest and remand persons in the eastern part of the country are the following illegitimate bodies: the militsiya (police), the people's guard, the ministry of state security (MGB), the customs service, the border guards, the migration service, and the military of the region's illegitimate regime. Under the local laws, these bodies are also vested with functions to investigate and prosecute, where the case may require it.

Persons from different social groups become victims of the illegitimate regime, locals and visitors alike. Often the process of arresting, prosecuting and trying persons is nothing than a financially profitable scheme used by those who serve the illegitimate regime. Most victims say the either offered or were asked to pay large amounts of money so that they could get improved conditions or be released from captivity¹.

People, in particular young people from vulnerable families, are often arrested arbitrarily and isolated from the rest of the world for long periods of time (for instance, from 1 to 6 years). Their families usually learn about their detention after a certain period of time. Arrestees cannot make complaints or challenge their arrest, being discouraged from complaining to the legitimate authorities or the State whose citizens they are. In most of the reported cases, the courts in the region issued arrest warrants for unlimited periods of time, without taking into consideration the particularities of the case or the mitigating circumstances. No alternative measures other than arrest are applied.

However, the most controversial, absurd and illegal aspect of this problem is the informal cooperation of the Moldovan constitutional police with the regional illegal militsiya in handing over arrested persons. Such cases are usually hidden from the public eye, exactly because of their illegal/criminal nature. These cases are not documented by the police and take place with serious violations of human rights and legal procedures.

Victims were abducted by officers of the Moldovan police from their homes in territory under constitutional control. Later they were delivered to unidentified persons, presumably officers of the illegitimate militsiya. Such cases are essentially attempts on the life and security of persons with the participation of the constitutional law

¹ <http://www.info-prim.md/?a=10&nD=2011/05/25&ay=38770>

enforcement bodies, which are in fact invested with the positive obligation to defend the Moldovan citizens against the actions of the illegitimate authorities of the region.

Further, it should be noted that the criminal proceedings started against the responsible police officers are suspended in the early stages of the investigation, even if the victims identify the suspects by name. These officers continue to work in the police. Case in point: in September 2011 F.V. was handed over by the Moldovan police to the illegal militsiya in his home village in Anenii Noi district. The police ferried the victim across the Nistru River after beating him severely with a metal rod. The victim now faces imprisonment in the separatist region, yet the policemen responsible for this have not been punished.

Many victims of the Tiraspol regime had to flee the Republic of Moldova because of pressures or because of the risk of being abusively condemned. They were forced to abandon their families and homes just to feel safe.

There are numerous cases where young people (mainly students who study in Chisinau or in European countries) are afraid to return home or visit their families in the region out of fear of being seized and drafted by force into the so-called army of the region.

Another very sensible problem is the abduction by the militsiya of people in the settlements which are under the de facto jurisdiction of the legitimate Moldovan authorities or on Ukrainian territory. Militsiya officers intensely patrol border settlements and may arrest people, perform searches or other measures in these settlements without any difficulty. Holding the citizenship of Moldova, Ukraine or Russia, militsiya officers are able to freely move across these countries². They cooperate closely with the law enforcement agencies of these countries and can obtain any information, abduct and transport people etc. Most victims interviewed during 2005-2010 said that they didn't trust the Moldovan law enforcement bodies and that they were feeling unsafe in Moldova.

Among the victims of abusive arrests are also police officers who work within the Security Zone (Dubasari and Bender). They are often arrested and confined in the remand facilities of the MGB or militsiya for no apparent reason. Because of the defective mechanism used in the Security Zone, police officers may be put on the wanted lists of the militsiya and the MGB, making it impossible for them to work in Bender or return to their homes and families in the settlements controlled by the illegitimate regime. Often policemen get arrested as they escort persons to the Bender Court which is located in Varnita village. All this has affected the morale of the police officers working there, while also causing a loss of trust in the constitutional authorities among the local population.

We need to mention a very important aspect that has nonetheless been neglected in the last twenty years by the Moldovan constitutional authorities: although the administration on the left side of the Nistru are illegal and their actions violate the fundamental rights and freedoms of the population, at variance with its obligations, the Republic of Moldova doesn't have, and doesn't really insist on having a national mechanism to protect or rehabilitate the victims of the illegitimate regime. Even the victims' relatives who report the illegal acts of these illegal bodies to the national and international authorities are often intimidated, threatened, persecuted, punished or stalked by this regime. The constitutional authorities refuse to take any responsibility and continue to ignore the situation, limiting their action to declaring that they do not have control over this region. The constitutional authorities refuse to apply norms of the national and international law to punish those who have arrogated functions of investigators or judges and who violate fundamental human rights and freedoms in this area. This happens despite the fact that those who appropriated such official powers and are violating human rights are in fact

² <http://timer.od.ua/?p=52418>

citizens of the Republic of Moldova, which is a circumstance that is unusual for other frozen conflict zones. In the absence of any real support from the constitutional authorities, the victims have no other solution than to leave Moldova, perhaps for good. And in the host countries, with no money, jobs or homes, these persons are an easy prey for human traffickers, sex exploiters and the like.

Therefore, the state of Moldova fails to protect its citizens, to give them a minimum of guarantees, and sometimes it even exposes them to risks.

Observance of the right to life

Promo-LEX Association (15.01.2012) / HRWF (15.02.2012) – www.hrwf.net - The right to life is guaranteed by the Constitution of the Republic of Moldova, and the capital punishment has been abolished. No one can be sentenced to such a punishment or executed.

The Criminal Code of Moldova proscribes death penalty and deprivation of life. At the same time, capital punishment is allowed on the territory of Moldova by the regional (separatist) legislation, which provides separately the methods of executing capital punishment. However this form of penalty is not applied in practice –even if people continue to be sentenced to death –under a moratorium installed by the separatist administration on 1 January 1999.

In the Transnistrian region, there have been numerous cases of deaths that we consider suspect. We believe that in some cases the Republic of Moldova is responsible for violating the right to life, even if it doesn't have effective control over the region and is unable to prosecute such cases. Of particular concern are the deaths in detention institutions in the region, which are due to both inadequate surveillance of prisoners by the prison administrations and inadequate medical assistance. According to unofficial accounts, deaths from HIV/AIDS and tuberculosis or other diseases which were contracted during detention and which were inadequately treated are common in the Transnistrian detention facilities.

The rate of deaths in detention institutions is quite high, which raises a number of questions about the causes, detention conditions and competence of their administrations. For instance, on 6 June 2011 a male prisoner from Grigoriopol died in Tiraspol Prison no.2 from pleurisy because of inadequate medical assistance. The prison administration transmitted the body to the mother together with a letter informing her that her son died from "drug intoxication". In August 2011, another prisoner died in the same facility because of untreated tuberculosis. According to some accounts, prisoners here die each month of tuberculosis, AIDS or other diseases. The dead are transported to the town morgue in a rudimentary wheeled bier and relatives usually don't receive any explanations about the circumstances of the death.

The Moldovan authorities don't initiate any criminal action to prosecute the deaths or other crimes in the so-called correctional facilities in the eastern region.

While receiving information about many other cases, legal experts cannot examine them more thoroughly for objective reasons or cannot publish them due to the lack of important details. Also, sources cannot be disclosed, because the illegal Tiraspol regime becomes extremely aggressive towards the persons or organizations that talk about such cases, which is interpreted as damaging the regime's image.
